

Crl.O.P.No.6807 of 2021 in
Crl.A.Sr.No.10635 of 2021

P.VELMURUGAN, J.

This petition is filed to grant special leave to the petitioner for preferring the above appeal against the judgment dated 06.07.2020 in C.A.No.281 of 2017, on the file of the learned III Additional District and Sessions Judge, Coimbatore.

2. The petitioner/appellant herein is the complainant in C.C.No.802 of 2017, on the file of the learned Judicial Magistrate, Sulur, Coimbatore. After due enquiry, on 16.08.2017, the learned Magistrate, found guilty for the offence under Section 138 of the Negotiable Instruments Act and convicted and sentenced the accused to undergo six months simple imprisonment and imposed a fine of Rs.3,000/-, in default, the accused shall undergo simple imprisonment for another three months. Challenging the same, the accused has filed an Appeal before the learned III Additional District and Sessions Judge, Coimbatore. The learned III Additional District and Sessions Judge, Coimbatore., without appreciating the facts, allowed the Appeal, by acquitting the respondent/accused, by judgment dated 06.07.2020. Hence, the present Criminal Original Petition has been filed by the complainant to grant leave to file an appeal.

3. According to the learned counsel for the petitioner, the accused admitted the signature found in the cheque. However, the learned III Additional District and Sessions Judge, Coimbatore, acquitted the accused on

the ground that the respondent himself had given a clear plea regarding his defence by his reply notice and he has also substantiated his defence by examining D.W.1, the burden shifted on the petitioner/complainant, without considering the contradiction of evidence of D.W.1 and the case of the respondent in Ex.P5.

4. On being satisfied with the averments made in support of this petition and also considering the submissions made by the learned counsel for the petitioner, this Court finds that there are arguable grounds *prima facie* for filing the appeal. Accordingly, leave is granted.

5. The Registry is directed to number the Criminal Appeal, if it is otherwise in order and issue notice to the respondent. Private notice is also permitted.

6. List the matter, after service of notice.

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