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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 61	Press / Mis.
Dated 27-1-	1870.

96-98 32/33

Not to be folded or roughly handled

FINANCIAL DEPARTMENT.

No. 61.

FROM

J. I. MINCHIN, ESQ.,
Acting Chief Secretary to the Government of Fort Saint George,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
FINANCIAL DEPARTMENT.

SIR,

I am directed, with reference to paragraph 3 of the Memorial Rules, to forward, for transmission to the Right Honourable the Secretary of State for India, a memorial from B. Teagaraja Pillay, formerly Tahsildar of the Ahtoor Taluq in the Salem District. Teagaraja Pillay appeals against the orders of this Government refusing to direct his restoration to his office from which he was relieved in 1866 under orders of the Collector, and declining, on his subsequent admission to pension, to sanction the grant of the maximum rate.

2. In March 1866 the memorialist who had not been giving satisfaction in the performance of his duty, was called upon by the Collector to resign and take his pension, and arrangements were made for relieving him of his charge upon the 1st June following, and were carried out on that date. Immediately on memorialist's removal from office, a large number of complaints were preferred by persons who had been under his jurisdiction, and after a protracted investigation, he was convicted by the Magistrate on six charges of extortion. The convictions were however annulled by the Sessions Judge as stated in the memorial ; but it is unnecessary to go into details regarding the criminal charges, inasmuch as they were not taken into account by this Government when passing orders on petitioner's case.

3. The orders of Government proceeded upon the result of certain charges against the memorialist in connexion with his performance of his duties as a Revenue Officer. These charges had reference to the memorialist's surreptitious acquisition of land in the Taluq in which he was employed in opposition to the Standing Orders on the subject. The Collector having found that the charges were proved, recommended that a formal order of dismissal should be recorded against memorialist, which would have prevented his obtaining pension.

4. The Board of Revenue submitted the case to Government with the remark that they were "satisfied that the Tahsildar's withdrawal of his resignation and reinstatement in office ought not to be permitted, but that they did not deem it necessary to order his formal dismissal, as this extreme punishment would probably not have been inflicted on him for such offences, serious as they are, after such a lengthened period of service as he has attained."

5. On being called upon to record a definite opinion on each of the five charges, the Board of Revenue addressed to Government the letter recorded in the Proceedings of Government in the Revenue Department, 14th November 1867, copy of which is enclosed for reference. This document succinctly sets forth the circumstances of each case, with the result that four out of the five charges were held to be fully proved ; in which opinion the Government concurred and directed that the memorialist should not be allowed to resume the post of Tahsildar, but should be required to take his pension.

Nos. 240 and 241.

6. When the memorialist's application for pension was being disposed of it was considered that as his service was not unblemished, which the circumstances of his retirement showed, he was not entitled to the maximum rate of pension which is only allowed for approved service ; but four-fifths of the maximum pension was granted. The pension was made payable from the 14th December 1867, the date on which, in pursuance of the order above referred to, the memorialist submitted his application to the Collector.

7. I am to observe that in being admitted to pension at all petitioner was, it appears to this Government, treated with considerable leniency, and has no cause for complaint.

I have the honour to be,
Sir,
Your most obedient servant,

FORT SAINT GEORGE,
27th January 1870.

Acting Chief Secretary.

Exd. J. Wright.

1870.

FINANCIAL DEPARTMENT.

From — *The Actg. Chief Secy. to Government, Fort Saint George.*

To — *The Secretary to the Govt. of India, Financial Department.*

Dated 27th January 1870.

Recd.

No. 61.
Enclosure.

JANUARY.
Nos. 96–98.

Forwarding, for transmission to the Secretary of State, a memorial from B. Teagaraja Pillay, formerly Tahsildar of the Ahtoor Taluq, Salem District, appealing against the orders of the Madras Government on his case.

3

2.

To

HIS GRACE THE DUKE OF ARGYLL. K. T. G. C. B.

HER MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR INDIA.

&c. *&c.* *&c.*

LONDON.

THE HUMBLE MEMORIAL OF B. TEAGARAJA PILLAY LATE TAHSILDAR OF AHTOOR TALUQ IN THE DISTRICT OF SALEM OF THE PRESIDENCY OF MADRAS.

RESPECTFULLY SHEWETH.

That your Memorialist having served Government 34 years, 1 month and 8 days and having been pensioned after such service, contrary to the guarantee of Her Majesty, given to her servants in the Uncovenanted Service, on a sum less than a moiety of the average of pay drawn by him during the last five years of his service.—Rupees 200, and not having obtained redress from the Local Government, is compelled to appeal to your Grace and he trusts that the justice which has been denied him in this distant appendage of Her Majesty's territories will be granted by your Grace who is so near Her Majesty's throne from whence all Her subjects of whatever class, creed, or color have a certainty of assurance that impartial justice will be meted out to them.

2. That your Memorialist now begs to submit the circumstances connected with this case and solicits for the same the best consideration of your Grace.

3. That your Memorialist entered the service as Javabneviss in the Ahtoor Taluq on a salary of Rs. 10-8-0 on the 27th of April 1832, that on the 22nd of April 1842 your Memorialist was promoted to Talook Gumastah in the same place, that on the 1st December 1843 your Memorialist was placed in the Police Department and served at Salem and Darmapoory as Police Goomastah, that while employed in the Police Department your Memorialist apprehended Annavyangar the notorious head of a gang of Robbers in the Salem Talook who was the Zemindar of Rakeputty in that Talook and carried on predatory excursions for a length of time and artfully eluded all endeavours on the part of the officials to effect his apprehension, on the occasion of Condalam Putty and Salem of that Taluq being plundered by this Bandit.

Trans'ation of Takeed issued by W. E. LOCKHART Esq.,
Collector of Salem.

To
TEAGARAJA PILLAY
Police Royasem of Darampoory Taluq.

Having learnt of the great zeal displayed by you in the case of the notorious offender Annavyangar in the robbery committed at Condalamputty and other villages, and your knowledge in Revenue matters and the deal of labor you take invariably, I am pleased therefore to appoint you to act in room of the Taluq Sheristadarship now vacant at Darampoory Taluq from the 1st instant. On the receipt of this order you will obtain the permission of the Tahsildar of Salem, and proceed to Darampoory and assume charge of your new appointment, and be guided by such orders as may be given you by your present superior, in conformity with the rules and customs both in the Revenue and Police department. On my learning the assiduity with which you perform your duties, I will take measures to comfirm you in the said post. Know this.

DARAMPOORY,
3rd November 1846.

(Signed) W. E. LOCKHART,
Collector.

In fact that your Memorialist's services were specially applied for, for this purpose and as a reward for

his gallantry and bravery your Memorialist was promoted to the Sheristadarship of Durmapoory.—That your Memorialist was accordingly afterwards, on the 1st November 1846, promoted to Talook Sheristadar, on a salary of Rupees 28 and did duty in the Durmapoory and Krisnagerry Talooks, that on the 20th of October 1848 your Memorialist's salary was increased to Rupees 100 and he did duty in the following Talooks as Tahsildar.

Tengary Cottah.
Dankani Cottah.
Sunkerry Droog.
Ahtoor.

4. That while at Dankani Cottah, a Bridge which was erected over the Cauvery at Comarapollium, at a cost of a Lac of Rupees, had been washed away by the freshes in consequence of the materials with which it was constructed not being of the proper kind and thereupon your Memorialist was specially appointed by H. D. Phillips Esq. the then Collector for the duty of supplying materials for its reconstruction and that your Memorialist afforded the utmost satisfaction as will be seen by the certificate of Lieutenant Colonel C. V. Wilkieson hereto attached.

Takeed Issued By H. D. PHILLIPS Esq. *Collector of Salem,*

To TEAGARAJA PILLAY, *Tahsildar of Dankanicottah.*

By the letters of Civil Engineer that Kistna Row Tahsildar of Shenkery Droog was not able to supply all necessary provisions for the construction of the Bridge over the Cauvery at Comarapoliem in the Taluq of Shenkery Droog, therefore he was transferred to your Taluq and you to Shenkery Droog from the 26th instant : you are hereby requested to give over charge of your Taluq to Taluq Sheristadar and, taking receipt from him, proceed to Shenkery Droog and take charge of that Taluq from Kistna Row, and render every kind of assistance for the Bridge which is in construction, without giving room for any complaint ; and also be careful in your public duties.

(Signed) H. D. PHILLIPS,
Collector.

Oossoor, 26*th August* 1850.

Teagaraja Pillay, Tahsildar of Shenkery Droog, was under my orders during the construction of the Bridge over the Cauvery at Bahvany. I have much pleasure in giving him this certificate to testify that I found him throughout most useful in giving me every assistance in procuring materials &c. for the Bridge, and as far as I can be allowed to judge I consider him a first rate public servant in maramut affairs.

(Signed) CHARLES WILKIESON, Lieut.
Engineer.

Shenkery Droog, 9*th July* 1851.

5. That while your Memorialist was stationed at Sunkerry Droog in the year 1852 a gang of robbers, who frequently carried on depredations throughout the district, on one occasion made their appearance in the village of *Kathateyoor* and entered the premises of a respectable person, whom they murdered and robbed of all his property. These robbers your Memorialist apprehended after much pains and trouble and had them committed for trial to the Court of Sessions which awarded an inadequate punishment ; but the Magistrate on a reference made to the Sudur Court had them transported for life. This fact will be borne out by the certificate hereto attached granted to your Memorialist by Mr. T. Conway, the then Sub-Collector,

To

TEAGARARJA PILLAY,
Tahsildar of Shenkery.

I have received your several letters, but I have been so much occupied since my departure from Salem that I have unintentionally failed to reply to them. I think it due to you however to comply with your request for a testimonial to character, and I have much pleasure in stating that I entertain a very good opinion of you as a public servant. I consider that as a Police officer your character stands very high, and in all the Proceedings which came under my observation connected with the gang robbery which occured in your Taluq just before my departure, that you showed yourself an able, active and fearless public servant, desirous of bringing to Justice notorious public offenders and there by securing the peace of the Taluq and protection to the property and lives of the inhabitants. I shall always be glad to hear of your welfare.

KURNOOL,
9*th November* 1851.

(Signed) T. CONWAY.

6. That in the year 1854 the Zamindar or Moottadar of Alagapooram of the Salem Taluq a noterious robber with a gang of 41 men entered the house of a Merchant at *Shevapett* in the Salem Taluq and plundered property therefrom worth Rupees 24,000 ; this Town was at the time in charge of Mr. Davidson, the Assistant Magistrate, who did his best to trace out the gang through means of the Tahsildar. But this latter official, fearing to risk his life in the attempt to apprehend the marauders shrank from the duty fearing lest they would murder him if he fell into their hands ; whereupon Mr. Davidson applied to Mr. Brett the then Collector for Memorialist's services and the above gang were successfully apprehended by your Memorialist with the property stolen—The gang were subsequently tried and punished by the Court of Sessions with imprisonment for a term of 14 years as will be evidenced by the certificate granted to Memorialist by Mr. Goodwyn the Session Judge as well as the Takeed issued to him by the Collector noted marginally.

Extract from the proceedings of the Session Court of Salem under date the 1st September 1854. *Read record in Session case No.* 21 *of* 1854.

Kokalumah versus. Chinniah Moodelly and 42 others.

The Shenkery Droog Tahsildar, Teagaraja Pillay, is entitled to great credit for the manner in which he has exerted himself in apprehending the Prisoners &c.

(True extract)
(Signed) T. W. GOODWYN.
Session Judge.

14*th November* 1854.

(True copy)
(Signed) T. W. GOODWYN.
Session Judge.

Takeed Issued by H. A. BRETT, Esqr., *Collector of Salem.*

To TEAGARAJA PILLAY,
Head of Police of the Tengaracottah Taluq.

In the fourth Para of the Extract received from the Session Court of Salem dated 1st September 1854, it having been brought to my notice the great vigilance and zeal taken by you in bringing the offenders concerned in the daring robbery committed at Shevapett at Salem Taluq on the 28th May 1854, and their eventual conviction for the amount stolen to the extent of Rs. 24,000, comprising gold and silver articles, much credit and praise were accorded to you in the said case by Session Court in your duty while presiding in the Taluq of Shenkery Droog. This I think it but fair to make you aware of. Know this.

(Signed) H. A. BRETT,
Collector.

Oossoor, 23*rd October* 1854.

7. That Lieutenant Ouchterlony on his return to this District in 1854 inspected the Bridge work, done under your Memorialist's supervision, over the Cauvery river, as already stated and finding the work done by him to be much below the estimated sum and also that it had been proceeded with, with great celerity and that it had been completed with greater despatch than he expected, expressed his appreciation of your Memorialist's services generally in the maramut department and recommended to the Board of Revenue that in the event of sanction being accorded

To

R. R.
TEAGARAJA PILLAY.

I enclose you an Extract from a report which I have sentin about the Nerinjipett Anicut relating to yourself.

The estimate for the work both Anicut and channel comes to Rupees 1,45,000. I have sent a copy of the report to Mr. Brett, and I hope early sanction will be given for it and for the channel to be commenced immediately.

I shall be at Shenkery Droog about 3rd June, and if there are any tanks which require maramut work executed which requires inspection, pray make a list and keep it for me ready.

Also I wish you would have the cut stones in the Droog counted, and a list made showing the length breadth and thickness of each and remarks saying if they are cut smooth on the top or only rough.

Your friend
(Signed) J. OUCHTERLONY,

Salem District,
17*th May* 1854.

Extract from a report on the restoration of the Nerinjipett Anicut made to the Board of Revenue.

24. The Tahsildar of Senkery Droog Taluq also attended and evinced his usual zeal and intelligence ; and I would take permission to remark

that in the event of sanction being eventually granted for the work recommended. I should account it a guarantee for its being properly executed both as to time and cost, if this energetic Revenue officer were charged with the subordinate control of operations.

(Signed) J. OUCHTERLONY.

SALEM DISTRICT, *Civil Engineer 5th District.*
15*th May* 1854.

for the Nerinjipett Anicut over the Couvery he would account it a guarantee for its being properly executed, if your Memorialist, whom Lieutenant Ouchterlony is pleased to describe as an energetic Revenue Officer—were charged with the subordinate control of operations.

8. That in 1855 a gang Robbery was committed in Durmapoory and your Memorialist was again specially sent for to trace and apprehend the robbers and once more in 1858 when a gang robbery attended with grievous hurt was committed in Salem. Your Memorialist was again specially sent for, for the purpose of apprehending the Robbers. That all these facts will be proved by a reference to the certificates &c. entered in the margin. That your Memorialist's salary was on the 6th December 1860 increased from Rupees 100 to 200 which he drew for 5 years, 5 months and 26 days, and that on his being placed on the pension list he was by the rules of the service entitled to Rupees 100 per mensem or a moiety of the last pay drawn by him for the last 5 years of his service, that after the good service rendered by your Memorialist during a period extending over more than a third of a century, your Memorialist feels aggrieved at the decision of the Madras Government which denies to him the boon that has been *guaranteed* to all good and faithful servants of the state.

Takeed issued by H. A. BRETT, ESQ. *Collector of Salem.*

To

TEAGARAJA PILLAY,

Tahsildar of Tangaracottah.

After closing the examination of the murder case now under trial you will proceed to Darampoory as ordered in the Takeed No. 4 dated 12th January 1855, and render necessary assistance in the case of the gang robbery committed in the house of Sooba Row the Taluq Goomastah of that place on the 13th idem, and strive to bring the perpetrators to light and conform to the usual rules and restrictions.

(Signed) H. A. BRETT.

SALEM, *Collector.*
15*th January*, 1855.

Takeed Issued By G. H. SMITH ESQ. *Joint Magistrate of Salem,*

To

TEAGARAJA PILLAY,

Tahsildar of Ahtoor.

dated 17*th November* 1858.

In the case of robbery attended with grievous hurt in the house of Vencataramniah, Taluq Moonsiff of Salem, it being desirable that you should exert yourself to apprehend the robbers therein, you are required to deliver over charge of your Taluq to the Sheristadar and come over here for the above purpose.

(Signed.) G. H. SMITH.

Joint Magistrate.

9. That your Memorialist begs to annex letters as per margin addressed by Mr. Brett the experienced Collector of the District to one Mr. G. F. Fischer a respectable English merchant and Zamindar of Salem. Your Grace will observe that an independent person like Mr. Fischer who could have had no motive in saying anything that was not true testifies to the "*high character*" which your Memorialist had gained and

Madura, 9*th July* 1855

TEAGARAJA PILLAY,

I write this to send you (overleaf) an extract of a letter which I have just received from Mr. Brett. After this you may consider your fortune as good as made. It was my mentioning you again in a letter I lately wrote to Mr. Brett that has elicited this answer; you must take care that you maintain the high character you have gained, and bare out my recommendation in your favour. I hope you are quite well.

I am trying to get back to Salem, but one thing or an other is constantly interfering to prevent me just now. I am detained to prosecute the manager of the Ramnod Zamindary and brother of the Rance. When I come to Salem you must contrive to come and see me.

Believe me
Your friend,
(Signed) F. FISCHER,

From Mr. BRETT. To Mr. FISCHER.

I sent Teagaraja Pillay to Tengaracottah because, as an able and active man, I thouhgt him better qualified than most of my Tahsildars to take so important a charge. In referring to this point I am reminded of the letter you wrote me in March last regarding his transfer to that Taluq, and his wish for and this change. It was very remiss of me not to answer that letter. I must thank you for treating my neglect with so much consideration, but I may observe that Teagaraja Pillay has since expressed himself satisfied with Tengaracottah, on the ground that he no longer thinks it will disagree with his health.

I believe he thought at first that I sent him there as a sort of punishment, but this was not the case. He had himself applied to me to remove him from Shenkagery, and in doing this, had not mentioned his preference for any other Taluq. I transferred him to Tengaracottah solely because I thought he was best suited for the post, and in entire ignorance that he might have any objection to the Taluq on private grounds.

TEAGARAJA PILLAY,

I duly received your letter of 29th May. I am sorry to hear that your retirement from service against your will is wished for by the Collector, but I still hope on your proper representation to hear that it is not pressed on you. However as you will be aware I cannot assume pretend to judge of the reason of my influence your Collector nor can I form any opinion as to your qualifications. I have known you for many years but not officially as when in Salem I was always in the Revenue Department, but I always had reason to think highly of your character and respectability and I always heard Mr. Brett speak well of you. I hope all will turn out for the best,

Believe me
Yours faithfully,
(Signed) C. READE.

CUDDALORE, 18*th June* 1866.

Mr. Brett your Memorialist's immediate Chief Officer declares your Memorialist to be *an able and active man* and *better qualified than most of the Tahsildars under him.*

Your Memorialist also begs to annex a letter addressed to the Memoralist by Mr. C. W. Reade the late Sub-Judge and Civil and Session Judge of Salem now the Collector of South Arcot from which it will be evident that that officer had a high opinion of and esteem for your Memorialist.

10. That your Memorialist deems it his duty, however painful the task, to bring to the notice of your Grace certain circumstances which took place on the eve of his retiring from the public service and to which your Memorialist solicits the grave consideration of your grace.

11. That your Memorialist in the month of March 1866 while efficiently performing his duties as Tahsildar of the Ahtoor Taluq was by a Takeed* sent for by the Honorable D. Arbuthnott the then Collector of Salem to appear before him as he had to speak to your Memorialist personally. That your Memorialist accordingly appeared before Mr. Arbuthnott when he was informed that he was required to take his pension. That had your Memorialist then taken pension he would without any objection whatever have received an annuity equal to a moiety of the salary he was drawing at the time.

