MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT

G.O. No. 1185 Press —Misc—

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Dated 16-5-[illegible] [illegible]

Not to be folded or roughly handled

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No. 1. Read the following letter from C. F. CHAMIER, Esq., Acting Register to the Court of Foujdaree Udalut; to E. MALTBY, Esq., Acting Chief Secretary to Government, dated 22nd August 1857, No. 50.

Sir,

1. I am directed by the Judges of the Foujdaree Udalut to submit the following observations on the subject matter of Extract from the Minutes of Consultation, under date the 6th Instant.

2. Of the first nine paras: of the Salem Magistrate's letter, the fifth alone calls for any remark. The Judges will make provision, in future returns, for the two offences therein named, being entered under separate heads.

3. In reference to what is stated in para. 10, the Judges are of opinion, that the measure would prove ineffectual for the suppression of highway robbery, because it is manifest that the merchant or the itinerant traders being obliged to dispose of their goods at particular towns, would not secure travellers from being waylaid by them on the high road.

4. The Judges have only to remark, with respect to paras: 11 to 16, that the general inefficiency of the evidence, upon which suspected persons are held to security for their good behaviour, leaves the Sessions Judge no alternative but to cancel the requisition of security. The Judges are confident that, wherever it is demanded upon really *sufficient grounds*, the Magistrate's order [illegible] set aside in appeal.

5. In paras. 17 to 21, the Magistrate of Salem refers to the Police arrangements of the district and [illegible] the importance as inefficient. The Judges consider this to be the whole secret of the continued prevalence of heinous crimes; and that to which first attention and [illegible] should be chiefly directed to the improvement of the Police.

6. The Judges are satisfied that when measures shall be taken to place the rural Police in a position of pecuniary independence, and to train and fit them for their duties, a very material decrease in the more heinous crimes will be the consequence; and the proportion of persons convicted, to those committed for trial and acquitted, will be in the inverse ratio to what it now is.

7. The course proposed in paras 22 and 23, appears to the Judges to be incompatible with the due discharge of the other duties devolving upon the Session Judges; and they therefore think it advisable that all trials should be held at Salem, as hitherto.

8. In regard to the subject of para. 24, the Judges have always thought it desirable that the Magistrates should make full use of their extended powers at all times; and this has been repeatedly urged upon them.

9. With respect to the closing paras: of the letter, the Judges are of opinion that a Magistrate, to exercise due control over the Police of his district, should reside in a central locality, and retain personal charge of at least one or two Talooks, extending to others such measures as he may find to have been productive of benefit in the talooks under his own supervision.

(Signed) C. F. CHAMIER,
Acting Registar.

No. 2. ORDER THEREON, No. 1188; dated 16th September 1857.

The Judges submit their observations on the letter from the Magistrate of Salem, which was referred for their report in Extract Minutes Consultation, No. 962, dated the 6th August.

2. The Magistrate adverted in para. 3 of his letter to the great difference, in the scale of crime, between gang robbery, with all its accompaniments of ferocity and daring, *in houses*, and gang robbery *in fields*. The object in the latter case is, generally, the carrying off of a sheep or

[illegible] house [illegible], effected a gang
[illegible]. The Judges request that they

a few sheaves of grain. The thieves come armed indeed with staves, and these weapons are exhibited or used to overawe or quell any resistance that may be offered. If the theft is effected quietly the offence is simple larceny; if otherwise, it becomes robbery, and, if two or three join in it, of course a *gang* robbery. The Judges report that they will, as suggested by *Mr. Brett*, make provision, in future returns, for the two offences being entered under separate heads: and this course will give more value and accuracy to the statistics of crime.

