

Nand Kishore and anr. Vs. State (Delhi Administration)

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Court : Delhi

Decided On : Mar-08-1991

Reported in : 44(1991)DLT247

Judge : Jaspal Singh, J.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 7

Appeal No. : Criminal Revision Appeal No. 46 of 1990

Appellant : Nand Kishore and anr.

Respondent : State (Delhi Administration)

Advocate for Pet/Ap. : B.B. Lal, Adv

Judgement :

Jaspal Singh, J.

(1) Sh. V.B. Gupta, the then Metropolitan Magistrate by his judgment dated November 21, 1979 convicted Nand Kishore under Section 7/16 of the Prevention of Food Adulteration Act (hereinafter called the Act) for the offence of selling adulterated food articles and sentenced him to R.I. for two years besides a fine of Rs. 2000.00 . He also sentenced him to pay a further fine of Rs. 500.00 for selling Khoa Pera and sweetmeats without any license as required by Rule 50 of the Prevention of Food Adulteration Rules His partnership firm M/s. Bikaner Bhujia

Bhandar was also convicted under the same provisions of the Act and was sentenced to pay a fine of Rs. 5000.00 for having sold adulterated food articles and a fine of Rs. 500.00 for selling Khoa Pera without license.

(2) Nand Kishore as well as his firm M/s. Bikaner Bhujia, Bhandar aggrieved by the said judgment preferred an appeal before the learned Addl. Sessions Judge who dismissed the same by his judgment dated February 14 1980 Hence this revision petition.

(3) Sh. Bipin Behari Lal, learned counsel appearing for the petitioners has sought acquittal only on the ground that the sanction granted by the Secretary (Medical) Delhi Administration (Ex. Public Witness 1/C) was bad in law in as much as it did not appear there from that he had actually applied his mind before according the same. I find myself one with Sh. Lal.

(4) A bare perusal of the sanction order would go to show that it is a cyclostyled performa wherein only certain blanks have been filled in, like the name of the Food Inspector who had taken the sample, the date of taking of the sample, and the name of the accused. The only question to be, thus, determined is as to whether in the face of such a cyclostyled sanction order it can be held that there had been application of mind. I need not lose much breath on this question as Sh. Lal has drawn my attention to a number of judgments emanating from this very Court wherein similar sanction orders have been held to be bad in law on the ground that they showed lack of application of mind on the part of the sanctioning authority. Reference in this respect may be made to Ms. Shakun & Another v. Delhi Administration 1989 (1) Fac 387, a judgment by Santosh Duggal. J. The learned Judge, in turn, had relied upon two Division Bench judgments of this Court, namely State (Delhi Administration) v Shyam Lal 1987 (2) Fac 198 and R.N. Gujral and another v. Pritipal Gupta 1988 (2) Fac 84. The judgments referred to above being fully applicable to the present case as well, what remains is the mere formality to declare the revision petition as allowed. The same is allowed and the petitioners are hereby acquitted of the charges framed against them. The fine, if deposited, may be refunded to the depositor.