M.R.O. 1—33,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1382	Press Mis.
19-20	
Dated 7 — 10 — 1920	

Not to be folded or roughly handled

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

No. 19. Read the following letter from C. J. SHUBRICK, Esq., Magistrate of Chingleput; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Sydapet, 13th September 1859.

1. I have the honor to bring the following circumstances to the notice of Government in view to their adopting, if they think fit, such measures as they may deem them to require.

2. On the 24th February last, two persons, a Blacksmith and his wife, were murdered in the Village of Cooroovady in the Ootramaloor Talook, under circumstances of peculiar brutality, and for the ostensible reason that they were supposed or said to be given to witchcraft. The enquiries of the Head of Police brought the charge, more or less, home to 9 individuals; of whom 7 were apprehended and committed to the Principal Sudr Ameen's Court, on the 8th March, and finally brought to trial before the Sessions Court, where the 1st prisoner was sentenced to death and suffered execution on the 18th April; and the 2nd, 3rd, 4th, 6th and 7th prisoners were sentenced to 14 years' imprisonment, with hard labor in irons, the 5th prisoner alone being acquitted.

3. A more satisfactory case, as regards the exertions of the Head of Police and his Subordinates, could scarcely be looked for; but on commencing his enquiries at the scene of the murder on the morning of the 26th February, he found his efforts at procuring information thwarted by two persons named Pedda Moottoo Reddy and Chinna Moottoo Reddy, people of wealth and influence in the Village, the latter being the Moonsiff, and accordingly directed them to be taken away to the Talook Cutcherry at Ootramaloor, where they were detained under restraint for 9 days and then released. These 2 persons hold the Merassy of the Village between them, and as it contains only 10 houses, their influence over the inhabitants who are their tenants may well be supposed to be very great. It was not till they were taken away, as reported by the Head of Police on the 1st March, that he was able to procure any evidence against the guilty parties. The Head of Police reported what he had felt himself obliged to do in regard to these two persons, on the above date, and again on the 3rd, when he stated that their relations had come over from the neighbouring Village of Doolli Allapaukum and had threatened, both himself and his Peons, to bring them into trouble for their proceedings. On the 10th March, I sent orders to the Head of Police to release the 2 persons adverted to from restraint or surveillance, if nothing had transpired to actually implicate them in the murder, whether as principals or accessories.

4. The result of the Head of Police's proceedings against these 2 persons, was that the former of them Pedda Moottoo Reddy, brought 2 actions against him in the Carangooly District Moonsiff's Court, Nos. 208 and 212 of 1859, the former being for Rupees 800, damages for false imprisonment for 9 days, and the latter for the recovery of Rupees 300, alleged to have been extorted from him to procure his release. In both suits the District Moonsiff awarded the full amounts sued for, with costs.

5. I beg to enclose translations of the decrees referred to. It will be seen that the District Moonsiff has adjudged damages in suit No. 208, notwithstanding the enactment of Act XVIII of 1850, which exempted the Head of Police from his jurisdiction for acts done by him in good faith, whether within the limits of his jurisdiction or not; and the recovery of the Rupees sued for in No. 212, because one of the witnesses for the Plaintiff, was a man of a simple nature, always known to speak the truth, and the other two witnesses must therefore be believed also.

6. The importance of these 2 decrees, and the effect they must have of destroying the efficiency of the Police throughout the District, are too serious to leave them to be remedied by the ordinary course of Appeal; and I therefore beg to submit for the consideration of Government, whether the District Moonsiff of Carangooly, Veerasawmy Pillay, is fit to perform the duties of his Office, with efficiency and good judgment.

7. To my mind, there can be no question whatever of the good faith of the Head of Police, in removing the 2 Moottoo Reddies from Cooroovady to Ootramaloor, and of his being in consequence exempted from the jurisdiction of the District Moonsiff, while of the mischievous consequences of the latter's decrees to the protection of life and property, by frightening the Police in the performance of their duty, there can be no doubt. The Police will be absolutely paralysed,

if liable to be sued, and cast in damages, in actions brought before District Moonsiffs, for apprehending and confining any party, who may afterwards turn out to have been either wrongly accused or improperly suspected.

8. In his Decree No. 208, the District Moonsiff states in paras 4, 5, 6 and 7 that the Police Proceedings contain no implication of the Plaintiff Pedda Moottoo Reddy by the prosecutor, and that consequently the question put to Moottoo Reddy to defend himself against the prosecutor's accusation, must be the Head of Police's fancy having no basis in fact.

