(1954) 08 AHC CK 0021

In the Allahabad High Court

Case No : Criminal Revision No. 66 of 1954

Chittar Mal — APPELLANT

Vs

State — RESPONDENT

Date of Decision : 01-08-1954

Acts Referred:
United Provinces Prevention of Adulteration Act, 1912 — Section 14(1)(d), 4

Citation : (1954) 24 AWR 604

Hon'ble Judges : Roy, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Roy, J.—A reference has been made by the learned Additional Sessions Judge of Mathura recommending that the conviction of Chittarmal u/s 4 of the U.P. Prevention of Adulteration Act (No. VI of 1912) be set aside and the fine of Rs. 150 imposed upon him by the learned Magistrate of Mathura be refunded to him.

2. Chittarmal runs a shop at Farrah. The provisions of the U.P. Prevention of Adulteration Act (No. VI of 1912) have been extended in respect of all articles of food to the town of Farrah u/s 1, Sub-Sex. (2) and (3) of the said Act by Notification No 8/XVI (B.H.) 245 published in the U.P. Gazette, dated the 26th of January, 1946, Part I, page 36. The shop of Chittarmal was raided by Sanitary Inspector Kuber Singh on the 27th of June, 1952. Chittarmal bad exposed for sale catechu or katha at his shop. Kuber Singh demanded a sample of katha on payment of price. He paid the price and obtained the katha on the basis of a receipt Ex. P-3. The katha was sampled out into three parts, one part was given to Chittarmal, the other part was sent to the Chemical Analyst, and the third part was retained by the Sanitary Inspector and submitted to the Medical Officer of Health. All the three packets were sealed in accordance with law. The Chemical Analyst upon an examination of the katha reported that "it was adulterated and it contained 25 per cent of extraneous inorganic matter over and above the permissible limit". When this report was received necessary sanction for the

prosecution of Chittarmal was obtained and he was prosecuted and convicted in the manner stated above.

3. Chittarmal pleaded not guilty. His contention was that the katha was not edible katha, but was meant to be used for colouring purposes and it was sold to the Sanitary Inspector as such. Admittedly there was no sign board at the shop, nor was there any label distinctly and legibly written or printed on or with the article to indicate that the katha which was being sold at the shop was not edible katha but was katha meant for colouring purposes only. In the receipt Ex. P-3 evidencing the sale it was not stated by Chittarmal that the katha that was sold was katha meant for colouring purpose only. The receipt stated that it was inferior quality of katha.

4. Both the courts below upon a consideration of the evidence believed the prosecution case and disbelieved the defence version that Chittarmal was selling the katha only for colouring purposes or that he sold it to Kuber Singh after having told him that it was meant for colouring purposes only. The learned Magistrate, upon a consideration of the report of the Chemical Analyst, came to the conclusion that Chittarmal rendered himself liable to the penalty provided by Section 4 of the Prevention of Adulteration Act. On the other hand, the learned Additional Sessions Judge has been of the view that katha does not come within the purview of "food" as enunciated in S. 2 of the Prevention of Adulteration Act. He has been further of the opinion that since the proviso to Section 4 of the Act says that no article shall be deemed to have been sold to the prejudice of the purchaser where in the process of production, preparation or conveyance of such article of food or drug some extraneous substance has unavoidably become intermixed therewith, and since the 25 per cent, of extraneous matter found by the Chemical Analyst might be bark of the tree or wax or oil or some other substance which unavoidably became intermixed during the process of preparation, boiling or solidification and since the prosecution had not given definite evidence to indicate that the requisite compositions of katha did not exist in the sample in question, it would be difficult to hold that the sample was adulterated katha.

5. After giving my anxious and careful consideration to the viewpoint of the learned Additional Sessions Judge I am of opinion that both his contentions are wrong. Under the U.P. Prevention of Adulteration Act (No. VI of 1912) food has been described as including every article used for food or drink by man other than drugs or water and all material used or admixed in the composition or preparation of such article and shall also include flavouring materials and condiments. Katha, which is commonly used in pan extensively by human beings in this country, to my mind, comes within the definition of food as given in the Act. The definition is wide enough to include katha as an article for food. The learned Additional Sessions judge has quoted from Chamber''s Twentieth Century Dictionary, which gives the meaning of "food" as:

What one feeds on that which, being digested, nourishes the body whatever sustains or promotes growth.

6. Pan is an article which one feeds on. It is something, which being digested, nourishes the body and at least something which, according to common opinion, sustains or promotes growth. Upon the dictionary meaning itself, katha, which is used as an ingredient in the preparation of pan, would be an article of food within the meaning of that term under the U.P. Prevention of Adulteration Act, 1912.

7. On the second point the learned Additional Sessions Judge seems to have misunderstood the report of the Chemical Analyst. No standard of purity of katha has, of course, been fixed by the State Government u/s 14(1), Clause (d) of the Act. Section 14(1) of the Act confers a power upon the Government to fix standards whenever they think it proper to do so, but apart from the standard fixed by the Government under that section, a person may be guilty of an offence u/s 4(1) if he sells any article of food which is not of the nature, substance or quality which it purports to be That being so, the offence would be equally committed if the offending article sold is one which is not of the nature, substance or quality which it purports to be. The report of the Chemical Analyst was to the effect that the katha was adulterated and contained 25 per cent of extraneous inorganic matter over and above the usual permissible limit. Upon that report it could not possibly have been urged that the 25 per cent of extraneous matter might be the bark of a tree or wax or oil or some other substance which unavoidably became intermixed during the process of preparation, boiling or solidification. Nor could is have been urged that the prosecution should have given definite evidence to indicate that the requisite compositions of katha did not exist in the sample and did not exist in the requisite percentage before a conviction u/s 4 of the Act could be maintained The prosecution proved by the report of the Chemical Analyst that the katha was adulterated and contained 25 per cent, of extraneous inorganic matter "over and above the usual permissible limit".

8. The report clearly proved that the katha was not of the nature, substance or quality which it purported to be. Once it was held that the katha was sold for human consumption and not for colouring purposes only, and once it was also held that when the sale was made to Kuber Singh there was no indication given to him to suggest that the katha that was being sold was for colouring purposes only, the conclusion irresistibly follows that the katha in question was adulterated katha and contained 25 per cent, of extraneous inorganic matter "over and above the usual permissible limit".

9. There is, therefore, no force in this reference which is accordingly rejected.

