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Crl.O.P.No.6395 of 2024
in Crl.A.SR.No.11862 of 2024

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M.NIRMAL KUMAR, J.

The petitioner as complainant had filed a private complaint against the respondent for offence under Section 138 of the Negotiable Instruments Act in C.C.No.37 of 2018. The trial Court, by judgment dated 27.10.2023, dismissed the complaint for non prosecution, against which, the present leave petition and appeal.

2.The contention of the learned counsel for petitioner is that the trial Court referring to a notice in D.No.1905 of 2022 dated 12.10.2022 finding that neither the petitioner nor his counsel appeared before the trial Court, which shows that the petitioner is not interested in prosecuting the complaint, dismissed the complaint.



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3.The learned counsel for petitioner submits that the petitioner is a small time Potato Merchant. He supplied potatoes to the respondent, who is at Kollam, Kerala on various dates for the total value of Rs.2,22,780/-. The respondent assured that he will repay the amount within a short period. In discharge of his liability, he issued the cheque, which was presented and got dishonoured. The dismissal of the complaint for non prosecution would amount to short circuiting of complaint and real justice would be rendered after full fledged trial.

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

19.03.2024

rsi

Note: Registry is directed to number the appeal,
if it is otherwise in order.



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