

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	228	Press
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Dated	18. 2. 1916	

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
15th February 1866.*

No. 148. Read the following letter from the Advocate General, to the Chief Secretary to Government, Fort Saint George; dated Madras, 8th February 1866.

I have the honor to report, for the information of His Excellency the Governor in Council, the result of two cases in which I considered it my duty to appear on behalf of the Crown at the recent High Court Sessions.

2. The first was the case of one Munisawmy, a Watching Peon at the Central Museum, charged, 1st, with having broken and entered the premises, between sunrise and sunset, on the 2nd November 1865, to commit theft, under Section 457 of the Indian Penal Code, and, secondly, with having, while in the employ of the Government, stolen from the Museum a sum of Rupees 165-9-0, under Section 381 of the Code.

3. This money formed part of the Establishment's monthly pay received by the Curator, who locked it up in his drawer, before leaving the premises on the evening of the 2nd November. The Curator called the attention of the prisoner to the money, before locking his drawer. The evidence showed that the whole of the doors and windows were locked and bolted by one of the Hamals. It was the duty of the prisoner and another Watching Peon to guard the premises during the night—the prisoner taking the first watch from 6 P. M. to 12 A. M., the other Peon from 12 to 6 A. M. The watching place was just outside the principal entrance. It appeared that on the present occasion the prisoner never woke his fellow watchman, as was his custom, at 12 o'clock, but watched the whole night through. In the morning a side-door was found open, the drawer in the Curator's room open, and the money in question gone. The witness who bolted this side-door deposed that the prisoner was present when he fastened it; that it was closed with pin bolts on the inside; and that it was impossible to open it from without. This would certainly lead to the supposition that there must have been some one locked in on the premises, who committed the theft, and let himself out by this door. It is, however, possible that the prisoner, having been shewn the money by the Curator, and having made up his mind to steal it, took an opportunity of stepping back and withdrawing the bolts, but of this there was no evidence.

4. The upper part of the drawer into which the lock shoots had been cut away, and the drawer thus opened. A knife, identified as the prisoner's, was found by the Police in his mat, in the place in which the Peons ordinarily keep guard. This knife was, when found, rusty, except at the point, which had a bright appearance and scratches on it, as if recently used. Had the knife been found in the Curator's room, or even within the Museum, it would have been cogent evidence to connect the prisoner with the crime. The money was not traced; and, really, on the evidence, whatever suspicion might attach to the prisoner, the case was, as Mr. Justice Bittleston remarked, an "impossible" case; for the prisoner was shown to have been locked out, and the witness who fastened the side-door swore that it could not be opened from without.

5. The second case was that of George Corneille, charged with having, on the 12th October last, forged a bill on the Government of India, for 500 Rupees, purporting to be signed by one Canahiah, under the 465th Section of the Indian Penal Code; with having forged the bill described as a receipt or acquittance for money, under Section 467; with having dishonestly used the forged bill, under Section 471; and with having abetted the forgery and dishonest use, under Section 109.

6. It appeared in evidence that, on the 8th October 1858, the Government had sanctioned a grant-in-aid to the Granda Karana Saba Society, to the amount of Rupees 500 per annum; that this had been drawn up to the year 1860 or 1861; and that, on the 25th February 1865, the payment of this grant had been suspended by the Director of Public Instruction, by his letter of that date to the Civil Paymaster.

7. The prisoner was a Clerk in the Accountant General's Office. It was his duty to pass all bills, presented for payment, of grants in aid; and an entry of this letter of the Director of Public Instruction was produced, in the prisoner's handwriting, in his Departmental Note Book. He was therefore clearly aware of the fact that payment had been countermanded.

8. It appeared that, on the 1st of October, certain changes were introduced in the Office: Mr. Luxa, who had hitherto audited these grant-in-aid bills, and under whom the prisoner discharged his duties, was transferred to other duties, and Mr. Joseph, under whom one Numpermal acted, appointed Auditor in this Department. As Mr. Joseph and Numpermal were new to the duties of the Department, they were generally instructed to seek the aid of Mr. Luxa and the prisoner, on any points on which they might require information.

9. I have myself no moral doubt of the prisoner's guilt. Indeed his Counsel was apparently as much surprised as myself at the verdict of acquittal; not that I think the Jury was not justified in their verdict, under the peculiar circumstance of this case. Mr. Justice Bittleston, too, appeared to me to lean, in his summing up, rather towards an acquittal. I forward a copy of this morning's *Athenaeum and Daily News*, which contains a sufficiently accurate report of the trial, except that it omits the evidence of one Castellás, and makes no mention of the testimony of Numpermal, one of the most important witnesses in the case.

