

# MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

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*Fort St. George, Judicial Consultation, 6th October 1857.*

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Read the followings papers.

No. 29. To the Most Noble and Right Honorable LORD HARRIS, Governor of Fort Saint George, &c., &c., &c.

MAY IT PLEASE YOUR LORDSHIP,

His Highness the *Zamorin Rajah* of *Calicut*, for himself and the members of his Palace, in the name of the Almighty, sendeth greeting.

1. That we and our predecessors have hitherto depending in the integrity and protection of the Honorable East India Company, conducted ourselves as loyalists of the British Government; and we now pray to the Almighty, that we and our successors may ever continue to do so throughout futurity: but, whereas, a peculiar calamity has befallen our Palace, and there being no other source to resort to for redemption, but your Lordship, we beg in the first instance, that amidst the press of other business, this may not be considered an interruption.

2. That *Amboo*, a *Thien* by caste, but *Tahsildar* of *Calicut*, in speaking of ourself, and *Canaaren* of the same caste, but Town Police *Ameen* in the said *Talook*, in speaking of our successor, the third *Rajah*, having in two letters severally and individually, to the total disregard of the customs and usages of this country, and in direct opposition to the positive and existing orders of the Government, mentioned our names lightly and disrespectfully, we have in No. 2 of 1856, before the Civil Court, and our successor in No. 20 of 1856, before the *Mooftee Sudder Ameen* respectively, prosecuted the above officials: in the course of the investigation, the defendant in the second instance, has cited ourself, a witness in his behalf, and the *Mooftee Sudder Ameen* is on the issue of sending orders to examine us (by commission) as a witness.

3. That ulterior to this, ourself or our predecessors have never been cited as witnesses by parties in any suit whatever; consequently, this singular instance appearing antagonistic to the safety honorably granted to us, by the Government, the usages of our Palace, manners of the country and the dignity of our rank in life, we referred our grievances upon this, in No. 563 of 1857, to the Civil Judge, as the superior Officer of the *Mooftee Sudder Ameen*; but as that functionary, in his reply of 6th Ultimo, pointed out to us that we should seek satisfaction at your Lordship's hands, we have undertaken to address this, and forward herewith the said reply.

4. That it is hoped, it will occur to your Lordship's wisdom, 1st, that while our ancestors swayed sovereignty over *Calicut* and its adjacent countries, a due observance of faith and friendship subsisted between them and the British Government. 2ndly, that from the consternation caused by *Tippoo*, an application was made to the Honorable Company, who, for the maintenance of our integrity, promptly sent British troops and expelled *Tippoo*; thus tranquillity having been restored, a treaty was concluded between our ancestors and the Honorable Company; by which the former resumed the sovereignty, and became tributaries to the latter. And 3rdly, that from a minimum in the revenue and other incidents, the Honorable Company assumed

the administration of this province and executed an agreement to remit to our Palace, without a minus or plus, two-tenths of the revenue then forthcoming; since which our Palace has been protected and tolerated in all the usages and customs innate to this our native land.

5. That though "the Code of Regulations for the internal Government of the Madras Territories," may not embrace distinctly the preclusion of summoning persons of note as witnesses; yet in consideration of our dignity and rank in life, Palace customs, and the usages of the country, the Provincial and other Subordinate Courts have invariably, where our deposition was judged indispensable, forwarded to us the necessary questions with a letter, and accepted our statements and reply as sufficient and satisfactory; but in opposition to this received practice, if we now be summoned as a witness, it will not only prove an umbrage upon that practice, but also involve us in disgrace and insignificance: it will appear obvious to your Lordship, that from the nature of the case in which we have been cited a witness, our deposition can never prove of any moral benefit to the citer, yet, that he has courted it, cannot be with any other view than this poor comfort of dishonouring us by it, though he may eventually lose the case.

