M.R.O. 1—38,000—16-10-37.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 859 Press ~~Mis~~

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Dated 2. 6. 1882 ~~19~~ .

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Not to be folded or roughly handled

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No. 3. Read the following letter from CHARLES WILLIAM READE, Esq., Magistrate of South Arcot; to A. J. ARBUTHNOT, Esq., Acting Chief Secretary to Government, Fort Saint George, dated Virdachellum, 13th May 1862, No. 24.

I duly received the Proceedings of Government, No. 690, dated 29th April, and being absent in the District on settlement duty, I directed my Head Assistant Mr. P. P. Hutchins to forward the Lunatic in question to the Presidency. It is unnecessary that I should trouble Government with copies of this mere formal correspondence, but I beg to lay before them the accompanying copy of a letter from Mr. Hutchins shewing the difficulty that has arisen in carrying out the instructions of Government in this matter, and owing to which the insane man is still at Cuddalore. I conceive that in this, as well as in other instances, the Inspector General of Mofussil Police has exceeded his powers; and it appears to me a very serious evil that the acts and proceedings of the Magistracy are to be judged of and repudiated by the Police. On the Magistracy alone rests all responsibility and the Police as Executive Officers merely surely ought not to be permitted to exercise any sort of discretion in the matter of obedience or non-obedience to the orders or instructions they may receive at the hands of the Magistracy, unless at variance with common sense and reason. It strikes me as fatal to all proper subordination and subversive of the relative position which the Police occupy under the law; and I request Government will be pleased to enjoin on Mr. Robinson greater care in the preparation of his orders so that the Police Force under him may not mistake their proper functions.

2. I do not trouble the Government with the correspondence that has passed between Mr. Robinson and myself in the matter of Police Order, No. 236, and to which allusion is made in Mr. Hutchins' letter, because at my instance that order has been temporarily cancelled. But I must solicit the opinion of Government on the propriety of the Police Order No. 16 of 1862, copy of which is enclosed, and which has stood in the way of my carrying out the Government instructions in the case of the Lunatic. I conceive that the papers furnished by Mr. Hutchins were really all that were needed; and at all events it was not competent to the Police to refuse obedience to Mr. Hutchins' requisition, and thus the order in question should in my judgment be at once cancelled.

From P. P. HUTCHINS, Esq., Head Assistant Magistrate; to the Magistrate of South Arcot, dated Cuddalore, 8th May 1862, No. 32.

As I have given over charge of the Sub-Division, I have the honor to solicit your attention to an unfinished correspondence between Captain Swanston and myself as to the conduct of a Head Constable in returning unserved 3 Summonses issued under my hand and seal. I have desired the Head Constable to furnish an explanation of his refusal, and I had intended in the event of the explanation proving unsatisfactory, to report the case to you with a copy of the correspondence. The explanation will now, I suppose, be addressed to yourself, I would request your particular attention to the order of the Inspector General of Police which allows even Subordinate Constables to refuse to serve processes, for which Magistrates have made themselves responsible, according to their own discretion.

2. I have just received from the Superintendent of Police another Police Order to which I conceive the same objection attaches. The Proceedings of Government enclosed in your letter, No. 173 of the 2nd instant, direct that a Lunatic sent to the Madras Asylum is to be accompanied by a Medical Certificate. This Certificate enclosed in a letter to the Medical Officer of the Asylum, and a Warrant directing the Lunatic Chedambram to be taken to Madras were sent to the Superintendent on the 5th with a written request for the proper guard, and with money for the Lunatic's subsistence on the road. I was surprised yesterday to hear that the Lunatic had not gone, and subsequently I received a note from the Superintendent drawing my attention to Police Order, No. 16 of 1862 (copy enclosed) and asking whether the sealed envelope contained all the required Certificates. Captain Swanston was absent in the District on the 5th and 6th, and of course merely obeyed his orders in asking this question. It is the order itself to which I

object as one beyond the powers of the Inspector General, and should you agree with me I have the honor to suggest that the Inspector General should be asked to withdraw it.

(True Copy.)

(Signed) CHARLES W. READE,
Magistrate.

No. 16 of 1862. GENERAL DEPARTMENT.