Takeed issued by the Collector of Salem

To. TEAGARAJA PILLAY.

Tahsildar of Ahtoor Taluq.

As I have to speak to you personally you must appear in my Office at Salem on Monday next at 11 o' clock.

SALEM, (Signed) D. ARBUTHNOTT,
16*th March* 1866. *Collector,*

12. That your Memorialist being in good health and in the full possession of all his mental faculties and feeling that he was neither physically nor mentally disqualified for the discharge of the duties appertaining to his post remonstrated with Mr. Arbuthnott; but on your Memorialist being pressed by Mr. Arbuthnott he begged for and was granted 3 months leave to make up his mind on the subject.

Takeed issued by the Collector of Salem.

To

TEAGARAJA PILLAY,

Tahsildar of Ahtoor Taluq.

As you told me personally that you would take Pension on the 1st June you will be recommended for Pension.

Coopoosamy Naidoo Tahsildar of Oossore is transferred to your Taluq, deliver over to him charge on the 1st June.

Salem, 23*rd May* 1866.

(Signed) D. ARBUTHNOTT,
Collector.

13. That before the 3 months leave had expired, Mr. Arbuthnott, on the 22nd May 1866 informed your Memorialist that on the 1st June he would recommend your Memorialist for pension and directed your Memorialist to hand over the Taluq to Coopoosawmy Naidoo, Tahsildar of Oossoor on the 1st June following.

14. That your Memorialist did not deem it fair or just that he should be thus arbitrarily forced to retire from public life, when he was perfectly competent to perform satisfactorily all the duties appertaining either to his social or

official position, more especially as at that time, your Memorialist was about to celebrate the marriages of his children which would have been greatly interfered with by his being so suddenly placed on the pension list and his income reduced by a moiety.

Vide appendix marked CI. and CII.

15. That your Memorialist pressed this circumstance on Mr. Arbuthnott and brought to his notice* the very large family your Memorialist had to support and prayed that he may be permitted to continue in the service.

1. * Coopoosawmy Naidoo from Ossoor to Ahtoor for 3rd class.
1. Rajagopalcharry from 4th class Drumpoory to 3rd class Oossoor.
1. Mr. Jones from Shervaroy hills to 4th class Taluq Darumpoory.

* Vide enclosure marked D
* Vide Enclosure marked E. 1 & 2

16. That Mr. Arbuthnott turned a deaf ear to the representation of your Memorialist and insisted on his delivering over the charge of the Taluq to Coopoosawmy Naidoo on the 1st June 1866. That yonr Memorialist thereupon appealed to the Board of Revenue laying before them his grievance and soliciting that he may not be removed from the Tahsildarship of Ahtoor. But on the contrary the favorite* of those in authority was promoted and your Memorialist had to suffer.

17. That in the meanwhile the Collector Mr. Arbuthnott having been informed that yonr Memorialist was endeavuoring to obtain restoration to his appointment and being determined, from strong influential pressure brought to bear on him, which had created in his mind very strong prejudice, fomented by his subordinate officers, who were inimically disposed towards your Memorialist served your Memorialist with a Revenue notice under Regulation IX of 1822 stating that a charge had been preferred against your Memorialist and that he purposed to institute an enquiry and that therefore your Memorialist was required to be present at Ahtoor.

Vide Enclosure marked F.

18. That your Memorialist accodingly appeared, and while the case was under investigation by Mr. Arbuthnott, four other cases were got up against your Memorialist. That though Mr. Arbuthnott used his best efforts to give the cases that had been got up against your Memorialist as unfavorable an aspect as possible for your Memorialist, yet after the most sifting investigation by one whose mind had been greatly empoisoned against your Memorialist who if he could would have found your Memorialist guilty, nothing was elicted to your Memorialists' prejudice. That after the close of the investigation of these Revenue cases such persons as had given evidence in favor of your Memorialist were prosecuted, two Kurnams were summarily dismissed and another Kurnam named Ramiah had his property attached to a considerable extent for refusing to complain against your Memorialist. That on this and similar pressure being brought to bear on the said Ramiah and some others and promises held out of their prospects being bettered, they preferred charges against your Memorialist. That they were induced to do thus under the circumstances just mentioned, will be clearly evident to you Grace from a perusal of the Record* in appeal case No. 35 copy of which is hereto appended. That after the investigation of all the Revenue cases your Memorialist asked permission to go to Salem stating that the Vakeel who had appeared to conduct his defence in the several above mentioned cases would be present to represent your Memorialist in any further enquiry that may be made and permission was accordingly granted by Mr. Arbuthnott.

Vide Enclosure marked G.

19. That your Memorialist having business at Madras, was about to proceed thither by Train, but just as he was about stepping into it, he was arrested by a Warrant, for alleged extortion, though at that time there was not a single charge of the kind against your Memorialist by any person. Annexed is a translation of that Warrant and your Memorialist begs, to direct attention to the fact that the Warrant was issued *not upon the complaint of any person.*

(WARRANT.)

To the head of the Police in the Town of Salem. There being a charge of extortion against Tengarajah Pillay of Salem, you are hereby ordered to arrest and bring him before me, and you must do so without fail. If the said Tagarajah Pillay give personal security for Rupees5000 also 2 other security for Rs. 5,000 each for his appearance before me at Ahtoor on the 3rd Instant you may set him free.

(Signed) D. ARBUTHNOTT.
1st September 1866.

20. Thus was your Memorialist suddenly disgraced before a large multitude of his countrymen who were proceeding by the same train, by being publicly arrested on the grave charge of extortion.

B. J.

21. That your Memorialist gave and found the necessary securities and appeared before the Magistrate Mr. Arbuthnott who proceeded to try your Memorialist on three distinct charges. Mr. Arbuthnott being both Plaintiff and Judge. That two of these cases were obliged to be withdrawn as totally groundless; but nothing daunted Mr. Arbuthnott was pleased to convict your Memorialist on the third case, which was equally groundless as the other two, and your Memorialist was sentenced to 6 months rigorous imprisonment and mulcted in a fine of Rupees 200. But that on appeal the sentence was annulled by the Court of Sessions and your Memorialist was honorably acquitted.

* Marked H

22. That your Memorialist being thus set free and relieved of every stain on his character, deemed it, advisible to proceed to the Head Quarters of Government, there to seek protection againt the violent actions of Mr. Arbuthnott, knowing that unless he possessed such protection he would certainly be eventually crushed under the power which could be wielded against him — But that on his arrival at Madras your Memorialist was again arrested under Mr. Arbuthnott's warrant and compelled to enter into recognisances to the extent of Rs. 15,000 for his appearance before Mr. Arbuthnott. That your Memoriolist was on this brought to trial on six cases of alleged extortion. One of these fell through by the complainant himself declaring in open Court that he had been instigated by Mr. Arbuthnott's Sheristadar Paul Pillay and other subordinates of Mr. Arbuthnott to prefer the complaint he did against your Memorialist. That Mr. Arbuthnott was pleased to convict your Memorialist on the other five charges and sentenced your Memorialist to various terms of imprisonment extending in the aggregate to two years and to payment of fines amounting on the whole to Rupees 1,600.

23. That on appeal as in the trumped up cases so in all the subsequent trials the Appellate Court completely reversed Mr. Arbuthnott findings and sentences. Your Memorialist begs to attach copy of the Judgment* and respectfully begs to solicit the special attention of your Grace thereto. Your Memorialist prays, your Grace will patiently peruse that document from which it will be observed that the Judge was of deliberate opinion that your Memorialist was made a victim of a conspiracy formed to prevent his return to office. That Mr. Arbuthnott has treated not only your Memorialist in this manner but when transferred to Madura he even there from his peculiar disposition fell upon the Tahsildar Somasoondra Moodelly. His conduct towards this Tahsildar was similar to that manifested towards your Memorialist so much so that the Revenue Board considered the manner in which Mr. Arbuthnott exercised his Magisterial powers had caused, grievous injustice and rendered him liable to a charge of vindictveness, to a determination to crush the Tahsildar. And your Memorialist begs to state that Mr. Arbuthonott's conduct towards your Memorialist's had this object in view, which was *not to serve the ends of justice but his own private views,* and this will be further proved by the fact that when your Memorialist filed Suits for defamation of character and damages against Venkatakristayen Village kurnum and others in all 5 cases who gave false evidence and *were the cause of malicious prosecution by Mr. Arbuthnott* against your Memorialist they were convicted of malicious prosecution, your Memorialist deems it sufficient to enclose one of the Judgments given in the above cases viz. Salem Principal Sudder Ameens' Judgments marked J. on appeal, this was further confirmed by the Civil Judge, vide his Judgment marked K, and further confirmed in special appeal to the High Court vide Judgment marked L.

* Marked I.

Marked J, K and L.

24. That notwithstanding that your Memorialist was thus able to establish his innocence and the utter falsity and wickedness of the charges preferred against him. That notwithstanding that your Memorialist came forth unscathed from the fierce ordeal to which he was submitted, with a stainless and unimpeached character; that though it was clearly proved that the action taken against him was the result of a conspiracy to prevent your Memorialist's return to office; that notwithstanding it was proved that Mr. Arbuthnott's actions against your Memorialist arose from a spirit of vindictiveness; that notwithstanding that your Memorialist furnished a medical certificate to prove that he was

I Charles Murray Duff, M. D., Surgeon Major 3rd District, do hereby certify on honor that I have this day examined Teagaraja Pillay late Thasildar of the Ahtoor Taluq, Salem District, now residing in Nungumbakum; and that he labors under no disease constitutional affliction or bodily infirmity, such as to disqualify him for official employment.

(Signed) C. MURRAY Duff, M. D.
Surgeon Major.
Madras, *3rd District.*
10th January 1867.

perfectly able to discharge the duties entrusted to him and though your Memorialist fully detailed to the local Government all the circumstances connected with the persecution by Mr. Arbuthnott to which he had been exposed, the Madras Government afforded your Memorialist no relief.

25. That after all the various charges preferred against your Memorialist had been finally settled and proved to be the result of a malicious conspiracy against your Memorialist, Mr. Arbuthnott charged your Memorialist in irregularly owning lands in the District. With regard to this charge your Memorialist begs to annex copies of his Petitions to the local Government fully refuting the same, that instead of fairly examining your Memorialist's defence reference was made to the Board of Revenue who were asked to report upon it and who made a reference to Mr. Pochin who was then Collector. That that officer did not make a fair report and your Memorialist was obliged to submit a defence of the charges contained in Mr. Pochin's report and your Memorialist prays that your Grace will peruse with attention the annexed copy of petition to the Government from which your Grace will be satisfied that Mr. Pochin's report was altogether made under greatly biased and prejudiced feelings.

Marked M. N.

Marked O.

26. That in consequence of the proceedings against him by Mr. Arbuthnott your Memorialist was greatly humiliated and disgraced—put to heavy expenses in employing Vakeels, which has almost brought him to the verge of beggary, that instead of substantial relief being afforded to your Memorialist by Government, instead of his being restored to his appointment, the Government informed your Memorialist that he cannot be allowed to resume the post of Tahsildar but must be required to take his pension; your Memorialist was place on the pension list on a diminished annuity of Rupees 80 per mensem with effect from 14th December 1867, while his services entitled him to Rupees 100 from the first June 1866, the date on which he was arbitarily compelled to relinquish office. *That your Memorialist has thus been left without pay and allowance for one year and six and a half months and that he has been deprived of Rupees* 20 *per month since* 14*th December* 1867 *the difference between Rupees* 100 *to which your Memorialist's services entitle him and Rupees* 80 *the pension which Government have been pleased to grant your Memorialist.*

27. That your Memorialist submits that he must be either guilty of the charges that were preferred against him or not; that if he were found guilty he deserved condign punishment, but that as your Memorialist was not found guilty and as your Memorialist was by the aid of a Gracious Providence and his own innocence enabled most clearly to establish the falsity of the charges preferred against him, and to relieve his character from all imputation of the several charges preferred against him, he respectfully submits that in justice, after the great injuries inflicted on him by Mr. Arbuthnott, he should have been restored to his proper position in the service either by restoration to his appointment or by the grant of the proper pension to which his services entitle him. That as both of these have been denied, your Memorialist is compelled to appeal to your Grace and to pray that under the circumstances now detailed your Grace will be kindly pleased to direct that your Memorialist, be restored to the service and that he be allowed his full salary from 1st June 1866 the date he ceased to be employed up to the date on which he may be restored, or that a pension equal to a moiety of his salary viz. Rupees 100 a month, be ordered to be paid to him, such pension being granted to him from the date of his being required to take his pension and that he may be allowed his full pay for the one year and six and a half months he was left without any pay and allowances as shewn in para 26 of this address.—**FOR WHICH AS IN DUTY BOUND YOUR MEMORIALIST WILL EVER PRAY.**

Madras 4 December 1869.

P. Teagaroja Pillai

MADRAS.—PRINTED AT THE VARTHAMANATHARANGINI BRANCH PRESS.

N.

No. 1786.

To

HIS EXCELLENCY, THE RIGHT HONORABLE
LORD FRANCIES BARON NAPIER K.T.
GOVERNOR IN COUNCIL.
Fort St. George.

The humble Petition of P. Teagaraja Pillay late Tahsildar of Ahtoor Taluq in the District of Salem.

RESPECTFULLY SHEWETH.

That in consequence of a rumour current at Salem that your Petitioner's dismissal from the public service has been strongly recommended by the Honorable D. Arbuthnott, late Collector of that District, upon grounds connected wit a few unfounded complaints against Petitioner as to certain Revenue matters already alluded to partly by him in his appeal to your Excellency in council dated 18th April last, he now craves leave with due submission and respect to supplement that appeal with this his humble Petition: only premising that he deemed it unnecessary before to do more than make a mere passing allution to but one of those complaints, because none of them were at all substantiated and because the late Collector himself appeared to attach little or no importance to them, from the fact of his not taking any action thereupon untle after Petitioner had appealed to the Board of Revenue against the unjustice of his removal from the Tahsildarship of Ahtoor Taluq.

2. Of the five Revenue cases referred to the first is, that your Petitioner had improperly obtained possession in the name of his son Mootoosawmy Pillay of one and quarter cawny of land from Kurupey, adoptive mother of Moothoo Muppen, but has since attempted to show that it was another person, to wit, Petitioner's father-in-law, who bears the same name as that of his son, who actually purchased the said land, from one Meera Rowethen, a fact which your Petitioner had all along frankly admitted, and which was fully established during the enquiry held long ago by the Assistant Collector Mr. J. C. Hughesdon and reported on his letter* to Mr. Arbuthnott dated 19th May 1866—though on that occasion the entire evidence was taken behind Petitioners back—he having been expressly told by the Assistant Collector that his attendance was not wanted at the investigation; whilst it is fairly presumable that had your Petitioner been actuated by any fraudulent intention in respect of this matter he would not have ventured to confess his own knowledge of the transaction or to give in the name of his father-in-law in connection with it when there were many others of the same name who could easily have been mentioned; but Petitioner submits with all difference that it can make no difference whatever whether it was his son or his father-in-law that purchased the property. In the face, however of the Assistant Collector's official report (which was tacitly endorsed by Mr. Arbuthnott who furnished Petitioner with a copy of it on application but *without copies of its enclosures*, and who did not think fit to investigte the case *de novo* till several months afterwards when your Petitioner complained to the Board) and the evidence on record which does not show in any way that it was your Petitioner's son who obtained the land, Mr. Arbuthnott exhibits his severe displeasure towards your Petitioner (who would not consent to retire, as requested from the service) by asserting of his own motion that Petitioner's son was the real purchaser, and that he (Petitioner) took advantage of his father-in law bearing the same name. Now the question, as it seems to your Petitioner is, whether or not there was any corruption at all in this case on his part. To prove that there was, much was done to extort false evidence by the instant dismissal of two kurnums who had given evidence in favor of Petitioner and by the appointment of the complainant Moothoo Muppen as Monigar and Village Munsiff of his Village to the prejudice of the legal heir and brother of the deceased Monigar and in contradiction to Mr.

* Enclosure F, in appeal Petition dated April 1867.

Pelly's Rule of succession to Village Munsiffs—a proceeding which your Petitioner can hardly believe could be tolorated under a Government like that of the British, any more than that evidence extorted through intimidation and encouragement could be held to be conclusive. In short Mr. Arbuthnott himself, feeling that amid the conflicting evidence adduced, guilt could not possibly be brought home to your Petitioner in any one of these Revenue cases, dropped all further proceedings in relation to them, and your unfortunate Petitioner was then subjected to every species of annoyance and disgrace on the *Criminal side*,—but the result proving in the end favourable to Petitioner, the late Collector had no alternative left but to revert to the *Revenue side*, which alone forms the subject of his subsequent report to the Board. If this were not so, your Petitioner would respectfully ask why was not any one of these cases previously reported to the Board, and why was not any step taken to cancel the Puttahs and make the land over to the complainant.

3. Another case is, thas your Petitioner took possession of $\frac{3}{4}$ acre of land belonging to the complainants Tottee Veran and others. This piece of land was given up by the complainants in Fusly 1262 and left waste until Fusly 1264, when it was applied for and obtained by Monigar Venkatasoobiah ; but as he afterwards transferred it to one Varada Pillay, your Petitioner leased it from him for a vegetable garden and reported the circumstances to the Collector by an entry in the annual land register. Hence it will be for your Excellency in council to decide whether your Petitioner in any respect acted in bad faith so far as it concerns this case. Mr. Arbuthnott remarks that the Rajeenamah relinquishing the land was some how brought on the record without the knowledge of the owners of the land How came this gentleman to know or even suppose this, unless he was influenced by ill feeling towards Petitioner ; for if the complainants were ignorant of the Rajeenamah why did they not cultivate the land, or at least attempt to do so ? nay more, why did they not pay the Government sist if they had not given up the land ?

4. The 3rd case, is, that your Petitioner bought from one Naranapillai half an acre of land for seventy Rupees in the name of Kurnum Yellapa. These two witnesses were manifestly procured for he occasion ; the former having stated that he sold the land for 60 Rupees to Petitioner and received the money ; whereas the latter totally denied this and stated that no money was paid to the former, but that he made over the land gratis to your Petitioner in his (deponents') name. In view of so material a descrepancy between the two statements it may be sufficient for year Petitioner to say that he never got the land and that it is not his property. This witness did not even scruple to forego his own right to the land for the sake of regaining the appointment of his brother Venkatasoobajee (who was dismissed as mentioned in Para 2 of this Petition). If on the other hand your Petitioner had actually taken the land, what benefit could he derive by purchaing with his money any property in Kurnum's name.

5. The 4th case is, that your Petitioner has 5 or 6 acres of land in the Village of Sharvoypoodoor. This piece of land was and is the property of one Chockalinga Pillay the Javabneviss of the Principal Sudder Court at Salem and a relation of your Petitioner, he having some six years back without any complaint whatever being made during the whole of that period bought the land at a high price from one Venkatachella Naick who is neither complaint nor witness in the case, and Petitioner has never had the slight interest or concern in the sale or purchase of the land. But the charge against him in this and the other instances clearly originated in his refusal to resign his appointment, and Mr. Arbuthnott himself told your Petitioner in this particular case that there was no proof against him and that he did not wish for a defence.

