

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	671	Press
29-30		~~Mis.~~
Dated	22-5-	19 1858

Not to be folded or roughly handled

[Signature]
16/11

No. 29. Read the following letter from C. F. CHAMIER, Esq., Acting Register to the Court of Sudder Udalut; to T. PYCROFT, Esq., Chief Secretary to Government, dated 12th May 1858; No. 33.

SIR,

1. I am directed by the Judges of the Sudder Udalut to report for the information of Government, that a theft was committed in the office of the Nazir of the Court of Masulipatam, on the night of the 10th November last, and that property valued at Rupees 2,728-10-4 was stolen on the occasion.

No. 1.	1455 Gold pagodas @ 4½ Rupees	2,047	8	0
No. 2.	1 Sale proceeds of 25 do.	112	8	0
No. 3.	One base pagoda	1	0	0
No. 4.	One gold ornament	64	6	4
No. 5.	Sale proceeds of waste paper.	183	12	0
No. 6.	Warrant money with peons batta	268	0	0
No. 6.	Subscription on account of Fusiliers	51	8	0
	Rupees	2,728	10	4

2. The Judges consider it unnecessary to enter into any detail concerning the manner in which the theft appears to have been effected, or to hazard any opinion as to its perpetrators, as these questions now form the subject of judicial inquiry before the Criminal Court of Masulipatam. They would confine themselves to drawing the attention of Government to the lax and irregular manner in which the Acting Civil Judge, Mr. Cotton, has been in the habit of providing for the security of valuable property deposited in his Court; and to which, in the opinion of the Judges, the loss in the present instance is to be mainly attributed.

3. In his letter of November 20th, reporting the circumstance of the theft, it is stated by Mr. Cotton, that on the evening of the 7th, the Acting Nazir feeling unwell, left his office early, after securing in the usual places of deposit the money and property in his charge; that on the 9th, being still unwell, he entrusted the keys of his office to his Gomastah, who had occasion to refer to some papers; that the keys were returned to him the same evening, and a second time given to the Gomastah on the morning of the 10th, who, on opening the door, discovered that a theft had been committed, and property to the value of 2,700 Rupees abstracted.

4. By their Circular Order of the 20th May 1853, the Court of Sudder Udalut directed that all jewels, money, &c., forwarded to the Courts should invariably be at once secured in the Court Cash-chest; and Mr. Cotton was called upon to explain, why the orders of the Court upon this subject had been disregarded; and how property of such value had been allowed to remain in the hands of the Nazir; or how it had come to be secured any where but in its proper place of deposit, the Court cash-chest.

5. The Judges regret that Mr. Cotton's explanation on this point are most unsatisfactory and insufficient. He states generally that the rule laid down by the Court has been observed, but adds that a practice has always prevailed in his Court, for the Nazir to retain in his charge jewels, warrant moneys, &c., until inventories have been made and accounts closed; and that it was in pursuance of this practice that the sums received by the Nazir, on account of the items Nos. 4-5. mentioned in the margin, had been retained by him, and had not immediately on receipt been forwarded to the Court Treasury. The Judges have only to observe that this delay is quite unnecessary, and that such a practice is most reprehensible and totally opposed to the directions laid down in the Circular Order above quoted, and that it was the duty of the Judge in both cases to have directed the sums, when paid in, to be at once deposited in the Court treasury.

6. As regards the gold pagodas, which form so large a portion of the property stolen, Mr. Cotton's explanations are, if possible, still more unsatisfactory. It appears that these pagodas were originally secured in the Court cash-chest; that it was intended that they should be sold by public auction; that the 9th of the month was the day fixed for their sale by the Judge; and that, four days previous to this, on the 5th, they were given over to the charge of the Nazir. The Nazir appears to have kept them sometimes at his own house, sometimes at his office; to have showed them to parties at both these places; and to have sold twenty-five of them by private sale, two days before the day advertised for their sale by public auction.

7. The very imprudent and irregular proceeding of delivering these pagodas to the Nazir several days before the time appointed for the sale, Mr. Cotton states was not suggested to him by the Nazir, but was in conformity with the usual routine practised in his office; a practice which the Judges have to remark is decidedly opposed to the spirit of the Circular Order quoted, which distinctly enjoins that such property should at all times be secured in the Court Treasury.

8. With respect to the other gross irregularities of which the Nazir was guilty in the matter of these pagodas, by taking them away from his office, by keeping them in his own house for several nights, and in disposing, by private sale, at his own house, of property ordered to be

Fort St. George, Judicial Consultation, 25th May 1858.

sold by public auction, Mr. Cotton has offered no explanation, beyond observing that as the Court-house was a mile distant from the town, the Nazir, by keeping the pagodas at his own house in the town, gave a better opportunity to intending purchasers to examine them; and that he deserved credit for the high price he obtained for those that he sold. From Mr. Cotton's remarks, the Judges conclude that these proceedings, if not actually and positively sanctioned by him, at least did not meet with his disapproval.

9. Of the other items of property stolen on the occasion, the gold ornament was No. 3. delivered to Nazir with the pagodas for sale by auction. The sums collected on account of the Madras Fusiliers and deposited for security in the office, not being entered in the receipts of the Court, no explanation was required on this head.

