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Crl.M.P.No.12219 of 2022

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in

Crl.R.C.No.1081 of 2022

D.BHARATHA CHAKRAVARTHY, J.

This petition is filed to exempt the 2nd petitioner from surrendering before the Judicial Magistrate No.II, Udumalpet in C.C.No.140 of 2015 pursuant to the Judgment passed by the III Additional District and Sessions Court, Tiruppur at Dharapuram in Crl.A.No.30 of 2017 dated 28.03.2022 pending disposal of the Criminal Revision.

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

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



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.

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 for exemption from surrender. Therefore, the Criminal Miscellaneous Petition for exemption shall stand dismissed. However, one more opportunity is granted to the 2nd petitioner to surrender before the trial Court before 18.08.2022.

10.08.2022

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