CIRCULAR MEMORANDUM.

The Inspector General directs that Police Officers will not receive Lunatics for escort to the Presidency, unless the proper documents are furnished as notified below.

1. Medical Certificate (form A, Schedule of Act XXXVI of 1858).
2. Judge's Order for the reception of the patient (form B of Schedule of the above Act.)
3. Descriptive Statement (Vide above Schedule).
4. Judge's Order for payment of expenses, or Certificates of "no means" and of "no person being bound to maintain," (Section VIII, Clause 4 of above Act).

23rd April 1862.

(Signed) W. ROBINSON,
Inspector General of Police.

(True Copy.)

(Signed) P. P. HUTCHINS,
Head Assistant Magistrate.

(True Copy.)

(Signed) CHARLES W. READE,
Magistrate.

No. 4. ORDER THEREON, 2nd June 1862, No. 859.

In the foregoing letter the Magistrate of South Arcot draws attention to a Circular Memorandum which has been recently issued by the Inspector General of Police to the Officer of his force, and which has caused delay in sending to Madras the Lunatic referred to in the Proceedings of Government, under date the 29th April last, No. 690.

2. The Circular in question appears to have been issued by Mr. Robinson, with reference to Lunatics sent to the Presidency under the orders of the Civil Courts, but it is general in its wording and has been construed by the Superintendent of Police in South Arcot as applicable to the case of Lunatics to be escorted to Madras under the order of a Magistrate, in which case the documents furnished in the Circular are not required.*

* See Section IV, Act XXXVI of 1858.

3. The Inspector General will re-call the Circular in question, and substitute for it another less general in its terms. That now under notice prescribes documents, which as already observed, are not requisite in the case of a Lunatic transferred under the order of a Magistrate, and which also are unnecessary in the cases of Lunatics transferred under the orders† of the Inspector General of Jails or under a Warrant issued under Section VI, Act IV of 1849. Moreover Policemen when acting under the authority of a Magistrate are absolved from all responsibility, and as the Police is a force at the disposal of the Magistracy, no instructions should be issued to them which may, as in the present case, lead them to question the requisitions they receive from the Magistracy.

† Section XI, Act XXXVI of 1858.

Act XXIV, 1859, Section LIV.

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

Exd. F. Cartledge

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Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Magistrate of South Arcot.

(Rec^d enter 13th May 1862 No. 24)

Order thereon 2^d June 1862 No. 859

In the foregoing letter the Magistrate of South Arcot draws attention to a Circular Memorandum which has been recently issued by the Inspector General of Police to the officer of his force, and which has caused delay in sending to Madras the Lunatic referred to in the proceedings of Government under date the 29th April No. 690.

2. The Circular in question appears to have been issued by Mr Robinson with reference to Lunatics sent to the Presidency under the orders of the Civil Courts, but it is general in its wording and has been construed by the Superintendent

Superintendent of Police in South Arcot as applicable to the case of Lunatics to be escorted to Madras under the order of a Magistrate, in which case the documents furnished in the circular are not required.

3 The Inspector General will be requested to recall the circular in question, and to substitute for it another less general in its terms, that now under notice, excepting documents which as already observed, are not requisite in the case of a Lunatic transferred under the order of a Magistrate, and which also are unnecessary in the cases of Lunatics transferred under the orders of the Inspector General of Jails or under a warrant issued under Section VI Act IV of 1849. Moreover Policemen when acting under the authority of a Magistrate are absolved from all responsibility, and as the Police is a force at the disposal of the Magistracy no instructions should be issued to them which may, as in the present case, lead them to question the requisitions they receive from their superiors.

Section IV Act XXXVI of 1858.

Act XXIV 1859. Section LIV.

Section XI Act XXXVI of 1858.

To The Inspector General of Police
Magistrate of South Arcot

Despe 6th

Proc. of Govt

Judicial 1862. Department.

28-9-08

No. 859

PROCEEDINGS of GOVERNMENT.

Dated 2nd June 1862

Directing the Inspector General of Police to recall a circular prohibiting Police Officers from receiving Lunatics for escort to the Presidency unless provided with certain documents therein specified and to substitute for it a less general one.

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4360] Madras—Printed at the Government Press.