

(2019) 03 GUJ CK 0029
In the Gujarat High Court
Case No : R/Criminal Appeal No. 1970 Of 2018

M/S Sai Jyoti Logistics Services Pvt. Ltd. Through Ritesh
Mahesh kumar Salgiya

APPELLANT

Vs

State Of Gujarat & 1 Other(S)

RESPONDENT

Date of Decision : 14-03-2019

Acts Referred:

Citation : (2019) 03 GUJ CK 0029

Hon'ble Judges : R.P. Dholaria, J

Bench : Single Bench

Advocate : Mohd.Hanif Shaikh, Krutarth K Desa, Hansa Punan

Final Decision : Disposed Off

Judgement

1. The appellant-original complainant has preferred the present appeal challenging the judgment and order dated 12.1.2018 passed in Criminal Case No. 679 of 2012 by learned 4th Additional Civil Judge, & Judicial Magistrate First Class, Vapi dismissing the complaint for alleged default committed by the complainant of not remaining present.

2. By way of preferring the present appeal, the appellant has inter alia contended that though learned Magistrate had already started recording the evidence of the complainant on the day fixed, however, on that day, the complainant could not remain present as it was not feasible for him to remain present on his part and his learned advocate was requested to seek adjournment. However his learned advocate failed to do so and consequently therefore, the entire complaint came to be dismissed.

3. Heard learned advocate Mr. Mohd. Hanif Shaikh for the appellant; learned Additional Public Prosecutor Ms. Hansa Punani for respondent No.1-State and learned advocate Mr. Krutarth Desai for the respondent No.2 -original accused.

4. Having considered the matter in its entirety, since the acquittal is not on merits, in that view of the matter, for meeting the ends of justice, the impugned

judgment and order dated 12.1.2018 passed in Criminal Case No. 679 of 2012 by learned 4th Additional Civil Judge and Judicial Magistrate First Class, Vapi is hereby quashed and set aside and the matter is remanded to the learned trial court to initiate the proceedings from the stage where the matter was lying, on condition that the appellant shall deposit Rs.10,000/- towards litigation costs before the Gujarat High Court Advocates' Law Library within a period of one month and shall also produce a copy of receipt in the present matter, failing which, the learned trial court shall be at liberty to initiate recovery as fine from him. The learned trial court shall conduct the trial in accordance with law and the complainant shall also cooperate in the trial.

In view of the above, the appeal stands disposed of.