

PETITIONER:
KHEM CHAND

Vs.

RESPONDENT:
STATE OF H.P.

DATE OF JUDGMENT 14/09/1993

BENCH:
REDDY, K. JAYACHANDRA (J)
BENCH:
REDDY, K. JAYACHANDRA (J)
RAY, G.N. (J)

CITATION:
1994 AIR 226 1994 SCC Supl. (1) 7
JT 1993 (5) 310 1993 SCALE (3) 738

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by K. JAYACHANDRA REDDY, J.- This matter arises under the Prevention of Food Adulteration Act. The appellant was a milk-vendor. The Food Inspector purchased a sample of milk and sent the same for analysis. The Analyst found some deficiency in solids non-fats and opined that it was adulterated. The main point urged before the courts below was that Rule 9(j) was not complied with. The trial court held that it was only directory and convicted the appellant. The appeal filed by him was allowed by the Sessions Judge. The State carried the matter by way of an appeal to the High Court. A batch of appeals were heard and disposed of by the High Court holding that the rule was directory.

2. In this appeal again the same point is urged and it is further contended that tile accused was prejudiced inasmuch as there is nothing to show that the report of the Analyst was sent by registered post to the accused as required under Rule 9(j). We need not go into the question of law in this case. When the Food Inspector was examined, he deposed in his chief-examination that the report of the Analyst was sent to the accused by registered post. He was not cross-examined. The only inference that can be drawn is that the accused received the report. In such a case the question whether it was sent by registered post or otherwise, does not assume importance.

3. The appellant was only a milk-vendor and the occurrence is said to have taken place in the year 1974. The sample of milk was declared to be adulterated on the sole ground that there was some deficiency in milk solids non-fats. The adulteration is of a minor nature. For these special reasons while confirming the conviction of the appellant, we reduce the sentence to three months' RI. The sentence of fine with default clause is confirmed. Subject to this modification of sentence, the appeal is dismissed.

JUDIS