

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	804	Press Mis.
Dated	19 12 55	

Not to be folded or roughly handled

15/12

*Proceedings of the Madras Government, Judicial Department,
5th June 1865.*

Read the following papers. —

No. 27. From *Æ. R. McDONELL*, Esq., Officiating Magistrate of Trichinopoly, to the Honorable *A. J. ARBUTHNOT*, Chief Secretary to Government, Fort Saint George; dated Trichinopoly, 10th May 1865, No. 15.

With reference to the Proceedings of the Madras Government, Revenue Department, dated the 27th of April 1865, I have the honor to inform you that, at the time the case referred to was under investigation before the Taluq Sub-Magistrate of Trichinopoly, I was absent on my annual settlement tour, and the first accounts I had of the same were gathered from the papers. I had intended to wait for the Sub-Magistrate to close his proceedings; and if his report on the case was unsatisfactory, I should have deemed it my duty to bring his conduct to notice.

2. The Taluq of Trichinopoly forms part of the Head Assistant Magistrate's charge, and this officer is invested with the full powers of a Magistrate; so I at once called upon Mr. Comyn to make a full report on what had occurred, as it had come to my knowledge that the Sub-Magistrate had already received certain orders from the Head Assistant Magistrate regarding the disposal of the boy.

3. I now forward, for the information of Government, the Head Assistant Magistrate's report as to what really occurred, and I am sorry to add that I cannot say one word in palliation of the Sub-Magistrate's conduct. He is an officer of long standing and experience, and cannot plead ignorance of the proper procedure in such a case. I cannot, throughout the whole proceedings, trace any motives for corruption, but I firmly believe that the Sub-Magistrate's religious feelings induced him to act in the reprehensible way in which he did. He had sympathized with the boy's parents, and was bitter against the lad for renouncing his parents' creed. The fact that the boy was illegally confined in the station house for six days is established, and I feel quite certain that Monsieur Riocot, the Reverend Superior of the Convent at Trichinopoly, was subjected to the indignity of which he complains, viz., that he was told by the Sub-Magistrate to desist from taking notes, or to leave the Court.

4. The Government having taken direct notice of this matter, I feel it would be improper for me to suggest the mode of punishing the Sub-Magistrate; on the other hand, I consider it right to state that I should have, under the present circumstances, without hesitation, recommended that Vencatasamy Naidu, Sub-Magistrate of Trichinopoly, be removed from his present post, as I think such punishment is called for in the present instance, and would have a most salutary effect on the other Sub-Magistrates.

From *W. H. COMYN*, Esq., Acting Head Assistant Magistrate, Trichinopoly, to *Æ. R. McDONELL*, Esq., Acting Magistrate, Trichinopoly; dated Trichinopoly, 8th May 1865, No. 13.

In accordance with your instructions, contained at the foot of the Order of Government, dated April 27th, 1865, No. 869, and communicated to me on the 4th instant, I have the honor to submit a report upon the conduct of the Taluq Sub-Magistrate of Trichinopoly, when holding a preliminary inquiry into a charge of kidnapping against the Reverend Father Riocot and others.

2. From a review of the correspondence that passed between the Sub-Magistrate and myself upon the subject, and from the inquiries I subsequently made, I find that the statements quoted in the Government Order above mentioned are substantially correct.

*ing against the Reverend
Father*

3. First, as regards the boy's detention in custody:—On the 1st of April, I received an Urzee from the Sub-Magistrate, dated March 31st, in which that Officer reported that the boy in question was brought to him on the 28th March, together with the Sreerangam Head Constable's report on the matter, and that as the boy's father made a disturbance concerning his son, who was evidently unwilling to be any longer amenable to parental control, he (the Sub-Magistrate) placed the boy in custody in the Station-house.

4. On receipt of this communication, I sent a takeed to the Sub-Magistrate, directing him, as he was in no way justified in confining the boy, to release him immediately. The boy was accordingly released on the following day (April 2nd), so that he was actually kept in close custody in the Station-house for six days.

