

the fresh evidence. The impugned orders being against the express provisions of law, cannot be sustained and are hereby quashed. The case should go back to the same Magistrate who decided the case to decide it in accordance with the directions of further enquiry given by the learned Additional Sessions Judge, Barnala, in his order dated 11th of April, 1977 and the observations made in this order.

(5) The parties through their counsel have been directed to put in appearance before that court on May 25, 1979.

N.K.S.

Before S. S. Sidhu and Harbans Lal, JJ.

STATE OF HARYANA,—*Petitioner.*

Versus

JAGTAR SINGH,—*Respondent.*

Criminal Appeal No. 602 of 1978

May 15, 1979.

Prevention of Food Adulteration Act (XXXVII of 1954) — Sections 13(2) & (5) and 16(1)(a)(i) — Prevention of Food Adulteration Rules 1955 — Rules 7, 9 (j), 17 and 18 — Rules 17 and 18 requiring the sample and impression of the seal to be sent to Public Analyst in separate packets — Whether mandatory — Proof of separate despatch — Report of the Analyst disclosing separate receipt — Such report without any other evidence — Whether sufficient proof of separate despatch — Rule 9(j) — Whether independent of section 13(2) — Non-supply of a copy of the report of the Public Analyst to the accused or delay in such supply — Prejudice to the accused — Extent of.

Held, that the intent and purpose of the specific direction in rule 18 of the Prevention of Food Adulteration Rules, 1955, that the impression of the seal is to be sent separately from the sealed packet containing the sample as envisaged in rule 17, is to eliminate the possibility of tampering with the sample in transit before the receipt of the same by the Public Analyst for the purpose of analysis. If the sample and the impression of the seal are sent to the Public Analyst in the same packet, possibility cannot be ruled out that the packet may be re-opened and after changing the sample new packet may be sealed with a new seal and the impression of the seal may

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also be changed. As the purpose of the two rules is to safeguard the interest of the accused who is undergoing the trial, according to the well-established principles of interpretation, the provisions have to be interpreted in a manner so that the purpose and the intention of the law may not be frustrated. Emphasis on sending the impression of the seal separately in rule 18 is deliberate and to serve a salutary purpose. This purpose can be achieved only if the provisions were to be interpreted as mandatory. Compliance of these provisions to the extent that the sample and the impression of the seal must be sent in separate packets is mandatory.

(Para 4)

Held, that sub-section (5) of Section 13 of the Prevention of Food Adulteration Act, 1954, provides that the report of the Public Analyst will be evidence of the facts stated therein in any proceedings under the Act or sections 272 to 276 Indian Penal Code. Thus, no doubt is left that if the report of the Public Analyst discloses that the specimen impression of the seal was received by the Public Analyst from the Food Inspector separately and independently of the container of the sample, the same will be sufficient evidence with regard to the requirement as envisaged under rules 17 and 18. Besides such a report of the Public Analyst, other independent evidence need not be adduced by the Food Inspector showing that the two packets had been sent separately in order to comply with the mandatory provisions of Rules 17 and 18. The Public Analyst while affixing his signature on the prescribed form with regard to a particular sample is expected to verify the facts with regard to the separate receipts of the two packets as well as other matters referred to in the said form. It must be presumed that the Public Analyst acted in accordance with the rules and he must have compared the specimen impression received by him with the seal on the container.

(Para 5)

Held, that the Rules have been framed by the Central Government under section 23 of the Act "to carry out the provisions of the Act". As such, no rule can be read or interpreted in isolation and independent of the provisions of the Act. If the scope of any rule travels beyond the ambit and the provisions of the Act, the same will have to be held *ultra vires* the Act. Clause (j) of Rule 9 cannot be held to confer a right on the accused independent of the rights conferred on him under section 13(2) of the Act. The duty cast on the Food Inspector or the Local Health Authority whether under rule 9(i) or section 13(2) of the Act to supply copy of the report of the Public Analyst to the accused is inevitably intended to safeguard the right of the accused guaranteed under section 13(2), to get the second sample analysed from the Laboratory. On the face of it, the right of the accused to get a copy of the report is ancillary to his basic right to get the sample analysed from the higher authority

so that all possibility of any defect in the analysis by the Public Analyst may be eliminated. (Para 15).

