

(2014) 01 JH CK 0012
In the Jharkhand High Court
Case No : Cr. MP. No. 1055 of 2013

Samrendra Nath Hazra @ S.N. Hazra

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 16-01-2014

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16(1)(a)(i)(ii)

Citation : (2014) 1 JLJR 572

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : S.K. Dwivedi, Advocate for the Appellant; Deepak Kumar Prasad for Respondent No. 2, Advocate for the Respondent

Judgement

Rakesh Ranjan Prasad, J.—Heard learned counsel appearing for the petitioner and learned counsel appearing for the State and learned counsel appearing for the O.P. No. 2. This application is directed against the order dated 22.9.2009 passed in a Complaint bearing case no. C-IV-19 of 2009 whereby and whereunder cognizance of the offence punishable u/s 16(1)(a)(i)(ii) of the Prevention of Food Adulteration Act, 1954, has been taken against the petitioner.

2. Mr. Dwivedi, learned counsel appearing for the petitioner submits that a sample of Rishabh's Badi (Masoor Badi), was taken from One of the outlets of the Reliance Fresh. That was sent to the Public Analyst, Jharkhand, Ranchi for its analysis. On being analyzed, the product was found to be "misbranded" as complete address of the manufacturer was not there over the label of the packet and on such accusation, the prosecution was initiated against the petitioner who happened to be one of the employees of the Reliance Fresh, but if one would look to the Analyst's report, it would appear that address is there but that does not seem to be complete address. However, that can be taken to be sufficient compliance and, therefore, any prosecution on that ground of the petitioner would be abuse of the process of the Court.

3. Learned counsel appearing for the petitioner further submits that almost in

similar situation, when in some of the cases of misbranding, when it was found that "Best Before Use" which should have been printed over the packets in capital letters had not been printed in the capital letters, but in small letters, the Court has taken it as sufficient compliance and, therefore, on the same analogy, this would also be taken to be case of sufficient compliance under Rule 32 of the Prevention of Food Adulteration Rules, 1955.

4. Learned counsel has referred in this regard, two decisions in the case of Dharam Pal Gulati Vs. State of Jharkhand and Another and also in the case of Sri Jalaj Kumar Chatterjee vs. State of Jharkhand & Ors. reported in 2013(2) JBCJ 159 [HC].

5. As against this, learned counsel appearing for the Opposite Party No. 2 submits that certainly there does not appear to be full compliance of the provision as contained under Rule 32 of the Prevention of Food Adulteration Rules, 1955.

6. On perusal of the report submitted by the Public Analyst, it does appear that address of the manufacturer is there but that, according to the prosecution, is not complete but whatever address has been given, that can be taken to be sufficient compliance of Rule 32 of the Prevention of Food Adulteration Rules, 1955 and in that view of the matter, any prosecution against the petitioner would be unwarranted.

7. Accordingly, the order taking cognizance dated 22.9.2009, is, hereby, quashed, so far the petitioner-Samrendra Nath Hazra @ S.N. Hazra is concerned. In the result, this application stands allowed.