M.R. O. 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 574 Press ~~Mis.~~

147-148

147-148.

Dated 22.4.1861 ~~19~~ .

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Not to be folded or roughly handled

No. 147. Read the following letter from J. W. B. DYKES, Esq., Magistrate of Nellore, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Krishnápatnam, 3rd April 1861, No. 11.

I have the honor to forward herewith copy of a letter from Mr. Whiteside, under date the 28th ultimo, and copy of his notes and decision in the case of Captain A. E. Bowen, which accompanied it.

2. In paragraph 4 of the Order of Government, Judicial Department, 27th February, No. 265, Mr. Whiteside was only directed to report his proceedings in this case; but as the enclosed notes and decision will give, I believe, all the information required by Government, I do myself the honor to send on the letter and its enclosures direct, without incurring the delay of calling for a separate report according to the words of the Order.

3. The Government will observe that the charges originally brought by the Villagers of Vellampalli have been fully proved, and that on the conclusion of the case, Captain Bowen having made arrangements for the payment of the fine imposed by the Officiating Joint Magistrate, proceeded on his way to rejoin his Regiment.

From W. S. WHITESIDE, Esq., Officiating Joint Magistrate of Nellore, to J. W. B. DYKES, Esq., Magistrate of Nellore, dated Rávúru, 28th March 1861, No. 22.

Herewith I have the honor to forward to you a copy of my notes and decision in the case in which Captain A. E. Bowen of Her Majesty's 19th Regiment Native Infantry was charged before me with having flogged three Ryots at Vellampalli in the Ongole Táluq, with the view to their being transmitted for the information of Government in accordance with their Order No. 265, dated the 27th ultimo.

2. Captain Bowen was unable to pay at once the fine I imposed upon him, but he entered into his own recognizance to forward the money to my Office as soon as possible, and I then permitted him to proceed to Secunderabad.

Complainants.	Defendant.
1. C. Rangaya.	A. E. Bowen, Captain, H. M. 19th Regt. N. I.
2. C. Abbaya.	
3. C. Seshia.	

Assault.

That the Defendant, when in Command of a Detachment of Artillery and Details, at Vellampalli, in the Taluq of Ongole, and Zilla of Nellore, on the 5th day of January 1861, illegally and violently seized, tied to a cart wheel, and flogged with a cat o'nine tails, or similar instrument of punishment, the three Complainants.

1st Complainant states, that, on the 5th January last the Defendant, now before the Court, came to Vellampalli with some Artillery and Lascars, that several female grass-cutters came shortly after, to his, and 2nd and 3rd Complainants' fields, on which there were crops of Variga, and began to cut grass there; that Complainant remonstrated, on which one of the women threw down her momety, and went back to the Travellers' Bungalow, that soon after a Sepoy came to them and told Complainant, he must come to the Bungalow, when he refused, the Sepoy tried to drag him there, he resisted, and then a number of other Sepoys came there, seized the three Complainants, assaulted and kicked them, and then dragged them to the Travellers' Bungalow, when the Defendant came out, and by his orders they were tied up, one by one, to a cart wheel and flogged by a Native. No questions were asked of any of them before they were flogged by the Defendant, nor were they allowed to make any statement or explanation. Each man received a dozen lashes, and they were then sent away. The grass-cutters were not ill-treated in any way, or abused. After being told not to cut grass in the "Variga" fields, the grass-cutters went to the waste land, that was pointed to them and cut grass for a short time, and it was from there, that one of them went away to the Travellers' Bungalow, after she had thrown down her momety.

The 2nd and 3rd Complainants each repeat their former statements, and identify the Defendant, as the man who gave orders for them to be flogged, and who was present when the punishment was inflicted.

1st witness, A. Venkatramudu, who is the Vellampalli Bungalow Sepoy, states that he was not present at the time the three Complainants were flogged. Had gone a short distance to procure milk, for the use of the Officers, from the Munsif. Identifies the Defendant as the Officer who was in charge of the Detachment, and who occupied the Bungalow the day the Complainants were flogged,—knows that they were flogged, because he was present when the Complainants came to the Munsif immediately after they had been punished, and saw the marks on their backs from which blood was flowing at the time. That only one Detachment of troops of any kind passed through Vellampalli from Secunderabad in January last. That Defendant was in Command of it, and that no other individuals, but he, and Lieutenant Beatty, halted at the Bungalow during the time the Artillery were there.

