M.R. O. 1—20,000—16-1(-20.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 978 Press Mis.

25-26

Dated 4. 7. 1925 1864

4/5

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 4th July 1864.

No. 25. Read the following letter from J. G. THOMPSON, Esq., Acting Magistrate of South Canara; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Mangalore, 22nd June 1864, No. 17.

I have the honor to request the sanction of Government for the payment of a fee of Rupees 100 to each of the two persons who were employed as public prosecutors in case No. $\frac{78}{163}$ on the file of the Session Court of Mangalore.

2. It was a very complicated case, an attempt having been made to screen the original forgery by a series of other crimes. In fact, it was a string of five cases, brought together for convenience sake. The prisoners reached the Court in December; but from various causes the trial could not be begun till February, and was not closed till April 11th. Several of the prisoners are men of great wealth and influence, and some of them are public officers. I understand they spent large sums in the Taluq, as well as in the Court, where they employed six Vakils.

3. The Sub-Magistrate's record was of great length. After the public prosecutors had mastered it, they were confused by the prisoners' wholly changing their defence. They had to watch the case closely during several weeks, and were exposed to severe temptation during four whole months. On the way in which they fulfilled their trust, the following minute was recorded by the Court for communication to this office:—"The prosecution was conducted with great intelligence and patient care, "especially by T. Rangappa, the Court Inspector of Police. Every part of the record "was well mastered, and great pains were taken to bring every part of the evidence "clearly before the Court at the proper time. The prosecutors must have been ex- "posed to strong temptations to flinch from their duty, and the Officiating Session "Judge considers that they are entitled to a handsome fee."

4. The above fee is what Mr. Morris intended to propose. Some, at least, of the Vakils for the defence received much higher fees; and as the fee given in ordinary cases in this District is only Rupees 8, while Rupees 10 are allowed, the Government can afford to be liberal in exceptional cases.

5. Five of the prisoners were convicted, and sentenced to imprisonment and transportation for various terms. They have appealed, and the High Court* have called for the whole record of the case. The prisoners have retained both the Advocate General and Mr. Mayne, as well as a Vakil: and I venture to express a hope that the Government will see fit to retain a Barrister to support the conviction. That the prisoners are guilty there is no doubt, I believe, on anybody's mind; but the case is so troublesome that there is reason to fear they will escape if the Government do not interfere. Their release will in any case be a great injury to the District; and if it results from a neglect to support the conviction, it will be a heavy discouragement to the Magistracy and Police. It will strengthen the feeling which is so widely spread, that the law is powerless against the rich. The Government have interfered† once to prevent a failure of justice in this case, so that it will be felt that they, as well as the local authorities, have done their worst; and that they have been beaten simply by the wealth of the accused. It is not pleasant to me to ask the Government to support a conviction by myself, but I feel that I should be wanting in my duty if I did not.

* Present—Phillips and Frere, J. J.

† See the following letter addressed to you by Mr. Morris, on 15th March 1864, No. 6.

From G. L. MORRIS, Esq., Acting Magistrate of South Canara; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Mangalore, 15th March 1864, No. 6.

On the 9th instant I had the honor to send you the following —" Order Thompson " to keep the Sessions Court till he has finished an important forg[illegible] which has taken him " several weeks, to prevent a failure of justice and other mischief. Important evidence has just " come in, and the prisoners trust to a fresh trial. Answer quickly."

2. I am now informed by Mr. Thompson that the Government have been pleased to accede to my request, and whilst respectfully expressing my thanks for this mark of their confi[illegible] my judgment, I deem it but right to forward for their perusal certain notes, marked A, wh[illegible] been furnished to me by Mr. Thompson regarding the case in question, and which will not only show its intricate character and the difficulty which has hitherto attended its investigation, but will also explain what induced me to make such an unusual request.

3. I beg also to state that I should have written instead of telegraphing, if I had had any information before-hand that Mr. Walhouse would join the District so soon as the 13th instant. His ordinary time for doing so was about the 28th instant; and I had all along hoped that the case would have been finished before that date. When, however, I learnt on the 9th that Mr. Walhouse was really coming in a few days, and Mr. Thompson assured me that he could not possibly finish the case in that time, and that most important evidence had just been tendered, I felt that I had no alternative but to telegraph and accordingly did so.

4. I cannot at present say how much longer the case will take, but I do not imagine that it will be many days, now that the prisoners and their Vakils see that they will gain nothing by needlessly prolonging the trial.

A.

UDIPI FORGERY CASE.

1. There are sixteen Counts against the prisoners, who are fourteen in number, and two of whom are men of great wealth and influence.

2. Prisoners 1 to 9 are accused of forging a receipt and fabricating a bond for fraudulent purposes. They and prisoners 10 and 11 are charged with fabricating a second bond for the same purpose, after they had discovered that the first would bring them into trouble. The first four are, moreover, charged with fabricating a Hundi on prisoner 13, in support of the second bond, whilst prisoners 4 and 13 are accused of fabricating a receipt on that Hundi, and prisoner 13 is charged with concealing his own account books, and fabricating others in support of the said fraud.

