

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <i>1314</i>	Press Mis.
<i>140-141</i>	
Dated <i>28.10.1861</i>	<i>10</i>

5/5
Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
28th October 1861.

No. 140. Read the following letter from Major W. J. WILSON, Commissioner of Police ; to T. PYCROFT, Esquire, Chief Secretary to Government, Fort Saint George, dated 16th October 1861, No. 113.

With reference to the Provisions of Act XVIII of 1855, I have the honor to submit the following circumstances for the consideration and orders of Government.

2. On the 20th September last, a complaint was preferred to Captain Bell, Deputy Commissioner of Police, by Captain Walter of the ship "Loodiana" then in the Madras Roads, who charged the crew of Boat No. 164 with having stolen 140 bars of Iron, which he alleged they had been entrusted with to carry on shore.

3. Captain Bell having gone fully into the case came to the conclusion that there was no evidence to justify him in putting the case before a Magistrate, and he therefore left the Captain to proceed by Summons if he thought proper.

4. The case ultimately came before the Magistrates of the Town Police Court, who disposed of it summarily under the Police Act, and sentenced the crew to be imprisoned with hard labor ; one man for eight months, and the rest, eight in number, for six months each.

5. Upon this I felt it my duty to inquire upon what evidence the conviction had been founded, and on examining the Record of the trial, I found that the Chief and 3rd Mates of the "Loodiana" had both sworn to certain material points which they had positively declined to speak to before Captain Bell, which was the cause of his having dismissed the case.

6. I therefore requested the Magistrates to inform me whether there would have been sufficient evidence to warrant a conviction if Captain Bell's statement* of the facts, had been duly proved before them.

† No. 2. 7. The reply of the Magistrates is forwarded herewith, † from which it appears that had there been any question of the truth of the facts sworn to by the Mates, the Prisoners would have been acquitted.

‡ No. 3. 8. I also forward an attested copy of the Record ‡ from which it will be perceived, that the Mates contradicted each other as to the mode in which the number of the Boat was painted, the one swearing that it was black on a white ground, and the other that it was white. / This would not be much of itself, but when it is borne in mind that the conviction depended solely upon it's being made out that the bars were put into Boat No. 164, and that both the Mates refused to speak to the identity of the Boat when before Captain Bell, it becomes a fact of considerable importance.

9. The Magistrates decided the case sooner than was expected owing to the Vessel being about to sail, otherwise Captain Bell would have given his evidence in person ; but from what we knew of the case on the part of the prosecution a conviction was never anticipated.

No. 141. ORDER THEREON, 28th October 1861, No. 1,314.

The opinion of the Advocate General will be taken as to the course which the Government should adopt under the circumstances brought to notice by the Commissioner of Police.

(Signed) J. D. SIM,

Secretary to Government.

Exd. F. Cartledge.

9
Memo.

The case was heard by two Magistrates under § XXXII. Act XIII-50. (Presidency Police)

When the charge affects property on boardship, exceeding 50 Rs. in value, "it shall be lawful for 2 Magistrates (with reference to the time appointed for the departure of the ship) & with it the departure of a material witness, to hear & determine the case summarily" instead of committing to the Sessions.

§ CXI of the same Act provides for appeal to the Supreme Court. "No conviction of a Magistrate of Police shall

[Faint, mostly illegible handwritten text, possibly bleed-through from the reverse side of the page.]

By
"shall be quashed for error of
"form or procedure, but only on
"the merits — & "the deposition
"shall be returned with the con-
"viction in obedience to any
"writ of certiorari."

There has been no case of this
kind brought before Court.
before. Act XVIII-55 an-
thropids Court, at their plea-
sure, to remit the sentence
of any Court or Officer, Pre-
sidency & also fessile.

In judicial matters at the
Presidency, the Advocate
Genl. is the referee.

As the law of the
to the Court when
for the Court with
the case.

[Faint, mostly illegible handwritten text, possibly bleed-through from the reverse side of the page.]

N^o. 1314 - 28th October 1861. W

W. C.

W. C.

The opinion of the Advocate General will be taken as to the course which the Govt. should adopt under the circumstances brought to notice by the Commissioner of Police.

J. P. S.

The Govt. Solicitor.
With 3 Enclosures. }
" Commr. of Police. } *Exp. 28*