

State Vs. Raghbir Singh

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SooperKanoon Citation : sooperkanoon.com/689427

Court : Delhi

Decided On : Apr-09-1987

Reported in : 32(1987)DLT152; 1987RLR358

Judge : R.N. Aggarwal and; Jagdish Chandra, JJ.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 20

Appeal No. : Criminal Appeal No. 15 of 1987

Appellant : State

Respondent : Raghbir Singh

Advocate for Pet/Ap. : R.P. Lao and; M.C. Sanghi, Advs

Judgement :

Aggarwal, J.

(1) This is an appeal by the Delhi Administration against the judgment of Shri G.P. Mittal, Metropolitan Magistrate dated 11th August 1986 whereby he acquitted the respondent Raghbir Singh of the charge of selling adulterated Dhania powder. The respondent Raghbir Singh has a provision store at Mehrauli, New Delhi, and is carrying on business under the name and style of M/s. Gupta Kiryana Store. The charge against the respondent was that on 11th July 1984 at about 5 p.m. he had sold a sample of Dhania powder to Food Inspector P.K. Vatsa which on analysis

by the public analyst was found to be adulterated because of excessive husky and extraneous weedy matters of plant origin.

(2) The accused in his statement at the trial admitted the taking of the sample of Dhania powder by the Food Inspector. His defense was that the bottles in which the samples were taken were not cleaned at the spot.

(3) The report of the public analyst is important and we would reproduce it in extenso and it reads as follows : 'Moisture =7.8% Total ash =6.25% Ash insoluble in dil. Hci = 1.07% Microscope = Structure of Pith of stems and fibres of straw and weed seen frequently. Proportion of separable husky matters == 14.56% Proportion of separable weedy matters (straw & stalks) of ==1.15% plant origin Grit =Negligible Colour =Nil and am of the opinion that the sample of Dhania Powder is adulterated contains excessive husky and extraneous weedy matters of plant origin.'

(4) From the above report it is clear that the public analyst on a microscopic examination of the sample had seen structure of pith of stems and fibres of straw and weed frequently. He had further found the proportion of separable husky matter 14.56 per cent and proportion of separable weedy matters (straw and stalks) of plant origin 1.15% On analysis of the sample the public analyst concluded that the sample is adulterated because it contains excessive husky and extraneous weedy matters of plant origin.

(5) Item A.05.08 and item A.05.08.01 of appendix B rule 5 prescribe the standard of quality for coriander (Dhania) whole and coriander (Dhania) powder. The said items of the rule reads as follows :

'A.05.08-CORIANDER(Dhania) whole means the dried mature fruits (seeds) of *Coriandrum sativum* (L). The proportion of extraneous matter including dust, dirt, stones, lumps of earth, chaff, stalk, stem or straw, edible seeds of fruits other than coriander and insect damaged seeds shall not exceed 8.0 per cent by weight. The amount of insect damaged matter shall not exceed 5 per cent by weight. Explanationn.-The term 'insect damaged matter' means spices that are partially or wholly bored by insects. A.05.08.01-Coriander (Dhania) powder means the

powder obtained by grinding clean dried coriander fruits of *Coriandrum sativum* (L). It shall be in the form of rough or fine powder. It shall conform to the following standards : Moisture Not more than 12.0 per cent by weight. Total ash Not more than 7.0 per cent by weight. Ash insoluble in Not more than 1.5 per cent by weight'.

dilute Hci The learned Magistrate in reaching his conclusions observed as follows:

'THUS it will be seen that in Dhanias whole the proportion of extraneous matter which includes dust, dirt, stones, lumps of earth, chaff, stalk, stem or straw, edible seeds of fruits other than coriander and insect damaged seeds to the extent of 8% by weight are allowed. Meaning thereby that the extraneous matter either in respect of a particular item. Even can be 8%, provided the total of the extraneous matter does not exceed 8%. The Public Analyst in his report has stated the presence of pith of stems and fibres of straw and weed, in his microscopic examination but he has not given their percentage at all. As stated hereinbefore, all this extraneous matter are allowed in Dhanias whole provided it does not exceed 8%, in all. Since the public analyst has not given their percentage, it cannot be inferred that the presence of this foreign structure was more than 8%. Now coming to the point that the extraneous matter have been allowed only in Dhanias whole and not in Dhanias powder, there is a decision of our own Hon'ble High Court in Cr.R. No. 209/76 decided by the Hon'ble High Court on 5.10.78. In the said case, a sample of Haldi powder had been taken and it was observed by their Lordship that extraneous matter to the extent of 2% is allowed in Haldi-sabat and if the same substance is grinded there will be extraneous matter to the extent of 2%. It was also observed by the Hon'ble High Court that if extraneous matter to extent of 2% in Haldi-Sabat is found, it would not amount to adulteration. Thus, applying the ratio of the above said authority, it can very well be said that there is no material on record to show that the extraneous matter, which is admittedly structure of pith of stems and fibres of straw and weed, is more than 8%. Thus, it cannot be said that the prosecution has been able to establish that the sampled Dhanias- powder is adulterated.'

