



Crl.M.P.No.13372 of 2022

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in
Crl.R.C.No.1220 of 2022

D.BHARATHA CHAKRAVARTHY, J.

This petition is filed to exempt the petitioner from surrendering in pursuance of the Judgment dated 25.07.2022 passed by the learned Additional District (Fast Track Court) Mettur in C.A.No.35 of 2021 by confirming the Conviction and Sentence imposed by the learned Judicial Magistrate No.I, Mettur in C.C.No.191 of 2018 dated 19.03.2021 u/s 138 of Negotiable Instruments Act, sentencing the petitioner to undergo 1 year Simple Imprisonment and to pay the cheque amount Rs.4,00,000/- as compensation to the complainant i/d 6 months Simple Imprisonment, pending disposal of the Criminal Revision Petition.

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,

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



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exemption from surrender cannot be granted.

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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 petitioner to surrender before **09.09.2022**.

29.08.2022
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