M.R.O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 621 Press Mis.

211-212

Dated 25.4. 19 1866

619

Not to be folded or roughly handled

No. 211. Read the following letter from the Inspector General of Police, to the Chief Secretary to Government, Fort Saint George; dated Madras, 27th March 1866, No. 504.

A Warrant of distraint issued in a Military Cantonment, agreeably to the award of the Court of Requests, is executed by the Police.

2. After distraint, the property remains, under the existing system, in charge of the Police, and is eventually sold by auction by the Police.

3. The system is found exceedingly inconvenient. There is neither a proper place for the custody of property in the Police Station, nor is sale by auction, I think, the proper duty of the Police.

4. I would suggest that a better course would be to make over the property, after distraint, to the Station Staff Officer, who has an Office and guard sufficient for its safe custody. The auction should, I think, be conducted by the Serjeant Major, or other official attached to the Staff Office.

5. I solicit consideration of the matter, and orders, if possible, in the Military Department.

No. 212. ORDER THEREON, 25th April 1866, No. 621.

The Governor in Council is of opinion that, where there is a Cantonment Magistrate, property distrained under the decree of a Court of Requests, and which it may be necessary to remove from the premises on which the distraint took place, should be deposited in the Office of the Cantonment Magistrate, and sold under his orders. In any case in which the property, either on account of its bulk or for any other reason, cannot be conveniently deposited in the Cantonment Magistrate's Office, it will be for the Officer Commanding the Station to determine where it shall be kept previous to its sale.

2. It will be ascertained, through the Military Department, whether His Excellency the Commander-in-Chief has any objection to the course proposed by Mr. Robinson being adopted at stations where there are no Cantonment Magistrate.

(True Extract).

Chief Secretary.

To the Inspector General of Police.
" Military Department.
" Cantonment Magistrate at Bellary.
" " at Cannanore.
" " at Saint Thomas' Mount.
" " at Trichinopoly.
" " at Wellington.

Exd. J. H. Burns.

My dear Archbold.

I have been looking at Mad Lecture 15 & 16 from Madras Act I of 1866, before shutting up for comment.

It occurs to me that the words "such process of arrest" in S. 5 may be read to mean as their ordinary significations lead one to suppose. I see, for instance, that before them, there are the words "any process" & among "any person". and that after them the Police is to cause the

person named in the
warrant "to be served or
delivered upon". My word
served" clearly implies
a process other than a
summons or arrest: but
if it does not seem that
such, the law leaves any
discretion of process, apart
from Code of Regul. con-
cerned under the Mutiny
Act, without any indication
as to how the process
are to be carried out, when
arrest and detention &
this process is one of distrain
ment. - For Clause 2nd

3

the same Section adverts
to chapter not essentially
substantive."

by inspection thus for
is that the two words
"of arrest" are what Holloway
would term Senseless
in the phrase "such summons
of arrest". For this reduction
to what one kind of summons
is contradicted by the
whole term of this
Section

by general Army
W. D. Allison

17.4.66

Copy

Any Answer must. That paper I
received to get back without further ado,
has, I see, gone round!! It reached me just
now.

Here is what I assume would be
the purport of a reply? — in the absence
of detailed information from the I. G. of Police
regarding the station where the officials
mentioned in, has arisen, it is proved
that of the Court of Petty Sessions where judgment
is has been delivered to execute, was
commenced by a Court Officer, under Section
III Act XI of 1841, it would be within
the competency of that authority to
make such use of the agency of the
Station Staff Officer, as might be
found necessary to execute, ~~above~~
~~copied~~ under Section XIV of the
enactment above quoted, a decree
backed by a Court [illegible]

It seems
to the purport
letter
of the
Mr Robinson being adopted at
Stations where there are no Cantonment Magistrates.

To the Inspr Genl of Police
— " — Duty Dept

should the defendant bd. the S. C. of Police upon, have arisen from a decree passed & order of Appeals commenced under the hundred and third Section of the Statute 27 Victoria Cap 3 or the corresponding Section in any other Statute in this Island being in force, the manner of proceeding in the execution of such judgment is clearly laid down in Section 15 Clause 12 Madras Act I of 1866.

