

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1810	Press
		~~Mis.~~
Dated	12-11-1967	

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19/4

Not to be folded or roughly handled

No. 132. Read the following letter from the Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, Fort Saint George; dated Madras, 5th March 1867, No. 19.

I am directed by the Acting Chief Justice and the Judges of the High Court to acknowledge the receipt of your letter of the 1st of September last, No. 1369, requesting their opinion as to the best means of exercising an effective control over the proceedings of the Subordinate Magistracy.

2. The subject has engaged the attention of the Judges on several occasions, in connection with capital cases, and cases which have come before them on appeal; but they considered it a matter of administration with which it was hardly within their province to deal. Besides, the control of the Subordinate Magistrates must necessarily rest with the Magistrates of Districts and Divisions of Districts, and to secure the efficient discharge of the duty, the Superior Magistrates must, in their turn, be supervised by the administrative authority to which they look for reward or punishment.

3. The High Court have reason to believe that in many Districts the Superior Magistracy have virtually abandoned this most important branch of their duties, leaving it to the Session Court to discover and check the irregularities of their Subordinates. But the utmost that can be expected of the Session Judges is that they should communicate to the Superior Magistrate any remarks which the conduct of a preliminary inquiry by a Subordinate Magistrate in his Division may seem to require. It must be for the Magistrate to decide what notice is to be taken of those remarks.

4. It seems to be thought by many Magistrates that, because the Code of Criminal Procedure does not lay down rules regarding the supervision of Subordinate Magistrates, the Superior Magistrates are not authorized, and certainly not bound, to supervise them. This is, of course, a great mistake. The reason why this subject is not dealt with in the Code is that it is purely a matter of administration, and the Code is properly limited to judicial procedure.

5. To secure the supervision of the Subordinate Magistracy, the Judges recommend that rules to the following effect be passed by Government:—

In all cases of a heinous nature, such as murder, dacoity, and heavy cases of robbery or burglary, the Subordinate Magistrate should be required to send a brief report of the facts, immediately they come to his knowledge, to the Magistrate in charge of the Division. The latter may then, if he sees sufficient ground, determine to make the preliminary inquiry himself; otherwise, if the case is one of importance, he should certainly require the Subordinate Magistrate to furnish reports from time to time of the progress of the investigation. The Police should also be required to report such cases to the Division Magistrate, as well as to the Subordinate Magistrate, immediately upon their occurrence.

In all cases brought before the Subordinate Magistrates with a view to commitment to the Session Court, intimation should be given to the Superior Magistrates of the commencement of the inquiry. If the accused is discharged, the Subordinate Magistrate should send the whole record to his superior. If the accused is committed, a copy of all the papers sent to the Session Court should be furnished to the Superior Magistrate. The preparation of these copies should be commenced directly it is determined to commit the case, and should not be allowed as an excuse for needless delay. The careful scrutiny of all these records should be made an essential part of

the Division Magistrate's duty. After perusal, he should return them to the Subordinate Magistrate, pointing out any errors or defects and adding any remarks that may seem to be called for.

6. By the above means the Division Magistrate will be made acquainted with every serious offence within his Division, and the progress of the inquiry regarding it. He would then be, as in reason he should be, responsible for the conduct of his Subordinate Magistrates. Ordinary vigilance on his part would preclude the possibility of such irregularities, now so common, as the grant of remands without the Subordinate Magistrates having seen the prisoner or heard any evidence, or the postponement of the examination of witnesses until a month or six weeks after their first appearance. He may also do much to check the mischievous practice of writing depositions to pattern. In many cases, the depositions are constructed according to a theory as to the circumstances of the offence, deduced by the Subordinate Magistrate, or his Goemastah, from a conversation held with the different persons produced. Depositions formed upon this plan may generally be detected without difficulty, and the only remedy is the persistent hunting down of the practice by the Superior Magistracy.

7. It is obvious, however, that the success of these measures will depend entirely upon the amount of care and energy which may be given to the subject by the Superior Magistrates. The question, therefore, arises, how the Government are to assure themselves that the full power Magistrates are doing their duty in this respect. As before observed, in the opinion of the High Court, the supervision of the Superior Magistracy in this respect, to be at all effective, must be exercised by the authority vested with the power of rewarding and punishing them. In England, the duty devolves upon the Home Department of the Executive, and unless the Government here are willing to undertake it (the High Court still continuing, if Government wish it, to do what they have hitherto done) no material improvement can be expected.

