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Crl.O.P.No.26983 of 2023

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in
Crl.A.SR.No.57463 of 2023

M. NIRMAL KUMAR, J.

This petition has been filed seeking to grant special leave to the petitioner to file 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.4688 of 2016. The Trial Court by judgment dated 15.09.2023 dismissed the complaint and acquitted the respondent, against which, the present leave petition.

3.The contention of the petitioner is that the respondent had taken a loan from the petitioner in the year, 2015. In discharge of the said liability, he issued a cheque. When the same was presented, it got dishonoured, thereafter, statutory notice issued, reply notice sent by the respondent and thereafter following statutory provisions, complaint has been filed. The petitioner examined himself as PW1 and through him six documents marked as Exs.P1 to P6. The respondent examined himself as DW1 and marked Ex.D1. The respondent had taken a stand that cheque was issued in the year 2009, from



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thereon, the respondent had been regularly taking loan, repaying the same to the petitioner. One such cheque, which was earlier given as security is now filled up, misused and a case has been launched. In support of his contention, he refers to Ex.D1/Account book of petitioner's finance company. The petitioner's explanation is that this Ex.D1 pertains to the transaction in the year, 2013. As regards the year, 2015, it was a separate transaction and it has got nothing to do with the present case. The Trial Court on a wrong notion gave a finding that Ex.D1 is connected to the cheque in dispute. Further in the evidence of DW1 there was no reference about the date, time, place and how the loan has been repaid. No particulars have been given except giving oral explanation.

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

13.12.2023

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

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