

Velji Vs. State of Rajasthan

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SooperKanoon Citation : sooperkanoon.com/759276

Court : Rajasthan

Decided On : Apr-16-1982

Reported in : 1982WLN(UC)156

Judge : Kanta Bhatnagar, J.

Appeal No. : S.B. Criminal Revision Petition No. 135/78

Appellant : Velji

Respondent : State of Rajasthan

Disposition : Petition allowed

Judgement :

Kanta Bhatnagar, J.

1. The petitioner was tried for the offence under section 7/16 of the Prevention of Food Adulteration Act, 1954 by the Chief Judicial Magistrate, Dungarpur and by the judgment dated 21st August, 1977 held guilty of that offence and sentenced to 1 year's rigorous imprisonment and a fine of Rs. 1000/-, in default of payment to further undergo 3 months' rigorous imprisonment. In appeal, the conviction was upheld but the substantive sentence was reduced to six months rigorous imprisonment and the sentence of fine to Rs. 500/- in default of to undergo one and half months' rigorous imprisonment, by the Sessions Judge, Dungarpur by the

judgment dated 9-5-76. It is in grievance against his conviction and sentence that the petitioner has preferred this revision petition in this Court.

2. Learned Counsel for the petitioner confined his argument to the point that the mandatory provisions of Rule 9 (j) of the Prevention of Food Adulteration Rules (for short 'the Rules') have not been complied with in so far as the copy of the report of the Public Analyst was not supplied to the petitioner. To substantiate his contention, the learned Counsel referred to the principle laid down in the case of *The State of Rajasthan v. Roparam* 1980, Raj. Cr. Cases (Volume v. (No. 7) page 241), wherein the question of interpretation of the provisions of Rule 9(j) came for consideration and it was held that the provisions of Rules 9(j), as amended by the Notification dated 13-2-74 mandatory in the sense that it is incumbent upon the Food Inspector to send a copy of the report of the Public Analyst to the person from whom sample is taken, before the filing of the complaint and the failure to do so would entitle the accused to an acquittal. The failure to supply the copy of the report of the Public Analyst by the prosecution was held to be complete non-compliance of clause (j) of Rule 9 of the Rules and the conviction of the accused was set aside.

3. The perusal of the record of the case on hand shows that the copy of the report of the Public Analyst was not furnished to the respondent before the filing of the complaint. The learned Public Prosecutor could not point out that there was compliance of provisions of clause (j) of Rule 9. In such circumstances, this case is completely covered by the principle enunciated in the case referred to above. The conviction of the petitioner is, therefore, not sustainable.

4. Consequently, the revision petition is allowed. The conviction and sentence awarded to the petitioner are set aside and he is acquitted of the charge. He is on bail and need not surrender to it. His bail bonds stand discharged.