10. As I view the probabilities of this case, it was the change in the office and the ignorance of those newly appointed that may have first suggested the fraud to the prisoner. It certainly gave facilities for effecting such an object, and of putting others forward, while keeping in the back ground himself, that could not have been looked for at any other conjuncture.

11. Anthony Pereira, a writer in the Appellate Side of the High Court, positively swore that, on the evening of the 11th October, the prisoner came to his house, and requested him to write a bill for a Native, which he accordingly did, leaving out only the amount and the name of "Canahiah," at the request of the prisoner. His daughter Adrianna, who was praying in an adjoining room, corroborated her father. She said she heard the prisoner say, "leave the amount blank." Pereira went to the prisoner's house on the evening of the 13th, as he said, to inquire about a note to one Mr. Martin, which, on the evening of the 11th, he had given the prisoner to deliver. This note was produced by the prisoner, and was dated the 12th. Pereira explained this, by saying that, though he wrote it on the evening of the 11th, he dated it the 12th, as it was not to be delivered till the following day. He swore that, on the 20th, the prisoner came to him at tiffin time, in the compound of the High Court, when he stated that the bill had been discovered at the Accountant General's Office to be in "High Court writing," and begged him, if asked, to deny the writing, promising 20 Rupees, and adding that he had himself received only 100 Rupees for his trouble. The bill, I should mention, had been cashed upon the

14th October at the Madras Bank. Pereira says he answered that he could not deny his writing, as it was perfectly well known to all about the Court. He immediately went to his Superior, Mr. Aubert, and subsequently to the Deputy Registrar, Mr. Wilkins, and reported what had occurred. He did not, however, proceed to the Accountant General's Office, to lodge his information there. A Mr. Castellás, another Clerk in the High Court, deposed to having seen Pereira and the prisoner conversing one day about tiffin time in the compound of the High Court, though he could not particularize the date. Pereira deposed to another interview between himself and the prisoner on the evening of the 21st. This took place on the High Road at Royapettah, near prisoner's house. The prisoner again inquired if the bill had been sent to the Court "for detection," and offered him 20 Rupees and drink, which Pereira refused. He said that one Corrasaloo, another writer in the High Court, was present when the prisoner joined him. This man was instantly sent for, and at once stated that he had seen the prisoner and Pereira together at Royapettah one evening, about the time in question, though he could not state exactly when.

12. Now I have no doubt Pereira was telling the truth, though not the *whole* truth. The prisoner could not of course draw up the bill in his own writing, which was too well known in his office, and I suspect that Pereira had a far more guilty share in the transaction than he chose to admit. His account of visiting the prisoner at his house on the 13th was very lame. The probability is that he went to inquire after the success of their joint operation. His subsequent disclosure of his share in the matter to his Superior was evidently to shield himself, and it is probably owing to this circumstance that he did not himself make his appearance in the dock.

13. When asked to write the bill he appears to have asked no questions, and at once to have lent himself to what must have struck him as a most suspicious transaction. The only reason he could assign for writing the document for the prisoner was that the prisoner was a compositor—as if that necessarily precluded his knowledge of the act of writing—notwithstanding the prisoner really did write a very fine hand, and the witness had known him for 24 years.

14. Of course, the Judge and Jury would be very cautious in acting upon the evidence of a witness so tainted as Pereira. It was quite possible that he alone, or he and others had been concerned in the forgery and uttering, and that now the affair was blown, he had wickedly introduced the prisoner upon the scene, in order to shift the responsibility from his own shoulders. Had there been nothing more in the case to connect the prisoner with the forgery, this might have been strongly urged. But there is so much connecting him with the uttering in the Accountant General's Office, that, to my mind at least, his guilt is transparent; although, from the impossibility of connecting him with the payment of the bill at the Bank, or the bill itself after it left the Accountant General's Office, there was just a loophole of doubt of which the prisoner has assuredly had the benefit.

15. There was also additional evidence to show that the prisoner had shortly before his interview with Pereira asked another friend, one D'Rose, to write a bill for him. I confess I do not believe one word of this part of the evidence. D'Rose, though formerly at school with the prisoner, was not intimate with him; and yet

he is supposed to have made the request at a casual meeting on the road, as if there was nothing at all unusual in the request, and to have alleged, as his reason, that his own writing would be detected! D'Rose, too, was brought on the scene by the brother of Pereira, to whom he said he had imparted the conversation.