5. In the remand* given by the Sub-Magistrate for the boy's detention in charge of the

* Dated March 28th.

Police, it is stated that the boy was sent to the station, because he could not give bail, but in the Sub-Magistrate's Urzee abovementioned it was stated that the boy was placed in confinement because he would not obey his father.

6. Moreover, upon a review of the Sub-Magistrate's diary, I find that the circumstances of the remand having been given was not entered therein at all.

7. I subsequently issued a takeed to the Sub-Magistrate questioning him upon these points. His reply is far from satisfactory, and is to the following effect, viz., that he gave the remand because the Police would not take the boy into custody without it; that no entry was made concerning the remand in his diary, because, at the time, no proceedings had been taken in the case; and, with reference to my question as to the necessity of taking bail from the boy at all, he is silent, and can give no explanation.

Had the boy been charged with an offence, bail would have been demanded of him. Had the Sub-Magistrate required his attendance as a witness, he would have taken a Muchilka from him for that purpose; but whatever the Sub-Magistrate's intentions may have been, I cannot think that his omission to enter the remand in his diary in the first place, and his having allowed four days to pass by, during which time the boy was in close confinement, before making any report of the case to me, proceeded from mere forgetfulness; nor can I imagine that his excuse for sending the boy to the station with a remand, viz., because he could not give bail, when bail was not demanded of him, can be held to be valid, especially as the Sub-Magistrate subsequently put forward a totally different excuse for the same act.

9. Secondly, with regard to the Sub-Magistrate's alleged discourtesy in open Court to the Reverend Superior of the Convent, I examined Mr. Salisbury, the prisoner in the case, Annatoraiengar, the Taluq Goomastah, who took down the depositions in the same, and the Reverend Superior himself.

10. Mr. Salisbury states that on the 10th April 1865, when the Reverend Superior came into Court to attend the proceedings in the case, the Sub-Magistrate gave him a look which he interpreted as an insult, and threatened that, if the Reverend Superior did not cease to take notes of the evidence, the Court would be adjourned. Upon Mr. Salisbury's observing that this was an open Court, and that he was bound to take notes of the evidence, the Sub-Magistrate ordered, under which Section 279 of the Criminal Procedure Code (not Section 270 as quoted in the Government order), under which Section he stated that he had power to turn any one out of Court he pleased. The Reverend Superior, however, refrained from taking notes of the proceedings, and soon afterwards left the Court of his own accord.

11. The Reverend Superior himself informs me that he was told by the Sub-Magistrate to cease from taking notes, or to leave the Court.

12. Annatoraiengar, the Goomastah, states that when the Reverend Superior tried to take notes the Sub-Magistrate told him to leave the Court; but that he (the Goomastah) did not know what took place afterwards. Possibly this man's attention may have been occupied in taking down depositions, but his manner was such as to convince me that he was determined to say as little about the matter as he could.

13. I next called upon the Sub-Magistrate for an explanation. That officer, however, while admitting that the Reverend Superior did take notes of the proceedings, denies that he (Sub-Magistrate) either ordered him to cease to do so, or, in the event of his complying with this requisition, to leave the Court.

(True Copy).

(Signed) A. R. McDONELL,
Acting Magistrate.

No. 28. From P. VENCATASAWMY NAIDOO, Sub-Magistrate of Trichinopoly, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Trichinopoly, 16th May 1865.

I Vencatasawmy Naidoo, Sub-Magistrate of Trichinopoly Taluq, respectfully beg that you will be pleased to lay the following circumstances before His Excellency the Governor in Council.

