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Crl.O.P.No.463 of 2024
in Crl.A.SR.No.55438 of 2022

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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 C.C.No.7225 of 2017 before the learned Judicial Magistrate NoI, Udumalpet. During the trial, the petitioner examined himself as P.W.1 and marked 9 documents. On the side of the respondent/accused, he examined himself as D.W.1 and marked two documents. The Trial Court considering the evidence and materials convicted the respondent/accused by judgment dated 28.08.2019 and sentenced him to undergo one year simple imprisonment and to pay the compensation amount of Rs.7,50,000/-, being the cheque amount. Aggrieved against the conviction, the respondent preferred an appeal before the Principal District and Sessions Court, Chennai in C.A.No.145 of 2021. The learned XXI Additional Sessions Judge, City Civil Court, Chennai by judgment dated 14.03.2022 allowed the appeal and set aside the conviction of the Trial Court. Against which the



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present petition and appeal is filed.

2.The petitioner is a complainant and on his complaint, the respondent was convicted by the Trial Court and thereafter, the learned Sessions Judge reversed the judgment. Hence, there are contrary judgments.

3.The contention of the learned counsel for the petitioner is that the Trial Court considered the evidence and had rightly convicted the respondent/accused finding that the explanation given by the respondent/accused that the loan amount had been credited to the account of one Mr.Venkataraman, who is the son-in-law of the petitioner's power agent Mr.Balachandar, the petitioner is the another son-in-law of the power agent and those remittance by the respondent in the account of Mr.Venkataraman is of the year 2012 but the transaction with the petitioner is much later. Likewise, the amount which is said to have been deposited in the petitioner's account is also found to be not sustainable. Hence, the Trial Court dismissed the contention of the respondent/accused and convicted



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him. He would submit that the Lower Appellate Court without considering the evidence in its proper perspective had relied upon the evidence of D.W.1 and allowed the appeal which is not proper.

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

5.The Registry is directed to number the appeal and post for admission, if it is otherwise in order. Mr.A.Yoganathan, learned counsel accepts notice on behalf of the respondent.

23.01.2024

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