



Crl.O.P.No.1357 of 2024

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WEB C **M.NIRMAL KUMAR, J.**

This petition has been filed seeking to grant special leave to the petitioner to file an appeal against the judgment of acquittal dated 18.09.2019 made in S.T.C.No.1464 of 2018 on the file of learned Judicial Magistrate, Perambalur.

2.The petitioner as complainant had filed a private complaint under Section 138 of the Negotiable Instruments Act in S.T.C.No.1464 of 2018. The Trial Court, by judgment dated 18.09.2019, dismissed the complaint, acquitted the respondent/accused, against which, the present appeal has been filed.

3.The contention of the petitioner is that the petitioner/complainant is a Chit Fund Company and its Legal Manager was duly authorised by the Power of Attorney and Board Resolution/Ex.P2. Ex.P1 is the Incorporation Certificate of the company and notarized one. The Trial Court found that Ex.P1 is photostat copy, hence cannot be considered. The Trial Court failed to consider that the petitioner is a Chit Fund Company and they are filing several cases in various Courts and in chit cases only notarized copy has been



filed. Further while marking Ex.P1, there was no objection from the respondent. In such circumstances, the Trial Court giving such findings is not proper.

4.Further, he referred to the reply notice of the respondent, which was marked as Ex.P7. In the reply notice, the respondent had admitted that he is the subscriber to the chit group in Ticket No.PY92401-16 for chit amount of Rs.25,00,000/-. He also admitted that he was a successful bidder for the chit auction held on 19.08.2013 and thereafter, he had issued signed blank cheque and received the chit amount. For the default of the chit amount, the above case has been filed. In the reply notice, he further admitted about the default in payment, initiation of arbitration and other perks. In such circumstances, the Trial Court finding that the accused had admitted his liability but only takes a defence that the amount of Rs.8,99,249/- filled by the petitioner-company, is against Section 20 of the Negotiable Instruments Act. Further, the respondent had not produced any iota of evidence to show that he has discharged his liability. The Trial Court invoking Section 106 of the Evidence Act and also questioning the financial capacity of the petitioner-company is unwarranted.



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5.Finding reason and force in the petitioner's submission, this Court is

inclined to grant leave. Accordingly, leave is granted.

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