

SUPREME COURT OF INDIA

Santosh Kumar

Vs.

Municipal Corporation

Crl.A.No.101 of 2000

(K. T. Thomas and M. B. Shah, JJ.)

31.01.2000

ORDER

1. Mr. Sakesh Kumar, advocate enters appearance for respondent No. 2 - State.
2. Leave granted.
3. Appellant stood convicted u/S. 16(1)(A) of the Prevention of Food Adulteration Act read with S. 7(1) thereof and was sentenced to undergo rigorous imprisonment for 6 months and to pay a fine of Rs. 2,000/-. The conviction was confirmed in appeal and the High Court did not interfere.
4. Learned counsel for the appellant made a plea for affording the benefit which has been given to the accused in the decision of this Court, namely, N. Sukumaran Nair v. Food Inspector Mavehkara, (1997) 9 SCC 1010 : (1995 AIR SCW 3229 : 1995 Cri LJ 3651). The said plea is made on the premise that the offence in this case took place in the year 1983 and the food article - ground-nut oil

on analysis was found not to contain any foreign substance or anything injurious to health and that it was found adulterated solely on the ground that its constituents fell below the standard very marginally. To convince us of the said contention learned counsel produced a copy of the report of the Public Analyst. The result of the analysis is incorporated therein as follows:

- "a) B.R. reading at 40° C 58.8

- b) Iodine Value 100.8

- c) Saponification Value 180.6

- d) Free fatty acids as Oleic acid 0.3%

- e) Bellier test (Turbidity temp. Acetic acid method) 23.8 C"

5. This case seems to be almost on a parallel with the facts enumerated in the decision cited above. We are also persuaded to extend the same benefit which the appellant in the aforesaid decision was granted by this Court, as this would be an appropriate case for commutation of sentence under Clause (d) of Section 433 of the Code of Criminal Procedure.

6. We, therefore, direct the appellant to deposit in the trial Court a sum of Rupees 10,000/- as fine in commutation of the sentence of 6 months imprisonment within a period of 6 weeks from today and intimate to the appropriate Government that such fine has been deposited. On deposit of the fine the State Government may formalise the matter by passing appropriate order under Clause (d) of Section 433 of the Code of Criminal Procedure. In the meanwhile the appellant will remain on bail.

7. With this end result, this appeal stands disposed of.

Order accordingly.