



Crl.O.P.No.12241 of 2023 and Crl.A.SR No.13104 of 2023

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and
Crl.A.SR No.13104 of 2023

R.HEMALATHA, J.

This Criminal Original Petition is filed under Section 378 (4) Cr.P.C, to grant special leave to file an appeal against the Judgment and Order of Acquittal dated 23.03.2022 made in STC.No.595 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court No.II, Erode.

2. Heard, Mr.S.Mukunth, learned representing counsel for Mr.K.R.Sankar, learned counsel appearing for the petitioner.

3. The learned counsel appearing for the petitioner contended that though the signature on the cheque in question was admitted by the respondent, the Trial Court had acquitted the accused under Section 138 of the Negotiable Instruments Act, 1881, only on the ground that the petitioner/complainant is a totally stranger to the respondent and therefore, it is unbelievable that he had lent such a huge amount of Rs.25,00,000/- to the respondent especially when the complainant has not proved his wherewithal to pay the amount.

4. It is his specific contention that the Trial Court has failed to consider the presumptions under Sections 118 and 139 of the Negotiable Instruments Act, and acquitted the accused.



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5. In the facts and circumstances of the present case, there are arguable points in the main appeal and therefore, special leave is granted as prayed for and accordingly, the Criminal Original Petition stands allowed.

6. Registry is directed to number the Criminal Appeal, if it is otherwise in order, call for the records, prepare the appeal book, and list the matter in usual course.

07.07.2023
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