



WEB COPY



Crl.O.P.No.32020 of 2024
in
Crl.A.Sr.No.65307 of 2024

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in Crl.A.Sr.No.65307 of 2024**

Sunder Mohan, J.,

The petitioner is the complainant in S.T.C.No.871 of 2021, on the file of Special Metropolitan Magistrate No.XIV, Court of Small Causes, Chennai. The petitioner/complainant filed the said complaint under Section 138 of Negotiable Instruments Act, 1881 (N.I.Act) against the respondent herein. The Trial Court, acquitted the respondent. Aggrieved by the same, this Petition is filed, seeking leave of this Court to file Appeal.

2. It is the case of the petitioner that the respondent had borrowed a sum of Rs.12,00,000/- and issued the subject three cheques for a total value of Rs.13,00,000/-; that when the same were presented for encashment, they were returned with endorsements "Funds Insufficient"; that the petitioner sent a legal notice calling upon the respondent to repay the dues; that the respondent did not make payment inspite of statutory notice.

3. The learned counsel for the petitioner submitted that the respondent



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had not rebutted the statutory presumption; that the trial Court had erroneously concluded that the respondent had rebutted the statutory presumption by producing Ex.D1; that Ex.D1 does not establish repayment of debt; and that the petitioner had established that the cheques were issued for a legally enforceable debt.

4. The question as to whether the cheques were issued for a legally enforceable debt, has to be considered in the appeal and hence, leave is granted.

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

sd/ars

21.12.2024



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