

page 1 to 61

23/PF/DA/06  
9-1-06

IN THE COURT OF **PALTA M SIMAH**  
: METROPOLITAN MAGISTRATE : NEW DELHI



FOOD INSPECTOR  
DEPARTMENT OF PFA  
GOVT. OF NCT OF DELHI  
A-20, LAWRENCE ROAD INDL. AREA,  
DELHI-110035

...COMPLAINANT

Vs.

Sh. Vineet Jain s/o Sh. S. K. Jain  
M/s Solar Sales (India),  
factory situated at 902/290, Lane No.4,  
Indl. Area, Shalimar Village, Delhi- 88  
Office situated at 3540, Qutab Road, Delhi-6.

Case No. 23/06  
9-1-06

R/o 44 B/UA, Jawahar Nagar, Delhi-7 ...Proprietor of Mfg. concern

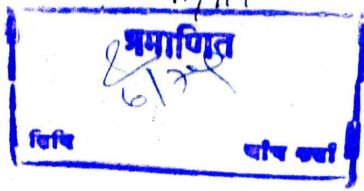
**COMPLAINT UNDER SECTION 16 OF THE PFA ACT 1954**

It is submitted as under :-

1 That on 17-11-04 at about 3.00 P.M., Food Inspector Sh. Bal Mukand purchased a sample of 'Lime Juice Cordial' a food article for analysis from Sh. Deepak Bhatia s/o Sh. K. G. Bhatia at M/s Ruby Tuesday (A unit of Round-the Clock Stores( Limited,) M-48, Connaught Place, New Delhi- 1 where the said food article was found stored for use and where Sh. Deepak Bhatia was found conducting the business of the said food article at the time of sampling. The sample consisted of 3 x 750 ml originally sealed plastic bottles of Lime Juice Cordial ( ready for use) bearing identical label declaration. The sample was taken under the supervision/direction of Sh.I.D. Pandey, SDM/LHA. The sample was taken as such in originally sealed condition. The Food Inspector divided the sample into three equal parts then and there by taking one such bottle in each part. Each sample counter part was separately packed, fastened and sealed according to PFA Act & Rules. The vendor's signatures were obtained on the LHA slip and wrapper of the sample counter parts. Notice was given to Sh. Deepak Bhatia and the price of sample was also offered to him vide vendor receipt dated 17-11-2004. Panchnama too was prepared at the spot. All the documents prepared by F.I. were signed by Sh. Deepak Bhatia and the other witness Sh S.N. Jindal, F.A. Before starting sample proceedings efforts were made to join public witnesses but none came forward, as such Sh.S.N. Jindal, F.A. was joined as witness.

EXPW AB

MM  
11/11/08



C.C. No. 23/06

PW1 : Statement of Shri Bal Mukand FI, Govt of NCT of Delhi, Delhi

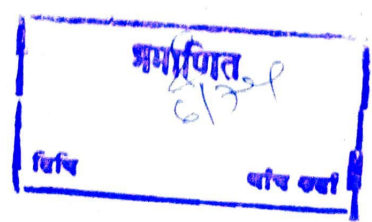
On SA



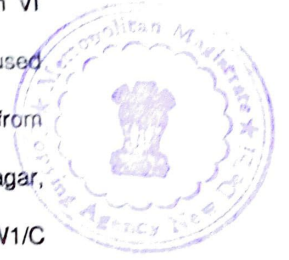
On 17.11.04 I alongwith Shri S.N.Jindal, FA and other staff under the supervision and direction of LHA, Shri I.D.Pandey went to M/s Rubi Tuesday, (a unit of round the clock store limited) M-48, Connaught Place, New Delhi, where accused Deepak Bhatia vendor was found conducting the business of the food articles in that shop including lime juice cordial meant for sale for human consumption. I disclosed my identity and intention and showed my intention for taking the sample for analysis to which vendor agreed. Before taking the sample I tried my best to procure some public witnesses by requesting some neighbourers, customers and passersby etc. to join the sample proceedings but as none agreed for the same, on my request FA S.N.Jindal, agreed and joined as witness. Then at about 3:00 pm 3X750 ml. Plastic bottles originally sealed were taken from the vendor bearing identical label declaration which was reproduced in form VI. The sample price Rs. 144/- was offered to the vendor but it was not accepted on the ground that it was not directly for sell but was meant for preparation of food for sale. This fact was mentioned in the vendor receipt Ex.PW1/A. Then the sample was divided into 3 parts and was packed, marked, fastened and sealed according to PFA Act and Rules in its original sealed condition. LHA Slip bearing code number and signature of LHA was affixed on all the three counter parts of the bottle. Then the vendor signatures were obtained on LHA Slip in such a

