M.R.O. 1—89,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1466 Press Mis.—

98-99

Dated — / — 19 — .

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
12th November 1860.

No. 98. Read the following letter from Lieutenant Colonel H. COLBECK, Senior Magistrate of Police, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 2nd November 1860, No. 11.

1. In compliance with the Order of Government in the Judicial Department, dated 30th October 1860, No. 1,406, I have the honor to offer the following observations.

2. On the 26th June last, a case was tried by me at this Court in which the man alluded to in Hoossain Khan's petition, Dustagheer Khan, was prosecutor. During the investigation of the case such circumstances were adduced as fully to satisfy me that Dustagheer Khan had been duped and tricked by his step-mother, and that he had suffered a loss of at least 500 Rupees chiefly in money, which he had remitted to his step-mother from Burmah, while on service with his Regiment.

3. The case, however, was purely of a civil nature and I was obliged to dismiss it, referring Dustagheer Khan to the Court for the recovery of his property by Action at Law.

4. Dustagheer Khan pleaded several reasons why he could not adopt this course. In the first place he urged that he had not sufficient leave from his Regiment, and in the next that he was totally ignorant of these matters and could not afford to employ an Attorney.

5. So convinced was I of the hardship of the man's case, and being a Sepoy perhaps I had more particularly a kindly feeling towards him, I wrote therefore asking as a personal favor of Messrs. Boyson and Miller that they would without charge look into the case and if they agreed with me in the view I had taken of it that they would be kind enough to conduct his suit gratis.

6. This Messrs. Boyson and Miller very liberally consented to do.

7. The action was brought and Dustagheer Khan obtained a Decree for 500 Rupees.

8. Three months after the first case before me, Dustagheer Khan appeared at this Court complaining that a certain Bond or Promissory Note for 50 Rupees had been fraudulently obtained from him by his Cousin (the petitioner Hoossain Khan.)

9. I took Dustagheer Khan's information upon oath and should have been justified in bringing up Hoossain Khan by *Warrant*. This, however, I did not do, as it struck me the case might eventually turn out to be one of a civil nature. I issued therefore a *Summons*, making it immediate, as is usual in cases where there is a doubt whether the matter is a criminal or civil one.

10. Hoossain Khan alleges that the case was not subject to my jurisdiction, but to that of the Vepery Police Court.

11. This assertion I am prepared to prove is as false as the whole of the allegations contained in his petition.

12. Dustagheer Khan at the time of laying his information lived in Triplicane within my jurisdiction and this was the proper Court for him to apply to.

13. I found upon enquiry that the matter of complaint by Dustagheer Khan against Hoossain Khan stood thus: Dustagheer Khan stated that Hoossain Khan had agreed to advance him 50 Rupees to enable him to join his Regiment at Bangalore, that a Note of Hand for this amount had been drawn out by Hoossain Khan and signed by him (Dustagheer Khan), but that although Hoossain Khan possessed the Note of Hand, he had put off the payment from time to time and that he (Dustagheer Khan) had not received one Anna upon it.

14. The Note of Hand was produced before me, but as Dustagheer Khan acknowledged that he had voluntarily given it to Hoossain Khan, I thought it was better to refer the case to a Civil Court.

15. I returned therefore to Hoossain Khan the Note of Hand for 50 Rupees, advising him if he knew the debt to be a just one to sue Dustagheer Khan for the amount; on the other hand I told Dustagheer Khan if he felt that he had been tricked in the matter he could refuse payment except compelled by a Judicial Decree to make it.

16. Here the matter of complaint as far as I was concerned ended, but Dustagheer Khan urged that Hoossain Khan had two papers of his in his possession which after the conduct of Hoossain Khan in the matter of the 50 Rupees he was determined to take from him. He demanded the papers from Hoossain Khan and they were produced. The one marked A, herewith forwarded, was the only one in the most remote degree of an official nature. It bears the signature of C. Runganada Sastry, one of the Judges of the Small Cause Court, the other was an authority granted by Dustagheer Khan to Hoossain Khan to receive on his account any sum decreed to him by the Small Cause Court.

17. After reading the papers I returned them to Hoossain Khan, telling Dustagheer Khan that I had no authority in the matter. I may here state that the authority granted by Dustagheer Khan to Hoossain Khan to receive in the Small Cause Court any amount decreed to him made no mention of services rendered as alleged in Hoossain Khan's petition, but Hoossain Khan evidently ignorant of my knowledge in the matter of the suit conducted by Messrs. Boyson and Miller stated before me that he was to have half of any sum recovered by Dustagheer Khan in consideration of the great trouble he had taken in the matter, by procuring him a Pauper Attorney in prosecuting the suit and many other things which I of my own knowledge knew to be false.

18. This I told Hoossain Khan, at the same time informing him that I myself had procured for Dustagheer Khan, the assistance of Messrs. Boyson and Miller.

19. Upon this, *voluntarily*, Hoossain Khan returned to Dustagheer Khan, the paper marked A and the authority to receive money from the Small Cause Court.

20. The paper marked A, I yesterday obtained from Dustagheer Khan who is still in Madras, and from whom any information, can if necessary, be obtained. The other paper Dustagheer Khan says he has destroyed.

21. I can positively assert, however, that the paper destroyed bore no official signature.

22. I beg to refer His Excellency the Honorable the Governor in Council to the letter from Messrs. Boyson and Miller which accompanies this.

23. The letter is of itself sufficient to shew the gross falsity of Hoossain Khan's petition upon the main subject.

24. With regard to my having used threats and abusive language to Hoossain Khan, I beg to say the fear of legal consequences alone would be sufficient to deter me from the first.

25. With regard to the second, I trust my known character will effectually protect me from it, but to both accusations, I give a most emphatic and distinct denial, capable, if necessary, of the fullest proof.

26. I yesterday sent for Dustagheer Khan and obtained from him the paper marked A. He stated that Hoossain Khan is well aware of his presence in Madras, notwithstanding which he has never sued him for the 50 Rupees. This circumstance would of itself to my mind go far to prove the truth of Dustagheer Khan's accusation, namely, that it was fraudulently obtained from him. Hoossain Khan was evidently anxious to participate in the advantage gained by Dustagheer Khan, but finding himself foiled and mainly by me, he has had recourse to the fabrication of the infamous petition under explanation. The letter of Messrs. Boyson and Miller, however, will, I trust, clearly disclose to the Government the shameless and truthless character of Hoossain Khan.

27. May I request the return of the paper marked A and the letter from Messrs. Boyson and Miller.

Proceedings of the Madras Government, Judicial Department,
12th November 1860.

ORDER THEREON, 12th November 1860, No. 1,468.

ommunicated to the Military Department, in reference to Proceedings, 19th ultimo, 742, in that Department.

(Signed) T. PYCROFT,
Chief Secretary.

. Cartledge.

See 30 Oct 1860 Nos 2038 & 2041

No 1168 — 12 November 1860

Communicated to the
Military Department in
reference to Proceedings, 19th
Ultimo, No 3742 in that
Department —

The Military Dept.
With 2 Enclosures — to be returned

disp'd 17