M.R.O. 1—32,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 653	Press ~~Mis.~~
19-20	
Dated 30.1.— ~~19~~ 1920	

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 2nd February 1858.

No. 19. Read the following letter from T. J. KNOX, Esq., Acting Magistrate of Masulipatam; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated Nedadavale, 7th January 1858, No. 6.

SIR,

In obedience to the Extracts Minutes of Consultation in Judicial Department, No. 824, dated 2nd August 1856, No. 1260, 19th November 1856, and No. 1637, 16th December 1857, I have the honor to submit for the information of Government a copy of a decision passed by me in case No. 18 of 1857, wherein the defendant (the Village Moonsiff of Motoor in the Talook of Goodewadah) was charged with and convicted of abuse of authority. It is a simple case and as I have stated arose from timidity and ignorance and not from any malicious motives.

(Signed) T. J. KNOX,
Acting Magistrate.

Case No. 269 of 1857, Goodewadah Head of Police's file.

Case No. 18 of 1857, Masulipatam Acting Magistrate's file.

Prosecutor.		*Defendant.*
Pruttepauty Naugadoo.	*versus*	Nookala Venkiah, Village Moonsiff of Motoor.

Charge.—Abuse of authority.

The defendant is charged with having at 9 o'clock A. M., of the 15th December 1857, in the village Motoor of Goodewadah Talook, Zillah Masulipatam, without any just reason whatsoever, illegally confined the prosecutor and his brother (1st witness) in the stocks and sent them as prisoners to the Head of Police.

Decision.—Prosecutor complains that the Village Moonsiff without any just reason whatsoever confined him, put him in the stocks and sent him a prisoner to the Head of Police who at once released him.

The Moonsiff admits that he did all this. Prosecutor and his father and brother were charged by P. Parentaloo with assaulting and threatening to murder him; that prosecutor's father was so violent in his resistance when required to give up his knife that some restraint was deemed necessary and the Vettymen refused to take such violent characters to the Head of Police unless handcuffed.

It is clearly proved that on seeing the prosecutor's father's resistance to giving up his knife, when it is said he attempted to stab the man who was ordered by the defendant, Village Moonsiff, to take it. The defendant ordered the faher and sons to be confined, and tied, and sent them to the Head of Police handcuffed, in short treated them as if charged with a capital offence.

The Acting Magistrate is of opinion that the defendant has acted illegally from timidity and ignorance and not from any malicious feeling against prosecutor. If defendant believed the prosecutor's father did intend to use his knife and injure P. Parentaloo, defendant was right to have it taken away and the resistance offered to the search for it justified in a degree his putting the father under restraint, but against the sons no such threatening language or violent behaviour was alleged, for the most they were accused of was assault and abusive language, and should on no account have been hand-cuffed or in any way confined, and defendant must be taught to discriminate in his treatment of persons charged with great and small offences.

The Acting Magistrate convicts defendant of illegally confining prosecutor, and for this abuse of authority sentences him to pay a fine of five Rupees, or in default to be confined in the Zillah Gaol for one month, under Clause II, Section III, Regulation III of 1819.

(Signed) T. J. KNOX,
Acting Magistrate.

Masulipatam, Magistrate's Court, at Goodewadah, 31st Decr. 1857.

(True Copy.)

(Signed) T. J. KNOX,
Acting Magistrate.

treated — the Vetty men
to be stated hereafter

No. 20. ORDER THEREON, No. 153; dated 30th January 1858.

In the case reported by the Acting Magistrate of Masulipatam in the above letter, it appears, that a party who had been charged with assault and threatening to murder and who violently resisted giving up his knife when required, was confined (in the stocks apparently) and sent to the Head of Police in handcuffs. Two other men, sons of the above, accused on the same occasion of assault and abusive language were similarly treated—the Vettymen it is stated having refused to take such violent characters to the Head of Police unless handcuffed.

