

Ram Kumar Vs. State

Ram Kumar Vs. State

SooperKanoon Citation : sooperkanoon.com/685338

Court : Delhi

Decided On : Mar-02-1973

Reported in : 1973RLR195

Judge : P.S. Safer, J.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 13(2)

Appeal No. : Criminal Revision Appeal No. 426 of 1972

Appellant : Ram Kumar

Respondent : State

Advocate for Pet/Ap. : Bawa G. Singh,; G. Das,; Charanjit Talwar and;

Judgement :

P.S. Safer, J.

(1) This petition impugns the order passed by the trial Magistrate on 29.7.1972 with which the Additional Sessions Judge declined to interfere.

(2) The petitioner had submitted to the Court the sample given to him on 14.1.1972 by Shri R. P. Singh, Food Inspector who sampled the purchased commodity and the trial Magistrate had to exercise his jurisdiction within the scope of section 13(2) of the Prevention of Food Adulteration Act 1954, hereafter called

'the Act.'

(3) He was to ascertain that the marks and seals and the fastening were so intact as to affirm that the sample produced had not been interfered with. The Court directed that Shri R.P.Singh, Food Inspector be sent for. The statement of the said Food Inspector was recorded on 29.7.1972 wherein he stated the bottle produced by the accused had not been tampered with and the seals were intact. The trial court then directed that the sample so produced be sent for report. Before the dispatch, however, out of caution. It was directed that Mr. H. K. Bhanot be called to Court and his signatures appearing on the sample may be verified.

(4) The Court's duty is that it must satisfy itself before remitting the sample to the Director of Central Food Laboratory, Calcutta that it has not been interfered with and that the report will pertain to the sample of the very commodity which was purchased by the Food Inspector, who originally prepared the samples. The Act is a Central Legislation and is covered by section 21 of the General Clauses Act. The Court passing the orders continues to have the jurisdiction to vary or modify them. Even otherwise the authority contained in section 13(2) of the Act continues with the Court till the sample is actually dispatched. The Court can, even after directing the dispatch of sample on any suspicion arising in the judicial mind, seek verification as to whether the sample is or not really intact and in a condition in which it can be concluded that it has never been interfered with.

(5) After hearing the parties, by the order made on 20th February, 1973,¹ directed that the bottle containing the sample may be obtained from the Court of Shri S.C.Ahuja, Judicial Magistrate 1st Class, Delhi; The bottle has been produced today and has been carefully examined by me. After putting the sampled commodity inside the bottle, the top was closed. Then a wrapper was used which on the outer side of it had paper but the inner side was of thin muslin cloth. After wrapping the bottle double strings were used to fasten the lid. Those strings as I find are running on all sides of the bottle. A seal was put at the top as well as at the bottom. Apart from those two seals, three other seals appear on the bottle. The strings do not seem to have been ever interfered with. What is important is that besides the signatures of Mr. H.K.Bha not which bear the date 14.1.1972, there is a writing in

the hand of Mr. R. P. Singh, Food Inspector bearing the date 14.1.1972. The Food Inspector was examined as P. W. 2 at the trial. Later on he was called to Court for verifying as to whether the bottle was or not in the same condition in which he had given it after affixation of the seals to the petitioner. His deposition in Court, as noticed earlier was, seals were in-fact and the bottle had not been interfered with. On examining the sample, the writing on it by Mr. R.P.Singh and having been taken through his statement made as P. W. 2, I am persuaded that his deposition is correct that Mr.Bhanot made the signatures after the wrapper had been applied and the seals had been placed on the bottle. The statement of Mr.R.P.Singh is sufficient to conclude that the sample-bottle produced by the petitioner for remission to the Director of Central Food Laboratory, Calcutta has not been interfered with.

(6) Setting aside the impugned order, it is directed that the sample bottle produced by the petitioner be remitted to the Director of Central Food Laboratory, Calcutta for obtaining his report.(Mr. S. S. Saluja, Adv.)

--- *** ---