

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1527	Press
		Mis.
	55-56.	
Dated	21-11-1918	

Not to be folded or roughly handled

Dr
1527

Fort St. George, Judicial Consultation, 24th November 1857.

No. 55. Read the following letter from C. F. CHAMIER, Esq., Acting Register to the Court of Sudr Udalut; to E. MALTBY, Esq., Acting Chief Secretary to Government, dated 9th October 1857, No. 100.

SIR,

1. The Judges of the Sudr Udalut have directed me to forward, for the information of the Government, the accompanying copy of an Extract from the Proceedings of the Sudr Udalut, under date the 9th Instant, containing a detailed account of certain frauds committed in the Treasury of the Combaconum Civil Court; and, for the reasons given in those proceedings, to recommend that the Collector of Tanjore may be instructed to place the sum of Rupees 8,370-9-5, to the credit of the deposit account of the Civil Court; the disbursement to be made from the amount of unclaimed deposits, which from time to time are carried to the credit of the Government.

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

Extract from the Proceedings of the Sudr Udalut, under date the 9th October 1857.

Read letter dated 9th September 1857, from the Civil Judge of Combaconum.

1. The above is the final report of the Civil Judge on the subject of the deficiency found to exist in the Treasury of the Civil Court of Combaconum.
2. The defalcation was first brought to the notice of the Sudr Udalut on the 4th July 1854, when the Acting Civil Judge mentioned that two sums, amounting in the aggregate to about 1640 Rupees, for which the shroff admitted he was answerable, had been made good by him. The shroff's dismissal was recommended, and approved by the Sudr Udalut.
3. Further deficiencies were afterwards discovered, and the Judges of the Sudr Udalut therefore, issued instructions to the Acting Civil Judge to select one or two items capable of clear proof, and to direct the Magistrate to frame thereon a charge of embezzlement against the shroff.
4. The shroff was accordingly tried, convicted, and sentenced to three years' imprisonment with hard labor, with the addition of a fine equal to the amount embezzled; but he was subsequently released by the Foujdaree Udalut, after several references to the Session Judge, on the ground that the evidence was of too vague a character to justify the defendant's conviction.
5. Meanwhile endeavours were being made by the local officers to ascertain the extent of the deficiency in the cash-chest: but the Sudr Udalut, finding that their labors in this respect were not likely to tend to any satisfactory result, directed that further examination of the accounts should be discontinued until the return of the Civil Judge, Mr. Beauchamp.
6. During these enquiries, however, it became evident that the Sheristadar of the Civil and Session Court had culpably neglected his duties, and thus given cover to the frauds committed by the shroff: the Judges, therefore, directed that he should be dismissed from the public service.
7. The present report is submitted by Mr. Beauchamp, after a careful adjustment of all the different items of the Court accounts; and the result shows that the sum of Rupees 10,405-4-5 has been embezzled, of which Rupees 2,034-11, had been paid into Court on account of the Government; Rupees 8,316-5, on account of private suitors, and Rupees 54-4-5, had not been traced.
8. To enable him to meet the demands of individuals to the amount of Rupees 8,370-9-5, the Civil Judge requests that the Collector may be authorized to place that sum to the credit of the deposit account of the Civil and Session Court.
9. The Civil Judge dwells at some length on the blame-worthy conduct of the ministerial servants of his Court in not bringing to the notice of his predecessors in office, such systematic frauds, of which many of them must necessarily have been cognizant; and he particularizes the late Nazir, as guilty of "grossly culpable remissness, calculated to encourage the cash-keeper in his fraudulent practices."

Items

Fort St. George, Judicial Consultation, 24th November 1857.

10. The Court of Sudr Udalut observe with regret, that the acts of embezzlement committed by the shroff must be considered as having arisen out of the opportunities afforded him for this purpose, by the omission of the presiding Judges to attend to the directions laid down for their guidance in the Circular Order, Sudr Udalut, dated 15th December 1834.

11. Of the entire amount not forthcoming, the sum of Rupees 200 was embezzled in the time of Mr. J. Prendergast, Rupees 1,485-11 in that of Mr. F. M. Lewin, Rupees 8,364-13, in that of Mr. S. Scott, Rupees 70 in that of Mr. W. Fisher, Rupees 150 in that of Mr. J. Silver, and Rupees 80-8 in that of Mr. G. H. Ellis.

12. The accounts having now been thoroughly examined, and each item of receipt and disbursement clearly ascertained, the Court of Sudr Udalut are of opinion that the shroff might be again put upon his trial and charged with breach of trust, in appropriating to his own use any specific sums which he can be clearly proved to have received, and not entered in the public accounts.