16. On the 12th October, the bill was presented by some person unknown in the Accountant General's Office to be passed. Mr. Joseph, the new auditor, could remember little or nothing with respect to this particular bill. Numpermal, who gave his evidence in a very straight forward and satisfactory way, deposed that, being new to the work, he asked the prisoner if the bill might be passed. The prisoner said yes. Witness asked to see the Order of Government sanctioning the payment. Prisoner brought him the Order of 8th October 1858, upon which witness entered the bill in his Register. Prisoner said nothing about the payment of this grant having been suspended; although it will be remembered that he had made the entry of the Director of Public Instruction's letter in his own Departmental Note Book. The bill was then sent to Mr. Donald, who seeing it in order passed it. It was then given to a writer, Veerasawmy, who entered it in his Register, and delivered it to a man who gave the name of Moonesawmy, whose mark he took to the entry in his register. This bill was presented for payment at the Bank of Madras, on the 14th October, by a man, who gave his name as Veerasawmy, and paid by the Bank Shroff.

17. The letter of the Director of Public Instruction subsequently came to light, at which the prisoner expressed his surprise to the witness Numpermal.

18. It was clearly the prisoner's duty to have brought this letter to the notice of Numpermal. It is hard to believe that it had escaped the prisoner's memory. Seeing that he had made an entry of it in his own note book. Numpermal was dependent on the prisoner for his information. Had the prisoner been at the time in discharge of his ordinary duty, he would scarcely have had the audacity to ignore the existence of this letter. It was the alteration in the office which enabled him to keep back the information from the officer through whose hands the bill passed for authorization of payment.

19. On the 14th, the day on which the bill was paid, the prisoner did not come to office, but sent in a letter stating that he was sick—a representation proved to be false.

20. Canahiah, the person whose name was forged, swore that the signature was not his. He had ceased to be Secretary to the Society since 1854, the date when he left the Accountant General's Office, on his appointment to the District Moonsiffship at Nundial. He was not in Madras in October 1865. The last time the grant had been drawn by the Society was in 1861.

21. The Jury probably acquitted the prisoner, first, upon the tainted character of the evidence of the principal witness, Pereira; secondly, on the consideration that the prisoner's conduct in passing the bill through the Accountant General's Office, was rather negative than positive, and that it was possible his own entry of the Director of Public Instruction's letter might have escaped his memory; and lastly, because there was no evidence forthcoming to connect the prisoner with the bill, or the receipt of the money paid upon it after it left the Accountant General's Office, unless, indeed, it was his statement to Pereira, that he had received 100 Rupees for his trouble, to which the Jury could not have attached any belief whatsoever.

22. It appeared that the Bills for grants-in-aid in respect to this particular Institution were never sent to the Director of Public Instruction, for countersignature, after leaving the Accountant General's Office. This appears to have been the usual practice;—why it was not followed in respect to the grants to this Society, I do not understand. Had it been, the fraud could not in all probability have been successful. It is manifestly a very desirable and effective check. Again, had a reference been made in the Accountant General's Office to the date of the last payment of a grant to this Society, suspicion must have been excited; since the most recent payment was in 1860 or 1861. I am not, however, disposed to attach blame to Numpermal on this account. He called for the Order of Government sanctioning the payment, and as the prisoner bore an unexceptionable character in the office, he might well suppose that this was all the information on the subject.

23. It is clear that Mr. Pereira, on his own showing, is not a proper person to be in any way connected with the drawing up of documents bearing upon the administration of Justice.

24. I presume that the prisoner has been already discharged from Government employ. Though he has been fortunate enough to escape conviction, His Excellency the Governor in Council will probably not entertain much doubt of his actual guilt.

No. 149. ORDER THEREON, 15th February 1866, No. 228.

Communicated to the Superintendent of the Government Central Museum, to the Accountant General, and to the Registrar of the High Court.

2. It is understood that Corneille has already been dismissed by the Accountant General. The attention of the Registrar of the High Court will be drawn to the opinion expressed by the Advocate General, in the 23rd paragraph of his letter, as to the unfitness of Mr. Pereira to be in any way connected with the drawing up of documents bearing upon the administration of Justice.

(True Extract).

Chief Secretary.

To the Superintendent of the Government Central Museum.

" Accountant General.
" Registrar of the High Court, Appellate Side.
" Advocate General.

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Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

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of 8 February 1866.

Order thereon. 15 February 1866 N. 228.

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J. P. M. H.

J. P.

W. H.

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[Signature]

Supot of the Govt Central Museum
Accountant General.
Registrar of the High Court,
Appellate Side
Attorney General

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Advocate General's report
on two cases prosecuted
at the High Court Sessions.

148-149

Ludlow 1866. Department.

No. 228.

PROCEEDINGS OF GOVERNMENT.

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422.

Dated 15 January 1868.

Press No. 2765, G. M.-14.11.65-660.