2. Mr. Comyn, the Head Assistant Magistrate of Trichinopoly, issued an order dated 5th instant, calling upon me to afford explanation on certain points in a case of kidnapping against the Reverend Father Riocot and others, in which the preliminary inquiry was held by me. I accordingly submitted my explanation; and after doing so, I learnt that the Government have called upon the District Magistrate to report upon my conduct, for having kept in custody the boy alleged to have been kidnapped, and as to why I prevented the Reverend Superior of the Convent from taking notes of the evidence in the case. No copy of the said Government Proceedings was furnished to me, nor was the said fact communicated to me in the order of the Head Assistant Magistrate. I am also unaware of the nature and purport of the explanation submitted to Government by the District Magistrate and his Head Assistant, and whether my explanation has been sent to Government or not. Under these circumstances, I presume to bring to the notice of the Government the facts connected with the case in question.

3. With regard to the first point, viz., why I detained the boy in custody, I beg to submit that the boy was sent to me with a report by the Head Constable of Streerangum, on the 28th March. The Prosecutor, who is the father of the boy, having been present, I took down a deposition from him, and issued Warrants to the parties accused, and detained the boy in custody, as his father stated that if he be set at liberty, he will be tampered with by his opponents. I brought the said circumstance to the notice of the Head Assistant Magistrate by an urzee dated 31st March last. That officer issued an order, stating that the detention of the boy in custody is incorrect, and that he should be forthwith released, and delivered over to his parents. On receipt of this order, I released the boy from confinement. The reasons which induced me to detain him in custody are:—

- 1st. That the boy being material in the case, I thought that if I set him at liberty he will abscond.
- 2nd. That he was not of sufficient age as to take a Muchilkah from him.
- 3rd. That he refused to be under the control of his parents.
- 4th. That his father did not consent to his being left in charge of the defendant.

Hence the Government will perceive that though I may have committed an error of judgment in detaining the boy under restraint, yet I was not actuated by any other motives.

5th June 1865

4. As regards the second point, viz., why I desisted the Reverend Superior appeared before me, I allowed him a chair to sit and witness the inquiry was held by me in open Court. While so, the Government will observe, that nothing would have induced me to prevent him or any other person of the evidence. In fact Mr. Salisbury, the defendant's Advocate, has taken notes of the evidence. I hear that the Assistant Magistrate that I did prevent the latter from declaring that I don't recollect having said so to any person. The inquiry was going on, the son of the Deputy Collector, Soondram Pillai, and others, who came to witness the proceedings, were present. The prosecutor having complained that they were noisy, and as they were many in number, I mentioned this to the Assistant Magistrate, and desired the said persons to be out of Court, or to remain in one corner, moving about frequently.

5. In conclusion, I most respectfully request that the Government will be pleased to take this my humble explanation into their benevolent consideration in connection with the report of the District Magistrate, and render me the justice which I have deserved the Government faithfully for upwards of 20 years.

ORDER THEREON, 5th June 1865, No. 804.

On the 27th ultimo, the Magistrate of Trichinopoly was called upon to report on the conduct of the Sub-Magistrate of the Trichinopoly District in connection with the conduct of the Sub-Magistrate of the Trichinopoly District in connection with the charge of kidnapping which had been brought against a Monseieur Riocot, the attention of Government having been drawn to certain statements made in the newspapers, in reference to the conduct of the Sub-Magistrate in connection with the case.

The Government has directed the Assistant Magistrate, within whose range the case falls, to inquire into the conduct of the Sub-Magistrate, and to report thereon. The Assistant Magistrate has included, stating the result of his inquiry, the remarks of the District Magistrate, and an explanation of the conduct of the Sub-Magistrate, whose conduct has been called in question. The report of the Acting Head Assistant Magistrate is so full as it should have been. It does not state from whom the boy was taken, or under what circumstances, or at whose requisition the boy was taken into custody by the Police, nor is any mention made of the age of the boy. The Assistant Magistrate is not mentioned, the statement made by the Assistant Magistrate, in explanation of his conduct, was the result of the prosecution.

