

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1459	Press Mis.
78-80		
Dated	13.10.1865	19

Not to be folded or roughly handled

10/11

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Proceedings of the Madras Government, Judicial Department,
13th October 1865.

Read the following papers :—

No. 78. From the Honorable D. ARBUTHNOTT, Magistrate of Salem, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Salem, 31st July 1865, No. 23.

With reference to Extract Minutes of Consultation, dated 10th June 1856, No. 591, conveyed in the Board's Order, dated 20th June 1856, I have the honor to report, for the information of Government, the following case of torture against a Head and Deputy Constable of the Salem Police.

2. House-breaking and theft was alleged to have been committed in the house of one Subbamal of Salem, on the night of the 23rd March 1865, and property, to the value of Rupees 1182-4-0, was said to have been stolen. The complainant and the Police suspected three persons, whom they pursued to Namgherry pett; but as nothing was found in their houses, after due search, the Police returned to Salem without arresting the suspected parties.

3. On the 30th March, the complainant deposed upon oath before the Salem Town Sub-Magistrate, and the Head Constable* of the Salem town obtained a warrant of arrest on the same date, and

* Narain Razu.

† 1. Venkatrama Chetty.
2. Rungiah Chetty.
3. Ramakistna Chetty.

proceeded to Namgherry pett on the 2nd April, and arrested three persons† on the evening of that day, when their houses

were duly sealed and secured. A search was instituted on the morning of the 3rd, and a piece of gold was said to have been found in the house of the 1st and 2nd prisoners, who were father and son.

4. The persons who were thus arrested were not forthwith produced before the Razipoor Sub-Magistrate, the Magistrate in whose jurisdiction the warrant of arrest was executed (Vide Section 84, Criminal Procedure Code).

5. The Head Constable, who was entrusted with the execution of the warrant of arrest, made another search on the 5th April, and most of the remaining stolen property was said to have been discovered in the house of the same 1st and 2nd prisoners, when a fourth party‡, the wife of the 2nd prisoner, was also arrested.

‡ Menachyammal.

6. The parties arrested were then produced before the Sub-Magistrate of Razipoor on the evening of the 6th idem, when Ramakistna Chetty, one of the number, made a confession of the alleged theft in Subbamal's house.

7. On the 7th, Head Constable marched the 1st, 2nd, and 4th prisoners to Salem, and detained the 3rd at Razipoor, under the warrant of the Razipoor Sub-Magistrate.

8. This Head Constable, Narain Razu, returned again to Namgherry pett on the 9th April, whence he wrote a letter to the Head Constable of the Razipoor station to send Ramakistna Chetty to him at Namgherry pett. He was accordingly sent out of

the Razipoor lock-up, without the knowledge and consent of the Razipoor Sub-Magistrate, in whose lock-up, and under whose warrant, Ramakistna Chetty was detained.

9. Ramakistna Chetty was detained at Namgherry pett till the 18th April, and was finally brought away to Salem on the 19th idem, without the orders or knowledge of the Razipoor Sub-Magistrate.

10. Ramakistna Chetty was produced before the Salem town Sub-Magistrate (the officer who issued the warrant of arrest) on the 20th, when he complained of the ill-treatment he had experienced from the Police; and that officer, finding marks of violence on his person, sent him to the Zillah Surgeon, who certified that, on examination, he found on his body abrasions of the skin—some healed, and some in the process of healing—and marks on both arms, as if he had been bound with ropes.

11. The Salem town Sub-Magistrate then began with the inquiry into the original case of house-breaking and theft, and, after a protracted inquiry, was about to dismiss it, being of opinion that it was false.

12. Mr. Jones, the Inspector of the Salem town, at this stage represented to me that he had closely watched the case from the very beginning, and that while it was a clear case, which would go to the conviction of the prisoners, the Sub-Magistrate was about to dismiss it. I then called for the proceedings held by the Sub-Magistrate, and, after a careful review of all the papers, was of opinion that the case was fabricated by the Police and the complainant. I accordingly directed the Sub-Magistrate to dismiss the case, discharging the prisoners.

13. I enclose my Report (A) on the case, for the information of Government.

14. In order to satisfy myself of the alleged ill-treatment of Ramakistna Chetty by the Police, I proceeded to Namgherry pett, where the torture was said to have chiefly occurred.

