

**(2011) 04 GUJ CK 0130**  
**In the Gujarat High Court**

**Case No :** Criminal Revision Application No. 735 of 2007

State of Gujarat

APPELLANT

Vs

Ravjibhai Ambalal Patel

RESPONDENT

**Date of Decision :** 15-04-2011

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 397 401, 407  
Prevention of Food Adulteration Act, 1954 — Section 16(1)(a)(i), 16(a)(ii), 2, 7(i), 7(v)  
Prevention of Food Adulteration Rules, 1955 — Rule 14, 16

**Citation :** (2011) 04 GUJ CK 0130

**Hon'ble Judges :** Bela Trivedi, J

**Bench :** Single Bench

**Advocate :** P.M.S. C.M. Shah, app, for the Appellant; S.K. Patel, for the Respondent

**Final Decision :** Dismissed

## **Judgement**

Bela Trivedi, J.—The present revision application has been filed by the applicant - State of Gujarat, challenging the legality and validity of the

judgment and order dated 10.8.2007 passed by the learned Sessions Judge, Gandhinagar (hereinafter referred to as the Appellate Court) in

Criminal Appeal No. 20/2006, whereby, the appellate Court had set aside the judgment and order dated 4.8.2006 passed by the learned

J.M.F.C., Dahegam (hereinafter referred to as the "trial Court") convicting the present Respondent (Original accused) for the offence u/s 16(1)(a)

(i) and Section 16(a)(ii) for the violation of Section 2(ia)(a) and (m) and Section 7(i) and Section 7(v) of the Prevention of Food Adulteration Act,

1954 (hereinafter referred to as the said "Act").

2. Heard Learned APP Ms. C.M. Shah appearing for the applicant-State and Mr. S.K. Patel learned advocate appearing for the Respondent.

3. Having regard to the orders passed by the trial Court as well as the Appellate Court, it transpires that as per the case of the prosecution, the complaint came to be filed by the Food Inspector against the present Respondent alleging inter alia that on 8.6.2001 at about 11.00a.m., the Food Inspector had visited the shop of the Respondent, who was dealing in the business of groundnut oil, in the name and style of Shiv-Shakti General Store, situated at village Palaiya; that the Food Inspector after giving necessary notice to the Respondent, purchased 500 grams of groundnut oil after making payment of Rs. 22/-, in the presence of panch witnesses; that after following due procedure under the said Act, the samples of groundnut oil were packed and sealed in three bottles; that one sample was forwarded to the Public Analyst for analysis, who opined that the sample was not in accordance with the standard prescribed under the said Act. It further appears that after obtaining necessary consent from the Local Health Authority as required u/s 20 of the said Act, the Food Inspector had filed this complaint before the trial Court, which came to be registered as Criminal Case No. 796/2001. The trial Court, after appreciating the oral as well as documentary evidence adduced by the prosecution, convicted the Respondent-accused for the offences under the said Act, as mentioned hereinabove and sentenced him to undergo simple imprisonment for a period of six months and to pay a fine of Rs. 1000/- vide order dated 24.8.2006. Being aggrieved by the said judgment and order passed by the trial Court, the Respondent preferred the appeal being Criminal Appeal No. 20/2006 before the Appellate Court, which by the judgment and order dated 10.8.2007 set aside the judgment and order passed by the trial Court and acquitted the Respondent from the alleged offences. Being aggrieved by the said judgment and order passed by the Appellate Court, the applicant-State Government has preferred the present revision application.

4. It was sought to be submitted by the learned APP Ms. C.M. Shah appearing for the applicant that the Appellate Court had misappreciated and misread the evidence on record while acquitting the Respondent. According to her, from the evidence of the Food Inspector Shri Shailesh Somabhai Patel and witness Mahendrabhai Chunilal Patel, it was established that the complainant Food Inspector had taken enough care and

caution while taking the samples of groundnut oil, which one of the said samples having been sent to the Public Analyst for examination, was found

to be adulterated one. Therefore, according to Ms. Shah, the trial Court had rightly convicted and sentenced the Respondent for the alleged

offences and the order of acquittal passed by the Appellate Court deserves to be set aside.

