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CrI.O.P.No.19279 of 2024
in CrI.A.SR.No.36241 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.1324 of 2022 before the learned Judicial Magistrate, Mettupalayam. The Trial Court by judgment dated 25.04.2024 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 primary ground on which the Trial Court acquitted the respondent is that the three promissory notes for Rs.1,20,000/- each executed by the respondent on 05.12.2007 and a mortgage deed was executed on 16.02.2008 for Rs.6,00,000/-, in total Rs.9,60,000/- was availed as loan from the petitioner, for repayment of the same the respondent issued Cheques in the year 2017



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for the loan borrowed in the year 2007, any prosecution to be made within a period of three years and hence, it is a time barred debt is on a wrong presumption. The mortgage deed is dated 16.02.2008 and 04.12.2008, which was marked as Ex.P4 and Ex.P8. The limitation period for recovery is 12 years. In this case, the cheque is of the year 2017 and hence, it is within the life period of mortgage. It is not the case of the respondent that the loan amount had been discharged. Though the Trial Court prosecuted the respondent and his wife before the Trial Court, except for signature found in one of the promissory note, the respondent's wife had not signed any documents, hence acquitting her is not challenged and as regards the respondent, the grounds are different, hence the same is challenged. The Trial Court merely relied on the cheque and not on other documents and attendant circumstances.

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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