

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.430 OF 2003

Raymond Apparel Ltd.)....Appellant

V/s.

Mataharsha Rampher Mishra & Anr.)....Respondents

None for appellant.

Mr.Mandar V.Limaye for respondent no.1.

Ms.Anamika Malhotra APP for respondent no.2.

CORAM : K.R.SHRIRAM,J

DATE : 14.1.2020

P.C. :-

1. This is a 17 years old appeal impugning an order and Judgment dated 28.10.2002 passed by the JMFC, II Court, Thane, acquitting respondent no.1 Mataharsha Rampher Mishra of offence punishable under Section 630 of the Companies Act 1956. Section 630 of the Companies Act reads as under :-

“630. Penalty for wrongful withholding of property -

(1) If any officer or employee of a company-

(a) wrongfully obtains possession of any property of a company ; or

(b) having any such property in his possession, wrongfully withholds it or knowingly applies it to purposes other than those expressed or directed in the articles and authorised by this Act, he shall, on the

complaint of the company or any creditor or contributory thereof, be punishable with fine which may extend to [ten thousand rupees];

(2) The Court trying the offence may also order such officer or employee to deliver up or refund, within a time to be fixed by the Court, any such property wrongfully obtained or wrongfully withheld or knowingly misapplied, or in default, to suffer imprisonment for a term which may extend to two years.”

2. Complainant/appellant is not the State. At the inception of this proceeding, complainant/appellant approached this Court with an application to grant special leave to prefer this appeal, which leave was granted on 7.10.2003. Only upon granting that leave, this appeal came on record of this Court.

3. Appellant has not been appearing at all. Appellant's absence has been noted in the orders dated 24.5.2017, 23.6.2017, 28.7.2017, 25.9.2017, 7.12.2017, 22.12.2018, 3.9.2019 and today.

4. Offence charged under Section 630 of the Companies Act 1956 is not related to the society at large but only against particular person i.e., complainant/appellant who claims respondent no.1 has wrongfully obtained possession of its property/wrongfully withholding such property. Since complainant/appellant itself is not showing any

interest in this proceeding and have been remaining absent, this Court has no option but to revoke the leave granted. Leave granted stands revoked.

5. Appeal dismissed.

(K.R.SHRIRAM,J)