

(1977) 03 SC CK 0041

In the Supreme Court Of India

Case No : Criminal Appeal No"s. 204, 216, 217, 218 and 278 of 1976

State of Maharashtra

APPELLANT

Vs

Shantilal Kalidas Gujarathi

RESPONDENT

Date of Decision : 22-03-1977

Acts Referred:

Citation : AIR 1977 SC 2182 : (1977) CriLJ 1920 : (1977) 4 SCC 606(2) : (1978) SCC(Cri) 198

Hon'ble Judges : Y. V. Chandrachud, J;P. N. Shingal, J;P. K. Goswami, J

Bench : Full Bench

Judgement

Y.V. Chandrachud, J.—These appeals raise an important question whether Rule 22 of the Prevention of Food Adulteration Rules is mandatory and whether noncompliance with the rule is fatal to the prosecution. We are informed by the learned Additional Solicitor General that most of the High Courts have taken the view that the particular rule is directory and not mandatory so that, even if the rule is not strictly complied with, the prosecution is not liable to fail for that reason.

2. There is, however, a judgment of this Court in Rajaldas Gurunamal Pamanani Vs. The State of Maharashtra, in which a Bench of four learned Judges, speaking through the learned Chief Justice, observed that "the shortage in quantity for analysis is not permitted by the statute", By reason of this observation, many High Courts have felt compelled to pass orders of acquittal, whenever the exact quantity mentioned in the rule was not obtained by the Food inspector by way of sample for being sent for analysis to the public analyst.

3. As stated earlier, the question is of far-reaching importance. Since with great respect, the observations made in Rajal Das's case, though not direct, cannot be ignored, it is necessary in the interest of justice that the question be examined by a larger Bench.

4. Accordingly, we direct that the papers of these appeals should be placed

before the learned Chief Justice to enable him to refer these appeals to a larger Bench.