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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 917 OF 2002***

State at the instance of
Mr. S.N. Dungal, Food Inspector,
Food and Drug Administration,
Maharashtra State, Central
Administrative Building,
Solapur.

... Appellant
(Orig. Complainant)

V/s.

1. Mr. Fulchand Shivilal Daga, Vendor.
2. Mr. Satyanarayan Fulchand Daga,
Proprietor of M/s. Shivilal Traders,
Situated at 438, East Mangalwar Peth,
Solapur.

... Respondents.
(Orig. Accused Nos.1 & 2)

Mr. P.H. Gaikwad-Patil, Asstt. Public Prosecutor for the State.

None for the Respondents.

CORAM : N.M. JAMDAR, J.

DATE : JULY 18, 2017.

Oral Judgment :-

By this Appeal, the State of Maharashtra has challenged the Judgment and Order passed by the Judicial Magistrate, First Class, Solapur dated 10 October 2001, acquitting the Respondents of

the offence punishable under Section 16 of the Prevention of Food Adulteration Act, 1954.

2. The Respondents – Accused No.1 is the Vendor of M/s. Shivilal Traders and Accused No.2 is the Proprietor. The Respondents – Accused dealt with selling of various food articles. According to the prosecution, on 13 September 1994, the Food Inspector R.C. Runwal with others visited the establishment of the Respondents. The Food Inspector Runwal disclosed his identity and took samples of the food articles. It was also found that 20 kg. of black pepper was stored in the shop in a loose pack. According to the prosecution, thereafter the requisite procedure, as prescribed under the Act of 1954 and the Rules framed thereunder, was followed and samples were sent for analysis. After receipt of the report from the Public Analyst and after obtaining sanction, a complaint was filed. A charge was framed against the Respondents under Section 16 of the Act of 1954 and the case was tried by the learned Magistrate, Solapur. The Respondents apart from taking up a defence that there was no adulteration and that the procedure was not followed, challenged the jurisdiction of the Food Inspector Runwal to draw the samples. The learned Magistrate held that the Food Inspector Runwal acted beyond his local jurisdiction and found that the mandatory procedure under Section 13(2) of the Act of 1954, was not followed. The learned Magistrate also held that

Accused No.1 did not have any concern with Shival Traders. Accordingly, the learned Magistrate passed the impugned Judgment and Order.

3. I have heard Mr. Gaikwad-Patil, APP for the State. None appears for the Respondents. It was contended on behalf of the State that the impugned judgment and order is incorrect in law and also on facts and ought to be reversed

4. The first point that needs to be considered is the authority and jurisdiction of the Food Inspector. As held by the Apex Court in the case of *Municipal Corporation of Delhi V/s. Laxmi Narain Tandon, etc.*¹, the Food Inspector, in the scheme of the Act of 1954, plays a pivotal role. It is therefore of importance that the Food Inspector has jurisdiction and authority and must also follow the mandatory procedure laid down under the Act of 1954 and Rules. For each local area, a Food Inspector has been appointed under the Act and these Food Inspectors are charged with responsibility to ensure that there is no infraction of the provisions of the Act of 1954 and the Rules. Each Food Inspector has a prescribed territorial jurisdiction within which they are authorized to take samples and send the same to the Public Analyst. Section 9 of the Act of 1954 states that the Central Government or the State Government by a notification may appoint a Food Inspector, having

¹ AIR 1976 SC 621

the prescribed qualifications, for such local areas as may be assigned to them by the Central Government or the State Government. Section 2(vii) deals with the definition of the 'local area', which means an area, whether urban or rural, declared by a notification in the Official Gazette, to be a 'local area' for the purpose of the Act. Section 10 of the Act of 1954 deals with the powers of the Food Inspectors to take samples of food articles and send the same to the Public Analyst and thereafter, to follow the procedure indicated. The Food Inspector are authorized to exercise the powers of a Police Officer under Section 42 of the Code of Criminal Procedure. Section 11 of the Act of 1954 deals with the procedure to be followed by the Food Inspectors while taking the food sample.

5. In the present case it has come on record that the Complainant – R.C. Runwal was appointed as a Food Inspector for Chandrapur area vide order dated 7 July 1989. Thereafter, on 8 June 1993 he was transferred from Chandrapur to Pune as a Food Inspector and since June 1993 he was working at Pune as a Food Inspector. On 13 September 1994, he visited the establishment of the Respondents at Solapur to draw the samples. Nothing has been placed on record by the prosecution that the appointment of the Food Inspector Runwal at Pune was also for Solapur city. In view of the categorical defence raised by the Respondents that the Complainant Runwal was appointed as a Food Inspector only for the

Pune area, it was incumbent on the prosecution to demonstrate that he was so authorized for Solapur area as well. No such evidence was placed on record. It appears to be an admitted position that the appointment of Complainant – Runwal as a Food Inspector was only for Pune area, in view of the case of the prosecution itself where it was sought to be justified that the other officers from Solapur area accompanied the Complainant – Runwal.

6. Once the Act has prescribed the territorial jurisdiction of the Food Inspector by prescribing a local area, it goes without saying that he will have no jurisdiction beyond the territorial limits of the said local area. No position of law is shown that a Food Inspector appointed for one local area can simply walk into any establishment anywhere in the country, draw samples and launch prosecutions. The learned Magistrate has rightly found that the complaint filed by such Food Inspector, who had no jurisdiction whatsoever, could not be proceeded with. Nothing is shown as to how this view can be termed as a perverse view. The learned Magistrate has also found that Accused No.1 was not connected with the establishment as the Shop Act Licence was only in the name of Accused No.2. The learned Magistrate has also found that the procedure under Section 13(2) and Rule 9(A) of the Act of 1954 was also not followed .

7. The incident has taken place in the year 1994. The Appeal is of the year 2002. Considering the above position, there is no reason to reverse the order of acquittal. The Appeal is dismissed.

(N.M. JAMDAR, J.)