

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 688 OF 2010
(@SPECIAL LEAVE PETITION(CRL) No.4200 of 2006)

Nand Lal ... **Appellant**

Vs.

State of Uttarakhand & Anr. ... **Respondents**

J U D G M E N T

ALTAMAS KABIR, J.

1. Leave granted.

2. The Appellant was convicted of an offence committed on 27th November, 1983, under Sections 7(1) and 2(1)(m) of the Prevention of Food Adulteration Act, 1954. The Appellant was running a grocery shop near the Roadways Bus Stand in Roorkee, District Saharanpur (now within Haridwar

District in Uttrakhand). The Respondent No.2, who was a Food Inspector, Nagar Palika, Roorkee, at the relevant point of time, went to the Appellant's shop on the aforesaid date and found the Appellant selling and exhibiting mustard oil for sale. The Respondent No.2 purchased 375 grams of mustard oil from the Appellant and obtained a receipt from him. Subsequently, on the report of the Central Food Laboratory, Kolkata, the Appellant was charged under Section 7(1) read with Section 2(1)(m) of the aforesaid Act and on being convicted by the Special Judicial Magistrate (Economic Offences), Roorkee, was sentenced to one year's rigorous imprisonment and a fine of Rs.2,000/-, and in default of payment of such fine, to undergo rigorous imprisonment for a further period of six months.

3. The Appellant preferred an appeal against the said order of the learned Magistrate before the IVth Additional District & Sessions Judge,

Saharanpur, being Criminal Appeal No.168 of 1986, which was dismissed on 7th January, 1988. Aggrieved by the said order of the learned Additional District & Sessions Judge, the Appellant filed a revision petition before the Allahabad High Court in 2004, being Crl. Revision No.195 of 2004. Upon bifurcation of the State, the said revision petition stood transferred to the Uttranchal High Court and was dismissed on 23rd March, 2006. The said order of dismissal of the revision petition filed by the Appellant is the subject matter of the present Appeal.

4. Learned counsel appearing for the Appellant urged that the Appellant had been wrongly convicted of the offence alleged against him since the mustard oil in question had been purchased by the Appellant from the open market and was not meant for human consumption, but to be used for lighting lamps during Deepawali. It may immediately be

indicated that the said defence of the Appellant was not accepted by the Trial Court, the Appellate Court or the High Court. Learned counsel then pleaded that since the incident is alleged to have taken place about 27 years ago, the sentence of the Appellant may be reduced to the period already undergone by him. In fact, notice was issued on 29th September, 2006, on the said ground.

5. Having heard learned counsel for the parties and having regard to the fact that the incident had taken place almost 27 years ago and the Appellant is now more than 70 years of age, suffering from several medical ailments, we are inclined to accept the submission made on behalf of the Appellant for reduction of his sentence.

6. In that view of the matter and in the circumstances mentioned hereinabove, we allow the appeal to the extent that while maintaining the

conviction of the Appellant, we reduce his sentence to the period already undergone.

7. Let the Appellant be discharged from his bail bonds.

.....J.
(ALTAMAS KABIR)

.....J.
(CYRIAC JOSEPH)

New Delhi
Dated: 05.04.2010.