

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.04.2018

Coram

THE HON'BLE MR. JUSTICE G.R.SWAMINATHAN

CRIMINAL APPEAL NO. 1004&1005 OF 2002

M/s. Golecha Global Finance

Limited, rep by its director Uma Mageswari

134, Santhome High Road,

Madras - 4.

... Appellant/complainant

Versus

Arun Shah

..... Respondent/Accused

PRAYER:

This Criminal Appeal filed under Section 378(2) of code of Criminal Procedure to set aside the order in C.C.No. 810/98 on the file of XIII Metropolitan Magistrate Court, Egmore dated 29.08.2001.

For Appellant : No appearance

For Respondent : No appearance

J U D G M E N T

The appellant is the complainant in this appeal. The complainant M/s. Golecha Global Finance has filed C.C.No.810 of 1988 on the file of XIII Metropolitan Magistrate Court, Egmore dated 29.08.2001 against the respondent Arun Shah. On the complainant side, two witnesses were examined and Exhibits P1 to P10 were marked. On the side of the accused no witnesses were examined and no documents were marked.

2.The Trial Magistrate acquitted the accused by Judgment dated 29.08.2001 for the sole reason that the seal of the complainant company is not found in the complaint in question. This is the sole ground for acquitting. The complainant aggrieved against the same filed this appeal.

3. There is no appearance for the complainant as well as to the respondent.

4. This Court went through the materials on record and it is seen that in the cause title it has been mentioned that the complainant is represented by its Managing Director. It is also seen that the Managing Director has only signed in the complaint. It is true that the seal of the complainant company is not found but it is only a procedural omission. On this ground, the Trial Magistrate ought not to have acquitted the accused.

5. This Court is inclined to set aside the impugned Judgment passed by the Trial Court. Since this Court has not heard the submissions by both the counsel, the matter is remitted back to the Trial Magistrate to be disposed of in accordance with law.

6. The Trial Court shall issue notice to both the parties and dispose the matter after hearing their submissions. The Registry is directed to send all the Original records to the file of the Trial Court as expeditiously as possible.

7. With the observation these appeals are allowed.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

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smn

To

The XIII Metropolitan Magistrate Court, Egmore

2. The Section Officer, Criminal Section,
High Court, Madras

CRL.A. NO. 1004&1005 OF 2002

A.SK(06/09/2019)