

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.948 OF 2003**

The State of Maharashtra	)	..Appellant
V/s.		
Vivekanand Arjunsa Zad	)	
Proprietor of M/s Dilbahar	)	
Colddrink and Tea House,	)	
344, Guruwar Peth, Satara,	)	
District Satara	)	..Respondent

Ms Anamika Malhotra APP for State

**CORAM : K.R.SHRIRAM, J.
DATED : 11th SEPTEMBER 2020**

ORAL JUDGMENT :

1 This is an appeal against an order of acquittal passed by the Chief Judicial Magistrate, Satara, acquitting accused under various provisions of Prevention of Food Adulteration Act 1954.

2 The reasons why acquittal order was passed is because the Joint Commissioner gave consent without proper application of mind in view of contents of report at Exhibit 55 and also notice under Section 13(2) of the Act, which is mandatory, has not been served on accused. Trial court has compared the signature on the notice with the other signatures of accused and has come to a conclusion that notice has not been served properly. The consent order also does not discuss in detail which was the document that was referred to by the Joint Commissioner while giving consent. The consent order contains a brief reference to some documents.

3 Learned APP submitted that notice was served on the daughter of the accused and, therefore, it was good service. At the same time, the learned APP agreed that there is nothing to show why the notice could not have been served on the accused personally.

4 There is an acquittal and therefore, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless they are proved guilty by a competent court of law. Secondly, accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court. For acquitting accused, the Trial Court rightly observed that the prosecution had failed to prove its case.

5 In the circumstances, in my view, the opinion of the Trial Court cannot be held to be illegal or improper or contrary to law. The order of acquittal, in my view, need not be interfered with.

6 Appeal dismissed.

(K.R. SHRIRAM, J.)