

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1799	Press ~~Mis~~
Dated 14-11-1967	1868 7/4

Not to be folded or roughly handled

14th November 1866.

No. 147. Read the following letter from the Magistrate of Bellary, to the Secretary to Government, Fort Saint George; dated Bellary, 9th October 1866, No. 76.

I have the honor to forward transcript of a letter from the Acting Judicial Commissioner of Mysore, in reference to which I have informed the Sub-Magistracy that they may serve the Summons as a matter of courtesy, and not of right; but it is obvious that the service of a Summons, unsupported by legal sanction and penalty for disobedience, will be, at best, but a small security for the ends of Justice. I would respectfully suggest the consideration if whether such further legislation is not required on the subject.

From the Officiating Judicial Commissioner of Mysore, to the Magistrate of Bellary; dated Bangalore, 1st October 1866, No. 146.

I have the honor to enclose a copy of a communication from the Sub-Magistrate of Dhuruvaram to the Sub-Magistrate of Pongurh in the Mysore Territory, from which you will see that the former considers himself precluded by the opinion of the Advocate General of Madras, published at page 165 of the *Bellary Gazette* for 1866, from sanctioning the service in his Taluq, of a Summons issued by the Sub-Magistrate of Pongurh, for a witness in a case of dacoity committed in this Territory.

2. The opinion of the Advocate General, above referred to, has, I think, been over-ruled by the decision of the High Court of Madras, published at page 313 of the *Fort Saint George Gazette* of the 4th September 1866; and while I cannot claim, as a matter of right, to have the Summonses issued by the Mysore authorities for the attendance of witnesses served in the Madras Districts, I hope that, as a matter of courtesy, and in the interests of Justice, you will kindly give orders for such Summonses to be served on witnesses in this and other Criminal cases.

3. The refusal to serve Summonses on witnesses for Criminal prosecutions would make the conviction of offenders in the border districts very uncertain, and would indirectly tend to encourage gangs of robbers on the frontiers of your district, whose neighbourhood would be dangerous to Her Majesty's subjects.

No. 148. ORDER THEREON, 14th November 1866, No. 1799.

In the absence of any legal provision for the serving of Summonses issued by the Mysore Authorities for the attendance of witnesses residing in British Territory, the Governor in Council sees no objection to those Processes being served as a matter of courtesy, as proposed by the Acting Judicial Commissioner—Officers under the Mysore Government adopting a like course in regard to Summonses issued by British Officers.

(True Extract).

Secretary to Government.

To the Magistrate of Bellary.

Exd. J. H. Burns.

1867 J. C. Henderson
Offg. Judicial Commissioner
1 True Copy
H. H. Burns
Magistrate

Proc. 7th Nov. 1865 p. 55 to 58.

File 2114
Revenue Secy to Govt

1866 DEPARTMENT.

From,

The Magistrate of
Bellary.

To,

The
Revenue Secretary
to Government
Madras

2114

Dated
Received 9th October/66

No 2271

No. 76

Enclosure.

I thought the
was a by
don't it
the

Suggesting the considera-
tion of whether such
further legislation is
not required in the
subject of Summons
issued by Mysore
Authorities being
served in the Bellary
District -

c36 Nov 147
Revenue Secy to Govt

No 146

Mysore Judicial Commissioner's Office
Dated Bangalore 1st October 1866.

To The Magistrate of
Bellary

Sir,

I have the honor to enclose a copy of a communication from the Sub Magistrate of Dharmavaram to the Sub Magistrate of Bongur in the Mysore Territory, from which you will see, that the former considers himself precluded by the opinion of the Advocate General of Madras, published at page 165 of the Bellary Gazette for 1866, from sanctioning the service in his district of a summons issued by the Sub Magistrate of Bongur, for a witness in a case of dacoity committed in this Territory.

This opinion is not in conformity with the opinion of the High Court of Madras in the case of the Fort St. George Gazette of the 4th September 1866, & while I cannot claim as a matter of right, to have the summonses issued by the Mysore authorities for the attendance of witnesses served in the Madras Districts, I hope that as a matter of courtesy, and in the interests of justice, you will kindly give orders for such summonses to be served on witnesses in this and other criminal cases.

2. The opinion of the Advocate General above referred to has I think been over-ruled by the decision of the High Court of Madras, published at page 313 of the Fort St. George Gazette of the 4th September 1866, & while I cannot claim as a matter of right, to have the summonses issued by the Mysore authorities for the attendance of witnesses served in the Madras Districts, I hope that as a matter of courtesy, and in the interests of justice, you will kindly give orders for such summonses to be served on witnesses in this and other criminal cases.

3. The refusal to serve summonses on witnesses for criminal prosecutions would make the conviction of offenders in the border Districts very uncertain, & would indirectly tend to encourage gangs of robbers on the frontiers of your District, whose neighbourhood would be dangerous to Her Majesty's subjects.

I have the honor to be,
Yours faithfully,
J. A. Hindersley,
Mysore Judicial Commissioner

(True Copy)

Sub Magistrate

E. H. H.
#7

No. 2271

Judicial

From the Magistrate of Bellary. 49: Oct. 1866.

For Orders.

I think that the summary in
 justice may be done as
 a matter of courtesy. The Magistrate
 authority is not to be lost.
 This doubtless is an un-
 satisfactory state of things but
 if the judicial authorities
 consider the application to that
 effect should be made to the
 Government of the Commission
 of Magistrate.

J.
 M.V.

No. 16 to 229/100

Enclosure No. 1
 in a letter from the
 Collector of Bellary
 to the Revenue Secretary
 of Mysore dated
 4th Oct. 1866

Copy of Special Order
 No. 1416 dated
 14th Oct. 1866.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter
from the Magistrate of Bellary.

Bellary, 9th October 1866 N. 96.

Order 14th Nov. 1866 N. 1799.

In the absence of any
legal provision for the serving
of Summons issued by the
Mysore Authorities for the
attendance of witnesses residing
in British Territory, the
Governor in Council sees no
objection to those processes
being served as a matter
of courtesy as proposed by
the Acting Judicial Com-
missioner. Officers under
the Mysore Government
adopting a like course in
regard to Summons issued
by British Officers. This
~~is an unsatisfactory~~
state

J.

W.D.

state of things, but, if legis-
lation be needed for its
correction, the necessary
application to the Govt
of India should be made
by the Commissioner of
Mysore.

[Signature]

BR

? Would it not
be better for us
to have the
correspondence
kept put

To the Magistrate of Bellary dated 19/11

14 d340

Indian 1865. Department.

No. 1799.

PROCEEDINGS OF GOVERNMENT.

Dated *14th November 1865*