



WEB COPY



Crl. O.P. No.8168 of 2023 and Crl.A.SR No.7967 of 2023

Crl. O.P. No.8168 of 2023
and
Crl.A.SR No.7967 of 2022

R.HEMALATHA, J.

This petition is filed under Section 378(4) Cr.P.C, to grant special leave to file an appeal against the order dated 13.12.2022 in Crl.A.No.154 of 2019 on the file of the learned XIX Additional City Civil Judge, Chennai in C.C. No.2601 of 2019 on the file of the Metropolitan Magistrate Court, Fast Track Court, IV, George Town, Chennai.

2. Mr. M. Murali, learned counsel for the petitioner contended that though the accused was convicted by the trial court, on an appeal by the respondent/accused in Crl.A.No.154 of 2019, the learned XIX Additional Sessions Judge, Chennai, vide her order dated 13.12.2022, acquitted the accused by observing thus:

"The accused on her side has examined one Nagarajan as DW1. DW1 in his evidence has stated that, he came to know that the accused started Bhavani Shipping Company as accused being a working partner and the complainant was the investing partner and due to loss in the business, said Naresh forced her to take the responsibility, for the



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loss. Though in the cross examination DW1 has stated that he does not know directly any transaction between complainant and accused. By examining D.W.1 the accused has rebutted the presumption that cheque was not issued for any legally enforceable debt or liability. Once the presumption is rebutted that the onus is sifted on the complainant to prove his claim beyond all reasonable doubts. Complainant failed to prove disputed cheque was issued by accused for legally enforceable debt."

3. In the circumstances, there are some arguable points in the present appeal and accordingly, special leave is granted.

4. Registry is directed to number the Criminal Appeal, if it is otherwise in order, and list the matter for admission in usual course.

28.07.2023

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