M.R.O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1527

Press ~~Mis.~~

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Dated 12.12.1861 ~~19~~ .

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
12th December 1861.

No. 66. Read the following letter from C. W. READE, Esq., Acting Magistrate of the Madras District, late Magistrate of Vizagapatam; to C. F. CHAMIER, Esq., Registrar to the Court of Sudder Adalut, Madras, dated Saidapet, 29th November 1861, No. 81.

In July 1858, a case was tried by me in Vizagapatam under the Post Office Act, in which I convicted 5 Post Office Peons on a charge of non-delivery and misappropriation of a number of letters which had been traced to their hands. My sentence was appealed against, but was affirmed by the higher Court in their Proceedings of the 8th November 1858. Of the five prisoners so convicted, the sentence in the case of three has since expired; the remaining two were condemned to 7 years' hard labor in irons, of which period nearly 3½ have now elapsed, and my object in addressing you is to solicit of the Judges, a re-consideration of the case of these two men, in view to the remission of the remainder of their sentence.

2. The families of these two prisoners have more than once appealed to me by letters, and I am induced now to urge that mercy be extended to these men, from a consideration of the fact that their punishment is strictly disproportionate to their offence. At the time, I felt an example was needed from the state of the Post Office Department in those parts, and there can be no doubt that in those days the heavy penalty was called for. But the then Superintendent the Deputy Post Master was so lax himself in the management of the Department, that the underlings of the Office necessarily caught their tone from him, and though this cannot relieve their responsibility, still it may reasonably be viewed in mitigation of their offence. Again, the Deputy Post Master has since been removed and degraded from his post for his supposed misdoings, which though not believed in at the time, were eventually apparent. In regard to this man, the Post Master General and myself at that period were at issue, and my then suspension of him and recommendation of his dismissal, was over-ruled by the Director General. I mention this, to prove the reputed conduct of the head of the Office, affording, as just observed, a ground of mitigation in respect of offences committed by those subordinate to him.

3. It is true the offence of these Peons can bear but one light, but it is likewise true that the particular period of their offence had to do with the severe penalty inflicted for it. The mutinies were barely over, and peace throughout the country had scarcely been restored, and the Post Office Department was one over which Government exercised a jealous and anxious watch, and the abuses that had crept in had led to special supervision being vested in the Local Revenue Officers of every District; and I am satisfied that while these considerations may not have entirely induced my heavy sentence, they unquestionably influenced me in determining its precise extent.

4. The Judges are aware of the clemency that has been shown to many, who were tried and convicted about that period, of crimes against the State and against Society. Men sentenced to transportation for life and to shorter periods for these crimes, both in Vizagapatam, by myself, and in Rajahmundry and elsewhere, by the Sessions Courts, have been wholly pardoned and are now at liberty. No one will contrast the offence of these persons with that of the two Peons whose cause I now plead. I know there is no analogy, and that the reasoning which might justify pardon for a political or for any other heinous crime, offers ordinarily no sound argument for the same indulgence in respect of less grave offences; the respective cases being governed by considerations so wholly diverse, still, if in apportioning the penalty in each, like considerations had weight and influence, it becomes clear, I think, that in the one, no less than in the other, indulgence may be claimed and is justly due. I believe I may with truth state that, in my sentence on these two particular Peons, I had in my mind the peculiarity of the times, and but for this peculiarity, I do not really think I should have been so severe in awarding them punishment. On these grounds then, I ask of the higher Court for these two men a remission of the remaining portion of their imprisonment, and I do so very earnestly. I will not dwell on other points, which will be obvious to the Judges, in support of my recommendation. Every consideration of justice and mercy seems to me in this case to strengthen my appeal, and if it be in the power of the Court, I do hope, as the Officer who convicted and sentenced these men, that my representation on their behalf will not prove unavailing; but if it be beyond the power of the Judges to grant the pardon solicited, I would venture to press on the Court my anxious

Proceedings of the Madras Government, Judicial Department,
12th December 1861.

desire that the case may be brought before His Excellency the Governor, in view to the immediate release of these two men.

No. 122.

Forwarded for the Orders of Government, the case being in the opinion of the Sudder Court, one in which the authority vested in the Government, by Section I, Act XVIII of 1855, might properly be exercised.

(By Order of the Court.)

(Signed) C. F. CHAMIER,
Registrar.

2nd December 1861.

To the Chief Secretary to Government, Fort Saint George.

No. 67. ORDER THEREON, 12th December 1861, No. 1,527.

Under the opinion expressed by the Sudder Court, His Excellency in Council is pleased to remit the unexpired portion of the sentence of the two Post Office Peons referred to.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

No. 1527 - d/ 12th December 1861.

Under the opinion expressed by the Sudder Court, H. E. in Council is pleased to remit the unexpired portion of the sentence of the two Post Office Peons referred to.

The Sudder Court. } despd 13th
" Inspector Genl. of Jails }
" C. & S. Judge of Chicacole.
" Sub Judge, Vizagapatam.
Mr. C. W. Reade,
Actg Magistrate of ~~W. Arcot~~ the Madras District } Despd 13th

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66 & 67

The Chief Secretary
to Government.

were sentenced while he
was in Vizagapatam to 7 years
hard labour, & half of which
period has now elapsed.
With an Order.

No. 122

Forwarded for the orders of Government the case being in the opinion of the Sudder Court one in which the authority vested in the Government by Section 1 Act XVIII of 1855, might properly be exercised.

By Order of the Court.

C. F. Chamier
Register

2d December 1861.

66 & 67

To The Chief Secretary
to Government.

Judl 1861 Dept
No 5598
Pros of Decr 7/

From

The Actg Magte of
Madras &c
late Magte of Vizagapatam &c
thro' the Sudder Court

F. Cm 2098

Dated 29th November 1861
Recd 3rd Decr
No 81

No 1959

Recommends the release of 2 Post office Peons who were sentenced while he was in Vizagapatam to 7 years hard labour, & half of which period has now elapsed.

With an Order.

Exd. F. Cartledge.