

IN THE HIGH COURT OF SIKKIM

Criminal Revision No.44 of 2000

In Re : B. B. Rai ..... Petitioner

Versus

Deena Nath Prasad ..... Respondents

Date of Decision : 15th September, 2000.

Coram:

The Hon'ble Mr. Justice Ripusudan Dayal, Chief Justice.  
The Hon'ble Mr. Justice Anup Deb, Judge.

Present : Mr. S. P. Wangdi, Public Prosecutor with  
Mr. Karma Thinlay, Assistant Government  
Advocate for the State.

Mr. N. Rai, Advocate for the accused-  
respondent.

Mr. B. B. Rai, Food Inspector, Health  
and Family Welfare Department in person.

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JUDGMENT

Dayal CJ.

This criminal revision was registered suo motu by  
this Court against the order dated 14th March, 2000  
1999 passed by the learned Chief Judicial Magistrate,


*Memo*

East and North in Criminal Case No.2 of 1999 B. B. Rai versus Deena Nath Prasad whereby the accused was convicted under Section 16 of the Prevention of Food Adulteration Act, 1954 and sentenced on the plea of guilty to undergo simple imprisonment till the rising of the court and fine of Rs.3000/- , and in case of default in payment of fine to undergo simple imprisonment for a further period of six months. Reason for registering the criminal revision suo motu was that an offence under section 16 is punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than Rs.1000/-. Under the proviso to that section, the Court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years, and with fine which shall not be less than five hundred rupees. Thus, in no case the imprisonment could be for less than three months. The impugned order was passed on 14th March, 2000 which was the date fixed for evidence. It appears that the accused pleaded guilty on that date under the impression that sentence of imprisonment would be till the rising of the court. The order of sentence being in contravention of the statutory provision, the order is illegal and we are

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of the view that the accused persons pleaded guilty under the impression that he would suffer imprisonment only till the rising of court, and therefore, he should have an opportunity to contest the case.

2. In the result, the revision is allowed, the impugned order is set aside and the matter is remanded to the Chief Judicial Magistrate, East and North who shall proceed with the trial, according to law. The accused shall appear before the Chief Judicial Magistrate, East and North on 25th September, 2000.

  
( A. Deb )  
Judge  
15.9.2000

*M. Dayal*  
15.9.2000  
( R. Dayal )  
Chief Justice  
15.9.2000

at/-