



WEB COPY



Crl.O.P.No.23617 of 2024
in Crl.A.Sr.No.48964 of 2024

Crl.O.P.No.23617 of 2024
in
Crl.A.Sr.No.48964 of 2022

SUNDER MOHAN, J.

Aggrieved by the acquittal of the respondent for the offences punishable under Section 138 of Negotiable Instruments Act, the petitioner/complainant has filed the present petition seeking leave to file an appeal.

2. (i) The learned counsel for the petitioner/complainant would submit that the judgment of acquittal is erroneous and contrary to the settled position of law; that the petitioner had established that the respondent had obtained loan from the wife of the petitioner and executed a Mortgage Deed and towards the discharge of the said liability, the cheque was issued in favour of the petitioner; and that the trial Court however held that since the respondent did not owe any money to the petitioner, the complaint filed by the petitioner would not be maintainable.

(ii) The learned counsel for the petitioner also relied upon the judgment in *Devendra Kumar Rai v. Ram Gopal Rai and another*,

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reported in 1999 Crl LJ 1349, wherein it was held that the cheque issued to the payee in discharge of liability of any other person, the complaint by the payee would be maintainable.

3. The above submission requires consideration by this Court.
Hence, leave is granted to file an appeal.

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

12.11.2024

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