

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1164 OF 2003

M/s.Zenith Ltd.)....Appellant

V/s.

V.D.Chokhani & Ors.)....Respondents

None for appellant.

Ms.Anamika Malhotra APP for respondent no.2.

CORAM : K.R.SHRIRAM,J

DATE : 31.1.2020

P.C.:-

1. This is a 17 years old appeal impugning an order and judgment dated 25.3.2003 acquitting respondent no.1 of offence punishable under section 630 of the Companies Act 1956 and dismissing the appeal.

2. **“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.”

3. 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 16.9.2003. Only upon granting that leave, this appeal came on record of this Court.

4. Appellant has not been appearing. Appellant was absent on 29.11.2009 and is absent even today. The name of appellant's advocate also appears in the cause list.

5. 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.

6. Appeal dismissed.

(K.R.SHRIRAM,J)