M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

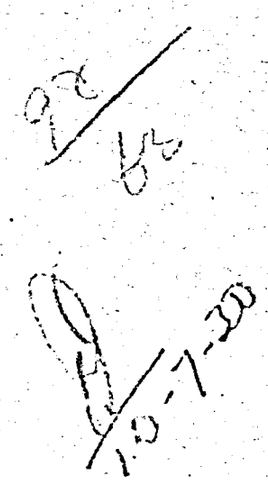
G.O. No. 98 Press ~~Mis.~~

125-126A.

Dated 23.1.1863

5/6

Not to be folded or roughly handled



Proceedings of the Madras Government, Judicial Department, 23rd January 1863.

Read the following papers:—

No. 125. Proceedings of the High Court of Judicature at Madras, dated 9th January 1863, No. 4.

Read letter from the Session Judge of Madura, dated the 22nd December 1862.

1. "I have the honor to submit for the consideration and orders of the High Court, that there are now in the Jail at Madura, a number* of accused persons awaiting trial,
* 21. and who have been in confinement for periods varying from 4 to 60 days."

2. "They are the accused in cases,† which have been committed to the Judge of
† 16. the Small Cause Court to try, and which pending a reference he has made to the High Court he declines to take up. The Magistrate who in the absence of a Criminal Court should take up and try these cases declines to do so—the cases having been regularly committed by competent authority to the Small Cause Court. It is absolutely necessary that some final orders should be issued on the subject for the disposal of the cases. Cholera has made its appearance in the Jail, and I fear it will, owing to the crowded state of it, rage with much virulence; it is hard under these circumstances, to keep the accused parties in Jail under trial longer than is absolutely necessary, and I beg to solicit that orders may be at once issued for the disposal of the cases now pending, either by the Magistrate or Judge of the Small Cause Court."

1st. The High Court are of opinion that having been invested with Criminal powers, the Judge of the Court of Small Causes should have tried such cases as were committed to him pending the result of his application to be relieved of this extra duty.

2nd. This, however, he could only have done, and could only now do, by sacrificing the objects for which his Court was established.

3rd. The High Court accordingly recommend that the 1st paragraph of the Order of Government, dated 5th September 1862, No. 1,450, be cancelled, and the Magistrate of the District be directed to take steps for the cases referred to in the above communication being tried by the several Officers exercising full Magisterial powers.

(True Extract.)

(Signed) C. F. CHAMIER,
Registrar.

To the Chief Secretary to Government.

No. 126. From C. F. CHAMIER, Esq., Registrar of the High Court of Judicature at Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 13th January 1863, No. 9.

1. With reference to the latter portion of para. 4 of the Order of Government, dated the 6th ultimo, I am directed to state that the High Court has already expressed an opinion that the services of a Principal Sudder Ameen would shortly be required at Madura, though the necessity had not arisen at the time referred to in paragraph 5 of the Civil Judge's letter to Government, dated 15th November 1862.

2. The Returns for the third quarter of the year show that there were 18 original and 55 appeal suits pending on the 30th September, and from the postscript to the Civil Judge's letter to Government, it would appear that on the abolition of the Sudder Ameen's Court 80 suits were transferred to his file, making a total of 98 original suits and 55 appeals.

3. The Chief Justice and Judges recommend that, after he has disposed of the few appeals now remaining to be decided at Salem, the Additional Principal Sudder Ameen, Lutchmiah Naidoo, be transferred to Madura, to assist the Civil Judge in clearing his file. Any relief which the Judge may require on the Criminal side should, in the opinion of the Court, be afforded by strengthening the Magistracy. It would appear from the postscript to the Civil Judge's letter to the High Court, dated 18th June 1862, that there was at that time no Covenanted Assistant or Head Assistant Magistrate in the District.

4. On examining the files of the several Zillahs where there are no Principal Sudder Ameen's Courts, the Court find that in Chittoor and Trichinopoly the arrears are considerably in excess of those at Madura. The Chief Justice and Judges accordingly recommend that as soon as Lutchmiah Naidoo has disposed of all the appeals and the original suits below Rupees 10,000, pending in the Madura Civil Court, he be transferred to Chittoor and afterwards to Trichinopoly.

Statement of suits pending before the Civil Courts on the 30th September 1859.

