M.R.C. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 322 Press Mis=
69-70

Dated 6 - 3 - 1970

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 12*th March* 1858.

No. 69. Read the following letter from J. SILVER, Esq., Magistrate of Tinnevelly; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 2nd February 1858, No. 61.

SIR,

Alagappen Chetty 1. and Moodookistna Iyer 2.

One Alagoomary Nadan of Poodoor village, in the Munnarcottah Estate in this district, was charged on the 8th December 1856, by the two individuals named in the margin, with having in breach of the trust reposed in him by the prosecutors under an agreement entered into by him, the defendant, on the 12th May 1856, to the effect that he will deliver 300 candies of Cotton to the prosecutors within 4 months, appropriated the sum of Rupees 4,000, which was advanced to him pursuant to the above agreement, to a purpose other than that for which it was advanced.

2. This case was filed in the Principal Sudder Ameen's Court in No. 174 of 1856. The Principal Sudder Ameen after making the necessary investigation, released the prisoner on the 22nd January 1857, on the ground that the Court of Foujdaree Udalut declared in their proceedings of the 8th Idem, that the prisoner was not liable to criminal prosecution for breach of contract. The Principal Sudder Ameen further stated in his sentence of 22nd January 1857, that the proper remedy for the prosecutors was by civil action.

3. The prosecutors having appealed to the Session Judge against the release of the prisoner in the said case, the Session Judge observed in his proceedings of the 4th February 1857, that the prosecutors asserted that they gave the money to the prisoner for a "specific purpose," but that the prisoner "denied having received the money," and ordered the Principal Sudder Ameen to re-entertain the case.

4. On the receipt of the above proceedings, the Principal Sudder Ameen requested me in his letter of the 6th February 1857, to cause the prisoner referred to, to be re-apprehended and forwarded to his Court. Accordingly, an order was sent by me to the head of Police of Sauttoor, in whose talook the Estate of Munnarcottah is situated, to re-apprehend and forward the prisoner to the Criminal Court.

5. The head of Police reported to me, that the accused party having absconded or concealed himself, he could not be found. Upon which a written proclamation requiring the absent party to appear to answer the charge against him within a fixed period of time, was issued by me under Section XVII, Regulation IX of 1816, to be publicly read and proclaimed by beat of tom-tom, and to be affixed on the outer door of the house of the party in question.

6. The head of Police reported in reply that the accused party did not appear within the time allowed in the proclamation for his appearance. Thereupon an order was sent to the head of Police, under date the 27th July 1857, to attach the lands in the occupation of the absentee in the Zemindaries of Munnarcottah and Vadimittah, under Clause third of the above quoted Section, the absentee being a tenant, and to adopt the necessary measures for the due care and management of the same, paying from the product the rent due to the Zemindars, as also to keep an account of all receipts and disbursements to be rendered to the absentee, whenever he may attend.

7. Still the absentee has not made his appearance, though it is now above six months since the lands were attached.

8. Under the foregoing circumstances, I have the honor to request to be furnished with such orders of Government as they may deem proper on the subject, agreeably to Clause fifth, Section XVII, Regulation IX of 1816.

No. 70. ORDER THEREON, No. 322; dated 10th March 1858.

Resolved to furnish the Magistrate with a copy of Extract Minutes Consultation in this Department of the 3rd March Instant, No. 278, disposing of a cognate though not exactly parallel application from the Magistrate of *Madura*.

2. If the Magistrate had *served* a *Summons* on the individual *Alagoomary Nadan*, and the latter had neglected to attend, the Government would have been in a position to attend to the present requisition. But it seems that his offence was not deemed a bailable one.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial Dept 2d

No 322

E.M.G. 4/11th March 1858

Read the following letters from the Magistrate of Tinnevelly } have entered No 61 4/2d Feb.y/58.

Resolved to furnish the Magt with a copy of E. M. G. in this Dept of the 3d March instant, No 278, directing that a cognate Bond not exceeding parallel application from the Magt of Madura.

2- If the Magt had served a summons on the individual, Algoo-many Nádan, & he taken bail neglected to attend, the Govt would have been in a position to attend to the present requisition - But it seems that his offence was not deemed a bailable one.

D.F.C. 4/3-58

the Magt of Tinnevelly with copy of Sunc. No 278 } Dispd 13th

In Dy to Cons-12th March
Judicial 1858 Departt

No 322

Extract Mins: of Cons

8/10: March 1858.

69-70