



NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 1046 OF 2024
(@ SPECIAL LEAVE PETITION(CRL.) NO(S). 911 OF 2019)

JOSHINE ANTONY

....APPELLANT(S)

VERSUS

SMT. ASIFA SULTANA & ORS.

....RESPONDENT(S)

J U D G M E N T

ABHAY S. OKA, J.

1. Leave granted.

FACTUAL ASPECTS

2. Heard the learned senior counsel appearing for the appellant.

3. The appellant, who is claiming to be Honorary Animal Welfare Officer complained to the fifth respondent-Dr. Omkar Patil, Assistant Director of the Veterinary Department about illegal storage of a large quantity of meat of cow in a godown of the first to third respondents.

4. Initially, while registering the First Information Report, the offences punishable under Sections 420 and 429 of the Indian Penal Code, 1860 ('the IPC') were applied and later on, the provisions of the Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964 (for short 'the 1964 Act') and, in particular, Sections 4 and 5 thereof were added. The High Court in exercise of its

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jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the CrPC') has quashed the First Information Report.

5. The learned senior counsel appearing for the appellant submitted that this was a case where huge quantity of meat of cow was found in the custody of the first to third respondents. He pointed out that even before the investigation could proceed, that the High Court has interjected. He submitted that there is overwhelming *prima facie* evidence on record to show that the meat found in the custody of the first to third respondents was a meat of cow and, therefore, *prima facie*, the offences under Sections 4 and 5 of the 1964 Act were attracted.

6. He also invited our attention to the various documents on record including the *panchnama* drawn. He submitted that the packets stored in the cold storage of the first to third respondents were deliberately labelled as "Super Fresh Frozen Boneless Buffalo Meat" and that is how Section 420 of the IPC was applied by the police. He further submitted that the sample collected from the cold storage of the first to third respondents was sent for DNA test, which revealed that the meat was of cow. He would submit that in this case, the fifth respondent-herein was duly authorized officer under Section 10 of the 1964 Act and he had authority to enter any premises and to inspect the said premises as he had a reason to believe that the offence under the 1964 Act has been committed. He submitted that the High Court has virtually conducted a mini trial. We have also heard the learned counsel appearing for the respondent Nos. 1 to 3.

CONSIDERATION

7. The entire prosecution story is premised on the fact that the fifth respondent, who was the Assistant Director of the Veterinary Department, on information received from the appellant, entered the factory premises of the first to third respondents and opened two packets kept in ice and collected a sample of meat from the packets. The sample was put in the thermocol box and packed by putting ice around it. The seized sample was sent for analysis. The *panchnama* to that effect is of 25.01.2018. Thus, the sample was collected not by a police officer but by the fifth respondent, who was the Assistant Director of the Veterinary Department. Assuming that he was an authorized person, his powers were very limited under Section 10 of the 1964 Act, which read thus: -

“10. Power to enter and inspect.- (1) For the purposes of this Act, the competent authority or any person authorised in this behalf by the competent authority (hereinafter referred to as the “authorised person”) shall have power to enter and inspect any premises where the competent authority or the authorised person has reason to believe that an offence under this Act has been or is likely to be committed.

(2) Every person in occupation of any such premises shall allow the competent authority or the authorised person such access to the premises as may be necessary for the aforesaid purpose and shall answer to the best of his knowledge and belief any questions put to him by the competent authority or by the authorised person.”

8. Thus, the power was confined to enter and inspect. Under the 1964 Act, he had no power to seize any sample of meat. What is interesting to note is that, on the same day, there was one more *panchnama* drawn in presence of an Assistant Sub-Inspector. The said *panchnama* records that the sample was already collected and has

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been sent for testing to the expert. It also records that the meat was stored in a cold storage, which was not functioning. Therefore, the seizure of three rooms and meat packets was made. The police officer did not collect any sample for sending it for analysis.

9. The crux of the matter is that the sample of the meat was admittedly collected by the Assistant Director, who had no authority in law to collect the sample. He did not collect the sample after notice to the first to third respondents. Thus, the act of collection of sample by the Assistant Director was completely illegal. It is this sample which was sent for chemical analysis. Thus, the entire case of the prosecution is based on unauthorizedly and illegally collected sample of the meat. Therefore, the High Court was right when it interfered by quashing the First Information Report.

10. For the aforesaid reasons, we find no error in the view taken by the High Court and the appeal is, accordingly, dismissed.

11. Pending application(s), if any, shall stand disposed of.

.....J.
[ABHAY S. OKA]

.....J.
[UJJAL BHUYAN]

NEW DELHI;
FEBRUARY 20, 2024.