

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 116 OF 2013
IN
STAMP NUMBER MAIN NO. 115 OF 2013

STATE OF GOA REP. BY FOOD
INSPECTOR,

... Applicant

Versus

SHRI. MOHAMMED JAFFAR

... Respondent

Mr. Mahesh Amonkar, Addl. Public Prosecutor for the
Applicant.

Coram:- F. M. REIS, J.

Date:- 6th December, 2016

P.C.

Heard Mr. Mahesh Amonkar, learned Addl. Public Prosecutor
for the Applicant.

2. The above Petition seeks leave to challenge the Judgment passed by the learned Sessions Judge dated 06.07.2012 in Criminal Appeal no. 150 of 2011 whereby the Respondent was acquitted of committing offences punishable under Section 7(i) read with Section 2(i-a)(a), (c), (m) and Section 7(v) r/w Section 14(A) of the Prevention of Food Adulteration Act, 1954.

3. Mr. Mahesh Amonkar, learned Addl. Public Prosecutor appearing for the State, submits that the learned Magistrate had

convicted the Respondent but, however, the learned Sessions Judge has set aside the said Judgment essentially on the ground that the statutory notice under Section 13(2) of the said Act was not served on the Respondent. Learned Addl. Public Prosecutor however pointed out that such notice was served on the son of the Respondent. It is further submitted that the learned Sessions Judge has also wrongly found that there was no material on record to substantiate the contention that poppy seeds were purchased from the Respondent. The learned Addl. Public Prosecutor as such submits that the learned Sessions Judge has erroneously appreciated the evidence on record and has drawn a wrong inference which calls for interference of this Court and, consequently, leave be granted to the Applicant to challenge the Judgment passed by the learned Sessions Judge.

4. I have carefully considered the submissions of the learned Addl. Public Prosecutor. The fact that the statutory notice in terms of Section 13(2) of the Act was not served on the Respondent, cannot be disputed. In such circumstances, the proceedings itself stand vitiated and, as such, the learned Sessions Judge was justified to pass the impugned Judgment. As far as the contention of Mr. Mahesh Amonkar, learned Addl. Public Prosecutor, that there was material on record to show that the Appellant had purchased the products from the Respondent, I find that the learned Sessions Judge upon appreciating the

material on record, has come to the conclusion that no such material has been placed on record with the assistance of the learned Addl. Public Prosecutor, I have gone through the relevant material and I am of the opinion that the findings of the learned Sessions Judge cannot be said to be contrary to the evidence on record. In such circumstances, there is no case made out by the Applicant to seek leave to challenge the impugned Judgment passed by the learned Sessions Judge.

5. Application stands accordingly rejected.

F. M. REIS, J.

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