M.R.O. 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 213 Press ~~Mis.~~
28-29

Dated 15-2-~~1928~~ 1929

Not to be folded or roughly handled

No. 28. Read the following letter from J. W. CHERRY, Esq., Commissioner of Salem; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated 28th January 1858, No. 1.

SIR,

1. In obedience to the orders of Government conveyed in their Proceedings under date the 14th Instant, received 25th, I have the honor to report, that the cases referred to in the last Section of para. 2 of the above instructions, were committed to my Court by the Tahsildar of Salem, under the orders of the Joint Magistrate, passed 3 days prior to the receipt of the orders of Government dated 17th November last.

2. With refereuce to para. 3 of the Extract of Minutes of Consultation adverted to above, I beg to submit that the 3 cases therein alluded to were not committed in infringement of the recent orders of Government, they were committed by the Joint Magistrate only, who, it would appear from the records, partly after an examination of the depositions taken by the Tahsildar, and partly after questioning the parties as to the correctness of their depositions, committed the cases to me.

3. The Joint Magistrate has now been called upon to pay strict attention to the requirements contained in para. 4 of the Government orders now under acknowledgment.

4. The practice among the Magistracy hitherto has evidently not been to conduct the examination of these kind of cases "entirely in person" but after questioning the parties as to the correctness of their depositions, they have merely forwarded the cases on to the Commissioner.

5. I cannot help taking advantage of this opportunity to notice that the heavy Criminal files of the Courts in this District, would be greatly relieved if more of the cases coming generally within the jurisdiction of the Magistracy, were disposed of by those Officers.

6. In support of this, I beg to observe, that from a statement drawn up in the office it appears, that no less than 37 cases which might have been dealt with by the Magistracy under the extended powers were forwarded to the Sub Court in 1857. That the number of cases actually so disposed of by the whole of the Magistracy, amounted to only 16,* whereas the number tried by the Criminal Court last year, amounted to 197.

* Cases disposed of under Act VII of 1843, in Tanjore were:
In..... ..1854—91
1855—79

7. The natural consequence is, that but very insufficient time and attention can be given to the Civil work, and that parties are unnecessarily brought from a distance to a proverbially unhealthy place and who further, last year having in 18 instances fallen victims to diseases, have never returned.

8. It may be that either the Magisterial staff is insufficient or that their other numerous duties altogether prevent their personally enquiring into cases, more frequently than they do. I have however thought it my duty to bring to the notice of the Government in what way the present practice affects the public interests—these would I respectfully urge be much benefited, if no Criminal case that could possibly be disposed of by the Magistracy, was ever allowed by them to go through the extra delay and inconvenience of a committal to the Courts.

(Signed) J. W. CHERRY,
Commissioner.

No. 29. ORDER THEREON, No. 213; dated 15th February 1858.

From the above letter it appears, that of the cases noticed in Extract Minutes Consultation 14th Ultimo, those referred to in para. 2 were committed to the Salem Court by the Head of Police 3 days prior to the receipt of the orders of Government 17th November last, which require that such cases should be committed after personal enquiry by the Magistrate himself or one of his European Assistants.

2. The cases commented on in para. 3 of the same Extract were it seems committed by the Joint Magistrate "partly after an examination of the depositions taken by the Thasildar and partly after questioning the parties as to the correctness of their depositions."

3. This was insufficient and irregular, but the orders contained in para. 4 of the Extract, will, it is trusted, prevent a recurrence of such proceedings.

Fort St. George, Judicial Consultation, 16*th February* 1858.

4. With respect to the observations in the concluding paras. of the Commissioner's letter, the Government remark that they have always urged the full exercise by the Magistracy of the extended powers conferred upon them by Section LIV, Act VII, 1843, and have noticed with approval the laudable example in that respect set by the Magistrate of Tanjore. The Governor in Council now resolves to forward copy of Mr. Cherry's letter to the Foujdaree Udalut for their consideration. He is at the same time, however, well aware of the many calls upon the time of the Heads of Districts and their Assistants and the little leisure left them for disposing in person of Magisterial cases under Act VII, 1843.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial Department.—

No. 213.—

Extract from the Minutes of Consultation.—
Dated 15th February 1858.—

Read the following letter from the Commissioner of Salem:—

(Received 28th January 1858.
No. 1.—)

From the above letter it appears that of the cases noticed in Ex. Min. Con. 16th Ultimo those referred to in para 2 were committed to the Salem Court by the Head of Police 3 days prior to the receipt of the orders of Government 17th November last, which require that such cases should be committed after personal enquiry by the Magistrate himself or one of his European Assistants.—

2.— The cases commended on in para 3 of the same Extract were it seems committed by the Joint Magistrate "partly after an examination of the

"the depositions taken by
"the Thasildar and partly
"after questioning the parties
"as to the correctness of their
"depositions."—

3.— This was manifestly irregular, but the orders contained in para 4 of the Cobaid will it is trusted prevent a recurrence of such proceedings.—

4.— With respect to the observations in the concluding paras of the Commissioner's letter, the Government remark that they have always urged the full exercise by the Magistracy of the extended powers conferred upon them by the XIV Act VII - 1843, and have cautioned with approval the laudable example in that respect set by the Magistrate of Tanjore — The Governor in Council now resolves to forward copy of Mr. Cherry's letter to the Tanjore Collector for their consideration - He is

Fort St. George
15th Feby 1858.

Tanjore Collector
Com[missioner] of Salem —

Dispd. 19th.

is at the same time however well aware of the many calls upon the time of the Heads of Districts and their Assistants and the little leisure left them for disposing in person of Magisterial cases under Act XIV 1843. —

J.P

H. Conneer

H. C. Bell
Chief

2

Jud Dept Letter Engd 30th June
No 9 of 1858 - Para 8 -

C. No. 18 - 19
19/1/58
~ 35
17/11/57
~ 58
15/9/57

28 - 29

In Dy to Comrs. 16th Feby 1858
Judicial 1858 Deptt

No 213

Extract Mints: of Comrs

8/15: Febmary/58

CBLL
2121