M.R.O. 1—38,000—16-10-28.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1753 Press/Mis.

65-66

Dated 7-12- ~~19~~ 1865

24/25

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 7th December 1865.

No. 65. Read the following:—

To the Honorable the Governor in Council,
Fort Saint George.

The humble petition of KISTNA PILLAY, son of VYAHPOORIAH PILLAY, aged 39 years, merchant by profession, residing in the Taluq of Cusbah Tinnevelly, Zillah of Tinnevelly.

Sheweth,

I most respectfully beg leave to suggest, for the information of your Lordship in Council, that regarding the offences committed by the Mufty Sudder Ameen and others, I presented to the Government a petition of plaint No. 2609 of 1865, together with 21 documents, on the 8th May of the said year. This petition of plaint was admitted according to Sections 2 and 24, Act No. XXXVII of 1850.

2. The petition of plaint so admitted was referred to the High Court, Appellate Side, for disposal under Section III of the above Act. Your Lordship in Council also issued to the said Court Orders Nos. 1089 and 1473 of 1865 for inquiry at two different times.

3. While so, the High Court did not admit the Orders and Act aforesaid, stating that the Government have no authority to pass the above orders. On this subject, I presented to the Government a petition of plaint at a third time, and they passed an Order, No. 1941 of 1865, on the 26th September of the same year, that I need not represent the circumstances to them.

4. For cancelling the subsequent Order so passed, and confirming the previous Orders, and the above Act, I prepared a petition of appeal to the address of Her Majesty in Council, and submit herewith three bundles thereof.

5. Of the three Orders mentioned in the said appeal petition the subsequent Order only is enclosed in it, but the previous two Orders are not so done. For, I gave twice Memorandums to the High Court for granting me copies of the said two Orders, but that Court declined to do so. On this account, I presented twice to the Government Memorandums on the 2nd ultimo, and 10th instant, and they also refused to give me the copies, or an endorsement.

6. Consequently, Regulation declares that it is customary with the Government to receive the appeal petition presented against the order, and to submit it to Her Majesty in Council.

Therefore, I humbly solicit your Lordship in Council will be graciously pleased to order three copies of the said Orders, Nos. 1089 and 1473 each to be prepared, and to submit them with the said appeal petition to Her Majesty in Council.

And your petitioner as in duty bound, will ever pray.

25th November 1865.

Proceedings of the Madras Government, Judicial Department, 7th December 1865.

No. 66. ORDER THEREON, 7th December 1865, No. 1753.

Resolved, that petitioner be informed, that the Government must decline to transmit his Memorial to the Secretary of State, for the same reasons which precluded the admission of his petition, No. 1941, dated 30th August 1865, viz., those contained in paragraph 7* of the revised Rules respecting petitions, published in page 653 of the *Fort Saint George Gazette*, 1st April 1859.

2. The enclosures received from him will be returned.

(True Extract).

Chief Secretary.

To Kistna Pillay, with enclosures returned.

Exd. T. O'Connor.

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*7. Petitions will not be received by Government *regarding any matter which forms the subject of Judicial Proceedings in a Court* or which properly falls within the jurisdiction of the Courts, or containing complaints relating to the Administration of Civil and Criminal Justice, in cases in which another mode of obtaining redress is open to the complainant under the Regulations, and in which by the Regulations a Subordinate authority is competent to pass a final decision.

To

THE RIGHT HONORABLE

SIR CHARLES WOOD, KT. G. C. B.,

Secretary of State for India.

THE HUMBLE MEMORIAL OF KISTNA PILLAY,
SON OF VYAPOORYAH PILLAY, MERCHANT,
RESIDING IN CUSBAH OF TINNEVELLY
TALUQ, ATTACHED TO TINNEVELLY ZILLAH.

MAY IT PLEASE YOUR LORDSHIP.

That on Memorialist's Appeal to the Madras Government regarding offences committed by four of its Officers, as shown below, the said Government admitted the said Appeal agreeably to Act numbered XXXVII, Sections 2nd and 24th of 1850, and according to the said Act, 3rd Section, transferred the case to the High Court for inquiry *twice*, upon two orders, Nos. 1089 and 1473 of 1865. The High Court *twice* rejected the said two orders of Government, and declared the said Act an incompetent standard by which to order it to obey and countenance the said Act referred to. That owing to the said rejection of the High Court, Memorialist submitted a third Petition in the said matter. The Government without considering the point of the High Court's disobedience to its orders, and its own deviation from its former orders, refused to interfere any further on Petitioner's behalf on the 26th September, No. 1941 of 1865. That in order to cancel the said last reply of Government and to put in force the former orders of Government and the direction of the said Act, this Memorial is submitted on the causes, and their records below specified.

Particular offences of Mufty Sudr Amin passing order on receipt of Bribe, viz:—

1st. The Mufty Sudr Amin included Memorialist in Suits Nos. 18 and 19 of 1860 as 2nd Defendant therein, and attached Memorialist's property, when Memorialist was not a person any way interested in the documents filed in the said Nos.

2nd. The said Mufty Sudr Amin subsequently exonerated Memorialist from the said Suits, but refrained delivering his said property valued at Rupees 3,403-12-0 which were carried off and left at the Court for disposal.

3rd. He declared that the property of the 2nd Defendant, your Memorialist belonged to the 1st Defendant, notwithstanding her assertion to the contrary, she being a strange caste woman and an enemy of your Memorialist, and decided that as it belonged to her it should be appropriated as payment to the Plaintiff to whom she owed the amount.

