



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Sixth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice D. BHARATHA CHAKRAVARTHY

CRIMINAL MISCELLANEOUS PETITION No.6293 of 2022

IN CRL RC.595/2022

ASAITHAMBI

[PETITIONER]

Vs

NAGARAJAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Exemption from surrendering for the petitioner to the Sentence imposed by Judgment dated 25.10.2021 passed in Crl.A.No.08/2021 on the file of the Additional District and Sessions Judge, Dharmapuri and Conformed Judgment made in C.C.No.55/2017 on the file of the Judicial Magistrate (FTC), Dharmapuri dated 16.03.2020.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S M.JAYACHANDRAN, Advocate for the petitioner, the court made the following order:-

This petition is filed to exempt the petitioner from surrender in the sentence imposed by the Judgment dated 25.10.2021 passed in Crl.A.No.08/2021 on the file of the Additional District and Sessions Judge, Dharmapuri, and confirmed the Judgment made in C.C.No.55 of 2017 on the file of the Judicial Magistrate (FTC), Dharmapuri, dated 16.03.2020, pending the disposal of the present Criminal Revision Case.

2.I have perused the petition filed for exemption 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:-

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



"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."

Therefore, this Court is of the opinion that in a routine manner, exemption from surrender cannot be granted.

4. In this case, there is no special and acceptable reasons assigned in the application for grant for exemption from surrender. Therefore, the Criminal Miscellaneous Petition for exemption shall stand dismissed. However, one more opportunity is granted to the petitioner to surrender before 21.06.2022.

-sd/-
06/06/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.



1 THE ADDITIONAL DISTRICT
AND SESSIONS JUDGE, DHARMAPURI.

2 THE JUDICIAL MAGISTRATE,
(FTC) DHARMAPURI.

3 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI. [FOR INFORMATION]

C.C. to M/S M.JAYACHANDRAN Advocate on payment of necessary
charges

Order

in
CRL MP.6293/2022

in
CRL RC.595/2022

Date :06/06/2022

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TA-07/06/2022