M.R.O. 1—50,000—18-10-28.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 799 Press ~~Mis.~~

27-28

Dated 10-7-~~19~~85.

***Not to be folded or roughly handled***

*Fort St. George, Judicial Consultation,* 14*th July* 1857.

No. 27. Read the following letter from C. WHITTINGHAM, Esq., Magistrate of North Arcot; to E. MALTBY, Esq., Acting Chief Secretary to Government, dated Chittoor, 23rd June 1857, No. 37.

SIR,

I have the honor to submit, for the information of Government, copy of a letter from the Joint Magistrate, forwarding copies of decisions passed by him in two charges of abuse of authority, against Abdul Hakeem, the Cutwal of the town of Arcot, and Appavoo Moodely, Moonsiff of that town.

(Signed) C. WHITTINGHAM,
*Magistrate.*

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From A. W. SULLIVAN, Esq., Joint Magistrate of North Arcot; to C. WHITTINGHAM, Esq., Magistrate of North Arcot, dated 20th June 1857, No. 124.

SIR,

1. I have the honor, with reference to the orders of Government, noted in the margin,* to forward true copies of a decision of mine in two charges of abuse of authority, preferred against Abdul Hakim, the Cutwal of the town of Arcot, and Appavoo Moodelly, Moonsiff of that town, and to state that I have dismissed them from their respective offices.

* 10th June 1856.
23rd July 1856.
19th November 1856.

2. It will remain for the Government to determine whether they are at any future period to be re-employed.

(Signed) A. W. SULLIVAN,
*Joint Magistrate.*

(True Copy.)

(Signed) C. WHITTINGHAM,
*Magistrate.*

Should Government "think it will remain

Sentence passed by the Joint Magistrate of North Arcot, for the 2nd Quarter of 1857.

| Case Number. | Names of prosecutors. | Charge. | Names of defendants. | Names of witnesses. | Date of Sentence. | Remarks. |
|---|---|---|---|---|---|---|
| 19 | 1. Para Chupay *alias* Ponan Toty in the town of Arcot.<br>2. Para Oomay *alias* Moonien Toty in do. do. | *Abuse of Authority.*<br>The defendants are charged with having 1st at Arcot on the 1st day of February 1857, unlawfully taken the prosecutors (of the right hand caste) into custody, with having confined them in Arcot Cutwal's Choultry for a period of 15 days, under the pretence that they (the prosecutors) had been present during an affray between the Pariahs (right hand) and the chucklers (left hand caste).<br>2ndly, with having at the time they were in confinement, made use of grossly abusive language towards the prosecutors, and with having then and there instigated certain chucklers named Mulchetty, Chinna Chengun, Parea Chengun and Arneegan to ill-treat the prosecutors who were brought out by the defendants from their confinement in the Cutwal's Choultry, for the purpose of being so ill-treated.<br>3rdly, with having further unlawfully handcuffed the prosecutors, and with having kept them so handcuffed during the period of their confinement. | 1 Abdul Hakeem, Cutwal of the town of Arcot.<br>2 Arnachella Moodely, village Moonaiff of Cusbah Arcot. | 1 Laul Mahomed, Peon of Arcot Cutwal's Choultry.<br>2 Chinnien, Peon do. do.<br>3 Govindoo, Peon do. do.<br>4 Malayee, town crier do. do.<br>5 Kistnun, Peon do. do.<br>Witnesses in defence.<br>1 Mahomed Oosmaun, Talook Peon Arcot.<br>2 Baboo.<br>3 Ramsing.<br>4 Soobroy Chetty.<br>5 Cundasawmy Naik.<br>6 Coomarun.<br>7 Goodoo. | 17th June 1857. | The prisoners both plead NOT GUILTY.<br>The *1st witness, Laul Mahomed*, a Peon, states that he proceeded with defendants to the spot where a crowd of some 150 persons of both castes were assembled, that he there saw the prosecutors who had in hand only their usual sticks of office as Toties, that he did not see them commit any breach of the peace, that the 1st defendant ordered them to be taken to the Cutwal's Choultry, abusing them grossly at the same time, that shortly afterwards the defendants came to the Choultry, bringing them with the chucklers as set forth in the charge, that the prosecutors were brought out by order of the defendants, who seated themselves outside the Choultry, and that the prosecutors were immediately assaulted and beaten by the chucklers in the presence of the defendants, after which they were taken again into confinement. He (1st witness) moreover states that on the following morning on seeing the prosecutors, they were handcuffed. The *2nd witness Chinnien*, also a Peon, corroborates the evidence of the 1st witness, and speaks to the use of abusive language by the defendants towards the prosecutors, and to their instigating the chucklers to assault the prosecutors. He speaks to the sobriety and inoffensiveness of the prosecutors when apprehended. The *3rd witness Govindoo*, another Peon, speaks to the confinement of the prosecutors in the Choultry, to their being called outside by the defendants, and to his having heard from inside the Choultry, a cry from the defendants that they were being beaten, but did not actually witness the assault made by the chucklers, he moreover states that on the following morning, the Police Ameen came to the Choultry at which time the 1st defendant ordered the prosecutors to be handcuffed. The *4th witness, Malaye*, Arcot town crier, corroborates the evidence of the 1st witness. The *5th witness, Kistnan*, also a Peon, speaks to the confinement of the prosecutors in the Choultry, to their being grossly abused when there, by the defendants, and to the chucklers having assaulted the prosecutors at their (defendants') instigation. This closes the evidence for the prosecution. |