6. The 5th case is, that your Petitioner had taken from Kristnama Naick and cultivated in Talavassal village 2. Cawmes of land in the name of Kurnum Ramiah. This is utterly false, and your Excellency in council will see that the first man Kristnama Naick whom Mr. Arbuthnott designates as the friend of your Petitioner was the complainant* in case No. 29 and witness† against your Petitioner in case No. 59 and also a witness against your Petitioner in the first of these Revenue cases alluded to in Para 2 of

*Vide Para 5 of judgment of the Session Court dated 28th November 1866.

† Vide judgment of Session Court dated 20th December 1866.

this Memorial. Irrespective of all this he was repeatedly punished by your Petitioner during his tenure of office as Tahsildar and Taluq Magistrate, Kurnum Ramiah is a complainant against your Petitioner and it was your Petitioner who brought a charge of concealment of lands against him and recommended him to be punished and made many reports to the Collector on the subject. A reference to the judgment of the Session Court will prove his animosity against your Petitioner, and it is the evidence of these two men which Mr. Arbuthnott believed and called them friends of your Petitioner. Kurnum Ramiah subsequently deposed before the Magistrate that he was forced by the Collector's Sheristadar Paul Pillay and others to prosecute your Petitioner, and that he was further intimidated by threats of being himself prosecuted for concealment of lands. His conduct and other circumstances connected with the nature of the charges brought against your Petitioner through malice, will be abundantly evident from a reference to the Judgment of the Session Judge of Salem submitted to your Excellency in council with Petitioner's appeal now pending the consideration and orders of Government.

7. Your Petitioner begs in conclusion to urge upon the notice of your Excellency in council one most important circumstance, namely, that if the late Collector of Salem really believed that Petitioner, who has been engaged from his youth in the Revenue branch of the service and must therefore be presumed to be thoroughly conversant, as in point of fact he is, with the circular orders of the Board, had actually contravened such orders in the cases above adverted to, then not only did that functionary failed most lamentably in his duty to the state by not immediately reporting Petitioner's misconduct to the controlling authorities and by promising‡ to recommend him for Pension ; but your Petitioner himself must be held with all his official knowledge and experience to have deliberately and wilfully acted contrary thereto an assumption so absurd as to carry with it at once its own reputation. Petitioner humbly begs finally that, in coming to a decision upon his case, your Excellency in council may be graciously pleased to review the Revenue cases in connection with the subsequent criminal ones disposed of in appeal by the Session Court of Salem. And your Petitioner as in duty bound.

‡ See Enclosure B in appeal Petition of April last.

Will Ever Pray.

MADRAS,
22*nd July* 1867.

(Signed) B. TEAGARAJA PILLAY.

— 0. —

To

No. 2184 of 1867.

W. HUDLESTON ESQRE.

SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT.

Fort Saint George.

1. I have the honor to request that you will be good enough to lay the following circumstances before His Excellency The Right Honorable the Governor in Council in order that they may be pleased to read the same together with the other papers relating to my case submitted already by me, before coming to a final decision upon it.

2. I have served Government 34 years, during the whole of which period there was not a single charge of irregularity or any graver offence preferred against me, that could justify my being punished with suspension, degradation or fine ; and the only fault at last found with me by the Honorable D. Arbuthnott, now Collector of Madura, was that I refused to resign my appointment and retire on Pension for which act of contumacy on my part I have been unjustly subjected to every kind of disgrace and distress.

3. Such being the case, and in the face of the Testimonials which had been granted to me by several gentlemen who had the amplest opportunities of judging my conduct by my service under

them for a considerable length of time, and which I had pleaed before the Board of Revenue, it appears that the Board lately called upon the present Collector of Salem Mr. Pochin to state in what opinion he had formed of my conduct when formerly in that District, although it was only for 3 *months* that he remaind there. This reference from the Board of Revenue, offording as it probably did a favorable opportunity to my enemy Paul Pillay the Sheristadar, who is every thing in the Cutchery, of adding to the wrongs inflicted upon me, has, it appears further, resulted in the present Collector reporting matters against me which it is evident were not only grossly misrepresented to him, but of which it is equally clear this gentleman could not have known anything of his own personal knowledge. In hazarding this assertion I am aware that I lay myself open to the imputation of disrespect, however unintentional, to an official superior ; but my present most distressing position, coupled with the deprivation of my only means of livelihood since June 1866, compels me to be free and frank in my expressions, and I trust His Excellency will be graciously pleased to pardon me the great liberty I venture to take on the present occasion.

4. If I have been correctly informed as to the purport of the report made by Mr. Pochin, I would earnestly beg that the Government will be so kind as to take measures to trace out Mr. Pochin's informant, as owing to the extraordinary influence used by the establishment of the Cutcherry in getting up the prosecutions against me which have ultimately failed I have no doubt that it will turn out that Mr. Pochins' report was not well founded.

5. Mr. Pochin, I hear, states that he issued several Takeeds to me with respect to Kurnums accused to Embezzlement and concealment of cultivation in Navakurchy, Puttootorary &c. but I beg leave to observe that a reference to the office records will prove that no such orders were ever issued, and that, if I remember rightly the only one which Mr. Pochin sent me was in the case of one Ramiah Kurnum of Navakurchy and Puttootoray Villages, and *that, too*, only on my report with recorded evidence against that man. Yet, I am told, Mr. Pochin now represents him to be a great friend of mine. A reference to my Urzee and to Mr. Pochin's order, as well as to the accompanying copy of the deposition taken down by Mr. Arbuthnott, will show whether I assisted Ramiah in any way or whether he was encourged and be friended in the Huzoor. From Ramiah's deposition it will also be seen that his property was attached just when his evidence was required against me. That on the cross-examination it Oozed out that he had been forced by Paul Pillay and others to speak against me, and that thereupon proceedings which had been in obeyance far more than a year were immediately renewed against him. In short it is, I submit, abundantly manifest from the statement of Ramiah, that the subsequent attachment of his property on the strength of my report dated a year back was made solely for the purpose of extorting evidence against me : the alternative being, further enquiry into the old charge against him if he did not appear as my accuser or bestowal on him partronage if he did. If this had not been the object, the attachment should have taken place together with the suspension of the Kurnum from his post a year earlier when I made my report, which Paul Pillay it is presumable laid aside. To make this clear I beg to observe that Ramiah was suspended one year after I had reported twice to the Collector, and his property was not attached till after the lapse of another year.

6. To establish beyond a doubt that Mr. Pochin has been reporting more than what he knew of his own knowledge and that his report is based on mere heresay, I beg respectfully to point out on the present o ccasion that he states (unless I have been greatly misinformed that he ordered the suspension of the Kurnum Ramiah and that instead of attending to this order I allowed him to perform the duties of his office. This suspension of the Kurnum took place in February 1865. and Mr. Pochin left the District on the 10th of April 1865. If in the mean time he had heard that I allowed the man to do his duty, why did he not reprimand or at least warn me against any further dereliction of my duty. It was only subsequently, viz. in October 1866, that an attempt was made by the Collector's officials to show that I had permitted the man to continue in office tho' suspended ; but this part of the charge during the Criminal trial was disproved and I was acquitted. This

B. J.

15

new matter Mr. Pochin, it seems, has introduced into his report as though he were himself perfectly cognizant of it. Another circumstance is, I learn, mentioned in the report, namely, that the Pymayesh accounts have been abstracted through collusion on my part with the Taluq Sheristadar and Revenue Inspector. These two men were and still are enemies of mine and gave evidence against me ; the Revenue Inspector having in consequence been promoted on the recommendation of Paul Pillay. None of the aforesaid accounts were abstracted during my tenure of office or during the time Mr. Pochin was Acting Collector of the District, so that the introduction of that matter now is inconsistent with any supposition of Mr. Pochin's speaking of his own personal knowledge. My report and Mr. Pochin's previous order, if called for, will at once prove whether I concealed any thing or screened the man, or whether it was the order of the Huzoor that set him at liberty. Mr. Prchin, it seems further states that the said Kurnum was found to be useful to me in the acquirement of landed property. If Mr. Pochin had known this or any other fault on my part he ought surely to have recorded the same in the official Register of the conduct of every Public servant. His mention of it at the present time can only be from heresay of what had transpired since he left the District. Mr. Pochin, I am told, also remarks that he found neglect on my part in some other instances. I would fearlessly challenge proof of this by his own orders during the time he was acting Collector, whilest I respectfully submit that if such heresay reports of one who has not had any personal knowledge or experience of my public conduct, are taken to be true and authentic, people of my standing in the service and of unblemished character will have no ground to look for impartial English justice when that character is unjustly assailed, or to render honest service.

7. Mr. Pochin, it is said, declares also that there were numerous complaints against me in Ahtoor Taluq during the time he effected jamabundy. Here I would beg respectfully to challenge him to prove what they were and what he did in respect of them, whilst I unhesitatingly affirm that all that has now been imputed to me is the result of what the present Collector has heared from my enemies who have been so fortunate as to obtain free and undisturbed audience of him. If any thing that has now been reported against me by Mr. Pochin can be proved by the office Records of his time, I will forfeit all claim upon Government for that evenhanded justice which is usually accorded to all their distressed servants of whatever class, rank or creed.

8. It may not be out of place here to mention that both Messrs. Pochin and Arbuthnott state that there were a good many complaints against me, but that they were not enquired into. I beg to challenge the submission to Government of the alleged complaints, so that they may be enabled to Judge of the nature of the reports coming from the Collector of a District. There was only a Mahazar Petition sent to the Board of Revenue at the instigation of those inimical to me, stating *generally* that I was a corrupt character. Mr. Arbuthnott on the receipt of that Petition from the Board sent for each village Head and Kurnum and asked them through his subordinates and other servants how many charges they could bring forward, but on their saying that they had none, the Police Superintendant and his establishment were directed to proceed to each village and try with the aid of my successor and others, to find complaints against me ; and it was to this very irregular course of action that the Session Judge Mr. Chamier strongly objected in his Proceedings dated 28th November 1866, a printed copy of which has been already forwarded with my Petition of appeal to Government.

9. I humbly beg in conclusion, to express a hope that should the tone and tenor of the expressions I have used above appear objectionable some excuse may be found in my limited knowledge of the English language and the painful suspense in which I have so long been kept ; and that after all the persecutions I have endured, and after having passed unscathed through the ordeal of a series of Criminal prosecutions, His Excellency in Council will not allow any onesided Reports to outweigh the deliberate Judgment pronounced on my case by the Session Court of Salem, the Judge of which has

recorded his firm conviction that I am "the victim of a conspiracy formed to prevent my return to office."

I have the honor to be
Sir,
Your most obedient and humble servant.

MADRAS,
5th September 1867

(Signed) B. TEAGARAJA PILLAY,
Late Tahsildar of Ahtoor Taluq.

ENDORSEMENT.

No. 2184 of 1867.

Forwarded to the Board of Revenue with reference to G. O. of 12th July 1867 on Petitions 1063 and 1095.

By Order

FORT SAINT GEORGE.
17th September 1867.

(Signed) J. H. WILKINSON.
Acting under Secretary to Government.

No. 1063, 1095, 1786 and 2184 of 1867.

Petitioner is informed the Government concur in opinion with the Board that he cannot be allowed to resume the post of Tasildar but must be required to take his Pension.

By Order

FORT SAINT GEORGE.
20th November 1867.

J. H. WILKINSON
Acting under Secretary to Government.

B. Teagaraja Pillai

MADRAS.—PRINTED AT THE VURTHAMANATHARANGINI BRANCH PRESS.

M. II

17

M.

TO

№ 1095 of 1867.

HIS EXCELLENCY THE RIGHT HONORABLE LORD FRANCIS BARON NAPIER K. T. GOVERNOR IN COUNCIL

Of Fort St. George.

The Respectful Petition of B. Teagaraja Pillay, Late Tahsildar of Ahtoor Taluq in the District of Salem.

HUMBLY SHEWETH,

1. That your Petitioner, a Government servant of 34 years' standing, during the last 18 of which he filled the responsible post of a Tahsildar, feeling deeply aggrieved by his unjust removal therefrom by the Honorable D. Arbuthnott, late Collector of Salem ; and having appealed in vain to the Board of Revenue for redress ;—begs now with the utmost deference to submit for your Excellency's favorable consideration, the extreme hardships of his case as set forth in the following statement of the circumstances connected with it.

2. Having been ordered* by the said late Collector in the month of March 1866 to appear before him at Salem, your Petitioner on arrival there was told—without any reason whatsoever being assigned for the intimation—that he must apply for transference to the Pension List ; but he simply begged for and was granted 3 months' time to make up his mind about the matter.

* Enclosure A.

3. A few days previous to the expiration of the period of grace accorded to your Petitioner' he received a Takeed* from that gentleman directing him to make over charge of his office to one Coopoosawmy Naidoo, who now fills it ; but, apart from the said treatment in the case of a faithful old servant of the State being suddenly, and without any fault required to give up his means of living, there were certain marriage ceremonies going forward at that time in Petitioner's family which he was most anxious to complete before his income became diminished by his compulsory retirement from the public service ; and he therefore submitted two Urzees* to the Collector—one written just prior, the other, immediately subsequent to the receipt of Takeed B—soliciting, for the first time during his long official career, 3 months' Privilege leave. This, however, as will be seen, was refused* stating that your Petitioner orally pledged himself to send in his resignation— Here your Petitioner submits that it is only for your Excellency in Council to decide whether any force to retire could be used without some remarkable defect on his part and whether your Petitioner would of his own free will and accord, and without any the least pressure being put upon him, propose to relinquish the service which he was capable of discharging efficiently.

* Enclosure B.

* Enclosures C. C.

* Enclosure. D.

4. Your Petitioner then came to Madras and petitioned* the Board of Revenue against his removal ; and that petition, was forwarded to the Collector for report. Consequent evidently upon such reference, a notice was sent to Petitioner by Mr. Arbuthnott commanding his attendance to answer to an old revenue complaint that he had taken certain land by force, although the Curnum of the Village had priviously stated that your Petitioner had no concern or interest whatever in the

* Enclosure. E.

* Enclosure F.

piece of land which formed the subject of complaint, and the Collector at the same time dismissed the said Curnum and another person from service for giving evidence in his (Petitioner's) favor. This proceeding on Petitioner still insisting upon his restoration to office, was followed by a series of criminal prosecutions on charges of alleged extortion trumped up by malice ;* one strong proof of the charges having been pure fabrications being afforded by the significant fact that when Petitioner was arrested on the first of them there was actually no complainant at all before the Magistrate's Court! Notwithstanding which, Petitioner was tried by the Honorable D Arbuthnott convicted and sentence to various terms of regorous imprisonment with fines aggregating a large amount ; but the findings and sentences in all of those cases were on appeal completely reversed* by the Session Court of salem, and your Petitioner was fully and honorably acquitted. Released from all further restraint, he returned to Madras and renewed his appeal† to the Board of Revenue to reinstate him in his appointment ; but with no success‡ Petitioner's perfect fitnees for further service though Certified§ by Doctor Duff.

* Enclosure G.

* Enclosure H.
† Enclosure I.
‡ Enclosure II.
§ Enclosure J.

5. Your Petitioner respectfully and earnestly begs to urge on Your Excellency's special attention to the printed copy of the Judgment* delivered by the Session Court of Salem as well in his own case as in that* of Ramiah (one of the parties who had been forced to come forward as a complaint against Petitioner)—more particularly those passages† which have a direct relation to your Petitioner and which he has taken the liberty of underscoring. He feels confident that by an attentive perusal of those to Decrees Your Excellency cannot fail to arrive at the irresistible conclusion that the most unlawful measures have been had recourse to in order to compass his ruin, and that "he is," to use the Session Judge's own words, "the victim of a conspiracy formed to prevent his return to Office."‡

* Enclosures G. & H.

† p. p. 1,2,3,4,8, and 9.

‡ p. 3.

6. Finally, your Petitioner begs to express an humble but fervent hope that, on a careful consideration of all that he has above represented, in connection with his long, zealous and faithful servitude, Your Excellency in Council may be graciously pleased to direct his restoration to office, and thereby relieve him of the unmerited stigma attached at present to his character¶. And your Petitioner as in duty bound, Will ever pray.

¶ Enclosure K.

Madras, 18th April 1867.

B. Veeraraja Pillai

M. I

19

M.

TO

№ 1063 of 1867.

HIS EXCELLENCY THE RIGHT HONORABLE LORD FRANCIS BARON NAPIER K. T. GOVERNOR IN COUNCIL *Of Fort St. George.*

The Respectful Petition of B. Veagaraja Pillay, Late Tahsildar of Ahtoor Taluq in the District of Salem.

HUMBLY SHEWETH,

1. That your Petitioner, a Government servant of 34 years' standing, during the last 18 of which he filled the responsible post of a Tahsildar, feeling deeply aggrieved by his unjust removal therefrom by the Honorable D. Arbuthnott, late Collector of Salem ; and having appealed in vain to the Board of Revenue for redress ;—begs now with the utmost deference to submit for your Excellency's favorable consideration, the extreme hardships of his case as set forth in the following statement of the circumstances connected with it.

2. Having been ordered* by the said late Collector in the month of March 1866 to appear before him at Salem, your Petitioner on arrival there was told—without any reason whatsoever being assigned for the intimation—that he must apply for transference to the Pension List ; but he simply begged for and was granted 3 months' time to make up his mind about the matter.

* Enclosure A.

3. A few days previous to the expiration of the period of grace accorded to your Petitioner' he received a Takeed* from that gentleman directing him to make over charge of his office to one Coopoosawmy Naidoo, who now fills it ; but, apart from the said treatment in the case of a faithful old servant of the State being suddenly, and without any fault required to give up his means of living, there were certain marriage ceremonies going forward at that time in Petitioner's family which he was most anxious to complete before his income became diminished by his compulsory retirement from the public service ; and he therefore submitted two Urzees* to the Collector—one written just prior, the other, immediately subsequent to the receipt of Takeed B—soliciting, for the first time during his long official career, 3 months' Privilege leave. This, however, as will be seen, was refused* stating that your Petitioner orally pledged himself to send in his resignation— Here your Petitioner submits that it is only for your Excellency in Council to decide whether any force to retire could be used without some remarkable defect on his part and whether your Petitioner would of his own free will and accord, and without any the least pressure being put upon him, propose to relinquish the service which he was capable of discharging efficiently.

* Enclosure B.

* Enclosures C. C.

* Enclosure. D.

4. Your Petitioner then came to Madras and petitioned* the Board of Revenue against his removal ; and that petition was forwarded to the Collector for report. Consequent evidently upon such reference, a notice was sent to Petitioner by Mr. Arbuthnott commanding his attendance to answer to an old revenue complaint that he had taken certain land by force, although the Curnum of the Village had priviously stated that your Petitioner had no concern or interest whatever in the

* Enclosure. E.

* Enclosure F.

piece of land which formed the subject of complaint, and the Collector at the same time dismissed the said Curnum and another person from service for giving evidence in his (Petitioner's) favor. This proceeding on Petitioner still insisting upon his restoration to office, was followed by a series of criminal prosecutions on charges of alleged extortion trumped up by malice ;* one strong proof of the charges having been pure fabrications being afforded by the significant fact that when Petitioner was arrested on the first of them there was actually no complainant at all before the Magistrate's Court! Notwithstanding which, Petitioner was tried by the Honorable D Arbuthnott convicted and sentence to various terms of regorous imprisonment with fines aggregating a large amount ; but the findings and sentences in all of those cases were on appeal completely reversed* by the Session Court of salem, and your Petitioner was fully and honorably acquitted. Released from all further restraint, he returned to Madras and renewed his appeal† to the Board of Revenue to reinstate him in his appointment ; but with no success‡ Petitioner's perfect fitnees for further service though Certified§ by Doctor Duff.

