

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

CRIMINAL APPEAL NO. 888 OF 2000

N.T.Kate
Insurance Inspector
Employees' State Insurance
Corporation,
Panchdeep Bhavan, Lower Parel,
Mumbai – 400 013

.. Appellant

Vs

1. Tillumal G. Rijwani
Partner
M/s.Hotel Tilsons,
Tilson Shopping Centre
II floor, Ulhasnagar – 421 003
2. Shri Ramesh Rijwani
Partner
M/s.Hotel Tilsons,
Tilson Shopping Centre
II floor, Ulhasnagar – 421 003
3. M/s.Hotel Tilsons,
Tilson Shopping Centre
II floor, Ulhasnagar – 421 003.

4. State of Maharashtra

.. Respondents

Mr.H.V.Mehta, for the Appellant.

Mr.P.H.Gaikwad-Patil, – Assistant Public Prosecutor, for Respondent
- State.

Coram : N.M.Jamdar, J.
Date : 1 July 2017.

Oral Judgment :

By this Appeal, the Appellant-Employees State Insurance Corporation has challenged the order passed by the Metropolitan Magistrate, Mumbai dated 24 January 2000 acquitting the Respondents of the offence punishable under section 85-A of Employees State Insurance Act, 1948.

2. Heard learned counsel for the Appellant. None appears for Respondents. I have gone through the Record and proceedings.

3. The Respondent No.3 is a partnership firm. Respondent Nos.1 and 2 were being prosecuted for their liability to pay the contribution to Employees State Insurance Fund as partners of Respondent No.3 firm. The prosecution examined witnesses and produced certain documents on record. Learned Magistrate came to the conclusion that there was no material to show that the Accused Nos.1 and 2 were partners of Respondent No.3. Manager was also not prosecuted.

4. Nothing is shown as to how the conclusion of the learned Magistrate that Respondent Nos.1 and 2 were not partners, is incorrect. It is informed by the learned counsel for the Appellant that thereafter the contribution was paid. The alleged offence has taken

place in the year 1988, almost 30 years ago. The contribution has since been paid, there is nothing to hold that Respondent Nos.1 and 2 were partners of the firm. In these circumstances, no case is made out to reverse the order of acquittal.

The Appeal is accordingly dismissed.

(N.M.Jamdar, J.)