15. From inquiries instituted, I was convinced that torture had been inflicted, and I accordingly charged Narain Razu, Head Constable of the Salem Town, and Jeysing, Deputy Constable of Namgherry pett station, under Section 330 of the Indian Penal Code.

16. I enclose copy of my Register of preliminary inquiry (B), from which will be seen all the particulars of the case and my Report (C) on this case.

17. I also charged Narain Razu, Head Constable, separately, for maliciously keeping Ramakistna Chetty in confinement from the 2nd to the 19th April, and for disobeying a direction of law, in not producing Ramakistna Chetty, without unnecessary delay, before the Magistrate in whose jurisdiction he was arrested, under Section, 220 and 166 of the Indian Penal Code, respectively.

18. Narain Razu was first tried on these two heads of the charge by the Court of Sessions, and found guilty and convicted of the 2nd head, viz., "disobeying a direction of law," and was sentenced by the Court to pay a fine of Rupees 25.

19. The case of torture was next taken up. The prisoners were arraigned, and the case was opened by the public prosecutor, when the Counsel for the defence represented that, under the Proceedings of the High Court, dated 30th March 1863, the first prisoner could not be tried and convicted of torture separately, as he had already been convicted of the first charge, and that there ought to have been but one indictment. The Court, considering the objection to be a valid one, discharged the 1st prisoner, without any trial. The 2nd prisoner was also subsequently discharged.

20. I do not concur with the Session Judge about the applicability of the Proceedings of the High Court to this case. The two indictments against the 1st prisoner were for distinct offences; and the evidence for the prosecution was also of a different nature. I have, therefore, written to the Registrar of the High Court, requesting him to obtain the opinion of the Judges, as there appears to me to have been a failure of justice.

Report on alleged robbery in Subbama's house, Case No. 274 on Salem Town Sub-Magistrate's File.

At the request of Inspector Jones, I called for the proceedings in this case. It was urged by this officer that the case, although remarkably clear against the accused, was about to be dismissed by the Salem Town Sub-Magistrate.

2. The story of the complainant* is as follows:—1st, 2nd and 3rd prisoners were lodging in her house. These persons usually slept in the outer verandah of the house, and Subbama herself slept in a small room inside the

house, in which was a large box, secured by a padlock and a lock, containing jewels. On the night of 23rd March, complainant, Subbama, left this room, on account of the heat, and went to sleep in her cook-room.

3. On her way to the cook-room, she saw the three prisoners asleep in the inner verandah of the house, contrary to custom, but she asked no questions of them, nor of her cook, who, it appears, had admitted them during the night into the inner part of the house.

4. In the morning, the door of the room containing the jewels is found open, as well as the back door of the house.

5. The Police are now called in.

6. The large box in which the jewels had been kept is described as having had the padlock broken off, and then wrenched open by a crowbar or similar weapon. This was not produced before the Sub-Magistrate until 33 days after the alleged theft, and not till after it had been repeatedly called for by him.

7. I carefully examined this box in the presence of Inspector Jones, who pointed out the marks of crowbar or chisel used in forcing open the box.

8. These marks had plainly been put on the box open, as it was perfectly impossible to reach the said marks with any instrument whatever when the box was closed.

9. This circumstance appears to have cast no shade of suspicion on the minds of the Police; and they proceeded to make out a list of the missing jewelry with its value and weight.

*Proceedings of the Madras Government, Judicial Department,
13th October 1865.*

10. In her deposition, complainant stated that she gave the Police only the value of missing jewelry, and that the Police added the *weight*.

11. How they got this information does not appear, but there is the weight entered carefully in Pagodas, &c., in the list of stolen property furnished to the Sub-Magistrate five days after the alleged theft; the difficulty of weighing jewels they had not got probably caused this delay.

12. The houses of the prisoners were searched on the 25th March, but nothing was found. Another search was made on the 3rd April, and a lump of gold was found. This is flatly contradicted by Head Constable's report, in which he says the lump of gold was found during the search on the 5th, along with the rest of the property.

13. In consequence of confessions alleged to have been made by prisoners, a third search was made in 3rd prisoner's house on the 5th April.

