

08.08. 2022
item No.29
n.b.
ct. no. 34

CRA(SB) 78 of 2022

**Ruchi Soya Industries Ltd.
Vs.
State of West Bengal & Ors.**

Mr. Sourabh Guha Thakurata,
Ms. Tapati Dasgupta,
Ms. Tanuka Basu,
.....for the appellant.

Mr. Anirban Mitra,
Mr. Akash Ghosh,
.....for the opposite party no.5.

Affidavit of service so filed be kept with the record.

The present appeal has been preferred against the order dated 17.9.2018 passed by the Learned Additional District & Sessions Judge, Bench-II City Sessions Court, Calcutta in Criminal Revision no.18 of 2017 which affirmed judgment and order of acquittal dated 07.1.2016 passed by the Learned Metropolitan Magistrate, 15th Court, Calcutta in complaint case C/7174 of 2018.

The subject matter of the appeal was restricted to the complaint being dismissed for non-appearance of the complainant on the date so fixed. Preparation of paper books as such has been waived.

In spite of service being effected only the opposite party/respondent no.5 namely, Rajendara Prasad has appeared before this Court.

Records of the Learned Metropolitan Magistrate reflects that for a certain period of time the complainant was not present and the Learned Metropolitan Magistrate and as such court was pleased to issue show-cause and even the show-cause was not filed before the Learned Court. As such, the Learned Court was compelled to dismiss the complaint case under Section 256(1) of the Code of Criminal Procedure and acquit the accused persons.

Learned advocate appearing for the appellant submits that proceedings under the Insolvency and Bankruptcy Code, 2016 was pending against the appellant company owing to such proceedings and statutory prevention under Section 14 of the Code, there was turmoil in the management of the appellant company and after approval of the resolution plan there has been sea change in the management of the company and the present management intends to diligently pursue with complaint case being C/7174 of 2008.

Having regard to the fact that the company is serious in pursuing the litigation which they were deterred from proceeding because of reasons which were beyond their control, I am of the opinion that an opportunity must be granted to the appellant/complainant to present their case on merits before the Learned Metropolitan Magistrate, 15th Court, Calcutta. Accordingly, the judgment and order dated 17.9.2018 passed by the Learned Additional District and Sessions Judge Bench-II in Criminal Revision No.18 of 2017 as also the judgment and order of acquittal dated 07.1.2016

passed by the Learned Metropolitan Magistrate, 15th Court, Calcutta in C/7174 of 2008 is hereby set aside.

Consequently, CRA(SB) 78 of 2022 is allowed.

All pending connected applications, if any, are consequently disposed of.

Learned Metropolitan Magistrate, 15th Court, Calcutta is directed to issue notice upon the accused persons and proceed with the complaint case C/7174 of 2008.

Lower Court Records, if any, be sent to the Learned Trial Court.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)