9. I cannot agree with the Moonsiff, the whole of the Police Proceedings shew the earnestness with which the Head of Police followed up his investigations. Moottoo Reddy was a man of wealth and influence in the Village, and if not opposed to the facts of the murder coming out, the man the Head of Police, would most naturally seek to aid him in his endeavours to discover them. There was no part of the Head of Police's conduct concealed. Moottoo Reddy's apprehension or rather removal from Cooroovady, was reported to me, and an entry also made in the Calendar that he was not sent up to the Principal Suder Ameen's Court, as no further evidence had been procured against him, than the prosecutor's suspicions. Under these cirumstances, I cannot otherwise conclude, than that the prosecutor did actually suspect him, and that his suspicions, though not recorded in his deposition, were the cause of the question, described by the District Moonsiff as the emanation of the Head of Police's fancy, being put to him, considering that the fact of the prosecutor's suspicions find admittance in the Calendar and the deposition of Moottoo Reddy, I am inclined to think that their being omitted to be recorded in his own deposition, must be attributable to the neglect or oversight of the Head of Police's Javabneviss. There can be no question, that the prosecutor's suspicions of Mootoo Reddy were all along running in the Head of Police's mind and must therefore relieve him from the aspersions of the District Moonsiff.

10. Suit No. 212, being of a personal nature, requires to be appealed against by the Head of Police in his private capacity; and it will I think be sufficient, to see whether the Decree is reversed or confirmed in Appeal and in the former event, to consider the way it should be followed up, as regards his position in the public service. But in regard to Suit No. 208, as its bearing is so important to the well working of the Police of the District, and involves the construction to be put upon Act XVIII of 1850 in the Mofussil, I would beg to suggest, that the Appeal may be made in the first instance at the public expence, and that I may be vested with authority to conduct it through the Government Vakeel. This need not interfere with the decision I have solicited on the District Moonsiff's fitness for his duties.

No. 20. ORDER THEREON, 5th October 1859, No. 1362.

The Government are not prepared to authorize the Appeal in O. S. No. 208 of 1859, on the file of the District Moonsiff of Carangooly, being made at the public expense. The Defendant may himself appeal and the finding of the Upper Court will show how far the strictures passed by the Magistrate on the conduct of the District Moonsiff are well founded.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

(2)

Translation of a Decree passed by the District Moonsief of Carangooly in Original Suit No. 208 of 1859.

Plaintiff	Defendant
Moottoo reddy	Chintamani Sreenevasa Row
Vakeel	Vakeel
Naraisimma Charyar	Krishnama Charyar

Decree of the District Moonsiff's Court.

1 —— The Plaintiff states that, in the absence of all accusation against him, the Defendant the Head of Police, made him Prisoner on the 17th of May of the year of Kalayukte, in the case of the Murder of one Siya Charry, in the said month, at Cooroovandy; and having confined him for 9 days, threatening and forcing from him a bribe of 300 Rupees, at last set him free. Under these circumstances, he prays that, since he is a man of great respectability, 800 Rupees may be recovered from the Defendant, in satisfaction of the extreme uneasiness of mind and disgrace, to which he thus subjected him.

2 —— The Defendant in his reply states that, the Plaintiff is a man of wealth and respectability, that he placed him in charge of a Peon for 9 days from the

6th March 1859, after having examined him, consequent upon a deposition given before him by Calundiya Chetty on the 1st Idem, to the effect that, he had strong reasons to suspect the Plaintiff had caused the Murder of Ayathurry and Lutchoomoo, and that he then on the order of the Magistrate released him on the 18th Idem. But he denies that he had either confined him, or wrested from him a bribe of 300 Rupees.

Points given for being proved

For the Plaintiff.— To establish the circumstances of his close Confinement

For the Defendant— 1— To prove that he placed the Plaintiff in the charge of a Peon

2— To produce satisfactory grounds in support of the same

Documents produced

I— Extract of a Deposition given by Calundya Chetty before the Defendant on the 26th February and 1st March 1859 bearing No. 16 — By the Defendant in support of the 2nd Point

II— Memo written by the Defendant to the Witness on the 27th February 1859 No. 21 — By the Defendant's Witness No. 1.

Evidences given by the Plaintiff's Witnesses in proof of the Point offered to him.

No. 18— 1st Witness Syed Kaunder Sahib

19— 2nd — " — Venkatasawmy Reddy

20— 3d — " — Veerasawmy Modelly

Evidences of the Defendants' Witnesses to prove the 1st Point

No. 22— 1st Witness Streenivasa Row—

23— 2d — " — Veerasawmy Iyengar

24— 3d — " — Perroosothum Saib

Decision

1— The evidences of the 3 Witnesses on the Plaintiff's side proves that, the Plaintiff was actually put in close confinement on the Defendant's orders; and this is further established by the evidences No. 22 and 24. given by the Defendant's Witnesses, as well as by Document No. 21 produced by the Defendant's Witness No. 22, the Sheristadar of the Cottamalcoor Taluk.

