



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fifteenth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice D. BHARATHA CHAKRAVARTHY

CRIMINAL MISCELLANEOUS PETITION No.7438 of 2022

IN CRL.R.C.No.725 of 2022

K.BALA @ BALASUBRAMANIYAN

[PETITIONER/APPELLANT/ACCUSED]

Vs

THE STATE REP BY ITS, [RESPONDENT/COMPLAINANT]
THE DEPUTY SUPERINTENDENT OF POLICE,
ECONOMIC OFFENCES WING II,
CUDDALORE.
(CR.NO.1 OF 2014)

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Grant Exemption to Surrender before the trial court, against his conviction and sentence imposed in C.C.No.4 of 2018 on 15.03.2019 by the Learned Chief Judicial Magistrate Court, Cuddalore and the conviction and sentence was confirmed in C.A.No.96 of 2019 on 29.01.2021 by the 1st Additional District and Sessions Court, Cuddalore.

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.P.PUGALENTHI, Advocate for the petitioner, and of M/S.S.VINOTH KUMAR, Govt. Advocate (Crl. Side) on behalf of the Respondent, the court made the following order:-

This petition is filed to grant exemption to surrender before the Trial Court, against his conviction and sentence imposed in C.C.No.4 of 2018 on 15.03.2019 by the learned Chief Judicial Magistrate Court, Cuddalore and the conviction and sentence was confirmed in C.A.No.96 of 2019 on 29.01.2021 by the I Additional District and Sessions Court, Cuddalore.

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 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 20.06.2022.

-sd/-

15/06/2022

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

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

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



1 THE 1ST ADDITIONAL DISTRICT
AND SESSIONS COURT, CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
ECONOMIC OFFENCES WING II,
CUDDALORE.

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

Order

in
CRL MP.7438/2022

in
CRL RC.725/2022

Date :15/06/2022

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