

consumed by live persons, that the accused adulterated it, that such adulteration rendered it noxious as food or drink and that the accused at the time of such adulteration intended to sell such article as food or drink or knew it to be likely that such article would be sold as food or drink. Now noxious rendering is making it poisonous or harmful or both. As is plain the offence is complete on introduction of the adulterant in the food or drink, provided it is meant for the purposes of sale, actual or likely.<sup>20</sup>

### **[s 272.2] Local Amendments.—**

In West Bengal, [sections 272, 273, 274, 275 and 276](#) of the [Penal Code](#) have been amended by section 3 of West Bengal Act XLII of 1973 so as to provide life imprisonment with or without fine for the aforesaid offences. By section 5 of West Bengal Act XXXIV of 1974, all these offences have been made cognizable, non-bailable and triable by Court of Sessions. The State of Uttar Pradesh too has similarly made all these offences punishable with life imprisonment and fine with similar discretion of Court to award lesser imprisonment by virtue of Uttar Pradesh Act 47 of 1975.

There is no bar under the [Prevention of Food Adulteration Act, 1954](#) and the said Rules made thereunder that the concerned authorities under [Prevention of Food Adulteration Act](#) have no jurisdiction and/or authority to prosecute the guilty person for the offences under the [IPC](#) based on the same averments along with the provisions of the special statutes. All such authorities have jurisdiction to launch a prosecution by invoking various provisions of the [IPC](#), along with the special statutes.<sup>21</sup>

### **[s 272.3] Gutka and Pan Masala.—**

In order to find out whether the food is unsafe, due to an adulterant, the sample is to be sent to an analyst. Violation of the order of the Food Safety Commissioner is not an offence, under [section 272 IPC, 1860](#).<sup>22</sup>

16. *Chinniah*, (1897) 1 Weir 228.

17. *Chokraj Marwari*, (1908) 12 Cal WN 608.

18. *Ram Dayal v State*, (1923) 46 All 94 .

19. *Suleman Shamji*, (1943) 45 Bom LR 895 . *Joseph Kurian v State of Kerala*, (1995) 1 Cr LJ 502 : AIR 1995 SC 4 [LNIND 1994 SC 927] : (1994) 6 SCC 535 [LNIND 1994 SC 927] , conviction for sale of adulterated arrack, sentence of six months' RI converted to simple imprisonment.

20. *Joseph Kurian v State of Kerala*, AIR 1995 SC 4 [LNIND 1994 SC 927] : (1994) 6 SCC 535 [LNIND 1994 SC 927] Also see *EK Chandrasenan v State of Kerala*, AIR 1995 SC 1066 [LNIND 1995 SC 88] : (1995) 2 SCC 99 [LNIND 1995 SC 88] .

21. *Rajiv Kumar Gupta v The State of Maharashtra*, 2005 Cr LJ 581 (Bom).

22. *Ganesh Pandurang Jadhao v The State of Maharashtra*, 2016 Cr LJ 2401 : 2016 (2) Bom CR (Cr) 4 .



## THE INDIAN PENAL CODE

### CHAPTER XIV OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY CONVENIENCE, DECENCY AND MORALS

The following specific instances of nuisance are dealt with in this Chapter:—

1. Act likely to spread infection (sections 269–271).
2. Adulteration of food or drink (sections 272–273).
3. Adulteration of drugs (sections 274–276).
4. Fouling water of a public spring or reservoir (section 277).
5. Making atmosphere noxious to health (section 278).
6. Rash driving or riding (section 279).
7. Rash navigation (sections 280–282).
8. Exhibition of false light, mark or buoy (section 281).
9. Danger or obstruction in a public way or line of navigation (section 283).
10. Negligence in respect of poison (section 284), fire (section 285) or explosive substances (section 286).
11. Negligence in respect of machinery (section 287), building (section 288) or animals (section 289).
12. Selling obscene literature and pictures (sections 292, 293) or doing obscene acts (section 294).
13. Keeping a lottery office (section 294A).