14. This Head Constable, Narain Razu, 2nd witness, states in one part of his deposition that property No. 2 and 7 were found during the search on the 3rd, and this is borne out by his diary, 20th April. In another part of his deposition, he states that property, Nos. 2 and 7, together with Nos. 3, 4, 5 and 6, were found on the 5th April, and this is borne out by his report, dated 5th April, and the depositions of 10th, 11th, 12th and 16th witnesses.

15. This Head Constable in his report B, and in Mahazars C and D, and the witnesses 10, 11, 12 and 16, show that property, 3 to 7, were said to have been found tied in a bag; but the Head Constable, upon oath, states that No. 6 was produced by 1st prisoner from a room, and No. 7 by 2nd prisoner.

16. In the search on the 5th, complainant states that she was first searched by a woman, and that then, by order of Head Constable, she searched 4th prisoner. All the witnesses declare that no woman searched her, but that complainant was merely made to shake her cloth, before she searched 4th prisoner.

17. The Head Constable fixed on the complainant to search the 4th prisoner, whilst he must have been aware that she in fact was the most improper person that could have been selected.

18. On complainant searching 4th prisoner, a bag dropped from her ravaki or jacket. This bag with its contents made a bundle larger than a man's clenched fist. Some witnesses state that this bag fell from the 4th prisoner's arm-pit, some from her left, and some from her right side.

19. 1st witness (complainant) says that she does not know whether the bag fell down from 4th prisoner's arm-pit, or from her ravaki when untied. Head Constable (2nd witness) says it fell from 4th prisoner's ravaki. 12th witness says it fell from the left side, and 14th witness from the right side.

20. My opinion is that the bag in question was too big to have been contained underneath a woman's ravaki, which fits her as tight as her skin, and that in all probability it was dropped by complainant herself.

21. With regard to the contents of this bag, as has been already stated in paragraphs 12, 14 and 15, the Head Constable has given such contradictory statements in his reports and deposition, as to make his statements altogether unworthy of the slightest credit.

22. The complainant's (1st witness) statements are equally worthless. The marks on the box (mentioned in paragraphs 6, 7 and 8) must have been made either by the complainant or by the Police, and as far as the evidence for the prosecution is concerned, it is of no consequence by which of these two parties the marks were made. It is almost hopeless to attempt to follow complainant through all the lies she has uttered, but I must give one other instance of hardihood in lying rarely equalled.

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23. Complainant stated before Sub-Magistrate that in the alleged robbery she had lost the *whole* of her property. It, however, came out that, since the robbery, she had taken jewels out of pawn. She confessed to taking other jewels—but she swore the jewels were not hers—out of pawn, that she did not know to whom they belonged, and had not the smallest notion of the persons name to whom they belonged, &c—in fact she lied as a hardened liar only can, when driven to despair.

24. It is also to be observed that this complainant accompanied the Police during the whole time of the inquiry, and it was during the time she was present at 1st prisoner's house that the property was found, and 8th witness admits there were 30 people in the house at the time of the search.

25. With regard to the confessions, the 3rd prisoner stated that he was starved till he confessed, and beaten afterwards to make him produce jewels that he had not got.

26. As this alleged torture, as well as other irregularities committed by the Police, is now under inquiry, it is unnecessary to notice these points further at present.

27. I may remark that the confessions of the prisoners are at total variance with the statements of complainant and her witnesses.

28. Third prisoner before Sub-Magistrate of Razipoor confessed *too much*. He confessed stealing jewels he had not been accused of stealing. The complainant, however, never at a loss, immediately declared that she had lost these jewels also.

29. It is further to be observed that the house of 1st prisoner was searched on the 5th, in consequence of revelations made by 2nd prisoner. Now this 2nd prisoner had been in custody of the Police from date of *previous search* in this house. How came he then possessed of the information regarding the property being in the house at the time of the search on the 5th. It is not pretended that there was any elaborate concealment, so that the Police had been unable to find the property on the 3rd, but that from information of 2nd prisoner it was found on 5th by no means. On the 5th, the property literally fell into their hands.

30. I have already alluded in paragraph 24 to the manner in which this search was conducted, with a crowd of persons in the house, and amongst them the complainant.

31. On a careful review of the case, I can arrive at no other conclusion than this, viz., that the whole evidence has been manufactured by the complainant and Police, and that the confessions of the prisoners are utterly worthless, and have probably been extorted by the Police.

