

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	479	Press ~~Mis.~~
	3-4.	
Dated	16-4-1918	

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 20th April 1858.

No. 3. Read the following letter from H. A. BRETT, Esq., Magistrate of Salem; to H. FORBES, Esq., Acting Secretary to Government, Fort Saint George, dated 25th March 1858, No. 88.

SIR,

1. With reference to an Extract from the Minutes of Consultation, dated the 23rd September 1856, No. 1022, sanctioning the defence at the public cost of O. S., No. 28 of 1856, instituted in the Subordinate Court of Salem by Teroovengada Moodelly, Mootahdar of Royacottah, against a Sub Police Officer of the Kistnagherry talook, and the Village Moonsiff of Royacottah, I have the honor to state that the plaintiff, on learning that the defence of the two officers above named, would be conducted at the public cost, withdrew his suit, and paid the costs incurred by the Government, viz., Rupees 23-8.

2. The defendants in their answer pointed out the vexatious character of the suit, and prayed that a fine might be imposed on the plaintiff under Section IX, Regulation II of 1802, for having preferred such a suit. The Sub Court, however, allowed the suit to be withdrawn; and, subsequently, when its vexatious character was again brought to the Court's notice by petition, the Sub Judge held that no fine was called for. On an appeal to the Civil Court, the 22nd July 1857. Acting Civil Judge fined the plaintiff 100 Rupees. A copy of the order recorded 8th December 1857. ed by the Sub Court on the defendant's petition, and a copy of the order recorded by the Civil Court in the appeal, are enclosed.

3. The Government will observe that more than one case has recently occurred in this district, in which public officers and private parties have been subjected to vexatious suits for damages on account of complaints before the Police. The suit referred to in para. 1, was filed in the first instance in the Moofly Sudr Ameen's Court, but was called up at my request to the Subordinate Court. In the letters noted in the margin, I have recently reported on two other cases of the same kind which were also filed in the Moofly Sudr Ameen's Court.

4. I now beg to recommend that in future no Sudr Ameen in this district should be allowed to try such suits, on the ground that the Native officers who preside in this Court are, generally speaking, totally unacquainted with the principles on which claims to damages can justly be maintained in such cases. I point to the Decrees passed by the Moofly Sudr Ameen in the two suits referred to above, as strong evidence of his want of knowledge on the point. I also see reason to believe that the several parties who brought the three suits to which this letter relates, selected the Sudr Ameen's Court in which to prefer their suits, rather than the Sub-Court, from some idea that they would find in the former Court greater facility for annoying the defendants.

5. I would further solicit the attention of Government to the disregard shewn by the Sudr Ameen's Court to the rules of procedure published by the Court of Sudr Udaulut in 1855. Though the Court in the preface to those rules condemned the practice of making the points recorded for proof, a mere recapitulation of the pleadings, the decisions passed by the Moofly Sudr Ameen in the two suits for damages prove that the same objectionable practice is followed in his Court up to the present day. The consequence is, that all the suitors in his Court are put to much more trouble and expense than there is any need for. It is not, I believe, the suitors who would object to see those valuable rules most rigidly observed.

Extract from the proceedings of the Subordinate Court at Salem, under date the 22nd July 1857.

O. S. No. 28 of 1856.

Plaintiff Trevenkita Moodely by Vakeel Appasawmy Pillay. Defendants Mooneeveera Naik and 5 others by Vakeel Goolam Hoossain Shaib.

The defendants' Vakeel in this case verbally represented to the Court on the 5th December 1856, that this suit was a vexatious one and was withdrawn by the plaintiff, that plaintiff should be visited with the punishment provided by Section IX, Regulation II of 1802, and requested that it may be ascertained from the plaintiff whether he intends renewing the suit. On this the plaintiff's Vakeel was directed to afford the information required.

Fort St. George, Judicial Consultation, 20th April 1858.

The plaintiff's Vakeel, Appasawmy Pillay, gave in an Yadast on the 20th December last, stating that plaintiff has no intention of renewing the suit because the Collector undertook upon himself to plead for the 1st and 6th defendants (who are Village Moonsiff and Carkoon) and the plaintiff is a Moottadar under the control of the Collector; that the suit was not of a vexatious nature, that a complaint was preferred by the 1st defendant in collusion with the other defendants, accusing the plaintiff of having been concerned in an assault; that before receiving proof against him as provided by the C. O. F. U. of 1850, the plaintiff was arraigned as a prisoner and acquitted by the Magistrate; that plaintiff therefore instituted the suit in question for defamation, that in consequence of its having been accidentally omitted to mention in his plaint the loss sustained by him from his being prevented from attending to his duty, the suit was withdrawn.

Order of the Court.

The Court sees no grounds whatever to comply with this application. The simple withdrawal of a suit by a party by no means proves that it was vexatiously instituted, and if such a plea were once admitted, it would operate most effectually as a bar to the amicable adjustment of suits by Razeenamahs, no other plea having been advanced in support of the application, the Court declines to pass an order imposing a fine upon the plaintiff.