*B. Jindal*  
11/11/08

*S. C. Bal Mukand*  
A.C.M.U



manner that a portion of his signature were on the wrapper as well as on the LHA Slips. Thereafter form VII was filled by me. Then notice in Form VI Ex.PW1/B was prepared at the spot and copy of it was given to the accused as per his endorsement at portion A to A wherein he disclosed the place from where he had purchased i.e M/s Northern Traders, 88 Old Rajinder Nagar, Market, New Delhi, bearing his signature at point A. Panchnama Ex.PW1/C was prepared.



The notice Ex.PW1/D u/s 14A of PFA Act was prepared addressing to said M/s Northern Traders. (Court observation)- "the copy of notice which is on record bears some digits of date however the initial is torn condition, however, the witness shown the office file wherein at the corresponding point having initial on it. Photocopy is also taken on record")

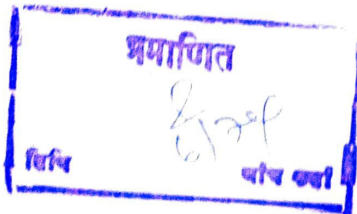
All these documents Ex.PW1/A to Ex.PW1/D was read over and explained to the accused in Hindi and after he understood the same accused signed at point A and witness signed at Point B and the I signed at point C respectively.

One counter part of the sample was deposited with the PA on 18.11.2004 vide receipt Ex.PW1/E in a sealed packet containing one copy of memo in Form VII and another sealed envelop containing one copy of another Memo in Form VII separately.

The two counter parts of the sample alongwith two copies of memo of Form VII in a sealed packet were deposited in intact condition with the LHA on 18.11.2004 vide receipt Ex.PW1/F bearing my signature at point A and that of LHA at point B with the intimation that one counter part of the sample

IS/11/08

S. C. Meallaha  
A c m m





H.C.Ahuja and Smt. Suman Ahuja. I also sent a letter Ex.PW1/U to STO Ward No.5 in regard to Solar Sales (I) and as per its reply at portion A it was not registered.

The reply of M/s Ruby Tuesday (owned by M/s Round the Clock Store Ltd) Ex.PW1/V was received along with the NDMC license mark K and the Daily Sales Tax receipt mark L.

The reply of Solar Sales (India) Ex.PW1/W was received along with the license under food product order mark M (two pages). I collected the letter of warning sent to Vinit Jain mark N. I also sent a letter to STO Ward No. 67 Ex.PW1/X in regard to Solar Sales (India) and as per its reply it was registered and owned by Sh. Vinit Jain as per its reply at portion A.

The form under rule 9E which is Ex.PW1/Y which bears my signatures at point A and signatures of the witness at point B and signatures of LHA/SDM at point C in which all the details have been mentioned.

Then on completion of the investigation, the complete case file along with all statutory documents were sent through LHA to the Director (PFA), Shri Diwan Chand, who after going through the case file, applied his mind and gave his consent for prosecution Ex.PW1/Z which bears his signature at point A. I can identify his signature as I have seen him writing and signature in my official course of duty.

The complaint Ex.PW1/AB ( five pages) was filed in court by me bear my signature at point A.

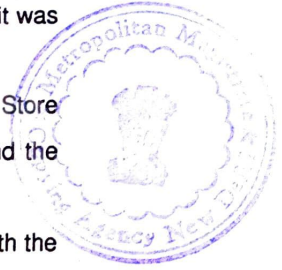
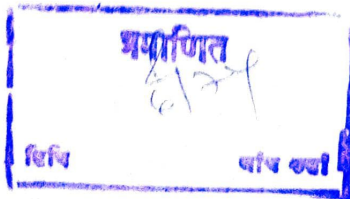
The intimation letter Ex.PW1/AC was sent along with the PA report by registered post to the accused through LHA bearing his signature at point A, which I identify being conversant with his writing and signatures during my official course of duty, which was not received back undelivered(objected to on the mode of proof of document). All mark documents are photocopies.

