MR. G. 1—82(00—19-11-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 888 Press ~~MRS.~~

68-71

Dated 19 — 8 — 1871

Not to be folded or roughly handled

Read the following papers.

No. 69. From W. ROBINSON, Esq., Acting Magistrate of Malabar; to T. PYCROFT, Esq., Chief Secretary to Government, Judicial Department, dated Payangaddy, 18th March 1857, No. 45.

SIR,

1. With reference to my letter, under date the 12th Instant, forwarding papers relative to the charge of torture preferred against Hamod Koorikul, Subadar of the Malabar Police Corps, I have the honor to forward an extract from a letter* just received from Major Haly, as the matter of the continuation or otherwise in the service, of two of its members, is under the consideration of Government.

* 16th March 1857.

2. The letter from which this is an extract, has reference to other matter of correspondence, in which Major Haly takes exception to Mr. Thomas' proceedings and the wording of his decision in the case, matters which have been before the Sessions Court in Appeal, and which are such, as I will not if possible, trouble the Government with.

(Signed) W. ROBINSON,
Acting Magistrate.

Extract of a letter from Major HALY, Commandant Malabar Police Corps, dated 16th March 1857, to the Acting Magistrate of Malabar.

I must offer a few remarks on the character given of the Koorikul family, as "lawless," "violent," and "daring," which is not, I take it, borne out by the precedents of either the Subadar, or his father, (1st Defendant), on the contrary, they have always I have understood, behaved with the greatest, and marked loyalty. The Subadar, was recommended to me by Mr. Collett, who was well acquainted with the history of his family, as well as *personally*, for *many* years, with both father, and son, and it would be strange indeed, if that functionary had recommended a man for so important a post, who bore the character now attributed to him, or that the father should have so long, have been permitted to hold the responsible situation of Adighary, but so much importance did I place on the necessity of having none but men of unimpeachable character in the Corps, more particularly as "*Native Officers*," that ere permanently bringing "Subadar Munjerry Ahmod Koorikul" on the strength of the Corps, I consulted with the late Mr. Conolly, who had been, I believe, then upwards of 14 years as Collector of Malabar, and his opinion was that I could not have a more fitted man, as Subadar of the Corps, and again the Collector of Malabar, (Mr. Clarke), one not likely to give a hasty opinion, has left on record his opinion of the valuable service rendered by the Subadar last year in the collection of "fines," and I must not omit to bring to notice, with reference to the murderers of the late Mr. Conolly, that had the Subadar's advice given, and *urged* through me, been attended to, they the "runaway convicts" must have been apprehended, ere they could have committed their foul, and to be lamented deed of blood.

Vide letter from the Collector of Malabar, dated 27th March 1857, No. 50.

Havildar Ulluran Moosa was likewise received in the Corps, on the recommendation of Mr. Collett, and was at the time of his transfer, a Talook Peon in personal attendance on the Special Assistant.

(True Extract.)

(Signed) W. ROBINSON,
Acting Magistrate.

No. 70. From W. ROBINSON, Esq., Acting Magistrate of Malabar; to T. PYCROFT, Esq., Chief Secretary to Government, Judicial Department, Fort St. George, dated Calicut, 8th April 1857, No. 56.

SIR,

From	Major Haly,	7th March	1857,	No.	55.
To	do	9th do.	,,	,,	673.
From	Spec. Asst. Magis.	13th do.	,,	,,	125.
Do	Major Haly,	16th do.	,,	,,	65-1 Encl.
To	do	24th do.	,,	,,	827.
From	do	27th do.	,,	,,	75.
To	do	28th do.	,,	,,	855.
From	do	4th do.	,, April	,,	79.

1. I greatly regret to find myself constrained to occupy the time of Government with the accompanying correspondence with Major Haly.

2. It arises out of exception taken by Major Haly, to my Special Assistant's proceed-

ings in the case of torture brought against the Mopla Subadar of the Malabar Police Corps and one of the Havildars, the decision, &c., in which, are now before Government.

Vide my letter dated 12th March 1857, No. 41. and Enclosure.

3. The case has been twice before me, has been twice reviewed by the Sessions Judge, and has been affirmed by the proper authorities, the decision upheld and deemed consistent with the evidence. The delay in the disposal thereof has been accounted for, and though considerable, was under the circumstances unavoidable. Major Haly's position has been laid down in Extract Minutes of Consultation, dated 12th September 1854, No. 650, and I do not think it was intended to confer a jurisdiction over such matters on the Officer Commanding the Corps. I think therefore in a legal point of view, his exceptions are untenable, and I regret to add that I think the effect of Major Haly's opening a controversy in such matters, is not calculated to do good.

N. B. Mr. Thomas had on hand the heavy charge against Cootoossa, Head of Police of Ernaad.

4. I am sorry that matters which passed in conversation, should appear in dispute in this case. The circumstances as they occurred were these: I called on my Special Assistant to submit for my consideration, before committing the case to Criminal Court, the entire record. I knew nothing of the true bearings of the case till I received this. But having the important proceedings before me when Major Haly happened to be staying with me, on his way to the Court of Enquiry in December last, I conversed with him freely on the subject, and in drawing up a memo. of instruction to my Special Assistant for the further examination of the charge, pointed out the matter which Major Haly had mentioned in conversation, requesting him to substantiate these points when Major Haly should return to Malaprom.

5. With this explanation, I leave the matter in the hands of Government.

(Signed) W. ROBINSON.
Acting Magistrate.

From W. ROBINSON, Esq., Acting Magistrate; to E. C. G. THOMAS, Esq., Special Assistant Magistrate of Malabar; dated Calicut, 29th December 1856, No. 4193.

SIR,

After a most careful examination of the proceedings * in the case given in the margin, and careful personal communication with Major Haly, Commandant Malabar Police Corps, I think that further matter is required on the record as to the main and indisputable facts of the case.

* Herewith returned.
Pootenporaikal Valoo, *Versus.*
1 Manjerry Coonhamod Koorikutil, Payenad Adigharry.
2 His son Ahmod Koorikal, Subedar, Malabar Police Corps.
3 Oolwan Moota, Havildar do.
4 Koollyodan Hyderman.

The first of these is that there was a motive for the torture applied. Major Haly distinctly recollects that the 2nd Defendant did, about that time, apply for leave to return to his village, and that mention was made of money having been found in the wall of a house of the 2nd Defendant and that he went to enquire about it, and that he (Major Haly) did consent to his hasty visit home. This must be carefully sifted and appear on the record, with any Extract, General Books, &c., which Major Haly states he can probably shew at Mallapooram, without these books, he states his inability to be precise in the matter of these proceedings. Likewise it must be established whether and how far it is clear that Moota, the Havildar, was not present with his Corps on that date, this point has scarcely been gone into, and when such reliable testimony is procurable, it must be preferred to native Witnesses.

The date of the alleged torture was 10th Methonom, corresponding with Friday 22nd June 1855. It does not appear how this was arrived at. The day was a Friday, on any Friday or Sunday it is, or was at that time, Major Haly informs me, quite possible for the Moslems of the Corps to be absent from the Cantonment, without it being known or to steal away to their village. This should appear on the record. The patent interpolation in the Morning Presence Roll of the Police Corps of the 23rd Saturday as pointed out by you, has a most damaging appearance. I must term the Writer's explanation improbable and shuffling. Major Haly tells me that he has remained unaware of this fact, and would, had he been asked, have aided the enquiry or cleared up doubts on the point. His explanation of this seems indispensable. It is manifest that the really reliable evidence on this point must be obtained in this manner.

