

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1193	Press
		~~Mis.~~
271-272		
Dated	28-7-	1862
		~~19~~

4/5

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
28th July 1862.*

No. 271. Read the following letter from J. ROHDE, Esq., Inspector General of Jails; to A. J. ARBUTHNOT, Esq., Acting Chief Secretary to the Government of Fort Saint George, dated Ootacamund, 15th July 1862, No. 344.

I have the honor to bring to the notice of Government, the question of the liability of an Officer in charge of a Jail to be called on to produce for trial before a Magistrate, on the minor charge of escape from custody, a prisoner already undergoing a sentence, by a Sessions Judge, for a heinous offence, the escape having been committed previous to the robbery for which such sentence was passed, and being known to the Judge passing the sentence at the time of trial.

2. I regard the whole of the distinctions in regard to the offence of escape as abrogated by the new Penal Code; punishments are now, I believe, cumulative, and a prisoner, charged with two or more offences, may be punished under two or more distinct sentences, but, if an offender were sentenced for one offence he could not, I submit, be subsequently charged with a minor offence, previously committed.

3. In the case in point, a prisoner escaped from this Jail some years ago, committed robbery and was sentenced by the Sessions Judge to, I believe, 10 years' imprisonment in addition to his previous sentence; the Police now charge him with the escape, and desire that he shall be made over to be tried for this offence.

4. I do not know what the practice may now be, but if I mistake not the old course would have been for the Sub-Judge to try the prisoner and sentence him for the escape, the sentence to take effect from the expiration of the sentence that might be subsequently passed for the heinous offence.

5. If the principle is once admitted that punishment for a heinous crime does not purge all minor offences previously committed, the Prisons' Officers may be called on to hand over for trial a prisoner to stand his trial on every fresh discovery of his having been guilty of any of the numerous offences for which the Penal Code provides.

6. Escape was ruled formerly to be an offence distinctly punishable, that is one for which a distinct and additional sentence might be passed, but I question if, even then, it would have been competent to a Subordinate Judge to commit in the first instance for the graver offence, and, after sentence was passed, to charge and punish the prisoner for an escape previously committed. It is but reasonable that the higher Court should know the position of the prisoner on whom it is called on to pass sentence, and it is not in my opinion right that the lower Court, by which the commitment was made, should have in its power to modify or enhance the punishment for the minor offence, of escape, according as it might deem the sentence of the higher Court adequate or inadequate, but reason would imply that the higher Court should have it in its power to modify its sentence with the knowledge of the prisoner's punishment for the minor offence before it.

No. 272. ORDER THEREON, 28th July 1862, No. 1,193.

The Governor in Council observes that the foregoing letter should have been addressed to the controlling authority to whom the Officer whose proceedings are objected to by Mr. Rohde is subordinate.

2. Mr. Rohde will now be good enough to adopt this course.

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

Indians

N^o 1412

From the Inspector General of Sails.
dated 15th July 1862.

For orders.

Why does Mr
Rohde address
Govt -
The authority
in fixing to sell
as Mr R. considers
unusually must
be available
to some controlling
power & to ^{the} ~~the~~

power Mr
H. Rhoda
address his
Excellency
Mell

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter
from the Inspector General
of Jails.

(Here enter 15th July 1862 N^o 344.)

Order thereon 28 July 1862 N^o 1193

The Governor in Council observes that the foregoing letter should have been addressed to the controlling authority to whom the Officer to whose proceedings ^{are referred} Mr Rhoda is subordinate.

2. Mr Rhoda will now be good enough to adopt this course.

W. H. M. M. M.

To the Inspector General of Jails. Despatch 29.

W. H. M. M. M.

Wm. A. R. Smith
Sept 1862. Department.

No. 1143

PROCEEDINGS OF GOVERNMENT.

Dated 28th Decr 1862

Regarding Mr Rhodes to assist.
his letter to Govt dated 18th July 1862
to the authority to whom the
Mr Mayist etc alluded to in
his letter is subordinate.