M.R.O. 1—23,000—16-10-22.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1136 Press Mis.

125-126

Dated 16 . 8 . ~~19~~ 1865

9/10

Not to be folded or roughly handled

No. 125. Read the following letter from A. W. PHILLIPS, Esq., Acting Session Judge of Ootacamund; to W. HUDLESTON, Esq., Acting Secretary to Government, Fort Saint George, dated Ootacamund, 5th August 1865, No. 140.

In reply to the Proceedings of Government, dated 25th July 1865, No. 1031, and in pursuance of its order contained therein, I have the honor to re-submit the petition of one Lazarus, and to state that its previous submission through the Inspector General of Prisons was by direction of that officer.

2. I now forward with the petition a copy of the Calendar as requested, and a Statement of the case.

To His Excellency the Governor in Council.

The humble petition of LAZARUS JOSEPH.

Most Respectfully Sheweth,

That your Excellency's petitioner had been in the Public service for the last eight years, (the enclosed copy of testimonials will prove the fact) and has done the duties entrusted to him to the entire satisfaction of his superiors, with fidelity, integrity of character, and humility, and had been employed as writer in the Jail for nearly two years. In this place, he was unhappily accused of "breach of trust," and was sentenced to three years rigorous imprisonment, with a fine of Rupees 50, which has been duly handed over. The Assessors did not agree with the Honorable the Judge, yet the Judge over-ruling them thought it necessary to punish your petitioner by substantiating his crime by evidences taken from convicts, (a class of men on whom no reliance could be placed) an evidence of the kind never recognized in Courts of Justice. He further begs to state that his present punishment is too severe *one*, and that many who were in the High Court convicted for similar offence, were punished very slightly (such as confinement for nine months, &c.) and therefore he begs from the known benevolence of your Excellency's disposition, and he humbly throws himself at your feet, and hopes to experience that clemency which has so often extended to dry the tears of distress, either by relieving him from his present miserable position, or by mitigating his sentence of which has already put in 11 months.

2. Your Excellency's petitioner has four children, wife and a large circle of relatives who are all solely dependent on his earnings, and they are in consequence distressed very much by your petitioner's present separation, and he therefore humbly implores your Excellency's compassion to be extended to a miserable husband, and an unhappy father. And that concord may dwell in your Excellency's Councils, blessings await your family, and prosperity attend your ruling.

3. Your Excellency's humble petitioner, as in duty bound, shall ever pray.

(Signed) LAZARUS JOSEPH,
Prisoner, Ootacamund Jail.

Ootacamund,
8th June 1865.

No. 126. Order thereon, 16th August 1865, No. 1136.

The Government are not prepared to remit any part of the sentence passed upon the petitioner.

(True Extract).

Chief Secretary.

To the Acting Session Judge of Ootacamund.
" Inspector General of Jails.

Exd. T. O'Connor.

present punishment

Petucamund

5th November 1857.

I do hereby Certify that the bearer of this Lazarous Joseph has on several occasions been employed under me as a writer to which I am extremly happy to say that he gave me very great pleasure in the duties entrusted to his sole care.

(Signed) T. G. La Rive.

Assistant in Charge

Petucamund

punishment

Ootacamund
25th January 1860.

The bearer of this Lazarus Joseph has been the Writer attached to the Museum of this Station for upwards of three years and has conducted himself properly and now leaves in Consequence of my being made the necessity of reducing the pay of a writer who has but little to do in that Capacity

[Signed] David Rose.
Honorary Secretary to
the Committee of the Ootacamund Mu

Ootacamund

St. Thomé
December 31st 1860

Joseph the bearer of this note, is well known to me as a Native Christian of most respectable Character and family. He has been Writer in the Government Gardens at Ootacamund and has come to Madras on account of his wife. He writes a good hand, and is anxious to get employment in Madras. I can recommend him to any one who requires a Writer

[Signed] Thomas Dealtry.

punishment

Page 2

1865.

1865.

No. 14 of

Coonoor
26th June 1861.

Lazarus Joseph has served in this office for four months. He is an industrious man.

(Signed) A. J. Arbuthnot.
Director of Public Instructions

Octacamund
8th June 1865.

To

His Excellency the Governor in Council

The humble petition of Lazarus Joseph.
Most respectfully Sheweth.

