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Crl. O.P. No.14362 of 2023
in Crl.A.SR No.9013 of 2023

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R.HEMALATHA, J.

This petition is filed under Section 378 (4) Cr.P.C, to grant special leave and permit the petitioner to prosecute the above appeal filed against the order of acquittal dated 12.09.2022 made in C.A.No.10/2021 on the file of the learned II Additional District and Sessions Court (FAC), Tiruppur (the Presiding Officer, Exclusive Motor Accident Claims Tribunal, Tiruppur) reversing the judgment dated 08.01.2021 made in S.T.C.No.336/2016 on the file of the Judicial Magistrate, Palladam.

2.Heard Mr.N.Manoharan, learned counsel for the petitioner and Mr.K.S.Jeyaganeshan, learned counsel for the respondent.

3.The learned counsel for the petitioner/appellant contended that though the accused had admitted his signature on the impugned cheque, the first appellate court acquitted the accused by observing thus :



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m. In the light of the aforesaid discussions, as the complainant has not produced any legally valid documents to show that he was doing a legal business by purchasing cattle, transporting and selling them in Kerala and in some cases transporting cattle purchased by others and delivering them to the slaughter houses in Kerala and as the complainant has also not established through credible evidence that the accused had indeed agreed to pay for the debts of his friends Ashraf and Vattaparambu Bhasheer to the tune of Rs.21,26,000/- and Rs.50,000/- and issued the cheque for a total sum of Rs.45,21,500/-. It is safely held that the accused had discharged the burden placed on him under Section 118, 139 and Section 20 of N.I. Act. The burden would shift on the complainant to prove that the accused had agreed to pay Rs.45,21,500/- which allegedly includes debts of two other persons and had issued the disputed cheque. The complainant has not discharged the burden. The trial Court has not gone into these aspect at all. Hence, the judgment of the trial Court is liable to be set aside."

According to the learned counsel, when the trial Court had convicted the accused for the offence punishable u/s.138 of the Negotiable Instruments Act the first appellate court had reversed the findings of the trial Court



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4. In the facts and circumstances, there are arguable points in the main appeal and therefore, special leave is granted as prayed for.

5. Registry is directed to number the Criminal Appeal, if it is otherwise in order and list the matter under the caption "For Admission" after two weeks.

14.07.2023

mtl



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