
JUDICIAL PRECEDENTS ON ADULTERATION OF MILK AND MILK PRODUCTS - AN ANALYSIS

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Introduction

Adulteration of food is widespread menace during all times and ages. Adulteration with milk and milk products is often considered more toxic and life threatening because of the adulterants added in the dairy products to increase its colour, thickness, volume, preservatives etc.

Some common milk adulterants include water, urea, sugar, starch, detergents, and chemical preservatives like formalin, hydrogen peroxide, and antibiotics. These are added to increase volume, improve apparent protein or sugar content, thicken watered-down milk, preserve it, or enhance taste. However, they reduce the milk's nutritional value and can cause serious health problems, including digestive issues, kidney damage, heart problems, and potentially cancer. Skimmed milk powder is also added many a times to restore fat and other lost components in milk after dilution made with water. Adulterants reduce the concentration of essential nutrients like calcium and protein, leading to a lack of vital nutrition. Some adulterants, like formalin and hydrogen peroxide, are toxic and can lead to severe health conditions, including organ damage and cancer. Substances like starch and detergents can cause digestive issues, leading to discomfort and other long-term problems. Regular consumption of adulterated milk can compromise the immune system, increasing susceptibility to infections.

Time and again the judiciary had warned the adulteration made with milk and milk products. Milk and milk products order, 1992 which had been enacted by the Central Government power given under Section 3 of the Essential commodities Act, 1955 is also still in force even after the enactment of Food Safety and Standards Act 2006. After the Prevention of Food adulteration Act, 1954 was repealed, section 99 of the Food safety and Standards Act, 2006 retains the Milk and Milk products order, 1992 as Milk and Milk products regulations consisting of 32 section which regulates the dairy sector by overseeing registration, sanitary conditions, quality, and distribution of milk and milk products.

Homogenization of milk:

In *Jarnail Singh Vs state of Haryana*¹, Punjab & Haryana Highcourt court held that proper procedures in seizing food samples and making them homogeneous before taking the sample, as prescribed by the Prevention of Food Adulteration Act should be followed. The petitioner filed a revision petition before Supreme court against the judgement and order passed by the Chief Judicial Magistrate Kurukshetra, which had convicted the petitioner for six months imprisonment and fine of Rs. 2000/-. However the Supreme Court set aside the judgements of the lower court and allowed the revision petition stating that it is imperative for the Food Inspector to mention the procedure followed in seizing the sample in the complaint, and the failure to do so gives the aggrieved person the right to object. The court also emphasized the importance of making the milk homogeneous before taking the sample, as prescribed by the Act. Also in *State of Punjab Vs Jaganath*², it was held by Punjab & Haryana High court that omission of mentioning the homogenization of milk in the complaint is not fatal to its admissibility or maintainability. The court reasoned that the Act and Rules do not prescribe a method of taking samples or a statutory requirement for making milk homogeneous. Therefore, the omission of this fact in the complaint does not affect its maintainability. However, the court emphasized the importance of homogenizing milk before taking a sample to ensure a representative analysis. The court held that the trial court is entitled to entertain doubt on the statements of the Food Inspector and witnesses regarding the homogenization of milk if it is not mentioned in the complaint. However, it plays a crucial role in the appraisal of evidence. It reasoned that the trial courts were justified in giving the benefit of doubt to the accused due to the omission of mentioning the homogenization of milk in the complaints. In many cases time and again the courts upheld that it is important to mention in the complaint that the stirring of the milk or making it homogenous before taking the sample is mandatory.