3. The following are the facts which are to be taken into consideration by the Government, viz., that consequent upon the report of the boy charging Mons. Riocot with having kidnapped the boy, the boy was taken into custody by the Police, and taken before the District Magistrate, who was ordered he was kept in close confinement for six days, pending the trial of the boy against M. Riocot. It has also been established, to the satisfaction of the Acting Head Assistant Magistrate and of the Magistrate of Trichinopoly, that the Reverend Superior

5th June 1865.

of the Convent, who was present at the inquiry, was prohibited by the Sub-Magistrate from taking notes, and was threatened with expulsion from the Court, if he continued to do so. The Sub-Magistrate admits having kept the boy in custody, but denies having prohibited the Reverend Superior from taking notes. The fact of the boy having been kept in custody was not mentioned in the Sub-Magistrate's diary.

4. The Governor in Council considers the conduct of the Sub-Magistrate to have been most reprehensible. He must have been well aware that, in detaining the boy in custody, and in prohibiting the Reverend Superior from taking notes, on which point His Excellency in Council is unable to accept the Sub-Magistrate's denial, in the face of the evidence which has been adduced against him, he was committing illegal acts, and abusing his judicial authority. The Governor in Council, accordingly, resolves to direct that the Sub-Magistrate, P. Vencatasawmy Naidoo, be removed from the Office of Sub-Magistrate and appointed to one of a lower grade.

5. It is to be regretted that the Magistrate, on seeing in the newspapers the reports of the Sub-Magistrate's conduct, which attracted the attention of Government, did not exercise the power vested in him of calling up the case and disposing of it himself.

(True Extract).

Chief Secretary.

To the Magistrate of Trichinopoly.

Ed. J. H. Burns.

Tueksinopoly

8 May 1865

13

From

Mr. H. Cornyn Esquire

At Head. Sect. Mag^{ty}

Tueksinopoly

To

Mr. H. McDowell Esquire

At Magistrate of

Tueksinopoly

Sir

In accordance with
your instructions contained
at the foot of the Order
of Gov^t / dated April 27th 1865
No 860 / and communicated
to me on the 4th Instant, I
have the honor to submit
a report upon the conduct
of the Taluk Sub Magistrate
of Tueksinopoly, when hold-
ing a preliminary enquiry
into a charge of kidnap-
-ping against the Reverend
Father

Father, Piroob & others.

From a review of the correspondence that passed between the Sub Magistrate & myself upon the Subject and from the inquiries I subsequently made, I find that the statements quoted in the Government Order above mentioned are substantial & correct.

Further regarding the boy's detention in custody, on the 1st of April I received an order from the Sub Magistrate dated March 31st in which that officer reported that the boy in question was brought to him on the 28th March together with the Greerangam Head Constable's

Constable's report on the matter, & that as the boy's father made a disturbance concerning his son, who was evidently unwilling to be any longer amenable to parental control, he / the Sub Magistrate placed the boy in custody in the Station house.

On receipt of this communication I sent a letter to the Sub Magistrate directing him as he was in no way justified in confining the boy, to release him immediately. The boy was accordingly released on the following day / April 2nd so that he was actually kept in close custody in the Station house for six days.

5 In the remand
given by the Sub Magis-
trates for the boy's detention
in charge of the Police it
is stated that the boy
was sent to the Station
because he could not give
bail, but in the Sub
Magistrate's diary about
mentioned it was stated
that the boy was placed
in confinement because
he would not obey his
father.

6 Moreover upon a
review of the Sub Magis-
trates diary, I find that
the circumstances of the
remand having been
given was not entered
therein at all.

7 I subsequently
issued a letter to the
Sub Magistrate question-
ing him upon these points.

8th Mar.

28th

His reply is far from sa-
tisfactory, & is to the
following effect: viz: That
he gave the remand because
the Police would not take
the boy into custody without
it; that no entry was made
concerning the remand in
his diary, because, at
the time, no proceedings
had been taken in the case
and, with reference to my
question as to the neces-
sity of taking bail from
the boy at all, he is silent
& can give no explanation.

