



WEB COPY



Crl.O.P.No.21084 of 2024

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in
Crl.A.SR.No.27311 of 2024

M.NIRMAL KUMAR, J.

This petition has been filed seeking to grant special leave to appeal against the order of acquittal passed by the learned Judicial Magistrate No.III, Salem in STC.No.77 of 2016 dated 27.03.2024 and call for record from the Trial Court and set aside the acquittal order of the learned Trial Court.

2. The petitioner/complainant has filed a private complaint against the respondent in S.T.C.No.77 of 2016. During the trial, the petitioner herself examined as PW1 and Madheshwaran was examined as PW2 and marked Exs.P1 to P6. On the side of the defendant, the defendant examined as DW1 and marked Exs.D1 and D2. The Trial Court dismissed the complaint, against which the present leave appeal.

3. The contention of the petitioner is that the Trial Court has come to the conclusion that the signature found in Ex.P1 belongs to the petitioner and statutory presumption stands against the respondent. But, further goes



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on to hold that the since the respondent had examined himself as DW1, gave explanations and marked Exs.D1 and D2, therefore had probabalised the defence. Ex.D1 is the loan document for a sum of Rs.2 lakhs entered by the petitioner, respondent and respondent's wife, the petitioner has not signed any time. He is not privy. Further, Ex.D2 is an account sheet prepared by the respondent, the petitioner is not privy to the same. The petitioner is also disputed and denied the same.

4. In such circumstances, placing reliance on Exs.D1 and D2 and dismissing the complaint without considering the petitioner's evidence and documents produced, this Court finds reason and force in the petitioner's submission, this Court is inclined to grant leave. Accordingly, leave is granted.

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

05.09.2024

dhk

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