M.R.O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE

Government of Madras.

Judicial **DEPARTMENT**

G.O. No. 1723 Press ~~Mis.~~

43-44

Dated 24—12 ~~19~~ 1935

Not to be folded or roughly handled

No. 43. Read the following letter from G. THORNHILL, Esq., Acting Magistrate of Vizagapatam ; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 9th December 1859, No. 576.

I have the honor to acknowledge the receipt of the Proceedings of Government No. 1617, dated 28th November 1859, directing me to furnish full explanation of the arrangements made by me for the custody of Moorad Khan, and the other individuals suspected of the murder of the late Captain Leycester, and to state, in reply, that, on my arrival in the district on the 5th of October, I found the three men subsequently committed for trial, and some other of Captain Leycester's servants confined in his house, under the Military guard in charge of the property.

2. The preliminary enquiry conducted by Mr. Reade and Mr. Vans Agnew was nearly complete, and on consultation with those gentlemen, I determined, with the sanction of Government, to offer a reward for further information, and at the same time we decided upon confining separately the three men subsequently committed for trial, and on releasing the others. It then became necessary to decide upon the best places in which to secure them.

3. It is at all times objectionable to place persons merely suspected in a Gaol with convicted felons ; however, I applied to Mr. Pelly the Subordinate Judge to ascertain if he could afford *separate* accommodation for one or more of them in the Gaol, and, on his replying in the negative,* I at once gave up all notion of sending either of them there : to have permitted them to mix with the common hard of prisoners would have put an end to every chance of their divulging any circumstance, connected with the murder, that they might have been cognisant of ; moreover, the Gaol being at the further extremity of the town of Vizagapatam, every time the suspected person was required to appear before a Magistrate, he would have had to traverse the crowded streets both in going and returning.

* *A Note from Mr. Pelly is enclosed.*

4. Failing the Gaol, the only places of confinement at my disposal, were the Police Office in the town, a very insecure building ; a small lock-up house near the treasury, and the late Captain Leycester's house.

5. Moorad Khan had friends in the town, and the suspicion against him was stronger than against the others, I therefore determined upon leaving him at the house under the Military guard, as I considered that by far the most secure place.

6. His two accomplices were removed on the 7th October, and he was confined in a small square room with one door only open, the second being securely blocked up ; by day he always wore handcuffs except when taking his food, and at night his feet were secured in stocks, a sentry was always between him and the door, there were other sentries round the house and the body of the guard composed of a Havildar and twelve men, were in the front verandah, less than ten yards from the door of the room in question.

7. His food was brought to him by a Peon from the Police, and his hands were necessarily released from the handcuffs to enable him to cook and eat it ; at these times, he was always guarded by a Naigue and three Privates.

8. The guard was visited repeatedly night and day by the Officer Commanding the Regiment and at a later period by Major Warden, Commanding the station, and, being a Military guard, their opinion, as to the security of the prisoner, is more valuable than my own, and certainly equally so with that of the Officiating Inspector of Schools. I have the honor to enclose demi-official notes, addressed to me on the subject by those two Officers and I may add in corroboration of their opinion and my own, as to the security of the prisoner, that no attempt at escape was made by him. Colonel Boulderson was also cognisant of the measures taken, and I beg to refer to him also for confirmation of these views.

9. On the 7th November, I received a letter from the General Commanding the Northern Division, objecting to Moorad Khan being left under the sole charge of a Military guard, but at

the same time, offering me the aid of a guard, if I wished it, to assist my own peons; and as I had already determined upon removing Moorad Khan from the house, before the sale by auction of the late Captain Leycester's effects should take place, I caused one of the godowns attached to the Cutcherry, which had hitherto been used as a record room to be cleared of shelves, and prepared for his reception, he was removed to this place on the 7th November and remained there until the 12th, when he was committed to the Subordinate Court.

10. Swamy the bearer was confined in the Vizagapatam Police Office, his relatives being inhabitants of Waltair, and Jagganaikloo the third of the suspected persons was kept in the small lock-up house near the Treasury.

11. On the arrival of Colonel Boulderson, these 2 last named individuals were made over to the custody of his peons and kept in their charge until they were committed to the Subordinate Court.

12. Having thus given a full account of the manner in which the persons suspected were secured, I may now be permitted to notice more particularly the allegations set forth in the letter of Sir A. Grant, which I observe bears the date of the day following that on which he forwarded his correspondence with me to the Spectator Newspaper.

13. Sir A. Grant first writes, "three weeks ago when the prisoner and his two accomplices were confined together under a guard of Sepoys at Captain Leycester's house, Major Strange wrote to Mr. Thornhill, to represent that several persons were of opinion, that the prisoners should be separated and not left in charge of a Native, and therefore sympathetic guard to which Mr. Thornhill replied, that he did not see any grounds for anxiety, but that he would ask Captain Flint to direct the guard to forbid all communication between the prisoners. At a later period, the accomplices in the murder were very properly (although too late) removed to separate confinement in the Gaol."

