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Crl.O.P.No.3255 of 2024
in Crl.A.SR.No.53889 of 2024

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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 S.T.C.No.649 of 2021 before the learned Judicial Magistrate No.I, Namakkal. The Trial Court by judgment dated 19.10.2022 convicted the respondent and sentenced him to undergo two years simple imprisonment and to pay a sum of Rs.9,92,000/- as compensation. Aggrieved against the same, the respondent preferred an appeal before the Sessions Court in C.A.No.93 of 2022. The learned Principal Sessions Judge, Namakkal by judgment dated 31.08.2023 allowed the appeal by setting aside the conviction and sentence of the Trial Court. Against which, the present petition and appeal is filed.

2.The contention of the learned counsel for the petitioner is that the Trial Court had rightly appreciated the evidence and convicted the petitioner



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but the Sessions Court had wrongly appreciated the facts and considered the evidence of D.W.2/accused and Ex.D1 and Ex.D2 wherein the brother of the respondent had sought information through RTI with regard to the complaint of the petitioner with District Crime Branch. The learned counsel by referring to Ex.D3 submitted that the respondent had given a complaint to the Superintendent of Police, Namakkal wherein he states that to get a loan of Rs.10,00,00/- from a Private Financier he gave the signed cheque of State Bank of India and the promissory notes for Rs.10,00,000/-, thereafter he discharged the loan he got back the unfilled cheque and promissory notes and kept in his house. The petitioner, who is a friend of respondent's brother, used to visit his house, got access to the same, filled up the cheque and projected a case against him. He further submitted that during cross examination, the respondent stated that the cheque has been lastly seen during December 2020 and he took the cheque and promissory note for availing loan during July and August 2020. Thus, there was contradiction in the dates on which he availed loan, discharged the same and received back the promissory note and cheque. Therefore, the Lower Appellate



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Court on wrong appreciation of the evidence, allowed the appeal and acquitted the accused.

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

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

14.02.2024

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