
(1999) 11 AHC CK 0134
In the Allahabad High Court
Case No : Criminal Revision No. 1917 of 1984

Khanna Oil Mills

APPELLANT

Vs

State of U.P.& Anr.

RESPONDENT

Date of Decision : 29-11-1999

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 14, 16(1)(o)

Citation : (1999) 11 AHC CK 0134

Hon'ble Judges : J.C.Mishra, J

Final Decision : Allowed

Judgement

J.C. Mishra, J.—This revision is directed against the order dated 1781984 directing the revisionist to appear on 1791984 and in default to summon him byailable warrants.

2. The prosecution case is that the Food Inspector, A.B. Kandpal had purchased mustard oil on 991983 from a sealed tin. The sample on analysis was found to be adulterated by argemone oil. The Food Inspector filed a complaint. He also prayed for summoning the supplier and manufacturer under Section 16(1)(o) of the Prevention of Food Adulteration Act. The learned Chief Judicial Magistrate summoned the revisionist Khanna Oil Mills. Felt aggrieved it preferred this revision.

3. Sri B.D. Madhyan, learned Counsel for the revisionist contended that the oil was sold to the vendor by M/s. Vijay Kumar Gupta and not by the revisionist, as no warranty was given either by the manufacturer or by the distributor or by the dealer the revisionist could not be summoned to face trial.

4.1 find force in this contention. Section 14 of the Act requires the manufacturer, distributor or dealer not to sell any article to any vendor unless he also gives a warranty in writing in prescribed form about the nature of quality of such article to the vendor. Proviso to Section 14 provides that a bill, cash memo or invoice in respect of sale of any article of Food given by the manufacturer, or distributor or

dealer in such article to the vendor under the Act. Section 14(o) of the Act requires vendor of any article of food to disclose to the Food Inspector name, address and other particulars of the persons from whom he purchased the article of food.

5. There is no material on record to suggest that any warrantly was given by the revisionist or the vendor had disclosed the name of the revisionist as vendor. In absence of any evidence regarding warrantly or permission under the proviso of Section 14(a) the Magistrate committed illegality in summoning the revisionist. The order is illegal and deserves to be set aside. However, it shall be open to the Magistrate to summon the manufacturer, dealer or distributor if during the course of trial it is satisfied on the evidence adduced before it that the manufacturer, dealer or distributor is also concerned with the offence and to proceed against him as if the prosecution had been instituted against him.

The revision is allowed. The order summoning the revisionist is quashed.

Revision allowed.