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Crl.O.P.No.15435 of 2024
in Crl.A.SR.No.27474 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 S.T.C.No.477 of 2018 before the learned Judicial Magistrate, Vedaranyam, Nagapattinam. The Trial Court by judgment dated 15.02.2024 dismissed the complaint and acquitted the respondent. Against which, the petitioner filed the present petition seeking leave to file an appeal.

2.The contention of the learned counsel for the petitioner is that the petitioner examined himself as P.W.1 and marked Ex.P1 to Ex.P4 and on the side of the defence, Ex.D1 marked. The case of the petitioner is that the petitioner and the respondent are well known to each other. On 02.07.2018, the respondent availed a loan of Rs.3,50,000/- for his urgent needs and in discharge of the same, he issued a post-dated cheque dated 04.08.2018. Thereafter, when the cheque was presented, the same got dishonoured for the reason 'Insufficient Funds', statutory notice issued which was not



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received and thereafter, complaint was filed. He would submit that the respondent not denied the issuance of cheque and the signature in the cheque, his only defence is that he availed the loan of Rs.1,50,000/- only and that amount was repaid through the account of his wife, which is marked as Ex.D1. Hence, the respondent claims that he discharged the liability which the Trial Court wrongly accepted. He further submitted that the cheque was issued for Rs.3,50,000/- and it is not his defence that the cheque was filled up and there is variance. During the questioning under Section 313 Cr.P.C., there is no explanation given as to how the cheque for Rs.3,50,000/- was with the petitioner and for what reason, Rs.1,50,000/- paid whether it is a part of principal or interest, but the Trial Court finding that the entire liability discharged, acquitted the respondent which needs re-consideration.

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



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

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