SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Leelaram Vs. State and anr.

Leelaram Vs. State and anr.

SooperKanoon Citation : sooperkanoon.com/692416

Court : Delhi

Decided On : Feb-21-1991

Reported in : 43(1991)DLT509; 1992RLR38

Judge : V.B. Bansal, J.

Acts : Prevention of Food Adulteration Act, 1954 - Sections 7

Appeal No. : Criminal Revision Appeal No. 105 of 1979

Appellant : Leelaram

Respondent : State and anr.

Advocate for Def. : Shri. Suresh Singh

Advocate for Pet/Ap. : D.C. Mathur,; Rebecca Mamman,; B.D. Batra and;

Judgement :

V.B. Bansal, J.

(1) This order will dispose of Criminal Revision of the petitioner Leela Ram, thereby challenging his conviction under Section 7 read with Section 16 of the Prevention of Food Adulteration Act 1954, (hereinafter referred to as the Act) and the sentence of rigorous imprisonment for six months with a fine of Rs. ICOO.00 or in. default of payment of fine to undergo further rigorous imprisonment for three

months for having sold Ajwayan which on analysis was found to be adulterated.

(2) Briefly stated the facts leading to the filing of this revision petition are as under:

(3) Leela Ram petitioner was running Kiryana business in shop No. 7, Old Market, Malviya Nagar, New Delhi. M.L. Sharma Food Inspector accompanied by Food Inspector T.R. Tuli visited the business premises of the petitioner on 26th December, 1975 at about noon time where he was present. The Food Inspector expressed his desire of purchasing a sample of Ajwayan out of the different articles displayed for sale at the said premises. Accordingly 450 gms. of Ajwayan 'was purchased for Rs. 1.85. The purchased 'Ajwayan was equally divided in three parts which were separately fastened and sealed in three dry cleaned bottles as per the rules. Necessary documents were prepared at the spot and one sealed bottle was delivered to the petitioner. The sample bottle was delivered to the Public Analyst on 27th December, 1975. The contents were analysed by the Public Analyst on 1st January, 1976, and the same was found to be adulterated due to 1.06%, excess inorganic extraneous matter and also due to the presence of insect infestation.

(4) The report dated 6th January, 1976 was accordingly received by the Food Inspector from the Public Analyst showing that the sample was adulterated due to 1.06%, excess in inorganic extraneous matter and also due to the presence of insect infestation. After observing necessary formalities the complaint was filed against the petitioner.

(5) Leela Ram convicted under Section 7 read with Section 16 of the prevention of Food Adulteration Act and was sentenced rigorous imprisonment for six months and fine of Rs. 1000.00 and in default of payment of fine to further undergo rigorous imprisonment for three months vide judgment and order dated 28th May, 1977 by a Metropolitan Magistrate Delhi.

(6) Being not satisfied with the judgment and order of the trial court, an appeal was preferred by Leela Ram which was dismissed by an Addl Sessions Judge Delhi vide judgment dated 26th May, 1979. It is in these circumstances that Leela Ram has filed this revision petition.

(7) I have heard Shri Dinesh Mathur, learned counsel for the petitioner and Shri B.D. Batra and Shri Suresh Singh, learned counsel for the respondents. I have also gone through the records.

(8) After some arguments on facts, learned counsel for the petitioner has restricted his submissions only on the point of sentence. Learned counsel for the petitioner has submitted that the petitioner was about 49 years of age at the time of the recording his statement in respect of an incident of 26th December, 1975. He has submitted that the petitioner has suffered a protracted trial. He has also submitted that the case of petitioner is covered by clanse2(i)(l) of Section 2 of the prevention of Food Adulteration Act and for reasons to be recorded the petitioner can be awarded sentence less than the minimum sentence prescribed under the law. This proposition is not disputed by learned counsel for the respondents. Even otherwise as per the report of the Public Analyst only 2 living and I dead insects were found in the sample when it was analysed. Rule A. 05.23 provides that Ajwayan means the dried ripe seeds of Trachyspermum ammi Sprague. The proportion of organic and inorganic extraneous matter shall not exceed 3 per cent and 2 per cent respectively and the seeds shall be free from living insects, insect fragments and rodent contamination visible to the eyes. It would, thus, clearly mean that on account of the presence of the living insects the Ajwayan would be adulterated covered by the aforesaid Section 2(i)(1) of the Act. Sentence less than the minimum sentence prescribed, thus, can be awarded. The question for consideration is whether there are sufficient reasons to invoke the powers of giving sentence to the petitioner less than the minimum prescribed. After the judgment convicting the petitioner his statement was recorded so as to give him an opportunity of being heard about the sentence. It was at that time stated by the petitioner that he was the only earning member of his family and has to support his five children besides the five children of his sister whose husband was mentally deranged and they all were living with him. He had also stated that he left the business of running Kiryana shop just after the taking of the sample. Learned counsel for the petitioner reiterates this ground for awarding sentence less than the minimum prescribed. Learned counsel for the respondents are not in a position to controvert this submission made by learned counsel for the petitioner. The present revision petition was admitted on 1st June, 1979 and since than has been

pending in this case. Considering all these facts, I am clearly of the view that it is a fit case where the ends of justice would be met if instead of sending the petitioner to jail, the amount of fine is enhanced.

(9) As a result the revision petition is accepted in part. The conviction of the petitioner under Section 7 read with Section 16 of the Prevention of Food Adulteration Act is confirmed.

(10) The order of sentence is, however, modified. Instead of sending the petitioner to jail, the amount of fine is raised to 2000.00 . The petitioner has stated that fine of Rs. 1000.00 has already been paid. The petitioner is directed to deposit the remaining fine of Rs. 1000.00 . In case of default in the payment of above fine, the petitioner shall undergo rigorous imprisonment for three months.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com