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APPEAL-606-2000
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(SR.503 & 504)
Wednesday, 21.2.2018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 606 OF 2000
ALONGWITH
CRIMINAL APPEAL NO. 607 OF 2000

The State of MaharashtraAppellant
(Orig. Complainant)

V/s.
Ismail Ayusaheb Nadaf
Deshi Butter Vendor
Post : Hukkeri
Dist. Belgaum

....Respondent
(Orig. Accused)

* * * * *

Mr. K.V. Saste, Additional Public Prosecutor for the State,
appellant.

None for the respondent.

CORAM :- SANDEEP K. SHINDE, J.

DATE :- 21ST FEBRUARY, 2018.

JUDGMENT :-

1. The State has preferred these Appeals under Section 378 (1) of the Criminal Procedure Code against the order of acquittal passed by the Learned Judicial Magistrate First Class, Miraj in R.C.C. No. 325 of 1988

and R.C.C. No. 326 of 1988 decided on 8th March, 2000.

2. Heard Learned Counsel Mr. Saste, Additional Public Prosecutor for the State. None appears for the respondent, original accused.

3. That since both the Appeals are arising out of the common judgment and order dated 8th March, 2000, both the Appeals are disposed off by this common judgment.

4. The Learned Trial Judge found that, there was non-compliance of the provisions of Section 13(2) of the Prevention of the Food Adulteration Act, 1954 and thus recorded the order of acquittal. It appears that, the respondent was prosecuted for having committed offence under Section 16 of the Food Adulteration Act, 1954 ("the Act" for short) having found the samples of the food article obtained from him did not conform to the standards prescribed. It appears that the respondent,

accused was illiterate and was not understanding Marathi, as could be seen from the statement recorded under Section 313 of the Criminal Procedure Code. I have gone through the statements recorded under Section 313 Criminal Procedure Code which shows that, incriminating material were put to the accused in Hindi by his lawyer. The postal acknowledgement placed on record by the prosecution bears the thumb impression meaning thereby, he is illiterate person. Admittedly, the report and the covering letter sent by the Local Health Authority to the accused in compliance of the provisions of Section 13(2) of the said Act, was in Marathi and English. The compliance under Section 13(2) of the said Act is not a empty formality, in as much as, it is a valuable right of the accused to refer the 'samples' for further examination to the Central Food Laboratory. That since the accused was illiterate and not knowing Marathi, the Learned Judge has rightly held that, there was non-compliance of the Section 13(2) of the Act in its letter and spirit. In view of

this fact, the Learned Judge proceeded to record the order of acquittal which cannot be said to be unreasonable, perverse or palpably wrong or erroneous. It is settled position of law that an order of acquittal is to be interfered only when there are compelling and substantial reasons for doing so.

5. After going through the evidence on record and the reasons recorded by the Learned Trial Judge, in my view, the order is reasonable and there is no compelling reason for interference.

6. The Appeals are therefore dismissed and disposed off accordingly.

(SANDEEP K. SHINDE, J)