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*Crl.O.P.No.6393 of 2022*

Crl.O.P.No.6393 of 2022  
in  
Crl.A.SR.No.11402 of 2022

**R.PONGIAPPAN, J.**

This petition has been filed praying to grant leave to the petitioner to file an appeal against the order dated 04.12.2021 passed in CC.No.4185 of 2016 on the file of the learned XX Metropolitan Magistrate, Allikulam, Egmore at Chennai.

2. The petitioner is the complainant in CC.No.4185 of 2016 on the file of the learned XX Metropolitan Magistrate, Allikulam, Egmore at Chennai. The said case has been registered as against an accused alleging that the respondent committed an offence punishable under Section 138 of NI Act. The copy of the adjudication proceedings maintained in CC.No.4185 of 2016 would go to show, from the year of 2019 onwards, due to the absence of accused, NBW is pending. On the other hand, by order dated 04.12.2021, the learned Magistrate dismissed the said complaint under Section 256 of Cr.P.C., against which the petitioner intended to prefer



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an appeal and hence the petitioner is before this Court with this petition.

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3. The learned counsel appearing for the petitioner would contend that while at the time the case was posted on 04.12.2021, due to covid pandemic, the public is restrained to appear before the Subordinate Court and therefore the petitioner is unable to appear before the trial court. Therefore, the reasons stated by the learned Magistrate for dismissing the case is unsustainable and therefore the present petition may be allowed.

4. Heard, the learned counsel appearing for the petitioner.

5. Now on considering the submissions of the learned counsel appearing for the petitioner with the relevant records, it is true the impugned order was passed on 04.12.2021 and on that day, there was a restriction imposed to the public in appearing before the trial court. Therefore, the petitioner shown a *prima facie* case for filing an appeal.

6. Accordingly, leave is granted and this criminal original petition is



allowed.

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**22.03.2022**

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



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