

MADRAS RECORD OFFICE.

Government of Madras.

Jurial DEPARTMENT.

G.O. No. 733

Press

35-36

~~Mis~~

Dated

4-6-1958

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 8th June 1858.

No. 35. Read the following letter from Lieutenant Colonel H. COLBECK, Senior Magistrate of Police; to T. PYCROFT, Esq., Chief Secretary to Government, dated Royapet, 1st June 1858, No. 13.

SIR,

I have the honor to state for the information of the Right Honorable the Governor in Council, that in a statement by me yesterday before Mr. Hudleston it stands recorded that I have no charge whatever to bring forward against Ramachundra Row.

2. Upon mature reflection however I fear the above assertion may possibly be open to one of two suspicions either that I have evaded responsibility or that I have given expression to accusation not capable of proof.

3. Under these circumstances I wish that nothing like a misunderstanding upon such a point should have even the semblance of an existence. Though I am not prepared with evidence to substantiate any distinct charge, still there are cases in which I strongly suspect Ramachundra Row has been mischievously busy; but proof against such a man as Ramachundra Row is almost hopeless, his influence over the subordinate Police is unbounded and he can at any time command any amount of false testimony to refute accusations against him. Still, though positive proof may not be forthcoming, I am anxious that while the present enquiry is open, any malpractice I suspect him of, may be now brought to light.

4. I will not rake up transactions of remote occurrence but there is one case particularly and of recent date which to my mind bears the stamp of strong suspicion. I allude to a case in which a Mussulman was arraigned before me for having unregistered arms in his possession and though the manner in which the case was brought before me was represented to the Commissioner* still I have never heard that any enquiry took place in the

* Copy of letter enclosed. matter. True I did not directly accuse Ramachundra Row, for long experience had taught me it was useless to do so. All matter of accusation against him being ever unheeded by the Commissioner.

5. I beg therefore to draw the attention of the Right Honorable the Governor in Council to my letter, No. 15 of the 22nd March, in order that all responsibility on this head may be removed from me.

From Lieutenant Colonel H. COLBECK, Senior Magistrate of Police; to Colonel J. C. BOULDERSON, Commissioner of Police, dated Royapet, 22nd March 1858, No. 15.

SIR,

I have the honor to bring to your notice the extreme carelessness with which the "daily case reports" are prepared and forwarded to my Court.

I have never officially brought this circumstance before you although I have almost daily cause to comment from the Bench upon the extremely loose way in which many of the charges for trial before me are drawn.

My observations and illustrations of the subject matter of complaint shall not retrograde beyond the few days of the current month, or you might possibly observe upon my not having previously brought the matter to your notice. Suffice it to say that I have refrained from doing so in the fear of creating an unpleasant feeling and in the confident hope that the observations I have made from time to time in the hearing of Inspectors and other officers of your establishment would remedy the evil and lead to more care in future.

On Friday last, however, a case was brought before the Chief Justice which took its rise solely from the incorrect charge made in the "Daily Case Report" and it has caused me such extreme trouble and annoyance combined with the occupation of much time in visits to Mr. Boyson on the subject that I feel bound at length to write to you.

On the 3rd of this month a charge was entered in the "Case Report" of the 3rd Division against one "Punjachellum" for "unlawfully taking away and detaining against her will a girl of the age of 13 years."

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This was the sole charge, which in law constitutes no offence whatever, whereas had the slightest care been taken in the preliminary examination of evidence it would have clearly appeared that the crime contemplated by Section 44 of Act 13 of 1856, had been committed by the "deflowering" of the prosecutrix Noor Bee which constitutes the gravamen of the offence.

In the same case Hyath Bee was made a witness instead of a prisoner, whereas there was ample evidence for her being arraigned under the same Section as "Punjachellum."

Punjachellum was convicted before me on the most clear testimony that he "did unlawfully take out of the protection of her guardian and aunt one Fathmah Bee, a female child named Noor Bee, under the age of 14 years, to wit, about 13 years and her detain against the will and consent of the said Fathmah Bee and the child Noor Bee, for the purpose of deflowering her the said Noor Bee and adjudged to be imprisoned in the House of Correction at Madras and there kept to hard labour for the space of four months."

The above is copied from my "conviction" but the Clerk who draws the warrants of commitment framed that for Punjachellum from the entry in the "Daily Case Report" before him.