If the point could be strengthened in evidence that Plaintiff was actually the man engaged in the work, in the house of 2nd Defendant, by any circumstantial matter, it might be of value in rebutting a defence which will be set up.

There is evidence as to the state of the wall at the time, and such appearances about the cavity as would justify on the part of the Defendant, a surmise that it might have had a pot or other vessel, containing valuables. It has been ascertained by yourself that this is its condition to this day, but evidence should have been received on the point, which supported by proof of what Major Haly heard at the time, would probably have been conclusive on the point of the existence of a motive for torture.

The lawless violent character of the Moplas of Payenaad country is proverbial, and the Korrekul family are probably the least scrupulous in such matters of the whole population. Havildar Moota's character, as a man of violent character, &c., appears from the record and decision of the Magistracy under dates 24th October and 2nd and 5th November 1853. The probabilities of the crime are greatly enhanced by this fact, but I must admit I wholly distrust the direct evidence of Mopla witnesses to the actual infliction of torture by fire. There is, however, the evidence of the sufferer himself, if it cannot be impugned, and the evidence to the sloughing away of the tips of the fingers, the likely result of neglect ed bruises of a severe nature, subsequently to the date of the injury, is quite credible, and there is the uniformly consistent account as to the cause given by the sufferer. But it is evident that in a case of this description, the more satisfactory the professional Medical evidence the better. Does the appearance of the cicatures, lead to the belief that they are not the result of natural causes as leprosy, &c., that the origin has not been of older date than that laid in the charge, and that they are such as are in a reasonable degree likely to result from such injury? If all these points are to be established with reasonable legal credibility, I consider that it must be left to a Judicial tribunal to give such weight to the line of defence taken, and such obvious weaknesses in the matter, as the tardiness of bringing it forward, &c. Otherwise it were better to hold the parties to security, under the extended powers, and to seek further evidence. You have no jurisdiction in the disposal of such a charge.

The fact of representing the matter to the Tahsildar ought, if possible, to be established.

(Signed) W. ROBINSON,
Acting Magistrate.

(True Copy.)

(Signed) W. ROBINSON,
Acting Magistrate.

From W. ROBINSON, Esq., Acting Magistrate; to E. C. G. THOMAS, Esq., Special Assistant Magistrate, Mallapooram, dated Calpetta, 26th January 1857, No. 207.

SIR,

In reply to your letter dated 21st Instant, and in continuation of mine, dated 29th Ultimo, I have the honor to state that, although I agree with you in the opinion that the case has most suspicious features as against the Defendants and the tale is to be discarded as untrue, but it has likewise points so weak, that I do not think it could be committed with any hope of the result being a legal conviction.

In my former communication I pointed out the desirableness of strengthening the European evidence, as well the Medical as that of the Commanding Officer, this has not been the result of the further enquiry, while with regard to the latter Officer, the reverse is the case.

It appears that both the Subadar and Havildar are entered in the day-book as for duty on the several days about the time laid in the charge, and the point can scarcely be rebutted by the fact that an alteration has apparently been made in the day-book. Alterations of similar description to that remarked on the 23d June are prevalent throughout this very inconclusive document, and the alteration was made by a person who has not had access to the book since it became important to the Subadar, &c., to appear to have been elsewhere than at Payenaad, the direct evidence of this official, though loosely kept record, supported as it is by the opinion of the Commanding Officer, could scarcely be rebutted by the suspicious appearance of the entry in the one instance.

With reference to the other evidence, we could not, I think, ask one moment's credence of the direct Mopla evidence to the use of torture, and I must say that valuable as the Unshom Menon's evidence is as to the appearance of the wall, and therefore to a circumstance from which to infer a motive for torture, I do not think credit is due to it when he enters on the preparation for the use of torture by fire. The Witness Mookyesten, Keshwa Panikar, who accompanied him to the house to inspect the wall and then returned with him to the Adighary's house, does not depose to the presence of either the Subadar and Havildar on the preparation for torture by fire, and under this circumstance, I think that the Menon's (in a bitter feud with the Kootkuli) evidence on this point must be received with great distrust when coupled with the fact that he too has kept silence for nearly a year and a half, although he had in the interim had differences and made official complaints against the Subadar to Mr. Collett, and was in communication with his European superior on the subject of their violence towards himself.

The oral evidence then consists of the Complainant's statement of which the record reads confusedly as it is, and you do not seem to have confidence in his ability to relate his tale intelligently before a Court of Justice, and I must admit that though the great fact of torture having been used may be true, I consider his statement in detail as improbable and manifestly cast in such a form as to fit with the Menon's and Mopla's statements. The other evidence partakes of the character of hearsay, which though it would be valuable in support of conclusive or even positive medical evidence or opinion, would not support a conviction and could scarcely justify a committal for trial which, I certainly should not direct, leaving the matter to your discretion.

The suspicion however as against the Adighary is so strong that, I think he ought to be removed from the office whatever you decide.

(Signed) W. ROBINSON,
Acting Magistrate.

(True Copy.)

(Signed) W. ROBINSON,
Acting Magistrate.

From Major G. T. HALY, Commandant Malabar Police Corps; to W. ROBINSON, Esq., Acting Collector of Malabar, Calicut, dated 7th March 1857, No. 55.

Sir,

Having observed in a copy of the proceedings in a trial for torture, furnished to Havildar Moossa, of the Malabar Police Corps, and by him referred to me, several remarks made by the Special Assistant Magistrate which reflect the utmost discredit upon my character, and others of the Corps under my command, in fact tantamount to an accusation of complicity in the case, I have the honor to request that you will call upon that Officer to withdraw his groundless and unwarrantable assertions, or refer the matter at once, with the *whole* of the correspondence regarding it, for the consideration of Government, the recorded merits of the case being sufficient in themselves, but few explanations are required.

"The books of the Malabar Police Corps (in which 2nd and 3rd Defendants are respectively Subadar and Havildar) had on the date in question, the place of 2nd and 3rd Defendants left vacant as absent, but these were afterwards filled up by an interpolation at some date unknown. The Commanding Officer of the Corps (who did not forward the books in question till written for, for the third time) states that he heard of some such circumstance at about the period in question; and again positively that he did not hear any thing." A Serjeant of the Corps says it was a common thing for the Subedar to be away without notice being taken of it, and recollects a report of his having gone, at about the stated date, for the purpose above mentioned."

The Special Assistant Magistrate distinctly charges me with prevarication, and a desire to screen a guilty man, throughout I deny the accusation both on the part of myself, and that of the Serjeant Major of the Corps, and am ready to prove that the evidence given by both of us, has been straightforward and honest. I assert that there have been no interpolations in the books of the Malabar Police Corps, and that the Special Assistant Magistrate's assertions regarding these are as untrue as they are unjust, and I further deny that there was any reluctance shown in forwarding the books of the Malabar Police Corps; on the contrary, every and most willing assistance, was given to Mr. Thomas by myself and those under my command, in carrying out the enquiry, and which I may here add extended over a period of about 4 months as per Official Records, though I now hear that the matter was some time previous in hand.

