

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	373	Press
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31-32		
Dated	19-3-	1918.9

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 22nd March 1859.

No. 31. From SEETHARAMIAH, late Tahsildar and Head of Police of Cauverypauk Talook, North Arcot; to T. PYCROFT, Esq., Chief Secretary to Government, Judicial Department, Fort St. George, dated 4th March 1859.

SIR,

I have the honor to hand you four copies of a Memorial addressed to the Right Honorable Lord Stanley, Her Majesty's Secretary of State in Council of India, of this date appealing against the decision of Government of the 22nd September last, a copy of which together with the papers connected therewith, the Government were pleased to furnish me on the 8th Ultimo, and to request that you do me the favor to move the Right Honorable the Governor in Council to forward them to Lord Stanley.

Should His Lordship in Council, on a review of the representations I have made, think it necessary to re-consider his decision in my case and restore me to my former appointment, the necessity for submitting the Memorial to the Home Government will not then exist.

TO THE RIGHT HONORABLE LORD STANLEY,
SECRETARY OF STATE

H. M.'s SECRETARY OF STATE IN COUNCIL OF INDIA,
LONDON

The MEMORIAL of SEETHARAMIAH, late Tahsildar
and Head of Police of Cauveripauk Talook of
the North Arcot District of the Madras Pre-
sidency.

MAY IT PLEASE YOUR LORDSHIP,

That under the orders of the Madras Government of the 22nd September 1858, No. 2296, Judicial Department, your Memorialist, at the close of a long, faithful and unblemished service of 32 years, was removed from his appointment of Tahsildar and Head of Police of the Cauveripauk Talook of the North Arcot district, which he had held for 10 years—because, in the view of Government, he had, in November 1857, been negligent of his duty in failing to arrest certain parties and search certain houses under a Warrant issued by the Magistrate of the Chingleput district. Your Memorialist having, after repeated attempts, at length, on the 8th February instant, obtained from Government authenticated copy of the Official Record on which the Government had come to their decision adverse to your Memorialist, he begs now to offer the following observations founded chiefly on this Official Record of his case, to which he entreats your Lordship's earnest attention.

2. The facts of his case are these. In August 1857, a gang robbery was perpetrated in the village of Mamun-
* Warrant No. 11.

From the Magistrate of Chingleput.

[illegible]

SYDAPET,
3rd October, 1857.

Sealed and Signed,
C. J. SHUBRICK, *Magistrate.*

Fort St. George, Judicial Consultation, 22nd March 1859.

† From C. J. Shubrick, Esq., Magistrate of Chingleput, to Seetharamiah Head of Police Canverypauk.

I issued a Warrant in the name of my Hoozoor Duffadar, &c., to apprehend certain parties who are concerned in the Torch Light Gang Robbery, which was committed in the House of Aroonachella Moodely in the Village of Maumundoor Talook Conjeevaram, and sent him with the warrant to places within your jurisdiction, and also written to the same effect to the Magistrate and his Head Assistant of the North Arcot District.

As soon as the Duffadar comes to you, you should render what assistance you can agreeably to rule, without loss of time, in apprehending and searching the Houses of the parties mentioned in the Warrant.

If it come to my notice that by your neglect in rendering assistance the persons mentioned were not found with the property, I shall write to Government and punish you as you deserve.

ST. PAUL, 3rd October 1857.

ed at Wallajahpett, which is the Cusbah or chief village of the Talook, and handed your Memorialist a Takeed or order, copy of which will be found in the margin,† from the Magistrate of Chingleput, in which your Memorialist was called upon to render all needful assistance to the Duffadar in executing the Warrant. Under this Warrant, aided by the assistance rendered by your Memorialist, many apprehensions were made.

3. In the execution of this Warrant, the Duffadar came to Wallajahpett oftener than once. On the last occasion of his visit, are stated to occur the circumstances in consequence of which the removing order of the Government was passed.

4. According to the Duffadar's Statements given in the Official Record, it appears that he arrived at Wallajahpett, on this occasion, on the 25th November 1857, but, as he himself acknowledges, he refused to show to the Talook authorities the Warrant which authorised him to make apprehensions and search houses, until the evening of the 27th or three days after his arrival. It appears that your Memorialist then promised to give the necessary orders early next morning, the 28th, and that accordingly on the 28th the necessary orders were given. It further appears, that the Subordinate Talook authorities raised all sorts of frivolous objections to the Duffadar's acting on the Warrant on the 28th and the greater portion of the 29th—that your Memorialist was all this while at the place and was made cognizant of the reluctance of his Subordinates to aid the Duffadar—that your Memorialist was spoken to by the Duffadar, in the afternoon of the 29th while your Memorialist was out on circuit in the adjoining villages—that your Memorialist promised to return that night, or the following day the 30th, but never did—and that the Duffadar returned on the 30th to Chingleput without executing his Warrant.