(Signed) D. ARBUTHNOTT,

1	2	3	4	5	6	7	8	9	10	11	12	13
Number of the Case.	Name of the accused.	Substance of the complaint.	Name of Complainant.	Names of witnesses for the prosecution.	Names of witnesses for the defence.	Summary of the facts proved or confessed.	Result of the inquiry.	Date of complaint.	Date of apprehension or appearance.	Date of closing inquiry.	Explanation of delay.	
1	Narain Razu, Head Constable, Salem Town. Jeysing, Deputy Head Constable, Namgherryppett.	That the prisoners between the 2nd and 20th April 1865, voluntarily caused hurt to the 1st witness (3rd prisoner in case No. 274, on the file of the Salem Town Sub-Magistrate) 1st, for the purpose of extorting a confession, and, 2nd, for compelling the restoration of property then said to have been stolen, and that they have thereby committed an offence punishable under Section 330 of the Indian Penal Code, and within the cognizance of the Court of Sessions.	Regina.....	1. Ramakistna Chetty. 2. Venkata Subaiyar. 3. Koneinayadu. 4. Gummuthi Chetty. 5. Aramudaiyan-gar. 6. Rahimankhan. 7. Pariyatumbec Pillay. 8. Lutche Am-mal. 9. Sellai. 10. Simi. 11. Pavai. 12. Muthupillay. 13. Kampapillay. 14. Attiyappan. 15. Muthuvora Chetty. 16. Ramachendriyan. 17. Viran. 18. Marudai. 19. Ammaiyappen. 20. Koti (toti.)	1. Varadappa gounden. 2. Pariyakkal. 3. Narasimma Naick. 4. Varadappa gounden. 5. Ramasami (Constable). 6. Wodachi. 7. Kuppasami Chetty. 8. Kandappa gounden, village Moonsiff. 9. Attiyappa gounden, village Moonsiff. 10. Vellameyavavuth. 11. Budugunayadu. 12. Subbama. 13. Peddi Chetty.	The 1st witness (3rd prisoner in Case No. 274) states that he was arrested by the 1st prisoner on the 2nd April, that he was detained in the Namgherryppett station till the 6th idem, where he was starved and kept without sufficient food; that he was then taken to Karadany and then to Razipoor where he was kept for five or six days; that he was afterwards brought to Namgherryppett, where he was beaten; that they put cloth round his arms and tied string round the cloth, and poured water; that on another night they beat with slippers; that he was so illused on 3 different nights, that his body was all swollen; that he was hand-cuffed and put in the stocks; that he was thus illused after he was taken before the Razipoor Sub-Magistrate; that insufficient food was given him both before and after he was taken to the Razipoor Sub-Magistrate; that when he was tortured, he made such a noise that the people round about must know all about it. 2nd witness states that 1st witness made no complaint of ill treatment. 3rd witness states that he wrote the Takeed A, upon	The case is committed to the Court of Sessions.	23rd May 1865.	23rd May 1865.			

one Manchiyammal complaining that prisoners were not allowed sufficient food; that the order was not to trouble the prisoners; and he made an inquiry on the evening of the 5th, regarding the alleged ill-treatment, and that the prisoners made no complaint; that he saw four prisoners in the lock-up; that the 4th prisoner was the woman who complained to him at Razipoor; that he asked nothing about her complaint, because prisoners made no complaint when he saw them; that the prisoners said they got their meals all right; and that his meaning of the word "Noerbundum" in the Takeed A was that they were not allowed their meals regularly.

4th witness states that on a Tuesday complainant (1st witness) was brought to his house for food; that one Policeman (5th witness) who brought him asked him to give food; that he refused; and that on being told the man was starving, he gave him some food; and that he received no payment for it.

5th witness states that he took complainant (1st witness) to 4th witness' house for food, and that he got his food there.

6th witness states that he did not see Ramakistna Chetty illused, but that he saw him kept in handcuffs by the Police.

7th witness states that when complainant was apprehended he was unwell, and did not know anything then, but now the Sub-Magistrate having ordered him to inquire from the neighbours, he was told by some that they had heard cries from the station.

8th witness knows nothing.

9th witness states that about a month ago on three nights, about 9 p. m., heard outcries from the station.

10th witness states that after the Pudu Putty Car festival, she heard a cry "Ayoh Sami" from the station; that she heard cries on three nights "Sami, they are killing me. Is the country desolate?"

11th witness confirms the statement of the 10th witness.