Particulars of the Civil Judge's violation :—

1st. His having erroneously passed an order regarding the three above shown offences, and dismissing it without attending to Memorialist's Summary Appeal.

The decision passed by Kistnasamy Iyen, Principal Sudr Amin, viz :—

That on the face of Memorialist's said Regular Appeal, No. 26 of 1861 in Original Suit, the said Principal Sudr Amin having considered the said four offences, declared three of the Mufty Sudr Amin's and one of the Civil Judge's to be erroneous and passed his decision in Memorialist's favor.

The particulars of the Acting Civil Judge having passed an erroneous order through recommendation, viz:—

That for the purpose of reversing and withholding Memorialist's property, the said decree of the said Principal Sudr Amin, the said Civil Judge issued a subpœna to a person who was not nominated in the Original Suit, and secondly received his evidence, who feigned to represent one who was dead a year ago, and admitting such an one's evidence, and who was fined ten Rupees by the Court, and reversing the original decree of the said Principal Sudr Amin.

The particulars of the offence done by the Civil Court's Sheristadar upon the evil persuasion of my opponent, viz:—

1. That on the High Court (Appellate side) in Special Appeal No. 513 of 1863 having sent for the records of the case from the Lower Court, the said Sheristadar therein withheld forwarding certain important documents to the said High Court.

In all seven infringements on the Acts and Regulations by four Officers of Government passed with impunity making the printed Acts and Regulations of non effect or avail.

2. That regarding the said transactions, Memorialist submitted a special Appeal to the High Court, No. 513 of 1863, which was rejected without being looked into by the High Court. Memorialist subsequently submitted a review Petition, No. 58 of 1864, which was given a hearing by the Honorable Mr. Phillips, the then Judge of the High Court, who thereby detected the infringements and examined certain documents, the necessary documents were however not found in the records of the case. Imagining Memorialist submitted a false statement, he had a stop put to the proceedings of the said Court.

3. That these required documents were withdrawn from the record stealthily by the Sheristadar of the Civil Court and kept hidden. Owing to those documents not being found, Memorialist proceeded to the Zillah got and brought them on stampt papers to enable them to be admitted. Memorialist likewise submitted two Petitions within the limited time and subsequently another—these said Petitions the Registrar of the High Court endorsed without submitting them to the Judges and returned them to Memorialist on the 6th March 1865.

4. That the said Petitions and the documents bearing figures 2, 3 and 4 are enclosed. From having no Act for appealing to, inquiry became deficient in the High Court—consequently the violations were left undecided.

5. In the above said Act it is declared in the 2nd and 4th Sections that the faults done by Officers nominated by Government, ought to be represented to Government. Agreeably to the said Sections, the seven faults shown in the 1st para. of this Petition with the plaint with 21 documents were submitted to Government on the 8th May 1865 which is mentioned in the Petition No. 2609 on which is exhibited the figure 5.

6. The Government looking into the plaint, &c. and the Petitions figured 2, 3 and 4 returned them, finding out that there was deficiency in the High Court's inquiry, admitted the said offences and the High Court's competency for inquiring into them according to the Section of the said Act.

7. That the Government which admitted the offences from not having power personally to inquire, transferred the matter to the authority to which it pertained according to the said Act, 3rd Section in No. 1089 of 1865, directing the High Court to inquire thoroughly into the matter, which enclosure bears the figure 6.

8. That such Order of Government the High Court disregarded, whereon Memorialist submitted another Petition No. 3588 of 1865—thereon the Government sent a letter to the High

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Court accompanied again with the said Act in No. 1473 of 1865, to inquire thoroughly into and terminate it, on which Petition, &c. are figures 7 and 8.

9. That thereupon the Honorable Judge Holloway of the High Court declared in open Court that the Government was not competent to order, nor the said Court to attend to such order, nor to follow the dictation of the said Act—this was on the 3rd August 1865. Thereon Memorialist petitioned the said Court again to examine the right of Government sending the said orders with the said Act and Sections and requesting them to conform thereto. Even that Petition was endorsed and returned as "inadmissible;" that Petition bears the figure 9.

10. That again Memorialist submitted another Petition to Government, No. 1[illegible] 1865 bearing the said endorsement thereon, and which was at variance with former orders of Government,—they replied on the 26th September 1865 as follows:—"Government declines interference on Petitioner's behalf any further;" they are figured 10 and 11.

11. The disobedience of the said Court to the overruling orders of Government not being reflected upon by Government, and the Government moreover wishing to deviate from its former orders, and afterwards to unite itself with and connive at the faults of the Court, without inquiring into the violation is not justice. Further it is not known why the said Act was at all enacted and printed having no power in itself—of what benefit can it prove?

12. Memorialist is a merchant residing 500 miles from Madras. For the last 22 months he is at Madras without having had justice being meted to him; thereby, including the amount in dispute, he has sustained a loss equivalent to 10,000 Rupees by neglect of trade.

13. Memorialist therefore fervently solicits your Lordship to cast a pitying eye on the enclosed 11 documents with their replies, and to forward an injunction to the Madras Government to annul the Order, No. 1941 and send a letter to the High Court as has been already sent to it in Nos. 1089 and 1473 of 1865, and according to the said Act, 3rd Section, which is applicable to the offence of the case mentioned in the 5th para. No. 2609 to have the matter enquired into and settled consonant to the tenor of the said Act, 5th Section—otherwise to have the neighbouring Zillah Court Judge nominated as a Commissioner for enquiring into the offences referred to in the said case No. 2609.

