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Ramesh Gupta Vs. State

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Court : Delhi

Decided On : Sep-28-2001

Reported in : 94(2001)DLT167; 2001(60)DRJ366

Judge : R.S. Sodhi, J.

Acts : Prevention of Food Adulteration Act, 1954 - Sections 2, 7, 13(2) and 16

Appeal No. : Crl. Revision No. 407 of 2000

Appellant : Ramesh Gupta

Respondent : State

Advocate for Def. : U.L. Watwani, Adv.

Advocate for Pet/Ap. : P.R. Thakur, Adv

Disposition : Crl. revision allowed

Judgement :

R.S. Sodhi, J.

1. This revision petition seeks to challenge the judgment and order of the Additional Sessions Judge, New Delhi, in Crl. A. No. 33/99 whereby the learned Judge has dismissed the judgment and order of the Metropolitan Magistrate dated 16.8.89 in Complaint Case No. 19/88 holding the petitioner guilty under Section

7/16, Prevention of Food Adulteration Act on the basis of a finding that the sample of mustard oil purchased from him on 3.11.1988 by Food Inspector OPS Ahalawat was fond on analysis to be adulteries, in violation of the provisions of Section 2(ia)(a)(m) of the Prevention of Food Adulteration Act and vide order dated 18.8.1989, sentenced the petitioner to RI for on year with a fine of Rs. 2,000/- of payment of fine to further undergo SI for two months.

2. It is argued by learned Counsel for the petitioner that the sample sent to the Public Analyst was OSA/52-87, which sample tested was not in accordance with the prescribed limits under the Act. The petitioner exercised the rights under Section 13(2) of the Act, whereupon the second portion of the sample was sent to the Central Food Laboratory. This sample was OSA/57-87. The result was quite different to that found by the Public Analyst. He submits that the sample sent to the Central Food Laboratory was not the one which represented the oil sold. No conviction, thereforee, can be sustained on the report of Central Food Laboratory or the Public Analyst, since no Explanationns has been given as to how the two samples had different numbers. The identity of the samples, thereforee, becomes doubtful. The learned Counsel in support of his contentions relies upon a judgment in Jai Prakash v. State of Haryana, 1997 (VIII) FAJ 356.

3. Having heard learned Counsel for the parties and having gone through the material on record, I find that the samples sent to the Public Analyst was not the same as sent to Central Food Laboratory. It cannot be said that the sample was of the item that was purchased from the petitioner. In view of this discrepancy, it was not possible to sustain the conviction on conflicting reports having different numbers. I, thereforee, have no hesitation in setting aside the conviction and sentence. The petitioner is acquitted of all charges. The judgment under challenge is set aside.

Crl. R. 407/2000 is allowed.

The petitioner is on bail, his bail bond shall stand discharged. The fine if already paid shall be returned.

4. Revision allowed.

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