(6) We find that firstly the learned Magistrate is not right in finding that the public analyst has not given the percentage of the stems and fibres of straw and weed found by him in the sample. The public analyst had found separable husky matters 14.56% and separable weedy matters (straw and stalks) of plant origin 1.15%. He had further on examination of the sample under microscope observed 'structure of pith of stems and fibres of straw and weed seen frequently'. The learned Magistrate was of the view that since in Coriander whole extraneous matter of 8% by weight is allowed the same would also be allowable after Dhania whole is ground and sold in powder form. Para 7 of the judgment of the learned Magistrate shows that he was conscious of the fact that the extraneous matter was allowed only in Dhania whole and not in Dhania powder but he following the decision of this court in Navnit Lal vs. Municipal Corporation of Delhi, Criminal Revision No. 209 of 1976 decided on 5th October 1978 had come to the conclusion that it would make no difference.

(7) We are unable to agree in the above view of the learned Magistrate. A reading of the two items Nos. A.05.08 and A.05.08.01 would show that the Coriander whole means the dried mature fruits (seeds) of coriandrum sativum whereas the Dhania powder means the powder(rough or fine) obtained by grinding clean dried coriander fruits of coriandrum sativum. The presence of extraneous matter to the extent of 8% by weight is permissible in Dhania whole whereas it is not permissible in the Dhania powder. Dhania powder has to be obtained by grinding the clean dried coriander fruits of coriandrum sativum. If Dhania powder had been obtained after grinding clean dried coriander fruits the extraneous matter could not have come in the sample. The learned Magistrate has failed to grasp the distinction in the standards of quality laid down for Dhania whole and the Dhania powder.

(8) We have gone through the cited authority Navnit Lal (supra) but we find that it is distinguishable on facts. The article of food in the cited case was turmeric (Haldi) powder. Items A.05.20 and A.05.20.01 of rule 5 lay down the standard of quality of turmeric (Haldi) whole and turmeric (Haldi) powder respectively. A reading of item A.05.20.01 (Haldi powder) would show that it does not require that turmeric in powder form has to be obtained by grinding from clean dried rhizomes

or bulbous roots of the plant or *Curcuma longa* L. In case of turmeric whole the rule provides that the proportion of extraneous matter shall not exceed 2% byweight. Since Haldi powder, according to the rule, is to be obtained by grinding the dried rhizomes or bulbous roots it could be contended that the Haldi-whole on being grind would contain the extraneous matter. In the case of Dhania- powder the rule requires that the Dhania Powder has to be obtained by grinding clean dried coriander fruits. This would mean that all extraneous matter has to be eliminated before coriander fruits are ground to make it in powder form. If the extraneous matter in the Dhania whole is ground Along with the Dhania fruits(seeds) then the extraneous matter would not be detectable in the Dhania powder and this would make the article of food impure.

(9) Shri Sanghi, learned advocate for the respondents, contended that husk is part of the coriander fruit and, therefore, presence of husky matter would not make the article of food adulterated. The Public Analyst found the sample to contain excessive husky material. *Coriandrum Sativum* (L) belongs to the family of Umbelliferae which is one of the members of the Corn ales (see Encyclopedia Britannica, volume 5 pages 174-175) and we find that the Dhania fruit (seed) on being pressed splits the adjacent segments of the fruit into two portions. It does not contain anything inside. Dhania fruits/seeds on being ground are reduced into the form of powder which could be rough or fine. The Concise Oxford Dictionary defines the word 'rough' to mean 'of uneven or irregular surface, not smooth or level or polished, diversified or broken by prominences, hairy, shaggy, coarse in texture, rugged (skin, hands, paper, bark, road, cloth, country; book with-edges, in which edges of original sheets are left untrimmed; rice, unhusked rice, paddy).'

(10) We sent for the counter parts of the sample and examined the contents of one of the sample bottles. We find that the Dhania seeds/fruits when ground or broken with the force of the hand split into two portions and these segments appear like 'husk'. This husky matter is nothing else but coriander fruit/seed. The presence of separable husky matter is indicative that the seeds were not grinded into fine powder but were left in rough powder form. The word 'husk', according to the concise Oxford Dictionary, means 'dry outer covering of some fruits or seeds; worthless outside part of anything...' The public analyst has not in his report stated

that the husky matter found in the sample was the outer covering of the Dhania seed/fruit. His report is that the sample is adulterated because it contains excessive husky and extraneous weedy matter of plant origin. On the above report of the public analyst it cannot be said that the separable husky matter found in the sample was extraneous or not permissible. Thus viewed, in our opinion, the persence of 14.56% of separable husky matter would not make the article of food adulterated.

(11) However, the presence in the sample of 1.15% of separable weedy matters (straw and stalks) of plant origin and also the structure of pith of stems and fibres of straw and weed seen under the microscope would make the sample adulterated. We have earlier referred to the relevant rules and observed that Dhania powder (rough or fine) has to be obtained by grinding clean dried coriander fruits of *coriandrum sativum*. This means that all extraneous matter has to be eliminated before coriander fruits are ground to make it in powder form. The reason given by the learned Magistrate that since in Dhania whole the extraneous matter is allowable up to 8% by weight, thereforee, in Dhania powder also the presence of extraneous matter up to 8% is permissible, in our view, is not valid and legal.

(12) We allow the appeal and set aside the order of acquittal and convict the respondent of the charge of selling adulterated Dhania powder.

(13) The question arises what sentence should be given to the respondent. The minimum sentence provided imprisonment for six months and a fine of not less than one thousand rupees. It is contended that the respondent is an old man and he is suffering from diabetes and a lenient view be taken. Looking to the fact that the adulteration in this case is of a minor character we are of the view that a sentence of fine would meet the ends of justice. We sentence the respondent to pay a fine of Rs. 1500.00 . The respondent shall pay the fine within three Weeks, in default of payment of fine the respondent shall undergo imprisonment for one month.