

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1028

Press
His.

7-8

Dated 1.7.1862 10

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
1st July 1862.*

No. 7. Read the following letter from Colonel H. PRITCHARD, Judge Advocate General of the Army; to the Secretary to Government, Military Department, Fort Saint George, dated 10th June 1862, No. 274.

I have the honor by Order of His Excellency the Commander-in-Chief to bring to notice the following case of Mr. Barclay, a resident of Ootacamund, who, when duly summoned to appear to give evidence before the General Court Martial lately assembled in Fort Saint George for the trial of Ensign Francis William Robins, Her Majesty's 3rd Battalion 60th Rifles, refused to proceed or attend, although his expenses by transit, &c., were fully tendered to him.

2. An application was made to Government on the subject on the 21st April last, by the Deputy Adjutant General, Her Majesty's British Forces, for the necessary steps to be taken for compelling the attendance of Mr. Barclay: and Government was pleased to order* that the Joint Magistrate of Coimbatore should be instructed to apply, as suggested by the Government Solicitor, to the Local Court to attach Mr. Barclay.

3. This was done, and a copy of the Proceedings of Government were furnished. The Joint Magistrate reported on the 3rd May following, that Mr. Barclay's person had been attached on 1st idem, through the Subordinate Court at Ootacamund, and the option given him of proceeding to Madras and attending as a witness before the General Court Martial, or standing the consequences of his disobedience; the indulgence of one day being granted him to make up his mind which course to pursue. He was then again informed, that the Joint Magistrate was prepared to pay his expenses to, from, and at Madras.

4. The Joint Magistrate further reported, that Mr. Barclay was brought before the Subordinate Court again on the 3rd of May, and stated his intention not to proceed to Madras, when the Court found him guilty of the offence charged against him and sentenced him to pay a fine of Rupees 100, in default to be imprisoned in the Jail for one month.

5. On receipt of this intelligence the Officer Commanding the Centre Division assembled the General Court Martial on 9th May 1862, and the trial was proceeded with, but one of the principal charges had to be abandoned for want of Mr. Barclay's evidence.

6. His Excellency the Commander-in-Chief considers that had the Subordinate Court, as directed by the Order of Government, merely attached Mr. Barclay's person and reported the same, instead of adjudicating in the matter, and sentencing him to be fined, or in default to imprisonment, this miscarriage of justice would not have occurred; as the Supreme Court would on application have compelled his attendance. With a view to prevent the ends of justice being similarly defeated in any future instance His Excellency has directed the case to be referred.

Referred for consideration and Orders in the Judicial Department.

FORT SAINT GEORGE,
11th June 1862.

(Signed) R. HAMILTON, Colonel,
Dy. Secretary to Government.

No. 8. ORDER THEREON, 1st July 1862, No. 1,028.

Referred, with Proceedings 23rd and 24th April last, Nos. 1,442 and 1,470, Military Department, for the opinion of the Advocate General.

(Signed) A. J. ARBUTHNOT,
Acting Chief Secretary.

Exd. F. Cartledge.

N^o: 1028 - 11 July 1862

Referred, with Pros. 23'

& 24' April last N^o: 1442

Well - & 1470, Mily. Dept., for
the opinion of the ^{Advocate General} Sec.
dear Corcoran.

[Signature]

In Fort Whiter West ~~Ind.~~
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Rec'd Post. 23rd April 1862 at 10.24.5
24th — — — 12.46.45

End 1882

Dear Mr. L. L. Garrison
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 to the advantage of this Society -
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Referred for consideration
and order in the Judicial Department.

Fort St. Vrain
11th June 1852

Alumina Hof-
dy Secretary to Gov.

To The Judicial Department - 11th

With an Order.