

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1309	Press Mis.
132-133		
Dated	13-8-	1862 19

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
13th August 1862.*

No. 132. Read the following letter from D. F. CARMICHAEL, Esq., Acting Agent to the Governor, Vizagapatam; to A. J. ARBUTHNOT, Esq., Acting Chief Secretary to Government, Fort Saint George, dated 24th July 1862, No. 314.

In my letter No. 177 of the 29th May, I assigned some reasons for thinking that the Civil returns made to the Sudder Court from the Subordinate tribunals are susceptible of improvement, I shall now adduce grounds to show that means are wanting to ensure its efficiency as a Court of revision in Criminal cases.

2. My predecessor, just before he left the District in April last, convicted a man of murder, and recorded his opinion, for the information of the Sudder Court, that the accused should suffer death. It fell to me to look over and correct the English translates of the record of trial, and not finding any notice of the fact, I asked what opinions the Assessors had severally given in the case, it being provided by Section 324 of the Code of Criminal Procedure that "in a trial before the Court of Session not by Jury (and the Government have not yet ordered trial by Jury for any offences in this province) the trial shall be conducted with the aid of two or more Assessors as members of the Court."

3. The answer was that it was not a "mamool" (or the practice) in this particular Court of Session to call in any Assessors at all. But as men should not be illegally put to death—the Vizagapatam "mamool" notwithstanding—I felt constrained in sending down the record to the Sudder Court, to point out the state of the case, and further to notify the fact that six other cases—in fact all Sessions cases disposed of since the introduction of the aforesaid Procedure Code—were in the same category. My report was dated 17th May; the adjournment has supervened, and to-day, by copy of the Sudder Court's Proceedings dated 17th instant, I am instructed that "the trials in question are clearly null and void, and new trials must be held."

4. Now, when it is remembered that, within eight and forty hours of the date of each sentence, a Calendar of the persons tried before him (the said Calendar containing no less than fourteen separate heads of information) is submitted by every Sessions Judge (and in this particular, there is no Vizagapatam "mamool" to the contrary) to the appellate authority, it becomes apparent that there is great room for reconsidering the present process of revision; because we have seen that it is only when a man is going to be hanged, or at any rate is recommended for that sentence, that the neglect of an important Section of the Act, a neglect which nullifies the entire proceedings *Ab initio*, is discovered, and a remedy applied.

The foregoing letter will be referred to the Judges of the Sudder Court for such remarks as they may desire to offer.

FORT SAINT GEORGE,
1st August 1862. (Signed) A. J. ARBUTHNOT,
Acting Chief Secretary.

Upwards of a thousand Calendars have been submitted to the Judges since the new Code came into operation, and numerous Orders have been passed thereon, correcting errors of Procedure, and otherwise regulating the proceedings of the Courts of Session. Much has also been done towards settling the practice of the Courts of the Magistrates. In the Calendars under notice there was nothing to lead to the inference that so palpable a requisition of the Code of Criminal Procedure, as that of holding Session trials with the aid of Assessors, had been neglected by the Agent. There now exists however, a Rule of practice (28th April 1862, "Calendar" paragraph 7) which, by requiring the insertion of the finding and sentence in full in the Calendar, enables the Judges to see whether trials before the Courts of Session and Agents have been held in the manner prescribed by law.

SUDDER COURT REGISTRAR'S OFFICE,
7th August 1862.

By order,
(Signed) C. F. CHAMIER,
Registrar.

No. 133. ORDER THEREON, 13th August 1862, No. 1,309.
To be recorded.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

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From the Registrar Sudder Court.

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Sudder Court 102-153-34 Order
Registrar Sudder Court
C. J. Chavies

Judicial Department
From the Registrar
The A. Agent to the
Governor
Vizagapatam
To The A. Chief Secretary
to Government
Fort St. George.

Dated 24th } July 1862
Re 30th }

N^o 1504

A. Agent grounds
to show that means
are wanting to ensure
efficiency in the Sudder
Court, as a Court
of revision in Crimi-
nal Cases.

W. W. M.
No 1309-13 Aug 62
Recorded.