

State Vs. Madan Lal

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SooperKanoon Citation : sooperkanoon.com/772789

Court : Rajasthan

Decided On : Aug-19-2008

Reported in : RLW2009(3)Raj2415

Judge : Mahesh Chandra Sharma, J.

Appellant : State

Respondent : Madan Lal

Disposition : Appeal dismissed

Judgement :

Mahesh Chandra Sharma, J.

1. The State of Rajasthan has preferred this appeal against the judgment dated 25.8.2004 passed by learned Chief Judicial Magistrate, Sawai Madhopur (Rajasthan) (hereinafter to be referred as 'the learned trial court') in Criminal Case No. 414/2000 by which he acquitted the accused-respondent for the offence under Section 7/16 of the Prevention of Food Adulteration Act.

2. In brief, the facts of the case are as under:

Food Inspector Chotmal Sharma (PW. 1) has submitted a complaint against the accused-respondent on 9.8.2000 before the learned trial Court with this effect that on 1.4.2000 at about 10 A.M. on inspection he saw the accused respondent

Madanlal selling the milk, he identified himself, the accused respondent having an iron drum in which he stated that there is 20 Kg. goat milk in it. He asked accused-responder about licence of selling milk on which he stated that he is not having any licence. On suspect of adulteration, he paid the amount and purchased 750 M.L. milk and got receipt of the same. He divided the milk in three parts in three bottles and in each bottle he put 20-20 drops of Formalin. Thereafter he sent one sample to the public analyst for checking the milk. After obtaining the report that milk is adulterated he filed this complaint.

3. After that the Court has summonsed the accused-responder and the learned trial Court framed the charges for the offence under Section 7/16 of the Prevention of Food Adulteration Act.

4. The charges were read over and explained to the accused-responder who denied for the same and claim for trial.

5. During trial the prosecution in support of its case examined as many as 4 witnesses and got exhibited some documents.

6. There after the statements of the accused-responder under Section 313 Cr.P.C. were recorded. In defence, he produced one defence witness namely DW-1 Kalyan.

7. After conclusion of the trial the learned trial Court vide its judgment dated 25.8.2004 acquitted the accused-responder from the offence charged against him holding interalia that the prosecution has not been able to prove its case beyond all reasonable doubts against the accused-responder.

8. Aggrieved against the judgment and order of the learned trial Court dated 25.8.2004, the State of Rajasthan has preferred the instant appeal.

9. In this appeal it has been submitted by the learned Public Prosecutor that the learned trial Court has not considered the statements of the prosecution witnesses properly. He has further contended that the learned trial Court has wrongly observed that prosecution has failed to prove the offence against the accused-responder and thus, the impugned judgment and order dated 25.8.2004 is

erroneous one and should be set aside.

10. He has further contended that the learned trial Court has not considered the Ex. P/13, the notice under Section 13(2) on which the signatures are available and the accused-respondent has admitted the same.

11. On the other hand, the learned Counsel for the accused-respondent has submitted that the impugned judgment and order passed by the learned trial Court is based on the correct appreciation of evidence and after giving cogent reasons, the learned trial Court has acquitted the accused respondent from the charges framed against him and thus, no interference is required with the impugned judgment and order of the learned trial Court in this appeal.

12. The learned Counsel has also draw the attention of this Court specifically on the statement of PW.2 Rajesh Sharma and PW. 3 Siraj Khan who are the independent witnesses and they are also the motbir have been declared hostile. The learned Counsel further contended that compliance of Section 13(2) of the Act was not complied with. For that purpose, he has relied upon the judgment delivered by this Court in State of Raj. v. Ravi Kumar delivered in : RLW 2003(2) Raj. Page 925 in which this Hon'ble Court held as under:

Prevention of Food Adulteration Act, 1954, Section 7, 17 & 13(2) - Appeal against the order of acquittal - Charges levelled Under Section 7 and 17 -Deprivation of right to get the sample re-analyzed - Non-compliance of mandatory provisions of the Act - Held - Under Section 13(2) the accused had a valuable right of re-analyzing the sample which was deprived - Non-compliance of mandatory provisions of Section 13(2) and Rule 9-A framed thereunder entitle accused for acquittal - Affirmed the impugned order.

13. I have heard learned Public Prosecutor as well as the learned Counsel for the accused-respondent and also gone through the record of the case.

14. Having gone through the impugned judgment dated 25.8.2004 passed by the learned trial court, I find that the learned trial Court has given cogent reasons for no finding the case of the prosecution proved against accused respondent

15. Looking to the evidence just discussed above, it can easily be said that the prosecution has not been able to prove its case beyond all reasonable doubts against the accused respondent for the offence for which he has been charged and the learned trial Court was right in acquitting the accused respondent. I have no reason to dissent from the finding of acquittal recorded by the learned trial Court, as they appear to be reasonable and plausible in the facts and circumstances of the case. The learned trial Court has given cogent reason in acquitting the accused respondent.

The court attention was drawn on the following judgment of the Hon'ble Supreme Court:

Umrao v. State of Harayana and Ors. SC 2006 Vol. 10 Page 136 in which the Lordships of the Supreme Court has observed in para 26 that 'it is now well settled that if two views are possible, the appellate court should not interfere with the judgment of acquittal passed by the court below.

16. It may be stated that in appeal against acquittal though powers of the High Court to reasons the evidence and to reach its own conclusions are as extensive as in an appeal against an order of conviction, yet as a rule of prudence, it should always give proper weight and consideration to the views of the trial judge as to the credibility of the witnesses; the presumption of innocence in favour of the accused, right of the accused to the benefit of any doubt and thus, High Court should not ordinarily disturb the order of acquittal. Therefore, this Court does not want to interfere with the impugned judgment and order of acquittal passed by the learned trial court and this appeal is liable to be dismissed.

17. Accordingly, the appeal filed by the State of Rajasthan fails and the same is hereby dismissed, after confirming the judgment and order of acquittal dated 25.8.2004 passed by the learned Chief Judicial Magistrate, Sawai Madhopur (Rajasthan). The accused-respondent is on bail and he need not to surrender. His bail bond stands discharged.