5. Upon these bare allegations of this Duffadar, a man on the receipt of about 14 Rs. or 28 Shillings monthly, unsupported by any corroborative evidence, and which will not stand critical examination, your Memorialist has been condemned. The counter-statements and explanations of Messrs. Whittingham and Elliott, the Magistrate and Head Assistant Magistrate of the North Arcot District—in the case of Mr. Elliott after "personal investigation"—have been deemed of no weight.

6. Your Memorialist must here remark, that the statements of Duffadar Rungiah Naick were never seen by him till the Government were pleased to send him a copy of them on the 8th February of this year—that the replies (which were given orally) made by your Memorialist to Mr. Elliott's enquiries when investigating the matter in January 1858, were with reference to the interrogatories put to him by that Gentleman—and hence that a proper defence has not yet been made by your Memorialist. Now that your Memorialist is aware of the allegations of the Duffadar Rungiah Naick, he begs to state that they are altogether a tissue of falsehoods. Your Memorialist, under peremptory orders from Mr. Whittingham, the Collector, dated 20th June 1857, No. 158, was under the necessity of being altogether absent from his Cusbah, i. e. Wallajahpett, in order personally to overlook the collection of the revenues in the other villages of his Talook. At the end of November 1857, your Memorialist received peremptory orders from Mr. Sullivan, the Sub-Collector, to collect carts for the use of a Native Regiment at Vellore. In the prosecution of this order your Memorialist was obliged to be in and out of Wallajahpett. While thereat, on the 25th or 26th November, the Duffadar Rungiah Naick presented himself to your

pauk Talook. Accordingly a warrant, copy of which is given in the margin,* for their apprehension and for the search of the houses, was issued on the 3rd October 1857 by the Magistrate of Chingleput to his Duffadar Rungiah Naick. On the 15th of that month, this Duffadar appear-

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Memorialist and asked for assistance in executing his Warrant; at the same time some of the residents of Wallajahpett complained to your Memorialist that the Duffadar was threatening to search their houses and apprehend them. Your Memorialist thereupon asked to see the Warrant, not that he had any doubts whether a Warrant was possessed or not, but merely to have a copy of it for production to the Magistrate in case the parties who complained should carry their complaints before the Magistrate, as they actually did—but the Duffadar expressed an unwillingness to produce it unless permitted by the Informant and stated that he would go and ask his consent. The Duffadar then left your Memorialist. On the evening of the next day or the day after, your Memorialist forgets which at this late period, the Duffadar re-appeared and offered to produce the Warrant to your Memorialist. The Warrant was then produced, but the Duffadar covered with the palm of his hand that portion which particularized the parties to be apprehended &c., and merely allowed your Memorialist to look at the seal and date of the Warrant. Your Memorialist, finding the Duffadar so very pertinacious in withholding information regarding the parties to be apprehended, and as he had satisfied himself that this Warrant was the same referred to in the Takeed he had received from Mr. Shubrick, gave the required assistance to the Duffadar, but instructed his subordinates to apprehend those parties only whose names are given in the Warrant. Your Memorialist cannot now remember whether he remained at Wallajahpett on the 28th;—he remembers that he was there a part of the 29th as on the day the carts were despatched to Vellore. Your Memorialist received no intimation from the Duffadar Rungiah Naick of the (alleged) opposition of the Talook officials during the time of the 27th and 28th that he is stated to have been at Wallajahpett. On the 29th, when your Memorialist was leaving Wallajahpett, the Duffadar sent a message by one of the peons, stating that the Cutwall's time was more given to collecting the carts than to assisting him. Your Memorialist then directed the Cutwall to attend the Duffadar. Your Memorialist heard nothing further of this affair, till after his return, sometime after the 30th, to Wallajahpett, when he learnt that the Duffadar had left Wallajahpett without executing the Warrant.

7. The Official Record of your Memorialist's case shows that the Duffadar Rungiah Naick's allegations are unsupported by any other evidence—and your Memorialist has already said that he had not before this been in a position to make a proper defence. If the reports of Messrs. Whittingham and Elliott are not sufficiently full, if they have not met all the points at issue, your Memorialist respectfully submits that he ought not to suffer in consequence, especially as he was not aware of the nature of the defence set up in his behalf by those gentlemen.

