



Crl.O.P.No.28055 of 2023 in Crl.A.SR.No.60558 of 2023

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M.NIRMAL KUMAR., J.

The petitioner as a complainant filed a private complaint against the respondent/accused for offence under Section 138 of the Negotiable Instruments Act, 1881 in C.C.No.338 of 2018 before the learned Judicial Magistrate, Fast Track Court, Ambattur (trial Court). The trial Court by judgment, dated 31.10.2023 dismissed the complaint acquitting the respondent from the case. Challenging the same, the present Criminal Revision Case and leave grant petition.

2.The contention of the petitioner is that the petitioner paid Rs.5,00,000/- to the respondent by way of two transactions of Rs.2,50,000/- each. One is made through Indian Bank and another one is through the Tamil Nadu Mercantile Bank which was not denied by the respondent. The respondent stated that this amount had been paid in the name of Pramali Promoters Private Limited. His further defence is that M/s.Arasi Builders received the amount but M/s.Arasi Builders has not been arrayed as accused. Since M/s.Arasi Builders is a Proprietary concerned, the Proprietor alone can be proceeded with. Further, the cheque has been issued by the respondent in



his individual capacity. It is the further case of the respondent that a badminton academy in the name of K.V.S Badminton Academy proposed to be run by the petitioner and the respondent, for which, the cheque has been given as security, which was misused. Further, the petitioner questioned the bank statements, Income Tax Return and other relevant documents which was not considered by the trial Court. On the other hand, the trial Court relied upon the evidence of DW1 and DW2 and defence Exs.D1 to D12 and acquitted the respondent.

3.The respondent having accepted the receipt of the amount of Rs.5,00,000/- in the name of M/s.Arasi Builders, had not given any proof for discharge of the same which the trial Court failed to consider.

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



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18.12.2023

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