
(2012) 02 PAT CK 0121
In the Patna High Court
Case No : Miscellaneous No. 14464 of 2002

Murari Krishna Agrawal @ Krishna Murari Agrawal	APPELLANT
Vs	
State of Bihar	RESPONDENT

Date of Decision : 14-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Prevention of Food Adulteration Act, 1954 — Section 16(1)(a)

Citation : (2012) 2 Crimes 284

Hon'ble Judges : Rajendra Kumar Mishra, J

Bench : Single Bench

Advocate : S.D. Sanjay and Gopal Prasad Gupta, for the Appellant; Dashrath Mehta, Assistant Public Prosecutor for the State, for the Respondent

Final Decision : Allowed

Judgement

Rajendra Kumar Mishra, J.—The petitioner has approached this Court in inherent jurisdiction u/s 482 of the Code of Criminal Procedure of this Court to quash the order dated 21.5.2001 passed in Case No. 21(O) of 2001 by the court of the Chief Judicial Magistrate, Arrah, taking the cognizance of the offence under Sections 16(1)(a) of the Prevention of Food Adulteration Act, 1954, against the petitioner and two other accused, namely, Sri Niranjan Kumar Jain and Sri Ratan Saw. In brief, the case related to this application is that Mr. A.K. Singh, Food Inspector, Patna, filed the prosecution report against the petitioner and two other accused, namely, Sri Niranjan Kumar Jain and Sri Ratan Saw, alleging therein that on 24.7.2000, the three packets of Goldi Bandhani Hing were collected from the shop of the petitioner, running in the name of M/s. Shrijee Enterprises, Arrah, by him and sent to the Public Analyst for the examination. As per analyst report, the label on package of Hing does not contain net weight, batch number, date of manufacturing and the date of best before consumption. As such, the label on package of Hing does not comply the provisions of the sub rule (i) and (f) of the Rule 32 of the Prevention of Food Adulteration Rules, 1955, so it is misbranded and is punishable u/s 16(1)(a) of the Prevention of Food Adulteration Act, 1954.

2. On perusal of the prosecution report, the learned Chief Judicial Magistrate, Arrah, took the cognizance of the offence against the petitioner and two other accused, namely, Sri Niranjan Kumar Jain and Sri Ratan Saw, u/s 16(1)(a) of the Prevention of Food Adulteration Act, 1954, through the impugned order dated 21.5.2001.

3. Learned counsel appearing on behalf of the petitioner made submission that the three packets of Hing, each containing 10 grams, are said to be collected by the Food Inspector, Patna, from the shop of the petitioner on 24.7.2000. Therefore, the provision of sub rule (f) of Rule 32 of the Prevention of Food Adulteration Rules, 1955, would not be applicable in the case of the petitioner as the aforesaid Rule would be applicable for the packing of 20 grams or more than 20 grams. It has further been submitted that as far as the contravention of Rule 32(i) of the Prevention of Food Adulteration Rules, 1955, about not detailing the month and year of manufacturing on the label of the package in capital letters upto which the product is best for consumption, is concerned, on the date of collecting the sample, i.e., 24.7.2000 by the Food Inspector that provision was not in enforce as the provision was omitted by G.S.R. 769 (E) dated 15th of November, 1999 and was again inserted by G.S.R. 537 (E) dated 13th of June, 2000, with effect from 1.9.2000.

4. On perusal of the prosecution report, which is Annexure-"1" to this application, as submitted against the petitioner in the court of the Chief Judicial Magistrate, Arrah, it appears that the allegation is that the label on the package of the Hing does not comply the provisions of sub rule (f) and (i) of Rule 32 of the Prevention of Food Adulteration Rules, 1955, so it is misbranded as per the Analyst Report. Annexure-"4" is the Xerox copy of the sampling report in Form-VI printed under Rule 12 of the Prevention of Food Adulteration Rules. 1955, in which Item No. 3 is Goldi Bandhani Hing, collected in three packets each containing 10 grams, from the shop of the petitioner. On bare reading of Rule 32 (f) of the Prevention of Food Adulteration Rules. 1955, it is apparent that the month and year on the packet are not required to be given in respect to the packet weighing less than 20 grams. Similarly. Rule 32(i) of the Prevention of Food Adulteration Rules, 1955, requires the month and year in capital letters upto which the product is best for consumption and that rule was not in operation on 24.7.2000 when the samples are said to be collected from the shop of the petitioner as the said provisions was omitted by G.S.R. 769 (E) dated 15th of November, 1999 and the same was again inserted through G.S.R. 537 (E) dated 13th of June, 2000, with effect from 1.9.2000. As such, apparently, Rule 32(f) and (i) of the Prevention of Food Adulteration Rules, 1955, would not be attracted in taking of three package each containing 10 gms Hing, as alleged to be taken, as sample from the shop of the petitioner. Therefore, no question arises for committing the offence by the petitioner under Sections 16(1)(a) of the Prevention of Food Adulteration Act, 1954, for the contravention of the provisions of Rules 32(f) and (i) of the Prevention of Food Adulteration Rules, 1955. Under the aforesaid facts and the circumstances, the impugned order dated 21.5.2001

passed in Case No. 21(o) of 2001 by the court of the Chief Judicial Magistrate, Arrah, with respect to the petitioner, is hereby quashed and the application is allowed.