



WEB COPY



Crl.O.P.No.13694 of 2023
in Crl.A.Sr..No.1601 of 2023

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M. NIRMAL KUMAR, J.

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

2.The petitioner as complainant had filed a private complaint under Section 138 of the Negotiable Instruments Act in S.T.C.No.2233 of 2016. The Trial Court by judgment dated 31.10.2022 dismissed the complaint and acquitted the respondent, against which, the present appeal has been filed.

3.The learned counsel for the petitioner submitted that the petitioner was examined as PW.1 and marked Exhibits P1 to P5. On the side of the accused, two witnesses were examined as DW.1 and DW.2 and marked four documents as Exhibits D1 to D4. The grounds on which the complaint was dismissed is that the respondent had taken defence that the petitioner and the respondent were the partners of Roja Network firm and the petitioner was running business in the name of Classic Cable Network



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and they were having business dealings. The respondent was the subscriber in the Sriram Chits and he had due of Rs.2,12,500/- and made over to the petitioner to pay the amount and at that time the cheque was given as security which has been filled up for Rs.5,00,000/- and the case was projected.

4.The contention of the petitioner is that the respondent's defence is quite contrary to the reply notice. In the reply notice, he says that there is only Rs.15,000/- due and the petitioner had filled up Rs.5,00,000/-. Likewise the petitioner had clearly denied that the respondent is not a partner of Roja Network and the cheque is not in the name of Roja Network and further, it has not given in favour of Classic Cable Network. It is a private transaction, the petitioner's urgent family needs, he borrowed a loan of Rs.5,00,000/-. To discharge the said loan, the cheque has been given. The Manager (DW.2) of Sriram Chits had marked Ex.D1 to Ex.D4 and nothing in Ex.D2 to Ex.D4. There is nothing to show that the petitioner on behalf of the respondent as individual had taken any liability made any payment. The trial Court invoking Section 56 of N.I.Act dismissed the complaint, not proper.



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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.

14.03.2024

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