M.R.O. 1—29,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1007 Press ~~Mis.~~

125-126.

Dated 20.7.1865 ~~19~~

6/7

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
20th July 1865.

No. 125. Read the following letter from J. ROHDE, Esq., Inspector General of Jails, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George ; dated Ootacamund, 3rd July 1865, No. 69.

Several instances having come to my notice of prisoners, undergoing their sentences in Jail, having been required before the Magistrates (on two occasions at considerable distances) to take their trial for offences of which they are suspected, I have the honor to suggest that when a prisoner imprisoned for an offence is charged with a minor offence before a Magistrate, other than the Magistrate sitting at the station at which the prisoner may be in custody, the hearing of the case shall either be postponed to the prisoner's release, or shall be transferred, for trial, to the Magistrate at the station at which the prisoner may be confined.

2. In one case, a prisoner, Periasawmy, sentenced by the Principal Sudder Ameen of Madura, was required by the Sub-Magistrate of Madura either to answer a charge, or give evidence. Captain Hankin returned the prisoner under custody, and the prisoner not having been sent back, inquiry was made for him, when it appeared he had, without authority, been received into the Zillah Jail, and had subsequently been transferred to Paumben.

3. It is, in my opinion, desirable that some check should be exercised in such cases, and that Magistrates should not call for the attendance of convicts to a distance, without previously satisfying themselves that the immediate attendance of such prisoner is necessary to the ends of justice.

No. 126. ORDER THEREON, 20th July 1865, No. 1007.

The Governor in Council is of opinion that it is not competent to the Government to control the Magistracy to the extent proposed by the Inspector General of Jails in the foregoing letter, that is, to require them, in the cases suggested, to transfer for trial all charges preferred at a distance from the Jail in which a convict is confined, from the jurisdiction in which the charge is preferred, to the Court of a Magistrate near the convict's place of confinement. Nor does it appear to His Excellency in Council that it would be expedient to apply to the High Court, on every occasion of the kind, to exercise the powers vested in them by Section 35 of the Code of Criminal Procedure.

2. If the Keeper of a Jail is duly informed that against a convict under his charge there has been formally preferred a complaint, accusing such convict of a more serious offence than that for which he has been punished by the imprisonment he is undergoing, the Keeper of the Jail should surrender him for further trial, at whatever cost or inconvenience to the Jail Officers. On the other hand, if the offence newly charged against such convict is of a minor character than that for which he is undergoing punishment, he should not be given up until the expiration of the sentence then being carried out.

(True Extract).

Acting Secretary to Government.

To the Inspector General of Jails.

Mad. J. E. Bursa.

Judicial Department

No. 69

From

J. Rohde Esquire

Inspector General of gails.

To

A. J. Arbuthnot Esquire

Chief Secy. to Government of

Fort St. George

Sir

Several instances having come to my notice of Prisoners undergoing their sentences in gail having been required before the Magistrates (on two occasions at considerable distances) to take their trial for offences of which they are suspected I have the honor to suggest that whenever a Prisoner imprisoned for an offence is charged with a minor offence before a Magistrate other than the Magistrate sitting at the station at which the Prisoner may be in custody, the hearing of the case shall either be postponed

to

Does Mr Rohde mean suspected whereas formally charged?

to the Prisoners release or shall be ... transferred for trial to the Magistrate at the station at which the Prisoner may be confined for that offence?

2 In one case a Prisoner Periasawmy, Sentenced by the Principal Sudder Ameen of Madura, was required× by the Sub Magistrate of Madura, either to answer a Charge or give evidence, Captain Hankin returned† the Prisoner under Custody and the Prisoner not having been sent back× enquiry was made for him when it appeared he had, without authority, been received into the Zillah gail and had subsequently been transferred to Pammben

3 It is in my opinion desireable that some check should be exercised in such cases and that Magistrates should not call for the attendance of Convicts to a distance without previously satisfying themselves that the attendance of such Prisoner is necessary to the ends of justice

I have the honor to be
Sir
Your most Obedt Servant

Inspr Genl of gails

Pobacammud
Off. of Inspr
Genl of gails
3d July 1855

Law of appeal and evidence
Right and Power of Criminal Court in the Mofussil to summon witnesses from a distance
Power of Sessions Judge to summon witnesses
36 & 37 Vict

× Is there any limit mentioned?

