



WEB COPY



Crl.O.P.No.22919 of 2024 in
Crl.A.SR.No.46652 of 2024

M.NIRMAL KUMAR, J.

This Criminal Original Petition has been filed to grant leave to prefer an appeal against the judgment, dated 21.08.2024 in S.T.C.No.293 of 2024 passed by the learned Judicial Magistrate, Fast Track Court No.I @ Magisterial Level, Coimbatore.

2.The learned counsel for the petitioner submitted that the petitioner filed a complaint against the respondent and diligently followed and prosecuting the case. The Respondent/accused delayed the case and not cross examined the Petitioner/complaint immediately. The Petitioner is due to the cheque amount of Rs.10,50,000/-. On 12.10.2022, the Petitioner examined himself in chief-examination as PW1 and marked 8 exhibits. Thereafter, the Respondent was summoned, questioned and later he filed a petition to recall and cross-examine the witnesses. On 21.08.2024 since the Petitioner was not well, he could not appear. On 21.08.2024 the Petitioner's uncle passed away and hence he had to attend his last rites and could not appear before the Court. This fact has been



informed to the Trial Court and the Trial Court had dismissed the complaint for the reason that on earlier two occasions that is 13.05.2024 and 05.07.2024, the Petitioner had not appeared and this is the third occasion dismissed the complaint on merits.

3.The learned counsel for the petitioner submits that by dismissing the complaint on technicality would amount to short circuiting the case and denying justice. Any case has to be decided on its own merits and not on technicality. This Court finding that a complaint has been dismissed on technicality and not on merits, hence notice to the Respondent is dispensed with.

4.Considering the same, of materials, this Court is inclined to grant leave. Accordingly, leave granted. Post this case admission on 29.10.2024.

25.10.2024

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