* Enclosure G.

* Enclosure H.
† Enclosure I.
‡ Enclosure H.
§ Enclosure J.

5. Your Petitioner respectfully and earnestly begs to urge on Your Excellency's special attention to the printed copy of the Judgment* delivered by the Session Court of Salem as well in his own case as in that* of Ramiah (one of the parties who had been forced to come forward as a complaint against Petitioner)—more particularly those passages† which have a direct relation to your Petitioner and which he has taken the liberty of underscoring. He feels confident that by an attentive perusal of those to Decrees Your Excellency cannot fail to arrive at the irresistible conclusion that the most unlawful measures have been had recourse to in order to compass his ruin, and that "he is," to use the Session Judge's own words, "the victim of a conspiracy formed to prevent his return to Office."‡

* Enclosures G. & H.

† p. p. 1,2,3,4,8, and 9.

‡ p. 3.

6. Finally, your Petitioner begs to express an humble but fervent hope that, on a careful consideration of all that he has above represented, in connection with his long, zealous and faithful servitude, Your Excellency in Council may be graciously pleased to direct his restoration to office, and thereby relieve him of the unmerited stigma attached at present to his character¶. And your Petitioner as in duty bound, Will ever pray.

¶ Enclosure K.

Madras, 18 *April* 1867.

B Tenganaja Pillai

J.

IN THE PRINCIPAL SUDDER AMIN'S COURT AT SALEM.

PRESENT :—C. LATCHMIAH NAIDOO.

Original Suit No. 54 *of* 1866.

1. This is an action to recover damages to the amount of Rupees 2,890-0-0. It is alleged in the Plaint that the 1st and 2nd Defendants are the village Kurnams of Tadavoor in the Ahtoor Talook, that when in Fusly 1274 or 1864 the Plaintiff was Tahsildar, the 1st Defendant appropriated to his use certain remissions granted to ryots ; that he having disobeyed summons, was arrested under a warrant and examined by the Tahsildar and Sherastadar ; that the 3rd Defendant was committed by Plaintiff to the Sub Court for receiving stolen property ; that through the consequent malice, the 1st and 3rd Defendants in concert with the 2nd Defendant, formed a combination, the result of which was that the 1st Defendant in view to injure the Plaintiff's reputation, preferred to the District Magistrate against Plaintiff a false charge of having extorted money from him ; that the Magistrate convicted the Plaintiff and sentenced him to 6 month's imprisonment and 200 Rupees fine ; that the conviction however was quashed on appeal by the Sessions Court. It is therefore requested that as injury was caused to the Plaintiff's reputation by the false charge, special damages Rupees 1,800 may be recovered for him as compensation for the injury, together with Rupees 1,090 the expenses incurred in retaining Barrister and Vakeels in the Magistrate and Sessions Courts, altogether Rupees 2,890.

2. In answer to the suit, the Defendants allege that there existed no malice, and they preferred no malicious charge ; That the 1st Defendant made a complaint to the Magistrate as to what had actually occurred, and the Plaintiff was punished on proof of the complaint ; that though the conviction was quashed on appeal by the Sessions Court, the Plaintiff's claim to damages is unsustainable and repugnant to the decree and rulings of the High Court ; and that the 2nd and 3rd Defendants having been mere witnesses in the Criminal case, cannot be liable to an action for damages.

JUDGMENT.

3. The Principal Sudr Amin observes that the 1st Defendant was the accuser, and the 2nd and 3rd Defendants were witnesses in the case of extortion against Plaintiff.

4. An individual injured by malicious Prosecution has certainly his remedy against his malicious accuser, but such remedy cannot be against the accuser's witnesses.

5. The witnesses are compelled to appear and give evidence before public authorities at their requisition. To expose them to an action for damages at the instance of persons against whom their testimony is directed, would strike at the root of all Judicial testimony.

6. The 2nd and 3rd Defendants being on these grounds entitled to a decision in their favor, it remains to consider how far Plaintiff has made out his case against 1st Defendant who has preferred the Original charge.

7. The 1st Defendant in his deposition admits that he preferred the charge against Plaintiff, and he was convicted by the Magistrate, but that the conviction was quashed on appeal by the Sessions Court. The grounds of acquittal by that Court as shewn by the Exhibit A, are that the charge was not proved ; and that the contemporaneous written evidence raised the presumption that no such offence was committed.

8. It appears from the deposition of the 1st Defendant that, when Plaintiff was Tahsildar of Ahtoor, the 1st Defendant was Kurnum under him, but having made extra Collections from ryots was arrested under a warrant and brought before the Plaintiff for enquiry.

9. The charge having been preferred subsequent to the said transaction and after Plaintiff was put out of office, must be taken to have been malicious.

10. The Plaintiff swears that he extorted no money from the 1st Defendant; while the statement of the witnesses to the alleged extortion is so marked by improbabilities, as to render it unw rthy of b lief.

11. The Prosecution by 1st Defendant moreover, was admittedly instituted about a year after the alleged extortion. This delay throws strong doubt on the *bonâ fide* belief of the 1st Defendant in the truth of the charge, and fully warrants the conclusion that the statement of the 1st Defendant was unfounded to his mind at the time he made it and was intended to injure the Plaintiff.

12. As there was thus no justifiable cause for the Prosecution, the Conviction of the Plaintiff by the Magistrate can furnish no conclusive answer to the action.

13. The existence of malice and the absence of probable cause for the charge being made out, the Principal Sudder Amin has to consider to what amount of damages the 1st Defendant is liable.

14. The Plaintiff swears that he had retained Mr. Barrister Miller and paid him Rupees 6000 to defend him in this and 3 other cases. He however claims to recover only Rupees 1000 out of that sum as fee paid in this particular case. This claim is supported by the evidence of Mr Miller who speaks to having been paid in all Rupees 4,000.

15. The Plaintiff likewise seeks to recover the Train and mess expenses Rupees 200 incurred for Mr. Miller and also fee Rupees 90 paid to Vakeel Ramanjah Charry who had been employed to assist Mr. Miller.

16 To acquit himself of the charge, the Plaintiff was, no doubt, forced to put himself to the necessary expenses; and as the said sums are sworn to by Plaintiff to have been actually expended in the case, the 1st Defendant should properly be held accountable for the same, excepting the Train and Mess charges which cannot be held to be fee for Counsel.

17. In respect of the personal damages Rupees 1,800 claimed by Plaintiff, the Principal Sudder Amin remarks that it is true that Plaintiff's reputation suffered from the malicious prosecution, but to entitle him to the amount, it must be shewn that the 1st Defendant is in a position to meet the demand, but this, the Plaintiff has failed to do. From the means however possessed by 1st Defendant as admitted by him in his deposition, the Principal Sudder Amin considers that Rupees 350 may be awarded as adequate compensation for the personal injury.

18. The Suit having originated, in the malicious act of the 1st Defendant, he should be made to pay the full costs of Plaintiff; while the 2nd and 3rd Defendants having supported that act by their evidence should be made to bear their own costs.

19. For the foregoing reasons, the Principal Sudder Amin adjudges Rupees 1,440 to be paid to Plaintiff by 1st Defendant, and disallows the claim to the remainder.

20. The 1st Defendant is to pay Plaintiff's costs.

The other Defendants are to bear their own costs.

(Signed) C. LATCHMIAH,
Principal Sudder Amin

6th December 1867.

(True Copy)

(Signed) C. LATCHMIAH,
Principal Sudder Amin.

IN THE PRINCIPAL SUDDER AMIN'S COURT AT SALEM.

PRESENT:—C. LATCHMIAH NAIDOO.

Original Suit No. 54 *of* 1866.

Teagaraj Pillay.....	*Plaintiff.*	*Pleaders.*	W. Waddell Esquirs. Meenatchisoondaram Pillay.
1. Vencatrkristnayen... 2. Ramasawmi Pillay.. 3. Andalu Oodayan....	*Defendants.*	*Pleaders.*	Davasagoyem Pillay Pleader for 1st and 2nd Defendants. Narasiah for 3rd Defendant.

This is an action to recover Rupees 2,890 as personal damages and the expences incurred by plaintiff in consequence of the Defendants having instituted a malicious prosecution against him.

DECREE.

1st Defendant adjudged to pay to Plaintiff Rupees 1,440, the claim to the remainder being disallowed.

1st Defendant to pay Plaintiff's costs, and the other Defendants to bear their own costs.

Costs incurred by Plaintiff.

Value of stamps	Rs.	117- 8-0
Battah for Sommons Peon	„	9-14-6
Pleader's fees	„	144- 8-0
		271-14-6

Costs incurred by 1st Defendant.

Value of stamps	Rs.	8- 0-0
Batta for summons peon	„	1- 4-0
Pleader's fees	„	144- 8-0
		153-12-0

Costs incurred by 2nd and 3rd defendants

Value of stamp	Rs.	0- 8-0
Batta for sommons peon	„	2- 8-0
Pleaders fees	„	144- 8-0
		147- 8-0

Total Costs...573-2-6

To be paid to plaintiff by 1st defendant 271-14-6

No process of execution will be issued to enforce this decree, unless some proceeding shall have been taken to keep the same in force, within three years next preceding the application for such execution.

(Signed) C. LATCHMIAH,
Principal Sudder Amin.

6th December 1867.

(True Copy)

(Signed) C. LATCHMIAH,
Principal Sudder Amin.

IN THE CIVIL COURT AT SALEM.

30*th March* 1868.

PRESENT:—C. F. CHAMIER, J.

Regular Appeal No. 1 *of* 1868.

Teagaraja Pillay..... *Plaintiff Respondant.*

Venkatakristyen..... 1*st Defendant Appellant.*

Regular appeal against the decree of the Principal Sudr Ameen of Salem, in original suit No. 54 *of* 1866.

This Regular Appeal coming on for hearing this day the Court delivered the following:—

JUDGMENT.

I was anxious that the parties should move the Court to have this appeal transferred to some other Civil Court for disposal as they could scarcely expect me to take any other view of the facts than that which I had already recorded on the criminal side of the Court. For this purpose I delayed about six weeks to send a notice to the respondent, and suggested to the appellant that it might perhaps be more satisfactory to him to have the appeal tried at Coimbatoor. His pleaders, however, expressly desired that the appeal might be heard before this Court, and a notice was at length served upon the respondent, who has also raised no objection to the case being heard before me no doubt the questions now to be considered are of a different kind from those arising in a criminal case, so without further hesitation I proceed to apply myself to the examination of the several grounds taken in the petition of appeal against the decree of the Court of First Instance.

There is no doubt I think, that the Judgment of the Court of Sessions is receivable in evidence according to the universal practice of the Courts. In Ramalinga Chetty *versus* Mekkumperumal Oodyan Regular appeal No. 75 of 1866 the judges went so far as to admit in evidence a report made by the Tahsildar to the Collector, which had no pretentions to being a judicial record. A judgment being a public transaction of a solemn character, which is presumed to be faithfully recorded A is conclusive evidence for the plaintiff to establish the fact of acquittal (Tailor Ev. 1403.)

The exhibit A clearly shows that the first defendant was the person upon whose accusation the prosecution was founded.

The decision in Parime Baperazu against Bellamkenda Chinna Venkaya (3. H. C. R. 238) is misstated in the third ground of appeal. It is expressly observed that the judges were quite unable to find any evidence of the absence of reasonable and probable cause in that case. The accused persons admitted having broken open the grain pit and though the Court of Sessions found that they did so under a claim of right there was of course no foundation for an action for a malicious prosecution, for the complainant clearly had some ground for preferring his charge and there was nothing to show that he knew that the plaintiffs were acting under a notion of right calls 77). It is clear from what follows that if want of probable cause had been shown, the Judgment of the Lower Court would have been confirmed notwithstanding that the plaintiffs were actually convicted by one competent tribunal. I gather from the quotation from the judgment of Lee C. J. in the Irish case, that there was no independent evidence of malice, and probably no proof of the want of reasonable and probable cause; and that as one authority had given judgment for the defendant this was primâ facie evidence that the prosecution was not malicious, and malice could not be inferred but that evidence of malice might have been given, in which case the first decision in the defendants favour would have been of no avail. It seems extraordinary that an erroneous decision upon the facts should have any weight at all, in determining the question of want of probable cause. If weight is to be allowed for this purpose to the decision of either tribunal, it ought in common sense to be given to the decision of the superior tribunal, no doubt a conviction of the plaintiff by a Magistrate, so long as it has not been reversed on appeal affords a conclusive answer to the allegation that the complaint which led to it was founded in malice and was preferred without reasonable or probable cause (Mellor v Baddely Add ôn wrongs 529)

B. J.

for the plaintiff ought to set out in his declaration that he was in due form of law tried upon the charge, and was acquitted and discharged out of custody (ib 538) but when the conviction has been reversed on appeal it seems to me that it affords no answer at all. In the first case the conviction appears to operate rather as a bar to the action than as proof probable cause. In the latter case the bar is simply removed. Certainly if the conviction acts as proof of probable cause, the acquittal should operate as evidence of the absence of probable cause. I have not been able to find the fresh case in any of the books which I have consulted Addison on wrongs and their Remedies, Rescoes evidence at nise Prins and Colletts manual on Forts Query why is the case omitted? but from the short description of it given in the case relied upon in the third ground of appeal, I infer that it was one of a peculiar kind quite distinguishable from an ordinary prosecution for a purely criminal offence. The defendant seems to have been an informer, and not a prosecutor; and as the sub-commissioners actually found the plaintiff guilty and condemned his goods, it is obvious that their judgment showed primâ facie that there was a reasonable and probable facie that there was a reasonable and probable cause for the information (which I suppose was that the goods were contraband.) This presumption in the informer's favor was rebuttable but does not appear to have been rebutted by any evidence to show the want of probable cause (combined with malice) which it is said "must be substantively expressly proved and cannot be implied" (Br. com. 744) I am certainly of opinion that no such effect should be given to a Magistrate conviction after it has been reversed on appeal *upon an appreciation* of the same evidence, more particularly where the Appellate Court has expressed its opinion that the evidence was unworthy of belief. There is no doubt that among the inferior magistracy it is not uncommon for the Magistrate to convict with a full knowledge that the prosecution is without any foundation in truth and that the complainant and witnesses have conspired to injure the accused. How could the conviction in such a case afford very strong evidence of reasonable and probable cause? The fact is that as a judgment of acquittal is no evidence whatever of the defendadts malice or want of probable cause (Tayl 1403) so a conviction reversed on appeal cannot be any evidence whatever of probable cause nor can a judgment of acquittal on appeal by any evidence of the want of probable cause any more than on original judgment of acquittal.

As to the fourth ground I think the burden of proof in this case lies upon the defendant instead of relying upon the plea of not guilty, which would have cost the ouns upon the plaintiff the defendant has elected to bring the facts before the court in a plea of justification (Add 538) and has contended that his charge against the plaintiff was true. It was for the defendant therefore to prove that other facts and circumstances showing reasonable and probable cause for the institution of the prosecution were known to him at the time the charge was made, and formed the reason and inducement for his putting the law in motion (Add 538), or perhaps in this instance to have combatted the contemporaneous written evidence which convinced the appellate court that no offence could have been committed. Nothing of this kind however has been done and the Courts were left to form their conclusions upon a reputition of the evidence that the defendant adduced in the criminal prosecution. I will not say further on this point than that I agree with what is stated in the eighth, ninth, tenth and eleventh paragraphs of L. Cts. Judgment as to the want of reasonable and probable cause for the prosecution and the existence of malice. The circumstance that the defendant with a full knowledge, of course of all the facts which he must have had where he alleges that money was extorted from him by the plaintiff in the presence of witnesses and after he had been ignomeniously brought up under a warrant before the plaintiff took no steps to put the criminal law in motion untill nearly a year after the alleged crime was committed and that he only caused the plaintiff to be apprehended and prosecuted after he had been suspended from office and which he was under the displeasure of the Collector without giving any satisfactory reason for the long delay satisfies me that when he did prosecute he acted under no *bonâ fide* belief in the plaintiffs guilt but that he was conscious and knew that the plaintiff was entirely innocent of the charge he preferred against him. These remarks comprehended the fifth ground of appeal.

There is no doubt that the plaintiff is entitled to recover, as part of the damages every expense that he has necessarily incurred in order to defend himself from the false and malicious charge brought against him by the defendant (Add 545). This is proved to have been Rupees 4,000 for four cases, making Rupees 1,000 for the present case on account of fees paid to counsel. The sum of Rupees 90 was also paid to a Vakeel employed to assist the Barrister retained by the plaintiff. I think under the circumstances the plaintiff justified in obtaining the best advice in his power. He had very strong influence to contend against and any local practitioner would have been utterly unable to stem the current of feeling which had set in against the plaintiff. Large numbers of public servants were interested in his

removal and it is argued as a ground for exonerating the defendants in other cases connected with this and heard today, that persons having been publicly invited to come forward and accuse the plaintiff they cannot be said to have voluntarily set the criminal in motion against him I am of opinion therefore that it was indispensable for the plaintiff to retain counsel as the only hope of saving himself from appression and utter ruin.

I see no reason for departing from the usual practice as to costs in this case. The decree of the Lower Court will therefore be modified on this point and the plaintiff directed to pay the defendants costs on the sums disallowed.

With reference to the last objection I should not feel justified in interfering with the Lower Court's decision as to the amount of damages except upon very strong grounds. In the present case the damages do not appear to me disproportionate either to the wrong received or to the situation and circumstances of either the plaintiff or the defendant (Add 545). The sum of three hundred and fifty rupees where the plaintiff has been imprisoned upon the malicious charge seems to be very little in the way of damages for injury to a man's reputation and personal liberty.

I modify the decree of the lower Court and direct that the first defendant do pay the costs of the plaintiff in the lower Court upon the sums allowed and the plaintiff those of the first defendant upon the sums disallowed. The first defendant will pay the costs of the plaintiff in the Appellate Court.

(Signed) C. F. CHAMIER,
Civil Judge.

IN THE CIVIL COURT AT SALEM.

30*th March* 1868.

PRESENT:—C. F. CHAMIER, J.

Regular Appeal No. 1 *of* 1868.

Teagaraja Pillay..... *Plaintiff Respondant.*

Venkatakristyen..... 1*st Defendant Appellant.*

Regular appeal against the decree of the Principal Sudr Ameen of Salem, in original suit No. 54 *of* 1866.

MEMORANDUM OF APPEAL.

I. The Plaintiffs exhibit A is not admissable as evidence in this case; its admision by the lower Court is wrong.

II. The lower Court remark that the 1st Defendant was the complainant in the Magisterial case is opposed to the evidence on record.

III. As the plaintiff has been duly convicted by a competent authority in the Magisterial case Plaintiff cannot maintain this suit under the principle enunciated by the High Court in regular appeal No.73 of 1866.

IV. The Plaintiff has adduced no evidence that the complaint before the Magistrate was preferred from malice, and without reasonable and probable cause. The judgment of the lower Court based upon more inferences is contrary to law. Moreover the circumstances from which the lower Courts inferences were drawn do not disclose malice; the Magistrates decision (defendants document No. I) clearly proves that the complainant was justifiable.

V. There are no blemishes in the evidence adduced by the 1st Defendant as admitted by the lower Court. The plaintiff's statement is incridible.

VI. The Plaintiff is not entitled to recover fees and other expenses said to have been paid to the Barrister nor is there any evidence on this point.

