

(1972) 03 MAD CK 0022
In the Madras High Court

In Re: Meenakshi Achi and Others (Accused Nos. 1 to 3)

Date of Decision : 01-03-1972

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 2(1)(b), 7(1)

Citation : (1973) CriLJ 356

Hon'ble Judges : Somasundaram, J

Bench : Single Bench

Judgement

Somasundaram, J.—The first petitioner is the proprietor of an ice-cream company at Madurai. The second petitioner is her Manager and

the third petitioner is a vendor employed in this concern. P.W. 1 the Food Inspector, attached to the Madurai Municipality, purchased on

16.7.1969 fifteen cups of ice-cream from the third petitioner in the presence of the second petitioner for Rs. 7-50 as per receipt Ex. P. 1. He

divided the ice-cream into three parts and packed them in three different bottles. He added 24 drops of formalin in each bottle, handed over one

to the vendor, retained one with him and then sent the third to the Public Analyst. On analysis the latter found that the sample analysed contained

only 1.9 Per cent of fat as against 10 per cent prescribed under the Rules and that it did not contain any fruit or nut. Complaint was then filed

against these three petitioners for an offence u/s 2 (1)(b) read with Section 7(1) and Section 16(1)(a)(i) of the Prevention of Food Adulteration

Act, read with Clause A-11.02.08 in Appendix-B to Rule 5 of the Food Adulteration Rules. P.W. 1 deposed to his purchasing the ice-cream from

the third petitioner in the presence of the second petitioner on that day. P.W. 2 corroborated him. The Analyst as P.W. 3 marked the report Ex. P.

8 issued. When questioned, the first petitioner stated that she is residing at Coimbatore and that her husband alone is looking after the business at

Madurai. The second petitioner admitted that he is employed in the Company, but stated that he is not the Manager. The learned District

Magistrate who tried them admonished the 3rd petitioner, and convicted and sentenced the first petitioner to pay a fine of Rs. 250/- and the

second petitioner to pay a fine of Rs. 100/-. The learned Sessions Judge, Madurai who dealt with the matter in appeal has confirmed it. The

petitioners contend that they have been wrongly convicted.

2. P.W. 3 is the Government Analyst at the King Institute Guindy. The sample sent by P.W. 1 was analysed by one Nataraja Sharma. Public

Analyst, on 19.6.1969, Ex. P. 8 is his report. P.W. 3 has sworn that this analysis was done under his supervision. Ex. P. 8 report shows that the

ice-cream (pineapple) examined contained, by estimation, 1.9 per cent of fat and that it was deficient to the extent of 80 per cent and that it did not

contain any fruit or nut. Rule A. 11.02.08 states that this class of ice-cream should contain not less than 10 per cent milk fat. 3.5 per cent protein

and 36 per cent total solids, except that when it contains fruit or nuts or both, the content of milk fat may be proportionately reduced, but shall not

be less than 8 per cent by weight. There can be no doubt that the sample analysed did not conform to the standards prescribed by this rule. There

was deficiency of fat.

3. The learned Counsel appearing for the petitioners contends that as per the Rule, the deficiency should be with reference to the weight that the

report of the Analyst does not show that the estimation was done with reference to any weight, that this report does not give a data from which the

Court could come to its own conclusion and that as such no conviction could be based on such a report. The Analyst in Ex. P. 8 has noted under

the column ""Analysis Done"" that it was done for the estimation of fat. He has given the result as 1.9 per cent. Finally he has stated he is of opinion

that the sample analysed by him was deficient in fat to the extent of 80 per cent.

The report of the Public Analyst u/s 13 of the Prevention of Food Adulteration Act, 1954 need not contain the mode or particulars of analysis, viz.,

the data from which it can be inferred whether the article of food was or was not adulterated as defined in Section 2 of the Act.

Nagar Mahapalika of Kanpur Vs. Sri Ram and Another, and Dhian Singh Vs. Municipal Board, Saharanpur, . As pointed out in Mangaldas

Raghavji Ruparel and Another Vs. The State of Maharashtra and Another, , the Public Analyst need not state in his report as to how the

calculations were made by him. The Analyst has, in his report stated that he estimated the fat in the sample analysed. This analysis showed that

there was only 1.9 per cent fat. In other words, there was a deficiency of about 80 per cent. The first petitioner is the proprietor and she is

certainly liable. Her contention that she does not actually manage the business is untenable. The second petitioner was actually present at the time

of the sale. Similar contentions advanced by them have been negated by this Court, on a previous occasion, in Public Prosecutor Vs. Meenakshi

Achi and Another, .

4. The petitioners have been rightly convicted. The sentences are not excessive. Both the convictions and sentences are confirmed. The revision

fails and the same is dismissed.