

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1152	Press
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Dated	15-7-1863	40

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
15th July 1863.*

No. 170. Read the following letter from H. G. SMITH, Esq., Acting Magistrate of Cuddapah; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government in the Judicial Department, Fort Saint George, dated on Circuit at Madanapully, 26th June 1863, No. 14.

* From the Collector to the Board, 29th October 1862, No. 146.
From the Board of Revenue, Proceedings, 13th November 1862, No. 7,478.
From the Collector to the Board, 21st November 1862, No. 155.
From the Board of Revenue, Proceedings, 13th December 1862, No. 8,122.
From the Acting Collector to the Board, 6th June 1863, No. 84.
From the Board of Revenue, Proceedings, 17th June 1863, No. 3,556.

† Vide letter first quoted.

strong boxes to be made for the safe custody of such articles in future.

2. The Board then refused† to give an opinion in the matter, but called for more explanation. To this Mr. Wedderburn offered§ the explanation as called for, and the Board sanctioned the boxes, but made no mention of Mr. Wedderburn's question as to the liability of the Subordinate Magistrate.

‡ Proceedings, 13th November 1862, No. 7,478.

§ Letter to the Board, 21st November 1862, No. 155.

3. A short time after joining the District, I received a petition from the owner of a Chemboo, &c., that was lost on the occasion, valued at Rupees 83½, and accordingly addressed the Superintendent of Police to know what means had been adopted by his Department to compensate petitioner, and he threw the responsibility on the Taluk Magistrate.

Letter from the Superintendent of Police, 2nd June 1863, No. 155.

4. On this I wrote|| to the Board to let me know to whom I should apply, in order that petitioner should be compensated for his loss, and they have referred¶ me to the Judicial Department, I therefore have the honor to request you will lay petitioner's case before the Government and obtain sanction for me to disburse him Rupees 83½ the value of the lost Chemboo, &c.

|| Letter dated 6th June 1863, No. 84.

¶ Board's Proceedings, 17th June 1863, No. 3,556.

Proceedings of the Board of Revenue, dated 13th November 1862, No. 7,478.
Read letter from A. WEDDERBURN, Esq., Collector of Cuddapah; to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 29th October 1862, No. 146.

1. Valuables, gold silver ornaments, and utensils, precious stones, &c., are frequently the subject of inquiry before the Sub-Magistracy, in connection with criminal investigations. Pending inquiry and disposal, such valuables are placed in charge of the Police. I prohibited the practice in a Circular, dated 28th September 1861, and required the articles to be placed in a strong locked box, or in the Cash chest for security, as otherwise such articles threw temptation in the way of the Police.

No. 51, published at page 317 of the District Gazette.

The Sub-Magistrate of Cuddapah, having, under inquiry, a silver Chemboo or water vessel worth about 80 Rupees, placed it in the box, in which it was found (it was a supposed fabricated robbery among relations, and the box with its valuable contents was found with lock broken in a public place). It was secured only with a string and sealed. After a long interval, and advertisement of the property, the alleged owner appeared, when, on examining the box, it was found empty, the string cut below, and tied again, so that the seal on the top was not broken, nor the cord loose. The box was under the Taluk Police guard, and the theft may have been committed any time for four months back, by any one of them. There is little chance of detection or recovery.

*Proceedings of the Madras Government, Judicial Department,
15th July 1863.*

2. I would beg the Board's opinion whether, after my order and caution in page 317 of the Cuddapah Gazette, copy annexed, I could legally make the Sub-Magistrate responsible for a loss incurred from contravention of my order. His defence is that the Police were responsible for the outward integrity of the box, and it is true.

3. I would, however, in any event, solicit the sanction of the Board to pass a Supplemental Budget Estimate for Rupees 210. For making 14 strong boxes with locks, for Sub-Magistrates to keep valuable property in, pending inquiry. This seems a better plan than placing such valuables in the Government Cash chest.

14 strong boxes with locks at Rupees 15 each, Rupees 210.

Magisterial Circular, No. 51 of 1861.

Taluk Magistrates are expressly forbidden from delivering to the Police, loose valuables to guard; such articles are to be kept in the Treasury, or other strong box, and the responsibility of the station guard is confined to the integrity of the box, its lock, and seal; Taluk Magistrates will be held personally responsible for the loss of articles not secured as above directed. No unnecessary temptation should be thrown in the way of the Police, whose guard over a station chest is similar to that of a Military guard, who are responsible for the integrity of the box, and its appurtenances, but not of its contents.

