



WEB COPY



Crl.O.P.No.27032 of 2022 in Crl.A.Sr.No.51641 of 2022

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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 26.08.2022 passed in S.T.C.No.77 of 2019 by the learned Judicial Magistrate Court, Udhagamandalam.

2. The learned counsel for the petitioner submitted that the petitioner filed a private complaint in S.T.C.No.77 of 2019 before the learned Judicial Magistrate Court, Udhagamandalam against the respondent under Section 138 of Negotiable Instruments Act for dishonouring of the cheque issued by the respondent for a sum of Rs.6,00,000/-. He further submitted that the Trial Court vide its judgment dated 26.08.2022, acquitted the respondent / accused under Section 138 of Negotiable Instruments Act, on the ground that the complainant was absent and dismissed the private complaint filed by the petitioner. There is a prima facie case that has been made out against the accused on factual and legal ground but, the trial Court without



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considering the petition in proper perspective, has passed the impugned acquittal order. Hence the petitioner seeks leave of this Court to file a Criminal Appeal against the dismissal order.

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 has acquitted the respondent from the charge under Section 138 of Negotiable Instruments Act. Since the private complaint has been dismissed by the Trial Court for non appearance of the petitioner without any merit, this court is inclined to grant leave to the petitioner to file a Criminal Appeal.

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.

31.01.2023

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