M.R.O. 1—29,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1361 Press Mis.

15-18

Dated 5—10— 1859

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, from 5th to 21st October 1859.

Read the following papers.

No. 15. Extract from the Proceedings of the Inspector General of Jails, under date the 22nd September 1859, No. 459.

Read again the following letter from Mr. Thompson, Sub Judge of Mangalore.

Enclosing a copy of Extract of Proceedings Foujdaree Udawlut 8th August, declining to submit to Government that Officer's "further explanation" relative to the alleged robbery from the Jail of certain money and valuables which by the rules of the Foujdaree Udawlut should have been in the custody of the Court and for which the Government in consequence have held Mr. Thompson responsible. (Here enter 16th August 1859, No. 115.)

Order of Government, 31st May 1859, No. 759.

The letter submitted by Mr. Thompson is very voluminous, extending to 46 paragraphs and a postscript, but the ground on which he seeks remission of the sentence of Government, seems to be that the rules circulated by the Inspector of Prisons, omitted mention of the place in which property taken from prisoners was to be deposited; that, not being aware of the former rule, he considered the proper place of deposit to be the usual place, that in which he found the property kept on taking charge, that the rules being declared in force as far as they went, he considered them to be in supersession of the old rules.

2. The Inspector observes, that this rule, under which the deposit was required to be *in Court*, is placed in the old volume of Jail Rules, under the head of "*Jailers*," a heading under which the Inspector did not place it as not belonging to the duty of Jailer. On reference to the Circular Orders Foujdaree Udawlut, the Order of the 3rd March 1838 is not found, and Rule 32 of the Order of 8th October 1821, does not make any particular mention of the place of deposit. Mr. Thompson joined a Court *after* the issue of the new Jail rules and might not have considered it necessary to consult those chapters of the old Jail rules which the new rules superseded; his ignorance of a rule requiring the deposit to be in the Court, contrary to the practice he found prevailing, seems, therefore, excusable, and the Inspector would submit to Government that, under the explanation now offered, he may in justice be exempted from the penalty of having to refund the loss.

3. The Inspector General of Jails regarded the matter as one properly belonging to the Court of Foujdaree Udawlut, the neglect having been of *their* orders, but as the Judges have desired the Sub Judge to refer the matter through the Inspector General of Jails, he has no hesitation, after a comparison of the rules, &c., as published, in making the recommendation.

No. 16. From J. G. THOMPSON, Esq., Subordinate Judge of Mangalore; to T. PYCROFT, Esq., Chief Secretary to Government in the Judicial Department, Fort Saint George, dated 27th September 1859, No. 140.

On 10th December 1857, it was reported to me that a robbery had been committed in the Jail during the previous night. After the necessary enquiry, I asked the Inspector of Prisons for instructions on the subject. On 17th June 1858, having received no answer, I wrote to him again, and he applied to Government for orders. On 19th October 1858, the Government referred the matter to the Foujdaree Událat, for enquiry; and the Court having called upon me for a second report, I forwarded one on 23rd April 1859. On 16th May the Court made a report to Government, and on 31st May the Government passed orders on the several points in question.

2. On 21st June 1859, I submitted to the Foujdaree Událat a letter designed to shew that I had not been so much in fault as the Judges thought, and pointing out that the Government had been misled, so that the orders did not meet the circumstances of the case. The Court replied that they could not submit my letter, because it was not drawn up in conformity with the new rules for public correspondence, and directed that, if I submitted it again in the prescribed form, I should give further information on a point which seemed obscure. And about the same time I received the remarks of the Inspector General of Jails upon my letter; and found that he had sent a copy of them to the Court.

3. On July 19th I submitted the letter again in the prescribed form, with the additional information called for, and answers to the Inspector General's remarks. But the Court refused to forward it to Government, on the grounds that the matter did not belong to their department, that they had done all that they were required to do, and that the letter contained observations on the proceedings of an independent Officer. They suggested that I should forward it through the Inspector General himself. On August 16th, accordingly, I requested him to submit it to Government, with such remarks as he thought necessary, and expressed a hope that the matter would be settled as soon as possible, as I was leaving India.

