
(1981) 09 SC CK 0020

In the Supreme Court Of India

Case No : Civil Appeal No. 712 of 1979

Paramjit Singh

APPELLANT

Vs

Municipal Corporation of Delhi and Another

RESPONDENT

Date of Decision : 15-09-1981

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16, 2, 7(1)

Citation : AIR 1982 SC 1095 : (1982) CriLJ 1241 : (1982) 3 SCC 317

Hon'ble Judges : Y. V. Chandrachud, C.J.; A. Varadarajan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Y.V. Chandrachud, C.J.—On Nov. 13, 1968 a sample of broken cashewnut was taken from the shop of the appellant Paramjit Singh. The sample was analysed three days later. The report of the public analyst dated November 21, 1981, shows that the sample was 'insect infested' to the extent of 6.93 per cent. On these facts the appellant was tried for an offence u/s 7(1) read with Section 16 of the Prevention of Food Adulteration Act, 1954 ("The Act"). The trial Court by its judgment dated Sept. 25, 1972, acquitted the appellant but in appeal the High Court of Delhi by its judgment dated Oct. 11, 1979 convicted the appellant and sentenced him "to suffer rigorous imprisonment for a period of six months and to pay a fine of Rs. 2,000. Being aggrieved by that judgment, the appellant has filed this appeal by special leave.

2. Section 2(ia)(f) of the Act provides that an article of food shall be deemed to be adulterated "if the article consists wholly or in part of any filthy, putrid, rotten, decomposed or diseased animal or vegetable substance or is insect-infested or is otherwise unfit for human consumption". Mr. V. S. Desai who appears on behalf of the appellant contends that there is no evidence in this case to show that the presence of insects in the cashewnuts was of such an order or to such an extent that by reason thereof, the cashewnuts could be said to be unfit for human consumption. He urges that the words 'insect infested' cannot be understood to

mean merely that the presence of insects was found in the article of food. The word 'infested', according to the learned Counsel, connotes the presence of insects of a magnitude or extent which makes the article unfit for human consumption. In support of this submission reliance is placed on a two-Judge Bench judgment of this Court in *Municipal Corporation of Delhi v. Kacheroo Mal* AIR (1976) 1976;

3. Mr. Prem Malhotra who appears on behalf of the Municipal Corporation of Delhi has, on the other hand drawn our attention to another judgment of this Court in *Municipal Corporation of Delhi Vs. Ram Sarup*, , which was rendered by a three-Judge Bench. The learned Judges, in that case, expressed their "reservations about the correctness" of the decision on which Mr. Desai relies, but they distinguished it.

4. In the ordinary course, we would have referred this matter to a larger Bench in order that the true legal position may be pronounced so as to avoid doubt in a matter which arises frequently for consideration. In the circumstances of this case, however, we do not propose to adopt that course. The offence was committed as long back as in Nov. 1968 and nearly thirteen years have gone by since then. The infestation of insects was not of such an extent as to necessitate the passing of a sentence of imprisonment upon the appellant. In 1968, when the offence was committed the legislature had prescribed a minimum sentence but the courts were allowed the discretion to impose either a sentence of imprisonment or a sentence of fine. Not only that, but courts had then the power, in appropriate cases, to release an offender on probation. Taking these aspects of the matter into consideration, we are of the view that the appellant should be released on probation of good conduct. Accordingly, while confirming the conviction of the appellant we set aside the sentence imposed upon him on his executing a bond of good behaviour for a period of one year in the sum of Rs. 2,000.