3+-3-81/R-H

2811/81

M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 178	Press ~~Mis.~~
321-323	
Dated 30. V	~~19~~ 1867

46/47

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
30th January 1867.

Read the following papers :—

No. 321. From the Honorable D. ARBUTHNOTT, Magistrate of Salem, to the Chief Secretary to Government, Fort Saint George ; dated Salem, 15th January 1867, No. 2.

I have the honor to forward the translation of a plaint filed in the Principal Sudder Ameen's Court at Salem, against Venketakistnien and Ramasawmy Pillay, Curnums of Thadavoor, in the Ahtoor Taluq, and another named Undal Udian, and to request, under the peculiar circumstances which will be stated, the Government will be pleased to permit the defending of the suit at the public cost.

2. The object of the suit is to recover from defendant 1800 Rupees, for alleged damages sustained by the plaintiff.

3. The plaintiff in this suit is B. Teyagaraja Pillay, the late Tahsildar of Ahtoor, and the defendants are the complainant and his two witnesses in one of the cases of extortion laid against the late Tahsildar. For particulars of the several cases against Teyagaraja Pillay, I beg to refer you to my letter of this date, No. 3.

The case in which Venketakistnien and the two other defendants gave their evidence is the first case in the list.

4. I have stated, in my letter above referred to, the circumstances which have emboldened Teyagaraja Pillay to file the suit against the defendants, and if he succeeds in the suit, it would not only set a very bad precedent, but would also deter people from coming forward and exposing the currupt conduct of any public servant. Indeed, the late Sudder Court remarked, in a similar case, that "it would strike at the root of all Judicial testimony if witnesses, who are compelled by public authority to appear, and are constrained to give their testimony, were, at the mere instance of the individual against whom their evidence is directed, exposed to a civil action for damages."

Decrees in Appeal Suits, Sudder Udalut, page 60, Appeal Suit, No. 12 of 1836.

5. I looked upon the charges brought against Teyagaraja Pillay as of public nature, and treated them accordingly, making Venketakistnien (the 1st defendant in this suit) as the first witness, and not as the complainant.

6. If the Government is pleased to accord the sanction I now solicit, I propose to instruct the Government Vakeel to appear on behalf of the defendants, and furnish him with the necessary stamps.

7. It is unnecessary for me to offer any remarks on the plaint, for you will see from the remarks I have appended to the Session Judge's decision in the case from which this suit has arisen, that the Plaintiff has not a leg to stand on. The suit must, I have no doubt, fall to the ground, but, however, I shall inform the defendants that the copy of the Court's Judgement must be submitted to Government before they could be protected from the consequences of an adverse decision.

8. I may add that I find the Government have given their sanction in a similar case in 1858—*vide* Minutes of Consultation, 14th April 1858, No. 479.

9. The date for filing the answer will expire on the 28th instant.

To the Principal Sudder Ameen's Court, Salem.

Plaintiff.

Teyagaraja Pillay, of Vellala caste—Means of livelihood, Government employ—late Tahsildar of Ahtoor Taluq, now residing in the Cusbah, Salem.

Defendants.

1. Venketakistnien, whose father's name is not known—Brahmin by caste—Means of livelihood, Curnum office—residing at Thadavoor village in the Ahtoor Taluq.

2. Ramaswmy Pillay, whose father's name is not known—Vellala by caste—Means of livelihood, Curnum office.

3. Undal Udian, son of Mutthu Udian—Nattain by caste—Means of livelihood, cultivation—residing at Puravasal in the above Taluq.

This suit is preferred for the recovery of Rupees 2890 from the defendants, on account of damages and pecuniary loss sustained by the plaintiff.

1. The 1st and 2nd defendants are the Curnums of Thadavoor village in the Ahtoor Taluq. During my tenure of office as Tahsildar of Ahtoor, the 1st defendant having collected a certain sum of money which was remitted on account of Shavi to some ryots, and paid a portion of that sum as Kandayam or tax for his land, an order was issued directing him to appear to stand his trial for the misappropriation of the sum in question, but, on his disobeying the order, a warrant was issued against him. I then tried him both personally and through the Taluq Sheristadar. As he has not rendered proper accounts, the case has been left undisposed of.

2. The 3rd defendant having purchased stolen property, I have committed him to the Sub-Court.

3. Owing to the above ill feelings, the 1st and 3rd defendants in combination with the 2nd defendant (a Joint Curnum with the 1st defendant), with a view to cause injury and disgrace to me, have preferred a false complaint before the District Magistrate, that I have extorted a certain amount from the 1st defendant. The District Magistrate, after inquiry, sentenced me, on the 15th September 1866, to six months' imprisonment, and a fine of Rupees 200.

4. On my appeal to the Session Court, the sentence was reversed on the 20th September 1866, for want of proof.

5. I have been holding Tahsildarship since 18 years, bearing good certificates from several gentlemen. As a false charge has been preferred against me, I have suffered injury, disgrace, and pecuniary loss.

6. I have incurred a loss of Rupees 1090, having had to employ in my behalf Barristers and Vakeels to plead the above case before the District Magistrate.

7. In consequence of the false charge brought against me by the defendants, and of the loss of my honor thereby, I claim Rupees 1800 from the said defendants adequately to their circumstances, so that I may establish my character. Under such circumstances, I pray the Court will recover for me, from the said defendants, Rupees 1800, for the loss of my honor, and Rupees 1090 on account of the pecuniary loss sustained by me.

I, Plaintiff, solemnly declare that the circumstances herein stated are true.

5th December 1866.

(True Translation).

(Signed) D. ARBUTHNOTT,
Magistrate.

No. 322. From the Honorable D. ARBUTHNOTT, Magistrate of Salem, to the Chief Secretary to Government, Fort Saint George; dated Salem, 15th January 1867, No. 3.

I have the honor to forward, for the information of Government, the findings and sentences passed by the Session Judge of Salem, in six cases of bribery and extortion, preferred against Teyagaraja Pillay, late Tahsildar of Ahtoor Taluq.

2. To these findings and sentences, I have appended my remarks, and also forwarded my findings and sentences, which have been reversed by the Session Judge.

3. I have been induced to forward the above for the consideration of Government—

I. Because I think there has been a failure of justice in the acquittal of Teyagaraja Pillay;

II. Because the Session Judge, by remarks unwarranted by the evidence, has enabled Teyagaraja Pillay to sue the complainants for damages in the Civil Courts, and thus put them to much inconvenience and loss; and

III. Because these remarks are damaging to my character as a public servant of Government.

4. In first commencing the inquiries into the cases against Teyagaraja Pillay, I employed my own immediate subordinates, but on this being objected to by Mr. Miller (defendant's Counsel), on the ground that they were defendant's enemies, I requested Captain Hankin, Superintendent of Police, to inquire into *certain* of the cases, and prepare them for trial, should the evidence appear sufficient. This course the Session Judge strongly objects to, apparently on the ground that the Police were also defendant's enemies, so that, employ whom I might, he was immediately converted into an enemy, and, therefore, unfit for the purpose.

5. I have undergone a great amount of labor in making a patient inquiry into the charges against Teyagaraja Pillay, who has been ably defended throughout, and now I am told, in direct opposition to the evidence, that all the cases are false, the witnesses perjured, and that, "of course, there is not a word of truth in the whole of the evidence." The Judge also remarks that "some unscrupulous hand has been at work in preparing the case for the prosecution." The Judge does not enlighten us as to whom the party alluded to is, nor whence he got his information. In the Mahazarnamah alone sent to the Board of Revenue, there are 40 signatures of complainants, but these are not by any means the whole of the complaints against Teyagaraja Pillay.

6. There were a large number of other complaints against him, such as taking grain, cloths, &c., without payment; but these I declined to entertain, as I considered it almost impossible that such cases could be legally proved. A Tahsildar has the right to buy grain and cloth like any one else, and the more openly such things are given and received, the more difficult would be the proof of corrupt motives; and yet notwithstanding this self-apparent fact, the Session Judge gives as one of his reasons for quashing my conviction in case No. 42, that it is impossible to believe that defendant would demand a bandy load of paddy which he could not accept without being detected.

7. I may also remark that in several instances the Session Judge has misquoted the evidence, and has throughout totally ignored the reasons I assigned for conviction.

8. The Session Judge has looked on the whole of the cases too much in the light of private quarrels between complainants and defendants, whereas I look on them as cases of the greatest public interest, and I consider it of the utmost importance that a public servant like the defendant should be brought to punishment, if

guilty of corruption, whatever time may have elapsed since the commission of the offence.

9. I have forwarded my notes in the different cases, which are almost translations *in extenso* of the records, the great number of cases making this necessary, as short notes would have been almost useless. I may also mention that the cross-examination for the defence was very lengthy, many of the witnesses for the prosecution having been under cross-examination for nearly a whole day each. If required, the whole records will be translated and forwarded.

CASE No. 42.

1st Witness.—Venketa Kistnien, Curnum, Thadavoor.

Last year, Taluq Peon brought me an order from defendant, to bring my account connected with collections. I did not go at once. I was sick; the Peon reported to defendant that I was not. Defendant sent a warrant to me. I was not brought immediately before defendant on this warrant. When being brought upon warrant I fainted on the way, and the village officials of Nedassalore reported this to defendant. Defendant then sent message that I might come when better. I appeared three or four days after. When I came to Ahtoor, I met defendant in his house. He ordered me to the Cutcherry. Defendant's house is close to Cutcherry, 40 or 50 fathoms distant. When I appeared before him at Cutcherry, he took a deposition from me. He asked me to what heads the excess collection in my village was credited. I said, I must see the accounts. About 10 A. M. of same day, I went to defendant's house; I went to ask for leave to go back to my village, and look at the accounts, as I was sick. He told me that he would not let me go unless I gave him two bandy-loads of paddy, or Rupees 50; or else that he would commit me: by this, I understand that he intended to send me for punishment to the Court. I consented to give the Rupees 50 demanded. I had no money in hand at the time. I met one Undal Udian and told him what took place, and asked him to lend me 50 Rupees. He did so, on my giving him a bond on stamped paper. This money I paid to defendant that day between 7 and 8 P. M. I paid this money to defendant. Defendant was in his house. Undal Udian and 1st Curnum Ramasawmy Pillay were present. Defendant took the money. I then came out of defendant's house. I went in again and asked defendant to let me go to my village; he ordered me to give a petition to the effect that if Cultivation Inspector was sent to my village, I would look into the accounts and give an explanation—I did so. I was then allowed to go. Takeed was a month afterwards sent to me to come again on the same matter. No further proceedings were taken. I reported, on receipt of takeed, that I could not come, as it was Adungal time.

Purport of deposition.

Cross-examination by defendant's Vakeel.—I never disobeyed the summons issued before the warrant. There were remissions granted on account of Shavi. The accounts for these remissions have not been prepared up to this time. Money collected has not been refunded to the ryots. Immediately after the Jummahbundy, I was engaged in preparing and sending the Jummahbundy accounts; afterwards the Sodi Razeenamah accounts had to be prepared. When this was done, I was engaged in the Shavi accounts, which takes a long time, because my village is a Trisvakum Agraharum. In the meanwhile, my accounts have been seized and kept in the Taluq Cutcherry; I could not, therefore, prepare the accounts. As the accounts have not been made up, it is not known where the remission money is. I do not know that any complaint, either written or oral, was made against me for having made use of the Shavi remission money. In August last year, my accounts were seized. My accounts were seized before I paid the 50 Rupees to defendant. I don't know why my accounts were not returned. My petition B will show that I asked for the return of my accounts. This (B) is the petition I gave to defendant. When I gave 50 Rupees defendant was in a verandah inside his house. I sat opposite to him when I gave him the money; the witnesses were also in same verandah, a little apart from me. The witnesses went into the house with me. Because defendant threatened to commit me, therefore I gave him Rupees 50. I gave 50 Rupees, because I was afraid

defendant would commit me as he threatened, and not because I was afraid about my accounts. I have been doing Curnum's duty of this village for about 37 years. Defendant told me I hear that you have made *jasty vasool* and I will lay a charge against you, and commit you to the Court.

The Cultivation Inspector never came to examine my accounts as I requested in my accounts. I don't know whether defendant gave any order to Taluq Sheristadar to examine my accounts. The 50 Rupees were paid on the same day on which I gave the bond to Undal Udian. I don't now remember the exact date. The bond shows that I borrowed the money for an urgent purpose. I and others wrote a Mahazur to the Board of Revenue against defendant; besides that I made no complaint about this money. This Mahazur (C) is the one sent to the Board. It is dated the 12th of June 1866. Defendant was not then Tahsildar. I don't remember any fines being imposed on me by defendant, but as usual he may have fined me for any absence or delay in sending accounts. If I had complained sooner, neither my house would remain unrobbed and my employment would have been taken away; for others who have complained have suffered in the same way. I paid the 50 Rupees in full Rupees. I paid the money into defendant's hands. He took and kept the money. I don't know what he did with it afterwards. He kept the money close by him. No, he did not count the money. The money was bundled up in a piece of paper. I did not see defendant open the paper. The witnesses were just behind me. There was a lamp near defendant.

Question by Prosecution.—I received no summons to attend before defendant. A warrant was the first process I received as Curnum. I have nothing to do with collection or custody of money collected, nor with the refund of remissions. The defendant was the Tahsildar of Taluq when he threatened to commit me and extorted 50 Rupees from me. The defendant had power to commit me to Session or other higher Court. The urgent business referred to in the bond I gave Undal Udian was the necessity of giving Rupees 50 to defendant. One Kulvee Rian of Pugudupady in this Taluq complained to Mr. Hathaway against defendant, when not only his house was plundered, but there was also a murder in his house. This is one of the instances I referred to.

8th September 1866.

—

At the particular request of Mr. Miller, Vakeel for defendant, the Court permits this witness to be called and again questioned although already cross-examined by defendant's Vakeel.

13th September 1866.

Question by Mr. Miller.—There was no one present when defendant told me that he would not let me go unless I gave him two bandy-loads of paddy or 50 Rupees. In defendant's house about 10 A. M., I remained about half an English hour. There was no one present. I went to the Chuttrum. Ramasawmy was not living in Chuttrum. He was living in a Chetty's house. I stopped two or three hours in Chuttrum to take food. I then went to Cutcherry about one, and bought a stamp paper. I bought a stamp paper to borrow 50 Rupees from 4th witness. I spoke to 4th witness on my way to Chuttrum. I saw him in the street. I told him what took place, and asked him for money. No one was present. He consented to give me the money. He told me he would come to Chuttrum with the money at 3 o'clock. He brought the money. Rungasawmy Iyengar and Ramasawmy Pillay were present. I wrote out the the bond; those two men attested it. Then I gave bond and received money. Rungasawmy left before sunset, four or five Indian hours. Writing bond and receiving money occupied about an Indian hour. I, being sick, lay down; others went out. 4th witness and 5th witness returned about 7 in the evening. They came to see me because I was sick. The Mahazur was written by a Telugu volunteer near Tappal Chavady; I don't know his name. We had a draft. I don't know who made the draft. I don't remember who made the draft. We had the draft three or four days. It was with me one day, and sent round to others. A man belonging to Davastanum took it round. I don't know his name. At the Jummahbundy held by Mr. Thomas we assembled and consulted, and agreed to send Mahazurnamah. There was no writing, but we spoke to each other as we met. It was the first time I ever gave 50 Rupees or any money. I made no fault, and there was no charge. He took some account, and said that I had been collecting *jasty vasool*, and that he would commit me. I was afraid and paid 50 Rupees. I was afraid to complain and did not. As soon as defendant was out of office I signed the Mahazur.

13th September 1866.

2nd Witness—Syed Mustapha, Ahtoor Taluq Peon.

I can read Tamil. I know this paper (D). It is an order given to me by defendant to bring 1st witness with his accounts. This is the very order given me by defendant. I took no other paper or any summons directed to 1st witness. Nothing else was given me but this paper (D). The Cadjan, (E) now shown me is the report I addressed to defendant, to the effect that 1st witness was sick. He was so sick that he was not able to come with me to Ahtoor.

Cross-examination by defendant's Vakeel.—I think the Taluq Duffadar must have given me this order (D), but I don't remember. I don't know in whose writing D is. I knew it was defendant's order, because it was given under his signature. This (D) does not bear any one's signature. I don't remember who gave it to me, whether the Duffadar or any body else. I don't remember who gave it. I did not say that defendant gave order D. I don't remember whether order given me contained defendant's signature. I don't remember what became of the takeed, this (D) may be it. I cannot distinguish it. No takeed is issued without signature, but they are issued without seal when urgent. When I returned to Ahtoor, defendant asked me whether 1st witness was sick ; I told he was really sick. I do not remember whether he asked me whether 1st witness was *able* to come to Ahtoor. When I returned I do not remember what became of the takeed.

Question by Prosecution.—It is usual when orders are issued for the Taluq Duffadar to give takeeds that are issued into the hands of the peons. This (E) is to the same effect as the reply I got to Cadjan E.

Question by defendant's Vakeel.—I don't know what has become of the original of this (E). I believe the contents of the order I got were similar to this (E).

8th September 1866.

3rd Witness.—Kistna Row.

I am Goomastah in Ahtoor Taluq. I write out all Revenue orders and Urzees of the Tahsildar. This paper (D) is in my writing ; this is the office copy. It is not usual for the Tahsildar to intial office copies. No summons was issued to 1st witness on subject of D. This paper (F) is office copy of an order issued to peon Syed Mustapha (D) under defendant's orders. The originals of both must have been written by me. This (F) is not in my hand-writing. D is in my hand-writing, but the originals of both must have been written by me. No Revenue paper is despatched out of the office without my knowledge.

Cross-examination by defendant's Vakeel.—I don't remember why D was issued, the records will show. I don't remember whether I wrote any memorandum under defendant's order to the Taluq Sheristadar about 1st witness' Shavi money. I said no summons was issued to 1st witness because the takeed (D) to the peon directed him to bring 1st witness with the accounts. I could not know whether defendant had any evil intention to extort money when he issued D.

8th September 1866.

4th Witness, Undal Udian.

I remember lending money to 1st witness last year. He asked me for the loan and gave me a bond (G). 1st witness told me that, with reference to the Shavi account, defendant would put me into Jail if he did not give Rupees 50. I have got the bond, and now produce it.

G is put in.

In the evening, 1st witness folded up the money in a paper and took it to defendant's house. We were all then in the Chuttrum here. I and Ramasawmy Pillay followed with the 1st witness to defendant's house, to which the money was taken. 1st witness gave the money to defendant. Defendant was then in his house. Defendant received the money. He received the money rolled up in the paper. He did not count it then. Ramasawmy Pillay was also present. This happened about 7 or 8 P. M.

Cross-examination by defendant's Vakeel.—Defendant was sitting in verandah of his house when he received the money ; I was standing close by. I was standing beside 1st defendant, Ramasawmy was standing near the door. We were quite visible to Ramasawmy Pillay. There was

about a fathom between me and Ramasawmy Pillay. The money was put up in paper in the Chuttrum. 1st witness rolled up the money in paper. Money was in full Rupees. Defendant took and kept in the pocket and told us to go. I was about three yards from defendant. Defendant was about two feet from 1st witness. There was nobody else then, except 1st witness Ramasawmy Pillay and myself. Defendant was sitting on a mat over which there was a carpet. There was a lamp. The lamp was about a fathom from the Tahsildar. The defendant had a cloth round his waist, with a cloth over his body. I don't remember color of cloth. I don't remember whether there were peons at the gate or not. I went with first witness, because he was sick and might faint away as he did once before. I did not speak with the defendant then. G is written out in the usual terms. It is usual to write "urgent" in bonds.

Question by Prosecution.—The urgency mentioned in G refers to the necessity of giving the money to defendant.

8th September 1866.

5th Witness.—Ramasawmy Pillay.

I know 1st witness was arrested on warrant and brought to Ahtoor last year. I have attested this document (G). I know why the Rupees 50 mentioned in G was borrowed. 1st witness told 4th witness that defendant had threatened to commit him with reference to Shavi account, and demanded 50 Rupees, and asked 4th witness to lend him (1st witness) the money. I was living in a Chetty's house. I saw the money given to defendant ; 4th witness was then present. Defendant was in the verandah of his house. Defendant received the money.

Cross-examination by defendant's Vakeel.—I am the Joint Curnum of Thadavoor Village. The money was paid before 8 o'clock in the evening. The money was brought rolled up in a paper, and the packet was handed over to defendant. Defendant received the packet into his hand. The money was rolled up in paper at the Chuttrum. I know the same packet was handed over to defendant, because I went with 1st witness. Defendant, after receiving the money, told us to go. I was near the door when the money was given : 1st witness was sitting before the defendant, 4th witness was between me and 1st witness. I saw no one else besides us at the time. Defendant had cloth round his waist and another on his body ; 4th witness was standing. I went with 1st witness, because he told me he was ill and might faint away. 4th witness was standing facing the south. There was a lamp. There were about two fathoms between 4th witness and myself.

8th September 1866.

Document H is filed by prosecution, which is here closed.

Defendant pleads not guilty.

WITNESSES FOR DEFENCE IN CASE No. 1.

1st Witness.—Kistna Row, Revenue Clerk of Ahtoor Taluq.

(Witness is asked to produce and produces document I, being a report from Seetaramien, Monegar of Thadavoor Agraharum, to defendant). I don't remember having taken my deposition from Mustapha (2nd witness for prosecution) on his arrival from Thadavoor. I don't remember having written any yadast under defendant's orders to Taluq Sheristadar about Shavi remissions. The Takeed to Cultivation Inspector, to examine Shavi accounts, must be in Taluq records.

Question by Prosecution.—I don't remember whether Seetaramien was at Cusbah when he wrote this Urzee (I)

2nd Witness.—Streenevassa Row, Taluq Sheristadar.

(Witness is asked to produce and produces document J, dated 12th August 1865. Witness also produces K, dated 2nd December 1865.) The accounts of Shavi and collection were in my possession, because defendant ordered me to examine these accounts. I examined a few, and told defendant that certain particulars were wanted from 1st witness (for prosecution) ; this was about 10 days after I received J. Defendant told me that, as 1st witness (for prosecution) asked for the investigation in his village, it might be held there, but no orders were issued till the Jummahbundy, when defendant wrote K to me. When I received K, I asked defendant why he

wrote it to me while he told me that he would order the investigation to be made in the village by the Cultivation Inspector. Defendant replied that he wrote the yadast K, because he heard that 1st witness (for prosecution) was going to complain against him (defendant) to the Sub-Collector, who was then in the Taluq, and that he (defendant) was afraid. He would, however, order the investigation to be held in the village. In the last column in statement in H is the excess collections according to account. This excess collection appears to have been collected and paid into the Treasury before orders for remitting Shavi was received. There could not appear an excess over the entire demand on the village, because there may be balances still outstanding against the ryots, which must be ascertained after the pending investigation is completed. There was no balance against the ryots entered in the statement in H on the date on which H was written. I must see the accounts before I can say whether there is any outstanding balance in Thadavoor Village. If any amount that has been remitted is collected subsequent to such remission it is carried to Sevoi Jummah account. No deposition was taken from 1st witness (for prosecution) before me by Beema Sing. I heard that defendant, just before he gave over charge of Taluq, sent an order to Cultivation Inspector to make an investigation. It has not yet been completed. The present Tahsildar has sent an order to hasten its completion. This order is to the Cultivation Inspector. I don't know what particulars the order contains. I made no report to higher authorities about defendant having told me that he was afraid of 1st witness complaining to Sub-Collector.

Cross-examination by Prosecution.—Collections made in village are remitted monthly to Taluq Treasury. It is usual to receive Numbers 3, 11 and 12. If any amount collected has been withheld, there are accounts to show it at the Taluq Cutcherry. The whole amount shown in statement in H has been remitted to the Taluq Treasury. The amount remitted on account of Shavi has to be refunded to the ryots by Government. From the examination I made of the accounts under defendant's orders, I did not find reason to suppose that 1st witness (for prosecution) had appropriated to his own use any of the collections. 1st witness (for prosecution) is village Curnum of Thadavoor. It is not the duty of the Curnum to collect money, or to remit it to the Taluq Treasury. There is no necessity for any kist money to come into the hands of the Curnum. The orders remitting Shavi at Thadavoor Village were received from the Huzoor after the amount entered in statement in H was fully collected.

10*th September* 1866.

3rd Witness.—Seeta Ramien, Monegar of Thadavoor village.

This report (I*) was written, by me to defendant. I made collections up to May kist (1865), and I became sick. The 1st Monegar collected the remainder; and as some ryots said that remissions had been granted to them, and to others no remission, I wrote the report *I* to ascertain the particulars. The Shavi remission has not yet been paid to ryots. All the money I collected up to May kist has been remitted to Taluq Cutcherry. The accounts must be seen before I can say whether there is any balance against the ryots. The Curnum ought to prepare accounts of the village. I mean that I collected kists fully from some ryots up to May kist, but not from all, so that some balance might be due from some ryots and also from some Curnums I had some doubt whether there was excess in Treasury, or whether balance was still outstanding against some of the ryots. I gave a deposition before defendant (Deposition (L) is dated 12th August 1865 now produced) This (L). is the deposition I gave before the defendant. The accounts must be seen before I can say whether the amount 13-2-4 entered in L is excess collection. Though I am Monegar, it is a Trisvakum Village, and the particulars of accounts must only be referred to Curnum. I don't remember total Shavi remission for that village for that year. I don't remember from how many ryots full kist has been collected before orders were received to give Shavi remission.

*Dated 25th July 1865.

N. B.—This is objected to as the deposition has not been produced. Deposition is ordered to be produced.

Cross-examination by Prosecution.—I don't remember whether I was at Ahtoor on the day I wrote *I*, or a day or two before. I had no conversation with defendant regarding *I* before I wrote it. I made no complaint against 1st witness (for prosecution) to defendant of having misappropriated any money, or for having made any extra collection. I did not mean to make any such complaint by my report *I*. When I say in report *I* that "if Shavi remission was deducted," I meant that "if it was deducted in the accounts." If there was a balance as referred to in *I* as outstanding against "Curnums and their people," and if it was not paid, the usual course is to collect by distraint.

4th Witness for Defence.—Beema Sing, Cultivation Inspector.

I have examined Shavi accounts of Thadavoor Village. Defendant asked me to give him the names and particulars of 10 persons for a certain inquiry, and I prepared and gave them in (H and L). He asked me for these particulars because he said he wanted to take a deposition from 1st witness (for prosecution). Defendant said that there may be some excess collection from the ryots whose Shavi had been remitted, and that he, therefore, wanted me to write and give him a list of 10 persons whose Shavi had been remitted. I prepared this list, Nos. 5 and 11 of the Village Accounts. The excess shown in the list given in L is the excess after deducting the Shavi remission from the total kist. When the accounts are made out, it will be known to whom the excess should be refunded. H and L are in my writing. H and L were taken from the parties, on the supposition that there might be excess collection.

There are two Curnums attached to Thadavoor village.

Question by Court.—The excess collection mentioned before arose from the full collections having been made before the order for Shavi remission was received.

Cross-examination by Prosecution.—I received no orders from defendant to make any investigation about the Shavi accounts of Thadavoor village.

10*th September* 1866.

Remarks on Case No. 42.

In this case, the defendant, Teyagaraja Pillay, late Tahsildar of Ahtoor Taluq, is charged with having extorted a sum of Rupees 50 from one Venkata Kistnien, Curnum of Thadavoor Village, of the Ahtoor Taluq, and 1st witness for the prosecution, under Section 383 of the Indian Penal Code. The facts that appear from the evidence are these.

Prosecution.—About the beginning of August 1865, the defendant sent one of his Taluq Peons, Syed Mustapha, to bring 1st witness before him.

1st Witness did not immediately appear, and was arrested under a warrant issued by defendant and brought before him.

After this, the records are a blank. There was no inquiry of any kind held by defendant into 1st witness' conduct. There was no complaint made against him either by the defendant or by any one else; and after having been arrested on defendant's warrant, he appears to have been allowed to go back quietly to his village without any investigation whatever. Before, however, returning to his village, 1st witness states that defendant refused to give him leave to return, and threatened to commit him for trial, for making fraudulent extra collections in his village, unless he paid defendant two bandy-loads of paddy or Rupees 50. 1st witness, being frightened at this threat, as he alleges, borrowed 50 Rupees from 4th witness Undal Udian, and in the presence of 4th and 5th witnesses paid this sum to defendant. This statement is corroborated by the statements of the 4th and 5th witnesses; and the bond (Exhibit G) for a sum of 50 Rupees due by 1st witness to 4th is produced by the latter. The date of this bond is the 12th of August 1865; and from the date entered by the Stamp Vender, it appears to have been sold on that day.

These witnesses, 1st, 4th, and 5th, have been subjected to a rigorous cross-examination by the defendant's Vakeel, and the 1st witness, at the special request of the learned Counsel for the defendant, has been subjected to another examination. The testimony of these men has, however, been in no degree shaken.

Defence.—For the defence, it has been urged that, even admitting that defendant received Rupees 50 from 1st witness, it was a gratification, and that the indictment ought to have been laid under Section 162. The Court must, however, remark that, considering the relative positions of the two parties—the one the Chief Magistrate and Revenue Officer of the Taluq; the other the Curnum of a petty village—the mere demand of the former amounted to a threat, which, if not attended to, would probably lead to the ruin, or, at least, disgrace of the latter. Besides this, the 1st witness had been arrested on defendant's warrant, although there were no grounds for such arrest. If the 1st witness was innocent, he had ten-fold cause to fear the defendant, who had thus shown himself equally reckless of justice and honesty. The Court, therefore, holds that the indictment under Section 383 is good.

Much stress has been also laid in the defence on the way in which a certain Mahazurnamah has been got up by 1st witness and others against defendant, and addressed to the Board of Revenue, but the Mahazurnamah, or the manner in which it was got up, is totally irrelevant, to the case before the Court.

