



Crl.O.P.No.12242 of 2023 and Crl.A.SR No.13102 of 2023

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and
Crl.A.SR No.13102 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.718 of 2018 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, on the following grounds:

(i) the complainant and the respondent are not acquainted with each other.

(ii) the complainant seems to have lent a sum of Rs.30,00,000/- to the respondent merely based on the promise made by the respondent, which is unbelievable.

(ii) the complainant has not proved that the respondent was authorized to issue the cheque on behalf of the firms.



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

5. In the facts and circumstances of the present case, there are arguable points in the main appeal and therefore, the 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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