

# SUPREME COURT OF INDIA

Laskari Ram

Vs.

State of H.P.

(K Thomas and A Misra JJ.)

24.01.2000

## ORDER

**K.T. THOMAS, J.**

1. Leave granted.

2. The Appellant stands convicted under Section 16(1)(a)(1) of the Prevention of Food Adulteration Act and sentenced to imprisonment for six months and to pay a fine of Rs. 1000/-. Though the Sessions Court acquitted him, the High Court reversed the acquittal and restored the conviction and sentence passed on him.

3. The food article which Appellant has sold to the Food Inspector was milk. The public analyst after analysing the sample reported that it has fallen below standards prescribed for milk regarding nonfat contents and fat contents. One defence which Appellant adopted was that the milk was not properly stirred but that was not found favour with by the High Court. Here the contention raised by the learned Counsel is that the Food Inspector was not properly authorised to launch the prosecution. But that was not taken up at an early stage; and hence we are not disposed to countenance the said contention.

4. Milk being a primary food, learned Counsel contended that it is for the prosecution to prove that the fall in standards was due to human agency and not due to natural causes. The burden of proof has been cast on the vendor of the primary food to show that the fall in standards was not due to human agency but on account of natural causes. Unfortunately, the Appellant has not adduced any evidence in the line.

5. The minimum sentence which the Act provides for the offence when the food article is primary food, is imprisonment for three months and a fine of Rs. 500/-. On the facts and circumstances of the case we do not find any reason to go beyond the minimum sentence particularly when there is no allegation that the milk contained any foreign article or even added water. We, therefore, reduce the sentence to simple imprisonment for three months and to pay a fine of Rs. 500/-. If any amount of fine has been paid in excess, he can apply for refund.

6. The appeal is disposed of accordingly.