

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

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**CRM-A-1677-MA of 2017.
Date of Decision: 26.11.2018.**

Market Committee, Bhawanigarh

....Applicant.

Versus

M/s Karan Traders and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Preet Kawal Singh Gill, Advocate, for the applicant.

Shekher Dhawan, J.

Present application under Section 378(4) read with Section 482 of the Criminal Procedure Code, for grant of leave to appeal, has been filed, while challenging the judgment of acquittal dated 20.05.2017 passed by learned Chief Judicial Magistrate, Sangrur, in a case under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act').

The applicant i.e. Market Committee, Bhawanigarh through its Secretary, was the complainant before the trial Court. The facts relevant for the purpose of decision of the application; that applicant-Market Committee, Bhawanigarh had fastened some liability upon firm M/s Karan Traders, which is the sole proprietorship firm through Sameera Singla, being sole proprietor on account of market fee. As the payment was to be made by Sameera Singla, some cheque was issued by Pawan Kumar in his capacity as husband of Sameera Singla, being sole proprietor of the firm M/s Karan Traders and thereafter, same cheque could not be encashed and complaint was filed.

Learned trial Magistrate passed the order dated 20.05.2017 while observing that there was no legal liability on the part of Pawan Kumar to make the payment of the cheque amount.

Learned counsel for the applicant contended that the said Pawan Kumar had already replied to the notice issued to Sameera Singla that the cheque was issued by him and, as such, admitted his liability.

Having considered the averments made by learned counsel for the applicant and appraisal of the record of the case file, this Court is of the considered view that learned trial Magistrate has rightly held that there was no legal liability on the part of Pawan Kumar in his capacity as husband of Sameera Singla. The liability, if any, is of M/s Karan Traders and Sameera Singla as sole proprietor of the firm and on that account there was no legal liability of Pawan Kumar and the learned trial Magistrate has rightly dismissed the complaint under Section 138 of the Act vide judgment dated 20.05.2017.

In view of the above, the present application is dismissed. However, it is made clear that the applicant-Market Committee, Bhawanigarh shall be well within its right to take alternative step to recover the market fee having been assessed against M/s Karan Traders through Sameera Singla.

(SHEKHER DHAWAN)
JUDGE

26.11.2018
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No