M.R.O. 1—88,000—16-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 525 Press ~~Mis.~~

9-10

Dated 1-4-1862 ~~19~~ .

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Not to be folded or roughly handled

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

No. 9. Read the following letter from W. ROBINSON, Esq., Inspector General of Madras Police; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 10th March 1862, No. 584.

General Department.

4th February 1861, No. 138.
30th January 1862, No. 131.

Paragraph 1. I have the honor to report on the subject of the Orders of Government noted in the margin, relating to the trial of superior Officers of Police by European functionaries alone, under Act XXIV of 1859, Section 50.

2. Sections 44, 45 and 46 of Act XXIV of 1859, the Penal clauses of the Police Law, give to the Magistracy very largely extended powers over offences of Police Officers, and bring these Public Officers under the most severe and stringent penalties, by imprisonment with or without labor and fine, for offences, *ex. gr.* cowardice, breach of lawful orders and regulations, wilful neglect of duty, exceeding powers, &c., &c., which, if they were penal by law under the old system, were scarcely ever punished. These offences and many others requiring most careful treatment, are now made substantive crimes.

3. The adjudication of these cases, under Act XXIV of 1859 is made *summary*; that is, the punishment may be awarded without reference to higher authority or further formality of any kind.

4. Further these summary and highly penal powers, subject only to the exception contained in Section 50 of the Act, are given to every and any Magistrate within the limit of the ordinary jurisdiction of the Officer trying the charges respectively (Section 50.)

5. I need scarcely add that this places the great bulk of the Police under the jurisdiction of Subordinate Magistracy of all grades, and that the Police Law, in its present state, is a very great extension of the former powers of the Subordinate Magistracy and heads of villages. No Head of Police could convict, imprison and fine a public servant of Government without reference to superior European authority under the former law and practice, nor could a *Potail* or village head man summarily consign a *Talari* or village watcher to the village prison for neglect of duty.

6. In practice these powers over Police Officers are most freely exercised by the Subordinate Magistracy. I fear sometimes with less reflection than I had hoped when advocating this extension of power at the time of drawing the Bill. I would not, however, alter the law to prevent this abuse. Matters will gradually settle down as the Subordinate Magistracy come to realize that their own true position with reference to the Force, is practically, as much part and parcel of the Police administration of their respective Taluqs as the Police Officers themselves. I would not however recommend the Government to extend these powers at present.

7. Section 50 of Act XXIV of 1859 provides that charges preferred, for summary adjudication under the provisions of the Act, against Officers above the rank of Private shall be so summarily adjudicated on by European functionaries only. This Section (50) refers to summary trials under this Act alone. The Officers of Police affected by this provision are the superior Officers of Police alone, viz., Inspectors and Head Constables (and their Deputies.) The former are highly salaried officials, few in number and holding much the same position as the *Tahsildars* held as Head of Police. The Head Constables (and their Deputies) have powers and position precisely similar to those of *Peshcars* and *Sub* Officers of Police under the old law. They are "the Officers in charge of station houses" of the Code of Criminal Procedure. These must, under the Police Act, be tried by the European Magistracy of the District.

8. The limitation has reference to the few superior Officers of Police only and affects summary adjudication under the Police Act alone.* I do not think that the law could be safely or usefully altered as proposed with regard to these few superior and influential Officers.

9. The restrictive provision is drawn in strict accordance with the principles adopted by Government of bringing the Police under the special supervision of the *European* Magistracy: and I believe that this object will only be effectually secured by maintaining the provision.

10. I have given the subject the most careful consideration and watched, now for some time (years in several Districts), the practical working of the provision in question. The result is that I would most earnestly urge the Government to allow the law to remain unaltered for the present at least.

11. Police service is an onerous and responsible duty, there is scarcely a step that a man takes that may not, by the malicious, be misrepresented and the upper grades of such a service are entitled to the impartial adjudication by European Officers of charges brought against them, when the trial is summary. It is only a protection that is in practice accorded to other branches of the Public service of Government. There is still a good deal of misapprehension amongst the Native officials in regard to the Police branch of the service—perhaps some jealousy—and this clause has very frequently been pointed out to me by respectable men who enter the service as an assurance that imparts to them courage to undertake the duty, in spite of its heavy penalties. Each feels himself assured of an impartial trial by a considerate European Officer, should he get into trouble; 2ndly, the Government provides expensive European Departmental supervision and may well seek at the hands of the European Magistracy the careful examination and adjudication of charges against the supierior Officers, at least, of the service. I would therefore be most unwilling to see a rule abrogated, which enables the European Magistracy, so effectually to watch and control the crime of the upper grades of the Police, for I am satisfied that any change at present would have a most detrimental effect on a force which now looks to the European Magistracy as at once its protector and the incorruptable judge of its crime.

12. I have consulted several Magistrates and Judges of experience and diligence in supervising their Police on this matter, and find them generally prefering to keep the summary adjudication of cases against the upper ranks of their Police in the hands of European Officers, for reasons too obvious to require enumeration. Indeed the Magistrate of Coimbatore, would still keep the jurisdiction over Inspectors of Police in the hands of European Officers alone.

13. The Magistrate of Cuddapah recommends that the Magistrate should be empowered to refer such cases to the Deputy Magistrates at the station. These Officers are overwhelmed with financial and other business, leaving little time for careful judicial examination. I fear further, that if the law were altered, a very large portion of the business which it now, very advantageously, requires the European Magistracy to perform, would very generally be delegated to these Officers. There may be, as observed by the Magistrate of Cuddapah, occasional delay in disposing of such cases and inconvenience in following the Camp of the European Officer. But this is an inconvenience which will chiefly fall on Police Officers and I consider that delay would be far less inconvenient to the service generally than expedition in disposing of such cases gained at the sacrifice of the present state of the law.

14. I must crave the indulgence of Government for not replying to the reference of 4th February 1861 earlier. I have been anxious to watch the working of the matter further before reporting, and to ascertain more fully the views of Officers of the Police and of the Magistracy before coming before Government with a decided opinion.

No. 10. ORDER THEREON, 1st April 1862, No. 525.

The Government entirely agree with the Inspector General of Police that, for the reasons which he has given in the above letter, it would not be expedient for the present to disturb the provisions of Section 50, Act XXIV 1859, whereby the adjudication of charges against Police Officers above the rank of Privates is reserved to European functionaries.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cathedge.

Proc: 4th Feb 1861 No 11-12
~~Jan 1862~~ 185-186.

Proc: of April
Judicial
1862 Department

From
W. Robinson Esquire
Inspector General
of Police -

To T. Pycroft Esquire
Chief Secretary to Govt
Fort St George

Dated 10 March 1862
Received 14th
No 584-
No 561

Reports on
the trial of Superior
Officers of Police by European
Functionaries alone -

Withdrawn

9010

Cancelled
828

Order - 1st April 1862 - No. 525.

The Govt entirely agree with the Inspector General of Police, that, for the reasons which he has given in the above letter, it would not be expedient for the present to disturb the provisions of Section 50. Act XXIV. 1859 — whereby the adjudication of charges against Police Officers above the rank of Tehsildar is reserved to European functionaries. —

Insp. Genl. of Police. 2 Dept. 2d
Magistrate of Cuddapah } with copy of corres.
Tehsildar Udalur } pondence. G.O. 1st May 1862
Dept 2d