6. That not only the customs and usages of *Malayalam* are widely different from those of other States, but also the Aborigines of this land are subservient as much to external observances as to the dictates of a right conscience; and any derogation from this will alienate us from our rule of life, and expose us to disgrace and ridicule: not only so, if it become established that we depose in Courts as a witness of suitors, it will follow, that many persons will be eager to cite us as such for mere whim, and we have time only to appear as such to our great disquietude.

7. That it is immemorial, for the Rajahs of this Palace, to be seen in peculiar places only under peculiar circumstances; and for the Aborigines, when allowed an audience, to observe towards us a due regard to the usages and customs to which they are habituated by their grades of caste.

8. That it is enjoined in the Civil and Criminal Code of Regulations; that persons of distinction should be treated according to the usages of their caste and rank in life: when we view this in a latitude, with the attempt of dishonour to which our Palace is to be exposed by the circumstances which forms the subject of this address, the like never having occurred at any period prior to this, our degree of sorrow is the more enhanced. Though capable of producing many records to prove the manner of amity and friendliness that subsisted between our ancestors and the British Government, we enclose herewith only a copy of the brief Caboolnama granted by His Excellency Major General Meadows, Governor and Commander in Chief, with reference to the first arrival here of the British Army, and the subsequent capture of the forts of *Paulghat* &c., and beg humbly but earnestly, that your Lordship will duly and generously survey the above points, and relieve us from being examined as a witness in the present instance, as in the future, and thus succour our and the Palace honour. And since men of low caste, on obtaining high employments, assume to themselves arrogance and disrespect in their deportments towards honourable persons or otherwise persons of rank and respectability, even to the abuse of power reposed in them, it is humbly prayed that your Lordship will be pleased to deign a consideration upon this also for a remedy.

9. That we are sanguine to enthusiasm, your Lordship will be pleased to deign to us, the humble blessing prayed for in the preceding para, the same being no more than to be relieved from being examined as a witness, and that it will be condescended to us the more graciously, we feel assured, from the circumstance, that the Honorable Company, readily extended their hands in aid of us, even to the forfeiture of Christian and European lives, and engaged in an open and terrible conflict with that dire tyrant *Tippoo*, only for the sake that we feared of him, the desecration of our temples, and an outrage upon our usages that are native and spontaneous to us even from our birth: whereas, now, the idea of being examined as a witness, simple as it may superficially appear, it carries with it all the gloomiest effects which we most fear and dread, as it will tend to nothing short of degrading us in the eye of the public; yet we do not solicit now for an army to defend us from the scourge of an invasion, but, for your Lordship's compassion against the rod of disgrace and for this act of charity we will ever bind ourselves in ceaseless supplication to the Almighty to pour down upon your Government more and more grace.

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Calicut, 6th September 1857.

Extract from the Proceedings of the Civil Court, Zillah Calicut, under date the 6th July 1857

Read Miscellaneous Petition, No. 563 of 1857, presented on the 3rd Instant, by Vakeel Venguideshwarayan, on behalf of Manavickrama, Zamorin Rajah of Calicut, stating that petitioner presented a petition to the Moofly Sudr Ameen stating that it is not customary for Rajahs to give evidence in any matter, when an order was passed by that officer on the 31st March 1857, to the effect that he would be examined by a commission; that in consequence of the post obit ceremonies of the late Rajah, petitioner was precluded from preferring this appeal from the aforesaid order within the prescribed period, that the suit No. 20 of 1856 mentioned in the Moofly Sudr Ameen's Diary being to the same effect as the suit No. 2 of 1856, which is being conducted by petitioner before this Court, it is not to be expected that he would give evidence in the former, contrary to the last mentioned suit, consequently the Sudr Ameen's requiring as material petitioner's evidence is not right, that neither this Rajah of high reputation nor his predecessors ever appeared before any authority whatever for the purpose of giving evidence in any matter, nor is it customary to do so, consequently the order of the Sudr Ameen requiring him to be examined as a witness in defiance of such an usage and without considering his position, is a matter of great grievance to petitioner, that the Sudr Ameen did not even take any notice of the several documents alluded to by petitioner, to be convinced of the existence of such a practice. He therefore prays for the reversal of the lower Court's order.

