

(2002) 05 SC CK 0008
In the Supreme Court Of India
Case No : Criminal Appeal 804 of 1996

Food Inspector

APPELLANT

Vs

G. Satyanarayana

RESPONDENT

Date of Decision : 02-05-2002

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 11, 16, 7

Citation : (2002) 3 ACR 2296 : (2002) 2 ALD(Cri) 417 : (2002) 2 ALT(Cri) 302 : (2003) CriLJ 3551 : (2002) 1 JT 547 Supp : (2004) 13 SCC 72

Hon'ble Judges : R. P. Sethi, J; Doraiswamy Raju, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The appellant, food inspector visited the shop of the respondent where he was transacting food grains business. Suspecting that the respondent was involved in the sale of adulterated food items, the appellant purchased 750 grams of red gram dal and after compliance of the statutory formalities, sent one of the samples to the public analyst for its analysis. Upon analysis, the sample was found to be contained keshari dal which was held to be injurious to health and therefore the sample was proved to be adulterated and mis-branded. After obtaining the necessary sanction from the authorities, the appellant filed a charge-sheet before the additional district munsif against the respondent u/s 16 read with Section 7 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act'). To prove the charges the complainant examined PWs 1 to 3, besides proving of Exhibits P1 to P16. Despite pleaded not guilty, the respondent did not lead any defence. The trial magistrate acquitted the respondent mainly on the ground that the statement of PW-1 had allegedly not been corroborated by the other witnesses. The appeal filed against the order of acquittal was also dismissed by the High Court vide the order impugned in this appeal on the same grounds.

2. We have heard the learned counsel and perused the record.

3. Section 11 of the Act prescribes the procedure to be followed by the food inspector for taking the sample of food for analysis. The food inspector is required:-

(a) "give notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample and to the person, if any, whose name, address and other particulars have been disclosed u/s 14A;

(b) except in special cases provided by rules under this Act, divide the sample then and there into three parts and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken in such place and in such matter as may be prescribed:

Provided that where such person refuses to sign or put his thumb impression the food inspector shall call upon one or more witnesses and take his or their signatures or thumb impressions, as the case may be, in lieu of the signature or thumb impression of such person;

(c) (i) send one of the parts for analysis to the public analyst under intimation to the local (health) authority; and

(ii) send the remaining two parts to the local (health) authority for the purposes of Sub-section (2) of this section and Sub-sections (2A) and (2E) of Section 13."

4. There is no denial of the fact that the appellant in this case had followed the procedure prescribed under the aforesaid section. The section does not provide for associating any other person as a witness for taking a sample of food for analysis. The courts below committed a mistake of law by acquitting the respondent on the ground that statement of PW-1 had not been corroborated by other independent witnesses. Corroboration of the statement of main witness is not the requirement of law but is only a rule of prudence.

5. It need not be direct and may be ascertained from the circumstances of a particular case. Under law, uncorroborated testimony of a witness is admissible u/s 133 of the Evidence Act. While looking for corroboration, the court has to keep in mind the broad spectrum of prosecution case and then to see whether there is evidence to lend assurance to that version. The nature and extent of corroboration depends upon the facts of each case.

6. In the instant case, there was sufficient corroboration of the testimony of PW-1 as is evident from the seizure memo and the receipt obtained for sale besides the report of the public analyst. The mere fact that the other witnesses cited by the prosecution had not supported the case of the prosecution was no ground to reject the testimony of PW-1. In this case courts below have adopted a hyper technical approach to hold that there was no corroboration because there were minor discrepancies in the statement of PW-1 and the other witnesses. It is not the number of witnesses but it is the quality of evidence which is required to be taken note of by the courts for ascertaining the truth of the allegations made

against the accused. Section 134 of The Evidence Act provides that no particular number of witnesses is required for proof of any fact. If the statement of PW-1 itself inspired confidence and the sample was found to be adulterated, the courts below should have returned a finding on merits and not to dismiss the complaint allegedly on the ground of non corroboration of the testimony of PW-1.

7. It is on record that the sample sent to the public analyst was found to be adulterated but such a report is rebuttable as the accused has a right to prove that the report is not correct or to lead defence evidence, and of availing the option of sending the sample to the central food laboratory for further analysis. We agree with the learned counsel for the respondent, the case be sent back to the trial court for disposal afresh on the facts of the case and in accordance with law.

8. Accordingly, this appeal is allowed and the impugned judgments are set aside. The trial court shall decide the case afresh on merits without taking into consideration the findings of the High Court but positively keeping in view the observations made in this order.