12th witness states that he heard a noise from the station crying out "Ayoh appa," and that he also heard the noise of a man being beaten; and that upon two other nights also he heard noise "Ayoh they are beating."

13th witness states that on three nights he heard noise "Ayoh appa" from the station, and that he heard at his house which is close to the back of the station.

14th witness states that about a month and half ago, he went with a complaint; that the 2nd Prisoner was in a house together with the 1st prisoner; that he came with the 2nd prisoner to the station shortly after; that the prisoners told they would inquire into his complaint in the morning; that as it was late at night he was allowed to sleep at the station; that about 4 o'clock in the morning, when he was roused up by the noise of the complainant (1st witness), he saw 1st Prisoner asking complainant (1st witness) to give up jewels; that 1st prisoner laid hold of the complainant's lock of hair, struck him 2 or 3 blows with his hands, kicked him, and dragged him to the inner room; that complainant then cried out "Ayoh my life is going;" and that he (witness) did not tell any body what he had seen, because the Sircar was doing it.

15th witness states that about a month and half ago there was a great rumour at Namgherrypett that Ramakistna Chetty was being beaten by the Police; that he asked the village Moonsiff of that place to report about it; and that he told, it did not concern him (witness) as he was a revenue servant.

16th witness corroborates the statement of the 15th witness.

17th witness states that Ramakistna Chetty (pointing out to the man) was with him in the Razipoor lock-up about 24 months ago, that he was one day taken to Namgherrypett, and thence brought back to Razipoor about four days after, about 6 p. m., when Sub-Magistrate was not in his office; that Ramakistna Chetty was put into the lock-up as he (witness) was that Ramakistna Chetty pointed out wounds on his back, and said they had been beating him; that he had marks on his back hip and thighs; and that his cloth had stains of blood.

18th and 19th witnesses corroborate the statement of the 17th witness.

20th witness states that Ramakistna Chetty (pointing out to him) was being beaten on a Tuesday night; that he took his bed in the station that night; that a Vellai also was sleeping there; that the Comptee (Ramakistna Chetty) was beaten with slippers; and that the 1st prisoner made water in his mouth. Prisoners plead not guilty.

The prisoners decline to state for what points their witnesses were cited. They also decline to ask their witnesses any questions.

None of the witnesses for the defence state anything to the point.

(Signed) D. ARBUTHNOTT, Magistrate.

C.

Remarks on Case of "Torture" No. 1 on District Magistrate's file.

1. In this case, Ramakistna Chetty, 3rd prisoner in Case No. 274* on Salem Town Sub-Magistrate's file, complained to that officer of having been beaten and otherwise illused by the Police. The Sub-Magistrate forwarded Ramakistna Chetty to be examined by the Zillah Surgeon. That officer gave a certificate (marked B) that the marks on complainant looked as if they had been produced in the manner stated by complainant, but that, as the wounds were all nearly healed, it was impossible to give a decided opinion.
2. Head Constable Narain Razu (1st prisoner in torture case), in his deposition before Sub-Magistrate, admits that there were marks on Ramakistna Chetty's body, and attempts to account for them by stating that a fight had taken place between complainant, Ramakistna Chetty, and another, regarding some plantains, which the former had stolen from the latter, and that certain marks, said to be marks of blood, on complainant's cloth, had been produced by the juice of said plantains. There is no evidence whatever of the truth of this story.
3. The Moonsiff denies any complaint being laid before him of the theft, nor is there any record of it at the Police station.
4. These facts having come to my notice, I resolved to make a personal inquiry; and accordingly proceeded (on 23rd May) to Namgherry, where the torture was alleged to have chiefly occurred. From inquiries made, I had no doubt that the complaint of torture was really correct; but the difficulty was to get those in the immediate vicinity of the Police station to speak out, and several of these witnesses spoke before me in a very reluctant way; but it must be remembered that these people are the poorest of the poor (such as charcoal burners, &c.), and were naturally afraid that the vengeance of the Police would at some opportunity fall on them, more especially as their houses are situated but a few yards from the Police station.
5. The 3rd witness (Konati Naidu, Police Inspector of Razipoor Division) admits that he received a complaint regarding the ill-treatment of the complainant and others, as regards an insufficiency of food; and of this he appears to have taken no further notice, than to write a Takeed, A, to Namgherry Deputy Constable, ordering him to allow the prisoners to take food at proper hours, and not to use "Neerbundum" or "Torture" towards the prisoners. Now if the 3rd witness did not believe the complaint, why should he write a Takeed forbidding "Neerbundum"? After writing this Takeed, he went next day to Namgherry, and did ask a question of the prisoners regarding their complaint; but on the question repeatedly being pressed on him by the Court, whether he considered he had done his duty in not asking the prisoners regarding their complaint, he said he did ask them, and that they expressed themselves satisfied. The conduct of the village Moonsiff (7th witness) of Namgherry has been most unsatisfactory. Since ordering the committal of the case to the Sessions, I have reason to believe that he was perfectly aware at the time of the ill-treatment suffered by complainant, and that both the Kurnum and Monigar of Namgherry remonstrated with him and asked him to interfere, but that he declined to do so. I have therefore ordered the attendance of the Namgherry Kurnum and Monigar at the Sessions, to enable the Court to examine them if it sees fit.
6. I regret now that I did not examine the witnesses for the defence; but after closing the case on the prosecution side, and ordering the committal of the case, I felt doubtful whether I could do so. There being no legal proof against the 3rd, 4th, 5th, and 6th prisoners, they are ordered to be released.
7. The 1st and 2nd prisoners declined to make any statement, and also to state what points their witnesses were called on to speak to, but as they lodged money to cover expenses of these witnesses, I did not refuse to summon them. In conclusion, I must remark that throughout this inquiry, I have been opposed by the Police, who have taken on themselves the defence of the prisoners.

