
(2010) 12 GUJ CK 0246
In the Gujarat High Court
Case No : Criminal Appeal No. 561 of 1998

Ramanbhai Pujabhai Sharma	Vs	APPELLANT
State of Gujarat and Another		RESPONDENT

Date of Decision : 27-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378(4)
Prevention of Food Adulteration Act, 1954 — Section 13(2), 16(1)(2), 2(1), 2(9), 7(1)
(5)

Citation : (2010) 12 GUJ CK 0246

Hon'ble Judges : Z.K. Saiyed, J

Bench : Single Bench

Advocate : Notice Served, for the Appellant; H.L. Jani, Additional Public Prosecutor for Opponents 1, H.M. Parikh and Premal R. Joshi for Opponents 2 - 3, for the Respondent

Final Decision : Dismissed

Judgement

Z.K. Saiyed, J.—The present acquittal Appeal has been filed by the Appellant, u/s 378(4) Code of Criminal Procedure, against the judgment and order dated 16.11.2009, rendered in Criminal Case No. 6192 of 1995 by the learned 2nd Joint Civil Judge (J.D.) and Judicial Magistrate, First Class, Anand. The said case was registered against the present Respondent for the offence under Sections 2(ia), 9 and 2(ia)(m), 7(i) and 16(1)(a)(ii) of the Prevention of Food Adulteration Act (for short "PFA Act") in the Court of learned JMFC, Anand. The said judgment of the trial Court has been challenged by the Appellant on the ground that the judgment and order passed by learned Magistrate is against the law and evidence on record.

2 According to the prosecution case on 21.10.1997 the complainant visited the premises of the Respondent - accused and took the sample of milk (condensed milk) of four bottles for the purpose of analysis. Thereafter, after completing the necessary procedure, the complainant sent the said samples to the Public Analyst

for analysis. The Public Analyst submitted the report in which it has been found that "the samples of milk (condensed milk) was found adulterated and not as per provisions laid down under the Prevention of Food Adulteration Rules, 1955." Upon receipt of the report the complainant, after obtaining sanction, filed complaint against the Respondent - accused in the Court of learned JMFC, Anand, being Criminal Case No. 6192 of 1995.

3. At the conclusion of trial and after appreciating the oral as well as documentary evidence, the learned Magistrate vide impugned judgment, acquitted the Respondents - accused.

4. Learned A.P.P. Shri H.L. Jani, appearing on behalf of the Appellant has contended that the judgment and order of acquittal is contrary to law and evidence on record and is not proper. He has also contended that the learned trial Judge has failed to appreciate that the samples does not conform to the standards and the provisions laid down under the Act. He has contended that the trial Court has failed to appreciate the report of Public Analyst. He has also contended that the offence punishable under the Act are directly connected with the health of public at large.

5. I have gone through the papers produced in the Case. I have also gone through the evidence led before the trial Court as well as the Expert Opinion. I have also gone through the judgment of the trial Court. It appears that the panch witness has not supported the case of the prosecution. The learned Magistrate has observed in his judgment that there is no any independent witness has been examined in support of the case of the complainant and there was breach of Section 13(2) of the Act. Even there was tampering with the samples and as per the report of the public analyst, there was flavored milk not milk, which was taken as sample. In the facts of the case I am in complete agreement with the reasons assigned by the trial Court.

6. It is settled legal position that in acquittal Appeal, the Appellate Court is not required to re-write the judgment or to give fresh reasonings when the Appellate Court is in agreement with the reasons assigned by the trial Court acquitting the accused. In the instant case, this Court is in full agreement with the reasons given and findings recorded by the trial Court while acquitting the Respondents - accused and adopting the said reasons and for the reasons aforesaid, in my view, the impugned judgment is just, legal and proper and requires no interference by this Court at this stage. Hence, this Appeal requires to be dismissed.

7. In the result, the Appeal is hereby dismissed. The impugned judgment and order dated 21.10.1997 passed by the learned 2nd Joint Civil Judge (J.D.) and Judicial Magistrate First Class, Anand in Criminal Case No. 6192 of 1995, acquitting the Respondents - accused, is hereby confirmed.