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CRL OP. 26617 of 2024
in Crl.A.Sr.No.29242 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2024

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL OP. 26617 of 2024

in Crl.A.Sr.No.29242 of 2024

RANGASAMY
S/O.K.V.KOMARASAMY, AZHAGAR NAGAR,
BHAVANI ROAD, ANTHIYUR TALUK, ERODE
DISTRICT. ESWARI (DIED)

APPELLANT(S)

Vs

A.NIRMALAROSE
W/O.NICHOLUS SAHAYARAJ, 260, NAGALLOOR PRIVY,
NAGALLOOR POST, ANTHIYUR TALUK, ERODE
DISTRICT.

RESPONDENT(S)

CRL A SR. 29242 of 2024

ESWARI (DIED)

PETITIONER(S)

Vs

A.NIRMALAROSE

APPELLANT(S)

CRL OP. 26617 of 2024

For Appellant(s):

M/S.D.RAGHU
S.ANANTH
S.DHARMADHURAI
K.THANGAM
K.PONRAJ
R.K.GOWTHAM
AFFIDAVIT OF SERVICE FILED

For Respondent(s):

COURT NOTICE - SERVICE AWAITED
PVT.NOTICE - SERVED
A.NIRMALAROSE W/O.NICHOLUS SAHAYARAJ, 260,
NAGALLOOR PRIVY, NAGALLOOR POST, ANTHIYUR
TALUK, ERODE DISTRICT.



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ORDER

Aggrieved by the acquittal of the respondent for the offences punishable under Section 138 of Negotiable Instruments Act, the petitioner/complainant has filed the present petition seeking leave to file an appeal.

2. The learned counsel for the petitioner would submit that the signature in the cheque was admitted by the respondent; that the learned Magistrate, had erroneously acquitted the respondent on the ground that the petitioner's wife (complainant) had not established her capacity to lend the cheque amount to the respondent; and that the respondent's husband had similar transactions with the complainant's husband (petitioner herein) and since there was a dispute, the complainant would not have lent a huge sum to the respondent. The learned counsel further submitted that the transactions mentioned by the learned Magistrate took place at two different times; that they are totally unconnected; that the respondent has not rebutted the statutory presumption; and that therefore, the judgment of the trial Court is liable to be set aside.

3. This Court issued notice to the respondent on 15.11.2024 and the same was served on 21.11.2024. Though, the name of the respondent is



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printed in today's cause list, none has entered appearance for the respondent.

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4. The points raised by the petitioner require consideration by this Court and hence, leave is granted to file an appeal.

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

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SUNDER MOHAN, J.

ars

To

1. M.P.SURESH

FATHER NAME NOT KNOWN, OLD NO.20, NEW NO.24,
1ST FLOOR, SCHOOL ROAD, PERAMBUR, CHENNAI-
600 011. PRESENTLY RESIDING AT NO.55/40, SCHOOL
ROAD, BRINDAVAN APARTMENT, HALF VADIVELU
THIRD CROSS, PERAMBUR, CHENNAI-600 011.

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