



FOOD

Quashing of Food Adulteration Prosecution for Want of Specific Allegations and Non-Compliance with Section 13(2): The Madhya Pradesh High Court Ruling in Sharan Bihari Agarwal v. M.K. Gupta

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The interface between statutory procedural safeguards in food safety legislation and the inherent powers of the High Court under the Code of Criminal Procedure remains a vital area of criminal jurisprudence, particularly where the continuation of prosecution risks becoming an abuse of process. The High Court of Madhya Pradesh at Jabalpur, in its judgment dated 15th June 2026 bearing neutral citation 2026:MPHC-JBP:41541 in Sharan Bihari Agarwal and Others v. M.K. Gupta, has delivered a significant ruling on the mandatory nature of Section 13(2) of the Prevention of Food Adulteration Act, 1954, and the necessity of specific allegations to fasten criminal liability upon individuals associated with a partnership concern. The Bench, presided over by Hon'ble Shri Justice Himanshu Joshi, heard two connected matters analogously M.Cr.C. No. 7072 of 2016 and Criminal Revision No. 1703 of 2016 and allowed both, thereby quashing the criminal proceedings and setting aside the order framing charges against the applicants.

The factual substratum of the prosecution traces back to 14th July 2004, when the respondent, M.K. Gupta, in his capacity as Food Inspector, inspected the pantry car of the Varanasi Pune Gyan Ganga Express. During the course of the inspection, one Brahmpakash was found present in the pantry car and represented himself to be the Manager of M/s R.K. Enterprises, the catering contractor engaged in the railway pantry operations. It was alleged that Brahmpakash disclosed the names of applicant Nos. 1, 2 and 3 as partners of the said firm. The Food Inspector found approximately two kilograms of coriander powder stored in an open container, and suspecting adulteration, served a notice in Form VI and purchased 750 grams of the coriander powder for analysis. The sample was divided into three equal parts and sealed in accordance with the procedure prescribed under the Act and the Rules. One part was forwarded to the Public Analyst at Bhopal, and the remaining parts were deposited with the Local Health Authority.

According to the prosecution, the report of the Public Analyst indicated that the coriander powder was adulterated. Sanction for prosecution was obtained on 27th April 2005, and a complaint was filed before the learned Judicial Magistrate First Class, Satna, against Brahmpakash and the present applicants for offences punishable under Sections 7 and 16 of the Prevention of Food Adulteration Act, 1954. The applicants thereafter invoked the inherent jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure, 1973, in M.Cr.C. No. 7072 of 2016, seeking quashment of Criminal Case No. 534 of 2005. Simultaneously, in Criminal Revision No. 1703 of 2016, the same applicants challenged the order dated 19th February 2016 passed by the learned JMFC, Satna in Criminal Case No. 6035 of 2007, whereby charges were framed against them under Sections 7 and 16(1)(a)(i) and 16(1)(a)(ii) of the Act. The applicants placed on record the deposition and cross-examination of the complainant Food Inspector and witness Rajesh Kumar, as also partnership deeds to demonstrate that applicant Nos. 1 and 3 were not partners of M/s R.K. Enterprises on the date of inspection.

The learned counsel for the applicants, Shri Shivendra Pandey, submitted that the entire prosecution against the applicants was an abuse of the process of law. It was argued that except for a bald statement allegedly made by Brahmpakash, there was no material on record to demonstrate that the applicants were in charge of or responsible for the conduct of the business of M/s R.K. Enterprises at the relevant time. It was contended that neither the complaint nor the evidence recorded before the trial Court contained any specific allegation attributing any overt act to the applicants. The counsel further submitted that the partnership deeds clearly demonstrated that applicant Nos. 1 and 3 were not partners of the firm on the date of inspection, and therefore fastening criminal liability upon them was wholly unjustified. A further submission was made that the mandatory provisions contained in Section 13(2) of the Prevention of Food Adulteration Act had not been complied with, and that the valuable statutory right conferred upon an accused to seek examination of the sample by the Central Food Laboratory was denied to the applicants because the prosecution failed to establish proper service of the Public Analyst's report along with the requisite notice contemplated under Section 13(2). Reliance was placed upon various decisions of the Hon'ble Supreme Court holding that the right under Section 13(2) is a valuable right and that non-compliance therewith vitiates the prosecution.