(True Copy.)

(Signed) A. WEDDERBURN,
Collector.

1. The Board do not consider that it comes within their province to adjudicate in such a matter between the Magistrate and his subordinates. Nor do they understand how Taluk Magistrates can need any strong box for securing valuables in their custody, when they have at their disposal all the facilities belonging to the Taluk Treasury.

2. The Collector will please to explain the need more fully.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To A. Wedderburn, Esq., Collector of Cuddapah.

Proceedings of the Board of Revenue, dated 13th December 1862, No. 8,122.
Read letter from A. WEDDERBURN, Esq., Collector of Cuddapah; to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 21st November 1862, No. 155.

1. With reference to the Proceedings of the Board of Revenue, dated 13th November 1862, No. 7,478, declining to give an opinion as to the liability of Sub-Magistrate and Tahsildar in reference to property placed, insufficiently secured, in custody of the Police, and requiring further explanation of the necessity of a strong box to secure valuables in their custody when they have "all the facilities belonging to the Taluk Treasury." I have the honor to state that the question of liability affects the interest of Government, who, or their Subordinates, may be liable for property stolen when in custody; and therefore the opinion of the Board was sought.

2. The Taluk Treasury, in general consists of one strong box, in which the Revenue remittances are secured. It is not desirable to mix with the Government Cash, other property, either unclaimed, or the subject of trial before the Magistracy. The Police are expressly prohibited by their chief from taking charge of property, unless secured in a strong locked box, and hence my application for sanction for the same.

3. I consider that the expenditure on strong locked boxes for property to be secured pending disposal, is called for, both to prevent loss, which may have to be made good to the future claimants of such property, and to prevent temptation being thrown in the way of the Police, of making away with loose articles.

4. Without such receptacles for property, it is difficult to prevent pilfering, or to detect it; all of the Taluk treasure chests are not enclosed with iron railings, and even if they were, it would be advisable that were a box for articles under Magisterial inquiry.

*Proceedings of the Madras Government, Judicial Department,
15th July 1863.*

Under the circumstances stated by the Collector, the Board sanction the estimate of Rupees 210 referred to in the Collector's letter, dated 29th October 1862, for making 14 strong boxes with locks for the use of the Sub-Magistrates at 15 Rupees each. No provision is necessary for this sum in the Supplemental Budget, as the charge can be met from the sum of Rupees 1,000 provided for other items under Land Revenue charges, the whole of which remains unspent.

(True Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

(True Copy.)

(Signed) H. G. SMITH,
Acting Collector.

Proceedings of the Board of Revenue, dated 17th June 1863, No. 3,556.

Read letter from H. G. SMITH, Esq., Acting Collector of Cuddapah; to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madanapully, 6th June 1863, No. 84.

1. Mr. Wedderburn, in his letter dated 29th October 1862, No. 146, informed the Board that certain articles of value had been stolen while in custody of the Police at Cuddapah, and requested to know whether the Taluk Magistrate was responsible for the loss, and also requested

permission to have 14 strong boxes made to guard against such a re-occurrence. On this, the Board called* for further particulars declining to adjudicate between the Magistrate and his subordinates. Subsequently Mr. Wedderburn in his letter, dated 21st of November of the same year, No. 155, explained matters more fully, and the result was the Board sanctioned† the estimate for 14 strong boxes, but no answer was given as to the liability

* Vide Proceedings, dated 13th November 1862, No. 7,478.

† Vide Proceedings, dated 13th December 1862, No. 8,122.

of any one for the value of the articles stolen.

2. The owner of the Chemboo, &c., valued at Rupees 83½ stolen at the time, addressed me on the subject of his loss, and I wrote to Captain Bowen to know what had been done by the Police in the way of compensating the Petitioner, and you will observe by his letter‡ enclosed that he throws the responsibility on the Taluk Magistrate (Mr. Ward since dismissed).

3. I shall feel obliged, therefore, by your letting me know to whom I am to apply for the value of the lost Chemboo, &c.; for, it is clearly, I think, the part of Government to give compensation for any articles lost while in the custody of their Officers, no matter through whose carelessness the loss occurs.

