

State of Rajasthan Vs. Moti

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Court : Rajasthan

Decided On : Sep-01-1987

Reported in : 1987WLN(UC)514

Judge : Sobhag Mal Jain, J.

Appeal No. : S.B. Criminal Appeal No. 339 of 1978

Appellant : State of Rajasthan

Respondent : Moti

Disposition : Appeal dismissed

Judgement :

Sobhag Mal Jain, J.

1. A sample of Ghee weighing 375 Gms. was taken by Ganpat Mal Mathur, Food Inspector on July 22, 1975 from the shop of the accused respondent situate in Sadar Bazar, Abu Road. The sample was found to be adulterated & complaint in the court of Chief Judicial Magistrate Sirohi was filed by the Food Inspector on October 23, 1975. The accused was tried for the offence under Section 16(1)(a) of the Prevention of Food Adulteration Act, 1954. After trial the Chief Judicial Magistrate held that the sample taken was not a representative sample and there was a complete non compliance of Section 11(1)(b) of the Act. Following the

judgment of the Madhya Pradesh High Court in Babu Lal v. State 1976 FAJ 81, the learned Chief Judicial Magistrate acquitted the accused. Not satisfied by this, the State has filed the present appeal after obtaining leave under Section 378(3) of the Code of Criminal Procedure.

2. The occurrence is 12 years' old. The sample was taken as back as on July 22, 1975. I have gone through the judgment of the learned Chief Judicial Magistrate and I am of the opinion that no useful purpose will be served by setting aside the acquittal of the appellant now after 12 years of the occurrence. The learned Chief Judicial Magistrate has held that the sample taken was not a representative sample and, therefore, there was a non-compliance of Section 11(1)(b) of the Act. Taking into consideration all the facts and circumstances of the case, I consider that it is not a fit case for setting aside the acquittal of the respondent after the lapse of a period of 12 years.

3. The result is that there is no force in the appeal and the same is dismissed.

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