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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-515-2022 (O&M)
Date of Decision: 10.08.2023

SHIVAM TOURS TRAVELS

Applicant

Versus

SANJEEV ASSOCIATES AND ANOTHER

Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vishal Yadav, Advocate,
for the applicant.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present application has been filed under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment dated 05.04.2022 passed by the learned Judicial Magistrate 1st Class, Rewari, whereby respondent No.2-Sanjeev Yadav has been acquitted.

2. Learned counsel for the applicant has submitted that the respondent has been acquitted by the learned Judicial Magistrate 1st Class, Rewari, although the signature on the cheque was not in dispute. He has submitted that there was a presumption in favour of the applicant, which has not been properly rebutted by respondent No.2.

3. I have heard the learned counsel for the applicant and have perused the impugned order.

4. A perusal of the impugned order would show that the learned Judicial Magistrate 1st Class, Rewari, while acquitting respondent No.2 has observed that the respondent No.2 has been able to rebut the presumption,

although, the signatures were not in dispute. The complaint was filed by the applicant-Shivam Tours Travels through its Proprietor Ramesh Kumar, whereas the cheque was given by Ramesh Kumar in his personal capacity. The learned Judicial Magistrate 1st Class, Rewari referred to the cross-examination statement of the complainant-applicant, wherein he deposed that he has filed the complaint in his individual capacity and that the loan was taken from him and that he has filed the complaint in personal capacity to recover the loan amount. The learned Judicial Magistrate 1st Class, Rewari has therefore, acquitted the respondents, *inter alia*, on the aforesaid grounds.

5. In view of the above, this Court does not deem it fit and proper to grant leave to appeal to the applicant in view of the aforesaid findings especially in view of the fact that the complaint was filed by a legal entity but the cheque was issued by Ramesh Kumar, proprietor of the firm in his individual capacity.

6. Consequently, the present application seeking leave to appeal, is hereby dismissed.

10.08.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No