2nd witness, P. Kotadu, the sweepor of the Vellampalli Bungalow, states that he also was absent from the Bungalow when the flogging of the 3 Complainants took place. Had been sent to bring some eggs. Identifies the Defendant as the Officer in command of the Detachment. Repeats the deposition of 1st witness.

3rd witness, M. Kota Reddi, Vellampalli Village Munsif, was not present when the Complainants were flogged, and cannot identify the Defendant. Saw the 3 Complainants immediately after they had been flogged, they were apparently in much pain, and had marks on their backs. Deposes to the respectability of their characters, and modes of livelihood, and to their never having been flogged before for any offence.

4th witness, V. Venkaya, Karnam of Vellampalli, states that he knew of the arrival of the Detachment of Artillery in his Village, but did not go near them until he heard from one of the Village Vetties, that the 3 Complainants had been seized, and beaten by some Sepoys, and taken to the Travellers' Bungalow, he then went thither with a number of the Villagers, but was stopped at the entrance of the Bungalow compound by a Sepoy, who told him that if he came in he too would be beaten, on which he remained outside, and from where he was standing in the road, saw the Complainants tied to the cart wheel, one by one, and flogged. The Defendant was present at the time. Each of the Complainants got 12 lashes. Repeats the statement of 3rd witness, as to the respectability of the Complainants and their never having been punished before.

(This constitutes the case for the prosecution, although there is an abundance of other evidence that could be called, were it necessary. The Defendant admits the charge, states that his grass-cutter's momety was taken away by one of the Complainants, that he sent his servant to recover it, and bring the man who had taken it to him, that the man refused to come and seeing by means of his binocular glass that they were struggling together, he sent a party of Sepoys with orders to bring him; they brought the 3 Complainants, and that he then unadvisedly did order them to be tied up and flogged. The 1st Complainant only received a dozen lashes. The 2nd Complainant, 6 lashes, and the 3rd only 3 or 4; they were punished less severely because they seemed to be delicate, and one of them had a wound on his foot. That Lieutenant Beatty, who accompanied Defendant, took no part in the flogging of the Complainants, and was not present on the occasion.

He calls 3 witnesses:

The 1st witness, Yerra Lutchme, states that she is grass-cutter to Defendant. That when she arrived at Vellampalli with the Detachment of which Defendant was in Command, she went to cut grass in a Variga field, that the Complainants desired her and the other grass cutters to go away, and 3rd Complainant seized her momety and refused to give it up, she went back to the Bungalow and complained to the Defendant, who sent his horse-keeper (2nd witness) to bring the momety, and 3rd Complainant, they were struggling together, and 2nd witness sent her to tell his master, she did so, and then some Sepoys came and seized the 3 Complainants, and took them all to the Bungalow; witness went about her own business, and knows nothing of what happened afterwards. 2nd witness, P. Narsu, states that he is a horse-keeper in Defendant's service, that his master sent him to the field to bring the momety which the Complainants had

taken away from 1st witness, he was to bring the Complainants with him to the Vellampalli Bungalow, where the Defendant was at the time.

The Complainants would not give him the momety, or come, and he tried to make them, but failing in his attempt, he sent 1st witness to tell Defendant, and then some Sepoys came along with 3rd witness, and they brought all the Complainants to the Defendant, who had them then flogged. The 1st Complainant received a dozen lashes, the 2nd six, and the 3rd only 3 or 4 lashes. 3rd witness, J. Mallaya, states that he is a water-man in the service of the Defendant, that when at Vellampalli, at the Travellers' Bungalow, his master sent him with some Sepoys to bring the Complainants from the field. He did so, and the Defendant then caused them to be tied up and flogged. The 1st Complainant received one dozen lashes, the 2nd six, and the 3rd Complainant 3 or 4.

Decision.

The evidence adduced for the Prosecution proves the charge against the Defendant, even had he not admitted it in the straightforward manner he has done.

Captain Bowen acknowledges that he acted "unadvisedly," in ordering the 3 Complainants to be flogged, but attempts to justify it on the ground that his grass-cutter had been ill-treated, and the momety she was using taken away, but even supposing this had been the case, (and I do not consider that it is proved,) it is difficult to imagine how Captain Bowen could consider he was authorized to tie up and flog 3 Ryots, whose only offence was, that they had taken the instrument from the hands of the grass-cutter, who was in the act of cutting the grass growing in their standing crops.

