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Court : Rajasthan

Decided On : Jan-18-1990

Reported in : 1990(1)WLN578

Judge : M.B. Sharma, J.

Appeal No. : S.B. Cr. Revision Petition No. 209 of 1985

Appellant : Ram Sukh

Respondent : State of Rajasthan

Judgement :

M.B Sharma, J.

1. The accused petitioner has been convicted Under Section 7/16 of the Prevention of Food Adulteration Act, 1954 (for short the PFA Act) and has been sentenced to undergo six month's R.I. and to pay a fine of Rs. 1,000/-and default of payment of fine to further suffer three month's R.I.

2. Besides raising other submissions it was also contended by the learned Counsel for the petitioner that the sample was taken from the possession of the accused petitioner on 18th February, 1976 and the accused petitioner was only carrier of milk. At that time as the law stood, the court had discretion to award a sentence of less than six months for the reasons to be recorded. He contends that

the amendment Under Section 16 was introduced in April, 1976 where in the discretion of the court in respect of sentence was altered and the court was to impose a sentence of six months and fine and only in case the case falls under the first Proviso to Section 16 of the PFA Act, sentence of three months and fine of rupees five hundred should have been awarded.

3. In my opinion, the offence took place on 18th February, 1976, almost more than 14 years ago. It also appears from the age as recorded in the statement of the accused Under Section 313, Cr. PC on 2nd November, 1977, that the accused has given his age as 28 years and the opinion of the court about age of the accused was 22 years At any rate even if the age as given by the court is taken as 22 years then on the day of incident i.e., on 18th February, 1976, the accused was less than 21 years of age. At the time then the offence was committed, there was no provision like 20AA in the PFA Act which Section was introduced by the amendment No. 34 of 1976 which came into force on 1st April, 1976. Therefore lacking to the age of the accused which is less than 21 years on the day of occurrence, he should be considered for the benefit of probation under the Probation of Offenders Act. But the accused has already undergone one month and six days imprisonment and in my opinion looking to the fact that the occurrence is of the year 1976 i.e. almost 14 years have passed, the sentence already undergone by the accused petitioner and a sentence of fine shall meet the ends of justice.

4. Consequently, I here by partly allow this revision petition. While maintaining the conviction of the accused petitioner Under Section 7/16 of the PFA Act, the accused petitioner is sentenced to a sentence already undergone and to pay a fine of Rs 500/-, in default of payment of fine to further suffer 15 days a fine of Rs. 500/-, in default of payment of fine to further accused petitioner to deposit the payment of fine in the trial court failing which the trial court shall take steps either to get the payment of fine recovered from the accused petitioner or to apprehend the accused petitioner to undergo the sentence in lieu of payment of fine.