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Crl.M.P.No.13605 of 2022

Crl.M.P.No.13605 of 2022
in
Crl.R.C.No.1254 of 2022

D.BHARATHA CHAKRAVARTHY, J.

This petition is filed to grant exemption to the petitioner from surrendering before the trial Court in pursuance to the Judgment dated 23.12.2021 made in Crl.A.No.10 of 2021 on the file of the III Additional Sessions Judge, Villupuram @ Kallakurichi, confirming the Judgment dated 13.07.2021 passed in C.C.No.46 of 2017 on the file of the Judicial Magistrate, Fast Track Court (Magistrate Level), Kallakurichi, pending disposal of the Main Revision.

2. I have perused the petition filed to exempt the petitioner from surrendering before the trial Court and I am not satisfied with the reasons mentioned in the application.



3. The Judgment of the Hon'ble Supreme Court of India in **Surya**

Baksh Singh Vs. State of U.P.¹, has held in paragraph No.25, which reads as follows:-

“The routine is to file an appeal, apply and get enlarged on bail or get exempted from surrender, and thereafter wilfully to become untraceable or unresponsive. It is the bounden duty cast upon the Judge not merely to ensure that an innocent person is not punished but equally not to become a mute spectator to the spectacle of the convict circumventing his conviction.”

Similarly, in the Judgment of the Hon'ble Supreme Court of India, in **Vivek Rai v. High Court of Jharkhand**², in paragraph No.3, has held as hereunder:-

“We do not find any merit in the challenge to the validity of the Rule. It is well-known practice that generally a revision against conviction and sentence is filed after an appeal is dismissed and the convicted person is taken into custody in the Court itself. The object of the Rule is to ensure that a person who has been convicted by two courts obeys the law and does not abscond. The provision cannot thus be held to be arbitrary in any manner. The provision is to regulate the procedure of the Court and does not, in any manner, conflict with the substantive provisions of CrPC relied upon by the petitioners.”

1. (2014) 14 SCC 222 : (2015) 1 SCC (Cri) 313 : 2013 SCC OnLine SC 919 25.

2. (2015) 12 SCC 86 : (2016) 1 SCC (Cri) 56 : 2015 SCC OnLine SC 95 at page 88



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4. In this case, there is no special and acceptable reasons assigned in the application for grant of exemption from surrender. Therefore, the Criminal Miscellaneous Petition to exempt the petitioner from surrendering before the trial Court shall stand dismissed. However, one more opportunity is granted to the petitioner to surrender before **16.09.2022**.

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