



WEB COPY



Crl.O.P.No.25010 of 2023

Crl.O.P.No.25010 of 2023
in
Crl.A.SR.No.53937 of 2023

M. NIRMAL KUMAR, J.

This petition is filed seeking to grant special leave to the petitioner to file an appeal against the order of acquittal dated 11.09.2023 passed in STC No.141 of 2020 on the file of Judicial Magistrate, Kangeyam.

2. The petitioner/complainant filed a private complaint under Section 138 of the Negotiable Instruments Act against the respondent in S.T.C. No.141 of 2020. The Trial Court, by judgment dated 11.09.2023, dismissed the complaint and acquitted the respondent, against which, the present leave has been filed.

3. The contention of the learned counsel for petitioner is that the petitioner examined as PW1 and marked four exhibits. The respondent examined herself as DW1 but no documents marked. The further contention of the petitioner is that the petitioner had given loan of Rs.7,00,000/- to the respondent. In discharge of the said liability, the cheque has been issued, which got dishonoured. Hence, after following the statutory provisions, the petitioner filed the private complaint. The respondent while examining the petitioner



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projected the case as though the cheque, which was given to one Mani while mortgaging the property, was landed in the petitioner's hand. Further, another defence is that the respondent's husband Sivaraj had taken loan from the petitioner, at that time, the cheque was taken from the respondent, which has been filled up and a case has been proceeded. He further submitted that contrary to the case, DW1 in her evidence deposed about the said Mani's transaction alone and had suppressed the fact of her husband taking loan and repayment. Further the issuance of cheque and the signature in the cheque are not disputed. The trial Court had given different interpretation and stated that the petitioner has not proved that he has got means to give loan of Rs.7,00,000/-. The contra stand taken by the respondent would expose hollowness in the respondent's defence as well as statutory presumption starting against the respondent, which has not been dislodged.

4. Finding reason and force in the petitioner's submission, 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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