

Hemant Kumar and ors. Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Nov-05-2001

Reported in : RLW2003(1)Raj528

Judge : H.R. Panwar, J.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 20 and 20A; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 319(3) and 482

Appeal No. : S.B. Cr. Misc. Petition No. 610 of 2001

Appellant : Hemant Kumar and ors.

Respondent : State of Rajasthan and ors.

Advocate for Def. : Ramesh Purohit, Public Prosecutor

Advocate for Pet/Ap. : A.K. Acharya, Adv.

Disposition : Petition dismissed

Judgement :

Panwar, J.

1. By this criminal misc. petition under Section 482 Cr.P.C., petitioners who were facing trial for offence under Section 7/16, [Prevention of Food Adulteration Act, 1954](#) (hereinafter referred to as 'the Act') seek quashing of the order dt. 8.9.1993

passed by learned Additional Chief Judicial Magistrate, Parbatsar (hereinafter referred to as 'the trial Court'), whereby the trial court took cognizance for the offence under Section 7/16 of the Act against the petitioners who are partners of firm M/s. Merta Oil Company, Merta City.

2. I have heard learned counsel for the parties and carefully gone through the order impugned.

3. At the outset, it may be noticed that the order impugned was passed on 8.9.1993 and thereafter, the trial court proceeded in the matter. Petitioners along with Sita Ram, M/s Surajmal Sitaram and M/s Nathmal Sohan Lal Jain, respondents No. 2, 3 and 4 respectively are facing trial for the offence as noticed above.

4. This criminal misc. petition is argued by the learned counsel for the petitioners after about 8 years from the date of the order under challenge. Other co-accused are also facing trial along with the petitioners. Learned counsel for the petitioners could not point out anything to show that the petitioners are not the incharge of the firm of which they are partners. On the contrary, from the material, it is obvious that all the three petitioners, who are partners of the said firm are actively participating and are responsible for the conduct of business of the firm. Undisputedly, a sample was taken by the Food Inspector, Kukanwali from the sealed tin of ground-nut oil on 10.3.1988 from the shop of, non-petitioner No. 3, which produced the bills before the Food Inspector which show that the said sealed tin of ground- nut oil was purchased from M/s. Nathmal Sohan Lal Jain, non- petitioner No. 4. Non-petitioner No. 3 further produced the bills which showed that the said sealed tin was purchased from M/s. Merta Oil Company, Merta City of which the petitioners are partners.

5. Section 20A of the Act empowers the Court to implead manufacturer where at any time during the trial of any offence under this Act alleged to have been committed by any person, not being the manufacturer, distributor or dealer of any article of food, the court is satisfied, on the evidence adduced before it, that such manufacturer, distributor or dealer is also concerned with that offence, then, the court may, notwithstanding anything contained in Sub-section (3) of Section 319

Cr.P.C. or in Section 20 of the Act proceed against him as though a prosecution had been institute against him under Section 20

6. The trial court on being satisfied with the material placed before it, exercised the powers under Section 20A of the Act. The. petitioners have not disputed that they are running business of manufacturing of ground-nut oil in the name and style of M/s. Merta Oil Company and it has also not been disputed that they have sold the ground-nut oil in a sealed tin. The bill of the firm is on record of the trial court. In this view of the matter, no error can be found with the order of the trial Court. More so, the order is of September, 1993 and the petitioners have not challenged it for period of about 8 years. This petition must also fail on the ground of laches.

7. It is settled law that the inherent powers of the Court under Section 482 of the Criminal Procedure Code should be exercised very sparingly and cautiously only when the Court comes to the conclusion that in case the order is not interfered with, it would result in manifest injustice or would result in abuse of process of court.

8. In Mahavir Prashad Gupta and Anr. v. State of National Capital Territory of Delhi 4 Others (1), the Hon'ble Supreme Court held that the interference in exercise of inherent powers under Section 482, Cr.P.C. is to be rarest of rare cases. It wa@ further held that the jurisdiction under Section 482, Cr.P.C. has to be exercised sparingly and with circumspection. Besides, the powers under-section 482 Cr.P.C. ought not be exercised in any case to scuttle the trial at its very beginning.

9. In the instant case, if the order impugned is allowed to stand, it would not result in manifest injustice and would not result in abuse of process of any Court.

10. In this view of the matter, I find no merit in this petition. Accordingly, it fails and is dismissed.