

Ramrai Mahadev Nayak and Another

Vs

State of Maharashtra

Criminal Appeals No. 264 and 265 of 1976

(Syed M. Fazal Ali, A. Varadarajan JJ)

01.04.1981

JUDGMENT

1. In this appeal by special leave the appeal has been pressed mainly on the question of sentence and arguments confined to A-1 only. A number of interesting legal points were raised by the learned counsel for the appellant but we find no substance in them. Lastly, it was argued that in the peculiar facts of this case, this Court should release the appellant under the Probation of Offenders. It appears that the appellant is not a resident of Bombay and permanently resides in Mysore but had come to Bombay to meet his father on a short visit. In the course of the short visit, unfortunately he was asked to look after the hotel just for a day when the Food Inspector came and took samples of gilchi and ladu which were said to be adulterated. There can be no doubt that the taking of the samples amounted to sale under the Prevention of Food Adulteration Act and as the appellant was in charge of the hotel, he would be liable for the offence for which he has been punished. But in view of the accidental presence of the appellant in the hotel due to circumstances beyond his control, we think it is a fit case in which we should not send him to jail and give him the benefit of the Probation of Offenders Act.

2. We therefore allow this appeal to this extent that the sentence passed on the appellant is suspended and he is directed to be released on his executing a bond for Rs. 5000 for maintaining good behaviour for one year with two sureties of like amount and a personal recognizance of bond of the same amount. In case he violates the terms of the bond, he will be called upon to serve out the sentence. Appeal of A-5 (appellant 2) is dismissed.

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