
(1927) 11 AHC CK 0004
In the Allahabad High Court

Kishan Lal

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision : 13-11-1927

Acts Referred:

United Provinces Prevention of Adulteration Act, 1912 — Section 4

Citation : AIR 1928 All 254 : 108 Ind. Cas. 148

Hon'ble Judges : Ashworth, J

Bench : Division Bench

Judgement

Ashworth, J.—In this case the Chairman of the Municipal Board of Ghaziabad sanctioned the prosecution of one Kishen Lal u/s 4, U.P. Prevention of Adulteration Act (6 of 1912) for exposing for sale adulterated ghi. The accused was convicted by a Deputy Magistrate. The Sessions Judge of Meerut has referred the matter to this Court on the ground that the prosecution was legally incorrect, as the Municipal Board had at a meeting expressed the opinion that a prosecution was not necessary. The Deputy Magistrate has explained that u/s 50 (e), the Board at Ghaziabad could only exercise the particular function of sanctioning prosecutions through its Chairman. The., Sessions Judge had apparently overlooked this provision. In view of this provision it would make no difference to the legality of the sanction that the Board may have expressed itself against prosecution, even if it formally resolved against prosecution. In such a case the Chairman is the Board and his Act binds the Board, however much against the wish of the Board which cannot interfere. The policy of the Municipalities Act was to enable certain functions of the Board to be exercised by the Chairman so as to avoid the delay necessitated by reference of the matter to the Board. Section 12, Prevention of Adulteration Act (U.P. Act 6 of 1912), which is a general provision as to sanctions of prosecution for adulteration cannot control Section 50 (e), Municipalities Act, for two reasons. One is that; a general enactment cannot affect a special one; and the other reason is that the latter Act was passed later than the former one.

2. There is no reason for interference an revision and the record may be returned.