8. The Judges suggest that a half-yearly report should be submitted to Government, by each District or Division Magistrate, of all serious cases of a particular description, such as murder, dacoity, &c., with remarks upon the manner in which they were investigated, and the success, or otherwise, which attended their investigation. A report might also be required once a year on the general efficiency, or otherwise, of each Subordinate Magistrate.

9. It is also of the utmost importance that the Superior Magistrates themselves should be made to perform a fair amount of Magisterial work. There are some Magistrates of Districts who at present perform scarcely any such work. Any observation which the High Court make upon this point is generally met by a reference to the revenue business in which the particular Officer has been engaged. The Judges may have a very strong opinion upon the matter, but they are not in a position to disallow the excuse. The Government, however, will know at once whether the pressure of revenue business is, or is not, a mere pretence in any particular case, and it is probable that the excuse will not be offered to them so often as it is to the High Court. The Superior Magistrates might be required to submit to Government periodical returns of their work; and this should distinctly show (in addition to the number of trials held by the Magistrate) the number of committable

cases arising in each Division, the number investigated by the Division Magistrate, and the number in which he personally supervised his Subordinate Magistrates.

10. Again, nothing is a greater check upon the Police and Subordinate Magistracy than the knowledge that a Superior Magistrate may walk into the office any morning and insist upon hearing and knowing everything about some preliminary inquiry said to be in progress. The Judges are of opinion that every Magistrate with full powers should occasionally pay such personal visits to his Subordinate Magistrates' offices, not to take the case out of the Subordinate Magistrates' hands, but to satisfy himself, and give the benefit of his advice. The dates and result of such visits might be shown in the annual report as to the Subordinate Magistrates' efficiency. Of course, in the great majority of cases, these returns will require no particular notice. The object in view will be gained by the necessity of having to make the return, and the knowledge that it is recorded in the Government Office. But it is eminently desirable that the Magistracy should know that the opinion which the Government may form of each Magistrate's energy and efficiency will influence them in the exercise of their patronage.

11. The High Court understand that Government have repeatedly desired that the Junior Assistants should attend the Sessions, but they believe that the order is practically disregarded. The Judges recommend that it be enforced.

No. 133. ORDER THEREON, 12th November 1867, No. 1810.

The foregoing letter contains the reply of the Honorable the Judges of the High Court to a reference made to them by Government as to the best mode of providing for the exercise of an effective control over the proceedings of the Subordinate Magistracy.

2. The Judges express their belief that, in many Districts, the Superior Officers of the Magistracy have virtually abandoned this most important branch of their duties, leaving it to the Session Court to discover and check the irregularities of the Subordinate Magistrates, and that it is erroneously considered by many Magistrates that, because the Code of Criminal Procedure does not lay down rules regarding the supervision of Subordinate Magistrates, the Superior Magistrates are not authorized, and certainly not bound, to supervise them.

3. In order to secure due supervision of the Subordinate Magistracy, the Honorable the Judges recommend that rules to the effect suggested by them be passed by Government. The Governor in Council approves generally of the rules, and directs that they be modified as follows, and brought into force from the date on which these orders may be received by the several Magistrates of the Districts.

RULES.

I. That in all cases of a heinous nature, as murder, dacoity, and heavy cases of robbery or burglary, the Subordinate Magistrate shall send a brief report of the facts, immediately they come to his knowledge, to the Magistrate in charge of the Division.

II. That the Magistrate of the Division, if he see sufficient ground for doing so, shall then proceed to make the preliminary inquiry himself, or shall require the Subordinate Magistrate to furnish reports from time to time of the progress made in the investigation.

Magistrate of
Inspector General of Police.

NOTE.—The number of complainants, witnesses, and persons examined by each Magistrate should be appended as a footnote to this Return.

Exd, J. H. Burns.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from
the Registrar of the High Court. Madras.
Dated 5 March 1867. No 19.

9-10
1-9-66

152-SS
13-10-66

152 SP
19-12-66

Order thereon per 1867 per 1866

The foregoing letter
contains the reply of the
Honble the Judges of the
High Court to a reference
made to them by Govt.
as to the best mode of
providing for the exercise
of an effective control
over the proceedings of the
Subordinate Magistrate.

2. The Judges express
their belief that in many
districts the superior
officers of the magistracy
have virtually abandoned
this most important

branch

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branch of their duties,
leaving it to the Session
Court to discover and
check the irregularities
of the Subordinate Magis-
trates, and that it is
erroneously considered
by many Magistrates
that because the Code
of Criminal Procedure
does not lay down rules
regarding the supervision
of Subordinate Magistrates,
the Superior Magistrates
are not authorized and
certainly not bound to
superintend them.