Nathi Ram vs. State of Haryana 1978 P.L.R. 122 OVERRULED.

Held, that as the intention of the law is clearly to safeguard the right of the accused to get the second sample analysed, so long this right is not frustrated and the accused is in a position to avail of this right, it cannot be held that any prejudice will be caused to the accused by non-compliance of this provision of the rule though it may be quite minor and technical in nature. However, if he is supplied a copy of the report at such a stage when the second sample is likely to have become decomposed on account of lapse of time and the same will not be in a fit condition to be properly analysed by the Laboratory, or the copy of the report is not supplied to him at all, it has to be held that the defence of the accused was prejudiced. In such a case, it will be immaterial even if the accused did not make an application to the trial Court for sending the second sample to be analysed as the same will be an exercise in futility. While interpreting the provisions in this manner, it should not be understood that rule 9(j) is not mandatory and is absolutely directory so that its non-compliance may be treated lightly by the authorities concerned. (Para 16).

Appeal from the order of the Court of Shri P. P. Chhabra, Sub-Divisional (Judicial) Magistrate, Dabwali, dated 31st October, 1977, acquitting the respondent.

K. D. Singh, Advocate, for A.G. Haryana.

A. Mohunta, Advocate, for respondent.

JUDGMENT

Harbans Lal, J.

(1) This appeal on behalf of the State is directed against the judgment of the Judicial Magistrate, Dabwali, dated October 31, 1977, whereby the accused-respondent was acquitted for the offence under section 16(1)(a)(i) of the Prevention of Food Adulteration Act, (hereinafter called the Act). According to the prosecution case, Shri Ram Raji Jindal, Food Inspector, accompanied by Dr. R. S. Agnihotri, went to the shop of the accused-respondent on August 21, 1975, at about 8.35 A.M. and purchased 660 millilitres milk for Rs. 1.45 out of ten litres of milk lying for sale. This milk was divided into three

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equal parts and put into three separate bottles. After adding 18 drops of formalin, the bottles were sealed in accordance with rules. One bottle was handed over to the accused, the other was deposited with the Chief Medical Officer, which was sent to the Public Analyst, Haryana, at Chandigarh, and the third bottle remained with the Chief Medical Officer. One copy of the memo, along with specimen impression of the seal used in the sample was also sent to the Public Analyst. According to the report of the Public Analyst, the sample was found to be adulterated, the milk fat being 57 per cent, deficient and milk solids not fat was 45 per cent, deficient as against the minimum standard prescribed. In view of the same, a complaint was filed against the accused by the Food Inspector. In evidence, the prosecution examined Food Inspector Ram Raji Jindal, as P.W. 1 and Dr. R. S. Agnihotri, as P.W. 2. The report of the Public Analyst and other documents relating to the purchase of the milk etc., were also produced in evidence. The accused, in his statement under section 313, Code of Criminal Procedure, denied all the allegations and alleged false implication. In defence, one witness, Wisakha Singh, was examined as D.W. 1.

(2) The trial Court held that one independent witness Dr. R. S. Agnihotri had been joined as required under section 10(7) of the Act, and that there was no material discrepancy between the statement of this witness and that of the Food Inspector. It was, however, held that rules 17 and 18 of the Prevention of Food Adulteration Rules (hereinafter called the Rules), were mandatory which had not been complied with inasmuch it was not proved as to by which means the container of the sample was sent by the office of the Chief Medical Officer and that the specimen impression of the seal as well as the memorandum were not proved to have been sent separately. The contention of the Food Inspector that the report of the Public Analyst disclosing that the memo and the impression of the seal had been received separately was sufficient compliance of the Rules was repelled. On account of non-compliance of the two mandatory rules, the accused-respondent was acquitted.