ORDER.

It is the intention of the Government, that persons in the position of the petitioner, should not be called upon to appear in Courts, unless upon the most pressing exigency, and the Court cannot give an order to the effect that the issue of a commission for examining as witness a party

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in the high position of the petitioners, is a step derogatory to petitioner as it does not involve his presence in the Court. In the present instance, it cannot further interfere with the lower Court's order, as the Moofy Sudr Ameen states, that he considers it essential to examine petitioner as a witness in the matter at issue before him. If the petitioner considers that his position exempts him from appearing in Courts or being examined by commission, the Court would advise him to address the Government, and obtain a specific declaration of the wishes of Government as regards this point.

(True Extract in 2 rolls.)

(Signed) H. D. COOK,  
*Civil Judge.*

*Cowl Nama* from His Excellency Major General *Meadows*, Governor and Commander-in-Chief &c., &c., on the part of the Honorable Company, to *Kishen, Zamorin Rajah of Calicut*, &c., &c.

Whereas the English forces have by the blessing of Providence possessed themselves of the Fort and District of *Paulghat*, and certain adjacent countries of the *Malialum*, and design further to extend their possessions in that quarter, and whereas *Kishen, Zamorin Rajah of Calicut*, has on the present and former occasions, evinced a firm attachment to the British interests and proved himself useful in supplying their Armies, it has therefore been resolved that the said *Zamorin* shall be invested, and he is hereby invested with the sole management of all the countries heretofore included in the province of *Calicut*, which are or may be conquered by the British troops.

The said *Zamorin* is therefore directed to exert his authority and influence in embodying the *Naiemars* of that country and in directing their operations against the common enemy, either separately or in conjunction with the British forces, as he may be instructed by the Officer Commanding in that quarter.

He is to exert himself in establishing magazines in such places as he may be required to collect them, and in supplying as far as may be practicable, every thing necessary for the prosecution of the object, for which regular receipts will be given and the amount duly accounted for at its conclusion.

This instrument to which strict obedience is enjoined by all whom it may concern, is to be considered as a *Cowl Nama*, and authority for administering the revenues during the present war, and at its successful conclusion, by the favor of the Almighty, the *Meerassee* or right of inheritance of the said *Zamorin*, and of every *Rajah*, *Zemindar*, and *Polygar*, shall be strictly examined and justly determined to the rightful inheritor, agreeably to established custom, and then also the *Peiscush* to be paid to the Honorable Company, shall be equitably adjusted.

Given under my hand and seal at Coimbatore, the twenty-seventh day of September, in the year of our Lord, one thousand seven hundred and ninety.

(Signed) W. MEADOWS.

*Governor and Commander-in-Chief.*

*Fort St. George, Judicial Consultation, 6th October 1857.*

ബഹു മാനപ്പെട്ടമദ്രാസരി ഗവർണ്ണർ മഹാനജമയനാജിശ്രീ  
ലാഡ് ചാനിസ്സുവാർപ്പി ന്നവർകട്ടെ ടെ സമീകൃമന്തകിലെക്ക.

നാജമഠനാജശ്രീ കെഴുതുകൊണ്ട് മാനവികമിസാമൃതിനിനാജാവ ഞാവർ  
കൾ താങ്കളുടെ കൃത്യസ്ഥിതിയും സ്വരം ചെങ്കു ബോധിപ്പിക്കുന്നു.

