

4

Fort St. George, Judicial Consultation, 9th June 1857.

No. 1. Read the following letter from Major W. J. WILSON, Magistrate of Police; to E. MALTBY, Esq., Acting Chief Secretary to Government of Fort St. George, dated 23rd May 1857, No. 33.

SIR,

On the morning of Tuesday the 19th of this month, a Bramin named Ramanja Iyengar, an inhabitant of the village of Amoor near Arcot, infringed the provisions of the Railway Act (XVIII of 1854,) by crossing the line at the said station of Amoor, just as the Train was starting.

2nd. The offender was immediately seized, placed in the Train and brought to Madras, where he was handed over to the Police authorities, and subsequently brought before me for trial.

3rd. It is true that Section XXX of the Act in question empowers a Magistrate of any of the Presidency towns to dispose of all offences against its provisions, whether such offences have been committed within the local jurisdiction of such Magistrate or not; but I apprehend that this was intended to meet special cases, such as those of offences committed by passengers in transitu, and the like; and was never meant to give the Railway authorities the power of carrying an offender by Rail to any part of the country at their pleasure; for if it was once conceded that they were justified in making a selection, an individual charged with committing a breach of the Act at any one point of the line, might be carried to its extremity at the caprice of the person who apprehended him.

4th. The Railway authorities have power to apprehend under certain circumstances without any Warrant (vide Section XXIV) and also to detain the offender until he can be brought before a Magistrate or other Officer having jurisdiction over the offence, or shall give security for his appearance. This seems to imply that he should be taken before the nearest authority competent to adjudicate on the matter, and in the present instance, it appears that Amoor is distant only three miles from Wallajahbad, where a Tahsildar is stationed who had jurisdiction under Section XXXV of the same Act,

5th. The course adopted by the Railway Officials in this matter is so obviously objectionable, that it seems almost unnecessary to say any thing further on the subject. I shall therefore confine myself to drawing your attention to the hardship inflicted by carrying a man away from his own village without any warning, to some distant place where he is in all probability a perfect stranger, without witnesses for his defence, without the means of paying the penalty that may be imposed on him, and without friends to become security; the Magistrate being consequently obliged either to pass sentence of imprisonment for what might be a very trivial offence, or to content himself with cautioning the Defendant, who would then still be in the position of having to find his way home the best way he could.

6th. The offender in this present case having been brought before me, I disposed of the matter in the ordinary course of business, but feel it my duty to bring the subject to the notice of Government, as I understand several similar cases have been tried at Madras, although not in this Court.

(Signed) W. J. WILSON,
Magistrate of Police.

No. 2. ORDER THEREON, No. 648; dated 3rd June 1857.

In the foregoing letter Major Wilson brings to notice the hardship inflicted on one *Ramanja Iyengar*, a Brahmin, inhabitant of *Amoor* near *Arcot*, by the course adopted by the Railway authorities of that station; a mode of proceeding stated by the Magistrate of Police to be very general along the line.

*made before Govt. for been informed
in relation to order.*

Fort St. George, Judicial Consultation, 9th June 1857.

2. It appears, that the said *Ramanja* attempted to cross the line at Amoor on Tuesday morning last, just as the train was starting; he was immediately seized, put in the train and brought down to Madras, where he was placed at the bar of the Police Office. Major Wilson having disposed of the case in the ordinary course of business, deems it his duty to bring the whole matter before Government, for their information and orders.

3. The Governor in Council entirely concurs with Major Wilson in considering the proceeding of the Railway Officials an improper use of the authority committed to them by Law, and one the recurrence of which should be strictly prohibited.

4. The offence committed by the man *Ramanja* is an act of trespass, punishable (vide Sec. XVII of Act No. XVIII of 1854) by fine not exceeding 20 Rupees. The course to be taken for the prosecution is clearly indicated in Sec. XXIV. The offender is to be summoned before a Magistrate or other Officer having jurisdiction over the offence; unless indeed his name and address be unknown or there is reason to fear he will abscond, in which case he may be apprehended and detained "until he can be taken before a Magistrate" or other Officer as aforesaid, or shall give sufficient security for his appearance before such Magistrate or other Officer, and by Sec. XXXV the "Heads of District Police and Ameens of Police" may punish any offence for which under the Act a fine not exceeding Rupees 20 is awardable.