8 Had the boy been
charged with an offence,
bail might have been
demanded of him: Had
the Sub Magistrate required
his attendance as a wit-
ness, he should have
taken a Muchilka from
him.

him for that purpose; but whatever the Sub Magistrate's intentions may have been, I cannot think that his omission to enter the demand in his diary in the first place, and his having allowed 4 days to pass by, during which time the boy was in close confinement, before making any report of the Case to me, proceeded from mere forgetfulness; nor can I imagine that his excuse for sending the boy to the Station with a demand viz because he could not give bail, when bail was not demanded of him, can be held to be valid especially, as the Sub Magistrate subsequently put forward a totally

different excuse for the same act.

9 - Secondly - with regard to the Sub Magistrate's alleged discourtesy in open Court to the Reverend Superior of the Court, I examined Mr Salisbury, the Prisoner's agent in the Case, Annatoringar, the Paluk Gurnasta, who took down the depositions in the same, & the Reverend Superior's himself -

10 - Mr Salisbury states that on the 10th April /65 - when the Reverend Superior came into Court to witness the proceedings in the Case, the Sub Magistrate gave him a seat, but that when he proceeded to take notes of the evidence the Sub Magistrate objected

and threatened that if
The Reverend Superior did
not cease to take notes
he would be obliged to
leave the Court. Upon Mr.
Salisbury's observing that
this was an open Court
the Sub Magistrate refer-
red to Section 279 of the
Criminal Procedure Code,
but Section 270 as quoted
in the Govt. order under
which Section he stated
that he had power to
turn any one out of Court
he pleased. The Reverend
Superior, however, refrained
from taking notes of the
proceedings & soon after-
wards left the Court
of his own accord.

11 The Reverend
Superior himself informs
me that he was ordered
by the Sub Magistrate

to cease from taking notes
or to leave the Court.
12 Annattasingar,
the Gumarhla, stated that
when the Reverend Superior
tried to take notes the
Sub Magistrate told him
to leave the Court; but that
he (the Gumarhla) did not
know what took place
afterwards. Possibly this
man's attention may have
been occupied in taking
down depositions, but
his manner was such
as to convince me that
he was determined to
say as little about the
matter as he could.

13 Next called upon
the Sub Magistrate for
an explanation. That
officer, however, while
admitting that the
Reverend Superior did
take

take notes of the proceedings
denies that he (Sub magis-
trati) either ordered him
to cease to do so, or, in
the event of his not com-
plying with this requisition
to leave the Court:

I have the honor to be

Sir,

Your most obt servant

W. H. Comyn

Sub Magistrate

True Copy

Benbowell

Acting Magistrate

Compd Copy

1023-

901

Ami

4.

1865-

In a letter from
the 17th May to
Richmouky dated
the 1st May 1885.
J. 10/15-

Dear Mr. Woodwell
 My way is of Fushing
 to the South. In the
 Chief way to East
 to the South.

Heath
Jun. 1852
No 1082

Copy of a

Letter from the H

Head Garrison

Mag. of Swedenborg

on the heels of me and
my wife and the children

quies into the
of the Father's light. ~~light~~

of the same body we have
of Friedrichshagen speaks
of meeting with a

the society under a
the name of young people's
of London, a Londoner, doing

the society under a
the name of young people's society.