Punjachellum had money at his command. A Lawyer was employed who immediately pronounced the commitment informal inasmuch as it shewed no offence, and Mr. Dale was instructed to move in the Supreme Court for a Rule Nisi, calling upon Mr. Owen to shew cause why he detained the body of Punjachellum.

The case was heard on Friday before the Chief Justice who ruled that there was no offence exhibited in the commitment, but most fortunately my "conviction" and the depositions taken before me saved the discharge of the prisoner, as the Judge remarked that the offence set forth in Section 44 of Act 13 of 1856 had been evidently committed and admitted an amended commitment.

Now, although the issue in this case has been successful, still the attaining it has been at the expense of much time and trouble to the Advocate General, the Company's Solicitor and myself, all which would have been avoided had the charge been properly entered for trial before me.

I have entered thus fully into this case as it is a serious one. I now proceed to other errors in the "Daily Case Reports" now before me which are only two, as the sheets are returned to your office each evening.

I am enabled however to give one quotation from each of the two last report sheets which are fair specimens of the whole of them.

In Friday's "Daily Case Report" from the 3rd Division, the following extraordinary charge appears:

<i>Person charged.</i>	<i>Person charging.</i>	<i>Charge.</i>
Pereasawmy.	Coolsoombee.	"Prisoner is charged with suspicious circumstances for untying a knot from the Prosecutrix's cloth containing 2 Annas in Meersaibpet market on the 15th, at 5½ P. M."

I am not aware of any legislative enactment providing punishment for the offence as above set forth.

The prisoner should have been charged under Section 37 of Act 13 of 1856, with "stealing" or "attempting to steal" as the case might be.

All the Inspectors are I believe supplied with copies of the Police Code and charges for offences should be strictly framed in accordance with the various Sections providing for them. For I much doubt if strictly speaking a Magistrate should alter the charge, though I confess I am constantly obliged to do so, or numbers of offenders would escape punishment.

In the "Case Report" of the next day also, I observe a prisoner charged with an even more anomalous offence than "the suspicious circumstances."

The following is word for word copied from your sheet.

"Deceiving the prosecutor by not giving the bargained amount of money in selling the books given to him about 3 months ago."

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Surely an intelligent Inspector with a Police Code before him could have prepared something better than this.

The charge should simply have been either "embezzlement" or "fraudulent mis-application in breach of trust" under Section 28 of the Police Code.

It is painful to me to write letters of this description and for this cause I have long (very long) abstained from doing so, but lest you should imagine I now do it in any unkind or complaining spirit, I urge upon you to call for the "daily report sheets" from which the charges in my case book have been copied and I feel convinced you will discover the lax way in which they are prepared and that I do not complain without just cause.

On Saturday during my sitting upon the Bench a case of such flagrant carelessness occurred on the part of your subordinate officers, that I cannot refrain bringing it under your most serious consideration as it is one of great moment and had a Reporter happened to be present during the hearing of it, I feel convinced it would have to run the round of the Press of India.

A Mussulman was arraigned upon a charge of having in his possession a quantity of Arms of a most dangerous and deadly description, he having failed to register the same.

Amongst the arms were three swords and several daggers of excellent workmanship.

The Section under which this man stands charged renders him liable to imprisonment with hard labour for two years and to a fine of 5,000 Rupees, and yet can you possibly credit that a boy, peon, named Munnajee Row, No. 357 was the prosecutor without one evidence in aid of so grave a charge, in fact it was brought forward as an ordinary and common case of nuisance would be, unsupported by the smallest evidence except the mere possession of the arms and when the defendant urged that he was in the confidence of Dr. Baifour and had registered at least part of the arms which he was charged with not registering. I could obtain not the slightest information or evidence to enable to come to a decision. The following are some of the peon's answers:—"Did not know whether the arms had been registered at the Commissioner's Office. Did know that they had been registered at the Jemadar's Tannah. Believed that the registry at the Tannah was subsequent to the man's arrest." No register of arms or even the clerk who keeps the book appeared before me, no Inspector, no Jemadar, in fact a charge involving such tremendous penalties stood alone supported by the young and inexperienced peon. And I should perhaps have done right in at once dismissing the case, but as I was unwilling that justice should be defeated through the carelessness or misconduct of any of the Police, I ran the risk of releasing the defendant upon bail and retaining the arms in the hope that the case might appear before me better supported by the production of the register of arms or the clerk who keeps such record. The Jemadar or such persons as you might think proper to send.

