

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1737	Press Mis.
Dated	2-11-1986	

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,

2nd November 1866.

No. 26. Read the following letter from the Inspector General of Police, to the Secretary to Government, Fort Saint George; dated Madras, 24th October 1866, No. 1752.

General Department.

In continuation of my letter (date and number, as per margin), I have the honor to report on the case of hurt, to extort confession, committed at the Copoo Police Station of the Trichinopoly District.

No. 1595, dated 28th September 1866.

2. On the 12th of May last, the house of one Ratnam Chetty, of the Warriore Suburb of Trichinopoly, was broken into, and property stolen. No clue was obtained by the Local Police.

3. On the 21st, Vytalingam, Head Constable of Copoo, a Police Station of the adjacent Taluq, about 8 miles distant from Trichinopoly, volunteered information, and was placed in charge of the case by the Superintendent of Police. He states that "he knew that, of all the Force, he (Vytalingam) was the one best acquainted with Warriore and its doings."

4. On the same day, three persons were arrested without warrant by Vytalingam, one of whom was Maraday, the person against whom the offence was committed. A report of the arrest was made to the Sub-Magistrate, but no report was made under Section 160, C. C. P.

5. The prisoners were not placed before the Sub-Magistrate, as required by Law; but the Officer issued his warrant to keep the prisoners in confinement, without requiring the Police to produce any evidence whatsoever to justify the arrest and imprisonment, and he renewed this remand eight successive times between the 21st May and 20th June, without any inquiry, or once even seeing any of the prisoners.

6. The Sub-Magistrate ordered the prisoners to be confined in the Lock-up of the Dark's Bridge Police Station, instead of directing them to be kept in the Lock-up of his own office, which is the proper place of confinement for prisoners under remand.

7. The warrant was issued and renewed at the instance of the Police.

8. The Superintendent of Police was aware of the arrest and long detention of the prisoners without inquiry, and that they were detained in the Police Station; but he does not seem to have acquainted himself whether there was any evidence to justify the arrest.

9. No further evidence was obtained during the time the prisoners were detained at the Dark's Bridge Station-house, and nothing was elicited from the prisoner.

10. On the 3rd June, the prisoners were removed from Trichinopoly to Copoo. This was done with the consent of the Superintendent, and probably at the instance of Vytalingam (on this point the Superintendent of Police is unduly reticent), but in full accordance, likewise, with the views and wishes of the Town Sub-Magistrate, as shown by his personal conversations with the Superintendent. The Sub-Magistrate does not admit this, but I consider the evidence and circumstances conclusive on the point. The object of the removal was to defeat some intrigue in favor of one of the prisoners, a Brahmin.

11. During the night of the 10th June, violence was offered to the prisoner Maraday. Marks on his arms evidenced tight binding with ropes. He is alleged to have confessed. Several futile searches of houses in Trichinopoly took place shortly after, and on the 16th the fact of his having confessed was reported by the Police.

12. On the 18th, Mr. Inspector Simpson found the prisoners at Copoo, when he went thither to inspect the station. Maraday complained of having been ill-used, and his arms showed the marks of tight binding. He at once brought them into Trichinopoly—the Superintendent was absent—and they were placed before the Deputy Inspector General, and by him before the Head Assistant Magistrate. Before both of these Officers, Maraday charged Vytalingam and other Police Officers at Copoo with having ill-used him. The marks were patent.

13. On the 23rd June, more than a month after the arrest was reported and the Sub-Magistrate's warrant had been issued, the case was called up by the Town Sub-Magistrate, and the prisoners released. There was no evidence against them.

14. In a deposition before the Session Court, the Sub-Magistrate denied on oath that any complaint had been made to him by Maraday, or that he observed marks of violence on his person at the time of inquiry. On the 18th, the Deputy Inspector General went to him, and told him the circumstances, &c., and on the 23rd Maraday, in his deposition, stated that he had been troubled by the Police when kept at the Copoo station.

15. The charge of ill-usage made to the Head Assistant Magistrate on the 18th was referred for inquiry to the Taluq Sub-Magistrate (Tahsildar) of Trichinopoly, and dismissed by him, because he considered the statements conflicting.

