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Crl.M.P.No.13558 of 2022

Crl.M.P.No.13558 of 2022
in Crl.R.C.No.1249 of 2022

D.BHARATHA CHAKRAVARTHY, J.

This petition is filed to dispense with surrendering before the Principal District and Sessions Judge, Coimbatore pursuant to the order passed in C.A.No.54 of 2016 dated 01.07.2017 modifying the order passed by the learned Judicial Magistrate Court No.VIII, Coimbatore in C.C.No.2 of 2014 dated 18.04.2016.

2. I have perused the petition filed to dispense with surrendering before the trial Court 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.”

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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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 to dispense with surrendering before the trial Court shall stand dismissed. However, one more opportunity is granted to the petitioner to surrender before **16.09.2022**.

01.09.2022
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² (2015) 12 SCC 86 : (2016) 1 SCC (Cri) 56 : 2015 SCC OnLine SC 95 at page 88
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