M.R.O. 1—50,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1120 Press
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Dated 6. 9. 1861 19

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
6th September 1861.

No. 39. Read the following Proceedings of Government in the Political Department, dated 23nd August 1861, No. 375.

Communicating letter from the Government of India with its enclosures, relative to the steps taken to proceed against two Nepaulese subjects accused of murder. (Vide Proceedings Political Department, dated 22nd August 1861, Nos. 18 and 19.)

No. 40. ORDER THEREON, 6th September 1861, No. 1,120.

Communicated to the Commissioner of Police and to the Magistrates of Districts.

(Signed) J. D. SIM,
Secretary to Government.

Exd. T. O'Connor.

POLITICAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following Circular from C. U. AITCHISON, Esq., Under Secretary to the Government of India; to the Secretary to the Government of Madras, dated Fort William, 31st July 1861, No. 4,189.

Foreign Department.

I am directed by the Governor General in Council to forward herewith a copy of a letter and of its enclosures from the Secretary to Government North Western Provinces, No. 643 A, dated 8th instant, regarding the surrender of criminals to Native States, together with a copy of the letter addressed to Sir George Couper under this date.

From Sir GEORGE COUPER, Bt., Secretary to the Government of the North Western Provinces; to E. C. BAYLEY, Esq., Officiating Secretary to the Government of India in the Foreign Department, Fort William, dated Nynee Tal, the 8th July 1861, No. 643 A.

Judicial Dept.—(Criminal.)

I am directed to acknowledge the receipt of the letter from your office, No. 4,392, of the 29th September last, requesting the issue of orders to the Commissioner of Kumaon to proceed against Joga Chund and Narrain Chund, two Nepalese subjects accused of murder, under the provisions of Act VII of 1854.

To Comsr. of	Kumaon,	No. 881 A,	dated 17th October last.	
From	do. do.	,, 1,	dated 14th January 1861.	
To	do. do.	,, 176 A,	,, 26th February ,,	
From	Officiating do. do.	,, 10,	dated 10th June, with enclosure.	

2nd. In reply, I am desired to transmit to you, for the information of His Excellency the Viceroy in Council, copies of the papers marginally noted, from which will be seen the steps that have been taken for meeting the requirements of the Government of India.

3rd. I am directed to request that, if necessary, the Resident of Nepal may be advised of the result of the enquiry, with reference to his letter No. 57, dated 12th September last.

From G. COUPER, Esq., Secretary to the Government of the North West Provinces, to Major H. RAMSAY, Commissioner of the Kumaon Division, dated Nynee Tal, the 17th October 1860, No. 881 A.

Judicial Department.

I am directed to forward to you the accompanying copy of a letter No. 4,392, dated the 25th ultimo, with its enclosures, from which you will perceive, that a requisition has been made by the Nepal State to deliver up to justice two Nepalese subjects, named Joga Chund and Narrain Chund, who are said to have committed a murder in 1854, in the Nepal territories, and to have subsequently enlisted in the Kumaon Battalion under the names of Bekram Chund and Duljeet Chund.

2. You are required to enquire into the truth of the charge of murder which has been advanced against them, and to proceed in pursuance of Act VII of 1854. Your attention is particularly called to the provisions of Sections IV, VII, and XIII of the said Act.

From Major H. RAMSAY, Commissioner of Kumaon; to GEORGE COUPER, Esq., c.s., Secretary to the Government of the North West Provinces, dated the 14th January 1861, No. 1.

I have the honor to acknowledge your No. 881 A, dated 17th October, with accompanying documents.

2nd. On receipt of your letter, I requested the Officer Commanding Kumaon Battalion to send Duljeet *alias* Joga Chund and Bekram *alias* Narrain Chund to Nynee Tal, they were despatched under a suitable guard, but made their escape at Ramgurh. Duljeet Chund returned to Almorah, where he was confined, and Narrain Chund has not been apprehended: in the hope of his being recaptured, I have up to this time delayed replying to your letter.

3rd. It is evident from the deposition of Duljeet Chund that he and Narrain Chund are the parties accused by the Nepal Government of the murder of Bijooa Mohur, in 1854. Duljeet Chund states that the murder was committed by Munnee Chund (dead) who at once made his escape, while Duljeet and Narrain Chund, hearing of Munnee Chund's brother having been put in irons at Seelgurree, were afraid to return to their home; and, after remaining concealed in the jungles for some days, they escaped to the British territory: he further states that Munnee Chund's family were seized and taken to Seelgurree.