The length of time that has elapsed between the alleged extortion and the date of complaint is also commented on by the learned Counsel for the defence; but the answer to this, viz., that the 1st witness and others were afraid to complain before there was a good chance of defendant's removal from office, is perfectly satisfactory.

There is no proof whatever that there were extra collections made in the village by 1st witness, or by any one else.

Much stress is also laid on the fact that 4th witness for the prosecution was committed in 1862 to the Court of Sessions, by defendant, on a charge of knowingly possessing stolen property, and that the 1st witness and 5th had both been fined on the revenue side by defendant; but the charge against 4th witness was dismissed, and it may be said that there is scarcely a Curnum in the country that has not been fined a Rupee for carelessness or trifling neglect of duty. There is nothing further in the defence that appears to call for remark, except that three witnesses summoned for the defence, apparently to prove an *alibi*, have not been called, and their evidence has been dispensed with.

Finding.—After a careful consideration of the evidence adduced both for the prosecution and defence, the Court finds the defendant Teyagaraja Pillay guilty of the offence specified in the charge—that he committed extortion, an offence punishable under Section 384 of the Indian Penal Code.

Sentence is deferred till the conclusion of other trials now pending against defendant—14th September 1866.

14th September 1866.

Court passes sentence.—The Court sentences the defendant Teyagaraja Pillay to six months' rigorous imprisonment, and to pay a fine of Rupees 200, under Section 384 of the Indian Penal Code.

15th September 1866.

(True Copies).

(Signed) C. N. POCHIN,
Acting Magistrate.

Case No. 43.

1st Witness,—Lutchooma Chetty, of Aragalcor Village, in Ahtoor Taluq.

I addressed a petition to the Magistrate about two years ago; this, $\frac{A}{2}$, is it. I applied for permission to celebrate certain marriage ceremonies, and an order was accordingly passed by District Magistrate, $\frac{B}{2}$. On receiving order, I went to defendant, and applied for permission to carry out the order. He refused permission, and had me shoved out of the Taluq Cutcherry. I went again to the Huzoor, and gave a petition, $\frac{F}{2}$. Defendant refused permission, because h^e was in favor of my opponents, from

$\frac{A}{2}$, dated 15th June 1864.

$\frac{B}{2}$, dated 7th July 1864.

$\frac{F}{2}$, 5th October 1864.

whom he had received a consideration. I don't know what order was passed on my 2nd petition, but I was ordered to go back to the Taluq. I went again to defendant, and repeated my request. Defendant abused me, and said that if I give him Rupees 500 he would let the procession be carried out. Defendant told me this in his house. I did not comply with this demand immediately, but went back to my village, and made preparations for the celebration of the marriage. On this the Monegar went to defendant and told him of it. Defendant directed the Monegar to stop the procession if I attempted to carry it out. When I did attempt it, a crowd of people came with sticks and prevented me. I then went to the Police Inspector at Thalavasal, and showed him the endorsement I got from the Magistrate, and asked for his help. This was Inspector Moottoosawmy Naik. The Inspector told me he had no orders on the subject, and that he would write to the defendant about it. The Inspector afterwards told me that he had received a reply from defendant, prohibiting the procession. I went again to the Huzoor and put in this petition, $\frac{C}{2}$. An order, $\frac{D}{2}$, was passed on it, to the effect that security should be taken from my opponents, and that the procession should be carried out. I went again to defendant; then he told me that, unless I gave the amount he had asked, permission would not be granted, but that he would have me disgraced. Defendant said that he would put me in the stocks before all the people assembled for the marriage, and that he would get me imprisoned for fourteen years. I understood him to mean that he would do this if I did not give Rupees 500, because I went and complained and got the order from the Huzoor against his will. I was much afraid that he would carry out his threat. I went again to the Huzoor with this petition, but it was not received, and I was told three orders had already been sent, and that I should go to defendant. I went again to defendant and he persisted in his refusal, and threatened me again as he did before. I was obliged to give Rupees 500. I gave the amount myself. As I had no money at Ahtoor, I borrowed it from one Alagappah Moodelly, who had just returned to Ahtoor from Salem, where he had gone to sell certain grain, &c. I took him with me when I went to pay the 500 Rupees to defendant. Defendant himself received the 500 Rupees. Defendant was sitting on the outside pial of his new house when I took the money. Besides the three persons I took with me, there was no one else present. I took these people with me, partly because it was dark, and partly because I was afraid that defendant, after receiving the money, might still refuse to allow my procession. I took Alagappah Moodelly with me also because he was defendant's friend, and I, therefore, expected him to intercede with him on my behalf. Defendant received the money, and told me to go away, promising to send the order for the procession. After that, there were no objections to my procession. It was about three, four, or five days before the procession that the money was paid. The other two that accompanied me to defendant's house were Moonia Moodelly and Koral Moonia Moodelly.

$\frac{C}{2}$, 5th January 1865.

$\frac{D}{2}$, 9th January 1865.

N B.—No question put by defendant, who was allowed an opportunity, but declined.

2nd Witness.—Alagappah Moodelly.

I lent 1st witness 500 Rupees about four days before the marriage procession was carried out. I lent the money in Ahtoor. I went to Salem with Moonia Moodelly and Koral Moonia Moodelly to sell grain, and returned on our way to our village to Ahtoor, and put up as usual in 1st witness' sister's house in Ahtoor. The 1st witness told me that the defendant had, notwithstanding two or three orders from Huzoor, refused to allow his procession, and that he had threatened to put him in the stocks, and get him imprisoned for fourteen years, unless he gave him 500 Rupees; and he asked me to lend that sum. I know this amount was paid to defendant. I was present, because 1st witness took me and other two with him. I had no object in going to defendant. When we went to defendant's house, he was walking about under the pandal of his house, but as soon as he saw us he sat down on the pial; then 1st witness handed over the bag of Rupees 500.

I know defendant as I often came to the Cutcherry.

N. B.—Defendant declines to put any questions.

3rd Witness.— Moonia Moodelly.

I remember 2nd witness last year lending 1st witness 500 Rupees. It was lent at Ahtoor in the house of 1st witness' sister, where we were putting up. 1st witness borrowed the money to pay to defendant. I and Koral Moonia Moodelly asked 2nd witness to lend us some money. 2nd witness said that he had no money, but that if we went to Salem, where he was going to sell his grain, he would lend us on our way back. We put up at Ahtoor. I saw Rupees 500 paid to defendant. It was paid to him in his house. Defendant was walking about at his house ; when he saw us he sat down on the pial and received the money. 1st witness asked us to go with him because it was dark, and we did so. The money was paid about two or three Indian hours after dark.

N B.—Defendant puts no questions.

4th Witness.—Koral Moonia Moodelly.

I remember 2nd witness lending last year 500 Rupees to 1st witness. The money was lent in 1st witness' sister's house at Ahtoor. I went to Salem with 2nd witness for a loan of money, and returned with him to Ahtoor. On our way to our village 1st witness paid the 500 Rupees to defendant. I was present, as well as Mooniappa Moodelly and Alagappah Moodelly. 1st witness asked us to go with him, and we went.

N B.—Defendant puts no questions.

10th September 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

Defendant pleads not guilty, and calls witnesses.

Cross-examination of (complainant) 1st Witness, Lutchooma Chetty.

I made a verbal complaint to Magistrate about the bribe. I complained after extortion to Magistrate. I complained at the last Jummahbundy. I don't remember how many months after giving bribe. It was the Joint Magistrate I complained to (on Jummahbundy). He referred me to District Magistrate. I don't remember the time ; but I complain now. I complained a short time ago when I gave my deposition. I don't remember how long time elapsed between giving money and my complaint. It may be about 18 months since I paid the bribe. I waited for the Jummahbundy time to complain again. Only one Jummahbundy has taken place since I paid the bribe. I made no written complaint to Magistrate except my written deposition. The bride and bridegroom were mounted in a Palanquin in the procession.

I am a cultivating ryot. I pay 36 Rupees to Government. I spent about 500 Rupees in the marriage—feeding people, buying cloths, paying musicians, &c. I did not pay 500 Rupees for the procession, but because I was threatened with disgrace if I did not pay him Rupees 500. Defendant said that, if I carried out the procession, he would have me punished, because I complained to District Magistrate. I complained against defendant to District Magistrate, that defendant would not allow my procession. I did not then complain about Rupees 500. I complained first time to Magistrate before money was demanded by defendant. I obtained an order from District Magistrate to carry on procession. I don't remember how many days after my complaint I got this order. After I got order I paid the money. I don't remember how many days after I got the order I paid. I paid the money, because defendant threatened me—not for the procession. I never gave any other bribe to defendant. He never threatened me at any other time.

If a Tahsildar threatened me, I would pay money. As I was a ryot and merchant under authority of Tahsildar, I paid.

If I had not paid, he might get me into danger. This defendant is capable of punishing me. He threatened me with 14 years. I borrowed and paid the 500 Rupees. Defendant asked me personally for 500 Rupees. No one was present. I went to defendant's house. I went to get permission for procession. I went very often for this purpose. I can't say exactly how often I went on each occasion. I appealed to Huzoor. I might have gone twice or thrice to defendant's house.

I got three orders from District Magistrate.

In Examination in Chief he said after second order. After I got third order the money was demanded. I don't remember how long after the third order was given, the procession was allowed by defendant. I did not spend any money at Huzoor for getting order. No one threatened me there. On the first occasion defendant did not ask for a bribe. After 2nd order from Magistrate, defendant might have asked for a bribe. He asked me for 500 Rupees after the 2nd order. I made no arrangement to pay. He asked again after 3rd order. He asked me when at his house ; he was at the pial, to the north of the entrance to his house. I don't know whether there was any one outside. The opposite party in my village under defendant's orders prevented my procession. Defendant did not give any order into my hand for the procession. When I paid the money, defendant said "you can go to your village, and I will send order to allow procession." The Moonsiff did not tell me that orders for procession had been sent. On defendant's words I had my procession. Taluq Sheristadar and Police Inspector went along with me in the procession. I began procession after 2nd Magistrate's order was received, but Monegar prevented me. I began procession after 1st Magistrate's order also, but defendant did not permit it. Defendant prevented it through Monegar. I did not hear defendant tell Monegar to prevent my procession. I carried the 500 Rupees in a bag to defendant's house, two or three Indian hours after sun-set. I don't remember what month exactly, nor name of the year. It was about 18 or 19 a months ago. I took 3 persons with me, because it was dark, and defendant might deceive. I took them as witnesses ; we went together. At the defendant's house we were all standing. Defendant asked if I had the money (500 Rupees). On saying I had, he told me to place it on the ground. Defendant then told me to go to my village. I went away to my village with witnesses. We stayed that night and went next day. Defendant took up the bag, but did not count the money. When defendant asked for 500 Rupees, I asked him to take less, but he would not listen. I once took Alagappah Moodelly to defendant's house, to intercede for me. I think this was after 2nd order.

Alagappah Moodelly spoke on my behalf. He asked defendant to allow me to carry out procession. Defendant refused. I don't remember that any bribe was offered then, or that defendant asked for one on that occasion. I don't remember whether Alagappah Moodelly was present when defendant asked for Rupees 500. I can't say exactly whether it was before or after asking for 500 Rupees, that I took Alagappah Moodelly to defendant's house. I took Alagappah to intercede, that I might have nothing to pay to defendant. Defendant did not object to the three witnesses' presence when I paid the money. I don't remember how long before giving the money the defendant asked for it. Defendant threatened me on account of the procession.

Defendant said that, if I carried out procession without paying 500 Rs., he would get me 14 years' sentence. 500 Rupees were all full Rupees. I paid yearly 3½ Rupees Moturfa formerly. I neverpaid income tax. My income was below 200 Rupees.

I was threatened, so I managed to pay the money. I was summoned by defendant ; the matter is still pending. This was after the money was paid. I was summoned about a land dispute. I appeared before defendant. He asked for a bribe then, but I did not give it. He asked for Rupees 100 at his house. He did not threaten me. I took witnesses to defendant's house when 500 Rupees were paid, because I was afraid he would take the money and deceive me. I intended to make a complaint against him. If procession were allowed I had no cause to make a complaint. The procession was carried out. There was an order of District Magistrate to allow my procession. Defendant had no right to demand Rupees 500 ; therefore, I complained. The money was extorted; therefore, I paid it. It was not only on account of procession, but also on account of the threats that I paid Rupees 500. I complain now because Magistrate has come here.

5th October 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

Cross-examination of Alagappah Moodelly.—About 20 months ago I lent 500 Rupees to complainant. I don't remember the name of month. I don't know name of year. Name of last year was Khrodana. It was about four days before the marriage in complainant's house was carried

out. I took no bond, but complainant gave me a receipt on Cadjan, and I kept it in my bag. Complainant has repaid the money, and has received back his receipt. He repaid the money within two months of borrowing it. I did not enter repayment in my accounts. I did not enter the loan, because I expected to be paid soon, and merely kept receipt which I gave back when the money was repaid. Complainant paid 10 Rupees interest for two months. I never made any entry of receipt. I do not keep accounts of all receipts, and disbursements. I only make such entries when money is out at loan for some time. I used to make entries of daily accounts and purchases, but not of money lent when I expect it to be shortly returned†. When I borrow money I enter it. My accounts will show how much money I have laid out and how much I have in hand. I have not kept regular accounts for the last 10 years. I keep no accounts at all now†. I had not borrowed money for the last 10 years. I have had other transactions with complainant. He does not owe me any money. [Deponent explains that 10 years ago he was a cloth merchant, and then kept accounts, but that for the last 10 years, he has ceased to be a merchant, and has kept no accounts†]. If I had lent the money at a long date I would have taken a stamped bond and kept an account. I lent the 500 Rupees without a stamped bond. I have no memorandum to show date of lending the money. I spoke to defendant in behalf of complainant about the marriage ceremonies. I spoke to defendant about allowing procession. This was about 10 days before defendant gave permission to have procession. Defendant said "very well." Defendant said Lutchooma Chetty would not listen to him. Defendant never asked me to get a bribe for him. Complainant was then present. I have no house at Ahtoor. When I lent 500 Rupees I had about 10 or 15 Rupees more with me. I never saw complainant and defendant talking together afterwards. I never spoke to defendant on behalf of complainant after lending the money to the latter.

† See cross above.

Complainant never asked me to go to defendant's house. After I lent complainant money I never gave or carried any bribe to the defendant on any occasion. I never saw a bribe paid to defendant.

Question by Court.—You said in your examination in chief, you saw complainant pay 500 Rupees to defendant; how do you explain this?

I meant to say that I never saw a bribe given, *except on that one occasion when complainant gave Rupees* 500. Complainant never said it was a bribe. The money was paid on account of threats made by defendant; it was given on account of fear.

I did not hear threats used. I don't remember if the defendant used any threats when I went to speak to him. Defendant did not count the Rupees 500. The matter was talked over before, so the defendant took the money. Defendant asked if 500 Rupees had come. Complainant said "yes." Defendant took the money, and said he would issue an order next day. Procession takes place after the marriage.

Complainant borrowed some money on account of the wedding. I don't remember how much; it was a small sum. If it had been a large sum, I would have kept an account as I did about the Rupees 500. I only lent him money, not cloths or other articles. He paid off the whole debt. He borrowed the small sum after he borrowed the 500 Rupees. It is not my practice to lend money to other people. There are old debts due to me for money lent five or six years ago. Besides bonds and Cadjan receipts, I have no accounts. I have old accounts. There was no decree given against me in Civil Court at the suit of Kolunday Moodelly.

I said that if he swore in a Pagoda that he did not owe me money I would give up my claim. I sued Kolunday, and he sued me, and it was dismissed. Defendant fined me once 5 Rupees and another time 1 Rupee. Complainant counted the money (500 Rupees) before he put it into the bag. I counted the Money when I lent it; afterwards he counted the money and put it in the bag. I lent the money two or three Indian hours before sunset. Complainant counted the money as soon as I gave it to him. He kept the bag with himself. He kept it for two or three hours after

sunset, and asked me to go with him to defendant's house, as the amount was large and it was dark. Complainant was in the same house but in a different room with the money. After he received it, before going to defendant, he might have taken some money out of the bag without my knowledge. I saw the bag and heard defendant ask if the 500 Rupees had come. I pay about Rupees 120 assessment to Government. I get 100 kalams of paddy, and 100 kalams from Poonjah. I sold upwards of 500 Rupees worth of grain at Salem on that occasion. I sold the grain to many different men at Salem, but I can't give their names. I sold for ready cash.

Question by Prosecution.—I am a friend of complainant. I took no security when he borrowed the money. I felt sure of being paid. I considered him trustworthy. I was fined long before I lent the 500 Rupees.

There was no ill-will on account of the fines imposed by defendant. I was always on good terms with him after that.

5th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

Cross-examination of Moonia Moodelly.—It is about 19 or 20 months since money was paid to defendant. I don't remember name of month or year. I can't remember day of week. I live at Aragaloor. I was present when complainant asked 2nd witness for a loan of 500 Rupees. It was paid after 2nd witness' return from Salem.

This happened two or three hours before sunset. Money was lent as soon as asked for. 2nd witness did not lend me the money I asked for. After lending the 500 Rupees, 2nd witness had a little money left; I don't know how much. 2nd witness counted the Rupees 500—all full Rupees. I don't know by which of them the bag was produced. I was beside them when the money was counted. I did not observe so closely as to be able to say whether the Rupees were counted in twos or threes or fours. I went to Salem with 2nd witness* and came back with him, and put up in the same house with him in Ahtoor. Complainant tied the money in a bag, and kept it in the room where he was putting up.

* Allagappah Moodelly.

Complainant did not leave the house (before he went to defendant's house) after getting the 500 Rupees. Complainant asked me to go with him to defendant's house, because the sum was large and it was dark. No one came from defendant's house to call 2nd witness. It was a secret matter, so 2nd witness went after dark. I don't know why he went so long as three hours after dark. Complainant also counted the money before he put it in the bag. Complainant gave 2nd witness a receipt on Cadjan. I made a mark on it. I cannot write. Complainant signed. Koral Moonia Moodelly also signed. Alagappah Moodelly wrote the document. Alagappah Moodelly (2nd witness) read it out in my hearing to complainant. I don't remember exact words of document, but it was to the purpose that 500 Rupees were lent. There were some others present whom I don't remember. The marriage was celebrated about four or five days after the money was paid. Complainant said defendant had threatened him, and asked for the money.

Defendant asked who is there. Complainant said "it is I," and added that he had brought the money. Defendant sat on the pial. Money was put on the ground. Defendant lifted the bag, but did not count. Defendant asked how much there was. Complainant said 500 Rupees exactly. Complainant was standing before defendant. We were behind complainant. There was a lamp burning. There was a peon at the gate, but defendant said something to him and he went away. I never went to defendant's house before. I have been to the Cutcherry. I cannot say whether the defendant knew me. Defendant made no objection to my being there. I said nothing to defendant. No one except complainant spoke to him. Defendant took the bag and went inside his house. He said nothing when he was going inside. Complainant took us, because he was afraid of defendant deceiving him. I don't know any other case in which defendant deceived complainant. Koral Moonia Moodelly was also present when 500 Rupees were given; he was putting up in the same house with us. He was present when the bag of money was given. The custom is to have one procession before, and two processions after, marriage. No procession took

place before money was paid to defendant. An attempt was made to have a procession but was prevented by the opposite faction.

The opposite party to complainant said that no procession would be allowed as long as defendant was in Taluq. Complainant told me this. I never gave a bribe to defendant. There are two factions among the weavers of the village. I don't belong to any faction. Alagappah Moodelly, 2nd witness, is not the head of a faction ; he is like any one else.

6th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

Koral Moonia Moodelly.

Cross-examination by defendant's Vakeel.—I know Alagappah Moodelly. I have known him a long time. I have had money dealings with him. I owe him about 10 or 15 Rupees. I borrowed this about four or five years ago. I have made no re-payments. There must be some account, but I did not give a bond ; he has an account. Yes, I signed the account. Yes, that was all I borrowed from him. I never took any other loan from him. Yes, I have asked him for another loan ; he promised to give. He was willing to give but I did not take it.

I and one Moonia Moodelly asked for a loan. Alagappah promised to give it at Salem, so we went there. At Salem I said I did not want the loan, because we wanted to buy certain articles at Salem, but finding the price too high we did not require the loan. I saw Lutchooma Chetty at Ahtoor. Lutchooma Chetty executed a document to Alagappah Moodelly on cadjan. Alagappah Moodelly wrote on the cadjan that Lutchooma Chetty had borrowed 500 Rupees. One per cent. per month was the interest. Money was to be repaid in two months. I and Moonia Moodelly attested the document. Lutchooma Chetty signed it as a receipt. Alagappah Moodelly first gave the money, and then document was executed. I know why it was borrowed—to be given to defendant. I heard Lutchooma Chetty tell this to Alagappah Moodelly. The money was paid two or three Indian hours before sunset to Lutchooma Chetty. Two or three hours after sunset money was paid to defendant. Lutchooma Chetty called me, and I went to defendant's house. He said it was dark, and asked us to come as assistance. He did not say any thing else. He said, "come, I want to give the money." Yes he said he wanted us as witnesses. We were occupied cooking, and he was waiting till it got dark. Lutchooma Chetty also told us that it was a secret matter, and should not be done in daylight. We went late, chiefly that we might not be seen. Lutchooma Chetty gave the defendant the money in a bag. He, Lutchooma Chetty, had a bag. I don't know how he got the bag. I did not see Alagappah Moodelly give him a bag. I don't know if Lutchooma Chetty took any money out of the bag before it was given to defendant. I did not speak to defendant. Moonia Moodelly did not speak to defendant ; Alagappah Moodelly did not speak either. Lutchooma Chetty said he had brought the money. Defendant sat on the pial, and Lutchooma Chetty put the bag in front of him. Defendant lifted the bag, and said "is it 500 Rupees?" Lutchooma Chetty said "yes." Defendant took the bag inside, and came out and said "go, orders will be sent to-morrow." We were all together when this took place, and in my hearing defendant made no objection to our being there.

N. B.—This question was put into the witness' mouth *verbatim*.

9th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

Lutchooma Chetty, complainant in this case is, called as a witness for defence but no reason assigned for calling him.

Defendant declines asking this witness any questions because his Vakeel is not present. Court declines to grant any further delay, as it is now 3 P. M., and parties were warned to be present at 12 A. M., this day.

Question by Court.—I do not know why I was summoned as a witness by defendant.

1st November 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

2nd Witness for defence.—Polambally, Curnum of Aragaloor.

(Defendant declines to ask this witness any questions ; says he wants his Vakeel.)

Question by Court.—I know complainant. I was told of complainant's marriage procession in 1865. I know nothing of 500 Rupees being extorted from complainant.

I don't know why I was summoned by defendant. I only heard that complainant's procession had been stopped by opposite faction, and that, afterwards, by Magistrate's orders, it was carried out.

1st November 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

3rd Witness for defence.—Arunachella Mooppen, late Monegar of Aragaloor.

(Defendant, although warned that his Vakeel will not be waited for, refuses to ask this witness any question.)

Question by Court.—I know complainant. His marriage procession took place in 1865.

I know complainant received orders from District Magistrate to carry out his procession. I saw the order. The opposite faction opposed the procession. A former Collector gave orders that such processions should not be carried out.

I was not present at the marriage. I was present at the marriage procession. I think the procession might have cost 10 Pagodas. There was only one day's procession. Complainant is a merchant. I know nothing of his capital. I don't know his income. He paid no income tax. He was an Oil Merchant. He exported oil to other places as well as sold in the village. He has a thatched house. He is an ordinary man, he is not rich and not poor. I don't know the value of his house, nor have I ever been inside of it.

NOTE.—Defendant's Vakeel having arrived, he is allowed to examine this witness.

Cross-examination.—The procession was in the day time, and the only expense was betel nut or so. I say the cost may have been 10 Pagodas. The custom of the caste is to perform marriage ceremonies and procession for three days. I do not know whether it is usual for processions to take place at night or day time in complainant's caste. The marriage ceremony was not performed in Aragaloor. It was performed in Salem. I was only told so. I am not intimate with complainant. Nobody in Aragaloor has a tiled house. There is not a tiled house there. He lives like other people in the Village, and, therefore, I said he was not rich and not poor.

I was dismissed from my situation as Monegar ; I was dismissed for giving false evidence in a Coorawen's case to favor them.

1st November 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

4th Witness for defence.—Appoo Pillay.

Defendant's Vakeel.—I don't know when complainant's marriage ceremony took place. I do not know when the procession took place.

1st November 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

5th Witness for defence.—Arapoogary.

Defendant's Vakeel.—I was present at the marriage ceremony in complainant's house.

I was absent when the procession took place. There were three days' marriage. I cannot guess the cost.

Cross-examination.—I was not present at the marriage, I only heard of it. The marriage was performed in Vellipoliem, only a few yards distant from Aragaloor.

6th Witness, Singiah, called for in defence, is dispensed with by defendant's Vakeel ; he is accordingly not called.

1st November 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

Finding and Sentence.

The facts of the case are as follows :—

In June 1864, Lutchooma Chetty, complainant, applied to the District Magistrate for permission to celebrate a certain marriage procession, and an order, dated 7th July 1864, was sent by District Magistrate to defendant, then Sub-Magistrate and Tahsildar of the Taluq (Ahtoor), to have the procession permitted. On the 5th October 1864, 3 months after Magistrate's 1st order, another petition was received by the District Magistrate from complainant, stating that defendant had not allowed his procession to take place. On this petition, an order, dated 7th October 1864, was endorsed, desiring defendant to inform District Magistrate what steps he had taken to carry out the 1st order, dated 7th July 1864. On the 13th October, defendant replied that he had communicated Magistrate's orders to both parties. An Urzee, dated 1st January 1865, was received from defendant, objecting to Magistrate's order of the 7th July 1864, on the ground that the order quoted by Magistrate applied to public highways, and not to village streets, and also that Police reported that there was probability of a disturbance. Complainant again put in petition, dated 5th January 1865, again complaining that his procession had not been permitted ; and on the 9th January 1865, an endorsement was given by the Acting District Magistrate to this effect : Orders are sent to defendant and Police to take security from those opposing his procession, and to attend at the time, and see that his procession was not obstructed ; and an order dated 9th January 1865, to this effect, was also sent to defendant. On the 8th February, one month after this last order, defendant reported that he had taken security, and on the 2nd March 1865 defendant reports that the procession had come off without any disturbance. Eight months were thus allowed to elapse before defendant saw fit to obey the orders he received. The complainant states that, after presenting his second petition to the District Magistrate, he went back to the defendant and repeated his request about the procession ; that defendant abused him, and said his procession would not be allowed unless he, complainant, paid defendant, 500 Rupees ; that he, complainant, again petitioned the District Magistrate, and that another order was sent to take security from the opposing parties, but that even then the defendant would not allow the procession, but demanded 500 Rupees, and threatened to have complainant disgraced and imprisoned if he did not comply ; and that, being frightened, he borrowed the money from one Alagappah Moodelly, 2nd witness, and paid the amount to defendant, in the presence of 2nd, 3rd, and 4th witnesses, who all speak to the payment of the money to defendant, and the testimony of all these witnesses, although severely cross-examined by defendant's Vakeel, remains unshaken to any material extent. The great delay which occurred before defendant allowed the procession to take place, and the fact that the District Magistrate's first order was not attended to at all for many months, and that, even after the third order was issued, nearly two months elapsed before the procession was permitted, certainly tends to raise a suspicion that sinister motives were at the bottom of this delay and inattention to the orders of his superior. The complainant is anxious throughout to impress on the Court the great fear that he labored under from threats of defendant, and that the payment was made chiefly on account of that fear. It is, however, far more probable that the money was paid chiefly, if not solely, to get the procession permitted. He had found it useless to apply to the District Magistrate, whose orders were not obeyed, and nearly eight months having elapsed, he would naturally despair of any attention being paid to them. When it is borne in mind that Natives set enormous value on the proper carrying out of marriage processions, and that they are ready to incur vast debts for the purpose, the complainant's anxiety to have his procession probably far outweighed any fear he had of the defendant's threats.

Much stress has been laid by the defence on the fact that defendant would never take a bribe before several witnesses, but if this argument is to be carried out to its legitimate length, no bribe or extortion could ever be proved, for it would only be necessary to have a few witnesses present to make the taking so improbable as to become incredible. It is also to be borne in mind that the charges* on which defendant has been tried are only a few (out of a great number of complaints) in which the evidence, *prima facie*, appeared to be good and sufficient. It appears to the Court

* 5 inquired into by Magistrate.
15 by Police.
—
20 ; and besides these there were many others not inquired into at all.

that the defendant, after passing through a long course of tyranny and corruption for many years with impunity, had become perfectly callous and careless in what way, or before whom, he took money, so long as he achieved his object. The defence also dwells on the fact that complainant only paid a pagoda to Government as Moturfa, and that he paid no income tax, and that he could not therefore have paid such a sum as Rupees 500. That both these taxes, especially the latter, were evaded by every one who could manage to do so is notorious, and the fact is therefore worthless as proof of poverty. Prominence is also given to the fact that 2nd witness kept no account of the 500 Rupees, but from this man's statements it appears that he has ceased to be a merchant in regular business for the last ten years, and that he has not kept regular accounts at all since that time. It is also to be remarked that this witness and complainant's statements are perfectly borne out by the statements of the other witnesses, touching the way in which 2nd witness happened to have money with him at the time, and other points, which the evidence would certainly have broken down in cross-examination, had the statement been false. Some few errors as to dates certainly appear in complainant's statements, but they are only such as would naturally occur after a considerable lapse of time, and do not in any way materially affect the case.

The Court finds the prisoner, Teyagaraja Pillay, guilty of the offence specified in the 2nd count of the charge, viz., that he, Teyagaraja Pillay, being a public servant, to wit, a Tahsildar and Sub-Magistrate, did take a gratification, viz., 500 Rupees, other than legal remuneration, as a reward for doing an official act—an offence punishable under Section 161 of the Indian Penal Code ; and the Court sentences the said Teyagaraja Pillay to 6 months' rigorous imprisonment, and to pay a fine of 500 Rupees, under Section 161 of the Indian Penal Code.

