



Crl.O.P.(MD)No.3415 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 20.03.2023

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.3415 of 2023
in
Crl.A(MD)No.SR 33791 of 2022

N.Ramasamy

... Petitioner

Vs.

K.Jeyalakshmi

... Respondent

PRAYER in Crl.O.P.(MD)No.3415 of 2023 : Criminal Original Petition filed under Section 378(4) of Criminal Procedure Code, to grant special leave to file an appeal against the judgment of acquittal as against the respondent, dated 16.10.2020 passed by the learned Judicial Magistrate/Fast Tract Court, Nagercoil in S.T.C.No.454 of 2018.

PRAYER in Crl.A.(MD)No.SR33791 of 2022 : Criminal Appeal filed under Section 378 of Criminal Procedure Code, to call for the records and to set aside the judgment and acquittal order in S.T.C.No.454 of 2018, dated 16.10.2020 passed by the learned Judicial Magistrate/Fast Tract Court, Nagercoil.



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For Petitioner : Mr.PR.Ramesh Raja

For Respondent : Mr.K.P.Narayana Kumar

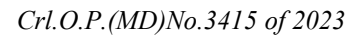
ORDER

The Criminal Original Petition has been filed seeking Leave of this Court to prefer an appeal, challenging the judgment passed in S.T.C.No.454 of 2018 on the file of the learned Judicial Magistrate/Fast Track Court, Nagercoil, in acquitting the second accused.

2. The petitioner/complainant has filed a private complaint under Section 200 Cr.P.C., against two persons, including the respondent herein for the alleged offence under Sections 138 r/w 142 of Negotiable Instruments Act.

3. The learned Magistrate, after conducting trial has passed the impugned judgment on 16.10.2020, acquitting the second accused and convicting the first accused for the offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo 6 months Simple Imprisonment and to pay compensation of Rs.5,00,000/- under Section 357(3) Cr.P.C.

4. It is not in dispute that the first accused has already preferred an appeal, challenging the conviction and the same is pending before the



5. The main ground assigned by the learned Judicial Magistrate for finding the complainant is that the account in which, the cheque was issued is separate account of the first accused and it is not the joint account as alleged by the complainant and that though both the accused have subscribed their signatures to the cheque in dispute, the account was belonging to the first accused.

6. The learned counsel for the petitioner would admit that both the accused have represented that it is the joint account and issued the cheque by subscribing their signatures and that therefore, the offence under Section 420 get attracted.

7. In the case on hand, the learned Magistrate has taken cognizance only for the offence under Section 138 of Negotiable Instruments Act. Since the bank account was not the joint account of both the accused, the Court has rightly acquitted the respondent herein.



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8. Considering the above, the acquittal of the respondent/second accused cannot be found fault with and as such, the question of granting leave to prefer the appeal does not arise at all. Hence, this Court is not inclined to allow this petition.

9. In the result, the Criminal Original Petition is dismissed. Consequently, Criminal Appeal is rejected at the SR stage of itself.

20.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
das

To

1.The Judicial Magistrate/Fast Tract Court,
Nagercoil.

2.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.3415 of 2023

K.MURALI SHANKAR,J.

das

order made in
Crl.O.P.(MD)No.3415 of 2023
in
Crl.A(MD)No.SR 33791 of 2022

Dated: 20.03.2023