

MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No.	269	Press Mis.
201-203		
Dated	22. 2.	19 886

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Not to be folded or roughly handled

(1)

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

Read the following papers:—

No. 201. From the Acting Commissioner of Police, to the Chief Secretary to Government, Fort Saint George; dated Madras, 6th January 1866, No. 4.

I have the honor to forward a petition delivered to me by Joseph D'Vaz, a convict sentenced to seven years' transportation, who was embarked on board the Steamer *Bushire*, this morning, for the Andamans.

2. The prisoner is little more than a lad, but there were doubtless special reasons for the severity of punishment, which he could not, or would not, explain. I warned him against indulging in any hope of commutation of sentence.

TO HIS EXCELLENCY THE HONORABLE SIR W. T. DENISON, K. C. B.,

Governor in Council, Fort Saint George, Madras.

The humble petition of RICHARD JOSEPH D'VAZ, prisoner in Tellicherry Session Court Calendar 23 of 1865, now in Madras Penitentiary, under sentence of seven years' transportation, on a charge of "Criminal Breach of Trust by a Public Servant."

YOUR PETITIONER HUMBLY SHEWETH,

That, owing to the undeniable fact that certain amounts of money were placed in his keep, without the proper means of securing the same when so placed (notwithstanding that the deficiency of a Cash Chest, or other safe depository, had been repeatedly represented by petitioner and others), in the month of March 1865, a considerable amount of money (Government property) was clandestinely extracted from your petitioner's private box. The circumstance was, by your petitioner, made known to those on the spot; but there being no person of authority to seek redress through, your petitioner, in his excited state of mind, proceeded to Madras, with a view personally to represent the misfortune to the Telegraph authorities, in hopes of redress. Subsequent statements, however, proved that immediately on petitioner's departure from Tellicherry it was represented to the Telegraph authorities at Madras that your petitioner had wilfully absconded, thus making it appear that he had wittingly committed a deceptive fraud, and that, as a final resource, he sought safety in flight;—on the contrary, your petitioner had no idea by whom the theft had been committed. Your petitioner, being misled by wrong advice (whether accidental or intentional), is now undergoing the penalty of his indiscretion.

2. Your petitioner, being now about 21 years of age, respectfully and humbly solicits the merciful leniency of your Excellency towards one so young, whose service has, for the last 7½ years, been devoted to Government, with an unblemished character; whose extreme hard sentence of banishment from home and friends, with its hardships and painful degradations, may meet with sympathizing consideration; and that your Excellency may be pleased to mitigate the severe sentence under which he now suffers.

Your Excellency's petitioner as in duty bound, shall ever pray.

HER MAJESTY'S PENITENTIARY,
MADRAS, 5th January 1866.

(Signed) R. J. D'VAZ.

No. 37.

MEMORANDUM.

No. 201A.

R. J. D'Vaz, a prisoner in Calendar No. 23 of 1865 of the Session Court of Tellicherry, having petitioned Government for the remission of a portion of his sentence, the Chief Secretary has the honor to request that the Session Judge will be so good as to forward the Calendar of the case for the perusal of His Excellency the Governor in Council.

FORT SAINT GEORGE,
31st January 1866.

To the Session Judge of Tellicherry.

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

No. 202. From the Session Judge of Tellicherry, to the Chief Secretary to Government, Fort Saint George; dated Tellicherry, 5th February 1866, No. 10.

As requested in your Memorandum of the 31st ultimo, No. 37, I have the honor to forward, for the perusal of His Excellency the Governor in Council, a true copy of the Calendar in Session Case No. 23 of 1865.