Both Serjeants Ryan and Williams positively deny the assertion made with reference, that either of them said "that it was common thing for the Subadar to be away without notice being taken of it, and recollects a report of his having gone at about the stated date for the period above mentioned." It is difficult to account for the imaginary conclusions arrived at by the Special Assistant Magistrate, but I am willing to make every allowance for Mr. Thomas' youth and inexperience, but I cannot permit that so grave an accusation should stand as a public record against an Officer of my standing and position, nor against others under my command without indignantly and promptly refuting it, and I consider that my duty to the State demands not only a retraction, but an apology, prompt and public.

I shall refrain from any comments either upon the merits of the case itself, the decision, or steps taken, with reference to the Defendants, but I may be permitted to remark, that one of the Subadar's great complaints is "unfairness in the examination of his Witnesses" and Serjeant Ryan declares, that he never was put to so severe a cross examination* (with the view of extracting some particular point in evidence) so much so as at last to force from him the remark to Mr. Thomas, "There can be no must in the case sir," "I can only state what I know," "I am no blackey," or words to this effect.

* Which lasted about 6 hours.

(Signed) G. T. HALY,
Commandant Malabar Police Corps.

N. B.—Should this subject have to be referred to Government, I request that it may be done with the least possible delay, particularly should the matter regarding the Subadar and Havildar already be before Government.

(Signed) G. T. HALY.

From W. ROBINSON, Esq., Acting Magistrate; to Major G. T. HALY, Commandant Malabar Police Corps, Mallapooram, dated Calicut, 9th March 1857, No. 673.

Sir,

I have the honor to inform you, that I have forwarded your letter, dated 7th March, to the Special Assistant, for such remarks as he may make, and shall be able speedily to communicate the result to you.

I observe that you take exception to the word "interpolation." I have examined the Morning Presence Book in question, and considered the evidence on the point. I think that a subsequent alteration is apparent, but as I remarked in my letter to the Special Assistant, under date 26th Ultimo, "alterations of a similar description to that remarked on the 23rd June are prevalent throughout this very inconclusive document," and I considered that it was not to be relied on however suspicious the appearance might have seemed to my Special Assistant's mind.

You of course best know whether the Special Assistant addressed you three times before procuring the books, and whether the Special Assistant had before him on the record any explanation of what he seems to have deemed prima facie reluctance to furnish them, if so, I beg you will kindly forward me a copy of that explanation. Your letter of the 9th December last, on the subject of the enquiry, I have by me.

I have not the record of the case before me to refer to the reply made by you to the Special Assistant on his instituting the further enquiry directed by my letter under date 29th December, but I was certainly surprised to observe from the decision that you had ignored so much of what passed in conversation with me the day the accompanying letter† was drafted when you were staying with me on your way to Cannanore.

† To the Special Assistant Magistrate dated 29th December 1856.

I will refer to Serjeant Williams' &c. statement when I receive the record and supply Mr. Thomas' explanation of the latter part of your letter under acknowledgment.

If the matter requires to go to Government, it will be best to have the record complete.

(Signed) W. ROBINSON,
Acting Magistrate.

From E. C. G. THOMAS, Esq., Special Assistant Magistrate; to W. ROBINSON, Esq., Acting Magistrate of Malabar, dated 13th March 1857, No. 125.

SIR,

I have the honor to acknowledge the recept of your letter of 9th Instant, with enclosures.

Regarding my conduct and decision in the case, there is but one point that needs explanation. I have said, "a Serjeant of the Malabar Police Corps recollects a report of his (the Soobadar) having gone at about the stated date for the purpose above mentioned" this sentence is not on the records and was said to me by one of the Serjeants, but not at the time of taking down the Depositions.

The ground for every other remark will be found in the records of the case. With regard to the cross-questioning, Serjeant Ryan was in my house for some time, as I could not examine him immediately on his arrival, and was frequently interrupted after I had begun to try other work which I was carring on at the same time; the Deposition, no very long one, contains the greater part of what he said and of course no more, and the assertion that his cross-examination lasted about 6 hours is untrue.

The insulting expressions Serjeant Ryan is said to have used were never uttered in my hearing, or at all that I am aware of with the exception of the expression that "he could only state what he knew" and this was in reply to a remark from me to him to the effect that though I had felt it my duty to question him considerably in order to insist upon his stating all that he really did know, he must not of course admit a word of which he was not certain.

When Serjeant Ryan's examination commenced, he was by no means inclined to afford me the information regarding giving leave in Corps, &c., which (as appears in his Deposition) he afterwards did. I had to point out to him that his position in the Corps necessarily gave him information on this point, and to insist upon his making some statement

I do not conceive that many remarks are called for from me either in explanation of my own conduct, or with regard to Major Haly's remarks.

I by no means wish to take upon myself the charging of Major Haly with complicity and prevarication as he seems to think, the remarks in the decision objected to by that Officer are merely a part of the summary of the evidence, and are dependant upon the public records in the case.

I believe I did but my duty in the question, and having advanced nothing that is untrue or improper, have of course no apology to offer.

I do not know why Major Haly has seen fit to defend so frequently those under his command in the Corps, as being under discreditable reflections from me, there is no remark that can be so called by any but himself. I do not know why you have thought it necessary publicly to tell me to be temperate. I am not aware of having transgressed.

(Signed) E. C. G. THOMAS,
Special Assistant Magistrate.

From Major G. T. HALY, Commandant Malabar Police Corps; to W. ROBINSON, Esq., Acting Magistrate of Malabar, dated 16th March 1857, No. 65.

SIR,

In reply to your letter, No. 673, (Magisterial Department), dated 9th Instant, I have the honor to forward copies of the correspondence which has passed between the Special Assistant Magistrate and myself, with regard to the case of the Koorikul Soobadar, and to appeal to any impartial tribunal to decide as to whether the assertions made by Mr. Thomas regarding the reluctance evinced by me in assisting him in the enquiry, are not flatly contradicted by the direct evidence of these documents.

It is true that I consider the manner in which the whole case has been conducted by Mr. Thomas has been both generally improper and disrespectful to myself, both as Commandant of the Police Corps and a sworn Magistrate and Justice of the Peace, and has evinced a want of confidence in me from the very beginning, but when he asserts that in a matter of public justice,

I should for an instant allow my private feelings to stand in the way of an official investigation or endeavour to screen a culprit from deserved punishment, he makes an accusation as unjust as it is ridiculous.

The Morning Report, or presence book, which has been so often referred to, is of course an inconclusive document, as I stated in the very commencement of the case: and worth nothing whatever as evidence, in as much as it has never been signed. Even in its present condition, however, that there have been "interpolations" which I take to mean "*fraudulent* insertions" made in it, I utterly deny.

Letter No. 464, dated 16th December 1856.

Much stress is still laid upon the assumed fact of these "interpolations" although my explanation of them in the correspondence, I maintain to have been clear and satisfactory to any unprejudiced, mind, and cannot but express my regret that the Special Assistant Magistrate has strong bias in favor of the Prosecutors, and thorough belief from the outset, in the truth of the charge laid against the Defendants, should have led him to cast a slur in the evidence given by three Christian men, one of whom is an Officer and a gentleman, merely because such evidence did not coincide with his own pre-conceived ideas on the subject.

About 5 P. M., just preceding our evening drive.