8. The Government in their orders of the 22nd September 1858, No. 1296, Judicial Department, state—"It is not denied that this latter officer (the Duffadar) showed the former (your Memorialist) the Warrant on the evening of the 27th November last, and that he remained in the town (Wallajahpett) the whole of the following day (the 28th) and a part of the next (the 29th), and still the Head of Police contented himself with merely issuing orders to his subordinates and leaving them to obey these orders or not as they thought fit."

9. Your Memorialist begs to state that the Warrant was only partially shown to your Memorialist on the 27th, and that a copy of it was left at the Talook Cutcherry by the Duffadar after your Memorialist had left the Cusbah on the 29th and that he received no intimation, had no suspicion, that any want of co-operation was exhibited by his subordinates. The Government have accepted the above facts on the *ex parte* statements of the Duffadar and in the absence of any pointed denial thereof on the part of Messrs. Whittingham and Elliott. Your Memorialist, having now an opportunity, has put in his denial. Your Memorialist and the Duffadar are, in one respect, on equal footing as evidence, each having to account for his own conduct in this matter: but your Memorialist submits that when it is considered, that he was on a salary of Rs. 108 or 10£ 16s. a month—and the Tahsildar and Head of Police for the last 10 years of a Talook 40 miles long by 20 board, having a population of 200,000 souls, and yielding a revenue of 2 lacs of Rupees or 25,000£—while the Duffadar Rungiah Naick is a mere subordinate and on Salary of Rs. 14 or 28s. a month,—Your Memorialist would as evidence be generally held to be entitled to greater weight.

10. The Government proceed—"He (your Memorialist) knew that a daring robbery had been perpetrated in the Chingleput district, that the Duffadar was in pursuit of the suppos-

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"delinquents, that the men for whose apprehension he had come thither were men of wealth and influence, and still he remained passive."

11. Your Memorialist respectfully submits that the Official Record nowhere shows that he knew that the men to be apprehended were men of wealth and influence. He has stated that he had not seen the names of the parties mentioned in the Warrant on the 27th November and not till after his return to Wallajahpett after the 30th, hence he could not know that the men for whose apprehension the Duffadar had come were men of wealth and influence. And as he had afforded the required and usual assistance, and had not been made acquainted with the necessity for any personal interference on his part, the charge of having "still remained passive" has no foundation to rest upon.

12. Further a most essential point in your Memorialist's favor, which has been repeatedly and strongly urged by Messrs: Whittingham and Elliott in the Official Record, does not appear to have attracted the notice of Government. From the copy of the Warrant given elsewhere, it will be seen that thirty-seven persons were to be apprehended and have their houses searched. The Chingleput Duffadar had come oftener than once on the business of this Warrant. Your Memorialist was in receipt of a Takced or order from the Chingleput Magistrate, and it was under this order that the required assistance, which had been found efficient in all but the last visit, was given. The Chingleput Duffadar admits that the production of the Warrant was not demanded on the previous occasions of his visit to Wallajahpett—and it is evident from his remark—"as a demand of this kind had never been made before in similar cases, it led to suspicion, and that if the Warrant is shown, the opponents would know the circumstance and try to conceal their property"—that the Talook authorities had no knowledge whatever as to who were the suspected parties and what were the suspected houses to be searched:—and that both the Duffadar and the secret informant, who accompanied him, were not eager to let out the special objects of their mission. It is also obvious that the mere inspection of the Warrant, without information from the Duffadar, who by his own showing was very reticent, would enable one to discover who were to be seized or whose houses to be searched on this occasion. On the previous occasion no want of co-operation on the part of the Talook officers is complained of, and yet it then lay in the Duffadar's power to apprehend the "men of wealth and influence." Mr. Elliott observes, "How it was these Sowcars were not apprehended, or their names even mentioned on the two former occasions, the Duffadar and his informant came for the same purpose to the town?—which appears to me a very reasonable argument all throughout." Mr. Whittingham says† "No sufficient reason is assigned why the Head of Police should have withheld on the last occasion that assistance which he had given to Mr. Shubrick's Duffadar on his former visit to Wallajahpett. Mr. Shubrick indeed states that persons apprehended on the former occasion were poor, and that the parties now in question were rich, but they were all included in the same warrant, and when the Head of Police on the former occasions gave the required assistance, Mr. Shubrick's Duffadar had the means of apprehending and searching the houses of the rich as well as the poor." This fact, your Memorialist submits, while it strengthens his cause, throws grave suspicion on the credibility of the Duffadar's story. Mr. Shubrick replies with reference to Mr. Elliott's remark, "Nothing more was requisite than their names being in the Warrant."—Their names were in the warrant, why were they not apprehended?

