

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.989 OF 2006

M/s. Lambarti Exports Pvt. Ltd. ...Appellant
vs.
Pratap Dharmaling Sampat & Anr. ...Respondents

None for the Appellant. Later on Mr. N. N. Gawankar appeared for the Appellant.

Mr. Vilas Jadhav for Respondent No.1.

Respondent No.1-Mr. Pradeep D. Sampat, present in person.

CORAM : S. M. MODAK, J.

DATED : 18TH JULY 2023

P. C. :

1. Heard Respondent No.1 in person and his Advocate.
2. This is Appeal against the order of acquittal passed by the trial Court for the offence punishable under Section 138 of the Negotiable Instruments Act. The Appeal was admitted on 29th September 2006.
3. On 17th October 2006, this Court has deleted the name of Respondent No.1-M/s.Bomex Auto Industries Pvt. Ltd. The Appeal continued only against Respondent No.2-Pratap Sampat.
4. During the pendency of the Appeal, the name of Appellant/complainant-company is also struck off by learned

Registrar of Companies. This fact is brought on record by Respondent No.2 in person on 13th March 2023 by way of an application/submission. It is accompanied by copy of Company Master Data. Exhibit-A mentions about striking out the name of the Appellant-company, whereas Exhibit-B consists of striking out the name of Respondent No.1-company.

5. On the last date, the matter was adjourned as learned Advocate for the Appellant wanted to take instructions.

6. Today, when the matter is called out, no one is present on behalf of the Appellant. Respondent No.1-Pratap Sampat has produced notice of striking out the name of the Appellant-company. The same is taken on record and marked as Annexure "X". It mentions that the Registrar of Companies, Mumbai has exercised power under sub-section (5) of Section 248 of the Companies Act 1956. My attention is brought to the provisions of that Section.

7. It mentions that for grounds specified therein, learned Registrar can remove the name of company from the register after complying the procedure. Whereas sub-section (5) mentions that at the end of period, learned Registrar of Company has to struck of the name of the company from the register of Companies of ROC-

Mumbai.

8. Contention is if the name is struck off, the Appellant no more remains to be legal entity and as such Appeal can't be prosecuted.

Because for prosecution of the Appeal, there needs to be someone who can prosecute the Appeal. Due to some misunderstanding learned Advocate Mr. Gawankar for the Appellant has not come and it is told that he will come in the second half.

9. Matter kept back at 2.30 pm.

Later on :

10. Heard learned Advocate Shri.Gawankar for the Appellant. He does not dispute legal proposition that if the name of the Company is struck off by the Registrar of Companies, the company no more survives as a legal entity.

11. In view of that, Appeal is disposed of.

[S. M. MODAK, J.]