M.R.O. 1—38,000—16-10-29.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Judicial **DEPARTMENT**

G.O. No. 790 Press ~~Mis.~~

181-183

Dated 22.5.1863 ~~19~~ .

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***Not to be folded or roughly handled***

*Proceedings of the Madras Government, Judicial Department,*
*22nd May* 1863.

Read the following papers :—

No. 181. From T. SYDNEY SMYTH, Esq., Advocate General ; to the Chief Secretary to Government, Fort Saint George, dated 24th April 1863.

I have the honor to submit, for the information of His Excellency the Governor in Council, the following report of the cases which I considered it proper to take up at the late Sessions.

2. I intended to have prosecuted in case No. 4, of the Calendar, in which Robert Boyce Dashwood, of the Vizagapatam Post Office, was committed by Mr. C. T. Longley, Justice of the Peace, for fraudulently appropriating an enclosure in a letter. It appeared, however, prior to the commencement of the Sessions, though too late to prevent the expense of sending Dashwood and several witnesses to Madras, that, Istly, Mr. Longley was not in the Commission of the Peace, and 2ndly, that Dashwood ought to have been tried by the Sessions Court of the Zillah, not being a European British subject, and therefore not liable, by reason of an offence committed at Vizagapatam, to the criminal jurisdiction of the High Court. The other witnesses therefore were not sent down to Madras, and the Grand Jury therefore threw out the indictment; but, the necessary measures having been taken, Dashwood was arrested again after leaving the Court House, and will be sent back in due course to be tried at Vizagapatam.

3. Case No. 28, being entered as a charge of murder and culpable homicide, I intended to have prosecuted ; but found on inquiry that the case did not appear of that serious nature that called for my intervention. The prisoner was a mere boy, apparently 14 or 15, and the chief evidence against him was his own confession, confirmed, favorably for him, in part, by that of his uncle and Dr. vanSomeren, that the child which lost its life—one of two years old—was crying, and that he took it up to pacify it ; but getting angry at its continued outcry he threw it down on the ground, impatiently but not thinking to do it any serious harm. The uncle, who was outside, said he heard but one noise, and the Doctor said the injury was inflicted by one single fall. The verdict was culpable homicide.

4. The other cases were Nos. 24 to 27 inclusive, in which four Soucars and one of their servants were committed for having possession of forged Stamps, and of instruments and materials for the purpose of counterfeiting Government Stamps.

5. It is possible that if, when information was first given about these cases, in November last as I understand, the Police had been directly applied to, something reliable might have been discovered ; but it would seem that the first step taken, not till after the lapse of several days, was to send the informer's letter to the Revenue Board, where again several days seem to have elapsed before the next step was taken, viz., to send it, but not until the 4th or 5th of January 1863, to Mr. Norfor the Superintendent of Stamps, who again took some days to make his own enquiries ; and the first communication to the Police seems to have been made after the middle of January, before which time there seems much reason to believe that it was pretty generally known, at least in the neighbourhood of the Revenue Board and Stamp Office, that some inquiry about forged stamps was in progress.

6. The evidence of the informers and their friends was however most suspicious from the first, and the Magistrate would have been quite warranted in dismissing the charge. He clearly however took the prudent course in committing the prisoners ; for the Sowcars were so lavish in their offer of bribes in all quarters, that any other course might have been open to misconstruction.

7. The characters and conduct of the informers and witnesses told heavily against them. The principal witness, Jagannada Pondia, professed to be a Sowcar. He turned out to be the prisoner's cook, discharged on suspicion of stealing a jewel. He had also had litigation with one of his late Master's relatives, who had fled from Madras to avoid paying the amount of a decree obtained against him ; and Jagannada Pondia had been trying, unsuccessfully, to obtain a settlement through the first prisoner. He and his three witnesses had moreover been co-witnesses in several actions, with which they had no apparent connection whatever, and had more than once been wholly discredited by the Judges of the Supreme Court. Their very extraordinary and suspi-

cious story was, that they had repeatedly, one 7 or 8 times, another 15 to 20 times, witnessed the process of forging, by, or in presence of, all five prisoners, through a partly open door, and a wholly open window. They swore too that they had seen this in April, May and June 1862; yet never mentioned it till January 1863—the reason for this long silence being left wholly unexplained.