14. For which compassionate and just proceeding, heaven will reward your Lordship and Her Majesty, whose Secretary your Lordship is ten thousand fold.

25th Nov. 1865

Of the 3rd as mentioned in the said appeal the subsequent order only ~~is~~ enclosed ~~to~~ it; but the previous two orders are not so done. On this account I presented twice to the Government memorandums on the 2nd and 10th Ultimo, and they also refused to give me the copies or an Endorsement.

I therefore presented to the Govt. a Petition on the 25th instant requesting to order Copies of the said orders No. 1089 & 1473 to be prepared & transmitted with the above appeal.

No. 3.

Petition to the Secretary of State for India.

The documents numbered in this Petition are 11, out of which 9 are enclosed and the rest 2 are with the Govt.

Recd. [illegible]
Ink 2700 of 65 – No. 2559

To

The High Court of Judicature
Appellate Side
Madras

High Court Special Appeal No. 513 of 1863

The Special Appellant Krishna pillay begs to present this Memorandum on the Decree of this Court dated 7th March 1864 on the following grounds and upon four deeds which failed to produce before.

The Decree in the said Special Appeal states that the evidence of the 1st and 2nd Witnesses is a ground to the Suit. On the hearing of a Civil Petition No 58 of 1864 presented against the said Decree on the 20 June of the said year, the Judges of the High Court wanted proofs for the said 2d Witness having fraudulently personated himself, but they were not found among the record. Thereupon the Judges ordered me to bring the same. Accordingly I brought the 5 documents from the Lower Court mentioned hereunder and which I request to be taken into Consideration.

I It is in Contravention to the rules of Judicial tribunals, the Civil Judge to admit and examine this Case whilst it is asserted in the 14th and 15th Paras of the Original Decree that the Moofty Sudder Ameen was favorable to the Deft. and when the 2d and 3d Defts have approved that the disputed property solely

solely belonged to the Pltff.

II It is said under the 19th Para of the Original Decree that a portion of the disputed property in question amounted to Rs 56 has been restored to the Pltff. But it is against the Rules of Darmasastra to declare that the remaining property belongs to the 1st Deft without giving it to the Pltff as the other portion.

III Under the 20th Para of the Original Decree it has been proved by the deed marked K that the 1st Defendant and the Pltff are quite different Castes and also the former has been a Pauper. It is also plain by the Razeenamah that the Rs 4000 which the 1st Deft obtained by her Pauper Suit, have been paid to certain Creditors named Seenah Pillay and Moottyah Pillay and also this deed has been signed by the Defts. While the matter being so it is misrepresented and passed a wrong judgment upon the aforesaid assertions under the 9th Para of the Appeal Decree.

IV It is against the Decree of the former Sudder Court Special Appeal No 2 of 1856 to disbelieve the signatures of the Defts by an oral evidence and also contrary to the Petition given to the Lower Court not to examine any witness upon this matter.

V The 1st Witness have declared that the Rupees 4000 which the 1st Deft obtained by her Pauper Suit and which was afterwards in deposit, was paid to Seena Pillay &c.

V It has been proved by the marked A written

written by the Village Curnum that the said Seenah pillay lived at Gingee and an

VII But it is against the said deed A Warrant was issued to one Seenah pillay living at Tinnevelly and this false and personated witness may be proved by the deed B.

VIII Even the personated Seenah pillay has contrarily deposed that he is a native of Sungara Nayanar Covil Talook and his name is Shungara-Narayana pillay, in consequence of this false evidence he is fined to pay Rs 10.

IX By the Deed C it may be proved that the 2d Deft is always in the habit of personating false witness.

X It may be known by the Deeds D & E that the 2d Deft is a perfidious and fraudulent man and also the 2nd Witness is one falsely personated by the Civil Judge without paying attention to this witness & his attestation has passed an ~~ad~~ judgment. Therefore the Petitioner for the foregoing reasons humbly solicits this Honorable Court to send an Order to the Lower Court to examine the wife of genuine and true witness Seenah pillay mentioned in the Deed C. and also to examine another Creditor Moottiah pillay who did not appear for the Warrant issued from the Civil Court of the District

18th Sept }
1864 } (Signed) Krestnapillay.

The Court was under an adjournment at that time, it was given on the 20th October 1864

The High Court of Judicature
Appellate side
Madras

The humble petition of
Krishnapellay Defᵗ in the
Appeal Suit Nos 186 & 210
of 1862 and Special Appˡ
of the Suit Nº 513 of 1863-

A Honored Sirs,

The Petitioner's Special Appeal is dismissed entirely, by the evidence of the 2nd witness examined by the Civil Judge - Altho the Review Nº 58 of 1864 on the said Decree was rejected on the 20 July. Yet the Petitioner humbly submits this Review to your Honorable Court and Confidently believes that your honors will issue an Order to punish the 2nd false witness -

It is quite evident by the Deposition of the 2nd witness and other four new deeds marked A, B C D that the 2d Witness is false and personated for one deceased, and for this treacherous act no punishment was inflicted on the said Witness though the Petitioner presented a Petition on this matter to the Lower Appellate Court - Therefore the Petitioner humbly

In Nº 2610/65
Petition presented to
the High Court

S. A. - Nº 513 of 1863-

First Review (C. P. Nº 58/64
was dismissed on the 20ᵃ
June last -
This is a 2d Review.