(True Copy.)

(Signed) H. A. BRETT,
Magistrate.

Extract from the proceedings of the Civil Court of Salem, under date the 8th December 1857.

Read Miscellaneous Petition No. 159, of 1857, presented by Government Vakeel Goolam Assain Saib, on behalf of the Collector of Salem, complaining against an order of the Acting Subordinate Judge, who had declined fining the plaintiff for having preferred a litigious and vexatious suit in No. 28 of 1856, on the file of the Subordinate Court.

Read also proceedings submitted with the Return of the Acting Subordinate Judge made to this Court's precept of the 21st October last.

Upon a careful perusal of the plaint and answer in this suit, the Court is of opinion that it was a vexatious one; that the proceedings held before the Magistracy and reviewed by the Session Court, shew that there were ample grounds for the plaintiff having been included in the charge preferred by the Village Moonsiff of Royacottah; and the mere fact of the evidence against him being insufficient in that case, is no justification for his bringing a suit against that officer, who had undoubtedly a probable cause for complaint.

The plaintiff is therefore fined 100 Rs. under Section IX, Regulation II of 1802, which the Acting Subordinate Judge is requested to levy from him.

Ordered that Extract from these proceedings be sent to the Acting Subordinate Judge of Salem for his information and guidance, and the records in this case be returned to that office.

(True Extract.)

(Signed) J. W. CHERRY,
Acting Civil Judge.

(True Copy.)

(Signed) H. A. BRETT,
Magistrate.

No. 4.

ORDER THEREON, No. 479; dated 14th April 1858.

The Governor in Council declines to pass any orders on the reference made in the foregoing letter. It respects a matter regulated by law, and no orders of Government could affect it.

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

Exd. F. Cartledge.

1 23
Salem Magistrate's Office

Salem

25th March 1858.

P-88

From H. A. Brett Esquire
Magistrate of Salem

To H. Forbes Esquire

Acting Secretary to Government

Sir
Fort St. George

1. With reference to an Extract from the Minutes of Consultation, dated the 23rd September 1856, P. 1022, sanctioning the defence at the public cost of G. S. P. 28 of 1856, instituted in the Subordinate Court of Salem by Iroovergoda Moodetty, Moottadar of Rayalokkath, against a Sub Police Officer of the Keisthagheny Talook and the Village Moonsiff of Rayalokkath, I have the honor to state that the Plaintiff, on learning that the defence of the two officers above named would be conducted

at

at the public cost, withdrew his suit,
and paid the Costs incurred by the Govern-
ment, viz: Rupees 23.8.0.

2. The Defendants in their answer
pointed out the vexatious character of the
suit, and prayed that a fine might be im-
posed on the Plaintiff under Section &
Regulation II of 1802 for having preferred
such a suit. The Sub Court, however, allowed
the suit to be withdrawn, and, subsequently,
when its vexatious character was again
brought to the Court's notice by Petition,
the Sub Judge held that no fine was
called for. On an appeal to the Civil Court,
the Acting Civil Judge fined the Plaintiff
50 Rupees. A copy of the order recorded
by the Sub Court on the Defendant's peti-
tion, and a copy of the order recorded
by the Civil Court in the appeal, are
enclosed.

The

22nd March 1858 No 85.
22nd do — " — No 86.

22nd July 1857

8th December 1857.

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more than one Case has recently occurred
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and private parties have been subjected
to vexatious suits for damages on account
of Complaints before the Police. The
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the first instance in the Mootly Sudr
Ameen's Court, but was called up at my
request to the Subordinate Court. In the
letters noted in the Margin I have recently
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should be allowed to try such suits, on
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preside in this Court are, generally speaking,

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on which claims to damages can
justly be maintained in such cases.
I point to the decrees passed by the Hon'ble
Judge Amey in the two suits referred to
above, as strong evidence of his want
of knowledge on the point. I also see
reason to believe that the several parties
who brought the three suits to which this
letter relates selected the Judge Amey's
Court in which to prefer their suits, rather
than the Sub Court, from some idea that
they would find in the former Court greater
facility for annoying the defendants.

5. I should further solicit the attention
of Government to the disregard shown by
the Judge Amey's Court to the Rules of
Procedure published by the Court of
Judge Holman in 1855. Tho' the Court
in the preface to those Rules condemned the
practice

4
Judicial Department

No. 585

From the Magistrate of Salem

Dated 25th March 1858.

For Orders

As per to the Judge. W.

I would do no such thing
The letter of the Magistrate
is beyond his province &
unsuitable for the J. C. if they
were to be used would
have no order on the rule
2nd Feb. - Will
1st April.

R.C.M. 46-47
23-9-56

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No. 479

The Governor in Council de-
clines to pass any orders on the
reference made in the foregoing
letter. It respects a matter
regulated by law, and no orders
of Court could affect it.

Fort St George }
14 April 1858- }

DR

Copy to Magistrate of Salem. Disposed of by the