

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	845	Press
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Dated	1. 6. 1963	40

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Not to be folded or roughly handled

845

*Proceedings of the Madras Government, Judicial Department,
1st June 1863.*

No. 6. Read the following Proceedings of the High Court of Judicature at Madras, 3rd March 1863, No. 31.

Read Proceedings of Government, dated 3rd February 1863, drawing the attention of the High Court to the apparent want of system observable in the orders hitherto passed with reference to Sections 196 and 364 of the Code of Criminal Procedure, directing certain Session Judges and Magistrates to take down the evidence of witnesses with their own hand in their own Vernacular language, and requesting to be furnished with the opinion of the Judges as to the principle by which the application of the rule should in future be regulated.

1. The power to direct that in any District or part of a District the evidence of witnesses shall be taken down by the Magistrate (or Session Judge) with his own hand in the Vernacular language of such Magistrate (or Session Judge), is vested exclusively in the Government; but it has been customary for the late Sudder Court and the High Court, at the instance of the local authorities, to recommend the application of the rule to particular Districts, only moving in the matter when specially applied to. The operation of Sections 196 and 364 of the Code has thus been hitherto confined to cases in which the Session Judges or Magistrates themselves desired their introduction into the Criminal Courts over which they preside. In many of these cases also the provisions in question have only been in operation a few months. The time therefore has scarcely arrived for considering the question whether it would be expedient to apply the rule to trials held before every criminal authority above the grade of a Subordinate Magistrate of the 2nd class, as contemplated by the Government. The Chief Justice and Judges are of opinion that it would be better to wait until some experience has been gained of the effect of these Sections, proceeding meanwhile upon the principle of applying the rule only where its introduction may be specially desired by the local authorities. At the close of the present year, reports might be called for from the several Districts in which the Section may have been in operation, and the expediency or otherwise of introducing them uniformly into all Districts then considered.

2. The Chief Justice and Judges observe that the object which the Government appear to have in view, viz., to induce Judges and Magistrates to give their uninterrupted attention to the examination of witnesses, is already in a great measure secured by the provisions of Section 195, under which the Officer trying the case must make with his own hand a Memorandum of the substance of what each witness deposes; and this cannot be done without direct personal superintendence and attention on the part of the Judge or Magistrate. The several Appellate authorities will be called upon to report whether the provisions of this Section are duly observed; and the Judges will make it a rule that these Memoranda in the handwriting of the Judge or Magistrate shall be forwarded with the Calendar of every case tried, so that any irregularity in this respect may be immediately checked by the Appellate authority.

3. With respect to the partial operation of Section 196 in Zillahs where the system of trial by jury has been introduced, the Judges remark that the latter part of the Notification issued in these cases was not intended to confine the operation of Section 196 to the cases tried by Jury; but the meaning might perhaps in this respect be expressed in clearer terms, and to remove all doubts the Chief Justice and Judges would propose that a Notification should be published to the effect that Sections 196 and 364 of the Code of Criminal Procedure will be applicable to all trials before the Session Courts in Districts into which the system of trial by Jury has been introduced.

(True Extract.)

(Signed) C. F. CHAMIER,

Registrar.

To the Chief Secretary to Government, Fort Saint George.

No. 7. ORDER THEREON, 1st June 1863, No. 845.

The Governor in Council requests that the Honorable the Judges of the High Court will be good enough, at the close of the present year, to call for reports on the working of Sections

*Proceedings of the Madras Government, Judicial Department,
1st June 1863.*

196 and 364 of the Code of Criminal Procedure in those Districts in which the Sections in question have been brought into operation, and that they will then favor Government with their opinion as to the principle by which the application of these Sections should in future be regulated.

2. A Notification to the effect that the provisions of these Sections will be applicable to all trials before the Sessions Courts in Districts into which the system of trial by jury has been introduced, will be published in the Official Gazette.

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

Ed. T. McMootry

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

*Read the following
Proceedings of the High Court
of Judicature at Madras.*

(Here enter 3rd March 1863 N^o 31.)

Order thereon 1st June 1863 N^o 845.

The Governor in Council requests that the Honorable the Judges of the High Court will be good enough, at the close of the present year to call for reports on the working of Section 196 and 364 of the Code of Criminal Procedure in those Districts in which the sections in question have been brought into operation, and that they will then favor Government with their opinion as to the principle by

by which the application of these sections should in future be regulated.

2 A Notification to the effect that the provisions of these sections will be applicable to all trials before the Sessions Courts in Districts into which the system of trial by Jury has been introduced, will be published in the official Gazette.

Requesting the High Court to report at the close of this year the principle by which the application of sections 196 & 236 of the Criminal Procedure Code should in future be regulated.

Pro. June
Judicial 1863 Departs
No. 845
Headings of Government.
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The Honble the Judges of the High Court.

Gazette - 2/6

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