The grass that grows in the Variga fields is of excellent quality, but can only be cut after the grain has been harvested, and the Complainants, in remonstrating with the grass-cutters simply prevented their young crops being damaged before their eyes. A Peon had been stationed at Vellampalli by the Ongole Tahsildar to supply all that was needed by the Detachment during its halt there, and so well did he discharge this duty, that Captain Bowen gave him a Certificate speaking in favorable terms of his behaviour, it cannot therefore be urged in excuse of Captain Bowen's conduct that there was backwardness on the part of the Villagers in making supplies, for he himself admits he got every thing he required.

It cannot be too much regretted that Captain Bowen did not hesitate to administer so degrading and excessive a punishment to inoffensive Villagers, on whose assistance for food, &c., his Detachment was at the time dependant, as well as consider the evil effect that such conduct on his part was certain to occasion in the minds of the people. Having lately myself passed backwards and forwards along the line of march of the Detachment, I am aware of the uneasy feeling that has been aroused; and I shall not be at all surprised hereafter, to find Officers Commanding troops passing through the Sub Division complaining of the difficulty they have experienced in obtaining supplies on the march.

Captain Bowen has had 14 years service in India, and it is surprising that his experience has not taught him the importance of adopting a friendly and conciliatory style of treatment to the Natives, especially at the present time, in preference to a severity that could hardly be exceeded were he marching through an enemy's country. Captain Bowen, while he admits the assault, asserts that the first Complainant alone received a dozen lashes, and the 2nd and 3rd Complainant received 6 and 4 lashes, respectively, as they appeared to be young and weakly men. Two of the witnesses called by him corroborate this statement, which, I am inclined to believe, as the marks on the backs of the 2nd and 3rd Complainants appear somewhat less severe than those of 1st Complainant. Captain Bowen has been punished already by the Magistrate of this District for an illegal rescue of one of his men from the Police in Nellore, when on his way to Madras, and the very painful position in which he is now placed through his inconsiderate conduct must be no slight punishment to him. He is now fined, in the mitigated penalty of Rupees 100, viz, Rupees (50) fifty for the assault on 1st Complainant Rangoya, and Rupees (25) twenty-five for each assault on the 2nd and 3rd Complainants C. Abbaya and C. Sessha. In case of refusal to pay this fine the Defendant will be confined in the Zilla gaol at Nellore for (15) fifteen days under the provisions of Section II, Regulation II of

Proceedings of the Madras Government, Judicial Department,
22nd April 1861.

1820. When the fine is paid, the sum of Rupees 20 will be awarded to each of the Complainants as compensation for the injury they have received at Defendant's hands.

The charge against Lieutenant Beatty will not be proceeded with, as it appears that that Officer took no part in the assault on Complainants, nor, indeed, was present when it was committed. The evidence is, I am of opinion, insufficient to obtain a conviction against Bombardier Claydon, who, when doing duty as Provost Marshall with the Detachment under Captain Bowen's command, obeyed the illegal orders of that Officer and tied up and flogged the Complainants. I regret therefore that he has escaped the punishment which he no doubt deserves.

(Signed) W. S. WHITESIDE,
Justice of the Peace.

RAMAPATNAM,
March 23rd, 1861.

(True Copy.)

(Signed) W. S. WHITESIDE,
Officiating Joint Magistrate and Justice of the Peace.

(True Copy.)

(Signed) J. W. B. DYKES,
Magistrate.

No. 148. ORDER THEREON, 22nd April 1861, No. 511.

Communicated to the Military Department, in reference to the Proceedings in this Department of the 27th February last, No. 265.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

From Govt. Dept. Lodged
The Magistrate of Vellore
Date of Receipt
To The Chief Secretary to Govt
Fort St. George.

Dated, 3rd March 1861
Despd. 4th ditto
Recd. 9th ditto

2 Enclosures.

No. 11
Rc. 590.

Forwards copy of a letter from Mr. Whiteside under date the 28th ultimo with copy of his note & decision in the case of Captain A. Bowen, as directed.

William Dyer

I think Capt. Bowen's conduct on the two occasions alluded to seems to me to prove him unfit to have the command of troops & he is accordingly to be informed that the Commander in Chief has been requested to take such steps as he may think advisable.

The Magistrate of Vellore appears to have exceeded his powers in not having caused the Proceedings of the 27th Feby last to be forwarded to this Department, & Capt. Bowen to be confined until he paid the fine of Rs. 285.

A very trifling sentence has been awarded