16. The case was called up by the Session Court, and Vytalingam was convicted. The other Police Officers tried with him were acquitted. The evidence was the same against all.

17. Vytalingam has received his desert. I have ordered the removal of the others implicated from the Service.

18. I consider that the Superintendent of Police failed in several respects in respect to the conduct of his subordinates in this case. He judged wrongly in entrusting the case to Vytalingam, a volunteer from another Taluq, and evidently an unsuspicious man, who had before been tried on a similar charge before the Session Court. It was his duty to satisfy himself that there was legal evidence to justify the arrest made by his subordinates; to check hasty and futile arrest; and to see that the Police complied with the Law, by producing the prisoner in person before the Sub-Magistrate. He should not have permitted a remand of prisoners to a lengthened imprisonment to a Police Station, thereby giving full opportunity for illegal operations of the Police, which at length culminated in actual ill-usage. It does not appear that the Superintendent ever saw the prisoners himself throughout their long incarceration (he was absent during part of the time); and he was not justified in assenting, under any circumstances, to the removal of the prisoners to an out-of-the-way Police Station like Copoo, notwithstanding the wishes of the Sub-Magistrate, as intimated to him. Had Major Bates enforced the Law, and kept his Subordinates well in hand, the gross irregularities which led directly to the ill-usage of a prisoner by the Police could not have occurred.

19. On the other hand, I earnestly trust that the Government will take the conduct of the Sub-Magistrate into serious consideration. The Law, if it be properly administered and strictly enforced, provides ample protection against abuse by the Police, and removes temptation and opportunity. This Officer offended against every provision. He left a case in the hands of the Police for a month without inquiry, and countenanced every irregularity which facilitated the criminal offence.

20. He should have seen the prisoners immediately after their arrest, and ascertained the grounds on which they were apprehended. If remand for the purpose of procuring further evidence was solicited, he should have seen and heard what the prisoners had to say on each occasion of renewing the warrant for their detention. A delay of a month in disposing of such a case admits of no justification.

From the Deputy Inspector General of Police, Southern Range, to the Inspector General of Police; dated Trichinopoly, 1st October 1866.

The facts of the torture case I have already submitted to you in my Reports of the 17th June and 15th September. I now have the honor, agreeably to your instructions, to forward a detailed statement of the case from the commencement.

2. On the 12th May, a house breaking was committed at Warriore, in the house of one Ratnam Chetty.

3. The Station Officer of Warriore prosecuted his inquiries until the 21st, when Head Constable Vytalingam, of Copoo station, in C Division, reported to the Superintendent that he had obtained a clue. The Superintendent states; "as I knew that Vytalingam of all the Force was the one best acquainted with Warriore and its doings, I put him on the case."

Form 160, not to be found—I doubt if it was sent.

4. On the 21st May, three persons were arrested by Vytalingam (Maraday being one of them.) The arrest was reported to the Town Sub-Magistrate on the 22nd by Occurrence Sheet, and a remand till the 25th asked for. The remand was granted by the Sub-Magistrate, without seeing the prisoners, or any evidence being produced. The Sub-Magistrate directed the remand warrant to the Dark's Bridge Station.

Wrong; the Prisoners should have been produced with Charge Sheet.
The Warrant should have been addressed to Fort Station.

5. On the 25th, the Remand Warrant was renewed till the 29th, and from the 29th to 8th June, from 8th to 16th, and from 16th to 20th, without the prisoners being produced before the Magistrate, or any evidence given to justify the detention of the prisoners; these remands were asked for by Occurrence Sheet.

From the 3rd to the 18th, the prisoner was confined in Copoo, 8 miles distant, in another Magistrate's jurisdiction. The Remands were directed to Dark's Bridge.

The man's petition was sent on 2nd June for immediate inquiry; it was not replied to till 2nd July. If inquiry had been made on 2nd June, all irregularities would have come to light, and the man have escaped from the torture of the 10th. The prisoner had not then been removed to Copoo.