3. The case was commenced in the Taluq in September 1863, and committed to the Session Court in December 1863.

4. The Sub-Magistrate's record contained 344 documents, some of them being books and accounts: and his Register of preliminary inquiries covered 26 folio pages.

5. He saw reason to take special pains to secure the delivery of the record into my own hands, and the District Magistrate appointed two special prosecutors to take charge of the case.

6. From what I had heard, I doubted if it was a case for a Criminal Court. I also knew that it would be necessary to attend to minute points of evidence. Hence I resolved to go carefully through the Register, myself, in the original. After five days' labor I found that no one could understand it, so I sent it back for a fresh version to be made. Several prisoners applied for copies of the depositions. Extra copyists were appointed, but it took a long time to make them: and then it was necessary to allow both the prosecutors and the Vakils for the defence a fair time to master the record.

7. When the case was ready for hearing, two of the prisoners were ill in Jail, so that the trial could not be begun till February 11th. The prisoners then admitted the execution of a document, and other things which before they had denied, and set up an entirely new defence. The result was that much of the Sub-Magistrate's record became useless; that both Prosecutors and Court were more or less confused; and that Native merchants had to be examined as to their mode

Proceedings of the Madras Government, Judicial Department,
4th July 1864.

of keeping accounts, and their way of doing so thoroughly mastered. The examination of some of these men took more than a day each.

8. From the beginning of the hearing, or soon after, the prisoners' Vakils resolved to delay the proceedings till the time came for me to be relieved. They tried to put long strings of idle, irrelevant questions to the witnesses, and though this was not allowed, so much time was spent in the discussion of the questions that they partly gained their point. The record contains many notes to this effect. One day one of the two Assessors stayed away, and the Zillah Surgeon refused to certify that he was sick. This was a trick. They hoped I should go on with one Assessor, as I have often done before: and that afterwards they might withdraw that one, and thus make a new trial necessary whether I was relieved or not.

9. They had everything to gain from a new trial. The witnesses were long under examination before the Sub-Magistrate, and have come three times to the Session Court. With every care to make their attendance as little irksome as possible, it was very burdensome to many, especially the merchants. It is very difficult to get evidence even once in a case like this; and it is much harder to do so a second time, for even if the witnesses were got together, they would be disinclined to give evidence again, and probably unable to depose exactly to the same effect. Every fresh delay, moreover, would deprive the evidence of part of its value. Besides, the prisoners would have heard the whole case for the prosecution, and would have an opportunity of setting up a still more ingenious defence. Further, the new Judge is a stranger to the place, the people and the language, and they might fairly hope that they might perhaps be able to deceive him.

10. I was so convinced of the mischief that would arise from success in such a trick as this, that on March 3rd I wrote a letter to the High Court, requesting them to ask the Government to order me to keep charge of the Court, without acting allowances, till I could get through the case, in case of Mr. Walhouse coming before that time. But afterwards I thought this was more than could fairly be expected of me, and did not send the letter. After this it was proposed that a telegram should be sent to Government and when I found that some most important evidence was being produced quite at the last, I advised that one should be sent.

(True Copies.)

(Signed) J. G. THOMPSON,
Acting Magistrate.

No. 26. ORDER THEREON, 4th July 1864, No. 978.

Under the circumstances represented in the foregoing letter, the Governor in Council authorizes the payment of a fee of Rupees (100) one hundred to each of the two persons who were employed as public prosecutors in the case therein referred to.

2. The Government concur with Mr. Thompson that it is desirable that a Barrister should be retained to support the conviction on the hearing of the Appeal which is being preferred to the High Court. They resolve to request that the Government Pleader, Mr. Dale, will undertake this duty.

(True Extract.)

Chief Secretary.

To the Acting Magistrate of South Canara.
" Government Pleader.
" Civil Paymaster.
" Accountant General.

Exd. J. Tulloch.

Judicial Department

Proceedings of the Madras Government

Read the following letter from the
Dy Magistrate of South Canara
(Rec'd 22d June 1864. No 1)

Ord. thereon 4th July 1864 No 978

Under the circumstances
represented in the foregoing
letter, the Governor in
Council authorizes the
payment of a fee of
Rs (100) one hundred to
each of the two persons
who were employed as
Public Prosecutors in the
Case therein referred to.—

2.—The Government concur
with Mr Thompson
that it is desirable that
a Barrister should be
retained to support the
Conviction on the hearing
of

of the Appeal which is being preferred to the High Court. They resolve & request that the Government Pleader, Mr. Dale, will undertake this duty.

/R

The
Ag Magistrate of S. Canara
The Govt. Pleader
The Civil Paymaster
The Accountant General

} despd 4/7

despd 5/7

[illegible] Depuis

[illegible] 1°. 978

[illegible] du 4 July

~~[illegible] 1611~~
~~1091~~
~~2305/66.~~
dated 4 July 1864.

25. 26.