

HIGH COURT OF JUDICATURE MADHYA PRADESH, JABAPLUR

S.B.: HON. SHRI S.C.SINHO, J.
Criminal Revision No.281/1999

Kunjilal

VERSES

The State of Madhya Pradesh

Shri Umesh Shrivastava, Advocate for the applicant.

Shri Ajay Tamrakar, P.L. for the respondent/State.

ORDER

28/02/2011

1. This criminal revision under Section 397/401 of the Code of Criminal Procedure has been filed being aggrieved by the impugned judgment dated 12.02.1999 passed by First Additional Sessions Judge, Rewa in Criminal Appeal No.96/96, arising out of judgment dated 03.12.1996 passed in Criminal Case No.605/91 by C.J.M., Rewa, whereby the applicant has been convicted under Section 7(1)/16(1)(a) (i) of the Prevention of Food Adulteration Act, 1954 and sentenced to R.I. for 6 months with fine of Rs.1000/- in default of payment of fine further R.I. for 2 months.

2. According to prosecution case on 20.09.1990 at about 9:00 a.m. near Gurh Chowk, Rewa applicant was taking approximately 20 liters of milk for sale. Shri Sheshprasad Dubey (PW-1), Food Inspector after disclosing his identity to the applicant purchased 750 ml of cow milk vide receipt Ex.P-7 for Rs.4.50 paise, thereafter, he stirred the milk and divided the sample equally into three parts and kept in three dried, clean bottles in accordance with the prescribed rules. Thereafter the bottles were kept in airtight and sealed. The

panchnama in this regard Ex.P-8 was prepared and sent one of the sample to the Public Analyst and a copy of the seal was separately sent to public analyst. He deposited the remaining two sealed bottles of sample in the office of Local Health Authority. The public analyst report is Ex.P-15 by which it has been opined that sample does not conform to the standard prescribed for cow milk. The public analyst received the sample on 04.12.1990 and the report was submitted on 03.01.1991. A copy of the public analyst report was sent to applicant by the office of local health authority vide Ex.P-18. After taking necessary sanction Ex.P-16 Food Inspector filed the complaint case before C.J.M. Further applicant filed an application under Section 13(2) of Act for getting the sample examined from Central Food Laboratory, Gajiabad and in the report of Central Food Laboratory, Gajiabad it was found that sample does not conform to the standard prescribed for cow milk.

3. Before the trial Court on behalf of the prosecution only one witness viz. PW-1 Sheshprasad Dubey and PW-2 Vanwari Lal Shrivastava were examined, however, on behalf of applicant DW-1 Ramgopal Sahu was examined who stated that applicant is not doing the business of milk selling.

4. Learned C.J.M. relying upon the evidence of PW-1 Sheshprasad Dubey and duly supported by statement of PW-2 Vanwari Lal Shrivastava held that all the requisite steps of procedure were followed and sample was found adulterated by public analyst as well as by Central Food Laboratory and eventually convicted and sentenced the applicant as mentioned above. The appeal preferred by the applicant challenging the judgment of conviction passed by C.J.M. was dismissed by Sessions Judge, Chhatarpur.

5. Shri Sheshprasad Dubey (PW-1) has specifically stated that the sample was stirred and made homogeneous and further a report of Central Food Laboratory is also received showing the sample as adulterated.

6. Learned counsel for the applicant has submitted that the incident is about 20 years old and applicant is now aged about 50 years, therefore, a lenient view should be taken against the applicant.

7. The applicant is awarded minimum sentence of 6 months R.I. with fine of Rs.1000/- under Section 7(1)/16(1)(a)(i) of the Act. The sentence is minimum prescribed under Section 16(1)(a)(i) of the Act needs no interference as held in Chhotelal Vs. State of Madhya Pradesh, 2009(4) MPLJ 401, 2009(II) MPWN 17 (page 47).

8 In the result, this criminal revision is dismissed. The applicant is on bail. His bail bonds are cancelled. The applicant is directed to surrender before the trial Court immediately for serving out the remaining part of jail sentence.

(S.C. Sinho)
Judge

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(S.C.SINHO)
JUDGE