



Crl.O.P.No.20788 of 2024 in Crl.A.SR.No.41562 of 2024

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M.NIRMAL KUMAR, J.

The petitioner as complainant filed a private complaint against the respondents before the learned Judicial Magistrate No.II, Mettur, which was taken on file as C.C.No.17 of 2023. The Trial Court by judgment dated 20.06.2024 dismissed the complaint and acquitted the respondent. Against which, the petitioner filed the present petition seeking leave to file an appeal.

2.The learned counsel for the petitioner submitted that the petitioner and the respondent are family friends and neighbours from the year 2021. On the request of respondent, hand loan was given by the petitioner. In discharge of the same, signed cheque handed over by the respondent. The primary contention of the respondent is that the respondent used to sign in English but in the cheque the signature is found in Tamil. Hence, the issuance of cheque in discharge of the liability is doubtful. Initially, the respondent filed a petition under Section 45 of the Indian Evidence Act in C.M.P.No.8110 of 2023 to examine handwriting expert but later coming to



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know that the defence would expose filed a memo to withdraw the petition and further referring that the trial Court itself invoking Section 73 of the Indian Evidence Act can verify the documents. She further submitted that the Hon'ble Apex Court as well as this Court in number of cases held that it is dangerous for the Court below to take the role of expert and study the disputed handwriting. Though such power is granted, it is better such power is used only in extraordinary situation not in regular course. In this case, the Trial Court on that ground and the evidence of DW1 had dismissed the complaint. The accused had not given any reason how the cheque came to the possession of the petitioner which fact not considered by the Trial Court.

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

4.The Registry is directed to number the appeal and post for



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admission, if it is otherwise in order.

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29.08.2024

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28.08.2024