



Crl.O.P.No.4711 of 2024 in Crl.A.SR.No.882 of 2024

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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.145 of 2019 before the learned District Munsif-cum-Judicial Magistrate, Thirukazhukundram (Trial Court). The Trial Court *vide* judgment, dated 26.10.2023 dismissed the same acquitting the respondent. Challenging the same, the present criminal revision case and the leave grant petition.

2.The learned counsel for the petitioner submitted that the respondent along with her husband took a loan from the petitioner for development of business. In discharge of the said liability, the cheque for Rs.8 lakhs issued. When the cheque presented for encashment, the same got dishonoured, thereafter, following the statutory conditions, the complaint lodged before the Trial Court. The defence taken by the respondent is that the petitioner is a total stranger to the respondent and sent reply notice (Ex.P5), but on the contrary, during cross examination, the respondent states that the cheque was issued to one R.V.Kumar, but the respondent not examined the said



R.V.Kumar as witness on the side of the defence. Further, the respondent not disputed signature, hence, the presumption under Section 139 of the Negotiable Instruments Act, 1881 comes into play. Despite the respondent not probablized her defence with tangeable materials, the trial Court on its own notion came to the conclusion that what is the loan amount, what is the interest rate and the interest rate is also found to be higher side and dismissed the complaint which is not proper. Added to it, the respondent not stated what is the loan amount and how much amount repaid and what is the interest rate. Thus, the Trial Court on its wrong appreciation, dismissed the complaint.

3.Finding reason and force in the submissions made by the learned counsel for the petitioner, this Court is inclined to grant leave. Accordingly, leave is granted.

01.03.2024

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Note: Registry is directed to number the Criminal Appeal, if it is otherwise in order and the post the same for Admission.



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