



C. SREEDHARAN NAIR

DIRECTOR GENERAL OF PROSECUTIONS
KERALA STATE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
&
SPECIAL ATTORNEY KERALA LOK AYUKTA

Phone { Office : 0484 2564303
Mobile : 9847015696
Official : 9446577271
Fax : 0484 2394933

E-mail : adv.csn.mji@gmail.com
sppkerala@gmail.com

Kochi-682 031

**GUIDE LINE FOR THE STEPS TO FILE APPEALS/REVISION PETITIONS
AGAINST ORDER OF ACQUITTAL**

Vide a common order passed by the Division Bench of the Honourable High Court dated 08.02.2021 in CrI.A.No.1363/2018 and connected matters, it is made clear that the Criminal Appeals filed by the State challenging the Judgments of acquittal are not maintainable if the required direction to file the appeal is not received from the Government. Section 378 (1) (b) provides the direction from the Government as a pre requisite for filing an Appeal against acquittal and appeals filed without such direction are not competent. Anyway, the appeals already filed by the State without such direction will be converted into Revision Petitions and disposed of in accordance with law. But it deems fit and proper to give a guide line for the steps to be taken for filing Appeals in future.

1. Whenever a police charge sheeted case is ended in acquittal from a Court of Sessions, the prosecutor who conducted the case on behalf of the State shall get the certified copy of the Judgment without delay. Then he has to prepare a detailed legal opinion, expressing his opinion whether there is scope for filing an Appeal against acquittal and handover the case records with the copy of the Judgment and his legal opinion to the police officer in charge of the case. The police officer shall submit the entire records so received to the District Police Chief concerned and the District Police Chief or the District Collector, if satisfied that there is scope for Appeal shall submit the entire records with a recommendation to file appeal, before the Honourable Advocate General.

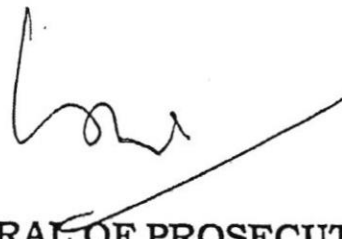
2. ^{It} The Law Officer deputed by the Honourable Advocate General shall examine the case records and the legal opinion given by the District Judge and prepare a legal opinion on behalf of the Advocate General. If the office of the Advocate General is also of opinion, that the case is suitable for filing an appeal, then the legal opinion and the certified copy of the Judgments are to be forwarded to the Home Secretary with a request for the direction to file the appeal against acquittal before the Honourable High Court.
3. The maximum time limit provided by the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules 1978 is only 45 days for the above mentioned steps and process. Hence, the said steps are to be taken by the offices concerned without causing any delay.
4. After getting the required sanction/direction from the Home Department, the Appeal against acquittal can be filed by the State Public Prosecutor or Additional State Public Prosecutor. It is to be noted that, the only competent authority to file the appeal is the State Public Prosecutor and none else.
5. It is brought to the notice of this office that several appeal proposals are already received from various police officers without the required direction from the Home Department. Such case records are to be submitted before the Law Officers of the Advocate General Office without delay to get legal opinion examining the scope of filing Appeal. In case the law officer is of opinion that there is scope for appeal, then the file shall be sent by the Honourable Advocate General for getting sanction from the Home Department. If the opinion is not in favour of filing an appeal, the case records, with the legal opinion can be returned to the District Police Chief concerned and if they are not



satisfied, they can approach the Government directly through the District Collector for getting permission.

6. After getting the legal opinion from the Office of the Advocate General favouring the filing of an appeal against acquittal, the required direction from the Home Department can be obtained by the Police, provided in the order according sanction / direction, reference is to be made regarding the request of the Advocate General, and not from the State Police Chief or any other officer. Because as per Rules, it is the prerogative of the Honourable Advocate General to decide whether the case is one fit for filing an Appeal against acquittal. Being a criminal case, strict adherence to the Rules / Procedures are to be ensured.
7. The office shall not refuse the acceptance of case records submitted by the police officers with request to file Appeal on the ground that the required sanction /direction is not obtained. The sanction /direction is to be sought only after the examination of scope for appeal from the office of the Advocate General.

Dated, this the 16th day of February, 2021.



**DIRECTOR GENERAL OF PROSECUTION &
STATE PUBLIC PROSECUTOR**