
(1987) 03 AHC CK 0040
In the Allahabad High Court
Case No : Criminal Revision No. 555 of 1987

Harish Saran

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 23-03-1987

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 401
Prevention of Food Adulteration Act, 1954 — Section 16, 17, 20, 20A

Citation : (1987) 11 ACR 434

Hon'ble Judges : B.L. Yadav, J

Bench : Single Bench

Advocate : Keshav Sahai, for the Appellant;

Judgement

B.L. Yadav. J.

1. This revision u/s 397/401 of the Code of Criminal Procedure (for short the Code) is directed against the order dated 12-1-1987 passed u/s 20-A of the Prevention of Food Adulteration Act, 1954 (for short the Act). The fact leading to the present revision application is that a sample of Gopi Brand Vanaspati (Article of Food) was obtained from Bankey Lal and same was sent to the Public Analyst, U.P. Lucknow. Bankey Lal made a statement or sent a letter that this Gopi Brand Vanaspati was purchased by him from M/s. Bhagwat Saran Harish Saran, Bisalpur, Pilibhit. On the basis of this statement or letter the proceedings were started against Bhagwat Saran who was representing the firm but lateron Bhagwat Saran died. On the basis of that statement now other partner namely Harish Saran the present applicant is sought to be proceeded against in view of the provisions u/s 20-A of the Act. Bankey Lal appears to have been acquitted.

2. Learned Counsel for the applicant urged that the applicant can be proceeded against only during the course of trial. When Bankey Lal was acquitted, the trial came to an end. The applicant cannot be proceeded against, after conclusion of trial. A fresh trial appears to have been commenced by the impugned order. This point appears to be without any substance inasmuch as said Bankey Lal had

made statement or given a letter to that effect much earlier when the enquiry trial was still in progress, that he had purchased Gopi Brand Vanaspati from M/s. Bhagwat Saran Harish Saran, Pilibhit. Both names including the name of the applicant, were mentioned as partners. After death of Bhagwat Saran, Harish Saran was the remaining partner who was representing the firm. Consequently the present order has been passed against him to the effect that he may be proceeded against for the offence u/s 16/17 of the Act. Under these circumstances it cannot be said that a fresh trial has been started against the present applicant.

3. It was next urged that the sanction was not obtained for prosecution against the firm. Suffice it to say that Section 20-A of the Act excludes the provisions of Section 20 which requires obtaining sanction before starting prosecution. As a matter of fact if some body is sought to be prosecuted in view of same statement or evidence u/s 20-A of the Act, in that case obtaining the sanction in view of Section 20 is not necessary. The learned Counsel wanted to urge some points more other than the points raised and discussed in earlier paragraphs. The points, other than mentioned above can be raised on behalf of the applicant at the appropriate stage during trial.

4. I do not find any merit in the revision and the same is dismissed.