3. In para. 10 of his letter, the Magistrate suggests certain measures for exercising a greater controul on the part of the local authorities over the *Guppie Corawars* and other wandering tribes. The Foujdaree Udalut object, "because it is manifest that the mere fact of the itinerant traders "being obliged to dispose of their goods at particular towns, would not secure travellers from "being waylaid by them on the high road." But the Judges appear to have overlooked the other half of the Magistrate's suggestion, which is, that the *Corawars* shall be obliged to travel with passes, and they are of opinion that the scheme as a whole is worthy of experiment, for which *Salem*, a District at all times notorious for the periodical visits paid to it by large troops of these classes, may well be made available. *Mr. Brett* is accordingly authorized to take measures for carrying it into adoption, submitting a full and particular report, with the results, after the lapse of one year. The Government have long since expressed their unqualified opinion that the Regulations of 1816, nowhere limit or interfere with the ancient authority of the Provincial Police, in the matter of adopting very large powers of surveillance and restraint over the movements of these itinerant communities and other suspicious characters.

Extract Minutes Consultation, dated 31st March and 17th May 1837.
Vide Circular's Remembrancer, part 3, p. 186, (412).

4. In para. 14, the Magistrate having incidentally alluded to the wide difference of opinion (highly favorable to the guilty) between the Magistrate and the Judges as to the persons from whom security can be legally required, the Foujdaree Udalut express their confidence, that "wherever it (security) is demanded upon really sufficient grounds, the Magistrate's order is "never set aside in appeal." To this the Government have to remark that they are not aware upon what *data* the assurance of the Court is based, while they fail at the same time to understand why the Judges in the *Mofussil* should exhibit an unfailing discrimination in their decisions on this point alone. Supposing the Judge on review to cancel the order made by the Magistrate for security, the judgment [illegible] of the charge of the prisoner. The question is one *solely* for the discretion of the Judge, and the Magistrate is not at liberty (Regulation XXII of 1802) to lodge an appeal with the higher Court. A copy of the Judge's order may reach the Foujdaree Udalut, but not the whole record, nor can such order, if it be in favor of the accused, be disturbed.

5. With reference to para. 7 of their letter, Government concur with the Court that provision cannot be made under the present system for the adjournment of the Sessions Court to *Darumpoory*.

6. The Foujdaree Udalut allude to the necessity of improving the rural Police of the several Districts, and it appears from para. 18 of his letter, that the Magistrate submitted his Report on this subject to the Board of Revenue on the 7th January last. The working of the village Police, the Government observe, has been fully discussed in

C. O. Board of Revenue, 8th November 1833.

Extract Minutes Consultation 6th October 1835, Revenue Department, No. 587 (2660,) when the Board was called upon to obtain from all Collectors, reports on the arrangements necessary for the reform of that body within their respective limits. These reports, when received by the Board, were to be sent up with the Board's own remarks, to Government, without delay, *in every case within a month of their receipt*. The whole subject, under this arrangement, it was confidently hoped, would be disposed of at an early date. The Governor in Council, now resolves to enquire, through the Revenue Department, how many of these reports have been received by the Board, from what officers and at what dates, and how many of them have been submitted to Government.

(Signed) E. MALTBY,
Acting Chief Secretary.

Ed. F. Cuttlidge.

Judicial dept
No 1188
Ent. 25/18 September 1837

Read the following letter from the Judges of Salem which was referred for their report in P. Jud. C. No 962 dated the 6th August.

The Judges submit their observations on the letter from the Magistrate of Salem which was referred for their report in P. Jud. C. No 962 dated the 6th August.

2. The steps alluded to in Para 5 of the letter to be given to persons, in the course of a crime, between gangs of thieves with all its accompaniments of ferocity & daring, in bands, and gang robbery in fields. The object in the latter case is, generally, to carry off a few sheaves or a few sheaves of grain. The thieves come armed indeed with staves, and these weapons are exhibited or used to overawe or quell any resistance that may be offered. If the theft is effected quietly the offence is simple larceny; if otherwise, it becomes robbery, and, if two or three join in it, of course a gang robbery. The Judges report that they will, as suggested by Mr. Brett, make provision, in future returns, for the two offences being entered under separate heads: and this course will give more value and accuracy to the statistics of crime.