3. ~~The Judge suggests~~
that in order to secure
due supervision of the

Subordinate Magistrates,
the following ~~provisions~~ ^{recommendations}
should be adopted by them
and passed by Government.

I. That in all cases of a
heinous nature, as murder
robbery and heavy crimes

Governor in Council of Punjab
generally of the rules and orders
that they be made binding on
Magistrates, and bring all into force from
the date on which they are
received by the
Magistrates.

of robbery or burglary, the
Subordinate Magistrate
shall send a brief report
of the facts immediately
they come to his knowledge
to the Magistrate in charge
of the Division.

II That the Magistrate
of the Division, if he see
sufficient ground for doing
so, shall then proceed
to make the preliminary
enquiry himself, or shall
require the Subordinate
Magistrate to furnish
reports from time to time
of the progress made in
the investigation.

III That the Police shall
immediately report all
cases of the nature specified
in Clause I of these Rules
to the Division Magistrate
as well as to the Subordinate
Magistrates.

IV That notice of com-
mencement of enquiry
of

of all cases brought before the Subordinate Magistrate with a view to commitment to the Sesson Court shall be given to the Superior Magistrate.

V. That the whole record of cases in which the accused is acquitted shall be submitted by the Subordinate Magistrate to the Division Magistrate, but if the accused be committed copy of all the papers submitted to the Sesson Court shall be immediately furnished to the Superior Magistrate.

VI. That the Division Magistrates shall exercise a careful scrutiny of the record of every case, and on returning them to the Subordinate Magistrates point out any errors or defects, and add any remarks that may seem

Should state here - A copy of the case comes under the Division Magistrate's eye. The Sesson Judge sees the papers. If all be moved sent to the Collector.

submitted to him

seem to be called for. VII. That every Magistrate with full powers shall occasionally visit the office of each ^{of the} Subordinate Magistrates in his division for the purpose of observing and noting the manner in which the latter conducts his duties.

Magistrate in charge of Division

through the Magistrate of the District
yearly

VIII. That ^{each} the Division and District Magistrate shall submit to Government half yearly a report of all serious cases of murders, ^{within their respective jurisdictions} dacoity, &c. with their remarks on the manner in which they were investigated, and the success or otherwise which attended the investigation, ^{after}

at the same time

Every word being taken so that the Magistrate may be able to refer to the facts of the case with regard to the manner in which it was investigated, and the success or otherwise which attended the investigation.

^{each} That the Division and District Magistrate shall submit annually at the close of each year a report on the general efficiency or otherwise of each Subordinate Magistrate ^{within his jurisdiction} in his jurisdiction.

IX That the District
Magistrate shall submit
to Gov. annually Returns
showing the number of
trials held by ~~himself~~^{himself}
the number of cases committed
in each Division, the
number investigated by the
Division Magistrate, and
the number in which the
District Magistrate or an Division
Magistrate personally
superintends the Sub Magistrate.

X The Governor in Council
approves of the foregoing Rules
and directs that they be
carried into effect from the
date on which these Rules
may be received by the
several Magistrates of Districts.

The ~~half-yearly~~^{annual} report re-
quired by Rules 8 & 9, will be
submitted to Government
~~in January and July, and~~
~~the annual report and~~
~~return required by Rule 10~~

7
~~and~~ in January each year.
The annual Return re-
quired by Rule 9 will be
prepared in the form
annexed to these Regulations.
All the reports and
returns now called for
with or without return
by or through the Magistrate
of the District.

by R.

C28 Oct C607
R30 "
C30 "

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Dated

PROCEEDINGS OF GOVERNMENT.

No.

186 . Department.

Return showing the number of cases tried by the Magistrates in the District of during the year.

