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Crl.O.P.No.21964 of 2024
in
Crl. A. SR 31094 of 2024

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M. NIRMAL KUMAR, J.

The petitioner, who is the complainant, filed a private complaint under Section 138 of the Negotiable Instruments Act, 1881, against the respondent in S.T.C. No. 177 of 2021. The trial court dismissed the complaint on 21.05.2024, against which the present leave to appeal has been filed.

2. The contention of the petitioner is that the petitioner and the respondent were jointly doing onion business in the name of VGA Trading. During the course of the said business, the petitioner, on the instructions of the respondent, had supplied onions to sub-brokers and others. The payments were received by the respondent, but the respondent had not paid the petitioner in turn. When the account was verified and the same was questioned, in discharge of his liability, the petitioner had issued two cheques



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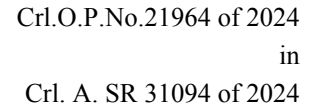
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one for Rs. 30,00,000/- and another for Rs. 70,00,000/- - both of which got dishonoured. Thereafter, a statutory notice was issued, and following the same, the complaint was filed.

3. The petitioner examined himself as P.W.1 and documents were marked as Exs.P1 to P5. On the side of the respondent, the respondent examined himself as D.W.1 and a document was marked as Ex.D1.

4. The learned counsel for the petitioner submitted that during the course of the trial, the respondent had come to an understanding to compromise the issue, and thereafter, a joint compromise was arrived at between the petitioner and the respondent, stating that the petitioner would return the cheques available in the firm, partnership deed, and RC Book. Apart from that, the liability issues were resolved, and it was decided that the petitioner would receive Rs.28,00,000/- from the respondent in 31



5. This, according to the petitioner, is not proper, as the joint compromise was entered into considering their past relationship, and the financial difficulty faced by the respondent, the amount of Rs.28,00,000/- was paid. This cannot be questioned, and for this reason alone, it cannot be said that there is no liability for the cheques (Exs.P.1 to P.2). Further, the court ought to have confirmed whether the joint compromise was executed and whether payments were made and whether the liability



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6. In such circumstances, the trial court coming to conclusion that when the cheques (Exs.P1 and P2) are for Rs.1 Crore and the memo of joint compromise (Ex.D.1) for Rs.28,00,000/- has been arrived at, hence the liability of the cheques (Exs.P1 and P2) is no more in force, is not proper, unless and until Ex.D.1 has been complied in full. In this case liability not discharged.

7. Considering the above facts and circumstances, this Court is inclined to grant leave for appeal from the order of acquittal passed by the learned Judicial Magistrate Fast Tract Court, Attur in STC No. 177 of 2021 dated 21.05.2024. Accordingly, this petition is ordered.

09.09.2024

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