൧. ബഹുമാനപ്പെട്ട ഇക്കിളിപ്പക്ഷിനിഗ്രഹരടെ രെക്ഷക്കും വിശ്വാസപ്രാപ്തശിഷ്യ നട്ടുടൈപ്പുഷ്പാങ്കുരം നാമം ഇതവനെ നടന്നിരിക്കുന്നതിൽ വണ്ണം മെലാപ്പം നടന്നവനെണമെന്ന ഫിഷ്വറും നെറമ്പനനെ പ്രാർത്ഥിച്ചവനെന്നമുക്കും നട്ടുടൈപ്പുവർത്തിപ്പിലെക്കും ഇപ്പൊൾ നൂതനമാൾ) ഓരവുസനം ദവിച്ചിരിക്കുന്നത രാജാജാക്കന്മാരല്ലാതെ നിവൃത്തിപ്പാൻ വാടിപ്പാർക്കുകൊണ്ടുണനെക്കൊച്ചവിചാരമുള്ള രാജാജാക്കന്മാരെ പെക്ഷിക്കുന്നതിന്ന ഓരോരവ ചിമുലുരക്കും തൊന്നാതെ ഇരിപ്പാൻ ദശ ഉണ്ടാകെണമെന്ന ഒന്നാമിരാൾ പ്രാർത്ഥിക്കുന്നു.

൨. കൊച്ചിക്കൊട്ടത്തു കോതവശിർത്തരൻ ആഴ തിരുൻ അമ്പു നടുടെ  
 നാമിയെഴുവും ആജാതിക്കൊന്നൊഴ മെപ്പടിനഗനം വെറുവീല്ലത്തുമീൻ നടുടെ  
 അനന്തിരവസ്ഥാനമൊഴ ഭൂനാട്രിന്റെനാമിയെഴുവും ദേശാചാരനടപ്പും മകു  
 ദശം വെട്ടും സകാരതിരുന്ന വ്രതെക്കുകല്പിച്ച കല്പനകൾക്കും വിരോധമൊഴി  
 ട്വാ നഞ്ചരിട്ടുതു കട്ടിൽ ഭൂസംഗിച്ച മാനനയ്ക്കുതിന്ന നാം കൊച്ചിക്കൊട്ടജി  
 ല്ലാ സിവിൽക്കൊട്ടതിരിൽ എഴുൽ ൨ - ൦ ഭൂനാട്രി മെപ്പടിജില്ലാമുക്തിസദി  
 നമീൻകൊട്ടതിരിൽ എഴുൽ ൨൦ - ൦ നമ്പുകട്ടിൽ അയ്യൊഴുക്കുമെങ്കു വി  
 സ്താഭം നടന്നവരികൾക്കും അതിൽ ൨൦ ൦൦ നമ്പുകുപ്പത്തിൽ വ്രതി കണാനൻ ന  
 മെ ഒരസാക്ഷിയാഴിബൊധിച്ചിട്ടു നമൊട കമീഷൻകൗഭൂകനം സാക്ഷി  
 വിജ്ഞാപനമൊഴി മുക്തിസദിനമീൻ കല്പിക്കുകയെങ്കുനിക്കുന്നു-

൩. നഷ്ടപ്പെടും നഷ്ടപ്പെടുന്നവർക്കു കൂടിയും വരും കാലത്തു വന്നു കിട്ടും സാധനങ്ങൾ സമാധാനമായി വിതരണം ചെയ്യാൻ സർക്കാരും സർവ്വതലത്തിൽ പ്രവർത്തിക്കും.

7. நல கமிட்டி மீத பதிலளிப்பதில் இவ்வமைதி நல அமைதி அமைதி.