Is this complained of?

† by whom?

× Where? & what shd ought he to have been sent?

× He undoubtedly would in the ordinary course of law under the Police Act

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Inspector General of Jails.

Recd 3 July 1865 No 891

Order thereon 20 July 1865 No 1007.

The Governor in Council is of opinion that it is not competent to the Government to control the magistracy to the extent proposed by the Inspector General of Jails in the foregoing letter, that is, to require them in the cases suggested to transfer for trial all charges preferred

List of Convicts

25

Recd 3 July 1865

To The Chief Secretary to Government Fort St George

Sir

I have the honor to forward herewith a list of convicts who are now confined in the Jail at Cuddalore, and who have been committed for trial by the Police Magistrate of that station.

2. The Jail is now completely overcrowded, and I am anxious to get rid of as many prisoners as possible, and I therefore beg to suggest that the Police Magistrate be directed to commit for trial only those cases in which he considers that a conviction can be obtained, and that he be instructed to dismiss all petty cases, and to punish by fine or imprisonment under section 13 Act 33 of 1859 all persons who may be convicted of petty thefts, assaults &c.

3. The Police Magistrate of Cuddalore has been in the habit of committing for trial a large number of persons for petty thefts, assaults &c, and I have frequently had occasion to remark that the evidence against the prisoners was not sufficient to warrant their commitment, and that the cases ought to have been disposed of by the Police Magistrate himself. Of the 18 convicts now in the Jail, 6 were committed for petty thefts, 3 for assaults, and 2 for receiving stolen property, and I am of opinion that the evidence against 5 of these 11 prisoners was not sufficient to warrant their commitment, and that the cases ought to have been disposed of by the Police Magistrate himself.

4. I would also beg to suggest that the Police Magistrate be directed to commit for trial only those cases in which he considers that a conviction can be obtained, and that he be instructed to dismiss all petty cases, and to punish by fine or imprisonment under section 13 Act 33 of 1859 all persons who may be convicted of petty thefts, assaults &c, and I have frequently had occasion to remark that the evidence against the prisoners was not sufficient to warrant their commitment, and that the cases ought to have been disposed of by the Police Magistrate himself. Of the 18 convicts now in the Jail, 6 were committed for petty thefts, 3 for assaults, and 2 for receiving stolen property, and I am of opinion that the evidence against 5 of these 11 prisoners was not sufficient to warrant their commitment, and that the cases ought to have been disposed of by the Police Magistrate himself.

I have &c

(Signed) [illegible]

Inspector General of Jails

preferred at a distance from the Jail in which a Convict is confined from the jurisdiction to the Court of a Magistrate near the Convicts place of confinement. Nor does it appear to His Excellency in Council that it would be expedient to apply to the High Court on every occasion of the kind to exercise the powers vested in them by Section 35 of the Code of Criminal Procedure.

in which the charge is preferred

2. If the Keeper of a Jail is duly informed that against a Convict under his charge, there has been formally preferred a complaint accusing such Convict of a more serious offence than that for which he has been punished by the imprisonment he is undergoing,

the Keeper of the Jail should surrender him for further trial at whatever cost or inconvenience to the Jail officers. On the other hand if the offence newly charged against such Convict is of a minor character than that for which he is undergoing punishment, he should not be given up until the expiration of the sentence then being carried out.

C.W.

To the Inspector General of Jails. despatch

Extract.

Judicial 1865. Department.

No. 1007.

PROCEEDINGS OF GOVERNMENT.

F.R. 1659.
" 647/66.
" 1543/68.

Dated 20 July 1865

125. 12 0