

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 869 OF 2009
(Arising out of SLP (Crl.) No. 2943 of 2008)

State of Rajasthan

....Appellant

Versus

Jagdish Prasad

....Respondent

JUDGMENT

DR. ARIJIT PASAYAT, J.

1. Leave granted.
2. Challenge in this appeal is to the judgment of a learned Single Judge of the Rajasthan High Court, Jaipur Bench. By the impugned judgment the High Court while upholding the conviction for offences punishable under Sections 7 and 16 of the Prevention of Food Adulteration Act, 1954 (in short the 'Act') imposed fine of Rs.6,000/- and directed that the same is in commutation of the sentence of six months RI as awarded by learned Chief Judicial Magistrate, Sikar. It was further directed that the appropriate

Government shall formalize the matter by passing of an appropriate order under Clause (d) of Section 433 of the Code of Criminal Procedure, 1973 (in short the 'Code') if the amount is deposited within a particular period. For the aforesaid purpose the High Court relied on a decision of this Court in Sukumaran Nair v. Food Inspector, Mavelikara (1997 ((9) SCC 101).

3. Learned counsel for the appellant-State submitted that the High Court's order is clearly unsustainable.

4. Learned counsel for the respondent on the other hand supported the judgment.

5. In Dayal Singh v. State of Rajasthan (2004 (5) SCC 721) it was inter-alia observed as follows:

“15. In the instant case it was not disputed that for the offence charged a minimum sentence of 6 months' rigorous imprisonment is prescribed by law. The appellant has been sentenced to undergo 6 months' rigorous imprisonment which is the minimum sentence. We are not inclined to modify the sentence by passing an order of the nature passed in N. Sukumaran Nair where this Court in exercise of its extraordinary jurisdiction imposed only a sentence of fine and directed the State to exercise its powers under Section 433 of the Code of Criminal Procedure to commute the sentence of simple imprisonment for fine. In the instant case, the appellant has been sentenced to undergo 6 months rigorous imprisonment. Moreover, we are firmly of the view that strict adherence to the Prevention of Food Adulteration

Act and the Rules framed thereunder is essential for safeguarding the interest of consumers of articles of food. Stringent laws will have no meaning if offenders could get away with mere fine. We, therefore, find no reason to interfere with the sentence imposed against the appellant.”

6. In the circumstances, the appeal is allowed. The sentence as imposed by the trial Court is restored. However, since the occurrence took place nearly three decades back if the accused-respondent moves the appropriate Government to commute the sentence of imprisonment, the same shall be considered in the proper perspective. For a period of three months the accused need not surrender to undergo sentence during which period it shall be open to him to move the appropriate Government for commutation. If no order in the matter of commutation is passed by the appropriate Government the accused shall surrender to custody to serve the remainder of sentence.

7. The appeal is allowed to the aforesaid extent.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
April 29, 2009