M.R.O. 1—38,000—16-10-29.

# MADRAS RECORD OFFICE.

## Government of Madras.

Judicial DEPARTMENT.

G.O. No. 416 Press ~~Mis.~~

46-47

Dated 29 - 3 — ~~19~~ 48.

**Not to be folded or roughly handled**

No. 46. Read the following letter from Lieut. Colonel H. COLBECK, Senior Magistrate of Police; to T. PYCROFT, Esq., Chief Secretary to Government, dated Royapett, 6th March 1858, No. 4.

SIR,

I have the honor to request you will submit for the consideration of the Right Honorable the Governor in Council, a few observations with regard to Section 44 of the Police Act (annexed herewith.)

Cruelty and hardship are the general features presented in cases tried under this Section and from many, I select one before me during the current week as an instance in illustration of the necessity of a measure, which I have now the honor to recommend.

*Case.*—A young girl aged about 13 years, of irreproachable character, is living with her Aunt an old and respectable woman, but of indigent circumstances. During the temporary absence of the Aunt in the evening the girl is enticed out and then carried to a lone house where for one month she is detained against her will. Her betrayer (after violation) makes her over to the keeper of a common brothel. From this after two months she escapes and joins her Aunt.

The man who committed the injury is convicted before me and sentenced to imprisonment with hard labor. He is a person possessed of some property, and had Section 44 empowered "compensation," I should have awarded it in addition to the imprisonment.

The girl was betrothed to her Cousin, (a son of the old woman) but under the circumstances, respectable marriage is out of the question and her prospects are ruined.

I would now respectfully submit that discretionary power may be given to the Magistrates to act in Section 44, as in Section 37 (annexed.)

Should the Right Honorable the Governor in Council coincide in this opinion, I can see no difficulty, either legal or otherwise in the measure. The Section empowers the fine, which once recovered, becomes the property of the Government, and authority from it would be sufficient to enable the Magistrate to award the whole or any part of the fine in satisfaction for injuries.

This power judiciously exercised would, I think, strengthen the hands of the Magistrate and be a boon to the public.

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ACT XIII OF 1856.—POLICE.

Section XLIV. Whoever unlawfully takes away, or detains against her will, any woman or female child, or unlawfully takes, or entices away, or detains, any female child under the age of fourteen years, out of the possession, custody, or protection, and against the will of the husband, parent, guardian, or other person, who has the lawful charge or government of such child, for the purpose of living in adultery or concubinage with such woman or child, or for the purpose of prostitution, or of deflouring her, or disposing of her in marriage, shall be guilty of a misdemeanor, and shall, on summary conviction before a Magistrate, be liable to imprisonment, with or without hard labor, for any term not exceeding six months, or to fine not exceeding five hundred Rupees, or to both; or, at the discretion of the Magistrate, may be committed for trial before Her Majesty's Supreme Court of Judicature.

(A true Extract.)

Madras, Royapett Police Court, 5th March 1858.

(Signed) H. COLBECK,
*Senior Magistrate of Police.*

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ACT XIII OF 1856.—POLICE.

Section XXXVII. Whoever commits any assault, forcible entry, or other injury, accompanied with force, not being felony, against the person or property of any person, whatsoever, shall be liable to a fine not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding four months. And if the penalty adjudged be a fine, the Magistrate may award the whole or any part thereof to the party aggrieved by way of satisfaction for such injury.

(A true Extract.)

(Signed) H. COLBECK,
*Senior Magistrate of Police.*

years

*Fort St. George, Judicial Consultation, 30th March 1858.*

No. 47. ORDER THEREON, No. 416; dated 29th March 1858.

The Government are unable to confer the power applied for in the above letter.

Section 44, Act XIII, 1856, does not—as do some other Sections of the same Act—provide for any portion of the fines inflicted under it being appropriated as compensation for the injured parties. Such provision could not now be made except by the Legislature, to whom the Government do not see sufficient cause to refer the matter.

(Signed) H. FORBES,
*Acting Secretary to Govt.*

Exd. T. Cartledge.

No. 4. Madras Royapet Police Court
6th March 1858.

From
Lieut. Col. H. Colbeck
Senior Magistrate of Police

To
T. Pycroft Esquire
Chief Secretary to Govern.t

Sir,

I have the honor to request you will submit for the consideration of the Right Honorable the Governor in Council a few observations with regard to Section 44 of the Police Act (annexed herewith.)

Cruelty and hardship are the general features presented in Cases tried under this Section and from many I select one before me during the current week as an instance in illustration of the necessity of a measure which I have now the honor to recommend.

Case.— A young girl aged about 13 years

years of irreproachable character is living with her Aunt an old and respectable woman but of indigent circumstances. During the temporary absence of the Aunt in the evening the girl is enticed out and then carried to a lone house where for one month she is detained against her will. Her betrayer (after violation) makes her over to the keeper of a common brothel. From this after two months she escapes and joins her Aunt.

The man who committed the injury is convicted before me and sentenced to Imprisonment with hard labor. He is a person possessed of some property and had Section 44 empowered "compensation" I should have awarded it in addition to the Imprisonment.

The girl was betrothed to her Cousin (a son of the old woman) but under the circumstances respectable marriage is out of the question and her prospects are ruined.

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Should the Right Honorable the Governor in Council coincide in this opinion, I can see no difficulty, either legal or otherwise in the measure. The Section empowers the fine which once recovered, becomes the property of the Government and authority from it would be sufficient to enable the Magistrate to award the whole or any part of the fine in satisfaction for injuries.

This power judiciously exercised would, I think, strengthen the hands of the Magistrate and be a boon to the public.

I have the honor to be
Sir
Your most Obt. Servt.
N. J. Hoeck.
Senior Magistrate of Police

Judicial Department

No. 440.

From Lieut. Col. H. Colbeck
Senior Magte. of Police
Dated 6th March 1858.

For Orders.

There must be an act. I shd think - & there might be the power - asked for by Col Colbeck - the matter shd be referred to the Legislative Council.

Such power in the hands of the Magte. wd be very useful but it wd be difficult for a Magte to impose an adequate office in such a case as that described. The man might be made amenable for action for damages - but probably the parties interested are

too poor & too ignorant to bring
one [illegible]

Well

No. 416.

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Section 44 Act XIII. 1856 does not, as do some other Sections of the same Act, provide for any portion of the fines inflicted under it being appropriated as compensation for the injured parties. Such provision could not now be made except by the Legislature to whom the Govt do not see sufficient cause to refer the matter.

JP

Fort St George
29 March 1858

Lt Col Colbeck
Dep 31