Office file containing documents seen and returned.

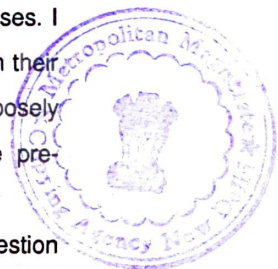
XXX By Sh. Manish Makhija Ld. Counsel for the accused.

13/11/08

S. C. Ahuja  
A.C.M.M



I had requested 2-3 public persons to join the sampling proceedings. I did not ask for their identity neither did I ask for their name and addresses. I am not aware whether I had power to issue notice to public persons on their refusal to join the proceedings. It is wrong to suggest that I did not purposely ask any public witness to join the proceedings as the same were pre-planned. It is further wrong to suggest that no proceedings took place.

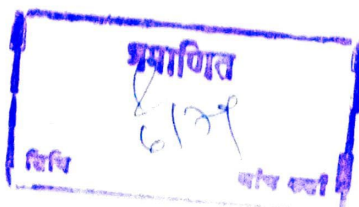


It is correct that there is no bill to prove that the product in question was purchased by Deepak Bhatia allegedly from M/s Northern Traders. It is correct that as per the report of PA the sample commodity was not adulterated. It is correct that the product in question was not for direct sale to the consumer by the vendor. The signatures appearing on Ex.PW1/H, J, K, L, M, N, at point X are of official clerk. It is correct that I have not put the date on Ex.PW1/H, J, L, O, on the top of the documents but the date is there under my signatures. It is correct that I had not filed any registered AD with regard to the dispatch of above mentioned documents. Vol. The official concern sent the letter and that is the reason I have not filed the same in the court. It is wrong to suggest that these documents were never dispatched and that is the reason for my not filing any proof qua the posted of these documents. We had not seized the label of the product in question. It is correct that I have not filed any document to show that the warning was given to M/s Northern Traders and M/s Ruby Tuesday, a company owned by M/s Round The Clock Store Limited, 32, Hanuman Road, New Delhi-110001. It is correct that the product in question was lifted from M-48, Connaught Place, New Delhi where there is a restaurant by the name of M/s Ruby Tuesday. This company was a limited company as per the information provided by the officials of the company. I did not ask for any books of account, purchase register from M/s Ruby Tuesday. Both the partners of M/s Northern Traders were left after warning only.

It is wrong to suggest that this is a false case against the accused and he or his firm has absolutely nothing to do with the product in question or the

*S. C. A. 11/11/08*

*S. C. A. 11/11/08*  
*A. C. M. 11*



proceedings. The document Ex.PW1/Q1 is our internal office memo and I had received reply to this document vide Ex.PW1/Q2. I had sent this document to LHA on 5.1.2005 and had received the reply on the same day i.e 5.1.2005. The documents Ex.PW1/R1 and R2 were attached to Ex.PW1/Q2 by the LHA nomination namely Sh. Pawan Vats. It is wrong to suggest that I am deposing falsely being the employee of the department to support the case of the prosecution.

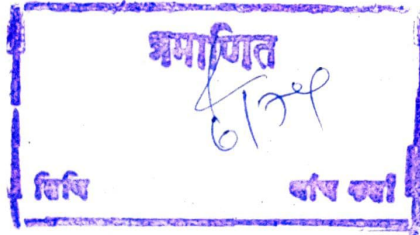


RO&AC

*IS*  
11/11/08

*S.O.C*

ACMM-II/New Delhi  
11.11.2008



C.C. No.23/06

DA VS. VINEET JAIN

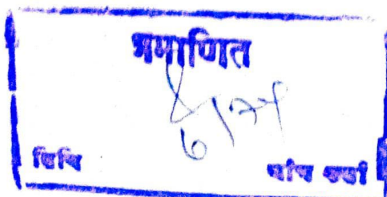
PW-2

Sh. I.D. Pandey, Deputy Director (Training), UPCS,  
Karkardooma Courts, Delhi.



On S.A.

