M.R.O. 1—30,000—16-10-39.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT**

G.O. No. 1173 Press ~~Mis.~~

39-40

Dated 31 Aug 1939

Not to be folded or roughly handled

No. 39. From A. PURVIS, Esq., Magistrate of Rajahmundry; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Cocanada, 9th August 1859, No. 319.

I have the honor to acknowledge the receipt of the Proceedings of Government of the 26th Ultimo, calling on me for explanation, with reference to a letter from the Government Solicitor detailing the circumstances under which two Europeans, committed by me as Justice of the Peace, were, at the last Sessions of the Supreme Court, released without trial, owing to the non-arrival of the Prosecutor or witnesses for the prosecution.

2. As reported in my letter to your address of the 28th June last, these men came to this place with a pass from the Principal Assistant Magistrate of Vizagapatam. I was absent on duty at the time, and my Assistant gave them in the same manner a pass as far as Masulipatam. When, however, they had got a few miles on their way, they carried off a boat, with a few things in it, which was moored in the Coringa river, and sold it at a place some miles North of Cocanada. They then went off to Masulipatam. As soon as I heard of the affair, I communicated with the Magistrate of Masulipatam, by whom the men were apprehended, and sent back to this place.

3. As I was still away, the case was investigated by my Assistant also a Justice of the Peace. It was a very clear one, and the two men were eventually committed by me to take their trial for
"Coromandel." the offence charged. They were sent down in the Government Steamer which left this place on the 3rd June, I was not then aware of the date on which the next Sessions would commence, and, as I was very anxious to save the Prosecutor and witnesses, nearly all of them poor fishermen, whose subsistence, as well as that of their families, depends on their daily labour, a long detention from their homes, I did not send them at the same time. Meantime the papers had been sent to the Clerk of the Crown, and I learnt from him, in reply to my question, that the Prosecutor and witnesses must be in attendance at the Supreme Court House on the 6th of July.

4. I then made arrangements to send them all down by the Steamer touching here from Rangoon at the beginning of the month, and had all gone right, this would have been done, but unfortunately, as Government are aware, the "Sydney" had to proceed to Ceylon, and was unable to leave for Rangoon till several days after her time. This of course prevented her reaching this place, on her return to Madras, till the 9th July, when, as she could not reach Madras till the 12th, it appeared to me useless to send down the Prosecutor and witnesses, as I felt sure that the Sessions would be over or at least the Grand Jury be discharged before they could arrive, and that I should only be subjecting them to a bootless voyage.

5. As it turned out however I was mistaken in my calculations, and that had the party gone in the "Sydney" they would have been in time, for the Grand Jury were not finally discharged till the 14th July. No recognizances were taken from the parties because they were entirely dependant on the Officers of Government for sending them down, and it would not, as observed by the Government Solicitor, have been fair, had any been taken, to have used them against the absentees.

6. I very much regret that the above error on my part should have led to the release of the accused without trial. It arose entirely from my anxiety to avoid subjecting the Prosecutor and witnesses to greater hardship than was actually necessary. There was, I venture to think, no want of attention on my part in the preparation of the case. Translations of the depositions were in the first instance sent by me to the Advocate General, as I was (cases of the kind being so exceedingly rare) not quite certain to whom they should be transmitted. All the papers required were sent in due course to the Clerk of the Crown; the Prosecutor and witnesses were all on the spot, and in readiness to embark, had the Steamer been a few days earlier.

7. I am sorry that I did not at the time report to Government the circumstances under which the two men were sent down to Madras, but I was not then aware that such a course was necessary.

No. 40. ORDER THEREON, 31st August 1859, 1173.

To be recorded.

(Signed) PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Ex. & Collectorate Rajah

In Dft to Con 29th July/59 - No 41
42
8th July " No 41 42

From J List 2 Sept
Judicial 1859 Dept
From
The Magistrate
of
Rajahmundry
To
The Chief Secretary to Govt
Fort St George
Dated 4th August 1859
Rec'd
No 1348 Vol 319 Mg
Enclosure
– none

Submitting with reference to the Proceedings of Government of the 26 Ultimo Explanation as to the non transmission of the Power & Witnesses in the Case of the two Europeans committed by him for trial before the Supreme Court –
No 1173
To
31 Aug/59.

C 19 Sept 39440
Rg.

the two men were sent down to Madras, but I was not then aware that such a course was necessary.

I have the honor to be
Sir
Your most obedient Servant
A Reid
Magistrate