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CrI.O.P.No. 19192 of 2024
in
CrI.A.Sr.No. 27599 of 2024

M.NIRMAL KUMAR, J.

The petitioner / complainant had filed a private complaint against the respondent under Section 138 of the Negotiable Instruments Act in STC.No. 247 of 2022. The Trial Court by judgment dated 05.03.2024, dismissed the complaint against which the present petition is filed seeking leave to prosecute the appeal.

2. The petitioner and the respondent are known to each other. For the business purpose, the respondent had received a sum of Rs.4,50,000/- from the petitioner. In discharge of the liability, he had issued the cheque. The Trial Court had gone on the ground that the petitioner had given a loan of RS.4,50,000/- without any supporting documents, except the cheque is unbelievable. The petitioner had issued two notices, Ex.P4 on 04.12.2021 and Ex.P8 on 05.01.2022.



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3. Further the Ex.D1 is the plaint in O.S.No. 44 of 2021. It has been filed by the petitioner against the Arumugam, father of the 2nd respondent. When a stand taken by the respondent that the respondent had issued a cheque in discharge of father's liability and the same has been settled, Civil Suit had been withdrawn would prove that there is no liability with regard to the cheque has been discharged and the complaint is not proper. In Ex.B1, nothing has been elicited in this regard. Marking of Ex.D1 alone would not prove the cheque liability has been discharged by the respondent.

4. In view of the same, leave is granted to the petitioner to prosecute the appeal. Registry is directed to number the appeal.

12.08.2024

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