M.E.O. 1—39,600—16-12-22.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No.	1275	**Press Mis.**
32-74		
Dated	8 - 9 - 19 1875	

5/7

Not to be folded or roughly handled

No. 33. Read the following letter from F. S. CHILD, Esq., Session Judge of Cuddapah; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Cuddapah, 10th August 1865, No. 387.

I have the honor to acknowledge the receipt of Order of Government, No. 1072, dated 2nd August 1865, calling for any remarks I may have to make on a letter from the Magistrate of Cuddapah, dated the 12th July 1865, and which the Magistrate had informed me he had sent and showed to me.

2. It will be remembered that my letter of 29th April last was caused by a petition to Government, complaining of the difficulty experienced in lodging appeals against the decisions of the Sub-Magistrates.

3. At that time, there was no Head Assistant Magistrate or other officer, other than the Magistrate of the District and the Joint Magistrate, who had the power of hearing appeals, and as they were both more than 70 miles from Cuddapah, and further from other Taluqs, there was practically little power of appeal left to those who might consider themselves improperly punished by the Sub-Magistrates, particularly in cases of imprisonment.

4. As to the remarks of the Magistrate in the 4th paragraph, I am of opinion that where the power of hearing appeals, in those Taluqs in which the Principal Sadder Ameen hears all the Magistrates' cases, is given to the Principal Sudder Ameen, he alone would be the Appellate authority, in the same manner, as in the Taluqs in which the Head Assistant or Joint Magistrate exercises the powers of a Magistrate, they alone are the Appellate authority. At the same time the Magistrate of the District would have the same general authority in the Taluqs under the Principal Sudder Ameen as he always has in those under his Assistants; so that I did not contemplate any clashing of appeals, and do not understand why it should occur more in the one case than in the other.

5. It further appears to me that if the situation of the Taluqs as the one of Royachoty in the Sub-division, or the small number of Assistants, require that in certain Taluqs the Principal Sudder Ameen should try all Magisterial cases, the same causes require that in those Taluqs, appeals should be made to him against the decision of the Sub-Magistrate; for nothing can be more injurious than difficulty in lodging appeals or delay in hearing them. The Magistrate of the District always varies the Taluqs he places under the Principal Sudder Ameen, according to the number of his Assistants with full powers, so that when he feels he has sufficient Assistants, the aid of the Principal Sudder Ameen would at once be dispensed with, and he could then devote himself entirely to his Civil duties.

6. My letter of April 29th explained the circumstances under which the letter was written.

No. 34. ORDER THEREON, 8th September 1865, No. 1275.

The Government are of opinion that the objections raised by the Magistrate of Cuddapah to the Appellate power granted to the Principal Sudder Ameen of that District will be found in practice not to exist.

2. The difficulty that appeals would clash, if there were two Appellate authorities in one Taluq, would disappear on the Appellate authority being confined to one officer; and this, by adopting the arrangement to which Mr. Child alludes in the 5th paragraph of his letter, of the Magistrate varying the jurisdiction of the Principal Sudder Ameen, according to the number of his Assistants, may easily be managed. The Notification of Government has given the Principal Sudder Ameen Appellate authority only in the Taluqs in which he may exercise the powers of a Magistrate, and it is no doubt convenient that, as a rule, those powers should be vested in the same person. If, however, Mr. Smith finds that the system, after reasonable trial, does not work, he will be at liberty again to address Government on the subject.

(True Extract).

Chief Secretary.

To the Magistrate of Cuddapah.
„ Session Judge of do.

Exd. J. H. Burns.

Judicial Department

No. 1731

From the Sessions Judge of Cuddapah
Dated 10th August 1865

For Orders

In doubt the Asst Magistrate should have been consulted by the Sessions Judge, Mr Child, addressed the Sudr Ameen of Cuddapa the powers referred to are Section 412 C. Crim Proc. But on carefully considering the objections now urged by the Magistrate, Mr Smith, I am unable to ascertain that they are of any weight; and so long as the strength of the Sudr Ameen in Cuddapa is sufficient to cope with the requirements of the district, I would leave the P.S. Ameen in the Magisterial position already assigned to him, both as regards the hearing of original criminal cases & receiving appeals from the Sentences of the subordinate Magistrates.

There can be no clashing of appeals, as Section 420 of the Code Crim Proc: declares that the sentences passed by an Assistant Magistrate alone shall be appealable to the [illegible]

to the prevention of what the magistrate admits to be an "error" appealable if he exercises his power of general control, because the P.S. to whom a Memo of the names of complainants & accused in the case dismissed by him in appeal to the Sub Inspector with whom the Sessions anticipates that there may be a clashing of powers, and that the magistrate be directed to adopt a similar course in respect of the P.S. whom

It is for him to weigh the powers of the Magistrate to prevent the subject clashing by appeals to the Sessions - but when he states he has recommended that appeals against the finding - dismissals of the charges in question should have not already been appointed for examination before the P.S. - It cannot, of course be the intention to place the subordinate magistrate in practice in an appealable position over such cases as the P.S. of any district & our then command to immediately the trial subordinate as in these cases the whole charge should be to the Sessions Court.

I have the honor to be &c

of opinion either now, or after he has had experience of the present arrangement, be of opinion that with the means at his disposal, the cases of more serious as a magistrate trying appealable authority are not to be referred, the Post, I should say, would be glad to receive information & observations, in order that the P.S. & Sessions in a Court Duty may not confer the interruption to the work the Government have in view by this order

I have &c

Secretary

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter
from the Sessions Judge of Cuddapah.
Here under 10th August 1865 No 387

Order thereon 8th September 1865 No 1275

The Government are
of opinion that the objections raised
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to the appellate power granted to the
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To the Magistrate
— Session Judge of Cuddapah

Pro. of Sept.
Judicial 1865. Department.

No. 1275.

PROCEEDINGS OF GOVERNMENT.

Dated 8th September 1865.

73-74.
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