M.R.O. 1—30,000—16-10-28.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 354 Press ~~Mis.~~

54-56

Dated 7— 3· ~~19~~ 1886

6/7

Not to be folded or roughly handled

Read he following papers:—

No. 54. From the Session Judge of Tinnevelly, to the Chief Secretary to Government, Fort Saint George; dated Tinnevelly, 14th February 1866, No. 91.

I have the honor to bring to the notice of His Excellency the Governor in Council the very unsatisfactory and meagre report* made by Dr. Wyndowe, the Chemical Examiner, regarding certain analysis made by him, and which was evidence in Sessions No. 10 of 1866, a trial for murder by poison.

* 22nd December 1865, No. 179.

2. Among the subjects submitted to him for analysis were two pills found on the prisoner. These the Medical Officer who forwarded them to the Chemical Examiner deposed were pills of the ordinary size of five grain pills.

3. The Chemical Examiner, in paragraph 3 of his Report, says, "in these, *i. e.*, "the pills, upon analysis, I detected the presence of arsenic." He does not say how much arsenic, or even whether there was more than a trace. The defence was that the pills were for medicine obtained from a Native Doctor, and it is known that they use arsenic in small quantities, and the absence of any information as to quantity was the very ground on which the Assessors found the prisoner not guilty.

4. I am of opinion that it was the duty of the Chemical Examiner to report the quantity of arsenic in the pills.

5. In paragraph 1 of his Report, he says "I detected arsenic in some quantity "in the stomach, and the small white particles in the stomach proved, upon analysis, "to be arsenic."

6. Here, again, the quantity found is not given. The Medical Officer deposes that there was a yellowish white powder in the stomach, amounting to some five or six grains.

7. I am of opinion that the Chemical Examiner should have given the quantity of the arsenic found in the stomach—at all events, of that found as "small white particles."

8. In paragraph 2, he again, speaking of the intestines, says he found "the presence of arsenic," but no more.

9. It may perhaps be difficult to tell the quantity of arsenic present in the intestines or in other parts, but it required but ordinary care to tell the quantity present in two pills, and in the shape of white particles found in the stomach.

Referred to the Chemical Examiner, for explanation.

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

FORT SAINT GEORGE,
23rd February 1866.

No. 55. From the Chemical Examiner, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 24th February 1866, No. 39.

In returning the enclosed letter from the Session Judge of Tinnevelly, I have the honor to offer the following explanation, with respect to the complaint therein made, regarding my Report, dated 22nd December 1865, No. 179.

2. A reference to the enclosed copy of a letter from Assistant Surgeon R. Dempster, 39th Regiment N. I., forwarding the substances for examination, and which is the only communication I have received concerning this case, will shew the amount of information which was demanded from me. In no part of that letter is a quantitative analysis asked for; the Medical evidence, together with, as stated in my letter, the detection of arsenic, in "some quantity," in the stomach, appeared to me to be evidence sufficient to establish the cause of death in the woman, and there is nothing in the letter which seems to require a further analysis than sufficient for the detection of the presence of arsenic in the other substances submitted for examination. As regards the white particles it will be seen they were removed from the stomach by Assistant Surgeon Dempster, and sent to me in a separate bottle. Mr. Dempster appears to have estimated their weight at from 5 to 6 grains.

3. In upwards of 40 cases* in which I have detected arsenic since holding my present appointment, the simple detection of its presence has been all the information called for.

* From up country stations.

4. I am quite aware that, in certain cases, evidence of the actual quantity of arsenic found is required; and for this reason I invariably keep substances submitted to me for examination a sufficient time after reporting upon them, to enable me to undertake a quantitative analysis when necessary. I do not make this quantitative analysis in all cases, for the process is one which requires great care and occupies much time.

5. In the present case had the Sessions Judge, immediately after receiving my Report, applied to me for a more complete one, I should have been able to have afforded him the required information; but no notice having been taken of my Report, after a certain length of time, the substances were destroyed.

6. I would respectfully submit, therefore, that although in this particular case my report may be, as the Sessions Judge states, unsatisfactory and meagre, that it then appeared to me to be as full as was required by the case; and if it were not so, the Sessions Judge, or other Civil authority, ought at the time to have applied to me for fuller information, which I was then in a position to have afforded.

