

MADRAS RECORD OFFICE.

Government of Madras.

MENT.

*Post
Place,
Mand*

G.O. No.	<i>412</i>	Press
<i>53-54</i>		~~Mis.~~
Dated	<i>28²⁶ 3 - 1889</i>	

Not to be folded or roughly handled

No. 7

2

From

John Ratliff Esq.
Magistrate of the District

To

J. Pycroft Esq.
Chief Secretary to Government
Fort St. George.

Sir,

Right and Left hand caste
disputes being frequent, at this place,
such pleading Mamool, as ground
for prohibiting the most ordinary
and, per se, inoffensive proceedings,
on the part of the other, and an
addition to such being apparently
probable from a report just
received, from my Head Assistant,
as to the progress of a Gooroo of the
Left hand caste thro' this District,
I have the honor to solicit the
favor of instructions, as to whether,
in dealing with such matters, it is
the wish of Government that "Mamool"
however repugnant to European ideas,
of common sense procedure, should
be inquired into & maintained - or that
the latter should be refused.

2. In illustration of the disputes & pretensions I allude to, may specify a presently existing feud between the members of the Right & Left Hand Caste in the village of Trippapattur, adjacent to this, the former of whom prevented a member of the latter from riding in his own coach along a public street, & high way - under the plea of its being "contrary to mamool" - whilst the latter have subsequently retaliated by attempting to prevent the building of an upstair house, in the same street, under the same plea - each party loudly asserting, moreover, the falsehood of the other's allegations - The progress of the Goo-roo above adverted to, appears to have already given rise to disputes as to his right to pass along this, or that, street, and if at all, to do so with flags, & other similar demonstrations - each of course, as per se, perfectly harmless proceeding - altho' perhaps of a somewhat less rationally exceptional character than

than such instances of claim & opposition as the two first quoted.
3. Soliciting instructions, accordingly, as to whether it is the desire of Government that such cases should be dealt with according to European ideas, or native Mamool.

I have the honor to be
Sir

Yr most obedient servant

Mr. M. M. M.
Magistrate, Office
Cuddalore
10th March 1859

[Signature]

C. M. M.

There is no case in which the
 Court has ever been called upon to
 decide upon the validity of a
 judgment given by a
 Justice of the Peace.

Mr. Ratliff Acting Magistrate of South
 Africa reports, that eight & six hundred cases
 disputes are presented at the Cape
 Court, parties pleading ^{Custom} Præscriptio, as ground
 for prohibiting the most ordinary
 proceedings, in the proceedings on the part
 of the other. He solicits instructions
 whether, in dealing with such matters,
 it is the wish of Govt, that Præscriptio have
 been repugnant to European ideas of
 common law procedure should be
 enquired into & maintained, or that
 the latter should be applied - He proposes

17-4-93

1074 Com 28th March 1859
 Judicial 1859 Departs

The Acting Magistrate of
 the Cape of Good Hope

to the Cape of Good Hope

to the Cape of Good Hope

to the Cape of Good Hope

No 391

No 391

Acting Magistrate of South Africa
 as to whether the Act of
 the Cape of Good Hope, but
 on the other hand, it is
 necessary to be satisfied
 of the validity of the
 judgment given by the
 Justice of the Peace.

1222 "
 1224 "
 1225 "

For the Attorney General

1

C144a and
1222 "
C24 "
0225 "

17-4-98

53

some instance in illustration, and
ask whether such cases should be dealt
with according to European ideas or
native *Manu* or.

2 In this order on the *Tinnivelly*
dist E.M.C. 28 Jan. 1859 para 38. It
stated that the attempt of one party
caste to exclude the other from the use
of the public streets could not be toler-
ated. "The public high streets in all
towns are the property not of any
particular caste, but of the whole
community, and every man, be
his caste or religion what it may, has
a right to the full use of them, provided
that he does not obstruct or molest others
in the use of them, and must be

exercised in the use of the right
The Govt has been informed by the
Magistrate of *Tinnivelly* that the publi-
cation of the above ^{order} in his District
has had an excellent effect. Feuds &
squabbles of old standing have been
set at rest and the right of all to the
free use of the highway as perceived
by all. — see the para-putup.

The *Ratcliffe* enquiry is in such
general terms that it is difficult to
give him any specific answer or inter-
view such customs altho' abundant in
offence & do not annoy those of other
caste they should certainly be left alone.
In respect however of this instance
addressed in illustration it seems clear

thou whether, in dealing
with such matters,
the wish of Govt.

Ma

C. H. H. and
1822 "
C. H. H. and
1825 "

For making

clear that no man can be prevented from
walking in his own coach along the pub-
-lic street and highway - nor from build-
-ing a house with an upper story -

For the former, he has as much a
right to pass along the public street as
any body else - but whether he should
be permitted to do so, in process of
with flags and similar demonstration
is another question - The Magistrate as
the Chief Police Officer would, it is conceived
be fully warranted in preventing this
if it would be likely to collect a crowd
obstruct the road - or lead to public incon-
-venience or quiet disturbance -

At the same time altho' the principle
that every man has a full right to the pos-
-session of the highway, and to deal with his
own property as he pleases so that he does

not annoy others are sound principles
and such as should whenever necessary
be maintained, the Magistrate need not
go out of his way to prohibit & enforce
them, but may content himself with
fully asserting & enforcing them when
that occasion presents itself as in

To the Magistrate, being Justice of the Peace

1825

59. *Sanitary Co. and forward*
Sanitary Co. and forward
principle has been laid down by law
in the Sanitary Act - but it does not
imply that the Magistrate
should interfere in every case in which
the act is violated - he should
not as much as possible prevent

C144h and
1222 "
C244 "
0225 "

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The Old Lady

of the place - I should believe no other
frame with or preservation of people
passing quickly along the road - but
in other respects - where there is no
intention to do more than carry on some
old native custom - they are to left to
conduct them as they please.

