

**Ranganatha Agencies Vs. Food Inspector, Badagara Municipality**

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**Court :** Kerala

**Decided On :** Oct-25-1972

**Reported in :** 1974CriLJ55

**Judge :** P. Narayana Pillai and; E.K. Moidu, JJ.

**Appellant :** Ranganatha Agencies

**Respondent :** Food Inspector, Badagara Municipality

**Judgement :**

E.K. Moidu, J.

1. The only question that falls to be decided in this Criminal Revision Petition is whether the provisions of Section 20-A of the Prevention of Food Adulteration Act, 1954 (Central Act 37 of 1954) can be enforced against the Revision Petitioner for his impleadment as an additional accused in C. C. 281 of 1970 which is pending trial before the Additional I Class Magistrate, Quilandy against the original accused, in respect of the offence under Section 7 (1) read with Section 16 (1) (a) (1) of the aforesaid Act.

2. This question arose for consideration out of the order of the lower court dated 29-12-1971 impleading the revision petitioner as an additional accused in the case pending before the lower court. The case against the original accused was lodged by the Food Inspector, Badagara on the allegation that the sweets he purchased from the original accused was adulterated. On 13-11-1969 the Food Inspector purchased one Kilo of sweets designated as 'Raj Sweets' for Rs. 3/- from the original accused at his shop and after due observance of legal formalities a tripartite division of the same was made. Thereafter he sent one part of the sample to the Public Analyst in accordance with law. Another part was given to the original accused in a sealed bottle and the third part was sent to the court. The Public Analyst in his report dated 28-1-1970 gave the verdict that the sample analysed by him contained non-permitted coal-tar dye and was therefore adulterated. On that basis a charge was laid against the original accused on 10-8-1970.

3. The lower court began the trial during the course of which P.Ws. 1 and 2 were examined on behalf of the prosecution and then the accused was questioned under Section 342, Cr. P. C. The accused produced a warranty alleged to have been issued by the revision petitioner in respect of the article in question and pleaded that he is entitled to the protection afforded by the Section 19(2) of the Act. On the next hearing date the Additional Public Prosecutor filed a petition before the lower court for impleading the revision petitioner under Section 20-A of the Act, as the manufacturer of the article in question as it had come out in evidence that he was

also equally concerned with the offence. The learned Magistrate allowed that petition permitting the impleadment of the revision petitioner under his order dated 29-12-1971. It is this order which is impugned in this revision petition. Section 20-A reads:

Where at any time during the trial of any offence under this Act alleged to have been committed by any person, not being the manufacturer, distributor or dealer of any article of food, the court is satisfied, on the evidence adduced before it, that such manufacturer, distributor or dealer, is also concerned with that offence, then, the court may, notwithstanding anything contained in Sub-section (1) of Section 351 of the Code of Criminal Procedure 1898 (5 of 1898), or in Section 20, proceed against him as though a prosecution had been instituted against him under Section 20.

4. The first part of the section, it would be seen, enjoins that the trial pending before the court must relate to an offence committed by any person 'not being a manufacturer, distributor or dealer of any article of food', and the second part lays down that the said court, when it is satisfied on the evidence adduced before it, that 'such manufacturer, distributor or dealer is also concerned with that offence', may proceed against him by impleading him in the same trial.

5. Shri K. Kunhi Rama Menon, the learned Counsel of the revision petitioner argued that a pending prosecution against a manufacturer, distributor or dealer of any article of food is not contemplated in Section 20-A and that the original accused himself being a 'dealer' the present prosecution pending against him was not the forum for the trial of the added accused, the revision petitioner along with the original accused. In other words the argument of the learned Counsel was that the original accused being seller or grocer of the articles in question he did come within the meaning of the word 'dealer' in the first part of Section 20-A and as such the provisions of that section are not applicable to the facts of the present case and therefore the added accused person cannot be impleaded in the same trial.

6. Shri S. Sankara Subban, the learned Counsel of the respondent Municipality vehemently controverted that argument firstly pointing out that in the revision petition itself there is no case that the original accused is a 'dealer', but he is described in the petition as a vendor and that even otherwise the learned Counsel pointed out that the word 'dealer' is quite distinct from the word 'vendor' or seller as used in the Section of the Act. According to him, it is abundantly clear that the intention of the legislature in using the word 'dealer' in Section 20-A of the Act is to rule out a mere vendor or seller. It is also pointed out that the word 'dealer' shall not be interpreted in too wide a term as it would be inconsistent with the intention of the legislature as incorporated in Section 20-A of the Act.

