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

CRIMINAL APPLICATION NO. 417 OF 2017

Mrs. Saroja Krishna Shetty

..Applicant

Vs

Mr. Sattar Mehaboob Shaikh & Anr.

..Respondents

Mr. J.A. Vithalani for applicant.

Mr. V.V. Gangurde, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 2nd APRIL 2018.

P.C.:

1] This is an application under Section 378 (4) of Cr. P.C. for leave to file an appeal against the Judgment and Order dated 18th September 2017 passed by the Metropolitan Magistrate, 48th Court, Andheri, Mumbai in Criminal Case No.5121/SS/2015, thereby acquitting the respondent No.1 for the offence punishable under Section 138 of the Negotiable Instruments Act.

2] Heard the learned Counsel for the applicant. Perused the record.

3] The evidence on record clearly reveals that, the present complaint is filed by the applicant on the ground that the Negotiable

Instrument i.e. cheque in question for Rs.1,50,000/- issued by the respondent No.1 has been dishonoured on its presentation. The complaint proceeds in the premise of specific averments therein.

4] The record indicates that, after filing of the complaint, the respondent No.1 has paid an amount of Rs.1,75,000/- to the applicant. Thus the alleged lawful liability or debt by the respondent No.1 ceases to remain enforceable after payment of the said amount. The applicant in his cross-examination has admitted that the said fact.

In view of the above, this Court is of the opinion that, the Trial Court has not committed any error either in law or on facts in acquitting the respondent No.1 for the offence punishable under Section 138 of the Negotiable Instruments Act.

5] After perusing the entire record, this Court is of the opinion that, the view adopted by the Trial Court is a reasonable and probable view in the facts and circumstances of the present case.

6] No case for grant of leave to file appeal is made out.

Application is accordingly rejected.

(A.S.GADKARI, J.)