

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1355	Press ~~Mis~~
	7-8	
Dated	6-10-1958	

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 12th October 1858.

No. 7. Read the following Extract from the Proceedings of the Foujdaree Udalt under date the 21st September 1858, No. 30.

Read letter from the Acting Agent in Ganjam, dated 30th June 1858, bringing to the notice of the Court the number of persons who have been in confinement for periods varying from two to twenty months under orders of the Assistant Agent Captain Smith.

Read, also, Return to the Precept of the Foujdaree Udalt of the 12th July, from the Acting Agent at Ganjam, submitting explanation of the Assistant Agent on the subject of the detention of the parties referred to in the above letter of the Acting Agent.

Read, also, Return to the Precept of the Foujdaree Udalt of 28th August, calling for further explanations on the same subject from Captain Smith.

1. In his letter of the 30th June 1858, the Acting Agent to the Governor at Ganjam brought to the notice of this Court, that on taking charge of the District of Ganjam he was induced by the number of complaints on the part of friends and relatives of persons, who had been detained in custody for lengthened periods by the Assistant Agent Captain Smith, to require from that Officer a list of all persons in custody and under trial before him. From the Report then submitted by Captain Smith, it appeared that seventy-four persons had been in custody under his orders awaiting their trial for periods varying from two to twenty months, a state of things which the Acting Agent very justly conceived it to be his duty at once to make known to this Court.

2. Captain Smith having been called on for an explanation on the subject of the evidently illegal and unjustifiable detention of these parties (a statement of whose number and the periods of their imprisonment is given in the margin) has stated, as follows, the grounds upon which they were apprehended and the causes of the delay in the disposal of their cases. "The persons in Nos. 1, 2, 3, 5, 6, 8, are followers of Chokra Bissoye, against whom up to the

(No. 1.)	2 persons in custody since Nov. 1856 or 20 months.
(No. 2.)	1 do. " April 1857 or 14 "
(No. 3.)	3 do. " Augt. 1857 or 10 "
(No. 4.)	3 do. " do. "
(No. 5.)	4 do. " Jany. 1858 or 6 "
(No. 6.)	1 do. " Feby. 1858 or 5 "
(No. 7.)	7 do. " do. "
(No. 8.)	13 do. " March 1858 or 4 "
(No. 9.)	3 do. " do. "
(No. 10.)	34 do. " May 1858 or 6 weeks.
(No. 11.)	3 do. " June.

present date no evidence has been forthcoming. Those in No. 4 were concerned in a case of procuring abortion; they were detained in the Agent's Court for upwards of five months, and forwarded to me on the 19th of February, at which time other cases were under inquiry; they were committed for trial on the 18th of June. The parties in No. 7 were remanded on a charge of making away with grain; but on inquiry were released, as the case seemed of a civil nature. Those in No. 9 were charged with having attempted to procure false evidence in a criminal case, and were detained till the case was disposed of. In No. 10 the parties were charged with house-breaking; the disposal of their case was delayed on account of the non-attendance of a party implicated. No. 11.—Want of time has prevented the investigation of the case."

3. When calling for an explanation from the Assistant Agent on the subject of the detention of these parties, the Court expected to discover that great irregularities had occurred in the investigation and disposal of their cases, and that probably want of energy and exertion on the part of Captain Smith had been the cause of the extraordinary and unexampled delays; but the Court were not prepared to find that an Officer exercising important judicial and magisterial powers should prove himself so ignorant of the first principles of criminal law, and have exhibited such an utter disregard of all law, practice, and justice.

4. At any other time the proceedings of Captain Smith in the cases noted in the Nos. 4 and 7. margin would have been thought deserving of the most severe censure of this Court; but their irregularity and injustice sink into insignificance when compared with those in the cases of the so called "rebels." These parties were at least charged with the commission of an offence; and although the occurrence in No. 4 of five months' delay between the case coming before the Assistant Magistrate and its committal for trial was perfectly unjustifiable, and although in No. 7 it took the Magistrate months to discover that the acts attributed to the prisoners were not of a criminal nature, still the Court find there were some legal grounds to justify their original apprehension, and to detain them in custody until some inquiry should be made.

Nos. 1, 2, 3, 5, 6 and 8. 5. The case of the Bungars or rebels is different. These persons were sent up to the Assistant Agent charged with having been followers of the rebel Chokra Bissoye.

Fort St. George, Judicial Consultation, 12th October 1858.

