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Crl.M.P.No.5214 of 2022 in Crl.R.C.No.513 of 2022

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D.BHARATHA CHAKRAVARTHY, J.

This petition is filed to exempt the petitioner from surrender before the Court below in pursuance to the Judgment dated 09.08.2021 made in C.A.No.05 of 2019 on the file of the learned Principal Sessions Judge, Dharmapuri, by confirming the conviction and sentence imposed in the Judgment dated 10.01.2019 made in C.C.No.95 of 2018 on the file of the learned Chief Judicial Magistrate, Dharmapuri, 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:-

“The routine is to file an appeal, apply and get enlarged on bail or get exempted from surrender, and thereafter wilfully to become

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



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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, It is seen that there is sentence against the petitioner

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



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by directing him to undergo six months simple imprisonment and 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 05.08.2022.

25.07.2022
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