(3) The learned counsel for the State has challenged the acquittal and has contended that rules 17 and 18 were not mandatory in character and their non-compliance cannot give rise to the presumption invariably that the accused had been prejudiced and that the report of the Public Analyst was sufficient to show that the duty cast on the prosecution to prove the compliance of the Rules had been discharged.

(4) Rules 17 and 18 specifically provide the mode and the manner of sending the container of the samples and the impression of the seal which is used for sealing the samples, to the Public Analyst. According to rule 17, the container of a sample for analysis is to be sent to the Public Analyst by registered post or railway parcel or air freight or by hand in a sealed packet. The memorandum in Form VII is also to be sent in the same packet in a outer cover. Rule 18 provides that the impression of the seal which is used for the purpose of sealing the sample along with the memorandum as prescribed has to be sent to the Public Analyst separately by registered post or delivered to him. The intent and purpose of the specific direction in rule 18, that the impression of the seal is to be sent separately from the sealed packet containing the sample as envisaged in rule 17, is to eliminate the possibility of tampering with the sample in transit before the receipt of the same by the Public Analyst for the purpose of analysis. If the sample and the impression of the seal are sent to the Public Analyst in the same packet, possibility cannot be ruled out that the packet may be re-opened and, after changing the sample, new packet may be sealed with a new seal and the impression of the seal may also be changed. As the purpose of the two rules is to safeguard the interest of the accused who is undergoing the trial, according to the well-established principles of interpretation, the provisions have to be interpreted in a manner so that the purpose and the intention of the law may not be frustrated. Emphasis on sending the impression of the seal separately in rule 18 is deliberate and to serve a salutary purpose. This purpose can be achieved only if the provisions were to be interpreted as mandatory. In my considered opinion, compliance of these provisions to the extent that sample and the impression of the seal must be sent in separate packets is mandatory.

(5) The next material and equally important question is as to what evidence should be sufficient to prove that the two packets were sent by the authority concerned or received by the Public Analyst separately. Rule 7 lays down the duties of the Public Analyst regarding the sample received by him for analysis. One of the duties of the Public Analyst is to compare the seals on the container of the sample and the outer cover with specimen impression received and also to see if the seal fixed on the packet of the container was intact. After analysing the sample, under sub-rule (3) of this rule, two copies of the report of the result of such analysis in Form III, have to be sent to the Food Inspector within 45 days of

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the receipt of the sample. Form III, on which the report is to be sent is prescribed in Appendix A annexed to the Rules, and reads as follows:

FORM III

[(See rule 7(3)]

Report by the Public Analyst

I hereby certify that I Public Analyst for duly appointed under the provisions of the Prevention of Food Adulteration Act, 1954, received on the a.m./p.m. day of 19 from a sample of for analysis properly sealed and fastened and that I found the seal intact and unbroken. The seal fixed on the container of the sample tallied with the specimen impression of the seal separately sent by the Food Inspector and the sample was in condition fit for analysis.

I further certify that I have/I have caused to be analysed the aforementioned sample, and declare the result of my analysis to be as follows:

.....

 and am of the opinion that.....

Signed this.....
 day of.....19

(Signature)
 Public Analyst

Address.....

Its close perusal makes it evident that the Public Analyst is required to specifically mention that the seal fixed on the container of the sample tallied with the specimen impression of the seal which was separately sent by the Food Inspector and further that the sample was in a fit condition for the purpose of analysis. Rule 7 has to be

read along with section 13 of the Act. According to section 13(1), it is incumbent on the Public Analyst to send his report to the local health authority in such form as may be prescribed. Sub-section (5) to this section provides that such a report will be evidence of the facts stated therein in any proceedings under the Act, or sections 272 to 276, Indian Penal Code. This sub-section is reproduced below:

“(5) Any document purporting to be a report signed by a Public Analyst, unless it has been superseded under sub-section (3), or any document purporting to be a certificate signed by the Director of the Central Food Laboratory may be used as evidence of the facts stated therein in any proceeding under this Act or under sections 272 to 276 of the Indian Penal Code (Act XLV of 1860):

Provided that any document purporting to be a certificate signed by the Director of the Central Food Laboratory not being a certificate with respect to the analysis of the part of the sample of any article of food referred to in the proviso to sub-section (1A) of section 16 shall be final and conclusive evidence of the facts stated therein.

