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Crl.O.P.No.25049 of 2023

Crl.O.P.No.25049 of 2023
in
Crl.A.SR.No.49512 of 2023

M. NIRMAL KUMAR, J.

This petition is filed seeking to grant leave to the petitioner to file the above criminal appeal against the order of acquittal dated 01.08.2023 passed by the learned III Additional Sessions Judge, Chennai in Crl.A.No.10 of 2023 reversing the order of conviction dated 22.12.2022 in C.C.No.3941 of 2015 on the file of learned Metropolitan Magistrate, Fast Track Court-I, Egmore @ Allikulam, Chennai.

2. The petitioner/complainant filed a private complaint under Section 138 of the Negotiable Instruments Act against the respondent in C.C.No.3941 of 2015 for dishonour of the cheque for Rs.9,00,000/-. The Trial Court, by judgment dated 22.12.2022, convicted the respondent and sentenced him to undergo two years simple imprisonment. Aggrieved against the same, the respondent filed an appeal in C.A.No.10 of 2023 before the learned III Additional Sessions Judge, Chennai. The learned Sessions Judge by judgment dated 01.08.2023, allowed the appeal setting aside the conviction and sentence passed by the trial Court, against which, the present appeal.



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3. The contention of the petitioner is that the trial Court, finding that the respondent could not produce any material to disprove the presumption, further, he has not disputed the issuance of cheque as well as signature found in the cheque and he was taking a stand expressing himself to the guilt, had convicted the respondent. On the contrary, the Lower Appellate Court, finding reason that the respondent cross examined himself and gave explanation, acquitted the respondent, which is contra to the evidence available in the case.

4. Finding that there are two contra decisions, one is conviction of the accused by the Trial Court and the other is acquittal of the accused by the Lower Appellate Court, this Court is inclined to grant leave. Accordingly, leave is granted.

06.11.2023

Note: Registry is directed to number the Criminal Appeal, if it is otherwise in order.
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