

# MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

G.O. No. 772

Press

~~Mis.~~

57.58

Dated

4-2-19/857

Not to be folded or roughly handled

*Fort St. George, Judicial Consultation, 7th July 1857.*

No. 57. Read the following Extract from the Proceedings of the Foujdaree Udalut, dated 2nd July 1857, No. 34.

Read Return dated 30th May 1857, from the Acting Session Judge of Rajahmundry, to the Precept of the Court of Foujdaree Udalut, under date the 16th Idem, directing him to submit an explanation why the accounts, documents, &c., belonging to Rednum Durmaroydoo, were seized and kept in Court.

Read again Miscellaneous Petition, presented on the 16th May 1857, by E. Salmon, Esq., Pleader, on behalf of Rednum Lutchmee Ummal, Zillah Rajahmundry.

1. The above petition, presented to the Court by the wife of Rednum Durmaroydoo, now undergoing a penal sentence in the Jail at Rajahmundry, on conviction of forgery, set forth that on the 12th April 1857, the Acting Head Assistant Magistrate, in obedience to a Precept received from the Acting Session Judge, came in company with the Head of Police and others to the Petitioner's house at Cocanada, broke open boxes in which were accounts, letters, documents and vouchers referring to her husband's dealings and property, and sent them to the Session Judge.

2. Before passing any orders on this petition, the Court of Foujdaree Udalut referred it to the Acting Session Judge for such explanation as might be in his power to afford.

3. On the 30th May the Acting Session Judge submitted the above Return. From this Return it appears that the Acting Session Judge on receipt of the proceedings of the Court of Foujdaree Udalut under date the 31st March 1857, convicting Rednum Durmaroydoo of forgery and sentencing him to 7 years' imprisonment with hard labour in irons, issued the Precept as stated in the petition and directed the seizure of such papers &c., as might be discovered in Rednum Durmaroydoo's house.

4. The papers being produced before the Acting Session Judge, he proceeded in the presence of Rednum Durmaroydoo to break the seals affixed to the different bundles in which they were contained, to examine the papers consisting of accounts, letters, bonds, stamped papers, stamped cadjans, &c., making a list of some, destroying others (it is stated with the assent of the prisoner) and restoring some to their owners.

5. The Acting Session Judge's Precept to the Acting Head Assistant Magistrate recites what he considered to be his warrant for these proceedings, viz., that "the prisoner is known to be a notorious forger" and that this course was necessary in order "to prevent improper use being made of the papers and to meet the requirements of justice," and to obtain information regarding the prisoner's connection with the Public Officers of the Courts and Cutcherries. In his Return now under notice, the Acting Session Judge explains at length his reasons for the above proceedings which have been by petition brought before the Court.

6. The Court of Foujdaree Udalut observe that no fresh criminal information had been presented to the Acting Session Judge as against Rednum Durmaroydoo, and even if there had been any thing of the kind, it was the province of the Magistrate and not of the Session Judge, to have initiated proceedings in the matter; moreover no new facts, subsequent to Rednum Durmaroydoo's conviction, had been brought to his notice, which even if used erroneously, could be held to justify the Acting Session Judge in thus deviating from the usual course of his duty.

7. The Acting Session Judge was aware, as he himself states in his Return, that under the law existing in this country he had no warrant for seizing the property of Rednum Durmaroydoo, and it is surprising that an officer of Mr. Cotton's standing and experience, should have issued the illegal orders which were most unadvisedly carried out by the Acting Head Assistant Magistrate. The Court of Foujdaree Udalut would also observe that in issuing these orders to the Acting Assistant Magistrate, the Acting Session Judge has overlooked Circular Order No. 150, which requires all communications of this nature ordinarily to be addressed to the Magistrate; that the Session Judge should have in this instance failed to observe the Circular Order in question is to be regretted, as the Court of Foujdaree Udalut are of opinion that had the Precept of the Acting Session Judge been directed to the Magistrate, he would have declined to carry out the illegal orders it conveyed.

8. The Court of Foujdaree Udalut are willing to give the Acting Session Judge credit for being actuated by a sincere desire to further the ends of justice; nevertheless they can find no excuse for Mr. Cotton's proceedings which are, in their opinion, arbitrary and illegal.