6. On the 1st June, the brother of Maraday (the man who was tortured) sent a petition to the Head Assistant Magistrate, complaining of the arrest and detention of his brother, and begging that inquiries may be instituted. This was referred by the Head Assistant Magistrate to the Town Sub-Magistrate, with the following endorsement:—"The Town Sub-Magistrate will make strict inquiries and report the result."

7. On the 3rd June, "Maraday" was removed from Dark's Bridge to Copoo station; there was no written permission given, and the Sub-Magistrate denies ever having verbally [or otherwise] given his consent. He states he did not know the Prisoner had left Dark's Bridge Station, until it came out in evidence before him on the 23rd.

8. On the 8th June, Head Constable Vytalingam applied for an extension of remand: This the Sub-Magistrate granted, remarking on Occurrence Sheet: "I do remand the three prisoners herein named up to 17th June 1866; The information here asked for does not appear to have been given."

"you are to acquaint yourself with the reasons of arrest of these persons, and let me have a brief report."

9. On the 16th, Head Constable Vytalingam asked for a further remand up to 20th as Maraday had confessed,—this was granted.

10. On the 18th, Inspector Simpson, when visiting Copoo Station, found Maraday a prisoner there; he accused the Head Constable of torture and showed the marks. The Inspector brought the man to me at once (the Superintendent being absent). Having heard the man's statement and examined the marks, I took him to the Head Assistant Magistrate, who questioned the man, &c. &c. I then sent Maraday for the Medical Officer's inspection, &c.

11. It struck me that, most probably, others, besides the Head Constable, were implicated, as the irregularities had continued over so long a period. So I determined that the prisoner should not be confined in any lock-up where he might possibly be bought over, and directed the Inspector to keep him in his own house. This order I gave in the presence of the Head Assistant Magistrate.

Vide M. In the evening, I went to the Sub-Magistrate, and told him the circumstances, &c. &c., and then, for the first time, learnt that the Sub-Magistrate had not even seen the prisoner, although he had been locked from 21st May to 18th June.

12. On the 20th, Head Constable Vytalingam wrote to the Sub-Magistrate, bringing Inspector Simpson's conduct to his notice, in having taken the prisoner away from Copoo Station to his own house, and thereby spoilt the case.

13. On the 23rd, the prisoners were taken before the Sub-Magistrate and released. *On this day* (for the first time) depositions were taken; Vytalingam gave his reasons for making the arrest, and why he took the prisoners to Copoo, and declared that he had not informed the Sub-Magistrate of his having done so.

14. The prisoner, Maraday's deposition was also taken, in which he stated that he had been troubled by the Police when kept a prisoner in the Copoo Station, and that it was on his reporting this to Mr. Simpson, that the Inspector took him to his own house. *This scarcely agrees with the statement of Sub-Magistrate before the Court.*

15. The Head Constable was then charged under Section 330 before the Head Assistant Magistrate, who referred the case for inquiry to the Taluk Sub-Magistrate. This Officer inquired into the case, and released the Head Constable, as he considered the statements conflicting. *But the marks of torture were evident.*

16. On the 2nd July, the Town Sub-Magistrate replies to the Head Assistant's endorsement of the 2nd June, stating there was no evidence to warrant the arrest and detention of the prisoners. *But yet the prisoners had been kept in confinement 28 days.*

17. The Head Assistant then reprimands the Sub-Magistrate. Maraday then appealed to the Session Court. The Court ordered the commitment of Vytalingam, [a Deputy, and three Constables], who was found guilty and sentenced to one year's rigorous imprisonment [the others were released].

18. The arrest, in the first instance, was wrong; there was no evidence to justify it, but as the arrest was made, the prisoners should have been produced before the Sub-Magistrate on the 21st May. The arrest was reported by Occurrence Sheet (an incorrect proceeding); and on Occurrence Sheets, without any evidence whatever, the Sub-Magistrate gives a remand till 25th May, and this is renewed till the prisoner is found by Inspector Simpson one month after.

19. It appears that Head Constable Vytalingam reported to the Superintendent that the Sub-Magistrate wished that the prisoner should be removed to some out station. The Superintendent states that he gave strict orders that the prisoner was not to be removed without the Sub-Magistrate's order.

