

(2001) 05 DEL CK 0166
In the Delhi High Court
Case No : Criminal R. No. 245 of 2001

Satya Narain

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 07-05-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 433
Prevention of Food Adulteration Act, 1954 — Section 16(1), 2(1), 7

Citation : (2001) 4 AD 955 : (2001) 91 DLT 468 : (2001) 59 DRJ 125 : (2001) 2 RCR(Criminal) 846

Hon'ble Judges : R.S. Sodhi, J

Bench : Single Bench

Advocate : P.R. Thakur and Naveen Thakur, for the Appellant; U.L. Watwani, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Sodhi, J.

Admit.

1. This revision petition is directed against the order of the Additional Sessions Judge, Delhi in Criminal Appeal No. 45/99 whereby the learned Judge dismissed the appeal of the appellant against the order dated 24.3.1994 of the Metropolitan Magistrate, Delhi holding the appellant guilty u/s 16(1) read with Section 7, Prevention of Food Adulteration Act for violation of provisions of Section 2(1)(a) (a)(j)(m) of the Act also against the order sentencing the appellant to undergo R.I. for one year and to pay a fine of Rs. 5,000/- and in default of payment of fine to undergo S.I. for six months. Further on appeal while upholding the order of conviction the learned Appellate Court modified the sentence for one year S.I. and a fine of Rs. 2,000/- instead of Rs. 5,000/-.

2. Learned Counsel for the petitioner has confined his submission only to the question of sentence. He has drawn my attention to a judgment of the Supreme

Court in *Nortan Mal v. State of Rajasthan*, 1995 (3) Recent Criminal Reports 311, where the Supreme Court while dealing with more or less similar case was pleased to acquit the appellant of all charges. The learned Counsel also draws my attention to another judgment of the Supreme Court in *Badri Prasad v. State of M.P.*, 1996 (2) FAC 187 3 (1995) CCR 610, whereby the Supreme Court on the question of coloring material held that although adding the same would be an offence under the Act, the sentence under the same was reduced from six months to three months simple imprisonment with a recommendation that the State Government should take action under Sub-clause (d) of Section 433 of the Code of Criminal Procedure.

3. In the present case, I find that the cases are more or less similar to the judgment in *Nortan Mal*'s case. However, I deem it fit to deal with this case with reference to *Badri Prasad*'s case and, Therefore, reduce the sentence of one year to six months simple imprisonment, together with a fine of Rs. 20,000/-.

4. Subject to this modification in the sentence the criminal revision fails. This has been made to enable the petitioner to approach the State Government under Sub-clause (d) of Section 433 for conversion of simple imprisonment to fine. Since the adulteration was of a nature that was not injurious to human consumption I recommend that the State Government releases the petitioner on charging Rs. 20,000/- as fine and that an appropriate order be passed by the State Government to that effect within a period of three months. The appellant shall deposit with the Trial Court a fine of Rs. 20,000/- within one week from today and apprise the State Government of having discharged his obligation. On deposit of fine he be released.

5. Crl. R. 245/2001 is disposed of.

6. Revision dismissed.