



Crl.O.P.No.5525 of 2022

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in Crl.A.No.195 of 2022

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R.PONGIAPPAN, J.

This petition has been filed praying to grant leave to the petitioner to file an appeal against the order of dismissal dated 02.07.2019 passed in STC.No.10 of 2019 on the file of the learned Judicial Magistrate, Land Grabbing, Salem.

2. Heard the learned counsel appearing for the petitioner.

3. In the impugned order, the learned Judicial Magistrate-VI observed that after issuing notice to the complainant in D.No.244 of 2019, neither the petitioner nor his counsel not chosen to appear before the Court and therefore, by invoking Section 256 of Cr.P.C., pronounced the judgment and passed an order of acquittal.

4. In this regard, the learned counsel appearing for the petitioner would submit that originally the case was instituted in learned Judicial Magistrate-III, Salem and thereafter without any notice, the said case has



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been transferred to the Special Judicial Magistrate, Land Grabbing Cases and therefore, the petitioner is not in a position to gain knowledge as the case was transferred to Judicial Magistrate-VI, Special Judicial Magistrate(FAC), Special Court for Land Grabbing Cases, Salem.

5. On considering the same, it would necessary to see whether the notice sent to the petitioner in D.No.244 of 2019 is served with the petitioner or not. If the notice is not served with the petitioner, it cannot be said, sufficient opportunity was given to the petitioner for appearing before the learned Judicial Magistrate-VI. Therefore, the petitioner has shown a *prima facie* case for the special leave.

6. Accordingly, this criminal original petition is allowed.

Since the criminal appeal has already been numbered as Crl.A.No.195 of 2022, Registry is directed to post the criminal appeal on 11.04.2022 in the caption “for admission”.

31.03.2022

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