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Crl.O.P.No.3139 of 2024
in Crl.A.SR.No.6738 of 2024

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M. NIRMAL KUMAR, J.

This petition has been filed to grant special leave to the petitioner to file an appeal against the acquittal of the respondent.

2.The petitioner as complainant had filed a private complaint against the respondent under Section 138 of the Negotiable Instruments Act in S.T.C.No.144 of 2020. The Trial Court by judgment dated 14.12.2023 dismissed the complaint acquitting the respondent, against which, the present appeal and leave petition has been filed.

3.The contention of the learned counsel for petitioner is that the respondent had projected the earlier transaction which was on the year 2016 for Rs.70,000/-, which he had repaid and during that period he issued a cheque as security and that security cheque has been filled up with date and amount in this case, though the petitioner had given a hand loan of Rs.2,50,000/-. As could be seen from the trial Court judgment in paragraph 11, wherein the trial Court had recorded that the cheque was issued in the



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year 2016 for Rs.70,000/-, which is the cheque bearing No.073207. But the cheque/Ex.P1 pertaining to the present case is bearing No.072027. Hence, the defence taken by the respondent proved to be false. Further, the other defence of the respondent is that the signature in the cheque is not of the respondent. Hence, he filed a petition under Section 45 of the Indian Evidence Act in C.M.P.No.4602 of 2023 to forward the cheque to the handwriting expert. The trial Court, by order dated 22.11.2023 dismissed the same for the reason that at the penultimate stage of the case, such plea taken by the respondent and it is for the purpose of dragging on the proceedings. Against the said order, the respondent not approached superior Courts.

4. He further submitted that yet another defence taken by the respondent is that the respondent had given police complaint on 19.09.2020 against the petitioner in Crime No.1356 of 2020. The cheque was obtained under threat and coercion. Hence, he probalised his defence is also not correct. In this case, statutory notice was issued on 12.09.2020, which was received by the respondent on 14.09.2020. He sent reply on 18.09.2020 and thereafter on 19.09.2020 to create a defence such false complaint lodged.



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



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