

Government of Madras.

EDUCATIONAL DEPARTMENT.

Recd.

Regd.

} 1912.

Enclosures

Spare copies

G.O. No. 97, 5th February 1912.

Reformatory School, Chingleput.

Ordering the immediate release of Shanmuga Kone, a juvenile offender illegally detained
in the —.

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GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

READ—the following paper :—

Letter—from the Hon'ble Mr. A. G. BOURNE, D.Sc., F.R.S., C.I.E., Director of Public Instruction, Madras.
To—the Secretary to Government, Educational Department.
Dated—the 30th January 1912.
No.—Ref. on C. 627.

I have the honour to submit the following case for the early orders of Government :—

One Shanmuga Kone, aged 13 years, was convicted of theft under sections 379 and 75, Indian Penal Code, by the Joint Magistrate of Tuticorin and sentenced to one month's rigorous imprisonment with a direction that, instead of undergoing the sentence, the accused shall be sent to the Reformatory school for a period of five years. The Joint Magistrate enquired of the Superintendent, Reformatory School, Chingleput, in his letter of the 6th December 1911 whether accommodation was available for one juvenile offender and he was informed that it would be available on the 8th January 1912. Thereupon in his letter of 18th December 1911 he wrote to the Superintendent to have the accommodation reserved for the juvenile in question and the boy was admitted into the Reformatory school on the 9th January 1912. The Superintendent states that from the copy of the judgment passed by the Joint Magistrate on the 5th December 1911 and received by him on the 20th January 1912 it was found that the period of one month for which the boy was imprisoned had expired with the 5th January 1912 and he thinks that the boy should have been sent to the school within the period of his judicial sentence, *i.e.*, before 5th January 1912, and that his detention in the Reformatory is illegal under section 12 (b) of the Reformatory Schools Act as he should have been released on the expiry of his original sentence.

I submit herewith the copy of the judgment and the warrant of commitment received from the Superintendent.

2. For a precedent I beg to invite the attention of Government to G.O. No. 831, Educational, dated 18th December 1905.

ENCLOSURES.

(i)

Calendar Case No. 101/11.

The accused has been tried by the Sub-Magistrate of Tuticorin for an offence of theft. Accused has pleaded guilty to a charge framed under section 379 and has admitted the two previous convictions for theft entered in the charge against him.

2. The Sub-Magistrate is of opinion that the accused is guilty and should receive punishment different from that which he is empowered to impose and has therefore sent the case to me under section 349, Criminal Procedure Code.

3. It is clear from the prosecution evidence that the accused stole three pieces of mutton from a butcher's shop. The accused also admits it.

I convict accused of an offence punishable under sections 379, 75, Indian Penal Code.

I sentence him to one month's rigorous imprisonment.

4. Accused is 13 years old. He has been twice convicted by me of theft during this year (1911) and punished with whipping. He appears to be a fit subject for reformation. He is a youthful offender. I therefore direct that, instead of undergoing the above sentence, he shall be sent to the Reformatory school for a period of five years under section 8 of Act VIII of 1897.

5th December 1911.

A. R. Cox,
 Divisional Magistrate, Tuticorin.

(ii)

IN THE COURT OF THE JOINT MAGISTRATE, TUTICORIN.

Judgment in Calendar Case No. 101 of 1911 on the file of the Joint Magistrate of Tuticorin.

Complainant—Rex.

Accused—Shanmuga Kone.

Offence—Theft by an old offender under sections 379 and 75, Indian Penal Code.

Finding—Guilty.

Sentence—To one month's rigorous imprisonment with a direction that, instead of undergoing the sentence, the accused shall be sent to the Reformatory School for a period of five years under section 8 of Act VIII of 1897.

Habitual offender.

Serial number.	Description of the accused.						Date of					Explanation for delay.
	Name.	Father's or uncle's name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension or appearance.	Commencement of trial.	Close of trial.	
1	2						3					4
1	Shanmuga Kone.	Periasami Kone.	Shepherd.	Cooli.	Tuticorin.	13	20th November 1911.	6th December 1911.	6th December 1911.	6th December 1911.	6th December 1911.	

Details of previous convictions.

(1) The accused was sentenced to receive five stripes by the Joint Magistrate, Tuticorin, on 21st November 1911 in S.T. No. 3/11 for an offence under section 379, Indian Penal Code.

(2) To ten stripes for an offence under sections 379 and 75, Indian Penal Code, by the Joint Magistrate, Tuticorin, on 14th February 1911 in S.T. No. 9/11.

(iii)

Whereas on the 6th Day of December 1911 Shanmuga Kone, son of Periasami Kone of Tuticorin, juvenile, 13 years old, a prisoner in C.C. No. 101 of 1911, was convicted of theft under sections 379 and 75, Indian Penal Code, before me, A. R. Cox, Esq., I.C.S., Joint Magistrate, Tuticorin, and directed to be sent to the Reformatory School at Chingleput for training for a period of 5 (five) years.

This is to authorize and require you the said Superintendent to receive the said juvenile into your custody in the said Reformatory together with this warrant and there carry out orders according to law.

Given under my hand and the seal of this court this third day of January 1912.

A. R. Cox,
 Joint Magistrate.

To the Superintendent, Reformatory School,
 Chingleput (through the Sub-Jail Officer, Tuticorin).

Order—No. 97, Educational, dated 5th February 1912.

The detention of the boy in jail after the period of his sentence had expired was illegal. He should be released at once.

2. The following telegram will be sent to the Superintendent, Reformatory School, Chingleput:—

“No. 7. Release at once Shanmuga Kone ordered to be detained in Reformatory for five years.”

(True Extract.)

L. DAVIDSON,
Ag. Secretary to Government.

To the Director of Public Instruction.
,, Judicial Department.

