

(2016) 05 JH CK 0098
In the Jharkhand High Court
Case No : W.P. (Cr) No. 97 of 2012

Tirguali Murli @ T. Murli

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 10-05-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Prevention of Food Adulteration Act, 1954 — Section 16(1)(a)

Citation : (2016) 166 AIC 488 : (2016) 3 AIRJharR 1 : (2016) 3 JCR 394

Hon'ble Judges : Mr. Prashant Kumar, J.

Bench : Single Bench

Advocate : Mr. Indrajit Sinha, Advocate, for the Appellant; Mr. Binod Singh, S.C. (L & C) and Mr. Achinto Sen, J.C. to S.C. (L & C), for the Respondent

Final Decision : Allowed

Judgement

Mr. Prashant Kumar, J.—This writ application has been filed for quashing the entire criminal proceeding in connection with C-2 Case No. 1112 of 2010 pending in the court of learned Judicial Magistrate, 1st Class, Jamshedpur and the order dated 14.12.2010 passed by the learned Chief Judicial Magistrate, Jamshedpur in the above case whereby, he took cognizance under section 16(1) (a) of the Prevention of Food Adulteration Act, 1954.

2. It appears that respondent no. 2 has conducted a raid in the premises of Beldih Club Canteen, Bistupur, Jamshedpur and seized sample of Baker's Chana Masala. It further appears that the Public Analyst on 29.10.2010 had reported that the seized sample was misbranded by the manufacturer. It further appears that in view of the aforesaid report of the Public Analyst, the respondent no. 2 filed a prosecution report in the court of learned CJM, Jamshedpur on 13.12.2010 alleging therein that petitioner being the Store In-charge of Beldih Club Canteen, Bistupur, Jamshedpur has committed an offence under section 16(1)(a) of the Prevention of Food Adulteration Act, 1954.

3. It appears that learned Chief Judicial Magistrate, Jamshedpur vide his order

dated 14.12.2010 took cognizance against the petitioner and others under section 16(1)(a) of the Prevention of Food Adulteration Act, 1954. Against that order, the present writ application filed.

4. It is submitted by Sri Indrajit Sinha, learned counsel for the petitioner that there is nothing on record to show that petitioner stored the seized Baker's Chana Masala for the purpose of sale rather the same has been stored for preparation of food in the canteen. He submits that when the food article is not stored for the purpose of sale, then section 16(1)(a) of the Food Adulteration Act, 1954 has no application. For that purpose, learned counsel for the petitioner has relied upon two judgments of the Hon'ble Supreme Court in Municipal Corporation of Delhi v. Laxmi Narain Tandon and others reported in (1976)1 SCC 546 and Rupak Kumar v. State of Bihar and another reported in (2014) 4 SCC 277.

5. J.C. to learned S.C.(L&C) has opposed the submissions raised by Sri Indrajit Sinha.

6. Having heard the submissions, I have gone through the record of the case. From perusal of prosecution report, I find that there is no averment in it that the petitioner has stored the Baker's Chana Masala in the Beldih Club Canteen, Bistupur, Jamshedpur for the purpose of sale. It is simply mentioned in the prosecution report that the seized sample of Baker's Chana Masala is found misbranded by Public Analyst, Dhanbad, Jharkhand.

7. The Hon'ble Supreme Court in Municipal Corporation of Delhi v. Laxmi Narain Tandon and others had considered the question as to whether the storage of food article for a purpose other than for sale will constitute offence under section 16 of the Prevention of Food Adulteration Act or not and has held at paragraph no. 14 as follows:-

"From a conjoint reading of the above referred provisions, it will be clear that the broad scheme of the Act is to prohibit and penalise the sale, or import, manufacture, storage or distribution for sale of any adulterated article of food. The terms "store" and "distribute" take their colour from the context and the collocation of words in which they occur in sections 7 and 16. "Storage" or "distribution" of an adulterated article of food for a purpose other than for sale does not fall within the mischief of this section."

8. A similar view has been taken by the Hon'ble Supreme Court in Rupak Kumar v. State of Bihar and another at paragraph Nos. 9 and 10 of the judgments which reads as under:-

9. In the present case, according to the prosecution, the appellant, a Superintendent of Jail, had stored rice and haldi and, therefore, his act comes within the mischief of Sections 7 and 16 of the Act. In view of the aforesaid, what needs to be decided is as to whether the expression "store" as used in Section 7 and Section 16 of the Act would mean storage simpliciter or storage for

sale. We have referred to the provisions of Section 7, Section 10 and Section 16 of the Act and from their conjoint reading, it will appear that the Act is intended to prohibit and penalise the sale of any adulterated article of food. In our opinion, the term "store" shall take colour from the context and the collocation in which it occurs in Sections 7 and 16 of the Act. Applying the aforesaid principle, we are of the opinion, that "storage" of an adulterated article of food other than for sale does not come within the mischief of Section 16 of the Act. In view of the authoritative pronouncement of this Court in *MCD v. Laxmi Narain Tandon*, this submission does not need further elaboration. In the said case it has been held as follows

"14. From a conjoint reading of above referred provisions, it will be clear that the broad scheme of the Act is to prohibit and penalise the sale, or import, manufacture, storage or distribution for sale of any adulterated article of food. The terms "store" and "distribute" take their colour from the context and the collocation of words in which they occur in Sections 7 and 16. "Storage" or "distribution" of an adulterated article of food for a purpose other than for sale does not fall within the mischief of this section."

10. In the case in hand, it is not the allegation that the appellant had stored haldi and rice for sale. Therefore, in our opinion, the allegations made do not constitute any offence and, hence, the prosecution of the appellant for an offence under Section 16(1)(a) of the Act shall be an abuse of process of court.

9. As noticed above, in the instant case, there is no allegation in the prosecution report that petitioner had stored the seized Baker's Chana Masala for the purpose of sale, therefore, in view of the aforesaid two judgments of Hon'ble Supreme Court, no offence under section 16(1)(a) of the Prevention of Food Adulteration Act made out against the petitioner. Therefore, I find and hold that the prosecution of the petitioner for the offence under section 16(1)(a) of the Prevention of Food Adulteration Act is an abuse of the process of court.

10. Accordingly, I allow this writ application and quash the entire criminal proceeding in connection with C-2 Case No. 1112 of 2010 pending in the court of learned Judicial Magistrate, 1st Class, Jamshedpur including the order dated 14.12.2010 passed by the learned Chief Judicial Magistrate, Jamshedpur in the above case whereby, he took cognizance under section 16(1)(a) of the Prevention of Food Adulteration Act, 1954.