If however, the judgment by which the S. Cause Court has reference, was passed in a Military Cantonment before the establishment there of a Court of Small Causes under Section 7 Madras Act I of 1866, the Government are of opinion that the execution of such judgment properly belongs to the Cantonment Magistrate as the Judge of the S. Cause Court, and they are bound by the Act in carrying it into effect, he would be guided by the rules contained in the Code of Civil Procedure - but in neither of the three cases supposed to have occurred does it appear that the Legislature contemplates the use of Police subordinates as a means of effecting the detainment, or the detention in charge of prisoners attached under a judicial award.

The above may meet Lyall's desire as to Cantonment Magistrates & Police Cases, but as regards the duties of Police Peons in Civil Courts generally, I do not see how the only 3 Peons can be withdrawn from the Courts to which they are now attached & which have been called on to act. I do not of course include in these the Peons employed in the Small Cause Court - but I do not see how the Magistrate can do without the assistance of Peons attached to that Court.

C Dalrymple

16.4.66

Judicial Department 6

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Inspector General of Police Here, under 27th March 1866 N: 504.

Order thereon.

It may be questioned whether the distrained property should be actually deposited in the office of the Cantonment Magistrate or whether the Superintendent may not proceed with the inquiry under the Act at the place where the property is distrained and dispose of the case there. In the latter event the Superintendent will be compelled to neglect his own duties & those of the Police Force.

It seems advisable that the Superintendent of Police should be relieved of the duty of attending the Cantonment Magistrate's Court.

To the Inspr. Genl. of Police
— " — Mily Dept

The Governor in Council is of opinion that where there is a Cantonment Magistrate the distrained property should be deposited and sold in his Office.

2 It will be ascertained thro' the Military Department whether His Excellency the Commander in Chief has any objection to the course proposed by Mr Robinson being adopted at Stations where there are no Cantonment Magistrates.

I feel doubtful as to this draft: Whenever we have a Cantonment we have rejected the jurisdiction of Military Courts of Request (Section 9 Act (Madras) I of 1866.) therefore Mr. Robertson's appointment to Labbaikudy related to the awards of Courts of Request in Cantonments other than those where we have established Military Magisterial Agency. Mr. Robertson's commission as Local Assistant does not specify the duties. In order to give him a safe reply he ought to get from him a distinct statement of the cases, and on that statement form our own opinion. The thing may raise a general question of importance sufficient to call for a general order.
As now put I shall be compelled Mr. Robertson's proposals

12.4.66

Dated

PROCEEDINGS OF GOVERNMENT.

186 . Depa

No

Judicial Department. 7

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Inspector General of Police.

Rec'd enter 27th March 1866 No 504

Order thereon 25th April 1866 No 621.

The Governor in Council is of opinion that where there is a Cantonment Magistrate, property distrained under the decree of a Court of Requests and which it may be necessary to remove from the premises on which the distraint took place, should be deposited in the office of

of the Cantonment magis-
-trate and sold under his
orders. In any case in
which the property, either
on account of its bulk or
for any other reason, can-
-not be conveniently de-
-posited in the Cantonment
Magistrate's Office, it will
be for the Officer Comman-
-ding the Station to determine
where it shall be kept
previous to its sale.

2. It will be ascer-
-tained through the Military
Department whether His
Excellency the Commander
in Chief has any objection
to the course proposed
by Mr Robinson being
adopted at Stations where
there

there are no Cantonment
Magistrates.

To the Superr General of Police
— Military Department.
Cantonment Magistrate at Bellary
Camanore
Ootacamund
Bellary Trichinopoly
Billigiri

Dépêche 27/4/66

Judicial 1865. Department.

No. 621

PROCEEDINGS OF GOVERNMENT.

Ft. 1113/66.

Dated 25th April 1866.

24-212