(Signed) D. ARBUTHNOTT,
Magistrate.

12*th November* 1866.

(True copies).

(Signed) C. N. POCHIN,
Acting Magistrate.

—

Case No. 46.

Complainant and 1st Witness.—Vyapoory Moodelly, Curnum of Aniempatty.

About 3 years ago, defendant sent for Monegar of Aniempatty, Moottoosawmy. Monegar and others made a complaint against me to the Huzoor. It was endorsed to defendant for inquiry. Defendant sent it to Sheristadar for inquiry. Sheristadar was conducting inquiry. In the meantime, defendant called me by a peon, whose name I don't know. I could not recognize him. I went. Defendant was angry, saying I was not obeying the Sheristadar ; that there are erasures in my accounts, and that he would punish me on the Police side. I said there was nothing wrong in accounts, and that I was writing the accounts as the Agraharumdars told me. He then told me to go to Cutcherry. I went into the Cutcherry and asked the Sheristadar if I had disobeyed him. At 4 o'clock P. M. I went home when the Cutcherry broke up. After that, about 4 P. M., Peon Bava Saib, called me, and said the defendant wanted me. I went ; defendant told me to sit down ; defendant asked me whether I would prefer being tried on Police side and punished, or listen to what he said. I said I was a respectable man, there is nothing wrong in my accounts, and that he should not, therefore, disgrace me. Defendant said he would let me go if I paid 300 Rupees ; I consented, and asked permission to go to the village and bring the money. He permitted me accordingly. I went to the village the next day, and returned in two or three days with the money. I brought Streenevassa Iyengar with me from the village. As I was bringing money, I left the money in Ambalatady Udian's house, and told Streenevassa to look after it. I went to defendant's house. Iyadoray Iyengar was then standing outside defendant's house. I told Iyadoray something. He told me to do as I said. I went back to the place where I was putting up, and brought the money and Streenevassa Iyengar to defendant's house. Defendant and Iyadoray were seated in the house. As soon as I saw defendant he asked me if it had come. I said "yes." I gave the money, he received it, and told me to go. There was no case brought against me on Magisterial side. The defendant wrote an Urzee on Revenue side to Collector.

Cross-examined by defendent's Vakeel, 12th October 1866.—Mr. Pochin, late Collector, dismissed the complaint against me. I was fined 2 Rupees for carelessness. I don't know how defendant reported to Collector. He told me he had reported in my favor. Streenevassa Iyengar is not a servant of mine. I see him often. I have seen Streenevassa Iyengar after my complaint to Magistrate—I cannot say how often; I may have seen him 4 times. I did not tell Streenevassa till yesterday or day before that he was to be a witness. I did not tell him on what particular point he was to give evidence. He asked me why I was summoned. I said, it must be about the complaint I made about the 300 Rupees business. I had no talk with him on this subject, except on this occasion. I never employed Streenevassa to do any business for me. I have had no money dealings with him. He has attested bonds executed in my favor. He has attested several bonds. I did not complain to any authority about the 300 Rupees, till I complained to Magistrate. Streenevassa has given evidence in my favor in the Civil Courts. He only gave evidence regarding attestation of bonds. Streenevassa asked about his being summoned in Ambalatady Udian's house where I generally put up. I told Superintendent of Police the other day that I had also given other 300 Rupees to defendant in a land case. This was immediately after defendant came to this Taluq. On several other occasions also defendant extorted money and paddy from me; but I don't remember all the circumstances, nor do I think I can prove them now. It is about eight or nine years since I paid 300 Rupees in the land case. I remember Cudamboor Appa Pillay, Curnum, and Nyna Mahomed, of Gungavally, were present when the 300 Rupees were paid about eight or nine years ago. I paid the money in the village of Gungavally in Soobraymony's Muttum. I don't remember the hour; I think it was day time.

I don't remember who were present at other times. On the occasion of present complaint I took Streenevassa (3 witness) with me to defendant's house. Iyadoray Iyengar was at defendant's house. In the old case, eight or nine years ago, I don't remember how those present came there. I don't remember speaking to Iyadoray, 2nd witness, about this complaint previous complaining to Magistrate; I had no occasion to do so. I was at Magistrate's Court when 2nd witness was examined last month. I don't remember speaking to him just before he was examined last month. I have had no money dealings with 2nd witness. I do not know whether defendant issued a warrant against my brother, since he came to this Taluq; I don't remember. If you mention subject I can say. I can't say if my brother was brought up on warrant for disobedience to a summons. On one occasion a warrant was executed on me by defendant. I went and asked him why he did so; he replied "never mind, go away"; there was no inquiry. I don't know whether my brother was fined by defendant. I did not pay defendant anything on the occasion I received the warrant. My brother and I live in one house.

Re-examined by Prosecution.—I was afraid of defendant, and, therefore, I did not complain before. One Kolagi Bye complained against defendant. His house was looted a month or two after the complaint, and set on fire; there was also a certain party at Pudoor from whom defendant took timber by force to construct his house at Salem, and defendant declined to pay price. Defendant caused his house to be plundered, when the party complained against defendant. In consequence of these and similar things, I was afraid to complain. I was not present when 2nd witness was examined in this Court.

By Court.—I pay 1500 Rupees a year to Government for land, and I have money dealings to the extent of 20,000 Rupees.

12th October 1866.

(Signed) D. ARBUTHNOTT,
Collector.

2nd Witness.—Iyadoray Iyengar.

I am a Ryot and a Dharamakurtha. I know 1st witness was brought up for inquiry before defendant two or three years ago. I came often on my business to Cutcherry, because I hold much land. The accounts of 1st witness were examined by defendant in Cutcherry. I know 1st witness gave defendant 300 Rupees in connection with these accounts. The money was paid in defendant's house. I saw the money paid. I went to defendant's house. I don't remember the

reason I went that time. Defendant received the money. Streenevassa Iyengar, who came with 1st witness, was present.

Cross-examined.—This happened in defendant's house. Defendant and I were together. I had seen with defendant four or five individuals before 1st witness and Streenevassa came. I knew 1st witness before that. I usually saw 1st witness often. As often as I came to Cutcherry I saw him. I saw him that morning and previously. I saw him that day in the Cutcherry and in the Bazaar. I saw him two or three times that day, but don't remember the hour. I saw him again in the evening, but I cannot remember when. I don't remember how long before he brought money to defendant's house I saw him. I cannot remember if I had conversations with him. I might have told 1st witness to pay the 300 Rupees, but it is so long ago I don't remember. I don't remember that I went next day, for I went often. I don't remember what took place next time I went to defendant's house. I don't remember what took place when I went there the time before the payment of the 300 Rupees. I went to his house last about 10 days before he went to Salem. This was about end of May. I can't remember what took place then. I used to go whenever I come here. I don't remember what took place last time, nor can I remember what took me there when the 300 Rupees were paid. I was never concerned in a robbery, but I was once charged with a highway robbery. I was arrested on defendant's warrant. This was four or five years ago. I don't remember whether the 300 Rupees were paid before or after this. I cannot say whether it was before or after.

Defendant got up the case against me, but I still went to his house. I was once Village Moonsiff of Veeraganoor, and lost it about two or two and a half years ago. I lost it unjustly. I got an order saying "there is no crime established against you, but there is suspicion against you, and you are dismissed". It was said I assisted a Coorawen, who was charged with theft. I was accused of crime to get off the Coorawen. Captain Hill promised to recommend me to the Collector. I was not arrested this time by any one. I was not taken before the District Magistrate. I was taken before the District Magistrate on a summons; no warrant came.

(Signed) D. ARBUTHNOTT,
Magistrate.

14th September 1866.

Re-called by Court.—(Iyengar is recalled to speak to certain letters). Letter April 17th (no year in letter but alleged envelope bears post mark 17th April 1860), Exhibit $\frac{A}{5}$, I received. It is in defendant's hand-writing, and signed by him. This is a letter written to me by defendant, desiring me to bring certain cloth and gold jewels from Trichinopoly, and desiring me to invite certain parties to a marriage, &c., $\frac{B}{5}$, dated 11th April 1861: this letter which I received is in defendant's hand-writing, and signed by him. This, Exhibit $\frac{C}{5}$, dated 11th April 1861, I received. It is written by defendant to me, and bears his signature. This, Exhibit $\frac{D}{5}$, 17th January 1862, I received. It is written by Taluq Goomastah Singiah. It is signed by defendant. This, Exhibit $\frac{E}{5}$, dated 11th May 1866, I received from defendant. It is not written by him, but it is signed by him.

(Signed) D. ARBUTHNOTT,
Magistrate.

3rd Witness.—Streenevassa Iyengar of Gungavally.

I know complainant; he is of my village. I remember coming with complainant to Ahtoor some three years ago. We both went to the house of one Ambalatady Udian in Ahtoor. We both put up in that house. About 2 P. M., complainant told me that he would go to defendant's house and come back; he came back immediately. We both then went to defendant's house. Defendant was inside his house, in company with Iyadoray Iyengar. I gave Vyapoory Moodelly (complainant) his money which I had with me. Defendant told Vyapoory

Moodelly (complainant) to sit down. We all sat down. Defendant asked complainant "isit come?" Complainant replied it had. Defendant asked how much; complainant said 300 Rupees, as was ordered. Defendant then took the money from complainant. There were 300 Rupees. The money was in my possession from the time we left our village. The people of Aniempatty made a complaint in connection with certain Jari accounts against complainant to defendant, and which was under inquiry before defendant at that time. I am a ryot and pay 20 Rupees to Government, besides I rent lands from other ryots to the amount of 100 Rupees a year.

Cross-examined by defendants' Vakeel.—There was a complaint actually under inquiry. No, I never went to Cutcherry during inquiry. I only heard that an inquiry was going on. Complainant gave the money into my charge. He gave it in a bag. I did not count it. It was not counted when given to defendant. Ambalatady Udian did not know I had money in the house. I had the money in my possession before it was given to defendant. I carried the bag in my arms under my cloth. When I came in a bandy from village, I had it by me; when I slept in Ambalatady Udian's house I had it under my head. When sitting, I kept it beside me. I only carried it when I went to defendant's house. The bag was not sealed. Complainant said he wanted to go and see who was in defendant's house. Defendant was sitting in the southern "tavaram" of his house. I did not speak with defendant. When we went, defendant and Iyadoray Iyengar were conversing. I don't remember if there was anything said between them after we went. Besides conversation about the money, complainant said to defendant "hereafter, at least, you must have pardon on me and protect me." Defendant said "don't fear, go," that was all. We were about half an Indian hour at defendant's house. I have never been to defendant's house except on this occasion. I don't know of any other money being given to defendant besides this. I only heard that the people of Aniempatty had made a complaint against complainant. I know nothing about the accounts. I did give evidence in behalf of complainant before the Civil Court and Moonsiff's Court about my having attested certain documents. I cannot remember in how many cases I gave evidence. I have attested many documents of his, as he is a great money-lender. I don't remember giving my evidence in the case of Nyna Mahomed and complainant. I don't remember I gave evidence in complainant and Pulla Maden's case. I don't know any one of that name in my village There is no toty of the name of Mootun in my village that I know of. Not in Papier's case, but in Pápá Reddy's and complainant's case I gave evidence. I don't know any one in the village of the name of Kulammal. I don't remember Jabangeer's case. I know one Cunyan, but I don't remember any complaint against him. I gave evidence in complainant's and Ramachendra Naiken's case. I might have given evidence for complainant in a revenue case in the Court, but not before a Magistrate. I am not complainant's Goomastah. He does not pay me anything. I got batta when I went to give evidence in Salem, like other witnesses. I am here on summons by Magistrate. I get no batta from complainant. I get no batta from Magistrate's Office. I saw complainant in Ahtoor. He is now outside the Court. I did not speak to him just now. Complainant did not tell me that he was going to call me as a witness in this case. I have seen him here for the last two or three days. Yes, I have spoken to him for a short time. I told him that I had received summons to give evidence; what is the matter? He replied, "it must be for the money paid to defendant." I said "all right, I will tell all that I know." This was said yesterday in Ambalatady Udian's house. I went there myself. I cannot say exactly, but I might have been there a quarter or half an Indian hour. I remember only speaking this once on this subject. I may have spoken often on other matters. I did not take notice who were present. We both came to the office this morning, but complainant came behind me. I am putting up in Manavarthy Kistniah's house. Complainant puts up in Ambalatady Udian's house as usual. I sometimes put up in the Chuttrum, but there being no room there, I put up in Manavarthy Kistniah's house. Ambalatady Udian is not a Brahmin. I am a Brahmin.

Reexamined by Prosecution.—I am certain the bag I carried contained money, because Rupees were poured out of the bag by complainant before defendant when the money was given. Complainant has a Goomastah. They were all Civil Suits. I gave evidence in for complainant. I

don't know if I am entitled to batta from a Magistrate's Court. When I put up at Ambalatady Udian's house I had my own rice, and took meals at the Chuttrum.

(Signed) D. ARBUTHNOTT,
Magistrate.

12th October 1866.

4th Witness. Taluq Sheristadar.

(Called to speak to the hand-writing and signature in the Exhibits $\frac{A}{5}$, $\frac{B}{5}$, $\frac{C}{5}$, $\frac{D}{5}$, and $\frac{E}{5}$.)

I have been about 4½ years in this Taluq as Sheristadar under defendant. I know his writing and signature well. Exhibit, $\frac{A}{5}$, is in the hand-writing of defendant, and is signed by him. (Address.) This address on cover is also in defendant's hand-writing.

$\frac{B}{5}$ is also written and signed by defendant.

$\frac{C}{5}$ is also written and signed by defendant.

$\frac{D}{5}$ is written by Kistna Row, Taluq Goomastah, and signed by defendant.

$\frac{E}{5}$ is written by Toppal, Goomastah, but signed by defendant.

(Signed) D. ARBUTHNOTT,
Magistrate.

12th October 1866.

Kulloo Row, Head Taluq Record-keeper.—5th Witness.

I produced this Exhibit, $\frac{F}{5}$, from Taluq records. It is a complaint against Vyapoory Moodelly by Moottoosawmy Iyen and others. It is signed by defendant.

This Exhibit, $\frac{G}{5}$, is also from Taluq records. It is an order from Collector regarding complainant, $\frac{F}{5}$.

(Signed) D. ARBUTHNOTT,
Magistrate.

17th October 1866.

Depositions of Aramoodoo Iyengar, Police Inspector.—1st Witness for defence.

I am Police Inspector of Ahtoor Taluq. I know Vyapoory Moodelly. He told Superintendent of Police, in my presence, that he paid money to defendant. He never told me that he had done so. When Vyapoory Moodelly (complainant) came to Ahtoor, I took him before Superintendent of Police by Superintendent's order. Superintendent of Police gave me order in Salem to produce this complainant and others before him at Ahtoor. Superintendent of Police had a list of complainants sent by District Magistrate. I don't know how many complainant's names were entered in the list. Superintendent of Police gave me the names of Soobroy Moodelly, Ramiah, Paliya Gounden, Kistnappa Naidoo, Moottoosawmy Iyen, and some others whom I don't remember. Superintendent of Police also ordered me at Ahtoor to have these people present. I sent for some of the parties, and the Taluq Sub-Magistrate sent for some of them, and as they appeared at Ahtoor, I took them before the Superintendent. Vyapoory Moodelly appeared before Superintendent after he had inquired into Soobroy Moodelly's case. Moottoosawmy never came before Superintendent of Police. He was absent from his village. I took no steps to find him, but I reported to Superintendent he was absent from his village.

Defendant and I were on friendly terms. We made remarks occasionally against each other's proceedings.

(Signed) ARAMOODOO IYENGAR.

Solemnly affirmed before me this 25th October 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

2nd Witness for defence.

I am Taluq Sheristadar of Ahtoor. I have been Sheristadar for about 4¼ years. I know defendant and Vyapoory Moodelly, complainant. He is brother of the present Curnam of Aniempatty. Upon a complaint (against complainant) regarding the Jari account. I was ordered to examine these accounts by defendant. Certain depositions were also taken

before me in the case. I examined the case on the Revenue side. I made no written report on the matter to defendant, but I told him the result, and produced all the accounts to him which I had examined. I reported to defendant that there was a discrepancy in the accounts. Goomastah told me that defendant wrote an Urzee to Collector. This, $\frac{C}{5}$, was the final order of Acting Collector on the subject. This account, $\frac{I}{5}$, shows the amount that has to be received by the Agraharumdars. The remark at this end is partly written by a Goomastah, and partly by defendant, and signed by the latter. This remark is to the effect that complainant has not kept his accounts regularly, and it appears complainant has appropriated certain money belonging to Agraharumdars, but that this cannot be proved against him. This suspicion arises because all the Jari accounts are corrected (or altered). Exhibit $\frac{J}{5}$ is an account of unauthorized division of fields subsequent to Fusly 1840, prepared by myself. This remark at end of the account is made by defendant, and signed by him, to the effect that all the charges had been made previous to complainant being Curnum, except in two cases, in one of which Government has lost in four Fuslies three Annas and eight Pice.—$\frac{K}{5}$ is the account of excess collection made by Monegar in Fusly 71. The remark at end is by defendant, to the effect, for Fusly 71, there is a balance of Rupees 47-15-6 against the Agraharum; the portion due to Agraharumdars is Rupees 40-12-10, and 7-2-8 has been credited to Sirkar according to patta given by Curnum. It does not appear from this, $\frac{K}{5}$, by whom the extra collections were made. This, $\frac{L}{5}$, was prepared on complaint of Agraharumdars. This, $\frac{L}{5}$, is an Urzee to Collector, signed by defendant, to the effect that defendant sends records, and had entered his opinion on each account. The inquiry lasted about six months.

Question by Court.—This *jasty vasool*, amounted to Rupees 7-2-8. This amount was repaid to the villagers on Collector's order. It was repaid from the Taluq Treasury; I think from "deposit head". It was not a fraudulant extra collection at all. It had been collected by mistake and paid into the Taluq Treasury by Village Officers.

27th October 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

3rd Witness for defence.—Kistna Row, Taluq Goomastah.

Exhibit $\frac{M}{5}$ is deposit account of Jari. Remark, is signed by defendant.

(Remark is as follows:—"The amount of 10-10-10 must be with the Monegar. Monegar denies "this; accounts are incomplete, and nothing, therefore, can be made out. The Monegar and Curnum "should, therefore, be jointly held responsible for the money").

Cross-examined.—It is not the duty of Curnum to make collections, or to keep money collected.

1st November 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

Finding and Sentence.

In this case Teyagaraja Pillay, defendant, is charged, under Sections 384 and 165, with having taken Rupees 300 from complainant, Vyapoory Moodelly, in the year 1862. It appears that, in 1862, a complaint was brought against Vyapoory Moodelly, the complainant, Curnum of Aniempatty, that his accounts were wrong. An order was sent by Collector in July 1862 to defendant, to inquire into the case; but, from the records, it appears nothing transpired against complainant, except a slight carelessness, for which he was find 2 Rupees by order of Acting Collector.

The complainant states that when the Taluq Sheristadar began to inquire into the charge against him, defendant sent for him, and after threatening to have him punished, he demanded Rupees 300, and that he, complainant, paid the 300 Rupees to defendant, in the presence of 2nd witness Iyadoray Iyengar, and 3rd witness Streenevassa Iyengar, both of whom speak to the payment of the money. The complainant in this case is a man of wealth and respectability, and there appears to be no good grounds for doubting his evidence or that of his witnesses. The defence attempts to show a discrepancy between the statements of the witnesses regarding the words spoken when the money was paid to defendant; but complainant gives the substance of what

Streenevassa Iyengar says was said, while 2nd witness, Iyadoray Iyengar, does not mention the conversation, as he was not asked to do so either by the prosecution or defence. In paragraph 8 of his defence, defendant attempts to prove that there must be a strong feeling of hostility against him on the part of complainant, because he accuses him of abetting a robbery and arson, in cases where complaints had been made against him (defendant). The Court is perfectly aware that, true or false, these stories are generally believed by the people of the Taluq. Defendant next attempts to prove that there must also be enmity between him and 2nd witness, Iyadoray Iyengar, because he was dismissed from Monegarship through defendant's representation, and repeatedly tried for previous offences by defendant; but letters produced by this 2nd witness, written by defendant to him, prove that they were apparently on intimate and friendly terms up to 11th May 1866, only 17 days before defendant quitted his office.

In the latter part of 12th paragraph of defence, an attempt is made to show that complainant asserted that he *took* the money from his village, while 3rd witness states that he took the money with him; but all complainant says is "I returned from the village with the money along with Streenevassa Iyengar."

In paragraph 15 of the defence, the unjustifiable interference of the Police and Taluq Magistrate is mentioned. Now the Police and Sub-Magistrate interfered only on the District Magistrate's direct orders, and Captain Hankin, Superintendent of Police, personally conducted the preliminary inquiries.

In the documents alluded to in paragraph 16 of the defence, the only remark made against complainant by defendant is that he and the Monegar should be held responsible for a sum of Rupees 10-10-10, and it even appears that this very sum had been collected and paid into the Taluq Treasury, so that they were not even responsible for that. It does, however, appear to have been a recognized plan of defendant to get money, and then bully the unhappy payer. The whole defence in this case may be summed up as a general abuse of the adverse witnesses, with a few attempts to mislead the Court as to the facts of the case. The Court finds the defendant Teyagaraja Pillay guilty of the offence specified in the 2nd count of the charge, viz., that he obtained a valuable thing, without consideration, from a person whom he knew to be likely to be concerned in a Court proceeding about to be transacted by him as a public servant—an offence punishable under Section 165 of the Indian Penal Code; and the Court sentences the said Teyagaraja Pillay to four months' simple imprisonment, and to pay a fine of Rupees 300, under Section 165 of the Indian Penal Code.

12th November 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

(True copies).

(Signed) C. N. POCHIN,
Acting Magistrate.

CASE No. 53.

1st Witness and Complainant.—Soobroy Moodelly.

About 2½ years ago, when I came here, defendant asked me for a loan. A Peon, Bava Saib, called me to Tahsildar. I was at the place where I was putting up. I went to the defendant's house. Defendant asked me for 100 Rupees as a loan. I said I had no money with me then, on which defendant said he would send Bava Saib to my village for the 100 Rupees. Defendant said he would repay the money next pay day. I went away next morning to my village. Bava Saib, on the day after I returned to my village, came there. Bava Saib said he had been sent by defendant for the money I had promised. There was no one present. I asked him to stay till next morning. I paid 100 Rupees to Bava Saib in presence of Comarasawmy Moodelly. About 10 or 12 days after I paid the money, I received a summons from defendant. Summonses were served on myself, Comarasawmy Moodelly, and my uncle Nagappa Moodelly, on a charge preferred by one Atchammal. I cannot tell the exact number of days this was after paying the money; it was about 10 or 12. I appeared at defendant's Cutcherry, and was waiting 6 or 7 days. There was no inquiry made during these days. I went to the defendant's house, accompanied by Comarasawmy Moodelly, and said that we

had been waiting 6 or 7 days, and requested that inquiry might be made. Defendant then said, if you give up your claim to the 100 Rupees, I will let you go. I then consented to give up the 100 Rupees. Next day, defendant inquired into the case and dismissed it. I gave up my 100 Rupees, because defendant threatened to have me punished if I did not. There was Shamiengar outside of defendant's house at that time when defendant told me to give up my claim to the 100 Rupees. I did not make any complaint about the matter, because defendant was Tahsildar, and I was a Curnum under him.—*6th October* 1866.

9th October 1866.

Cross examination by defendant's Vakeel.—I don't remember the exact year defendant asked for a loan, but it was about 2½ years ago. It was the same Bava Saib that first called me and afterwards came for the 100 Rupees. He called me about 6 or 7 P. M.; I went immediately. The defendant was sitting quiet—no one present with him. I never lent money before or after this to defendant. This is the only money transaction I have had with the defendant. I cannot say why defendant chose to borrow money from me. I took no bond from defendant. I knew defendant got the money, because, within 10 days, he asked me to give up my claim to it. I never paid a bribe to defendant, but I have sent him tamarinds, dholl, black grain, &c., occasionally. He never paid me for these things. I never asked for the price of these things. I took no receipt from Bava Saib when I gave him the 100 Rupees. I entered it in an account, but I tore it out after I relinquished the 100 Rupees. I complained, because I thought that the money would be got for me. I have nothing to show the date, but, if Atchammal's complaint be referred to, the month will be seen in which the money was paid. This is Atchammal's complaint, $\frac{A}{8}$; it appears to to have been presented 10th May 1862. This is the correct time. I did not receive any money from the other two complained against by Atchammal. I don't know why a complaint was made against three of us. Defendant took no receipt from me when I relinquished the 100 Rupees. Defendant sent no letter by Bava Saib. Comarasawmy was present. I did not keep him as a witness purposely; he happened to be there when Bava Saib came for the 100 Rupees. I told the defendant the case against me was false, and that there was no reason for my relinquishing the claim to the 100 Rupees I had lent him. The defendant said if I did not give up the 100 Rupees, he would inquire into the case and punish me. He did not say what kind of punishment he would inflict. I have been in the habit of lending money to other people. I have lent money to Bala Kistna Chetty, Coopana Iyengar, Soobroy Naiken, and others. I lent 500 Rupees to Bala Kistna Chetty; 300 to Coopana Iyengar; 700 to Soobroy Naiken. I have lent about 10,000 Rupees in all. I have been lending money to Bala Kistna Chetty for a long time; he has repaid some money, but he still owes me 500 Rupees. Bonds were renewed when money was lent. The last bond is dated about 2 years ago. I then lent 450 Rupees; the interest was 12 Annas per cent. per month (9 per cent). I lent Coopana Iyengar 300 Rupees about 2 or 3 years ago. I took a bond. I don't exactly remember the interest; it might be about 12 Annas per cent. I don't remember who were present. I must refer to the bond. I don't remember who were present when I lent 700 Rupees to Soobroy Naik. The money was not lent on bond to the defendant, besides there was but one man present, so I can remember. Shamiengar was present when I lent money to Coopana Iyengar. I complained only to District Magistrate last September, and I gave my deposition on 6th instant.

Defendant was removed from office about 2 or 3 or 4 months ago. It was not convenient for me to go and complain immediately. I did not send a written complaint to District Magistrate.

Comarasawmy Moodelly and I were both sent for by defendant and kept at Ahtoor, and we both went to defendant's house to ask him to settle the case, but I did not take Comarasawmy as a witness; we were both defendants in one case, so we went together. Defendant did not ask Comarasawmy Moodelly for anything. Shamiengar accompanied us, but he did not go into the defendant's house—he had no business with defendant. Defendant threatend me with punishment if I did not relinquish the 100 Rupees in the presence of Comarasawmy Moodelly. Defendant inquired into the case next day, and told us to go.

Question of Court.—Atchammal never made any other complaint except this, $\frac{A}{5}$, against me to the defendant.

By Prosecution.—As defendant was Tahsildar, and as he promised to return the 100 Rupees next pay day, I did not ask for a bond.

By Prosecution.—As the defendant told me to send money by Bava Saib, I did not take a receipt from Bava Saib. I had no other object in making this complaint, besides trying to get back my money.

The others, Comarasawmy Moodelly and Nagappa Moodelly, did not contribute part of 100 Rupees, because Nagappa Moodelly is my relative, and Comarasawmy Moodelly was only accused of assisting us. We were the chief defendants in Atchammal's case. I intended to make a complaint on defendant's removal, because I was not sure that he was finally removed, and might return.

By Court.—When District Magistrate came here last time, I knew defendant could not return, so I made complaint.

9th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

2nd Witness.—Comarasawmy Moodelly.

I know complainant. I know Bava Saib. I remember seeing Bava Saib at Soobroy's house about two years ago. I saw Soobroy Moodelly giving 100 Rupees to Bava Saib. Soobroy Moodelly said he had paid the money for the defendant as a loan. Bava Saib took away the money. A few days after this, summonses were sent by defendant to Soobroy Moodelly and myself, and Nagappa Moodelly. These summonses were sent on complaint of Atchammal of Bayloor. I and Soobroy Moodelly appeared according to summons at Taluq Cutcherry. No inquiry was made for 6 or 7 days. We then went to defendant's house and told him we had waited for 6 or 7 days; defendant then said that he ought to have punished us and placed us in custody. The defendant also said that if Soobroy Moodelly gave up his claim to the 100 Rupees, he would inquire into the case, and send us away. Soobroy Moodelly consented to give up his claim. Defendant inquired into case next day, and told us to go, as there was no proof against us.

6th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

Cross-examined by defendant's Vakeel.—I only remember seeing Bava Saib on this occasion once at complainant's house. I don't remember ever seeing Bava Saib at complainant's house at any other time. I did not know Bava Saib before I saw him at complainant's on that occasion. I heard complainant call him Bava Saib when the money was paid to the latter. There was no receipt taken from Bava Saib. I never borrowed money from complainant. Complainant has money dealings with others. I went along with complainant to Ahtoor when we were summoned by defendant. We did not talk about the 100 Rupees on our way to Ahtoor. Nagappa Moodelly did not accompany us; he was sick.

I was accused of abusing Atchammal, or something to that effect. I appeared immediately when I arrived at Ahtoor at the Cutcherry, not at defendant's house.

We two, Soobroy Moodelly and self, went into defendant's house when the conversation took place about the 100 Rupees. I did not pay anything. Nobody asked me to give anything. Defendant did not ask me for anything. I don't know who were in the Tahsildar's house.