4. കൊച്ചിക്കൊട്ടുതലാഴ്ചനാളിദനം നമുക്കുപ്രാർത്ഥന ഭരിച്ചിരുന്നകാല  
 ഞ്ഞതന്നെ ബഹു മാനപ്പെട്ട ഇക്കിഴിപ്പു ക്ഷേമിനിപ്പമുതി സെവവിഷ്ണുസ  
 ഞ്ഞാട്ടുകൂടി ഇരിന്നവന്നിരുന്നതും പന്നെപ്പിപ്പുവിന്റെഉപദേശം വന്ന  
 പ്പെപ്പു ആവർത്ത ക്ഷേമിനിസ്കന്ദരിൽ അറിപ്പിച്ചതിനാൽ പ്രാർത്ഥന  
 ഞ്ഞാട്ടും ദശശ്വാടംകൂടി ഇക്കിഴിപ്പുസെവയ്ക്കെത്തപ്പിച്ചു പ്പിപ്പുവിനെ നീ  
 ക്കെന്തെക്കു നാളിദനംകൂടി ക്ഷേമിനിന്റെശ്വാം നമുക്കുപ്രാർത്ഥനമുതി കന്ദ  
 തെക്കു ഹരിദനംകൊല്ലം നാളികുപ്പപ്പു നമുക്കുപ്രാർത്ഥനതന്നെ അതെപ്പി  
 ചു സ്കന്ദരിലേക്കു ക്ഷേമിനിപ്പിച്ചവനതും അതുകൂടിനെ നിക്ഷേപിക്കുക  
 ക്കുവന്നുശ്വാം മറ്റൊരുതൽ വിനിപ്പുതെവന്നതിനാൽ സ്കന്ദരിൽനിന്ന  
 തന്നെ നാളിദനംസ്കലവും അതെപ്പിപ്പു അന്നുതൽ ജമുതിൽ ഹരികുവകൂട  
 തെ വത്തിന്നതൽ ക്ഷേമിനിപ്പുതൽ നമുക്കുസ്വരൂപത്തിലേക്കു തന്നവാൻ കന്ദ  
 തെക്കുതന്ന ഇതവനെ സ്വയമ് മിപ്പുദശ്വാടംകൂടി ഇതത്തി വത്തിന്നതൽ  
 പ്പിപ്പുതന്നതും തന്ന നക്ഷിപ്പുവന്നതും അവിട്ടുതൽ അതെപ്പിപ്പുതൽതന്നെ  
 അറിപ്പുവന്നതല്ലാത്തതെന്നതും.

[illegible]

൩. നന്മലയാളത്തിൽ ശൈഷ്ണവജ്ഞാപത്രം പലതരം ആചാരവും  
 നടപ്പും അല്ലാത്തതുകൊണ്ടു ഇവിടെ ഉള്ള ജനങ്ങൾ ജ്ഞാനസംക്ഷിപ്തമാണല്ലോ-  
 കല്പസംക്ഷിപ്തമാണെന്നു കരുതുന്നതും മറ്റും പ്രമാണമാകയാൽ സ്വയംബുവിട്ടു നടന്നതും  
 ആകയാൽ അവർ പലതരം പുസ്തകങ്ങളെക്കണ്ടു മനോഹരമല്ലാത്തതും കൊട്ടു-  
 കല്പവായനകൾ സാക്ഷികൊടുത്താൽ വിശ്വസിക്കുമെന്നുള്ള പ്രസിദ്ധവന്നാൽ സാ-  
 മ്യം ജനങ്ങൾ എല്ലാവരും സാക്ഷികൊടുപ്പാനും നാം സദാകാലവും ആവു-  
 ത്തിരിക്കുന്നതെന്നു പ്രവേശിച്ചിരിക്കുന്നതും മറ്റവന്നതാകുന്നു.

9. നഷ്ടപ്പെട്ട സ്വരൂപത്തിലുള്ള നാജാക്കന്മാർക്കു അവനായി അറിയാത്തവരായവരിൽ അന്നിന്നവിധത്തിൽ അന്നിന്നദിക്കിലെ സഞ്ചരിച്ചുകൂട്ടുന്നതും നഷ്ടപ്പെട്ട സ്വരൂപത്തിലുള്ളവരുടെ ദുഷ്ടതയെ അവനവന്റെ മുമ്പാകെ വെച്ചു കാണിച്ചു കൊടുത്തു. അവനവന്റെ ദുഷ്ടതയെ അവനവന്റെ മുമ്പാകെ വെച്ചു കാണിച്ചു കൊടുത്തു. അവനവന്റെ ദുഷ്ടതയെ അവനവന്റെ മുമ്പാകെ വെച്ചു കാണിച്ചു കൊടുത്തു.

