

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1884.1885	Press
		~~Mis.~~
140-142		
Dated	20-11-	191862

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
20th November 1862.*

No. 140. Read the following letter from W. J. RAYNOR, Esq., Officiating Civil Paymaster; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated 4th November 1862, No. 1,544.

Referring to Section 438 of the Code of Criminal Procedure which empowers "the Court of Sessions, in any case in which it shall appear proper to order payment by or on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court," I have the honor to request instructions as to the rules by which this office is to be guided in future in passing such charges—whether under any and what limits, and whether the amount is to be left entirely to the discretion of the presiding Judge.

2nd. Hitherto charges of this description have been passed under Section 33 of Regulation X of 1816, which authorizes Judges of Criminal Courts to pay to all prosecutors and witnesses who may appear to be in need of such assistance a daily allowance of 2 Annas during their attendance in Court, and during such further time as may be necessary to enable the parties to come from and return to their respective homes; but Section 438 of the Criminal Procedure Code has evidently enlarged the authority of the Courts in this respect and left it within the power of the Judge to allow such expenses as he may consider reasonable and proper.

3rd. I may add that in a case tried lately at the Sessions Court at Chittoor a sum of Rupees 150-14-10 was incurred for travelling and other expenses of the witnesses, &c., under the sanction of the Judge, who quotes the latter Section as his authority for the same.

No. 141. ORDER THEREON, 20th November 1862, No. 1,884.

A reference will be made to the Government of Bengal to ascertain what is the course observed in that Presidency.

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

No. 142. To the Secretary to the Government of Bengal, dated Fort Saint George, 20th November 1862, No. 1,885.

Adverting to the provisions of Section 438 of the Code of Criminal Procedure, which declares it to be lawful for the Court of Session, in any case in which it shall appear proper, to order payment by or on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act, I am directed to inquire what course is observed on this point in the Bengal Presidency—whether any limit as to rate or amount has been fixed, or whether the allowance to be paid is left entirely to the discretion of the presiding Judge, and the Civil Paymaster authorized to pass the charge without further sanction.

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

Encl. T. McMootry.

No. 1884. 20th Nov 1862^{2E}

A reference will be
made to the Govt. of
Bengal to ascertain
what is the course
observed in that
Presidency.

re Civil Pay-
master.

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No. 1885

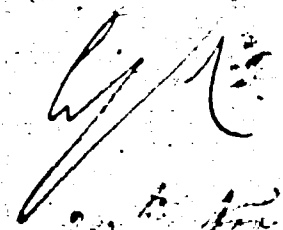
The Secretary to the Govt. of Bengal.

Sir-

Interpreting the provisions of Section 438 of the Code of Criminal Procedure declares it to be lawful for the Court of Session, in any case in which it shall appear proper, to order payment by or on the part of Govt. of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act, and am directed to inquire what course is observed on this point in the Bengal Presidency - whether any limit as to rate or amount has been fixed, or whether the allowance is left entirely to the discretion of the presiding Judge, & the Civil Paymaster authorised to pass the charge without further sanction.

*to be paid

Fort St. George
20th November 1862


20th Nov 1862

