

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1118	Press Mis.
84-85.	
Dated 12. 8. 1865 10	

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department

12th August 1865.

No. 84. Read the following letter from Mr. J. BAKE, a British subject of *not* Coimbatore, and now a Prisoner at Madras, to the Hon. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 9th August 1865. *Governor*

I beg respectfully to enclose a memorial from me to His Excellency nor in Council, and shall feel obliged by your laying the same before in Council, as early as you possibly can, and by your communicating to me His Excellency's directions thereupon, as early as practicable.

To

THE HONORABLE SIR W. DENISON, K. C. B.,

Governor in Council of Fort Saint George.

The humble memorial of J. BAKE, of Coimbatore, British subject and Timber Merchant, at present a prisoner at Madras,

RESPECTFULLY SHEWETH,

1. That your memorialist was committed for trial to the Sessions at Madras by the Magistrate at Coimbatore, on a charge of assaulting, or using Criminal force, to Police Officers on duty.

2. That your memorialist was tried upon such charge on the 8th and 9th days of August 1865 before Sir Adam Bittleston and a common jury, and that the jury after retiring returned into Court and delivered a verdict in effect as follows: "We find the prisoner guilty of a common assault on Chinnasawmy, under great provocation."

3. That the learned Judge who tried your memorialist remarked to the Jury that was not the charge against your memorialist, and his Lordship then read out the indictment, and also the Section of the Penal Code under which the indictment was framed, and suggested that the Jury should retire and reconsider their verdict, whereupon some of the jury, without any further communication with their brother jurymen, stated that they found your memorialist guilty of pushing Chinnasawmy when on duty, and that if that amounted to the charge of using criminal force to an official on duty, they found your memorialist guilty of using criminal force to Chinnasawmy on duty, but strongly recommended your memorialist to mercy, on the ground that he had received great provocation.

4. That His Lordship took time to consider the sentence he would pass upon your memorialist; and that your memorialist, an English gentleman, for a common assault for which in England he would have been fined a few shillings, had to go to Jail and remain in Jail all last night.

5. That this morning his Lordship passed a sentence of one month's simple imprisonment, and a fine of fifty Rupees on your memorialist.

6. That it was quite competent to the Magistrate at Coimbatore to have dealt with this case summarily, and your petitioner submits that the committing the case for trial to Madras was an extremely stringent and oppressive course—a course which has put your petitioner to most unnecessary and serious expense, inconvenience, and loss, which of itself is a severe punishment.

7. That your memorialist's wife has lately had a premature confinement, which was the result of a fright caused by the sudden rush into your petitioner's premises of a man named Francis, followed by certain of the Coimbatore Native Police and a crowd of Natives, one of such Police officers having been the person whom the jury found your petitioner guilty of pushing, and your memorialist's said wife is now lying dangerously ill at Coimbatore, as was spoken to on oath yesterday by Dr. Davis, of the Indian army.

8. That the only person who could and would afford her the attention requisite in her present delicate state is your petitioner himself, she having no female relatives with her, her only female relatives being her children, the eldest of whom is fourteen years of age, and has been obliged to leave her to come to Madras, for the purpose of giving her evidence on your memorialist's trial.

Proceedings of the Madras Government, Judicial Department,
12th August 1865.

there is nobody at Coimbatore who can and would attend to your memorialist's that he estimates his loss during his absence from Coimbatore at nearly one hundred and that a month's imprisonment would under the circumstances simply be his

9. Under these painful circumstances, your memorialist has no alternative but to appeal your Excellency's clemency, and to solicit the exercise of the power of pardon, or remission of the sentence of imprisonment on your petitioner, which the legislature has conferred on your Excellency in Council, under Acts XVIII of 1855 and XXV of 1861.

And your Memorialist, as in duty bound, will ever pray, &c.
MADRAS, 9th August 1865.

(Signed) J. BAKE.

No. 85. ORDER THEREON, 12th August 1865, No. 1118.

The Governor in Council declines to comply with the Petitioner's application for a remission of the sentence passed upon him by the High Court.

(True Extract).

A. J. ARBUTHNOT,
Chief Secretary.

To the Commissioner of Police, for communication to Mr. J. Bake.

Exd. J. H. Burns.

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The Honorable A. J. Arbuthnot
Chief Secretary to the Govern-
ment of Fort Saint George.

Honorable Sir,

I beg respectfully to enclose
a memorial from me to His Excellency
the Governor in Council and shall
feel obliged by your laying the same
before His Excellency in Council
as early as you possibly can and by
your communicating to me His
Excellency's directions thereupon as
early as practicable.

I have the honor to be
Honorable Sir,

Your most obedient and
humble servant.

J. Bake

drawn
1865

Mr. Peltener 500 M. & in default pay^t
2 was the imprisonment. Surely there is nothing
w^o called for the extreme measure of commitment
with H. and? - Just now, another European
British subject has been committed for "obstructing
a process". He was asked his name and
said "Lusson". This seems to have been
looked upon as the obstruction & commitment
fashioned, because he is a European Brit subject.
It strikes me that the operation of the
new code of civil Procedure being ~~obnoxious~~ ^{they},
the Government may properly consider whether
a remedy for the absurdities such as have
been mentioned above, is not necessary -
11 Aug^t WOL

Indict 1855-Deft.
from Pro. of Ang.
John Baker, admitted
Subject of Combatores
a Prisoner at Sea.

118

12th August 1865

Re: Baker

No 1708

Remanded as a person
sitting with the accused
- charges of his case, in
consideration of which
which a sentence of the
sentence passed upon
him.

with an order

118

W

W

the order

with an

order to the Court of Police for
communication to Mr. John Baker.

Sept 12

12th August 1865 No 1118
The former in Council declines to
comply with the Petitioners application
for a remission of the sentence
passed upon him by the High Court.
by

82-85

the before them, cannot well in dispute.
But I think that the position of the
case ought to be represented by the best
magistrate - There is a point in the course
in the law, that, what, as the Petitioner
alleges, fairly enough, was in England, but
in a point - some, liable, the fine of a
few shillings, and what way so the
punished here by a magistrate being a
Justice of the Peace (Reg. 2/20 embodying
Act 53 Geo III Cap 155 and also in a
beated) way, if the Magistrate chooses to
squeeze the charge so as to bring under
a section of the 3. Penal Code, he is an officer
for all only the Magistrate can award
punishment - In their case for an offence
the offence was a more serious but the person
charged was a person with a common law. It ought
with respect to have been disposed of under
Reg II/20, but it has been called by a
renewal of the same an offence - and the
Penal Code is brought. Whereas on it - Reg
Reg II/20 the Magistrate would have been fined.