[illegible]

Fort St. George, Judicial Consultation, 6th October 1857.

കേന്ദ്രവകുപ്പ് അനുബന്ധമായി പ്രസിദ്ധീകരിച്ചിട്ടുള്ള 'പ്രസിദ്ധീകരിച്ചിട്ടുള്ള' എന്നതിന്റെ പരിധി  
 കേന്ദ്രവകുപ്പ് അനുബന്ധമായി പ്രസിദ്ധീകരിച്ചിട്ടുള്ള 'പ്രസിദ്ധീകരിച്ചിട്ടുള്ള' എന്നതിന്റെ പരിധി

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*Fort St. George, Judicial Consultation, 6th October 1857.*

No. 30. ORDER THEREON, No. 1276; dated 5th October 1857.

No. 30. ORDER THEREON, NO. 1276, dated 31st March 1855.

It appears from the *Rajah's* statement that His Highness, resenting certain slanderous or disrespectful words uttered concerning him by the *Tahsildar* of *Calicut*, who is of a lower caste, sued the latter for damages in the Court of the *Moofly Sudder Ameen*. The defendant, under the late "Act (No. X of 1855) to amend the Law of Evidence," cited the plaintiff as a witness, and the *Moofly* has issued a summons, or rather (though no provision of the kind is made by the Act except in the case of *Gosha* females) a Commission for His Highness' examination.

It is directed that no appeal shall lie from any order of this Court.

2. Section XVI of the Act expressly directs that no appeal shall lie from any order of this nature. The *Rajah* however has prayed the Civil Court for a reversal of the *Moq'iy's* decision, both on the ground that His Highness cannot give material evidence in the matter of the suit, and that the issue of such a commission is derogatory to His Highness' honour.

3. *Mr. Cook*, the Civil Judge, in disposing of this petition, observes, that, although it is the intention of the Government that high personages like the *Rajah* shall not be required to appear in Court except on "the most pressing exigency," yet there is no similar desire to excuse Natives of rank from giving their testimony before a Commission; that he cannot interfere with the *Moofly's* order, inasmuch as it is stated therein that the *Rajah's* evidence is essential; and if the *Rajah* still considers that his position should exempt him from the operation of these general rules, he (*Mr. Cook*) "would advise him to address the Government and obtain a specific declaration of the wishes of Government as regards this point."

4. The Government are surprised to find an Officer of *Mr. Cook's* Judicial experience suggesting an appeal to them in a matter for the adjudication of which the law has already provided, and in which, consequently, they are unable to interfere. The result is not without embarrassment. The *Rajah*, instructed that the Government may possibly afford him the exemption from legal process he seeks, has now addressed them to that end. He recounts the several acts of devotion to the *Company* displayed by his ancestors, and is evidently of opinion that the concession solicited, though of importance to him, will be but an insignificant return for those services. It rests therefore now with the Government to explain to him the true state of the Law, a duty which should have been performed by the Civil Judge,

5. In closing these remarks, the Government resolve to request the *Sudr Udabut* to call upon all Civil Judges carefully to watch the proceedings of the lower tribunals, in order that the authority to summon parties to a suit may not be abused in the case, especially of Natives of distinguished rank. There is no appeal from an order passed by the presiding Judge on such a point, but those mis-using the power would be liable to severe reprimand, or even graver punishment.

6. Resolved to despatch the following letter to the Zamorin Rajah, through the Collector of Calicut, who will prefix the usual titles.

(Signed) E. MALTBY,  
*Acting Chief Secretary.*

No. 31. From the Right Honorable the Governor in Council of Fort St. George; to His Highness the Zamorin Rajah of Calicut, dated 5th October 1857, No. 1277.