but wherein it (accused) is
"demanded upon reality sufficient
"and grounds, he Magistrate
"when it never ought to issue an appeal
To this he first have to remark that
they are not aware upon what data
the opinions of the Court is based,
while they fail to see same thing to
understand why the Judges in the
Mofussil should exhibit an unfair-
-ness discrimination in their decisions
-ons on this point alone. Supposing
the Judge was right to commit the prison-
-er made by the Magistrate for example, the
Judgment of acquittal, in the immediate discharge
of the prisoner. The question is one
solely for the discretion of the Judge,
and the Magistrate is not at liberty (Reg. 7
XXII of 1802) to lodge an appeal with
the higher Courts. The copy of the Judge's
order may reach the Foujdaree Adawlut
but not the whole record, upon such order.
It is in favour of the accused, he discharges

5. With reference to para 7 of their Lordships
first answer with the Court with provision
cannot be made under the present system
for the appointment of the Sessions
Court to Coimbatore / but they
differ from them as to the grounds.
The Judges considers the main proposed

is incompatible with the due
discharge of the other duties
devolving upon the Sessions presi-
-ding in the Sessions Court. If
any delay was due to this appoint-
ment, the same would have oper-
-ated against the passing of Act
No XXX of 1868, which authorized
the Sessions Judge of Coimbatore
to hold sessions at Ootacamund.
The only law to be framed provi-
-sion in this, in the opinion of Govt,
is the absence of any enactment
with similar provisions for other
localities. The Govt apprehend
that, considering the great size
of the jurisdictions of Sessions
Courts in their Presidency, there
would be no difficulty in pass-
-ing the Legislative Council to pass
an act, extending the terms of the
above Enactment to such Hillcalls
as the Govt, by an order in Council
may from time to time select
for the purpose. The Govt will keep
this remark in view, if, in regard to
having up a draft of a Bill to that
end. The Statute 24 & 25 Vict Act XII of
1862 quoted by the Madras (vide

Para 22 of his Letter does not sanction the proposition to be made. It refers to a permanent arrangement, & not to one of a periodical nature only.

5. The L.C. alludes to the necessity for improving the rural police of the Sub-Divisional districts, and to appoint from Para 18 of his Letter, that the Magistrate submitted his Report on this subject to the Board of Revenue ~~before~~ by 7th January last.

The working of the Village Police, the Govt observe, has been fully discussed in Cir. No. C. 6th Oct 1880. Rev. Dept. No. 587 (2660), which the Board were called upon to obtain from all Collectors, reports on the arrangements necessary for the reforming the Local Body within their respective limits. These reports when received by the Board, were to be sent up, with the Board's own remarks, to Govt, without delay, in order to

C.P. to Bd of Revenue.
21st Nov/53

[illegible] Revenue Dept [illegible]

notice a mistake of hers except.

The whole subject, under this arrangement, it was confidently hoped, would be in forward & early state. The Govt Commissioner to enquire, through the Revenue Dept, how many of the reports have been received by the Board, from what officers and to what date, and how many of them have been submitted to Govt, ~~and when~~ ~~his business~~ ~~is brought~~ ~~to a close~~. The ~~Govt~~ ~~Commissioner~~ ~~will~~ ~~be~~ ~~requested~~ ~~to~~ ~~state~~ ~~when~~ ~~he~~ ~~will~~ ~~be~~ ~~able~~ ~~to~~ ~~submit~~ ~~his~~ ~~report~~ ~~on~~ ~~the~~ ~~whole~~ ~~subject~~. It will be for the Government of his important province to decide whether the task of millions, and literally will be entrusted to three Provincial authorities, whose first move from year to year since inches to a diligent enquiry into the deficiencies of their Police, and a full and free statement of the measures necessary to place such establishments in the condition required by the wants of the country, and due to the security & protection of the people.

D.F.C. 31-8-54

Exhibit Number 5
Federal Case 1857 Defendant

Ex Exhibit Number
Ex Defendant's Copy.

Case 40

No. 1118

Estrada Mendoza

3/18 Sept 1857

Folio 1072
1214

15-24
11-8-11

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