



W.A.No.1642 & 1645 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED 12.12.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

AND

THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.Nos.1642 & 1645 of 2022

S.Jayakumar

.. Appellant in

WA.1642/22

R.Bhoopathy

.. Appellant in

WA.1645/22

Vs.

The Deputy Commissioner of Police

Flower Bazaar District

Chennai

.. Respondent in both WAs

Writ Appeals filed under Clause 15 of the Letters Patent, against the separate orders dated 10.03.2022 passed by the learned Judge in W.P.No.12368 of 2012 and W.P.No.12367 of 2012.

For Appellant
in both WAs

: Mr.E.Thiyagu
for C.S.Associates

For Respondent
in both WAs

: Mr.P.Kumaresan
Additional Advocate General
Assisted by Mrs.S.Anitha
Special Government Pleader



W.A.No.1642 & 1645 of 2022

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COMMON JUDGMENT

(Judgment of the court was delivered by R. MAHADEVAN, J.)

Both these intra-court appeals have been preferred by the writ petitioners, challenging the separate orders dated 10.03.2022 passed by the learned Judge in W.P.Nos.12368 of 2012 and 12367 of 2012, in and by which, the writ petitioners were granted liberty to prefer appeal under Rule 5A of the Tamil Nadu Police (Discipline and Appeal) Rules, before the appellate authority.

2.Amongst many grounds raised in these appeals, the appellants mainly stressed on the point that once the criminal cases filed against them, ended in acquittal on the same set of facts on the same witnesses, the Departmental Proceedings cannot be proceeded further. It is also stated that in an appropriate case, in spite of availability of alternative remedy, the High Court can still exercise its writ jurisdiction in at least three contingencies, i.e., (i)Where the writ petition seeks enforcement of any of the fundamental rights; (ii)Where there is failure of principles of natural justice or (iii)Where the orders or proceedings are wholly without jurisdiction or the *vires* of an Act is challenged. Thus, according to the appellants, the learned Judge ought not to have directed them to prefer appeal before the concerned authority, taking note of the facts



W.A.No.1642 & 1645 of 2022

and circumstances of the present case.

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3.However, after arguing for some time, the learned counsel for the appellants submitted that it would suffice, if the appellants are granted reasonable time for preferring appeal as directed by the learned Judge in the orders impugned herein, for which, the learned Additional Advocate General appearing for the respondent has no serious objection.

4.In view of the above, this Court grants six weeks time from the date of receipt of a copy of this judgment, to the appellants/writ petitioners to prefer appeal before the appellate authority as directed by the learned Judge in the orders passed in the writ petitions. On filing of such appeal, the appellate authority shall consider the same, without raising any issue relating to limitation, and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the appellants, within a period of three months thereafter.

5.With the aforesaid directions, both these appeals stand disposed of. No costs.

[R.M.D, J.] [M.S.Q, J.]
12.12.2023



W.A.No.1642 & 1645 of 2022

Neutral Citation : Yes/No
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R. MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

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To

The Deputy Commissioner of Police
Flower Bazaar District
Chennai

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12.12.2023