

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**Judgment delivered on: 20.03.2015**

**CRL.L.P.161/2015**

**FOOD INSPECTOR**

..... Petitioner

Versus

**RAJEEV BHATIA & ORS.**

..... Respondents

**Advocates who appeared in this case:**

For the Petitioner : Ms Isha Khanna, APP  
For the Respondents : None

**CORAM:**

**HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

**SIDDHARTH MRIDUL, J. (ORAL)**

1. The present is a petition for grant of leave to appeal against the impugned order dated 03.04.2012 passed by the Additional Chief Metropolitan Magistrate-II, Patiala House Courts, New Delhi, in CC No.98/2003 under Sections 7/16 of the Prevention of Food Adulteration Act, 1954, whereby the respondents have been acquitted of the charges levelled against them.

2. To briefly encapsulate the facts, a sample of Vanaspati was duly lifted from the respondent/vendor Sh. Rajeev Bhatia on 09.08.2002 by the Food

---

Inspector Sh. Ranjit Singh. Upon analysis by the Public Analyst (PA) a report dated 28.08.2002 found the said sample to be not conforming to the standards required. Upon request of the respondent the second counterpart was sent to CFL which was also found non-conforming to the standards. By way of the impugned order the trial court has acquitted the accused persons on the ground that there are variations between PA and CFL reports. In the PA report free fatty acids were found 0.33% which was more than prescribed minimum limit of 0.25%. Baudouin test was found negative although it could have been positive. However, in CFL report, free fatty acids were found 0.34%, melting point was found 44°C and rancidity and Baudouin Test was found positive. The trial court held that either the sampling procedure was wrong or there was a lacuna at some stage in the analysis thereof or the time gap between the analysis of the two counterparts had a bearing thereupon so as to cause certain (physical and the chemical) changes therein to the prejudice of the accused persons.

**3.** The solitary submission on behalf of the State is that since the CFL report was conclusive on the aspect, there was no need for the trial court to have looked at the PA report in this behalf. Further, it has also been suggested that the delay in sending the sample for testing was not on account of the petitioner. In this behalf the trial court has observed as follows:-

“.....Thus, the respective Reports given by the Public Analyst and the Director CFL, are not only contradictory of each other but, are also self-defeating, as the contradiction pertains to the very material allegation i.e. the very accusation and basis of the Complaint in question. Furthermore, in the PA Report, the Vanaspati has been shown ‘free from rancidity’ whereas, in the Report of the Director CFL, it was found to be ‘rancid’. The Report of PA bears the date as 28.08.2002 whereas, the Certificate of the Director CFL, is dated 02.05.2003. It is thus clear that by the time the second counterpart stood analysed there at CFL, certain changes had taken place in Vanaspati in question to the prejudice of the accused persons. it is also worth mentioning that both these Experts vide their respective Reports do differ from each other regarding the test to adjudge the melting point of the commodity in question. PA had detected the melting point of the Vanaspati to be 40.8° C. (permissible range 31° C to 41° C.) whereas, the Director CFL, adjudged the same to be 44° C. It is thus, clear that either the sampling procedure was wrong or there was some sort of lacuna at some stage in the analysis thereof or the time gap between the analysis of the two counterparts had had a bearing thereupon so as to cause certain (physical or chemical) changes therein to the prejudice of the accused persons. In this context, it is also worth mentioning that the document Ex. PW1/B makes it crystal clear that the commodity in question was consumable ‘best before 6 months from the date of its packing/manufacturing’ i.e. ‘August, 2002. The sample in question had been lifted as on 09.08.2002 i.e. in the very month of its manufacturing and thus, was consumable best before ‘Jan/Feb 2003’. However, the analysis thereof, there at CFL Pune, could only be conducted in May, 2003 that too without any sort of latches on the part of the accused persons.”

4. The argument of the State that the CFL report is conclusive and there was no need for the trial court to have considered the PA report, holds no water as there are substantial variations in the PA report and the CFL report. The PA report has delineated that the subject Vanaspati was free from rancidity. However, in the CFL report it was found to be 'rancid'. The reports further differ with regard to the melting point of the subject Vanaspati which has been detected in the PA report to be 40.8° C whereas the same has been adjudged to be 44° C in the CFL report.

5. I agree with the conclusion arrived at by the trial court on the basis of discussion extracted hereinabove. Insofar as the question of delay is concerned the same cannot be also laid at the door of the respondents so as to enure to their prejudice.

6. Consequently, I find no merit in the present petition and the same is dismissed.

**SIDDHARTH MRIDUL, J**

**MARCH 20, 2015**

mk