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Crl.O.P.No.557 of 2023
in
Crl.A.Sr.No.63171 of 2022

V.SIVAGNANAM,J.

This petition has been filed to grant leave to the petitioner/appellant to file an appeal against the judgment dated 07.09.2022 made in S.T.C.No.366 of 2021 by the learned Judicial Magistrate-II, Chidambaram.

2. The learned counsel for the petitioner submitted that, the petitioner/complainant filed a private complaint in S.T.C.No.366 of 2021 before the learned Judicial Magistrate-II, Chidambaram, against the respondent/accused under Section 138 of Negotiable Instruments Act for dishonour of cheque dated 30.11.2020 for Rs.3,00,000/- issued by him. He further submitted that, the Trial Court, vide judgment dated 07.09.2022, acquitted the respondent on the ground that the alleged debt, for which, the disputed cheque has been given is barred by limitation. The finding of the trial Court is legally unsustainable hence, leave may be granted to file Criminal Appeal.

3. Heard the learned counsel for the petitioner and I have perused the materials on record.

4. On perusal of the records, the fact reveals that the petitioner/complainant

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filed a complaint against the respondent/accused based upon the dishonoured cheque dated 30.11.2020 bearing No.000004 drawn on HDFC Bank by the accused for discharge of debt of Rs.3,00,000/-received by him in the year 2016. The Trial Court in paragraph 21 of its judgment observed that the alleged debt was barred by limitation, hence under Section 138 of Negotiable Instruments Act will not made out and the accused cannot be convicted. In this circumstance, *prima facie*, there is a case for re-appreciating the evidence both on facts and law. As such, this court is inclined to grant leave to the petitioner.

5. Accordingly, this Criminal Original petition is allowed, granting leave to the petitioner to file the Criminal Appeal. Registry is directed to number the Criminal Appeal, if it is otherwise in order.

11.01.2023

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