(Signed) D. ARBUTHNOTT,
Magistrate.

Referred to the Inspector General of Police, who will report what steps he may have taken, or may take, with reference to the charges against the Head and Deputy Constable in question.
FORT SAINT GEORGE,
15th September 1865.

(Signed) A. J. ARBUTHNOTT,
Chief Secretary.

No. 79. From W. ROBINSON, Esq., Inspector General of Police, to the Honorable A. J. ARBUTHNOTT, Chief Secretary to Government, Fort Saint George; dated Kotagerry, 26th September 1865, No. 1911.

In reply to the reference of Government, dated 15th instant, on the letter of the Magistrate of Salem, dated 31st July, I have the honor to state that the Inspector of the Division in which the suspected torture occurred has left the service. The Head Constable, has been dismissed, and the Deputy Head Constable, who was exonerated from all share in the alleged torture by the plaintiff, and acquitted by the Court of Sessions, has been transferred to another station, as were all the Police Officers of the station at which the alleged offence occurred.

2. The case was committed by the Magistrate as against the Police officers only, and failed. It is unnecessary to go into details; but the facts which transpired in the Court called forth from the Bench most severe and just strictures on the conduct of one Sub-Magistrate at least. The report submitted to Government does not show that the Magistrate has taken due notice of his supineness and illegal procedure. But for his conduct, the opportunity of committing the alleged offence could not have occurred.

3. I venture on this occasion to draw the attention of Government to the principle involved in an appeal of this nature. I have dealt with those whom the Magistrate suspected in this case with severity—about which I admit I have felt some reluctance—because I am unwilling to retain (even although the Sub-Magistrate was so greatly in fault) in the Service men who are suspected of resorting to illegal practices, and because I believe that there is some foundation for the suspicion. But I think that when a Magistrate has submitted the conduct of a public servant to a Judicial tribunal, where, after a fair trial, he has been acquitted, the prisoner is legally entitled to the benefit of the verdict; and that the Magistrate should as a rule accept this decision, especially if one of acquittal. This is clearly the lawful course. It is the one I generally follow, and I believe is in consonance with the wishes of Government, in respect to the management of their servants by Departmental officers. I do not think that Policemen should be exempted from the application of this just principle.

No. 80. ORDER THEREON, 13th October 1865, No. 1459.

Judging from the papers before them, the Government consider that the inertness of the Razipoor Sub-Magistrate afforded the opportunity for the abuse of authority which has been brought to light and punished, and they resolve, therefore, to call on him, through the District Magistrate, for such explanation of his conduct as he may be able to offer.

2. The Magistrate will send up this explanation to Government through the Acting Session Judge, who, in forwarding it on to Government, will have an opportunity of offering any remarks on it that he may wish to make.