You are in error with regard to the conversation which you alleged to have passed between us on the 29th December last, the date and purport of which have alike apparently escaped your recollection. I was in Cannanore on the 29th of December last, and no conversation could possibly have passed between us on that day, the conversation which did take place was on the 26th, in which I did not distinctly recollect that the 2nd Defendant did about that time, (*i e.* 22nd June 1855) apply for leave to return to his village, and that mention was made of money having been found in the wall of a house of the 2nd Defendant, and that he went to enquire about it, and that he (Major Haly) did consent to his hasty visit home," what then I stated to you was that "it was my *belief* that the Subadar did obtain leave for some such purpose, but that I did *not distinctly* recollect any thing about it, and could give no precise information till I had seen the books of the Corps, and been at Mallapooram," but this is shewn in your letter to Mr. Thomas, and the fact of my volunteering to search out evidence must speak for itself, but Mr. Thomas has here drawn his conclusions on hearsay evidence.

In self-defence, I must offer a few remarks on the character given of the Koorikul family, as "lawless," "violent" and "daring," which is not, I take it, borne out by the precedents of either the Subadar, or his father, (1st Defendant.) On the contrary, they have always, I have understood, behaved with the greatest, and marked loyalty. The Subadar was recommended to me by Mr. Collett, who was well acquainted with the history of his family, as well as *personally* for *many* years, with both father, and son, and it would be strange indeed, if that functionary had recommended a man for so important a post, who bore the character now attributed to him, or that the father should have so long have been permitted to hold the responsible situation of Adighary, but so much importance did I place on the necessity of having none but men of unimpeachable character in the Corps, more particularly as "*Native Officer*" that ere permanently bringing "Subadar Manjerry Ahmod Koorikul" on the strength of the Corps. I consulted with the late Mr. Conolly, who had been, I believe, then upwards of 14 years as Collector of Malabar, and his opinion was, that I could not have a more fitted man as Subadar of the Corps, and again the Collector of Malabar (Mr. Clarke,) one not likely to give a hasty opinion, has left on record his opinion of the valuable services rendered by the Subadar last year in the collection of the "fines," and I must not omit to bring to notice with reference to the murderers of the late Mr. Conolly that had the Subadar's advice, given and *urged* through me, been attended to, they the "runaway Convicts" must have been apprehended, ere they could have committed their foul, and to be lamented, deed of blood.

Havildar Ulluvan Moossa was likewise received in the Corps on the recommendation of Mr. Collett, and was at the time of his transfer a Talook-Peon in personal attendance on the Special Assistant.

(Signed) G. T. HALY, Major,
Commandant Malabar Police Corps.

Copies of correspondence between E. C. THOMAS, Esq., Special Assistant Collector, and Major G. T. HALY, Commandant Malabar Police Corps.

To Major G. T. HALY, Commandant Malabar Police Corps, Mallapooram, dated 9th December 1856.

SIR,

I have the honor to request you will oblige me with a perusal of any books that may be kept showing the absence on leave or otherwise of the members of the Malabar Police Corps since the 1st of June 1855, the same being needed in an enquiry now before me.

I should be obliged by your informing me whether it is possible for any of the members of the Corps to have been absent on days on which the memo: above mentioned does not notice it; also for what number of hours a man might absent himself night or day without being missed.

(Signed) E. G. THOMAS,
Special Assistant Collector.

To E. C. G. THOMAS, Esq., Special Assistant Collector of Malabar, Pynaad, dated 10th December 1856, No. 455.

SIR,

With reference to your letter of yesterday's date, I have the honor to request that you will furnish me with the name of the individuals for whom the information regarding leave of absence from the Corps is required, when I shall immediately furnish you with a certified memo: of any leave they may have had from the date specified.

No man of the Corps can possibly be absent more than 8 hours during the day, or eleven hours during the night, without the same being brought to notice and recorded.

(Signed) G. T. HALY, Major,
Commandant Malabar Police Corps.

To Major G. T. HALY, Commandant Malabar Police Corps, dated 16th December 1856.

SIR,

I have the honor to acknowledge the receipt of your letter of the 10th Instant.

When practicable, it is enjoined that originals be always consulted in Judicial enquiries in preference to copies, and since I am now in the immediate neighbourhood, I have the honor to request you will permit me to see the books mentioned in your letter.

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

To E. C. G. THOMAS, Esq., Special Assistant Magistrate, dated 16th December 1856, No. 462.

SIR,

In reply to your letter, No. of this date, I have the honor to forward the Morning Report Book of the Corps under my command, from which you will be able to obtain any information regarding leave that can be required. You will perhaps be so kind as to return the books as soon as practicable after perusal, as they are required for daily examination.

(Signed) G. T. HALY, Major,
Commandant Malabar Police Corps.

To Major G. T. HALY, Commandant Malabar Police Corps, Mallapooram, dated 16th December 1856.

SIR,

I have the honor to acknowledge the receipt of two Morning Report Books, forwarded with your letter of this day, and to assure you that they shall be returned without delay.

In my letter of 9th Instant, I mentioned that I wished for information regarding the absence of men of the Corps from the 1st June 1855, but I observe that the Morning Reports now forwarded only commence with July, as the reports for June are essentially required in the case, I have the honor to request you will further oblige me by sending the Reports for that month.

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

To E. C. G. THOMAS, Esq., Special Assistant Collector of Malabar, dated 16th December 1856, No. 464.

SIR,

In reply to your letter of this day's date, just received, I have the honor to forward rough Memo. Book, for the period alluded to by you, but as you will observe, that it is without signature, and consequently I fear can hardly be adduced as evidence. The causes for there being no regular Morning Report Books up to this period, are two-fold; viz., the unformed state of the Corps at that period, and the non-arrival of the regular books for the Corps.

(Signed) G. T. HALY, Major,
Commandant Malabar Police Corps.

To Major G. T. HALY, Commandant Malabar Police Corps, dated Mallapooram, 19th December 1856.

SIR,

The "remarks" in the Morning Report sometimes referring to members of the Corps merely by number, I cannot of course without a table shewing their number, understand who are referred to, and as there was no such list sent with the books, I thought it might have been an inadvertency, and directed my writer to ask yours if there was such a thing, to lend it. It appears, however, that written request is required, so I have the honor now to request you will send me such list as shall enable me to understand to whom the various remarks in the Morning Report Books since the 1st June 1855.

I regret having kept the books so long, but shall be able to return them to you I hope a few minutes after the receipt of such list.

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

To E. C. G. THOMAS, Esq., Special Assistant Magistrate, dated Mallapooram, 19th December 1856, No. 469.

SIR,

In reply to your letter of this day's date, just received, I have the honor to state that as I have already furnished you with the Morning Report Books of the Corps under my command for your information, as far as I was able to afford it, as well as the attendance of the Serjeant Major of the Corps to explain the entries in them, I can only regret that it is out of my power to render you the further assistance apparently requisite to enable you to understand them. If you would be good enough to furnish me with the names of the individuals regarding whom you wish to be informed, I shall be happy to supply you with whatever explanations

you require, as I have already assured you, but as I am at present utterly ignorant as to what can be your object in thus calling for the records of the Corps, as well as the presence of so many of its members, I am sure you will excuse me for requesting more explicit information. I have the honor herewith to send you the Muster Rolls and Abstract from the formation of the Corps, with the original Company Number of the men from which perhaps you will be able to gather for yourself the information required.

(Signed) G. T. HALY, Major,
Commandant Malabar Police Corps.

To Major G. T. HALY, Commandant Malabar Police Corps, Mallapooram, dated 21st December 1856.

SIR,

I have the honor herewith to return the 5 books you so obligingly forwarded for my information.

I regret it was necessary to inconvenience you in any way by requiring the presence of some of the members of the Corps for a time, but as they were cited as Witnesses by the Soobedar and Havildar under trial, I am sure you will see that it was unavoidable.