MY GOOD FRIEND,

I have received your address of the 6th September, and understand its contents. The attachment of your family to the *Company's* *Sirkar* is well known to me and highly appreciated.

2. In regard to the suit you mention, the Law is that the order of the Judge cannot be set aside; and the Government does not interfere with the due course of the Law. This is an immutable rule.

3. If it is distasteful to a Plaintiff to give evidence, he is not compelled to do so, but then his suit will be dismissed. This is not considered unjust, because according to the Law, the highest personages do not lose in dignity, by giving evidence in Judicial proceedings.

(Signed) HARRIS.

Exd. F. Cartledge.

Extract from the Proceedings of the Civil Court Lillo  
Calicut under date the 6<sup>th</sup> July 1857.

Read Miscellaneous Petition N<sup>o</sup>.  
1857 presented on the 3<sup>rd</sup> Instant by Wakkel Wenguidshewara  
behalf of Manavickrama Lamin Rajah of Calicut, that  
Petitioner presented a Petition to the Mosty Sude Amman  
that it is not customary for Rajahs to give evidence in any  
when an order was passed by that Officer on the 31<sup>st</sup> March  
the effect that he would be examined by a commission; that  
consequence of the post obit ceremonies of the late Rajah, Pet  
was precluded from preferring this appeal from the aforesaid  
within the prescribed period, that the suit N<sup>o</sup>. 20 of 1856 men  
in the Mosty Sude Amman's Diary being to the same effect  
suit N<sup>o</sup>. 2 of 1856, which is being conducted by Petitioner before  
Court, it is not to be expected that he would give evidence  
former, contrary to the last mentioned, suit, consequently the  
Amman requiring as material Petitioner's evidence is not right  
neither this Rajah of high repute nor his predecessors ever ap  
before any Authority whatever for the purpose of giving evide  
any matter, nor is it customary to do so, consequently the ord  
the Sude Amman requiring him to be examined as a Witness  
ance of such an usage and without considering his position,  
matter of great grievance to Petitioner, that the Sude Amman  
even take any notice of the several documents alluded to by Pet  
to be convinced of the existence of such a practice. He therefore,  
for the reversal of the lower Courts order.

Order

It is the intention of the Government that  
in the position of the Petitioner should not be called upon to  
in Courts unless upon the most pressing exigency, and the

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*Edw. J. ...*

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...

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*Edw. J. ...*

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...

not give an order to the effect that the issue of a commission, naming as witness a party in the high position of the Petitioner a step derogatory to Petitioner as it does not involve his presence before the Court. In the present instance it cannot further interfere with the lower Court's order as the Hon'ble Judge Amos states that he considers it essential to examine Petitioner as a witness in the case at issue before him. If the Petitioner considers that his position exempts him from appearing in Court or being examined by the Court would advise him to address the Government and obtain a specific declaration of the wishes of Government as regards...

(True Extract in 2 rolls.)

*Edw. J. ...*  
Civil Judge

*Edw. J. ...*

Em. C. 5/5 October 1857

Read a Petition  
from the Zamorin Rajah

{ here enter No. 2117/  
347.

It appears from the Prasah's  
statement that His Highness, receiv-  
ing certain slanderous or disre-  
spectful words uttered concerning  
him by the Tahsildar of Calicut,  
who is a low caste ~~man~~, such  
has been for damages in the  
Court of the Moofy Sudder Ameer.

The Defendant, under the late  
"Act (No 8 of 1855) to amend the  
"Law of evidence", cited the  
Plaintiff as a witness, and the  
Magistrate has issued a summons,  
or rather (though no provision  
of the kind is made by the Act  
except in the case of Gosha fe-  
-males) a commission for H. H.'s  
examination.

2. Section XVI of the act expressly directs that no appeal shall lie from any order of this nature. The Rajah however has prayed

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"Chrysanthemum"

Sh. No. 2192/1857.

