M.R. O. 1—82,009—16-10-20.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	614	Press Mis.
44-45		
Dated	18-5-	1860.

4/5

Not to be folded or roughly handled

No. 44. Read the following Proceedings of the Board of Revenue, dated 1st May 1860, No. 2,110.

Read letter from T. J. KNOX, Esq., Officiating Collector of Salem, to the Secretary to the Board of Revenue, dated Royacotta, 31st March 1860, No. 90.

With reference to an Extract from the Proceedings of the Board of Revenue, dated the 21st April 1858, No. 1,412, and the Minutes of Consultation, dated the 3rd May 1858, No. 576, permitting Mr. Brett as Magistrate to file an Appeal against the Decree of the Moofty Sudr Ameen of Salem, in Original Suit No. 23 of 1856, I have the honor to forward herewith copies of two decisions passed by the Civil Judge of Salem in Original Suit Nos. 64 and 65 of 1858.

2. The Board will observe that both these decisions are in favor of the Appellants. Original Suit No. 64 was filed by the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th and 12th, and the other Suit No. 84 was filed by the Government in favor of the 1st and 11th defendants, village Moonsiffs and the Civil Judge has decreed the Respondents to pay to the Appellants all costs of Suit both in Original and Appeal.

The Decree of the Civil Court in the Zillah of Salem. Moofty Sudr Ameen's Court, Original Suit No. 23 of 1856.

Plaintiffs.

1. Soobba Reddy.
2. Coolay Counden.
3. Sinnana Counden.
4. Aundy Counden.
5. Annamallay Counden.
6. Anoomun.
7. Conary Oodian.

Defendants.

1. Colunday.
2. Maurun.
3. Mooken.
4. Nienan.
5. Raumen.
6. Samoody.
7. Vagoothandy.
8. Soobban.
9. Malayalee Cawly.
10. Caryen.
11. Mauren.
12. Mothien.

Civil Judge's Court, Appeal Suit No. 64 of 1858.

Appellants [2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th and 12th Defendants].

1. Maurun.
2. Mooken.
3. Nienan.
4. Raumen.
5. Samoody.
6. Vagoothandy.
7. Soobben.
8. Malayalee Cawly.
9. Caryen.
10. Moothien.

By Vakeel Rungacharry.

Respondents [1st, 2nd, 3rd, 4th and 7th Plaintiffs].

1. Soobba Reddy.
2. Coolay Counden.
3. Sinnana Counden.
4. Aundy Counden.
5. Conary Oodian.

Plaintiffs sue to recover from Defendants Rupees 800 due on account of personal damages, and Rupees 567 for the loss of produce, &c., sustained during their (Plaintiffs) incarceration in the Jails. Total sum sued for being Rupees 1,567.

Plaint sets forth that owing to some grudge described in the Plaint, the Defendants conspired against the Plaintiffs, and the 6th and 7th Defendants as Prosecutors, in Criminal case No. 85 of 1856, on the file of the Sub Court, brought a false charge of gang robbery against them, through the assistance of the other Defendants on the 18th June 1856, which having been found by the Sub Judge as false, he released the Plaintiffs on the 15th July 1856. The Plaintiffs add that owing to the Defendants' acts as they have suffered, during their incarceration, loss of caste, loss

of their professional income, and loss of the public regard on them, for the atonement of which, they sue as above.

The 1st and 11th Defendants answer, that they being the village Moonsiffs, did their duties in sending reports, &c., to the higher authority when the complainants gave their information of the charge. They add that the Plaintiffs on several occasions have been punished by the Magistracy, and the 5th Plaintiff for a long time has been confined in the Jail, employed in public work with hard labor in irons, and that the persons of such characters are not entitled to damages.

The 4th, 5th, 8th, 9th and 10th Defendants answer, that they have been unjustly included in the suit, while they are no parties in the Criminal case alluded to.

The 2nd and 3rd Defendants answer, that as they as witnesses have proved the ownership of the complainants [*i. e.*, 6th and 7th Defendants], to the property discovered in the prisoners's (Plaintiff's) field during the search, they have been unjustly included.

The 6th and 7th Defendants answer, that the property robbed of them having been discovered in the search, the Plaintiffs were committed to the Criminal Court, and that if the charge were false, they would have been punished for false complaint.

