

Public Prosecutor Vs. Dhanapal

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Court : Chennai

Decided On : Nov-09-1961

Reported in : 1962CriLJ701; (1962)2MLJ217

Appellant : Public Prosecutor

Respondent : Dhanapal

Judgement :

Sadasivam, J.

1. This is an appeal by the Public Prosecutor against the acquittal of the respondent under Sections 7 and 16 and Rule 44 of the Prevention of Food Adulteration Act by the learned District Magistrate of South Arcot.

2. The respondent is a petty maligai merchant at Devanampatnam, Cuddalore Town. When he was questioned under Section 342, Criminal Procedure Code, he admitted the sale of turmeric to P.W. 1, but he pleaded that he purchased the turmeric from one Lakshmanan Chetty, a wholesale merchant whom he examined as D.W. 1 in the case. The report of the analyst marked as Exhibit P-4 clearly shows that the sample of the turmeric sold by the respondent contained about 34 times the amount of lead permitted under the rules. The learned District Magistrate has observed that for the first time in this case he heard that lead is used in the processing of turmeric and that by no stretch of imagination it can be said that the accused had knowledge of the extra lead in the turmeric. He has failed to note that

Section 16 of the Act does not require that the vendor of food stuff should know that it is adulterated. The Act is intended to protect public health and there is no ingredient in Sections 7 and 16 of the Act as regards mens rea apart from the act of selling adulterated articles. The acquittal of the respondent under Section 7 read with Section 16 of the Act cannot therefore be sustained and it is hereby set aside. I find the accused guilty and convict him under Section 7 read with Section 16 and Rule 44 of the Act.

3. But the observations made by the learned District Magistrate should be taken into consideration in awarding the sentence. The learned District Magistrate has rightly pointed out that the wholesale dealers or manufacturers of the articles are the real offenders who ought to have been prosecuted. The respondent is a petty maligai vendor and he has bona fide purchased the article from the wholesale dealer D.W. 1, Lakshmanan Chettiar. Having regard to these facts, I consider it sufficient to admonish the respondent under Section 3 of the Madras Probation of Offenders Act.

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