
(1976) 03 GUJ CK 0005
In the Gujarat High Court

A.K. Mehta, Asstt. Coll. of Customs

APPELLANT

Vs

Rameshchandra Gokaldas Thakker and Others

RESPONDENT

Date of Decision : 31-03-1976

Acts Referred:

Customs Act, 1962 — Section 108, 135, 135

Citation : (1977) 18 GLR 316

Hon'ble Judges : M.P. Thakkar, J

Bench : Single Bench

Judgement

M.P. Thakkar, J.—For the possession of 165 contraband wrist watches of foreign origin seized from respondent No. 1 the learned Chief Metropolitan Magistrate, Ahmedabad, convicted him for an offence u/s 135 of the Customs Act of 1962 on finding him guilty. The learned Magistrate, however, imposed a very light sentence of rigorous imprisonment for one month and a fine of Rs. 1000/- (in default R.I. for one month.) The Assistant Collector of Customs, Ahmedabad, has thereupon invoked the revisional jurisdiction of this Court for enhancement of sentence on the ground that the sentence imposed is unduly lenient and grossly inadequate.

2. On September 19, 1970 at about 5.25 a.m. an autorickshaw No. GTD 477 in which respondent No. 1 was travelling was stopped and searched near Astodia Darwaja in Ahmedabad in the presence of panch witnesses. Respondent No. 1 was the sole passenger. He had a cloth bag in his hand. The search revealed that he was carrying 165 wrist watches of foreign origin along with a liquor bottle. His statement was recorded by the Superintendent of Customs u/s 108 of the Customs Act. Respondent No. 1 admitted the facts constituting the offence u/s 135 of the Customs Act. On the basis of the evidence produced before him, the learned Chief Metropolitan Magistrate found him guilty and imposed a sentence of the order mentioned earlier. Respondent No. 1 has accepted the order of conviction in the sense that he has not preferred any appeal against the order of conviction rendered by the learned Chief Metropolitan Magistrate for the obvious

reason that there is ample evidence to support the order of conviction and it is incapable of being questioned.

3. In the course of the proceedings for enhancement in this Court it has not been contended that the finding of guilt was erroneous. No good reason is shown for the excessively lenient sentence of one month imposed by the learned Chief Metropolitan Magistrate. It is surprising that notwithstanding the strong observations being made by the Supreme Court and this Court from time to time the magistracy is taking an unduly lenient view of such offences which undermine the economy of the nation. It is in such cases that the deterrent theory of punishment has great relevance.

4. The sentence imposed must be deterrent enough to deter the offender from repeating the offence and deterrent enough to deter those who are like-minded. To take a lenient view as regards the sentence is to abet such an offence.

5. The revision application is, therefore, allowed. The substantive sentence of R.I. for one month is enhanced to one of R.I. for eighteen month. The sentence of fine and the sentence in default of payment of fine is confirmed. If respondent No. 1 has already served his sentence and is out of prison, a warrant for his arrest shall issue. Rule is made absolute to the aforesaid extent.