
(1965) 01 GUJ CK 0005
In the Gujarat High Court
Case No : Criminal Appeal No. 345 of 1964

Chinubhai Gopaldas

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 08-01-1965

Acts Referred:

Bombay Prohibition Act, 1949 — Section 98

Citation : AIR 1966 Guj 46 : (1966) CriLJ 261 : (1965) GLR 227

Hon'ble Judges : V.B. Raju, J

Bench : Single Bench

Advocate : B.H. Desai, for the Appellant; A.D. Desai, Asst. Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

1. Although two bottles were sent to the Chemical Analyser, an order for confiscating 1684 bottler was passed u/s 98 of the Bombay Prohibition Act. Before an order can be passed u/s 98 of the said Act, it must be proved that the thing in respect of which an order is passed is liable to be confiscated. u/s 98 of the Bombay Prohibition Act, the entire stock of such intoxicant, hemp, mhowra flowers or molasses can be confiscated, but It must, be proved that what is to be confiscated is intoxicant, hemp, mhowra flowers or molasses. By showing that two bottles are Intoxicants, it is not proved that 1500 and odd other bottles are intoxicants. Unless it is proved that 1600 and odd bottles contained intoxicants, hemp, mhowra flowers or molasses, the order of confiscation in respect of those bottles cannot he passed. The order of confiscation of all the bottles excepting the two bottles which have been sent to the Chemical Analyser and which have been proved to be intoxicants is, therefore, set aside. The learned Magistrate should pass necessary orders for disposing of the property.