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9. The proceedings in question likewise appear to the Judges of the Court of Foujdaree Udalut to evince on the part of Mr. Cotton great recklessness and want of judgment, with an entire disregard of his position as Session Judge vested with the controlling power over all the judicial tribunals within his district, and consequently called upon, in an especial manner, to discharge his own immediate duties with circumspection and in strict conformity with the laws and regulations laid down for his observance and guidance.

10. Under the above circumstances, the Judges of the Court of Foujdaree Udalut feel that they have no alternative left but to express to Government their conviction that the removal of Mr. Cotton from his present situation of Acting Civil and Session Judge of Rajahmundry, is necessarily called for.

Ordered, that Extract from these proceedings (together with the papers connected therewith) be forwarded to the Acting Chief Secretary to Government, for the purpose of being laid before the Right Honorable the Governor in Council.

Ordered also, that Extract from these proceedings be forwarded to the Acting Session Judge of Rajahmundry for his information.

(True Extract.)

(Signed) GEORGE ELLIS,

Register.

To the Judges of the Court of Foujdaree Udalut.

The humble Petition of Rednum Lutchmema  
of Cocanada.

SHREWETH,

That she is compelled to apply to your Honorable Court, under the following peculiar circumstances, being otherwise without redress.

2. Soon after the decision of your Honorable Court in Calendar Case No. 28 of 1857, in which your petitioner's husband was convicted, the Session Judge of Rajahmundry directed the Magistrate to seize all the accounts, documents, letters, &c., belonging to her husband which were kept in his Abkaree godowns at Rajahmundry and Dowlaishwarum, and to forward them to the Session Court, which was done accordingly on the 11th of April 1857.

3. On the 12th of the same month, the Assistant Magistrate, with the Head of Police and others came to your petitioner's residence at Cocanada, under the orders of the Session Judge, and broke open the boxes in which were contained other accounts, letters, documents, and vouchers referring to her husband's dealings and property, and sent them also to the Session Court.

4. That your petitioner, her husband being under a penal sentence, is the guardian of her minor sons, and the manager of the family property, but from the course that has been taken she is utterly unable to transact the business of which she has charge, to demand debts right-fully due, or to protect the property.

5. That moreover the Goomastahs who had hitherto acted for her husband, being intimidated by the violent measures adopted, and the threats held out, against them, and indeed all her husband's family, have forsaken her service, so that all her affairs are left in the uttermost confusion, entailing a certainty of immense loss, if not total ruin.

6. That your petitioner does not know, under what plea or pretext this seizure of these documents, vouchers, &c., has been made, but that being by the customs of her caste prohibited from appearing in Court to present any petition in person, she applied to various Vakeels of the Court to act for her, and to present a petition seeking explanation and redress.

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7. That however these Vakeels one and all, refused to act for her, evidently thinking it as much as their appointment was worth to appear in the Session Court of Rajahmundry on behalf of any of the family of her husband.

Under these circumstances, your petitioner prays the intervention of the Court, and that an explanation of these proceedings may be called for from the Session Judge, and that if necessary, it may be directed that a Vakeel may be assigned to her to conduct her business in this matter in the Session Court of Rajahmundry.

(Signed) EDWARD SALMON,

Vakeel for the Petitioner.

16th May 1857.

In Return to the foregoing Precept, accompanied by Proceedings of the Foujdaree Udalut, dated the 16th May 1857, directing the Acting Session Judge to submit an explanation why Rednum Dhurmaroydoo's accounts, documents and letters were seized and kept in Court, the Acting Session Judge has the honor to submit the following explanation and remarks.

1. On receipt of the Court's warrant and proceedings convicting the prisoner Rednum Dhurmaroydoo, petitioner's husband, of forgery, the Acting Session Judge passed Proceedings, copy of which is enclosed; and such of the prisoner's papers as were found were secured and forwarded to the Court: the prisoner was made aware of the circumstance, and was informed that the intention of the Court was not to dispossess him of any of his property, but that with reference to his past conduct, it was deemed necessary that his papers should be examined, to prevent improper use being made of some which he was suspected of having; but that nothing would be done, except in his presence, or that of his Vakeel or Agent. No Vakeel having appeared, the Acting Session Judge, after several days, called upon the prisoner personally to witness the breaking of the seals, &c., which he did, and the papers being put in his hands, he was desired to assist the Goomasta in making a list of his bonds; upwards of 100 have been noted, and again placed under seal. Among the papers, were found a number of blank papers, some plain, some stamped, bearing signatures, and in some cases, those of attesting witnesses; old blank cadjans wrapped up in paper, on which was written doubtless what it was intended should be transferred to the cadjan. The Acting Session Judge herewith forwards some of these for the Court's inspection, the prisoner has consented to the disposal by the Acting Session Judge of such papers, and some have been kept, some destroyed, and some restored to their owners.

