
(1988) 03 GUJ CK 0004
In the Gujarat High Court

State of Gujarat

APPELLANT

Vs

Krushnmorari Ramkrushna Gupta and Others

RESPONDENT

Date of Decision : 01-03-1988

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 360

Penal Code, 1860 (IPC) — Section 320

Prevention of Food Adulteration Act, 1954 — Section 16, 16(1)(a)(i), 16(1)(a)(ii), 16(1A)

Citation : (1988) 2 GLR 965

Hon'ble Judges : M.B. Shah, J

Bench : Single Bench

Judgement

M.B. Shah, J.—In these cases it seems that either the learned Magistrate is not aware of the seriousness of the offence, the law laid down by this Court as well as the Supreme Court in various decisions and is not mindful of the fact that under the provisions of law it was his duty to administer the law as per the dictates of the Parliament and to impose minimum sentence provided under the Act. It is high time that the lower Judiciary should realize that it is their duty to follow the law laid down by this Court in various decisions and to implement them.

2. From the shop owned by opponent No. 1 known as "Anil Kirana Stores" at Sevalia of Thasra Taluka, the Food Inspector purchased a sample of turmeric powder in presence of panchas on 1-5-1984 at about 5-30 p.m. The sample was taken from packed tin. Opponent No. 1 produced a bill showing that the said turmeric powder was purchased from opponent No. 4. Opponents Nos. 2, 3 & 5 are the partners of the firm-opponent No. 4. The complaint was filed on 5-2-1986. The Court issued summons to the opponents. On 8-4-1986 the opponents filed an application Ex. 9 wherein in the first line it is stated that they admit the offence which is registered against them under the Prevention of Food Adulteration Act. In the second line it has been stated that they have not committed the alleged offence; they are poor businessmen and they have not

adulterated any article and they are innocent persons. It has been further mentioned that in future they would not commit such type of offences. They prayed that mercy be shown to them as they are persons of poor strata having large family and they had no intention to commit any such offence and that it was their first offence. After receipt of the aforesaid application Ex. 9, the learned Magistrate has recorded their plea wherein a question is asked to them whether they admit the offence or not and in reply to the said question they pleaded guilty. On the same date the learned Magistrate convicted the opponents for the offence punishable u/s 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 and imposed sentence of imprisonment till rising of the Court and a fine of Rs. 1200/-, in default, three months" S.I. In the judgment the learned Magistrate has observed that the accused has pleaded guilty to the offence by stating that this was their first offence and they are of poor class and they assured that in future they would not commit similar offence. He further observed that from the turmeric powder of which sample was taken, adulteration was of pulse starch and of eatable colour which was not injurious to the human health and, therefore, he has imposed the sentence as stated above.

3. It seems that the learned Magistrate has not bothered to refer to Section 16 which provides that in such type of offences, in addition to penalty to which the accused is liable under the provisions of Section 6. minimum sentence prescribed is six months and a fine which shall not be less than one thousand rupees. Under the first proviso to Section 16(1) for any adequate and special reasons to be mentioned in the judgment, the Magistrate is empowered to impose sentence of imprisonment for a term which shall not be less than three months and a fine which shall not be less than five hundred rupees. Under Sub-section (1A) if the adulterant is injurious to health, he is required to impose minimum imprisonment for a term which shall not be less than one year. The proviso further provides that if the article of food or adulterant when consumed by any person is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of Section 320 of the Indian Penal Code, then the imprisonment shall not be less than three years and it may extend to term of life. Similar is the provision under Sub-section (1B) of the Act. The Parliament has taken further care to see that the offenders under the Act are not released on probation under the Probation of Offenders Act or u/s 360 of the Code of Criminal Procedure by adding Section 20AA. Apart from the aforesaid legislative mandate it seems that the learned Magistrate has ignored the law laid down by this Court in various decisions.