T

In Nº 2290 of 1865-
Refused with reference to
Sec. 378 of the Code of
Civil Procedure
(Sigd.)
20-10-64

List of documents filed
with the Appeal Petition
to Her Majesty in Council
Nº 2
Enclᵒ 2700 of 65-

humbly solicits Your honors to peruse the said new deeds and according to the rules of the Criminal procedure and to the Sec. 205 Act XXV of 1860 of Penal Code to punish the 2d false witness by the Lower Appellate Court to issue an Order to the Lower Court favorable to the matter -

18th Sept 1864 - (Signed) Kristnapillay

The Court was under an adjournment at that time, it was given on the 20th October 1864 -

கிருஷ்ணபிள்ளை

Su No 2610/63
S.A. No 513 of 1863
Revd Review Pn No 32 of 1864
was rejected on the
20th June last -
this is a 2d Review

T

Su No 1090 of 1860
Refused with reference
to Sec 378 of the Code
of Civil Procedure
(Sg) H.D.P.
20-10-64
Affixed Petition
No 3
Indexed 270 Pts -

To

The High Court

Appellate side

Madras -

Memorandum presented by Kristnappillai Appellant in Special Appeal No. 513 of 1863 of the High Court begs leave to present this memo. against the order passed on the hearing day in the presence of the chief justice Honorable Sir C. H. Scotland and the Honorable H. D. Philips -

1st. Kristnasawmy Iyer the P. S. A. has passed a decree in favor of this Appt. and stated in the 14th & 15th para of the decree that the 2d & Defts. had accepted the claim of the Appt and that the Mufty Sudder Ameen had encouraged this case on receiving a bribe -

2d The Civil judge without observing the above facts, served a Warrant on Seenah pillay who died a year ago and examined a person called Sunkaranarayana pillay as 2d witness, who was fraudulently brought before the Court in the place of the deceased and although the judge has fined him 10 Rs for having deposed falsely, yet he adjudged on his sole evidence against the Appellant -

3dly. The Appt. Specially appealed to this Court in S. A. No 513 which this Court dismissed relying on the same evidence.

4th A review petition was subsequently filed in this Court but the justice H. Philips ordered the Appt on the 20th June 1864 to prove through documents that the 2d witness was produced fraudulently -

5th On the Court being told that the documents were

were included in the Records, the Moonshee was ordered to seek for them, but when the Moonshee gave a negative answer, the Court adjourned the case without acceding to my prayers conveying an idea that my statement was false-

6th As the above documents were not forwarded from the lower Court the Applt. has been to Tinnevelly and returned with copies of the documents and presented them on the 20th of the last October in this Court together with two Petitions, one praying to punish the 2d witness who appeared in the representation of another person, and other to remand the case to the lower Court for re-examination -

The Appellant has now learnt that though 3 months & 20 days have passed since that period, yet the officers of the Court have not brought out the five documents and two Petitions and he in consequence sustains a loss of 4000 Rs. value of the suit. He therefore prays the Court to investigate the matter and to order the above documents & Petitions to be filed and post them for hearing in the Court-

(Signed) Kistnapillai.

The Applt. informed regarding the disturbance occurred by a decree in the said S. A. No. 513. About 100 Inhabitants of Tinnevelly petitioned the Govt. on the 11th Novr. last, that the Petition bearing endorsement is forwarded to this Court, and that the said Inhabitants are engaged in litigation after sending a petition on the very date to the said Court-

7th March
1865-

(Signed) Kistnapillay

To

The Right Honorable the Governor
in Council
Fort St George

The humble Complaint made by Krishnapillay son of Vyahpuriah pillay aged 39 years merchant by profession residing in the Taluk of Casbah Tinnivelly of Zillah Tinnivelly under Sections 2 & 24 Act XXXVII of 1850, against Syed Magootha Habeeua Sahib in the year 1860, Civil Judge, Mr J. H. Goldie, Acting Civil Judge, Mr J. H. Blair in the year 1862 and Acting Sheristadar of the Civil Court Venkatasawmy Naiker who contrary to Regulation have thrown obstacle to my obtaining justice –

Humbly Sheweth,

That I beg leave respectfully to inform your Lordships in Council that I have suffered a loss of about 7000 Rs. To prove these under mentioned 7 offences I present this Petition to your Lordships in Council together with public documents on stampt papers – On the date in which the Deputy Sudder Ameen received from the Plffs. in Suits Nos. 18 & 19 of 1860 on the file of his Court, and he issued very day a Notice to me 2d Deft. therein,

Inst No. 2700 of 65 –

Petition presented to the High Court

In No. 2610/65

V

In No. 1090 of 1865

Refused a second application for review can be received under Sec. 378 of the Code of Civil Procedure

(P.) W 6 - 3 - 65

Appeal Petition No. 4

therein, that officer also ordered my property not connected with the disputed documents to be Zufted - The Exhibits marked A B C D E & F are to prove the above matter - It is provided by Clause I Sec- II and clause I Sec- V Regulation II of 1811 that the property of the party not concerned in the documents is not to be Zufted. The proceeding held against them by the Mufty Sudr Ameen is an offence.

