



Crl.O.P.No.4673 of 2023 in Crl.A.Sr.No.9433 of 2023

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V.SIVAGNANAM,J.

This petition has been filed to grant leave to the petitioner / appellant to file an appeal against the judgment dated 03.01.2023 passed in S.T.C.No.368 of 2021 by the learned Judicial Magistrate-II, Chidambaram.

2. The learned counsel for the petitioner submitted that the petitioner filed a private complaint in S.T.C.No. 368 of 2021 before the learned Judicial Magistrate-II, Chidambaram against the respondent under Section 138 of Negotiable Instruments Act for dishonouring of the cheque issued by the respondent for a sum of Rs.1,50,000/-. He further submitted that the Trial Court vide its judgment dated 03.01.2023, acquitted the respondent / accused under Section 138 of Negotiable Instruments Act, on the ground of time barred debt. So it has to be apprised in the evidence let in this regard. Hence the petitioner seeks leave of this Court to file a Criminal Appeal against the dismissal order.



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

4. On a perusal of the records, the fact reveals that the petitioner is the complainant and the respondent is the accused in S.T.C.No. 368 of 2021. The petitioner filed a private complaint against the respondent for dishonour of cheque bearing No.661628 dated 30.11.2020 for a sum of Rs.1,50,000/-. In the trial, the accused has not disputed the cheque and the signature in it. The Trial Court acquitted the accused and dismissed the complaint on the ground of barred by limitation of the transaction. So the evidence has to be reappraised whether the cheque given for enforceable debt or not. Therefore, *prima facie*, there is a case for re-appreciating the evidence both on facts and law. As such, this court is inclined to grant leave to the petitioner.



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5. Accordingly, this Criminal Original petition is allowed, granting leave to the petitioner to file the Criminal Appeal. The Registry is directed to number the Criminal Appeal if the papers are otherwise in order.

02.03.2023

rpl



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