Not one atom of evidence in proof of this fact was brought against them; and yet on this vague and unsupported accusation, these unfortunate people, including men, women and children, have been kept in confinement for periods varying from two to twenty months. On the Assistant Agent being asked for a further explanation regarding the case of these people, he had merely to state that they were believed to be rebels because they were found living in "Pootoos" away from their villages, and that the only source from which he expected to derive evidence of their complicity in Chokra Bissoye's misdeeds was the records of trials of other rebels, in which it was believed that their names might be mentioned.

6. Captain Smith states that he was in constant communication with the late Acting Agent Mr. Wm. Knox, on the subject of these "rebels," and has forwarded various Yádasts or Memoranda that passed between their offices, also statements of their numbers, dates of their apprehension, &c., submitted on various occasions to the Acting Agent. The Court can only express their surprise that Captain Smith's illegal and arbitrary proceedings should not have attracted the attention and called forth the interference of the Acting Agent, and the Court cannot acquit that Officer of a serious neglect of his duties, in thus omitting to exercise his power of supervision and control over the acts of his Subordinate. Whether however this arose from mere neglect on his part, or from the confidence he placed in the judgment and discretion of his Assistant, does not require to be now determined, as in neither case would Captain Smith be relieved from his responsibility. The only other plea urged by Captain Smith in justification of his conduct in these cases is that so much additional work has been thrown upon him that he has not sufficient time to devote to his Magisterial duties. The Judges have never accepted of such a plea for delay in the disposal of criminal cases, but they would observe that it is not delay in the legal performance of his duty, reprehensible though it be, that now calls for their disapprobation; but it is the grossly illegal and unjustifiable nature of the act, committed by the Assistant Agent, in apprehending and detaining in custody for months parties against whom no charge of a specific crime could be framed, against whom there was not one tittle of evidence, and barely grounds of suspicion.

7. The Court have only to add that not only does the whole course of Captain Smith's proceedings in these cases testify to his complete ignorance and wanton disregard of the rules laid down for his guidance in his Magisterial duties, but that his explanations also exhibit such an inability to comprehend the extent to which he has violated the principles of law and justice, that the Court are compelled to express their decided opinion that he cannot safely be entrusted with the very important Judicial and Magisterial powers attached to the situation of Assistant Agent; an opinion which the Court consider it their imperative duty at once to lay before the Government.

(True Extract.)

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

No. 8.

ORDER THEREON, No. 1385; dated 6th October 1858.

Resolved, that the Court of Foujdaree Adawlut be requested to submit to Government, all the papers which have been laid before them in connection with the subject considered in the above Extract from their Proceedings, as well as copies of any Precepts that they may have addressed to the authorities in Ganjam respecting it.

(Signed) T. PYCROFT,
Chief Secretary.

Judicial Dept
No. 1385
Extract from the Proceedings of the
Foujdaree Adawlut
Dated 21st September 58
For orders

I think this had better be over
to us get the present Agents to
part on the Pootos referred to here
It is difficult to judge of the
nature of the cases which form the subject
of the Court's proceedings without some
more detailed information

As regards the Bungalow property then
the persons are the supporters of Chokra
Bissoye. This fact when being found
in the papers on the cases of the rebels
is strong presumptive evidence against
them.
I may say

probably have been necessary to detain
these people at the no specific charge
had been preferred against them, for
the mischief done by Chakra Bapaya
during the last ten years, the numerous
murders perpetrated with are of the
most shocking cruelty, the villages plundered
& burnt & the inability of the police
to cope with him under the
extraordinary measures against his adherents
& sympathizers excusable if not necessary
in such a wild & difficult country as
the Ganjam Malabar.

It will be seen that Japa Bhatta
was acting in concert with his super-
the Agent in these cases.

There is no doubt Japa Bhatta lacks discretion
has unnecessarily detained some of the
other prisoners in old & cases with the intent

make ^{no} excuses for him in that of
longest duration, but unless something
more serious comes out in the Agent's
Report I don't consider the extreme
course recommended {the Agent is called for
for advice a milder course.

Will

No 1385

dis/

Resolved that the Court of Foreigners
Advocate be requested to submit
to find all the papers which have
been laid before them in connection
with the subject considered in
the above extract from their
Proceedings as well as copies
of any precepts that they may
have addressed to the authorities

For George in Janjan respecting it.
October 1858.

Foreigners Advocate Sir M. J. P.