



WEB COPY



Crl.O.P.No.25381 of 2023

Crl.O.P.No.25381 of 2023
in
Crl.A.SR.No.54800 of 2023

M. NIRMAL KUMAR, J.

This petition has been filed seeking to grant special leave to the petitioner to prosecute the above criminal appeal.

2.The petitioner as complainant has filed a private complaint under Section 138 of the Negotiable Instruments Act against the respondent in C.C.No.105 of 2018.

3.The contention of the petitioner is that the respondent borrowed a sum of Rs.15,00,000/- on 09.06.2016 for interest from the petitioner. The petitioner was employed in Saudi Arabia from the year 1993 to 2011, almost for nine years and he purchased some gold jewels and also made some savings. This savings amount has been given to the respondent as loan for the reason that this loan would make some earnings for the petitioner. The petitioner also conducted a chit for a short period till the year 2014. Since he was unable to continue with the chit, he discontinued the same. The respondent does not deny the execution of cheque/Ex.P2 and pro-note/Ex.P7 but takes a defence that cheque and pro-note were given as security when the respondent joined the chit conducted by



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the petitioner and he also examined defence witnesses and marked Exs.D1 to D13. The Trial Court failed to consider the admission of the respondent also the issuance of cheque, his signature and the pro-note. The Trial Court also failed to consider that the respondent is an advocate, who is well versed in law. Prior to the issuance of statutory notice, the respondent has not sent any letter calling for the alleged security cheque and pro-note, more so, the respondent is an Advocate. The Lower Court observed that the petitioner brought Rs.15,00,000/- as Saudi Riyal and converted the same into indian currency through the Airport agency and handed over the same to the respondent but not aware about the denomination and the date of exchange is not proper and create doubt. This finding of the Lower Court is not proper for the reason that the petitioner was employed for a period of nine years and over the period this amount had been saved.

4.Finding reason and force in the petitioner's submission, this Court is inclined to grant leave. Accordingly, leave is granted.

21.11.2023

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