The reason why I was compelled to ask for further information yesterday was, because the Serjeant Major and Writer were as ignorant of the persons to whom the numbers referred as myself.

Availing myself of your obliging offer to afford any information I may require, I have the honor to request the dates on which the undermentioned men joined the Corps.

HavildarMoondyin Moochikul Eny.
Ditto Marootha Shaik Moideen.
Ditto Valliagatha Hydross.
Naigue Eroocoonnan Mammadoo.
Private Parappacoonnan Mammoodoo.
Private Torapah Ahomed.
Private Kalloovatty Koil Moideen
Havildar Ullooran Moosa.

As I find the Books are sometimes at fault, I have the honor to request you will inform me whether you can recollect Subadar Munjerry Ahmod Koorikul and Havildar Ullooran Mossa, having been absent for a day in June 1855, and also whether about that time a report reached you either from the Subadar or any one else of a suspicion of treasure having been found in the wall of a house of his in Pynaad.

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

To E. C. G. THOMAS, Esq., Special Assistant Magistrate of Malabar, dated Mallapooram, 20th December 1856, No. 470.

SIR,

In reply to your letter just received, I have the honor to afford you the following information, derived from the Regimental Register.

Havildar	Choudy Moochikel Ahmod	entered the Corps	on the	18th January	1856.
,,	Shaik Moideen	do.		1st do	,,
,,	Balliagatha Hydross	do.		1st February	,,
Naigue	Hairee Coonen Mahomed	do.		30th July	1854.
,,	Kooppoonen Mahomed	do.		18th January	1856.
Private	Torapah Ahomed	do.		23rd May	1855.
,,	Kalloovetty Mohdeen	do.		24th July	1854.
Havildar	Moosa do.	do.		24th do.	,,

With regard to the 2nd para : of your letter, I have the honor to state, that I have no recollection, nor can I discover from the Morning Reports of June 1855, that Havildar Moossa either had leave or was absent during that month. As regards Subadar Ahmod Koorikul, it appears that he was on leave during the first 18 days of June, although not having been present with the Corps until the 13th ; I cannot vouch for the correctness of the circumstance, I have a recollection of a report of the nature you mention having reached my ears, but upon whom or in what month it originated I cannot possibly say.

(Signed) G. T. HALY, Major,
Commandant Malabar Police Corps.

To Major G. T. HALY, Commandant Malabar Police Corps, Mallapooram, dated 5th January 1857, No. 1.

SIR,

Under instructions from the Acting Magistrate, I have the honor to request you will give me the fullest information you possess regarding the circumstances referred to in my letter of the 20th Ultimo, and your reply of the same date.

1. I request you will inform me whether during the latter part of June 1855, either Subadar Munjerry Ahmod Koorikul, or Havildar Ulluran Moosa or both of them had leave of absence from the Corps or were absent without leave?

2. How long they were respectively absent.

3. Where they each went ?

4. For what purpose they asked leave ?

5. Whether the Subadar or any one elsetold you at the time that his object was to go to his Umshom and inquire regarding some treasure which he heard had been found in the wall of his house ?

6. What was the result of this enquiry as far as you have heard ?

7. Has the report ever reached you that torture was inflicted on this occasion ?

8. If so, when did you hear this ?

I observe that in one of the books of the Malabar Police Corps for June 1855, the Soobadar's place was at first left vacant throughout all the columns on the 23rd, and that the usual mark of presence the figure one was afterwards inserted in the column "for duty," the interpolation is manifested, and the writer's explanation of it not altogether satisfactory. The Acting Magistrate informs me that you told him you could probably throw some light on this circumstance on your return to the Corps by Extract General Books, &c.

9. I have the honor therefore to request you will afford me all the information of which the circumstance is capable.

10. Were Subadar Ahmod Koorikul or Havildar Ulluran Moosa absent from the Corps during the 22nd or 23rd of June 1855 ?

11. Is or was it then possible for members of the Corps to be absent unperceived on Fridays and Sundays, more readily than on other days.

12. For what number of hours might they escape observation on these days ?

While asking direct, and full replies from you to the above (12) questions, I have the honor to request generally that you will afford me all the information, and assistance in your power towards ascertaining the truthfulness or otherwise of the charge brought against the Subadar and Havildar, of having burnt a man's finger in Pynaad on the 22nd or 23rd June 1855.

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

P. S. I request you will forward to me for transmission with the other records in the case, the rough book for June 1855.

To E. C. G. THOMAS, Esq., Special Assistant Collector Munjerry, dated 11th January 1857, No. 484.

SIR,

I have the honor to acknowledge receipt of your letter, No. 1, dated 5th January 1857, containing 12 queries and paragraphs and requesting me to afford you assistance in ascertaining the truthfulness or otherwise of a charge of which you now for the first time officially inform me.

Questions 1, 2, 3, & 4. The first four of these questions I have virtually answered before in my letter No. 470, dated 20th December 1856, but as you do not appear satisfied on the subject, I now tell you distinctly that to the best of my belief, neither Subedar Ahmod Koorikul nor Havildar Walloova Moosa either had leave of absence from the Corps in the latter part of June 1855, nor were absent without it.

Question 5. A report, as I told you before, did reach my ears in the course of 1855, that it had been rumoured that money had been found in the wall of a house lately purchased by the family of Subadar Ahmod Koorikul, with whom this report originated I do not know, and it did not strike me, particularly at the time, as I considered it improbable.

Question 6. I recollect questioning the Subadar as to the truth of the report that money had been found in his house, when he replied that such had likewise been told him, but he was sorry to say that there was no truth in it.

Question 7. No report or rumour of torture having been used in any such enquiry as that you mention, ever reached my ears. I have lately heard that such an accusation has been made.

Question 8. I cannot agree with you in your assumption or rather assertion with regard to the interpolation of a figure in the Morning Report Book for June appearing exceedingly manifested, and the account of the writer's explanation of it not being satisfactory.

The Morning Report Book for June is in the hand writing of Serjeant Major Bodkin, who has now been absent from the Corps about 13 months and who not only can have had no motive for such interpolation, but has been unable to put in practice if he had. Besides this, it is impossible, that as you infer the Subadar's place could be left vacant through *all* the columns on a particular day, without notice being taken of it, the man must be accounted for *somewhere* every day in the Morning Report Book columns: and if therefore it is asserted that one figure is an interpolation in a particular place, it is necessary also, that another place should be shewn where the original figure stood and has been scratched out, and such the Morning Report does not shew to be the case.

As evidence that the figure "one" in column "for duty" under the head "Subedar" is not a "collusion," see the numerous similar "interpolation" or rather alterations throughout the Morning Report for June 1855. It is evident that the alteration has been caused by a previous mistake under the head Jemedar where it will be observed, that a 1, has been altered into an 0, thus 0.

Question 9. With regard to this para, I am unable to give any other explanation or information than that shewn by the Morning Report of the Malabar Police Corps for June 1855.

Question 10. Question asked and answered before. Vide No. 1.

Question 11. There are not usually dress parades for the Corps on Fridays and Sundays, but there are Roll Calls instead at 6 A. M. and 4 P. M., besides the undress parade for Arms cleaning, at 8 A. M., all under the personal superintendence of the Native Officers, supervised by a Serjeant. I do not therefore consider it probable that a man can be absent * unperceived on those days, although the parades then not being under the Commissioned European Officers, such might be possible *without their knowledge*.

* See my letter No. 455, dated the 10th December 1856.