The 1st defendant (Cutwal Hakimsahib) states in his defence, that the prosecutors with a number of other pariahs and chucklers were riotously assembled and committing a breach of the peace in the town on the day in question, the parties being in a state of intoxication, that by order of the Police Ameen, he (1st defendant) proceeded to apprehend the prosecutors and others who were going in procession contrary to a proclamation issued by the Joint Magistrate, by which both right and left hand castes were prohibited from having any procession in the town without previous permission; that on the following morning, the Police Ameen visited the Choultry, and the prosecutors being insolent to him, he ordered them to be handcuffed, in which condition they remained for about an hour, when the Police Ameen ordered the handcuffs to be taken off, but he states that as the prosecutors refused to have them taken off, they remained handcuffed for about *fifteen* days.

The 2nd defendant's statement is much to the same effect, but he admits that he advised the prosecutors not to obstruct the chucklers in their procession, (whereas the Joint Magistrate's proclamation was applicable to *both* parties) to which advice they paid no attention, which was the reason they were taken into custody.

The two defendants cited between them seven witnesses, who were all examined, but though their evidence contradicts in some measure the evidence of the witnesses for the prosecuton, it has all the appearance of having been packed, and the witnesses vary specially as to the time of the several occurrences, and in some instances their several evidences are conflicting *inter se*.

Looking to the fact of the respectability of the evidence for the prosecution, being all Peons, who were under the 1st defendant at the time, and engaged in the performance of their duties under his orders, the Joint Magistrate considers the charge against the two defendants as established, and it is evident that the 2nd defendant, indeed he admits it himself, endeavoured to favor a party acting against the orders of the Joint Magistrate, thus making an abusive use of his authority as village Moonsiff throughout. The 1st defendant seems to have aided him in this, and to have made most abusive use of his authority as a Cutwal. It may be questioned whether he was justified in handcuffing the prosecutors when in custody in his Choultry (even on the orders of the Police Ameen which were quite illegal and will form matter of separate consideration) as he was the best judge of such a necessity, but most certainly he was not justified in keeping them handcuffed for 15 days, because, as he states, the prosecutors, refused to have the handcuffs removed. It was as much his duty to obey the Police Ameen's orders in one respect as the other at any rate. The defendants are sentenced in No. 20.

Vellore, June 17th, 1857.

(Signed) A. W. SULLIVAN,
*Joint Magistrate.*

(True Copy.)

(Signed) A. W. SULLIVAN,
*Joint Magistrate.*

(True Copy.)

(Signed) C. W HITTINGHAM,
*Magistrate.*

Keeps them "Out of his hands"

Sentence passed by the Joint Magistrate of North Arcot, for the 2nd Quarter of 1857.

| Case Number. | Names of prosecutors. | Charge. | Names of defendants. | Names of witnesses. | Date of Sentence. | Remarks. |
|---|---|---|---|---|---|---|
| 20 | Para Rayapen of Arcot, 1. Para Malayee of Arcot, 2. | *Abuse of Authority.* The defendants are charged with having at Arcot on the 1st day of February 1857, without any complaint against them, or other just cause unlawfully taken the prosecutors into custody, and with having confined them in the Arcot Cutwal's Choultry for a period of 5 days. | 1 Abdul Hakim, Cutwal of the town of Arcot. 2 Arnachella Moodelly, village Moonsiff of Cubbah Arcot. | 1 Iyaloo Naidoo, Duffadar of the Arcot Cutwal's Choultry. 2 Laul Homed, Peon of do. do. 3 Govindoo, Peon of do. do. 4 Malayee, town crier of do. do. | 17th June 1857. | The defendants both pleaded NOT GUILTY. The 1st *witness Iyaloo Naidoo*, states that the prosecutors and two others appeared before the 1st defendant, and requested him to stop the chucklers from proceeding in procession, it being contrary to established usage, and a proclamation issued by the Joint Magistrate, upon which the 1st defendant ordered the prosecutors to be placed in the Choultry, where they were accordingly confined. He also states that he proceeded to the place where an affray was said to be taking place, and that the defendants joined him, there was a crowd of some 300 persons assembled, and the chucklers and pariahs were quarrelling, he states the prosecutors were confined for about four (4) days, and released them by order of the 1st defendant, this witness states the prosecutors were quite sober when they made their application to the 1st defendant. |

*The 2nd witness, Peon Laul Mahomed*, states that at 9 o'clock P. M. on the day in question, he was on guard at the Choultry, and received charge of the prosecutors, and two others who were then confined in the Choultry, where they remained some 6 days and were then released by order of the 1st defendant.