20. The Superintendent states the Sub-Magistrate himself urged the removal of the prisoner, and that he declined, unless the Sub-Magistrate ordered it.

21. When the prisoner was removed from Dark's Bridge on the 3rd June to Copoo Station, it was with the Superintendent's sanction. The Superintendent says he gave his sanction, as he believed the Head Constable had obtained the Sub-Magistrate's order. The accompanying letters (N) from Vytalingam, addressed to Head Quarter Inspector, led Major Bates to believe that the Magistrate's sanction had been obtained.

22. The Superintendent states that the proceedings of the Acting Head Quarter Inspector in this case were by his direct orders.

23. The irregularities of the Police were numerous.

24. Dark's Bridge is only a Police Lock-up, no remanded prisoners are kept there. The Sub-Magistrate states that he remanded the prisoner to the Dark's Bridge Lock-up at the request of the Police.

25. The Police proceedings in the whole case were most irregular, not only as regards these prisoners, but also towards others arrested. Rules and Procedure have been alike disregarded.

26. The following papers are attached:—

- A.—Occurrence Sheet, reporting arrest, and asking for remand.
- B.—Remand Warrant from 22nd to 25th, 25th to 29th, 29th to 4th, 4th to 8th.
- C.—Occurrence Sheet for remand to 16th.
- D.—Maraday's brother's petition.
- E.—Remand Warrant from 8th to 16th, and from 16th to 20th.
- F.—Occurrence Sheet for remand from 16th to 20th.
- G.—Medical Officer's Certificate.
- H.—Occurrence Sheet, bringing to notice that Inspector Simpson had removed the prisoner from Copoo.
- I.—Depositions before Sub-Magistrate.
- J.—Sub-Magistrate's reply to Head Assistant's Endorsement D.
- K.—Head Assistant's reprimand.
- L.—Court Calendar.
- M.—Sub-Magistrate's Deposition before Session Court.
- N.—Head Constable Vytalingam's letter to Head Quarter Inspector.
- O.—Extract from Crime Register.
- P.—The Superintendent's explanation.

In Re Head Constable Vytalingam and others of Copoo Station.

I will first reply to the questions put by Inspector General in his Memorandum, 1572, 19th September 1866, and then state the case.

Reply.

I. "Was he informed of any of the irregularities as they were happening?"

No, or I need hardly say they would have been stopped. I was not present at Trichinopoly throughout the time, as will be shown.

II. "Was he aware of the remand to Dark's Bridge, and eight successive remand warrants, or, as the question runs, eight successive applications for remand?"

II. Yes I was, and spoke to Sub-Magistrate about it.

III. "Was he aware of removal to Copoo?"

III. Yes, the removal was at request of Sub-Magistrate, and reported to be by his order by Head Constable.

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IV. "How was it that the Deputy Inspector General, and not he, first became acquainted with the matter?"

Now for the case—

On 13th May, a house in Warriore was broken into, and property to a considerable amount abstracted. There were strong and good grounds for suspecting one Seenevassa Ayen, the Accountant of the head owner; still, after a few days we were all at fault, when Head Constable Vytalingam, of Copoo Station, sent to say that he had a clue to the case. As I knew that of all the Force he was the one best acquainted with Warriore and its doings, I put him on the case, with instructions to work with Head Constable of Warriore.

This was not a case of detective in plain clothes.

On the 21st May, it was reported that—

1. Maraday,
2. Seenevassa Ayen,
3. Kutium Ally,

had been arrested by Vytalingam, and removed by Town Sub-Magistrate, the 1st and 2nd, to Dark's Bridge.

On 31st May, i. e., 10 days after, the Acting Head Quarter Inspector stated that the Town Sub-Magistrate had expressed a wish that Maraday and Seenevassa should be removed from the Town, because such an intrigue was on foot in favor of the Brahmin, and that the case would be spoiled. I made some remark, to the effect that if Sub-Magistrate wanted the men moved, he must give his written order for it.

On inquiring into the matter, I found that, whilst the prisoners were in the Station-house verandah eating, communication was had with them through the medium of a little boy, who hovered about the place with a tray of sweetmeats.

