

Jaswinder Singh

Vs

Municipal Committee Amritsar

Girdhari Lal

Vs

Municipal Committee, Amritsar

Sikander Lal

Vs

Municipal Committee, Amritsar

Banarsi Das

Vs

Municipal Committee, Amritsar

Manohar Lal

Vs

Municipal Committee, Amritsar

Criminal Appeal Nos. 269 To 272 And 290 Of 1971

(A.C. Gupta, Syed M. Fazal Ali JJ)

07.05.1976

JUDGMENT

GUPTA, J. -

1. The appellants in all these five appeals by special leave were convicted by the High Court of Punjab and Haryana at Chandigarh of the offence under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (referred to as the Act hereinafter) and sentenced to six months rigorous imprisonment and a fine of Rs. 1000, in default of payment of fine they were to undergo rigorous imprisonment for further two months. They were acquitted by the trial Court, and the Municipal Committee Amritsar, appealed to the High Court against the orders of acquittal. The High Court found them guilty of being of adulterated toria oil for sale and thereby committing an offence punishable under the aforesaid provision. The Municipal Food Inspector purchased the samples in each of these cases on December 12, 1967. It was conceded before the High Court that the samples purchased by the Food Inspector did not measure up to the standard laid down in the

Act and the rules made thereunder for edible, oils, but it was contended that toria oil was not mentioned in the list of edible oils and was not an item for which any standard was prescribed. The High Court found that toria oil was really mustard oil and held that the offence was established. The trial Court had held that the rules framed under the Act which were in force at the time when the samples were purchased did not include toria oil in the list of edible oils. The trial Court also referred to the definition of 'mustard seed' as it stood when the samples were purchased.

2. Rule A. 17. 06 in Appendix B to the Rules defines mustard oil as follows :

'mustard oil' (Sarson-ka-tel) means oil expressed from clean and sound mustard seeds, belonging to the compositors, juncea or napus varieties of Brassica. It shall be clear, free from rancidity, suspended or foreign matter, separated water, added collaring or flavoring substances or mineral oil. It shall conform to the following standards :

- (a) Butyro-refractometer reading at 40 C - 58.0 to 60.5
- (b) Saponification value - 168 to 176
- (c) Iodine value - 96 to 108
- (d) Unsaponifiable matter - Not more than 1.2 per cent.
- (f) Bellier test (turbidity temperature - Acetic acid method). Not more than 26.5 C.

The test for argemone oil should be negative.

There is no dispute that this definition of mustard oil was in force when the samples were purchased. The definition of mustard seed as it stood on the date the samples were purchased was :

Rule A. 23 : Appendix B. 'Mustard seed' means the dried, ripe seeds of Brassica Nigra, Brassica Juncea and other allied cultivated of the species belonging to the natural order cruciferae and to the genus sinapis or Brassica. The common species are black or brown mustard (B. Nigra), Brown or serepta mustard (B. Besseriana), white or yellow mustard (B. Alba) and Indian mustard (B. Juncea).

It shall not contain -

- (a) more than 5 per cent of foreign organic matter and deteriorated or other seeds and shall be free from insect pests. It shall be free from argemone seeds;
- (b) more than 5 per cent of total ash;
- (c) more than 1.5 percent of ash insoluble in hydrochloric acid;
- (d) less than 0.6 per cent of volatile essential oil.

The definition of mustard seed was amended in 1968. The new definition reads :

A. 05.15. 'Mustard' (Rai, Sarson) whole means the dried seeds of Brassica alba (L.) Boiss. (Safed rai). Brassica compestris L. var. dichotoma (Kali Sarson). Brassica

Compestris L. Var. Yellow sarsons, Syn. Brassica compestris L. var. glauca (Pili Sarson), Brassica compestris L. var. toria (Toria), Brassica Juncea (L.) Coss. et. Czern. (Rai Lotni) and Brassica Nigra (L) Koch (Benarasi Rai). The proportion of extraneous matter which includes dust, dirt, stones, lumps of earth, chaff, stem, straw, edible foodgrains, edible oilseeds of any other variety or any other variety or any other impurity shall not exceed 7.0 per cent weight. It shall be free from seeds of argemone mexicana Linn.

It would appear that the amended definition of mustard seed includes dried seeds of brassica compestris to which class toria admittedly belongs. Before the amendment, the definition of mustard seed referred to "allied" varieties of brassica. The trial Court thought that as the definition of mustard seed containing a reference to toria came into force after December 12, 1967 when the samples in these cases were purchased and as the definition as it stood at the relevant time did not mention toria, toria oil could not be called mustard oil when the samples taken. On this view the trial Court acquitted the accused in all these cases.

3. If toria oil did not fall within the definition of mustard oil, the trial Court would be obviously right in taking the view it did. As will appear from the definition of mustard oil, it is oil expressed from mustard seeds belonging inter alia to the compestris variety of brassica. It is not disputed that toria seeds belong to the compestris variety of brassica. The amended definition of mustard seed only makes this clear. The previous definition of mustard seed referred to allied varieties of brassica, and the amended definition specified the varieties. Thus toria oil falls squarely within the definition of mustard oil. That being so, the appeals fail and are dismissed. The appellants will surrender to their bail bounds and serve out the sentences imposed on them.

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