Question 12. To the best of my knowledge and belief there can be no truth in the accusation that Subadar Ahmod Koorikul and Havildar Moosa burnt a man's finger in Payanaad on the 22nd and 23rd of June 1855.

In accordance with the request contained in the P. S. of your letter, I forward the Rough Morning Report, for June 1855.

(Signed) G. T. HALY, Major.
Comandant Malabar Police Corps.

(True Copies.)
(Signed) G. T. HALY Major,
Commandant Malabar Police Corps.

Fort St. George, Judicial Consultation, 19th May 1857.

From W. ROBINSON, Esq., Acting Magistrate; to Major G. T. HALY, Commandant Malabar Police Corps, Malaprom, dated Badagherry, 24th March 1857, No. 827.

SIR,

In transmitting to you the remarks* of my Special Assistant on your letter† dated 16th Instant, I have the honor to remark that I do not find a discrepancy between the record and the fact as set out in the legal resumé of the evidence in question.

* Dated 13th Instant.

† No. 65.

I have examined the original morning presence book, and certainly consider that an alteration of the description alluded to appears therein. It is an interpolation I consider, but the word interpolation does not by itself bear the meaning you have put upon it of "fraudulent" and no such adjunct appears in the decision. The Special Assistant remarks that this took place "on some date unknown" and as he had no evidence of the date and circumstances under which it was made, his remark is correct; but on this point I remarked in my review of the case on its second submission to me, that as the authenticity and correctness of the entry were supported by your opinion and other circumstances, and as the alteration was one similar to many others in roll, it could scarcely be rebutted in evidence by the fact of the appearance of subsequent alteration it bore.

The correspondence forwarded with your letter, dated 16th Instant, shows that the book in question was kindly forwarded with your reply to the Special Assistant's 3rd letter on the subject, dated 16th December. This fact is all that the Special Assistant has stated in his decision.

The Special Assistant you will observe, disclaims the intention you put upon him, and I think that Judicial Officer must be left to form his judgment on the evidence before him; and that none is entitled to put inferences not stated in Judicial decisions.

With regard to the disparaging remarks contained in the closing para, of your letter, I need scarcely remind you that the proper place for the Subadar to lay such allegations is before the Sessions Court to which the law gives him an appeal.

I regret to be obliged with reference to your letter, dated 16th Instant, to aver that the words of my letter dated 29th December, sent for your perusal, are simply and accurately what with much more passed during the day in question. There can be no want of recollection in the matter. I knew almost nothing of the case till the day you were with me, and having that day received the whole proceedings from the Special Assistant, I remained at home to go through quietly and carefully the entire voluminous record. This I did while you were in the house, and I spoke to you freely on such points as seemed to me to require further clearing up, and with the whole matter thus before me, I then and there drafted† the letter in question which is a Judicial resumé of the points of the case, and direction to my Special Assistant suggesting what other points might be established, and how such matter could only have been derived from you, and I have not the slightest doubt of the strict correctness of the record.

† You have overlooked this part of my letter, dated 9th Instant.

What you did not distinctly recollect was, whether the Subadar himself mentioned the discovery of the money when you permitted him to go, or whether you heard otherwise that that was the object of his needing to visit his village; and as you were not certain on this point, I did not dwell on it in my letter to my Assistant, you had likewise doubts about the proper date having been laid in the charge. This suggested the allusion to the point in my letter.

I recollect other incidental conversations on this matter which corroborate what I wrote, which however it is unnecessary to go into here, and can only add that the general effect of what you yourself mentioned on this subject on that occasion, was to settle in my mind a deep conviction of the truth of the existence of the motive for torture, and of the truth of the presence of the Subadar at Pynaad on an errand of enquiry.

I refrain from remarks here on the objectionable style of your letters in regard to Mr. Thomas.

I have considered it desirable to submit to Government the latter para of your letter, as to the opinion you entertain of the Subadar and Havildar whose fitness for employment is under consideration.

(Signed) W. ROBINSON,
Acting Magistrate.

P. S.—The delay has arisen from my absence on Circuit, and the necessity of reference t
Calicut and Manjerry.

(Signed) W. ROBINSON,
Acting Magistrate.

From Major G. T. HALY, Commandant Malabar Police Corps: to W. ROBINSON, Esq.
Acting Collector of Malabar, Calicut, dated 27th March 1857, No. 75.

Sir,

In reply to your letter (Magisterial Department), No. 827, containing the final summary o
your opinions and conclusions with regard to the correspondence which has lately passed betwee
us, I have but few remarks to offer; but I feel it my duty most strongly to protest against th
last para: wherein I observe that you have submitted to Government apparently, only part of th
correspondence instead of, as I formerly, urgently requested, the *whole* of it; in order to enabl
the matter to be judged dispassionately on its own merits.

It appears you entirely coincide with the Special Assistant, both in his decision and his re
marks, laying at the same time the blame of "drawing inferences not contained in judicial deci
sions," upon me; I refer to any unbiassed arbiter, to decide as to whether it is possible for any
one, to read the public record in question without unavoidably drawing such inference; or whether
when such an inference is unavoidably forced upon me, it is not my duty to take notice of it and
immediately require explanation, and apology, for what I cannot but consider, was a slur upon
my character.

The explanation given is, to me unsatisfactory, the remarks have not been withdrawn, and
the apology, has been refused, and for each, and all of these circumstances, I consider that I have
just ground of complaint.

As regards the conversation which took place between us on the 26th December, I still ad-
here to my former statement, which I maintain can also be corroborated by various incidents
circumstances.

With reference to your remark "the objectionable style of your letter in regard to Mr.
Thomas," I can only express that, I am surprised at my moderation under such an unwarrant-
able provocation, which can only be accounted for, by my feelings, of the rectitude of my con-
duct, together, with the unmistakable righteousness of my cause, and there can hardly be a better
proof of this, than my anxiety, evinced from the first, that the matter should be laid before
Government, for no one can suspect me, of a wish of again appearing, before them in controversy,
although in the *many*, that I have been *forced* into, since my sojourn in these parts, it is patent
This stands a recorded fact. that not in a single instance, have I been either the aggressor or found
to have erred.

The Serjeants still adhere to their former statements, but Serjeant Ryan regrets that any ex-
pressions of his should be termed "insulting," and denies any such intention, though he admits
that he was much hurt, at the manner in which he was being examined; but Mr. Thomas himself
mentions, that he had to "insist," and in corroboration of Serjeant Ryan's statement, I must
observe, that on his return from Mr. Thomas' house the same evening (after sun-set), he mention-
ed the circumstance to me, upon which I reproved him; his reply, in excuse being, "I meant no
harm sir," I was bothered.

(Signed) G. T. HALY, Major,
Commandant Malabar Police Corps.

From W. ROBINSON, Esq., Acting Magistrate; to Major G. T. HALY, Commandant
Malabar Police Corps, Malaprom, dated Calicut, 28th March 1857, No. 885.

Sir,

With reference to your letter of the 27th Instant, No. 75, I have the honor to give cover to
a copy of mine under date the 18th Instant, and to inform you, that should you wish it, I am

prepared to submit the correspondence now in a matured state for the consideration and orders of Government. From it you will observe that your hasty protest has been premature.

You are aware that the judicial merits of a case tried by competent authority, the decision in which has been upheld, 1st in review and on a 2nd examination affirmed in appeal by the highest judicial authority in the District, is not subject to your review and official exceptions and you may gather and probably the case has in its feature something of a substantial character possibly beyond your knowledge. The decision has been found consistent with the evidence, and were it not so, could only be modified by a competent jurisdiction. The remarks on Serjeant Ryan's evidence are therefore out of place in this correspondence.

