

Jagdish Prasad and Another

Vs

State of U. P.

Criminal Appeal No. 551 of 1985

(S. P. Kurdukar, G. T. Nanavati JJ)

22.07.1998

JUDGMENT

G. T. NANAVATI, J. –

1. The appellant is challenging his conviction under Section 7 read with Section 16 of the Prevention of Food Adulteration Act, 1955. Both the courts have concurrently found that it was the appellant who had sold curd which was found to be adulterated. The certificates issued by the Public Analyst and subsequently by the Central Food Laboratory show that the curd was deficient in respect of milk fat and milk solids of non-fat. We see no reason to differ from the findings recorded by both the courts below and, therefore, the conviction of the appellant has to be confirmed.

2. It was submitted by the learned counsel for the appellant that Rules 4(3) and 4(4) of the Prevention of Food Adulteration Rules were not complied with in this case. This contention has been dealt with by the High Court and it has found that they were complied with. Learned counsel was not able to point out how Rule 4(3) or Rule 4(4) have not been complied with in this case. His submission that it is not mentioned in the certificate that the sample was intact and therefore there was non-compliance does not deserve any consideration because there is no requirement that in the Certificate of Analysis itself, it should be stated that the sample when received by the Central Food Laboratory was found intact.

3. It was also submitted by the learned counsel that the offence had taken place in 1979 and the appellant's father; who was the owner of the shop, has now died and, therefore, some leniency should be shown to him. We cannot accept this submission because once the offence is held proved, the minimum sentence has to be imposed.

4. As we find no substance in this appeal, it is dismissed. The appellant is directed to surrender to custody to serve out the remaining sentence.