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Crl.O.P.No.4928 of 2024
in Crl.A.SR.No.8995 of 2024

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M.NIRMAL KUMAR, J.

The petitioner as complainant had filed a private complaint against the respondent for offence under Section 138 of the Negotiable Instruments Act in S.T.C.No.4322 of 2015. The trial Court, by judgment dated 11.12.2023, dismissed the complaint and acquitted the respondent, against which, the present appeal and leave petition.

2.The learned counsel for petitioner submitted that the respondent in this case is a subscriber to the Rs.10,00,000/- chit with the petitioner and he had been a successful bidder. Thereafter, he had not paid the subscription amount for the chit and in discharge of the said liability, he issued a cheque for Rs.7,26,000/-. The defence taken by the respondent is that the chit transaction pass book not produced. It is clearly answered by the petitioner that the pass book would be available with the respondent. The respondent



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not denied the issuance of cheque, signature found in the cheque. He takes a plea that one Tiruvengadam had given the respondent's address to the chit and he was the subscriber to the chit and the respondent is not liable to pay the amount but on the contrary, the cheque and signature are not denied. The trial Court in paragraph 15 of the judgment, referred to the defence of the respondent and stated that the chit pass book not produced. In the evidence, answer had been clearly given by the petitioner that the pass book is only with the subscriber, i.e. the respondent. The respondent not produced the pass book, not questioned about the chit but takes a defence about Tiruvengadam being the subscriber to the chit.

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

13.03.2024

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



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