



WEB COPY



*Crl.O.P.Nos.20569, 20593 & 20657 of 2024
in Crl.A.SR.Nos.42375, 42354 & 42347 of 2024*

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M.NIRMAL KUMAR, J.

The petitioner as complainant filed private complaints against the respondents, who are partners of Spark Helmets and Accessories, under Section 138 of Negotiable Instruments Act in S.T.C.Nos.11409, 11410 and 11411 of 2023 before the learned Metropolitan Magistrate, Fast Track Court No.2, Egmore at Allikulam, Chennai. The Trial Court by judgment dated 02.07.2024. dismissed the complaints and acquitted the respondents. Against which, the petitioner filed the present petitions seeking leave to file appeals.

2.The contention of the learned counsel for the petitioner is that the petitioner while causing statutory notice addressed the notice to the Spark Helmets and Accessories and its partners Vinoth and Ashok Kumar. The respondents sent a reply stating that the loan availed but repaid and



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thereafter, the cheque which was given as security earlier has been misused but silent with regard to the status of Spark Helmets and Accessories and the status of partners, Vinoth and Ashok Kumar in the partnership firm. He would submit that while filing the complaint under Section 138 of Negotiable Instruments Act, the petitioner included Spark Helmets and Accessories being a partnership firm as one of the accused but on the insistence of the Trial Court, the partnership firm was struck out and a memo to that effect has also been filed. The petitioner produced a copy of the complaint prior to striking out and the memo. This being so, the Trial Court dismissed the complaint and gave a finding that statutory notice sent to Spark Helmets and Accessories and not to the respondents in their individual names. Further, it had also questioned that Spark Helmets and Accessories was not arrayed as accused, for which, no reason given and the respondent's contention is that security cheque given in the year 2016 has been misused by filling up and deposited in the year 2022 and hence, the dismissal of the complaint is not proper. He further submitted that statutory notice was caused to the partnership firm and its partners, complaint filed



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arraying the partnership firm as accused and thereafter it had been struck down on the directions of the Trial Court, thereafter making a turn around and dismissing the complaint is not proper.

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 appeals and post for admission, if it is otherwise in order.

27.08.2024

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