2— On the establishment of this fact, the next question for decision was, whether there were any circumstances authorizing the imprisonment of the Plaintiff by the Defendant the Head of Police, and also whether this Civil Suit could be admitted or dismissed by the Court, under the provisions of Act 18 of 1850; and it is resolved that there was no ground whatever for confining the Defendant and

that the suit could be prosecuted and admitted.

3 ——— The Act above referred to, investing Judicial authorities with wholesome powers, cannot on any account extricate the Defendant from the consequences of an Act, into which in the absence of all charge, as will be shewn below, he was led by the mere dictates of his fancy. Besides, there was no ground for putting the plaintiff in close confinement.

4 ——— The Defendant in the answer filed by him, has given out that "Calundiya Charry deposed on the 1st March 1859 that, he had strong reasons to suspect that the Plaintiff, accompanied by some others, murdered Iya Charry and his wife Lutchmoo, and requested the same to be investigated". To prove this, Extract of the above Deposition No 16 was filed, but in vain; for nothing whatever of the kind, is therein mentioned.

5 ——— The proceedings in this murder case which were with the Sessions Court, have been sent for, and on reference, it seems necessary to notice a point adverted to in the Calendar forwarded by the Head of Police to the Criminal Court, under Section XXVII of Regulation XI of 1816. Viz; that, with the exception of the charge against Carea Moolloo Lai by Calundya Charry, there was no Evidence

adduced, either by the other Prisoners concerned, or the Witnesses, to prove that he actually engaged in the Act.

6 From this it is resolved that, beyond the charge laid by the said Calundya Charry, there is no proof of it from the evidences given either by the other prisoners, or by any of the Witnesses; and consequently it is decided in the foregoing Column 4, that the circumstance alluded to by the Defendant, in his reply and in the said Calendar, in reference to the Complaint of Calundya Charry, is entirely fictitious.

7 The first question put to the Plaintiff by the Defendant, in the Deposition taken from him on the 6th March, clearly shows that the Defendant, actuated by biassed motives, attempted to delude him. The question runs thus "How do you explain yourself in the charge brought against you by Calundya Charry, that, owing to the great enimity subsisting between Ironsmith Iya Charry and yourself and others of your party, he suspects strongly that, in conjunction with Poroomaulreddy and others, you have effected the murder of himself and his wife!" There is not the least ground in the Records &c, authorizing the Defendant

in fruiting such a question as this, against which law could have withstood, without being confounded by fear.

8——— The Defendant fully acquiesces in the wealth and respectability attached to the person of the Plaintiff.

9——— Under circumstances like these, it is decreed that, the Plaintiff has fully established his claims, and that therefore the Defendant should defray to him the sum of 800 Rupees demanded, together with the Court Costs.

The particulars of the Court Costs on the side of the Plaintiff.

	Rs. a. P
Primary Stamp Duty as fixed in Section XIII of Regulation XIII of 1816	32 - " - "
Fees due to the Plaintiffs Vakeel under Cara 1 Section XXV of Regulation XIV of 1816 at 5 percent for Rupees 800	40 - " - "
Patta for serving the Notice ———	" - 9 - "
—D:— D:— the Summons against the Plaintiffs Witnesses	1 - 11 - "
Patta paid to —D:— D:—	2 - 4 - "
This must be remitted by the Defendant	76 - 8 - "

On the part of the Defendant

The Fees due to the Defendants Vakeel under the above terms	40 - " - "
Patta for serving the Summons upon the Defendants Witness	Rs. A. P " - 9 - "
Stamp Duty due on account of Writing an Extract of a Document produced by the Defendant	1 - 8 - "
This must go to the Charge of the Defendant	42 - 9 - "
Grand Total	118 - 9 - "

In proof whereof, we affix hereto the Courts Seal and Signature.

(Signed) C. Veerasamy
District Moonsif

The Plaintiff and Defendant, cannot mutually enter into any private agreements, on the subject of this Decree. Should any such thing occur without the knowledge of the Court, it would not be recognised by the Court. This Decree cannot be enforced after the expiration of 12 years.

The suit was filed on the 16th May 1859
Proceedings closed —" — 17th June — " —
Investigated a 2d time — " — 7th July — " —
— D: — 3d — " — " — 16th August — " —
Decree was passed — " — 16th — " — " —
Extract of the Decree prepared — 23d — " — " —
The appeal can be made between the above date and 21st September 1859.

(Signed) C. Veerasamy
District Moonsif

Examined
Mootiviaemy
Court Goomastah

(True Extract)
(Signed) C. Shreenevasa Row
Head of Police

(True Translation)
Magistrate

Translation of a Decree passed by the Dis-
trict Moonsiff of Caroongoody in Original Suit No: 212
of 1859.