4. Not having heard from him upon the subject, I am doubtful whether he has done what I requested: and as I shall give over charge of the Court to-morrow, I think it better to request that, in case of his not having done so, you will be good enough to call upon him to forward my letter, or to authorize my successor to submit it to you direct.

5. I have paid into Court the Rupees 128-7-5 which I was directed to make good, but no further steps can be taken until the orders of Government upon that letter are received.

No. 17. MINUTE by the HONORABLE W. MOREHEAD.

I would accede to the Inspector General of Jails' recommendation. This case is not nearly so bad as the Masulipatam one, which the Secretary of State for India ordered to be excused.

No. 18. ORDER THEREON, 5th October 1859, No. 1361.

On a further consideration of the circumstances connected with the robbery committed in the Mangalore Jail in December 1857, Government are disposed to remit the amount, viz. Rupees 128-7-5, one hundred and twenty-eight Rupees, seven Annas and five Pice, for which, in the Orders of the 31st May last, No. 759, the Sub Judge was declared liable. This sum has been paid, as stated in the last paragraph of Mr. Thompson's letter recorded above, and will now be refunded to him.

2. Adverting to the last paragraph of the same Orders, and to the omission in the Jail Rules commented on by the Inspector General, Government direct this Officer to remedy the defect, and specify the place in which such deposits should be kept for the future.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

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No 459

Extract from the Proceedings of the Inspr Genl of Jails under date the 22nd Septr 1859

Read again the following Letter from Mr Thompson, Sub Judge of Mangalore.

Forwarding a copy of Extract of Proceedings of the Foujdaree Udalut of [illegible] August declining to submit to Court that officer's "further explanations" relative to the alleged robbery from the jail of certain money and valuables which by the Rules of the Foujdaree Udalut should have been in the custody of the Court and for which the Government in consequence have held Mr Thompson responsible.	(Dated 15th August 59 No 115)

Orders of Govt 31st May 1859 No 759.

On which the Sub-Judge is ordered to be excused
W.H.

The letter submitted by Mr Thompson is very voluminous extending to 46 paras and a Postscript, but the ground on which he seeks remission of the sentence of Government seems to be that the rules, circulated by the Inspector of Prisons, omitted mention of the place in which property taken from Prisoners was to be deposited; that, not being aware of the former rule, he considered the proper place of deposit to be the

[illegible]

Judicial.

Proceedings of the Madras Govt.

Read the following

Proceedings of the Inspector General of Jails — Dated 22. September 1859 — No. 459.

Letter from the Sub Judge of Mangalore — 27. do. No. 140.

Minuted by the Honble Mr. E. Maxwell

Order. 5 October 1859. No. 361.

On a further consideration of the circumstances connected with the robbery committed in the Mangalore Jail in December 1857, Govt. are disposed to permit the amount, viz. Rs. 128.7.5 One Hundred & Twenty Eight Rupees Seven Annas & Five Pice, Loss which in the orders of the 31st May last No. 759, the Sub-Judge was

original Plaint, that in which the found this proposal by the Inspector charge, that the matter being declared in force so far as they must be considered Rules to be in suspension of the old rules.

2. The Inspector observed that the Rule under which the deposit was required to be in Court is placed in the old volume of Jail Rules, under the head of "Fines", a heading under which the Inspector did not place it as not belonging to the duty of Jailer. On reference to the Circular Orders Pondicherry Volume, the order of the 3rd March 1838 is not found, and Rule 33 of the order 8th October 1821 does not make any particular mention of the place of deposit. Mr. Thompson joined in Court after the issue of the new Jail Rules, and might not have considered it necessary to consult those chapters of the old Jail Rules which the New Rules superseded.

was declared liable. The
sum has been paid as
stated in the last para.
of the Commissioner's letter
recorded above, & will
now be refunded to
him.

2. Adverting to the last
para of the same order
& to the omission in the
Jail rules commented
on by the Inspector
General, Govt. direct
this officer to remedy
the defect & specify
the plan by which
such omissions should
be kept for the future.

J.P.

The Subordinate Judge of
" Chief Magistrate,
" Inspector General of Jails.
" Collector of Adalat.
" Civil Auditor.
" Acct. General.

Dispn 13.

Com of Govt 21st Octo.

Judicial 1859 Dept.

No 1361

Proceedings of Govt.

5 October 1859

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