2 By the said order the property of my own valued at Rs. 3403-12- was taken from my house and this will be proved by the record mentioned in para 13, page 6 of a printed Copy marked G.

Afterward a diary order was passed relieving me (2d Deft) from liability of the said Suits and a decree passed adjudging the Pltff to pay me the costs incurred by me - This will be proved by the Exhibits marked H I & J - The Mufty Sudr Ameen without restoring to me the said property so Zufted retained it in his Court, a proceeding is opposed to the Section 84 of the Civil Procedure Code

3 When I petitioned in the Mufty Sudr Ameen's Court marked K & L, requesting to restore me to the said Zufted property, either the Pltff or the 1st Deft in the said Suits Nos 18 & 19 did not file in a Petition of plaint nor did he prefer a regular Suit against me - This is known to that officer but showing his influence to them, that authority sent for certain witnesses and took down depositions from them, and passed Summary order directing the 1st Deft to receive the said property - This

Appeal Petition No 4

This will be proved by paras 15 & 14, Page 6 of the said printed Copy marked G, and also it is evident by the 9th Para of the document marked M, and that and the 1st Deft were indispute - The proceeding held by the Mufty Sudr Ameen is contrary to Sec- 88 of the Civil Procedure Code and to a Regulation preventing the estate of a person from being given to another and the Sudr proceedings dated the 21st April 1860

4 Against the Summary Order I presented an Appeal Petition to the Civil Judge who rejected my petition marked N - The proceeding so held is contrary to Section 85 of the Civil Procedure Code

5 Afterwards I made a Regular Appeal No 26 of 1861 to the Principal Sudr Ameen of Kristnasawmy Iyer cancelling the above orders and to recover for me the said property - This officer passed a decree in my favor declaring the above proceedings are not just. To prove the said decree is evident by the document marked G -

6 Against this an Appeal Suit was preferred by the adverse party wherein the then Acting Civil Judge attempted to examine the witnesses not named in Original Suit - This is contrary to Sec- 355 of the Civil procedure Code and to the Page 243 of a decree of Sudr Court in 1860, and to a decree of the said Court in Special Appeal No 2 of 1856 -

7 On the contrary the Acting Civil Judge examined Witnesses, of whom Seenah pillay who received Money from the 1st Witness Vencatachella Chetty died a year before - The deceased having

having lived at Gingicoondan Village is proved by the Exhibit marked O - On the contrary a Warrant issued for producing Seenah pillay of Tinnevelly being returned is proved by the Exhibit marked P. - Against this a man personated before the Court deposed as 2d Witness that he is a resident of Sungaranoynar Covil and that he is Sungara-narayana pillai - This will be proved by the Exhibit marked Q - This 2d Witness was assumed as if he is the deceased Seena pillay and the Original decree set a side - This will be proved by the said Exhibits 3 and by para 7 Page 11 of the above said printed copy marked G - This proceeding was fraudulently held against the Section 350 of the Civil procedure Code and Courts practice -

8 From this I appealed Specially in No. 512 of 1863 to the High Court Appellate side - On this, the Sheristadar Venkatasawmy Naicker of the Civil Court sent record of the case to the said Court, but he suppressed the Petition marked R, sent in by me and the document marked P, above stated in the 7th para - Out of regard for the opponent party - This will be proved by a list of documents now in the Record of the High Court. This act is a fraudulent design and contrary to Regulation and Sec. 313 of the Civil Court procedure

9 After the High Court dismissed my Special Appeal the then Honorable Mr. Justice Philips who heard my Review Petition on the 20th June 1864 for enquiry into the matter of a man who personated himself asked the officer of the said Court for the document mentioned in the said para 8 hereof, and he said that it is not forthcoming - Consequently the Special was dismissed.

10 Afterwards I went to the said Zillah brought the said documents & 2 Petitions and produced them in the High Court on the 20th October 1864 - After this I petitioned the said Court many times till 6th March 1865 to look into them, but no justice was done to me and returned them - This will be proved by the Exhibits marked S T & U.

Therefore I most humbly pray your Lordship in Council after considering the 3 faults of the Moonsiff Judee Ammin receiving bribe, having ordered my property valued at Rs 3403-12-" to be given to a man who has no right to it, 1 fault of the Civil Judge having admitted them, & 2 faults of the then Acting Civil Judge having named a man instead of the deceased examined him, and overlooked the justice passed by a authority, and 1 fault of the Civil Court's Sheristadar having suppressed my material documents, will be graciously pleased to examine the case under Regulation, and pass an order.

And your Petitioner as in duty bound

Madras
8th May
1865

Shall ever pray

Signed Kristnapillai

List

கிஷ்டிணாபிள்ளை

List of the Exhibits produced.

Nos	
A & B	Notice of the Mufty S. A. Court in Nos 18 & 19 of 1860
C & D	Disputed docts
E & F	Zuft Precept
G	Decrees of the printed Copies
H & I	Diary of the Mufty S. A. Court in Nos 18 & 19 1860
J	Decree in No 19 of 1860 do
K & L	Petitions given by the Petitioner of do
M	do given by the 1st Deft in the Session Court in No 159 of 1857
N	do given by the Petr in the C. Court
O	Attachee given by the Curnam of Genge-Condan Village
P	A Warrant issued in the C. Court for the Witness.
Q	A Deposition given by the 2d Witness before the C. Court.
R	Petition given by the Petr in do
S T & U	do do in the High Court

Total Exhibits 21

N. B. The Case was conducted on its merits before the judicial authority upto 6th March 1865. This will be proved by the Exhibit marked U. This occasioned delay for bringing to the information of your Lordship in Council and therefore I make this complaint to them this day.