#### [s 273] Sale of noxious food or drink.

**Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.**

#### State Amendments

**Orissa.**—1. *Same as in section 272, the amendments were made by Orissa Act No. 3 of 1999, s. 2.*

**Uttar Pradesh.**—1. *The following amendments were made by U.P. Act No. 47 of 1975, s. 3(ii), (w.e.f. 15-9-1975).*

In its application to the State of Uttar Pradesh in S. 273, for the words, "shall be punished with imprisonment of either description for a term which may extend to six months, or with a fine which may extend to one thousand rupees or with both, substitute the following words.—

"shall be punished with imprisonment for life and shall also be liable to fine:

*Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life."*

*2. The offence is cognizable, non-bailable and triable by Court of Session, vide U.P. Act No. 47 of 1975.*

**West Bengal.**—1. *The following amendments were made by W.B. Act No. 42 of 1973, s. 3(ii) (w.e.f. 29-4-1973).*

In its application to the State of West Bengal in s. 273, for the words "of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both", substitute the following,—

"for life with or without fine:

*Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life."*

*2. The offence is cognizable, non-bailable and triable by Court of Session, vide W.B. Act No. 34 of 1974.*

## **COMMENT.—**

It is not an offence to sell inferior food cheap if it is not noxious.

### **[s 273.1] Ingredients.—**

This section requires three things—

- (1) Selling or offering for sale as food or drink some article.
- (2) Such article must have become noxious or must be in a state unfit for food or drink.
- (3) The sale or exposure must have been made with a knowledge or reasonable belief that the article is noxious as food or drink. The word "noxious" as stated in Advanced Law Lexicon by *P Ramanatha Aiyar* (3rd Edition Reprint 2009), when used in relation to article of food is to mean that the article is poisonous, harmful to health or repugnant to human use. Having regard to language used in section 273, noxious food or drink, literally would mean article of food or drink which earlier was not noxious, but should have become noxious or had been rendered noxious by lapse of time or by not taking proper precaution or for not adding preservatives or the like.<sup>23</sup>

What is punishable under this section is the sale of noxious articles as food or drink and not the mere sale of noxious article. Where the owner of a grain pit sold the contents of it before it was opened at a certain sum per *maund* whether the grain was good or bad, and on the pit being opened it was found that a large proportion of the grain was unfit for human consumption, it was held that the vendor could not be convicted under this section.<sup>24</sup> Similarly, the selling of wheat containing a large admixture of extraneous matter, such as dirt, wood, matches, charcoal, was held to constitute no offence.<sup>25</sup>

For local amendments see comment under section 272 *ante*.

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23. *Dilipsinh Ramsinh Bhatia v State of Maharashtra*, [2010 Cr LJ 2014](#) (Bom).
  24. *Salig Ram v State*, [\(1906\) 28 All 312](#).
  25. *Narumal*, [\(1904\) 6 Bom LR 520](#) ; *Gunesha v State*, (1873) PR No. 15 of 1873.

## THE INDIAN PENAL CODE

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2. Adulteration of food or drink (sections 272–273).
3. Adulteration of drugs (sections 274–276).
4. Fouling water of a public spring or reservoir (section 277).
5. Making atmosphere noxious to health (section 278).
6. Rash driving or riding (section 279).
7. Rash navigation (sections 280–282).
8. Exhibition of false light, mark or buoy (section 281).
9. Danger or obstruction in a public way or line of navigation (section 283).
10. Negligence in respect of poison (section 284), fire (section 285) or explosive substances (section 286).
11. Negligence in respect of machinery (section 287), building (section 288) or animals (section 289).
12. Selling obscene literature and pictures (sections 292, 293) or doing obscene acts (section 294).
13. Keeping a lottery office (section 294A).

#### [s 274] Adulteration of drugs.

**Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.**

#### State Amendments

**Orissa.**—1. *Same as in section 272, the amendments were made by Orissa Act No. 3 of 1999, s. 2.*

**Uttar Pradesh.**—1. *The following amendments were made by U.P. Act No. 47 of 1975, s. 3(ii), (w.e.f. 15-9-1975).*

In its application to the State of Uttar Pradesh in S. 274, for the words, "shall be punished with imprisonment of either description for a term which may extend to six months, or with a fine which may extend to one thousand rupees or with both, substitute the following words.—

"shall be punished with imprisonment for life and shall also be liable to fine:

*Provided* that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life."

