



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Eighth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice D. BHARATHA CHAKRAVARTHY

Crl.M.P. Nos. 6255, 6248, 6265, 6258, 6263 & 6260 of 2022

in

Crl.R.C. Nos. 483 to 488 of 2022

LIYAKATH ALIKHAN

[PETITIONER/APELLANT/ACCUSED
IN ALL THE PETITIONS]

Vs

HUSSAIFA PRODUCTS
REPRESENTED BY PARTNER,
HUSAIFA BHAI.

[RESPONDENT/COMPLAINANT
IN ALL THE PETITIONS]

Petitions praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) Exempt the petitioner from surrendering for the conviction dated 28.01.2019 in C.A.NOs.136, 135, 134, 133, 132 & 137 of 2018 on the file of the III Additional District Judge at Salem Confirming the order dated 14.08.2018 in S.T.C.NOs.1029,1028,1027,1030 of 2008 and C.C.NOs.61 of 2007 & 359 of 2006 on the file of the Judicial Magistrate II at Salem pending disposal of the Crl.R.C. Nos. 483 to 488 of 2022.[CRL.M.P.NOs. 6255, 6248, 6265, 6258, 6263 & 6260 of 2022]

Order : These petitions coming on for orders upon perusing the petitions and the filed in support thereof and upon hearing the arguments of M/S M.J.JASEEM MOHAMED, Advocate for the petitioner [IN ALL THE PETITIONS] the court made the following order:-

These petitions are filed to exempt the petitioner from surrendering in pursuance of the Judgment of conviction dated 28.01.2019 passed by the learned III Additional District Judge at Salem in Crl.A. Nos. 136, 135, 134, 133, 132 & 137 2018 pending the disposal of the present Criminal Revision Cases.



2.I have perused the petitions filed for exemption and I am not satisfied with the reasons mentioned in the applications.

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 Jharkhand2, in paragraph No.3, it was 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 are no special and acceptable reasons assigned in the applications to grant exemption from surrender. Therefore, the Criminal Miscellaneous Petitions for exemption shall stand dismissed. However, one more opportunity is granted to the petitioner to surrender before 15.07.2022.

-sd/-

28/06/2022

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.



TO

1 III ADDITIONAL DISTRICT
SESSIONS JUDGE, SALEM.

2 THE JUDICIAL MAGISTRATE,
NO.II, SALEM.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

C.C. to M/S M.J.JASEEM MOHAMED Advocate on payment of necessary
charges

Order

in

Crl.M.P. Nos. 6255, 6248, 6265,
6258, 6263& 6260 of 2022

in

Crl.R.C. Nos. 483 to 488 of 2022

Date :28/06/2022

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