4. In the State of Gujarat v. Ramanlal [1974] 15 GLR 545, the Court has exhaustively dealt with this aspect of the matter and has pertinently observed that even law has provided that mens rea is not a necessary ingredient of the offences under the Prevention of Food Adulteration Act. Minds consciously work out a strategem by which at the cost of unsuspecting public, a man wants to thrive himself and in the process to play havoc with the lives of the individuals who deal with him. Such a man cannot but be dealt with under any theory of

punishment other than deterrent punishment. The Court further held as under:

Theory of deterrent punishment postulates not only that the one, who indulges into such activity would, by gravity of the sentence be deterred from indulging into it over again, but those like minded in the society looking to the misfortune that befall one of their confederates would be deterred from resorting to the same anti-social activity. If that is to be the purpose of deterrent punishment, I cannot conceive of any case better than the one under the Prevention of Food Adulteration Act. And this Court is not called upon to decide at this stage as to which theory of punishment the legislature has kept in view while prescribing punishment for the offences under the Prevention of Food Adulteration Act. There is a clear legislative exposition while amending Section 16 in that the judiciary which ought always to be trusted for deciding the quantum of punishment in each individual case because no two individual cases are alike, has been denuded or stripped of its powers and the legislature interposed itself by saying that such and such shall be the punishment irrespective of any facts of any individual given case.

5. The Court further dealt with the question of "adequate and special reasons" and held that the offender was a first offender is no ground for imposing less than the minimum sentence. The Court observed that the word "special" signifies special to the facts of the case or the accused and adequacy of the reasons has to be examined in light of the nature of the offence, magnitude of the offence circumstances in which it is committed and degree of possible harm caused. It would be worthwhile to reproduce the following paragraph of the aforesaid judgment where the Court has considered which type of grounds would not be adequate and special reasons for imposing less than the minimum sentence:

Dealing with the question of adequate and special reasons at this very stage, it is necessary to observe that the reasons assigned in almost all the cases before this Court can neither be said to be adequate nor can they be said to be special. By and large, reasons which have appealed to the learned Magistrate are (i) that offender was a first offender, (ii) that he was a petty trader and not a manufacturer; and (iii) that he showed repentance by pleading guilty to the charge. Now, the first reason, namely, that offender is a first offender could hardly be said to be adequate and special reason, because the legislature itself has done away with any distinction between first offender, second offender and third and subsequent offender. If the legislature ever wanted any treatment of special nature being accorded to the first offender it was not at all necessary for it to amend Section 16 which prior to the amendment did recognise distinction between sentences for the first offence, second offence etc. Once the legislature stepped in and did away with this difference between first offence and second offence, the Court, cannot for its own reasons, bring in something which the legislature rejected. Second ground which appears to have appealed to the learned Magistrate was that the offender in question was a petty trader. Even this does not appear to be adequate and special reason. In a city like Ahmedabad

people belonging to the weaker section of the society and staying in outlying areas would of necessity be required to approach petty traders having small shops in their locality for purchase of their day to day requirements. It is those people belonging to either backward class or weaker section of the society who would fall a prey to the machination of such petty traders. A man belonging to the affluent section of the society would buy his spices and other foodstuffs for the whole year and prepared by more sophisticated process and is not likely to be cheated out of his wit day in day out. But large bulk of our population belongs to the weaker section of the society, who of necessity are required to buy foodstuffs and spices in small quantities out of their daily earnings, and would be buying the same from the petty traders and therefore, the activities of these petty traders would be all the more harmful. Hence, that aspect in my opinion, would be hardly relevant while deciding the quantum of sentence. It must be confessed that while deciding the quantum of fine that may be imposed upon such petty trader, his capacity to pay may be taken into consideration. But when he is to be given substantive sentence, the fact that he is a petty trader is hardly a relevant consideration and must be wholly ignored. This ground that appealed to the learned Magistrate was that the man showed repentance by pleading guilty. Any one having slightest experience of Criminal Courts, would hardly believe that plea of guilty flows ever from repentance. It either flows from the substantive sentence staring in one's face and tries to generate sympathy which may be convenient both to the Court and litigant, namely that the case is soon disposed of without further trial and the accused escapes by paying a paltry fine and both rejoice as a result of it, in the process killing the entire spirit of legislation. "This tendency must be put down, if necessary, with a heavy hand. Plea of guilty not only does not indicate repentance, but more often it is the result of bargain and judiciary must frown upon such bargain. One is very much reminded of an observation, which was made years back that confession is made not necessarily because one feels sorry for what he has done, but one is worried about what is in store for him soon after. Such confessions, in my opinion, are a cloak to generate false sympathy in the Court and could not be countenanced. One fails to understand what the learned Magistrate has to do with plea of guilty. Assuming that the accused pleads guilty and the case is over, he starts another case, for him one case is as good as any other case. But it was said that an atmosphere was created or generated in the Court where these cases are tried, which almost impelled the accused to plead guilty. It is not possible to believe that some peculiar atmosphere was prevalent in the Court of law and sheer atmosphere of the Court, induced an otherwise innocent man to plead guilty to the charge. If the accused is really guilty and pleads to the same, he in no way advances the cause of justice and if he is really innocent and yet pleads guilty, it is a tendency which must be set at naught. Therefore, viewed from either angle, this voluntary confession or plea of guilty can hardly be said to be either adequate or special reason for awarding less than the minimum sentence. There can never be generosity in determining the reasons which can be said to be adequate or special. Word "special" signifies special to the facts of the case or

