



Crl.O.P.No.24758 of 2024 in
Crl.A.SR.No.31918 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.24758 of 2024

in

Crl.A.SR.No.31918 of 2024

Mr.S.Logesh,

...Petitioner/Appellant

Vs.

Mr.S.Ramesh

...Respondent/Respondent

Prayer in Crl.O.P: Criminal Original Petition filed under Section 378 (4) of Criminal Procedure Code, to grant Special Leave to file the appeal as against the order of acquittal passed in C.C.No.61 of 2023, dated 10.04.2024 on the file of the Judicial Magistrate, Fast Track Court (Magistrate level), Alandur.

Prayer in Appeal: Criminal Appeal filed under Section 378 of Criminal Procedure Code, 1973 to allow the appeal and set aside the acquittal order passed by the learned Judicial Magistrate, Fast Track Court, Alandur, Chengalpattu District in C.C.No.61/2023 dated 10.04.2024.

For Petitioner : Mr.V.Manoharan

ORDER



Crl.O.P.No.24758 of 2024 in
Crl.A.SR.No.31918 of 2024

WEB COPY

The petitioner filed a private complaint against the respondent for offence under Section 138 of the Negotiable Instruments Act, 1881, in C.C.No.61 of 2023 before the learned Judicial Magistrate, Fast Track Court, Alandur, Chengalpattu District. The Trial Court, by Judgment, dated 10.04.2024 dismissed the complaint against which the present Criminal Original Petition for granting leave.

2. It is the petitioner's case that the respondent had borrowed a sum of Rs.4,00,000/- (Rupees Four Lakhs only) from the petitioner and promised to return the same and had issued a pronote towards discharge of the said loan and had issued a cheque for Rs. 4,00,000/- drawn on Indian Overseas Bank, which was dishonoured. The Trial Court, on the basis of Exs. D1 to D4, found that the impugned cheque was issued from an account maintained by the wife, Mrs.Renuka, of the accused, who is the proprietor of Jayam Enterprises, and therefore, the accused cannot be made liable for the offence under Section 138 of the Negotiable Instruments Act, since it was not issued from an account maintained by him.

3. Mr.V.Manoharan, the learned counsel for the petitioner, would,



Crl.O.P.No.24758 of 2024 in
Crl.A.SR.No.31918 of 2024

however, submit that the accused had not denied his signature in the cheque and also the fact that he had handed over the cheque to the petitioner.

4. The offence under Section 138 of the NI Act, 1881, would be made out only when any cheque is drawn by the accused person on an account maintained by him. Therefore, this Court finds no infirmity in the Judgment of acquittal by the trial Court, which had found that the cheque was not drawn on an account maintained by the respondent. However, since the signature in the cheque has not been denied by the respondent, it is open to the petitioner to pursue any action in accordance with law for the alleged deception by the accused/respondent.

5. With the above directions, the Criminal Original Petition stands dismissed and Crl.A.SR.No.31918 of 2024 stands rejected at the SR stage itself.

15.11.2024

dk

SUNDER MOHAN., J.



WEB COPY



Crl.O.P.No.24758 of 2024 in
Crl.A.SR.No.31918 of 2024

dk

To
The Judicial Magistrate,
Fast Track Court, Alandur,
Chengalpattu District.

Crl.O.P.No.24758 of 2024
in
Crl.A.SR.No.31918 of 2024

15.11.2024