On 17-11-2004 while posted as SDM/LHA, Connaught Place under my supervisions / direction FI Bal Mukund and FA S. N. Jindal with staff visited the premises of M/s Ruby Tuesday , M-48, Connaught Place, New Delhi, where accused Deepak Bhatia, vendor was found conducting the business of food articles stored there for sale for human consumption including lemon juice, cordial meant for sale for human consumption. We disclosed our identity and intention for purchasing lemon juice, cordial (ready for sale) for analysis to which accused agreed. Before taking the sample F.I tried to join the public witness i.e customers, neighbouring shopkeepers and passers but none agreed and on his request, F.A. S.N. Jindal agreed as a witness. The sample of 3 sealed plastic bottles of 750 ml of lemon juice, cordial was purchased by F.I on payment of Rs.144/- vide vendor's receipt Ex. PW1/A but the vendor refused to accept the price as he informed that the sample commodity was not for direct sale and they use to supply the customers after mixing with other juices. Then FI Bal Mukund then and there divided the sample equally in to three equal parts and same were separately packed, marked, fastened and sealed according to PFA Act and Rules and pasted the LHA slip bearing my signature from top to bottom in all the three bottles and signatures of the vendor obtained in such a manner that partly appeared on the LHA Slip and partly on the wrapper. Notice in Form VI Ex. PW1/B was prepared and a copy was given to the accused as per his endorsement at portion A to A bearing his signature at point A. Then the Panchnama Ex.PW1/C was prepared.





All these documents Ex.PW1/A to Ex.PW1/C were read over and explained to the accused in Hindi and after he understood the same, accused signed at point A and witness signed at Point B and FI signed at point C respectively.

A report also prepared by the F.I at the spot and thereafter he took the sample with him for depositing with Public Analyst.

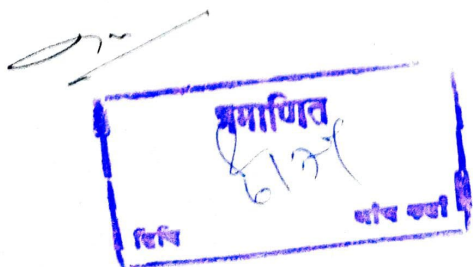


The remaining two counter parts of sample in intact condition along with two copies of report in a sealed packet were deposited with me on 18.11.04 vide receipt Ex.PW1/F bearing my signature at point A with the intimation that one counter part of the sample in intact condition has already been deposited with the PA. All the reports were marked with the impression of seal which was used to seal the sample counter parts. All the copies of reports bear the seal impression with which sample were sealed. PA receipt is Ex.PW1/E.

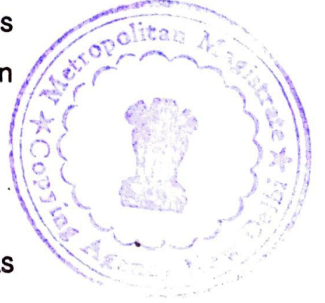
Being the first offenders of label violation under Section 32, the vendor Deepak Bhatia, the Company Round the Clock Stores Ltd., Subhash Chandra Ahunja and Smt. Suman Ahuja, the partners of the supplier firm M/s Northern Traders were issued warning and hence not prosecuted as Sh. Vineet Jain was already warned by the department and was prosecuted being the second offender of the manufacturing concern as the Proprietor. He would not have been prosecuted had this been his first offence under the Act.

On receipt of the PA report Ex.PW1/G according to which sample was found misbranded as mentioned therein at portion X.

After completion of the investigation by the FI, the complete case file along with all the statutory documents were sent to the then Director Sh. Deewan Chand through me, who after going through the entire case file,



applied his mind and gave the sanction for prosecution already Ex.PW1/Z against the accused person . I identify the signature of Sh. Deewan Chand at point A on Ex.PW1/Z being conversant with his writing and signatures during my official course of duties. Office file containing documents seen and returned.



At this stage, Ld. SPP wants to cross-examine the witness as he is resiling from his earlier statement. Heard. Allowed.

XXXXXXXXXX by SPP for the complainant.

It is correct that intimation letter Ex.PW1/AC bearing my signature at point A was sent to accused Vineet Jain by registered post but the same not returned back undelivered.