the accused and adequacy of the reasons has to be examined in light of the nature of the offence, magnitude of the offence, circumstances in which it is committed and degree of possible harm caused.

6. In the case of *Pyarali K. Tejani Vs. Mahadeo Ramchandra Dange and Others*, , the Supreme Court has observed that the Prevention of Food Adulteration Act, 1954, is meant to save society, and Parliament has by repeated amendments emphasised the statutory determination to stemp out food offences by severe sentences. Indeed, dissatisfied with the indulgent exercise of judicial discretion, the legislature has deprived the Court of its power to be lenient. In the light of escalating food adulteration this is understandable. Even so, there are violations and violations. The Court has further observed that there is injustice to the community-the invisible but immense victim of the crime-in the Court's misplaced sympathy for the culprit.

7. In the case of *State of Gujarat v. Ramanlal* [1974] 15 GLR 545, the Court has further observed that unfortunately the Judges and Magistrates dealing with the cases under the Prevention of Food Adulteration Act by and large failed to take note of the object and purpose for which the Act was enacted namely to eradicate widespread pernicious and degenerating effect of adulteration of articles of food and treated offences under it lightly forgetting that the activity of a trader dealing in adulterated articles of food affect a wide segment of society in two ways, in that, the activity becomes menace to the public health and it is undertaken by a man for private profit.

8. In the same volume in the case of *State v. Navalkishor Damodardas* [1974] 15 GLR 736, this Court has dealt with the question of sentence of imprisonment till rising of the Court and token fine for the offence punishable u/s 16 of the Prevention of Food Adulteration Act and deprecated the said practice. The Court has said that it is illusory and a fraud on the concept of imprisonment. It would be worthwhile to reproduce the following observations made by the Court:

The sentence of imprisonment till the rising of the Court (it is my painful duty to frankly say) is an eye-wash. It is illusory and a fraud on the concept of imprisonment. The accused comfortably sits in the Court room and usually he does not even wait till the rising of the Court either. He never sees the gates of Jail. He never experiences the discomfort of Jail life. Nor does he suffer the indignity or social stigma attached to Jail-going which operates as a deterrent to himself and to those others who are similarly inclined. Neither their self-esteem, nor the esteem or estimation of society for them is lowered. It will not be surprising if they themselves scoff and laugh at the illusory sentence and the society also mocks at it. Does it subserve any conceivable penological purpose? None. It pleases neither the deterrent, nor the reformative, nor the retributive, platform. This is equally true (in fact more true) of a sentence of fine (still more true when fine imposed is atom-sized as in the present case). A monetary sentence serves no purpose unless the offender owns considerable properties, and the sentence is one of confiscation of all his properties. A monetary fine of

small amount is more likely to be treated as an incidental expenditure incurred for the purpose of earning profit (it will not be surprising if it is so claimed by way of deduction in the Income Tax return) Or it may be treated as a fee for a licence to flout the Legislature and brazenly break the law. A businessman to whom everything else is subordinate to the ultimate goal of profit will weight the pros and cons and if he can make more money by infringing the law (and by paying a small fine for the infringement) than by honouring it, is bound to opt for the former course. If his balance-sheet will present a gladder sight thereby, he would be committing heresy and disowning his true God (money) by being law abiding rather than being a law breaker (which brings greater rewards). To impose a sentence of fine is therefore, tantamount to patting him on the back and virtually inviting him, abetting him, to commit the offence. There is also another dimension. It is a part of the function of the Court to create an ethical climate by its decisions. These decisions mould the public opinion and create an appropriate ecology. What the Courts approve and disapprove, what the Courts view with indignation, and what with indulgence, shapes the contours of public opinion and public mores. If we are seriously and sincerely striving for a just-socio-economic order, and an egalitarian society, can we look upon such modes of adding to one's wealth and of widening and deepening inequality with indulgence? Should it be made easier to earn money by adulteration, hoarding, profiteering, tax-evasion and smuggling when it is difficult enough for an honest citizen to earn even his butterless toast by honest labour even by slave driving oneself? To take an indulgent view and to shake and falter or shiver in imposing a substantial sentence of imprisonment would amount to doing no less than that. The offenders, who play with the health and economy of the society, would then make bold and take courage in both hands for the risk of paying monetary fine is no risk to them if in the long run they can make greater profits by indulging in these activities. They must be made to realize that the moving finger writes and having written moves on And that the message is: "Thy days are numbered" It is difficult to comprehend why the Courts should hesitate in imposing sentence of imprisonment even though the Legislature has proclaimed its will by prescribing a minimum sentence of six months.

