



WEB COPY



Crl.O.P.No.25578 of 2023

Crl.O.P.No.25578 of 2023
in
Crl.A.SR.No.54671 of 2023

M. NIRMAL KUMAR, J.

This petition has been filed seeking to grant special leave to the petitioner to prefer 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 STC No.07 of 2016. The Trial Court by judgment dated 01.09.2023, dismissed the complaint, acquitted the respondent, against which the present appeal.

3.The Trial Court in the judgment observed that the defence taken by the respondent/accused that blank cheque, which was given as security has been misused, is not acceptable. Likewise with regard to the service of notice, the Trial Court held that as per Section 118 and 139 of the Negotiable Instruments Act, the presumption is in favour of the petitioner/complainant. Further the defence raised by the respondent was found to be vague and also the respondent had no basis or support to make such claim. The Trial Court on all these points came to the conclusion in favour of the petitioner/complainant. The only ground on which the complaint has been dismissed is that instead of filing the



WEB COPY



CrI.O.P.No.25578 of 2023

M. NIRMAL KUMAR, J.

rsi

complaint against the company, the petitioner filed a case only against the accused in its individual capacity, hence the complaint was dismissed.

4.The learned counsel for petitioner referring to the cross examination of the respondent submitted that the respondent's case itself is that M/s.VTJ Sea Foods is a proprietary concern, thus admitted facts need not be proved. In such circumstances, the Trial Court giving a finding that company has not been arrayed is not proper.

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

27.11.2023

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

CrI.O.P.No.25578 of 2023
in
CrI.A.SR.No.54671 of 2023