

(2009) 12 SHI CK 0060
In the High Court Of Himachal Pradesh

State of H.P.

APPELLANT

Vs

Rakesh Kumar and Another

RESPONDENT

Date of Decision : 29-12-2009

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16(1)
Prevention of Food Adulteration Rules, 1955 — Rule 22

Citation : (2010) CriLJ 3201 : (2011) 5 RCR(Criminal) 725

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Judgement

Deepak Gupta, J.—This appeal by the State is directed against the judgment of the learned Sessions Judge, Bilaspur dated 2-8-2002 whereby he allowed the appeal filed by the accused and set aside the judgment of the learned Sub-Divisional Judicial Magistrate, Ghumarwin convicting the accused of having committed offences punishable under Sections 16(1)(a)(i) and 16(1)(a)(ii) of the Prevention of Food Adulteration Act, 1954.

2. This appeal can be disposed of on a short legal ground. Admittedly, the Food Inspector in the present case purchased only 600 grams of Urad Whole "Daal". He divided the same into three portions of 200 grams each and one part of 200 grams was sent to the Public Analyst, Kandaghat. Rule 22 of the Prevention of Food Adulteration Rules as it stood prior to its amendment on 29-7-2002 provided that in case of pulses covered under item No. 19, the quantity of the sample required to be sent to the Public Analyst for analysis was 250 grams. The learned Court below held that since adequate quantity was not sent to the Public Analyst, the report of the Public Analyst could not be relied upon.

3. The learned Lower Appellate Court has placed reliance on the judgment of the Apex Court in Life Insurance Corporation of India Vs. Vishwanath Verma and others, In the case before the Apex Court, a sample of compounded asafoetida was taken and hundred grams was sent to the Public Analyst for analysis. Rule 22 of the aforesaid Rules required that 200 grams of compounded asafoetida had

to be sent for analysis. The Apex Court held that when the requisite quantity in terms of Rule 22 is not sent then no reliance can be placed on the report of the Public Analyst. It would be appropriate to refer to the following observations of the Apex Court:

The Appellant also contended that samples were not taken in accordance with the provisions of the Act and the rules thereunder. Rule 22 states that in the case of asafoetida the approximate quantity to be supplied for analysis is 100 grams and in the case of compounded asafoetida 200 grams. The Public Analyst did not have the quantities mentioned in the Rules for analysis. The appellant rightly contends that non-compliance with the quantity to be supplied caused not only infraction of the provisions but also injustice. The quantities mentioned are required for correct analysis. Shortage in quantity for analysis is not permitted by the statute.

4. No law to the contrary has been brought to my notice. In view of the law laid down by the Apex Court, it is apparent that in the present case also, there has been infraction of Rule 22 and, therefore, no reliance can be placed on the report of the Public Analyst. The appeal is accordingly rejected. No order as to costs.