XXXXXXXXXXXXXXXXXX by Sh. Manish Makhija, Ld. Counsel for the accused.

I am not in possession of postal receipt by which intimation letter was sent to accused Vineet Jain. It is wrong to suggest that there is no postal receipt with me today as the same was not sent. The sample was taken at about 3:00 p.m. F.I asked the public witnesses to join the sample proceedings. It is not within my power to issue notice to the public persons who refuse to join as a witness. Except report under Rule 9 (e) other documents are on record. It is wrong to suggest that I am deposing falsely to support the prosecution case being the government servant.



RO&AC.



ACMM-II/NEW DELHI.  
22.01.09



CC No.23/2006

DA Vs. Vineet Jain

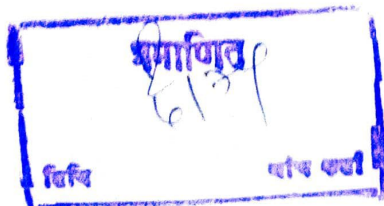
PW-3 F.A. S.N. Jindal, PFA Dept. Govt. Of NCT of Delhi.

On S.A.

On 17.11.2004 I alongwith FI Shri Balmukund under the Supervision and direction of Shri I.D. Pandey, SDM/LHA went to M/s Ruby Tuesday, M-48, Connaught place, New Delhi where Accused Deepak Bhatia Nominee was found conducting the business of the food articles in the said shop including "Lime Juice cordial" for sale for human consumption .FI Balmukund disclosed his identity and intention for taking the sample of Lime Juice cordial to which accused agreed. F.I Balmukund tried to associate public witness by requesting passersby and customers to join sample proceeding but none agreed and on his request I agreed and join the sample proceeding as a witness. At about 3.00 Pm F.I. Balmukund purchased 3 sealed plastic bottles of Lime Juice cordial on payment of Rs. 144/- but price was not accepted by the vendor while saying that sample bottles were not for direct sale as mentioned on the vendor's receipt Ex.PW1/A at point A to A. The FI divided the sample into three equal parts by putting one original sealed bottle in one counterpart. Then each counterpart containing Lime Juice cordial was separately packed, fastened, marked and sealed according to PFA Act and Rules. LHA slip bearing his code number and signatures were affixed on each counterpart. Then the vendor signatures were obtained on LHA Slip bearing LHA Code number and signature in such a manner that a portion of his signature were on the wrapper as well as on the LHA Slip. Then notice in Form VI Ex.PW1/B was prepared and the copy of the same was given to the accused with his endorsement at portion A to A bearing his signature at point B. Panchnama Ex.PW1/C was prepared. Vendor disclosed that he purchased the sample bottles from M/s Northern Traders, Shop No. 88, Old Rajender Nagar, New Delhi.



with  
2/11/04  
27/06/09



Accordingly, a Notice under Section 14A Ex.PW1/D was also prepared at the spot.

All these documents Ex.PW1/A to Ex.PW1/d were read over and explained to the accused in Hindi and after he understood the same, accused signed at point A, I signed at Point B and F.I signed at point C.



XXXXXXXXXXXXXXXXXX by Sh. Munish Mukhija, Ld. Counsel for the accused.

We all reached at the spot at about 2:45 p.m altogether. F.I inquired from the public persons their names and addresses but they refused to disclose the same. I am not aware whether the F.I is empowered by law to issue notice to the public persons who refused to assist the public servant. It is correct that purchase bill of the sample commodity from M/s Northern Traders was not given by the vendor at the spot. Volt. He informed that the bill will be supplied later on. I am not aware whether later on bill was supplied by the vendor or not. I only joined the sample proceedings as a witness on the day of sampling and I am not aware in respect of the investigation, if any, as conducted by the F.I. It is wrong to suggest that I am deposing falsely being interested witness.

*Swinded*  
27/06/2009  
RO&AC.

ACMM-II/ NEW DELHI.  
27.06.09

जिला एच.एम. सत्र न्यायाधीश कार्यालय  
रविवीला हाऊस कोर्ट, नई दिल्ली  
व्यक्तिगत सत्य प्रमाणिका  
भारतीय साक्ष्य अधिनियम 1872 की धारा  
76 के अन्तर्गत प्रमाणित।