
(1982) 07 GUJ CK 0023
In the Gujarat High Court

State of Gujarat

APPELLANT

Vs

Bhagubhai Ramjibhai

RESPONDENT

Date of Decision : 14-07-1982

Acts Referred:

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

Citation : (1982) CriLJ 2270 : (1982) GLH 1073 : (1982) 2 GLR 624

Hon'ble Judges : A.S. Qureshi, J

Bench : Single Bench

Judgement

A.S. Qureshi, J.—In this appeal the State has challenged the order of acquittal passed by the learned Metropolitan Magistrate, Ahmedabad in summary Case No. 92 of 1978 acquitting the accused of the charges u/s 7 read with Section 16(1) Clause (a) Sub-clause (1) of the Prevention of Food Adulteration Act. The prosecution story is that the accused had adulterated cow milk with water. A sample was taken from the milk that was being sold by the accused and sent to the Public Analyst for analysis to find out its contents. The Public Analyst carried out the analysis and submitted his report which is produced at Exh. 11 of this case which shows that the milk fat contents of the milk in question was 5.0 percent and nonfat solid was 7.5%. As against that, the required percentage prescribed by law is 3.5% milk fat and 8.5% non-fat solid substance. It is clear from this report that the milk in question contained considerably higher percentage of fat whereas it contained non-fat solid substance about 1% less than the minimum prescribed by law. The prosecution has alleged that there was an addition of water to the milk equivalent to about 11%. It is common ground that the exact percentage of water added to the milk can be found out by carrying out what is known as the freezing point test, It is also an admitted fact that in this case no freezing point test was carried out to find out the exact percentage of water therein. It is, therefore, difficult to accept the prosecution's contention that 11% of water was added to the milk The Public Analyst has not told us how did he arrive at that 11% of water in the absence of the freezing point test. Moreover Mr. B. C. Patel, the learned Counsel for the accused has

argued "hat the Formalin solution which was added to the water as a preservative may or may not be of the specified specification and there is every likelihood that the percentage of water in the Formalin may be more than what is prescribed. In that case also, there could possibly be slightly higher percentage of water than what it was before the Formalin solution was added to it. Considering that the analyst's report shows that there is only a marginal difference of 1% in the nonfat substance contained in the milk it becomes very doubtful whether the prosecution has been able to prove that the milk in question was adulterated as alleged.

2. The Public Analyst in his cross examination has clearly and unequivocally admitted that the freezing point test was not carried out in this case and the learned Magistrate has passed the order of acquittal on the ground that the freezing point test not having been carried out he had no alternative but to acquit the accused. It would be difficult to understand why the Public Analyst in this case as in several other cases of adulteration of milk has not carried out the freezing point test. In cases of Food Adulteration it is the duty of the State to see that the analysis is carried out in the most perfect manner so that the persons who indulge in adulteration of Food articles and thus endanger the public health should not go scot free so lightly. It is expected and hoped that the State will tighten its machinery in this regard and see that the persons who are otherwise guilty of offence under the Food Adulteration Act do not go unpunished because of the lapses on the part; of the concerned Department.

3. On the facts of the case, it cannot be said that the learned Metropolitan Magistrate has in any way erred in acquitting the accused. The order of the acquittal is, therefore, upheld and the State's appeal, is dismissed.