
(1994) 04 GUJ CK 0005
In the Gujarat High Court

State of Gujarat

APPELLANT

Vs

Shambhubhai Jivrambhai Patel

RESPONDENT

Date of Decision : 21-04-1994

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16(a), 7

Citation : (1995) 1 GLR 803

Hon'ble Judges : K.J. Vaidya, J

Bench : Single Bench

Judgement

K.J. Vaidya, J.—This appeal filed through the instrumentality of the State of Gujarat by the Food Inspector, Ahmedabad, is directed against the impugned judgment and order of acquittal dated 15-9-1992 passed by the learned Metropolitan Magistrate, Court No. 8, Ahmedabad rendered in Criminal Case No. 1 of 1987 wherein the respondent Shambhubhai Jivrambhai Patel, who came to be tried for the alleged offence punishable u/s 7 read with Section 16(a) of the Prevention of Food Adulteration Act, 1955 was ordered to be acquitted on the short ground, viz., that when the case was called out, the complainant was absent.

2. On going through the impugned judgment, prima facie two remissness, firstly on the part of the learned Magistrate and thereafter on the part of Complainant-Food Inspector surfaces. They are; the learned Magistrate has committed a patent and obvious error in throwing away the case merely on the ground that Complainant-Food Inspector was absent when the matter was called out. In fact, this was hardly a ground for me learned Magistrate to dismiss the complaint more so when the complaint was lodged under the provisions of the Prevention of Food Adulteration Act, which is a social beneficial piece of Legislation. Secondly, it is really surprising that the complainant-Food Inspector, when the case was called out had remained absent. At this juncture, there is indeed nothing before this Court on the basis of which anything can be said as to why the Complainant remained absent when the matter was called out.

3. Under the circumstances, the Commissioner of the Corporation and/or any authority in charge of the matter is directed to call for an explanation of Shri Hargovindas Patel, Food Inspector, who remained absent at the time of hearing before the trial Court and take appropriate action after hearing him, if circumstances so justify.

4. Turning to the merits of the case, this Court ordinarily would have admitted this matter, but taking into consideration the fact that the case is under the Food Adulteration Act wherein the sample of Coconut oil alleged to have been adulterated was taken on 17-7-1984 and that at this belated stage after 10 years, it is indeed quite doubtful whether any useful purpose would be served by admitting and remanding the matter. It is indeed unfortunate that in such a serious matter of Food Adulteration wherein the offence took place on 17-7-1984 regarding which a Complaint came to be filed on 10-1-1985 and right from that date till 15-9-1992, i.e., to say for long eight years the case could not be attended to by the concerned Court. This indeed is annoying and embarrassing feature of this case and needs to be taken a very serious view of the matter. In this view of the matter, the learned Chief Metropolitan Magistrate is directed to call for the explanation of the concerned learned Magistrate and in light of the same, submit his report to the concerned learned Unit Judge of this Court and thereafter keep record of the same in the Confidential File of the concerned learned Magistrate.

5. In the result, this appeal is dismissed accordingly. The Chief Metropolitan Magistrate, Ahmedabad is directed to keep a copy of this order in the Confidential File after calling for the necessary explanation of the concerned learned Metropolitan Magistrate.

6. Office Registry is directed to forward a copy of this judgment to: (i) The chief Metropolitan Magistrate, Ahmedabad and (ii) The Municipal Commissioner, Ahmedabad Municipal Corporation, Ahmedabad immediately.