From Assistant Surgeon R. DEMPSTER, 39th Regiment M. N. I., to the Chemical Examiner, Madras; dated Palamcottah, 15th December 1865, No. 84.

I have the honor to inform you that I have this day despatched, by banghy, the stomach and contents, also part of the bowels and contents, taken from the body of a woman named Enaum Bee the late wife of Subadar Sheik Furreed, 39th Regiment N. I., which I request you will kindly analyze and inform me of the result. She is supposed to have met with her death by poison, administered to her by the other wife of the said Subadar.

2. On my making a post mortem examination of deceased, I found the whole of the stomach and intestines presenting evidence of inflammation, and several dark patches near the pyloric end of the stomach. Some white powder was also found in the stomach, which is placed in bottle No. 1.

3. In bottle No. 2, is put a portion of the upper and lower bowel, and contents of the same.

4. In phial No. 3, are two pills, found about the person of the woman suspected of giving the poison.

5. From the symptoms observed before death, and from examination of the body, I am of opinion that the deceased met with her death by poisoning, most probably with arsenic.

6. Arrack has been added to the above, for preservation.

No. 56. ORDER THEREON, 7th March 1866, No. 354.

The Governor in Council considers the explanation furnished by the Chemical Examiner to be sufficient. Dr. Wyndowe was led, by the tenor of the reference made to him by the Assistant Surgeon, to view it simply as an inquiry whether the stomach, intestines, and pills contained arsenic. He did not consider himself called upon to make a quantitative analysis, and consequently followed what he states to be the usual custom. If the Session Judge wanted more precise information, he should have applied for it.

2. In all cases hereafter in which a quantitative analysis may be required of what is sent up to the Chemical Examiner, the Magistrates concerned should be careful to state their wishes explicitly.

(True Extract).

Chief Secretary.

To the Session Judge of Tinnevelly.
" Chemical Examiner.
" Magistrate of

Exd. J. H. Burns.

Judicial

35

No: 421.

From The Chemical Examiner Madras.

Dated 24th February 1866.

For orders.

I return the Stat. & Wyndowri applic-
-ation is insufficient - the consignment
the specimen made thereby by the Asst
Surgeon the simply writes "Stomach
Intestines & pitch contained arsenic
but how much there was in each"
technically speaking for a quantitative
analysis - the following what state
I the actual custom - If the Judge
wanted to have precise information
he should have applied for it -

I don't understand why the
application for analysis was made by
the Asst. Surgeon & should rather have been
have been made by the Mayor Police Office

conducting the prosecution - at the
the terms of it might be been
submitted to the Local Medical
Officer

Jno

There is no Rule, that I am aware,
which directs the Mofussil authorities in their
applications to the Chemical Examiner;-
and as the terms of Section 370 Code Crim:
Proc: are very wide, I would not attempt
to frame any.

I would however, point out to magistrates
that when the circumstances of a case seem to
render a quantitative analysis of what is
sent up to the Chem: Exam:, they should
be careful to state their wishes
specially

28.2.66

Judicial Department. 45

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following

papers:-

From the Sessions Judge of Tinnevelly, dated letter 14 July 1866 No. 91.

— Chemical Examiner Madras — 26th — 39.

Order thereon 7th March 1866 No. 354.

The Governor in Council considers the explanation furnished by the Chemical Examiner to be sufficient. He does not consider that Wyndowe was bound by any rule to refer the reference made to him by the Assistant Surgeon to be simply as an enquiry whether the stomach, intestines & their contained

contained arsenic. He did not consider himself called upon to make a quantitative analysis and consequently followed what he states to be the usual custom. If the Sessions Judge wanted more precise information he should have applied for it.

2. In all cases here-after in which a quantitative analysis may be required if what is sent up to the Chemical Examiner, the Magistrates concerned should be careful to state their wishes explicitly.

E/R

To The Sessions Judge of Tinnevelly & desp 9/3
" Chemical Examiner — S " 9/3
" Masters of all Institutions " 10/3

Judicial 1866. Department.

No. 357

PROCEEDINGS OF GOVERNMENT.

Feb 67/70

Dated 7th March 1866.

Press No. 2755, G. M.—14-11-65—500.

Council

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