Defendant examined witnesses in Atchammal's case. I don't know how many. He examined them one day. I don't remember if my deposition was taken. I might have gone on other occasions to defendant's house. After this I went to defendant's house. Yes, I think it was the first time I went to defendant's house about Atchammal's case. I had no friendship or enmity with defendant at that time. I was acquainted with defendant. Defendant spoke freely to complainant about relinquishment of 100 Rupees in my presence, on the west of the inner court yard of defendant's house. I don't remember if there was a lamp. We were

there between 6 and 7 P. M. There might have been Peons outside his house; I cannot give their names. I cannot exactly say in what year this took place. I see by Atchammal complaint, $\frac{A}{4}$, that it was in May 1862—that this took place more than 4 years ago. Yes, it was upon this complaint that Soobroy Moodelly and I were summoned before defendant.

Atchammal never preferred any other complaint against me. Defendant might have fined me in some revenue accounts. I was not fined by defendant. On hearing that Collector had passed an order fining him for not living in his village, I appealed to Collector, and was told that the fine would not be imposed. I have therefore not paid any fine. Defendant might have fined me for not sending my accounts in time since the 100 Rupees business took place. Yes, he has fined me. I cannot say how many times after that I was fined. I had no personal interest in the 100 Rupees. In revenue matters I may be fined 2 or 4 Annas for not sending in accounts in time. How could I remember each of these fines?

Re-examined by Prosecution.—I know Bava Saib by sight, but I did not know his name before I saw him at complainant's house. Ever since I have been in Government employ, I have been occasionally fined, and not only of late years.

9th October 1866.

(Signed) D. ARBUTHNOTT,
Magistrte.

3rd Witness.—Bava Saib, Taluq Peon.

I know Soobroy Moodelly, complainant. I remember defendant sending me to Soobroy Moodelly's house about 2 or 3 years ago. Defendant told me to go an get the money Soobroy Moodelly promised to give. I went and asked Soobroy Moodelly for money. He gave me 100 Rupees. I brought and gave the 100 Rupees to defendant. I don't remember whether Soobroy Moodelly went to defendant's house before money was paid to defendant.

NOTE.—This witness gave his evidence for the prosecution with the greatest reluctance, and was plainly in favor of the other side.

Cross-examined by defendant's Vakeel.—I have known Soobroy Moodelly ever since Bayloor was transferred to Salem Taluq. I remember being sent only once by defendant to complainant's house. I mean complainant's house in Bayloor. I was in the habit of going to different villages on defendant's private affairs when so ordered. I used to go to villages to bring paddy when defendant paid me money and told me to go. I on such occasions generally went on public business, and I communicated any private orders to Curnums and Monegars on defendant's private business. I did not often go on defendant's private business only. I don't remember how often I went on defendant's private business only. I cannot remember any other private business. I went on alone, except in Soobroy Moodelly's case. Soobroy Moodelly was not present when defendant ordered me to go and get the 100 Rupees from the former. Defendant did not order me to get the money in Soobroy Moodelly's presence. Defendant did not give me a written order to get the 100 Rupees. I don't remember defendant sending me to fetch complainant. I cannot remember the name of the year; it is about 2 or 3 years ago. I cannot say positively, but I am sure it is not less than 2 or 3 years ago. I am sure that it is not 4 or 5 years ago.

I cannot tell whether the 100 Rupees were taken as a bribe or a loan. I gave complainant no receipt when I took the 100 Rupees. I went alone to Bayloor when I went to complainant's house. I went in the evening of one day, and got the money next day, about 7 or 8 A. M. I was in complainant's house after going to Bayloor till I got the money. There was one Comarasawmy there. He came from outside and was sitting there. He was there in the morning before payment of money. I dont know where complainant got the money. I was sitting on the outside pial. Complainant brought the money from inside. I cannot say where from. He brought the money in his cloth. I do not remember whether there was any conversation between defendant and Comarasawmy Moodelly about the money.

I never saw Comarasawmy Moodelly before. Complainant did not introduce Comarasawmy Moodelly to me. I heard complainant address Comarasawmy by his name. I have never afterwards (i. e., after receiving 100 Rupees) had any conversation with complainant or Comarasawmy about the money. Comarasawmy was in the habit of coming often to Ahtoor; therefore, I remembered him. I have been sent for paddy by defendant, but I never went for private money, except on this occasion. Defendant told me he had asked complainant for 100 Rupees, and to go and bring it. When I went to Soobroy Moodelly's house, he told me to stop and that he would give me the money next morning. I attended both the Cutcherry and at the defendant's house. There was no one present when I gave the 100 Rupees to the defendant. I don't remember complainant coming to defendant's house. I don't know what defendant did with the money. I don't remember being sent on any particular occasion to any particular place by defendant, besides the one above stated.

Re-examined by Prosecution.—If any particular instance is referred to, I could then say whether I had been sent.

This is the Comarasawmy Moodelly I saw at complainant's house. I have been in Taluq for about 16 years. I don't know whether Comarasawmy ever was a Curnum. I know he was coming here applying for a Curnum's Goomastahship. He has been trying for a year or two.

9th October 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

4th Witness.—Nalady Naiken, Moonsiff of Bayloor.

About 2 or 3 years ago, I went to the defendant's house, and asked permission to return to my village. Defendant asked me if there was any enemy to Soobroy Moodelly. I then said that Atchammal was Soobroy's enemy. Defendant then said if Atchammal is his enemy, ask her to bring a charge against him. I then told Atchammal, on my return to Bayloor, to prefer a complaint against Soobroy Moodelly, as the defendant wished it.

This witness gave his evidence most unwillingly for prosecution.

Cross-examination by defendant's Vakeel.—I don't remember name of month and year. I don't remember on what particular business I came to Ahtoor on that occasion. I don't remember that I was summoned by defendant. I don't remember how many days I remained at Ahtoor. I only visited the defendant at his house once on that occasion. It was about 6 P. M.; defendant was under pandal, in front of his house. There was no one else there. Defendant did not tell me the reason why he asked if Soobroy Moodelly had any enemy. I did not know the object. Atchammal was kept by the uncle of Soobroy, and, when the uncle was sick, Soobroy Moodelly prevented her from coming to his house. I saw her going away crying. I thought there would be enmity. I did not tell Atchammal *what* complaint to make. After her return from Ahtoor, I know she had made a complaint. I don't remember having told Atchammal to make a complaint against both Soobroy and Comarasawmy. I remember Atchammal telling me that complaint against Soobroy had been dismissed. I don't remember if she mentioned Comarasawmy's name. I only told her to make a complaint if she had any. I have already stated that I told Atchammal that defendant had told me to tell her to make a complaint. I only told her on one occasion. I don't know who wrote $\frac{A}{8}$. I don't remember how many days elapsed after talking to Atchammal before I went to Taluq Cutcherry. I went there often, so I can't remember. I don't remember whether I ever went to defendant's house, after speaking to Atchammal. I never told defendant that I had given his message to Atchammal. There has been some enmity between Soobroy and myself for a year. There was no ill-will between us when I told Atchammal. There is no ill-will between me and Comarasawmy. I told Atchammal on the 2nd or 3rd day after my return to my village. Atchammal never complained to me against Soobroy. I only told her what I was ordered to tell her by defendant. If the defendant ordered me, how could I refuse?

Re-examined by prosecution.—It was my practice when coming to Ahtoor on public business. I asked for leave from defendant to return to my village. Defendant's verandah is enclosed with tatties, and not open. I saw Atchammal twice—once before her complaint, and once after—on this subject. Of course, I see her often in the village.

(Signed) D. ARBUTHNOTT,
Magistrate.

6th October 1866.

5th Witness.—Atchammal.

I know Soobroy Moodelly, complainant and 1st witness. I remember making a complaint against complainant Soobroy Moodelly. Monegar Nalady Naiken, 4th witness, told me to make a complaint. This is the complaint, $\frac{A}{8}$, preferred by me against complainant Soobroy.

This witness was in a perfect state of terror.

Exhibit $\frac{A}{8}$.

Cross-examined by defendant's Vakeel.—How can I say this, $\frac{A}{8}$ is actually my complaint. I am a woman, and can't read. I don't remember who wrote it for me. I never went to defendant's house. I gave my petition into Cutcherry. I myself presented petition. I don't remember having employed a Vakeel. The petition was all true.

6th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

6th Witness.—Arthanariaya.

I don't know Atchammal. I know defendant. Defendant, about three years ago, told me to be a Vakeel for a woman who preferred a complaint against complainant Soobroy and Comarasawmy Moodelly. I did not agree to become Vakeel, and having business I went away. Defendant said that if I became a Vakeel I might get about 2 pagodas.

This witness was evidently against prosecution, and spoke reluctantly.

Cross-examination by defendant's Vakeel.—Defendant did not mention that the woman's name was Atchammal, he merely asked me to be a Vakeel for a woman. Defendant did not mention nature of case. I know both Soobroy and Comarasawmy for the last 10 or 15 years; they live in Bayloor; I, in Ahtoor. They came to the Cutcherry now and then, and so I came to know them. They never put up in my house. I have been Vakeel in a case before defendant—in about 5 or 6 cases. The defendant did not advise me to be Vakeel in any of those 5 or 6 cases. I took them up of my own accord. There was no case pending before defendant in which I was Vakeel at that time. Defendant asked me to be Vakeel in that woman's case, but I said I had business, and went away. I never saw Atchammal, nor can identify her. I cannot say that it was for that very woman, Atchammal, that defendant asked me to be Vakeel. I don't know that any complaint was made to defendant by Atchammal at that time. There was no one present when defendant told me to be a Vakeel. Defendant did not mention complainant and 2nd witness' names. I don't know that there was ill-will between complainant and 2nd witness and defendant. I don't know who were complainants or defendants in the case the defendant asked me to be Vakeel. I don't know name of year or month. I was a Goomastah then under Nutter Saib, and had business and could not act as a Vakeel.

Re-examination by prosecution.—I only stated that I did not know the nature of the case against complainant and 2nd witness, but I *did* know the case was against *them*.

6th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

7th Witness.—Kulloo Row, Record Keeper of Ahtoor Taluq Cutcherry.

(N. B.—This witness is called by the Court to prove certain records produced in Court). $\frac{B}{8}$ is the list of documents connected with Atchammal's case. There are other documents in the Cutcherry connected with this case. There is no decision in the case. There is a paper headed "decision, complainant Bayloor Atchammal," marked $\frac{D}{8}$.

9th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

8th Witness.—Rungasawmy Gounden.

I know Bayloor Atchammal. I put in a paper to act as Vakeel for Atchammal. I can read only a little. [Vakalut is read to witness and acknowledged]. This Atchammal met me in Bazaar street in Ahtoor, and asked me to be a Vakeel for her. I refused. Atchammal then took me to defendant's Cutcherry; defendant asked if I was to take up the case. I said yes; he said give a vakalut. I gave this vakalut. It was written in Ahtoor. I gave this paper to Singiah. I don't see my signature on this vakalut. Defendant asked me will you take up this woman's case. I said "I will." Atchammal took me to the Cutcherry. I said I did not know anything. Defendant said "are you giving a vakalutnamah for the woman." Defendant told me to give a vakalut. I had not the vakalut then. I went afterwards and got one.

This witness spoke very reluctantly.

(Signed) D. ARBUTHNOTT,
Magistrate.

9th October 1866.

REMARK.—This witness was evidently in fear, and spoke most reluctantly.

Deposition of Aramoodoo Iyengar, Police Inspector.—1st Witness for defence.

I am Inspector of Police of Ahtoor Taluq. I know Soobroy Moodelly, complainant. I have known him for the last 20 months. Complainant never told me that he had paid money to defendant. I never spoke to him about his complaint. I did not make any inquiry about his complaint. The Superintendent of Police did so by order of Magistrate. I was present at the inquiry. I think it was after complaint to District Magistrate that inquiry was made. Inquiry was made about 26th September; I don't exactly remember. I rendered no assistance to Superintendent in this inquiry, except in bringing parties before him. Superintendent took notes of what parties said. I was ordered by Superintendent to bring complainant; so I went and brought him. I don't remember whether complainant first complained to Superintendent, or Superintendent first asked complainant about his complaint. This was the first time I produced complaint before Superintendent. Superintendent sent for the witnesses in the case. I only took complainant. Moonsiff came with him; along with complainant also came Comarasawmy Moodelly. I did not call the latter nor the Moonsiff. They did not talk to me about the case. Complainant asked me why he was wanted. I told him the District Magistrate wished a certain case inquired into. I have been on friendly terms with defendant. Defendant made remarks against my official proceedings; I can't say exactly. I might have reported against defendant for irregular proceedings to Superintendent. I must refer to my reports. I have all along been on friendly terms with defendant. There were other complaints against defendant; and on Superintendent's order I produced these other parties before him: I produced Paliya Gounden, Vyapoory Moodelly, Kistnappa Naidoo, and Ramiah before Superintendent. As the inquiries went on the witnesses appeared; so far as I remember most of these were summoned by Taluq Magistrate. As they appeared, I produced them before Superintendent. I can't produce my diaries.

Vide Session Judge's remarks.

Question by Court.—The diaries are not with me, they are sent to Superintendent of Police.

(Signed) ARAMOODOO IYENGAR.

Solemnly affirmed before me, this 25th day of October 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

Singiah.—2nd Witness for defence.

I am Ahtoor Taluq Goomastah.

This bundle is produced from Taluq records, and contains Magisterial cases sent up by 1st witness from 1865 to May 1866.

NOTE.—Defendant's Vakeel here intimates to the Court that he does not wish to put in these Magisterial documents, but he asks for all Revenue Magisterial summonses issued in April and May 1862.

I do not attend to Revenue business. I don't know if there is any list of Revenue summonses kept in the Taluq. I don't remember any thing of a case between Nalady Naik and his wife. I must refer to the records. I have searched records for 1865 and 1866, and I do not see any record of Nalady Naiken's case.

NOTE.—Nalady's case is ordered to be searched for in 1863 and 1864 records.

(Signed) D. ARBUTHNOTT,
Magistrate.

25th October 1866.

Soobroy Moodelly, Complainant and 1st Witness, is recalled for defence.

I never gave defendant any valuable thing, except the 100 Rupees and the tamarinds dholl, &c., I mentioned before.

Defendant's Vakeel here objects to the value not being entered in the charge, under Section 165, and it is explained to him by Court that the taking of the 100 Rupees is only referred to in the charge, and not the tamarinds, dholl, &c.

The evidence of Comarasawmy Moodelly, called for defence, is dispensed with by defendant's Vakeel.

27th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

Finding and Sentence.

In this case, defendant, Teyagaraja Pillay, is charged, under Sections 384 and 165, with having taken a sum of Rupees 100 from complainant Soobroy Moodelly, Curnum of Bayloor.

The facts of the case are these :—On the 10th May 1862, one Atchammal preferred a complaint against Soobroy Moodelly (complainant), Comarasawmy Moodelly (2nd witness), and Nagappa Moodelly before defendant ; certain depositions were taken before defendant, and a vakalut on the prosecution side, signed by defendant, is also produced from the records. No sentence of any kind is recorded, but from the evidence of the accused the case appears to have been dismissed by defendant.

Soobroy Moodelly (complainant) states that, a short time before he was summoned on this charge of Atchammal's, he was asked by defendant to lend him 100 Rupees; that Bava Saib, one of defendant's peons, was sent to receive the money, and that the money was paid to Bava Saib. Comarasawmy Moodelly (2nd witness) speaks to the money being paid to Bava Saib, and Bava Saib swears he paid the money to defendant some 10 or 12 days after this alleged transaction. Complainant and 2nd witness Comarasawmy are summoned to appear on Atchammal's charge before defendant. According to statement of complainant and 2nd witness, after they were kept idle at Ahtoor for six or seven days, they went to defendant's house, and asked him to inquire into their case, as they had been waiting some days. Defendant is alleged to have replied that he ought to punish them both, but that if complainant would give up his claim to the 100 Rupees defendant would inquire into and dismiss the cases. Complainant states that he agreed to this, and that the case was inquired into and dismissed next day, and in both these statements he is supported by 2nd witness.

Fourth witness deposes that he was ordered by defendant to tell Atchammal to bring a charge against complainant. Fifth witness, Atchammal, states that she did bring a complaint against Soobroy Moodelly, and that Nalady Naiken, 4th witness, had told her to do so.

Sixth witness states that defendant asked him to be Vakeel for a woman who had preferred a complaint against complainant (Soobroy), and that he (witness) declined.

Seventh witness merely proves certain documents in the cases.

Eighth witness states that he produced a vakalut to act for Atchammal, and that he was requested to be a Vakeel, both by Atchammal and defendant. He acknowledges the vakalut, which is not signed by him, but by defendant. This is the case for the prosecution.

The defence set up is—

I. That the 1st count of the charge does not specify, according to the prescribed form, *what was extorted*, but it simply states that defendant, by threats, frightened complainant into giving up his claim to 100 Rupees, which defendant had borrowed from complainant, whereas it is clear from the indictment and record that defendant only extorted a promise and no more.

II. That, in the 2nd count, it is not stated what valuable thing was taken by defendant without consideration.

III. That the local inquiry by Superintendent of Police was illegal.

IV. That the occurrence is said to have taken place two or three years ago, while it actually happened more than four years ago.

V. That Arthanariaya has stated a deliberate falsehood (*i. e.*, contradiction) in his deposition.

VI. That the Magistrate has no jurisdiction because the sums said to have been taken by defendant amount to Rupees 1450, and the Magistrate's jurisdiction is limited to Rupees 300.

These appear to be the chief points for the defence. With regard to the 1st objection, the Court considers that the charge contained in the 2nd count, under Section 165 of the Indian Penal Code, is the proper one in this case, for the moment the complainant was asked to give up his claim to the 100 Rupees, the offence specified in Section 165 was completed. With regard to the 2nd objection, the Court is of opinion that the same amount of 100 Rupees as that mentioned in the 1st count is clearly intended as the gratification mentioned in the 2nd count; otherwise there must have been two indictments, and not merely two counts in one indictment.*

* This objection was also raised by defendant's Vakeel during trial, and it was fully explained that the two counts referred to the same sum—see Section 40, Act XVIII of 1862.
The amount received is not the essence of the offence.

With regard to the 3rd objection, that the preliminary inquiry by the Police was illegal, the Court must observe that charges of illegally taking money and other valuables were made to the District Magistrate, and that the Superintendent of Police was directed to inquire into these charges under Section 133 of the Criminal Procedure Code.

With regard to objection 4, that the occurrence really happened 4½ years ago, while the witnesses state that it occurred from 2½ to 3 years ago, it is to be remarked that both complainant and 2nd witness declared that the date of Atchammal's complaint would show the correct date, and although Bava Saib states that it was not four years ago, he had nothing to guide his memory, and as he declares he never took money to defendant on any other occasion, it can only be supposed that he is mistaken as to the lapse of time that had occurred. Natives too are generally remarkably ignorant of, and careless about, dates.

With regard to objection 5, there is no contradiction in 6th witness' statement : he nowhere stated that he *was told by defendant* that a complaint was brought against Soobroy Moodelly and Comarasawmy Moodelly, although he expressly states that defendant *did not tell him* against whom the charge had been brought, but that he (6th witness) did know against whom the charge was brought, but not the nature of the charge. In this witness' statement, there is no contradiction.

With regard to objection 6, viz., that the Magistrate has no jurisdiction, because the aggregate amount alleged to have been taken by defendant amounts to 1450 Rupees, the Court observes that a Magistrate has, in his ordinary jurisdiction, power to fine up to 1000 Rupees, and in accumulated punishment up to 2000 Rupees, and, moreover, even in cases of theft and house-breaking, the amount for which a Magistrate can try a criminal is now left to the discretion of the Magistrate. In Section 46 of the Criminal Procedure Code, it is distinctly laid down that when the aggregate punishment for several offences exceeds the punishment which such a Court is competent to inflict on conviction of a single offence, it shall not be necessary on this account only to send the offender before a higher Court.

See Proceedings of High Court, dated 23rd July 1866.

The credibility of the statements of complainant and his witnesses regarding the taking of the money are certainly much strengthened by several corroborating circumstances. The great interest taken by defendant in Atchammal's petty complaint (which appears to have been one of abuse mixed up with some money transactions), evinced by his asking 6th and 8th witnesses to be Atchammal's Vakeel, gives great weight to 4th witness' statement that he was actually sent by defendant to tell Atchammal to make a complaint against complainant, Soobroy Moodelly. The records prove that no less than 18 witnesses were summoned by defendant on Atchammal's complaint, and that eight of these were examined, but no statement or pleading was taken by Soobroy Moodelly and Comarasawmy Moodelly, although the trial was held under Chapter XV of the Criminal Procedure Code ; and, lastly, there was no finding or sentence recorded by defendant, and even the vaka-

but put in by 8th witness at defendant's request is not signed by 8th witness as Vakeel, but by defendant himself.

The Court finds the defendant, Teyagaraja Pillay, guilty of the offence specified in the 2nd count of the charge, viz., that he, being a public servant, accepted a valuable thing, without consideration, from a person whom he knew to be concerned in a proceeding being then transacted by him as a public servant—an offence punishable under Section 165 of the Indian Penal Code; and the Court sentences the said defendant, Teyagaraja Pillay, to four months' simple imprisonment, and to pay a fine of 100 Rupees, under Section 165 of the Indian Penal Code.

(Signed) D. ARBUTHNOTT,
Magistrate.

(True Copies).

(Signed) C. N. POCHIN,
Acting Magistrate.

CASE No. 55.

Complainant and 1st Witness.—Paliya Gounden of Pythoor.

I received a summons from defendant about two or three years ago, on complaint of Topan, Palany, and others. I appeared on the summons before defendant. An inquiry was held. The case was disposed of. Nothing was proved against me. I was told to go away. I went to my village, because my child was sick, and came back to Ahtoor. I went myself to defendant at Cutcherry. Defendant threatened me, and said I know you are a bad man, and have made collections from the villages; I must hand-cuff you, and send you to the west (*i. e.*, commit him to Salem Court which is west of Ahtoor). Defendant promised to let me go if I gave 300 Rupees. This 300 Rupees was demanded when I was with defendant at his garden at Narasingapooram. This was subsequent to the threat used by defendant in his Cutcherry. Defendant did not threaten me there. I said I would give him the 300 Rupees. I agreed to pay the 300 Rupees, because I was afraid of defendant's threats. No one was present. I went immediately to my village. I returned next day, about noon, to Ahtoor. I brought 250 Rupees. Toty Kartan carried the money for me. I was then Monegar of my village Pythoor. I saw in the Ahtoor bazaar Venkatachella Mooppen of Kallunuthum. We three went to one Moottoo Naiken. We all four then came to Ahtoor. We went to defendant's house after lamp light. Defendant was in his southern house. I, Moottoo Naiken, and Venkatachella Mooppen entered the house. The Toty was outside. I took the money from the Toty and gave it to Moottoo Naiken. The money, 250 Rupees, was given to defendant. Defendant asked how much it was. I said 250, and that that was all I had. He said "very well," and told us to go away, which we did.

Cross-examination by defendant's Vakeel.—It might be about two or three years ago, but I cannot say exactly. I got leave from defendant to go away after the case was disposed of. The case was pending when I took leave and went to my village. I went of my own accord back to the Cutcherry, because I only got permission to go to my village. The inquiry was held on two days. On the 3rd day the case was disposed of, and permission granted to us to go to our villages. Defendant only ordered the complainants to go away; he ordered me to stop. I don't know whether he told other party (*i. e.*, complainants against witness) that the case was dismissed. I mean, by saying the case was disposed of, that the inquiry was completed. People coming to the bazaar told me my child was sick. I don't remember the person's name who told me. I returned next day to Ahtoor after seeing my child. I returned in the morning, about 6 or 7 o'clock. I went to Cutcherry about 10 A. M. (after taking meals). I took my meals, in Rama Mooppen's house. I went to Cutcherry. Defendant was there. I saluted him (made *dandum*). He inquired into my case in which I had been summoned. There was inquiry next day also. It was finished that evening. Defendant threatened me about 11 or 12 A. M. He threatened me when inquiring into the case. The opposite party was present when defendant used the threats to me. They were standing

NOTE.—This witness is a Malsyalee.

Witness corrects himself.

about 4 fathoms from defendant. There was no decision pronounced. It was after my return from the village that defendant threatened me. The other parties remained at Ahtoor when I went to see my child. There was one day of inquiry before I went to my village, and on day after I returned. I was threatened on the second day of inquiry. When I went to see my child the inquiry was not completed. I am a mere villager, and I did not mean to say that the inquiry was completed when I went to see my child. I used the word completed inadvertently. I gave the money to defendant, because I was frightened by defendant's threats. I gave the money before the inquiry was completed. There was no more inquiry after the 2nd day. The inquiry was held one day. I went that evening to my village. Next day I returned to Ahtoor, and the inquiry went on that day.

I was two consecutive days in the Cutcherry at the inquiry. I paid the money about three or four days after defendant threatened me. Defendant only told me to remain at Ahtoor after sending away the other parties. Defendant also told me that I should not go till the 300 Rupees were paid. This was said at his house when sitting on the pial. There was nobody there. It was evening, after dark. There were plenty of people present when defendant threatened to commit me. I don't know their names. I have been in the habit of going to defendant's house. I was not kept in custody during time of inquiry. Nobody took me to defendant's house. I went of my own accord (*i. e.*, when defendant said witness should not go away till witness paid 300 Rupees) to his house. The defendant demanded 300 Rupees. I mean I got leave from defendant at his house to go to my village to get 300 Rupees. It was at his house, he said I should not go unless I paid 300 Rupees.

It was after the very next day the opposite party were sent away, that defendant demanded 300 Rupees when in his garden. This was the first time he demanded the 300 Rupees. My opponents were told to go away about one Indian hour before sun-set. I went myself to the defendant's garden, because I was in fear. It was in his house at Ahtoor, defendant told me I should about to come from his garden to his house when I saw him. The garden is north of Pariah street in Narasingapooram.*

I brought the 250 Rupees from my house. I had then 300 or 400 Rupees in my house.

I did not previously arrange with the Tahsildar that I was only to pay Rupees 250. I tried to satisfy him with 250, so I took some persons with me to intercede for me. Moottoo Naiken put the money in front of defendant. Defendant asked me, and I said it is 250 Rupees. He said nothing to the others. Moottoo Naiken is a friend of defendant's. Defendant said nothing about the case (*i. e.*, complaint against him), but said "well, go." We all four went together. There were no other persons there besides those I have mentioned. I am not now a Monegar. It is about four years since I was dismissed. Defendant got me dismissed. It was a month before I was dismissed I paid Rupees 250. The Curnum of Pythoor is my enemy, and is an intimate friend of defendant's, and by his means I must have been dismissed. There was no charge against me. I received an order of dismissal. I lost this order. I don't know why I was dismissed. I can read. I read order.

By Court.—It was to the effect that as I made collections three times a month I was dismissed. The order now read out to me is the same meaning as I received from defendant.

There never was any other complaint made against me except this. This is the case in which I paid 250 Rupees, and for which I was dismissed.

The defendant had a garden then at Narasingapooram. I reached Ahtoor with the money about this time of day (*i. e.*, between 3 and 4 P. M.). During the inquiry I told Venkatachella Moohpen about defendant's demand. I told him after bringing the money.

Narasingapur is not in my direct way to Ahtoor, although I could go that way. I did not tell Moottoo Naiken about the demand for money before I saw him when I had the money. They

*About two miles from Ahtoor.

Exhibit $\frac{B}{9}$, dated 15th August 1862.

were friends of the defendant's, and were also my friends, so I went to him at Narasingapooram. I don't know if they spoke in my favor to defendant in that case, nor on any other occasion. We were standing when 250 Rupees were paid to defendant. The money was not counted. The money was tied in a piece of cloth, not in a bag. It was on last day of inquiry defendant said in his house, I should not go till I paid 300 Rupees ; on the same day he spoke to me in the garden. The day after the second day of inquiry defendant gave me permission to go to my village to get the money. Defendant only spoke to me once about the money in the garden. It was on the second day of inquiry that defendant ordered opposite party to go, and that I should stop until I paid. There is a dispute between me and villagers about Village Goddess. The defendant never gave any decision or order against me that I know of besides order of dismissal.

I first complained to a Gentleman, the Sub-Collector, last year. I made a verbal complaint. He told me I am only Junior Collector ; when the Collector comes he will give necessary orders. Since then, I have not complained till Collector came last month (September). I verbally made a complaint. I did not complain to the Police. I petitioned to Collector about my dismissal. I received endorsement that my dismissal was proper. I did not petition about the 250 Rupees. I was not present at the inquiry against defendant about land.

Re-examined by Prosecution.—I say positively the money was paid after the inquiry. I asked permission of defendant before going to my village for the money.

I can read a little.

I had already opponents in my village, and if I had complained against defendant, I was afraid of getting into trouble.

By Court.—There were depositions taken in the inquiry.

NOTE.—These depositions are ordered to be produced.

10*th October* 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

Witness re-called by Court.—Besides Topan and Palany, there was also Cooppen complained against me. There were others, but I forget their names. Lutchma Gounden also complained. Exhibit $\frac{B}{9}$, 12th June 1862, is Latchma Gounden's complaint against me.—$\frac{C}{9}$, same date, is Cooppen's complaint against me.—$\frac{D}{9}$, 24th June 1862, is Topan's deposition taken before defendant.

13*th October* 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

2nd Witness.—Kartan, Toty of Pythoor.

I know Paliya Gounden. Some four years ago I accompanied Paliya Gounden to Ahtoor, as he was Monegar. He ordered me to come. He gave me a bundle, which I brought to Ahtoor along with him. It contained money. In Ahtoor we saw Venkatachella Mooppen in bazaar street. The complainant took him, and we all went to Narasingapooram to Moottoo Naiken, and we all four returned to Ahtoor. On coming near Cutcherry, complainant told me to wet the bundle in water, which I did, and placed it on a cumbly, and placed it before complainant, who took it and gave it to Moottoo Naiken. The three went into defendant's house. I was outside in the street. There were lamp-lights in the bazaars. When they came out, I saw no bundle.