VII. The decree directing the payment to the Plaintiff by the 1st Defendant of the costs on the amount disallowed is contrary to law.

VIII. The Lower Court has admitted that the 1st Defendant is not good in circumstances.

DECREE.

This regular appeal coming on for hearing: upon perusing the Memorandum of appeal, the judgment and decree of the Court of 1st instance, and the meterial papers in the suit, and upon hearing the arguments of Mr. J. Carr and Meenathysoondrum Pillay, Pleaders for the plaintiff and of Narasier and Davasagayam Pillay Pleaders for the 1st Detendant, this Court doth order and decree that the decree of the Court of 1st instance be and the same hereby is, modified and the 1st Defendant directed to pay the costs of the Plaintiff in the Court of 1st instance upon the sums allowed, and the Plaintiff those of the 1st Defendant upon the sums disallowed; and the Court doth further order and decree that the 1st Defendant do pay the costs of the Plaintiff in the regular appeal.

MEMORANDUM OF COSTS.

Costs of the Plaintiff in the Court of 1st instance			271 14 6
Costs of the Plaintiff in Appeal.			
Value of stamp for Vakalutnamah	0 8 0		
Pleaders fee on rupees 1440-0-0	72 0 0		
		72	8 0
Costs of the 1st Defendant in the Court of 1st instance		153	12 0
Costs of the 1st Defendant in Appeal.			
Value of stamp for appeal Petition	125 0 0		
Do do for Vakalutnamah	0 8 0		
Pleaders fee on Rupees 1440-0-0	72 0 0		
Battah for serving process	0 4 0		
		197	12 0
		695	14 6
Costs incurred by the Plaintiff in the Court of 1st instance on the sum allowed rupees 1,440-0-0 to be paid to him by the 1st Defendant		149	6 6
Costs incurred by the 1st Defendant in the Court of 1st instance on the sum disallowed to be paid to him by the Plaintiff		72	8 0
Costs incurred by the plaintiff in the Court of 1st instance on the sum disallowed to be borne by himself...		122	8 0
Costs incurred by the 1st Defendant in the Court of 1st instance on the sum allowed to be borne by himself...		81	4 0
Costs incurred by the plaintiff in the regular appeal to be paid to him by the 1st Defendant.		72	8 0
Costs incurred by the 1st Defendant in this regular appeal to be borne by himself ...		197	12 0

L.

8

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Friday the seventh day of August, one thousand eight hundred and sixty eight.

PRESENT:—THE HONORABLE SIR ADAM BITTLESTON KNIGHT.

AND

THE HONORABLE MR. JUSTICE ELLIS.

Special Appeal No. 321 *of* 1868.

Venkatakrishtnyan... ... ... *Special Appellant. 1st Defendant.*

Teagaraja Pillay ... ... *Special Respondents. Plaintiff.*

Special Appeal against the Decree of the Civil Court of Salem in Regular Appeal No. 1 of 1868 modifying the Decree of the Court of the Principal Sudder Amin of Salem in Original Suit No. 54 of 1866.

DECREE.—This Special Appeal coming on for hearing now perusing the grounds of Special Appeal the judgments and Decrees of the Lower Appellate Court and Court of First Instance and the material papers in the Suit and upon hearing the arguments of Mr. Mills, Counsel for the Special Appellant, and of Mr. Advocate General, Counsel for the Special Respondant, this Court doth order and decree that the decree of the Appellate Court is, and the same hereby is, confirmed, and this Appeal dismissed; and this Court doth further order and decree that the Special Appellant do pay to the Special Respondent Rupees 75-4-2 for his costs in opposing this Special Appeal.

(Signed) A. BITTLESTON. }
(„) GEORGE ELLIS. } *Judges.*

J. K. L.

MEMORANDUM OF COSTS.

Special Respondents (Plaintiff) costs.

Vakils fee on Rupees 1,440	72	0	0
1 Printed Copy purchased	3	4	2
To be paid to the Special Respondent ...	75	4	2

By the Special Appellant (1st Defendant.)

(Signed) H. WIGRAM,
Acting Register Appellate Side.

B. Teagaraja Pillai

29

I.

IN THE COURT OF SESSION AT SALEM.

28th November 1866.

CRIMINAL PETITION Nos. 26 to 30 of 1866.

B. TEAGARAJA PILLAY PETITIONER.

Appeals against the Sentences of the District Magistrate of Salem in Cases Nos. 43, 46, 53, 55 and 57.

JUDGMENT.

The first point which attracts my attention in these cases is the late hour at which the complaints have been preferred. Thus, the offence in case No. 26 is affirmed to have been committed in 1863; the circumstances with which it is connected are found to have occurred in 1862; and the complaint is not made till 1866. There has also been more or less delay in the other cases. There is doubtless nothing in law or practice to prevent a person being prosecuted and punished for an offence committed some years back; but in every such case, as far as my experience goes, the facts must have been made known at the time of their occurrence, and some steps must have been taken by the injured party to bring the offender to Justice; otherwise the Magistracy will not, as a rule, entertain the complaint. Thus, if a man complain of a robbery, or any other offence, said to have been committed some years before, and it appear that no information was given of such offence at the time of its alleged commission, it is I believe the universal practice to refuse to subject the accused to Criminal Proceedings. If this protection is afforded to private individuals, much more in my opinion should it be thrown around a public servant every act of whose official life must necessarily be prejudicial to the interests of one or more of persons appearing before him as litigants, and thus tend to engender feelings of animosity against him. The reasons for refusing a summons in the case of antiquated charges are certainly very cojent and important, first, the long reticence of the party complaining renders it highly improbable that any offence has been committed; Secondly, facilities are afforded for fabricating false evidence and tutoring witnesses, which do not exist where information is immediately given and an investigation at once held; Thirdly, the accused whose position the law always regards with anxious solicitude is placed at a great disadvantage if required to prove his innocence under such circumstances. Of course the case is totally different where an offence is directly reported, and evidence of the corpus delicti obtained, but the offender is either unknown or evades justice for a series of years. All doubt as to the actual commission of the offence is there entirely removed, and the evidence against the accused is such as was made known at the time, or new evidence of a circumstantial nature tending to connect him with the offence. Upon grounds of public policy it seems to me highly inexpedient that encouragement should be given to complaints of offences by public servants being preferred against them after they have retired from office. It is obvious that under such a system a real offender, instead of being arrested in, would be allowed to pursue his career of oppression; and his eventual punishment would after all become exceedingly problematical from the general reluctance of parties to complain when time has effaced the first feelings of irritation produced by the offender's act, and from the extreme improbability of the complainant's story and that of his witnesses being credited. Such prosecutions are, moreover, calculated to create needless dismay and disaffection among a large class of public servants who are placed in a very helpless and invidious position. No native could indeed retire from the service without being exposed to the risk of having his character blasted by groundless accusations from persons who were under his authority and whom he had offended in the course of his official duties. The soundness of the general rule is strongly exemplified by the result of these exceptional prosecutions. Here criminal charges have been freely entertained against the defendant and the whole machinery of the State has been put in operation against him, the Police having been directed to make

preliminary enquiries into the complaints, and the public prosecutor employed to conduct the prosecutions ; but the result is that in 14 cases out of 20 brought before the magistrate, the accused has been discharged, and in the 6 in which he has been convicted, the convictions will not have been upheld in appeal. The magistrate describes the petitioner's career as one of tyranny and corruption ; but there is no evidence on the record to show, that he was ever degraded or punished, or ever that any charge of oppression or corruption was ever preferred against him. In the absence of such evidence it may reasonably be inferred from the fact of his having been permitted to remain in employ for 34 years, that his character was unblemished so far as any actual proof of delinquency is concerned. Such considerations however can have no weight in criminal cases except to enhance or diminish the punishment after conviction. Now, whether the time at which the present complaints have been made, or the manner in which they have been brought to light, or the clumsy attempts made to connect them with some official act of the Petitioner, be taken into consideration ; they can, I think, leave no other impression on the mind than that the accusations are without any reasonable or probable foundation, and that the witnesses are utterly unworthy of credit. The only way in which a Court can deal with such complaints with any hope of passing a safe decision is by estimating the probability or improbability, from the whole circumstances of the case, of the offence having really been committed. To allow to the evidence of a complainant and his witnesses deposing to facts alleged to have taken place some years before the same weight that is given to the testimony of persons narrating matters of recent occurrence would be contrary not only to judicial practice but also to common sense. It stands to reason that the credit of a witness is very materially affected by the circumstances under which he gives his evidence, and suspicion naturally attaches to evidence which has been long withheld. The present complaints are also rendered incredible by the fact that, if true, the complainants would have had more than ordinary reasons for taking immediate proceedings against the Defendant. A person robbed has often no expectation of recovering his property, and silence might in such a case be quite consistent with the fact of a robbery having been actually committed ; but where a man has paid a large sum of money in order to free himself from a false charge or to obtain immunity from official persecution, it is obvious that he has the strongest of all inducements for seeking early redress ; and the absence of any complaint under such circumstances at the time when the money is alleged to have been extorted or corruptly received, raises a reasonable presumption that no payment was in reality made. The reason assigned for the delay in preferring these complaints is, that the complainants were afraid to prosecute the Defendant while he was in authority, lest he should do them some injury ; but a moment's reflection will suffice to show that this is a mere pretence. Thus, they have now come forward with all the elements of a strong case ; witnesses speaking to the actual payment of the sums to the accused, and particular official transactions being referred to as forming the ground work of the offences alleged to have been committed. Now it is perfectly clear, that if the evidence were true, and it was really available at the date of the offence, the knowledge of its weight and the confidence which always accompanies a just cause would completely have removed from their minds any fear of future molestation by the certainty that punishment would follow, and further oppression be rendered impossible. It is also incredible that so many persons should have been under the influence of fear. In a solitary instance of extortion the sufferer might possibly be a person of too timid a disposition to complain of the injury ; but here the parties are many in number, and if there had been any truth in their allegations, they would doubtless have heard of each other's wrongs and have combined together to bring the oppressor to punishment ; or it is reasonable to suppose that at least one among them would have had the moral courage to complain. Another element of improbability consists in the class of persons from whom the money is in most of the cases said to have been taken. It is quite intelligible that a corrupt public servant should receive a bribe from a rich suitor ; but it seems in the last degree improbable that he should exact money from his own subordinates. A further circumstance which tends to deprive the story of the complainants of the least shadow of probability is, the absurd disproportion between the sums alleged to have been exacted and the service which was to be rendered. Thus, in case No. 46, the complainant had simply been fined two Rs. for

carelessness in keeping his accounts, and yet he now asserts that while the enquiry was pending the Defendant extorted from him the sum of three hundred Rupees. The complaints against the Defendant were not only not made at the time at which the offences are said to have been committed ; they were not even preferred when it was known that the Defendant was shortly to be pensioned, nor for some time after he had quitted office. It was only after he had petitioned the Board of Revenue to be allowed to defer taking his pension that efforts were first made to effect his ruin. I consider that the reference of these cases to the Police for preliminary enquiry was inexpedient and not calculated to advance the ends of justice, but rather the reverse. When the Magistrate is satisfied that an offence has been committed, but is unable to proceed to a satisfactory decision of the case, either on account of the insufficiency of the evidence for conviction, the non-apprehension of the real offender, or from any other cause, it is proper that due enquiry should be made before the accused is discharged or the case dismissed ; but in the present instance there was nothing for the Police to trace out, and all that was necessary was for the Magistrate to hear the evidence tendered. If this course had been adopted, I think that there would have been fewer complaints ; and one great source of doubt as to the truth of the charges would have been avoided. The complainant, in appeal No. 29, expressly deposes that he had no intention of complaining, and did not complain either to the District Magistrate or any one else ; that he merely mentioned the matter in his deposition in another case ; that he did not complain of his own accord before the Superintendent of Police, but that the latter sent a constable to call him and told him that he had heard that he had given twenty pounds to the Defendant. It is obvious therefore that but for the intervention of the Police this charge would never have been preferred : and the natural inference is, that the evidence by which it is now suppported did not before exist. A similar declaration was made by the complainant in case No. 56 dismissed by the Magistrate. There the complainant admitted that he had not gone before the Superintendant of Police of his own accord, but had been taken by the Inspector ; and that before that he had never complained to any one that the Defendant had extorted money from him. The Inspector of Police also deposed that the Taluq Sub-Magistrate had sent for the complainant, and that when he arrived he took him before the Superintendent of Police. If the Magistrate gave general directions to the Police to enquire into all complaints against the Defendant, without expressly referring each individual case for preliminary enquiry, he made in my judgment an erroneous use of the power vested in him by Section 133 of the Code of Criminal Procedure. And if the Police received any of the complaints without such express reference, I think they exceeded their jurisdiction. The consequence to the Defendant has been that he has had to contend with many influences which could not so easily have been opposed to him if the few complainants who at first came forward had been left to substantiate their complaints in the usual way : there was every reason for pursuing this course on account of the peculiarly suspicious circumstances under which the charges were preferred. If the Magistrate had had reasonable grounds for believing that the Defendant while in office was abusing his authority, he would doubtless have been warranted in making the most searching enquiries into his conduct and encouraging injured parties to appear and declare their grievances ; but as no such steps were then taken and the Defendant was permitted to take his pension, it must be inferred that the Magistrate was not aware of any such abuse by the Defendant of his official powers, and the presumption of law in favor of his innocence strengthened by the absence of any complaint in respect of these alleged acts for so many years should have obtained for him, I think, a different mode of treatment from that actually adopted. After weighing the evidence adduced against the Defendant in the five cases now pending before me, I have come to the conclusion that there is not a word of truth in any of the charges, and that he is the victim of a conspiracy formed to prevent his return to office. I consider that no explanation such as a Court of Justice can admit has been given for the unreasonable delay in preferring these complaints ; and that on this account, and on account of their intrinsic improbability and the fact of their being spoken to mainly by interested witnesses, they must be rejected as incredible. I also consider that it is patent on the face of the records that the complainants are mere tools in the hands of persons who are using the law as a means of promoting their private ends. Great discredit is brought

upon the administration of justice if such practices are allowed to be carried on with impunity ; and some effort should be made to discover and bring to condign punishment the parties by whom the complainants have been instigated to prefer these palpably groundless charges. With these observations, I proceed to record my reasons for disbelieving the evidence in each particular case.

In Case Number 26.—The complainant alleges that he was summoned by the Defendant in a Revenue matter two or three years ago ; and that during the enquiry the Defendant threatened him and said to him "I know you are a bad man and have made collections from the Villagers, I must handcuff you and send you to the West" ; that subsequently the Defendant in his garden said he would let him go if he gave him 300 Rupees ; that the Defendant used no threat in his garden, but that he agreed to pay the money because he was afraid of Defendant's threats ; that he went immediately to his village and next day at noon brought Rupees 250, which he entrusted to the 2nd witness to carry ; that on the way he picked up the third and fourth witnesses and delivered the money to the Defendant through the third witness. The complainant when put to the test of cross-examination contradicted himself so often that it is impossible to gather from his evidence when it was that the demand is alleged to have been made. He first said that it was after the enquiry had been completed ; then that it was on the second day of the enquiry, which he affirmed lasted three days ; he then said that the enquiry was concluded on the second day, and that the demand was made after it was concluded and after his opponents had been sent away. In another place he contradicts this by stating that he even paid the money before the enquiry was completed. The documentary evidence shows that the enquiry only occupied one day ; so the whole story of the demand and payment is evidently a fiction. The complainant admits that he was dismissed from his Maniem at the instance of the Defendant, and states that the money was paid a month before his dismissal. He also admits that he petitioned the Collector so late as September last about his dismissal, but even then did not complain about the 250 Rupees. Any circumstances more calculated to destroy the credit of a witness it would be difficult to imagine. Very little need be said upon the evidence as to the alleged payment of the money. The second witness was a Village Thoty under the complainant, while the latter was Maniegar. The fourth witness was dismissed from his Maniem on the Report of the Defendant. Their testimony therefore cannot be free from bias. The evidence of each witness is moreover inconsistent with that of the complainant and the other witnesses. Thus, the complainant states that he took the third and fourth witnesses with him in order that they might intercede for him if the Defendant should not be satisfied with the 250 Rupees ; but the third witness deposes that the complainant merely told him that he had been summoned in a case, and had some money to give to the Defendant and wanted him to go with him ; and the fourth witness declares that he went for no other reason than to borrow money for the complainant in case the Defendant was not satisfied. The 2nd and 4th witnesses assert that the bag or bundle supposed to contain the money was dipped in water by the 2nd witness before being given to the complainant ; but the complainant does not say that any such ceremony was gone through, nor does the 3rd witness, though the 2nd and 4th witnesses both assert that the complainant told the 2nd witness to wet the bundle. The 2nd witness states that this was done near the Cutchary, and the fourth near the Police station. The 3rd witness deposes that immediately the money had been given they all came out ; the 2nd witness states that they were inside 2 or 3 Indian hours, that is about an hour. The 3rd witness says in one part of his deposition that they waited outside the Cutchary till the Defendant went to his house, and in another part that the Defendant had left the Cutchary before they arrrived. The 4th witness affirms that the Defendant after receiving the bundle went into the next room and then came out and told them to go. This is directly opposed to the evidence of the complainant and 3rd witness, who state that the Defendant on receipt of the money told them to go and that they went away immediately. None of the witnesses saw what the bundle contained, and the 2nd witness who says he carried it is unable even to say whether the coin was silver or copper. It is quite clear therefore that the conviction cannot stand. There is no evidence that the sum of Rupees 250 was paid to the Defendant, and the character of the testimony delivered in this case leaves no doubt on my mind that the witnesses are perjured.

In Case Number 27 the complainant alleges that about 2 years ago he attempted to carry out a marriage procession under authority obtained from the Magistrate, but was from time to time prevented by the Defendant who refused to allow the procession to take place unless the complainant paid him 500 Rupees. The complainant states that he made a verbal complaint to the Joint Magistrate at the Jamabundy and was referred to the Magistrate, but admits that he made no written complaint to the Magistrate till his examination was taken in this case. That there cannot be a particle of truth in the present charge is perfectly plain from a perusal of the Petition presented to the Magistrate by the complainant on the 24th January 1865. In that he expressly charges the Defendant with being in the interest of his opponents, with wilfully disobeying the Magistrate's Orders and submitting false reports ; and states that he was driven out of the Cutchery, and that the Defendant had entertained strong ill will against him for a long time. Now it is alleged that it was before the presentation of this Petition that the money was demanded. Is it credible that a person writing so bitterly and so boldly against the Defendant, and confessedly at enmity with him, would have omitted to mention this demand and the threats which the complainant asserts accompanied it, or that he would have hesitated an instant to prefer a charge of extortion against the Defendant if any money had been afterwards paid ? I think that the fact of no allusion being made to any corrupt practices in such a Petition tells greatly in favor of the Defendant, and shows not only that he exacted no money on that occasion but also that whatever his faults, if any may have been, corruption was not one of them. The 2nd witness states that he lent 500 Rupees to the complainant to give to the Defendant, and was present when the money was delivered. He admits that he took no bond or security for the debt, and did not enter the transaction in his accounts. He affairms that the complainant, who was in such needy circumstances that he was obliged to borrow money even for his marriage expenses, re-paid the loan with interest in 2 months, upon which he returned complainant's receipt for the money. The 2nd witness admits that he has been twice fined by the Defendant. The 3rd and 4th witnesses depose that they went to the 2nd witness to borrow money ; that he told them he would lend it at Salem where he was going to sell some Grain ; and that they accompanied him to Salem. Now, it is obvious that if there had been any truth in their statement, the money would have been lent to them at Salem, for that was the purpose for which they affirm that they accompanied the 2nd witness ; but they damage their own credit by adding that they returned with him to Athoor without obtaining the loan, and that the 2nd witness there lent the money to the complainant to give to the Defendant, and that they were present when it was delivered. The 3rd witness says that as it was a secret matter they went in the dark, and that the Defendant sent away a Peon who was standing at the gate, but that neverthless no objection was taken to the witnesses being present, though they were strangers to the Defendant. It seems waste of time to go further into such evidence. I do not therefore consider it necessary to set out minutely all the discrepancies between the statements of the complainant and the witnesses as to the manner in which the money was delivered, the conversation that took place, and what was done by the Defendant. On the face of the evidence it is manifest that the whole account is a pure fabrication, not having the slightest foundation in fact. The complainant had obtained leave from the Magistrate to have his procession, and although the Defendant thought that it ought not to be permitted lest it should lead to a breach of the peace, and because the street was a private street and not a Public High-way, yet these objections were over ruled and there was not the slightest necessity for the complainant to offer any gratification to the Defendant ; nor can it be believed that he would have done so, when the final order had been passed directing the Defendant to permit the procession and take measures for preserving the peace, especially as according to his own statement he had resisted the Defendant's demands up to that time.