ENCLOSURE No. 1.

From Captain G. B. BOWEN, Superintendent of Police; to H. G. SMITH, Esq., Acting Magistrate of Cuddapah, dated 2nd June 1863, No. 155.

I have the honor to inform you that the Chemboo referred to in your letter, No. 286 of the 26th ultimo, was lost in consequence of the neglect of the Taluk Magistrate (Mr. Ward) to secure the iron grating, inside which all articles not of a bulky nature are enclosed. The Chemboo was in a box tied by a string which was sealed. The string was cut at the bottom of the box, and the Chemboo abstracted, by whom there was no evidence to show; strong suspicion fell on the Police and I discharged two who were on duty on that night; at the same time it was, I think, clearly the duty of the Magistrate to lock the grating, as the Police cannot be responsible for contents of loose packages of valuables to which several people have access. In fact they are forbidden to take charge of such.

(True Copy.)

(Signed) H. G. SMITH,
Acting Magistrate.

1. The Board have already declined to adjudicate in this matter, which belongs to the Magisterial Department.

*Proceedings of the Madras Government, Judicial Department,
15th July 1863.*

2. The Acting Collector had better make a reference to Government in the Judicial Department.

(True Copies and Extract.)

(Signed) W. HUDLESTON,

Secretary.

To H. G. Smith, Esq., Acting Collector of Cuddapah.

No. 171.

ORDER THEREON, 15th July 1863, No. 1,152.

The Sub-Magistrate, Mr. Ward, having disobeyed explicit instructions was clearly responsible, and the Magistrate should at once have enforced his responsibility. As, however, Mr. Ward is no longer in the service of Government, sanction is granted for payment of the value of the Chembo to the owner, as a special case.

(Signed) A. J. ARBUTHNOT,

Chief Secretary.

Memo.

No case can be traced of private property having been stolen while in custody of the Police, & of the value having been made good by Govt.

The papers in the case of the Mangalore Sail Robbery are put up. The value of the articles missing (belonging to the Convicts) & certain money belonging to the civil prisoners & their creditors, was directed to be made good by the Sub-Judge & the Jailor. The charge was, however, ultimately borne by the Govt.

When the Arms Act first came into operation, a Sahildar in Canara mistaking the law, seized & removed sulphur to his Entichery. It fire destroyed all - & compensation was granted by Govt.

Proceedings of the Madras Government

15th July 1863

2. The Acting Collector had better make a Department.

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To
No.
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boo

Property lost while in
custody of the Police.

Judicial Department

No. 11408

From the Acting Collector of Cuddalore.
Dated 26th June 1863

For Orders.

As far as I can make out this
matter it seems to me that the
Inland Master to the House of
held responsible for this loss. Whether
the Master or the Lieutenant the Clerk
-boo should have been kept with
the house. When he allowed to
be kept in a box men of the
thing and outside it is on
facing "inside of which all articles
and of a bulky nature are enclosed
was left unsecured. J.P.

Proceedings of the Madras Government
15th July 1863

2. The Acting Collector had better make a Department.
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1704171
15 July 1863 N^o 1152.
The Sub: Magistrate

Mr. Ward being
disobeyed explicit
instructions was
clearly responsible
& the Magistrate should
at once have en-
forced his responsibility
as however Mr.

Ward has in his
charge in the service
of pub. sanction
is wanted for pay-
ment of the value
of the Chambers &
the other. as a special
case

10 July
21h

Committee 14/7

Judicial 1863 Pro. No. 1152
Revenue Department

From The As. Collector of
Cuddalore
% of the Chief Secy to Government
Fort Saint George

Dated 26th June 1863
Recd 29th N^o 14

Enclosed 3/ Three
With an Order
N^o 1408

Submitting Copies of correspon-
dence held between the Board
& the Collector the Madras Board &
himself regarding a silver
Chamber. It is lost while in the
custody of the Police in taking
custody of the Chamber. It is requested
with reference to the last order
of the Board, that sanction of
the Board may be obtained for N^o 83/2
the value of the lost Chamber &
be disbursement to the Petitioner.

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Proceedings of the Madras Govt
15th July 1

2. The Acting Collector had better make a
Department.

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