M.R. O. 1—29,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 799 Press ~~Mis.~~

202-203

Dated 26.5.1863 ~~19~~

4/4

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 26th May 1863.

No. 202. Read the following letter from Lieutenant Colonel H. COLBECK, Senior Magistrate of Police; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 11th May 1863, No. 17.

I have the honor to ask that you will submit to the Honorable the Governor in Council my earnest request that some provision may be made by Legislative enactment empowering Magistrates of Police to restore to the rightful owners property wrongfully detained.

2. I am induced respectfully to make this request of the Government for the following reasons:—

3. Complaints are frequently made by persons of the wrongful detention of property either their own or entrusted to their charge, but the Magistrate is utterly powerless to render them any prompt assistance or redress.

4. It may be suggested that parties so deprived of their property have their remedy by an action of Trover. True they have; but in almost all the cases which have come under my observation, such remedy is almost useless to the class of persons who suffer by the wrongful detention I am alluding to.

5. I will proceed to give an illustration of the more general features of cases which have come before me.

6. A carter from the Mofussil brings down a load of grain or firewood and proceeds to make a bargain with some Shopkeeper or dealer in Madras. The bargain is made and the contents of of the cart delivered to the purchaser; but afterwards some petty dispute or disagreement arises usually regarding some alleged old balance or debt and the Cart and Bullocks are not unfrequently detained by the Shopkeeper.

7. Perhaps the person in charge of the cart and its contents is merely the driver, a poor ignorant man utterly unacquainted with the mode of procedure necessary for the recovery of his property so detained. He goes probably to the nearest Tannah where he is referred to the Inspector who again refers him to the Magistrate.

8. Many such cases have been brought to this Court after the complainants have wasted several days in unavailing efforts to regain their own; and I do trust the Government will see fit to empower the Magistrates to redress such wrongs; for to tell a cart driver that he has his remedy at Civil action appears to me simply to mock him.

9. I have the honor to enclose a draft for submission (should the Government think proper) to the Legislative Council. This draft will I think meet all the requirements I have in view in making my present request.

10. Fifty Rupees is the value of property usually entrusted to the summary jurisdiction of the Magistrate, but I have in the draft of the section forwarded mentioned one hundred Rupees, as cases may occur in which the property detained may in value amount to this sum or near it. For instance a good Cart and Bullocks would be valued at more than fifty Rupees, and I can see no possible danger in extending the limit to one hundred Rupees.

No. 203. ORDER THEREON, 26th May 1863, No. 799.

The Governor in Council does not consider it expedient to introduce the Bill recommended in this letter by the Senior Magistrate of Police.

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

Exd. T. McMoiry.

Draft

Whoever without satisfactory excuse wrongfully detains any moveable property without the consent of the owner of such property or his agent, shall, if the property does not in the opinion of the Magistrate exceed the value of One Hundred Rupees, be liable to a fine not exceeding One Hundred Rupees; and the Magistrate may award the whole or any part thereof to the party aggrieved by way of satisfaction for injury or compensation for loss of time

Wrongful detention of property -

And it shall be lawful for the Magistrate to make an order for the immediate restoration of the property so wrongfully detained to the rightful owner of such property or his agent.

H. T. Prinsep.

Quebec 1863 Dpth

From

Lieut. Col. H. Bellcock
Senior Magistrate of Police

To
The Honble A. J. Cochburn
Chief Secretary to Govt.
Fort St. George

Dated 11th
Rec'd 12th May 1863.

No 996 / 17

Forwards a Draft of an Enactment for the punishment of wrongful detention of property

202 & 203

with an order

No 799 of 26th May 1863.

The Govr in Council does not consider it expedient to introduce the Bill recommended in this letter by the Senior Magistrate of Police ~~such an Enactment, even if desirable, could not take within the province of a local Legislature~~

To the Senior Magte of Police 3d District
" Comr of Police

dispd 27