Explanation.—In this section and in clause (f) of sub-section (1) of section 16, ‘Director of the Central Food Laboratory’ shall include the officer for the time being in charge of any Food Laboratory, by whatever designation he is known, recognised by the Central Government for the purposes of this section.”

Thus, no doubt is left that if the report of the Public Analyst discloses that the specimen impression of the seal was received by the Public Analyst from the Food Inspector separately and independently of the container of the sample, the same will be sufficient evidence with regard to the requirement as envisaged under rules 17 and 18. The contention of the learned counsel for the accused-respondent that besides such a report of the Public Analyst, some independent evidence has also to be adduced by the Food Inspector showing that the two packets had been sent separately in order to comply with the mandatory provisions of rules 17 and 18 cannot be agreed to in view of the specific provision as contained in section 13(5) of the Act. His submission that the Public Analyst while filling form III which is in print, does not apply his mind consciously

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to the question if the specimen impression of the seal had been, in fact, received separately and, therefore, such a report by itself could not be considered sufficient evidence with regard to the compliance of the provisions as contained in rules 17 and 18, does not carry conviction. The Public Analyst while affixing his signature on the prescribed form No. III with regard to a particular sample is expected to verify the facts with regard to the separate receipts of the two packets as well as other matters referred to in the said form. It was held by their Lordships of the Supreme Court in *Kassim Kunju Pookunju and another v. K. K. Ramakrishna Pillai and another* (1), that it must be presumed that the Public Analyst acted in accordance with the rules and he must have compared the specimen impression received by him with the seal on the container. The ratio of this decision will be applicable with equal force to all other matters referred to in the report by the Public Analyst.

(6) So far as the present case is concerned, the report of the Public Analyst, Exhibit PD, specifically disclosed that the specimen impression of the seal had been received from the Food Inspector separately and that the seal fixed on the container and the sample did tally with the specimen impression of the seal and further that the seals were intact. In view of this, the conclusion of the trial Court that the Food Inspector failed to adduce evidence with regard to the separate despatch of the impression of the seal has to be reversed.

(7) The learned counsel for the accused-respondent sought to support the decision of the trial Court regarding the acquittal on another ground and urged that rule 5(J) which was also mandatory had not been complied with inasmuch as a copy of the report of the Public Analyst was not sent to the accused and, therefore, the accused-respondent was prejudiced and was deprived of his right to apply to the trial Court for analysis of the sample which had been delivered to him by the Food Inspector.

(8) It is crystal clear from the scheme of the Act that this law was brought on the statute book with the aim of eradicating anti-social and anti-national evil of adulteration of food which is a menace to public health. In order to achieve this object, a minimum sentence of imprisonment for a period of six months and a fine of Rs. 1,000 has been provided. However, while this is the dominant

(1) 1976 (11) F.A.C. 68.

and the main purpose of the legislation, the legitimate and reasonable interests of the citizens regarding their liberty have also not been lost sight of. In order to ensure that the authorities concerned in their anxiety and over-enthusiasm to punish the adulterators of food may not mis-use the authority, some provisions have been enacted in the Act and the Rules to prevent all possibility of mis-use of power. Under section 11(1)(a), the Food Inspector, while taking a sample of food for analysis is required to serve a notice, in writing, to the person from whom the sample is taken, regarding his intention to get the sample analysed. Under sub-section (3), it has been enjoined on the Food Inspector to send the sample to the Public Analyst for analysis "by the immediately succeeding working day". Under rule 7(3), duty has been cast on the Public Analyst to send his report of the analysis to the Local Health Authority within forty-five days from the date of the receipt of the sample. Under section 13(2), it is incumbent on the Local Health Authority to supply a copy of the said report to the person from whom the sample had been taken after the institution of prosecution against him along with the information that the offender is entitled to make an application to the Court within a period of ten days from the date of the receipt of the copy of the report to get the sample of the article of food kept by the Local Health Authority analysed by the Central Food Laboratory (hereinafter called the Laboratory). This is a valuable right conferred on the accused for his satisfaction that if he in any manner doubts the correctness of the report by the Public Analyst, he is entitled to get another sample tested from a higher authority. Rule 9(j) which is also intended to safeguard this right, has undergone several changes in course of time. This rule, as it stood before February 13, 1974, provided for sending a copy of the report of the Public Analyst to the offender by the Food Inspector "as soon as the case is filed in the Court". This copy of the report could be sent either by hand or by registered post. As a result of amendment this sub-rule as enforced on February 13, 1974, it was incumbent on the Food Inspector to supply this copy to the offender within 10 days of the receipt of the said report, if the analysis was found to be adverse to the accused. If section 13(2), and rule 9(j) after the amendment are perused together, there appears to be some duplication. Under the main provision of the Act, a copy of the report was to be supplied to the accused after the institution of proceedings against him, but under rule 9(j), a copy of the report was to be supplied within ten days of the receipt of the report from the Public Analyst. If these two provisions were to be interpreted strictly