Fall in standard of milk is due to natural causes to be proved by the Accused:

In *M.Rajan Vs Food Inspector, Palghat Municipality and Anr*³ the accused was convicted by Chief Judicial Magistrate, Palghat convicting him and sentencing him to Rigorous Imprisonment for 3 months and to pay a fine of Rs. 5,000/- in default to undergo rigorous imprisonment for 3 months, which was confirmed by the Sessions court, Palghat. An appeal

¹ 2007 4 RCR(Cri) 775

² 1986 2 PLR 464

³ 1982 KHC 170

was preferred by the Accused in High court which confirmed the sentences stating that there was compliance with the sampling and sealing procedures, and the evidence of the Food Inspector was deemed sufficient. When the accused raised the contention that due to natural causes, there might fall in standard, the court said that the burden of proof regarding the fall in standard of the milk due to natural causes rested with the accused.

Sample which is not intended for sale considered:

In *Naushad Vs State of kerala*⁴ It was contended by the accused that the milk kept in the hotel was not meant for sale. It was taken from the fridge and sampled. It is well settled that the milk, which is not meant for sale, cannot be sampled.. In the said judgment, trial court found that the milk was not meant for sale. However the sessions court reversed the acquittal. The Kerala High court upheld the acquittal of the trial court since the milk was not intended for sale and that it was taken from the fridge.

Samples taken from preparatory food can still be analysed for adulteration under the Act:

In *Raghubir Sharma –Petitioner Vs The State of Haryana*⁵, it was held that the report of the public analyst was superseded by the report of the Director, Central Food Laboratory. The facts of the case was that on 27.10.1997 Rajinder Singh, Government Food Inspector, Kurukshetra, inspected the premises of the petitioner known as “Saraswati Misthan Bhandar”, Pehowa run by Raghubir Sharma and found him in possession of 10 kilograms of boiled buffalo milk contained in a Patila for public sale. After serving notice in form VI upon him and stirring the milk in the container, he purchased 750 ml of the said milk. After stirring and making it homogeneous, he divided the same into three equal parts and put in three dry clean bottles. Then sealed parcel along with memorandum in Form No.VII were sent to public analyst, whereas remaining two parts were deposited with local health authority. The report of the Public analyst dated 28.10.1997, it revealed that the sample was adulterated inasmuch as the milk fat was found to be 5% and milk solids not fat were found to be 7.8%. Thereafter, the complaint was filed. The accused also availed the right of re-analysis by getting the same examined through Director, Central Food Laboratory, Pune, who also found the sample to be

⁴ 2010 Supreme(Online)(KER) 35622

⁵ 2011(2) RCR(Cri) 775

adulterated inasmuch as milk fat was found to be 4.3% whereas milk solids not fat as 9.2% as against the minimum prescribed standard of 6.0% and 9.0% respectively.

The counsel for the petitioner contended that the milk was taken from the sweet shop and that it was not intended for sale. However the court held that, buffalo milk is a primary food in itself and that it should not be adulterated. The High court also rightly pointed out the trial court was right in taking note of the judgment in case of *New Delhi Municipal Committee Vs. Hardev Singh and others*⁶, wherein it was observed that there was no bar on the powers of the Food Inspector to lift the sample of Atta stored by restaurant keeper for preparation of Chapati and not for sale as such because the word 'Food' includes any article which ordinarily enters into or is used in composition or preparation of human food. Therefore there is no fault in lifting sample from such primary food which is kept as a preparation, as said by the petitioner.

It is also settled principle of law that the report of the Central Food laboratory superseded the report of the Public analyst as per section 13 of the Food Adulteration Act, 1954 and in conformity with many apex court's decision. In that case, there is no need for comparison of two reports and negligible difference in analysis of two different laboratories conditions may vary is common.