8th May
1865

கிருட்டிணபிள்ளை

Signed Krishnapillai

A Petition forwarded to the Government
Dr 12069 of 1860

[illegible] Pillai
[illegible]

Inst 27006 [illegible]

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13 ~~12~~

To

Trans 4473 of 1865 28/

The Right Honorable the Governor
in Council
Fort St George

The humble Petition of Kistna
pillai son of Veahpuriah pillai
aged 39 years Merchant by
profession residing in the
Taluk of Cusbah Tinnevelly
of Zillah Tinnevelly –

Shewcth,

The printed Copy of Act XXXVII of 1850 is submitted herewith.

1 That the 3 faults of the Mufty Suder Amin having received bribes ordered my properties valued at Rs 3403 – 12 – " to be given to a Woman who has no right to it – 1 fault of the Civil Judge having admitted them, 2 faults of the Acting Civil Judge having named a Man instead of the deceased, examined him, and overlooked the justice passed by a authority and 1 fault of the Civil Court's Sheristadar having suppressed my material documents not forwarded to the High Court in all 7 offences.

2 The said 4 judicial authorities have contrary to their oaths passed decrees. To enquire into this matter the Govt having power to enquire into it is shown by Sections 2 & 24 Act XXXVII of 1850 above stated. Thinking this act to be true I presented to the Govt a Petition of Complaint together with 21 public docts on the 8th May last.

3 The Petition &c above said presented to the
Govt

Government were forwarded by them to the High Court on the 13th instant requiring them to enquire on the subject thereof under Section III of the above Act.

4 Without filing them in the said Court, and shewing the same to the Judges, the Deputy Registrar and the Sheristadar keep them in the record only. Whileso, they both told me on the 24th Instant to present in a Memorandum withdraw the Suit, and to take back the said Petition on which no endorsement is made. This matter I represented to the Registrar who also without consider the matter told me that I should not come to the Court, but in so doing I would be fined, and then ordered a Peon to push me out.

5. Thus the Registrar of the High Court has treated me. I am a merchant, but have lo been in waiting at Madras. I have suffered a loss of 7000 Rs.

Therefore, I most humbly solicit your Lordship in Council will be graciously pleased to ask the High Court whether or not a decision is passed in this Case under an order of the Government dated the 13th Instant, and to render me justice.

And your Petitioner as in duty bound will ever pray

28th June }
1865 }

(Signed) Hisrua pillai

To

The High Court of Judicature

Appellate Side

Madras

Memorandum presented by Kistnapillai son of Venkaperiah pillay Zillah Tinnevelly.

1 The offences committed by the Mufti Sudr Amin and 2 others against Law are 7- On this, I presented to the High Court Appellate side a Petition for review to consider the offences in a Case of Civil Nature and another Petition to the said Court to award punishment to the witness who personated the deceased and gave evidence, but the two Petitions, without being filed were returned to me on the 6th March last with endorsements thereon, and they are marked S-T. & U. - whereby the offences were not decided-

2- Sections 2 & 24 Act XXXVII of 1850 declare that a Complaint of Petition should be presented to the Govt. regarding the offences committable by authorities. Accordingly, I have put in, a Petition on the 8th of May last together with 21 documents including the said 3 Exhibits-

3 The Govt. who admitted the said Petition forwarded a letter to the High Court on the 13th June last for a final disposal of the Case under Sec. 3 of the above Act-

4 As the said letter was not conformed to I presented to the Govt. a Petition again with the said Act and they transmitted a further letter to the High Court on the 27th Ultimo.

5 Therefore, I request the High Court after perusing the letters received from the Govt. Nos. [illegible], 1086, & 1473 on the 13th June, and 27th July of this year, & considering Sec. 3 of the above Act which declares to admit them, will be pleased to order the Complaint of a Petition dated 8th May last, and

the

Indt 2700 of 85 –
2d Petition forwarded to the Government
dd 22/8/85

Appeal Petition
E.O. 7

the 21 documents mentioned in para 2 hereof to be filed, and the number of this case posted for hearing.
7th August 1865.

N.B. This Petition is presented in, by me according to Section 44 Act XXXVII of 1850. கிஷ்டணபிள்ளை

7th August 1865.
Petition presented to the High Court.

Inst Rs 2700 of 65.

Refused and the Petitioner is referred to the endorsement on his former Petition
(Signed) Mr
Appeal Petition
No 9.

1761 of 65
1 enclosure
3058

To
The Right Honorable the Governor
in Council
Fort St George

The humble Petition of Kistna pillai son of Veerapuriah pillai Merchant by profession residing in the Taluk of Cusbah Tinnevelly Zillah Tinnevelly.

Humbly Sheweth,

The Mufti Suder Amin committed 3 offences in having taken by force my property valued at Rs 2403-12-0 and given them over to a Woman who has no right thereto for bribe. The Civil Judge committed an offence in not having enquired on the subject. Considering these 4 offences to be true, the Principal Suder Amin Kristnasawmi Iyen passed an Original decision in my favor. For reversal of this award the then Acting Civil Judge committed 2 offences in issuing an Appeal, a Process to the Witness who was not named in Original Suit, and taking down a deposition from a Man who personated the person mentioned therein, and who died a year ago. The Civil Court Sheristadar committed an offence in not sending up material papers to the High Court Appellate side, in all 7 offences.

