

In the said Criminal Rules of Practice and Circular Orders, 1958, in part II, for Appendix V, the following shall be substituted, namely: -

APPENDIX-V

Law Officers in the City

The Public Prosecutor, Madras is appointed for the State of Madras. He is regarded as the Assistant to the Advocate-General and in cases of difficulty, may apply to that officer for advice. In turn, he shall advise the Advocate General, whenever in cases appertaining to his duties, he is required to do so.

G.O.No.3756, Public (General-F), dated 7th November 1956.

G.O.No.1861, Home (Judicial), dated 19th August 1919.

2.His duties are-

(1) to appear for the State in all cases referred to the High Court for confirmation of a capital sentence when instructed to do so by the High Court or in cases of appeal by the Prisoner, by the Collectors or by the Commissioner of Police, Madras;

G.O.No.3273, Judicial, dated 17th December 1884.

G.O.No.2466, Judicial, dated 16th September 1885.

G.O.No.1244, Judicial, dated 9th July 1874.

(2) in other criminal appeals before the High Court to appear in support of the conviction when directed to do so by the Government or by the Collectors or by the Commissioner of Police, Madras, or when the High Court desires to hear counsel for the prosecution.

G.O.No.845, Judicial, dated 19th May 1869.

G.O.No.2004, Judicial, dated 17th December 1869.

G.O.No.522, Judicial, dated 1st April 1873.

Letter to Indian 1342, Judicial, dated 22nd July 1874.

NOTE: The Public Prosecutor should be instructed by the Collector or by the Commissioner of Police, Madras, to appear only when they are satisfied that his appearance is necessary or when the High Court has directed notice to issue to the Public Prosecutor. In cases of applications for bail, he should not ordinarily be instructed to appear.

G.O.No.1752, Judicial, dated 26th July 1877.

G.O.No.205, Judicial, dated 7th February 1900.

G.O.No.1388, Judicial, dated 25th September 1900.

G.O.No.2077, Judicial, dated 13th December 1907.

(3) to present appeals or revision petitions against orders of acquittal or conviction or discharge when directed to do so by the Government.

Section 417, Criminal Procedure Code.

G.O.No.692, Judicial, dated 2nd May 1873.

G.O.No.314, Judicial, dated 8th February 1886.

G.O.No.80, Judicial, dated 22nd January 1890.

G.O.No.215, Judicial, dated 8th February 1890.

NOTE: The Government consider it inexpedient that the Public Prosecutor should allow himself to be moved by a private party to recommend, an appeal against acquittal.

Letter to India 1342, Judicial, dated 22nd July 1874.

G.O.No.2855, Judicial, dated 4th December 1877.

(4) to appear (a) at the request of Collectors or Commissioner of Police, Madras, in all difficult and important cases referred to the High Court under Section 432 or 438 of the Code of Criminal Procedure, 1898, (b) in all cases in which the High Court has directed notice to issue to be Public Prosecutor, (c) in all references under section 307, Code of Criminal Procedure, 1898;

G.O.No.251, Judicial, dated 11th February 1889.

G.O.No.1388, Judicial, dated 25th September 1900.

G.O.No.14, Judicial, dated 4th January 1905.

NOTE: The Public Prosecutor should enter appearance, without waiting for instructions from the Collectors or the Commissioner of Police, Madras, in all cases under (b) and (c).

(5) When specially deputed by Government to proceed to mofussil stations and appear for the State in Criminal Cases and to appear before the Sessions Court, Madras, and in the Presidency Magistrate Courts when directed to do so by Government.

(6) in the matter of writs arising out of criminal proceedings or raising questions of Criminal Law, the Public Prosecutor shall appear, if notice is given by the High Court or the Government orders that the Public Prosecutor should appear;

(7) to prepare detailed instructions for the Legal Adviser to the Government of the State in the form of Statements of Law and facts in all appeals to the Supreme Court in cases conducted by him in the High Court on behalf of the Government;

(8) to advise the Government and Head of Departments in connection with the defence of public servants in criminal cases.

(G.O.No.671, Home, dated 4th March 1946)

(9) to advise the Inspector-General of Police on his applications, in important Criminal cases arising in the City of Madras.

(G.O.No.2083, Judicial, dated 15th December 1906)

(10) when consulted by Heads of Department as to the advisability of criminal prosecutions, to examine and review the evidence, to advise that the prosecution be abandoned if there is no case;

(G.O.No.1817, Judicial, dated 30th November 1868)

(Letter to Indian No.1342, Judicial, dated 22nd July 1874)

(11) if so instructed by a Presidency Magistrate, to appear before the High Court upon the hearing of applications for the transfer, to itself of cases from the Court of the Presidency Magistrate.

