
(1996) 06 SHI CK 0015
In the High Court Of Himachal Pradesh
Case No : C.A. No. 247 of 1990

State of Himachal Pradesh

APPELLANT

Vs

M/s. Sandhu Masala Industries

RESPONDENT

Date of Decision : 20-06-1996

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16(1), 7
Prevention of Food Adulteration Rules, 1955 — Rule 50

Citation : (1997) 1 ShimLC 32

Hon'ble Judges : A.K. Goel, J

Bench : Single Bench

Advocate : M.L. Chauhan, Assistant Advocate General, for the Appellant; Onkar Jairath, for the Respondent

Judgement

Arun Kumar Goel, J.—This appeal is directed against the judgment of Chief Judicial Magistrate, Una in Case No. 1616/89, dated 8th January, 1990 whereby the Respondent has been acquitted of the offence u/s 16(1)(a)(ii) read with Section 7(v) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as "the Act").

2. The brief facts of the case are that Food Inspector, Shri G.R. Puri, is stated to have inspected the premises of the Petitioner on 23rd July, 1989 at Bhadsali at about 1.00 a.m. and found Haldi powder, Mirch powder and spices exposed for sale in the industry and the Respondent had no licence for the sale of such articles of food as envisaged under Rule 50 of Prevention of Food Adulteration Rules. In this background, the Respondent was prosecuted Notice of accusation was served upon the Respondent on 18th October, 1989 and the case was adjourned to 8th January, 1990 for prosecution evidence.

3. When the case was taken up on 8th January, 1990, an application appears to have been filed by the Food Inspector, wherein a prayer was made that Dr. K.L. Chadha, C.M.O. Una may also be called for correct decision of the case.

4. When the case was taken up on 8th January, 1990, instead of recording prosecution evidence, the trial Magistrate below took note of judgment passed in Cr.M.P. (M) No. 409/89, titled as Om Parkash v. State, dated 30th November, 1989 and held that in the present case the sanction granted by the C.M.O. to prosecute the Respondent was not in accordance with law being on a cyclostyled form filled in by someone and only signed by C.M.O. Una. Following the aforesaid judgment of this Court, it was held that prosecution cannot be allowed to continue and consequently the sanction was held to be illegal. In this background, the complaint was dismissed resulting in the acquittal of the Respondent, hence the present appeal.

5. Prima facie sanction accorded by C.M.O., Una, which is at page 17 of the trial Court file, shows that it is a cyclostyled proforma filled in by someone and is only signed by C.M.O. Had the matter been left there to rest by the Appellant, probably something could be said. However, in the instant case, the prosecution has filed application seeking permission of the Court to examine the C.M.O., who had accorded the necessary permission to prosecute the Respondent. The present case in the ordinary course of things would have been remanded back to the trial Court by setting aside the impugned order with a direction to the trial Court to proceed in accordance with law as well as by allowing the application and examining Dr. K.L. Chadha, who accorded sanction, as prayed for by the Food Inspector, vide his application (at page 35 of the trial Court file). However, looking to the fact that sample was taken more than 6-1/2 years ago, it is not a fit case for being remanded to the trial Court. In this context it may be appropriate to mention that the Respondent was firstly being prosecuted before the trial Court and thereafter the sword of the present case had been hanging around his neck since 1990. Trial Court was not justified in dealing with the application for summoning and examining Dr. K.L. Chadha in order to prove the sanction as has been done in the instant case. Still looking to the totality of the present case and particularly to the fact that Petitioner had been suffering for more than 6-1/2 years, it is directed that although the impugned order is being set aside as it cannot stand the test of judicial scrutiny, yet the prosecution against the Respondent is ordered to be quashed looking to the time gap as well as on account of the fact that the trial of the case has not yet been commenced.

6. For the aforesaid reasons while quashing the impugned order, as explained hereinabove, proceedings will also stand closed.