9. In the case of State v. Dahyabhai Desaibhai [1977] 18 GLR 232, this Court enhanced the sentence from imprisonment till rising of the Court to rigorous imprisonment for a period of three months and strongly condemned the following reasons given by the learned Judge for imposing lenient sentence:

Moreover the accused is a poor man. He is repenting for this offence. He assured for not to commit such offence again. There are 12 members in his family. He has small children and except himself there is no earning member in his family. Now-a-days he is not doing well with his business. His family has to starve without his income because these days are very hard days as it is an year of famine and hence the accused has prayed for mercy. Considering the mitigating circumstance of the accused I think that the sentence of T.R.C. and heavy fine will meet the ends of justice and serve the purpose.

10. In the case of State of Gujarat and Another Vs. Dahyabhai Desaibhai Parmar, the Court enhanced the sentence imposed by the trial Court on a milk vendor and served as under:

In the instant case the petitioner accused is a petty milk vendor. On this basis, it was submitted that the Court may show mercy to him. The submission cannot be accepted because the Court is left with no discretion whatsoever. Moreover, there appears to be good reason for not showing any mercy whatsoever even in cases where the offender is a petty vendor or hawker. It must be realised that the poor, ignorant and unwary people only purchase their articles of food from petty traders. Well-to-do people with sufficient means are never required to purchase milk and other articles of food from hawkers and petty traders. The people belonging to the affluent section of the society get their requirements supplied in packed conditions, i.e. in pouches, or bottles or in tinned and sealed packings from dairies and departmental stores. When such petty trader is shown mercy, innumerable poor, ignorant and unwary people are penalised. This appears to be the reason why Parliament has left no discretion with the court. Had it been the intention of the legislature to see that lenient view may be taken by the Court in appropriate cases, the Parliament would have provided for the same. In the case of P.K. Tejani (*supra*), the Supreme Court has observed that there may be cases wherein marginal hardship may be caused by stern sentences on unsophisticated small dealers. But as the Supreme Court has further observed, "every cause has its martyr and Parliament and Government not the Court must be disturbed over the search for solutions of these problems". When the Court is left with no discretion whatsoever, and when the case is proved to be falling within the provisions of Section 16(1)(a)(i), it is not understood how and why the learned Magistrate and the learned City Sessions Judge imposed sentence of 3 months S.I. which is less than the minimum prescribed under the Act.

From the aforesaid judgments it is apparent that for the offences punishable under the Prevention of Food Adulteration Act, deterrent punishment is required to be imposed because in this type of offences the accused wants to thrive himself and play havoc with the lives of the individuals or to profiteer by adulteration. The offender is a first offender, that he is a petty trader and not a manufacturer and that he showed repentance by pleading guilty to the charge is no ground for awarding less than the minimum sentence. Plea of guilty normally does not indicate any repentance but more often it is a result of bargaining. It should not be forgotten that Parliament has by its repeated amendment emphasised its statutory determination to stem out food offences by severe sentences. To some extent it has taken away the judicial discretion of imposing sentences and directed that minimum sentence should be imposed except for adequate and special reasons. In this set of circumstances there is no reason for the Courts to show undue sympathy on the presumed ground that this is the first offence, that he is a poor person, that he is a small trader or that he has a large family depending upon his income or such other grounds. Further, there is no justification for imposing flee-bite sentences viz. sentence of imprisonment till

rising of the Court.