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3. The Government do not consider it necessary to call on the Inspector General to take more severe notice than he has done of the conduct of the Police; but they approve of the Magistrate having brought the matter to their notice. The Standing Orders of 10th June, and 2nd August 1856, have never been cancelled.

4. The Government do not understand the Session Court's reason for dismissing the charge of torture, and resolve to call on the Session Judge to send up his Proceedings to Government, with copy of the Order of the High Court on which they are said to have been based.

(True Extract).

Acting Secretary to Government.

To the Magistrate of Salem.

„ Inspector General of Police.

„ Session Judge of Salem.

Ed. J. H. Burns.

case from the very beginning and that while it was a clear case which would go to the conviction of the prisoners the Sub Magistrate was about to dismiss it. I then called for the proceedings held by the Sub Magistrate and after a careful review of all the papers was of opinion that the case was fabricated by the police and the Complainant. I accordingly directed the Sub Magistrate to dismiss the case discharging the Prisoners.

13. I enclose my report (A) on the case for the information of Government.

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15. From enquiries instituted I was convinced that torture had been inflicted and I accordingly charged Narain Rayu Heor Constable of the Salem Town and Jeyasing Deputy Constable of Namghurypett station under Section 330 of the Indian Penal Code.

16. I enclose copy of my Register of Preliminary enquiry (B) from which

will be seen all the particulars of the case and my report (C) on this case.

17. I also charged Narain rayu Head Constable separately for maliciously keeping Ramakistna chetty in confinement from the 2nd to the 19th April and for disobeying a direction of Law in not producing Ramakistna Chetty without unnecessary delay before the Magistrate in whose jurisdiction he was arrested under Sections 220 and 166 of the Indian Penal Code respectively.

18. Narain rayu was ^{tried on these} first two heads of the charge by the Court of Sessions and found guilty and convicted of the 2nd head viz "disobeying a direction of law" and was sentenced by the Court to pay a fine of Rs 25.

19. The case of Torture was next taken up. The Prisoners were arraigned and the case was opened by the public prosecutor when the Counsel for the defence represented that under the Proceedings of the High Court dated 30th March 1863 the first Prisoner could not be tried and convicted of Torture separately as he had already

been convicted of the first charge and that there ought to have been but one indictment. The Court considering the objection to be a valid one discharged the 1st Prisoner without any trial. The 2nd Prisoner was also subsequently discharged.

20. I do not concur with the Session Judge about the applicability of the Proceedings of the High Court to this case. The two indictments against the 1st Prisoner were for distinct offences and the evidence for the prosecution was also of a different nature. I have therefore written to the Registrar of the High Court requesting him to obtain the opinion of the Judges as there appears to me to have been a failure of justice.

I have the honor to be
Sir,

Your Most Obed^t Servant

W. H. Mott

Magistrate

Shankar

*May will
not find*

*Don't know
this order -*

Judicial.

N^o 1670.

From The Magistrate of Salem.
Dated 31st July 1865.

N^o 2065.

From The Inspector General of Police
Dated 26th Sept 1865.
For Orders.

It appears to me that the Inspector General of Police has done all that is necessary. I do not see that more is required.

I do not quite appreciate Mr Robinson's remarks in the last paragraph of his letter. As far as I understand the Magistrate's report, the Head Constable was not acquitted of the charge of torture after an enquiry on the merits - but the charge was dismissed as against him without investigation or grounds which certainly do seem somewhat curious. Such an acquittal should not prevent

Referred to the Inspector General of Police, who will report what steps he may have taken or may take with reference to the charges against the Head and Deputy Constable in question.

Wm. Smith Esq.
15th Sept 1865

H. J. Cunningham
Chief Secretary.

Mr Com: 13th June 1865 - 24th July 1865
Mr Com: 28th August 1865 - 29th Sept 1865
Vol XXV of 1861

From the
Magistrate
of Salem
1865

To the
Chief Secretary
to Government
at St. George's

Dated 31st July 1865
Received at St. George's

24th 23
Enclosure Three

N^o 1670

Respecting for
the information of
Government on a case
of torture by a Head
and Deputy Constable of
the Salem Police.

Referred

Recd 15th Sept 1865
15th Sept 1865

23rd July
1865
29th

him from further consequences, not prevent
R. Major but from bringing him pre-
-sented.