4th. Mansing now a Sepoy in the Kumaon Battalion, who was summoned by Duljeet, states that he does not know who killed Bijooa Mohur: that Munnee Chund, Duljeet *alias* Joga Chund and Bekram, were never seen after the murder took place.

5th. As this murder occurred before the execution of the treaty in 1855, and there is every probability that Munnee Chund, who is dead, was the principal as stated by Duljeet Chund, I think it would be very hard to give up Duljeet, who must have been quite a youth in 1854, to undergo the punishment which was due to Munnee Chund. Whatever may have been the theory to the case, it certainly never was the practice of the Dootee Government to give up criminals; and not one murderer, who has escaped from Kumaon to Dootee, has been given up to the Kumaon authorities during the last twenty years, although some of them lived on the Banks of Ralee, without any attempt at concealment.

6th. Duljeet *alias* Joga Chund, has been a good Soldier of our Government for six years; he was present at the seige and capture of Delhi; served in Oudh and Nepal, when the rebels' guns were taken, and is entitled to India Medal, Delhi Clasp, and prize money.

7th. As in Dootee it is considered a crime to escape for the purpose of enlisting in our army, I think it would be very objectionable to surrender this man, who has done such good service, as at the time of his enlisting it was not known that escaped criminals could be claimed by their own Government, and it has always been found impossible to get back murderers who found refuge in Dootee; there are now about a dozen murderers residing in Dootee who have fled from Kumaon, and while we are not allowed to send men to trace them, the Dootee Government is of itself powerless or indifferent as to their capture. I solicit permission to release Duljeet Chund, as I feel convinced that under similar circumstances a man would not have been surrendered by the Nepal Government after a space of six years, without his having been asked for, during which time he had fought bravely in its service.

From G. COUPER, Esq., Secretary to the Government of the North West Provinces; to Major H. RAMSAY, C. B., Commissioner of the Kumaon Division, Camp Secrona, dated the 23rd February 1861, No. 176 A.

I am directed to acknowledge the receipt of your letter No. 1, dated 14th ultimo, and of its enclosures, in which you request permission to release the Sepoy Duljeet Chund, on account of his good services, and because the Nepalese Government would not surrender a man to us, under similar circumstances.

2nd. In making this recommendation, I am to inform you that you have wandered from the point at issue, and have altogether lost sight of the true bearings of the case.

3rd. If you will refer to my letter No. 881, dated 17th ultimo, you will perceive that you were distinctly directed to try this man and his comrade, under the provisions of Act VII of 1854; and your attention was especially called to Sections IV, VII and XIII of that Act.

4th. Now if Mr. Colvin, to whom you entrusted the conduct of the case, had consulted the provisions of Section VII, he would have perceived that his proposal to obtain attested copies of evidence which may have been recorded against the prisoner in Nepal, is altogether inconsistent therewith, the wording of the Act is as follows: "If after making as full an enquiry "into all the circumstances of the case as the evidence obtainable, by the Magistrate as Justice "of the Peace, *within the territories under the Government of the East India Company* will "enable him to make, the evidence adduced shall be sufficient in his judgment to warrant a "committal, he shall commit, * * * if after making such enquiry the circumstances shall not "in the judgment of the Magistrate or Justice of the Peace, be sufficient to warrant either "the committal or the holding to bail of the prisoner, he shall be discharged."

5th. There is nothing in these very clear and implicit instructions about obtaining attested copies of evidence, or summoning the Defendant's witnesses from *Foreign States*, as proposed by Mr. Colvin. The last proposition, moreover in the present instance, was altogether unnecessary, as not a shadow of evidence had, at the time, been obtained against the prisoner.

6th. What is meant is plain from the context. The Magistrate of the district in which the accused is apprehended, is to make every enquiry on the spot; and after having done so, to commit the prisoner, or to release him, according as, in his opinion, the case has been made out against him, or not.

7th. The Lieutenant Governor altogether declines to discuss, or even to regard the case from the political point of view in which you have put it; and you are distinctly to understand, moreover, that you are not to construe this letter into a direction, that the prisoner is to be released. You are merely referred, as you were referred before, to the provisions of Act VII of 1854, and desired to act upon them. His Honor, I am to observe, will not consent to accept the responsibility which, under that Act, devolves solely on the Magistrate; and you will therefore be pleased to instruct Mr. Colvin to make as full an enquiry into all the circumstances of the case as the evidence obtainable by him within British territory will enable him to make; and then commit, or release Duljeet Chund, according as the evidence is, or is not sufficient, in his judgment, to warrant his committal.

8th. In the event of his committal, you will yourself proceed under Act VII of 1854, without regard to the political aspect of the case.