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copy of the same report was to be supplied to the accused twice at two different stages. With effect from January 4, 1977, rule 9(j) was deleted and a new rule, 9-A was enforced according to which the Local Health Authority was duty bound to forward a copy of the report of the Public Analyst to the accused "immediately after the institution of the prosecution." So far as the present case is concerned, the sample had been taken on August 21, 1975. As such, rule 9-A will not be attracted and the old rule 9(j), as amended in 1974 will be applicable. The underlying purpose of section 13(1) and (2) and rule 9(j) was to clearly confer a right on the accused to get the second sample tested from the Laboratory and as such, duties were cast on the Food Inspector and the Local Health Authority so that this right may not be frustrated. In *Municipal Corporation of Delhi v. Ghisa Ram* (2), their Lordships held,—

"It appears to us that when a valuable right is conferred by section 13(2) of the Act on the vendor to have the sample given to him analysed by the Director of the Central Food Laboratory, it is to be expected that the prosecution will proceed in such a manner that that right will not be denied to him. The right is valuable one, because the certificate of the Director supersedes the report of the Public Analyst and is treated as conclusive evidence of its contents. Obviously, the right has been given to the vendor in order that, for his satisfaction and proper defence, he should be able to have the sample kept in his charge analysed by a greater expert whose certificate is to be accepted by Court as conclusive evidence. In a case where there is denial of this right on account of the deliberate conduct of the prosecution, we think that the vendor, in his trial, is so seriously prejudiced that it would not be proper to uphold his conviction on the basis of the report of the Public Analyst, even though that report continues to be evidence in case of the facts contained therein."

In the aforesaid case, the sample had been taken on September 20, 1961, which was actually analysed by the Public Analyst on October 3, 1961 and the report was sent on October 23, 1961. However, the Municipal Corporation took abnormal time in launching the prosecution and filing the complaint on May 23, 1962, and no explanation

was offered for this delay. Regarding the second sample sent to the Laboratory at the instance of the accused, it was reported that the sample had become highly decomposed and no analysis was, therefore, possible. Consequently, the accused was acquitted by the trial Court. This acquittal was upheld by the Supreme Court.

(9) In *Nirmal Singh v. The State of Punjab*, (3), Koshal J., (as he then was), set aside the conviction of the accused in view of the fact that after the receipt of the report, adverse to the accused, from the Public Analyst, the complaint had been filed after one month and the summons on the accused were not served for about one year. It was held that the accused had been denied his valuable right as guaranteed under section 13(2).

(10) In *Net Ram v. State*, (3-A), the accused was acquitted as the prosecution had been initiated against him after six months of the taking of sample. It was held that after such a long time, the accused could not avail of his valuable right as the sample had become decomposed by then.

