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Crl.O.P.No.19568 of 2024
in Crl.A.SR.No.22577 of 2024

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M.NIRMAL KUMAR, J.

The petitioner as complainant filed a private complaint against the respondent under Section 138 of Negotiable Instruments Act in C.C.No.2418 of 2020 before the learned Metropolitan Magistrate, FTC-1, Egmore @ Allikulam. The Trial Court by judgment dated 12.03.2024 dismissed the complaint and acquitted the respondent. Against which, the petitioner filed the present petition seeking leave to file an appeal.

2.During trial, the petitioner examined himself as P.W.1 and marked Ex.P1 to Ex.P6 and on the side of the defence, the respondent examined himself as D.W.1 and marked three documents.

3.The contention of the learned counsel for the petitioner is that the Trial Court finding that in Stockist Agreement, there is a clause for



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arbitration and without resorting to arbitration, filing a complaint under Section 138 of Negotiable Instruments Act is not proper. The other defence taken by the respondent is that a security cheque which was given at the time of appointment of Stockist had been filled up and Ex.P3 has been marked as though the petitioner is liable to pay Rs.6,61,000/-. In this case, the respondent not questioned Ex.P2/Statement of Account except for making a reference that in Ex.P2, there is no reference to quantity of goods, otherwise it is not seriously challenged. The respondent accepts that he had handed over the signed cheque to the petitioner and thereafter now questioning the same as though it has been filled up at the convenience of the petitioner is not proper. As per Section 20 of Negotiable Instruments Act, the authorization and mandate is given once a signed cheque has been handed over by the Drawer. In support of his contention, the learned counsel for the petitioner relied upon the decision in the case of ***Newton Engineering and Chemicals Limited and others vs. UEM India Pvt. Ltd.*** [Crl.M.C.No.5931 of 2023 & Crl.M.A.No.22290 of 2023 dated 23.11.2023].



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

4.The Registry is directed to number the appeal and post for admission, if it is otherwise in order.

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