



WEB COPY



Crl.O.P.No.20998 of 2024

**Crl.O.P.No.20998 of 2024**  
**in**  
**Crl.A.SR.No.41968 of 2024**

**M.NIRMAL KUMAR, J.**

This petition has been filed seeking to grant special leave to appeal against the order acquitting the accused in STC.No.2 of 2023 dated 30.07.2024 on the file of Judicial Magistrate, Fast Track Court (Magisterial Level), Tiruchengode.

2. The petitioner/complainant filed a case under Section 138 of the Negotiable Instruments Act against the respondent. During the trial, the petitioner himself examined as PW1 and marked Exs.P1 to P4. The Trial Court dismissed the complaint, against which the present leave appeal

3. The contention of the petitioner is that the respondent by his own conduct had exposed his falsity in creating the defence of the case. During the initial questioning, he was summoned and answered with regard to the cheque of Rs.7 lakhs given to the petitioner. His answer is the 2 ½ year prior, he had taken a loan of Rs.5 lakhs from the petitioner and repaid the same. Further, for Rs.5 lakhs, he had deposited a sum of Rs.95,000/- in the



Crl.O.P.No.20998 of 2024

petitioner's account and car valued around 4 lakhs had been taken away by the petitioner and also he had paid a sum of Rs.50,000/- in cash to the petitioner. A loan of Rs.5 lakhs was received by way of DD from the petitioner and the same had been repaid. But after the evidence, in 313 CrPC questioning, his answer is that 4 of his cheques were signed and kept in his car Wagon R were found missing and one of the cheque has been misused by the petitioner and a false case has been filed.

4. The Trial Court failed to consider the same, on the other hand, taking a portion of the evidence of the cross examination answers given by the petitioner with regard to the shifting of the respondent house to Annur and admitting the earlier transaction, the respondent had probabalised his defence and dismissing the complaint is not proper. From the submissions of the petitioner and on perusal of the initial questioning and 313 CrPC questions, it would clearly expose the defence of the respondent is not acceptable. Further the issuance of cheque and signature is not in dispute. In this case, the respondent admits the receipt of the notice, but did not sent any reply. Further, he has also not taken any steps with regard to the return of his



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car and not made any complaint with regard to the missing signed cheques.

These are nothing but hollow defence without any materials.

5. In view of the above and finding reason and force in the petitioner's submission, this Court is inclined to grant leave. Accordingly, leave is granted.

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

**05.09.2024**

dhk



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