
(1976) 03 GUJ CK 0003
In the Gujarat High Court

The State of Gujarat and Another

APPELLANT

Vs

Ambalal Ramjibhai

RESPONDENT

Date of Decision : 29-03-1976

Acts Referred:

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

Citation : (1977) CriLJ 1359

Hon'ble Judges : M.P. Thakkar, J

Bench : Single Bench

Judgement

M.P. Thakkar, J.—For selling milk adulterated with 20.0% water at a shop in the heart of Baroda the respondent has been sentenced on a plea of guilty to suffer imprisonment till the rising of the Court and to pay a fine of Rs. 300/- by the learned Judicial Magistrate, First Class (Municipality) Baroda for an offence u/s 16(1)(a)(i) read with Section 7(i) of the Prevention of Food Adulteration Act. The question is whether the sentence deserves to be enhanced.

2. The record shows that the milk which was purchased from the shop of the opponent was adulterated as alleged. The report of the Public Analyst is at Ex. 6 and it shows that the sample contained extraneous water to the extent of 20.0%. It is clear that the milk sold by he opponent is very much inferior in quality. It is a matter, therefore, of which a serious view in regard to sentence should be taken. The grounds given by the learned Magistrate for imposing a lenient sentence are contained in paragraph (5) of the judgment which reads as under :

Moreover the accused is a poor man. He is repenting for this offence. He has assured that now he would not commit such offence. He has 8 members in his family. He has small children and old mother and she is confined to bed since last two months. His presence is necessary to attend her. He has small income. His family depends upon his income. Present days are very hard days and this year is an year of famine. In these circumstances the accused has pleaded guilty and prayed for the mercy of the Court. Considering the mitigating circumstances of the accused I think that the sentence of T.R.O. and heavy fine will meet the ends

of justice. In the result I pass the following order.

3. Now, it appears that the opponent pleaded guilty. In reply to a question as to whether he wanted to say anything further, the opponent stated that there were 8 members in his family, he had small children and an old mother and he was the only earning member in the family. It is on the basis of the statement made by the opponent that the learned Magistrate has imposed the lenient sentence. The learned Magistrate ought not to have accepted everything stated by the opponent as gospel truth. He had not called for the report from the Probation Officer or tried to ascertain the truth of the facts stated by the opponent in his statement. One cannot take for granted everything that the opponent has stated as true. Even assuming that what he has stated is true, the learned Magistrate ought to have realised the seriousness of the offence committed by the opponent, Poor persons must have gone to the shop of the opponent to purchase milk with their hard earned savings. What they got from the shop was not milk but a sub stance which contained 20.0% of extrane ous water. To impose a mere fine of Rs. 300/- is to issue a licence to adul terate milk on payment of Rs. 300/- if he is caught. Lenient view of sentences cannot be taken in such matters where poor persons are robbed by indulging in these practices. It must be realised that affluent sections of the society purchase milk in sealed bottles supplied by the Municipal Dairy. Usually only the poor persons purchase small quantities of milk from such shops and hundreds of chil-dren must have gone without nourishment even though their parents purchased milk by the small amounts saved by them from their earning made by the sweat of their brow. To take a lenient view in such matters is to abet the offence. The sentence imposed by the learned trial Judge ridiculously low and deserves to be enhanced. In two similar matters 1 have imposed a substantive sentence of three months rigorous imprisonment. 1 must do so likewise.

4. The revision application is allowed. The substantive sentence imposed by the learned Magistrate is enhanced from imprisonment till rising of the Court to rigorous imprisonment for a period of three months. The sentence of fine will remain. The respondent shall surrender to custody.