2. No appeal was preferred against the decision in this case to the High Court of Judicature at Madras.

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

1	2	3	4	5	6	7	8	9	10	11	12	13	14
No. of the Case.	Name and description of the accused.	Copy of the charge, or substance of the complaint.	Name of complainant.	Names of witnesses for prosecution.	Names of witnesses for defence.	Statement of the evidence and grounds of conviction.	Finding and Sentence.	Date of offence.	Date of commitment.	Date of appearance.	Date of sentencing.	Date of execution.	Explanations.
23 of 1865.	1. Richard Joseph D'Vaz, a Signaller. 2. John Rodrigues, a line rider.	That he the said (1) Richard Joseph D'Vaz, between the months of February (inclusive) and 11th April 1865, committed criminal breach of trust as a public servant, and that he, the said (2) John Rodrigues, concealed the above Richard Joseph D'Vaz, knowing, or having reason to believe, him to be an offender, with the intention of screening him from legal punishment; and that he has thereby committed an offence punishable under Sections 212 and 409 of the Penal Code, and within the cognizance of the Court of Session of Tellicherry.	Queen... (1) Richard Joseph D'Vaz, between the months of February (inclusive) and 11th April 1865, committed criminal breach of trust as a public servant, and that he, the said (2) John Rodrigues, concealed the above Richard Joseph D'Vaz, knowing, or having reason to believe, him to be an offender, with the intention of screening him from legal punishment; and that he has thereby committed an offence punishable under Sections 212 and 409 of the Penal Code, and within the cognizance of the Court of Session of Tellicherry.	1. John McGuire, Telegraph Inspector. 2. Henry Edmond Rozario. 3. Parayeth Ramen. 4. Mukuwan Tamakaran. 5. Mukuwan Kottan.	For 2nd Prisoner: 1. V. Souza, Butler (dead). 2. Anne Souza, (dispensed with). 3. Theresa. 4. Mangalore Subban.	The 1st prisoner pleaded "guilty" before the committing Magistrate. The 1st witness for the Crown deposes to having received telegraphic instructions from the Superintendent of Telegraphs, Madras Circle, to proceed to examine the Telegraph Office at Tellicherry, as the 1st prisoner had absconded with a large sum of Government money; this was on the 13th April last. Witness proceeded the same afternoon to Tellicherry, which he reached after dark. On the following day he commenced the examination of the office accounts, &c., resulting in the discovery of a net deficit of Rupees 584-12-6, extending over February, March, and up to the 10th April. These deficits are supported by the Exhibits A to F inclusive. The above sum represented the net receipts of the Tellicherry office up to the 10th April 1865, and witness satisfied himself, by a communication to the Taluk Treasury to the credit of Government charge of the Tellicherry Telegraph office, was responsible for these sums, and that 2nd prisoner, who is employed on the conservancy of the line, has nothing to do with cash or accounts. Witness further deposed that, by a standing order of the Department, when he produced, directly the receipts of a station arrived at 100 Rupees, it was the duty of the Officer in charge of such office to remit the money to the nearest Treasury. Witness identified the letter G, as being in the hand-writing of the 1st prisoner, who is an old acquaintance of his.	The Court, concurring with the Assessors, finds that (1) Richard Joseph D'Vaz is "not guilty," and (2) John Rodrigues is "not guilty" of the offence specified in the charge, (1) namely that Richard Joseph D'Vaz has committed criminal breach of trust as a public servant, and that he has thereby committed an offence punishable under Section 409 of the Penal Code; and the Court directs, under the provisions of Section 59 as applied to Section 409 of the above enactment, that the said Richard Joseph D'Vaz be transported for seven years. II. The Court, concurring with the Assessors, finds that (2) John Rodrigues is "not guilty" of the offence specified in the charge (1), namely that John Rodrigues has concealed an offender, and that he has thereby committed an offence punishable under Section 212 of the Penal Code; and the Court directs that the said John Rodrigues be discharged.	11th April 1865.	13th April 1865.	17th and 2nd on the 1st Prisoner on the 15th April 1865.	29th June 1865.	29th June 1865.	Explanations.

Sent up by Shangara Menon, 2nd Class Subordinate Magistrate of Tellicherry.