Cross-examination by defendant's Vakeel.—They stayed about two or three Indian hours in defendant's house. There were people passing outside the house, when I was there. I did not see any one I knew passing. I knew Moottoo Naiken before. I knew Venkatachella Mooppen before. It is the duty of toties to bring money from villages to Taluq Cutcherry. I take money at the eight kists to Tahsildar's Cutcherry. I cannot say how often I take the money, as there are other toties. I have not taken money this year. I cannot say how often I brought money last year, nor the year before. When I come here with Sirkar money, I, of course, meet people that I know. I can't say which was the last time I brought Sirkar money. I cannot remember any thing particular taking place when I brought kist money. When I bring Sirkar money, I give it to Shroff in the Cutcherry. I always give it to the Shroff. I used to see the Taluq servants in

the Cutcherry who were generally there. There is a back-door. I go through it into Cutcherry. I don't know how much money the bundle contained. Some times the Monegar accompanies the kist money. Paliya Gounden sometimes went. Since I was a little boy, I accompanied Paliya Gounden to the Cutcherry with kist money. I cannot say how often I went to the Taluq Cutcherry with complainant the year he was dismissed. I remember coming with him, the year he was dismissed, with kist money.

It was usual for complainant to go to Venkatachella Mooppen's house for the night, if too late for him to return to his village. Complainant used sometimes to see defendant at his house, after paying kist money at the Cutcherry. I can't say how long before taking the bundle to defendant, or how often, complainant had gone to defendant's house. One or two months after taking the bundle to defendant's house complainant was dismissed. Complainant gave me the bundle. I did not see the money tied into it. I cannot say whether it was silver or copper. Moottoo Naiken was in his house at Narasingapooram ; he was speaking to some people. Complainant called him. I don't remember who went with complainant with kist for the last time before he was dismissed. I did not mention about the bag to any one, it was no business of mine.

About five or six days ago, a Police gentleman*, asked me about the bag, and I told him—complainant was not present. The bundle contained complainant's private money. I know this, because when he gave me the bundle to carry, I said "this is not kist time, why are you taking money to Ahtoor ?" He replied "it is not kist money ; I want it for use at Ahtoor." [Witness being asked, names the kist months.] Kist should be paid in beginning of month. When I was told by complainant to bring the bundle of money it was not a kist month.

* NOTE.—Superintendent of Police.

When I brought the bag the last kist was over, so I know it was not a kist month.

Question by Court.—I always took Sirkar kist money to the Cutcherry, and not to any other place.

I never took Sirkar kist to any private house. I sometimes came late to Ahtoor after dark with Sirkar money ; but, when I did so, I always slept in the Cutcherry with the money.

10*th October* 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

3rd Witness.—Moottoo Naik of Narasingapooram.

I know Pythoor Paliya Gounden. I remember his coming to my house two or three years ago. He, Toty Kartan, Venkatachella Mooppen came to my house. Paliya Gounden told me to come to Ahtoor to defendant. We four went to defendant's house. We waited outside the Cutcherry till the defendant went to his house ; then complainant took the money that was with Toty Kartan and gave it to me. It was complainant's. There were 250 Rupees. We all went and stood at the entrance hall. Defendant asked "what." Complainant said, he had brought 250 Rupees. I put the money in front of defendant. Toty Kartan did not come to the entrance hall. Toty Kartan was outside the pandal.

Cross-examination by defendant's Vakeel.—I have known Paliya Gounden for a long time from my youth. Paliya Gounden was formerly Monegar of Pythoor. I can't say how many years ; but ever since his father's death, he had been Monegar.

I knew his father. We called him Paliya Gounden. He died 10 or 20 years ago. Complainant is not now Monegar of Pythoor. He was dismissed two or three years ago. When we went to defendant's house, complainant was then a Monegar. I don't remember how long after going to defendant's house he was dismissed. It might have been three or four months after. He has told me why he had been dismissed. I knew Toty Kartan before. I knew Venkatachella Mooppen before. Complainant called me and said he was summoned in a case and had some money to give defendant, and wanted me to go with him. I said, "how can we go now, it is late." We had no conversation on any other subject. They went in advance ; I followed a little behind. We all went to the Cutcherry. Paliya Gounden and the others came to my

house about two Indian hours before sun-set. We all started immediately after sun-set, and about lamp-light time we got to the Cutcherry. We stood a very short time. I don't remember why we stood a little while near the Cutcherry before going to defendant's house. Paliya Gounden gave me the bundle of money. He did not count it. I did not open the bundle or count the money after the bundle was given to me. As soon as I got the bundle we all entered into defendant's house. Complainant, Paliya Gounden, said there were 250 Rupees. We went and gave the money. We were not long in defendant's house. I did not speak to defendant. No one but Paliya Gounden spoke to defendant. I never went with complainant with money to defendant either before or after this, either for myself or any one else. Whenever defendant ordered me to do anything for him, I did it. I was pretty frequently going to his house. Defendant had land in Lukshoosamoodrum. The Patta is nominally in my name. I looked after the land for him. This is all the business, I did for him. Paliya Gounden often came to my house after the money transaction. About 10 days ago, he came. When he went to Salem he used to come to my house. When there was anything particular, he told me. We were intimate. He told me, 10 days ago, that he had brought a charge against the defendant about the money. Complainant told me he wished to cite me as a witness. I asked who else he intended citing, and he told me Venkatachella Mooppen, and Kartan. When waiting near Cutcherry I did not see any one except those with me. There might have been people passing, but I did not attend. There were people on the pial of my house when complainant and the others came, but I don't remember who they were. When going to Ahtoor from my house I was about 4 or 5 fathoms behind complainant and others. I was talking to a female. She sold vegetables. I don't know her name. She asked me where I was going. I had no conversation on any particular subject. I don't owe money. People in my village owe me money; Nagappa Naik, Iyam Perumal, in Agraharum village, also owe me money. Teruvai Puddayache owes me money. Paliya Gounden does not owe me any money; he never borrowed money from me. I never lent money to Venkatachella Mooppen. I can't say in what particular year the money was paid to defendant. I am a Ryot of Narasingapooram. My father and I pay about 170 Rupees Assessment to Government. I lent Nagappa Naik 100 Rupees about two years ago. He pays interest. He has not paid any of the principal. He pays interest yearly. Sometimes receipts are taken, sometimes not. Iyam Perumal owes me 60 or 65 Rupees. I lent this money about two or three years ago. He has not paid any of the principal, and to make up for want of interest, I employ his carts to bring leaves to my Pujah. I have documents—no other records. Defendant has a garden in Narasingapooram; he may have had it two years. I don't cultivate defendant's land in Agraharum now. The Patta was nominally in my name; I only superintended. The people of the village cultivated. One Chinna Kistnia and Annasawmy Iya bought the land from defendant. This was done about two years ago.* Moottoo Mooppen, who brought a complaint against defendant, is not a relation of mine. We are of different castes. I superintend Moottoo Mooppen's land. I gave evidence against defendant in a Revenue case. I and Paliya Gounden went to Moonsiff's Court at Salem with some money, about 20 or 25 Rupees, for expenses. Sometimes I had it, and sometimes he had it. This happened more than two or three years ago. This was after giving the 250 Rupees; I cannot say exactly how long after. We paid a Vakeel some 4 or 5 Rupees in an old case, and 6 Rupees in another case, but to no one else in the Court. I never went any where else (except on these two occasions) with complainant, Paliya Gounden, with money. When complainant and I went to defendant's house, complainant had no conversation with defendant about any case that I am aware of. After leaving defendant's house, I left complainant, &c., in bazaar street and went to my village.

NOTE.—In a Revenue case.

Re-examination by Prosecution.—What I have told of the conversation between defendant and complainant is all that I remember of it. I don't remember the money having been counted any where. When I managed the land for defendant, he had confidence in me. It may be more than two years, or even three years, since defendant got the garden at Narasingapooram. Defendant sold the land in Agraharum after the transaction of 250 Rupees. The 250 Rupees

transaction may have happened three or four years ago, for it took place before complainant and I went to Salem to the Court. I believe the bundle contains money.

Question.—You stated that you stood near the Cutcherry, where is the defendant's house?

Answer.—On the opposite side of the street from the Cutcherry, and within a few yards of it. I mean by "Tavaram or Naddai,*" the first apartment on entering the house.

(Signed) D. ARBUTHNOTT,
Magistrate.

11*th October* 1866.

* Entrance Hall.

4th Witness.

I am Venkatachella Mooppen of Kullanuthum. I know Paliya Gounden, complainant. I remember seeing him in bazaar street of Ahtoor some three years ago. Toty Kartan was with him. Paliya Gounden took me to Narasingapooram to Moottoo Naiken (3rd witness). Third witness was in his house. We all came to Ahtoor. Toty Kartan brought a bundle of Rupees. We went to defendant's house. When near defendant's house complainant told Toty Kartan to wet the bundle. On this being done, complainant took the bundle and gave it to 3rd witness. We then went to defendant's house. We did go into the house. Toty Kartan was outside the pandal. We passed the pandal, and went inside the house. We passed the pial and went within the house. Defendant asked "what"? Complainant said he had brought 250 Rupees. Third witness then placed it before defendant. Defendant was sitting on the ground. Defendant took the bundle.

Cross-examination by defendant's Vakeel.—I have seen complainant on several occasions in Ahtoor bazaar street, and I saw him on the occasion referred to. I saw him also about five or six days previous to the occasion abovementioned. On several occasions I have met him previous to that. I have met him also in the bazaar after the giving of the bundle. Yes, I have always talked to him when I met him. I never went in company with him to any place except on that occasion. I never took the bundle into my hand. It was said to contain money by complainant. He told me this in bazaar street, and also at Narasingapooram. When complainant and I met, we used to talk of each others affairs, but I can't say what was said on any particular occasion. I have seen complainant and Toty Kartan very often at Ahtoor. They also often come to my house together. There are two or three houses in Ahtoor in which complainant used to put up. Kodikara Raman's, Moorigu Pandaram's houses he used to put up at. Defendant told me, in case defendant is not satisfied with 250 Rupees, I must borrow more money here; therefore, I went to defendant's house. He did not say how much I must borrow. I went for no other reason. Defendant took me to Narasingapooram to induce 3rd witness to come to Ahtoor, in case he was unwilling to do so. About half an Indian hour before sun-sut we returned to Ahtoor. There were two or three people on the pial of 3rd witness' house talking to him; I do not know who they were. I often used to go to defendant's house, but not with any one else (except as above). I have often gone to defendant's house before the transaction, and for about two months after. I was in the habit of going to his house till I lost my Maniem Moonsiffship. Defendant was sitting in "tavaram" of his house. Defendant was sitting on a carpet. Toty Kartan put the bundle in water. It was near Police-station, complainant told Toty Kartan to put the bundle in water. Toty Kartan went to the north, and I went to speak to the Poojari of the Angalamman Covil. I don't know where the bundle was wetted. The rest were standing on the road near the Police-station. We went near the Cutcherry and stood there, and it was there the money was taken from Toty Kartan. I never saw any *other* money paid to defendant, but I paid money myself to defendant. I paid 250 Rupees, out of which 150 Rupees were returned to me on the mediation of certain parties. It was subsequent to complainant paying money that I gave. I gave money about one year afterwards. Kistnappa Naiken, Venkatachellum Pillay, Ramiah, Aragaloor Arunachella Mooppen mediated. I was not present when these mediated, but my nephew Appoo Mooppen was. This mediation took place at Thalavasal. The agreement was that, unless I got Maniemship back within a month, I was to get back my 250 Rupees.

This took place about the time Mr. Thomas came here for Jummahbundy, I was going to complain to him when defendant sent me word not to do so, but to come to Thalavasal and matters would be made right. It was there the mediation took place. I did not go, but Venkatachella Pillay and Ramiah took my nephew, saying he was wanted by defendant as I would not go. The mediation took place in my nephew's presence, and he brought me back 150 Rupees from defendant. My nephew told me defendant promised to restore the other hundred in a short time. On two or three occasions I went to get this 100 Rs., but the Peons pushed me out. Defendant threatened that he would shut me up in the lock-up for having arrested certain parties in a petty theft, and for keeping them in my custody one night. I paid 250 Rupees, because defendant threatened to put me in hand-cuffs, and put me in amongst the Pariahs if I did not pay it. Defendant asked for 300 Rupees on that occasion. Defendant committed me to the Court along with some Pariahs. I paid Rupees 250 before I was committed. It was on account of this very case I paid Rupees 250. I paid the 250 four days before I was committed. I did not complain to Court. My statement was taken, and I was told to go home. In Mr. Pochin's time I was dismissed, and my nephew put in my place; and within 15 days he was also dismissed afterwards. I was dismissed from office before the mediation at Thalavasal. Defendant got me dismissed. I complained last month to Collector about the 250 Rupees. I wrote petitions about loss of my Maniemship, but I got no answer.

Defendant took the bundle of money (Complainant's, *i. e.*, Paliya Gounden's, money), and went into next room, and came out and told us to go. I don't know why complainant wanted third witness to go to defendant's house. After leaving defendant's house, we all parted. When we went near Cutcherry, defendant had just gone to his house from Cutcherry. We did not wait for defendant. A complaint was made against me by a Police Constable, and then inquiry was made by defendant, and I was committed by defendant to Court (Principal Sudder Ameen's). The parties I arrested were brought away by a Constable. I came on the following day of my own accord to defendant's Cutcherry.

Re-examination.—I don't know if complainant, Paliya Gounden, had any other object in taking me to defendant's house, besides that which* I have already stated.

* i. e., borrowing money if necessary.

11*th October* 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

Deposition of Aramoodoo Iyengar, Police Inspector.—1st Witness for defence.

I am Police Inspector of Ahtoor Taluq. I know Paliya Gounden. He never told me he paid any money to defendant. I did not send for Paliya Gounden to his village. I merely produced him before Superintendent when he came to Ahtoor. I was present when he appeared before Superintendent of Police. This was about the end of September. Superintendent of Police took down notes of his complaint and of evidence of witnesses. I think this was after his complaint to District Magistrate. As the witnesses arrived in Ahtoor, I took them before Superintendent. Witnesses appeared at different times before Superintendent, not all at once. This inquiry was made after Soobroy Moodelly's case was inquired into by Superintendent. Paliya Gounden appeared before District Magistrate on his (Magistrate's) summons. I was all along on friendly terms with defendant. He used to come to my house, and I used to go to his. He sometimes made remarks against my official proceedings and that of my station Officers, and I made remarks against his proceedings. I can't produce my diaries. They are not with me.

(Signed) ARAMOODOO IYENGAR.

Solemnly affirmed before me this 25th day of October 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

2nd Witness for defence.—Venkatachellam Pillay, Curnum of Pythoor.

I was Curnum of Narasingapooram for about three or four years. I lost it about a month ago (*i. e.*, Curnumship of Narasingapooram). I gave a deposition before Collector in a revenue case. I deposed as things took place. I did not depose in favor of defendant. I know defendant has a garden at Narasingapooram. It has been his since Fusly 74. There was no garden there in 72 or 73; it was waste. I have not the accounts. I cannot say whether it was waste in 72 and 73. It was subsequent to giving deposition that I lost the Curnumship. I gave a deposition regarding the same garden before Assistant Collector.

Certain accounts are called for, for defence.

Question by Court.—The piece of land was called "Sera Nuttum Poonja", and was entered as Nunja.

Cross-examination.—I live in Appoo Chetty's Choultry in Salem. I brought no plantains for defendant from Ahtoor. I have not seen defendant since coming to Salem till now.

1*st November* 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

Finding and Sentence.

In this case, defendant is charged, under Sections 384, 161, and 165, with taking from complainant, a Monegar, the sum of Rupees 250.

2. The complainant and his witnesses speak to the payment of the money to defendant about three years ago, but documents show that the transaction must have taken place in 1862. On examining the evidence for the prosecution, the complainant's statements show several discrepancies, but they are only such as might be reasonably expected to occur after a considerable lapse of time, and a most confusing and lengthy cross-examination such as the complainant and his witnesses were subjected to.

3. Complainant states that defendant twice demanded the money from him—once in his garden at Narasingapooram (two miles from Ahtoor), and once at his house at Ahtoor.

4. Much stress is laid in the defence that the alleged garden was lying waste, and was not therefore a garden at all in 1862, but the said piece of land is entered as *nunja*, and such land is called garden whether cultivated or not. This garden is well known to the Court, and is a small piece by itself on the bank of a river. Moreover, it is within the Court's knowledge that this garden land was acquired surreptitiously by defendant, who never reported its acquisition till a year ago, although he held it long previously.

5. In paragraph 8 of the written defence, it is stated that defendant sent 4th witness Venkatachella Mooppen before the Principal Sudder Ameen in a case of theft. This is not true: the records show that 4th witness was sent before the Principal Sudder Ameen for keeping a man in custody for a night, and the said witness was at once released and the case against him dismissed.

6. The written defence further sets forth that the documents prove that the inquiry into complainant's case lasted only one day, and not two days as asserted by complainant; but it must be remarked that complainant could only guess at the time of closing such an inquiry by the parties being dismissed to their villages.

7. Defendant also asserts that 3rd witness, Moottoo Naik, was his notorious enemy, but no proof is given of this assertion.

8. The defence also remarks on the incredibility of defendant's receiving money from complainant, and then reporting against him with most others. This plan is certainly unusual, but it seems to be one frequently adopted by defendant; and on the score of safety it certainly has its merits.

9. There appears nothing to the Court sufficient to set aside the direct testimony of complainant and the 2nd, 3rd, and 4th witnesses.

The Court finds the defendant, Teyagaraja Pillay, guilty of the charge entered in the 3rd count, viz., that he, being a public servant, accepted a valuable thing, without consideration, from a person that he knew was concerned in a proceeding transacted by him as a public servant, and that he

(defendant) has thereby committed an offence punishable under Section 165 of the Indian Penal Code; and the Court sentences the said defendant, Teyagaraja Pillay, to four months' simple imprisonment, and to pay a fine of Rupees 300, under Section 165 of the Indian Penal Code.

(Signed) D. ARBUTHNOTT,
Magistrate.

12*th November* 1866.

(True Copies).

(Signed) C. N. POCHIN,
Acting Magistrate.

CASE No. 57.

First Witness and Complainant—Kistnappa Naidoo.

I know defendant. I know Keechi Chetty of Athapoor. A few months ago, Keechi Chetty brought me a message from defendant. Keechi Chetty gave me a message from defendant.

In reply to what Keechi Chetty told me, I said there is no occasion for me to give anything to defendant, let him do as he pleases. The message was a threatening message. Next day morning, Iyadoray Iyengar also gave me a message from defendant. I said I would wait till Keechi Chetty comes. That same evening I saw Keechi Chetty at Ahtoor Chuttrum. After speaking to him about our private affairs, he asked me what I had done with regard to defendant's message. I told him that as he (Keechi Chetty) pressed on me to give the amount, saying that otherwise I would be brought to disgrace by defendant, I was willing to give 20 Sovereigns. I left them in the Chuttrum, and went home and brought 20 Sovereigns to the Chuttrum. Iyadoray Iyengar and Keechi Chetty remained in the Chuttrum till my return. I told Keechi Chetty to take the 20 Sovereigns to defendant; he told me to take them myself, as I was also a friend of defendant. We then left the Chuttrum to go to defendant's. We went near defendant's house. Keechi Chetty told us to go into defendant's house—that he would go to the river and return; we went into the house. The defendant was inside his house in the verandah. One Venkata Soobiah was with the defendant at the time. As soon as I went in, defendant ordered me to sit down. I placed the 20 Sovereigns in front of defendant, who took them. I told defendant "why did you send word to me by Keechi Chetty and Iyadoray Iyengar angrily, why could you not tell me personally?" He said it did not matter, as Keechi Chetty was my friend. I stayed a little, and "said you must not annoy me in future in the contract affairs;" he said "very well, you may go." On the same day Iyadoray communicated the message from defendant to me, I went to the Agraharum Street, about 10 A. M., and happened to see one Singiah. I asked him if he knew why defendant was so angry with me, and was annoying me. He replied that defendant had said in open Cutcherry that he would bring me to trouble about my Forest Contract, and Singiah said it would be better to do as Keechi Chetty told me. This was on the morning of the same day that I paid the 20 Sovereigns to defendant. I paid this, because I was afraid of defendant, and because the message was brought to me by a respectable man, Keechi Chetty. If I had not been afraid, I would not have paid it. This occurred about a month before defendant left office. Defendant was attaching my timber, saying I had brought it from Government jungles, and not from Jaghire villages. The first demand made by defendant through Keechi Chetty was 300 Rupees.

Cross-examined by defendant's Vakeel.—I remember I was a witness in Ramiah's case against defendant, I also gave evidence against him in a revenue case. I gave evidence about bribes at Narasingapooram, and I also gave evidence about defendant's lands at Thalavasal. I don't remember exactly whether I gave my evidence in one day or two. It was on the next day after Keechi Chetty gave me defendant's message that I paid the money. Next day, after Keechi Chetty spoke to me, Iyadoray spoke to me, about 7 A. M. Keechi Chetty told me, when I said I would not pay, "never mind, it is not much for you to pay." I said, I would consider the matter and let him know. This was all that took place. Keechi Chetty went away immediately after this. I saw him next day evening. I never before received any message of the kind from defendant. Defendant used to borrow money from me and I used to borrow from him. We did so on one or two occasions. It is about four or five years ago since I borrowed 200 Rupees from defendant, I did not

pay any interest nor give a bond about two or three years ago. (I think it is) he sent by Singiah to say he wanted 500 Rupees; I lent it, and it was repaid to me by defendant in 10 or 15 days. I don't remember defendant's borrowing from me at any other time. I don't remember ever paying money to defendant on any other occasion. I received no threatening messages from defendant, except on this occasion.

I have been all along on friendly terms with defendant. When I went to Chuttrum, I saw Keechi Chetty there. On my way home I had to pass Chuttrum. There were many travellers in Chuttrum, but I noticed Keechi Chetty and Iyadoray. Iyadoray was close to us when I spoke to Keechi Chetty about Indigo affairs. We spoke about nothing else besides that and the defendant's money affair. There was then no charge pending against me before defendant. Defendant was making inquiries against my Goomastah and dependant. I had received orders from Collector to give licenses for wood cut in Jaghire forests; when I did so, defendant used to stop my timber on pretence that it was Sirkar timber. He had been doing this for two or three months before I had paid the 20 Sovereigns. Previous to that, he had never stopped my bandies. I never paid him anything before, nor did he stop my bandies. When I paid the 20 Sovereigns, I said nothing more than I have mentioned above. Defendant did not ask me why I had only brought, because he had sent word by Keechi Chetty that he would be content with, the 20 Sovereigns. Keechi Chetty used the words 20 *Pounds*. Keechi Chetty, with regard to demand for 350, used the word Rupees, not 35 Pounds. I did see defendant between the time Keechi Chetty spoke to me and before paying 20 Pounds, and I had not been in defendant's house for a month before that, because defendant had stopped my bandies. I had no quarrel with defendant, but I was pained in my mind at being annoyed by him. I don't remember the defendant inquiring into any case against me. I don't remember the defendant ever having annoyed me on any other occasion. I might recollect if any instance was specified. Keechi Chetty never returned to defendant's house when he said he was going to the river, but I saw him returning from the river after I left defendant's house. I was about quarter of an Indian hour in defendant's house. I went direct home. I and Iyadoray left together. Venkata Soobiah stayed behind in defendant's house. Iyadora did not come to my house, he left me in the Agraharum Street. I told Singiah about the threatening message I had got from defendant; I did not tell any one else. I live across the river from Ahtoor at Moolavady.

I never saw defendant at his house or at the Cutcherry, after payment of 20 Pounds up to the time he left the Taluq. I did not then know he was going to leave office. I made no attempt to get back my money, when I knew he was going away. After I paid the money, defendant still stopped my bandies. I was very much annoyed at my bandies being stopped after paying the money. About eight days after payment of money Keechi Chetty came to Ahtoor to my house. I said "it was upon message through you that I gave 20 Pounds; defendant is still annoying me; you had better ask him." Keechi Chetty said he would inquire and let me know next morning. I met Keechi Chetty at Narasingapooram. I asked him if he had spoken to defendant; he said he had, but that defendant had not spoken as he did before; I said "very well" and went away. I had no intention of complaining about the 20 Pounds, nor did I complain to anybody. I did not complain to District Magistrate. I mentioned this matter in a deposition in another case. I did not complain of my own accord before Superintendent of Police, but he sent for me and told me that he had heard that I had given 20 Pounds to defendant. I explained the whole matter. A Police Constable called me; I don't know his name. Superintendent wrote in paper after I told him; I can't say he took notes. I never told the matter to any one else. I was a Dharmakurtha in Ahtoor. I lost this about four years ago. I think I was not dismissed by the report of defendant, but by Collector, after investigation at Jummahbundy time. The Pagoda establishment complained that they did not get their pay regularly. There was a balance due to the Sibbundy, and the Collector ordered me to pay it, and I was dismissed. I don't know what Urzees were written. Defendant made some inquiries, and sent all the accounts to Collector. I was then on good terms with defendant. Only last year, defendant borrowed the body of my coach, when his wife

* Ramiah's case.

died, in my absence. He could not have done this if we had been in bad terms. This was about 16 months ago. I don't know if any charge of misappropriation was made against me. There was a balance against me, and I was ordered to pay it, and I did so. I don't remember if I gave a deposition before defendant. The balance against me was 300 or 400 Rupees. I paid it to the Collector and he paid it to the Sibbundy. Salem Tahsildar sent a warrant to arrest me, and defendant ordered me to go before Salem Tahsildar. There was a peon on me in one day. Next day I was released by the order of Salem Tahsildar. A certain goldsmith, who was working in defendant's house, put up a certain hedge; I and others complained to defendant, who said "never mind, allow it for the present." That night some one removed the hedge. I was absent from the village, but defendant included me amongst them, and we were fined 25 Rupees; five or six of us paid this amount—5 Rupees each. Defendant and I were on friendly terms after this, and wrote letters to each other. I can produce these letters. I did not complain to Joint Magistrate against defendant. I have already said defendant annoyed me by stopping my servants and bandies, but I don't know if he fined any of them.

NOTE.—Defendant's Vakeel here applies for records connected with witness' dismissal from the Dharmakurtha, which are ordered by Court to be produced.

27th October 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

Certain of these documents are produced, but are not required by defendant when offered, who asks for certain other documents called for in the same case (*i e* Dharmakurtha's case).

(Signed) D. ARBUTHNOTT,
2nd November 1866. *Magistrate.*

Complainant is recalled to produce certain letters in his possession 8th November 1866.

* Exhibit A 11 This letter dated 8th May 1862, I received from defendant [a letter regarding purchasing bullocks for deft]. This letter, Exhibit $\frac{B}{11}$, I also received from defendant.

[*Contents*—"I have applied for leave to go to Madras; you are to stay in Salem to go with me. I will make inquires about Bayloor affairs."] I received this letter in 1862 or 1863. I waited for defendant in Salem. I and defendant went to Madras; I merely accompanied defendant as a friend, because he asked me to go. These letters were received subsequent to defendant making inquiries against me about the hedge, and handing me over to Salem Tahsildar in a Criminal Case. When I went with defendant, defendant made some arrangements about the education of his children.

(Signed) D. ARBUTHNOTT,
8th November 1866. *Magistrate.*

2nd Witness Keechi Chetty alias *Kistna Chetty.*

I know defendant. I know complainant. I was in the habit of going to defendant's house.

I remember giving complainant a certain message from defendant, a month or two before defendant left office. Defendant was in his house when he gave the message. Defendant gave the message to me to give complainant. On one occasion when I was visiting him, defendant, at his house, defendant asked me if I had any Pounds (Sovereigns) with me, I said "no." Defendant said "I understand complainant has certain Pounds by sale of certain Indigo." Defendant told me that, in connection with the wood contract, he had asked complainant for 350 Rupees; that the complainant sent £10 which defendant refused to take. Defendant asked me to tell complainant that he must give at least £20; and that, if not, he would bring him to trouble and injure him. I delivered this message next morning, about 10 A. M., to complainant. Complainant at first declined to give anything, and said defendant might do as he liked. Complainant was on friendly terms with defendant. I advised him to pay the money, and not to get into trouble with great men, especially after having been on friendly terms so long. I had business at Gungavally; when I was going there, complainant said he would consider the matter. I went the same day to Gungavally. I returned next

evening to Ahtoor. I put up at my uncle's house at Ahtoor. I sometimes go to the Chuttrum when at Ahtoor. I did meet complainant on my return next day at the Chuttrum. He came to the Chuttrum after me. Before complainant joined us I was talking to Iyadoray. I asked him "have you settled the matter;" he said "after you went away, Iyadoray brought a similar message, and I only waited your arrival." Complainant said he would give the Pounds, and went to his house to bring them. He returned with the Pounds; he gave them to me, and asked me to give them to defendant. I said "you are on good terms with defendant, you had better take them yourself; I don't like to take them." We three then left the Chuttrum and went towards defendant's house. Iyadoray and complainant then both went into complainant's house. I went to the river for prayer. When I was returning from the river I met the other two. Complainant went to his house; I and Iyadoray went up the high road. I went to my uncle's house, and Iyadoray went to the Chuttrum. About a week after this, I went to complainant's house and saw him there. He complained that he still was annoyed by defendant, although he had paid the £20 on my interference. I asked defendant why he annoyed complainant, after taking the money, defendant said that the Forest Department stopped the bandies, what could he do? I told this to complainant next morning at Narasingapooram.

