

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	967	Press
162-163		~~Mis~~
Dated	23.6.1862	19

6/6

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
23rd June 1862.*

No. 162. Read the following letter from JOHN MILLER, Esq., Acting Government Solicitor, Madras; to A. J. ARBUTHNOT, Esq., Acting Chief Secretary to Government, Fort Saint George, dated 9th June 1862, No. 287.

1. Since I have had the honor of addressing Government on the 1st ultimo, on the subject of the recovery for the Crown of the property of Mr. D'Almeida a Convict, I have received from the Collector of Malabar, the accompanying Certificate of attachment, showing that Mr. D'Almeida's property is valued at only 181 Rupees, 3 Annas and 2 Pice.

2. I have not yet received the other Certificate from the Sessions Judge of Tellicherry called for by the Advocate General.

3. I submitted the Collector's Certificate to the Advocate General together with his former opinion and have conferred with him again on the subject, and I now forward a copy of a further opinion given by the Advocate General.

4. As the amount of Mr. D'Almeida's property is so small, I think it will be the best course for Government, to instruct the Government Vakeel of Malabar to move the Court under Section 62 of Act XLV of 1860.

I hereby certify that the personal property of the prisoner Francis Luis D'Almeida, valued at Rupees 181-3-2 has been attached.

(Signed) J. C. HANNYNGTON,
Acting Head Assistant, for Collector.

COPY—OPINION.

From Mr. Hannington's Certificate just received it appears that the property of the Convict D'Almeida is worth only Rupees 181-3-2, a sum that I believe would not suffice to pay the out fees in the way of proceeding which I advised, in case no steps had been taken under Section 62 of the Penal Code. I therefore strongly advise that the Court should at once be moved, by the Government Vakeel, to act under that Section to avoid the expense of the other course.

(Signed) T. SYDNEY SMYTH,
Advocate General.

9th June 1862.

(True Copy.)

(Signed) JOHN MILLER,
Acting Government Solicitor.

No. 163. ORDER THEREON, 23rd June 1862, No. 967.

The Governor in Council is of opinion that as the prisoner D'Almeida was not sentenced under the Penal Code, his property cannot be forfeited to Government under Section 62 of that Code.

2. The property which has been attached must therefore be released from attachment.

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

Pro. 26 & 27/102. 243-245
Misc. 14 - May 1862
Pro. 16 & 17/102. 243-245

Ind. 1862 - Sept
From Pros of crime
The Atty. Gen. Solicitor
Madras.
To The Atty. Chief Secy to Govt.
Madras.

Dated 9th
Recd 10th June

N^o 207.
2 Enclatures.
N^o 1124

of 147289

Forward a Certificate of
attainment from the Collector
of Malabar and a copy
of the Advocate General's
further opinion Re the
recovery of the Court
of Alchendas property for
the Crown. -

162 ~~243~~

162 243
77

181-3-2
318-12-10
500-...

Memo.

According to the Sud-
der Courts Rules of
Practice, "offenses com-
mitted prior to the 1st
Jan'y, '62 are to be tried
according to the provi-
sions of the Code of Cri-
minal Procedure, but
if the accused be con-
victed, sentence must
be passed under the
penal provisions of
the laws in force prior
to that date."

P. W. D.,
27 Mar. '62
N^o 531.

181-3-2
318-12-10
500-...

If the amount, which
from the first was said
to be R^o 181-3-2, can be
recovered under § 62 of
the Penal Code, Lt. Smal-
ley will have to make
good R^o 318-12-10.

As the sentence was 7 years
imprisonment, the Tallien
Court can only adjudge
the "rents & profits" to be
forfeit to Govt.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter
from the Acting Government
Solicitor Madras.

(Here enter 9: June 1862 N: 287.)

Order thereon, 23^d June 1862. N: 967

The Governor in Council
is of opinion that as the
prisoner D'Almeida was
not sentenced under the
Penal Code his property
cannot be forfeited to
Government under Section
62 of that Code.

Well

2. The property which
has been attached must
therefore be released from
attachment.

To the Public Works Dept.
Government Solicitor
Col. of Malabar
D. Q. Civil & Public of Malabar

Recd 21st 6/2

Chief Clerk
1862. Department.

No. 964

PROCEEDINGS OF GOVERNMENT

Dated 23^d June 1862

Stating that the former
opinion that as the prisoner
Almeida was not sentenced
under the final Code, his property
cannot be forfeited to govt
under Act 16 of that Code.
Allowing the release from
attachment of the above
property.

162 v. 16