

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Writ Petition No.304 of 2015

Pramod s/o Madanlal Rathi. .. **Petitioner.**

Versus

The State of Maharashtra. .. **Respondent.**

Shri. Milind K. Deshpande, Advocate, for petitioner.

Shri. U.H. Bhogle, Additional Public Prosecutor, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 18th JUNE 2015

ORDER:

1) The petition is filed for quashing and setting aside the order dated 8-10-2013 made on Exhibit 81 in RCC No.224/2004 by the Judicial Magistrate, First Class, Bhusawal which is confirmed by the learned Additional Sessions Judge Bhusawal by judgment and order dated 9-12-2014 delivered in Criminal Revision Application No.179/2014. Both the sides are heard.

2) It appears that under the provisions of the Prevention of Food Adulteration Act 1954, sample of coconut oil was collected from the present petitioner. The Public Analyst gave report that the sample was adulterated as castor oil was found in it. Proper procedure was followed and then the petitioner requested for sending second sample to the Central Food Laboratory. The second sample was sent and Central Food Laboratory has given certificate that the sample was not in conformity with the standards for the following reasons :-

- (i) The acid value is more than standard limit of 6.0;
- (ii) Test of rancidity is positive.

3) Learned counsel for the petitioner, accused submits that when Central Food Laboratory found that there was no substance like castor oil in the sample, only to that extent the report of the Central Food Laboratory needs to be read and on this ground the order of issue process needs to be quashed and set aside.

4) The aforesaid submissions made by the learned counsel for the petitioner is not at all acceptable. This

Court has carefully gone through the provisions of Section 13 of the Prevention of Food Adulteration Act. Section 13(2) shows that after receipt of the report of public analyst one sample can be sent at the instance of the accused to Central Food Laboratory. Provision of section 13(2-E) shows that if the Local (Health) Authority itself is not satisfied with the public analyst's report, it can also send sample to the Central Food Laboratory. Provision of section 13(3) runs as under :

"The certificate issued by the Director of the Central Food Laboratory under sub-section (2-b) shall supersede the report given by the public analyst under sub-section (1)."

5) This provision shows that certificate obtained from the Central Food Laboratory shall supersede the report given by the public analyst under sub section (1) of section 13. Only because sample was sent by the accused the matter of certificate which is favourable to him cannot be considered. The entire certificate needs to be considered in view of the object behind Section 13(3) of the Act. In view of the wording used in section 13(3) of the Act, this Court holds that entire certificate needs to be

used and as this certificate shows that it was not in conformity with the rules prescribed for the standards of coconut oil, it is not possible to set aside the order of issue process. No error is found in the decisions given by the learned Judicial Magistrate and the Sessions Court. The writ petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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