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(31) CRMA 70.2024

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPL. NO. 70 OF 2024

IN

CRIMINAL APPEAL NO. 49 OF 2024

SIYARAM ENGINEERING

INDUSTRY., THR. ITS

PROP., PRAVEEN

DWARKANATH BLAGGAN ... APPLICANT

Versus

SAI DEVKI TRADECOM

PVT. LTD., THR. ITS

DIRECTOR, SATISH V. GAWAS

AND ANR ... RESPONDENTS

Ms. Shaizeen Shaikh, Advocate for the Appellant.

Mr. Gaurish Nagvenkar, Additional Public Prosecutor for
Respondent No.2-State.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 30th SEPTEMBER, 2024.

P.C.:

1. Heard Ms. Shaikh, learned Counsel appearing for the Appellant and Mr. Nagvenkar, learned Additional Public Prosecutor for Respondent No. 2-State. Though, notice is served on Respondent No. 1, none appeared.

2. The present application is filed praying leave to file an Appeal thereby challenging the impugned order passed by the learned Magistrate dated 19.09.2019, by which the complaint filed under Section 138 of the Negotiable Instruments Act was dismissed for non appearance of the complainant and his Advocate.

3. Ms. Shaikh submits that the Advocate for the complainant failed to record date properly and on that account there was no appearance of the complainant and his Advocate before the learned Magistrate. She submits that such a ground is sufficient enough to grant the leave. In this respect she placed reliance on the case of ***James A.C. V/s K. A. Sakthidharan and anr., 2023 SCC Online Ker 9030.***

4. The record would go to show that the complaint was dismissed for default and non appearance of the complainant and his Advocate. The reasons disclosed in the present

proceedings could be considered as sufficient for grant of leave to challenge this order as it amounts to acquittal.

5. Accordingly, leave is granted. The application stands disposed of in the above terms.

BHARAT P. DESHPANDE, J.