Cross-examination by defendant's Vakeel.—My house is at Athapoor. I went to Ahtoor as often as I had occasion. I saw defendant on these occasions. I went to defendant's house on one or two occasions, and saw complainant sitting with him. This was previous to the £20 affair. I cannot say how many days before—it might have been four or six months before. When I gave defendant's message to complainant, he said defendant had been annoying him by stopping his bandies with timber from Jaghire Forests. From what I saw, and from what I heard from people generally, I knew complainant was on good terms with defendant. I knew from no other source that they were on good terms. I did object when defendant told me to give the message to complainant. I don't remember taking any other message from defendant to any one else. I never got money for defendant from any one else. I have had money dealings with defendant. Defendant borrowed money from me. I never borrowed from him. About a month or 15 days before the Pound transaction, my accounts with defendant were settled and paid by him. Kistnappa Naidoo, complainant, did not tell me anything about the £10. I did not understand the £20 to be a loan, but as a present (for nothing). I have had no money dealings with defendant since the Pound affair. I never gave defendant anything. If people in power compel anything to be done we must submit, so I advised complainant to pay the money. It was a loss to complainant stopping his timber bandies. I don't know whether defendant stopped complainant's bandies after the payment of £20, but complainant told me he did. I did not tell complainant to go and complain to authorities after the Pound affair. I did not see complainant in defendant's house at any time. I accompanied complainant towards defendant's house, because I wanted to go to the river. He asked me to go with him, but I said it would be all right if he went. I told him I will go to the river and come, but I did not say that I would come to defendant's house. I don't keep accounts, but I had documents from parties when I loaned money to them. When I loaned money to defendant, I kept a memorandum in cadjan, but took no document from him. There was no ill-will between defendant and me when the £20 were paid. I reached Ahtoor at 6 P. M. I stayed till about noon next day, when I went to Gungavally and returned, next day in the evening, to Ahtoor. I stayed that night at Ahtoor and left next morning. In going to Ahtoor, I went soon after Gungavally to purchase Indigo. I always went to Ahtoor on my way to Gungavally—it is the high road; I don't know if there is any other. I had no business on that occasion with defendant when I went to him. It was on that evening defendant sent message by me to complainant. I was about an Indian hour with defendant.

Defendant asked me what had brought me there. I said I was going to Gungavally to buy Indigo. Defendant then gave me message to complainant; I had no other conversation. When I got back to Ahtoor from Gungavally, it was about 5½ P. M. It is about 20 miles from Athapoor to Gungavally. Gungavally is about 8 miles from Ahtoor; there are no mile stones, but I guess it must be about that distance. It was complainant's own affair; therefore, I told him to take the

money himself to defendant. I did not ask defendant whether he received the Pounds or not. When I came to Ahtoor about 8 days after the Pound business, I only stayed one day at Ahtoor. I got there 8 A. M. I saw complainant and left Ahtoor next morning for Narasingapooram. I saw complainant about 8 A. M., and defendant about 7 P. M., the same day. No one was present when I saw defendant. The first time when I got the message there was no one present with defendant and me. On the second occasion, I went to complainant on business about Indigo, complainant did not tell me of any other injury done to him by defendant.

2nd November 1866. (Signed) D. ARBUTHNOTT,
Magistrate.

3rd Witness.—Singiah, Ahtoor Taluq Goomastah.

I know Kistnappa Naidoo. I know he has Forest Contract of Jaghire Forests of Chinna Coloroyen and Peda Coloroyen hills. I attended to the Magisterial work under defendant. Defendant did hold inquiry against complainant's servants regarding Forest affairs. There was a complaint preferred before defendant, that one Moottoo Naik, complainant's servant, had forcibly taken a license from a person (whose name I don't remember); defendant inquired into this case. This took place about 7 months ago; defendant used expressions intimidating complainant's servants. Defendant ordered me to tell Moottoo Naik that he, defendant, was going to commit complainant and bring him to disgrace about the Forest contract, and that if Moottoo Naik continued with complainant, he would share the same fate. I explained this to Moottoo Naik. That case was afterwards dismissed by defendant. There were several other cases of the same kind inquired into by defendant against complainant. In some of the cases, complainant's timber was confiscated. Subsequent to the threat used to Moottoo Naik, I saw complainant in Agraharum Street. I was outside my house, and Kistnappa Naidoo happened to come from his house.

Complainant asked me—"Why did defendant threaten to commit me and bring me to shame, what is this?" There were such inquiries going on for a month and a half from time to time. I did Sirkar work with defendant in his house, as well as at Cutcherry.

Complainant was in the habit of coming to defendant's house previous to these inquiries. I have seen him there many times. I can't say at what intervals he came exactly. He came once in eight days, or once in ten days, perhaps. He used to stop generally for 2 or 4 Indian hours conversing with defendant. When complainant asked me about the threats used by defendant in Cutcherry, I told him "defendant had used the threats in open Cutcherry, you are on friendly terms, what is the cause of this?"

Cross-examined by defendant's Vakeel.—Two months ago, Collector ordered me to Dharampoory Taluq, so I am not doing Magistrate's Goomastah work in Ahtoor just now. Defendant threatened Moottoo Naik in Tamil, and I told him in Tamil. This happened in open Cutcherry when defendant and Moottoo Naik were both present. Moottoo Naik was about two fathoms from defendant. Moottoo Naik must have heard what defendant said. I only conveyed to Moottoo Naik what defendant said, both being present. I do not know if defendant said anything else to frighten complainant. The threatening expressions were used only once in my presence. It happened about a month before defendant vacated office. I remember complainant having come once to defendant's house after the threatening words. I saw complainant in defendant's house about ten days after the threatening words. Complainant was standing under the pandal of defendant's house. I do not know what he was doing. I did not see defendant then. I did not go to defendant's house. I saw complainant standing under pandal of defendant's house when leaving Cutcherry for my house. Defendant's house is opposite the Cutcherry. I only observed complainant. I don't know if there was any one else. I met complainant in the street about seven or eight days after the threats. It was a *Magisterial* inquiry regarding the license; the other inquiries were all Magisterial inquiries. In the Dharmakurtha case against complainant, the inquiry was on the Revenue side. I was in the office when this inquiry was made. I don't remember writing any deposition in this Dharmakurtha case. I must see the record. The inquiry was commenced by defendant six or seven years ago; before that the former Tahsildar made inquiries.

I can't say how many days it lasted. I do not know if defendant threatened complainant during the Dharmakurtha inquiry. I have at times seen defendant talking privately (*i. e., molow* voice) to complainant in his (defendant's) house. I can't say exactly who were present on these occasions. I was never near defendant when he spoke privately to complainant.

Re-examined.—It was defendant's custom, even when he pronounced any judgment, to speak to me, and I repeated what he said to the parties.

(Signed) D. ARBUTHNOTT,
Magistrate.

3rd November 1866.

4th Witness.—Venkata Soobiah, Village Moonsiff of Ahtoor.

I know complainant. I was in the habit of going to defendant's house often. Complainant was in the habit of coming to defendant's house. I know complainant gave some Pounds to defendant. This may be about six months ago. One Iyadoray and complainant came to defendant's house when the Pounds were given; I was then in defendant's house. Kistnappa Naidoo came and sat down, and asked defendant to the following effect—"You sent word angrily by Keechi Chetty (2nd witness), could you not have told it to me myself, I have brought the £20." Saying this, complainant put the Pounds before defendant. I mean, by Pounds, gold coins, worth about 10 Rupees each. Defendant took the £20. Complainant said you must protect me. Defendant said "very well." Iyadoray and complainant then went away.

Cross-examined by defendant's Vakeel.—Iyadoray and complainant remained about quarter or half an Indian hour at defendant's house. They had no other conversation, except what I have mentioned. Iyadoray did not say anything to defendant. I left after complainant and Iyadoray left defendant's house—shortly after they left. There were no others there. They came to defendant's about quarter or half an Indian hour after I came there. When I went there, I did not know they were to bring Pounds. I cannot say exactly on what particular business I went to defendant's house on that evening, because I used to go every evening to report to defendant anything that might have occurred. I reported every day whether there was or not anything particular. I don't remember if there was anything particular that day. After complainant and Iyadoray went away, I took leave and went away. I cannot remember if I had any conversation after they left. I must have spoken to defendant before they came, but I don't now remember what I spoke about. When I was speaking to defendant they came in, and after paying the Pounds they went away, and I went away shortly after. It was about 7 P. M. I don't know how complainant brought the £20, but when he was in the house, he had them in his hand.

I don't remember any one making any complaint against me. About five months ago, the present Tahsildar inquired whether I feed the cattle in the cattle pound properly. I explained properly. They took down my explanation in writing; no examination of witnesses was made. The Tahsildar did nothing. I don't know how he reported to Huzoor. The complaint was not that I appropriated cattle pound funds, but that I did not feed the cattle properly.

(Signed) D. ARBUTHNOTT,
Magistrate.

3rd November 1866.

5th Witness. Iyadoray Iyengar.

I put up in the Chuttrum at Ahtoor when I go there. About six months ago I met Keechi Chetty at the Chuttrum. About 5 or 5½ P. M., we were talking together at the Chuttrum; complainant came up to us. Keechi Chetty said to complainant, "what about the thing I told you of yesterday." Complainant said he had done nothing yet, and added that I (witness) had also told him. He then told us to stop and that he would bring. Complainant then went away. Before this, in the morning of the same day, I told complainant a message from defendant. The message was, "defendant is angry because you have not sent the Pounds, as asked for, through Keechi Chetty." Complainant replied "what of that, let Keechi Chetty come."

Complainant, after leaving us, returned about 6 P. M. in the same evening, and brought £20 He offered the money to Keechi Chetty, and asked him to take it to defendant.

Question by Court.—I mean by a Pound, a gold coin worth about 10½ Rupees.

Keechi Chetty refused and said "defendant is only angry with you, you should take it yourself." About 6½ P. M., we all left the Chuttrum and went towards defendant's house. Keechi Chetty told us to go into defendant's house, and that he would go to the river. We both (complainant and witness) went into the house. Defendant was at home then. Moonsiff (4th witness) was with him (defendant). Defendant asked complainant to sit down, and he did so. Complainant asked, "it appears you are displeased with me, you sent word by Keechi Chetty." Complainant then placed £20 in front of defendant, and said "you must protect me." He took leave, and we both went away. We met Keechi Chetty again as he was returning from the river. Keechi Chetty asked "well, what?" Complainant said "I have given as you told". Complainant went away to his house. Keechi Chetty and I went together to the high road, and parted for our houses. I have been, and am still, on friendly terms with defendant. I have already filed several letters in Vyapoory Moodelly's case to show I am on friendly terms with defendant.

Cross-examined by defendant's Vakeel.—I was a friend to defendant when he was a Taluq Javabnevis till he left the Taluq a few months ago. Defendant has not injured me in any way. There was a complaint against me in Davastanum matter; there was no proof, and he dismissed the case. I don't know that defendant wrote any Urzee against me to Collector. I did not give any evidence against defendant in any case, except in this and Vyapoory's case. Defendant's message was, "I have sent word to complainant about Pounds through Keechi Chetty, they have not been sent, go and see about it. Defendant did not tell me on what account the Pounds were to be sent. The message was to the above effect; I cannot say the exact words. On the occasion of the payment of the Pounds to defendant, I remember I came the day before to Ahtoor. I returned to my village about two days after the payment. I go to Ahtoor frequently on various kinds of business, but I don't recollect on what particular business I went to Ahtoor on that occasion. I had no business of my own when I went to defendant's house, when the money was paid. I had business with defendant when I came from my village to Ahtoor. I remember I went to defendant for Davastanum money, but I can't say whether I had any other business in the Cutcherry. I asked for money, but did not get it. I can't say whether there is any record to show that I received any money from Cutcherry three months before defendant left office. I received money every month in Taluq Cutcherry. The books must be referred to before I can say when the money I asked for was paid to me. I either went myself or sent another with a letter to defendant every month for money. I signed a book that was with the Sheristadar when I got money.

Re-examined.—Defendant, when he gave me message to complainant, spoke in an angry tone, so I told complainant he was angry.

3*rd November* 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

6th Witness.—Kistna Row, Taluq Goomastah.

I have been a Taluq Goomastah under defendant for upwards of 8 years. Exhibits $\frac{A}{11}$ and $\frac{B}{11}$ are in defendant's own hand-writing and signed by him. I am quite familiar with his handwriting. Exhibit $\frac{C}{11}$ is defendant's Urzee, dated 31st January 1862, asking Collector to go to Madras for nine days, to see about the education of his children.

8*th November* 1866.

(Signed) D. ARBUTHNOTT,
Magistrate.

Finding and Sentence.

In this case, defendant being a public servant, is charged, under Section 161 of the Indian Penal Code, with receiving a gratification other than legal remuneration, as a reward for showing favor in the exercise of his official functions to complainant. Complainant and 3rd and 4th witnesses speak to the fact of the 20 Sovereigns being paid to defendant by complainant.

2nd Witness speaks to having accompanied the above mentioned persons as far as defendant's house, and although all these witnesses have been subjected to long and harassing cross, examination by defendant's Vakeel, their testimony remains unshaken.

In paragraph 9 of the written defence, it is urged that no one says anything of 10 Sovereigns, except Keechi Chetty (2nd witness); but as no questions were asked regarding these 10 Sovereigns, the omission is not in any way remarkable.

The defence is chiefly taken up with a tirade against the hostility of the witnesses and of everybody else, Police included.

Iyadoray Iyengar, 5th witness, is denounced as a notorious enemy, although the letters held by this witness (filed in case No. 46) prove that defendant and witness were on good terms till defendant vacated his appointment. There is nothing else in the defence that calls for notice.

The Court finds the defendant, Teyagaraja Pillay, guilty of the offence specified in the charge, viz., that he, being a Public Servant, accepted a gratification, other than legal remuneration, as a reward for showing favor, in the exercise of his official functions, to complainant—an offence punishable under Section 161 of the Indian Penal Code; and the Court sentences the said Teyagaraja Pillay to six months' rigorous imprisonment, and to pay a fine of 400 Rupees, under Section 161 of the Indian Penal Code.

(Signed) D. ARBUTHNOTT,
Magistrate.

(True Copies).

(Signed) C. N. POCHIN,
Acting Magistrate.

IN THE COURT OF SESSIONS AT SALEM.

19TH SEPTEMBER 1866.

Criminal Petition No. 18 *of* 1866.

Teyagaraja Pillay, Petitioner.

Appeal against the finding and sentence of the Magistrate of Salem in case No. 42 of 1866.

Remarks by the Magistrate.

Judgment.—The charge against the petitioner was that he, on the 12th August 1865, at Ahtoor, committed extortion, an offence punishable under Section 384 of the Indian Penal Code. The circumstances of the case, in connection with which the alleged extortion is said to have been committed, are these:—On the 25th July 1865, the third witness for the defence, the Monegar of Thadavoor, wrote a Report (Exhibit I) to the defendant, who was then Tahsildar of Ahtoor, stating that he was unable to understand how the remissions which had been sanctioned on account of the loss of crops in the previous year had been made to those ryots who had already paid the full assessment on their lands for the current year; that the money might perhaps be with the Curnums and the persons attached to them; that he had no accounts from which he could ascertain these particulars; that the money repayable as remissions to the ryots who had paid all their kists would probably appear as excess collections in the public accounts; that, as he had doubts on the subject, he brought the matter to the notice of the Tahsildar.

On the 2nd of August following, the defendant issued the order (Exhibit D) to the 2nd witness for the prosecution, a Taluq peon, requiring him to produce the first witness, the Curnum,

with all his accounts, including those showing the collections and outstanding balances. Apparently on the same day, the 2nd witness made the report (Exhibit E), stating that the first witness was ill and could not attend for four days. On the 3rd August, the defendant issued a second order to the second witness (Exhibit F), directing him to produce the Joint Curnum and Joint Monegar; and remarking that a warrant would be issued on the Criminal Side for the apprehension of the first witness. On the same date the defendant issued the warrant (A) for the apprehension of the first witness on the charge of having disobeyed the defendant's order.

On the 12th of August, the defendant took a deposition from the first witness (Exhibit H) and inquired what had become of the excess collections received from certain ryots specified. The first witness replied that he must refer to his accounts before he could answer the defendant's question. On the same day the defendant also examined the third witness for the defence (Exhibit L), who deposed that the collections had been made before the order for remission had been received; that the first witness was accountable for the remission (1) money; that the accounts connected with the subsequent remittance made in June were with the Joint Monegar, although he denied it; and that he could afford explanation about the remission money after communicating with the Curnum first witness.

On the same date the defendant addressed a yadast to the Sheristadar (Exhibit J), stating that it had come to his knowledge that the first witness had appropriated the money remitted to the ryots on account of the loss of their crops; that he had personally inspected the accounts, and had found that remissions had been granted to some who had paid their full assessments; that the first witness had said that he could not explain what had become of the remission money without searching his accounts; and that the Sheristadar must examine the several accounts and ascertain what had become of the remission money.

Remarks by the Magistrate.

As this order was only directed to the 2nd witness (Taluq peon), the defendant was not justified in issuing a warrant for the apprehension of complainant, and from his long experience of official business this must have been perfectly well known to defendant.

(1). 3rd witness does *not* say that complainant was accountable for the money (vide his statement).

There was nothing elicited by the inquiry made by defendant, before writing this yadast, to lead to the suspicion that "complainant had appropriated the money remitted to the ryots on account of the loss of crops." There was, in fact, no money to be appropriated, and if there had been, the money would not go into complainant's hands, as he is only a Curnum, and has nothing to do with the receipt or disbursement of money.

The fact of the matter is simply this:—After the Jummahbandy of the village, it was found that certain crops of the ryots had perished; that they were, therefore, entitled to a percentage remission of their assessment. The defendant sent in the usual way a statement to the Collector who ordered the remission to be made. Before the receipt of this order, several of the ryots entitled to remission had paid up the full amount of their assessment. Now the defendant's proper course, on receipt of the Collector's order, was to refer to his own accounts, to see who had paid up their full assessment and to refund to them from his own Treasury the percentage remission to which these ryots were entitled.

This fact is clear from the 2nd witness' (for defence) deposition, in which he clearly states there was no *jasty vasool* (or fraudulent excess collection), and that, if there had been, the Taluq accounts would have shown it, and that all the money collected in the village had been duly received into the Public Treasury. Instead of thus refunding the money from his Treasury, defendant instituted an investigation against complainant, without any grounds or reason whatever. It is true that 3rd witness for defence wrote an Urzee to defendant, saying that he had doubts as to what had become of the money ordered to be remitted, but, instead of at once examining his accounts to see whether there were any grounds for suspicion, he at once charges complainant with misappropriation.

On the 17th of August, the first witness submitted a petition (Exhibit B) to the defendant, asking permission to return to his village, and stating that if the accounts which he had produced were sent to him through the Inspector of Cultivation, or any other person, he would prepare the accounts required by the defendant in the presence of such Inspector, and bring them as soon as possible to the Cutcherry. On this petition the defendant endorsed the following order (2):—"Venkatakistnien, Curnum of Thadavoor, requests that the investigation may take place in his village, because he is ill. This cannot be."

(2). There is really no endorsement at all. It is not in defendant's handwriting nor signed by him, and if it had been intended for an order it ought to have been returned to complainant, and not placed on record in defendant's Cutcherry, as it was.

On the 2nd of December 1865, the defendant addressed a second yadast (Exhibit K) to the Sheristadar, stating that there had been a delay of three or four months in completing the inquiry into the matter of the appropriation of the remission money by the first witness and others; directing him to report whether the accounts could be furnished in time for the matter to be settled at the approaching Jummahbundy; and stating that if the first witness intentionally made any further delay in the preparation and submission of the accounts, he would, on receiving a report to that effect from the Sheristadar, proceed against the first witness on the Magisterial side.

The allegation of the first witness is that, on the 12th of August, the day of his examination before the defendant, he went to the defendant's

house, but was ordered to attend the Cutcherry ; that he did so, and gave the deposition (Exhibit H) ; that at 10 o'clock, he went to the defendant's house again, to ask leave to return home ; that the defendant refused to let him go, unless he gave him two bandy-loads of paddy or fifty Rupees ; that the defendant threatened to commit him unless he complied with the demand ; that he had no money with him, but borrowed fifty Rupees from the fourth witness, whom he met in the street, and gave him his bond (Exhibit G) for the money ; that between seven and eight o'clock in the evening he paid the fifty Rupees to the defendant, in the presence of the fourth and fifth witnesses, who accompanied him to the defendant's house ; that, after leaving the house, he returned again, and asked for permission to go back to his village, upon which the defendant told him to submit a petition, praying that the Inspector of Cultivation might be sent to receive his accounts ; that he presented a petition to this effect, and was allowed to return home. In cross-examination the first witness stated that no one was present when the defendant demanded the paddy or money from him. The bond (Exhibit G) is dated the 12th of August. It purports to have been executed by the first witness in favor of the fourth witness, and is to the effect that, being in want of money, he has borrowed fifty Rupees, and binds himself to re-pay the sum on demand with legal interest. An endorsement, dated August 15th, states that Rupees 25 have been paid. No year is mentioned, and it does not appear why any part payment should have been made, the whole amount being payable on demand. One of the attesting witnesses, namely, the fifth witness, has been examined, but not the other. The fourth and fifth witnesses confirm the first as to the execution of the bond, and the payment of the money to the defendant. This constitutes the whole of the evidence to prove the fact of the extortion.

It was not necessary for the prosecution to prove the bond at all, the second attesting witness was not therefore called.

The first being the only witness who speaks to the alleged putting in fear of injury and dishonest inducement to deliver property, it is necessary to examine his evidence minutely, to see whether the witness is credible, and, if credible, whether the facts to which he deposes amount to the offence of extortion. He states that he went three distinct times to the defendant's house. On the first occasion he was ordered to the Cutcherry. This entirely negatives the supposition that the warrant for the first witness' apprehension

was issued by the defendant for purposes of extortion ; for, it may reasonably be inferred that had the defendant sent for him for this purpose he would have taken the first opportunity of making his demand. On the second occasion the first witness affirms that he went to ask permission to return to his village ; and that it was then that the defendant made the demand. He states that he used a double threat, one that he would not let the first witness go home unless he gave the defendant two bandy-loads of paddy or fifty Rupees, and the other that he would commit him if he did not comply with his demand.

Certainly not. If extortion was intended the first step before demanding the money would be to put the complainant into a sufficient state of fear to make it likely that the demand would be complied with.

That a person in defendant's position, to whom discovery would be certain ruin, should have demanded two bandy-loads of paddy, which could not possibly have been delivered without detection, seems to be incredible ; and as regards the demand for money, if such had really been made and complied with, there would naturally have been some relaxation in the proceedings which were being taken against the first witness, but there is no indication in the documentary evidence of any such relaxation(*a*.)

Defendant like other people must have grain, and the more openly the grain was delivered, the more difficult would it be to prove that it was taken as a bribe.

(*a*). Certainly there was a relaxation in the proceedings. This will be seem by a reference to the deposition of second witness for defence (Taluq Sheristadar). No further inquiry was made for four months after the alleged extortion. It will be seen from complainant's statement that he was told by defendant to give in an Urzee praying for inquiry in the Taluq. This was done, and he was permitted to return to his village. It will also be seen from Sheristadar's (second witness) statement that when he, Sheristadar, wanted certain particulars from first witness (ten days after receipt of defendant's Yadast directing him to make the inquiry), defendant told second witness that the complainant wished the inquiry conducted in the village by a Cultivation Inspector, and that this should be done. The Sheristadar, of course, moved no further in the matter, but the defendant sent an order to Inspector to make inquiry, so nothing more was done for four months, and nothing more would have been done had not the defendant been afraid that inquiries would be made at the Jummahbundy by the Settlement Officer (Sub-Collector Mr. Thomas). It was then, it will be seen from second witness' (Sheristadar) statement, that defendant wrote a second yadast asking him to hasten the inquiry. Second witness then asks defendant the

reason of the issue of this yadast when he had told him four months previously that a Cultivation Inspector would be ordered to make the inquiry in the village. Defendant replied that it was true he had said so, but as he heard first witness was going to complain to Mr. Thomas, he (defendant) had written this yadast, but that he (defendant) would still order the inquiry to be made in the village. Here again the matter was allowed to rest without any further steps being taken till a month before defendant relinquished charge of his Taluq, when he at last sent an order to the Cultivation Inspector.

It is perfectly clear from the above that the matter was dropped immediately after the first witness was allowed to go to his village, and yet the Session Judge will have it that there was no relaxation in the proceedings against him. It is difficult to understand how he arrives at this conclusion.

On the contrary it appears that the defendant did not even keep the matter in his own hands, but referred it for investigation to the Sheristadar; that the first witness was detained till the 17th, that is, for five days after the date of the alleged payment of the money; and that his application made on that date for leave to return home was refused by the defendant.

Complainant *was not* refused permission to go to his village; on the contrary, he was permitted to go and no inquiry was made.

It further appears that, in referring the case to the Sheristadar for inquiry, the defendant expressly stated that the first witness had appropriated the remission money. All this is unlike the conduct of a man who had extorted money. It shows that the proceedings commenced against the first witness were steadily followed up.

It is true defendant expressly stated that complainant had appropriated the money, but he must have been perfectly aware that this statement was false; that there was no money to be appropriated, and that, even if there had been, complainant, as Curnum, was responsible only for his accounts, and not for the collection of money.

With respect to the threats alleged to have been used, it is impossible to believe that the 1st witness would have paid fifty Rupees merely to avoid detention, and the result shows that no such threat could have been used, for his detention continued after the date of the alleged payment of the money. That any threat of commitment was made is also in the highest degree improbable, for there was nothing in the circumstances then brought to light upon which a criminal charge could have been based. The natural result of the extortion, if it had been committed, would have been that all further proceedings would have been stopped. The 1st witness would have been allowed to return at once to his village, and would not have been further molested (3).

It was not to avoid detention, but to avoid a false charge of misappropriation. Even had he been committed on a groundless charge, he would have incurred some inconvenience and disgrace, though eventually acquitted.

(3). This is exactly what happened. Complainant was allowed to go home, and he was never molested again. See (2nd witness for defence) Sheristadar's deposition. The defendant's orders for inquiry were, in fact, mere shams, and not intended to be acted on.

The fact of this course not having been pursued by the defendant renders it highly improbable that he extorted or received any money from the 1st witness. On the third occasion, the 1st witness asserts that the money demanded on the second occasion was paid. His statement, and that of the fourth and fifth witnesses, is that the money was rolled up in paper, but paid in the presence of these witnesses. There is a manifest inconsistency in this statement, for it exhibits at one and the same time caution and want of caution, secrecy and publicity, in the transaction. The Rupees are concealed in paper and laid before the defendant, who takes the packet without examining or alluding to the contents, which indicates caution and secrecy; and yet the money is received in the presence of witnesses who have come with the first witness, which betrays want of caution and indifference to the matter becoming known. That any Public Officer extorting money from a subordinate Public Officer would act in such a manner appears to me incredible. The first witness states that on this last occasion he went back to the defendant and asked permission to return to his village, and that the defendant told him to put in a petition. If there had been any truth in the whole story of the extortion, the defendant after receiving the money would, of course, have complied with the first witness' request immediately. But the first witness, knowing that a petition of his is on record, is obliged to shape his evidence accordingly. It is clear, however, that if the defendant had told the first witness to put in the petition he would afterwards have granted the request it contained.

See No. 2, page 51.

The fact of the petition bearing an endorsement, refusing to allow the first witness to return to his village, proves conclusively that the statement of the first witness, that the defendant told him to present the petition, is a fiction. I give no credence to either of the alleged applications by the first witness to the defendant in his own house for permission to return home. The natural course would have been for the first witness, if he had reason to suppose that his presence was not further required, to have made the application in the Cutcherry immediately after his examination on the 12th August.

The Magistrate is totally unable to see the inconsistency alluded to by the Session Judge. It is a difficult matter to carry 50 Rupees in the hand unless fastened in paper or cloth of some sort, and there is nothing in the evidence about concealment at all.

Apart from the improbability of the circumstances deposed to by the first, fourth, and fifth witnesses, there is their credit to be considered. The first witness has been proceeded against by the defendant for supposed malversation in revenue matters, and the proceedings have never been relaxed, and are still unclosed. The second witness was committed for trial by the defendant. The fact of his having been acquitted would not tend to remove any feeling of ill-will which the commitment may be supposed to have engendered, for the disgrace incurred would not be entirely effaced by such acquittal. The third was a subordinate of the defendant, and may have incurred his displeasure. I think these circumstances serve to detract materially from the credit of the witnesses. For a single witness to prove the chief ingredient in this offence, namely, the putting in fear of injury and dishonest inducement to deliver property, he should be entitled to full credit. I cannot say this of the first witness. He is, moreover, the complainant, and not properly speaking a witness. The whole charge, however, virtually rests upon his evidence. He states that he was put in fear of injury, but there are no collateral circumstances from which this can be inferred. What he is alleged to have told the fourth and fifth witnesses is no evidence against the defendant. The evidence of the fourth and fifth witnesses, divested of what is inadmissible as hearsay, is simply to the effect, if it is true, that a certain sum of money, obtained by the first witness from the fourth, was paid to the defendant. It is only in conjunction with the evidence of the first witness that it is made to appear as extortion. It is clear that a *bonâ fide* loan of money, the payment of which is deposed to by unexceptionable witnesses, might be converted into part of an act of extortion, by the aid of such evidence as the first witness has given in this case. I do not, however, believe that the alleged payment to the defendant, to which the first, fourth, and fifth witnesses have deposed, was ever made. I think it unnecessary to express any opinion on the genuineness of the bond (Exhibit G), because it may really have been executed by first witness, for his own private purposes. At the same time, it is quite possible that he may have purchased a stamp on his going to Ahtoor and not have used it. It is unusually

As above shown, there was no malversation on the part of complainant, or even reason to suspect him, and proceedings against him were dropped very suddenly, and were never revived. Although written orders were issued by defendant, counter verbal orders were given to prevent the written orders being acted on.

clean for a document that has been a year in a Native's hands ; but if not written upon, but merely kept by for subsequent use, its cleanness would be accounted for. I think there is no credible evidence to show that any money was obtained upon this bond and paid to the defendant.

