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

+ **CRL.L.P. 411/2017 & CRL.M.A. 11682/2017**

STATE NCT OF DELHI

..... Petitioner

Through: Mr. Amit Gupta, APP for the
State.
Mr. C.M. Krishna, DLA, Food Safety
Dept.

versus

LALIT SINGH & ANR

..... Respondents

Through: Mr Vineet Kumar, proxy counsel.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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16.09.2019

1. The petitioner has filed the present petition seeking leave to appeal against the judgment dated 23.07.2016 passed by the learned ACMM – II/PHC/New Delhi in CC No. 136/2006, thereby acquitting the respondents of offences under the Prevention of Food Adulteration Act, 1954. It is alleged that the respondents have violated Rule 32(e) of the Prevention of Food Adulteration Rules, 1955, inasmuch as, the food article (*ghee*) sold by the respondents did not contain any batch number.
2. It is pointed out that the Supreme Court in ***Dwarka Nath and Anr. v. The Municipal Corporation of Delhi: 1972 (2) SCC 314***, held that Rule 32(e) of the said Rules is *ultra vires* the Constitution of India, as it is beyond the rule making power of the Central Government as contemplated under Section 23(1)(d) of the said Act. The Supreme Court held that there was no rational, or even a remote connection, between the batch or code number on the packaging and the public being prevented from being deceived or misled

as to the character, quality or quantity of the article contained in the packaging.

3. In the present case, the respondents were engaged in selling *ghee* and the samples of the said product were analysed and it was reported that the said food article conforms to statutory standards. The allegation of misbranding is only because the containers did not mention a batch number or a code.

4. The learned counsel have also referred to the decision of the Supreme Court in ***NCT of Delhi v. Mohinder Singh: Crl. Appeal No. 1470/2011 decided on 27.08.2015***, whereby the appeal was dismissed as being infructuous, since Rule 32(e) of the said Rules was declared *ultra vires* the Constitution of India.

5. The case of the prosecution must fail for the same reason.

6. In this view, this Court finds no reason to interfere with the impugned judgment dated 23.07.2016, whereby the respondents have been acquitted.

7. The petition is dismissed. The pending application is also disposed of.

VIBHU BAKHRU, J

SEPTEMBER 16, 2019
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