These were forwarded to the Court in a closed cover but were not opened by the Court and were returned to the Acting Session Judge.

2. On receipt of the Court's Proceedings, they, together with the petition enclosed, were shewn to the prisoner, and he was asked whether it was his wish that the examination should proceed or stop, pending the Court's orders; he stated he wished it to proceed, as it was not the intention of the Court to deprive him of his bonds, and he thought it would be beneficial to him; he has been allowed his son and a Goomastah to assist him in going through the papers, and they are now engaged in doing so in open Court.

3. The prisoner states he is not aware of his wife having petitioned the Court, and his son, 16 years old, also says he first heard of her having done so, 3 days ago. Under these circumstances the Acting Session Judge is inclined to doubt whether the petition was really presented by the prisoner's wife, and suspects that the author of it is one Rednum Ramachendroodoo, the prisoner's uncle, who undertook to watch prisoner's case before the Foujdaree Court, and is now, it is believed, at Madras.

4. The Acting Session Judge would observe that under the English law, the whole of the prisoner's property is liable to confiscation, he having been convicted of felony, the Acting Session Judge however is aware that it is not carried into effect in the Mofussil, and in attaching the prisoner's property, a step he considers under the peculiar circumstances of the case, and the prisoner's notorious character for forgery, he was fully justified in taking; his object has been merely to prevent improper use being made of papers in the prisoner's possession, and to obtain information regarding the prisoner's connection with the public Officers of the Courts and Cutcherries.

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5. The prisoner's notorious character has so often been brought to notice, that it is not necessary again to revert to it. Among some 20 bonds already discovered, and prisoner states there ought to be several more, given by various servants in the Courts and Cutcheries, shewing most clearly their indebtedness to him, there are two bonds given by the Civil Court Sheristadar, Mydavole Soobbaroydoo, for 4000 Rupees and 2000 Rupees respectively, the latter transaction having taken place at the very time, when the Subordinate and Civil Courts were taking steps to put Rednum Dhurmaroydoo on his trial for perjury, the actual order for his committal by the Civil Judge being dated the very day, or day after the loan of 2000 Rupees was effected, it is well known that the order was at once communicated to the prisoner, (it is not difficult to guess by whom) who forthwith absconded.

6. It is true the Sheristadar deposited Government Notes as security, but he is nevertheless at this present time indebted to the prisoner upwards of 6000 Rupees, and his conduct and connexion with a person of the prisoner's notoriety, who has suits in every Court in the district, the Acting Session Judge considers, with reference to his official position, most improper, and such as requires some notice being taken of it, by the Court. The Court in their letter dated 19th July 1856, desired that he might be removed, but no opportunity of carrying out the Court's orders has been found; the prisoner's influence in the district and the public tribunals has always been admitted; the bonds found amongst his papers fully account for it.

7. With regard to the prisoner's uncle, Ramachendroodoo, who, the Acting Session Judge suspects is the author of the petition, presented to the Court, the Acting Session Judge begs to enclose a few of his letters to his nephew from Madras, during the time Rednum Dhurmaroydoo's case was under consideration, by which\* it will be seen that he forged this petitioner's name to two petitions presented to Messrs. Hooper and Anderson about the 25th March last, and that not content with spending his time and money in endeavouring to obtain the prisoner's release, he espoused the cause of Jotula Appanah†, Sarepella Suttana, the Government Vakeel and others,‡ the Acting Session Judge trusts that the Court will believe that, in forwarding these letters, his object is solely to shew the character of these Rudnumwar, and the length to which they will go, in endeavouring to gain their ends. It appears from letters that Ramachendroodoo took Rupees 15,000 with him to Madras, about the end of January, and yet, on the 7th March§, he complains he has only 1,280 remaining, and says, he ought to have 4 or 5,000 Rupees to carry out his plan: for some time past there has been a process out against Ramachendroodoo to answer a charge of forgery, but such is his influence, that he has evaded it. Even during the trial at Rajahmundry, when he went publicly about the town and to the Court, the Head of Police of Rajahmundry it is said, not only held the warrant, but was especially desired by the Head of Police of Amalapoor to execute it, but he never attempted to do so, and allowed the accused to leave for Madras; the Head of Police has since been suspended, and the Magistrate is enquiring into his conduct.