7. The word 'Vendor' is not defined in the Act and it is used in the Act sometimes as including the manufacturer, distributor and the dealer of an article of food and sometimes to exclude these persons. In Section 10 of the Act the word 'vendor' has been used so as to include the manufacturer, distributor and the dealer also. In Section 14 of the Act the word 'vendor' has been used as being distinct from the manufacturer, the distributor or the dealer. It is also clear that in Section 19(2) also, the word 'vendor' has been used so as not to include the manufacturer, the distributor or the dealer. So the plea available under Section 19(2) is a plea available only to the 'vendor' and not to the manufacturer, distributor or the dealer.

8. In *Mungaldas Raghaji Ruparel v. State of Maharashtra* : 1966CriLJ106 it is stated

at page 133 that:

the word 'vendor' though not defined in the Act, would obviously mean the person who had sold the article of food which is alleged to be adulterated.' In Shorter Oxford Dictionary (3rd Edition) by C. T. Onions, the word 'dealer' has been defined to be 'one who sells' and 'one who sells articles in the same condition in which he bought that'. A reference to other parts of the Act may be necessary to ascertain the meaning of the words 'dealer' or 'vendor' and 'seller' with reference to the context in which those words are used. Section 2 defines 'sale', but not 'dealer'. Sections 7, 14 and 16 relate to manufacture, sale, or store, sell or distribute etc. As already pointed out Section 19 (1) and (2) contain the word vendor and Section 23(1)(g)(i) again refers to 'sale.'

9. Applying the test of interpretation on the authority of Maxwell in his 'Interpretation of Statutes' (11th Edition) the following conclusion is arrived at in *R. Rostigi v. Corporation of Calcutta* (1972) 76 Cal WN 288:

I hold that the word 'dealer' is not susceptible of the very wide interpretation sought to be given on behalf of the added accused persons under Section 20-A of the Act.

This point was further enlarged in that decision in the light of the object of the legislature for the prevention of the adulteration of food and held that the word should be understood and interpreted in its cognate sense.

10. In *Sarjoo Prasad v. State of Uttar Pradesh* 1961 (2) SCA 456 : 1961 (1) Cri LJ 747 it is observed that

the intention of the legislature must be gathered from the words used in the statute.... The legislature has, in the interest of public health, enacted the Act and has provided that all persons are prohibited from selling adulterated food.

It is therefore difficult to give an interpretation as it is sought to be given to the word 'dealer' by the learned Counsel of the revision petitioner as it is clear from the various sections of the Act that the word 'dealer' is something more than a mere 'vendor' or 'seller' of a particular article of food. It is therefore clear that in the instant case the original accused does not come within the meaning of the word 'dealer'. The provisions of the Section 20-A of the Act would therefore apply to the case on hand.

11. A reading of Section 20-A is conclusive to show that it provides for the impleading of the manufacturer, distributor or dealer in a case in which initially a complaint was filed only against the vendor. Section 20-A appears to be an exception to Section 20 which provides for cognizance and trial of the offences only with previous sanction of a competent authority. So a manufacturer, distributor or dealer can be impleaded in the case even without a complaint having been filed against them under Section 20-A of the Act. Section 20-A is also an exception to Section 351(1) of the Code of Criminal Procedure and the manufacturer, distributor or dealer can be impleaded in the case even if they are not present in court. It can be seen from the section that the provisions of the Section 20-A can be invoked only during the trial of the vendor and that it cannot be invoked after the trial of the vendor has concluded. These conditions are satisfied in the present case and so the provisions of Section 20-A of the Act will therefore apply to the instant case. The learned Magistrate being satisfied on the evidence adduced before him that the manufacturer is also concerned with the

offence has acted within the bounds of his jurisdiction in allowing the application before him to implead the revision petitioner as additional accused in the case as provided in Section 20-A of the Act. We find no ground to interfere with the order passed against the revision petitioner.

In the result, the revision petition is dismissed.

Narayana Pillai, J.

I agree in dismissing the Revision Petition and in doing so, resting my decision on the admission in the Revision Petition that the original accused is 'vendor' and so Section 20-A of the Prevention of Food Adulteration Act being applicable to the case.

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