

SHARIF AHMED

v.

STATE OF U.P.

August 22, 1979

[V. R. KRISHNA IYER AND P. N. SHINGHAL, JJ.]

Policy of Prohibition under the Prevention of Food Adulteration Act—Non mention in the Analyst's report to be injurious to human life does not amount that the adulterant is non-injurious—Setting aside the sentence already reduced by High Court under a misconception would amount to following a wrong path.

HELD : The prohibition under the Prevention of Food Adulteration Act and the Rules has been imposed because it is harmful to human health. [312 G]

Absence of evidence is not equal to evidence of absence. Non-mention in the Public Analyst's report that the "colour which was mixed with powdered Chillies" was injurious to human life does not amount to the adulterant being non-injurious. When the High Court under this misconception has already reduced the sentence, this Court cannot under Art. 136 of the Constitution be pressurised further to follow the wrong path. [312 F-H]

CRIMINAL APPELLATE JURISDICTION : Special Leave Petition (Crl.) No. 2088 of 1979.

From the Judgment and Order dated 25-7-1979 of the Allahabad High Court in Criminal Revision No. 1189/79.

N. Ali Khan and A. D. Mathur for the Petitioner

The Judgment of the Court was delivered by

KRISHNA IYER, J.—Counsel for the petitioner states that the sentence imposed upon his client for the offence under section 7 read with section 16 of the Prevention of Food Adulteration Act must be reduced because the adulterant, namely, prohibited coal-tar dye, is, in his submission, non-injurious or an innocent mix. Therefore, the imprisonment part of the sentence, it was urged, should be eliminated. It is true that the High Court has observed that the "colour which was mixed with powdered chillies" is not mentioned in the Public Analyst's report to be injurious to human life. It does not follow that because it is not specifically mentioned to be injurious, it is non-injurious. Absence of evidence is not equal to evidence of absence. For ought we know, the prohibition under the Act and the Rules has been imposed because it is harmful to human health. It is true that the High Court has, under a mis-conception, reduced the sentence, but we cannot be pressurised further into following the wrong path. The special leave petition is dismissed.

V.D.K.

Petition dismissed.