2. The Moonsiff by whose orders these men were thus put under restraint—admitted by the Acting Magistrate to have thus acted from timidity and ignorance and not from any malicious feeling—has been convicted of abuse of authority under Regulation III, 1819, and sentenced to pay a fine of five Rupees or in default to be imprisoned for one month in the Zillah Jail.

3. As far as the statement sent up by Mr. Knox enables him to judge, the Right Honorable the Governor in Council fails to see any abuse of authority or irregularity on the part of the Moonsiff. He seems simply to have used necessary and reasonable precautions and such as any Peace officer in England would have employed for the due custody and safe conveyance to his superior officer, of certain outrageous and violent individuals. The Government therefore resolve to forward these papers to the Court of Foujdaree Udalut and to suggest to them to call for the proceedings of the Acting Magistrate in the case, and to dispose of it as they may deem proper.

4. The Governor in Council takes this opportunity of explaining to the Foujdaree that the order of Government 10th June 1856, Revenue Department, No. 591, and their subsequent orders in regard to their cognizance of cases of abuse of authority, were not in any way intended to interfere with the review by the Foujdaree of such cases in the Magistrates' Calendars. On the contrary it seems to the Right Honorable the Governor in Council that there is no class of cases which more requires the close supervision of the Judges of the Foujdaree Adawlut both to ensure the adequate punishment of such native public servants as may have been guilty of wilful oppression and misuse of their official powers, and the protection of those servants who have merely done their duty, or whose errors, if they have erred, have proceeded only from ignorance, inexperience or want of judgment and not from any malicious or corrupt motive.

(Signed) T. PYCROFT,
Chief Secretary.

Ed. V. Cardoza

No. 153. Judicial Department

Extract from the Minutes of Consultation, dated 30th January 1858

The following Letter from the Magistrate Masulipatam — 7 July 58.

In the case reported by the Acting Magistrate of Masulipatam in the above letter, it appears, that a party who had been charged with assault and threatening to murder & who violently resisted giving up his knife when required was confined in the stocks apparently and sent to the Head of Police in Handcuffs — Two other men, sons of the above, accused on the same occasion of assault & abusive language were similarly treated — the Vettymen it is stated having

appeal to the Irish Irish
violent character to
the Head of Police unless
handcuffed —

2 The Prisoner by whom
orders has been was
then put under restraint
& admitted by the Act?
Magistrate to have the
actual proximity &
ignorance and not from
any malicious feeling —
has been convicted of
abuse of authority
under Rep III - 1849 and
sentenced to pay a fine
of £10 pounds or in default
- to imprisonment for one
month in the Tullock Jail

3 As far as the state-
-ment last upon by Mr
Knox enables him to
judge, the Prisoner
fully to die any abuse

of authority or incivility
on the part of the Prosecu-
tor seems simply to have
used necessary & reason-
able means in any Police officer in
the precautions for the
due custody and safe
conveyance to his depo-
-sition office, of certain
violent & dissolute
violent & dissolute - The
Govt. have for reasons of pub.
been pleased to direct the
Foreign Secretary Admiralty &
to suggest to them to call
for the proceedings of the Rec.
Magistrate in the case - & to
dispose of it as they
may deem proper -

England would have employed

4 The Govt takes this
opportunity of explaining
to the Foreign Secretary that the
order of June 10 June 1856
Rec Dept No 591 and
their subsequent orders
in regard to their conveyance

of Cases of a Nature of Authority, unwilling in any way
to take upon to take upon
himself the Office by Proxy-
-dence of such Cases in
the Magistrates' Calendar.
On the contrary it seems
to the Rt Hon Sir C Hatton
that there is no Class of Cases
which more requires the
close Inspection of the
Judges of the Foujdaree Adawlut
Adawlut both to ensure
the adequate punishment
of such Native public
Servants as may have been
guilty of wilful oppres-
-sion & misuse of their
Official powers - and
the protection of those Ser-
-vants who have truly
done their duty - or where
error in Law may have crept
in, proceeded only from
ignorance, inexperience or
want of judgment & not
from any malicious or
corrupt motive JP.

To the Foujdaree Adawlut
Mag of Meerutpatam

Sept 13