

STATE OF RAJASTHAN  
V.  
JAGDISH PRASAD  
Criminal Appeal No. 869 of 2009  
APRIL 29, 2009

[DR. ARIJIT PASAYAT AND ASOK KUMAR  
GANGULY, JJ.]

*Prevention of Food Adulteration Act, 1954 – ss. 7 and 16 – Conviction under and imposition of six months RI – High Court commuting sentence of six months for fine – Sustainability of – Held: Not sustainable – Strict adherence to the Act and the Rules framed thereunder is essential for safeguarding interest of consumers of articles of food – Stringent laws will have no meaning if offender could get away with fine — Order of sentence by trial court upheld – For period of three months, accused given liberty to move the appropriate Government for commutation – Accused not to surrender during the said period to undergo sentence – Code of Criminal Procedure, 1973 – s.433 – Sentence/sentencing – Commutation of.*

*Dayal Singh v. State of Rajasthan* 2004 (5) SCC 721 - relied on

*Sukumaran Nair v. Food Inspector, Mavelikara* 1997 (9) SCC 101 - referred to

**Case Law Reference**

1997 (9) SCC 101      Referred to      Para 2

2004 (5) SCC 721      Relied on      Para 5

CRIMINALAPPELLATE JURISDICTION : Criminal Appeal  
No. 869 of 2009

From the Judgement and Order dated 12.01.2007 of the

A Hon'ble High Court of Judicature for Rajasthan at Jaipur in S.B. Criminal Revision Petition No. 270 of 1995.

Milind Kumar, for the Appellant.

Naresh Bakshi, for the Respondent.

B The Judgement of the Court was delivered by

**DR. ARIJIT PASAYAT, J.**

1. Leave granted.

C 2. Challenge in this appeal is to the judgment of a learned  
Single Judge of the Rajasthan High Court, Jaipur Bench. By the  
impugned judgment the High Court while upholding the  
conviction for offences punishable under Sections 7 and 16 of  
the Prevention of Food Adulteration Act, 1954 (in short the 'Act')  
D imposed fine of Rs.6,000/- and directed that the same is in  
commutation of the sentence of six months RI as awarded by  
learned Chief Judicial Magistrate, Sikar. It was further directed  
that the appropriate Government shall formalize the matter by  
passing of an appropriate order under Clause (d) of Section  
E 433 of the Code of Criminal Procedure, 1973 (in short the  
'Code') if the amount is deposited within a particular period.  
For the aforesaid purpose the High Court relied on a decision  
of this Court in *Sukumaran Nair v. Food Inspector, Mavelikara*  
(1997 ((9) SCC 101).

F 3. Learned counsel for the appellant-State submitted that  
the High Court's order is clearly unsustainable.

4. Learned counsel for the respondent on the other hand  
supported the judgment.

G 5. In *Dayal Singh v. State of Rajasthan* (2004 (5) SCC  
721) it was inter-alia observed as follows:

H "15. In the instant case it was not disputed that for the  
offence charged a minimum sentence of 6 months'  
rigorous imprisonment is prescribed by law. The appellant  
has been sentenced to undergo 6 months' rigorous

imprisonment which is the minimum sentence. We are not inclined to modify the sentence by passing an order of the nature passed in N. Sukumaran Nair where this Court in exercise of its extraordinary jurisdiction imposed only a sentence of fine and directed the State to exercise its powers under Section 433 of the Code of Criminal Procedure to commute the sentence of simple imprisonment for fine. In the instant case, the appellant has been sentenced to undergo 6 months rigorous imprisonment. Moreover, we are firmly of the view that strict adherence to the Prevention of Food Adulteration Act and the Rules framed thereunder is essential for safeguarding the interest of consumers of articles of food. Stringent laws will have no meaning if offenders could get away with mere fine. We, therefore, find no reason to interfere with the sentence imposed against the appellant.”

6. In the circumstances, the appeal is allowed. The sentence as imposed by the trial Court is restored. However, since the occurrence took place nearly three decades back if the accused-respondent moves the appropriate Government to commute the sentence of imprisonment, the same shall be considered in the proper perspective. For a period of three months the accused need not surrender to undergo sentence during which period it shall be open to him to move the appropriate Government for commutation. If no order in the matter of commutation is passed by the appropriate Government the accused shall surrender to custody to serve the remainder of sentence.

7. The appeal is allowed to the aforesaid extent.

N.J.

Appeal allowed.