2. Sections 2 and 24 Act XXXVII of 1850 declare that a Petition of Complaint should be presented to the Government regarding the offences committable by authorities. Accordingly, I have pub-

put in, a Petition on the 8th May last together with 21 documents

3 The Government who admitted the said Petition forwarded letters to the High Court on the 13th June last and 27th July for a final disposal of the case under Section III of the above Act –

4 On the 3rd August instant I presented to the Honorable Judge Mr Holloway to consider the Petition of Complaint dated 8th May last, who gave me an order in open Court, saying that the Govt are not authorized to pass an order on the subject nor have the Court reason to accept of, and look into, the Petition of Complaint That Gentleman also strictly ordered me not to attend the Court in future, and caused a Peon to show me out

5 I again presented to the High Court a Petition on the 7th Instant, requesting to consider the authority which the Govt possess to entertain the said Petition of Complaint and to refer it – On this, that Court endorsed thereon stating that they cannot interfere in the matter – This Endorsement is herewith submitted –

6 The said Endorsement referring me to the former Petitions is wrong – For, the Petitions were put in by me by the fixed time for having suppressed my material docts by Sheristadar, but they, instead of being filed, were returned to me – On the 8th May last

I

I presented to the Govt a Petition with 21 documents, and they are referred to the High Court – The Govt ascertaining that the requests of the said Petitions were not granted, issued an order to the High Court on the 13th June last, but further mention of the said Petition returned to me is not just.

7 Therefore Section 54 Act XXV of 1861 declares that the Govt are authorized to receive an appeal against the decree of the High Court and to reverse it. The offences mentioned in para 1 hereof are not connected with cases of Civil Nature and which mean to be offences of having aided the person who fraudulently committed plunder – Consequently, I presented to the Govt a Petition of Complaint by 21 documents on the 8th May last, requesting to enquire into the matter of the said 7 offences only – This Petition of Complaint the Govt have admitted under Sections II & XXIV Act XXXVII of 1850, and issued orders to the High Court on the 13th June and 27th July last respectively for the final disposal of the case according to the Section III of the said Act –

Therefore I humbly solicit your Lordship in Council, will be pleased to ask the High Court, to state the reason of having said in public Court: That, why they refused to amend the said 2 orders and Acts aforesaid, and granted the same Endorsement; and to render me justice –

And your Petitioner as in duty bound
will ever pray.

30th August
1865

No. 1941 of 1865

The Government decline to interfere on Petitioner's behalf any further.

Fort St. George
26th September /65

By Order

(Signed) C. G. Walker.
Under Secretary
to Govt.

No. 1941 of 1865
From Kistna Pillay
son of Vyahpuream Pillay
a merchant in Cusbah
Tinnevelli in the Zillah
of Tinnevelli -
Dated 20th Augt 1865
Recd do do

1 Enclosure.

Recapitulating the Circumstances of his former petition dated 8th May last. Complains that the High Court refused to interfere and that Mr Justice Holloway turned him out of the Court. Prays that an enquiry may be held under Section 2 Act 37 of 1850 -

Appeal Petition -
W. 11. W.
In No. 2700 of 65 -

In No. 1473 of 65

1879

ACT No. XXXVII. OF 1850.

Passed by the Hon'ble the President of the Council of India in Council on the 1st November 1850, with the assent of the Most Noble the Governor General of India.

For regulating Inquiries into the behaviour of Public Servants.

WHEREAS it is expedient to amend the law for regulating inquiries into the behaviour of public servants not removable without the sanction of Government, and to make the same uniform throughout the territories under the Government of the East India Company, It is enacted as follows:

I. The following Acts VI. 1838, XXVI. 1839, and XIII. 1843 are repealed, but not so as to revive any Act or Regulation, or part of any Act or Regulation thereby repealed.

II. Whenever the Government shall be of opinion that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of the East India Company not removable from his Office without the sanction of the same Government, it shall cause the substance of the imputations to be be drawn into distinct Articles of Charge, and shall order a formal and public inquiry to be made into the truth thereof.

III. The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to any other person or persons, to be specially appointed by the Government, Commissioners for the purpose: notice of which Commission shall be given to the person accused ten days at least before the beginning of the inquiry.

IV. When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.

V. When the charge shall be brought by an accuser, the Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser, and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation, shall be liable to the penalties of perjury: but this enactment shall not be construed to prevent the Government from instituting any inquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

VI. Where the imputations shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Government before appointing the Commission shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution or perjury or subornation of perjury, as the case may be.

VII. At

VII. At any subsequent stage of the proceedings, the Government may, if it think fit, abandon the prosecution, and in such case may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

VIII. The Commissioners shall have the same power of punishing contempts and obstructions to their proceedings, as is given to Civil and Criminal Courts by Act XXX. 1841, and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the Commission, and shall be entitled to the same protection as the Zillah and City Judges, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through and executed by the Zillah or City Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of Judicature there. When the Commission has been issued to a Court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the Commission.

IX. All persons disobeying any lawful process issued as aforesaid for the purposes of the Commission shall be liable to the same penalties, as if the same had issued originally from the Court or other authority through whom it is executed.

