

Crl.O.P.No.6773 of 2021 in
Crl.A.Sr.No.13628 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 07.01.2021 in S.T.C.No.210 of 2018, on the file of the learned Judicial Magistrate, Fast Track Court No.I, Erode.

2. The petitioner/appellant herein is the complainant in S.T.C.No.210 of 2018, on the file of the learned Judicial Magistrate, Fast Track Court No.I, Erode. After due enquiry, on 07.01.2021, the learned Magistrate dismissed the complaint and acquitted the accused/respondent. Since the complaint filed by the petitioner was dismissed, the present Criminal Original Petition has been filed to grant leave to file an appeal.

3. According to the learned counsel for the petitioner, the respondent/accused admitted the signature found in the cheque and also the reasons stated for execution of the cheque is only for security purpose. Therefore, once the accused has admitted the issuance of cheque, which bears his signature, there is presumption that there exists a legally enforceable debt or liability under Section 139 of the Negotiable Instruments Act. However, such a presumption is rebuttable in nature and the accused is required to lead the evidence to rebut such presumption. But, in the instant case, the accused has not lead evidence that the entire amount due and payable to the complainant was paid.

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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.

15.04.2021

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