

State Vs. Jwalaprased Dube

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Court : Mumbai

Decided On : Jun-26-1968

Reported in : AIR1969Bom360; (1968)70BOMLR693; 1969CriLJ1350; ILR1968Bom1302

Judge : Kotwal, C.J.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 7 and 16; [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 32

Appeal No. : Criminal Revn. Appln. No. 807 of 1966

Appellant : State

Respondent : Jwalaprased Dube

Advocate for Def. : R.T. Walawalkar, Adv.

Advocate for Pet/Ap. : V.T. Gambhirwalla, Asstt. Government Pleader

Judgement :

ORDER

1. The accused Jwalaprased Dube was tried under Section 16 read with Section 7 of the Prevention of Food Adulteration Act and has been convicted on his own plea of guilty. The public analyst's report on the milk sold by the accused shows that it contained 28.8% water and the public analyst has certified that the sample

which he examined contained extraneous water clearly implying thereby that it was added by the accused.

2. The Magistrate has sentenced by accused to pay a fine of Rs, 75 or in default of payment of fine to suffer rigorous imprisonment for a period of 15 days. The requirements of the law are clear. The normal minimum penalty for selling any adulterated article of goods is imprisonment for not less than six months and fine which shall not be less than one thousand rupees. This is the minimum sentence which must be imposed according to the law.

3. There is no doubt a proviso which says that for any adequate and special reason to be mentioned in the judgment, the Magistrate may impose a lesser sentence, but the Magistrate in my opinion has not given any special reasons much less adequate reasons nor am I able to find any upon the record.

4. There are four reasons given by the Magistrate for imposing the lesser sentence. The Magistrate has said that he is a respectable man. I do not know from where the Magistrate learnt that this person was respectable. I certainly do not think a person who dilutes milk by adding 28.8% water in it and sells it to the public for money is a respectable person. There is nothing on the record to show that he is respectable. Next he has said that he has honestly pleaded guilty. If pleading guilty is to be rewarded by a lesser sentence it will make a mockery of this law and the purpose for which it was enacted. The same may be said of the third reason that 'he is repentant and promises not to repeat the offence.' The fourth reason given by the Magistrate is the least supportable on the facts viz. that 'the adulteration was on a comparatively smaller scale.' If adding 28.8 per cent water is adulteration on a comparatively smaller scale I do not know what the larger scale implies. It will then be water adulterated with milk. The proposition has only got to be stated to be rejected. The first three reasons are vague generalities unsupported by the record. It is the duty of Magistrate not to give way to misplaced sentimentality but to apply the law. None of the reasons given are in my opinion adequate reasons in this case and the first three are not special reasons. The adulteration of milk is an anti-social offence which affects the health of the people and I am not disposed to treat these offences lightly. Therefore, the law must be

allowed to take its full effect.

5. I set aside the sentence imposed by the Magistrate and instead sentence the accused to rigorous imprisonment for a period of six months and to a fine of Rs. 1,000. In default of payment of fine he shall undergo further rigorous imprisonment for a period of six weeks. The application for revision is allowed. Warrant to issue.

6. Application allowed.

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