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CrI.O.P.No.28103 of 2023
in CrI.A.SR.No.61398 of 2023

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M.NIRMAL KUMAR, J.

The petitioners as legal heir of one Sheikh Ansar, the original complainant who filed a private complaint under Section 138 of Negotiable Instruments Act in C.C.No.132 of 2019. The Trial Court by judgment dated 26.08.2023 dismissed the complaint and acquitted the respondent. Against which, the petitioners filed the present petition seeking leave to file an appeal.

2.The contention of the petitioners is that issuance of cheque and the signature in the cheque has not been denied by the respondent. In view of the same, statutory presumption under Sections 118 and 139 of Negotiable Instruments Act starred against the respondent. The respondent has not discharged his liability or probabailized any defence. It is seen that Ex.P7 is the Police complaint lodged by the petitioners against the respondent for cheating, thereafter cheque/Ex.P1 was issued. The defence taken by the



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respondent is that cheque was issued much earlier and it lost its relevance, for which purpose he examined the Bank Officials P.W.2 and P.W.3. The respondent was cross examined in detail and he questioned the employment procedure in Electricity Department, payment of money to the Minister in getting employment and other aspects. He had not denied about issuance of cheque which was given in discharge of any liability. Nowhere in the cross examination, it has been probalilized that the liability to the cheque has been discharged. The Trial Court on its own found that the money was received by the respondent for getting job without following the procedures and hence, paying money for getting job is not proper and it cannot be termed as legally enforceable debt. Hence, dismissed the complaint.

3.The contention of the learned counsel for the petitioner sis that the finding of the Trial Court is improper. He further submit that in fact the petitioners were lured and cheated by the respondent, it is not a case that for bribing the officials money was given.



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4.Finding reason in the submission of the learned counsel for the petitioners, this Court is inclined to grant leave. Accordingly, leave granted.

5.The Registry is directed to number the appeal and post for admission, if it is otherwise in order.

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