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Crl.O.P.(MD)No.3812 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.3812 of 2023
in Crl.A.(MD) SR. No.45472 of 2022
and
Crl.A.(MD) SR. No.45472 of 2022

S.Manikanda Kumar

... Petitioner/Appellant

vs.

1.P.Jayasingh

2.R.Ananthraj

... Respondents/Respondents

PRAYER in Crl.O.P.(MD)No.3812 of 2023 : Criminal Original Petition filed under Section 378(4) Cr.P.C, to grant special leave permitting the petitioner to prefer appeal against the Judgment of acquittal passed in S.T.C.No.51 of 2016 on the file of the Judicial Magistrate No.I, Padmanabhapuram dated 29.09.2022.

PRAYER in Crl.A.(MD) SR. No.45472 of 2022 : Criminal Appeal filed under Section 378(3) Cr.P.C., to call for the records and allow this appeal and set side the judgment of acquittal passed in S.T.C.No.51 of 2016 on the file of the Judicial Magistrate No.I, Padmanabhapuram dated 29.09.2022.



Crl.O.P.(MD)No.3812 of 2023

For Petitioner/Appellant : Mr.C.K.M.Appaji
in both cases

For Respondents in both : Mr.M.P.Senthil
cases

COMMON ORDER

This criminal original petition has been filed seeking special leave to prefer an appeal challenging the Judgment of acquittal passed in S.T.C.No.51 of 2016, dated 29.09.2022, on the file of the Judicial Magistrate No.1, Padmanabhapuram.

2. The main reason for dismissal of the complaint as against the petitioner/appellant is that the bank account was belonging to the second respondent/second accused, but signature has been taken from the first respondent/first accused.

3. The learned Judicial Magistrate, by specifically observing that since the cheque was not issued from the bank account maintained by the first respondent, that the petitioner has not shown that the second respondent has obtained any loan from him and that the petitioner has not proved the joint liability of the respondents 1 and 2, has passed the impugned order acquitting the accused.



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4. The learned counsel appearing for the petitioner would submit that that the petitioner may be given liberty to file a private complaint under Sections 406 and 420 IPC, for which, he has also filed an application in Crl.M.P.No.3035 of 2022 and the learned Magistrate by observing that there is no bar for the petitioner to take action for the said offences independently, has dismissed the petition.

5. Considering the above facts and circumstances, this Court is not inclined to grant special leave to the petitioner to file an appeal and liberty to the petitioner.

6. In the result, this criminal original petition is dismissed. Consequently, Crl.A.(MD)SR.No.45472 of 2022 is rejected at SR stage itself.

30.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR, J.

csn

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