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Crl.O.P.No.6402 of 2024
in Crl.A.SR.No.4744 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.285 of 2019. The trial Court, by judgment dated 16.11.2023, dismissed the complaint acquitting the respondent, against which, the present leave petition and appeal.

2.The primary defence taken by the respondent is that one Nandakumar had taken away several documents from the partnership firm including the cheque in this case. This cheque has been misused by the petitioner/company and filed a false complaint against the respondent. For the theft of the cheque by Nandakumar they examined DW1, Sub Inspector of Police, who stated about the CSR assigned to the complaint lodged by 4th respondent in this case against Nanda Kumar.



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3.The learned counsel further submitted that in this case A1 is the partnership firm. A2 to A6 are partners. The cheque was signed by A3 and A4. In this case, the said Nandakumar is none other than the husband of 6th respondent/Saranya. The petitioner to prove his case, produced the invoice copies. The invoice copies have been signed and received by the respondents. They have not seriously disputed the invoice copies. The trial Court relying upon the evidence of DW1, is not proper. DW1 admits that in the complaint during enquiry, Nandakumar gave an undertaking that he would settle the complainant, namely, 4th respondent and in the complaint there is no mention with regard to the number of cheques and more particularly, the cheque which is presented in this case. He further referring to the evidence of PW1/ complainant submits that 6th respondent not cross examined and putforth her defence propounded by the other respondents.



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4.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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