13. The Court of Sudr Udalut resolve to direct the Civil Judge to adopt the necessary measures to this end; only taking care that none of the counts in the charge now to be prepared are framed upon acts of embezzlement, for which the shroff has already been tried and acquitted.

14. In the opinion which the Civil Judge has formed of the conduct of the late Nazir, Kristna Row, now District Moonsiff of Titrapoondy, the Court of Sudr Udalut entirely concur. It was clearly his duty to have seen that all sums entered in processes entrusted to him for execution, and which had been reported to him as paid into Court by the parties, had been so paid; but this he neglected to do. He was further culpable in signing accounts as correct, which were afterwards found to have been incorrect; it being incumbent upon him to satisfy himself that they were accurate before attesting them as such; this was the express object of the Civil Judge's order of the 8th February 1851.

15. The Court of Sudr Udalut can find nothing to distinguish the Nazir's case from that of the Sheristadar. They were held jointly responsible for examining and checking the accounts, and both of them culpably neglected this duty, thus opening an easy way to fraud on the part of the person entrusted with the care of the cash-chest. The Court accordingly direct that Kristna Row be also dismissed from the service.

16. The only point which now remains to be disposed of, is, as to how the deficiency shall be made good. The Court of Sudr Udalut are of opinion that, as the several officers who from time to time have presided over the Combaconum Court, have failed to conform to rules, which, if duly followed, would effectually have prevented these frauds, they might justly be held answerable for the sums embezzled during their respective periods of office; but as many of those gentlemen have since quitted the country, the Court of Sudr Udalut resolve to recommend to the Government that the deficiency be covered by transferring to the deposit account of the Coimbatonum Court, from the unclaimed deposits of that and other Courts, the sum of Rupees 8,370-9-5, to which extent the Civil Judge must be prepared to meet the demands of private individuals.

(True Extract.)

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

No. 56.

ORDER THEREON, No. 1527; dated 21st November 1857.

I. In the above letter, the Court of Sudder Udalut bring to notice certain defalcations in the Treasury of the Civil Court of Combaconum. From their review of this case, it is observed, that, at first, a deficiency of Rupees 1,640 was discovered in the cash chest, which the Shroff made good, and that subsequently, on a careful adjustment of all the different items of the accounts, it was found that a further sum of Rupees 10,405-4-5 had been embezzled, of which, Rupees 2,034-11 had been paid into Court on account of Government, and Rupees 8,316-5 on account of private suitors, and Rupees 54-4-5 had not been traced. The Court have issued instructions for bringing the Shroff to trial on a charge of Breach of Trust, in those instances where he can be clearly proved to have received specific sums and to have not entered them in the accounts. They have also directed the dismissal of the Serishtadar and the late Nazir, Kistna Row,

Fort St. George, Judicial Consultation, 24th November 1857.

now District Moonsiff of Titrapoondy, for having, by a culpable neglect of their duty, given cover to the fraud; and, with a view to enable the Civil Judge to meet the demands of private suitors, the Court recommend that the Collector should be authorized to place the sum of Rupees 8,370-9-5 to the credit of the deposit account of the Civil and Sessions Court, the same being disbursed from the unclaimed deposits from time to time carried to the credit of Government.

2. The Right Honorable the Governor in Council concurs in opinion with the Court of Sudder Udalut, that the omission of the presiding Judges to attend to the directions laid down for their guidance in Circular Order 15th December 1834, has afforded opportunities to the Shroff to commit the embezzlements; and, in order to check such malversations, His Lordship in Council considers, that Officers vested with the supervision of servants guilty of frauds, should be held responsible for the acts of their subordinates. In this case, it appears that all the Judges of the Civil Courts neglected the precautions prescribed for their observance, and they are therefore justly liable for the amount embezzled. Of the entire sum not forthcoming the Sudder Udalut state, that Rupees 200 were fraudulently appropriated in the time of Mr. T. Prendergast, Rupees 1,485-11 in that of Mr. F. M. Lewin, Rupees 8,364-13 in that of Mr. S. Scott, Rupees 70 in that of Mr. W. Fisher, Rupees 150 in that of Mr. J. Silver, and Rupees 80-8 in that of Mr. G. H. Ellis. Of these gentlemen, the first has just accepted an annuity, the two next have retired from the service, and the three last are now in India. The Court of Sudder Udalut will call upon Messrs. Silver, Fisher and Ellis for a refund of the sums to which they have respectively become liable; and the case of the other three Officers will be laid before the Honorable the Court of Directors. Meanwhile the Sudder Udalut will explain what rules are observed in regard to the retention of deposit monies in the Court Treasuries, and if the system be defective, in what respect it may be amended, as also, what supervision is exercised on their part to ensure due conformity with their Circular Order of 15th December 1834.

