

(1978) 09 RAJ CK 0014
In the Rajasthan High Court

Ram Chandra

APPELLANT

Vs

The State of Rajasthan and Another

RESPONDENT

Date of Decision : 04-09-1978

Acts Referred:

Constitution of India, 1950 — Article 47

Prevention of Food Adulteration Act, 1954 — Section 16, 7

Citation : (1979) CriLJ 491

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Judgement

G.M. Lodha, J.—These are three revision applications by one Ramchandra who has been convicted in all the three cases u/s 7/16 of the Prevention of Food Adulteration Act, 1954 for adulterating milk, and sentenced to six months rigorous imprisonment and a fine of Rs. 1,000/-in each case. Mr. Mehrish, learned Counsel for the petitioners has submitted that the sentence awarded to the petitioner in all the three cases may be made concurrent so that the accused may in substance undergo imprisonment for six months, instead of li years. No other point is being pressed.

2. According to him, the accused is a petty milkman and he is supporting five persons in his family out of which two are his parents and 3 are his minor children. It is urged that the adulteration consists of addition of water in milk and extraction of fat contents, therefore, it cannot be said to be injurious to health.

3. Having heard learned Counsel for the petitioner and the Public Prosecutor, I am of the opinion that the accused is not entitled to claim any leniency in the matter of sentence. Admittedly first offence was committed in the year 1970 and he repeated it second time in 1973 and was not satisfied with it but persisted in playing with the health of society by committing the same offence third time. These are the only offences detected because a milkman sells milk every day and even twice a day but the Food Inspector checks him once a while, sometimes in a year and may be at an interval of few years. The present one is a case in which

he continued to add water and extract fat contents from the milk at least during three long years from 1970 to 1973. Even when he was caught first and samples were taken, he did not feel repentant nor he improved himself. It was precisely for such cases that the Parliament even in these days, when there is great talk of reformatory nature of sentences on conviction, thought it fit to enhance the sentence which can be awarded and in some cases where it is found that adulteration is of such a type that the article of food consumed by any person is likely to cause such harm on his body as would amount to grievous hurt, the adulterator is required to be punished with imprisonment for a term which shall not be less than three years but it may extend to term of life.

4. The Parliamentary mandate shows that the offence of adulteration of food stuffs has been treated as a very serious type of social crime. Adulteration is widely prevalent menace and a social crime of great magnitude in which a few try to get richer at the cost of the health and injury to the community at large. The makers of the Constitution while giving the constitution to ourselves, provided in Article 47 that it would be endeavour of the State to raise the level of nutrition and improve public health. Article 47 reads as under

47. The state shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

5. An adulterator of food stuffs precisely issues a death warrant to such directive principles of state policy for making personal unlawful gains at the cost of the society. An adulterator who repeats the offence shamelessly throws a challenge to the administration of justice and it would be highly misplaced mercy and leniency if such adulterators are dealt with leniently in the matter of sentence.

6. As mentioned above adulteration of food stuffs is a social crime of serious magnitude. Lakhs of children who require nourishment in the form of pure milk are deprived of its real fat contents and the nourishing material on account of addition of water and extraction of fat contents. Day in and day out the society is facing this crisis on account of adulterated food stuffs, spurious and adulterated drugs. The deformity which develops in a child due to lack of nutrition on account of adulteration, ruins not only the child's life but creates a serious problem in the society. The state and the society is required to maintain the under-developed children. The crime of the adulterator is not against an individual who suffers on account of drinking the adulterated milk treating it to be pure and genuine, but against the society at large and the adulterator is, therefore, an offender who is committing this heinous crime day in and day out against all and sundry. This crime is very seldom detected, because it is practised un-noticed and 99.9% of such adulterators always remain undetected. If the courts show unwarranted and wholly misplaced mercy for giving benefit to these culprits who commit the crime mercilessly and ruthlessly, the courts are guilty of indiscreet and unintended

abetment of such social crime. I would, therefore, refuse to become an abettor in this social crime by showing any leniency or mercy.

7. I would have given notice for enhancement of sentence in these three cases, but I am using restraint only for this reason that the counsel for the petitioner has urged that 3 minor children and two parents are solely dependant upon the earnings of the accused and it would be punishing them if the sentence is enhanced. Moreover the State has also not chosen to move this Court for enhancement.

8. It is, however, made clear that the courts while dealing with the cases of adulteration particularly of food-stuffs should keep in view the rapid changes which are being made in the matter of punishment by the Parliament for such cases and no misplaced leniency or mercy must be shown to such persons who themselves act in merciless manner against the society, for earning a few coins by putting at stake the health and life of the society at large. In spite of all vehemence with which Mr. Maherish made appeal for leniency and mercy, I regret I have not been able to persuade myself to become abettor of this heinous social crime of "adulteration of milk", by falling in the trap of misplaced mercy by reducing sentence. The accused is fortunate enough, as the Magistrate has not given him enhanced sentences for second and third offence and he has escaped real deterrent punishment in this case. The trial Magistrates are under legal obligation to take notice of first and second convictions, for giving enhanced sentences, and not to circumvent it, by giving judgments on the same day or ignoring the other judgments.

9. All the three revision applications we dismissed.