Duty of the courts to enforce the rules and regulations until amended:

In *Murari Lal Vs Delhi Administration*⁷, writ petition was filed before the Delhi Highcourt by various shop keepers in that region that Paneer or Channa need not contain milk fat upto 50% as prescribed by the Prevention of Food Adulteration rules. The report of the Director, Central Food Laboratory the sample of Paneer did not conform to the standard laid down for Paneer under the provisions of the Act and the Rules framed thereunder as the milk fat content was below the minimum specified limit of 50% of the dry matter. The petitioners relied on the research carried out by National Dairy Research Institute, Karnal which is also of the view that Chhanna prepared from cow's milk is not capable of reaching the prescribed standard in so far as fat content is concerned. The research also recommended that Rules be revised by prescribing the minimum limit of fat as 35% on dry weight basis instead of 50%. But however The High Court held that till the standard prescribed in the Rules stand the courts are duty

⁶ 1980(1) PFA cases-472 West Delhi

⁷ 1995 32 DRJ 756

bound to enforce the same. The courts cannot ignore the standards prescribed by the Rules merely on the ground that some administrative department holds the view that standard laid down in the Rules needs to be modified.

It is fatal to prosecution even if independent witnesses turned hostile:

In *Rattan Lal Vs State of Haryana*⁸, when the question came up before the Hon'ble court that not every public witnesses supported the prosecution case. It was held the winning over of the independent witnesses does not mean acquittal. The court also relied upon the ratio decidendi in *Masalti Vs. State of Uttar Pradesh*⁹, it was held that it is, undoubtedly, the duty of the prosecution to lay before the Court, all material witnesses, available to it, whose evidence is necessary for unfolding its case, but it would be unsound to lay down it, as a general rule, that every witness, must be examined, even though his evidence, may not be very material or, even if, it is known that he has been won over or terrorized. Also court added In *Roop Singh Vs State of Punjab*¹⁰, a Division Bench of this Court, held that no adverse inference can be drawn, when the only independent witness, was given up by the prosecution, as won over by the accused. It was further held, in the said authority, that the panch witnesses, being human beings, are quite exposed and vulnerable to human feelings of yielding, browbeating, threats and inducements, and giving up of the public witnesses, as won over, is fully justified, in the present day situation, prevailing in the society. Further the court added that In *Karnail Singh Vs. State of Punjab*¹¹ a Division Bench of this Court, held that where the independent witness, was won over by the accused, and only the official witnesses, were examined, who were considered to be not interested persons, their evidence cannot be doubted, on the ground of their official status. Considering the above view and also considering that the Central laboratory report supersedes the public analyst report, the court confirmed the sentence of the session's court and upheld conviction.

Swami Achyutanand Tirth and Ors. v. Union of India¹²

This is a public interest litigation filed by the NGO on milk adulteration and its products in different parts of India. In this cases samples were collected and results were obtained about

⁸ 2009 (2) RCR(Cri) 832

⁹ AIR 1965 (S.C.) 202

¹⁰ 1996 (1) RCR 146

¹¹ 1983 Criminal Law Journal, 1218,

¹² AIR 2016 SC 3626

the adulteration found in milk and milk products and therefore the Apex court formulated certain guidelines for prevention of adulteration in milk and milk products. They are

- Union of India and the State Governments shall take appropriate steps to implement Food Safety and Standards Act, 2006 in a more effective manner and States shall take appropriate steps to inform owners of dairy, dairy operators and retailers working in the State that if chemical adulterants like pesticides, caustic soda, detergents and other chemicals are found in the milk, then stringent action will be taken on the State Dairy Operators or retailers or all the persons involved in the same.
- State Food Safety Authority should also identify high risk areas due to environmental and other factors and greater number of food samples should be taken from those areas.
- iv. State Food Safety Authorities should also ensure that there is adequate lab testing infrastructure and ensure that all labs have/obtain NABL accreditation and well-equipped with the technical persons and testing facilities.
- v. Special measures should be undertaken by the State Food Safety Authorities (SFSA) and District Authorities for sampling of milk and milk products, including spot testing through Mobile Food Testing Vans.
- vii. For curbing milk adulteration, an appropriate State level Committee headed by the Chief Secretary or the Secretary of Dairy Department and District level Committee headed by the concerned District Collector shall be constituted as is done in the State of Maharashtra
- Using internet to spread awareness and raise complaints. All States should also have and maintain toll free telephonic and online complaint mechanism.
- Authorities should also educate school children by conducting workshops and teaching them easy methods for detection of common adulterants in food, keeping in mind indigenous technological.¹³

As a response to the above case, FSSAI had implemented mandatory testing schemes in the

¹³ AIR 2016 SC 3626

year 2020 on all dairy processing plants, ban on ammonium Sulphate , a very important chemical mixed with dairy products , intensified surveillance on hotspots of adulteration , especially during festive season and to create awareness among public.

