



WEB COPY



Crl.O.P.No.2867 of 2024
in Crl.A.SR.No.1895 of 2024

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M.NIRMAL KUMAR, J.

The petitioner as complainant filed a private complaint against five persons in C.C.No.103 of 2022 before the learned Judicial Magistrate, Sankarapuram for the offence under Sections 294(b), 352, 341 and 506(i) IPC. During the pre-cognizance stage, the petitioner examined four persons including the petitioner and thereafter only, cognizance was taken. On 24.11.2023, the case was pending for service of summons to A1 and as regards A2 to A5, petition under Section 317 Cr.P.C. filed. As regards the petitioner, petition under Section 256(1) Cr.P.C. filed which was dismissed recording that for several hearings, the petitioner/complainant was absent. Hence, the Trial Court dismissed the case for non-prosecution and acquitted the accused.

2.The contention of the learned counsel for the petitioner is that the absence of the petitioner on 24.11.2023 would no way affect the progress of



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the trial since the case was posted only for serving of summons to A1 and only after all accused present, trial would be further progressed and it was only a formal posting of the case. In view of the same, dismissing of the complaint for non-prosecution is not proper.

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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