

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2018

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.Nos.18972 and 18973 of 2018

P.N.Manoharan .. Petitioner
in both petitions
Vs

1.The State rep. by
The Inspector of Police,
V-5, Thirumangalam Police Station,
Chennai.

2.P.N.Nagarajan

3.A.Anbarasan

4.S.Prabhu Chandrakumar .. Respondents
in both petitions

Criminal Original Petitions in Crl.O.P.Nos.18972 and 18973 of 2018, filed under Section 482 Cr.P.C., praying to direct the learned IV Additional Sessions Judge, Chennai, to dispose of the cases in C.A.No.84 of 2013 and C.A.No.88 of 2013, respectively, in C.C.No.2082 of 2004 on the file of the learned X Metropolitan Magistrate within the time as stipulated by this Hon'ble Court on a day to day basis without any further delay.

For Petitioner : Mr.R.Muniyapparaj
in both petitions

For R1 : Mrs.M.Prabhavathi
Additional Public Prosecutor
in both petitions
C O M M O N O R D E R

These Criminal Original Petitions in Crl.O.P.Nos.18972 and 18973 of 2018, have been filed to direct the learned IV Additional Sessions Judge, Chennai, to dispose of the cases in C.A.No.84 of 2013 and C.A.No.88 of 2013, respectively, in C.C.No.2082 of 2004 on the file of the X Metropolitan Magistrate Court, Chennai, within a time limit, to be stipulated by this Court on a day to day basis without any further delay.

2. It is the case of the de facto complainant that the accused were convicted in C.C.No.2082 of 2004 on 22.03.2013 and challenging the conviction and sentence, the accused have filed two appeals in C.A.Nos.84 of 2013 and 88 of 2013 and the two appeals were made over to the IV Additional District

and Sessions Court, Chennai, in the year 2013 and from 2013, till date, the learned Judge has not disposed of the said appeals. Therefore, the de facto complainant is before this Court with the above prayer.

3. This Court had called for a report from the learned IV Additional District and Sessions Judge, Chennai. Pursuant to the direction of this Court, the learned IV Additional District and Sessions Judge, Chennai, has sent a report dated 13.08.2018, which reads as under :

□I further submit that on perusal of records it is found that the then IV Additional Judge has posted C.A.84/13 and C.A.88/13 on the file of this court, for Judgment on 17.01.2018, but on that day the said cases were reopened for clarification and subsequently posted the cases on 23.1.2018, 9.2.2018, 12.2.2018, 5.3.2018, 8.3.2018, 22.3.2018, 12.4.2018, 20.4.2018 and 18.06.2018. I respectfully submit that from date of assuming charges, to hear the arguments of the state no Additional Public Prosecutor is available since the said post is kept vacant though several letters have been addressed to the District Collector, Chennai and no one has been given Additional charge, this court could not able to hear the other side to dispose the Appeals.

I further submit that, I have adjourned the said cases on 19.07.2018 and 21.08.2018 for hearing arguments. I further submit that I assure that the Appeals will be disposed off at the earliest after the appointment of Additional public prosecutor.□

4. Thus, a reading of the report shows that, since the post of Additional Public Prosecutor is vacant, the Court could not proceed further in the cases. In the opinion of this Court, the appeals cannot be kept indefinitely pending, causing serious prejudice to the accused/appellants, on the ground that the Government have not filled up the post of Additional Public Prosecutor in that Court.

5. It is brought to the notice of this Court that the earlier Additional Public Prosecutor has filed his written argument and the same is available on record. At present, under the amended Code of Criminal Procedure, the victim is no more an orphan and he has a say. Therefore, instead of waiting for the Government to fill up the post of Additional Public Prosecutor, the learned Sessions Judge shall proceed further in order to dispose of the appeals, by going through the written argument that is available on record and after hearing the learned counsel for the victim and the learned counsel for the accused. Therefore, the learned IV Additional District and Sessions Judge, Chennai is directed to dispose of both the appeals in C.A.No.84 of 2013 and C.A.No.88 of 2013 within two months from the date of receipt of a copy of this order.

With the above direction, these Criminal Original Petitions are closed.

09.10.2018

Note : Registry is directed to issue a copy of this order by 12.10.2018

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To

1.The Inspector of Police,
V-5, Thirumangalam Police Station,
Chennai.

2.The IV Additional District and Sessions Judge,
Chennai.

3.The X Metropolitan Magistrate,
Chennai.

4. The Public Prosecutor,
High Court, Madras.

P.N.PRAKASH, J.

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Crl.O.P.Nos.18972 and 18973 of 2018

09.10.2018