EDUCATIONAL DEPARTMENT.

NOTES CONNECTED WITH G.O. No. 97, EDUCATIONAL,
DATED 5TH FEBRUARY 1912.

[SUBJECT — Discharge of a pupil from the Reformatory School, Chingleput.]

From the Director of Public Instruction, dated 30th January 1912, No. 627.

Under section 12 of the Reformatory Schools Act (VIII of 1897) “every youthful offender directed by a court or magistrate to be sent to a Reformatory school shall be sent to such Reformatory school . . . provided that, if accommodation in a Reformatory school is not immediately available for such youthful offender he may be detained in the juvenile ward or such other suitable part of a prison as the local Government may direct —

“(a) until he can be sent to a Reformatory school, or

“(b) until the term of his original sentence expires,

“whichever event may first happen. Should the term of his original sentence first expire, he shall thereupon be released. . . .”

2. In the case now submitted by the Director of Public Instruction for orders one Shanmukha Kone was sentenced by the Divisional Magistrate of Tuticorin to one month's rigorous imprisonment from 5th December 1911, and directed that he should be detained in the Reformatory school for a period of five years. The boy should, under the rule quoted above, have been sent to the Reformatory before the expiry of his original sentence, that is, before 5th January 1912. The boy was actually admitted into the school on 9th January 1912. As the detention of the boy contravenes the provisions of section 12 (b) of the Act it is for consideration whether his release may be ordered at once.

3. The Superintendent of the Reformatory school informed the Joint Magistrate that accommodation would be available only on 8th January 1912. Even then the Joint Magistrate failed to see the provisions of section 12 (b) of the Act. For orders whether any action should be taken on this omission on the part of the magistrate.

This is not by any means clear. I notice that Mr. Cox issued a warrant for the boy's transfer to the Reformatory on 3rd January, but it did not reach Sub-Magistrate, Tuticorin, until 5th January.

C. W. E. COTTON.

I presume Judicial will agree to this.
Yes.

C.W.E.C.—2-2-12.

Submitted that orders may *issue immediately* directing the release of the boy. The Director of Public Instruction may be asked by telephone to issue orders to that effect at once.

The question of the magistrate's omission to follow the provisions of section 12 of the Reformatory Schools Act may be considered separately in the Judicial Department.

P.R.—31-1-12.

R. SUNDARAM AIYAR—31-1-12.

L. DAVIDSON—1-2-12.

- C.W.E.C.

* It is being called for separately.

of the boy is for orders.

C. W. E. C. - 2-2-12.

Release the boy at once.

M. H[AMMICK]—5-2-12.

To the Educational Department.

EDUCATIONAL DEPARTMENT.

Telegraph orders at once.

L. DAVIDSON--5-2-11.

Draft submitted for approval.

T.K—5-2-12.

R. SUNDARAM AIYAR—9-1-12.

M. S. MASCARENHAS—5-2-12.

[G.O. No. 97, Educational, dated 5th February 1912.]

E. & L.
74
1,500—17-11-11

READ AGAIN G.O. No. _____, dated _____ 191

99 91 95 99 99 191

READ ALSO:—

C. No. 313, From the DPJ, No. 627/12, dated 30-1-1912

” ” ” ” “..... ” ” ” ” 191

191

ORDER.

P. S.

No. 97, dated 5. 2. 1917

The detention of the boy in jail after the period of his sentence had expired was illegal. He should be released at once.

2. The following telegram will be sent to The Suppl. Reformatory School, Chingleput.

no. 7 Release at once

"Shammuga Kone ordered to
"be detained in Reformatory
"for five years"

74.
5.2.12 Re
5.2.12

Washburn & Park S.
29/3/12

Depd.
5/2/12

S. Kypur der 15
26/2/12

To

The ~~D.D.S.~~
-- Judicial Dept
~~D.H.~~
Tukwila

Current No., dated 190 ..

G.O., No. 97, dated 5-2-1902

Number of MS. pages sent { Correspondence including order or orders
(b)
Notes (b¹)

Docket. *Reformatory School, Chingleput*

or during the immediate release

of one Shanmuga Kumari, a

juvenile offender who is

detained in the

Number (c) of copies required when struck off (not including

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Complete Correspondence and orders.

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Dept.

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The Director of Public Instruction.

The Comr. for Govt. Examinations.

The Superintendent, Govt. Museum.

The Surgeon-General.

The Accountant-General.

The Collector of.

The P. D. B.

The.

The.

The.

The.

The.

The.

The.

Total ...

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(b) Each letter, memorandum, or order, or set of orders, in the file of correspondence should be headed in succession with the Roman numeral I, II, III, etc., the number being written in red ink or blue chalk above the item. The particular papers to be printed in the special issue-copies should be indicated by the Roman numeral (I, II, etc.) by which that item has been headed in the correspondence file. All matter, including marginal remarks or references, to be printed should be written in ink and matter which should not be printed should be encircled. Initials and signatures that are not quite legible should be re-written distinctly.

(b¹) For rules regarding printing of notes, see the rules in G.O., No. 1220, Public, dated 30th November 1900.

(c) The number of copies and the details of distribution should be filled in by the Superintendent or Referencer concerned.

(d) In the absence of special instructions to the Press to keep matter standing for a specified period, ordinary papers of 8 pages and under will be kept standing for one week, and larger papers for two weeks only. The type of notes and of all confidential papers is distributed immediately after striking.

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(c) Signature copies of letters to the Secretary of State or to the Government of India should be printed on hand-made paper.

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TO PRESS, MADRAS.
OOTY.

A

B

C

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Type may be released after usual interval at once.

Type may be released after usual interval.

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.....Clerk.

.....Clerk.

.....Supdt.

.....Supdt.

.....Supdt.

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