More than twelve months elapsed before the first witness made any complaint respecting the alleged extortion. The reason he assigns is, that he was afraid to do so while the defendant was in office. I can give no credence whatever to this statement. Moreover, the defendant was relieved on the 1st of June 1866, but the present complaint does not appear to have been made till the 1st September, and even then it was merely made verbally.

A warrant was issued for the defendant's apprehension, without the first witness' examination being reduced into writing and signed by him and by the Magistrate, as required by Section 66 of the Code of Criminal Procedure. The Magistrate may, under Section 68, without any complaint, take cognizance of any offence which comes to his knowledge, subject to certain exceptions, and issue a warrant of arrest against the offender ; but in the present instance a complaint having been made, the complainant should have been examined, and his examination reduced to writing before the warrant was issued. This course was the more necessary because the offence was said to have been committed a year before the date of the complaint. No exception to the rule is made in Section 248 or 257. These Sections merely prescribe the course to be taken for bringing the offenders to trial, on complaints of criminal offences being made to the Magistrate. Section 66 points out the manner in which all such complaints are to be recorded. The first witness in this case should have been designated and treated as the complainant. He was the injured party, and in Section 250 such party is called the complainant. It is only where the prosecution is strictly a public prosecution, as in the case of certain offences against public justice triable by the Magistrate, that it should be in the name of the Queen. The first witness in this case being, in fact, the complainant, his evidence requires corroboration on every material point ; and on the most material point of all, namely, the intimidation, there is no confirmatory evidence whatever. In my judgment, the charge of

The Session Judge gives no reason for his supposition that no money was obtained on the bond, unless it be the want of dirt alluded to by him.

The complaint was made immediately after the defendant relinquished charge of his office. Now, complainant was one of the persons who signed the complaint to the Board of Revenue, on which the Magistrate proceeded to make the inquiry.

When at Ahtoor, defendant asked the Magistrate's permission to go to Salem for two days, promising to return at the end of that time. He accordingly left for Salem, but information having been received that defendant intended to abscond, a warrant was issued, and defendant, after much trouble, was caught at the Railway station, just as he was about to start in the train for Madras.

extortion is not proved against the defendant, and the contemporaneous written evidence raises the persumption that no such offence was committed.

Finding and Sentence.

The Appellate Court, after perusing the proceedings of the lower Court, and after hearing Mr. John Miller, Advocate for the Appellant, finds that Teyagaraja Pillay is not guilty of the offence specified in the charge, namely, that he has committed extortion, and that he has thereby committed an offence punishable under Section 384 of the Indian Penal Code; and the Appellate Court, therefore, reverses the finding of the Lower Court, and directs that the said Teyagaraja Pillay be discharged.

(Signed) C. F. CHAMIER,
Session Judge.

(Signed) D. ARBUTHNOTT,
Magistrate.

IN THE COURT OF SESSIONS AT SALEM.

28TH NOVEMBER 1866.

Criminal Petitions Nos. 26—30 *of* 1865. *Remarks of the Magistrate.*

B. Teyagaraja Pillay, Petitioner.

Appeals against the sentences of the District Magistrate of Salem in Cases Nos. 43, 46, 53, 55 and 57.

Judgment.—The first point which attracts my attention in these cases is the late hour at which the complaints have been preferred. Thus the offence in case No. 26 is affirmed to have been committed in 1863; the circumstances with which it is connected are found to have occurred in 1862, and the complaint is not made till 1866. There has also been more or less delay in the other cases. There is doubtless nothing in law or practice to prevent a person being prosecuted and punished for an offence committed some years back; but in every such case, as far as my experience goes, the facts must have been made known at the time of their occurrence, and some steps must have been taken by the injured party to bring the offender to justice; otherwise, the Magistracy will not, as a rule, entertain the complaint(*b*) Thus, if a man complain of a robbery or any other offence, said to have been

In the first place the Session Judge takes exception to the prosecution of an individual in the position of the defendant in these cases, for offences alleged to have been committed some years back, on the grounds that the facts connected with these cases were not made known at the time of their occurrence.

Now whilst giving due consideration to the fact of the great delay which occurred in preferring these complaints, and whilst admitting that the testimony of witnesses who have long withheld their statements is not entitled to that consideration which is due to a witness who speaks to recent facts, yet surely the rule of refusing to receive such complaints should not be absolute, for that would be to afford entire immunity to parties whose offences belong to the past.

(*b*). If this rule were acted upon, there could be no prosecution for bribery and corruption, *unless* the complaints were made immediately after the occurrence of such alleged extortion. It is surely *comprehensible* that a public officer of such weight as the defendant, who had enjoyed a long course of uninterrupted success in his Taluq, would be too much an object of fear to those whom he had defrauded to be made the subject of a criminal charge, whilst in power.

committed some years before, and it appear that no information was given of such offence at the time of its alleged commission, it is, I believe, the universal practice to refuse to subject the accused to criminal proceedings. If this protection is afforded to private individuals, much more in my opinion should it be thrown around a public servant, every one of whose official acts must necessarily be prejudicial to the interests of one or more persons appearing before him as litigants, and thus tend to engender feelings of animosity against him. The reasons for refusing a summons in the case of antiquated charges are certainly very cogent and important: first, the long reticence of the party complaining renders it highly improbable that any offence has been committed; secondly, facilities are afforded for fabricating false evidence and tutoring witnesses which do not exist where information is immediately given and an investigation at once held; thirdly, the accused whose position the law always regards with anxious solicitude, is placed at a great disadvantage if required to prove his innocence under such circumstances. Of course, the case is totally different where an offence is directly reported and evidence of the *corpus delicti* obtained, but the offender is either unknown or evades justice for a series of years. All doubt as to the actual commission of the offence is then entirely removed, and the evidence against the accused is such as was made known at the time, or new evidence of a circumstantial nature tending to connect him with the offence. Upon grounds of public policy, it seems to me highly inexpedient that encouragement should be given to complaints of offences by public servants being preferred against them after they have retired from office. It is obvious that, under such a system, a real offender, instead of being arrested in, would be allowed to pursue, his career of oppression; and his ventual punishment would, after all, become exceedingly problematical from the general reluctance of parties to complain when time ha effaced the first feelings of irritation produced by the offender's act, and from the extreme improbability of the complainant's story, and that of his witnesses, being credited. Such prosecutions are, moreover, calculated to create needless dismay and disaffection among a large class of public servants who are placed in a very helpless

No encouragement was given, but the Magistrate would have failed in his duty had he turned a deaf ear to all these complaints against defendant.

and invidious position. No Native would, indeed, retire from the Service without being exposed to the risk of having his character blasted by groundless accusations from persons who were under his authority, and whom he had offended in the course of his official duties. The soundness of the general rule is strongly exemplified by the result of these exceptional prosecutions. Here criminal charges have been freely entertained against the defendant, and the whole machinery of the State has been put in operation against him, the (c) Police having been directed to make preliminary inquiries into the complaints and the public prosecutor employed to conduct the prosecutions; but the result is that in 14 cases out of 20 brought before the Magistrate, the accused has been discharged and in the six in which he has been convicted, the convictions will not have been upheld in appeal. (*d*). The Magistrate describes the petitioner's career as one of tyranny and corruption; but there is no evidence on the record to show that he was ever degraded or punished, or even that any charge of oppression or corruption was ever preferred against him. In the absence of such evidence, it may be reasonably inferred, from the fact of his having been permitted to remain in employ for 34 years, that his character was unblemished so far as any actual proof of delinquency is concerned. Such considerations, however, can have no weight in criminal cases, except to enhance or diminish the punishment after conviction. Now whether the time at which the present complaints have been made, or the manner in which they have been brought to light, or the clumsy attempts made to connect them with some official act of the petitioner, be taken into consideration, they can, I think, leave no other impression on the mind, than that the accusations are without any reasonable or probable foundation, and that the witnesses are utterly unworthy of credit. The only way in which a Court can deal with such complaints, with any hope of passing a safe decision is by estimating the probability or improbability, from the whole circumstances of the case, of the offence having really been committed. To allow to the evidence of a complainant and his witnesses, deposing to facts alleged to have taken place some years before, the same weight that is given to the testimony of persons narrating matters of recent occurrence, would be contrary not only to judicial practice, but also to common sense. It stands to reason, that the credit

(c). There is no error in the Magistrate referring the cases for inquiry to the Police. It must be borne in mind that he had already inquired into four charges of corruption against the defendant without the assistance of the Police, and it was only after being accused by the defendant, in his defence in two former cases, of being prejudiced, and that his Cutcherry servants had got up the charges against defendant, that the Magistrate asked the Superintendent of Police to inquire into the cases. The Superintendent was new to the District, could have no possible bias against the defendant, and was the properest person the Magistrate could have selected to make the inquiry. If the Magistrate is to be debarred from the use of his Executive Police Officer in such cases as these, the latter's usefulness is much marred.

(*d*). Exception is taken to the Magistrate's describing the defendant's career as one of tyranny and corruption. The numerous petitions against him, and the result of the Magistrate's examination of some of them, warranted the Magistrate using such language in his Magisterial capacity. The result of many days of patient inquiry, after hearing everything that could be advanced by defendant's Vakeel in his favor, after observing the way in which the several witnesses gave their evidence (a few evidently in favor of the defendant) brought the Magistrate but to one conclusion, viz., an irresistible feeling of the truth of the charges preferred.

of a witness is very materially affected by the circumstances under which he gives his evidence, and suspicion naturally attaches to evidence which has been long withheld. The present complaints are also rendered incredible by the fact that, if true, the complainants would have had more than ordinary reasons for taking immediate proceeding against the defendant. A person robbed has often no expectation of recovering his property, and silence might in such a case be quite consistent with the fact of a robbery having been actually committed; but where a man has paid a large sum of money, in order to free himself from a false charge, or to obtain immunity from official persecution, it is obvious that he has the strongest of all inducements for seeking early redress; and the absence of any complaint under such circumstances, at the time when the money is alleged to have been extorted, or corruptly received, raises a reasonable presumption, that no payment was in reality made. The reason assigned for the delay in preferring these complaints, is that the complainants were afraid to prosecute the defendant while he was in authority, lest he should do them some injury; but a moment's reflection will suffice to show that this is a mere pretence (*e*). Thus they have now come forward with all the elements of a strong case; witnesses speaking to the actual payment of the sums to the accused, and particular official transactions being referred to as forming the ground work of the offences alleged to have been committed. Now it is perfectly clear that, if the evidence were true, and it was really available at the date of the offence, the knowledge of its weight, and the confidence which always accompanies a just cause would completely have removed from their minds any fear of future molestation, by the certainty that punishment would follow, and further opposition be rendered impossible. It is also incredible that so many persons should have been under the influence of fear. In a solitary instance of extortion, the sufferer might possibly be a person of too timid a disposition to complain of the injury; but here the parties are many in number, and if there had been any truth in their allegations they would doubtless have heard of each other's wrongs, and have combined together to bring the oppressor to punishment, or it is reasonable to suppose that at least one among them would have had the moral courage to complain. Another element of improbability consists in the

(*e*). Now is this a mere pretence? Is it not rather a begging of the whole question? The Native mind is slow in believing in the certainty of punishment following a complaint against a Native official in the position of defendant (a Tahsildar) be the case or cases against him ever so strong; besides, as explained in evidence (2nd Witness in Ramiah's case), a report had got abroad that a complainant against defendant, on a former occasion, had suffered for his temerity, by having his house burnt down, at the instigation of the defendant. This idea whether true or not, pretty generally prevailed in the Taluq, and was quite enough in itself to deter complainants.

class of persons from whom the money is in most of the cases said to have been taken. It is quite intelligible that a corrupt public servant should receive a bribe from a rich suitor; but it seems in the last degree improbable that he should exact money from his own subordinates. A further circumstance which tends to deprive the story of the complainants of the least shadow of probability is the absurd disproportion between the sums alleged to have been exacted, and the service which was to be rendered (*f*). Thus, in case No. 46, the complainant had simply been fined two Rupees for carelessness in keeping his accounts, and yet he now asserts that, while the inquiry was pending, the defendant extorted from him the sum of three hundred Rupees. The complaints against the defendant were not only not made at the time at which the offences are said to have been committed; they were not even preferred when it was known that the defendant was shortly to be pensioned, nor for some time after he had quitted office. It was only after he had petitioned the Board of Revenue to be allowed to defer taking his pension that efforts were first made to effect his ruin (*g*). I consider that the reference of these cases to the Police for preliminary inquiry was inexpedient, and not calculated to advance the ends of justice, but rather the reverse. When the Magistrate is satisfied that an offence has been committed, but is unable to proceed to a satisfactory decision of the case, either on account of the insufficiency of the evidence for conviction, the non-apprehension of the real offender, or from any other cause, it is proper that due inquiry should be made before the accused is discharged or the case dismissed; but, in the present instance, there was nothing for the Police to trace out, and all that was necessary was for the Magistrate to hear the evidence tendered.

(*f*). Now with the records before him, the Session Judge should have been more careful in penning these remarks. On turning to them, it will be seen at once that the cause for fear was that the defendant having got complainant into a difficulty about his revenue accounts, held over him "in terrorem" a Magisterial prosecution, unless he paid the sum demanded. This ordeal was what he was willing to escape from by paying the sum demanded, and though he admits, on cross-examination, he was fined two Rupees, by Collector's orders, for carelessness in keeping his accounts, surely no one will pretend to say that the fine had any thing to do with the payment of the bribe. In all the other cases, too, it will be seen that the payment of the money was not for nothing, or for trifling services. In no case does it appear that the money was given at any rate without the expectation of receiving an adequate *quid pro quo*.

(*g*). It is true that the complaints were not made till the defendant had quitted the Taluq, and not before, as the Session Judge observes, the defendant "had petitioned the Board to defer taking his pension." The Session Judge observes again "it was not till then that steps were taken to effect his ruin." It may be asked, why then were the complaints made at all? The answer is to be found on the records of the case, "*because it became known that the defendant had refused the offer of pension, and had petitioned the Board to be allowed to return to his duty.*"

Such a step was surely enough to arouse the angry feelings of the whole Taluq, and at once accounts for the combination which in all human probability would never have been made, had not the defendant expressed his intention of returning to his Taluq. He might, in all probability, have retired unchallenged, with his ill-gotten gains, and thus added one more name to the list of those who have amassed a fortune after a long tenure of office. The whole argument of the Session Judge proves too much, for it would make a long continued success in the taking of bribes an impossibility, because the injured parties must, at some time or other, have combined with certainty of success to overthrow and bring the oppressor to justice.

"It is quite intelligible," says the Session "Judge, that a corrupt public servant should "receive a bribe from a rich suitor, but it seems "in the last degree improbable that he should "exact money from his own subordinates." Surely a further acquaintance with revenue matters would have told the Session Judge that Village Officers, contractors and the like, are the *very* parties from whom a corrupt Tahsildar would levy contributions. What rich suitors has a Tahsildar to prey upon? He would, if inclined to corrupt practices, make use of the material nearest at hand, leaving his subordinates to reimburse themselves in any way they thought proper.

If this course had been adopted, (*h*) I think that there would have been fewer complaints; and one great source of doubt as to the truth of the charges would have been avoided. (*i*) The complainant in appeal No. 29 expressly deposes that he had no intention of complaining, and did not complain either to the District Magistrate or any one else; that he merely mentioned the matter in his deposition in another case; that he did not complain of his own accord before the Superintendent of Police, but that the latter sent a Constable to call him, and told him that he had heard that he had given twenty Pounds to the defendant. (*j*) It is obvious, therefore, that but for the intervention of the Police this charge would never have been preferred; and the natural inference is that the evidence by which it is now supported did not before exist. A similar declaration was made by the complainant in Case No. 56, dismissed by the Magistrate. There the complainant admitted that he had not gone before the Superintendent of Police of his own accord, but had been taken by the Inspector; and that, before that, he had never complained to any one that the defendant had extorted money from him. The Inspector of Police also deposed that the Taluq Sub-Magistrate had sent for the complainant, and that when he arrived he took him before the Superintendent of Police. (*k*) If the Magistrate gave general directions to the Police to inquire into all complaints against the defendant, without expressly referring each individual case for preliminary inquiry, he made in my judgment an erroneous use of the power vested in him by Section 133 of the Code of Crinal Procedure; and if the Police received any of the complaints without such express refer-

(*h*). Now this is not true. Superintendent did not inquire into half the complaints which the Magistrate ordered him to inquire into, and strictly limited his field of inquiry to those complaints. The records show that the Mahazurnamah contained names of upwards of 40 complainants, and the records show the Superintendent inquired into 15 only.

The complaints which the Magistrate inquired into without the assistance of the Superintendent of Police are termed equally devoid of truth, as those into which the Superintendent of Police first inquired into, so why would one great source of doubt have been removed if the Magistrate had not ordered the Superintendent of Police to inquire into the latter?

(*i*). The fact of complainant in case No. 29 (Kistnappa Naidoo) having merely mentioned the circumstances of his complaint when he was giving his evidence in another case, certainly justified the Magistrate in directing the Superintendent to inquire into the case, though the Session Judge seems to think that this man was unduly encouraged to make his complaint; yet in another part of the proceedings the Session Judge especially comments on this man's hostility to the defendant, and the consequent unreliableness of his evidence.

(*j*). This, so far from being obvious, is utterly opposed to fact.

(*k*). The Magistrate did not give general instructions to the Police, but with the order for inquiry sent a list of cases he wished inquired into, so that the surmise of the Session Judge is incorrect, nor were there (although the Session Judge says so) originally a few, but a great many, complaints against the defendant, as the

ence, I think they exceeded their jurisdiction. The consequence (*l*) to the defendant has been that he has had to contend with many influences which could not so easily have been opposed to him if the few complainants (*m*) who at first came forward had been left to substantiate their complaints in the usual way: there was every reason for pursuing this course on account of the peculiarly suspicious circumstances under which the charges were preferred. If the Magistrate had had reasonable grounds for believing that the defendant, while in office, was abusing his authority, he would, doubtless, have been warranted in making the most searching inquiries into his conduct, and encouraging injured parties to appear and declare their grievances; but, as no such steps were then taken, and the defendant was permitted to take his pension, it must be inferred that the Magistrate was not aware of any such abuse by the defendant of his official powers, and the presumption of law in favor of his innocence, strengthened by the absence of any complaint in respect of these alleged acts for so many years, should have obtained for him, I think, a different mode of treatment from that actually adopted. After weighing the evidence adduced against the defendant in the five cases now pending before me, I have come to the conclusion that there is not a word of truth in any of the charges, and that he is the victim (*n*) of a conspiracy formed to prevent his return to office. I consider that no explanation such as a Court of Justice can admit has been given for the unreasonable delay in preferring these complaints; and that on this account, and on account of their intrinsic improbability, and the fact of their being spoken to mainly by interested witnesses, they must be rejected as incredible. I also consider that it is patent on the face of the records that the complainants are mere tools in the hands of persons who are using the law as a means of promoting their private ends. Great discredit is brought upon the Administration of Justice if such practices are allowed to be carried on with impunity; and some effort should be made to discover and bring to condign punishment the parties by whom the complainants have been instigated to prefer these palpably groundless charges. With these observations, I proceed to record my reasons for disbelieving the evidence in each particular case.

records go to prove. Most of the complaints were addressed in the first instance to the Board of Revenue, and sent to Magistrate for inquiry.

(*l*). What does this relate to? the Judge's surmise?

(*m*). There is no meaning in this; the other complainants made their complaints in writing, and only wanted a hearing.

This has already been explained under head *y*.

(*n*). The defendant *was*, no doubt, the victim, not of a conspiracy, but of a combination of aggrieved parties to prevent his return to office.

In case No. 26, the complainant alleges that he was summoned by the defendant in a revenue matter two or three years ago; and that, during the inquiry, the defendant threatened him, and said to him "I know you are a bad man, and have made collections from the Villagers, I must handcuff you and send you to the west;" that, subsequently, the defendant, in his garden, said he would let him go if he gave him 300 Rupees; that the defendant used no threat in his garden, but that he agreed to pay the money because he was afraid of defendant's threats; that he went immediately to his village, and next day at noon brought Rupees 250, which he entrusted to the 2nd witness to carry; that on the way he picked up the third and fourth witnesses, and delivered the money to the defendant through the third witness. The complainant when put to the test of cross-examination contradicted himself so often, that it is impossible to gather from his evidence when it was that the demand is alleged to have been made. (*o*) He first said that it was after the inquiry had been completed; then that it was on the second day of the inquiry, which he affirmed lasted three days; he then said that the inquiry was concluded on the second day, and that the demand was made after it was concluded, and after his opponents had been sent away. In another place he contradicts this, by stating that he even paid the money before the inquiry was completed. The documentary evidence shows that the inquiry only occupied one day; (*p*) so the whole story of the demand and payment is evidently a fiction. The complainant admits that he was dismissed from his Maniem at the instance of the defendant, and states that the money was paid a month before his dismissal. He also admits that he petitioned the Collector, so late as September last, about his dismissal, but even then did not complain about the 250 Rupees. Any circumstances more calculated to destroy the credit of a witness it would be difficult to imagine. Very little need be said upon the evidence as to the alleged payment of the money. The second witness was a village Toty under the complainant, while the latter was Monegar. The fourth witness was dismissed from his Maniem on the report of the defendant. Their testimony, therefore, cannot be free from bias. The evidence of each witness is, moreover, inconsistent with that of the complainant and the

(*o*). Surely too much stress ought not to be laid upon complainant's error as to the length of time the examination lasted; he probably measured the time by the detention of himself and his witnesses. He says he was detained three days. Why should his story be evidently a fiction, because the records show the *examination* only lasted one day (*p*)?

No doubt the complainant contradicts himself as to where the demand was first made, whether in the garden or in defendant's house. He says, however, the demand was made twice, and adds "the interview in the garden took place on the same day as the interview in the house." It is singular that the story of the interview in the garden should have been introduced at all, and the supposition of the whole story being a fabrication, for it needlessly complicates the case, and affords great opportunities to the defendant's Counsel for making the witness contradict himself. The second witness' statement, that of a village Toty, is perfectly clear and to the point. His evidence remains unshaken under the test of cross-examination, and it is difficult to imagine how a man of his stamp could have invented a story which he tells so naturally, and which he cannot be made to contradict himself in.

other witness. Thus the complainant states that he took the third and fourth witnesses with him, in order that they might intercede for him if the defendant should not be satisfied with the 250 Rupees; but the third witness deposes that the complainant merely told him that he had been summoned in a case, and had some money to give to the defendant, and wanted him to go with him; and the fourth witness declares that he went for no other reason than to borrow money for the complainant in case the defendant was not satisfied. The second and fourth witnesses assert that the bag or bundle supposed to contain the money was dipped in water by the second witness before being given to the complainant, but the complainant does not say (*q*) that any such ceremony was gone through, nor does the third witness, though the second and fourth both assert that the complainant told the second witness to wet the bundle. The second witness states that this was done near the Cutcherry, and the fourth near the Police station (*r*). The third witness deposes that, immediately the money had been given, they all came out; the second witness states that they were inside two or three Indian hours, that is about an hour (*s*). The third witness says, in one part of his deposition, that they waited outside the Cutcherry till the defendant went to his house, and in another part that the defendant had left the Cutcherry before they arrived. The fourth witness affirms that the defendant after receiving the bundle went into the next room, and then came out and told them to go. This is directly opposed to the evidence of the complainant and third witness (*t*), who state that the defendant, on receipt of the money, told them to go, and that they went away immediately. None of the witnesses saw what the bundle contained; and the second witness, who says he carried it, is unable even to say whether the coin was silver or copper. It is quite clear, therefore, that the conviction cannot stand. There is no evidence (*u*) that the sum of Rupees 250 was paid to the defendant, and the character of the testimony delivered in this case leaves no doubt on my mind that the witnesses are perjured.

It may also be added that the complainant is a Malayalee (a Hill tribe) living on the Pythoor Hills without any education, and it is not, therefore, a wonder that he contradicted himself, though such contradictions were only on immaterial points. The complainant was not a Monegar at the time—indeed he ceased to be so years ago, and he could not have, therefore, any influence over the Toty. There is nothing in the records to show that the evidence of each witness is inconsistent with that of complainant and the other witnesses. Any thing carried by a Pariah is always dipped in water before it is given to a man of caste. The difference is so slight that I am surprised that it is commented on.

(*q*). This is after all only an omission which the complainants and their witnesses were not asked to supply—certainly this is no contradiction.

(*r*). The two buildings are not far apart, and an error of this kind rather shows want of collusion than any thing else.

(*s*.) The third witness is misquoted here, he says they were not long in defendant's house. He only says that they waited till defendant went to his house, but he says nowhere that the defendant had left the Cutcherry before they arrived.

(*t*). Not worth mentioning.

(*u*). There is the evidence of first witness as to the exact sum paid, and the evidence of the second, third, and fourth, that a certain sum in a bag was paid. If the story had been a made up one, is it not probable that the exact sum paid would have been settled before-hand amongst the witnesses. Again, there is the evidence of the third and fourth witnesses, who state that complainant in their presence told defendant that he brought Rupees 250 when handing over the bundle.

In case No. 27, the complainant alleges that, about two years ago, he attempted to carry out a marriage procession, under authority obtained from the Magistrate, but was from time to time prevented by the defendant, who refused to allow the procession to take place, unless the complainant paid him 500 Rupees. The complainant states that he made a verbal complaint to the Joint Magistrate at the Jummahbundy, and was referred to the Magistrate, but admits that he made no written complaint to the Magistrate till his examination was taken in this case. That there cannot be a particle of truth in the present charge is perfectly plain from a perusal of the petition presented to the Magistrate by the complainant on the 24th January 1865. In that, he expressly charges the defendant with being in the interest of his opponents, with wilfully disobeying Magistrate's orders and submitting false reports; and states that he was driven out of the Cutcherry, and that the defendant had entertained strong ill-will against him for a long time. Now it is alleged that it was before the presentation of this petition that the money was demanded. (*v*) Is it credible that a person writing so bitterly and so boldly against the defendant, and confessedly at enmity with him, would have omitted to mention this demand, and the threats which the complainant asserts accompanied it, or that he would have hesitated an instant to prefer a charge of extortion against the defendant if any money had been afterwards paid? I think that the fact of no allusion being made to any corrupt practices in such a petition tells greatly in favor of the defendant, and shows, not only that he exacted no money on that occasion, but also that, whatever his faults, if any, may have been, corruption was not one of them. The 2nd witness states that he lent 500 Rupees to the complainant to give to the defendant, and was present when the money was delivered. (*w*) He admits that he took no bond or security for the debt, and did not enter the transaction in his accounts. (*x*) He affirms that the complainant, who was in such needy circumstances that he was obliged to borrow money even for his marriage expenses, repaid the loan with interest in two months, upon which he returned complainant's receipt for the money. The 2nd witness admits that he has been twice fined by the defendant. (*y*) The 3rd and 4th witnesses depose that they went to the 2nd witness to borrow money; that he told them he would lend it at Salem where

(*v*). *Certainly credible*, for he could at this stage only have complained of the demand for money; he had no witnesses to prove it, and surely a prudent man would have preferred holding his tongue, to making a charge of extortion which he had no means of proving, and which might, likely enough, make him the subject of a criminal prosecution. After the bribe was paid the affair assumed quite a different complexion—the complainant *then* had witnesses to substantiate his charge. It is surely a gratuitous assumption to say that there could not have been a word of truth in the charge, because complainant acted the part of a prudent man.

(*w*). He explains that, after he gave up his merchandize, he kept no regular accounts.

(*x*). He *does not say* that complainant was in such needy circumstances; he says he lent some money for his marriage procession.

(*y*). Here these witnesses are again unfairly quoted; the 4th witness explains why he did not borrow money, because, he says, the articles he wished to purchase at Salem

he was going to sell some grain; and that they accompanied him to Salem. Now, it is obvious that if there had been any truth in their statement, the money would have been lent to them at Salem, for that was the purpose for which they affirm that they accompanied the 2nd witness; but they damage their own credit by adding that they returned with him to Ahtoor without obtaining the loan, and that the 2nd witness there lent the money to the complainant to give to the defendant, and that they were present when it was delivered. The 3rd witness says(*z*) that, as it was a secret matter, they went in the dark, and that the defendant sent away a peon who was standing at the gate, but that nevertheless no objection was taken to the witnesses being present, though they were strangers to the defendant. It seems waste of time to go further into such evidence. I do not, therefore, consider it necessary to set out minutely all the discrepancies between the statements of the complainant and the witnesses as to the manner in which the money was delivered, the conversation that took place, and what was done by the defendant. On the face of the evidence it is manifest that the whole account is a pure fabrication, not having the slightest foundation in fact. The complainant had obtained leave from the Magistrate to have his procession, and although the defendant thought (*a* 2) that it ought not to be permitted, lest it should lead to a breach of the peace, and because the street was a private street and not a public highway, yet these objections were over-ruled, and there was not the slightest necessity for the complainant to offer any gratification to the defendant; nor can it be believed that he would have done so, when the final order (*b* 2) had been passed, directing the defendant to permit the procession and take measures for preserving the peace, especially, as according to his own statement, he had resisted the defendant's demands up to that time.

(and for which, of course, he wanted the money) were *too dear*, and, therefore, there was no occasion for him to borrow the money. How they damage their statement after this explanation I am totally at a loss to see; it is most unlikely that the story of the solicited loan on the part of the 3rd and 4th witnesses should have been brought into a tale that had not a word of truth in it, for it has in reality nothing to do with the case, and rather complicates it than otherwise. Invented stories steer clear of complications.

(*z*). The 3rd witness says defendant said something to the peon, who then went away, and adds that, though he never went to defendant's house before, he has been to the Cutcherry, but could not say whether defendant knew him or not, and that defendant made no objection to his presence.

(*a*2). If he had thought so, he could easily have taken steps to prevent it. The complainant had tried for eight months to get his procession carried out; at length, weary with waiting, he was willing to pay the price demanded,

(*b*2). One would infer from these remarks that no definite order had been given by the Magistrate for the carrying out of the procession. The first order of the Magistrate was just as *final* as the last. It is after the first order that defendant threw all sorts of obstacles against the procession going. Indeed, he wrote several Urzees to the Magistrate against the propriety of carrying out his final order.