(11) In the *Public Prosecutor, Hyderabad v. Murlidhar* (4), a Division Bench of the Andhra Pradesh High Court interpreted the scope of rule 9(j) and held as follows :

“From what has been stated above, we should not be misunderstood as having held that even a delay of one day over and above ten days would be enough to throw out the case of the complainant for non-compliance with rule 9(j) of the Rules. Of course, if there is some delay in sending the report, the complainant's case cannot be thrown out unless the accused shows that even this slight delay has caused prejudice to him. It is not possible to lay down any hard and fast rule regarding the delay in sending the report of the Public Analyst to the person from whom the sample was taken. Every case will have to depend on its circumstances. But when the report of the Public Analyst was not sent to the accused even until the filing of the complaint, then to our mind, in such a case, the accused could be acquitted without his pleading prejudice.”

(3) 1976 Chandigarh Law Reporter (Pb. & Har) 1.

(3-A) 1969 Allahabad Law Journal 916.

(4) 1977 Cr. Law Journal 1634.

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(12) In *The State of Maharashtra v. Mohanlal Hanumandas Vaishnowa and another* (5), rule 9(j) was held to be mandatory. In that case, sample had been collected on May 29, 1973. The report of the Public Analyst came into existence on July 13, 1973. Even thereafter, the complaint was filed after about nine months on April 11, 1974 and the copy of the report was received by the accused on September 28, 1974. It was in these circumstances held that the provisions of the Act and the Rules had not been complied with.

(13) In *Bhola Nath Nayak v. The State and another* (6), it was held that the intention of rule 9(j) was to give an opportunity to the accused to have the sample examined by an expert of his choice. It was further held that delay of more than ten and a half months in the supply of the copy of the report of the Public Analyst to the accused resulted in prejudice to his defence.

(14) In *Nathi Ram v. The State of Haryana* (7), K. S. Tiwana, J., held that rule 9(j) had to be interpreted independently of the effect of section 13(2) and the non-supply of the copy of the report to the accused resulted in prejudice to his defence and thus the infringement of rule 9(j) must vitiate the entire proceedings resulting in the acquittal of the accused.

(15) The Rules have been framed by the Central Government under section 23 of the Act "to carry out the provisions of the Act." As such, no rule can be read or interpreted in isolation and independent of the provisions of the Act. If the scope of any rule travels beyond the ambit and the provisions of the Act, the same will have to be held *ultra vires* the Act. Clause (j) of rule 9 cannot be held to confer a right on the accused independent of the rights conferred on him under section 13(2) of the Act. The duty cast on the Food Inspector or the Local Health Authority whether under rule 9(j), or section 13(2) of the Act to supply of the copy of the report of the Public Analyst to the accused is inevitably intended to safeguard the right of the accused guaranteed under section 13(2), to get the second sample analysed from the Laboratory. On the face of it, the right of the

(5) 1978 FAJ 183.

(6) 1977 Cr. L.J. 154.

(7) 1978 P.L.R. 122.

accused to get a copy of the report is ancillary to his basic right to get the sample analysed from the higher authority so that all possibility of any defect in the analysis by the Public Analyst may be eliminated. A critical study of the afore-mentioned decision also leads to the same conclusion and the view expressed by K. S. Tiwana, J., *In Nathi Ram's case* (supra) to the contrary, with due deference, cannot, therefore, be agreed to.

(16) The next question is that in case the copy of the report of the Public Analyst is not supplied or is not supplied within time as prescribed in section 13(2) or rule 9(j), what will be the effect? Will the non-compliance lead to *ipso facto* acquittal of the accused without going into the question whether the defence of the accused was prejudiced by such non-compliance or not? Suppose copy of the report is not supplied to the accused within ten days of the receipt of the report of the Public Analyst by the Food Inspector, but the same is furnished on the eleventh or twelfth day, but the accused does not think it proper to avail of his right to approach the trial Court to get the second sample sent to the Laboratory for analysis. In my considered opinion, as the intention of the law is clearly to safeguard the right of the accused to get the second sample analysed, so long this right is not frustrated and the accused is in a position to avail of this right, it cannot be held that any prejudice will be caused to the accused by non-compliance of this provision of the rule though it may be quite minor and technical in nature. However, if he is supplied a copy of the report at such a stage when the second sample is likely to have become decomposed on account of lapse of time and the same will not be in a fit condition to be properly analysed by the Laboratory, or the copy of the report is not supplied to him at all, it has to be held that the defence of the accused was prejudiced in such a case, it will be immaterial even if the accused did not make an application to the trial Court for sending the second sample to be analysed as the same will be an exercise in futility. While interpreting the provisions in this manner, I should not be misunderstood to hold that rule 9(j) is not mandatory and is absolutely directory so that its non-compliance may be treated lightly by the authorities concerned. It is high time that the Food Inspector and the Local Health Authority on whom the duty has been cast under the Act or the Rules to follow certain procedure regarding the taking of sample,