On the following day, i. e., 1st June, the Town Sub-Magistrate paid me a visit, and urged the necessity that existed for the removal of the two prisoners from the Town to some out-station. Three stations were spoken of, Towagoody, Arosecoody, and Copoo. I fixed upon Copoo as being the nearest, but told the Sub-Magistrate that the prisoners would be removed only on his written order.

On the 3rd June 1866, the Acting Head Quarter Inspector informed me that Head Constable Vytalingam had reported from Copoo, that he had received the orders of Sub-Magistrate, and that, as he had to attend to a Dacoity case himself, he could not come for the prisoners, but he had sent in a Constable for them. As I, at that time, was under the impression that it was perfectly legal for the Sub-Magistrate to remand prisoners to any station he thought advisable, and as I had settled personally with the Sub-Magistrate that any removal must be done under his remand warrant, and as Head Constable Vytalingam had been directed not to move the prisoners without such an order, no suspicion whatever arose in my mind that all was not right, and I said "well, let them go."

They were sent out on 3rd of June. Subsequent to this I received another visit from the Town Sub-Magistrate, when we discussed freely on this matter, and he expressed his satisfaction at the removal of the prisoners away from the focus of intrigue.

During this period, I was personally engaged on four heavy dacoities, and this from morning till night; but finding that nothing was being done in Maraday's case, I went down to Town Sub-Magistrate's Catcherry, and then pointed out that we had no right to keep the prisoners under remand for so long without investigation. *There had been none, with the exception of that upon which the first remand was granted.* He urged me not to be too impatient, that it was unavoidable, &c. He gave me the impression of a man who had some important information of his own, which he did not wish to reveal at that moment.

I made this remark to him—"very well; you say it's all right, but there'll be a row about this."

On a second occasion, I went to his Catcherry, where he informed me that the Head Assistant had sent him a sharp Takeed, calling for explanation as to why Maraday had been kept so

IV. Because I was away when the matter was first discovered, and report was made to Deputy Inspector General.

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long under remand without inquiry, and that he had replied, saying that it "was absolutely necessary."

I recalled to his recollection what I had said before. I was not aware at this time that he was granting remands without seeing the prisoners.

I do not know anything more about this until I returned to Trichinopoly (I had gone out on a dacoity case) on 18th June, when Deputy Inspector General informed me of the torture.

Mr. Simpson, on going to Copoo, had found the prisoner Maraday with marks of ropes on the arms. Deputy Inspector General took the man to Head Assistant Magistrate, who, I am given to understand, announced his intention of taking up the case. Deputy Inspector General, meanwhile, directed Mr. Simpson to retain charge of the prisoner Maraday, whilst the Brahmin was at Dark's bridge again. On the morning of the 19th, I personally went into the case, in view to preparing charges against the Head Constable and Station Officers; but the falsehoods and the contradictions on the most important points were so great, that I felt it would be a farce to put the case before a Magistrate, and I mentioned this to Deputy Inspector General.

The last remand had been from 16th to 20th, but on ——— I received a Takeed from Town Sub-Magistrate, stating that Mr. Simpson had a prisoner in his possession, without remand, which was illegal, and that he wanted the man for inquiry. The prisoner was put before him and released with the other two. (Both Deputy Inspector General, I, and Mr. Simpson, and Dr. Harper had seen the marks; but when, before the Session Court, Town Sub-Magistrate was questioned, he stated that he had never seen the marks, nor had Maraday made any complaint.)

The Head Assistant sent the case to Taluq Magistrate, who found it impossible to commit the case, owing to the falsehoods of the witnesses, and he threw it out.

Session Court called up the case, and convicted the Head Constable, releasing the other Police Officers charged with him, but assigns no reasons for it. The evidence, such as it was, was the same against all.

The report on this case would have been sent in long ago, but for one thing, and that is the denial on the part of Town Sub-Magistrate of all knowledge of the prisoners being at Copoo. It became necessary, therefore, to go into every minute particular.

