

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 288 OF 2001

The State of Maharashtra
Through Sampatrao Mastirao
Deshmukh, Age : 32 Yrs.,
Occ. : Food Inspector,
R/o : Jalna.

**.... APPELLANT/
[ORI. COMPLAINANT]**

V E R S U S

1. Santosh Govardhan Joshi
Seller & Manager -
M/s Sanket Food Products
Pvt. Ltd., A-9, Addl. M.I.D.C.
Area, Jalna.

2. Minitkumar Panditrao Patil
Nominee M/s Sanket Food
Products Pvt. Ltd., A-9/26,
Addl. M.I.D.C. Area, Jalna,
Dist. Jalna.

3. M/s Sanket Food
Products Pvt. Ltd., A-9/26,
Addl. M.I.D.C. Area, Jalna,
Dist. Jalna.

**.... RESPONDENTS/
[ORI. ACCUSED]**

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Mr. V.P.Kadam, A.P.P. for Appellant – State.

Mr. S.P.Shah, Advocate for R.Nos.1 to 3.

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CORAM : M.T.JOSHI, J.

DATE OF JUDGMENT : 30th SEPTEMBER, 2015

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ORAL JUDGMENT :

1. Heard both sides. Perused record.
2. Aggrieved by the Judgment and Order dated 17/01/2001 passed by the learned Chief Judicial Magistrate Jalna in R.C.C. No. 289/1994 acquitting the present respondents from the offences punishable u/s 2 (1-a) (a) and Sections 7 (i), 6(i) (a) (ii) read with Section 2 (i-a) (i) read with Sec. 7 (v) and 16 (i) read with Rules 29 and 47 of Prevention of Food Adulteration Act and Rules, present Appeal is preferred by the appellant/ original complainant - State.
3. Prosecution case, in brief, is that when the

complainant – Food Inspector visited the premises of accused No. 3 on 21/03/1994, it was found that flavoured Supari was being manufactured there. He purchased six sealed packets of flavoured Supari. Necessary procedure was followed and the exercise for collecting samples was carried. The part of the sample was sent to the Public Analyst, Pune. The report shows that the sample contains Sodium Saccharin more than prescribed limit and also extraneous Coal tar food colours.

4. After filing of the Complaint, notice was issued to the present respondents. They, therefore, asked for sending the sample to the Central Food Laboratory. Accordingly, Central Food Laboratory at Gaziabad had examined the sample and found that sample contains saccharin of 1964.4 ppm. and no Coal tar food colour was found.

5. Before the learned Chief Judicial Magistrate, the Notification issued by the Ministry of Health and Family Welfare dated 09/11/1993 was placed by the respondents, which would show that the percentage of Sodium Saccharin was permitted to the extent of 4000 ppm. In that view of the matter, for the said reason inter-alia, learned Chief Judicial

Magistrate acquitted the present respondents. Hence, the present Appeal.

6. Learned Additional Public Prosecutor submits that, in fact, at the time of commission of the offence i.e. on 22/03/1994 as per the State Laboratory report, percentage of saccharin was found more than the prescribed limit. Therefore, merely because the Central Food Laboratory at Gaziabad had found the percentage less than the prescribed limit by the Notification, would not have been the ground for recording acquittal of the respondents.

7. Learned counsel for the respondents, on the other hand, submits that the second sample sent to the Central Food Laboratory confirmed that the percentage of saccharine was only 1964.4 ppm, whereas, as per Notification, percentage of saccharine permitted is to the maximum limit of 4000 ppm. and further no Coal tar food colour was found.

He relies on the Judgment of this Court reported in 2010 (1) Bom.C.R.(Cri.) 39 – Ahmednagar Municipal Council Vs. Dullabhadas Haridas Patel & Ors.

8. Upon hearing both the sides, in my view, no offence is made out. The Notification dated 09/11/1993 would show that the percentage of saccharine permitted is to the maximum limit of 4000 ppm. and the sample was sent to the Laboratory when the percentage of saccharine was much lower than that. Further, no Coal tar food colour was found during the examination. In that view of the matter, there is no need to interfere with the order of acquittal and the Appeal needs to be dismissed.

9. In the circumstances, Appeal is dismissed. The bail bonds of respondent Nos. 1 to 3, if any, stand cancelled.

[M.T.JOSHI, J.]