



WEB COPY



Crl.O.P.Nos.1660 & 1663 of 2024
in Crl.A.Nos.63 & 64 of 2024

Crl.O.P.Nos.1660 and 1663 of 2024
in
Crl.A.Nos.63 and 64 of 2024

M.NIRMAL KUMAR, J.

Since the petitioner and the respondent are one and the same, both the petitions are taken up together and a common order is passed.

2.The petitioner as complainant filed a private complaint against the respondent under Section 138 of Negotiable Instruments Act in S.T.C.No.125 of 2021 and S.T.C.No.144 of 2022 before the learned Judicial Magistrate, Fast Track Court at Magistrate Level, Tiruvallur. The Trial Court dismissed both the complaints by order dated 21.11.2023 and acquitted the respondent/accused. Against which the present petitions and appeals filed.

3.The learned counsel for the petitioner submits that in S.T.C.No.125 of 2021, the cheque amount is Rs.1,50,000/-. The Trial Court dismissed the



CrI.O.P.Nos.1660 & 1663 of 2024
in CrI.A.Nos.63 & 64 of 2024

petition finding that the petitioner who examined herself as P.W.1 during cross examination deposed that the amount was borrowed by the respondent in the year 2014, in such circumstances, the debt becomes time barred which is not correct. The specific case of the petitioner is that the loan was availed by the respondent on 13.01.2016, statutory notice issued which was received by the respondent on 24.07.2021 and thereafter, no reply was received from the respondent. Even during the initial questioning as well as during 313 Cr.P.C. questioning, no such defence was taken. A stray passing reference has been considered by the Trial Court.

4.As regards the other complaint in S.T.C.No.144 of 2022, the total cheque amount is Rs.21,68,658/- and the Trial Court again states that it is time barred for the reason that the loan was availed on 31.01.2016 but the cheques were issued during 2022. Further, the Trial Court failed to look into the fact that the respondent by way of reply notice/Ex.P8 admitted the transaction between the petitioner and the respondent, no denied the signature, issuance of cheque and only with regard to the quantum, he raises



CrI.O.P.Nos.1660 & 1663 of 2024
in CrI.A.Nos.63 & 64 of 2024

some doubt. The respondent further states that Rs.1,10,000/- was paid by way of Google Pay which fact has not been proved by way of any documents or evidence. He further submitted that in both the cases, on the side of the accused neither any defence witness was examined nor by way of cross examination, probalilized the defence. On the other hand, the Trial Court on its own had given such a finding.

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

12.02.2024

cse



WEB COPY



Crl.O.P.Nos.1660 & 1663 of 2024
in Crl.A.Nos.63 & 64 of 2024

M.NIRMAL KUMAR, J.

cse

Crl.O.P.Nos.1660 and 1663 of 2024
in
Crl.A.Nos.63 and 64 of 2024

12.02.2024