



WEB COPY



Crl.O.P.No.24553 of 2023

Crl.O.P.No.24553 of 2023
in
Crl.A.SR.No.53257 of 2023

M. NIRMAL KUMAR, J.

This petition is filed seeking to grant special leave to the petitioner to file an appeal against the impugned order of acquittal dated 12.09.2023 in C.C.No.1745 of 2017 on the file of the learned XIX Metropolitan Magistrate at 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.1745 of 2017. The Trial Court by judgment dated 12.09.2023, dismissed the complaint and acquitted the respondent/accused, against which, the present appeal.

3. The contention of the petitioner is that even in paragraph 3 of the complaint, the petitioner mentioned about the complaint lodged against the respondent before M3 Puzhal Police Station on 16.07.2015 and during the enquiry the petitioner/complainant and the respondent/accused independently came to an understanding. Thereafter, the respondent agreed to settle the loan in two stages and issued two post dated cheques, viz., dated 17.10.2015 for Rs.3,00,000/- and dated 17.04.2016 for Rs.13,00,000/-. Thereafter, the



complaint was closed as no further action is required on the complaint. This fact has been cross examined by the respondent. Except for the suggestion that the cheques were obtained in police station by threat and duress, no other materials could be produced by the respondent.

4. Further submitted that the respondent was served with the statutory notice/Ex.P3. This notice was returned as unclaimed. The returned cover marked as Ex.P4. Further, the respondent not stated anything at the initial questioning under Section 251 Cr.P.C. or under Section 313 Cr.P.C. about the reason for handing over of the cheques. During the cross examination, the petitioner answered for the same. Further, the respondent examined himself as DW1 and he was cross examined specifically in this aspect. The respondent had no answer but reiterated the fact that the cheques were issued in the police station. This being so, the Trial Court not considering all these aspects, at page 20 of the judgment dated 12.09.2023, had given a finding that the cheques were obtained by threat and duress in the police station and for this reason dismissed the complaint and acquitted the accused, which is not proper.



CrI.O.P.No.24553 of 2023

5. Finding reason and force in the petitioner's submission, this Court is

inclined to grant leave. Accordingly, leave is granted.

31.10.2023

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

rsi



WEB COPY



Crl.O.P.No.24553 of 2023

M. NIRMAL KUMAR, J.

rsi

Crl.O.P.No.24553 of 2023
in
Crl.A.SR.No.53257 of 2023

31.10.2023