No controversy is or has ever been forced upon you.

(Signed) W. ROBINSON,
Acting Magistrate.

From Major G. T. HALY, Commandant Malabar Police Corps; to W. ROBINSON, Esq.,
Acting Magistrate of Malabar, dated Calicut, 4th April 1857, No. 79.

Sir,

No. 885. In reply to your letter dated 28th Ultimo, wherein it appears to me that you are unwilling to comply with my former requests, that the matter at issue between us, might be submitted at once to Government. I have the honor again most urgently to solicit, that you will either retract or cause an apology to be made to me, for the unwarrantable assertions made, or lose no time in referring the matter to Government, to obviate the necessity which would otherwise have been forced upon me of forwarding the correspondence direct.

The judicial merits of the case in question, or the guilt, or innocence of the Subadar is not the point at issue, but the manner in which the whole matter has been conducted, unnecessary delays, procrastination and suspense, which has been caused, and the way in which my position has been ignored, but more particularly my character, and that of those under my command impugned, form just grounds of a serious grievance, and necessitated cause for complaint.

I close the correspondence with the remark, concerning the last para. of your letter under reply, that the blame of controversy in a matter in which my character is affected, and regarding which I can obtain neither apology, nor redress, cannot be said to rest with me, and that justice, no less than courtesy, might have spared such an assertion.

(Signed) G. T. HALY, Major,
Commandant Malabar Police Corps.

(True Copies.)

(Signed) W. ROBINSON,
Acting Magistrate.

No. 71. From GEORGE ELLIS, Esq., Register to the Court of Foujdaree Udalut; to T. PYCROFT, Esq., Chief Secretary to Government, dated 29th April 1857, No. 20.

Sir,

With reference to the Extract from the Minutes of Consultation, dated the 27th Ultimo, No. 367, I am directed by the Judges of the Court of Foujdaree Udalut, to forward the accompanying copy of an Extract from the Proceedings of the Session Court of Calicut, under date the 16th March 1857, on an Appeal presented on behalf of the Adighary of Pynaad and the Subadar of the Malabar Police Corps, from the sentence of the Special Assistant Magistrate of Malabar.

(Signed) GEORGE ELLIS,
Register.

Extract from the Proceedings of the Sessions Court, Zillah Calicut, under date the 16th March 1857.

Read Petitions Nos. 31 and 32 of 1857, presented on the 11th Instant, by Syed Latiff, Vakeel, on behalf of Mahomed Kurikul, Adighary of Pyenaud, and Ahmod Kurikul, Soobadar of Malabar Police Corps, appealing against the Special Assistant Magistrate's decision, passed on the 11th February last, sentencing them respectively to produce 2 sureties in the sum of 250 Rupees each, for their good behaviour, in default, to one year's imprisonment each, on a charge of having ill-treated Poothenpoorail Velloo, on account of hidden treasure, and therefore praying that the proceedings may be referred to and the security cancelled.

The Court has already perused the proceedings in this case, and returned them "without remark." Although there may not be a case made out against Petitioners on strictly legal evidence, and as some doubt is cast on the case by the great delay that has happened in bringing such a case to the notice of the authorities, still looking at these proceedings as a whole, the Court considers that the Special Assistant Magistrate had good grounds for demanding a requisition of security from the 1st and 2nd Defendants, the Court must decline to interfere with the order appealed from.

(True Extract.)

(Signed) H. D. COOK,
Acting Sessions Judge.

(True Copy.)

(Signed) GEORGE ELLIS,
Register.

No. 72. ORDER THEREON, No. 588; dated 19th May 1857.

1. The Prosecutor, Puthun Perokul Velloo, is a poor labourer, who was employed to replaster the walls of the Soobedar Ahmod Koorikul's house, and a suspicion arose that he had carried off a pot of money or secreted treasure from a hollow which was discovered in one of the walls. He accused the Soobedar and the other Defendants of torturing him to make him produce this money, first by blows and afterwards by tying oiled rags to his hands and setting them on fire. The maimed state of his fingers gave strength to the charge, and direct evidence was adduced in support of its truth, but suspicion arose from the delay of the Prosecutor in making his complaint only after 18 months had elapsed, and from the fact of the chief witnesses being the personal enemies of the Defendants. The Special Assistant Magistrate, Mr. E. G. Thomas, after a lengthened investigation therefore considered the evidence too doubtful to justify the committal of the case before the Criminal Court, but as much suspicion rested on the Defendants, he required them to give security for their good conduct for a year.

2. The 1st and 2nd Defendants, viz. the Soobedar Ahmod Koorikul and his father appealed to the Session Judge against this sentence, but the Court on a review of the case saw no reason to disturb the Special Assistant Magistrate's decision.

3. The orders of Government are now requested as to the propriety of retaining the Soobedar and Havildar in public employ after this doubt thrown on their characters. The Commandant of the Police Corps Major Haly, has properly applied for instructions on the point, and in the interim removed the men from duty. At the same time he remarks that the Soobedar and Havildar were expressly recommended to him by Magisterial Officers of extensive experience in the Province, Messrs. Conolly, Collett and Clarke, and that they have exhibited usefulness and zeal in the organisation of the Corps and the general performance of their duty. Government observe also that the present Acting Magistrate does not seem to wish for their removal from the Corps, although he would have objected to retaining them in Civil employ, after the result of the trial, if they had held offices conferring Police authority.

4. Under these circumstances and in consideration of the time which elapsed before the charge was preferred, and the doubtful and imperfect evidence by which it was supported, the Government are not unwilling to permit the Soobedar and Havildar to remain in the Police Corps, but before passing final orders on the subject, they require information on one point. It is stated in the Special Assistant Magistrate's decision, and afterwards in his letter to the Acting Magistrate, dated 26th February last, that the emissaries of the Defendants carried off the Prosecutor's wife and children to an out of the way locality, to intimidate her or prevent her appearing as a witness. The papers before Government do not shew what steps were taken by the Magistracy in consequence, and whether the Prosecutor's family have returned to him. This information should now be afforded.

5. The other papers relate to the correspondence which has passed in consequence of Major Haly taking exception to some portions of the decision of the Special Assistant Magistrate. The Right Honorable the Governor in Council considers that some of the expressions complained of in the decision are open to exception. The remark imputed to a Serjeant of the Corps that the Soobedar could be "away without notice being taken of it," is not, Mr. Thomas acknowledges, supported by the record, and the sentence which says that Major Haly did not produce the Regimental book till written for 3 times, implies a reluctance to produce it, which the correspondence on the subject does not bear out. Mr. Thomas ought also to have acquainted Major Haly with the names of the men of his Corps whom he was about to try and the nature of the charge against them. The withholding this information, especially after it had been applied for by the Commandant of the Corps, might be construed into either discourtesy or mistrust.

6. But after making allowance for the irritation thus caused, the Government consider that Major Haly has taken a very extravagant view of Mr. Thomas' expressions and that he was by no means justified in adhering to it after it had been pointed out to him that Mr. Thomas disclaimed a wish to charge him with "complicity and prevarication" and had made his comments on the evidence in the case before him in the discharge of his official duty. The Right Honorable the Governor in Council also strongly disapproves the style of Major Haly's letters towards Mr. Thomas, and his having presumed to offer disparaging remarks on the mode in which the case was investigated. If the parties on whose allegations he made these remarks were dissatisfied, an appeal to the Session Judge was open to them. This part of the subject was unconnected with Major Haly and quite beyond his province, so that by entering upon it he has laid himself open to an imputation of that bias in favor of the accused which he improperly and unnecessarily imputed to Mr. Thomas in favor of the Prosecutor.