Plaintiff	Defendant
Mootto Reddy	Chittamany Sreenivasa Row
Vakeel	Vakeel
Narasimmah Chariar	Krishnama Chariar

Decree of the District Moonsiff's Court

The Plaintiff Complains that, the Defendant place him in close custody, on the 17th. Maasy of the Year Calayoot Eyr, on the Supposition that he was implicated in the murder of Coorrovandy Pyah Chetty, and exacted from him Rupees 300 under threats, and requests that the above sum of Rupees 300 may be recovered from the Defdt. and paid to him.

The Answer filed by the Plaintiff States that, no threats were used by him to the Plaintiff for the sum of Rs. 300 referred

to.

1859 Dec. 8
Serv. Letter from Vakeel
Plaintiff dated 13th Decr.
1859
Rs. 44.
To
The Principal Sudder
Moonsiff
Caroongoody
(Original Enclosed)

Translation
Dec. 8
Exd. 538:

to be exacted from him.

Points to be proved.

The Plaintiff was required to prove that he was threatened, and made to pay Rs 300.

No points were required to be proved by the Defendant.

Plaintiff's Witnesses.

No 1 Ramasawmy Iyengar
D. 2 Venkatasawmy Reddy
D. 3 Cundasswa Reddy
} Witnesses for the points to be proved by the Plaintiff

Decree

The Plaintiff's Witnesses, three in number, assert in one and the same manner that, a sum of Rs 300 was paid to the Defendant. When the Court take into their consideration the simple nature of Witness No 1, they are led to the belief that he cannot utter falsehood. His evidence makes the Court believe that, the evidence of the other two must also be true. Though the evidence of these Parties is not supported by any Documents, the proofs adduced in Suit No 208 of 1859 on the file of this Court, convince the Court that the Suit under review, and the evidence produced in support of it cannot but be true.

2. Under these Circumstances, the Court are of opinion that, the Plaintiffs Claim has been fully established, and decide that the sum of Rupees 300, claimed by the Plaintiff, should be paid to him, by the Defendant, with the Court Costs.

Plaintiff's Costs.

Value of the Primary Stamps, for drawing suit the Plaint under Section 13 Regulation 13 of 1816	Rs 16--
Vakeel's fee, under Clause I Section 25 Regulation 14 of 1816 at 5 per Cent for Rs 300, being the amount Sued for	15-4--
Batta for serving the notice on the Defts	--9--
Do for serving Summons to Plaintiff's Witnesses	1-5--
Do to Plaintiff's Witnesses	1-8--
Defendant should pay this amount	34-6--

Defendant's Costs

Fees of the Defendant Vakeel as above	15-0--
This the Defendant should bear Total	49-6--

In proof of which, we have in the 16th
day of August 1859 fixed our Signatures and
the Seal of the Court.

/Signed/ C. Veerasawmy
Dt Broomfield

The Plaintiff and Defendant cannot
enter into any private Engagements which if they
do & come to the Court giving intimation to the Court,
such agreements cannot be held validly by the Court.
The Decree cannot be enforced after the expir-
ation of 12 Years.

This Suit was preferred on the 27th May 1859
Proceedings were Closed on the 17th June
Preleminary Inquiries none.
Commencement of the first investigation 17th June
Second investigation 17th July
Third Do. 16th August
Judgement Do.
Copy of this Decree was prepared on the 23d August
Appelate time from the above date to 21st September

Compared
Venkatasawmier
Somasekeram

/Signed/ C Veerasawmy
Dt Broomfield

(True Copy)
/Signed/ C Streenevassa Row
Dt Police

(True Translation)
Magistrate

Judicial Depart.

Proceedings of the Madras Government

Read the following Letter from the Magte of Chingleput dated the 13th Sept. 1859.

Ordered thereon 5th October 1859. No 1362.

The Govt are not prepared to admit the appeal in O.S. No 208 of 1859 on the file of the Dist. Court of Conjeeveram being made at the public expence - The Dist. may himself appeal and the finding of the appellate Court will show how far the strictures passed by the Magistrate on the conduct of the Police are well founded -

To the Magt of Chingleput - Dispd 8th

(Signed) W. Elliot Esqr
Offg Chief Secretary

(Signed) A. Arbuthnot
Asst Secy to Govt

Govt Rest Office
Fort St George -

It is understood that the Magistrates proceedings are irregular - His application for permission to appeal from the Decision of the Justices should have been prefered through the Board of Guardians

J.P.

Proc: of Gov. 21st Oct.
Judicial 1859 Dept.

No 1362

Proceedings of Govt.

21 October 1859.

19420