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Crl.O.P.No.6307 of 2024
in Crl.A.SR.No.10840 of 2024

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M.NIRMAL KUMAR, J.

This petition is filed seeking to grant special leave to prosecute the above appeal against the acquittal of the respondent.

2.The petitioner as complainant had filed a private complaint against the respondent for offence under Section 138 of the Negotiable Instruments Act in C.C.No.5445 of 2020. The trial Court, by judgment dated 27.02.2023, convicted the accused and sentenced to undergo one year simple imprisonment. Aggrieved over the same, the respondent filed an appeal in C.A.No.105 of 2023 before the learned V Additional Sessions Judge, Chennai. The learned Sessions Judge, by judgment dated 01.12.2023, allowed the appeal, acquitted the respondent, against which, the present leave petition and appeal.



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3.The contention of the learned counsel for petitioner is that the respondent, who is an Associate Professor at Sri Lakshmi Narayana Institute of Medical Sciences, Puducherry, promised that he has wide contacts and influence with the management of his college as well the other Medical Colleges in Puducherry and he would secure medical seat to the petitioner's son in NRI quota or during mopping-up for which, he received an amount of Rs.50,00,000/- and thereafter he could neither secure seat nor return money. In discharge of the liability, he issued two cheques of Rs.25,00,000/- each. The respondent had taken a stand that he is only an Associate Professor and took coaching class to the petitioner's son and further he had only contact with petitioner's brother-in-law, Ravi, who was examined as PW2 and the petitioner is not aware about any transaction, filed the complaint. Further the trial Court had given a finding that whether the petitioner has got resources to lend money and payment of money is not through bank transaction. Further



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getting Medical Seat by paying money is illegal. Hence, it cannot be construed as legally enforceable debt and dismissed the complaint.

4.The learned counsel further submitted that payment of capitation fee for NRI and during mopping up after counselling is over, is an accepted procedure, hence, PW2, her brother-in-law contacted the respondent and through him seats sought to be allotted, which cannot be stated to be illegal. The respondent not denied the issuance of cheque and signature. Further, he failed to sent any reply. He neither examined any witness nor probabilsed his defence but the trial Court on its own gave a finding, which is not proper.

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

19.03.2024

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

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