
(2012) 05 JH CK 0064
In the Jharkhand High Court
Case No : Cr.M.P. No. 2009 of 2011

Md. Shree Om Industries

APPELLANT

Vs

State of Jharkhand and another

RESPONDENT

Date of Decision : 15-05-2012

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16(1)(a), 2(ix)

Citation : (2013) 2 Crimes 142

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Prasad, J.—Defect pointed out by the office is hereby ignored. Learned counsel appearing for the petitioner submits that on 14.7.2011, the Food Inspector, Ranchi collected sample of Mustard Oil from Reliance Fresh Shop, Hinoo, Ranchi. The said sample was sent to the Public Analyst, Mineral Area Development Authority (MADA), Dhanbad for its analysis. After getting it analyzed, a report was submitted, reporting therein that the sample is "misbranded" as the label was not in accordance with Rule 32 of the Prevention of the Food Adulteration Rule, 1955.

2. In this respect, learned counsel appearing for the petitioner pointed out that since the words "best before six months" were not written in the bold letter, it was taken to be misbranded and on account of that prosecution report was submitted, upon which cognizance was taken u/s 16(1)(a) of the Prevention of Food Adulteration Act, which is under challenge.

3. Learned counsel appearing for the petitioner submits that it is true that those words which were required to be written in bold letters, were not in bold letter over the packets of the Mustard Oil, but those words are there over the packet and hence, it can be taken to be sufficient compliance of Rule 32 of the said Rules and under this situation, the petitioner never warrants to be prosecuted.

4. In support of his submission, he has relied upon a decision rendered in a case of M.D. Anand Aqua vs. The State of Bihar & Anr. [2010(3) PLJR 31] and also in a case of Oscar Josheph and another vs. State of Jharkhand and another (Cr.M.P. No. 663 of 2009).

5. Misbrand has been defined in Section 2(ix) of the Act, which reads as follows:

(ix) "misbranded" - an article of food shall be deemed to be misbranded.

(k) if it is not labeled in accordance with the requirement of this Act or Rules made thereunder.

Therefore, the case of the prosecution also falls within sub-Section (k) of Section 2(ix) of the Act.

Rule 32 of the Act envisages that month and year in capital letters upto which the product is based for consumption should be provided in the following manner. The manner indicates "BEST BEFORE.....MONTHS AND YEAR".

6. Since the words "Best Before Six Months" were not written in capital letters over the packets of the Mustard Oil seized from the shop in question, the prosecution case has been lodged. It is never the case that clause which was required to be there under Rule 32 was never there over the packets rather it was there in small letters and, therefore, there is sufficient compliance of Rule 32. The same view was taken in the case referred to above.

7. Under the circumstances, prosecution of the petitioner seems to be unwarranted. Accordingly, the entire criminal prosecution of complaint case no. C IV-27 of 2011 including the order taking cognizance dated 5.9.2011, pending in the court of Sub-divisional Judicial Magistrate, Ranchi is hereby stayed.

In the result, this application is allowed.