2. *The offence is cognizable, non-bailable and triable by Court of Session, vide U.P. Act No. 47 of 1975.*

**West Bengal.**—1. *The following amendments were made by W.B. Act No. 42 of 1973, s. 3(iii) (w.e.f. 29-4-1973).*

In its application to the State of West Bengal, in s. 274, for the words "of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both", substitute the following.—

"for life with or without fine:

*Provided* that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life."

2. *The offence is cognizable, non-bailable and triable by Court of Session, vide W.B. Act No. 34 of 1974.*

#### **COMMENT.—**

To preserve the purity of drugs for medicinal purposes this section is enacted. It is sufficient if the efficacy of a drug is lessened, it need not necessarily become noxious to life.

For local amendment see comment under section 272 *ante*.

## THE INDIAN PENAL CODE

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3. Adulteration of drugs (sections 274–276).
4. Fouling water of a public spring or reservoir (section 277).
5. Making atmosphere noxious to health (section 278).
6. Rash driving or riding (section 279).
7. Rash navigation (sections 280-282).
8. Exhibition of false light, mark or buoy (section 281).
9. Danger or obstruction in a public way or line of navigation (section 283).
10. Negligence in respect of poison (section 284), fire (section 285) or explosive substances (section 286).
11. Negligence in respect of machinery (section 287), building (section 288) or animals (section 289).
12. Selling obscene literature and pictures (sections 292, 293) or doing obscene acts (section 294).
13. Keeping a lottery office (section 294A).

#### [s 275] Sale of adulterated drugs.

**Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.**

#### State Amendments

**Orissa.**—1. *Same as in section 272, the amendments were made by Orissa Act No. 3 of 1999, s. 2.*

**Uttar Pradesh.**—1. *The following amendments were made by U.P. Act No. 47 of 1975, s. 2(iv), (w.e.f. 15-9-1975).*

In its application to the State of Uttar Pradesh in S. 275, for the words, "shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both, substitute the following words.—



"shall be punished with imprisonment for life and shall also be liable to fine:

*Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life."*

*2. The offence is cognizable, non-bailable and triable by Court of Session, vide U.P. Act No. 47 of 1975.*

**West Bengal.**—1. *The following amendments were made by W.B. Act No. 42 of 1973, s. 3(iv) (w.e.f. 29-4-1973).*

In its application to the State of West Bengal in s. 275, for the words "of either description for a term which may extend to one thousand rupees or with both", substitute the words "for life with or without fine:

*Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life."*

*2. The offence is cognizable, non-bailable and triable by Court of Session, vide W.B. Act No. 34 of 1974.*

#### **COMMENT.—**

The offence under this section consists in selling, or offering, or exposing for sale, or issuing from any dispensary, an adulterated drug as unadulterated. This section not only prohibits the sale of an adulterated drug but also its issue from any dispensary.

For local amendment, see comment under section 272 *ante*.

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### CHAPTER XIV OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY CONVENIENCE, DECENCY AND MORALS

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2. Adulteration of food or drink (sections 272–273).
3. Adulteration of drugs (sections 274–276).
4. Fouling water of a public spring or reservoir (section 277).
5. Making atmosphere noxious to health (section 278).
6. Rash driving or riding (section 279).
7. Rash navigation (sections 280-282).
8. Exhibition of false light, mark or buoy (section 281).
9. Danger or obstruction in a public way or line of navigation (section 283).
10. Negligence in respect of poison (section 284), fire (section 285) or explosive substances (section 286).
11. Negligence in respect of machinery (section 287), building (section 288) or animals (section 289).
12. Selling obscene literature and pictures (sections 292, 293) or doing obscene acts (section 294).
13. Keeping a lottery office (section 294A).

#### [s 276] Sale of drug as a different drug or preparation.

**Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.**

#### State Amendments

**Orissa.**—1. *Same as in section 272, the amendments were made by Orissa Act No. 3 of 1999, s. 2.*

**Uttar Pradesh.**—1. *The following amendments were made by U.P. Act No. 47 of 1975, s. 3(v), (w.e.f. 15-9-1975).*

In its application to the State of Uttar Pradesh in S. 276, for the words, "shall be punished with imprisonment of either description for a term which may extend to one thousand rupees, or with both, substitute the following:—

"shall be punished with imprisonment for life and shall also be liable to fine: