

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1441	Press
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6-7		
Dated	5-11-1918	

Not to be folded or roughly handled

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Fort St. George, Judicial Consultation, 10th November 1857.

No. 6. Read the following letter from W. ROBINSON, Esq., Acting Magistrate of Malabar; to E. MALTBY, Esq., Acting Chief Secretary to Government, Judicial Department, Fort St. George, dated Calicut, 12th October 1857, No. 148.

SIR,

With reference to the Extract from the Minutes of Consultation, dated 4th Instant, No.

No. 130.
*Dated 29th September 1857.
Enclosure D.

1279, and my letter of the 24th Ultimo, para. 11, I have the honor to submit Mr. Sharpe's explanation* of his failure, to execute my direction in the matter of the sedition case.

2. I have been very unwilling to waste public time, and to trouble the Government further on the subject of this young Officer's conduct in this case; and I addressed Mr. Sharpe my letter dated 3rd Instant, No. 4579. I now submit, as it is called for by Government, his explanation with a few hand notes.

3. I deeply regret the manner Mr. Sharpe has conducted himself in the matter. He had full instruction to take up the case, examine it personally and to commit it to the Commissioner, and he was well aware of my anxiety on the point, and of my reasons for wishing this to be done, and of the opinion of both myself and Mr. Chatfield. The pretext of "not having the orders to shew on the records," is wanting in frankness. My direction was full, explicit and repeated, and it was his duty to have obeyed.

I should not otherwise have failed to enforce obedience.

*He did not even reply to a Note from me, written about that time from Cannanore.

that I learnt, to my surprise, the fate of the case which is now before Government.

5. The Government will observe an uncourteous and captious tone throughout Mr. Sharpe's communication, which I think merits reproof as wholly subversive of cordiality as illustrated by the contents of para. 5 of his letter dated 22nd September, and his communication dated 25th ditto,* and in the explanation now submitted.

Vide Enclosure, to letter, dated 24th September 1857.
*Enclosure B.

4. When I left Tellicherry, the evening of the 10th September, I had not a doubt, that Mr. Sharpe was going to comply with my direction. I was for 10 days in his District, but neither officially nor privately* did he give me the slightest intimation of his having acted contrary to my instructions. It was only on my return to Tellicherry,

(Signed) W. ROBINSON,

Acting Magistrate.

P. S.—Although made well aware of the importance of this case, and my anxiety about it, Mr. Sharpe had not even taken the trouble to ask concerning the character, &c., of Cunjy Mayen, and he was not aware, when I spoke to him 10 days after it's committal, that this dangerous individual had been 8 years a Convict in the Jail of his own station, Tellicherry. I cannot even learn that he ever personally saw the man.

Dated 2th October 1857.

The true state of this man's mind is shewn in the accompanying certificate, the propriety of which I can attest by personal communication.

(Signed) W. ROBINSON,

Acting Magistrate.

This is to certify that "Coony Moyee," was admitted under observation on the 24th September 1857, since which date he has been narrowly watched. He has during the period betrayed no signs of mental deficiency in any degree, and afforded not the slightest grounds for the presumption of his unsoundness of mind.

The plea of insanity is, I am of opinion, wholly inadmissible in his case.

Calicut, }
12th October 1857. }

(Signed) E. S. CLEVELAND, M. D.,
Civil Surgeon, Malabar.

(True Copy.)

(Signed) W. ROBINSON,

Acting Magistrate.

Fort St. George, Judicial Consultation, 10th November 1857.

A.

To G. R. SHARPE, Esq., Acting Head Assistant Magistrate, Tellicherry, dated Calicut, 23rd September 1857, No. 4494.

SIR,

With reference to the latter para. of your letter, dated 22nd Instant, I have to recall to your mind, that I instructed you how to proceed in regard to the case in question, in a lengthened conversation on the 8th Instant at Tellicherry, that these instructions were repeated the next day, when you were requested to take up the case for personal investigation and committal in a note from me. I personally in the evening again communicated my wishes to you.

This must have been within your recollection, when the letter now under acknowledgment was written, and I beg you will give an explanation of contravening such instructions.

(Signed) W. ROBINSON,

Acting Magistrate.

B.

From G. R. SHARPE, Esq., Acting Head Assistant Magistrate of Malabar; to W. ROBINSON, Esq., Acting Magistrate of Malabar, dated Tellicherry, 25th September 1857.

SIR,

In reply to your letter, No. 4494, dated 23rd Instant, I have the honor to state, that on September 7th, I proceeded on business to Cannanore, that I remained there the whole of the 8th Instant, and only returned to Tellicherry on the 9th, I am in consequence unable to reconcile this with the statement in your letter above alluded to, "that you held a lengthened conversation with me on the 8th Instant at Tellicherry," and I request therefore that you will be kind enough at your earliest convenience to correct this apparent error, as unless you do so, I am unable to enter into the explanation called for in your letter.

(Signed) G. R. SHARPE,

Acting Head Assistant Magistrate.

C.

To G. R. SHARPE, Esq., Acting Head Assistant Magistrate, Tellicherry, dated Calicut, 25th September 1857, No. 4526.

SIR,

With reference to your letter, dated 25th September 1857, I have the honor to state, that Dated 23rd Instant, you are no doubt right as to the date of your return to Tellicherry from No. 4494. Cannanore, which was of course meant by my letter.

It is a pity you should allow trivial matters to delay business.

(Signed) W. ROBINSON,

Acting Magistrate.

D.

From G. R. SHARPE, Esq., Acting Head Assistant Magistrate of Malabar; to W. ROBINSON, Esq., Acting Magistrate of Malabar, dated Tellicherry, 29th September 1857.

SIR,

I have the honor to acknowledge receipt of your letter, No. 4526, dated 26th Instant, rectifying the error in that dated 23rd Instant, and to subjoin the explanation called for in your letter, No. 4451, dated 19th Instant.

2. I am at a loss to understand how the mistake of dates in this case can be a "trivial matter;" it appears to me that my explanation would be worthy of little dependance if it assigned one date to an occurrence stated by you to have occurred on another.

(Signed) G. R. SHARPE,

Acting Head Assistant Magistrate.

Explanation "of my not having given effect to the Acting Magistrate's instructions to me, to try a case and commit it to the Session Judge as Commissioner, under the recent orders of

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Government, and of my not having given the Acting Magistrate any intimation of my intention not to do so," called for in the Acting Magistrate's letter, No. 4451, dated 19th Instant.

The instructions abovementioned are stated in the Acting Magistrate's letter of the 23rd Instant, as amended by his letter of the 26th Instant, to have been conveyed—1, in a lengthened conversation on the 9th Instant—2, in a note on the following day—3, in a personal communication the same evening.

1. A full hour and more was spent in talking over this and other occurrences, but chiefly in conversing about this, the most important occurrence of the Northern Division by far. My instructions were clear and full and unreserved, and were thoroughly understood by the young Officer.

2. Mr. Sharpe had not joined a month and his official acts were few. The only one I had heard of is that alluded to in my letter, dated 3rd Instant, in which he allowed himself to be the committing Officer in a case of malicious charge of rape which the Court very properly dismissed at once. The medical evidence showed that the prisoner, a lad of 16, had communicated disease he had on him to two young girls, his playmates and next door neighbours, a charge of rape was brought in which one of them appeared as the raped female, and the other as the 1st witness for the prosecution. An experienced Officer would have scouted such a charge. I ventured to remark to Mr. Sharpe, that these malicious charges of rape were to be guarded against. It seems he has been offended, although I spoke to him in the most courteous manner.

the Acting Magistrate; in fact it is my conviction, that not more than 50 words were spoken on the subject of this case. 2, That this so called "lengthened conversation," was not considered

3. Was full and sufficient. It was probably mentioned again casually in a note probably under the full impression, that the Acting Head Assistant had actually applied himself the first thing that day to the committal.

can be deciphered, says "I hope you have called that sedition case up, and committed it." 3,

4. A direction as explicit and decisive as I could put it, this took place the second day after the repeated instructions of this day likewise. This instruction is said to have been repeated in a personal communication the same evening, this said communication consists of "direct that case to Mr. Chatfield as Commissioner not Session Judge," or words to that effect, and nothing more.

II. As regards my not having given the Magistrate any intimation of my intention not to comply with his instructions, it is necessary to state that, prior to the Acting Magistrate having any knowledge of the case, I had ordered the Police Ameen to commit the case to the Criminal Court under Section 2, Regulation XXIII of 1854. While this case was under notice in the

5. Then as since, the Acting Head Assistant had it pointed out to him most distinctly that the act in question did not apply and the course to be pursued was carefully indicated with the reason.

trate, that my conviction remained unaltered, viz., that it ought to be committed to the Criminal Court, nor do I think that I can be blamed for not succumbing to the Magistrate's arguments

6. His duty was to obey instructions.

the case would be dealt with by the Principal Sudr Ameen, owing to prejudices of caste. To

7. *To which the young Officer received a written reply directing (the mention of which is withheld here) him that I considered, that the Legislature and orders of Government contemplated the trial and committal of such cases by the European Magistracy and requesting him to call up the case for personal investigation from the Police Ameen, to whom he had informed me by the note in question he had sent it back for

As regards the conveyance of instruction, the term "lengthened conversation," is apt to mislead as implying that it was devoted to this case alone, but such an inference is far from correct, for in the course of it nearly the whole of my official acts, since I joined the district, were passed in review and in turns received the censure of

by the Acting Magistrate as sufficient instruction is evident from his sending me a note on the following day which so far as it

and committed it." 3, This instruction is said to have been repeated in a personal communication the same evening, this said communication consists of "direct that case to Mr. Chatfield as Commissioner not Session Judge," or words to that effect, and nothing more.

when his main one was a reflection on the probable mode in which the Acting Magistrate's note of the following day I sent a reply,* that "if the Magistrate thought proper to quash my order to the Police

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committal to the Principal Sudr Ameen's Court. That no mistake might occur, I sent over to Mr. Sharpe's Office, this note by my Police writer together with the Government orders, Acts, &c., marked. Again after office hours I called at Mr. Sharpe's, but failing to find him I again accosted him on the road and repeated the instruction at once to call up the case and as admitted in his 10th para. to "commit the case to Mr. Chatfield as Commissioner, and not as Session Judge."

That Mr. Sharpe thoroughly understood the instruction and led me to anticipate his compliance is clear from a reply I received from him to a note written asking him whether he felt inclined to accompany me in a tour through his division, which I was just going to make in consequence of a state of panic that the Military preparation at Cannanore had roused. He replied that he did not see how it would be compatible with his personal investigation of the sedition case that I had directed him to take up, and therefore remained in Tellicherry.

Ameen, as requested in my note. On the following morning when the case was reported to me as ready for committal, I directed the Police Ameen not to commit it to the Criminal Court till the latest hour consistent with its arrival at Court that day, for I fully expected that an order either

8. Could not have been, and he was directed to take up the case himself and commit it.

the day. As regards therefore the two points on which I am called upon for explanation, viz., (I) my not complying with instructions, and (II) my not intimating my intention not to do so, I

9. I am not in the habit of issuing orders to Subordinate Officers, when in personal communication with them, such communications to an Assistant are and were given as orders.

a superior to an inferior officer, to enable me to cancel my former order, for my own convictions as to the proper mode of dealing with the case remained unchanged and the only other grounds

10. I must leave it to Government to consider such matter as this.

the Magistrate, which orders I had not to shew in the records of my office. (II) I did express my disinclination to proceed as the Acting Magistrate pointed out in

11. He said that he considered Act XXIII of 1854 applicable to the case. It was pointed out that it did not apply and the objection was over-ruled by me.

12. Not so.

his note. In reply to this note, I again expressed my disinclination in as much as I requested

13. On which as I explained in note 7, I wrote directing him to take it up for personal examination.

did not say any thing to his hurried words, because I imagined that the order requested in my

14. Distinct disobedience of orders leading to a complication of difficulties which have caused much correspondence deliberate and determined.

how it can) it can but be on the ground of mistaken judgment as to how the case should be disposed of, but yet, I was willing to waive my own view of the case (founded upon mature consideration as it was) and to accept that of the Acting Magistrate, if that Officer had issued his orders to me on the subject, but as he did not do so, and my own conviction remained unchanged, I cannot perceive how I could issue an order directly contrary to my own former one when I could shew no cause for doing so.

Tellicherry,
29th September 1857.

(Signed) G. R. SHARPE,
Acting Head Assistant Magistrate.

Fort St. George, Judicial Consultation, 10th November 1857.

E.

To G. R. SHARPE, Esq., Acting Head Assistant Magistrate of Malabar, Tellicherry dated Calicut, 3rd October 1857, No. 4579.

SIR,

With reference to your letter dated 29th Ultimo, and its enclosure, I would only remark that the reflection of your own candid mind will satisfy you, that you quite understood my wishes and instructions in regard to your personal investigation and committal of the case in question, and I think you erred in judgment in not giving effect to them, no doubt from some misapprehension not likely to recur.

I hope that there is some misunderstanding which you will easily remove from your mind, as regards my review of your official acts and any censure passed on them, as you said in the paper before me. I at this moment cannot recall a single official act, except the rape case, which was thrown out in the Principal Sudr Ameen's Court, that was spoken of. But no censure was conveyed. I thought the circumstantial matter elicited showed a probable course of uncleanness between the young people and mentioned to you the frequency with which rape is charged in revenge for cases of ordinary seduction, &c., but to censure you in regard to this was not in my mind, and I really recollect no other official act in regard to which I entertained even a different view. I hope you will therefore disabuse your mind of any such impression.

On the subject of the case in question, I may remark that seditious preaching is an indictable crime under the general regulation not necessarily under the Mopla Act and that a committing Officer has nothing to do with the state of a criminal's mind at the time of committing an indictable offence, the pleas of the prisoner can only be entertained when the issue is finally tried.

(Signed) W. ROBINSON,
Acting Magistrate.

(True Copies.)

(Signed) W. ROBINSON,
Acting Magistrate.

No. 7. ORDER THEREON No. 1441; dated 5th November 1857.

1. With this letter the Acting Magistrate forwards the explanation given by Mr. Sharpe, the Acting Head Assistant Magistrate, for failing to attend to the instructions of the Acting Magistrate, and commit the Moplah charged with sedition for trial before the Commissioner after a personal investigation of the case.

2. Government have to observe that these papers do not relieve Mr. Sharpe from blame for omitting to obey the order of his superior; and the want of judgment shown by him in dealing, with this case, is aggravated by his neglect of the repeated instructions of the Acting Magistrate regarding its disposal, and by the tone of the reply in which he endeavours to palliate his disobedience of the order given to him. This conduct has brought on Mr. Sharpe the displeasure of Government, and he is warned that serious consequences will ensue, if he shows hereafter argumentative opposition to the repeated instructions of his more experienced superior, instead of subordination and obedience.

(Signed) E. MALTBY,
Acting Chief Secretary.

Exd. F. Cartledge.

No. 1441 J. D. x4
Ex: from the Secy of Cons: 8/5th Nov. 1857

Recd letter from Act Magte of Malabar
d. 12 October. - No. 148.

At
1/ With this letter the Act Magte forwards
the explanation given by Mr. Sharpe, the
Act Head of Magte, for failing to
attend to the instructions of the Acting
Magte & commit the Moflah charged
with sedition for trial before the
Commissioner after a personal investi-
gation of the case. - 2/ Govt have
to observe that these papers do not
relieve Mr. Sharpe from blame for
omitting to lay the order of his
superior; and ^{him} the want of judgment
shown by ~~Mr. Sharpe~~ in dealing with
this case, is aggravated by his neglect
of the repeated instructions of the Acting
Magistrate regarding its disposal &
by the tone of the reply in which he
endeavours to palliate his ^{disobedience} ~~neglect~~
of the order given to him. - ^{lack} This
has brought on Mr. Sharpe the displeasure of
Govt. ~~conduct~~ ^{conduct} ~~disobedience~~ ^{disobedience} ~~disobedience~~ ^{disobedience}

~~an unreasonable impudence~~
he is warned that serious
and Mr. Skene is cautioned
disagreements will ensue, if he shows hereafter
~~to show hereafter~~ spirit of
~~compliance~~ instead of
argumentative opposition to
the repeated instructions of
his more experienced superiors
instead of subordination & obedience
J.M.

yes
W.M.

Copy to the Ag. Magistrate
of Malabar } Dispt 5th

Paul & John Engle & Son
No 2 of 1858 - Dec 9

C. 6th Dec 1857 & Nov 1899
E Nov 1279

By to Dec. 10: Nov
Judicial 1857 Sep 1851

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Detached Minors of Dec

of 5th Nov 1857

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