* From Mr. Elliott to Mr. Whittingham, dated 18th January 1858, para. 2.

† From Mr. Whittingham to Chief Secretary, dated 27th August 1858, para. 5.

13. The Government continue, "It was the duty of the Head of Police to see that the parties, if forthcoming, were arrested and that their houses were searched, and this even had the Chingleput Duffadar been apathetic which however he does not appear to have been."

14. Your Memorialist would respectfully enquire, what authority have the Government for affirming that the Duffadar was not "apathetic." Mr. Shubrick is no evidence in the case: he is merely urging the statements of the Duffadar and his Duffadar has produced no corroborative evidence. Mr. Whittingham also is no evidence: he is merely communicating what Mr. Elliott, who had personally investigated the matter, and hence is an evidence and a very material one, has formally had before him. In para. 6 of the letter to the Chief Secretary, dated 18th August 1858, Mr. Whittingham says—"The Duffadar's statement that he was unable to serve the warrant is not

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"correct. He had during the long period he was employed in executing the Warrant, two of the peons of the Head of Police in constant attendance on him: and it was proved that he had on the last occasion ample means to serve the Warrant, but that he made no attempt to use the means at his disposal. The Subordinate Police Officers were in obedience to the order of the Head of Police ready to assist the Duffadar, but he made no use their services, delaying to appear under the pretence of bringing the complainant to be present at the search. The warrant was not served, because the Chingleput Duffadar who was charged with its execution himself prevented its being done." Mr. Whittingham, in his letter to Mr. Shubrick of the 10th July 1858, para. 2, says—"From the personal investigation held by the acting Head Assistant Magistrate (Mr. Elliott) there are strong grounds for believing that the subsequent proceedings of your Duffadar were also of a highly irregular nature."

15. According to all laws of evidence, the testimony of a witness in the position of Mr. Elliott, an uninterested party, one who is anxious to see that the course of justice is not impeded, who has personally investigated the matter on the spot and under instructions from his official superior—is of more weight than the mere assertions of a person in the standing of Duffadar Rungiah Naick, who having failed in a most important duty entrusted to him, is obliged to account for the failure, and of course is likely to make out such an account as will free himself from all blame, and especially when he is at a distance from the scene of his failure, and hence when the parties capable of refuting his statements are not at hand. Such being the case, your Memorialist respectfully urges that the Government in their proceedings on his case, have not given due weight to the counter-evidence in his favour—have in fact taken a one-sided view of the matter to his prejudice.

16. Respecting the dictum laid down by Government, that it was the duty of your Memorialist to execute the warrant in spite of the apathy of the officer charged with its execution, your Memorialist respectfully submits that this dictum is quite new to him. Your Memorialist submits that his duty in the matter was merely to enforce the authority of the Duffadar, not to wrest that authority from him. If any resistance on the part of the parties to be apprehended was evinced, your Memorialist's duty would be to overcome such resistance, or to offer any assistance that might be required by the Duffadar in acting upon his warrant. Your Memorialist could not legally execute the warrant as he was not charged with its execution. If your Memorialist gave the needful assistance, and if the Duffadar was unwilling to make use of that assistance, and Mr. Whittingham states that these are proved, your Memorialist submits that the failure in the matter lies at the Duffadar's door.

17. Your Memorialist would in conclusion draw attention to the intrinsic improbability of Duffadar Rungiah Naick's story. Your Memorialist has already sufficiently pointed out that under the circumstance in which the Duffadar was situated, his version of the transaction, according to all laws of evidence, is per se not trustworthy. To be accepted, it must be accompanied by ample corroborative evidence—none such has been adduced.

18. The very first step, according to his own version is pronounced by Mr. Whittingham to be "a highly culpable conduct," and Mr. Shubrick does not dissent from this opinion. And yet this conduct, which has been so characterized, in no way helps out the Duffadar's case. He says that he was backward to produce the warrant, because 1st it was unusual and hence suspicious, and 2nd that if it was shown the parties whose houses to be searched would be forewarned. Your Memorialist has already pointed out the absurdity and futility of this trumped up pretext—a pretext which is damaging to the Duffadar's case.

* Para. 2 of Mr. Whittingham's letter to Mr. Shubrick, dated 10th July 1858, and marginal note by Mr. Shubrick.

Para. 12.