14. In reference to the above statement, I have the honor to submit Major Strange's original note therein alluded to. His Excellency in Council will not fail to remark, that Major Strange's note is dated 12th October. The two accomplices of Moorad Khan were removed to separate confinement by my orders on the 7th idem before Mr. Reade left the station, as shown by the Police Diary; Major Strange in no part of his note alludes to the separation of the prisoners as stated by Sir A. Grant, the separation having been previously effected.

15. Alarm is expressed at the prisoner being left under a Native (and therefore probably sympathetic guard) while at the same time, no opportunity is lost of urging the propriety of sending the man to the Gaol, it appears to have escaped the writer, that the Gaol guards are all Native, and therefore equally sympathetic, while less under discipline than Soldiers of the regular Army. I may further point out that Major Strange distinctly states in his letter, that he had no fear of Moorad Khan's escaping.

16. I beg also to forward a copy of my note in reply to Major Strange, (which I believe to be verbatim, but which certainly is in substance the same as that sent by me,) there is no request to Captain Flint to prevent communication between the prisoners, for the very sufficient reason that there was but one present, the other two being, at the time, confined at distances of one and two miles respectively, and I have already shown that none of the prisoners were at any time removed to the Gaol while under my charge.

17. With reference to the concluding words of the Extract from Sir A. Grant's letter, viz., "Mr. Thornhill then said, that he thought of removing him to the Gaol." I have only to state that, although I have no clear recollection of the precise words used on the occasion, the remark must have had reference to the time when Moorad Khan would be committed for trial before the Subordinate Court, and which the confession of Swamy made it certain, would not be far distant.

18. I need do no more than call the attention of the Government to the incorrectness of the statements upon which Sir A. Grant has based his attack upon me, and I trust, I may be permitted, very respectfully, to protest against that gentleman's proceedings as unwarrantable and tending directly to weaken the authority of Magistrates and impede them in the execution of their duty.

Proceedings of the Madras Government, Judicial Department, for the month of December 1859.

19. I request the original enclosures may be returned to me, when no longer required.

No. 44. ORDER THEREON, 24th December 1859, No. 1723.

The Government consider the explanation submitted in the above letter of the arrangements made for the custody of Moorad Khan and of the other individuals suspected of the murder of the late Captain Leycester, to be entirely satisfactory, and they resolve to communicate this opinion to Mr. Thornhill, and to Sir A. Grant.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

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and I have already shown that none of the Prisoners were at any time removed to the Gaol while under my charge.

17. With reference to the concluding words of the Extract from Sir A Grant's letter viz "Mr Thornhill then said, that he thought of removing him to the Gaol" I have only to state that, although I have no clear recollection of the precise words used on the occasion, the remark must have had reference to the time when Moorad Khan would be committed for trial before the Subordinate Court, and which the confession of Swamy made it certain, would not be far distant.

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Judicial 6 1859 September
Magistrate Dist
From Sec to Govt
No 1118 dated 31 Dec
Forwarding extract of
Letter from Sir A Grant
to Mr Thornhill
Dated 9 Dec 1859
Read 5 1859
Noted
Encl Extracts

12.0.1853.

Submits for full explanation of the arrangements made by him for the custody of Moorad Khan and the other Indians suspected of the murder of the late Capt Haycock

Order thereon 24 December 1859 - No 1723.

The first consideration explanation submitted in the above letter of the arrangements made for the custody of Moorad Khan and of the other Indians suspected of the murder of the late Capt Haycock, to be entirely satisfactory and Mr Ross wishes to communicate this opinion to Mr Thornhill - & to Sir A Grant.

Magistrate of Vizag — Mr Thornhill — Sir A Grant 1st with copy of No 1118 dated 31 Dec 1859 from Govt

Dispatch
Rec 20 Dec 1859 No 59 Ans 24 Dec 1859 No 1723
Judicial
Commr
23-12-59

Is my opinion the Collector is to be congratulated that there is no more than meets the Magistrate that he should be informed -

23 Dec 1859

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be permitted, very respectfully,
to protest against that Gentleman's
proceedings as unwarrantable
and tending directly to
weaken the authority of Magis-
trates and impede them in the
execution of their duty -

19 I request the original
enclosures may be returned to me,
when no longer required -

I have the honor to be
Sir
Your Most Obed.t Servant

J. Thornhill.
Acting Magistrate

List of Enclosures

1 Original Note from Mr. Selby ——— A
1 — D.o — D.o ——— Capt.n Flint — B
1 — D.o — D.o ——— Major Warden — C
1 — D.o — D.o ——— Major Strange — D
1 Copy of Note from Mr. Thornhill
to Major Strange — E