The 12th Defendant answers that he has been unjustly included, while he was not a party in the Criminal case.

Plaintiffs filed a reply, and the Defendants with the exception of the 8th, 9th, 10th and 12th, also filed rejoinders; but these pleadings contain matter of no information.

Plaintiffs' filed a copy of the sentence passed by the Sub Judge in the Criminal cse in question.

No documents were filed by the Defendants.

Fifteen witnesses were examined for the Plaintiffs; five for 1st and 11th Defendants, three for 6th and 7th Defendants, four for 4th, 5th, 8th, 9th and 10th Defendants and two for the 12th Defendant.

The Moofty observes that the sentence and the evidence of the Plaintiff's 4th, 5th, and 6th witnesses clearly prove that the Defendants had, with a view of insulting the Plaintiffs, wilfully accused them of the charge. Although it is evident from the testimony of the Plaintiff's 4th, 5th, 8th, 9th, 10th and 12th witnesses, that they have suffered damages of produce, yet it could not be ascertained to what amount; under these circumstances, the Moofty awards to each of the Plaintiffs [with the exception of the 5th, who appears to have been once confined in th jail and then released on the expiration of term, and the 6th Plaintiff to have presented a petition withdrawing his claim, subsequent to the institution of the suit,] 60 Rupees for personal damages and a loss of produce, with interest and Court costs.

The Appellants' Defendants (with the exception of the 1st and 11th Defendants) appeal on the grounds.

1st, The release of the Plaintiffs by the Sub Court would not entitle them to damages, because they were committed to the Court by the Police authority, as the stolen property were found in them. And 2ndly, the Plaintiffs sustained no loss of produce, nor is this proved. They, Appellants, therefore pray for the reversal of the Decree appealed from.

The Respondents were declared *ex parte*.

Judgment.

The original sentence passed by the Subordinate Judge does not, in the slightest degree, allude to the charge against the Plaintiffs, as having been a fabricated one.

The case was dimissed, merely because the evidence was "equivocal" and insufficient for conviction; under these circumstances, it is difficult to see how the first two Defendants, who are village officers, and the others who were the prosecutors and witnesses in the case, can be sued for doing what they considered their duty.

The mere dismissal of a criminal charge, cannot entitle parties to get damages from those by whom they have been prosecuted. Therefore the lower Court's decision appears unjust and is reversed. Respondents paying all the costs in both Suits.

Proceedings of the Madras Government, Judicial Department, for the month of May 1860.

Costs incurred by the Appellant in the appeal—

Value of Stamp papers under Section XIII, XIX and XX, Regulation XIII of 1816.	21 0 0
Batta for Summons' peon	2 4 0
Pleader's fees under Act No. I of 1846	15 0 0
Total Costs...	38 4 0
Costs to be paid by the Respondents to Appellants	38 4 0

Decreed on the 30th September 1859.

Sealed, signed and delivered on the 7th March 1860. The period for making a special will, expire on the 7th June 1860.

(Signed) A. W. PHILLIPS,
Acting Civil Judge.

The Decree of the Civil Court in the Zillah of Salem. Moofty Sudr Ameen's Court, Original Suit No. 23 of 1856.

Plaintiffs.	*Defendants.*
1. Soobba Reddy	1. Colunday.
2. Coolay Counden.	2. Mauram.
3. Sinnana Counden.	3. Mooken.
4. Aundy Counden.	4. Nienan.
5. Annamally Counden.	5. Raumen.
6. Anoomun.	6. Samoody.
7. Conary Oodian.	7. Vagoothandy.
	8. Soobban.
	9. Malayalee Cawly.
	10. Caryen.
	11. Mauren.
	12. Mothien.

Civil Judge's Court, Appeal Suit No. 84 of 1858.

Appellants [1st and 2nd Defendants, Village Moonsiffs].
1. Colunday.
2. Mauren.
By vakeel Goolamoosain Saib.

Respondents [1st, 2nd, 3rd, 4th and 7th Plaintiffs].
1. Soobba Reddy.
2. Coolay Counden.
3. Sinnana Counden.
4. Aundy Counden.
5. Conary Oodian.