19. The final proceeding, the omission to report the alleged opposition offered by the Talook authorities to Mr. Elliott, who was within 3 miles and was accessible at any time and who gave aid to the Duffadar himself is what the Duffadar never would have taken had the actual facts of the case been as he represents them. The man would be exceedingly indignant with the Talook authorities and out of personal resentment he would have lodged a com-

* Para. 3 of Mr. Elliott's letter to Mr. Whittingham, dated 18th January 1858.

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plaint with Mr. Elliott. His not doing so, shows that the feelings which would be naturally engendered in such circumstances, were not existent in him, and hence that the exciting causes were absent, and that therefore his story is improbable. Mr. Shubrick himself acknowledges that this omission of the Duffadar's was irregular.

20. Your Memorialist having thus gone into a minute examination of the Official Record, and shown, as he humbly submits, he has done, sufficient cause why the decision of the Madras Government should be reversed, leaves the matter in your Lordship's hands feeling every assurance that your Lordship will carefully look into his case and see justice done.

And your Memorialist as in duty bound shall ever pray.
Madras, 4th March 1859.

No. 32.

ORDER THEREON, No. 373; dated 19th March 1859.

Ordered that three copies of the present Memorial be forwarded to the Home Government, together with copy of the Orders of Government therewith connected.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. A. Wilson.

No. 373.

Edh. Police
Ordered that three copies of the present Memorial be forwarded to the Home Govt., together with copy of the Orders of Govt. therewith connected.

Fort St. George,
19th March 1859.

To Subaramiah - Supd. 20th

By to Cons 22 March/59
Judicial. 1859. Departt.

From Setarameiah, late Sahibdar and Head of Police of Jauweripauk, Sublook of the North West District of the Madras Presidency

d/4
7/5 March/59.

No 359.

Transmitted ^{quadruplicate}
Memorial (in duplicate) to H. H. Secy of State in Council of India praying for a reversal of the decision of the Madras Govt. in his case, which removed him from his appointment for supposed neglect of duty.

With an Order.

C 24th August 1858. ct# 11412.
C 28th September - ct# 6 to 8
C 26th October - ct# 20 & 21.
Petition drafted on ct# 3341 of 1859
+ 326 of 1859.
Also Petition ct# 502 of 1859
Jud^l L^g to Ing^l 26th March, 1859.

C 12 March 31/532
R 15

being the case, your Memorialist respectfully urges that the Government in such proceedings have not given due weight to the counter-evidence in his favour—have in fact taken a one-sided view of the matter to his prejudice.

16. Respecting the dictum laid down by Government, that it was the duty of your Memorialist to

resistance on the part of the parties to be apprehended was evinced, your Memorialist's duty would not overcome such resistance, or to offer any assistance that might be required by the Duffadar in acting upon his warrant. Your Memorialist could not *legally* execute the warrant as he was not charged with its execution. If you Memorialist gave the useful assistance, and if the Duffadar was unwilling to make use of that assistance, and Mr. Whittingham states that these are *proved*, your Memorialist submits that the failure in the matter lies at the Duffadar's door.

17. Your Memorialist would in conclusion draw attention to the intrinsic improbability of Duffadar Raungah Naik's story. Your Memorialist has already sufficiently pointed out that under the circumstances in which the Duffadar was situated, his version of the transaction, according to all laws of evidence, is *per se not trustworthy*. To be accepted, it must be accompanied by ample corroborative evidence—none such has been adduced.

18. The very first step, according to his own version, is pronounced by Mr. Whittingham to be ^{highly culpable conduct}, and Mr. Shubrick does not dissent from this opinion. This conduct, which has been so characterized, in no way helps out the case. He says that he was backward to produce the warrant, because

letter to Mr. Whiting. had the actual facts of the case been as he represents them. The man would have been exceedingly indignant with the Talook authorities, and out of personal resentment he would have lodged a complaint with Mr. Elliot. His not doing so, shows that the feelings which would be naturally engendered in such circumstances, were not existent in him, and hence that the exciting causes were absent, and that therefore his story is improbable. Mr. Shubrick himself acknowledges that this omission of the Duffadar's was irregular.

20. Your Memorialist having thus gone into a minute examination of the Official Record, and shown, as he humbly submits he has done, sufficient cause why the decision of the Madras Government should be reversed, leaves the matter in your Lordship's hands, feeling every assurance that your Lordship will care-

AND YOUR MEMORIALIST AS IN DUTY BOUND SHALL EVER REMAIN,

MADRAS, 4th March, 1859.