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Crl.O.P.No.29272 of 2023
in Crl.A.SR.No.62245 of 2023

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M. NIRMAL KUMAR, J.

This petition has been filed to grant leave to the petitioner to file an appeal against the acquittal of the respondents.

2.This Court, on 03.01.2024, had passed the following order:

"The petitioner as complainant filed a private complaint against the respondent under Section 138 of Negotiable Instruments Act in C.C.No.258 of 2014. The Trial Court by judgment dated 26.11.2023 dismissed the complaint. Against which, the present petition and appeal is filed.

2.The primary contention of the learned counsel for the petitioner is that the petitioner and the respondent were doing business and in the course of the same, a cheque/Ex.P3 for a sum of Rs.5,00,000/- was issued for discharge of liability. The first respondent is the Company, the second respondent is the Director of the first respondent Company and the third respondent is the signatory to the cheque. The petitioner produced Ex.P8, tally account maintained by the respondent Company and Ex.P9/tally account maintained by the respondent, in which the due of Rs.5,00,000/- was recorded. Further, the respondent Company has not seriously disputed Ex.P8 and Ex.P9 but they have given an explanation that the amount has been settled and entries are



CrI.O.P.No.29272 of 2023
in CrI.A.SR.No.62245 of 2023

WEB COPY

made. The Trial Court not going into the contents of the documents has rejected the same that there is no Section 65B Certificate for which the petitioner had submitted that Ex.P48 is the 65B Certificate which has not been properly considered.

3.At this juncture, this Court needs to look into Ex.P48/Section 65B Certificate. The learned counsel for the petitioner sought time to produce the same.

4.Post the matter on 09.01.2024.”

3.In continuation and conjunction to the earlier order passed by this Court on 03.01.2024, today, the learned counsel for petitioner produced Ex.P48/Certificate under Section 65B of Indian Evidence Act. From the cross examination by the respondent it is seen that they have not seriously challenged the Section 65B certificate on material aspects. The Trial Court relying upon this document and not considering the tally statement/Ex.P47 and acquitting the respondents is now questionable.



Crl.O.P.No.29272 of 2023
in Crl.A.SR.No.62245 of 2023

WEB COPY 4. In view of the same, this Court is inclined to grant leave.

Accordingly, leave is granted.

07.02.2024

Note: Registry is directed to number the
Criminal Appeal, if it is otherwise in order.
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WEB COPY



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