



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventh day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice D. BHARATHA CHAKRAVARTHY

CRIMINAL MISCELLANEOUS PETITION No.6489 of 2022

IN CRL.RC.612/2022

R.SADASIVAM [PETITIONER]
S/O.RAMASAMY
PROPRIETOR OF M/S.RATHINAM TEXTILES

Vs

M.PONGALIAPPAN [RESPONDENT]
S/O.MARAPPA GOUNDER,
PROPRIETOR OF M/S.SRIAMMAN TEXTILES

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an order of exemption from surrendering before the trial court pursuant to the judgment in C.A No.55/2019, dated 05.10.2021, on the file of the Hon'ble II Additional District and Sessions Judge at Tiruppur, and confirmed the conviction order passed in C.C No.304/2010, dated 26.04.2019, on the file of Hon'ble Judicial Magistrate Court, Avinashi and pass such further or other order or orders which may deem fit and proper in the circumstances of the case and thus render justice.

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.G.SHANMUGAM, Advocate for the petitioner the court made the following order:-

This petition is filed to exempt the petitioner from surrender before the Judicial Magisterial Court, Avinashi, in C.C.No.304 of 2010, 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 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, 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 14.06.2022.

-sd/-

07/06/2022

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 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUPPUR.



2 THE JUDICIAL MAGISTRATE,
AVINASHI.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

+1C.C. to M/S.G.SHANMUGAM Advocate on payment of necessary
charges SR.No.8513

Order
in
CRL MP.6489/2022
in
CRL RC.612/2022
Date :07/06/2022

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

CSK 10/06/2022