
(2011) 03 GUJ CK 0086
In the Gujarat High Court
Case No : Criminal Appeal No. 703 of 1998

State of Gujarat	Vs	APPELLANT
Thakkar Bhavanji Fulchand		RESPONDENT

Date of Decision : 23-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378
Prevention of Food Adulteration Act, 1954 — Section 16(1)A, 7(1)

Citation : (2011) 03 GUJ CK 0086

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

Bench : Single Bench

Advocate : Hljani, app, for the Appellant; Ketan D. Shah, for the Respondent

Final Decision : Dismissed

Judgement

Z.K. Saiyed, J.—The present acquittal Appeal has been filed by the State, u/s 378 Cr. P.C., against the judgment and order dated 20.4.1998, rendered in Criminal Case No. 116 of 1995 by the learned Judicial Magistrate, First Class, Rapar, District Kutch. The said case was registered against the present Respondent for the offence u/s 7(1)(5) read with Section 16(1)(a) of the Prevention of Food Adulteration Act (for short "PFA Act") in the Court of learned JMFC, Rapar. The said judgment of the trial Court has been challenged by the State 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 2.9.1994 the complainant visited the premises of the Respondent - accused and took the sample of Besan 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 sample of Besan was adulterated." Upon receipt of the report the complainant, after obtaining sanction, filed complaint against the Respondent - accused in the Court of learned JMFC, Rapar, being Criminal Case No. 116 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 Respondent - accused.

4. Learned A.P.P. Shri H.L. Jani, appearing on behalf of the Appellant - State 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 sample does not conform to the standards and the provisions laid down under the Act and the said sample was found adulterated. 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. The learned Magistrate has observed in his judgment that report of analyst is not found proper and there are several contradictions. Even the sample was received by the Laboratory on 15.5.1995 and the certificate was prepared on 12.6.1995, therefore, it cannot be said that the analysis of sample was properly carried out. Even the date of analysis is not mentioned. From the papers it clearly appears that the learned Magistrate has rightly observed that the sanction was given without application of mind. 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 view of the above, the Appeal is dismissed. The impugned judgment and order dated 20.4.1998 passed by the learned Judicial Magistrate, Rapar - Kutch in Criminal Case No. 116 of 1995 is hereby confirmed. Record and proceedings to be sent back to the concerned lower Court.