*3rd witness, Peon Govindoo*, states that by order of the 1st defendant, the prosecutors in this case were placed in confinement and remained so for some 4 or 5 days.

*4th witness, Town Crier Malayee*, states that he saw the prosecutors in this case who were placed in confinement in the Cutwal's Choultry for 4 or 5 days, and that they at the time frequently complained that they had been unjustly taken up and confined by the 1st defendant's order.

The 1st defendant states in his defence that the prosecutors, and two others were apprehended, and sent to his Choultry by 1st witness, for having proceeded along the Arnee road in procession without previous permission, but the evidence of the 1st witness by no means supports this statement.

There is no evidence of abuse of authority in this case against the 2nd defendant, and as far as this case is concerned, he is acquitted.

In this case neither of the defendants cited any witnesses.

The Joint Magistrate considers the charge established against the 1st defendant in this case, and looking to the strong case established against him in case 19, he considers him deserving of severe punishment, he is therefore sentenced to pay a fine of Rs. 10-8, and in default to be imprisoned for a period of 21 days, under Regulation III of 1819, Section 3, Clause 2.

The charge of abuse of authority in case No. 19 having been also established against the 2nd defendant, he is sentenced to pay a fine of 7 Rupees, or in default to be imprisoned for a period of 15 days, under the above Regulation.

N. B.—Both parties will be dismissed from their respective offices, and copies of these sentences forwarded to Government agreeably to Minutes of Consultation, dated 19th November 1856, No. 1260.

(Signed) A. W. SULLIVAN, *Joint Magistrate*,

Vellore, June 17th, 1857.

(True Copy.)
(Signed) A. W. SULLIVAN, *Joint Magistrate.*

(True Copy.)
(Signed) C. WHITTINGHAM, *Magistrate.*

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## *Fort St. George, Judicial Consultation, 14th July* 1857.

No. 28. ORDER THEREON, No. 799; dated 10th July 1857.

Abdul Hakim, Cutwal of the Town of Arcot, and Appavoo Moodelly, the Moonsiff of the Town, have been convicted by the Joint Magistrate, of having, in 2 instances, misused their authority, by improperly hand-cuffing and retaining in custody for 15 days some parties charged with rioting on an occasion which brought the right and left hand castes into antagonism. The sentence of the Joint Magistrate also charges these 2 Officers with partiality, and with having allowed the opposite party to treat the prosecutors with some degree of indignity while in custody.

2. The Cutwal and the Moonsiff were accordingly punished by fines, commutable to imprisonment if not paid. They were also discharged from their situations, and the Joint Magistrate in his letter reporting the cases to the Magistrate, observes "that it will remain for the Government to determine whether they are at any future period to be re-employed."

3. On considering the circumstances of the case and the punishment which these 2 servants have received for their irregular conduct, the Government will not object to their re-employment, but leave this point to the discretion of the local authorities.

(Signed) E. MALTBY,
*Acting Chief Secretary.*

Esd. F. Cartledge.

Reply thereon, "that it will remain

No 999 Judicial Depart.t

Extract Mins: of Cons: Dated 10th July 1837.

From Mayte J. K. recd 23 June 1837

Abdul Hakim Catoral of the town of Arcot, and Sheroos Mookelly, the Mussiff of the Town have been convicted by the Joint Mayte of having, on 2 occasions, assumed their authority, by unlawfully handcuffing & detaining in custody for 15 days some punters charged with riding on an occasion which brought the Right & left hand castes into antagonism - The sentence of the Joint Mayte also charges these 2 Officers with partiality, & with having allowed the opposite party to treat the prosecutors with some degree of indignity while in custody -

2 - The Catoral & the Mussiff were accordingly punished by fine, on constable to inspt if not paid - They were also discharged from their situations, & the Joint Mayte in his letter reporting the case to the Hon.ble Board says "that it will remain

for the Govt to determine whether
they are at any future period
to be re-employed"

3- In considering the circumstances
of the case of the punishments
which these servants have re-
ceived for their misconduct
the Govt will not object to their
re-employment but leave
that point to the discretion of
the Local authorities -

I have

To the Magistrate of Arcos - Dispd 14th Feb