

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No.	1570	Press
		~~Mis~~
Dated	18-9-1887	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
18th September 1867.*

No. 200. Read the following letter from the Magistrate of Tanjore, to the Chief Secretary to Government, Fort Saint George; dated Vallam, 7th September 1867, No. 182.

I have the honor to request the instructions of Government, regarding the disposal of certain moveable property* attached under the orders of the Taluq Sub-Magistrate of Nannilam, under Section 184 of the Code of Criminal Procedure, in consequence of the owner thereof, one Kuttivannimundan, having absconded for the purpose of avoiding the service of a warrant issued for his apprehension.

* Worth Rupees 796-2-1.

2. The said Kuttivannimundan† was accused of having been concerned in a case of dacoity committed in the Nannilam Taluq on the 27th July 1865, and a warrant was issued for his apprehension

† Tried and acquitted by the Session Court.

on the 29th of that month, but he did not appear before the 4th April 1866. The accused stated, as the cause of his non-attendance, that he went to Madura on a pilgrimage without informing any one beforehand of his intended trip; that he was not aware of any warrant having been issued for his arrest; and that none of his friends or relations knew his whereabouts.

3. In the inquiry held before the Sub-Magistrate, it has been proved that the accused, who was a Puttamaniyam in the Taluq of Tanjore, applied to the Sub-Magistrate of Tiruvaiyar, on the 2nd August 1865, for permission to go to Madura; that his journey to that place was known to his parents; and that he went with two companions, one of whom returned a few days, and the other six months, afterwards. Under these circumstances, the Sub-Magistrate of Nannilam was of opinion that the accused's statement, that he was not aware of the issue of the warrant in question was incredible, and that his prolonged absence at Madura must have been for the purpose of evading justice; his ultimate surrender being solely in consequence of the attachment of his property. The Sub-Magistrate, therefore, considers that this case cannot be brought under section 185 of the Code of Criminal Procedure, as the accused has failed to prove to his satisfaction that he did not abstain from appearing for the purpose of evading justice.

4. The Criminal Procedure Code is silent as to the course to be pursued, and the manner in which attached property should be dealt with in cases of this nature, and the Joint Magistrate having referred the present case for my instructions, I have deemed it right to submit this matter for the consideration of Government, as the property in question has been once declared to be at the disposal of Government.

No. 201. ORDER THEREON, 18th September 1867, No. 1510.

Before issuing orders as to the disposal of the property referred to in the foregoing letter, and attached by the Sub-Magistrate of Nannilam under Section 184 of the Criminal Procedure Code, the Government would wish to have before them a decided expression of opinion on the part of the District Magistrate as to whether

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the circumstances of the case are such as to require that, for the ends of justice, the property should be sold and the proceeds credited to Government.

2. The Magistrate will call for the record of the preliminary inquiry held by the Sub-Magistrate, and, if satisfied that the evidence then adduced against the accused, Kuttivannimundan, was such as to justify the Sub-Magistrate in issuing a warrant against the accused, and that the absence of the latter was caused solely by a desire to evade justice, the Magistrate will again refer the case to Government. If, on reconsideration, the Magistrate is not satisfied that there are strong grounds for compliance with the request of the Sub-Magistrate, he will, without further reference, direct the restoration of the property to its owner.

(True Extract).

Chief Secretary.

To the Magistrate of Tanjore.

Exd. J. H. Burns

Not. I presume the grounds of sale of
the property should be examined
in the order of fact.

by A.

FOR ORDERS.

Call always be very sharp of yielding to
the wishes of their friend, & certainly in
present case, I would not comply
with the application of the District Magistrate
without a strong opinion from him, that
the circumstances are such as require, that
the wish of the latter, the property be sold
the benefit of justice.

Thivani Munda, from Mr. Morris statement
Putta Koniya. On the 2nd August 65
made a formal application to a Sub
Magistrate for permission to absent himself
on visit to Madras. The warrant
was issued 5 days previous.

Torvajar where he was Latta man
is, I think, some 14 miles from Munnich
when the warrant was issued. He was
on his return home told a lie about
his ignorance of the process, and very
likely, being, as it would seem, innocent
of the doings, may have reported
it - and how he has been treated by
the Sessan Court for the alleged offence
and acquitted. He did return, it seems,
when the property was attached and
on being made, the Munnich Sub-
Magistrate does not consider he has
well accounted for his absence after
the warrant went forth. - That may
be, but in all these matters there is a
great deal of oppressed dignity at
work when only a Sub-Magistrate is concerned
and therefore I would before finally
disposing of the matter, call on the
Sessan Court to give the opinion reported
in the file of my para I.
In forming this opinion the D. Mag.

must satisfy himself, that the Sub-
Magistrate observed all the formalities
required for the issue of a proclamation
and that Kuttivani Munday has had a
full & fair opportunity of showing cause
against the confiscation of his property.

I would further inform the
Sub-Magistrate to send for the original notes
of the case & satisfy himself that the
Sub-Magistrate had a justifiable prima
facie case against K. Munday when he
issued his warrant of the 29th July. - For
it is a melancholy fact that our
Police & Sub-Magistrates are not free
from the suspicion of misusing capital
out of their official power when an
opportunity offers for increasing their appl.
persons of respectability or substance.

If the D. Magistrate is not prepared after
considering the matter in the manner
suggested, to show good reason for
supporting the Sub-Magistrate's report, I
would instruct him to order the restoration
of the attached property to its owner
with an interest.
12 Sept 1882
W.D.M.

as such as to justify the Sub-Magistrate in issuing a warrant against the accused, and that the absence of the latter was caused solely by a desire to evade justice, the Magistrate will again refer the case to Government: if on reconsideration the Magistrate is not satisfied that there are strong grounds for compliance with the request of the Sub-Magistrate, he will, without further reference, direct the restoration of the property to its owner.

The Magistrate of Pooné depts.