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

- The 2nd witness for the Crown, a Signaller in the Tellicherry Telegraph office, and who had been in that office with the 1st prisoner since May 1863, deposes that 1st prisoner was the Signaller in charge, and, as such, his superior Officer; that it was his duty to receive all cash in the office, and to keep the accounts, witness' duties being simply those of a Signaller. Witness deposes to the mysterious departure of the 1st prisoner on the night of the 11th April last; states that 1st prisoner asked him to take his duty for the following day; 1st prisoner did not say that he was going to leave Tellicherry; afterwards that 1st prisoner had gone, as a passenger, in a boat to Tanor (South Cannanore being North of Tellicherry); suspicious excited, in which he (witness) telegraphed to Superintendent of Telegraphs, Madras Circle, and continued his duties as a Signaller only, but also reported the circumstances to Captain Bloomfield, the Superintendent of Police. Witness states that, when pressed, 2nd prisoner begged him (witness) not to report 1st prisoner, as it might get him into disgrace. Witness identifies G as being in the hand-writing of 1st prisoner, but says it is not signed as 1st prisoner usually signed his name. Witness verifies Exhibits A, B, C, D, and E, as accounts of the Tellicherry Telegraph Office, and states that he made them over to the 1st witness when he came to examine the accounts of the Office, after the departure of the 1st prisoner; does not recollect having handed over to that Officer Exhibit F.
- Third Witness, the cook of the 1st Prisoner and 2nd witness, who appear to have messed together, speaks to the 1st prisoner leaving the Telegraph office on the night in question, in the company of the 2nd prisoner, and to his not having returned.—2nd prisoner told him, on the following day, that 1st prisoner had gone to Cannanore and would return next day.
- The 4th and 5th witnesses are boatmen. They agree in deposing that a boat was engaged by the 2nd prisoner, to go to Tanor, for 22 Rupees; that on the day after the engagement, 1st and 2nd prisoners, with a coolie and a box, came down to the beach late at night; that 1st prisoner only embarked; that on engagement.—1st prisoner, also, at Tanor gave them the balance of the boat hire, the 2nd prisoner having given them an advance on the afternoon of the on their return to Tellicherry, they were directed at the Custom house to proceed to the Sub-Magistrate, and there deliver the kettle and note.
- This concludes the case for the prosecution.
- To my surprise, after pleading "not guilty," the 1st prisoner, when called on for his defence, and after receiving the usual caution, put in a written defence in which he virtually admits his guilt. It is a curious composition, evidencing considerable education, but a very lax code of morality. He admits having been 9 years in his Department, and cannot, therefore, claim any consideration for inexperience. He cited no witnesses.
- I consider that an example is imperatively called for, and, though far within the limit of the law, I have awarded what I consider an adequate sentence in the present instance.
- As regards the 2nd prisoner, though I have little doubt in my own mind from all the features of the case, that the 2nd prisoner was well aware that the 1st prisoner was in a scrape and making his escape, I concur with the Assessors that the prosecution has failed to establish that he knew, or had reason to believe, that 1st prisoner was an offender against the law; and it was clearly necessary to establish this to bring the charge home to the 2nd prisoner; and on this ground I have ordered his unconditional release.
- The tea kettle having been proved and admitted on all hands to be the 2nd prisoner's property, I have ordered it to be restored to him.
- A sum of 85 and odd Rupees was found on the prisoner when he was apprehended in Madras. He has admitted this to be a portion of the Government money he took, and it will accordingly be restored to the Telegraph Department.

TELLICHERRY, SESSION COURT,
29th July 1865.

(True Copy).

(Signed) A. W. SULLIVAN,
Session Judge.

(Signed) A. W. SULLIVAN,
Session Judge.

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

No. 203.

ORDER THEREON, 22nd February 1866, No. 269.

The Governor in Council is not prepared to comply with the petitioner's application for a mitigation of the sentence passed upon him by the Session Court at Tellicherry.

(True Extract).

Chief Secretary.

To the Commissioner of Police, Madras.

Ed. J. H. Burns.

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To Mr. Gray

I am indeed sorry
to hear of your misfortune.
I enclose a cheque
for Rs. 15. You must
endorse it & send it
to Messrs. Pringle & Co. &
Yours
J. H. Burns

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Read letter from the Com^r of Police ^{6 Sept 1886} 5 Feb 1886
" " Session Judge of Tellicherry 5 Feb 1886

Order thereon 22 Feb 1886 No 269

The Governor in Council
is not prepared to comply
with the Petitioner's application
for a mitigation of the
Sentence passed upon
him by the Session
Court at Tellicherry.

MM

JP

RDY

W/A

The Com^r of Police, Madras despd 24/2

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