	O.	A.
Chittoor...	48	179
Chingleput...	69	214
Guntoor..	6	53
Madura...	98	55
Masulipatam...	10	142
Nellore...	6	29
Nundial...	8	114
Trichinopoly..	19	171

No. 126 A. ORDER THEREON, 23rd January 1863, No. 98.

Adverting to a representation made to them by the Session Judge of Madura, regarding the number of prisoners awaiting trial before the Judge of the Court of Small Causes at that station in his capacity of Magistrate, but whom the latter Officer had declined to try, pending a reference made by him to the High Court, the Honorable the Judges of the High Court in their Proceedings of the 9th instant, recommend that the 1st paragraph of the Order of Government, dated the 5th September last, No. 1,450, vesting the Judge of the Court of Small Causes with the powers of a Magistrate should be cancelled, on the ground that the Judge has ample work in the trial of the Small Causes pending before his Court, and that the Magistrate should be directed to arrange for the trial of the Criminal cases referred to by such of the other Officers in his District as are vested with full Magisterial powers.

2. In their Registrar's letter of the 13th instant, the Judges reply to the reference made to them by Government, under date the 6th ultimo, as to the expediency of reviving as a temporary measure the Principal Sudder Ameen's Court at Madura, with the view of giving relief to the Civil and Session Judge. They recommend that Lutchmiah Naidoo at present Additional Principal Sudder Ameen at Salem, should be transferred to Madura, to assist the Civil Judge in clearing his file, and that any relief that may be required on the Criminal side should be afforded by strengthening the Magistracy.

3. Under the circumstances stated in the paper above recorded, His Excellency the Governor in Council resolves to cancel the Order of the 5th September last, investing the Judge of the Court of Small Causes at Madura with the powers of a Magistrate, and, as a temporary measure, to revive the office of Principal Sudder Ameen at Madura. The Government are not in a position at present to strengthen the Magistracy sufficiently to admit of their performing the whole of the Criminal work with the exception of that cognizable by the Session Court. A Principal Sudder Ameen will accordingly be appointed under the provisions of Regulations VII and VIII of 1827, and will exercise the powers of Subordinate Criminal Judge as well as those of Principal Sudder Ameen. The Magistrate at the same time will be instructed to take immediate steps for the trial of the Criminal cases now pending before the Judge of the Court of Small Causes. Before selecting a Principal Sudder Ameen, the Governor in Council will await the reply of the Honorable the Judges to the reference made to them regarding Mr. Ballard's application for a Principal Sudder Ameenship.

4. The Governor in Council observes that the Judge of the Court of Small Causes was altogether unwarranted in refusing to try the Criminal cases committed to him pending the result of his application to be relieved of that duty.

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

Exd. T. McMootry.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Registrar of the High Court Madras
(Here enter 13th January 1863 No 29)

Order thereon 23d January 1863. No 98.

Adverting to a representation made to them by the Sessions Judge of Madura regarding the number of prisoners awaiting trial before the Judge of the Court of Small Causes at that station in his capacity of Magistrate but whom the latter Officer had declined to try, pending a reference made by him to the High Court, the Hon'ble the Judges of the High Court in their proceedings of the 9th Instant recommend that the 1st paragraph of the Order

performing the whole of the Criminal work with the Exception of that cognizable by the Sessions Court. A Principal Sudder Ameen will accordingly be appointed under the provisions of Regulations VII & VIII of '27, and will exercise the powers of Subordinate Criminal Judge as well as those of Principal Sudder Ameen. The Magistrate at the same time will be instructed to take immediate steps for the trial of the Criminal Cases now pending before the Judge of the Court of Small Causes. Before selecting a Principal Sudder Ameen the Governor in Council will await the reply of the Honble the Judges to the reference made to them on the ~~application~~ regarding Mr Ballard's application for a Principal Sudder Ameenship.

+ The Govr. in Council observes that the Judge of the Court of Small Causes was altogether unwarranted in suspending the trial of Criminal Cases committed & thus pending the result of his application & the relinquishment of their duty.

To the Hont'ble the Judges of the Sudr Court

Recorded 24/4/63
dispd 12/5/63

Judicial 1863. Department

No. 98.

PROCEEDINGS of the MADRAS GOVERNMENT.

Dated 23d January 1863.

Cancelling the Order of Government of 8th last month, investing the Court of Small Causes at Madura with the powers of a Magistrate, & vesting the Office of Village Judge Court at Madura and Dindigul in the

5329] Madras—Printed at the Government Press.

N: 125 to 126 A.