

(1997) 03 SC CK 0160

In the Supreme Court Of India

Case No : Criminal Appeal No's. 778 of 1989 with 305 of 1997 Arising out of
SLP (Criminal) No. 619 of 1997

State of Maharashtra and Another

APPELLANT

Vs

Gopalprasad Govindprasad Agarwal and Others

RESPONDENT

Date of Decision : 20-03-1997

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378

Prevention of Food Adulteration Act, 1954 — Section 16(1), 20

Citation : (1997) 1 ACR 423 : AIR 1999 SC 1507 : (1998) AIRSCW 3878 :
(1999) CriLJ 468 : (1998) 9 JT 115 : (1998) 9 SCC 274

Hon'ble Judges : S. B. Majmudar, J; M. K. Mukherjee, J

Bench : Division Bench

Final Decision : dismissed

Judgement

1. Leave granted in SLP (Crl.) No. 619 of 1997.

2. Against the respondents in these appeals two separate prosecutions were launched u/s 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 ("Act" for short) at the instance of a Food Inspector of the Food and Drug Administration Department, State of Maharashtra on the accusation that they had exposed for sale chilli powder and turmeric (whole) in their shop, which on analysis were found to be adulterated. The trial court convicted them for the above offences and aggrieved thereby they preferred appeals in the Court of Session. The appellate court set aside their convictions solely on the ground that the written consent given u/s 20 of the Act for their prosecutions was not proper as the authority concerned did not give reasons therefore. In recording such finding the appellate court relied upon the judgment of this Court in A.K. Roy and Another Vs. State of Punjab and Others, wherein it has been observed that the consenting authority can give its consent in writing on being satisfied that a prima facie case exists in the facts of a particular case and on recording reasons for the launching of such prosecution in public interest.

3. Aggrieved by the order of acquittal the appellant filed petitions u/s 378 CrPC in the High Court seeking leave to prefer appeals there from but such leave was refused on the ground that the acquittal was justified. Hence these appeals.

4. To ascertain whether the orders granting consent were proper or not we called for and looked into the relevant orders. Our such exercise persuades us to hold that the appellate court and, for that matter, the High Court, were not justified in concluding that the consent was not proper. The orders show that the Joint Commissioner, Food and Drug, Pune Division (the consenting authority) had gone through the relevant records of the cases including the reports of the Public Analyst and he specifically recorded therein that the prosecutions against the appellants were called for the alleged offences committed. In our view the orders granting consent fulfill all the requirements of Section 20 of the Act.

5. Ordinarily, after recording the above findings we are required to set aside the impugned acquittal and remand the matter for disposal of the appeals on their merits but having regard to the fact that since the offences were allegedly committed almost 20 years have elapsed we do not feel inclined to take such a course of action. We, therefore, dismiss the appeals with the above observations.