Milk adulteration Tests performed at home:

Milk adulteration helps increase the profit margins for sellers as the quantity of real milk becomes low. This also leads to a severe decline in the nutritional profile of the milk and can lead to a lot of bodily changes. To check the purity of milk at home certain tests can be performed at home.

As per the Food Safety and Standards Authority of India ([FSSAI](#)), there are simple and easy ways that one can use at home to check purity of milk at home.

Starch adulteration test: For this test, boil 2-3 ml of milk and let it cool down. Add 2-3 drops of iodine solution to the milk. If the milk is pure, colour will remain unchanged or will turn slightly yellowish and if it turns blue, then it is adulterated with starch.

Detergent adulteration test: Take 5 ml of milk in a transparent glass and add an equal amount of water. Shake it well. Pure milk will have no lather or minimal lather formation, whole milk adulterated with detergent will have persistent lather or froth forms.

Urea adulteration test: 5 ml of milk in a test tube. Add an equal amount of soybean or arhar powder to it. Shake well and let it sit for 5 minutes. Dip a red litmus paper in it. If the red litmus paper remains red, milk is pure, and if it turns blue, milk is adulterated with urea.

Presence of formalin: Take 10 ml of milk in a test tube, add 2-3 drops of concentrated sulphuric acid along the sides of the test tube without shaking. If the colour of milk doesn't change, the milk is pure and if violet or blue rings are formed, the milk is adulterated with formalin.

Synthetic milk test: Add 5 ml of milk and 5 ml of water in a test tube. Shake it well. If it doesn't form a stable lather, the milk is pure, and if it forms a persistent froth, then it is adulterated with synthetic detergents.

Water adulteration test: Take a drop of milk on a polished and slanting surface. If the

drop remains in place or flows slowly, leaving a white trail behind, the milk is pure. And if it drops quickly without a trail, then the milk is adulterated with water.¹⁴

Conclusion:

Therefore the Food safety standards Act, 2006 had devised effective mechanisms for preventing adulteration in milk and the judiciary also addressed the key issues on sampling procedures to be followed by the food safety officers. Judiciary also emphasizes that if there is any negligible discrepancies while putting the witnesses on the evidence box that does not acquit the accused even if all the public witnesses turned hostile depending upon the facts and circumstances of the case. Milk adulteration is a widespread issue, driven by economic motives, that significantly compromises the nutritional quality and safety of milk, posing severe risks to consumer health including digestive problems, organ damage, and weakened immunity. Despite its nutritional value, milk contamination is a global concern, affecting both developed and developing nations. Developing countries face greater risks due to inadequate regulatory frameworks and monitoring systems. The contamination of milk is alarming because it poses significant health risks, including fatal illnesses. The primary drivers of milk adulteration include rising demand for dairy products, intense competition, and the pursuit of financial gains by unscrupulous producers¹⁵. The report of the Central Food Laboratory supersedes the Public analyst's report which has been emphasized by judiciary time and again as per the provisions of the Act. Also the special Act prevails over Bharatiya Nyaya Sanhita, 2024. Since milk is an easy perishable food, more chemicals are added to save its Shelf life. Therefore it is important to create awareness on public about Milk adulteration and other dairy products because Milk is the essential food that contains nutritive values.

¹⁴ <https://timesofindia.indiatimes.com/life-style/food-news/97-milk-samples-adulterated-in-this-state-6-smart-ways-to-check-milk-purity-at-home/articleshow/117895820.cms>

¹⁵ <https://www.sciencedirect.com/>