
(1967) 12 RAJ CK 0003
In the Rajasthan High Court

Chiranjilal

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 01-12-1967

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16, 7

Citation : (1968) CriLJ 1529 : (1968) RLW 417

Hon'ble Judges : V.P. Tyagi, J

Bench : Single Bench

Judgement

V.P. Tyagi, J.—This revision application has been filed by Ghiranjilal who has been facing trials under Sections 7/16 of the Prevention of Food Adulteration Act in the court of the Municipal Magistrate, Jaipur City.

2. The fact and circumstances out of which this revision arises are as follows:

On 6th September, 1966, at 11.00 a.m. the Food Inspector of Municipal Council, Jaipur went to the shop of the petitioner and obtained samples of ghee and oil from that shop which were suspected by the Food Inspector to be adulterated. Those samples were sent for examination to the Public Analyst who, it is alleged, reported that both these articles did not conform to the standards prescribed for these commodities by the Act. Two challans were, therefore, submitted against the applicant, one for the adulteration of oil and the other for the adulteration of ghee, and they were separately registered by the learned Municipal Magistrate as cases Nos. 98 and 99 of 1966. On 9th December, 1966, the petitioner filed an application before the trial court that he should be tried jointly but the learned Magistrate dismissed the application of the petitioner on the ground that joint trial is likely to prejudice the case of the petitioner. A revision was filed against the said order of the Magistrate in the court of the Additional Sessions Judge No. 1, Jaipur City, but the learned Judge also dismissed the revision of the petitioner. It is against this order of the learned Additional Sessions Judge that the present revision has been filed by the petitioner.

3. The main argument that has been advanced by learned Counsel for the petitioner is that by separate trials his client will unnecessarily be inconvenienced and harassed and that he will be required to undergo unnecessary expenses in facing two trials where the evidence of both the parties in both the cases will be the same. In support of this contention, he placed reliance on the two Allahabad authorities in *Chunnoo v. State* AIR 1951 All 795 and *The Banarsi Stores Vs. President of the Union of Indian Republic for India and Others*,

4. Mr. Mehta, appearing on behalf of the opposite party, on the other hand, urged that basically the evidence in these cases is that of the Chemical Analyst which is entirely different in both the cases. The other witnesses that will be examined at the trial are only formal witnesses and therefore it cannot be said that the evidence in both the cases will be the same. He also urged that separate trials which is a normal rule u/s 283, Criminal P.C., if ordered by the two courts below in spite of the request made by the petitioner, then it neither constitutes an illegality nor an irregularity and therefore this Court should not interfere in the discretion exercised by the two courts below in dismissing the prayer of the petitioner for joint trial.

5. I gave my careful consideration to the arguments advanced by learned Counsel for both the parties. The Supreme Court in *Chhutanni Vs. The State of Uttar Pradesh*, , has held that by holding separate trials of the same accused person even in cases where a single trial could have been permissible under the Code of Criminal Procedure the court does not commit any illegality or irregularity. The normal rule as embodied in Section 238, Criminal P.C. is that for every distinct offence of which any person is accused, there shall be separate charge and every such charge shall be tried separately. The exceptions to this general rule are given in Sections 234, 235, 286 and 239 of the Criminal P.C. The provisions of Sections 234, 235, 236 and 239 are enabling provisions. Even if a case falls within the provisions of any one of these four sections, which are exceptions to the normal rule of Section 233, it is not incumbent on a court to hold a joint trial if the offence for which a trial is held is a distinct one in both the cases. In other words, the provisions of Sections 234, 235, 236 and 239 of the Code are not mandatory and if the courts below preferred to try the petitioner separately for keeping two commodities for the purpose of sale, which in the opinion of the Food Inspector were adulterated, then he can be separately tried. There is force in the argument advanced by learned Counsel for the opposite party that the evidence of the Chemical Analyst in both these cases is different and the report for ghee cannot be read in the case of keeping the adulterated oil at the shop of the petitioner. The facts and circumstances of the two authorities relied upon by learned Counsel for the petitioner are different from the circumstances of the present case. I do not think that these two cases relied upon by the learned Counsel for the petitioner can be of much help to him. Since both the courts below have exercised their discretion against the petitioner and the separate trials in the circumstances of this case cannot be said to be either an irregularity or illegality, it will not be proper for this Court to interfere in the

revision application.

6. The revision is, therefore, dismissed.