11. In spite of the aforesaid decisions and the clear mandate by the Legislature and the amendments of the Prevention of Food Adulteration Act by the Parliament in 1976 the learned Magistrate (Mr. F.A. Gadhvi) has ignored the legislative mandate and the law laid down by this Court for reasons best known to him. For imposing less than the minimum sentence he has not given any reason but he has recorded that it is the say of the accused that it was their first offence and they are poor persons and they pray for mercy and apologize for the offence and assure that they would not repeat the offence. Surprisingly he has stated that the colour which was found from the turmeric powder was not found injurious to human body. As such this was total ignorance on the part of the learned Magistrate. If the article is injurious to health, then Section 16(1A) provides for more deterrent punishment. Apart from Section 16(1A) it is surprising on what basis the learned Magistrate has arrived at the conclusion that oil soluble coal dye which was used in colouring the turmeric powder was not harmful to the health. This means that there is some substance in the contention raised by the opponents in their affidavit-in-reply. In the affidavit filed by opponent No. 2-Patel Ishwarbhai Bhikhabhai it has been stated that when the matter was heard by the learned Magistrate, a sort of understanding between the parties was arrived at. It has been further stated as under:

Our Advocate gave us to understand that if we did not plead guilty, there would be a long drawn and protracted trial and we would be required to attend the Court on every date of hearing and our business would suffer a lot and it would be morally exhausting and financially disastrous. It was also represented to us that if we entered the plea of guilty a lenient view would be taken and a nominal fine would be imposed by the learned trial Magistrate; and, therefore, it was in the best interest of all the accused to enter a plea of guilty. Such an understanding was arrived at between the learned Magistrate on the one hand, the learned Public Prosecutor and the accused on the other hand. We did not know anything about the legal implications of entering of a plea of guilty and the consequences which were likely to follow therefrom.

To the same effect there is the affidavit of Thakker Bipinchandra Ranchhoddas opponent No. 3. Opponent No. 1 has also stated that the understanding of plea bargaining was entered into between the learned Magistrate on one hand, the learned Prosecutor and the accused. Apart from these affidavits, even the application Ex. 9 filed by the opponents clearly indicates that they have not unequivocally admitted the said offence. In the first line it has been stated that they have not committed any offence punishable under the Prevention of Food Adulteration Act. It has been further stated that they were innocent and they have not adulterated any article. In spite of this application on the same day i.e. on 8-4-1986 the learned Magistrate recorded their plea and passed the impugned order without recording any evidence of the complainant.

12. Mr. Patel and Mr. Malik, learned Advocates who are appearing on behalf of

the opponents, submitted that this would be a case which is covered by the decision of the Supreme Court in the case of Thippaswamy Vs. State of Karnataka, , wherein the Court has held that it was an obvious case of plea bargaining. The Court held that it would be clearly violative of Article 21 of the Constitution to induce or lead an accused to plead guilty under a promise or assurance that he would be let off lightly and then in appeal or revision, to enhance the sentence. The Court further held as under:

But in such a case, it would not be reasonable, fair just to act on the plea of guilty for the purpose of enhancing the sentence. The Court of appeal or revision should, in such a case, set aside the conviction and sentence of the accused and remand the case to the trial Court so that the accused can, if he so wishes, defend himself against the charge and if he is found guilty, proper sentence can be passed against him.

They also relied upon the decision of the Supreme Court in the case of Kasambhai Abdulrehmanbhai Sheikh and Others Vs. State of Gujarat and Another, , wherein also the Court has held as under:

Now it does not appear from the record whether the entire prosecution evidence was completed before the learned Magistrate before the plea of guilty was entered on behalf of the appellant, but one thing is clear that the finding of conviction recorded by the learned Magistrate against the appellant was not based on the evidence led on behalf of the prosecution. The conviction of the appellant was based solely on the plea of guilty entered by him and this confession of guilt was the result of plea bargaining between the prosecution, the defence and the learned Magistrate. It is obvious that such conviction based on the plea of guilty entered by the appellant as a result of plea bargaining cannot be sustained. It is to our mind contrary to public policy to allow a conviction to be recorded against an accused by inducing him to confess to a plea of guilty on an allurement being held out to him that if enters a plea of guilty, he will be let off very lightly. Such a procedure would be clearly unreasonable, unfair and unjust and would be violative of the new activist dimension of Article 21 of the Constitution unfolded in Maneka Gandhi's case.

In the case also no evidence is recorded by the learned Magistrate. In this view of the matter, the judgment and order passed by the learned Magistrate requires to be quashed and set aside with a direction to the learned Magistrate for de novo trial in accordance with law ignoring the plea of guilty entered by the opponents.

