

**(2026) 04 GUJ CK 0156**

**In the Gujarat High Court**

**Case No :** R/Criminal Revision Application No. 238 Of 2010

Bhupatbhai Karamsibhai Makwana

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

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**Date of Decision :** 01-04-2026

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 397, 401  
Prevention Of Food Adulteration Act, 1954 — Section 7, 16  
Food Safety And Standards Act, 2006 — Section 51, 52

**Citation :** (2026) 04 GUJ CK 0156

**Hon'ble Judges :** Hasmukh D. Suthar, J

**Bench :** Single Bench

**Advocate :** Chetan K Pandya, Kaushal D Pandya, Rohan Raval

**Final Decision :** Partly Allowed

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## **Judgement**

Hasmukh D. Suthar, J

1) By way of present revision application under Sections 397 read with 401 of the Code of Criminal Procedure, 1973, the applicant – original accused has prayed for quashing and setting aside the judgment and order of conviction and sentence dated 12.04.2002 passed by the learned Judicial Magistrate First Class (Muni) Court, Surat in PFA Case No.34 of 2000, by which the applicant was convicted for the offence punishable under Sections 7 and 16 of the Prevention of Food Adulteration Act (which shall hereinafter be referred to as “Act” for short) and sentenced for a period of two years of simple imprisonment with fine of Rs.25,000/- (Twenty Five Thousand), and in default of payment of fine further to undergo two months simple imprisonment. The said order was assailed by way of filing Criminal Appeal No.17 of 2002, wherein, vide order dated 30.01.2009 passed by the learned 6th Additional District & Sessions Judge, Surat, the appeal came to be dismissed and the order of the trial Court has been confirmed and upheld in the appeal. Hence, the present Revision Application is filed by the applicants-accused.

2) Learned Advocate for the applicants has submitted that both the Courts have committed error in convicting the applicant as the applicant had purchased groundnut oil from Hansraj Oil Mills of Surat and the Food Inspector took sample from the packed tin of groundnut oil. The applicant being a retailer is not responsible for any adulteration that might have been found in a packed tin. Further, there is no evidence on record which shows that the applicant has manufactured the groundnut oil. Further the established procedure of collecting sample and sealing procedure was not followed. Even the Food Inspector has admitted in his cross examination that the applicant is not the manufacturer. He has further submitted that no any offence was made out under Section 7 and 16 of the Act. Both the Courts have failed to appreciate the evidence on record. He has further submitted that though the applicant is having good case on merits but he has further requested to consider subsequent amendment in the Act by which Sections 51 and 52 of the Food Safety and Standard Act, have been amended and under the said sections only fine is to be imposed. Therefore, he has requested to maintain the conviction but modify the sentence and impose fine only and requested to take lenient view.

3) Learned Advocate for the respondent no.1 Surat Municipal Corporation and respondent no.2 – State have supported the case and the judgment of both the Courts and submitted that no interference of this Court is required. Both the Advocates have fairly admitted that herein charge against the accused is qua sub-standardization of goods.

4) Having heard the learned Advocates for the respective parties and going through the facts and circumstances of the case, it appears that the accused is convicted for sub-standard of the goods and the case was registered under Prevention of Food Adulteration Act, 1954, after which the Food Safety & Standard Act, 2006 came to be passed. In view of provision of Sections 51 and 52 of the Food Safety and Standard Act, 2006, only penalty or levy of fine is contemplated. In such circumstances, in light of the judgment in Nemi Chand v. State of Rajasthan, reported in (2018) 17 SCC 448, and Triloki Chand v. State of Himachal Pradesh, reported in (2020) 10 SCC 763, as per which in cases where the article is found to be substandard, only penalty in the form of fine is required to be imposed. Therefore, this Court is of the view that a sentence of fine of Rs.25,000/- (Twenty Five Thousand) will serve the ends of justice in place of simple imprisonment of three months.

5) Accordingly, present revision application is partly allowed. The judgment dated 12.04.2002 passed by the learned Judicial Magistrate First Class (Muni) Court, Surat in PFA Case No.34 of 2000, as well as judgment dated 30.01.2009 passed in Criminal Appeal No.17 of 2002, by the learned 6th Additional District & Sessions Judge, Surat, are upheld. However, the order of quantum of sentence is modified by imposing a sentence of fine of Rs.25,000/- (Twenty Five Thousand) upon the accused in lieu of simple imprisonment of two years.

6) The applicant has already deposited fine of Rs.25,000/- before the learned

trial Court on 15.04.2002 vide receipt no.146, hence, the said amount is liable to be adjusted towards sentence of fine as mentioned hereinabove.

7) Previous surety bonds of the applicant – accused stands discharged.

8) Record and proceedings, if any, be sent back to the concerned Court forthwith. Interim relief, if any, stands vacated.