



Crl.O.P.No.2300 of 2023 in Crl.A.Sr.No.3157 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

CORAM

THE HON'BLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.2300 of 2023

in

Crl.A.Sr.No.3157 of 2023

A.Senthilkumar

... Petitioner

Vs.

Vidya Nagarajan @ Vidya

... Respondent

Prayer:- Criminal Original Petition has been filed under Section 378(4) of Cr.P.C., praying to grant leave to the petitioner to prefer the above Criminal Appeal as against the order of acquittal dated 02.12.2022 passed in S.T.C.No.525 of 2019 on the file of the learned Judicial Magistrate, Fast Track Court -I, Erode.

For Petitioner : M/s.Manoj Kumar.N

ORDER

This petition has been filed by the petitioner/complainant to grant leave to file an appeal against the judgment dated 02.12.2022 made in S.T.C.No. 525 of 2019 on the file of the learned Judicial Magistrate, Fast Track Court -I, Erode.

2. The learned counsel for the petitioner contended that the



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respondent/accused borrowed a sum of Rs.5,50,000/- in year 2019 from the complainant has not repaid the amount. He had issued a cheque bearing No.762200 dated 16.08.2019 drawn on State Bank of India, Erode branch for a sum of Rs.5,50,000/-. When the cheque was presented for collection, it was returned with an endorsement “Insufficient funds”.Therefore, the statutory notice was caused and the accused replied admitting the liability and promised to pay in due course, but he did not pay the amount. Hence the complaint was filed.

3. Before the Trial Court, the complainant examined himself as PW.1 and marked 11 documents as Ex.P1 to Ex.P11. The respondent/accused examined himself as DW.1 and also marked 6 documents as Ex.D1 to Ex.D6. The Trial Court, vide judgment dated 02.12.2022 acquitted the respondent from the charge leveled against him under Section 138 of Negotiable Instruments Act.

4. The learned counsel for the petitioner further submitted that,



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without appreciating the evidence adduced by the petitioner in proper perspective and without affording sufficient opportunities as contemplated under law, the trial Court has passed the impugned acquittal order and hence, leave may be granted to file Criminal Appeal.

5. Heard the learned counsel for the petitioner. I have perused the materials on record.

6. On a perusal of the records and the oral and documentary evidence, the Trial Court found that there is no evidence to support the claim of the petitioner/complainant that he had paid Rs.5,50,000/- and the complainant have no source for advancing Rs.5,50,000/- as loan and no document filed to substantiate the source of income. In this circumstance, the Trial Court found that the petitioner has failed to prove the payment of Rs.5,50,000/- to the respondent/accused. Therefore, the Trial Court finding is based upon the evidence adduced by the parties. I find no infirmity in the acquittal order passed by the Trial Court and no *prima facie* case has been made out either



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on facts or law and no merit in this case. As such, this Court is inclined to dismiss the petition.

7. This Criminal Original petition is dismissed accordingly.

02.02.2023

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To
The Judicial Magistrate -I, Erode.

V.SIVAGNANAM, J.,

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