M.R.O. 1—33,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1351 Press ~~Mis.~~

122-123

Dated 15-10- ~~19~~ 1886

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
19*th October* 1860.

No. 122. Read the following letter from THOS. SYDNEY SMYTH, Esq., Advocate General, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 9th October 1860 :—

I have the honor to submit, for the information of the Honorable the Governor in Council, the following report of the cases in which I prosecuted officially at the fourth Criminal Sessions of 1860 :—

2. They were three in number. The first was No. 8 in the Calendar, where Narrainen, a Post Office runner, was convicted on very clear evidence of stealing a letter containing some Pearls, and was sentenced to two years' imprisonment with hard labor.

3. The second case was No. 15 in the Calendar, and calls for fuller explanation. The Prisoner, Veerasawmy Naick, an old Peon of 26 years service in the Office of the Collector of Madras, was charged with embezzling Rupees 50 of Quit Rent Collections. He was acquitted, and very properly so in my opinion, as well as—so I infer from his charge—in that of Sir Adam Bittleston; and his acquittal appears to me to involve the principal witness against him, Mooroogapah Moodelly, Bill Collector of Quit Rent for Mylapore, in very grave suspicion.

4. Mooroogapah Moodelly stated that in August he gave the Prisoner a Bill for Rupees 163-13-11 to collect, from Mr. Ouchterlony's servants on his ground at Saint Thomé or Mylapore; that on the 15th September the Prisoner brought the money to him, Mooroogapah Moodelly, who almost immediately returned it to Prisoner, with orders to pay it into the Treasury, obtain the Sub Treasurer's signature to a Receipt which was also delivered to the Prisoner, and lodge this Receipt with the Accountant in the Quit Rent Department; that this not having been done, and the Prisoner having absented himself, he, Mooroogapah Moodelly, became suspicious, went to Prisoner's house on the 19th September, and asked him about the money, when he got confused, brought out the money, and said that 50 Rupees were deficient, that some thief must have taken it, but afterwards said he had paid it to a creditor, whereupon he, Mooroogapah Moodelly, took Prisoner before the Deputy Amildar, and gave him in charge of the Police.

5. The Prisoner's story was, that, in July, he had borrowed Rupees 50 of Mooroogapah Moodelly, promising to repay it in ten days, which he had not been able to do; that, after he first received Mr. Ouchterlony's Quit Rent Bill, Mr. Ouchterlony's servant made a part payment of Rupees 50, which he endorsed on the Bill, which Rupees 50, with the Bill, Prisoner on the 28th August gave to Mooroogapah Moodelly; that on the 13th September, Mooroogapah Moodelly gave him the Bill again to collect the balance, Rupees 113-13-11, which Prisoner accordingly collected, and on the 15th paid *that* sum, *not* the Rupees 163-13-11 to Mooroogapah Moodelly: that thereupon Mooroogapah Moodelly gave Prisoner back the Rupees 113-13-11 and told him to pay Rupees 163-13-11 into the Treasury, saying that he kept the Rupees 50, which Prisoner had paid him on the 28th August, as payment of the loan he had made to the Prisoner, and that Prisoner must raise the Rupees 50 the best way he could, and pay the full sum into the Treasury; that he, Prisoner, was unable to raise the Rupees 50, and therefore could not pay the Rupees 113-13-11 into the Treasury.

6. Mooroogapah Moodelly denied having lent Rupees 50 to the Prisoner, denied having received Rupees 50 on the 28th August and the Quit Rent Bill, and having re-issued it on the 13th—but, so far, the case rested merely on what he asserted on one side, and what the Prisoner asserted on the other—except that the Prisoner, when first arrested, had said that thieves must have stolen the Rupees 50, and had not put forward his present defence till taken to the Police Office. But, considering the reluctance of Native subordinates to accuse a Native superior, and their general aversion to tell the whole truth at once, I do not attach much weight to this latter fact.

7. The Prisoner was undefended, and was unable to avail himself of some written statements made at the Collector's Office, for whose production he seemed very eager, but there were several points in his favor. His long service and good character spoke for his previous honesty; his alleged absence from the 15th to 19th was not proved; the fact of Rupees 50 being paid him

on the 28th and endorsed on the Quit Rent Bill was clearly proved, and that only Rupees 113-13-11 were paid to him on the 14th September; it seemed improbable that he should keep Rupees 50 laying by him from the 28th August to 15th September, merely that he might then pay it to Mooroogapah Moodelly, running the risk meantime of losing it; while, supposing he wished to use the money for his own temporary purposes, intending to replace it, Mooroogapah Moodelly proved that the Prisoner, according to the usage of the Office (a most lax one, if Mooroogapah spoke truth) might have kept the money for two or three months, by merely saying that he had not been able to collect it.

8. If the Prisoner had known how to defend himself, and had *proved* the fact of Mooroogapah Moodelly having lent him Rupees 50 in July last, to be repaid in ten days, I should have had no doubt whatever of the truth of his story, and of the falsehood of Mooroogapah's charge; as it is, the case is only one of suspicion.

9. The third case was No. 18, for man-slaughter. There was a street quarrel; the deceased interfered as mediator, and was assaulted by the Prisoners, receiving a blow from each, one on the neck, and one on the chest; he fell, his head came in contact with the brick edge of the drain, and his skull was fractured, but his death was owing to extensive disease of the heart, such that a slight blow, or even mere excitement, according to the Medical evidence, would have sufficed to cause death. The witnesses who deposed to the two blows were both convicted thieves, and probably taking this into consideration with Doctor Montgomery's evidence that mere excitement might have caused the Prisoners' death, the Jury acquitted the Prisoner, though, judging from the Judge's charge, the evidence in his opinion, and certainly in mine, preponderated the other way.

10. In a fourth case, I prosecuted along with Mr. Branson, at the instance of the Municipal Commissioners, one Shunmoogum, formerly Overseer of the 3rd Division, for taking bribes to neglect his duty as Overseer. The evidence was very clear, and he was convicted, but the Jury recommended him to mercy, somewhat comically, "*on account of the great temptations by "which he was surrounded*"—there being no evidence that any such temptation had been offered him, until he demanded it as the price of his misdemeanour. The recommendation had not much weight with the learned Judge, who sentenced him forthwith to two years' imprisonment, with very appropriate remarks, calculated to produce a very wholesome impression at a time like the present, when the new Taxation Acts are likely to create a good many of what the Jury seem to consider "great temptations."

No. 123. ORDER THEREON, 19th October 1860, No. 1,351.

This report will be communicated to the Revenue Department, in reference to paragraphs 3 to 8.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. S. T. Augustin.

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No 1351 - 19 October 1860.
This report will be communicated to the Rev. Dept. in reference to paras 3 to 8.

3 to 8

3 to 8

The Rev. Dept. } Dispd 24th.
" Advocate Genl }