M.R.O. 1—88,000—10-10-20.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No.	1833	Press ~~Mis.~~
223-224 Dated	20-12- ~~19~~ 1864	

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Not to be folded or roughly handled

No. 223. Read the following letter from H. D. COOK, Esq., Session Judge of Calicut; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government in the Judicial Department, Fort Saint George, dated Calicut, 7th December 1864, No. 232.

Referring to the Proceedings of the Madras Government in the Judicial Department, dated 2nd February 1863, No. 157, I have the honor to state that the Government Pleader of this Court is about to be pensioned in consequence of his age and long service, which incapacitate him from further performing his legitimate duty with any satisfaction either to himself or to the Court.

2. The Government have justly remarked that the present Government Pleaders could not be confidently entrusted with the important duty of conducting prosecutions as required by the new Code. This alone has hitherto prevented the appointment of public prosecutors in our Mofussil Courts.

3. The Magistrate of the District approves of the existing provision which leaves him to appoint a public prosecutor in each case as he deems necessary. I am decidedly of opinion that the legislature contemplated to confer the appointment of a public prosecutor permanently on one person, as is the case with the appointment of a Government Pleader. These offices are undoubtedly created to assist the Bench in the trial and disposal of Criminal and Civil cases, in order better to ensure the ends of justice, and further to relieve the Session Judge from the disagreeable duty as at present imposed on him, of himself acting both as a prosecutor and Judge; but I have grave doubts whether these offices are ever intended to aid the Magistracy in any way, as is inferrible from the tenor of the Magistrate's letter.

Enclosure, No. 1.

4. I think, therefore, that advantage may be taken to appoint such an officer as opportunity occurs, and at the same time to nominate to it one duly qualified, with adequate salary to render the position respectable.

5. Should the Government concur with this view, I have the honor to suggest that arrangements be at once made to effect the object in view, a public prosecutor being wanted, and very essential for the efficient carrying out of the provisions of the Code of Criminal Procedure.

6. I beg, therefore, to recommend Karampully Shekara Kooroop, a Pleader of this Court (provisionally), to the situation of Government Pleader and Public Prosecutor. His knowledge of English, of the laws in force, and of the principles of the Law of Evidence combine to fit him to the situation. He passed the Uncovenanted Service Examination at the late Divisional Committee, and holds a Diploma granted under the orders of the late Court of Sudder Adawlut. He held lately the office of the District Moonsiff of Nedinganad, but was compelled by the state of his health to resign that office. I may as well mention that his services are invariably retained by the Magistracy for conducting cases at the Sessions.

7. As to salary, I think Rupees 100 per mensem, with liberty to practice privately, will be sufficient remuneration.

From G. A. BALLARD, Esq., Magistrate of Malabar; to H. D. COOK, Esq., Civil and Session Judge of Calicut, dated Calicut, 30th November 1864, No. 4133.

In reply to your letter of the 18th instant, I have the honor to observe that I think Government Order, dated 2nd February 1863, No. 157, provides sufficiently for public prosecution.

Proceedings of the Madras Government, Judicial Department,
20th December 1864.

2. I am decidedly of opinion that the ends of justice will be more efficiently met by leaving the Magistrate to appoint a prosecutor in each case as he deems necessary, than by appointing some one person to the office.

3. The Magistrate is now at liberty to appoint the Government Pleader, if he desires to do so (paragraph 3 of the Government Order above quoted), but I am entirely against his choice being confined to that functionary.

(True Copy.)

(Signed) H. D. COOK,
Session Judge.

No. 224. ORDER THEREON, 20th December 1864, No. 1833.

The Governor in Council is not prepared to alter the arrangement sanctioned in the Proceedings of Government under date the 2nd February 1863, under which public prosecutions are conducted by Pleaders specially appointed by the Magistrate in each case.

2. With reference to the proposed appointment of K. Shekara Kooroop to the office of Government Pleader, the Collector will be requested to state whether he concurs in it.

(True Extract.)

Chief Secretary.

To the Civil and Sessions Judge of Calicut.
„ Collector of Malabar.

Exd. J. Tulloch.

Order 20 Decr. 1864 - No. 1833.

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To the Civil & Sessions Judge of Calicut — 16 R. 1880
The Collector of Malabar — 5 3/10 dest 23/12