Now, the facts of the case are these:—In June 1864, one Lutchooma Chetty "applied" to the District Magistrate for permission to celebrate a certain marriage procession, and an order, dated 7th July 1864, was sent by District Magistrate to defendant, to have the procession permitted. On the 5th October 1864, three months after Magistrate's order, another petition was received by the District Magistrate from complainant, stating that defendant had not permitted his

procession to take place. On this petition, an order, dated 7th October 1864, was endorsed, desiring defendant to inform District Magistrate what steps he had taken to carry out the order dated 7th July 1864. On the 13th October, defendant replied that he had communicated Magistrate's order to both parties, and at the same time objected to the Magistrate's order, stating that the Government Order quoted by the Magistrate applied to public highways and not to village streets.

Complainant again put in a petition, dated 5th January 1865, complaining that his procession had not been permitted, and on the 9th January 1866, an endorsement was given by the Acting District Magistrate to this effect—"orders were sent to defendant and Police to take security from those opposing procession, and to attend at the time, to see that his procession was not obstructed, and an order to this effect was also sent to defendant." On the 8th February, one month after date of last order, defendant reported that he had taken security, and on the 2nd March defendant reports that the procession had come off. Eight months were thus allowed to elapse before defendant saw fit to obey the orders of the District Magistrate. The complainant states in evidence that, after presenting his 2nd petition to the District Magistrate, he went back to the defendant, and repeated his request about the procession, and that defendant abused him, and said his procession should not take place unless he paid him (defendant) 500 Rupees, and that he again addressed the District Magistrate, and again remonstrated with defendant, who told him that, unless he paid the 500 Rupees, he would be disgraced and imprisoned, and that, being frightened, he borrowed the money from 2nd witness, and paid the amount to defendant, in the presence of 2nd, 3rd, and 4th witnesses, who all speak to the payment of the money to defendant; and the testimony of all these witnesses, though severely cross-examined by defendant's Vakeel, remains unshaken in material points.

Now, it is perfectly clear from the records, that, notwithstanding repeated orders from the Magistrate, the defendant threw every obstacle in his power in the way of the marriage procession taking place. It is patent that it was delayed for

eight months. Now what object had defendant in thus setting aside the orders of the Magistrate ? It is said for him that he feared a disturbance if the procession was allowed. If this indeed were so, he had adequate means at his disposal to prevent anything of the kind—a simple order to the Police would have done the thing. His neglect to adopt such means shows that he had other and corrupt motives in preventing the procession, and gives weight to the complainant's story.

It is said that complainant was a poor man, and could not have raised so much money, or so easily have repaid it again, but when it is borne in mind the enormous value that Natives set upon the properly carrying out of a marriage procession, and the money they will sacrifice on such occasions, no effort on complainant's part would seem too great. It is not proved either that he is a poor man, though the evidence of 2nd witness is twisted to bear that interpretation.

The complaint in Case No. 28 is to the effect that, three years ago, certain persons accused the complainant of malversation in his Revenue duties, and that, while the matter was under inquiry before the Taluq Sheristadar, the defendant sent for him, and saying that he was not obeying the Sheristadar, and that there were erasures in his accounts, threatened to punish him on the Police side ; that he denied that there was anything wrong in his accounts, and asked the Sheristadar whether he had disobeyed his orders ; that the Sheristadar replied that the complainant had neither disobeyed him nor had he complained to the Tahsildar against the complainant ; that in the evening the defendant sent for him again, and asked him whether he would prefer to be tried on the Police side and punished, or listen to what he said ; that he again protested that there was nothing wrong in his accounts, when the defendant said he would let him go if he paid him 300 Rupees ; that there was no case against him on the Magisterial side (*c* 2.) but that he nevertheless consented to pay the money, and went to his village to bring it ; and that in two or three days he returned with the money, and paid it to the defendant. The second and third witnesses depose that they were present when the sum was given to the defendant. The Revenue case with which

(*c* 2). This is not borne out by his statement. He does not say anything of the kind. He distinctly said that the defendant threatened to try and punish him on the Police side.

It is only at the end of his statement, that is after paying the amount, no case was brought against him on the Magisterial side.

it is endeavoured to connect this alleged payment appears to have occurred in 1862, that is full four years before the date of the present complaint. The complainant is a Curnum, and makes a display of his animus against the defendant by stating that eight or nine years ago he gave the defendant 300 Rupees in a dispute about land, and that, on several other occasions, also, the defendant extorted money and paddy from him, but that he has never complained of any of these acts, and that he was afraid to prefer this charge before, because a person who had complained against the defendant had his house looted and set on fire two or three months afterwards, and other persons had been similarly treated. It is clear from the papers produced by the 2nd witness for the defence that the defendant made unfavorable remarks upon the conduct of the complainant in the Revenue case. He reported that the complainant had not kept his accounts regularly, and that it appeared that he had appropriated certain money belonging to Agraharumdars ; but this could not be proved against him, and that the suspicion arose from all the Jari accounts containing erasures and alterations. The complainant also admits that, on another occasion, a warrant was issued by the defendant for his apprehension because he had failed to comply with a summons.

The second witness was formerly a Village Moonsiff, and admits that he was dismissed, as he says unjustly, during the time that defendant was Taluq Magistrate, on suspicion of his having aided some Corawens to effect their escape from

It is true that defendant did remark that the complainant's accounts were not kept properly ; but the Session Judge has lost sight of the nature of the accounts referred to. This Tahsildar or any other Government servant has nothing to do with these accounts, nor was the Curnum responsible to Government for keeping these accounts. They are Jari accounts, or accounts connected with the private shares of the Agraharumdars. The Curnum (complainant), kept the accounts because he was paid by the Agraharumdars for doing so ; and if they were not properly kept, it is the Agraharumdars look-out to dispense with his services, without any reference to the Government servants. The defendant must have known this from his long experience as Tahsildar ; and the Acting Collector's order on the defendant's report, which forms a part of the record, is to the effect that the Government had nothing to do with the complaint made against the Curnum by the Agraharumdars. There was no occasion for the defendant to have proceeded with the complaint against the complainant, but since he did so, and had extorted the 300 Rupees, he had no other alternative but to make a report to the Collector, to avoid future exposure of his conduct, though he knew full well that his report would be disposed of in the way it has been.

The second witness was dismissed by District Magistrate, on the representation made to him by the late Superintendent of Police, Captain Hill.

custody. He also admits that he was arrested on a charge of high-way robbery, four or five years ago, upon a warrant issued by the defendant, and expressly accuses the defendant of having got up the case against him. It is obvious, therefore, that this 2nd witness has strong motives for giving false evidence against the defendant. The letters produced by this witness further show that all confidencial relations between him and the defendant ceased in January 1862, that is six months before the revenue case was referred for investigation.

The only letter written after this date was one in May of the present year, merely asking him to send a Native Physician to attend upon him. The former letter related to the taking charge of jewellery, sale of bullocks, &c., on behalf of the defendant; and the sudden interruption of this correspondence more than four years ago, that is about the time that the witness was arrested by defendant for robbery, plainly indicates that there was then a breach in their friendship: a letter asking another to procure medical assistance is what any sufferer might write even to one with whom he was not on good terms. No reason has been given for the absence of any written communication between the parties for four years, and the conclusion is irresistible that the official acts of the defendant had occasioned a necessary separation between him and the second witness. I consider that the first and second witnesses are utterly unworthy of credit. The third witness admits that he has attested many instruments executed to the complainant, and has given evidence in his favor in suits brought upon such instruments. I think, therefore, that no reliance whatever can be placed upon his testimony.

It is very strange that the Session Judge cannot place reliance upon this witness' statement, simply because he gave evidence in complainant's favor in Civil Suits. As an attesting witness, he must, of course, give evidence when he is requested to do so, and if every attesting witness of a document is to be considered discreditable simply because he gives his evidence in a Court of Justice, I do not know if there is any one in the world whose evidence could not be impeached on this ground.

(*d*2). It is also at variance with that of the complainant. He says that the bag of money was entrusted to his care by the complainant at his village; that when coming from the village in a cart he kept it by his side, and had it all along in his charge. The complainant's statement, on the other hand, is, that he brought the money himself; that the third witness merely accompanied him; and that he only delivered it into his custody when he was himself going to the

(*d*2). There is also nothing on the record to show that this witness' statement is at variance with that of the complainant. The complainant does not say anything in his statement to contradict the assertion of the third witness, that the money was entrusted to his care, &c.; all that the complainant says is that he proceeded to his village, and returned two or three days after with the money. He does not say, nor was he asked as to, how he brought the money. He

defendant's house. The charge in this case, far from being proved by credible witnesses, is in my judgment palpably false and malicious.

The complaint in Case No. 29 is of comparatively recent date, and is a little varied in its details. The money, amounting to twenty Sovereigns, is alleged to have been paid to the defendant merely upon threatening messages sent by him to the complainant, and without the complainant even making the slightest remonstrance (*e*2). He admits that the defendant on several occasions had his carts stopped, on the ground that they contained timber felled in Government forests, and that he continued to do so even after the date of the alleged payment (*f*2). The complainant also admits that he has given evidence against the defendant in several other cases; (*g*2) that he was dismissed from his Dharmakurthaship by the Collector, upon an investigation held by the defendant, and compelled to make good 300 or 400 Rupees; and that he was fined with others for removing a hedge. He states that the goldsmith who put up the hedge was working in the defendant's house, and that, though he was himself absent from the village, the defendant included him in the case, and forwarded him to the Joint Magistrate. The complainant takes special care to state that, even after these transactions, he still continued on friendly terms with the defendant. He declares that he never intended to complain against the defendant for having extorted the twenty Sovereigns from him, and merely mentioned the fact when asked in another case. It may reasonably be presumed, therefore, that the whole case has been recently concocted, for it rests mainly on the evidence of the 2nd and 5th witnesses, who say that they carried the threatening messages; and had their evidence existed before, together with that of the 4th witness, who says that he was present at the payment, there can be no doubt, looking at the relations of the parties, that the complainant would immediately have prosecuted the defendant. The 5th witness in this case was the 2nd witness in case No. 28, and it is unnecessary to repeat here the circumstances which does not say that he carried the money *himself*,* and that the third witness *merely** accompanied him, and that he only delivered it into his custody when he was himself going to defendant's house. It is impossible to ascertain from what source the Session Judge has got these facts; for the records do not show. The words underlined* do not appear at all in the complainant's statement.

(*e*2). This is not the case. According to the evidence complainant remonstrates twice, for he says "I told second witness, Keechi Chetty, that there was no occasion for me to give any thing to defendant—let him do as he pleases"; and again he says "when I told second witness I would not pay, he said it is not much for you to pay."

(*f*2). He does say so, and his words are note-worthy—"after I paid the money, defendant still stopped my bandies. I was very much annoyed at my bandies being stopped after paying the money. About eight days after payment of money, Keechi Chetty came to Ahtoor to my house. I said 'it was upon your message that I gave £20; defendant is still annoying me, you had better ask him Keechi Chetty said he would inquire, and let me know. Next morning I met Keechi Chetty, and asked him if he had spoken to defendant; he said he had but that defendant has spoken as before." Now is it likely that complainant would have encumbered his story with all this extra matter—*prima facie* improbable too—if it had no foundation in fact? A lying witness deposing to having paid a bribe to gain an object, would naturally say that, after the money was paid, the object had been gained, and yet this assertion of his is animadverted on to prove his untruth. (*g*2) He does not admit that he was dismissed from his Dharmakurthaship by the Collector upon an investigation held by defendant; on the other hand, he distinctly says that he was not dismissed on the report of the defendant. But there are letters filed in evidence showing that a sort of friendship existed between the defendant and the Complainant.

show that he must necessarily be strongly prejudiced against the defendant. At the very time that the defendant is now charged with having extorted money from his "friend," the complainant, he was writing Urzees against him to the Collector, accusing him of instigating people to make false complaints against the defendant, which renders it evident that they were, in fact, enemies instead of friends. I look upon the whole of the evidence as puerile in the extreme, and do not believe that there is a syllable of truth in it from beginning to end.

The Session Judge winds up by saying that he does not believe there is a syllable of truth in the whole story. Of course, one cannot help the Session Judge's belief, but what does the evidence say?

The complainant and 3rd and 4th witnesses speak to the fact of the 20 Sovereigns being paid to defendant by complainant; 2nd witness speaks to having accompanied the above as far as defendant's house, and, though all these witnesses have been subjected to a long and harassing cross-examination, their testimony remains unshaken. It is note-worthy that complainant says in his evidence that, as Keechi Chetty was a friend of defendant's, he asked him to take the £20, and give to defendant, but that Keechi Chetty *gave him back the money, and told him to take it himself*. Keechi Chetty corroborates this. This is rather an unlikely thing to be invented.

In case No. 30, the complainant affirms that, about two years and half ago, he lent the defendant a hundred Rupees, and that, about ten or twelve days afterwards, he was summoned on a complaint preferred by one Atchammal; that after waiting at the Cutcherry six or seven days he begged the defendant to commence the inquiry, upon which the defendant said that if the complainant would give up his claims to the hundred Rupees he would let him go; that he consented to this, and that the next day the defendant inquired into the case and dismissed the complaint. The 2nd witness deposes that he was with the complainant about two years ago when he gave the hundred Rupees to the 3rd witness to take to the defendant, and that he was also present when the complainant consented to give up his claim to that sum. The 3rd witness deposes that he received the money from the complainant two or three years ago, and delivered it to the defendant. The 4th witness deposes that, two or three years ago, the defendant asked him if the complainant had any enemy; that he told him that the 5th witness was complainant's enemy; that the defendant then asked him to tell the 5th witness to bring a charge against the complainant, and that, on his return to his village, he told her to do so. The 5th witness states that she made a complaint against the complainant at the instance of the 4th witness, but that the charge was a true one.

The 6th witness deposes that, about three years ago, the defendant asked him to be a Vakeel for a woman who had preferred a charge against the complainant and the 2nd witness, but that he did not agree. The 7th witness merely produced the record of the former case. The 8th witness deposes that he was first asked by the 5th witness to act for her, but refused; that she then took him to the defendant, who induced him to put in a Vakalutnamah. Great ingenuity has been displayed in putting this case in so elaborate a form; but it will not bear a moment's examination. (*h*2) In the first place, the evidence wholly fails to connect the alleged relinquishment of the complainant's claim with the charge preferred by the 5th witness against the complainant, the 2nd witness, and another. This case was tried on the 26th May 1862, that is four years and a half ago, but the complainant and his witnesses all affirm that the money was lent to the defendant and the debt released less than three years ago (*i*2.) The 3rd witness, who says that he carried the money to the defendant, states that he is sure that it was not four or five years ago. The allegation that the claim was given up to avoid punishment in the 5th witness' case can only, therefore, be looked upon as an unscrupulous attempt to convert an ordinary official act of the defendant into a foundation for a charge of oppression. In the second place, the facts of the original case have been wilfully perverted. (*j*2.) The record shows that the fifth witness named in her complaint the person to whom she had given a Vakalutnamah, that is, the 8th witness; and the power itself is dated the day before complaint. Yet oral evidence is adduced to show that the defendant asked the 6th witness to conduct the case after the complaint had been filed, and on his declining, induced the 8th witness to accept a Vakalut. Nothing can be more clear than that some unscrupulous hand has been at work in preparing the case for the prosecution. The documentary evidence proves beyond all question that the evidence of the sixth and eighth witnesses must of necessity be false. The sixth witness has been called to prove that the defendant asked him to accept a Vakalutnamah in the case, but his name does not appear upon the records, and no allusion is made to him by any of the wit-

(*h*2.) There is the evidence of the 1st and 2nd witnesses to the point.

(*i*2.) Though the witnesses all differ as to the number of years that had passed, yet all the witnesses affirmed the transaction took place immediately after Atchammal's complaint. This is a land mark to them all, and the date of that complaint is on record.

(*j*2.) One would have thought that some care at any rate would have been taken in comparing the records, before such charges as this were made. On turning to them, it will be seen that oral evidence is *not* adduced to show that defendant asked the 6th witness to conduct the case after the complaint had been filed. The 6th witness says, "about three years ago" defendant asked me to be a Vakeel for a woman who preferred a complaint against first. witness." The past tense of the verb "prefer" is used it is true, but surely his words cannot be taken to mean more than that he was asked to be a Vakeel in the woman's case. He is speaking of an event which occurred some time before, and he would naturally use the past time in referring to it On cross-examination he does not say whether the request was made before or after, though, if anything, his evidence rather favors the former hypothesis, for he

nesses who speak to the facts of that case. How then was he brought in as a witness? The complaint, moreover, was one of assault equally against three persons, and yet the fourth and fifth witnesses are called to prove that the defendant instigated the charge, though it is evident that had he really done so, it would have been against the complainant alone. In the third place, the story of the loan and release is palpably a fabrication.

The complainant admits that he never lent any money to the defendant either before or after this alleged transaction, and does not assign any reason for his doing so on this occasion.

He states that it was an ordinary loan, but that he took no bond or acknowledgment for the money, not even a receipt from the Peon, the third witness, who he says came to fetch it; that he entered the payment in his accounts, but tore it up after he had relinquished his claim to the money. He admits that he never made any written complaint to the Magistrate, even after the defendant had been removed from Office. The complainant is a Curnum. The second witness is also a Curnum and relative of the complainant. The third witness is a Taluq Peon. These three speak to the alleged delivery of the money to the third witness. The third witness is the only person who deposes to the alleged payment to the defendant. The complainant and second witness are the persons who affirm that the defendant induced the complainant to relinquish his claim to the hundred Rupees. The first witness, after a great deal of prevarication, admits that he has been frequently fined by the defendant; also that he never went to the defendant's house before this occasion, but states that the defendant nevertheless "spoke freely to the complainant about the relinquishment of the hundred Rupees in his presence;" and that, though also one of the parties summoned in that case, he was not asked to pay anything to the defendant. The reason given by the complainant for the second witness and himself going together to the defendant is that they were both defendants in the case. It is, of course, inexplicable that the defendant should have extorted money from one and not from the other. I do not consider that either the complainant or the second and third witnesses are worthy of credit, and I do not believe any money was ever paid, or the claim to it afterwards relinquished. The first witness for the defence, the Inspector of Police, deposes that he has known the complainant for the last twenty months, but that he has never told him that he had paid money to the defendant. The complainant states that, though the defendant was removed from office about two or three months before, it was not convenient to him to go and complain, and that he did not even send a written complaint to the Magistrate. I am satisfied, from the whole circumstances of the case, that the complaint is one of recent origin. The question, therefore, arises, and it is a very serious one, by whom has the complainant been put forward, and who is responsible for the production of the witnesses? The Inspector deposes that the Superintendent of Police inquired into the complaint by order of the Magistrate, and that he thinks it was after complaint to the Magistrate that the inquiry was made about the 26th September, that is, about a week after the final order in appeal No. 18 of 1866; that he assisted in bringing the parties before the Superintendent, who took notes of what the parties said; that he produced the complainant by order of the Superintendent; that he does not remember whether he first complained to the Superintendent, or the Superintendent first asked him about his complaint; that the Superintendent sent for the witnesses in the case; that the second and fourth witnesses, Curnum and Moonsiff, came of their own accord with the complainant; *that the complainant asked him why he was wanted*, and he told him that the District Magistrate wished a certain case inquired into; *(k 2)* that there were other complaints against the defendant, and that on the Superintendent's order he produced these other parties before him; that as the inquiries went on, the witnesses appeared; that, so far as he can remember, most of these were summoned by the Taluq Magistrate, and that as they appeared, he produced them before the Superintendent. The Inspector admits that the defendant made remarks against his official proceedings, but affirms that he has nevertheless been all along on friendly terms with him; the fact says "I don't know that any complaint was made to defendant by the woman at that time, meaning the time he was asked to be a Vakeel. Surely then the documentary evidence does not prove beyond all question that the evidence of the 6th and 8th witnesses must be false.

Complainant merely says defendant *asked* him to lend the money, and he did so. There are plain and sound reasons for his not lending defendant money a second time—once would have been sufficient for most persons. He also says that he was in the habit of sending him paddy, tobacco, &c., without payment.

It would have been very odd if he had taken a bond from defendant, and he particularly states in his evidence that he entrusted the money to the Peon, because defendant said he would send the Peon for the money. The 1st and 2nd witnesses are closely related, uncle and nephew: why should he have been asked? Surely 100 Rupees from one was enough. The charge against them was nothing, being of a trifling nature, but the detention at the Cutcherry for several days was most annoying, and that is probably what complainant was willing to escape.

On the 10th May 1862, one Atchammal preferred a complaint against Soobroy Moodelly (complainant in Tahsildar's case) and two others, before the defendant, then Tahsildar of Ahtoor; certain depositions were taken by defendant, and Vakalut for the prosecution, *signed by defendant*, is also produced from the records. No sentence of any kind is recorded, but the case appears to have been dismissed by defendant.

Complainant's story is that, a short time before he was summoned on the charge of Atchammal's, he was asked by defendant to lend him 100 Rupees, and that one Bava Saib, a Taluq Peon was sent to receive the money. 1st and 2nd witnesses speak to the money being paid to Bava Saib, and Bava Saib swears to having handed over the money to defendant. Some days after this, 1st and 2nd witnesses are summoned to appear on Atchammal's complaint. They stated that they were kept hanging about the Cutcherry for some days. At last they went to defendant's house, and asked him to inquire into the charge against them. Defendant is alleged to have replied to them, that he ought to punish them both, but if the 1st witness would relinquish his claim to the 100 Rupees loan (here defendant at any rate, according to 1st and 2nd witnesses' evidence, acknowledges to have received Rupees 100 from Bava Sahib) he would inquire into and dismiss the case against them. 1st witness (that is complainant) states he agreed to do so; that the case was inquired into, and dismissed next day; and in both these statements he is supported by 2nd witness. 4th witness, a Village Moonsiff, deposes that he was ordered by defendant to tell Atchammal to bring or make a complaint against Soobroy Moodelly. 6th and 8th witnesses state that they were asked by defendant to act as Vakeels for Atchammal; and the Vakalutnamah taken out by the 8th witness is signed by defendant.

Now, how is all this mass of evidence disposed of. It is said that the evidence of the 6th and 8th witnesses must be false, but it has been shown that this rests on an over-statement. That the case is left incomplete, and that no decision was passed by defendant, is patent from the records. It seems incredible that so much evidence could be pure invention. It stood the test of a long cross-examination, and yet we are told there is not a word of truth in the whole story.

(k 2). This is misquoted—vide Inspector's deposition.

however, of the defendant having, in an Urzee dated 15th May 1866, accused him of concocting false charges against him, shows that this assertion of friendship is opposed to the truth He cannot say exactly, but he thinks he might have reported against the defendant to the Superintendent for irregular proceedings. It is impossible to read this statement without being impressed with the conviction that the complainant and witnesses did not come forward voluntarily, but were instigated by others to give evidence against the defendant; and so fully am I convinced that the complainants and witnesses are perjured, that I deem it my duty to suggest to the Magistrate the propriety of his calling for the diaries of the Superintendent of Police, under Section 154 of the Code of Criminal Procedure, and for such written explanation as it may appear necessary, with the view of ascertaining the following points: (1) the dates on which the complainants and witnesses severally appeared; (2) the statements they then made, (3) the manner in which their evidence was discovered to exist; (4) the mode in which their attendance was procured; (5) the names of any witnesses who were produced or attended without summons; (6) the names of any witnesses summoned by the Taluq Magistrate, and the reason of his issuing summons for their attendance. The Charge Sheet does not mention the date on which the complainant appeared or the complainant was referred for inquiry; nor does it afford any such information as is above indicated. I am of opinion that the ends of justice requires that similar inquiries should be made in the other cases, and the first statements of the parties carefully compared with evidence given at the trial. In cases tried before the Court of Session, great importance is attached to such early statements, and variances from them in any subsequent examination, or at the trial, are always regarded as injuries to the credit of the deponents. It is possible, however, that in the present cases, which are, of course, wholly artificial, and in which there was abundance of time to prepare the evidence before commencing the prosecution, that test may be ineffectual to the discovering of the real truth. With these remarks I close my examination of the evidence, and proceed to acquit the defendant. Bearing in mind the circumstance that the sentences

were passed by the Chief Magistrate of the District, I have devoted two days to the hearing of these appeals, and careful consideration of the voluminous records; but the more I have scrutinized the evidence, the more reason have I found to adhere to the opinion formed at the time that I first perused the Calendars, namely that the charges are, on the face of them, without the slightest foundation.

Order.

The Appellate Court, after perusing the proceedings of the lower Court, and after hearing A. Davasagayum Pillay for the appellant, reverses the findings and sentences appealed against, and directs that the Appellant be discharged.

(Signed) C. F. CHAMIER,
Session Judge.

(Signed) D. ARBUTHNOTT,
Magistrate.

No. 323. ORDER THEREON, 30th January 1867, No. 178.

The Governor in Council considers that the Magistrate of Salem was not justified in submitting to Government the appeal contained in the second of the letters above recorded against the proceedings of the Session Judge. Mr. Arbuthnott must have been aware that the Government have no Appellate authority over the Session Judge, nor power to review his proceedings.

2. The Government cannot comply with the recommendation that the Suit referred to in the Magistrate's first letter should be defended at the public cost.

(True Extract).

A. J. ARBUTHNOT,
Chief Secretary.

To the Magistrate of Salem.

Exd. J. H. Burns.

Judicial

Nos 168 & 171.

From the Magistrate of Salem.
dd. 15 January 1867.
Nos 168 & 171.

For orders.

I do not think that the Magistrate was
justified in sending up these papers
to Govt, nor do I see what we can
do or know.

The Govt has no appellate authority
over Session Judges nor power
to review his proceedings. If any
appeal lies any where, which as no
question of law is involved appears
doubtful — it must be to the High
Court and this Govt & Magistrate
has gone.—

I Learn'd the Judgt. proceed^s. 15 Sept-1866- on case No 42 / 1866 and only the take of extortion then told seems a very fair construction / I do not consider the Judge disinviting it —

I must doubt whether the Jurors should understand — the form of the verdict given by the Judge — the defendants have been used by Teague -ry at Pillory — They may defend themselves — the Crown according to this own showing has no difficulty in raising money —

and on the suit being dismissed, if it goes against the defendants a copy of the decree may be submitted to Jurors who will then be asked if they are called on to do anything thing.

The Judge / Solicitor should I think kindly keep the costs but it is for the Defendants to demand this taking it the Jurors ask for a change of venue if they think fit.

If Teague ry the Judge the Sheriff in Connaught should and the Collector want to get rid of him - he must of course obtain the sanction of the Board

1 Rennie 4
second copy
27/1/67 JP

I do not think the magistrate was justified in addressing to Govt his letter of the 15th instant, No 171. and the enclosed does not seem to be very clear as to the object of his address.

The Supreme Court proceeding shows that it has wholly discredited testimony which the magistrate had accepted as good sufficient to the conviction of an old public servant. - The result is that that conviction was quashed. It is merely therefore the opinion of one tribunal against the view of another and a lower tribunal - with which neither the High Court nor the Govt

Urgent

Forwarded

Govt can now interfere. But apart from the position of the case and the legal bearings of the matter, I agree in the views taken by the Supreme Court and on the showing am of opinion that no endeavour by which an attempt has been made to bolster up the charge, is entitled to any credit whatever. -

In regard to the support by Govt which they may be deemed to secure for the decision in the civil suit instituted by the Ex. Thakor, I am of opinion that no such support should be given.

Our courts are open to all and I do not think that misconduct on the part of a public officer will be winked at - or indemnified by the general nature public; because in a single instance, an Ex Thakor, falsely charged with extortion and other improper acts ~~after he had quitted his Govt service~~, seeks a civil remedy & damages from those who were the main instruments in what seems to have been a conspiracy to injure him. On the contrary, I would let things proceed to their proper conclusion and allow punishment to fall on those whom the Supreme Court has

stigmatized as false witness by suspending his remarks how[illegible] the Magistrate takes exception.

The Sr Boards action has been brought on the Court of the P. S. Annl. of Salem - and may be brought on appeal before this Sessions Judge of appeal be hereafter made. Of course if the fact, that he has in any degree prejudged this case and has a bias, he will abstain & transfer for determination to a neighbouring Zillah, but there is nothing in the Code that disqualifies, or precludes him from trying the appeal.

The daily occurrence under declaring men to have given false testimony before them, who are ordered for commitment and on afterwards tried before the same Judge who made the order. This course seems hard, and in two instances Mr Crudelett & Mr J. B. Norbin were engaged in entertaining appeals from orders of the Head Assistant Sanjeebar; but he failed in establishing the point & was declared by the High Court not to contravene the procedure laid down in the Code.

27.1.67

W D —

Judicial Department.

(14)

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letters

From the Magistrate of Salem (Here enter 15th Janry: 67 — No 2.)

— " — " — No 3.)

Order thereon. 30 Jan: 1867 No 178.

The Governor in Council considers that the Magistrate of Salem was not justified in submitting to Government the appeal contained in the second first of the letters above recorded against the proceedings of the Sessions Judge.

Mr Arbuthnott must have been aware that the Government have no appellate authority over the Sessions Judge, nor power to review his proceedings.

2. The Government cannot

Comby

comply with the recommend.
Ezon that the suit referred
to in the Magistrate's record
letter should be defended
at the public cost.

To The Magistrate of Salem &c

Judicial 1867. Department.

No. 170

PROCEEDINGS OF GOVERNMENT.

Dated. 30th January 1867.

Considering that the Magistrate of Salem was not justifiable in submitting to Govt the appeal against the Sessions Judge in certain cases of bribery & extortion preferred against ... Nagaraja Pillai late Tahsildar of the Attoor Taluq in the Salem District.

321 & 39