



Crl.O.P.31232 of 2022 in Crl.A.SR 19747 of 2022

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V.SIVAGNANAM, J.

This petition has been filed to grant leave to file an appeal against the order of acquittal passed by the learned Additional District and Sessions Judge, Dharmapuri in Crl.A.No.10 of 2021 dated 12.11.2022 .

2. The learned counsel for the petitioner submitted that, the petitioner filed a private complaint in C.C.No.109/2017 before the Judicial Magistrate, Fast Track Court (Magisterial Level), Dharmapuri against the respondent under Section 138 of Negotiable Instruments Act for non payment of Rs.3,00,000/-, towards the dishonoured cheque. He further submitted that, the Trial Court, vide judgment dated 26.02.2021, convicted the respondent and sentenced him to undergo four months simple imprisonment and to pay the cheque amount, as compensation to the petitioner, within a period of 2 months, in default, to undergo one month simple imprisonment. As against the judgment of conviction and sentence passed by the Trial Court, the respondent preferred an appeal in Crl.A.No.10/2021 and the same was allowed by the learned Additional District and Sessions Judge, Dharmapuri, vide judgment dated 12.11.2021 and the respondent was acquitted from all the charges leveled against the respondent under Section 138 of Negotiable Instruments Act. The learned counsel for the petitioner further submitted that, without appreciating the evidence adduced by the petitioner in proper perspective, the first appellate court has passed the impugned acquittal order and hence, leave may be granted to file Criminal Appeal.



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

4. It is seen from the records that, the Trial Court found the respondent guilty of the offence punishable under Section 138 of Negotiable Instruments Act and convicted and sentenced him as stated above. However, the first Appellate Court has taken a different stand and has acquitted the respondent from the charge under Section 138 of Negotiable Instruments Act. Therefore, prima facie, there is a cause for re-appreciating the evidence both on facts and law. As such, this court is inclined to grant leave to the petitioner.

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

04.01.2023

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