

S.B. CRIMINAL LEAVE TO APPEAL NO. 69/2009

State of Rajasthan

Vs.

Kana Ram

Date of Order :: 31st March 2009.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Mahipal Bishnoi, Public Prosecutor.

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Having heard the learned Public Prosecutor and having examined the impugned order dated 03.07.2007 as passed by the Chief Judicial Magistrate, Jaitaran in Criminal Case No.70/1998, this Court is satisfied that the learned Trial Court has been justified in acquitting the accused of the offence under Section 7/16 of the Prevention of Food Adulteration Act, 1954 particularly for the present one being practically a case of no evidence.

The non-petitioner was tried on the allegation that on 04.04.1995, the Food Inspector Shri O.P.Pal collected the requisite samples of ice-candy being sold by him; and after analysis, the sample was found not conforming to the requisite standard. The learned Trial Court has found that though the said Food Inspector Shri O.P.Pal appeared in the Court before framing of charge and was examined as PW-1 but after framing of charge, was repeatedly summoned for over three

years but then, the reports were received to the effect

-2-

that he had retired and was suffering from paralysis and was unable to move. The learned Trial Court held that the said witness having not appeared for further cross-examination, the very fundamentals of the allegations were not established. The learned Trial Court has also noticed that another witness Nanak Singh was reported to have expired; and the Officer granting prosecution sanction had not appeared in evidence either. It is noticed that only the attesting witness Banshilal appeared in relation to the recovery memos and his testimony has essentially been of formal nature.

In the aforesaid status of record, the learned Trial Court has rightly proceeded to find the case to be of no evidence and has not committed any error in acquitting the accused.

This petition for criminal leave to appeal stands rejected.

(DINESH MAHESHWARI), J.