All the remand warrants were directed to Head Constable of Dark's Bridge Station. Therefore, on this point, even if the Town Sub-Magistrate was acting in concert with Vytalingam, the Head Constable convicts himself—he was holding warrants addressed to Head Constable at Dark's Bridge Station, whilst he had the prisoners named in the warrants at Copoo.

No remand warrants for Copoo can be found, and if granted are not likely to be found.

Vytalingam will not state what occurred, he even, after conviction, went so far as to say that he did not know how the prisoners come to Copoo, until reminded of his report from Copoo. Corresponding with the dates in remand warrants, are entries in Copoo Station reports, on same dates, that Maraday and Seenevassa are under remand of Town Sub-Magistrate.

However, the independent action of the Head Constable is not borne out by the conversations between myself and Town Sub-Magistrate. If those conversations are accepted as stated by me, the question lies in a nutshell—who is telling the untruth, the Town Sub-Magistrate or I?

I do not think, clever fellow as I believe him to be, that Head Constable Vytalingam could alone have bamboozled the Head Quarter Office, Dark's Bridge Station, and the Town Sub-Magistrate.

I. There could have been no object in the Head Constable's wishing to get the prisoners to Copoo secretly, because he was well aware of the conversation between Sub-Magistrate and me, and he had been told that it was to be done only on Sub-Magistrate's order.

II. Whilst the prisoners were at Copoo, he was continually with Town Sub-Magistrate.

III. As I have before said, the Town Sub-Magistrate was aware of the prisoners being at Copoo.

IV. He granted all the remand warrants without seeing the prisoners.

V. Days after the tortured man was brought in his own prisoner, when all the Town was ringing with the news of the torture, the man was brought before him and released, and he

states on oath in the Session Court that, when the man was brought before him, he saw no marks, and the man never complained. Can we credit this?

The Head Assistant had, on several occasions, stated that, from his inquiry, he is convinced that the hurt was caused neither in the way or in the place asserted. The Doctor's certificate leaves the matter in doubt. The report received by Vytalingam, on 3rd June, does not actually say that he had received the Town Sub-Magistrate's order for the removal of the two prisoners, and I think that I was a little too hasty in coming to the conclusion; but, after the conversation with Sub-Magistrate, and my positive orders on the subject, I did not think for one moment that there was any humbugging, and as the Acting Head Quarter Inspector was, with myself, fully aware of the Sub-Magistrate's views on the subject, it is evident that he could have had no object in getting the men sent out without the Sub-Magistrate's orders. It was at the request of Sub-Magistrate that I sent the prisoners out to Copoo, but he has managed to get it done without issuing the order.

We have been regularly humbugged.

I do not think that I can throw any more light on this case. One thing more: Deputy Inspector General informs me, that, on the evening of the day on which Mr. Simpson brought Maraday in, he went to Town Sub-Magistrate's Catcherry, and informed* him of what had taken place—this was 18th June. On 22nd June Maraday was taken before Town Sub-Magistrate and released. Yet, on 6th September, the Town Sub-Magistrate deposes on oath that

he knew nothing about the torture,* that Maraday did not complain, nor did he see any marks. I say that Maraday called out in the Catcherry that he had been tortured.

* See above.

(Signed) C. E. BATES,
Superintendent of Police.

TRICHINOPOLY,
9th September 1866.

No. 27. ORDER THEREON, 2nd November 1866, No. 1737.

The Magistrate will be good enough to forward the record connected with Mr. Comyn's investigation into the conduct of the Sub-Magistrate, and the Calendar of the trial of the Police Officers before the Court, with a copy of the Session Judge's notes.

(True Extract).

Secretary to Government.

To the Magistrate of Trichinopoly.
„ Inspector General of Police.

Exd. J. H. Burns.

2^d November 1866 No. 1737.

The Magistrate will be good enough to forward the record connected with Mr. Comyn's investigation into the conduct of the Sub-Magistrate, and the Calendar of the trial of the Police Officers.

W.B. before the Court, with a copy of the Session Judge's notes.

W.B. to the Magistrate of Trichinopoly 13/11

This is a very serious case & it would, I think be well for it to have it fully before them.

6/11/66
157.07.15