

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 295 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

KANAJIBHAI ARJANBHAI

Appearance:

MR MA BUKHARI, ADDL. PUBLIC PROSECUTOR for Petitioner
SERVED for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 28/02/97

ORAL JUDGEMENT

1. This Criminal Revision Application is directed against the order dated 27/5/96 passed by the learned Judicial Magistrate First Class, at Bagasara - Vadia in Criminal Case No. 161/94, whereby learned Magistrate has discharged the accused for offence u/s 7, 16 of the Food Adulteration Act, 1954 as per section 245(1) of the Code of Criminal Procedure, on the ground that the Food Inspector Shri R.N.Joshi did not fulfil the

qualifications provided under the Act.

2. It is contended by the learned APP that the learned Magistrate committed error in looking into the qualification of the Food Inspector at this stage and discharged the accused respondent. He has placed reliance on the decision of the apex Court rendered in case of Suresh H. Rajput vs. Bharatiben Pravinbhai Soni reported in Prevention of Food Adulteration Cases 1996(1) Volume 47 page-1.

3. I have gone through the said judgement. It is held that the qualifications of the Food Inspector cannot be challenged in colleterial proceedings. The Court has further held that what is material is whether the Food Inspector had taken the samples in accordance with the provisions of the Act or the rules made thereunder. In case the Court finds that if he committed any contravention, what would be its effect on the prosecution is a matter to be considered but his qualification cannot be looked into when he lays the prosecution for adulteration of the articles of food under the Act.

4. In view of the aforesaid, this Criminal Misc. Application is allowed. The impugned order of the learned J.M.F.C. - Bagasara - Vadia dated 27/5/96 passed in Criminal Case No. 161/94 is quashed and set aside. The learned Magistrate is directed to proceed with the trial in accordance with the law. Rule made absolute to the aforesaid extent.

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