

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1852	Press ~~Mis.~~
Dated	22-11-1918	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
22nd November 1866.*

No. 233. Read the following letter from the Acting Magistrate of Kurnool, to the Acting Chief Secretary to Government, Fort Saint George; dated Kurnool, 4th June 1866, No. 19.

I have the honor, at the request of the Superintendent of Police, to submit, for the opinion of the Advocate General, a case in which I refused to entertain a charge against a Village Magistrate, under Section 202, on the ground that he was not legally bound to give the information which he was charged with having intentionally omitted to give.

2. The question is one of general interest, as I have reason to know that, in many parts of the country, a considerable difference of opinion prevails as to what the Heads of Villages are legally bound to do.

STATEMENT OF THE CASE.

An offence punishable under Section 457 of the Indian Penal Code was committed in a village, which circumstance the Head of the Village, or Village Magistrate, did not report to the Police.

2. The Superintendent of Police proposed to proceed against him criminally, under Section 202 of the Indian Penal Code.

3. The Magistrate held that a conviction could not be had under that Section, inasmuch as the Village Magistrate was not "legally bound" to give information to the Police of the commission of offences.

4. The Superintendent of Police contended that, as, under Section 138 of the Code of Criminal Procedure, it is "the duty of every person who is aware of the commission of any offence made punishable under (certain specified) sections of the Penal Code to give information of the same to the nearest Police Officer," *a fortiori* a Village Magistrate is under an express obligation to do so, and in support of this view he quotes Mayne's note on Sections 25—50 of Regulation XI of 1816 (see page 103 Mayne's Commentary, 1st edition, and page 109, 3rd edition).

5. It may be as well to remark here that the above quoted Sections of Regulation XI of 1816 have all been repealed since, with the exception of Section 47, which refers only to District Magistrates, by Act XVII of 1862.

6. It appears very doubtful whether the provisions of Section 138 of the Code of Criminal Procedure are more binding on the Village Magistrate than on a private individual. The other villagers, the Taliaries, the person himself whose house was broken into in this instance, are all equally indictable for not giving information to the Police. The Village Magistrate is not specially referred to, and to discover what this official is legally bound to do in his public capacity, recourse must be had to another portion of the law, Regulation XI of 1816, the few unrepealed sections of which—8, 9, 10, 12 and 13—are devoted to an explanation of his duties. It will no where there be found that he is bound to report offences which have been committed in his village (murder excepted) to the Police.

KURNOOL MAGISTRATE'S OFFICE,
4th June 1866.

(Signed) H. E. SULLIVAN,
Acting District Magistrate.

No. 234. ORDER THEREON, 22nd November 1866, No. 1852.

The question herein raised, viz., whether a Village Moonsiff, aware of the commission of an offence punishable under any of the Sections of the Penal Code enumerated in Section 138 of the Criminal Procedure Code, and omitting to give information of the same to the Police, can, in his official capacity, and not merely as a private individual, be punished under Section 202 of the Penal Code, is of considerable importance, and the Government resolve to refer it, through the Government Solicitor, for the opinion of the Advocate General.

(True Extract).

To the Acting Government Solicitor.
" Magistrate of Kurnool.
Exd. J. H. Burns.

Chief Secretary.

*To the Acting Government Solicitor,
Magistrate of Kurnool,
Exd. J. H. Burns.*

22nd Nov 1866 N^o 1869

In Order.

I doubt the sentry
system very much.
Int. Col. W. will
be let after badish.

Referred to the
Inspector sent of
jails for early

report of the off of Pike as
regards the Pike jail.
Major Farewell is
proposed to have

We can ask Col. W.
if any derelict
Lutheran council
laborer, much as
phases - and the same
in which it is proposed
to employ them is on
of great importance.

the prisoners chained
up there at night
is inadmissible,
as in case of fire
the loss of life might
be most serious.

But it is surprising
that at night the time
of your visit, can't
be improved, and the
convict will have his
own clothing.

The last pair
of Major Farewell
better will be can?

It may be well also
to sent out men who
have been a long time on the
kibb, and are in a way of the

Mr. McLow for
report.

Chimney Is the
house convict, at the
+ design

I sh.
A worthy -

The Eakras of low country nature
under sentence of imprisonment; on the 1st
Nov. 1852, is, indeed, an aggravation of
their punishment which the law never
contemplated. Though what has already
been done in that direction, cannot of
course now be remedied. But now to
add to this aggravation, by keeping the un-
happy wretches out in the cold
night of the 1st of January & February
leaving them in a position of utter help-
lessness. I was for about a month the
custodian of the prisoners. I recollect that with all our
clothes, blankets in abundance our
party was most miserably punished by the
night-cold. Apart however from the
which calls for serious consideration the
poor, I remember that labor applied in
the manner supposed by Captain Farnwell
is a great deal of labor. There is no food in
medical superintendence and the general
superintendence of the visiting & controlling officer
is most onerous. The cost too when we are
lacking plants, extra clothing for guards &
carrriage of food to camp & the
is brought into fully to account, will
amply justify the fact of the
of cooperation. I am for the above & the
Prisoners agree to comply with Captain
Farnwell's application.

W.D.F.

22nd Nov. 1852 H: 1852.

3

The question here is raised
viz whether a Village Muni-
cality are aware of the commission
of an offence punishable under
any of the Sections of the Penal
Code enumerated in Sect 138
of the C. P. Code and omitting
to give information of the same
to the Police ^{can} in his official
capacity - ~~can~~ and not
merely as a private individual
be punished under Sect 202
of the Penal Code - is of
considerable importance
and the fact is also to be
it, though the fact solicitor,
for the purpose of the Adm.

cont. part

L.D.

The Ag. Secy. Solicitor
Magistrate of Kurnool

22nd Nov. 1852

22-11-66

1865.

1865.
First Department

Thomas

White Magnolia

49-10-14

James L. ...

of the 20th century

Government

Good Sam Evans

W. A. R. 1911

1868

[Handwritten signature]

Do 19
(we want me)

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. It is a formal communication, and it is written in a very formal and dignified style. The President begins by addressing the Congress, and then he proceeds to discuss the state of the Union. He mentions the progress of the country, and he also mentions the difficulties that the country is facing. He then goes on to discuss the policy of the administration, and he ends the letter by expressing his confidence in the Congress.

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General access, rural

McLean 102 of Indiana

Personal Code

There is very dense Mr. Lawrence's P. U. has
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The May after the village where two of the
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 The question is a very difficult
 & a very important one
 but cut and on these papers,
 the advice I can't seem to
 admitted before the
 for a second opinion as
 the woman stated.