X. A copy of the Articles of Charge, and list of the documents and witnesses by which each charge is to be sustained shall be delivered to the person accused, at least three days before the beginning of the

inquiry,

inquiry, exclusive of the day of delivery, and the first day of the inquiry.

XI. At the beginning of the inquiry, the prosecutor shall exhibit the Articles of Charge to the Commissioners, which shall be openly read, and the person accused shall thereupon be required to plead 'guilty' or 'not guilty' to each of them, which pleas shall be forthwith recorded with the Articles of Charge. If the person accused refuses, or without reasonable cause neglects to appear to answer the charge either personally or by his Counsel or Agent, he shall be taken to admit the truth of the Articles of Charge.

XII. The prosecutor shall then be entitled to address the Commissioners in explanation of the Articles of Charge, and of the evidence by which they are to be proved: his address shall not be recorded.

XIII. The oral and documentary evidence for the prosecution shall then be exhibited: the witnesses shall be examined by or on behalf of the prosecutor, and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the Commissioners, who also may put such questions as they think fit.

XIV. If it shall appear necessary before the close of the case for the prosecution, the Commissioners may in their discretion allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence, and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings for three clear days, before the exhibition of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

such

XV. When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if made in writing, it shall be recorded, after being openly read, and in that case a copy shall be given at the same time to the prosecutor.

XVI. The evidence for the defence shall then be exhibited, and the witnesses examined, who shall be liable to cross-examination and re-examination and to examination by the Commissioners according to the like rules as the witnesses for the prosecution.

XVII. All witnesses, either for the prosecution or defence, shall be examined on oath, or, if exempt from taking an oath in Courts of Justice, on solemn affirmation, to be administered in either case by one of the Commissioners, and every witness so examined and wilfully giving false evidence on any material point shall be deemed guilty of and liable to the penalties of perjury. When the prosecution is not conducted on behalf of Government, the prosecutor may himself give evidence for the prosecution and may be examined for the defence.

XVIII. The Commissioners or some person appointed by them shall take notes in English of all the oral evidence, which shall be read aloud to each witness by whom the same was given, and if necessary explained to him in the language in which it was given, and shall be recorded with the proceedings.

XIX. If

XIX. If the person accused makes only an oral defence, and exhibits no evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.

XX. When the Commissioners shall be of opinion that the Articles of Charge, or any of them, are not drawn with sufficient clearness and precision, the Commissioners may, in their discretion, require the same to be amended, and may thereupon, on the application of the person accused, adjourn the inquiry for a reasonable time. The Commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of the sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused, the Commissioners shall record the application, and their reasons for refusing to comply with it.

XXI. After the close of the inquiry, the Commissioners shall forthwith report to Government their proceedings under the Commission, and shall send with the record thereof their opinion upon each of the Articles of Charge separately, with such observations as they think fit on the whole case.

XXII. The Government, on consideration of the report of the Commissioners, may order them to take further evidence, or give further explanation of their opinions. It may also order additional Articles of Charge to be framed, in which case the inquiry into the truth of such additional Articles shall be made in the same manner as is herein directed with respect to the original charges. When Special Commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the Commissioners to the Court or other authority to which the person accused is subordinate, for their opinion on the case; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

Charge

XXIII. The word 'Government' as used in this Act means the Governor General in Council, the Governor or Deputy Governor of the Presidency of Fort William in Bengal, the Governor in Council of the Presidencies of Fort St. George and Bombay, respectively, and the Lieutenant Governor of the North-Western Provinces of Bengal, whose sanction is necessary for the removal of the person accused.

XXIV. Nothing in this Act shall be construed to repeal any Act or Regulation in force for the suspension or dismissal of Principal and other Sudder Ameens or of Deputy Magistrates or Deputy Collectors, but a Commission may be issued for the trial of any charge against any of the said Officers, under this Act, in any case in which the Government shall think it expedient.

XXV. Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an inquiry under this Act.

Calcutta, 1850:—Printed at the Bengal Military Orphan Press, by J. C. Sherriff.

In No. 3588/65.
of Kistna Pillai.

Enclosures 7 [illegible]

List of documents
filed with the Appeal
Petition to the [illegible]
Council No. 1 [illegible]
No. 2559

Judicial Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following *Petition of Kistna Pillay, a Merchant at Tinnevelly.*

23 ii

ORDER THEREON, *7th Decr* 1865, No. *1753.*

Resolved that Petitioner be informed that the Government must decline to transmit his Memorial to the Secretary of State, for the same reasons which precluded the admission of his Petition, No. *1941, dated 30th Aug 1865* viz., those contained in para. 7* of the revised Rules respecting Petitions, published in page 653 of the Fort Saint George Gazette, 1st April 1859.

2. The enclosures received from him will be returned.

True Extract.

Chief Secretary.

To *Kistna Pillay – with Enclosures retd. despd 11/12*

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* 7. Petitions will not be received by Government *regarding any matter which forms the subject of Judicial Proceedings in a Court* or which properly falls within the Jurisdiction of the Courts, or containing complaints relating to the Administration of Civil and Criminal Justice, in cases in which another mode of obtaining redress is open to the complainant under the Regulations, and in which by the Regulations a Subordinate authority is competent to pass a final decision.

4923] Madras—Printed at the Government Press,

Pro. of Decr

Judicial 1865 Departt

No 1753

Proceedings of Govt

Dated 7 December 1865

c 7 Decr
R 7 "

65-66.