13. Same is the position in Criminal Appeal No. 852 of 1986. Mr. S.M. Desai, Judicial Magistrate, First Class, Umreth, has also passed the similar order in Criminal Case No. 1255 of 1985. The sample of turmeric powder was taken from the shop of the opponents. As per the Public Analyst's report the turmeric powder contained metallic yellow colour and it was also mixed with plenty of rice starch. After service of the summons the learned Magistrate has framed the

charge Ex. 6 on 3-4-1986 prior to that opponent No. 1 has filed an application Ex. 5 on 3-4-1986 wherein it is stated that it was their first offence and that they were purchasing turmeric powder with trademark bill from other businessmen; there was no intention on their part to adulterate it; it was their first offence and they admit it willingly; therefore appropriate fine be imposed, On the same day, without recording any evidence the learned Magistrate has imposed the punishment till rising of the Court and fine of Rs. 900/-, in default, S.I. for one month. The fine was also paid by the opponents on the same date. After the appeal was admitted and notice was issued to the respondents, respondent No. 1-Bipinchandra Rambhai Patel has filed an affidavit stating that he was informed by an Advocate that if he was pleading guilty, then he would talk to the Magistrate. Respondent No. 2-Harshadbhai Ranchhodbhai Patel has also stated on affidavit that he was told by the Advocate to plead guilty as prior talk had taken place with the Court to impose only fine. The learned Magistrate has observed that the offence affects the society at large and is serious one. But taking into consideration the adulteration and the facts of the case and the admission by the accused, he has passed the order of imposing sentence stated above. This itself seems to be ridiculous and reveals total ignorance on the part of the learned Magistrate of the mandate of the Legislature and the law laid down by this Court.

14. Apart from this, normally in each and every case where plea of guilty is recorded by the learned Magistrate in this type of serious offences, at the time of hearing of the appeal the accused submit that they have pleaded guilty because of some inducement or promise either by the Prosecutor or by the Food Inspector or by the Magistrate.

Therefore, it would be just and proper that in this type of cases before recording their plea the learned Magistrate should explain the charge to the accused and in writing he should inform them that the minimum sentence is prescribed under the Act and that appropriate sentence would be imposed and thereafter he should record the plea of the accused so that there may not be any chance of stating before the appellate Court that that plea was recorded under some inducement. As observed by this Court in *State of Gujarat v. Ramanlal* [1974] 15 GLR 545, this type of plea of guilty either flows from the substantive sentence staring in one's face and tries to generate sympathy which may be convenient both to the Court and litigant, namely that the case is soon disposed of without further trial and the accused escapes by paying a paltry fine and both rejoice as a result of it, in the process killing the entire spirit of legislation. This tendency must be put down, if necessary, with a heavy hand. The Court has further observed that this type of voluntary confession or plea of guilty can hardly be said to be either adequate or special reason for awarding less than the minimum sentence. Therefore, to avoid the submission of the accused that they pleaded guilty under some inducement, it would be advisable that the Court should inform the accused after explaining the charge that for the offence minimum sentence is prescribed and unless special reasons are shown, in any set of circumstances minimum sentence would be imposed. In this type of serious

offences the Magistrate should discharge his duties seriously and should apply his mind to the facts of the case and, if necessary, record the evidence before passing the order of sentence and should not act mechanically or in hot haste and dispose of the case.

15. In the result, the appeals are allowed. The impugned judgments and borders of conviction and sentence recorded against the accused by the respective learned Magistrate are quashed and set aside. The matters are remanded to the respective Magistrates for proceeding further in accordance with law.

16. It seems that some Magistrates are ignoring the mandate of the Legislature and the decisions of this Court as well as of the Supreme Court of imposing minimum sentence for the offences punishable under the Prevention of Food Adulteration Act for the reasons best known to them, may be because of their ignorance or uncalled for haste in disposing of the case or for some other reasons. These observations are made because not only in the aforesaid two cases the learned Magistrates Mr. F.A. Gadhvi and Mr. S.M. Desai have passed the aforesaid orders but Mr. K.I. Kachhia, Judicial Magistrate, First Class, Vyara has passed similar order which is under challenge in Criminal Appeal No. 142 of 1987 and also Mr. A.N. Naik, Judicial Magistrate, First Class, Petlad and Mr. H.R. Thakor, Chief Judicial Magistrate, Nadiad, have passed similar orders which are under challenge in Criminal Appeal Nos. 473 and 474 of 1987 respectively.