

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL REVISION APPLICATION NO. 519 of 2009

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

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Approved for Reporting	Yes	No
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TARACHAND BHAGWATILAL JAIN
 Versus
 STATE OF GUJARAT & ANR.

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Appearance:

MR MB RANA(2760) for the Applicant(s) No. 1
 MR ROHAN RAVAL, APP for the Respondent(s) No. 1
 RULE SERVED for the Respondent(s) No. 2

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CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 22/04/2026

JUDGMENT

- 1) By way of present revision application under Sections 397 read with 401 of the Code of Criminal Procedure, 1973, the applicant – original accused has prayed for quashing and setting aside the judgment and order of conviction and sentence dated 07.11.2003 passed by the learned Metropolitan Magistrate, Court No.3, Ahmedabad, in Criminal Case No.29 of 1997, by which the applicant was convicted for the offence punishable under Section 16(1)A(i) for violation of Section 7 of the Prevention of Food Adulteration Act (which shall hereinafter be

referred to as "**Act**" for short) and sentenced for a period of six months of simple imprisonment with fine of Rs.1,000/- (One Thousand), and in default of payment of fine to undergo further 15 days simple imprisonment. The said order was assailed by way of filing Criminal Appeal No.33 of 2023, wherein, vide order dated 06.08.2009 passed by the learned Additional City Sessions Judge, Court No.15, Ahmedabad, the appeal came to be dismissed and the order of the trial Court has been confirmed and upheld in the appeal. Hence, the present Revision Application is filed by the applicant-accused.

- 2) Learned Advocate for the applicant has submitted that both the Courts below ought to have appreciated the fact that no proper procedure was followed at the time of collecting sample of salt of Ujjaini Brand as prescribed under Rule 14 of the PFA, by the respondent no.2. He has further submitted that both the Courts have committed error in not considering the fact that the applicant has purchased the salt from Ujjaini Salt Traders, who is accused no.2 before the learned trial Court, and whereby the invoices were also produced before the learned trial Court. He has further submitted that as per the Report of Public Analyst the sample was received on 07.08.1997 and was analysed and report was prepared on 11.09.1997 i.e. approx after one month. He has further submitted that the panch witness is also not

supporting the complainant and contradictory. He has further submitted that though the applicant is having good case on merits but has further requested to consider subsequent amendment in the Act by which Sections 51 and 52 of the Food Safety and Standard Act, have been amended and under the said sections only fine is to be imposed. Therefore, he has requested to maintain the conviction but modify the sentence and impose fine only and requested to take lenient view.

- 3) Learned Advocate for respondent no.1 – State has supported the case and judgments of both the Courts and submitted that no interference of this Court is required. He has fairly admitted that charge against the accused is qua sub-standardization of goods.
- 4) Having heard the learned Advocates for the respective parties and going through the facts and circumstances of the case, it appears that the accused has been convicted for sub-standard of the goods and the case was registered under Prevention of Food Adulteration Act, 1954, after which the Food Safety & Standard Act, 2006 came to be passed. In view of provision of Sections 51 and 52 of the Food Safety and Standard Act, 2006, only penalty or levy of fine is contemplated. In such circumstances, in light of the judgment in ***Nemi Chand v. State of Rajasthan, reported in (2018) 17 SCC 448***, and ***Triloki Chand v. State of Himachal Pradesh, reported in (2020) 10 SCC 763***, as

per which in cases where the article is found to be substandard, only penalty in the form of fine is required to be imposed. Therefore, this Court is of the view that a sentence of fine of Rs.5,000/- (Five Thousand) will serve the ends of justice in place of simple imprisonment of six months.

- 5) Accordingly, present revision application is **partly allowed**. The judgment dated 07.11.2003 passed by the learned Metropolitan Magistrate, Court no.6, Ahmedabad, in Criminal Case No.29 of 1997, as well as judgment dated 06.08.2009 passed in Criminal Appeal No.33 of 2003, by the learned Additional City Sessions Judge, Court No.15, Ahmedabad, are upheld. However, the order of quantum of sentence is modified by imposing a sentence of fine of Rs.5,000/- (Five Thousand) upon the accused in lieu of simple imprisonment of six months, which shall be deposited before the learned trial Court within **four weeks** from today.
- 6) It is further directed that the fine, if any, deposited by the accused before the learned Trial Court is liable to be adjusted and deducted out of the fine of Rs.5,000/- (Five Thousand) as mentioned hereinabove.
- 7) Previous surety bond of the applicant – accused stands discharged.

- 8) Record and proceedings, if any, be sent back to the concerned Court forthwith. Interim relief, if any, stands vacated.

ANKIT JANSARI

(HASMUKH D. SUTHAR,J)