What however I presume is the
probability of one caste or her other
endeavouring to pass in procession down
streets belonging to the other caste - especially
prohibited - I requiring the support of God
or the power that the high road is open
to all - this is a disappointing result must

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Jul. 6. Departure

6

and doubtless some - cannot be avoided
Proceeding in procession - by which
a most miserable idea of God - is being
diffused - being from proceeding a dead
body being converted into a fearful living
frame - as an independent human
being - attempting to make such
a move - the nature of the
procession - is a very poor - a very
sight - family & for the sake of
everything of the kind.

H. J. G.

C. H. Arnold
1822 "
C. 24 "
1825 "

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Some are generally in the above
view.

The Magistrate's duty is simply
to keep the peace, & provided that
is not endangered every man who
is allowed to follow his own course
but where process is commenced
without provocation he should
not be allowed to follow his own course
wherever he sees fit
grounds for ascribing a riot
to them & the liberty of the subject
must be abused by allowing
to get up new demonstrations of
offending the prejudices of others
on parade where they have been
before. All such processions are
disturbances to the public
peace & not to be tolerated.

all processions should be regulated
by what has been the custom

in the past. The Magistrate should be careful
in any case to see that the peace is not
disturbed.

Jud. L. Depart.

No. 413

Extract from the Minutes of Consultation.
Dated 26th March 1859.

Read the following letter
from the Acting Magistrate
of South Arcot.

(Here enter 10th March 1859.)
N.Y.

A
J
M

Well

M^r. R. R. R. Acting
Magistrate of S. Arcot
reports that right and
left hand caste disputes
are frequent at Cuddalore,
each party pleading Mamool
as ground for prohibiting
the most ordinary and,
per se, inoffensive proceed-
ings on the part of the
other. He solicits instruc-
tion whether, in dealing
with such matters, it is
the wish of Govt., that

Mamool

Mamool however, repugnant
to European ideas of com-
mon sense procedure should
be ~~enforced~~ ^{maintained}, or that the latter
should be enforced. He
gives some instances in
illustration, and asks
whether such cases should
be dealt with according
to European ideas or na-
tive Mamool.

2. — In the orders on the
Times, 28th Jan. 1839 para 38. it
was stated that the attempts
of one party or caste to ex-
clude the other from the
use of the public streets
could not be tolerated.
"The public high streets in
all towns are the property
not of any particular
caste, but of the whole
community, and every man,
be his caste or religion
what

what it may, has a right
to the full use of them,
provided that he does
not obstruct or molest
others in the use of them,
and must be supported
in the exercise of that
right."

3. — By the full use
of the streets in the above
passage was meant their
full use for necessary
and ordinary purposes
of which the carrying
out of a dead body quit-
ly for interment was
clearly one. — Similarly
to refer to the instances
~~addressed by Mr.~~
Radcliff, every man must
be regarded as having
a natural right to proceed
along the public highway
in his usual conveyance,
or to add an upper story
to his house, and no
obstruction to the exer-
cise of such rights as
these

The same principle
will regulate other
cases. Thus in the
instance

It is his own
word

The R.H. the Genl
observes that in

these can be tolerated.

4. — The Coaroe to whom the Acting Magistrate alludes must on the same principle be regarded as at liberty to pass along the public streets in the same manner as other people, and is not to be prevented from so doing.

5. — But it does not follow that he is to be permitted to traverse the streets in procession, with flags and the like insignia, and if such a proceeding would be likely to excite disturbance, the Magistrate as the guardian of the public peace, should certainly prohibit it.

6. — Speaking generally, to use the public streets for the ordinary avocations of life, and to such an extent

to do any act of a like character,

his head may
be thrown
back
and his arms
extended
in a threatening
manner

extent as the comfort and convenience of the individual may require, is one thing, to go beyond this, as for example, thus, and to carry out processions or get up demonstrations hitherto unusual, thereby needlessly offending the prejudices of others, offering ~~the~~ provocation and raising excitement, is another. In the latter cases, the comfort and convenience of the public are in no way interested. ~~the~~ ~~permission of such acts~~ and if such processions or demonstrations be likely to create a tumult and lead to a breach of the peace, they must be peremptorily interdicted and the custom heretofore followed in

in such matters be rigidly maintained.

7. — Further, altho' the principle that every man has a full right to the free use of the highway, and to deal with his property as he pleases, so that he does not give

any real cause of annoyance to others, and

such as the officers of Govt. should never fail to assert whenever they

may be appealed to, or

a proper occasion may arise, yet it is not desirable that they should

go out of the way to enforce the application

of ~~the~~ principle. It will suffice that they

be temperately but resolutely upheld whenever

opportunities for asserting

or, generally speaking, to do any act not repugnant to decency and morality, nor prohibited by law, — is a sound principle, and

that may present themselves fairly and in due course.

8. — Resolved that the above order be communicated to the Acting

Magistrate of S. Acad.

in reference to his letter

of the 10th Inst. and to

all Magistrates for

their information and

guidance.

J.P.

+ with Mr. Ruliff's letter

To The Magistrate of several Districts } Dispd 22 Apr

J.H. Bell

My dear Mr. Brewster

Received 1859 Sept 1st

Sept 1st

Dearest Mr. Brewster

Sept 1st. New York

7-11-873
1-1-15/19

Many thanks to the
Magistrate of S. M. P.
relation to the dispa-
right and left hand state
Alphates and a meeting
that these and as for all
letter of the 1st instant be
communicated to Mr. Magistrate
for their consideration and
disposal.

10-6-01

10/2/02

10-4-11 132

10-10-90
17-4-930

10-4-93

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10-4-93

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