5. However, learned advocate Mr. S.K. Patel appearing for the Respondent taking the Court to the relevant part of the judgment of the Appellate

Court and the Rules framed under the said Act, submitted that the complainant food Inspector having not complied with the mandatory

requirements of the Rules required to be followed while collecting the samples of the groundnut oil, the Appellate Court had rightly granted benefit

of doubt while acquitting the Respondent. According to him, the said order being legal and proper, this Court exercising limited revisional

jurisdiction, should not interfere with the same. Mr. Patel has also relied upon the judgment of this Court in case of State of Gujarat v. Dineshbhai

K. Patel reported in 2007 GLH 348 and of Bombay High Court in case of State of Maharashtra Vs. Vinayak Mahadeorao Waze and Another, in

support of his submissions.

6. Having regard to the submissions made by the learned advocates appearing for the parties and the documents on record, more particularly, the

judgments of the trial Court as well as the Appellate Court, it transpires that the applicant - State Government has preferred the present revision

application u/s 397 read with Section 401 of Code of Criminal Procedure, though in the cause title of the revision application, the applicant has

mentioned "'Appeal u/s 379 read with Section 407 of Code of Criminal Procedure'". In the list of event also, the applicant has narrated the events

describing the present proceeding as criminal appeal, which clearly exhibits non-application of mind on the part of the learned APP who drafted

the memo of this revision application.

7. So far as the merits of the case are concerned, it appears that the complainant Food Inspector Shri Shailesh Somabhai Patel was examined at

Ex. 20, witnesses Mahendra Chunilal Patel was examined at Ex. 61 and witness Manubhai Keshavlal Prajapati examined at Ex. 65 in the trial

Court. The prosecution had also adduced necessary documentary evidences in

support of its case. However, as transpiring from the order passed by the trial Court as well as Appellate Court, there were number of contradictions appearing in the oral evidence of the complainant and the said two witnesses as regards collection of the samples of the groundnut oil. The complainant Food Inspector had also admitted in his cross-examination that he hadn't cleaned the bottles in which the samples of groundnut oil were collected on the spot. Of course, he had explained that the same was already cleaned earlier. The other two witnesses have also admitted that the said bottles in which samples were collected by the Food Inspector were not cleaned on the spot. It has also been admitted by the witness Mahendra Chunilal Patel during his cross-examination that the groundnut oil contained in the utensil of the Respondent-accused was not stirred before taking the samples, and that the measurement instrument with which the sample was taken was also not cleaned. From the evidence of the said witnesses, it clearly transpires that the Food Inspector had not strictly complied with the mandatory requirements contained in Rule 14, 15 and 16 of the Rules framed under the said Act while collecting the samples and also while packing and sealing the said samples of groundnut oil. Under the circumstances, the Appellate Court rightly relied upon the judgments of this Court and other High Courts in the light of evidence on record and acquitted the Respondent-accused giving him benefit of doubt. As per the legal position settled by Humble Supreme Court in case of Girja Nandini Devi and Others Vs. Bijendra Narain Choudhury, and State of Karnataka Vs. Hemareddy Alias Vemareddy and Another, , it is not necessary for this Court either to reiterate the evidence or restate the reasons given by the Appellate Court for acquitting the Respondent. Suffice is to say that appellate Court has given cogent and convincing reasons for acquitting the Respondent, which learned APP has failed to dislodge them.

8. There being no illegality or infirmity pointed out by the learned APP appearing for the applicant-State, the said judgment and order passed by the Appellate Court deserves to be confirmed and the present revision application deserves to be dismissed.

9. In that view of the matter, the present Criminal Revision Application is dismissed, with no order as to costs. R & P be sent back to the trial

Court, forthwith.