



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fourth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice D. BHARATHA CHAKRAVARTHY

CRIMINAL MISCELLANEOUS PETITION No.7963 of 2022

IN CRL RC.779/2022

KANMANI @ BALAMANI

[APPELLANT/ACCUSED]

Vs

STATE REP BY
INSPECTOR OF POLICE,
SULUR POLICE STATION,
COIMBATORE.
(CRIME NO.1525/2014)

[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to exempt the petitioner from surrender pursuant to the order of conviction and sentence imposed by the learned III Additional District and Sessions Judge at Coimbatore in Crl.A.177/2016 by judgment dated on 11.02.2022 which confirmed the Judgment and order dated 18.11.2016 passed in S.C.19/2015 on the file of the II Assistant Sessions Judge, Coimbatore 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 V.PURUSHOTHAMAN REDDY, Advocate for the petitioner and of MR. S.VINOTH KUMAR, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

This petition is filed to exempt the petitioner from surrender pursuant to the order of conviction and sentence imposed by the learned III Additional District and Sessions Judge at Coimbatore in Crl.A.No.177 of 2016 by judgment dated 11.02.2022 which confirmed the judgment and order dated 18.11.2016 passed in S.C.No.19 of 2015 on the file of the II Assistant Sessions Judge, Coimbatore, 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 04.07.2022.

-sd/-
24/06/2022

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 AND
SESSIONS JUDGE, COIMBATORE.

2 II ASSISTANT SESSIONS JUDGE,
COIMBATORE.

3 INSPECTOR OF POLICE,
SULUR POLICE STATION,
COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S V.PURUSHOTHAMAN REDDY. Advocate on payment of
necessary charges

Order

in
CRL MP.7963/2022

in
CRL RC.779/2022

Date :24/06/2022

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RW-29/06/2022