9/57 Dr  
Dr 181586

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*Handwritten:* The end of the world

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10) Am 26  
De Grua M. L. M.  
H

The Good  
 Fruit Juicy

the Civil Court for a reversal  
of the Moore's decision, both  
on the ground that H. H. cannot  
give material evidence in the  
matter of the suit, and that  
the issue of such a commission  
is derogatory to H. H.'s honour.

3. Mr. Cook, the Civil Judge, in  
disposing of his Petition, ob-  
serves, that, although it is the  
intention of the Govt that high  
personages like the Prajah shall  
not be required to appear in Court  
except on "the most pressing  
emergency", yet there is no simi-  
lar desire to excuse natives of  
rank from giving their testimony  
before a Commission; that  
he cannot interfere with the Moore's  
order, inasmuch as it is  
stated therein that the Prajah's  
evidence is essential; and  
if the Prajah still considers  
that his position should exempt  
him from the operation of these  
general rules, he (Mr. Cook) will  
"advise him to address the Govt  
and obtain a specific declaration

97  
"of the wishes of Govt as re-  
gards his point."

4. The Govt are much surprised  
to find an officer of Mr. Cook's  
judicial experience suggesting  
an appeal to him in a matter  
for the adjudication of which  
the Law has already provided,  
and in which, consequently, he  
must be well aware they are unable  
to interfere. The result is not with-  
out embarrassment. The Prajah,  
instructed that the Govt may pos-  
sibly afford him the exemption  
from legal process he seeks, has  
now addressed him to that end.  
He recounts the several acts of  
devotion to the Company dis-  
played by his ancestors, and is  
evidently of opinion that the con-  
cession solicited, though of im-  
portance to him, will be but an in-  
significant return for those  
~~unparalleled~~ <sup>therefore</sup> services. He ~~rests~~ <sup>therefore</sup> ~~now~~  
with the Govt to explain to him  
the true state of the Law, a duty  
which should have been performed  
neglected by the Civil Judge, though  
obviously falling in with his  
legitimate functions.

5. In closing these remarks, the  
Govt. resolve to request the Sudder Adalat  
but to call upon all Civil Judges  
carefully to watch the proceedings  
of the lower tribunals, in order that  
the authority to summon parties to  
a suit may not be abused. in the case,  
especially, of Natives of distin-  
guished rank. There is no appeal  
from an order passed by the presi-  
ding Judge on such a point, but  
those misusing the power would  
be liable to severe reprimand, or  
even groven punishment.

BTL 23/9/57.

Resolved to despatch the following  
letter to the Zamorin Rajah, through  
the Collector of Calicut, who will prefix the usual title.

To the Judges of the C of Malabar & Diocese of  
the Bishop of Malabar. My good friends,

Dispt-9<sup>th</sup>

I have rec<sup>d</sup> your address of  
the 6<sup>th</sup> Sept<sup>r</sup>, & understand its contents.  
The attachment of your family to the  
Company's Service is well known to me  
and highly appreciated.

2. In regard to the suit you mention, the  
Law is that the order of the Judge cannot be  
set aside; and the Govt. does not interfere  
into the due course of the Law. This is an  
immutable rule.

3. If it is distasteful to a Plaintiff to <sup>give</sup> ~~testify~~  
evidence ~~as a witness~~, he is not compelled to do so, but  
his suit will be dismissed. This is not considered un-  
just, because according to the Law, the highest persons who  
do not lose in dignity, by giving evidence in judicial proceedings.  
I have the honor to be, Sir, your obedient servant.

To Mr. George, Esq.  
5th October 1857-58

Wm

BTL 23/9-57

2.10.22 150

In 24 Ann: 6<sup>th</sup> section  
Judicial 1837 Sept 1<sup>st</sup>

18.12.75

Charles Morris of London:

18.12.77

To  
Mr. Wm. the Pariah of  
London  
15<sup>th</sup> October 1837.