

(1999) 04 AHC CK 0015
In the Allahabad High Court
Case No : Criminal Revision No. 2566 of 1984

Chet Ram Parumal Oil Mill	Vs	APPELLANT
State of U.P. and Another		RESPONDENT

Date of Decision : 30-04-1999

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 13(2), 14, 16, 20, 20A

Citation : (1999) 3 ACR 2589

Hon'ble Judges : V.K. Chaturvedi, J

Bench : Single Bench

Judgement

V.K. Chaturvedi, J.—This revision has been filed by the manufacturer against the order dated 29.9.84 passed by the Chief Judicial Magistrate, Pithoragarh in Criminal Case No. 605 of 1984 (State v. Chet Ram Parumal), summoning the applicant to face trial u/s 7/16 of the Prevention of Food Adulteration Act (hereinafter referred to as the Act).

2. The prosecution case in brief is that Food Inspector, Muna Kot. 1 Bahaloo, district Pithoragarh, inspected the shop of Shivraj Singh on 12.10.83 at about 11.30 a.m. and took sample of sealed tin containing mustard oil marked as "Heera brand". On enquiry, the accused disclosed that he had purchased the oil tin from Chet Ram Parumal Oil Mill. The accused also produced cash memo.

3. The Food Inspector had taken the sample in presence of the witnesses and sent it for analysts after observing necessary formalities. On analysis, the mustard oil was found to be adulterated. On receipt of report of the Public Analyst, the Food Inspector sent a notice in Form 6 to the accused and also to the applicant, who is manufacturer. After obtaining sanction and observing other formalities, the Food Inspector filed a complaint against the accused, from whose shop the sample was taken and also against the applicant as manufacturer.

4. The learned Magistrate by the impugned order dated 29.9.84 summoned the applicant. Feeling aggrieved, the manufacturer M/s. Chet Ram Parumal Oil Mill,

Purani Machis Factory, Bareilly, has preferred this revision.

5. I have heard Mr. B.D. Mandhyan, learned Counsel for the applicant and learned A.G.A. In spite of notices being served to the opposite party, no counter-affidavit has been filed. The revision is pending since 3.12.84 and about 14-1/2 years have elapsed. Learned Counsel for the applicant contended that the name of the applicant was not disclosed by the vendor as required by Section 14 of the Act. No copy of the notice was sent by the Food Inspector in accordance with the provisions of Section 13(2) of the Act. The learned Counsel for the applicant also referred to Section 14 of the Act, which requires the manufacturer not to sell any article of food to any vendor unless he also gives a warranty in writing in the prescribed form about the nature and quality of such article to the vendor. Section 14 of the Act, further provides that the bill, cash memorandum or invoice given by the manufacturer shall be deemed to be a warranty given by such manufacturer. Learned Counsel for the applicant contended that the applicant had neither given any warranty nor any bill, cash memorandum or invoice to the vendor nor the vendor had purchased the oil-tins from it, therefore, the applicant could not be tried. It was next contended by the learned Counsel that in the absence of any evidence available on the record or collected by the Food Inspector, the applicant could not be summoned. The learned Counsel also referred to Section 20A of the Act which empowers the Magistrate to summon the manufacturer at any stage of the trial if any evidence is adduced before him that the manufacturer is also concerned with the offence.

6. Learned Additional Government Advocate could not point out any evidence indicating involvement of the applicant in the crime.

7. Considering the submissions made by learned Counsel for the parties, I find that the Magistrate committed illegality in summoning the applicant. Therefore, this revision is allowed and the impugned order dated 29.9.84 is hereby set aside so far as it relates to the revisionist-manufacturer. The Magistrate shall proceed against the other accused persons. However, it is made clear that at any stage of the trial If any evidence is brought on record indicating that the revisionist Is concerned with the crime, it shall be open to the Court concerned to summon the revisionist and proceed against him as if the prosecution had been instituted against him u/s 20 of the Act. The interim order dated 7.12.84 is hereby vacated.