M.R.O. 1—50,000—16-10-22.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1029 Press / Mis.

167-169.

Dated 24. 7. 1865 19 .

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***Not to be folded or roughly handled***

Read the following papers :—

No. 167. From MOHIZOOD DOWLAH NIZAMOOD DEEN HOOSSAIN KHAN BAHADOOR, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 4th July 1865.

With reference to the petition presented by me to His Excellency the Governor in Council on the 20th ultimo, I now beg to state, for His Excellency in Council's information, that the prosecution therein referred to, and which was pending in the Royapettah Police Court at Madras, has been withdrawn by me, in consequence of want of sufficient evidence for the prosecution. I have, therefore, the honor to request that my former petition to His Excellency the Governor in Council may not be acted upon.

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No. 168. From J. R. BOYSON, Esq., Government Solicitor, Madras, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 5th July 1865, No. 391.

I have the honor to acknowledge the Proceedings of Government noted in the margin, relative to the prosecution by Oomdut-ool-Moolk Bahadoor, of Shajee-ool-Moolk Bahadoor, and others, for forgery and false personation under Act XVI of 1864.

Dated 26th June 1865, No. 909A, 29th June 1865, No. 174A, and 30th June 1865, No. 928.

2. I submitted the matter for the consideration of the Advocate General, with whom I have also conferred; and,

3. I now forward a copy of his opinion.

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COPY—OPINION.

Before the prosecution of this case commenced, the Registrar General, accompanied by the Government Solicitor, had an interview with me, when I was put in possession of the facts. The Registrar General seemed to be under the impression that the case would be taken up as a matter of course by the Government; but it appeared to me that as there was a private party actually prosecuting, who had obtained the services of a Solicitor, Mr. Brockman, to conduct the inquiry before the Magistrate, it was not for the Government to intervene. The party injured was willing to proceed; and the case was not one in which the pecuniary interests of Government were in any way concerned.

2. I therefore advised that the case should be allowed to proceed in the course which it had already taken; but looking to the possibility of an attempted compromise, the accused and accusers being all related, and of high station in Mussalman Society, and having regard to the circumstance that this was the first attempt at fraud under the Registration Act brought to light, and that it would be desirable that the public should see that the Government would not pass lightly over such an offence, I requested the Registrar General to attend at the Magistrate's office, and watch the proceedings from day to day.

3. I have heard nothing more from him on the subject since.

4. From the first I was very doubtful whether the real offenders were before the Court. That the parties charged, or some of them, may have concocted the forged instrument, and abetted the false personation at the Registrar's office appears to me highly probable; but it does not seem to me likely that when they could hire others willing and ready to do the personating part, they would run any risk to themselves by appearing and making false affirmations before the Registrar.

5. Accordingly, I find that neither Mr. Ferrand nor the Moochee was able to identify any of the parties charged; whereupon the case necessarily broke down. Both these witnesses, however, seem to think that they can recognize the real offenders.

6. In event of any further information coming out, tending to affect the real culprits, I think that measures should be taken to enable Mr. Ferrand and his Moochee to say whether or not they are prepared to swear to identity, without arousing the suspicion of the parties. If identity can be proved, I think the case should be taken up *de novo* by the Government, and the offenders, if possible, be brought to justice. It is highly desirable that the public at large should see that the Government will not allow the Registration Act to be made a cover for fraud; though I do not think that the case should be drawn into a precedent for the institution of a Government prosecution in all cases: and I am quite sure that more harm than good is done by the interposition of Government, unless there is a reasonable prospect of securing a conviction.

7. I think that the Police ought to be put on the alert, with the view of tracing the persons who really were guilty of false personation before the Registrar.

8. I would add that had Mr. Ferrand followed the course pointed out for him by the Act, and personally examined Ghousia Begum at her house, the fraud could not have been effected.

9. I think the registry should be cancelled.

(Signed) J. B. NORTON,
*Advocate General.*

(True Copy).

(Signed) J. R. BOYSON,
*Government Solicitor.*

No. 169. ORDER THEREON, 24th July 1865, No. 1029.

Communicated to the Registrar General of Assurances, and to the Commissioner of Police.

(True Extract).

*Chief Secretary.*

To the Registrar General of Assurances.
" Commissioner of Police.

Exd. J. H. Burns.

Rec. 26th June 65 No 2074.
30 " " 2452446.
Pl. 28 " " 1764 & 2
" " " 26 R 239.

Judicial 1865. Dept.
From the Govt Solr. Madras
To The Chief Secy to Govt
(4)
Dated 5th July.
Rec. 6th
No 391.
one enclosure
No 1413

Forwards Copy Advocate General's Opinion relative to the Prosecution by Omdut-ool-Moolk Bahadoor of Shajee-ool Moolk Bahadoor and others for Forgery and False personation under Act XVI of 1864.

With an order

Ch b Lushy
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