That your Excellency's petitioner had been in the public service for the last 8 years (the enclosed Copy of testimonials will prove the fact) and has done the duties entrusted to him to the entire satisfaction of his superiors, with fidelity integrity of character and humility and had been employed as writer in the jail for nearly 2 years. In this place, he was unhappily accused of "breach of trust" and was sentenced to 3 years rigorous imprisonment, with a fine of Rs. 50 which has been duly handed over. The Assessors did not agree with the honorable the Judge yet the Judge overruling them thought it necessary to punish your petitioner by substantiating his Crime by evidences taken from Convicts, (a class of men on whom no reliance could be placed) an evidence of the kind never recognized in Courts of Justice.

He further begs to state that his present punishment

Calendar of persons tried before L. C. Innes Esquire — Sessions Judge of the Zillah of Ootacamund.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
No. of the case.	Name of the accused & description. Christian	Copy of the charge, or substance of the complaint.	Name of complainant.	Names of witnesses for the prosecution.	Names of witnesses for the defence.	~~Summary of the first proceedings~~ Statement of the evidence and grounds of conviction.	Finding and Sentence.	Date of offence.	Date of complaint.	Date of apprehension or appearance.	Date of commencing trial.	Date of sentence.	Explanation of delay.
14 of 1864	Lazarous Joseph	I, Venkatarasmiah, sub Magistrate of Ootacamund declare that there is hereby made against Lazarous Joseph the charge — 1st That on a date unknown about the 21st April 1864, Lazarous Joseph being then writer of the Native Jail at Ootacamund and being in that capacity then entrusted with a note of the currency of the Government of India, Madras circle, for 50 Rs. No. 3253, in part payment of a fine imposed upon John Salopa by the Joint Magistrate of Ootacamund, did commit criminal breach of trust in respect of the said Note, and that he has thereby	Kuppuswamy Said Govt. Pleader. Mahomed Said Prisoner.	John Salopa 1. Ratnum 2. Rama Pillai 3. Kyland 4. Sreeniva samurti Iyen 5. J. Moss. 6. Soobrow 7. Venkata Siri Iyen 8	Karuppen	Magistrate's office deposed that on the 21st March of this year one John Salopa was convicted in Case 23 of 1864 of the Joint Magistrate's file of theft from his master Mr. Maddon, and sentenced to one years rigorous imprisonment and to pay a fine of 70 Rupees or in default to undergo a further period of rigorous imprisonment for six	The Court differing from the Assessors finds that Lazarous Joseph is guilty of the offence specified in the first head of the charge Viz; that Lazarous Joseph on a date unknown about the 21st april 1864 being then writer of the Native Jail at Ootacamund and being in that capacity then entrusted with a note of the Currency of the Government of India, Madras Circle, for 50 Rupees Rs. 3253 in part payment of a fine imposed upon John Salopa by the Joint Magistrate of Ootacamund, did commit Criminal breach of.	21st April 1864	7th July 1864	9th July 1864	1st August 1864	2nd August 1864	

1. Prisoner pleads not guilty.
2. Subbarow clerk of the Joint

Lazarous Joseph
Prisoner

committed an offence punishable under Section 409 of I.P.C. and within the Cognizance of the Court of Session.

2nd. That on a date unknown about the 21st April 1864, Lazarous Joseph being then writer of the Native Jail at Ootacamund was intrusted by one John Salopa with two Notes of the Currency of the Government of India, Madras Circle, one for 50 Rs. No. 3253 and the other for 10 Rupees, No. 28027, and that he did commit Criminal breach of trust in respect of the 50 Rupees Note and in respect of 5 Rupees of the value of the 10 Rupees Note, and that he has thereby committed an offence punishable under Section 406 of the I.P.C. and within the Cognizance of the Court of Session.

And I hereby direct that Lazarous Joseph be tried by the said Court on the said charge.

(L.S.) (Signed) Venkataramaniah
Asst. Sub Magte.

monthes. He puts in the record of the case, which supports his statement. He further deposes that no part of the fine has as yet been paid.

3. It appears from the evidence of John Salopa 1st Witness, that his offence was stealing 100 Rs. Note from his master; he took it to the Taluq Cutcherry to change and obtained for it a 50 Rs. Note, two Notes for 10 Rs. and 30 Rs. in silver. That he then substituted one of the 10 Rs. Notes for the 100 Rs. Note which he had taken from his master, and being detected and 21 Rs. of the amount stolen being found on him and given up to his master, was sentenced in the manner deposed by Subbarow; that the other two Notes (for 50 Rs. and 10 Rs.) were hidden by him in the hem at the top of his trowsers through which the tape passes and escaped observation when he passed into jail, and that these trowsers were then taken from him with other articles of clothing belonging to him and kept in a box under charge of the Duffadar Karuppanan. That after he had been in jail a month, he told Prisoner Joseph who was then Jail writer that he had these two Notes in his trowsers which he wished to apply in payment of his fine, and Joseph ordered them to be got out, that they were taken out accordingly by Witness in presence of the Duffadar and a prisoner named Ramapillay whose occupation in the Jail is that of a ironmann. That the Duffadar then took him to the Office room in which Prisoner was and receiving the Notes from him handed them to the Prisoner who, on being asked to apply them in payment

trust in respect of the said Note and that he has thereby committed an offence punishable under Section 409 of the Indian Penal Code and the Court directs that the said Lazarous Joseph be rigorously imprisoned for three years and do pay a fine of 50 Rupees or in default that he be rigorously imprisoned for the further term of six months.

