

The Public Prosecutor Vs. Venkadari Naga Pulliah Chetti

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Court : Chennai

Decided On : Apr-26-1945

Reported in : AIR1946Mad414; (1946)1MLJ461

Appellant : The Public Prosecutor

Respondent : Venkadari Naga Pulliah Chetti

Judgement :

Happell, J.

1. This is an appeal by the Provincial Government against the acquittal of the accused in C.C. No. 553 of 1944 in the Court of the Stationary Sub-Magistrate of Nandyal. The accused is a shop-keeper and he had in his shop some tins labelled ' Sri Sai Coffee Tablets,' ' Pure Coffee 50 per cent and roasted Coffee husk 50 per cent.' He sold some of these tablets to the Sanitary Inspector of the Nandyal Municipality on the 13th May, 1944 and, on analysis, they were found to contain not 50 per cent, of coffee and 50 per cent, of roasted coffee husk but 15 per cent, of coffee and 85 per cent, of some other substance referred to as imitation coffee which contained no coffee husk. On the footing of this analysis he was prosecuted for an offence punishable under Section 5(1)(a) and (d) of the Madras Prevention of Adulteration Act, 1918, read with Rules 36 (b) and 40 framed under the Act. On receiving a notice of the summons the accused sent to the local executive officer a copy of the cash bill which he had received in respect of the tin of coffee and husk

with the written notice required under the first proviso to Section 6(2)(a) of the Act that he intended to rely on it. The Stationary Sub-Magistrate found that the cash bill was not a warranty within the meaning of Section 6(2)(a), Sub-section (1), but, nonetheless, rather surprisingly acquitted the accused on the ground that he was not responsible for the alleged adulteration and that he sold the tablets in the same condition as that in which he received them from D.W. 1. The defence accepted by the Magistrate is a defence expressly excluded under Section 6, Sub-section (1), of the Prevention of Adulteration Act which states that save as otherwise provided under Sub-section (2), it shall be no defence to a prosecution for an offence under Section 5, to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him, etc. Learned Counsel for the accused does not support the reasoning of the Magistrate, but he argues that the cash bill taken with the label were themselves sufficient warranty within the meaning of Section 6(2)(a)(1). This contention obviously cannot be accepted as the warranty referred to in Section 6(2)(a)(1) is by the terms of the section itself 'a written warranty in the prescribed form.' A label or cash bill of course is not a written warranty in the prescribed form. The accused therefore clearly committed the offence with which he was charged under Section 5 (i)(a) and (d) of the Act read with Rules 36 (b) and 40.

2. The order of acquittal passed by the Magistrate is therefore set aside and the accused is convicted of the offence charged. In the circumstances it does not seem to me necessary to pass anything but a nominal sentence. I accordingly sentence the accused to pay a fine of Rs. 5 or, in default of payment, to undergo, one week's simple imprisonment.