

S.B. CRIMINAL LEAVE TO APPEAL NO.184/2006.
(STATE Vs. GAJENDRA SINGH)

Date of Order :: 31.07.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. B.L. Bhati, Public Prosecutor.

...

Having heard learned Public Prosecutor and having examined the impugned judgment and order dated 20.03.2006 passed by the Chief Judicial Magistrate, Sirohi in Criminal Case No.503/1999, this Court is satisfied that the learned Magistrate has not committed any error or irregularity so as to warrant interference in appeal and this petition for leave to appeal remains wholly groundless and deserves to be rejected.

The accused-respondent was charged for offences under Section 7(i) read with Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 for adulteration of the cow-milk being sold by him. The learned Magistrate has thoroughly examined the evidence and the material placed on record and has found that the prosecution has failed to show that the sample of the milk was drawn after making it homogeneous and representative one so that the contents could be appropriately analysed. The learned Magistrate has

also found material discrepancies in the sanction for prosecution and found the same to have been issued mechanically. The learned Magistrate has observed thus:

“इस प्रकार अभियोजन स्वीकृति में अभियुक्त के पिता का नाम गलत अंकित होने, अभियोजन स्वीकृति 2.9.99 को दी गयी अथवा 21.9.99 को दी गयी, इस संबंध में डॉ. देवडा पी.ड 4 द्वारा भिन्न भिन्न कथन करने तथा दूध किस कंटेनर में था, यह अभियोजन स्वीकृति में अंकित नहीं होने से अभियोजन स्वीकृति प्रदर्श पी.9 को उचित नहीं कहा जा सकता है”

Having regard to the considerations adopted by the learned Magistrate in acquitting the accused, it cannot be said that the view taken by the learned Magistrate is not one of the possible views and, therefore, no interference is called for.

The petition for leave to appeal is, therefore, rejected.

(DINESH MAHESHWARI), J.

Mohian/