8. It was proved moreover that Jagannadi Pondia had had constant, easy, and recent access to the well where the plaster of Paris moulds were found, and that the room, where the forged stamp paper was found on the 27th January, had been searched on the 26th, and nothing found in it, while an open window afforded an easy opportunity of throwing in a roll of paper, and the room was not shown to belong to any of the prisoners, while there were several other lodgers in the house.

9. The trial began on Monday the 13th, and ended on Wednesday, the Jury after a very short consultation returning a verdict of not guilty. The informers and their witnesses having been before disbelieved by the Supreme Court upon former occasions, and the Chief Justice having pointedly put it to the Jury that they must inevitably come to one of two conclusions, viz., either that the prisoner was guilty of forging, or the witnesses guilty of a most foul conspiracy against him, and the verdict of the Jury therefore practically involving a denunciation of the witnesses as perjured conspirators, I felt that I ought not, upon evidence so discredited both by Jury and Judge, to proceed against the other prisoners; there being no other evidence against any of them.

10. While clearly of opinion that no conviction upon such evidence was to be hoped for, I must add that I have very little doubt that some—at least of the prisoners, and some of the witnesses also—were jointly concerned in forging stamps, and that such forgery has been carried on to a very considerable extent.

11. Mr. Norfor's evidence showed how extremely easy it is to take impressions, from genuine well executed stamps, upon common country sealing wax, by pressure and rubbing, so as to make, on the latter, moulds or dies, from which forged impressions can be obtained much superior to any of the forged Stamps seized by the Police. Attention therefore is urgently required to this matter, with a view to devise additional precautions for the protection of this very important branch of the Public Revenue.

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No. 182. From JOHN ROBERT BOYSON, Esq., Government Solicitor, Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Madras, dated Madras, 30th April 1863, No. 257.

THE QUEEN
against
ROBERT BOYCE DASHWOOD.
For fraudulently appropriating enclosures in a letter

1. I regret to bring to the notice of Government that there has been a temporary miscarriage (or I might perhaps say delay) of justice in the case noted in the margin.

2. The prisoner ought *not* to have been committed for trial by the High Court at Madras, he not being a *European British subject*; and, therefore, not subject to the jurisdiction of the High Court in respect of the offence which he committed *at Vizagapatam*. He ought to have been committed for trial by the Sessions Court at Chicacole.

3. The doubt as to the prisoner's being a European British subject, was first suggested to me on Saturday the 21st ultimo. I forthwith instituted inquiries, and the result of these inquiries satisfied me that the doubt was but too well founded.

4. I accordingly about midday on Sunday the 22nd ultimo, telegraphed to the Magistrate at Vizagapatam *not* to send the witnesses for the prosecution to Madras. I then hoped (as the Sessions were not to commence until the 8th instant) that my telegram would be in time to save the witnesses from the trouble and annoyance of coming to Madras to give evidence before the Grand Jury and the High Court in a case which neither the one nor the other had power to entertain or try, and would also save Government their travelling expenses and their loss of time and service. On the 28th ultimo, I sent a telegram through Messrs. Arbuthnot & Co.,



to Nursing Row one of the witnesses for the prosecution residing at Vizagapatam, (and in reply to a communication from Nursing Row) intimating that he need not come to Madras. His so doing would have put *him* to great inconvenience, and Government to the outlay of his travelling charges.

5. My telegram of the 22nd ultimo to the Magistrate of Vizagapatam was unfortunately too late to stay the despatch of the witnesses to Madras; for, as I subsequently learned from the Magistrate of Vizagapatam, they had started for Madras some time before my telegram of the 22nd ultimo reached him.

J. G. Honner, Esq.
Adapa Somaya.
T. Kupusami Nayadu.
Palapu Lachmepati.
Nunala Garana.
Eppili Appaya, and Perumalla.

6. The witnesses noted in the margin reached Madras in due course, and were sworn to give evidence before the Grand Jury on the Bill preferred to them in the ordinary course by the Clerk of the Crown; but in consequence of the absence of Nursing Row, who, upon the authority of my countermand did not come to Madras, the Grand Jury found "*no Bill.*"

7. On this return the Lord Chief Justice intimated an intention of estreating Nursing Row's recognizance for his non-attendance, but upon my appearing in Court and through the Advocate General explaining that it was upon my authority that Nursing Row had stayed his departure for Madras, His Lordship allowed the matter to pass.