Section 526 Criminal Procedure Code

(12) to appear in every application before the Advocate General for the grant of a certificate under clause 26 of the Letters Patent.

(G.O.No.884, Law (General), dated 12th March 1885)

3.(1) The Public Prosecutor is debarred-

(a) from advising or holding briefs against the Government in any Criminal proceedings including appeals;

(G.O.Ms.No.1572, Judicial, dated 29th August 1882)

(G.O.Ms.No.1583, Home, dated 13th May 1953)

(b) from defending accused persons in criminal prosecutions without the special permission of the Government; and

(c) from giving advice to private parties in cases in which he is likely to be called on to advise Government.

NOTE: He himself will be the Judge as to whether he can or cannot under this sub-rule advise on a question of law any private party who applies to him.

(2) He should not accept appointment as a director in any company without the sanction of Government.

4. Salary – The salary of the Public Prosecutor is Rs.400 (Rupees four hundred only) per mensem.

(G.O.No.1613, Home (Judicial), dated 16th July 1919)

(G.O.No.311, Public (Services), dated 13th April 1933)

(G.O.No.2486, Public (Services), dated 31st December 1937)

5. (1) Other Remuneration: The Public Prosecutor is allowed a fee of Rs.30 for appearance before the High Court in each Criminal Case. He is also allowed an additional fee of Rs.20 in each case on the file of the High Court which is referred to

a Third Judge for decision under sections 429 or 378 of the Code of Criminal Procedure, 1898. In the cases referred to in clauses (b) and (c) of rule 2(4), if he obtains the instructions of the Collectors or the Commissioner of Police, Madras, in sufficient time to enable him to argue the case when it comes on for hearing in the High Court and appears in Court accordingly at the hearing, he will draw his usual fee of Rs.30, but if he does not so appear, his fee will be limited to Rs.15. He is allowed a fee of Rs.30, for every application for transfer to the High Court in which he appears.

(G.O.No.2004, Judicial, dated 17th December 1869)

(G.O.No.1593, Revenue, dated 20th November 1872)

(G.O.No.522, Judicial, dated 1st April 1873)

(G.O.No.1563, Judicial, dated 6th August 1891)

(G.O.No.205, Judicial, dated 7th February 1900)

(G.O.No.1215, Judicial, dated 30th August 1900)

(G.O.No.732, Judicial, dated 2nd May 1904)

(G.O.No.584, Law (General), dated 14th June 1921)

(G.O.No.1613, Home (Judicial), dated 16th July 1910)

(G.O.No.14, Judicial, dated 4th January 1905)

(G.O.739, Finance, dated 1st September 1922)

(G.O.No.182, Finance, dated 23rd February 1923)

(G.O.No.1622, Law (General), dated 17th May 1924)

(G.O.No.1640, Home, dated 28th March 1938).

NOTE: (a) Appeals presented by several accused persons against the same judgment whether such appeals are lodged jointly or separately, should be treated, for the purpose of calculating fees, as a single case.

(b) The Government will be prepared to grant a special fee for exceptionally difficult and protracted cases.

(2) When directed to appear on behalf of Government in mofussil courts, he is paid a fee of Rs.175 per diem for the period of his necessary absence from Madras. He has been declared eligible for travelling allowance or such journeys at the rate laid down for officers in Grade I in Annexure I to the Madras Travelling Allowance Rules. No fee is claimable, as a rule on Sundays and holidays and no daily allowance will be given.

(3) When directed to appear in the Sessions Court or the Presidency Magistrate's Court in the City or in writs in the High Court or before the Advocate General, under Standing Order 2(5), (6) and (12), he will be paid such fee as may be fixed by the Government in each case.

6. The fee payable to the Public Prosecutor when he assists the Advocate General shall be regulated as below.

Memorandum No.3709/55-5 Public (General-F), dated 30th August
1955.

(1) In cases where regulation fee has been prescribed – The Public Prosecutor will be paid one third of the regulation fee.

(2) In cases where no regulation fee has been prescribed, but where a fee has been prescribed under the Standing Orders – The Public Prosecutor will be paid one-third of the fees prescribed under the relevant Standing Order, subject to a minimum of Rs.30. Where the fee so arrived at is proved to be inadequate, the question of sanctioning higher fees will be considered in each case on merits.

(3) In cases where no regulation fees or fees under the Standing Orders have been prescribed – The Public Prosecutor will be paid one-third of the actual amount paid to the Advocate-General.

7.The Public Prosecutor has a separate clerical establishment.

(P.Dis.No.91 of 1960)

(R.O.C.No.167/59, Rules Revision)

