

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 243

Press

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Dated

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
24th February 1864.*

Read the following papers:—

No. 180. Proceedings of Government in the Revenue Department, dated 8th February 1864,
No. 243.

Referring, for consideration and orders, paragraph 6 of a letter from the Government Pleader requesting the aid of the Police for obtaining information respecting the character, &c. of certain witnesses, to enable him to cross-examine them before the Small Cause Court on behalf of defendant in O. S. No. 103 of 1855 on the file of the late Masulipatam Civil Court.

(Vide Proceedings Revenue Department, dated 8th February 1864, Nos. 159 & 160.)

Referred to the Commissioner of Police for report.

FORT SAINT GEORGE,
15th February 1864.

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

No. 181. From Lieutenant Colonel W. J. WILSON, Commissioner of Police; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 16th February 1864, No. 28.

I have the honor to acknowledge the receipt of the Proceedings of Government noted in the margin, and to submit the following report upon the 6th paragraph of Mr. Dale's letter.

Revenue Department, 8th February 1864, No. 243.

2. On the 31st January last I received a note from that gentleman, requesting me to afford him assistance in obtaining information regarding the character and antecedents of certain persons named by him.

3. The extensive nature of the inquiry sought to be made will appear from the extract from Mr. Dale's letter herewith annexed, and there is nothing whatever in that communication which could have led me to suppose otherwise than that the services of men belonging to the Police Force were required. Had Mr. Dale requested me to recommend some intelligent person who might be employed on payment, there would not have been any difficulty in the matter, but no such request was made.

4. The ordinary manner in which information of the nature in question is procured by members of the legal profession is by employing men for the purpose at their own cost, and I could not detach any of the Police for such duties without serious inconvenience; besides which I am of opinion that the less they have to do with these matters the better. The same objections would not apply to men specially employed upon the terms mentioned in the latter part of the paragraph under report.

COURT HOUSE, January 30th, 1864.

No. 15.

"I hope I am not improperly asking your assistance; in England it would not be so considered, but I remember Edward Elliot was not very consistent in that respect, sometimes holding that the Police should not give assistance, at others affording it. If you can comply with my request, I shall feel much obliged by your doing so; if not, I must try and get the information by other means, though how it is to be attained I do not know."

The defendant has procured a commission from the Guntoor Court, directing the Small Cause Court to examine four witnesses.

1. Chintala Puty Viswanadum.
2. Mr. Marcellus Burke.
3. Gumparthi Narasayah; and
4. The Secretary to the Board of Revenue.

Of the three first I know nothing, and at the Small Cause Court I cannot even get their address beyond "Madras." From papers sent to me by the Collector, I find Mr. Marcellus Burke resides at No. 68 in Condappah Moodelly's Street at Parawaukum. Thursday next the 4th is fixed

*Proceedings of the Madras Government, Judicial Department,
24th February 1864.*

for the examination, and I must attend to cross-examine: to enable me to do which I require information regarding the character, profession, or means of livelihood of these parties, their antecedents, where they have been residing, what means they would have of knowing that the father Cavally Lutchmiah had advanced this money, and in fact any circumstances which would enable me to test the truth of their testimony, or would impugn their character, if not of the brightest hue.

The transactions are said to have commenced in 1810. A judgment was procured in 1839 and Mr. Burke is to prove something relating to Colonel Mackenzie being mixed up with the transaction. Colonel Mackenzie was Surveyor General of India, who, I believe, died 8th May 1821, and his letter is dated 1st February 1811, so any witness to speak to his having had any thing to do with the transaction must be an ancient."

(True Extract.)

(Signed) W. J. WILSON,
Commissioner of Police.

No. 182. ORDER THEREON, 24th February 1864, No. 243.

The Governor in Council directs that Lieutenant Colonel Wilson's letter be communicated to the Government Pleader.

2. The Government concur in the opinion of the Commissioner that the employment of the Police in inquiries connected with Civil Suits is open to objection.

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

Ed. J. Tulloch.

*Revenue Department
Proceedings of the Madras Government.
Read the following*

No. 745.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 4th February 1864.

Read the following letter from the Government Pleader, dated Madras, 1st February 1864,

No. 22:—

1. I do myself the honor of reporting for the information of the Board that the Collector of the Kistna District has intimated to me that certain queries would be sent by the Civil Court at Guntur to the Court of Small Causes at Madras, for the purpose of being put to one Mr. Marcellus Burke, an inhabitant of Madras, who is cited as a witness on behalf of C. V. Narayanappa, the Defendant in Original Suit No. 103 of 1855 on the file of the late Civil Court at Masulipatam, which has been referred by the High Court for the trial of certain issues; and the Collector has requested me to appear before the Court on behalf of the Plaintiff and cross examine the witness.

2. I have put myself in communication with the Registrar of that Court, and have been informed that Thursday next the 4th instant at 11 o'clock has been fixed for the purpose of proceeding with the examination.