From J. STRACHEY, Esq., Officiating Commissioner of the Kumaon Division; to Sir GEORGE COUPER, Bart., and C.B. Secretary to the Government of the N. W. Provinces, dated 18th June 1861, No. 10.

With reference to your letter No. 176 A, dated 23rd February last, Judicial Department, (Criminal,) I have the honor to report that the case of the Sepoy Duljeet Chund *alias* Joga Chund, whose surrender under a charge of murder was demanded by the Nepalese Government (vide papers noted in the margin) has been investigated by the Senior Assistant Commissioner Mr. Colvin, as provided by Act VII of 1854. Mr. Colvin considering that there was no evidence sufficient to warrant the committal of the prisoner, ordered his release on the 11th May, under Section 7 of the Act. A copy of Mr. Colvin's order is forwarded herewith.

(1.) *No. 1,392, dated 25th September 1860, from Secretary to Government of India, Foreign Department, to Secretary to Government of the N. W. Provinces, and enclosures.*
(2.) *No. 881 A, dated 17th October 1860, from Secretary to Government, N. W. Provinces, Political Department, to Commissioner of Kumaon.*

2nd. The second accused criminal, Bekram Chund *alias* Meerayun Chund, whose surrender was demanded at the same time by the Nepalese Government, escaped from the Regimental Guard that was escorting him from Almorah to Nynee Tal, in November last, and he has not been again apprehended.

(True Copies.)

(Signed) J. D SANDFORD,
Offg. Under Secy. to the Govt. of the N. W. Provinces.

The Government of Nepal *vers.*, Duljeet Chund *alias* Joga Chund.
Charge, Murder.

Although the Prisoner has been for some time under trial, I have been unable to obtain any evidence against him upon which a conviction could be based. The case against the prisoner is limited to his own admission, that Bijua was murdered, and that he was not far from

the spot at the time, and to witness Maunsing's hearsay evidence. This amount of proof goes by itself absolutely no way towards establishing his criminality.

I accordingly direct his release.

(Signed) B. W. COLVIN,
Senior Asst. Commissioner.

11th May 1861.

(True Copy.)

(Signed) J. D. SANDFORD,
Offg. Under Secy. to the Govt. of the N. W. P.

From C. U. AITCHISON, Esq., Under Secretary to the Government of India; to the Secretary to Government, North Western Provinces, dated Fort William, the 31st July 1861, No. 4,138.

Foreign Department.

In reply to your letter and its enclosures No. 643 A, dated 8th instant, reporting the steps taken for proceeding against Joga Chund and Narrain Chund, Nepalese subjects, accused of murder, I am directed by the Governor General in Council to state that a copy of the letter of the Officiating Commissioner of Kumaon, No. 10, dated 18th ultimo, and of the decision on the trial, have been sent to the Resident at Nepal for information and communication to the Durbar.

2. The Lieutenant Governor declined to ask the Nepalese Government to send any evidence against the prisoner, inasmuch as the wording of the Act carefully restricts the evidence to be taken to that available within the territories of the East India Company.

3. There is no doubt that such is the interpretation of the words quoted by the Lieutenant Governor, but I am desired to observe that it appears to be only just that Foreign Governments demanding the surrender of offenders should have an opportunity of making any evidence which they may desire to adduce, available to the Court before which such offenders are brought. His Excellency in Council therefore requests that in future, notice of the time and place of the enquiry may be given to Foreign Governments making such demands.

(True copy.)

(Signed) C. U. AITCHISON,
Under Secy. to the Govt. of India.

ORDER THEREON, 22nd August 1861, No. 375.

Ordered that a copy of the foregoing letter and its enclosures be furnished to the Judicial Department, and also to the Resident of Travancore and Cochin, and the Special Agent for Foreign Settlements at Cuddalore.

(True Extract.)

/ Signed / J. D. Sand.

Secretary to Government.

To the Judicial Department.
,, Resident of Travancore and Cochin.
,, Special Agent at Cuddalore.

Exd. E. Cattledge.

Judicial 1861 Dept

List of 19th Sept.

Pro: Govt in the
Coll Dt 375

Dt 22nd
Rd 27th Augt 1861.

No 1397

Copy Letter from the
Govt of India with its
Enclosures relative to the
steps taken to proceed
against 2 Respondent
Subjects accused of
murder -

Pol Dept 11th Sept 61

39-40

Wits and Order.

No. 1120 - 6th September 1861

Communicated to
the Commissioner of
Police & to the Magis-
trates of Districts.

The Commissioner
of Police.
" Magistrate of
" Inspector Genl of Police