

# Rohit Jain vs The State Of Madhya Pradesh on 23 February, 2024

**Author: Gurpal Singh Ahluwalia**

**Bench: Gurpal Singh Ahluwalia**

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M.Cr.C. No. 1

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA  
ON THE 23rd OF FEBRUARY, 2024  
MISC. CRIMINAL CASE No. 14294 of 2021  
BETWEEN: -

ROHIT JAIN, S/O PUSHPENDRA JAIN, AGED  
ABOUT 24 YEARS, OCCUPATION:  
BUSINESS, R/O PANNA ROAD,  
CHHATARPUR, DISTRICT CHHATARPUR  
(MADHYA PRADESH)

(BY SHRI SIDDHARTH GULATEE- ADVOCATE)

AND

THE STATE OF MADHYA PRADESH  
THROUGH P.S. KOTWALI, CHHATARPUR  
(MADHYA PRADESH)

(BY SHRI GAJENDRA PARASHAR- PANEL LAWYER)

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This application coming on for admission this day, the court passed  
the following:

ORDER

This application under Section 482 of Cr.P.C. has been filed for quashment of FIR registered in Crime No. 19/2021 by Police Station Kotwali, District Chhatarpur for offence under Section 420 of IPC.

2. It is the prosecution case that an information was received that adulterated Mawa is being brought and accordingly an eye was kept on the bus stand. The applicant came on Bus No. M.P.16 P 0362 along with 24 packets of Mix Cake Food of New Radhika Brand. On every packet neither the lot number was mentioned nor the packaging date was mentioned and photograph of a sweet was printed on the label and accordingly, it was found that the Mawa appears to be adulterated. Accordingly, the samples were collected and remaining Mawa was handed over to the police. The total weight of the Mawa was 43 kg.
3. It is submitted by counsel for the applicant that even if the entire allegations are accepted, still it is clear that no offence under Section 420 of IPC is made out. In fact if any offence is made out, then it would be under The Food Safety and Standards Act, 2006.
4. Per contra, the application is vehemently opposed by counsel for the State.
5. Heard learned counsel for the parties.
6. The moot question for consideration is as to whether when an eatable product is found to be adulterated, then whether an offence under Section 420 of IPC would also be made out or not?
7. The said aspect has been taken note of by this Court by order dated 01.04.2021 passed in the case of Manish Gupta Vs. State of M.P. in M.Cr.C. No.11462/2021 (Gwalior Bench) and has held as under:-

"In the present case, it is not the case of the applicant that any penalty has already been imposed on him. Further, the offence has also been registered under Sections 420 and 272 of IPC. It is not the case of the applicant that he had already displayed in his shop that adulterated or substandard milk is sold. It is the defence of the applicant that the milk was not kept for the purpose of sale but it was a sapreta after manufacturing of milk products. According to the FIR, he is running a Milk Dairy. The applicant has not produced any licence to show that he is competent to produce any milk product. Further, it would be a defence of the applicant that the sample which has been collected, was not a milk but it was a sapreta and it was not meant for sale. Further, the applicant has not clarified as to why he had kept the sapreta in his shop, specifically when according to him, the same was not meant for sale. Further, it is not the case of the prosecution as well the applicant that it was displayed by the applicant that the so-called milk/sapreta was not meant for sale. Selling any adulterated or substandard product to the innocent customers by projecting that the said product is a pure and safe for human consumption, would certainly be an offence under Section 420 of IPC.

So far as the offence under Section 272 of IPC is concerned, the defence of the applicant that the milk was not kept for sale, cannot be accepted at this stage. If the milk/sapreta was not meant for sale, then he should not have kept the same in the shop and should have kept somewhere else or should have destroyed. Prima facie, it

is clear that the sample of milk which has been collected by the Officer, was meant for sale, and it was not sapreta as claimed by applicant.

So far as the contention of the Counsel for the applicant that since the Act, 2006 is a complete Act in itself which provides for separate procedure for penalty is concerned, the Counsel for the applicant could not point out any provision of the Act, 2006 which bars the applicability of provisions of General Criminal Law or IPC.

The Act, 2006 merely provides for penalties for contravening the provisions of the Act, 2006, whereas the offence under Sections 420 and 272 of IPC are different from the provisions of the Act, 2006. In absence of any bar under the Act, 2006, this Court is of the considered opinion that the Police is well within its right to resort to the provisions of IPC.

The Supreme Court in the case of State of Madhya Pradesh vs. Rameshwar and Others, reported in (2009) 11 SCC 424 has held as under:-

"48. Mr. Tankha's submissions, which were echoed by Mr. Jain, that the M.P. Co-operative Societies Act, 1960 was a complete Code in itself and the remedy of the prosecuting agency lay not under the criminal process but within the ambit of Sections 74 to 76 thereof, cannot also be accepted, in view of the fact that there is no bar under the M.P. Co-operative Societies Act, 1960, to take resort to the provisions of the general criminal law, particularly when charges under the Prevention of Corruption Act, 1988, are involved.

49. The judgments referred to by Mr. Tankha regarding the tendency to convert civil disputes into criminal cases to pressurize the accused, are unimpeachable, but the same will not apply to the facts of this case where a conspiracy to cheat the Bank is alleged." Where the innocent consumers are being cheated by selling adulterated or substandard or unfit eatables, then this Court is of the considered opinion that the prosecution of the applicant for offence under Sections 420 and 272 of IPC is permissible. It is not the case of the applicant that he has already been punished under the Act, 2006. Thus, the bar as contained under Section 26 of General Clauses Act would not apply.

Considering the totality of the facts and circumstances of the case, this Court is of the considered opinion that no case is made out for quashing the FIR in Crime No.13/2021 registered at Police Station Bairad, District Shivpuri for offence under Sections 420, 272 of IPC and under Sections 51, 26(2)(ii) of the Act, 2006. Accordingly, the application fails and is hereby dismissed."

8. In the considered opinion of this Court, the present case is duly covered by the order passed by this Court in the case of Manish Gupta (supra).

9. Accordingly, the application fails and is hereby dismissed.

10. Interim order dated 02.11.2023 is hereby vacated.

(G.S. AHLUWALIA) JUDGE AL Date: 2024.03.12 17:49:22 +05'30'