



WEB COPY



Crl.O.P.No.6484 of 2022

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in
CrI.A.SR.No.11008 of 2022

R.PONGIAPPAN, J.

This petition has been filed praying to grant Special Leave for preferring an appeal against the judgment passed by the learned XXI Additional Sessions Judge, Chennai dated 12.01.2022 in C.A.No.89 of 2021, by setting aside the conviction and sentence of nine months S.I and compensation of R.56,42,000/- passed by the Fast Track Court, Magisterial Level No.V, Saidapet, Chennai by order dated 19.03.2021 in C.C.No.1741 of 2003.

2. Heard, the learned counsel appearing for the petitioner/appellant.

3. The learned counsel for the petitioner would content that before the trial Court, the petitioner has presented a complaint as against the respondent alleging that the respondent has committed an offence punishable under Section 138 of Negotiable Instruments Act. It is his



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further submission that while at the time of trial, the respondent has not denied the signature found in the cheque. Further, in order to substantiate the alleged loan availed by the respondent, the petitioner has produced a pro-note, which was executed by the respondent. Even after showing sufficient proof, the First Appellate Court had disbelieved the case of the petitioner and came to the conclusion that the respondent is not having any means to lend huge sum as a loan and ultimately allowed the appeal and set aside the order of conviction. Hence, the petitioner/appellant is before this Court with this leave petition, praying permission to file an appeal against the order of acquittal.

4. On going through the impugned judgment rendered by the Court below, it is true, at no point of time, the respondent has denied the signature found in the cheque. Further, she has not denied the signature found in the pro-notes, which were marked as Exs.P13 to P17. Hence, *prima facie* sufficient materials have been produced by the petitioner to show that the respondent had availed loan from the petitioner. Therefore, it is a fit case for granting special leave to prefer an appeal as against the order of acquittal.



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5. Having heard the counsel and perused the materials available on record, this Court is of the opinion that a *prima facie* case is made out for grant of leave.

6. Accordingly, this Criminal Original Petition is allowed.

22.03.2022

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Note: Registry is directed to number the appeal, if it is otherwise in order.



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