The complaint in Case No. 28 is to the effect that three years ago certain persons accused the complainant of malversation in his Revenue duties, and that while the matter was under enquiry before the Taluq Sheristadar the Defendant sent for him and, saying that he was not obeying the Sheristadar, and that there were erasures in his accounts, threatened to punish him on the Police side ; that he denied that there was any thing wrong in his accounts, and asked the She-

ristadar whether he had disobeyed his Orders ; that the Sheristadar replied that the complainant had neither disobeyed him nor had he complained to the Tasildar against the complainant ; that in the evening the Defendant sent for him again and asked him whether he would prefer to be tried on the Police side and punished or listen to what he said ; that he again protested that there was nothing wrong in his accounts, when the Defendant said he would let him go if he paid him 300 Rupees ; that there was no case against him on the Magisterial side, but that he nevertheless consented to pay the money, and went to his Village to bring it ; and that in 2 or 3 days he returned with the money and paid it to the Defendant. The second and third witnesses depose that they were present when the sum was given to the Defendant. The Revenue case with which it is endeavoured to connect this alleged payment appears to have occurred in 1862, that is full four years before the date of the present complaint. The complainant is a Curnum and makes a display of his animus against the Defendant by stating that eight or nine years ago he gave the Defendant 300 Rupees in a dispute about land, and that on several other occasions also the Defendant extorted money and paddy from him, but that he has never complained of any of these acts, and that he was afraid to prefer this charge before because a person who had complained against the Defendant had his house looted and set on fire two or three months afterwards, and other persons had been similarly treated. It is clear from the papers produced by the 2nd witness for the Defence that the Defendant made unfavorable remarks upon the conduct of the complainant in the Revenue case. He reported that the complainant had not kept his accounts regularly, and that it appeared that he had appropriated certain money belonging to Agrahrumdars ; but that this could not be proved against him, and that the suspicion arose from all the Jory accounts containing erasures and alterations. The complainant also admits that on another occasion a warrant was issued by the Defendant for his apprehension because he had failed to comply with a Summons. The 2nd witness was formerly a Village Moonsiff, and admits that he was dismis-ed, as he says unjustly, during the time that Defendant was Taluq Magistrate, on suspicion of his having aided some Coravars to effect their escape from custody. He also admits that he was arrested on a charge of high-way robbery four or five years ago upon a warrant issued by the Defendant, and expressly accuses the Defendant of having got up the case against him. It is obvious, therefore, that this second witness has strong motives for giving false evidence against the Defendant. The letters produced by this witness further show that all confidential relations between him and the Defendant ceased in January 1862, that is six months before the Revenue case was referred for investigation. The only letter written after this date was one in May of the present year, merely asking him to send a Native physician to attend upon him. The former letter related to the taking charge of Jewellery, sale of Bullucks &c., on behalf of the Defendant ; and the sudden interruption of this correspondence more than four years ago, that is about the time that the witness was arrested by Defendant for robbery, plainly indicates that there was then a breach in their friendship : a letter asking another to procure medical assistance is what any sufferer might write even to one with whom he was not on good terms. No reason has been given for the absence of any written communication between the parties for four years, and the conclusion is irresistible that the official acts of the Defendant had occasioned a necessary separation between him and the second witness. I consider that the 1st and 2nd witnesses are uttterly unworthy of credit. The 3rd witness admits that he has attested many instruments executed to the complainant, and has given evidence in his favor in suits brought upon such instruments. I think therefore that no reliance whatever can be placed upon his testimony. It is also at variance with that of the complainant. He says that the bag of money was entrusted to his care by the complainant at his Village, that when coming from the Village in a cart he kept it by his side and had it all along in his charge. The complainant's statement on the other hand is, that he brought the money himself ; that the 3rd witness merely accompanied him ; and that he only delivered it into his custody when he was himself going to the Defendant's house. The charge in this case, far from being proved by credible witnesses, is in my judgment palpably false and malicious.

The complaint in Case Number 29 is of comparatively recent date and is a little varied in its details. The money, amounting to twenty sovereigns, is alleged to have been paid to the De-

fendant merely upon threatening messages sent by him to the complainant, and without the complainant even making the slightest remonstrance. He admits that the Defendant on several occasions had his carts stopped on the ground that they contained timber felled in Government Forests, and that he continued to do so even after the date of the alleged payment. The complainant also admits that he has given evidence against the Defendant in several other cases ; that he was dismissed from his Durmakurtaship by the Collector upon an investigation held by the Defendant, and compelled to make good 300 or 400 Rupees, and that he was fined with others for removing a hedge. He states that the goldsmith who put up the hedge was working in the Defendant's house, and that though he was himself absent from the village the Defendant included him in the case and forwarded him to the joint Magistrate. The complainant takes special care to state that even after these transactions he still continued on friendly terms with the Defendant. He declares that he never intended to complain against the Defendant for having extorted the twenty sovereigns from him, and merely mentioned the fact when asked in another case. It may reasonably be presumed, therefore, that the whole case has been recently concocted, for it rests mainly on the evidence of the 2nd and 5th witnesses, who say that they carried the threatening messages ; and had their evidence existed before, together with that of the 4th witness who says that he was present at the payment, there can be no doubt, looking at the relations of the parties, that the complainant would immediately have prosecuted the Defendant. The 5th witness in this case was the 2nd witness in case No. 28, and it is unnessary to repeat here the circumstances which show that he must necessarily be strongly prejudiced against the Defendant. At the very time that the Defendant is now charged with having extorted money from his "friend," the complainant, he was writing Urzies against him to the Collector accusing him of instigating people to make false complaints against the Defendant, which renders it evident that they were in fact enemies instead of friends. I look upon the whole of the evidence as puerile in the extreme, and do not believe that there is a syllable of truth in it from beginning to end.

In Case No 30 the complainant affirms that about 2 years and half ago he lent the Defendant a hundred Rupees, and that about ten or twelve days afterwards he was summoned on a complaint preferred by one Atchemal ; that after waiting at the Cutchery six or seven days he begged the Defendant to commence the enquiry, upon which the Defendant said that if the complainant would give up his claim to the hundred Rupees he would let him go ; that he consented to this, and that the next day the Defendant enquired into the case and dismissed the complaint. The 2nd witness deposes that he was with the complainant about 2 years ago when he gave the hundred Rupees to the 3rd witness to take to the Defendant, and that he was also present when the complainant consented to give up his claim to that sum. The third witness deposes that he received the money from the complainant 2 or 3 years ago and delivered it to the Defendant. The 4th witness deposes that 2 or 3 years ago the Defendant asked him if the complainant had any enemy ; that he told him that the fifth witness was complainant's enemy ; that the Defendant then asked him to tell the fifth witness to bring a charge against the complainant, and that on his return to his village he told her to do so. The fifth witness states that she made a complaint against the complainant at the instance of the fourth witness, but that the charge was a true one. The sixth witness deposes that about three years ago the Defendant asked him to be a Vakeel for a woman who had preferred a charge against the complainant and the second witness ; but that he did not agree. The seventh witness merely produced the record of the former case. The eighth witness deposes that he was first asked by the fifth witness to act for her but refused, that she then took him to the Defendant, who induced him to put in a Vakalutnama. Great ingenuity has been displayed in putting this case in so elaborate a form ; but it will not bear a moment's examination. In the first place, the evidence wholly fails to connect the alleged relinquishment of the complainant's claim with the charge preferred by the fifth witness against the complainant, the second witness, and another. This case was tried on the 26th May 1862, that is four years and a half ago, but the complainant and his witnesses all affirm that the money was lent to the Defendant and the debt released less than three years ago. The third witness, who says that he carried the money to the Defendant, states that he is sure that it was not four or five years ago. The allega-

tion that the claim was given up to avoid punishment in the fifth witness's case can only, therefore, be looked upon as an unscrupulous attempt to convert an ordinary official act of the Defendant into a foundation for a charge of oppression. In the second place, the facts of the original case have been wilfully perverted. The record shows that the fifth witness named in her complaint the person to whom she had given a Vakalutnamah, that is, the eighth witness; and the power itself is dated the day before the complaint. Yet oral evidence is adduced to show that the Defendant asked the sixth witness to conduct the case after the complaint had been filed, and on his declining induced the eighth witness to accept a Vakalut. Nothing can be more clear than that some unscrupulous hand has been at work in preparing the case for the prosecution. The documentary evidence proves beyond all question that the evidence of the sixth and eight witnesses must of necessity be false. The sixth witness has been called to prove that the Defendant asked him to accept a Vakalutnamah in the case, but his name does not appear upon the records, and no allusion is made to him by any of the witnesses who speak to the facts of that case. How then was he brought in as a witness? The complaint moreover was one of assault equally against three persons, and yet the fourth and fifth witnesses are called to prove that the Defendant instigated the charge, though it is evident that had he really done so it would have been against the complainant alone. In the third place, the story of the loan and release is palpably a fabrication. The complainant admits that he never lent any money to the Defendant either before or after this alleged transaction, and does not assign any reason for his doing so on this occasion. He states that it was an ordinary loan, but that he took no bond or acknowledgment for the money, not even a receipt from the Peon, the third witness, who he says came to fetch it; that he entered the payment in his account, but tore it up after he had relinquished his claim to the money. He admits that he never made any written complaint to the Magistrate even after the Defendant had been removed from office. The complainant is a Curnum. The second witness is also a Curnum and relative of the complainant. The third witness is a Taluq peon. These three speak to the alleged delivery of the money to the third witness; the third witness is the only person who deposes to the alleged payment to the Defendant; the complainant and second witness are the persons who affirm that the Defendant induced the complainant to relinquish his claim to the hundred Rupees. The first witness after a great deal of prevarication admits that he has been frequently fined by the Defendant; also that he never went to the Defendant's house before this occasion, but states that the Defendant nevertheless "spoke freely to the complainant about the relinquishment of the hundred Rupees in his presence," and that though also one of the parties summoned in that case he was not asked to pay any thing to the Defendant. The reason given by the complainant for the second witness and himself going together to the Defendant is, that they were both Defendants in the case. It is of course inexplicable that the Defendant should have extorted money from one and not from the other. I do not consider that either the complainant or the second and third witnesses are worthy of credit, and I do not believe any money was ever paid, or the claim to it afterwards relinquished. The first witness for the Defence, the Inspector of Police, deposes that he has known the complainant for the last twenty months, but that he has never told him that he had paid money to the Defendant: The complainant states that though the Defendant was removed from office about two or three months before, it was not convenient to him to go and complain, and that he did not even send a written complaint to the Magistrate. I am satisfied, from the whole circumstances of the case, that the complaint is one of recent origin. The question therefore arises, and it is a very serious one, by whom has the complainant been put forward, and who is responsible for the production of the witnesses? The Inspector deposes that the Superintendent of Police enquired into the complaint by order of the Magistrate, and that he thinks it was after complaint to the Magistrate that the enquiry was made about the 26th September, that is, about a week after the final order in appeal No. 18 of 1866; that he assisted in bringing the parties before the Superintendent, who took notes of what the parties said; that he produced the complainant by order of the Superintendent; that he does not remember whether he first complained to the Superintendent or the Superintendent first asked him about his complaint; that

the Superintendent sent for the witnesses in the case; that the second and fourth witnesses, Curnum and Moonsiff, came of their own accord with the complainant, that *the complainant asked him why he was wanted*, and he told him that the District Magistrate wished a certain case enquired into; that there were other complaints against the Defendant, and that on the Superintendent's order he produced these other parties before him; that as the enquiries went on the witnesses appeared; that so far as he can remember, most of these were summoned by the Taluq Magistrate, and that as they appeared he produced them before the Superintendent. The Inspector admits that the Defendant made remarks against his official proceedings, but affirms that he has nevertheless been all along on friendly terms with him: the fact, however, of the Defendant having in an Urzee, dated the 15th May 1866, accused him of concocting false charges against him shows that this assertion of friendship is opposed to the truth. He cannot say exactly, but he thinks he might have reported against the Defendant to the Superintendent for irregular proceedings. It is impossible to read this statement without being impressed with the conviction that the complainant and witnesses did not come forward voluntarily, but were instigated by others to give evidence against the Defendant; and so fully am I convinced that the complainants and witnesses are perjured that I deem it my duty to suggest to the Magistrate the propriety of his calling for the diaries of the Superintendent of Police under Section 154 of the Code of Criminal Procedure, and for such written explanation as may appear necessary with the view of ascertaining the following points (1) the dates on which the complainants and witnesses severally appeared; (2) the statements they then made; (3) the manner in which their evidence was discovered to exist; (4) the mode in which their attendance was procured; (5) the names of any witnesses who were produced or attended without summons; (6) the names of any witnesses summoned by the Taluq Magistrate, and the reason of his issuing summons for their attendance. The Charge Sheet does not mention the date on which the complainant appeared or the complaint was referred for enquiry; nor does it afford any such information as is above indicated. I am of opinion that the ends of justice require that similar enquiries should be made in the other cases, and the first statements of the parties carefully compared with evidence given at the trial. In cases, tried before the Court of Session great importance is attached to such early statements, and variances from them in any subsequent examination or at the trial are always regarded as injuries to the credit of the deponents. It is possible, however, that in the present cases, which are of course wholly artificial, and in which there was abundance of time to prepare the evidence before commencing the prosecution, that test may be ineffectual to the discovery of the real truth. With these remarks I close my examination of the evidence and proceed to acquit the Defendant. Bearing in mind the circumstance that the sentences were passed by the Chief Magistrate of the District, I have devoted two days to the hearing of these appeals and careful consideration of the voluminous records, but the more I have scrutinized the evidence the more reason have I found to adhere to the opinion formed at the time that I first perused the Calendars, namely, that the charges are on the face of them without the slightest foundation.

ORDER.

The Appellate Court, after perusing the proceedings of the lower Court and after hearing A. Davasagayum Pillay for the appellant, reverses the findings and sentences appealed against and directs that the appellant be discharged.

(Signed) C. F. CHAMIER,
Session Judge.

(True Copy)

(Signed) P. APPOOVYENGAR,
Head Writer.

(Signed) T. AUDINARAINA CHETTY,
Acting Sheristadar.

Examined
T. MANIKUM.

PRINTED AT THE HINDU PRESS.

B. Jeagaraja Pillai

II.

IN THE COURT OF SESSION AT SALEM.

19th *September* 1866.

Criminal Petition No. 18 *of* 1866.

TEAGARAJAH PILLAY, PETITIONER.

Appeal against the finding and sentence of the Magistrate of Salem, in case No. 42 *of* 1866.

JUDGMEMT.—The charge against the petitioner was that he, on the 12th August 1865 at Ahtoor committed extortion an offence punishable under Section 384 of the Indian Penal Code. The circumstances of the case, in connection with which the alleged extortion is said to have been committed are these:—On the 25th July 1855 the third witness for the defence, the Monegar of Thadavoor, wrote a report (Exhibit I.) to the defendant, who was then Tahsildar of Ahtoor stating that he was unable to understand how the remissions, which had been sanctioned on account of the loss of crops in the previous year, had been made to those ryots who had already paid the full assessment on their lands for the current year; that the money might perhaps be with the Curnums and the persons attached to them; that he had no accounts from which he could ascertain these particulars; that the money re-payable as remissions to the ryots who had paid all their kists would probably appear as excess collections in the public accounts; that as he had doubts on the subject, he brought the matter to the notice of the Tahsildar.

On the 2nd of August following, the defendant issued the order (Exhibit D.) to the 2nd witness for the prosecution, a Taluq peon, requiring him to produce the first witness the Curnum with all his accounts, including those showing the collections and outstanding balances. Apparently on the same day the second witness made the report (Exhibit E,) stating that the first witness was ill and could not attend for four days. On the 3rd August, the defendant issued a second order to the second witness (Exhibit F,) directing him to produce the Joint Curnum and Joint Monegar, and remarking that a warrant would be issued on the Criminal side for the apprehension of the first witness. On the same date, the defendant issued the warrant (A) for the apprhension of the first witness on the charge of having disobeyed the defendant's order.

On the 12th of August, the defendant took a deposition from the first witness (Exhibit H) and enquired what had become of the excess collections received from certain ryots specified. The first witness replied that he must refer to his accounts before he could answer the defendants' question. On the same day the defendant also examined the third witness for the defence (Exhibit L,) who deposed that the collections had been made before the order for remission had been received; that the first witness was accountable for the remission money (I); that the accounts connected with the subsequent remittance made in June were with the joint Monegar, although he divide it; and that he could afford explanation about the remission money after communicating with the Curnum (first witness).

On the same date the defendant addressed a Yadast to the Sheristadar (Exhibit J,) stating that it had come to his knowledge that the first witness had appropriated the money remitted to the ryots on account of the loss of their creps; that he had personally inspected the accounts and had found that remissions had been granted to some who had paid their full assessment; that the first witness had said that he could not explain what had become of the remission money without searching his accounts; and that the Sheristadar must examine the several accounts and ascertain what had become of the remission money.

On the 17th of August, the first witness submitted a petition (Exhibit B,) to the defendant, asking permission to return to his village, and stating that if the accounts which he had produced were sent to him through the Inspector of Cultivation or any other person, he would prepare the accounts required by the defendant in the presence of such Inspector and bring them as soon as possible to the Cutcherry on this petition the defendant endorsed the following order (2):—" Venkatakristyen Curnum of Thadavoor, requests that the investigation may take place in his village, because he is ill. This cannot be "

On the 2nd December 1865, the defendant addressed a second Yadast (Exhibit K.) to the Sheristadar, stating that there had been a delay of three are four months in completing the enquiry into the matter of the appropriation of the remission money by the first witness and others. directing him to report whether accounts could be furnished in time for the matter to be settled at the approaching jummabundy ; and stating that if the first witness intentionally made any further delay in the preparation and submission of the accounts, he would on receiving a report to that effect from the Sheristadar, proceed against the first witness on the Magisterial side.

