M.R.O. 1—39,001—16-12-52.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 290 Press Mis.

230-231

Dated 27 2 19 1856.

3/3

Not to be folded or roughly handled

No. 230. Read the following letter from the Inspector General of Jails, to the Chief Secretary to Government, Fort Saint George; dated Ootacamund, 2nd November 1865, No. 461.

I have the honor to request that an authoritative opinion may be obtained on the question mooted by the Officer in charge of the Jail at Coimbatore, namely, whether, when corporal punishment is postponed, under the provision of Section 11, Act VI of 1864, it can be enforced on the prisoners becoming able to bear the infliction.

2. My own opinion on the matter is expressed in the reply sent to the Superintendent of the Jail, namely, that any temporary indisposition of short duration, occurring at the close of the fifteen days of suspended sentence, though inducing delay, does not, of necessity, annul the sentence of whipping. I have, however, engaged to seek an opinion on the question.

From the Superintendent of Jail, Coimbatore, to the Inspector General of Jails, Ootacamund; dated Coimbatore, 30th October 1865, No. 41.

I have the honor to forward the papers as per margin, referring to the punishment of a prisoner now in Jail.

Copy of letter, No. 47 of 10th October 1865,
Do. of Warrant, dated 21st do. do.
Do. of do. dated 23rd do. do.

2. As will be seen, the man was convicted of offences, for which, in addition to three terms of imprisonment, 60 lashes were to be inflicted on the 3rd instant. Being sick on that date, the Zillah Surgeon certified that the punishment could not take place then, and I wished to know whether when the man got well the flogging might still be given.

3. The individual case is in this instance disposed of, but the general question, as to whether the punishment of flogging when defered from sickness is therefore annulled, seems to me to remain undecided.

From the Superintendent of Jail, Coimbatore, to the Assistant Magistrate, Coimbatore; dated Coimbatore, 10th October 1865, No. 47.

In forwarding the accompanying Certificate from the Zillah Surgeon, and with reference to Section 12 of 1864 (Whipping Act), I have the honor to request that you will be so good as to inform me if the whipping can be inflicted on recovery to health of the prisoner Nunjan, in Case No. 44 of 1865, on the file of the Assistant Magistrate.

Seal.

To the Keeper of the Jail, Coimbatore.

Whereas the sentence of whipping together with imprisonment passed upon the prisoner Nunjan in Case No. 44 of my file is to be revised, you are hereby required to hand over the said Nunjan to the Police on the 23rd instant, in order to produce him before me.

2. You are further required to receive back the said Nunjan into your custody.

(Signed) H. P. GORDON,
Assistant Magistrate.

21st October 1865.

Seal.

To the Keeper of the Jail, Coimbatore.

Whereas one Nunjan has been sentenced by me, in Calendar Case No. 44 on my file, to whipping (60 lashes), and whereas, when the said whipping should have been by law inflicted, the said Nunjan not being a in a fit state of health to allow of his undergoing that sentence, the

said sentence of whipping has been revised, and, in lieu of it, the said Nunjan has been sentenced to be rigorously imprisoned for a period of one month in excess of the imprisonment adjudged in Calendar Cases 42, 43, and 44 on my file.

2. You are hereby required to carry the said sentence into execution, according to law.

Given under my hand and seal this 23rd day of October 1865, at Coimbatore.

(Signed) H. P. GORDON,
Assistant Magistrate.

From the Inspector General of Jails, to the Superintendent of the Jail, Coimbatore; dated Ootacamund, 1st November 1865, No. 457.

In acknowledging your letter of the 30th ultimo, relative to the enforcement of sentences of whipping in addition to imprisonment, I have the honor to state that, in my opinion, whipping should, in all cases, be enforced, when part of the sentence, in cases where short and *temporary* indisposition is the sole cause of delay, provided the sentence, justifies the prisoner's detention. I do not suppose that the Act meant to insist on the infliction of stripes on the 16th morning, as in cases in which it fell on a Sunday. The Act evidently intends that the infliction of stripes shall not be unduly delayed, and to prevent a not uncommon practice of flogging a man as a remembrancer on his discharge. I will, however, refer the question.

(True Copies).

(Signed) J. ROHDE,
Inspector General of Jails.

No. 231. ORDER THEREON, 27th February 1866, No. 290.

Resolved that the Inspector General of Jails be referred to the ruling of the High Court, contained in the accompanying copy of the Proceedings of Government, dated 20th June 1865, in the Judicial Department, on the question raised in the foregoing letter.

(True Extract).

Chief Secretary.

To the Inspector General of Jails, with Proceedings, Nos. 138 and 139.

Ed. J. H. Burns.

27 Febmary 1866 No 290.

Resolved that the Inspector General of Jails be referred to the ruling of the High Court contained in the accompanying copy of the Proceedings of Govt dated 20th June 65 in the Judl. Dept on the question raised in the foregoing letter —

The Inspector of Jails with Rec No 138/39 Dispd 2/3.