



CrI.O.P. No.26447 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.O.P.No.26447 of 2024

in

CrI.A.SR.No.51877 of 2024

P.Chander

... Petitioner

Vs.

P.Vijayaraj

... Respondent

PRAYER: Criminal Original Petition filed under Sections 419(4) of the BNSS, to grant special leave to appeal against the impugned order of acquittal dated 18.07.2024 in C.C.No.969 of 2020 on the file of the XXV Metropolitan Magistrate Court at Egmore, Chennai and take up the appeal on the file of this Court.

For Petitioner : Mr.A.Thirumaran

ORDER

The petitioner has sought leave to challenge the judgment of acquittal dated 18.07.2024, on the complaint filed by him under Section 138 of the Negotiable Instruments Act, 1881, in C.S. No. 969 of 2020 on the file of the XXV Metropolitan Magistrate at Egmore, Chennai, against the respondent.



2. The case of the petitioner is that the petitioner/complainant is the partner in M/s. Padma Petroleum Agency and there have been business transactions between the respondent for a few years and to discharge the liability, a cheque was issued by the respondent from the account of the partnership firm called M R Shanmugam and was signed by its Managing Partner Mr. Anto Stalin.

3. The learned counsel for the petitioner would submit that the accused was liable to pay the cheque amount to the petitioner and he had handed over the cheque in question; and that since he was not aware from which account the cheque was issued, he prosecuted the respondent; and that the respondent is a partner of the said firm.

4. The Judgment of the trial Court would show that the cheque in question was issued from the account maintained by the partnership firm by the name of Mr. M R Shanmugam and it was signed by its Managing Partner, Mr. Anto Stalin. It is also admitted that the partnership firm is not liable to pay any money to the petitioner. In such circumstances, if the respondent had issued a cheque from the account of the partnership firm, which is evident from the cheque itself, the petitioner ought to have



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prosecuted the firm and the persons responsible for the conduct of its business. However, the petitioner had prosecuted the respondent alone. If it is the case of the petitioner, the respondent had deceived him by handing over the cheque of the firm, it is for the petitioner to proceed against him in the manner known to law. Since neither the firm nor the managing partner, who had signed the cheque were prosecuted, the complaint against the respondent would not be maintainable. The trial Court was therefore right in acquitting the respondent and hence, there is no infirmity warranting interference in the appeal. Therefore, no case has been made out for the grant of leave to file the above appeal. Hence, the petition is liable to be dismissed.

5. In view of the above, the Criminal Original Petition stands dismissed, and Crl.A.SR.No.51877 of 2024 stands rejected at the SR stage itself.

12.11.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.
rkp



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WEB COPY To

- 1.The XXV Metropolitan Magistrate Court at Egmore,
Chennai.
- 2.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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