The allegation of the first witness is that on the 12th of August, the day of his examination before the defendant, he went to the defendant' house, but was ordered to attend the Cutcherry ; that he did so and gave the deposition (Exhibit H.) ; that at 10 o'clock, he went to defendants' house again, to ask leave to return home ; that the defendant refused to let him go, unless he gave him two bandy-loads of paddy or fifty Rupees ; that the defendant threatened to commit him unless he complied with the demand ; that he had no money with him, but borrowed 50 Rupees from the fourth witness, whom he met in the street and gave him his bond (Exhibit G.) for the money ; that between 7 and 8 o'clock in the evening, he paid the 50 Rupees to the defendant, in the presence of the fourth and fifth witness, who accompanied him to the defendants' house ; that, after leaving the house, he returned again, and asked for permission to go back to his village, upon which the defendant told him to submit a petition praying that the Inspector of Cultivation might be sent to receive his accounts ; that he presented a petition to this effect, and was allowed to return home. In cross-examination, the first witness stated that no one was present when the defendant demanded the paddy or money from him. The bond (Exhibit G.) is dated the 12th of August. It purports to have been executed by the first witness in favor of the fourth witness, and it is to the effect that, being in want of money he has borrowed 50 Rupeees and binds himself to repay the sum on demand with legal interest. An endorsement dated August 15th, states that Rupees 25 have been paid. No year is mentioned, and it does not appear why any part of payment should have been made, the whole amount being payable on demand. One of the attesting witness, namely, the fifth witness has been examined but not the other. The fourth and fifth witness confirm the first as to the execution of the bond and the payment of the money to the defendant. This constitutes the whole of the evidence to prove the fact of the extortion.

The first being the only witness who speaks to the alleged putting in fear of injury and dishonest inducement to deliver property, it is necessary to examine his evidence minutely, to see whether the witness is credible, and, if credible, whether the facts to which he deposes to the amount of extortion: He states that he went three distinct times to the defendants' house on the first occasion he was ordered to the Cutchery. The entirely negatives the supposition that warrant for the first witness' apprehension was issued by the defendant for purposes of extortion ; for it may reasonably be inferred, that had the defendant sent for him for this purpose, he would have taken the first opportunity of making his demand. On the second occasion, the first witness affirms, that he went to ask permission to return to his village ; and that it was then that the defendant made the demand. He states that he used a double threat ; one, that he would not let the first witness go home unless he gave the defendant two bandy-load of paddy or 50 Rupees ; and the other, that he would commit him if he did not comply with his demand.

That a person in defendants' position, to whom discovery would be certain ruin, should have demanded two bandy-loads of paddy, which could not possibly have been delivered without detection, seems to be incredible. And as regards the demand for money, if such had really been made and complied with, there would naturally have been some relaxation in the proceedings which were being taken against the first witness, but there is indication in the documentary evidence of any such relaction.

On the contrary it appears that the defendant did not even keep the matter in his own hands, but referred it for investigation to the Sheristadar ; that the first witness was detained till the 17th, that is, for five days after the date of the alleged payment of the money ; and that his application, made on that date for leave to return home, was refused by the defendant.

It further appears that, in referring the case to the Sheristadar for enquiry, the defendant expressly stated that the first witness had appropriated the remission money. All this is unlike the conduct of a man who had extorted money. It shows that the proceedings commenced against the first witness were steadily followed up.

With respect to the threats alleged to have been used, it is impossible to believe that he first witness would have paid 50 Rupees merely to avoid detention, and the result shows that no such threats could have been used for his detention continued after the date of the alleged payment of the money. That any threat of commitment was made is also in the highest degree improbable, for there was nothing in the circumstances then brought to light upon which a criminal charge could have been based. The natural result of the extortion, if it had been committed, would have been that all further proceedings would have been stopped. The first witness would have been allowed to return at once to his village, and would not have been further molested.

The fact of this course not having been pursued by the defendant renders it highly improbable that he extorted or received any money from the first witness. On the 3rd occasion, the first witness asserts that the money demanded on the second occasion was paid. His statement, and that of the fourth and fifth witnesses, is that the money was rolled up in paper, but paid in the presence of these witnesses. There is a manifest inconsistancy in this statement, for it exhibits at one and the same time caution and want of caution, secrecy and publicity, in the transaction. The Rupees are concealed in paper and laid before the defendant, who takes the packet without examining all or alluding to the contents, which indicates caution and secrecy; and yet the money is received in the presence of witnesses who have come with the first witness, which betrays want of caution and indifference to the matter becoming known. That any public officer extorting money from a subordinate public officer would act in such a manner, appears to me incredible. The first witness states, that on this last occasion he went back to the defendant and asked permission to return to his village, and that the defendant told him to put in a petition. If there had been any truth in the whole story of the extortion, the defendant after receiving the money would, of course, have complied with the first witness' request immediately. But the first witness, knowing that a petition of his is on record, is obliged to shape his evidence accordingly. It is clear, however, that if the defendant had told the first witness to put in the petition, he would afterwards have granted the request it contained.

The fact of the petition bearing on endorsement, refusing to allow the first witness to return to his village, proves conclusively that the statement of the first witness, that the defendant told him to present the petition is a

fiction. I give no credence to either of the alleged applications by the first witness to the defendant in his own house for permission to return home. The natural course would have been for first witness if he had reason to suppose that his presence was not further required, to have made the application in the Cutcherry immediately after his examination on the 12th August.

A part from the improbability of the circumstances deposed to by the first, fourth, and fifth witnesses, there is their credit to be considered. The first witness has been produced, against by the defendant for supposed malversation in revenue matters, and the proceedings have never been relaxed, and are still unclosed. The second witness was committed for trial by the defendant. The fact of his having been acquitted would not tend to remove any feelings of ill-will which the commitment may be supposed to have engendered for the disgrace incurred would not be entirely effaced by such acquittal. The third was a subordinate of the defendant, and may have incurred his displeasure. I think these circumstances serve to detract materially from the credit of the witnesses. For a single witness to prove the chiefs ingredient in this offence, namely, the putting in fear of injury and dis-honest inducement to deliver property he should be entitled to full credit. I cannot say this of the first witness. He is moreover, the complainant, and not properly speaking witness. The whole charge, however,

virtually rests upon his evidence. He states that he was put in fear of injury but there are no collateral circumstances from which this can be inferred. What he is alleged to have told the fourth and fifth witnesses is no evidence against the defendant. The evidence of the fourth and fifth witnessess, devested of what is in admissible as hear say, is simply to the effect, if it is true that a certain sum of money obtained by the first witness from the fourth was paid to the defendant. It is only in conjunction with the evidence of the first witness that it is made to appear as extortion. It is clear that a *bonâ fide* loan of money, the payment of which is deposed to by unexceptionable witnesses, might be converted into part of an act of extortion, by the aid of such evidence as the first witness has given in this case. I do not, however, believed that the alleged payment to the defendant, to which the first, fourth and fifth witnesses have deposed, was ever made. I think it unnecessary to express any opinion on the genuineness of the bond (Exhibit G), because it may really have been executed by first witness, for his own private purposes. At the same time, it is quite possible that he may have purchased a stamp on is going to Ahtoor and not have used it. It is unusually clean for a document that has been a year in a natives hands ; but if not written upon, but merely kept by for subsequent use its cleanness would be accounted for I think there is no credible evidence to show that any money was obtained upon this bond and paid to the defendant.

More than twelve months elapsed before the first witness made any complaint respecting the alleged extortion. The reason he assigns is, that he was afraid to do so while the defendant was in office. I can give no credance whatever to this statement. Moreover, the defendant was relieved on the 1st of June 1866, but the present complaint does not appear to have been made till the 1st September, and even then it was merely verbally.

A warrant was issued for the defendant's apprehension, without the first witness' examination being reduced into writing and signed by him and by the Magistrate, as required by Section 66 of the Code of Criminal Procedure. The Magistrate may under Section 68, without any complaint, take of any offence which came to his knowledge, subjebt to certain exceptions and issue a warrant of arrest against the offender ; but in the present instance a complaint having been made, the complaint should have been examined and his examination reduced to writing before the warrant was issued. The course was the more necessary because the offence was said to have been committed a year before the date of the complaint. No exception to the rule is made in S. 248 or 257. These Sections merely prescribe the course to be taken for bringing the offenders to trial, on complaints of criminal offences being made to the Magistrate. S. 66. points out the manner in which all such complaints are to be recorded. The first witness in this case should have been designated, and treated as the complaint. He was the injured party, and in. S 250 such party is called the complainant. It is only where the prosecution is strictly a public prosecution as in the case of certain offences against public justice triable by the Magistrate that it should be in the name of the Queen. The first witness in this case being, in fact, the complaint, his evidence requires corroboration on every material point ; and on the most material point of all, namely, the intimidation, there is no confirmatory evidence whatever. In my judgment, the charge of extortion is not proved against the defendant, and the contemporanious written evidence raises the presumption that no such offence was committed.

Finding and Sentence.

The appellate Court, after perusing the proceedings of the Lower Court, and after hearing Mr. John Miller, Advocate for the Appellant finds that Teagaraja Pillay is not guilty of the offence specified in the charge, namely, that he has committed extortion and that he had thereby committed an offence punishable under S. 384 of the I P. Code, and the Appellate Court, therefore, reverses the finding of the Lower Court, and directs that the said Teagaraja Pillay be discharged.

(Signed) C. F. CHAMIER,
Session Judge.

22nd September 1866.

(Signed) P. APPOOVYENGAR,
Head Writer.

(True Copy.)

(Signed) T. AUDINARAYANA CHETTY,
Acting Sheristadar.

Examined.
T. MAUNIKUM.

MADRAS.—PRINTED AT THE VURTHAMANATHUDANGINI BRANCH PRESS.

B. Teagaraja Pillai

IN THE COURT OF SESSION AT SALEM

20th December 1866.

PRESENT C. F. CHAMIER J.

Criminal Petition No. 35 of 1866.

RAMIAH, Petitioner.

Appeal against the finding and sentence of the Magistrate of Salem in case No. 59 of 1866.

This Petition coming on for hearing, the Court delivered the following.—

JUDGMENT. The Petitioner was the complainant in case No. 56 of 1866 on the Magistrate's file, and alleged that two or three years ago the defendant, the late Tahsildar of Ahtoor, had extorted from him the sum of three hundred Rupees. Eight witnesses were examined for the prosecution, and the Petitioner with another was then called and examined as a witness for the defence. On this occasion he stated that he had not come forward of his own accord to complain against the ex-Tahsildar, but had been urged to do so by other persons, and had given his consent under duress. He was then asked by the Magistrate whether his complaint of extortion was false ; and, on his refusing to answer the question, was committed to custody for contempt of Court. The next day the question was put to him again, and he replied that the complaint he had made was true, but that he had no wish to complain. The examination was then resumed by the ex-Tahsildar's agent, and the Petitioner named four persons, viz., the Inspector of Police, the acting Tahsildar of Ahtoor, the Sheristadar of the Collector's office, and one Pragasa Moodelly, as the persons by whom he had been induced to prefer the complaint of extortion against the ex-Tahsildar, as well as another complaint on the revenue side. This examination took place on the 3rd of November. On the 10th of the same month a deposition was taken from the Petitioner, in the capacity of a complainant, though it does not appear that he made any formal accusation against any one : on his stating, however, that he could not prove his allegations, the case was dismissed. Three days later the Petitioner was tried on the present charge of making two false statements which he knew to be false, when examined as a witness for the defence in the above case No. 56, and as a complainant on the 10th November in case No. 58. The persons by whom he had affirmed that he had been persuaded to complain were examined as witnesses against him, and of course denied that they had used any such persuasion. As regards Pragasa Moodely and the Sheristadar, corroborative evidence was also adduced to show that at the time that they were said to have spoken to the Petitioner at Ahtoor they were in fact at Salem. The Petitioner was found guilty by the Magistrate on both heads of the charge, which include false statements respecting all the four persons above named, and sentenced to one year's rigorous imprisonment.

The main objections taken by the Petitioner's pleader to the Magistrate's finding are, first, that from the fact of the Petitioner's property having been attached without any apparent reason, and after the proceedings in the Revenue Case had been suspended for many months ; as well as from the fact of his having been sent for by the Taluq Sheristadar, and produced by the Inspector of Police before the superintendent, it may be inferred that he did not complain voluntarily against the ex-Tahsildar, but acted under moral compulsion : and, secondly, that with regard to the acting Tahsildar and the Inspector of Police his statement has not been proved to be false.

Looking at the case from the Magistrate's point of view, the prosecution certainly seems a remarkable one. He believes the Petitioner's complaint of extortion against the ex-Tahsildar to be true. If it were so, the matter would simply amount to this, that the Petitioner falsely stated that certain persons had pressed him to complain, whereas he had in fact complained of his own accord. This, I think, would scarcely constitute a contempt, under which class of offences the present delinquency is placed in the code. There would have been nothing in the statement to mislead the Magistrate, or to interfere with the due course of Justice, nor would there have been any

serious imputation against other persons. It is obvious, however, in my judgment, that the complaint of extortion was wholly groundless. In cross-examination on the 13th October the Petitioner admitted that, when the Magistrate was at Ahtoor in the previous month, he had made no complaint on the subject, and it is unnatural to suppose that if he had really paid three hundred Rupees to the ex-Tahsildar, he would have held his tongue, especially as similar complaints were then being received by the Magistrate. In the case of extortion the Magistrate recorded a finding that no offence had been proved against the accused person; and as eight witnesses were examined, two of whom deposed that they saw the money paid, it must be inferred that it was in quality and not in quantity that the evidence was considered defective. I gather from the tenor of the Petitioner's examination of the 2nd November, that he was only prevented from saying that he had been induced to prefer a false complaint of extortion by the fear of being prosecuted for giving false evidence. In this view of the case the statements made by the Petitioner became much more serious than in the light in which they have been regarded by the Magistrate. But even when looked upon in its worst aspect, the Petitioner's conduct hardly comes within the spirit of Section 181 of the Indian Penal Code, although there is no question that it comes within its literal meaning. It was an error in my opinion to institute a public prosecution against the Petitioner with respect to these comparatively harmless statements, and pass over the graver offence which lies upon the face of the record, namely, that of giving false evidence in a judicial proceeding. If there is any meaning in the Petitioner's statements that he was urged to make the complaints against the ex-Tahsildar, it is that he had himself no ground of complaint, and allowed himself to be used as a tool by those who were endeavouring to compass the ex-Tahsildar's ruin.—In his examination on the 2nd November the following pointed question was put to the Petitioner —"Do you mean to say that acting under compulsion you made a false complaint against defendant (ex-Tahsildar)." He declined to answer the question, was warned of the consequences of his refusal, and, still persisting, was committed to custody. Next day when brought into Court he, of course, stated that the complaint was true. A statement made under such circumstances is utterly worthless. It was not competent to the Magistrate to detain the Petitioner in custody, after the rising of the Court, without proceeding to charge him with having committed an offence under Section 180 of the Indian Penal Code; and I think it was inexpedient in this case that any steps should have been taken to compel the Petitioner to give an answer to such a question. If he had replied voluntarily that the complaint was false, he might have been at once proceeded against on a charge of giving false evidence, but the natural and probable effect of committing him to custody was to deter him from making such an admission, without in the least improving his credit if he should maintain that the complaint was true. It is difficult therefore to discover how the ends of justice were to be advanced by compelling the Petitioner to answer the question. The only conclusion that I am able to draw from the Petitioner's refusal to answer the question at first, is, that he knew the complaint to be false, but hesitated to admit the fact, being afraid of the probable consequences of such admission. If the complaint had been a true one, there was no reason for a moment's hesitation in giving his reply. The object for which he had been called as a witness for the defence, was to prove that there was a combination against the ex-Tahsildar; and this object the Petitioner had fulfilled, and continued to fulfil, even after being committed to custody, by firmly maintaining that he had no intention of making the complaint of extortion, but had been forced to do so by certain parties whom he named. I think, therefore, that the attention of the Magistrate should have been directed to the main offence, with the view of ascertaining whether sufficient evidence existed to sustain a charge against the Petitioner of giving false evidence in a judicial proceeding in respect to his complaint of extortion.

I do not consider it necessary to say much on the subject of the duress under which the Petitioner pleads that he was induced to make his statements, because that would be no excuse for the commission of a criminal offence, and the false statements were made in the Magistrate's Court, where no compulsion could have been used. At the same time I am very far from being satisfied that no pressure was laid upon the Petitioner to induce him to prefer his two complaints against the ex-Tahsildar. A stale Revenue Case had been pending against him since 1863, but nothing had been

done upon it after the 13th Sept. 1865. On the 31st of August 1866, however, while the Collector was at Ahtoor, the Taluq Sheristadar made a deposition before him to the effect that he had "heard the Petitioner and others say" that he was alienating his putcut lands. No further evidence appears to have been taken, but on the same day the Collector issued a Takeed to the present Tahsildar stating that he was "fully convinced" that the Petitioner was alienating his lands, and directing that he should be required to find security for Rupees 2500, that is, for a thousand Rupees more than the supposed loss to government by the alleged concealment of cultivation by the Petitioner; and that on his failing to furnish such security, his property should be attached. Only a few hours can have been given to him to find sureties for the large sum of Rupees 1000 each; for a warrant was issued the same day directing that his property should be attached because he had failed to furnish the required security. It also appears from the Tahsildar's deposition in the present case, that the Petitioner was sent to him in the custody of a peon, and kept in such custody all night; upon what legal authority it is not stated. I cannot think that such extreme measures would have been resorted to by the Collector of his own motion upon mere hearsay, after the case had been pending for three years; and the following note entered by the Collector at the foot of the Taluq Sheristadar's deposition, seems to indicate that there was some connection between these harsh proceedings and the first complaint by the Petitioner against the ex-Tahsildar Teagaraja Pillay, which was made on the 4th of September, or four days after the order of attachment. The note runs thus:—"It was afterwards found that Ramiah (Petitioner) had transferred some of his land to a relative of Teagaraja Pillay (ex-Tahsildar) D. A." I think it may reasonably be inferred that this complaint was the result of the attachment, and, if it had been preferred before, the attachment would never have been made.—I am unable to trace this matter any further, because the diary or record of the preliminary enquiry held by the superintendent of Police has not been forwarded to this Court. The complaint was referred for enquiry under the provisions of Section 133 of the Code of criminal Procedure, and the superintendent of Police having conducted the enquiry himself, he was bound to enter his proceedings in a diary, or make some record of them; and it appears from the examination of the Inspector of Police that the "Superintendent took notes of Ramiah's complaint, and also of the evidence of his witnesses." The substance of the diary or record of his proceedings kept by a Police officer under Section 154 of the Code can always be made evidence by examining the Police officer upon its contents; but I do not think it necessary to adopt this course in the present instance. The Police Inspector states in his evidence that the Petitioner was sent for by the Taluq sub-Magistrate, and that when he arrived he took him before the superintendent of Police. This is sufficient to show that the Petitioner did not voluntarily complain of extortion; but nothing further can be learnt. All the above circumstances satisfy me that the Petitioner did not prefer either the charge in the Revenue Case or that in the extortion case of his own accord, but solely at the instance of other persons.

