



Crl.M.P.No.13490 of 2022 in Crl.R.C.No.1235 of 2022

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D.BHARATHA CHAKRAVARTHY, J.

This petition is filed to exempt the petitioner herein from surrendering before the Court passed in C.C.No.338 of 2017 on 14.03.2018 by the Fast Track Court No.II, Judicial Magistrate Level, Coimbatore and having been confirmed by the learned V Additional District & Sessions Judge, Coimbatore in C.A.No.178 of 2017 on 08.06.2022 pending disposal of the 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

¹ (2014) 14 SCC 222 : (2015) 1 SCC (Cri) 313 : 2013 SCC OnLine SC 919 25.
<https://www.mhc.tn.gov.in/judis>



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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 16.09.2022.

5. In the meanwhile, it will be open for the petitioner either to surrender before the Trial Court or to deposit the entire cheque amount to the

². (2015) 12 SCC 86 : (2016) 1 SCC (Cri) 56 : 2015 SCC OnLine SC 95 at page 88
<https://www.mhc.tn.gov.in/judis>



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credit of C.C.No.338 of 2017. It is made clear that the suspension of sentence without surrendering will be considered only when the entire cheque amount is deposited.

30.08.2022
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