7. Government have had occasion to point out some errors in the Special Assistant Magistrate's proceedings which betoken inexperience and want of full reflection; Mr. Thomas will guard against such overhastiness in future and meanwhile Government observe with satisfaction that he devoted much attention to the investigation of this case and that the Session Court concurred on appeal in his view of its merits.

(Signed) E. MALTBY,
Acting Chief Secretary.

Judicial Department

No. 588

Extract from the Minutes of Consultation
Dated 19th May 1857

Read again letter from the Act. Magte of Malabar dated 12 March/57 No. 41 reporting a case of torture in which a Soobadar & Havildar of the Malabar Police Corps were implicated & soliciting the orders of Govt. regarding their retention in public employ.

Read also the following Papers: Letter from the Act. Magte dated 18 March No. 45, enclosing Extract from a letter from Major ... Comandant of the M P C giving his opinion of the character of the Soobadar & Jemadar.

Letter from the Actg Magte dated 6 April 57 No. 58 submitting correspondence with Major ... on ...

exceptions taken by him to
some expressions in the
decision of the Special
Asst. Magte who tried the
charge against the Soobedar
& Heveldar. —

Letter from Register to the
Foujdary Adawlut dated
29 April /57 No 20 forwarding
2 the Pro of the Session
Court of Calicut, reversing
in appeal the decision
of the Special Asst Magte
in the above case. —

1 – The Prosecutor, Pattan Ova-
-lal Velloo, is a poor Labourer
who was employed to plaster
the walls of the Soobedar
Ahmed Koonhal's house
and a suspicion arose
that he had carried off a pot
of money a secretly treasure from a hollow
which was discovered in
one of the walls. — He
accused the Soobedar &
the other defendants of torturing
him to make him produce
the money, first by blows
& afterwards by tying oiled
rags to his hands & setting
them on fire. — The injured state
of his ~~[illegible]~~ fingers
gave strength to ~~supported~~ the charge, ~~which~~
and direct evidence was
adduced in support of
its truth, but suspicion
arose from the delay of
the prosecutor in making
his complaint only after 10 months
had elapsed, & from the
fact of the chief witness
being the prosecutor's [illegible] the defendant.

– The Special Asst Magte, Mr
E. G. Reeves, after a lengthened
investigation therefore considered
the evidence too doubtful
to justify the committal of
the case before the Crimi-
-nal Court, but as much
suspicion rested on the de-
-fendants he required them
to give security for their
good conduct for a year

2 – The 1st & 2nd defendants, viz
the Soobedar Ahmed Koon-
hal & his father appealed
to the Session Judge against
their sentence, but the Court

on a review of the case saw
no reason to disturb the
Special Apt. Magtes decision

3 - The orders of Govt. are now
requested as to the propriety
of retaining the Soobedar
& Havildar in public em-
-ploy after this doubt thrown
on their characters. - The
Commandant of the Police
Corps Major Haly has
properly applied for instruct-
-ions on the point, & in the
interim removed the men
from duty. - At the same
time he remarks that
the Subadar & Havildar
were repeatedly recommended
to him by ~~Superintendg~~ Experienced
~~Collector~~, officers of ex-
-tensive experience in
the Province before
Country, Collector & Clerks
and that they have
exhibited uniformly &c zeal
in the organization of
the Corps & the general
performance of their
duty - Govt. observe
also that the present Spl
Magte does not seem to
wish for their removal
from the Corps although
he would have objected
to retaining them in
Civil employ, ~~conferring~~ ~~with police~~
~~authority~~ after the result
of the trial, if they had held
offices conferring police authority

4 - Under these circumstances
& in consideration of the
time which elapsed before
the charge was preferred,
& the doubtful & imperfect
evidence by which it was
supported the Govt. are
not unwilling to permit
the Soobedar & Havildar
to remain in the Police
Corps, but before passing
final orders on the sub-
-ject they require infor-
-mation on one point -
- It is stated in the Spec

Spl Master decision
& afterwards in his letter
to the Act Magte dated
26 Feby last, that the
emissaries of the Defendants
carried off the Prosecutor's
wife & children to an out
of the way locality, to ~~pre-~~
~~vent~~ intimidate her or
prevent her appearing
as a witness — The papers
before Govt do not shew
what steps were taken by the Magistracy ~~the result of the investigation~~
in consequence & whether the Prosecutor's ~~have been subsequent~~
family have returned to him. ~~[illegible]~~ This infor-
-mation should now be
afforded —

5. — The other papers relate ~~refer~~
to the correspondence
which has passed in
consequence of Major
Haly taking exception
to some portions of ~~expressions in~~
the decision of the Spe-
cial Spl Magte — The

Rt 4. The G. in C. considers
that some of the expressions
complained of in the Decision
are open to exception — The
remark ~~that~~ imputed to
a Sergeant of the Corps that
the Soobedar could be away
"without notice being taken
of it" is not, Mr Thomas ac-
knowledges, supported by
the record, and the sentence
which says that Major Haly
did not produce the Regi-
mental book till written
for 3 times, implies a reluct-
ance to produce it which
the correspondence on the ~~relating~~
subject ~~to it~~ does not bear out.
Mr Thomas ought also to
have acquainted Major Haly
with the names of the men
of his Corps whom he was
about to try & the nature
of the charge against them
The withholding this infor-
-mation, especially after
it had been applied for
by the Commandant of the Corps
might be construed into dis-
courtesy or mistrust. —

6 – But after making allowance for the irritation thus caused the Govt. consider that Major Haly has taken a very extravagant view of Mr. Thomas' expressions & that he was by no means justified in adhering to it after it had been pointed out to him that Mr. Thomas disclaimed a wish to charge him with "complicity & prevarication" & had made his comments on the evidence in the case before him in the discharge of his official duty. – The Rt. H. the G in C. also strongly disapproves the style of Major Haly's letters towards Mr. Thomas, & his having presumed to offer disparaging remarks on the mode in which the case was investigated. – If the parties on whose allegations he made these remarks were dissatisfied, an appeal to the Session Judge was open to them. – This part of the subject was unconnected with Major Haly & quite beyond his province, so that by entering upon it he has laid himself open to ~~to~~ an imputation of that bias in favor of the accused which he improperly & unnecessarily imputed to Mr. Thomas in favor of the prosecutor. –

7. – Govt. have had occasion to point out some errors in the Special Asst. Magtes. proceedings which betoken inexperience & ~~[illegible]~~ want of full reflection; – Mr. Thomas will guard against ~~such~~ overhastiness in future & meanwhile Govt. observe with satisfaction that he devoted much attention to the investigation of this case & that the Session Court concurred in

appeal on his view of its merits. —

E.M.

Refer to the Mag: of Malabar. Desp. 27

15

C 15 May
1816

Ind. Sr. to Eng. 20 Oct.
No. 26 of 1857
Pars. 21 & 22

Ref: in No. 5 of 1858 P. 21

68-71.

69 & 72

In Cons: 19 May

Judicial. 1857. Depart.

No. 588

Extract a Mins: of Cons

D/19 May 1857.

P.K. 915.
1215.