3. The Right Honorable the Governor in Council authorizes the Collector of Tanjore to place the sum of Rupees (8,370-9-5) eight thousand, three hundred and seventy, Annas nine and Pice five, to the credit of the Civil and Session Court of Combaconum, the same being disbursed from the unclaimed deposits carried to the credit of Government.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Memorandum

These papers are put up in reference to the letter from the Secy of the Court dated 9th Oct/57 do/100 with a view to show the course pursued by Govt. in former cases of defalcations discovered in Court Treasuries.

In 1834, defalcations were discovered in the cash chest of the late Zillah Court of Chittore. An investigation was instituted, but it led to no satisfactory result. Govt. placed no confidence in it, and the state of the accounts was such as to have rendered it vain to expect that a correct knowledge of the Receipts and disbursements of the Court could have been arrived at, or that further enquiry into the matter could have served any useful purpose. The Collector advanced the money to meet the deficiencies, and the Accountant General was ultimately authorized to write off the

amount so paid in the accounts of the Court. The exact amount embezzled was not known, nor were the parties who actually committed the frauds. The Judges and Registrars who held office during the time the embezzlements occurred were considered responsible, but the degrees of responsibility attached to each could not be ascertained.

The other case put up is that of defalcations in the Treasury of the late Provincial Court in the Northern Division. The special Commissioner who investigated the case, reported the amount embezzled, the names of the Judicial officers who had charge of the Treasury at the time, and the sum for which each was considered responsible. Each of these officers as were then in the service were called upon for any reasons they might have to offer to shew why they should not be required to make good the deficiency which occurred during the time they held office. On the receipt of their explanation and further enquiry, Govt. were of opinion that there did not

then exist any grounds for making any demands upon them.

10/10/57
27/10/57

For orders.

The orders of Govt are requested as to whether the suggestion of the Judge Klaster is to be acted upon - It would make

the loss fall upon Govt so much really as if paid from the public treasury, but the disbursement would not then occupy a prominent place in the accounts.

Mr. J. Scott during whose judgeship the chief defalcation took place, has just been permitted to retire from the service.

The records in two former cases of defalcations have been collected & are calculated with a view to

J. O.

22-50 50
This is a serious deficiency - & so far
as I am concerned - with the amount
amount might be covered on the
the courts reports - throughout the
country - without previous

I should like to know - what the
in the matter is - the court's order
to be by the Lord of Dec. 15/34 -
to a very great affair - & have
appear the two regular ^{periodical} statements
of the funds in audit of the books -

Can the judges have some responsibility

the receipt & payments?

63
If the judges have failed to conform to the
Rules prescribed for their guidance and
these papers have in consequence passed under
their hands, I think the judges should be held
responsible - and application be made
to the House of Commons to recover from those
who have retired from the service -
the only way to check such malversations is to hold
the officers responsible with the supervision of the servants
who have committed the frauds, responsible for
the acts of their subordinates. In this case all the
Judges were guilty of neglecting the precautions
prescribed for their observance & are jointly
liable for the amount so begged & enforced, & sh
Whether such a penalty can be imposed, & sh
affairs who have left the service is more than I can tell



Judicial Department

N^o 1327

Extract from the minutes of consultation
Dated 21st November 1857.

Read the following letter
from the Acting Registrar of the
Sudder Moamut.

(Here enter 9th Oct 1857 No 100)

1. In the above letter the
Court of Sudder Moamut bring
to notice certain defalcations
in the Treasury of the Civil Court
of Combaroom. From their
review of this case it is observed
that, at first, a deficiency of
Rs 1,640 was discovered in the
cash sheet which the Shooff
made good, and that subse-
quently, on a careful adjust-
ment of all the different
items

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H
H

But it is a question whether
Judicial Officers who have the
Custody of any public money
At Jambhik like Combaroom
where there is no salary
there must be a difficulty in
transferring all sums daily to the Bank
but at most stations there are
some & it would then be only necessary
for the Court to have an account with
the Treasury without drawing any
concern with the custody of money

As to the Judges staying all
month at Jambhik -
and yearly about 1000 Rs
sent up to the H. of the Treasury
in Jambhik - but not in Jambhik
no credit - is small of these
needs full -
2000 Rs