Says

de

We have now a clear picture, some
^{original} of Procedure, which a Sub Magistrate of fortune
misunderstood ⁱⁿ spirit of the procedure
his own, hard & mistake. The Sub Magistrate was
ignorant of the District Magistrate
Mr. Donell, who an officer of long standing
experience who "cannot" plead ignorance
procedure in the matter under notice & the
Sub Magistrate, Mr. Conner is more favorable
telling Sub Magistrate. I can find no reason
for the steps mentioned above

attributed to me, being in
done, the whole of the
returned to do it.
Sub Magistrate who is
you as to use his judicial position as
weapon of arm against persons
need, is unworthy of this important
report in the
storehouse to the
with also the
year

seems to have been much ashamed
keeping out of the diary the steps taken in
after in the newspaper. The diary
I am aware, was prescribed by the High Court
the only safe means under the present system
system, of securing a faithful record of what
has been done in the Sub Magistrate Court.
the time of a charge just being entered
and it is chiefly when a S. M. cannot
note - because of course for his act - that the
may be neglected.
The "report" is now called off the H. C. Magistrate
my meagre report - and does not lay bare
the fact of a case. It should have been stated
in clear and full detail.
The Magistrate's more attention to what the case
plus the Sub Magistrate's report had been closed, was very
adequate as it afforded to the Sub Magistrate a full
statement of the case as when it was heard

power
Master power
10

see
see
see

10

indoor
What
criminal proceed

see
see
see

see
see
see

see
see
see

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Trichinopoly

16

Ord. " near 5 June 1883 No 804.

of Trichinopoly was called
to report the conduct of
the M. L. Magistrate of the Trichinopoly
Talook when enquiring into
a charge of kidnapping women
and men brought a
report to certain
conduct of
Magistrate
made
the Acting Head Officer &
Magistrate

TH
HMS

JP

WON

3 The following facts however
are to be gathered from the papers
before Government viz that consequent
on complaint preferred apparently
by the father of the boy charged
Mrs. Riocot with having kidnapped
the latter, the boy was taken
into custody by the Police and
taken before the Sub Magistrate
by whose orders he was kept in
close confinement for six days
pending the trial of the charge
preferred against Mr. Riocot.
It has also been established to the
satisfaction of the Acting Head
Magistrate and of
the Magistrate that the Rev.
Superior of the Convent who
was present at the enquiry
was prohibited by the Sub
Magistrate and was threatened
with repulsion from the Court
if he continued to do so. The Sub
Magistrate admits having kept
the

Magistrate within whose range the
Town and Talook of Trichinopoly
are included state the result
of his enquiries into the case
and also the names of the dis-
trict Magistrate and an ex-lama.
very poor and aged man.
Governed by the Sub Magis-
trate whose conduct has been
called in question. The report
of the Acting Head Magistrate
Magistrate says by any means
as full as should have been
the case.
charge was preferred or under
what circumstances or at whose
request the boy was taken
into custody. The name of the
boy nor is any mention made of the
age of the boy. The name of
the Sub Magistrate is not men-
tioned the Sub Magistrate
himself before
Assistant Magistrate in expla-
nation of his conduct is not
submitted nor is it stated what
was the result of the prosecution.
The

the boy in custody but denies
having prohibited the Reverend
Superior from taking notes. The
fact of the boy having been kept
in custody was not mentioned
in the Sub Magistrate's diary.

4. The Governor in Council
considers the conduct of the
Sub Magistrate to have been
most reprehensible. He must
have been well aware that
in detaining the boy in custody,
and in prohibiting the Reverend
Superior from taking notes
on which point His Excellency
in Council is unable to accept
the Sub Magistrate's denial
in the face of the evidence which
has been adduced against him,
he was committing illegal acts
and abusing his judicial au-
thority. The Governor in Council
accordingly resolves to direct that the
Sub

8.1. To Mr. Venkataswami
Naik to be removed from the
office of Sub Magistrate and
appointed as one of

the Magistrate on seeing in the
newspapers the reports of the
Sub Magistrate's conduct which
attracted the attention of Govern-
ment did not exercise the
power vested in him of either
to remove or discontinue

To the Magistrate of Trichinopoly. *clerk's*

Ludie. 1865 Department.

No. 804.

PROCEEDINGS OF GOVERNMENT.

Feb. 1290

valued 25 Jan. 1866