(Signed) L. C. Innes
Sessions Judge

of the fine, observed that they were of less value than the fine imposed; that Witness then mentioned that he had a ring belonging to him which might also be sold and applied in payment of the remaining amount and that Prisoner then promised that he would pay the amount in on account of the fine. That on the third and fourth days following that on which he gave the Notes to Prisoner he got 2nd. Witness Ratnam also a convict to write two chits for him to Joseph the Prisoner, in the former of which he begged him not to give any of the money to the Duffadar but to apply it in payment of the fine. In the second chit he requested that a part of the amount might be disbursed to him in the Jail for private expenditure. That he sent the former chit by 3rd. Witness, Ramapillay, who did not bring back any answer and delivered the 2nd. chit himself to Prisoner who promised to give him some money in a few days. That previously to his giving Prisoner the Currency Notes, he had received 1 Rupee from Prisoner on promise of repaying him from the proceeds of his rings, and after Prisoner received the two chits he paid Witness at different times 4 Rs. at the rate of a rupee at a time in presence of and through the Duffadar.

4. 3rd. Witness Ramapillay deposes to having delivered a chit for 1st. Witness to Prisoner Joseph, which the latter put in his pocket. He denies all knowledge of the removal of the Notes from the trowsers.

5. 2nd. Witness Ratnam deposes that he wrote two chits for 1st. Witness to Prisoner. He says that in the 1st. chit as far as he recollects it was mentioned that 1st. Witness had given two Notes to the Duffadar and the writer was requested to apply them in payment of the fine, and that on the second chit 1st. Witness requested that the 10 Rs. Note might be changed and the amount allowed him for private expenses. He says that the second chit was written at an interval of 10 to 12 days from the date of the first chit.

6. Mr. Innes, 6th. Witness, deposes that he is Keeper of the Native Jail of which Prisoner Joseph is the writer, and that no part of the fine imposed on John Salopa, 1st. witness, a convict in the Jail has been paid in by Prisoner Joseph. That the money payable for Jail Supplies is drawn,

by Prisoner; that in the month of May, he sent two notes each of 100 Rs to the Taluq Cutcherry to be cashed. They were given to him (witness) by Mrs Warburton (his mother-in-law) who wanted them cashed for Mr. Morgan. One was sent, he thinks, by the Prisoner Joseph on a date between the 16th and 19th May and the other about the end of May either by Joseph or one of the Jail servants. Did not in that month send any notes to be cashed except these that he had received from Mrs Warburton or what he received from the Taluq Cutcherry. The complaint of 1st witness was first brought to his notice by convict Charles Rozario and on learning through him as interpreter between him (witness) and 1st Witness what had taken place, he instituted an enquiry and then gave information to the Police and the Officer in charge.

7. 5th Witness Srinivása Murtiayen deposes that he is a Gumasta in the Taluq Cutcherry, is employed in the business connected with the treasury and has charge of the accounts (marked A) of receipts and disbursements of Currency Notes, which he produces. That on the 15th March 1st Witness John Salopa brought a 100 Rs note of the Bombay Circle No. 42,154 to be cashed and obtained in change for it 30 Rs in silver and three notes of the Madras Circle, one for 50, No. 3253 - one for 10 Rs No. 28027 and another for 10 Rs No. 19145. That on the 31st May Joseph the Prisoner brought the note No. 3253 to be changed on account of Mr. Syland, Head Warder of the European Prison, and received in change for it 40 Rs in silver and note 22,731 of the Madras Circle for 10 Rs, and next day (1st June) brought back note No. 22,731 for 10 Rs and the note No. 28027 also for 10 Rs, giving as before the name of Mr. Syland and received 20 Rupees in silver, in change. That the note 3253 presented on the 31st May and note 28027 presented on the 1st June are two of the notes that were given to John Salopa in change of the 100 Rs note. That on the 18th May a note for 100 Rs was brought by Mohomed Bandagi (warder of Native Jail) to the cutcherry to be changed for Mr. Mofs, and on the 31st another note for 100 Rupees was brought on account of the same person by the Jail Duffadar Karuppannen. That note 1,185 for 50 Rs with 50 Rupees in Silver was given in change for the former and note No. 10664 for 50 Rupees with 50 Rs in silver for the latter. That the note for 100 Rs was brought on the 31st May by the Duffadar before Prisoner brought the note for 50 Rs and that objections are made to cashing notes twice for the same person.

