



Crl.O.P.Nos.12361 and 12362 of 2023
in Crl.A.SR.Nos.11351 and 11352 of 2023

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M.NIRMAL KUMAR, J.

The petitioners as complainant had filed a private complaint under Section 138 of the Negotiable Instruments Act, which is pending trial in C.C.Nos.2388 and 2389 of 2015, respectively. The respondent/accused though participated in the trial initially, thereafter from 11.09.2018 and 27.08.2018, respectively, failed to appear before the trial court. Thereafter, NBW issued and finding that the petitioners not taken effective steps to execute NBW, further the petitioners/complainant was absent on 19.10.2022, no condonation petition also filed. Finding that the petitioners have not taken any steps for payment of process batta, the trial Court dismissed the complaint under Section 204 (4) r/w 256 Cr.P.C.

2.This Court, directed the petitioners to take private notice to the respondent, which has been returned for the reason 'No such person'. The



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contention of the petitioners is that after issuance of NBW in the year 2018, the petitioners had been regularly taking steps for executing NBW, even the petitioners approached the jurisdictional police to execute the Non Bailable Warrant. The respondent made himself not available. The respondent is due to the petitioners a huge sum of money and in discharge of the said liability, he issued the cheque. If the complaint is dismissed on technical reasons, the petitioners would be denied of justice. He further submitted that on the previous hearings the petitioners/complainant were present except on 19.10.2022.

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

12.03.2024

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Note: Registry is directed to number the appeals, if they are otherwise in order.



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