As to who these persons were it is difficult satisfactorily to determine. The Petitioner has named four public servants as having instigated him to prefer the two complaints, and has specified the time and place at which each solicitation was made. Taking his statement strictly, I think it has been proved to be false in the case of the Serishtadar Paul Pillay, and also in the case of Pragasa Moodelly. With regard to the Tahsildar and Inspector of Police there is no corroborative testimony, and there merely remains one oath against another. I think, therefore, that it has not been shown that his statement with respect to their having urged him to complain is false. The evidence, however, as to falsity of the Petitioner's statement affecting the two persons first named is conclusive, and I would have proceeded to confirm the Magistrate's finding on these points and pass a modified sentence upon the Petitioner, for I consider that the present sentence goes far beyond the requirements of the case, but that a difficulty arises as to the jurisdiction of the Magistrate to try the offence. The false statements were made by the Petitioner as a witness in a judicial proceeding, and the offence therefore really committed was that of giving false evidence in a judicial proceeding: An offence triable exclusively by the Court of Session. On this ground the conviction must be annulled. It was ruled by the High Court in the case of Audy Chetty (2 H. C. Report 438) that Section 181 of the Indian Penal Code applied to cases in which

the proceedings are not of a judicial character. The false statements in the present case were made in the course of a Criminal trial, which was strictly a judicial proceeding.—It is competent to this Court under Section 427 of the Code of Criminal Procedure to direct the Magistrate to commit the accused for trial, but I am of opinion that the twenty six days rigorous imprisonment which he has already suffered, is a sufficient punishment for his offence, looking at the respectable position in life which he has hitherto filled. I therefore simply annul the conviction and direct that the Petitioner be discharged.

(Signed) C. F. CHAMIER,
Session Judge.

20th December 1866.

(True Copy)

(Signed) P. APPOOVYENGAR,
Head Writer.

(Signed) T. AUDINARAYANA CHETTY,
Acting Sheristadar.

Examined.

T. MAUNIKUM.

PRINTED AT THE HINDU PRESS.

C.

C. D. E. F.

ENCLOSURES.

VIDE MARKED C I.

AHTOOR, 24*th May* 1866.

HONORABLE D. ARBUTHNOTT, *Collector of Salem.*

HONORED SIR,

I have just received your Takeed of the 23rd instant directing me to deliver over charge of my Taluq to Coopoosawmy Naidoo from the 1st Proximo. You must be fully aware that I did not apply to you for Pension of my own accord, but it was on the suggession made by you that I simply told you that I would make up my mind to it on the completion of my children's marriage : tho' much of the arrangements necessary for the purpose have been effected by me, still there is something yet to be done ; in short the marriage cannot possibly be made before Aunee or June and July next. I certainly did not for a moment anticipate the receipt of your present Takeed, as I intended addressing you the enclosed to allow me an extension of leave till then, as my main object in soliciting the grace will be defeated by the order now under acknowledgment and moreover depreciate me in the good opinion of those with whom I am about to form an alliance. I trust under the circumstances your honor will be kindly pleased to give the matter a reconsideration or grant me privilege leave for three months—having obtained none during the whole period of my service—and then give me the option of availing myself of the benefit of a Pension.

I remain with respect
Honored Sir,
Your most obedient and humble servant
(Signed) B. TEAGARAJA PILLAY,

C II.

AHTOOR, 24*th May* 1866.

HONORABLE, D. ARBUTHNOTT.

HONORED SIR,

I beg most respectfully to state that during the whole time of my services under Government I have not been wanting in any respect to perform the duties of my Office with much care and deligence as your honor is well aware of. Though I am free to admit that my period of service is out yet I cannot but in truth urge that the physical state of my body and health even at this stage of life is by no means impaired to render me disqualified for the active duties of my station for some years more at least.

When your honor had recently sent for and required me to put in my application for Pension I yielded to your wishes lest I should incur your displeasure otherwise. I have a large family to support, my present resources have enabled me to provide for their wants suitably : to accept my pension will in a great measure not only circumscribe my means to keep them up comfortably but put it out of my power to settle my four unmarried daughters in life. Your honor will remember that when I requested your permission to continue me in my duty till the end of this month, I did it with the positive hope of being able to effect my object by that time and you were kind enough to accede to my requst. But notwithstanding all my endeavours to make the necessary preparation much remains still anuccomplished, and last not least some unforeseen circumstances have come in my way to defer the

celebration of the marriage, as the next good day for its consummation (to conform to Hindu costum and practice) cannot possibly before Aunee or June and July next I have been obliged to write to my relatives that the marriage cannot take place till then.

I am an old servant of Government and devoted much of my life and energies in their service. I trust your honor will take into consideration this and the unavoidable delay, extend me your generous notice and clemency to allow me to continue in my duty till then.

I fully depend on your generous and naturally benevolent disposition not to deny me this little boon under the peculiar circumstances it is sought for at your hands

I remain with respect,

Honored Sir,

Your most obedient and humble servant

(Signed) B. TEAGARAJA PILLAY,

D.

OFFICAL MEMO.

The Collector has received Teagaraja Pillay's two English letters and the Tamil Urzee. Teagaraja Pillay when last asked by the Collector when he intended to retire, said that he would do so on the 1st of June and offered to give this promise in writing.

Teagaraja Pillay will remember that the Collector told him that it was not necessary for him to give a written Razenamah, and that he would take his word for it. Depending on this the Collector has made all arrangements to relieve Teagaraja Pillay on the 1st Proximo, and the Collector cannot therefore accede to his present wishes. He is therefore directed to deliver over charge of the Taluq to Coopoosawmy Naidoo on the 1st Proximo as already ordered.

SALEM,
30th May 1866.

(Signed) D. ARBUTHNOTT,
Collector.

E I.

To

THE PRESIDENT AND MEMBERS OF THE BOARD OF REVENUE

CHEPAUK.

The humble Memorial of B. Teagaraja Pillay late Tahsildar of Ahtoor in the Salem District.

RESPECTFULLY SHEWETH,

That yor Memorialist, after filling various posts in the Public Service, was first appointed a Tahsildar 18 years ago, the duties of which office he has ever since continued faithfully to discharge up to the end of last month, when he was directed by the the Collector of Salem to deliver over charge of it to Coopoosawmy Naidoo Tahsildar of Oossore, as will be seen from the annexed copy of a Takeed dated 23rd May 1866.

That with reference to this Takeed your Memorialist feels called on to explain, that in March last he appeared by order before the Collector, who requested him to resign his appointment and apply for a Pension; and that sudden and wholly unexpected as was the request, memorialist, unwilling to incur the displeasure of that functionary by any the least remonstrance or opposition to his wishes, simply begged to be allowed 3 months' time to make up his mind on the matter—a solicitation which was at once acceded to, and Memorialist returned to his Taluq.

That at the expiration of the time referred to, your Memorialist to his great surprise received, as already stated, the order requiring him to make over charge of his Tahsildarship to another; and feeling he was hardly dealt by in being asked to give up his means of living while yet quite fit for

active duty, he for the first time during his long period of service applied for three months Privilege leave, but was peremptorily directed to act up to the order already issued, which he accordingly did, without presuming to ask for any explanation as to the grounds on which it was based.

That from the foregoing your Honorable Board will perceive that Memorialist, a public servant of 34 years' standing, has been summarily removed from his appointment without any cause being assigned for so harsh a proceeding, or any charge of misconduct being brought against him.

That if it be alleged that your Memorialist is physically incapacitated for further service by old age or other infirmity, he begs to say he is prepared to attend before the medical Board to prove the contrary; whilst he would respectfully solicit a perusal of the accompanying Takeeds, from which it will be seen that his services have been appreciated and recognised by all his immediate official superiors, and that he has on many occasions been deputed to other Taluqs than his own to apprehend delinquents whom the Tahsildars of those Taluqs had failed to discover.

Your Memorialist begs, in conclusion, humbly to appeal to your Honorable Board against the order of the Collector of Salem removing him from the Tahsildarship of Ahtoor, and to express a hope that your Honorable Board may be graciously pleased to direct his restoration thereto in consideration of his long, faithful and zealous servitude: an act of simple justice for which your Memorialist, as in duty bound.

Will ever pray,

Madras,
19th June 1866,

(Signed) B. TEAGARAJA PILLAY.

E II.

TO

THE HONORABLE PRESIDENT AND MEMBERS OF THE BOARD OF REVENUE,

Fort St. George.

The humble Petition of B Teagaraja Pillay, late Tahsildar of Ahtoor Taluq in the Salem District.

HUMBLY SHEWTH,

That your Petitioner having on 19th June 1866 appealed to your Honorable Board from an order of the Collector of Salem removing him without any just or assignable cause from the Tahsildarship of Ahtoor Taluq, after his holding it for 18 years with unblemished character, and that appeal having been referred to the Honorable D. Arbuthnott for explanation, your Petitioner was summoned by this Authority to appear before him to answer to an old Revenue complaint that had been suffered to remain in abeyance ever since 1865; though the Takeed*, directing Petitioner to hand over charge of his office to one Coopoosawmy Naidoo, by whom he has been most unjustly succeeded there in, contained not the slighest imputation on Petitioner's moral conduct or official integrity, but on the contrary conveyed an intimation of the Collector's intention to recommend him to Government for a Pensionary provision.

* Enclosure A.

2. That in obedience to the said summons your Petitioner returned to Ahtoor, where the Collector held an enquiry into the Revenue case above alluded to, without however eliciting anything to Petitioners' prejudice; that he then, leaving behind a Vakeel to act for him as occasion might require, applied for and obtained permission from that functionary to proceed to Salem with the object of coming back to Madras by Train; but just as he was about stepping into it he was astounded at being arrested on the Railway platform for alleged "extortion," *though at this time there was not a single charge of the kind laid against him by any person.* Being thus placed under restraint, the next step taken against your Petitioner by his enemies was to get up certain criminal cases to compass his ruin—two Kurnums, who had given evidence in his favor in the aforementioned Revenue matter, were summarily dismissed, and

another Kurnum named Ramiah had his property attached in a considerable amount for refusing to complain against Petitioner; whilst he, the said Ramiah, and some others were at length induced to appear as complainants by promises of having their prospects bettered. That this assertion is not lightly hazarded by your Petitioner* will at once be manifest from a perusal of the Record in appeal case No. 35 of 1866, copy of which is herewith submitted.

* Enclosure B.

3. That about 5 days after his arrest your Petitioner was tried by the Collector in his magisterial capacity on 3 distinct charges of extortion, two of which were thrown out as totally groundless, and Petitioner was convicted in the third case and sentenced to 6 months rigorous imprisonment and to pay a fine of Rupees 200; but this sentence was annualled in appeal and your Petitioner honorably acquitted by the Court of Session.

4. That notwithstanding such acquittal your Petitioner was again arrested at Madras upon a warrant issued by the District Magistrate, and, having given Bail to the extent of Rs. 15,000, was afterwards brought to trial on not fewer than 6 fresh cases of alleged extortion, one of which fell to the ground at once through the complainant's own declaration in open Court (after the charge had been admitted and read to Petitioner by the Magistrate) that he was instigated by the Sheristadar Paul Pillay and other public servants to bring the complaint; and your Petitioner was, despite the very suspicious nature of the evidence adduced in respect of the remaining 5 charges, sentenced to various terms of imprisonment extending on the whole to 2 years, and to payment of fines aggregating Rs. 1,600, although those charges were on the face of them destitute of any foundation in fact.

5. That, as in the case first trumped up against Petitioner, so in all the subsequent ones the Appellate Court* completely reversed the findings and sentences of the lower Court, as will be seen by the accompanying printed copy of the judgment,* to which he respectfully solicits the special attention of your Honorable Board; not only establishing as it does your Petitioner's innocence, the utter falsity of the accusations brought against him and the cruel treatment to which he—a Government servant of 34 years' standing—has been subjected, but also clearly and fully exposing the foul "conspiracy formed," as the Session Judge himself remarks, "to prevent his (Petitioner's) return to Office," and to which he had so nearly fallen a victim.

* Enclosure C.

6. That having to contend against so unscrupulous and powerful foes as the subordinates of the Collector's Cutcherry, your Petitioner felt constrained to petition Government, as he did on 10th September last, to have him transferred for trial by the Magistrate of some other District than Salem, but was requested to conform to Para 2 of the Revised Rules respecting Petitions; and the only course then open to him was to appeal to the Session Court, which he accordingly did; and though he has been, as stated before, released by order of that tribunal, still he cannot help shuddering even now at the thought of what might possibly have been his fate had it been left to the decision of a less impartial, upright and discriminating judge than was happily for him the case.

7. That not to trespass further on the valuable time of your Honorable Board, Petitioner would only crave permission to advert for one moment to a few facts which seem to be deserving of notice, namely, that when he first appealed to your Board against his being forced to retire on Pension, there was not a single complaint of any misconduct on his part pending before the controlling authorities of the District with which he has been so many years connected; that with regard to the old Revenue case touching a small piece of land, it has never been proved as involving the least moral delinquency in so far as he is concerned; that, as represented in his former Petition, he is still fit for further active service, as the enclosed Medical Certificate* will shew; that in consequence of the recent proceedings against him, he has not only been humiliated and disgarced but put to heavy expense in employing Vakeels to protect him from the machinations of those who were bent on effecting his ruin; and, lastly, that

* Enclosure D.

during his long official career he has always had the good fortune to gain the favorable opinion of his superiors, as shewn by the accompanying Testimonials.* Your Petitioner begs, finally, to express a fervent hop that on view of all he has now set forth, your Honorable Board may be pleased to direct that he be restored to his appointment of Tahsildar of the Ahtoor Taluq, and your Petitioner, as in duty bound

* Enclosure E.

Will Ever Pray,

MADRAS,
10*th January* 1867.

(Signed) B. TEAGARAJA PILLAY.

Endorsement on Petition Nos. 2,212 of 1866 and 205 of 1867.

The Board will not reinstate the Petitioner.

Revenue Board Office,
Chepauk
23rd March 1867.

By Order
(Signed) J. R. COCKERELL,
Sub-Secretary.

F.

SALEM, 19*th May* 1866.

From J. C. HUGHESDON Esq.

Assistant Collector.

TO THE HONORABLE D. ARBUTHNOTT,

Collector of Salem.

SIR,—With regard to the complaint of Mutu Muppen of Alagapuram referred to me for investigation, I have the honour to inform you that I have made an enquiry into the matter of the complaint, and the following facts seem to me to be clearly established.

Some 10 or 12 years ago one Sooboroya Muppen, Manigar and Moonsif of the village of Alagapuram in the Ahtoor Taluq, died, leaving behind him a widow (Karuppee) an adopted son (Mutu Muppen) a mother (Alagammal; and a mother's brother's son) Yakamura Muppen was appointed to the vacant post (whether on account of any invalidity in the adoption of Mutu Muppen does not appear): after some interval, Yakambra Muppen being yet a child, Mutu Muppen was appointed to do the work of the post for him. This arrangement continued till Fasly, 73, when Mutu Muppen lost the acting appointment. In the same Fasly a certain field called Arashedy Nunjy, which had hitherto stood in the name of Karuppee (the widow of Soobroya Muppen, and adoptive mother, also elder-sister, of Muthu Muppen,) was transferred to Mera Ravathen, who retransferred it in the same Fasly to Mootoosawmy Pillay father-in-law of the present Tahsildar of Ahtoor.

* This is Narsingapoorem.

Thus far the facts are beyond dispute. It is clear, as alleged by the Petitioner Muthu Muppen, that in Fasly 73, he lost the acting appointment of Manigar and Moonsif, and that in the same Fasly a field belonging to his adoptive mother came into the possession of the Tahsildar's father-in-law—whether illegal means were used by any party to deprive Petitioner of his temporary appointment, or is adoptive mother of the possession of his field, I think cannot be ascertained unless I am authorized to entertain magisterially Petitioner's complaint against the Tahsildar. I request therefore that you will inform me whether, in your opinion, there are sufficient grounds for this proceeding.

Statements taken from the Petitioner, his adoptive mother and the Village Kurnum are enclosed; also two Urzees from the Tahsildar.

I have the honor to be
SIR,
Your most Obedient Servant.

(Signed) J. C. HUGHESDON.

B. Teagaraja Pillai

With orig Memorial
R^o Rev Dept 14 Nov 67.
Enclos C to D — A & B. being
entered on the margin of the
Memorial itself.

523

Financial Department.

No. ~~60~~ 61.

To

The Secretary to the Government
of India.
Financial Department.

Sir,

I am directed,
with reference to paragraph
3 of the Memorial Rules,
to forward for transmission
to the Right Honble the
Secy: of State for India,
a memorial from P.
Tyāgarāja Pillai, formerly
Tahsildar of the Ahtoor
Taluk in the Salem
District. Tyāgarāja Pillai
appeals against the orders
of this Govt refusing to
direct his restoration to
his Office from which he
long
had been relieved in 1866
under orders of the Collector,
and declining, on his
subsequent admission
to

to pension, to sanction the grant of the maximum rate.

2. In March 1866 the memorialist who had not been giving satisfaction in the performance of his duty, was called upon by the Collector to resign and take his pension, and arrangements were made for relieving him of his charge upon the 1st June following and carried out on that date immediately on memorialists removal from office, a large number of complaints were preferred by persons who had been under his jurisdiction, and after a protracted investigation, he was convicted by the Magistrate on six charges of extortion.

The convictions were however annulled by the Sessions Judge as stated in the memorial; but it is unnecessary to go into details regarding the criminal charges in as much as they were not taken into account by this Govt. when passing orders on petitioners case.

3. The orders of Govt. proceeded upon the result of certain charges against the memorialist which were investigated on the subsequent to his [illegible] Revenue Code. These charges were no less than 5 in number and were to the effect that he had contrary to the departmental rules on the subject surreptitiously acquired and enjoyed lands in his own taluk. The Collector having found

I must say "in connexion with his performance of his duties as a Revenue Officer."

[illegible] had upon numerous memorialists application in the appointment in the Judicial in which he was employed in opposition to the rules of the Court

I do not think Govt. ought to accede to the present memorial.

found that the charges were proved recommended that a formal order of dismissal should be recorded against memorialist, which would have prevented his obtaining pension.

4. The Board of Revenue submitted the case to Govt. with the remark that they were "satisfied that the Tahsildar's withdrawal of his resignation and reinstatement in Office ought not to be permitted, but that they did not deem it necessary to order his formal dismissal, as this extreme punishment would probably not have been inflicted on him for such offences, serious as they are, after such a lengthened period of service as he has attained.

5. On being called upon to record a definite opinion on each of the 5 charges, the Board of Revenue addressed to Govt. the letter recorded in the Proceedings of Govt. in the Revenue Department 14th Novr. 1867, copy of which is enclosed for reference. This document succinctly sets forth the circumstances of each case, with the result that 4 out of the 5 charges were held to be fully proved; in which opinion the Govt. concurred and directed ~~the adoption of the course which the Board had at first proposed~~ that the memorialist should not be allowed to resume the post of Tahsildar but should be required to take his pension.

Nos. 240 & 241

6. When the memorialist's application for pension was being disposed

disposed of it was considered that as his service was not unblemished, which the circumstances of his retirement showed; he was not entitled to the maximum rate of pension which is only allowed for approved service; but 4/5ths of the maximum pension was granted. The pension was made payable from the 14th Decr 1867, the date on which, in pursuance of the order above referred to, the memorialist submitted his application to the Collector.

6. I am to observe that in being admitted to pension at all petitioner was, it appears to this Govt, treated with considerable leniency, and has no cause for complaint.

Fort St George
27 Jany/70.

18 . Department.

No.

To

The Secretary to the
Government of

Department

Dated 18 .

1870

Financial DEPARTMENT.

From

The Chief Secretary to Government,
Fort Saint George,

To

The Secretary to the Govt. of India,
Financial Department.

Dated Sany. 27. 1870.
Recd.

No. 61
Enclosure.

F. Nos 359
96-98

Forwarding a Petition
Memorial from B. Tyagaraja
Pillai, formerly Tahsildar of
the Ahtoor Talug, Salem Dt.,
appealing against the orders
of the Madras Govt. on his
case.