

Home (19 16) Department.
Education

Ordinary SERIES.

G.O., No. 949-

DATED 6. 9. 16

[Despatch Abstract.]

Reformatory School, Chingleput.-

Passing orders on the question raised by the District Magistrate, North Arcot, as to whether prosecution against a juvenile directed to be detained in the --- should be withdrawn in cases where the juvenile has committed other offences before his admission to the school.

PAPERS PUT UP WITH CURRENT No.

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REGR. CHIEF SECT. JUDICIAL DEPARTMENT.
23 JUL 1916
MADRAS GOVT.
Received 191 Registered

CURRENT NO.

CURRENT NO.

2023 1997

JKD/10/AL C

Aug 24. 7.16

Subject.

Submitting report requesting the favour of orders of Government as to how a second case of theft committed by a juvenile already in the Reformatory school should be dealt with

ENCLOSURES
No. nil
Spare copies -

Roe No. 1023 9-16

Station Vellore, Dated the 19th July 1916

From (Name) F. J. Richards, Esq., M.A., I.C.S.,
(Designation) District Magistrate, North Arcot.
Educational dept no.

To The Secretary to the Government of Madras,

Judicial Department.

Stone House Hill.
Cotacaimund.

Sir,

I have the honour to report that, on a reference made

by the Joint Magistrate, Tirupattur, under section 9 (1) of

the Reformatory Schools Act VIII of 1897, a juvenile of 14

years of age was convicted by me for an offence under section

380 I.P.C., with previous convictions and sentenced to ri-

gorous imprisonment for 18 months and in lieu of undergoing

the imprisonment, was directed to be detained in the Reforma-

tory School, Chingleput, for 4 years.



Edl
CN6.2832
2/8/16

AS

2. The Joint Magistrate, Tirupattur, now brings to notice that, at the time of his reference to this office, there was another -- charge for a similar offence pending before him against the same prisoner and requests orders as to whether (i) he ^{may} proceed with the case and make a reference to Government under section 32 of the Reformatory Schools Act or (ii) direct the District Superintendent ^{of Police} to withdraw the charge.

3. I presume that the provisions of section 32 apply to those cases where a juvenile commits an offence after his admission to the Reformatory School, although the wording of the section would not allow of such an interpretation. A literal adherence to the actual words of section 32 of the Act would in this case defeat the object of the Act inasmuch as the boy would lose the benefits of training if he is convicted and sentenced and directed to undergo imprisonment in jail for an offence committed before the order for his detention was passed. I request the favour of -- instructions as to whether in such cases the prosecution should be withdrawn.

I have the honour to be,

Sir,

Your most obedient servant,

H. Amirthalingam
for Dt. Magistrate.

P.G.M.
21-7-16.

22/7/16

NOTES.

OFFICE NOTE.

Home (84)

SUBJECT.

Re: the procedure as to how an offence
committed by a juvenile ^{offender} already in a
Reformatory School, should be dealt with.

From

the S.A. Mag. N. Arcot, R.O.C. no. 1023 of 1917
Mag. 17.7.16

Register No. 2832-25.

Section 32 of the Reformatory Schools Act,
1897, provides that "when a youthful offender
during his period of detention in a Reformatory
School is again convicted by a Criminal Court
the sentence of such Court shall commence
at once notwithstanding anything to the contrary
in Section 397 of the Code of Criminal Procedure,
1898, but the Court shall forthwith report the matter
to the Local Govt., which shall have power to deal
with the matter in any way in which it thinks
fit." ~~But if a youthful offender in a Reformatory
School is again convicted and sentenced, he shall
have to be released from the School to undergo
imprisonment as a felon.~~

The S.A. Magistrate of N. Arcot requests
instructions as to whether the prosecution may be
withdrawn in all cases where the conviction
of a youthful offender is for an offence
committed

Committed before the order for his detention in a Reformatory School was passed.

In accordance with the actual wording of Section 32 of the Act, the Govt. can interfere only after the individual is convicted and the matter reported to them. The proper procedure in the case now reported would therefore be to try the juvenile and, if convicted, to report the matter to the Govt. who will deal with it in any way they think fit. Further, cases similar to the present one will not be frequent and it does not seem necessary to issue any general instructions in this regard. ~~There seems, however, no objection to withdrawing the prosecution in the present case.~~ Perhaps before passing final orders the Judicial Section may be consulted w.v.

4/8/16
Jh
11.8.16

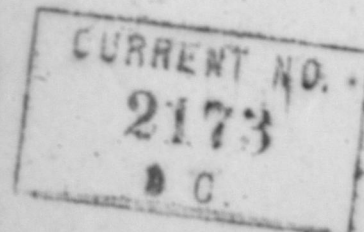
CR
14.8.16

Home (Jst) w.v.

