

Court No. - 69

Case :- CRIMINAL REVISION No. - 2340 of 2014

Revisionist :- Jauli

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Raj Kumar Mishra

Counsel for Opposite Party :- Govt.Advocate

Hon'ble Samit Gopal,J.

1. Heard Raj Kumar Mishra, learned counsel for the revisionist and Sri Ajai Singh, learned A.G.A.-I for the State and perused the material on record.

2. The trial court records have been received which have also been perused.

3. The present revision under Sections 397/401 Cr.P.C. has been preferred by the revisionist- Jauli against the judgement and order dated 16.08.2014 passed by Additional Sessions Judge, Court No. 6, District Etawah in Criminal Appeal No. 32 of 2012 (Jauli Versus State of U.P.), affirming the judgment and order dated 12.03.2012 passed by the Additional Chief Judicial Magistrate, Court No. 1, Etawah in Criminal Case No. 3533 of 2010, convicting and sentencing the revisionist for one year imprisonment with fine of Rs. 1000/- and in default of payment of fine one month additional imprisonment under section 16(1)A(1) Prevention of Food Adulteration Act.

4. The case of the prosecution is that the Food Inspector Yaduveer Singh during investigation found the revisionist to be carrying two containers containing 70 liter milk. The revisionist was stopped and introduction was given to him by the Food Inspector after which on a suspicion of adulteration 1.5 liter of milk was purchased by the Food Inspector and the same was sealed in three empty bottles and the required formalities were done and the sample was sent for analysis to the Food Analyst who vide his report opined that in the sample the quantity of

milk solid not fat is less than 6% from the prescribed standard. He completed the formalities and filed a complaint against the revisionist. The notice regarding the same was sent to the revisionist. After filing the complaint, the complainant was examined as P.W.-1 before the trial court. He corroborated the prosecution story. The revisionist was convicted as stated above and appeal was filed against the said conviction to which the present revision has been filed.

5. Learned counsel for the revisionist argued that the material as collected by the Food Inspector was mixed milk. There is nothing on record to show that the milk is homogenized and stirred. It is argued that when the milk is not homogenized and stirred the same would have variation in the fat as the fat would normally settle down. It is argued that the said argument was taken before the trial court but the trial court returned the finding that it was the responsibility of the seller to homogenize and stir the material and not of the purchaser. It is argued that the said view is totally illegal and arbitrary. It is argued that as such conviction and sentence as awarded to the revisionist be set-aside, judgement & order of the trial court be set-aside and also the judgement & order of the appellate court be set-aside.

6. Per contra, learned counsel for the State has opposed the prayer and arguments and argued that the trial court has given cogent reasons for convicting the revisionist.

7. After having heard learned counsel for the parties and perusing the record, it is evident that the milk as collected by the Food Inspector is mixed milk. There is nothing on record to show that the said milk was homogenized and stirred before taking the sample. Even the Food Inspector/complainant/P.W.-1 did not state before the court that he had stirred the same before taking the sample. The same has been dealt with by the trial court that it was the responsibility of the seller for the same and not of the purchaser is totally incorrect.

8. The present revision is **allowed**. The impugned judgement and order dated 16.08.2014 passed by Additional Sessions Judge, Court No. 6, District Etawah and judgment and order dated 12.03.2012 passed by the Additional Chief Judicial Magistrate, Court No. 1, Etawah are hereby set aside.

9. The revisionist- **Jauli** is acquitted of the charge levelled against him. The revisionist is in jail. He shall be released

forthwith on furnishing his personal bond and two sureties to the satisfaction of court concerned.

10. Office is directed to transmit the copy of this judgement along with the trial court records to the concerned trial court forthwith for its compliance and necessary action.

11. The file be consigned to records.

Order Date :- 22.11.2023

K.K. Maurya

(Samit Gopal,J.)