\* Vide letters dated 22nd, 35th and 29th March. These letters were also in a closed cover which has not been opened by the Court but returned to the Acting Session Judge.

† Vide letters 1st and 2nd April.

Vide letter 18th March.  
Do. Do.  
as above.

‡ Vide letter 26th and 22nd March.  
Do. as above.

§ Vide letter.  
Do. as above.

8. With reference to the petitioner's Goomastahs, on the receipt of the Court's Proceedings, convicting Rednum Dhurmaroydoo, the Acting Session Judge issued orders that Pootoola Vencatreddy and Chintalapooddy Raghaviah, should be committed for perjury and forgery in the late trial, but through the negligence, if not connivance, of the Police, they were permitted to leave the town after the warrant was issued for their apprehension, and in the hands of the Head of Police, and have since evaded it. Dasaree Vencatreddy another of the Goomastahs has just been tried for forgery and uttering.

9. The Acting Session Judge is not aware that any of the Vakeels have refused to accept Vakalutnamahs; one or two have of late thrown up their Vakalutnamahs, on the plea of not having been paid their fees; the Acting Session Judge has no authority to force their taking Vakalutnamahs from the prisoner, and though he can understand that, knowing the prisoner's character, and the stigma that will attach to them for taking up his cause, they may not like to accept his Vakalutnamah, yet the Acting Session Judge will see that no combination is permitted among the Vakeels to prevent the prisoner having justice done him, and since he is in jail, and

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cannot therefore conduct his own suits, in the event of no authorized Vakeel consenting to accept a Vakalatnamah, the Acting Session Judge would submit that he be permitted to appoint a private Vakeel.

10. The whole of the prisoner's papers, and accounts, with the exception of the enclosed letters, found in Rajahmundry and Dowleshwarum, have been returned to him. Of the papers found at Cocanada, the bundle marked No. 1, noticed by the Acting Head Assistant Magistrate, containing bonds and accounts, has been returned. It is the wish of the prisoner that the other bundles may be searched for bonds, and that they be noted with the others; he is anxious to recover his accounts which will be immediately delivered over to him, so soon as he can point them out, but at present, owing to the absence of his Goomastahs, he is unable to do so without looking through the whole, which will take some little time.

11. The Acting Session Judge begs to suggest that, all servants in Government employ, indebted to the prisoner, be ordered to liquidate his claims forthwith.

12. Nothing has been done but in open Court, and in the prisoner's presence, who sees that his papers are regularly secured by seal, which are only broken with his consent, and in his presence.

13. In conclusion, the Acting Session Judge would beg to repeat his assurance that he believes the step he has taken, and which he considers circumstances justified, will be no less beneficial to the prisoner, than the public and State. The former, on being told that, if he objected to the Acting Session Judge's proceedings, they should be at once stayed,

Note.—The whole of the papers have since been given up to him with the exception of the letters enclosed, and the blank stamps, &c.

and his petition forwarded to the Court, replied "what complaint have I to make if the bonds &c. are returned to me, the Court may keep all suspicious papers." The delay in restoring the papers is solely owing to the failure of the prisoner to appoint any one to take charge of them, and see them examined.

Given under my hand, and the Seal of the Zillah Court of Rajahmundry, this 30th day of May 1857.

(Signed) ROBT. R. COTTON,  
*Acting Session Judge.*

(True Copies.)  
(Signed) GEORGE ELLIS,  
*Register.*

Extract from the Proceedings of the Foujdaree Udalut, under date the 1st July 1857.  
Read again Miscellaneous Petition presented on the 16th May 1857, by E. Salmon, Esq., Pleader, on behalf of Rednum Lutchee Ummal of Zillah Rajahmundry.

