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Crl.O.P.No.26400 of 2023

**Crl.O.P.No.26400 of 2023**  
**in**  
**Crl.A.SR.No.57283 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 filed a private complaint under Section 138 of the Negotiable Instruments Act against the respondent in STC No.977 of 2018. The Trial Court by judgment dated 07.10.2022, convicted the respondent and sentenced him to undergo six months simple imprisonment and directed to pay double the cheque amount of Rs.12,00,000/- as compensation to the petitioner, against which, the respondent preferred an appeal in C.A.No.13 of 2022. The Lower Appellate Court by judgment dated 26.07.2023 allowed the appeal and acquitted the respondent. The primary ground on which the Lower Appellate Court allowed the appeal is that the petitioner not proved his means of source to extend Rs.6,00,000/- as loan to the respondent. This fact has been clearly proved by the evidence of petitioner in the Trial Court. DW1 in his evidence admitted that he issued the cheque and also not denied his signature. Further, he had not brought any evidence to probabalise his defence that



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liability to the cheque had been discharged.

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rsi

3.Finding that there are contra judgments, one convicting the accused and another acquitting the accused, 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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