The object of this Appeal is to set aside the decision passed by the Moofty Sadr Amín in the above Original Suit No. 23 of 1856, against which a separate Appeal, No. 64 of 1858, has also been preferred by other Defendants from 2 to 12. In this a decision by this Court was passed reversing the Original Decree under the reasons assigned therein. Therefore the Court charges the Respondents with the costs in both Original and Appeal Suits.

Costs incurred by the Appellants and other Defendants in the Lower Court.		Rs.	183 11 4
Do. do. Respondents and other Plaintiffs do. do.		„	140 12 8
Do. do. Appellant in the appeal		„	324 8 0
Value of Stamp papers under Section XIII and XX, Regulation XIII of 1816	21 0 0		
Batta for Summons' peons	3 12 0		
Pleader's fees under Act No. 1 of 1846	15 0 0	„	39 12 0
Total Costs...			364 4 0
Costs already paid by the Respondents and other Plaintiffs			183 11 4
Do. to be paid by the Respondents to Appellants and other Defendants			180 8 8

Decreed on the 30th September 1859.

Sealed and signed on the 7th March 1860. The period for making a special will expire on the 7th June 1860.

(Signed) A. W. PHILLIPS,
Acting Civil Judge.

(True Copies.)

(Signed) T. J. KNOX,
Officiating Collector.

No. 45. ORDER THEREON, 18th May 1860, No. 614.

To be recorded.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. S. T. Augustin.

No. 2,110.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 1st May 1860.

Read the following letter from the Officiating Collector of Salem, dated 31st March 1860, No. 90:—

(In Con., 3rd April 1860, No. 1,508.)

From Government, 8th, in Consultation, 21st April 1858.
Board's Proceedings, 21st April 1858.
From Government, 3rd in Consultation, 20th May 1858.

MUFTY SADR AMIN'S COURT, SALEM.
Original Suit No. 23 of 1856.
Soobba Reddey and 6 others, *Plaintiffs.*
Colunday and 11 others, *Defendants.*

IN THE CIVIL COURT OF SALEM.
Appeal Suit No. 64 of 1858.
Mauren and 9 others, *Plaintiffs.*
Soobba Reddy and 4 others, *Defendants.*

IN THE SAME COURT.
Appeal Suit No. 84 of 1858.
Colunday and Mauren Village Munsiffs, *Plaintiffs.*
Soobba Reddy and 4 others, *Defendants.*

Submitted for the information of Government with reference to the correspondence noted in the margin.

2. The Officiating Collector forwards for information copies of the Decrees in Appeal Suits Nos. 64 and 84 of 1858, on the file of the Civil Court of Salem.

3. The original Suits were instituted in the Salem Mufty Sadr Amín's Court by seven Rayats of Yegoor and Audyur against the Munsifs of those villages and ten others, for an alleged conspiracy to prefer against Plaintiffs a false charge of Robbery. The charge was not sustained before the Sub Court, and Plaintiffs consequently sued for damages, and loss said to have been sustained during their incarceration. The Mufty Sadr Amín gave judgment against the Defendants, and adjudged them to pay to five of the Plaintiffs 60 Rupees each, or 300 Rupees in all and costs.

4. Against this decision Appeals were preferred to the Civil Court by the Munsifs at the expense, and under the sanction of Government, and by the other Defendants of their own accord. The decisions of the Civil Judge now forwarded, reverse the original Decree of the Mufty Sadr Amín, and direct the Respondents to pay all costs both in the Original and Appeal Suits.

(A true Extract.)

Secretary.

To J. D. Bourdillon, Esq., Secretary to Government, R. D.

Copy to T. J. Knox, Esq., Officiating Collector of Salem.

Exd. J. Wright.

Cons 9 April /58. 44. 46
" 4 May. " 39. 40

Renewed 1850 Depart.
Judicial.

No 958

20 May

Proceedings of the
Board of Revenue

Dated 1st
Desp. 7th } May 1850.
Rec. 8
Et.

No 2110.

Rec. 1.

No 779.

Submitting for information a letter from the Off. Collector of Salem forwarding Copies of the Decrees in Appeal Suits No. 84 and 85 of 1858 on the file of the Cuml. Court of Salem, reversing the original Decree of the Musify Sadr Amin and directing the Respondent to pay all costs both on the original and

CVO may 44 & 45
916

No. 644
Recorded.
18 May/60.