
(2000) 11 AHC CK 0003
In the Allahabad High Court
Case No : Criminal Revision No. 2664 of 1984

Shanker Brothers Oil Mills

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 08-11-2000

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 14A, 16, 19, 19(2), 20

Citation : (2001) 2 ACR 1737

Hon'ble Judges : B.K. Rathi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.K. Rathi, J.—The present revision has been filed against the order dated 29.9.1984 passed by Chief Judicial Magistrate, Pithoragarh, by which the applicant has been summoned to stand trial for offence u/s 7/16, P.F.A. Act.

2. The brief facts of the case are as follows:

The sample of mustard oil was taken from K.K. Gupta of Pithoragarh on 28.12.1983. On analysis, it was found to be adulterated. It was informed that the applicant is the manufacturer of the said mustard oil and, therefore, the complaint was also filed against the applicant by the Food Inspector. On that complaint, the impugned order of summoning the applicant was passed.

3. I have heard Sri B. D. Mandhyan, learned Counsel for the applicant and the learned A.G.A.

4. It is contended by the learned Counsel for the applicant that the applicant could not have been summoned on the basis of the complaint. That the applicant could have been summoned u/s 20A of the P.F.A. Act on proof by the dealer that the oil was manufactured by the applicant.

5. Learned Counsel for the applicant in support of the argument has referred to the decision of M/s. Parumal Keomal Oil and Flour Mill Gangapur, Bareilly v. State

of U. P. and Anr. (36) 1998 ACC 730. Para 3 of the judgment, which is material, is extracted below:

Learned Counsel for the accused-revisionist has drawn my attention to the provisions of Section 14A, Section 19 and Section 20A of the Prevention of Food Adulteration Act, 1954. On consideration of these provisions, it is clear that the stage of summoning the manufacturer will arise on proof having been furnished by the vendor as required u/s 19(2) of the Act and that during the trial of the offence under the Act alleged to have been committed by the vendor on being satisfied from the evidence adduced before it that the manufacturer is also concerned with the said offence, the Court may proceed against the manufacturer as though a prosecution had been launched against it u/s 20 of the Act. That stage is yet to come.

6. Learned Counsel has also referred to the decision of this Court in M/s. Chet Ram Parumal Oil Mill v. State of U. P. and Anr. (38) 1999 ACC 938. Similar view was taken in the present case.

7. The facts of the present case are identical. The applicant could have been summoned by the Court u/s 20A of P.F.A. Act. The summoning order on the basis of the complaint is, therefore, fit to be quashed.

8. The revision is allowed and the impugned order of Chief Judicial Magistrate, Pithoragarh, dated 29.9.1984 is quashed. However, it is made clear that during trial if at any stage the evidence is brought on the record that the applicant is manufacturer of the mustard oil, of which sample was taken, he may be summoned to stand trial notwithstanding any observation made in this judgment.