10. The Judges are well aware how difficult and even impossible it is, for the head of a Court personally to superintend, in each instance, the carrying out of directions such as are laid down in their Circular Order regarding the securing of Court property; and are equally aware that in such matters much of the responsibility is properly delegated to the ministerial officers of the Court; but the Judges cannot consider that the head of an office is thereby absolved from all and every responsibility, and it must always be his duty to see that such rules are understood and generally followed by his subordinates. In the present instance, Mr. Cotton appears not only to have exercised no such supervision, but also to have been aware of, and to have sanctioned, such irregularities and positive infringements of rules laid down for his guidance, as have in the opinion of the Judges afforded facilities for the commission of this theft, and consequent loss of a large amount of property, which could not otherwise have occurred.

11. The Judges have only to add, that as this loss has been occasioned by Mr. Cotton's disregard of the standing rules and orders of this Court, and by the absence of all efficient supervision on his part, it is their opinion that he should be held responsible for the loss, which will otherwise fall upon the Government.

No. 1.	Gold Pagodas.....	2,047	8	0
No. 3.	Sale proceeds of 22 do.....	112	8	0
No. 4.	A Gold ornament.....	64	6	4
No. 5.	Sale proceeds of waste paper.....	153	12	0
No. 5.	Warrant monies.....	268	0	0
	Rupees....	2,676	2	4

No. 30. ORDER THEREON, No. 671; dated 22nd May 1858.

In the above letter, the Judges of the Court of Sudr Adawlut report that a theft was committed in the office of the Nazir of the Court of Masulipatam, on the night of the 10th November last, and that property valued at Rupees 2,728-10-4 was stolen on the occasion.

2. The Court point out that this loss of property has been caused by the lax supervision and irregular proceedings of the Civil Judge Mr. J. Cotton, and by his culpable neglect of the Circular Order of 20th May 1853, and they conclude by expressing their opinion that as it has thus been occasioned, he should be held responsible for it, as it must otherwise fall on Government.

3. The Government understand that it was in consequence of the general and serious irregularities found to exist in the management and custody of monies and jewels by the Nazirs of Courts that the Circular Orders of the 20th May 1853 was issued. It is the wanton disregard of that order that has led to the state of affairs in the Masulipatam Court now reported. Under such circumstances the Government do not consider themselves to be by any means called on to save Mr. Cotton from the consequences of his own neglect of duty. They therefore resolve that he be held answerable for the loss to the extent shown in the margin of the last para. of the Sudr Court's letter or Rupees (2,676-2-4) two thousand six hundred and seventy-six, Annas two and Pice four.

4. Adverting to the present and other late instances in which room has been afforded for the abstraction of Court monies or property by the remissness of the presiding Officers, it appears to the Government that it might have a salutary effect if the Sudr were to issue a Circular Order setting out in general terms and without specification of names or places the main circumstances connected with the recent robbery in the Masulipatam Court, and the course taken by Government thereon, with a warning that the same will be taken by them in all similar cases in future, and that Officers who will not conform to the plain instructions prescribed for their observance in such matters will invariably be left to bear the loss which may arise from their neglect.

(Signed) T. PYCROFT,
Chief Secretary.

Judicial Department
N^o 852
From the Sudr Adawlut dated 12th May 1858.
For Orders
I had with whom the Nazir
opinion about this
At
My
I would act in this case as advised
by the J. C. in the last para. of their letter -
It was in consequence of the general &
serious irregularities found to exist
in the management & custody of
monies, & proceeds by the Nazirs of Courts

that the circular order of the 20th Decr 53
 was circulated - And it is the maximum
 neglect of which ~~has~~ that has led to
 the present state of matters at Chasale
 & Patane - Under such circumstances, I
 really do not think that the Govt. are
 under any pretext - be expected to shield
 but to show the consequences of his
 own neglect of duty - W. H.
 141

[Faint, illegible handwriting, likely bleed-through from the reverse side of the paper.]

Judicial Department

No 671.

Letter from the Minister of Consultation
 Dated 22nd May 1858.

Read the following letter
 from the Acting Registrar of the
 Court of Sadr Adawlut -
 (Hawcutt 12th May 1858. A. 133)

[Handwritten initials and signature, possibly 'H. W. H.']

In the above letter
 the Judges of the Court of Sadr
 Adawlut report that a theft
 was committed in the Office
 of the Nazir of the Court of
 Maulipatan, on the night
 of the 10th November last
 and that property valued
 at Rupees 2728-10-4 was
 stolen on the occasion.

3. - The Court point
 out that this loss of property
 has been caused by the
 lax supervision - irregular
 proceedings of the Civil
 Judge - Mr. J. Cotton and
 by

by his culpable neglect of
the Circular Order of 20th
May 1833 - and they con-
clude by expressing their
opinion that as it has thus
been occasioned, he should
be held responsible for it,
as it must otherwise fall
on Government.

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^{Magis} ~~Nagistrate~~ of Courts that
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20th May 1833 was ^{issue} ~~enacted~~.
It is ~~the~~ wanton
disregard of that Order that
has led to the state of af-
fairs in the Maanlipa-
tam Court now reported.

Under

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of the Sudder Court's letter
of 2nd Vaisak 2,646 - 2 - 4/3 Two
thousand six hundred and
seventy six, annas two and
piec four. —

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or property by the remis-
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without specification of
names or places the main
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the Manipulation Court,
and the course taken by the
Government thereon - with a
warning that the same will
be taken by them in all
similar cases in future, and
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form to the plain instruc-
tions prescribed for their
observance in such matters
will invariably be left to
bear the loss which may
arise from their neglect.

JP

Copy to the Secy. of State Dec 28th

H. G. Hall

Shedden's Little's Bury
July 1853 of 1853
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July 1853 of 1853
Pam 23

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