



WEB COPY



Crl.O.P.No.4421 of 2024  
in Crl.A.SR.No.2635 of 2024

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**in**

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**M.NIRMAL KUMAR, J.**

The petitioner as complainant had lodged a complaint against the respondent for offence under Section 138 of the Negotiable Instruments Act in S.T.C.No.510 of 2019. The trial Court, by judgment dated 12.09.2023, dismissed the same, against which, the present leave petition and appeal.

2.The contention of the learned counsel for petitioner is that during trial the petitioner examined himself as PW1 and marked 12 documents. On the side of the defence Ex.D1/Sale Agreement dated 11.07.2018 entered between the petitioner and wife of the accused marked. The trial Court finding is that the petitioner has not produced invoices to prove that as on 01.04.2018, a sum of Rs.12,11,670/- was due by the respondent to the petitioner. Further the trial Court admitted with regard to the business transaction and due for the petitioner for Rs.30,00,000/-. With regard to



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Rs.12,00,000/- due it gives different finding that when the due of Rs.12,00,000/- not cleared, subsequent business transaction might not be possible. Further, in 313 Cr.P.C. questioning, had given an answer that the respondent had taken only a loan of Rs.9,00,000/-, for which, he had given a house property as security. The additional security cheque at that time has been filled by the petitioner.

3.The learned counsel for petitioner submitted that the discharge of Rs.9,00,000/- not proved either by examining any evidence or by producing any documents. In view of the same, the trial Court's finding that the cheque/Ex.P1 is without liability, is not proper.

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

13.03.2024

rsi

Note: Registry is directed to number the appeal,  
if it is otherwise in order.



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