In no case is a larger
sum than 1000 Rs
ever kept - when it
exceeds this sum it
is almost invariably
sent to the Combaroom
The C.O. of 34 - if attended
to would present any
Judge paying money that
had not been paid up to
Court - & it is for him to
show that the Judges have
become responsible for this
deficiency - no difficulty

items of the accounts, it was found that a further sum of Rs 10,405-4-5 had been embezzled, of which, Rs 2034-11-0 had been paid into Court on account of Govt. and Rs 8316-5 on account of Private suitors, and Rs 54-4-0 had not been traced. The Court have issued instructions for bringing the thief to trial on a charge of Breach of Trust in those instances where he can be clearly proved to have received specific sums and to have not entered them in the accounts. They have also directed the dismissal of the Serishtadar and the late Nazir, Kistna Row, now District Moonsiff of Tetrapore, for having, by a culpable neglect of their duty, given

Cover

cover to the fraud; and, with a view to enable the Civil Judge to meet the demands of private suitors, the Court recommended that the Collector should be authorized to place the sum of Rs 8,370-9-5 to the credit of the deposit account of the Civil and Sessions Court, the same being disbursed from the unclaimed deposits from time to time carried to the credit of Govt.

2. The Right Honble the Governor in Council concurs in opinion with the Court of Sudder Adalat that the omission of the Presiding Judges to attend to the directions laid down for their guidance in C.O. 15th Decr/34, has afforded

opportunities

opportunities to the Sheriff to
commit the embezzlements;
and, in order to check such
malversations, his Lordship ^{in Council} con-
siders that officers vested with
the supervision of servants
guilty of frauds, should be
held responsible for the acts
of their subordinates. In this
case it appears that all the
Judges of the Civil Court,
neglected the precautions pre-
scribed for their observance,
and they are therefore justly
liable for the amount em-
bezzled. Of the entire sum
not forthcoming the Sudder
Adalat state, that Rs 200
were fraudulently appropri-
ated in the time of Mr J.
Pendergast, Rs 1485-11-0 in
that of Mr F. M. Lewin, Rs
8,364-13-0 in that of Mrs.
Scott.

+ explain what rules
are observed in regard
to the retention of depo-
sit monies in the
Court Treasuries - and if the system ~~is~~
amended or also
and what supervision

95
Scott, Rs 70 in that of Mr. L.
Fisher, Rs 150 in that of Mr. J.
Silver and Rs 80-8-0 in that
of Mr G. H. Ellis. Of these gen-
tlemen, the first has just
accepted an annuity, the two
next have retired from the
service and the three last
are now in India. The
Court of Sudder Adalat will
call upon Messrs Silver, Fisher
and Ellis for a refund of
the sums to which they have
respectively become liable; and
the case of the other three officers
will be laid before the House
the Court of Directors. Meanwhile
the Sudder Adalat
+ will ~~be~~ ^{be} ~~able~~ ^{be} ~~to~~ ^{to} ~~make~~ ^{make} ~~the~~ ^{the} ~~final~~ ^{final} ~~report~~ ^{report}
~~on the subject of the~~ ^{on the subject of the} ~~final report~~ ^{final report}
~~on the subject of the~~ ^{on the subject of the} ~~final report~~ ^{final report}
and if the system ~~is~~
defective in which
respect it may be

is exercised on their
part to ensure due
conformity with the
Circular order of
5 Dec 1834.

~~that could be done the~~
~~will be that now~~
~~attends the College of~~
~~the College of~~
~~the College of~~
~~the College of~~
~~the College of~~
~~the College of~~
~~the College of~~

3. The Right Honble the
Governor in Council authorizes
the collector of Tanjore to place
the sum of Rupees (8370-9-5)
eight thousand three hundred
and seventy, annas nine
and nine five to the credit
of the Civil and Session Court
of Combaconum, the same
being disbursed from the
unclaimed deposits carried
to the credit of Court.

[Signature]

Copy to the S. Board
" Accountant Genl
" Civil Auditor
" Collr of Tanjore

Disptd 25th

Pt O

Qty to Com 24 4 hours
Judicial 1857 separate

28/5/57

Expense to Min: of Com

28/5/57 1857

Quoted to Eng & Co. 1857
No 2 of 1858. Para 26
No 10 to 12 of 1858

No 2004 Com 125 June 1858 14304
310/58 12 March 1858 53054
1911

No 179 of 1859
228 of 1860

Passing orders
on the report of the
deputations in the
treasury of the
United States of
America

55456