



Esha

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO.85 OF 2023

IN

CRIMINAL APPEAL NO.331 OF 2023 (F)

THOMAS COOK (INDIA) LIMITED THR.

AUTH. OFFICER IPSITA MURANJAN

... APPLICANT

Versus

JACK FERNANDES

... RESPONDENT

Mr. Chaitanya Padgaonkar, Advocate for the Applicant.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 5th August, 2024

P.C.

Heard Mr. Padgaonkar for the Applicant.

2. This is an Application for leave to appeal against the order passed by the first Appellate Court, thereby reversing the findings of the learned Magistrate.

3. Mr. Padgaonkar submits that the complaint was dismissed only on the technical ground that the authorised Officer who filed the complaint, failed to produce the authority letter as provided under the resolution.

4. Mr. Padgaonkar submits that the resolution is in two parts and the same cannot be read together. He submits that the resolution clearly

provides that the authority is given to the General Manager to represent the Company before any Court/Authority and to execute, file various documents and to carry out matters for and on behalf of the Company. He submits that this resolution itself is sufficient to hold that the General Manager was authorised by the Company to launch the prosecution.

5. Besides, Mr. Padgaonkar submits that no such objection was raised during the trial before the learned Magistrate so as to give an opportunity to the Company to rectify such defect. According to him, such a defect is curable.

6. Mr. Padgaonkar submits that on the other aspect of the matter, the first Appellate Court clearly agreed with the findings of the learned Magistrate, however, such order was quashed and set aside only on the ground that the complaint was not properly instituted.

7. The submissions advanced and the findings recorded by the first Appellate Court require consideration on merits. Accordingly, leave to file the Appeal is granted. The Appeal to be registered. The Application for leave is therefore disposed of.

BHARAT P. DESHPANDE, J.