

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 327 OF 2017
IN
STAMP NUMBER MAIN NO. 3625 OF 2017

AARWIN TRADERS, REP. BY ITS
PARTNERS, R. THIRUGNANAM.,

... Applicant

Versus

SATYA INDUSTRIES, THR. ITS AUT.
SIG., RAJU SINHA AND ANR.,

... Respondents

Shri Jatin Ramaiya, Advocate for the Applicant.

Shri Ajit Kantak, Advocate for the Respondent No. 1.

Coram:- C. V. BHADANG, J.

Date:- 19th September 2018

P.C.

This is an application for leave to appeal against acquittal. In a complaint filed under Section 138 of the Negotiable Instruments Act, the respondent no. 1 has been acquitted by the learned Magistrate vide judgment and order dated 15.09.2017.

2. A bare perusal of the impugned judgment shows that the learned Magistrate has acquitted the respondent no. 1 for the sole reason that the applicant/complainant has not established that the respondent no. 1, Mr. Raju Sinha was in charge of and was responsible for the conduct of the business of M/s Satya Industries and that he was authorised signatory of M/s Satya

Industries.

3. It appears that the applicant had issued a statutory notice prior to the institution of the complaint, to which there is no reply. According to the learned Counsel for the respondent no. 1, the notice was issued to the partner of M/s Satya Industries and no A/D card is produced on record to show that the notice was served on Mr. Raju Sinha.

4. On the contrary, it is submitted by the learned Counsel for the applicant that there is a letter of the Postal Authority, showing that the registered notice was served on the addressee. The learned Counsel for the respondent no. 1 has taken me through the evidence, in order to submit that the complainant has admitted that M/s Satya Industries may be a partnership concern of one Mr. Amit Sinha.

5. Be that as it may, the record discloses that the cheque was not dishonoured, on the ground that the signature on the cheque does not match or that the signatory of the cheque was not the authorised signatory of M/s Satya Industries. Prima facie, it appears that the cheque was dishonoured for as funds not arranged. Considering the overall circumstances, I find that a case for grant of leave to appeal against acquittal is made out. The criminal application is allowed. Let the Criminal Appeal be

registered, which shall be treated as Admitted. The learned Magistrate shall take action under Section 390 of Cr.P.C.

C. V. BHADANG, J.

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