8. That with the above exceptions no notes were brought on account of Mr. Mofs during the month of May, nor were notes sent him from the Taluq Cutcherry in that month except those already mentioned. Silver was paid throughout the month of May in cashing the cheques drawn payable to Joseph on the Jail advance fund in deposit in the Taluq Cutcherry, as shewn by the chitta accounts B produced by witness.

9. 8th Witness deposes to having made the entries of the 31st May and 1st June in book A referring to the notes brought on those dates by Joseph. He is a Gumastah of the Taluq Cutcherry and is engaged jointly with 5th witness in the treasury business, when Prisoner brought the note on the 31st May he handed it to a peon who gave it to 5th witness who after examining it gave it to witness to enter. Prisoner said he had brought it for Mr. Syland.

10 5th & 8th witnesses depose that the entries in the accounts A & B were made contemporaneously with the transactions to which they refer.

11 Mr. Syland 4th Witness states that he did not give Joseph any notes to cash on or about the 31st May and 1st June nor did he authorize him to use his name.

12 The Prisoner's statement before the Sub Magistrate was read in evidence. The purport of it is that the notes taken by him to the Taluq Cutcherry on the 31st May and 1st June were given him by Mr. Mofs, Keeper of the Native Jail to be cashed and that as a note had been already cashed for Mr. Mofs on the 31st May and they refused to cash another note on the same date for the same person, he gave the name of 'Syland' instead of 'Mofs', Mr. Syland being then acting as Keeper of the European Prison; and that as one of the notes which he took on the 1st June was what he had received from the Cutcherry on the 31st May as for Mr. Syland, the name of Syland was again entered. He states that he has frequently told the Jailor, Mr. Mofs

of the request of the Defendants that the testimony given on the last trial of this cause may be read in evidence on the hearing of the motion now before the Court to dissolve the injunction heretofore granted herein, which motion is now pending and undisposed of, and it appearing to the Court that the said testimony was taken down in writing by the Stenographer of this Court, and that the same is now on file in the office of the Clerk of this Court, and it further appearing that the said testimony cannot be conveniently used on the hearing of said motion without the consent of the parties hereto, it is therefore ordered that the said testimony be and the same is hereby admitted in evidence on the hearing of said motion, subject however to all such objections as may be taken to the competency, relevancy or materiality thereof.

And it is further ordered that the Complainant have leave to file a supplemental bill herein on or before the 31st day of May next, and that the Defendants have leave to plead, answer or demur to the same within thirty days after the service thereof upon the Solicitors of record for the Defendants.

Dated this 18th day of May 1874.

(Signed) E. G. Jones
Circuit Judge.

Approved
E. G. Jones
Circuit Judge

Filed May 18th 1874
Wm. H. Bishop Clerk

Stipulation for the admission of testimony taken on the last trial of the cause.

Filed May 18th 1874
Wm. H. Bishop Clerk

Stipulation for the admission of testimony taken on the last trial of the cause.

Filed May 18th 1874
Wm. H. Bishop Clerk

Judicial

N:1687.

From the Acting Session Judge of
Ootacamund.
2/5: August 1865.

For Orders.

The Petr Lazarus Joseph took advantage of his official position to steal the note which the Petr Wife had received by stolen from his Master -

The offence was a grave one and Mr Fraser that it was committed by a man who seems to have held a respectable position before he obtained Employment as jail warder -

It seems to me that no sufficient reason exists for interfering with the Learned Judge (Mr Lewis) Sentence -

14 Augt.

I do certainly uphold

Enclosure 2

Jail Office
1865.

In a letter from the Acting Session Judge of Ootacamund dated 5th August 1865 No 140

Copy of Petition in Case No 1687 of 1864.

Petr No 1687.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Acting Sessions Judge of Vellore=

Dated Vellore 5 Augt. 1865. No. 140

Order thereon 16th August 1865. No. 1136.

The Government are not prepared to remit any part of the sentence passed upon the Petitioner=

To

The Acting Sessions Judge of Vellore.
" Inspector General of Gaols.

12 Nos.

Pro. 8th Augt.

Judicial 1865. Department.

No. 1136

PROCEEDINGS OF GOVERNMENT.

Dated 16 August 1865

125: 126