Home (Jud) Dept.

Eoluo 2832-1

15/8/16



Recd 15.8.16

S.

There seems to be no reason why the prosecution should be withdrawn in such cases, inasmuch as, even if the juvenile offender be convicted and sentenced

Committee before the order for the
the Govt. can remit the sentence
under section 401 of the C.P.C. (if
the circumstances of the case
justify such a course) when the
report required by section 32
of the ~~Act~~ Reformatory Schools
Act is received by Govt.

With these remarks the file
may be returned to the Edl.
Dept.

M.V.V.

22.8.16

Please put up the list.

the can I mention withdrawal of prosecution?

Chh
23.8.16

N.S.

A copy of the Reformatory Schools Act
1897 is subd.

² The power to withdraw
from the prosecution is ~~vested~~ in the
Public Prosecutor or the officer empowered
under section 495(1) of the Cr. P.C.

not fully (Vide sections 494 & 495(2) of the Cr. P.C.)
Sanction for such withdrawal from a
higher authority, except if be the Courts

11.3.15 (K)

Sanction under the above section, does not appear to be necessary, though under the Standing orders for the guidance of the Law Officers in the Maffland the Public Prosecutors have been directed to Consult the D.M.s before withdrawing from the prosecution in all grave cases in Magistrate Courts.

Ref.

It is noticed that the Joint Magistrate Tirupattur requested orders as to whether he may direct the D.S.P to withdraw the Charge. Apparently in this case there were two charges under a single charge sheet as such joinder of charges is permissible under Section 234 Cr.P.C. Under the first of the charges the juvenile has been convicted and in lieu of the conviction he has been directed to be sent to the Ref. School. The remaining Charge can be withdrawn by the (Police) under Section 240 C.P.C. If this be the position the intervention of the Public Prosecutor or his substitute does not arise. It is not clear from the D.M's letter who has appeared for the prosecution. In any case, the withdrawal of the charge, or prosecution amounts to an acquittal.

2.8.16
M.V.V.
28.8.16

Two courses appear to be possible
 a/ To withdraw the prosecution
 b/ Allow the prosecution & remit the sentence if it results in conviction.
 I think a is undobjectionable, & preferable to b.

Ch. 4
 29.8.16

Home Dep^t (Ed.)

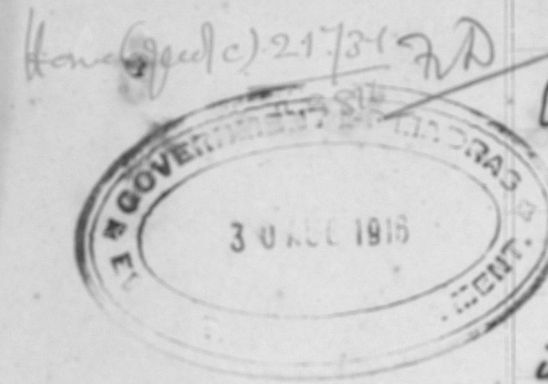
With reference to Home (Jud.) note above, it is for consideration whether the prosecution may be directed to be withdrawn. If so, the draft now below is for approval.

Ch. 4
 2/9/16
 29.16

Draft for approval

Ch. 4
 4.9.16

Ch. 4
 6.9.16



Notes in ca
 2/9/16
 Recd. 2/9/16



Reformatory School, Cambridge Passing orders on the question raised by the
J. H. Magistrate, Mr. Arch. as to whether prosecution against a juvenile directed
to be detained in the —, should be withdrawn in cases where the juvenile has
committed ~~another~~ offences before his admission to the school.

191 .

C. No. 2832 Sl, From the S.A. Magistrate N. Ch. No. 1023, dated the 19. 7. 1916.
- mg 9-16

191

191

ORDER. *Case of* No. *944*, dated *6. 9.* 191*6*.

Twin

The D.^y Magistrate of North Arcot
will be requested to direct the D.^y
Super^r of Police to withdraw the charge
pending in the Court of the Joint
Magistrate, Tirupattur, against the
juvenile referred to in his letter
read above.

2. The Dist. Magistrate will be in-
formed that Govt. do not consider
it necessary to issue any general
instructions for guidance in such
cases.

2/9/16

To the D. A. Mag. M. Frost (200)
Copy to the Home Just Dept (200) ✓

Committee on the subject of the
to be retained in the —, and to
to the President, to be retained in the —, and to
to the President, to be retained in the —, and to

8. A. Magnolia - West
1035
May 19. J.

2852

The 24th August 1900

instructions for guidance in fact
it necessary to issue any general
orders that must be very binding
The Dr. Magistrate will be in -

222

20
21/1/2

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.