

**State by Public Prosecutor Vs. Narayanan**

**State by Public Prosecutor Vs. Narayanan**

**SooperKanoon Citation :** [sooperkanoon.com/793935](http://sooperkanoon.com/793935)

**Court :** Chennai

**Decided On :** Mar-12-1976

**Reported in :** 1977CriLJ1302

**Judge :** N.S. Ramaswami, J.

**Appellant :** State by Public Prosecutor

**Respondent :** Narayanan

**Judgement :**

**N.S. Ramaswami, J.**

1. The view taken by the Court below that the sample of pea-flour is not adulterated as defined under the Prevention of Food Adulteration Act, 1954, is wrong. The report of the Analyst shows that the sample contained 50% of pea-flour and 50% of Bengalgram flour. One had to see whether the sale of the sample to the Food. Inspector is an offence as complained or not Under Section 2(i) of the Act, the word 'adulterated' is defined. There are several Clauses under that Sub-section, namely, Clauses (a) to (1). The question of the sample being below the prescribed standard arises under Clause (1) and certainly not under Clause (a), which applies to the present case. The relevant part of the section reads thus:

In this Act unless the context otherwise requires-

(1) 'adulterated' - an article of food shall be deemed to be adulterated-

(a) if the article sold by a vendor is not of the nature, substance or quality demanded by the purchaser and is to his prejudice, or is not of the nature, substance or quality which it purports or is represented to be.

This Clause itself has two parts. The first part relates to the sale of article which is not of the nature, substance or quality demanded by the purchaser and is to his prejudice. The second part relates to the sale of article which is not of the nature, substance or quality which it purports or is represented to be. It would be seen that the question of the purchaser being prejudiced by the sale of the article has relevance only in respect of the first part. As far as the second part of the said Clause is concerned, it is not necessary that it should be shown that the purchaser would be prejudiced. It is to be noted that the conjunction between the two parts of the said Clause is 'or' and not 'and'. A plain reading of the said Clause makes it abundantly clear that if the nature, substance or quality of the article sold is not the one that is purported Or represented to be, the article is an adulterated one, whether the purchaser would be prejudiced or not. Needless to repeat that the question of prejudice has no relevancy at all to the second part of the said Clause. With due respect to the learned Judge, who decided the case of the Andhra Pradesh High Court, reported in Public Prosecutor v. N. Subba Rao 1963 M.L.J. 220 (Andh Pra). I am unable to subscribe to the view that under Clause (a) an article supplied by the vendor is not of the nature, substance or quality only when it operates to the prejudice of the vendee. Therefore, the appeal by the State against acquittal has to be allowed and accordingly it is allowed. As the State has filed this appeal only for clarifying the legal position and because of the fact that the offence had taken place long back, it is not necessary to punish the accused-respondent at this stag. Accordingly, he is let off with admonition.