The learned counsel for the respondent, Shri Devendra Kumar Shukla, opposed the petitions and submitted that the complaint disclosed a prima facie case. It was contended that the pantry contractor was M/s R.K. Enterprises and the applicants were shown as persons connected with the said concern. It was further argued that questions regarding partnership, management and responsibility for the conduct of business are matters of evidence which ought to be adjudicated during trial and not in proceedings under Section 482 Cr.P.C. or in revision against an order framing charge. It was submitted that the Public Analyst's report clearly established adulteration and, therefore, the prosecution deserved to proceed in accordance with law.

The High Court gave its careful consideration to the rival submissions and perused the material available on record. The Court found that there was no specific averment in the complaint explaining the role of the present applicants in the conduct of the business of M/s R.K. Enterprises at the relevant point of time. The complaint merely proceeded on the basis of information

allegedly supplied by Brahmprakash. No document demonstrating the constitution of the firm or the responsibility of the applicants for the day-to-day affairs had been referred to in the complaint. The evidence available on record also did not disclose any material establishing direct participation of the applicants in the alleged offence. Significantly, the partnership deeds prima facie indicated that applicant Nos. 1 and 3 were not partners at the relevant time, and the prosecution had not produced any contrary material to dislodge this documentary evidence.

More importantly, the Court observed that from the record placed before it, there was no satisfactory material demonstrating compliance with the mandatory requirement of Section 13(2) of the Act. The prosecution had not established that copies of the Public Analyst's report along with intimation regarding the right to seek examination by the Central Food Laboratory were duly served upon the applicants in the manner contemplated by law. The Court held that the provision of Section 13(2) is mandatory in nature, and the right conferred upon an accused to have the counterpart sample examined by the Central Food Laboratory is a valuable and substantive right because the certificate issued by the Central Food Laboratory supersedes the report of the Public Analyst and is treated as conclusive evidence regarding the quality of the sample. The denial of such statutory right causes serious prejudice to the defence and strikes at the root of the prosecution.

The Court further noted that the learned Magistrate, while framing charges, appears to have proceeded primarily on the premise that the applicants had not moved an application for examination of the sample by the Central Food Laboratory. However, before drawing such a conclusion, it was incumbent upon the prosecution to establish due compliance with Section 13(2) and proper communication of the statutory right to the accused persons. In the absence of such foundational compliance, the reasoning adopted by the trial Court could not be sustained. The Court observed that the inherent jurisdiction of the High Court under Section 482 Cr.P.C. is intended to prevent abuse of the process of Court and to secure the ends of justice. Where continuation of criminal proceedings would amount to miscarriage of justice and where basic statutory safeguards have not been complied with, interference by the High Court becomes necessary.

In the considered opinion of the Court, continuation of the prosecution against the present applicants despite the absence of specific material regarding their liability and despite apparent non-compliance with the mandatory provisions of Section 13(2) of the Act would amount to abuse of the process of law. Consequently, M.Cr.C. No. 7072 of 2016 was allowed, and Criminal Case No. 534 of 2005 pending before the Court of Judicial Magistrate First Class, Satna, arising out of the complaint filed under Sections 7 and 16 of the Prevention of Food Adulteration Act, 1954, insofar as it related to the present applicants, was quashed. As a necessary consequence, Criminal Revision No. 1703 of 2016 was also allowed, and the order dated 19th February 2016 framing charges against the applicants was set aside. The applicants stood discharged from the aforesaid charges.

This judgment is a salutary reminder that criminal liability under the Prevention of Food Adulteration Act cannot be fastened upon individuals merely by virtue of their alleged association with a firm, particularly when documentary evidence such as partnership deeds indicates that they were not connected with the concern at the relevant time. It reinforces the mandatory nature of Section 13(2) and the imperative of strict compliance by the prosecution before the trial can proceed to its logical conclusion. The ruling emphasises the High Court's inherent jurisdiction under Section 482 Cr.P.C. is a potent safeguard against prosecutions that lack foundational evidentiary support or are vitiated by the denial of substantive statutory rights, ensuring that the ends of justice are not compromised by the mechanical continuation of criminal proceedings.

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