



WEB COPY



Crl.O.P.No.27848 of 2023

Crl.O.P.No.27848 of 2023
in
Crl.A.SR.No.55053 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 respondents in S.T.C.No.10 of 2019. The Trial Court, by judgment dated 23.08.2023 dismissed the complaint and acquitted the respondents, against which, the present leave petition.

3.The primary contention of the petitioner is that the Lower Court gave its own finding that Ex.P1 is the agreement dated 03.11.2017 entered between the petitioner and the respondent, wherein the petitioner agreed to pay the cheque amount. The cheque in this case marked as Ex.P2, which is dated 10.11.2018. In this case, the respondent not denied the signature or issuance of cheque but takes a defence that the amount has been paid to one Malli Arjun in discharge of liability. But the said Malli Arjun has not been examined as



WEB COPY



Crl.O.P.No.27848 of 2023

M. NIRMAL KUMAR, J.

rsi

witness. Further, referring to page 19 of the Lower Court judgment submits that the Lower Court had invoked Section 18 of the Limitation Act finding that the loan is three years prior and hit by limitation. When the agreement itself is dated 03.11.2017, invoking Section 18 of the Act would not be proper.

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

18.12.2023

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

Crl.O.P.No.27848 of 2023
in
Crl.A.SR.No.55053 of 2023