But all the fault does not seem
to lie with the Police. The conduct
of the Rajpore Sub Magistrate who
allowed the 3d Prisoner to be detained
in his lock up for six days after the
rest of the prisoners ^{had started} and then let the
Police take him away & do as they
liked with him, should not pass
unnoticed - It may be well to call
for the proceedings of the Session Court
in the matter.

3.10.65

After reading these papers my impression
is that no more robbery can take place at all and
that the woman Subbarnal has been a willing tool
in the hands of the Police. - In fact, Mr Robinson's
Police Constables in this matter, have just done

910
what our old Police men have done before
them; & I have no doubt that much of the same
kind of thing is done ^{even now} all over the country though,
to save themselves from the measure of attendance
at a Magistrate's Court House, people will not
complain, and prefer to suffer.
Stett, Mr Robinson has acted against the
Prisoner Narsim Razvi who has been dismissed;
and, by transfer to another district, where he
has taken of the supposed complicity with Narsim
Razvi, of the same person. - We cannot interfere
otherwise than by calling on Mr N to punish the
latter more severely; but for that course I feel
no reason - I would have let that matter rest.

The man mainly to blame in all that appears
to have occurred, is the Rajpore Sub Magistrate,
who, by derelict mismanagement has afforded an
opening for this illegal detention & dragging from
one lock up to another, of the Prisoner who is
alleged to have made a confession. - I shall
Mr Sub Magistrate should be required to explain
his conduct - and perhaps if he can what at present
lies strongly against him.

The Acting Session Judge appears to have thrown out
the most serious of the three charges, on Prisoner's
Counsel raising a plea founded on an order
of the High Court of ^{Madras} January 1863. I don't know
the order referred to - but must have been

passed when I was in
 England on privilege leave.
 I don't at all appreciate
 the course taken on it by
 the of. upon receipt of letters
 and would call for this
 S. Combs - per: as proposed
 & Mr. Fyfe's; - but it will
 save time & confusion if
 the Sub Magistrate explain what
 is done & the Dist. Magistrate
 through the of S. Combs who
 was, in sending, on, offering
 any other that appears
 to him to be unnecessary
 with reference to what the
 Sub Magistrate may say -

As to Mr. Robinson's 2nd
 para: - the Dist. Magistrate seems
 to have made his point
 clear to the Govt. in conformity
 with an order still in force
 of 1856. I consider
 justified in so doing.
 Mr. R. has probably overlooked
 that order - *W.D.*

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following Papers
 From the Magistrate of Salem — There enter 31st July 1865 N^o 23
 " Inspector General of Police — " — 26th Sept: 1865 N^o 1911

Order thereon 13th October 1865 N^o 1459-

Judging from the papers
 before them, the Government consider
 that the niceties of the Rajipore
 Sub Magistrate afforded the oppor-
 tunity for the abuse of ^{authority} office
 which has been brought to light
 and punished, and they resolve
 therefore to call on him thro' the
 District Magistrate for such ex-
 planation of his conduct as he
 may be able to offer.

2 The Magistrate will send
 up this explanation to Govern-
 ment thro' the ~~Inspector General~~
~~Inspector~~ ^{Magistrate} ~~of Salem~~ ^{of Salem} ~~who is~~
~~that Mr. Robinson~~
~~may have an opportunity of~~

*Mr. Phillips suggests
 that it be done
 by the Magistrate
 through the Secy
 Secy Judge*

that in the proper course the records was made

offering

Ms. 2984/185

offering any remarks on it that he may wish to make.

3 The Government do not consider it necessary to call on the Inspector General to take more severe notice than he has done of the conduct of the Police - but they approve of the Magistrate having brought the matter to their notice.

4 The standing orders of 10th June and 2nd August 1856, have never been cancelled.

5 The Government do not understand the Sessions Court proceedings in dismissing the charge of Torture - and resolve to call on the Session Judge to send up his proceedings to Government. In a copy of the order of the High Court. They are said to have been based on.

4.10.

To the Magistrate of Salem
--- Sup: Genl. of Police
--- Session Judge of Salem

Oct 14/60

Card of Testimony by
Salem Pledge

(5)

Mr. G. B. A. B.

Madison 1865. Department.

No. 1459.

PROCEEDINGS OF GOVERNMENT.

Attest 2210-2328.

2435.

Dated 13th October 1885.

78e.800