



WEB COPY



Crl O.P.No.23374 of 2022 in Crl.A.Sr.No.45502 of 2022

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V.SIVAGNANAM,J.

This petition is filed to grant leave to file Criminal Appeal against the acquittal order passed by the learned Judicial Magistrate (FTC), Ambattur in S.T.C.No.190 of 2021.

2. The learned counsel for the petitioner contended that the complainant/petitioner filed a private complaint against the respondent/accused for the offence punishable under Section 138 of Negotiable Instruments Act for dishonour of cheque dated 15.05.2021 for a sum of Rs.10,00,000/- issued by him. He further submitted that, the Trial Court, vide judgment dated 05.09.2022, acquitted the respondent without considering the evidence of the complainant and its documents. In this case, the accused admitted his signature in the cheque and he had not let any evidence. In these circumstances, the finding of the trial Court is legally unsustainable hence, leave may be granted to file Criminal Appeal.

3. Heard the learned counsel for the petitioner and I have



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perused the materials on record.

4. On perusal of the records, the fact reveals that the petitioner/complainant filed a complaint against the respondent/accused for the dishonoured cheque bearing No.311096, dated 15.05.2021 [Ex.P1] given for discharging his hand loan of Rs.10,00,000/-. When the cheque was presented for collection, it was returned with an endorsement as “Insufficient Fund”. Therefore, after causing statutory notice, criminal complaint has been filed. The said complaint was taken cognizance by the learned Judicial Magistrate (FTC), Ambattur and assigned S.T.C.No.190 of 2021. The Trial Court after considering the evidence and appraising in paragraph 21 of its judgment that the complainant failed to let sufficient evidence for the lending of loan of Rs.10,00,000/- to the accused, hence Section 138 of Negotiable Instruments Act will not made out. The presumption under Section 139 of N.I.Act will not help to prove that the complainant paid Rs.10,00,000/- to the accused. Therefore, the finding of the trial Court is factually correct. I find no infirmity or illegality in the acquittal order passed by the trial Court and there is no



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prima facie case either the fact or law, hence this court is not inclined to grant leave to the petitioner.

5. Accordingly, this Criminal Original petition is dismissed.

09.01.2023

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V.SIVAGNANAM,J.



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