

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	954	Press
		Mis
Dated	8-7-	1918

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
8th July 1865.*

Read the following papers:—

No. 35. From W. ROBINSON, Esq., Inspector General of Police, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 13th June 1865, No. 1127.

General Department.

The following point has been raised in the District of Madras, on which I would solicit, should the Government see fit to obtain it, the opinion of the Law Officers.

2. Can an individual who prefers a false complaint, or wilfully gives false information to a Police Officer, or Magistrate, be prosecuted, under Sections 182 or 211 of the Indian Penal Code, by the Police, or by order of the Magistrate, although the person injured or annoyed may not desire to move in the matter?

3. Hitherto such cases have been prosecuted on the part of the Queen.

Referred to the Government Solicitor, for the opinion of the Advocate General.

FORT SAINT GEORGE,
21st June 1865.

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

No. 36. From J. R. BOYSON, Esq., Government Solicitor, Madras, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 20th June 1865, No. 380.

I have the honor to acknowledge the Order of Government noted in the margin, requesting the Advocate General's Opinion as to prosecutions under Sections 182 and 211 of the Indian Penal Code.

Dated 21st June 1865, and made on letter from Inspector General of Police to Government, of 13th June, No. 1127, General Department.

2. I submitted the matter for the consideration of the Advocate General, with whom I have also conferred; and,

3. I now forward a copy of his Opinion, and return the order above noted.

COPY—OPINION,

As a general proposition, any person may charge any other person in the realm with the commission of a crime or offence. He does it of course at his own peril, if the charge is malicious and unfounded.

2. This consideration must, I think, govern the present case.

3. The question in the 2nd paragraph of the letter from the Inspector General of Police involves four different sets of circumstances; a charge under Section 182 of the Indian Penal Code, and a charge under Section 211 of the Indian Penal Code; and in either case brought before a Police Officer or a Magistrate.

4. With reference to Section 211, the Criminal Procedure Code (Section 169) provides that when the offence is committed before a Criminal Court (which by the definition includes a Magistrate), a charge shall not be entertained without the sanction of the Court, &c.

5. What the Court may sanction others doing, it may do itself. The object of the Legislature is to guard against vexatious or extortionate charges being preferred; and hence, when the party conceiving himself damnified seeks to take the initiative, the sanction of the Court is required.

6. I have no doubt that the Magistrate before whom an offence under Section 211 of the Indian Penal Code was committed would be justified in directing the prosecution of the offender.

*to General
of Police } despatch*

*Proceedings of the Madras Government, Judicial Department,
8th July 1865.*

7. Police Officers are not included in the definition of Criminal Courts. In event of an offence under Section 211 being committed before him, it would be open to him to prefer a complaint against the offender before a Magistrate, *ex mero motu*, though the party damaged by the offence were unwilling to prosecute.

8. If the offender, under Section 182 of the Indian Penal Code, happened to be himself a Public servant, Section 168 of the Criminal Procedure Code would apply to his case. If not, the general law of the land would apply; and the observations I have made above sufficiently indicate the course to be pursued.

27th June 1865.

(Signed) J. B. NORTON,
Advocate General.

(True Copy).

(Signed) J. R. BOYSON,
Government Solicitor.

No. 37.

ORDER THEREON, 8th July 1865, No. 954.

Ordered that the Opinion of the Advocate General be communicated to the Inspector General of Police, in reference to his letter of the 13th ultimo, No. 1127.

(True Extract).

Acting Secretary to Government.

To the Inspector General of Police.

Exd. J. H. Burns.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following papers

From Inspector General of Police / Dated 13th June 1865 No 1127/

From the Govt. Solicitor / — — 29th — — — 350/

Order. 8 July 1865 No. 954.

Ordered that the Opinion of the Advocate General be communicated to the Inspector General of Police in reference to his letter of the 13th ultimo No 1127.

Wd

To Inspector General of Police / Dated 11/

9-10-14

Indian Department.

No. 957

PROCEEDINGS OF GOVERNMENT.

Dated 8th July, 1868.

Circular to

[Signature]

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