



Crl.O.P.No.26070 of 2021

Crl.O.P.No.26070 of 2021 in
Crl.A.SR.No.48219 of 2021

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R.PONGIAPPAN, J.

This petition has been filed praying to grant leave to file an appeal against the order dated 18.10.2021 passed in CC.No.616 of 2008 on the file of the learned Judicial Magistrate, Arani, Tiruvannamalai District.

2. Even after printing the name of the respondent in the cause list none appeared on behalf of him.

3. Heard, the learned counsel appearing for the petitioner.

4. In the impugned judgment passed by the learned Judicial Magistrate, it was observed as the petitioner/ complainant, after suppressing the issuance of notice-Ex.D2 and Ex.D3, which is a notice sent by the respondent, filed the private complaint. It shows the alleged loan availed by the respondent has been closed and accordingly, it cannot be said the respondent is an accused under Section 138 of NI Act. Only after observing as above, he acquitted the accused from the charge.



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5. Now, the learned counsel appearing for the petitioner would contend that though the contention of the notice (Ex.D2) is found correct, according to the said notice, the respondent has stated Rs.1,00,000/- alone has been paid to the complainant. But on the other hand, the present cheque has been issued for value of Rs.3,00,000/-. Therefore, without considering the difference of amount found in the cheque and Ex.D2, the trial court acquitted the accused. Further, the signature found in the cheque is not denied on the side of the respondent / accused.

6. Having heard the counsel and perused the materials available on record, this Court is of the opinion that the petitioner shown a *prima facie* case for filing an appeal. Accordingly, leave is granted and this criminal original petition is allowed.

24.03.2022

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



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