



WEB COPY



Crl.O.P.No.2527 of 2024  
in Crl.A.Sr.No.2794 of 2024

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**M.NIRMAL KUMAR, J.**

The petitioner as complainant filed a private complaint against the respondent for the offence under Section 138 of Negotiable Instruments Act in STC.No.74 of 2023(Old STC.No.332/2020). The Trial Court by judgment dated 12.12.2023 dismissed the complaint and acquitted the respondent. Against which, the petitioner filed the present petition seeking leave to file an appeal.

2.The case of the petitioner is that the petitioner and the respondent herein were relatives and the respondent is running a shop in the name of JVS Paper Mart. For developing the said shop, the respondent sought for a hand loan of Rs.5,00,000/- from the petitioner. The petitioner had lend the said amount of Rs.5,00,000/- to the respondent and the respondent had promised to return the said money within a period of 6 months. Later, when the petitioner approached the respondent for return of the money, the respondent gave post



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dated cheque to the petitioner, which when presented before the bank was returned as 'funds insufficient'.

3.The contention of the learned counsel for the petitioner is that the respondent had not denied the cheque issued by him or the signature found in the cheque, his only contention is that the cheque has been given as security for the loan taken by DW1 Soundararajan. DW1 Soundararajan in his evidence has stated that he has not taken any loan and has not issued any cheque. In such circumstances, the defense taken by the respondent is demolished.

4.The trial Court has dismissed the complaint on the ground that this check has been given in some other transaction, which is not the case of the petitioner nor the respondent. In view of the same, the Judgment of the trial Court has to be reconsidered. Hence, this Court is inclined to grant leave. Accordingly, leave granted.



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5.The Registry is directed to number the appeal and post for admission,  
if it is otherwise in order.

Tsg

**15.02.2024**



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