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its despatch to the Public Analyst and the supply of copies of the report of the Public Analyst to the accused, must comply with all the directions as contained therein meticulously and they should not give the impression by their conduct at any stage that they become a party, whether directly or indirectly, in the acquittal of the accused. They have to realise that they have been entrusted with a very important and delicate task in the eradication of anti-social and anti-national activity relating to adulteration of articles of food which is intimately connected with the health of the nation and any negligence or dereliction of duty on their part can result in very disastrous results. The Government should also see that adequate steps are taken so that the authorities entrusted with any task under the Act or the Rules are given adequate directions and training in such a manner that they remain in touch and well aware of the latest amendments in the Act and the Rules and also the interpretation of law by the Courts so that the lacunae pointed out by the Courts in the matter of observance of the provisions of the Act, and the Rules are not reported in future.

(17) In the present case, the sample of milk was taken by the Food Inspector on August 21, 1975, and the report of the Public Analyst, Exhibit PD, is dated September 5, 1975. It is not clear from the evidence on the record as to when this report was received by the Food Inspector, but it is reasonable to presume that the same was likely to have been received within a few days. The complaint, on its basis, was filed on September 29, 1975 and the accused appeared in Court on October 13, 1975. The statement of the Food Inspector is absolutely silent as to when the copy of the report of the Public Analyst was supplied to the accused. On enquiry, the learned State counsel was frank enough to concede that it was not clear from the record in his possession if the Food Inspector had furnished a copy of the report of the Public Analyst to the accused at any time. Though the complaint was filed within about 24 days of the report of the Public Analyst, no attempt was made on behalf of the prosecution to supply a copy of the report to the accused at any time. The learned State counsel contended that as soon as the accused appeared in the Court in pursuance of the summons issued by the trial Court, the accused must have come to know of the report of the Public Analyst, and thereafter, it was open to him to exercise his right to get the second sample sent to

the Laboratory as envisaged under section 13(2) and thus the accused cannot take advantage of the non-compliance of rule 9(j). Under section 13(2) as well as rule 9(j), the Food Inspector or the Local Health Authority has been expressly enjoined the duty to supply a copy of the report of the Public Analyst to the accused within a specified time. The prosecution cannot get out of the rigour of these provisions only on the plea that the accused was likely to have knowledge of the adverse report of the Public Analyst. The accused having been acquitted by the trial Court, it will not be in the interest of justice to take a different view in the circumstances of this case as referred to above.

(18) Consequently, this appeal fails and is dismissed.

S. S. Sidhu, J.—I agree.

N.K.S.

Before Rajendra Nath Mittal and J. V. Gupta, JJ.

SURJIT SINGH,—*Petitioner.*

versus

RATTAN LAL and others,—*Respondents.*

Civil Revision No. 337 of 1978.

May 15, 1979.

East Punjab Urban Rent Restriction Act (III of 1949)—Section 13(2)(ii)(a)—Premises validly sub-let by the tenant before coming into force of the Act—Such sub-letting—Whether a ground for ejection under section 13(2)(ii)(a).

Held, that it is well established that a new law affects future transactions and not past ones. No statute is given a retrospective operation so as to impair existing rights and obligations unless it is specifically provided in it. This is, however, not true in the case of statutes dealing with procedures which are retrospective in nature. From a plain reading of section 13 of the East Punjab Urban Rent Restriction Act 1949 it is evident, that a landlord could apply for ejection of the tenant if he (tenant) after the commencement of the Act without his written consent sublet the building. The words