5. It is quite true that fines under this Act may be levied by any Justice of the Peace for the Presidency Town, whether the offence shall have been committed within the local limits of the jurisdiction of such Officer or not; but this provision, as justly pointed out by Major Wilson, was intended to meet special cases only, such as offences committed by Passengers in transitu or the like, and was never designed to give the Railway Officials the power of carrying an offender from any part of the line to Madras, at their pleasure.

6. Obviously the proper course for adoption in this case, supposing the offender had refused to give his name and address or furnish security for his appearance before the Police was to have apprehended *Ramanja*, taken him before the head of Police at Wallajahbad, which is there miles distance only from the Amoor station, where, on conviction, he would have been

Section XXXIII, Regulation XI of 1816, as extended by Clause I, Section V, Regulation IV of 1821; and Act XXXIII of 1837.

finer "to the extent of the powers conferred upon heads of Police for "petty offences," under the general regulations. As it is, he has been carried "to a distant place where he is in all probability a perfect "stranger, without witnesses for his defence, without the means of "paying the penalty that may be imposed, and without friends to be- "come security for him; the Magistrate being consequently obliged either to pass sentence of "imprisonment for what may be a very trivial offence, or to content himself with cautioning the "Defendant; who would then still be in the position of having to find his way home the best "way he could."

7. The Governor in Council resolves to instruct the Consulting Engineer for Railways to bring the above case to the prominent notice of the Agent, with a request that that authority will issue such orders to the station masters and various subordinates on the line as may effectually prevent the occurrence of any such harsh and unwarrantable proceedings in future.

8. The Government consider that the Public is much indebted to Major Wilson for bringing this matter forward.

(Signed) E. MALTBY,
Acting Chief Secretary.

Judicial Report

No. 648

Est. Minist. Cons.

dated 3rd June 1857.

and the following cases } here entered 23rd May /57.
Major Wilson, Mgt of Police

In the foregoing cases Major Wilson brings to notice the hardship inflicted on one *Ramanja Iyeran*, a Brahmin, in habitant of Amoor near Arcot, by the course adopted by the Railway authorities of that Station - a mode of proceeding stated by the Magistrate of Police to be very general along the line - 2. It appears, ~~that~~ that he said *Ramanja* attempted to cross the line at Amoor on Tuesday morning last, just as the train was starting - He was immediately seized, ~~placed~~ ^{put} in the train & brought down to Madras, where he was placed at the bar of the Police office. Major Wilson having disposed of the case ~~in the ordinary course of business~~ in the ordinary course of business, deems it his duty to bring the whole matter before Govt. for their information & orders.

3. The G. in C. entirely concurs with Major Wilson in considering the proceeding of the Railway officials ^{an improper use} a gross perversion of the authority committed to them by Law, & one the recurrence of which sh^d be strictly prohibited.

4. The offence committed by the said Ramany is an act of trespass, punishable (vide Sect XVII of Act No XVIII of 1854) by fine not exceeding 20 Rs. The course to be taken for the prosecution is clearly indicated in Sect XXIV. The offender is to be summoned before a Magst or other Officer having jurisdiction over the offence; unless indeed his name & address be unknown or there is reason to fear he will abscond, in which case he may be apprehended & detained "until he can be taken before a Magst or other officer as aforesaid, or shall give sufficient security for his appearance before such Magst or other officer - and by Sect XXV the "heads of District Police & amins of Police" may punish any offence for which under the act a fine not exceeding

Rs 20 is awardable.

5. It is quite true that fines under his act may be levied by any Justice of the Peace for the Presidency Town, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not; but his jurisdiction, as justly pointed out by Major Wilson, was intended to meet special cases only, such as offences committed by Passengers in transitu or the like, and was never designed to give the Railway officials the power to carry on an offender from any part of the line to Madras, at their pleasure.

6. Obviously the proper course for adoption in his case ~~was~~, supposing the offender had refused to ~~be~~ furnish ~~the~~ security for his appearance before the Police, ~~to~~ give his name & address & to have apprehended Ramany, & taken him before the head of Police at Wallahabad, which is three miles distance only from the Armour station - where, on conviction, he w^d have been fined "to the extent of the powers conferred upon heads of Police for petty offences," under the general regulations. As it is, he has been carried

Section XXXIII.

Reg^s XI of 1816 - as amended by Cl I. Sect V. Reg^s IV of 1821, and act XXXIII of 1837.

In 84. 6 cm: 9 June
Judicial. 1857. 60 p. 1/2

Ms. 148

Abstract of Minutes

2/30 June/57

Feb 1860.
19/1/61

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 648

Press
~~Mis.~~

1-2

Dated

9-6-1918

Not to be folded or roughly handled