8. On the motion of Mr. Branson the prisoner's Counsel, the prisoner (on the Grand Jury's returning "no bill") was brought up and ordered to be discharged. I however had provided for this contingency by laying an information before the Commissioner of Police, who upon informations duly sworn before him, had issued his warrant for the prisoner's arrest. Upon this warrant he was taken into custody as soon as he was discharged and is now lodged in the Penitentiary, where he will remain until the Magistrate of Vizagapatam can send down a fresh warrant for his custody grounded upon fresh informations duly sworn at Vizagapatam.

9. When the Officer arrives from Vizagapatam with a lawful warrant, the prisoner will be handed over to his custody to be conveyed back to Vizagapatam, where, I trust, he will ultimately meet the punishment which, in my opinion, he most clearly and justly deserves.

10. It is much to be regretted that the witnesses should have been subjected to the trouble and annoyance of a long journey to Madras, and that Government should have been put to considerable expense for their travelling and other expenses, the more especially as, if my information be correct, this might well have been avoided, had the proper Officers at Vizagapatam made such enquiries as ought to have occurred to them when (as I am told) the prisoner insisted upon his right to be tried at Chicacole and not to be sent to Madras on the ground that he was not a *European British subject.*

11. I have telegraphed to the Magistrate of Vizagapatam "Dashwood is detained in custody upon informations sworn before the Commissioner of Police until you send down an Officer with fresh warrant for his arrest grounded on fresh informations duly sworn at Vizagapatam. The witnesses have returned to Vizagapatam. Lose no time."

12. The Commissioner of Police has disbursed the necessary advances to the witnesses on account of their expenses.

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No. 183. ORDER THEREON, 22nd May 1863, No. 790.

It appears from the foregoing letters that the Principal Assistant Magistrate of Vizagapatam acting in the capacity of Justice of the Peace, committed one Robert Boyce Dashwood for trial before the High Court on a charge of having fraudulently appropriated an enclosure in a letter; Mr. Longley not having qualified as a Justice of the Peace and the prisoner not being a European British subject. It is stated that the prisoner represented to Mr. Longley that he was not a European British subject, and that he ought therefore to be tried at Chicacole and not at Madras. Mr. Longley will be called upon for explanation on both points.

*Proceedings of the Madras Government, Judicial Department,*
*22nd May* 1863.

2. The remarks made by the Advocate General in the 11th paragraph of his letter as to the facility with which impressions can be taken from genuine well executed Stamps upon common country sealing wax so as to make moulds or dies from which forged impressions can be obtained will be considered in the Revenue Department.

3. The delay* which appears to have occurred in bringing the alleged forgeries to the notice of the Police, calls for explanation.

* Paragraph 5 of the Advocate General's letter.

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

Exd. T. McMootry.

**PROCEEDINGS of the MADRAS GOVERNMENT.**

Read the following letters.

From the Advocate General (Here enter 24 April 1863 N° 896

" Govt. Solicitor, ——— (Here enter 30 April 1863 N° 207)

Order thereon 22d May 1863 N° 790.

It appears from the foregoing letters that the Principal Assistant Magistrate of Vizagapatam acting in the capacity of Justice of the Peace, committed one Robert Boyce Dashwood for trial before the High Court on a charge of having fraudulently appropriated an enclosure in a letter: Mr Longley not having qualified as a Justice of the Peace and the prisoner not being a European British subject. It is stated that the prisoner represented to Mr Longley that he was not a European

British

British subject, and that he ought therefore to be tried at Chicacole and not at Madras. Mr Longley will be called upon for Explanation on both points.

2 — The remarks made by the Advocate General in the 11th para of his letter as to the facility with which impressions can be taken from genuine well executed stamps upon common country sealing wax so as to make moulds or dies from which forged impressions can be obtained. [illegible] will be known by the Collector

* para 5 of the Advocate Genl's letter.

3 — The delay which appears to have occurred in bringing the alleged forgeries to the notice of the Police calls for explanation.

To

The Actg Collr of Vizagapatam
" Revenue Dept
" Advocate General
" Govt Solicitor
" Comr of Police

dupd. 27

Pno: 15th May 1863 No 103 109

dist of Ind. Jud

Legl. 1863. Department.

No. 790

PROCEEDINGS OF GOVERNMENT,

Dated 22 May 1863.

Fch 1210
1266.

Pno: 15th Jun 1863 No 142 & 143.

Regarding certain remarks on two cases tried at the last Sessions Viz: M/s R. B. Dashwoods and Stamp 9678 Cases.

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