Read also Return dated 30th May 1857, from the Acting Session Judge of Rajahmundry, to the Precept of the Foujdaree Udalut, under date the 16th Idem, directing him to submit an explanation why the accounts, documents, &c., belonging to Rednum Durmaroyadoo were seized and kept in Court.

1. The Court of Foujdaree Udalut, in disposing of the petition in question resolve to direct the Acting Session Judge, to take immediate steps for returning to the Acting Head Assistant Magistrate, the documents, &c., which were handed over by that Officer to the Session Court, as stated in the Acting Head Assistant Magistrate's Return of the 13th of April, with instructions requiring him to take the requisite steps to restore to petitioner the documents in question, and which had been removed by him from the house in her immediate possession.

2. The Court of Foujdaree Udalut, direct to be returned unopened the documents, forwarded by the Acting Session Judge, in his Return to the Precept of the Foujdaree Udalut, of the 16th May last, in two sealed packets. The proceedings of the Acting Session Judge, as detailed in the Return above mentioned are still under the consideration of the Court of Foujdaree Udalut, the result of which will be duly communicated to him.

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Ordered that Extract from these Proceedings be sent to the Acting Session Judge of Rajahmundry, by Precept returnable within III days from and after its receipt.

(True Extract.)

(Signed) GEORGE ELLIS,  
Register.

No. 58. ORDER THEREON, No. 772; dated 4th July 1857.

The Government concur with the Foujdaree Udalt that the proceedings of Mr. R. R. Cotton, as detailed in these papers, are both arbitrary and illegal. In accordance therefore with the recommendation of the Judges, the Right Honorable the Governor in Council resolves to remove Mr. R. R. Cotton from his situation of Acting Civil and Session Judge of Rajahmundry, and to appoint Mr. J. Ratliff to the temporary charge of that Court, with instructions to join without delay.

2. Mr. R. R. Cotton is accordingly directed to make over charge of the Court to Mr. J. Ratliff on that gentleman reaching Rajahmundry.

(Signed) E. MALTBY,  
Acting Chief Secretary.

Exd, F, Cartledge.

In Orders

I conclude that Govt can only support the views of the ~~former~~ <sup>present</sup> ~~Judge~~ <sup>Judge</sup> in removing Mr Cotton. It is unfortunate - that this had to be gained as it will give great encouragement to some ~~judicial~~ <sup>judicial</sup> ~~decisions~~ <sup>decisions</sup>. I suppose, that the ~~Judge~~ <sup>Judge</sup> do not mean suspension but transfer. This the former is not a bit too slow in my opinion for the act of the ~~present~~ <sup>present</sup> Judge.

At

Can the Govt appoint a man to another Court who has shown himself to unfit to perform judicial functions? H.C.

No. 472  
Extract from the Minis. of Consultation  
Dated 4<sup>th</sup> July 1857

Read Extract from the Pro of the F. U.  
dated 2 July 1857 No 34 -

A  
M.C.

The Govt concurs with the F. U. that  
the proceedings of Mr R. R. Cotton as  
detached in these papers, ~~are~~  
~~arbitrary & illegal~~ - in  
accordance therefore with the  
recommendation of the Judges of  
~~that Court~~ the Govt has the  
in C resolves to remove Mr  
R. R. Cotton from his situation of  
Act Civil & Session Judge of Rajah-  
mundry & to appoint Mr S. Rattiff  
to the temporary charge of that  
Court, with instructions to join without delay.

2- Mr R. R. Cotton is accordingly  
directed to make over charge of  
the Court to Mr S. Rattiff on  
that per the same reaching Rajah-  
mundry.

Me

Copy to the F. U.  
as to Mr Cotton

Sept 4<sup>th</sup>

Just to the 24th Dec

Dec 31st 1857

Dec 20

Dec 20 to Dec 27 1857

Just to the 24th Dec  
Jan 1st 1858

1857

Ex: from the 24th  
of Constitution  
dated 4th Dec 1857

From 11 to Jan 7 1858 24 to 27  
" " " " 54 to 56  
J. No 2178/58  
" 232/60  
" 305 "

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