My comments in this case were heard by the Court; notwithstanding which, it was again similarly produced before me this-day, whether with intentional disrespect to the Bench or not I cannot say, but I thought I had said sufficient on Saturday to prevent such a proceeding.

I have now thought it my duty in justice to the defendant and the public to issue Subpoenas for the attendance of the witnesses I require and thus prevent further unnecessary delay.

You may perhaps reply to all this that if I find charges improperly framed, I am at liberty to alter them, if I find cases requiring more evidence, I am at liberty to issue Subpoenas for the attendance of witnesses. True, I could do both of these and were cases of the description I have quoted in the former part of this letter, rare, I should do so, but they are, too constant recurrence, of and if charges are not to be properly made and evidence to support them sent from your office I cannot see the use of their being taken there at all, or a preliminary hearing in this Court daily, which preliminary hearing should be after the manner of a Grand Jury, i. e. the ascertaining if there is evidence in the various cases sufficient for them to go to trial, this was the mode invariably adopted when Mr. Elliot was Superintendent of Police.

I have for some time past had it in contemplation to solicit at your hands the favor of your exacting more attention and regularity on the part of your subordinates in the conduct of business brought before this Court; and the case of Punjachellum argued on Friday in the Supreme Court opens a favorable opportunity for doing so. I trust therefore you will do me the justice of viewing this letter in its proper light as emanating from a sense of duty alone.

Fort St. George, Judicial Consultation, 8th June 1858.

No. 36.

ORDER THEREON, No. 733; dated 4th June 1858.

Resolved that the above letter and its enclosure—both in original to be returned—be forwarded to Mr. Hudleston for his consideration in reference to para. 2, Extract Minutes Consultation, 25th Ultimo, No. 673.

(Signed) T. PYCROFT,
Chief Secretary.

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Jud. Dept.
No. 961.
From Vint Col. M. Colbeck.
Sen. Mag. of Police
dated 1st June 1858.

For orders

I have no doubt that there is great
room for improvement in preparing
the charges - & that it is in the
human condition by fall to look
entirely for great cause for sus-
picion.

The proper course is to have
the charges ^{& prepared} supervised by a solicitor
before they are brought before the
Magistrate - Col. M. Colbeck is to

asked me to explain how the two cases
mentioned were brought up so it happened

It

appears to me that all this is
beside the matter in hand & that
Col Folbeck is making himself
needlessly busy. A special inquiry
is going on into the conduct of a
depr. Supr. of Police & an interpreter
in the Magist. to enable said
Judge of the better false hood of certain
charges & ex. charges with which Col. personally
has nothing to do. Until we receive
Mr. Hudson's report, such comments as
these are only embarrassing & show that self
this interpreter are one Mr. Wells

Remarks of the Honble W. A.
Morehead Esq on the enclosure to a letter
from Col. A. Folbeck dated 1st June 58. 1853.

Page 3^d Surely it is Col. C's business to see that
his Warrants are made out correctly before he
signs the Warrant.

" 4th The matter only reflects discredit on
Col. C.

" 6th The Magistrate should and must be
guided by the sworn statement of the Pro-
secutor and according to it amend the
charges.

" " The case seems a civil one. he bought
Books and omitted to pay for them.

" 8th The Def^t should have proved the
registry he was found in possession of
arms & had to prove that he had complied
with the law.

" 9th you certainly would not.

11733

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C. M. C. 4th June 1858.
Read letter.
From Lieut Col Colbeck 1 June - 1858 11713

Resolved that the
above letter and its
enclosure - both
in original to be
returned - to be
forwarded to Mr
Huddleston for his
consideration in
reference to para 2 E. L. C.
25th ultimo No 643.

[Signature]

[Signature]

W M

To Mr Huddleston Esq & Dispt 4th
with orig letter & Encl. Dispt 9th July.
Coms. Prisoners of Police. Dispt 9th July.
See enclosure of mean
but I got on Col Colbeck
letter in possession of Huddleston
has however been by Huddleston

C147 June 1853 v47 21022

June 18 29th 1853 Aug 13th 1853
Aug 29 1853. Box 1044.

C147 Aug 28 1853. 8. Lane
Audited 1853 de fund 14

May 33

Letter of Minut. of Council.

29th June 1853.

C147 13th July 1853 v47 211
Feb 1405.

359 30.

C3 June
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