3. From information obtained from the Court I learn that the Civil Court of Guntur has ordered the examination of four witnesses, viz.,

1. Chintala Paty Viswanadum;
2. Mr. Marcellus Burke;
3. Gumparthy Narayiah; and
4. The Secretary to the Board of Revenue.

Of the first three witnesses I know nothing, and at the Small Cause Court I cannot even get their address beyond "Madras." From paper sent to me by the Collector, I find Mr. Marcellus Burke resides at No. 68 in Condapah Moodely street, at Pursewankum.

4. To enable me to cross examine, I should be in possession of information regarding the character, profession, or means of livelihood of these parties, their antecedents, where they have been residing, what means they would have of knowing that the father Cavally Lutchmiah had advanced money to Lutchmelavannah, the widow of the late Zemindar, and in fact any circumstances which would enable me to test the truth of their testimony, or would impugn their character if it will not bear investigation.

5. I have not the means through which I could obtain the information alluded to, and probably the Board may not have persons in their Establishment adapted for that description of work. I do not know whether the Collector of Madras could obtain it.

6. In England the aid of intelligent Officers attached to the Police are freely given for such purposes. I know that in 1825-27 on the application of a gentleman against whom an action in the King's Bench was pending, and in which it was necessary to work up evidence for his defence, the Chief Magistrate at Bow-street without hesitation placed at that gentleman's disposal the services of one of the most intelligent of the Bow-street Officers; and for the services rendered the Officer was permitted to receive remuneration. The Law Reports show that the services of intelligent Detectives and Police Officers are constantly made available for similar purposes in Civil Suits. The present Commissioner of the Madras Police says he has not a sufficiency of men to enable him to detail any for such duties; he however does not think they fall within his province. Assuredly no private individual has a right to require such assistance at the hands of the Police; unquestionably it is a matter of favor, and would not be granted if it would interfere with the public service. In England doubtless there are men who can be spared for light work of that description without, as a general rule, its materially interfering with their ordinary duties; and if in Madras the Force is so extremely limited, that not a single intelligent man can be spared for work of that description, I imagine there must be now, as there were formerly, a number of men whom the Commissioner frequently employs for extra duties, and whom he could recommend, who could be employed on payment for obtaining information required.

1. Communicated to the Acting Collector of Madras, in view to his affording the Government Pleader all the aid in his power for the purpose stated. The Madras Deputy Collector has probably the means of giving efficient aid in this and similar cases.

2. Communicated also to the Collector of the Kistna District, who should have sent the Government Pleader fuller information as to the parties whom he was requested to examine on behalf of Government.

3. Copy of Mr. Dale's letter will also be submitted for the consideration of Government, and for such Orders as they may think fit to pass to enable the Government Pleader to obtain all the information he may require in Government cases in the High Court as occasion may arise. Cases may doubtless occur in which the assistance of the Police may be needed for confidential inquiry.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.
„ G. Banbury, Esq., Acting Collector of Madras.
„ G. Thornhill, Esq., Collector of the Kistna District.
„ C. Dale, Esq., Government Pleader, Madras.

Exd. J. Wright.

Order thereon 3rd February 1864 No. 243.

Para 6 of Mr. Dale's letter to the Board of Revenue will be referred to the Judicial Department for consideration and orders.

/ True Extract /
Clerk
By Secy to Govt.

To The Judicial Department

Communicating letter from the Government Pleader intimating receipt of a letter from the Collector of the Kistna District requesting him to appear before the Small Causes Court and examine some witnesses to be examined there on behalf of Defendant in O. S. No. 103 of 1855, on the file of the late Masulipatam Civil Suit.

No. 745.

Dated 4th February 1864.

PROCEEDINGS OF THE BOARD OF REVENUE.
No. 351-

1864 Department.

Aug 4. 1864 Dept. H.

Mr. Wright of Feb. 1864
No. 243

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Referring for con- sideration to order para 6 of a letter from the Govt Pleader requesting the aid of the Pleader for obtaining information respecting the claimant's of certain witnesses, to enable him to appear before the Small Causes Court on behalf of Defendant in O. S. No. 103 of 1855 on the file of the late Masulipatam Civil Suit.

Referred.

Referred to the Commissioner of Police for report.

For Mr. George's February 24th

A. J. Cunningham
Chief Secretary

The Commissioner of Police.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following Papers.

Proceedings of Court in the Revenue Department (Here enter 8th February 1864 N^o 243).
From the Commissioner of Police — 10th — " — " — 28-1

Order thereon, 24th February 1864 N^o 243.

The Governor in Council directs that Lieutenant Colonel Wilson's letter be communicated to the Government Reader. —

2. The Government concurs in the opinion of the Commissioner that the employment of the Police in inquiries connected with civil suits is open to objection.

By the Commissioner of Police
Government Reader
Revenue Department

By

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Fuller & Co. 1864. Department.

No. 243

PROCEEDINGS OF GOVERNMENT.

Dated 24 February 1864

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