Name of Division	Number of Cases				In which the Magistrate presided the Sub-Magistrate
	Tried by the District Magistrate	By the Division Sub-Magistrate	By the Division Magistrate	Tried by the Division Magistrate	
<i>Handwritten notes in first column:</i> I much prefer to show the facts of each case as they are, and not as they are presented by the police. I have no objection to the police presenting the facts as they see them, but I prefer to see them as they are. I have no objection to the police presenting the facts as they see them, but I prefer to see them as they are.	Tried by the District Magistrate	By the Division Sub-Magistrate	By the Division Magistrate	Tried by the Division Magistrate	In which the Magistrate presided the Sub-Magistrate
<i>Handwritten notes in second column:</i> I much prefer to show the facts of each case as they are, and not as they are presented by the police. I have no objection to the police presenting the facts as they see them, but I prefer to see them as they are. I have no objection to the police presenting the facts as they see them, but I prefer to see them as they are.	Tried by the District Magistrate	By the Division Sub-Magistrate	By the Division Magistrate	Tried by the Division Magistrate	In which the Magistrate presided the Sub-Magistrate

Remar No.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the
Registrar of the High Courts, Madras.

Dated 5 March 1867 No. 19.

Order thereon 12 Nov. 1867 No. 1870.

The foregoing letter contains the reply of the Honble the Judges of the High Court to a reference made to them by Government as to the best mode of providing for the exercise of an effective control over the proceedings of the Subordinate Magistracy.

2. The Judges express their belief that in many Districts the Superior Officers of the Magistracy have virtually abandoned this most important branch of their duties, leaving it to the Session.

W.D.N.
P. L. R.

Superior Court to discover and check the irregularities of the Subordinate Magistrates, and that it is erroneously considered by many Magistrates that, because the Code of Criminal Procedure does not lay down rules regarding the supervision of Subordinate Magistrates, the Superior Magistrates are not authorized and certainly not bound to supervise them.

3. In order to secure due supervision of the Subordinate Magistracy, the Honourable the Judges recommend that rules to the effect suggested by them be passed by Government. The Governor in Council approves generally of the rules, and directs that they be modified as follows
and

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and brought into force from the date on which these orders may be received by the several Magistrates of the Districts.

Rules.

I That in all cases of a heinous nature, a murder, dacoity, and heavy cases of robbery or burglary, the Subordinate Magistrate shall send a brief report of the facts immediately they come to his knowledge, to the Magistrate in charge of the Division.

II That the Magistrate of the Division, if he see sufficient ground for doing so, shall then proceed to make the preliminary inquiry himself, or shall require the Subordinate Magistrate to furnish reports from time to time
of

of the progress made in the investigation.

III. That the Police shall immediately report all cases of the nature specified in Clause I of these Rules to the Division Magistrate as well as to the Subordinate Magistrate.

IV. That notice of commencement of inquiry of all cases brought before the Subordinate Magistrate with a view to committal to the Session Court shall be given to the Superior Magistrate.

V. That the whole record of cases in which the accused is ~~acquitted~~ ^{acquitted} shall be submitted by the Subordinate Magistrate to the Division Magistrate.

VI. That the Magistrate of each Division shall exercise a careful scrutiny

of

? Court

for by R.

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of the record of every case submitted to him, and on returning them^{to} to the Subordinate Magistrate, point out any errors or defects, and add any remarks that may seem to be called for.

VII. That every Magistrate with full powers shall occasionally visit the ^{Civil} Office of each of the Subordinate Magistrates in his Division for the purpose of observing and noting the manner in which the latter conduct his duties.

VIII. That each Magistrate in charge of a Division shall submit, through the Magistrate of the District, to Government, yearly, a report of all serious cases of murder, dacoity, &c., within his jurisdiction, with his remarks on the

the manner in which they were investigated, and the success or otherwise which attended the investigation, at the same time reporting on the general efficiency or otherwise of each Subordinate Magistrate within his jurisdiction.

IX That each District Magistrate shall submit to Government annually Returns showing the number of trials held by himself, the number of cases committed in each Division, the number investigated by the Division Magistrates, and the number in which the District Magistrate or the Division Magistrates personally supervised the proceedings of the Sub Magistrates.

4. The annual report and

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and return required by rules 8 and 9 will be submitted to Government in January each year. The annual return required by rule 9 will be prepared in the form annexed to these Proceedings. All the reports and returns now called for will be submitted either by or through the Magistrate of the District.

WJ

To the Magistrate of all Districts
Inspector General of Police
Brisbane
18/11

22.7.26 ✓

132/69-224-225-27-37-362-367-392
625770-
2447/11.
Dated 12.12.1909

PROCEEDINGS OF GOVERNMENT.

No. 1810

Dec 9-1867. Department.

Return showing the number of cases tried by the Magistrate in the District of during the year.

Name of Division	Number of cases.				Remarks
	Tried by the Magistrate.	By the District Magistrate	By the Division Magistrate	By the District Magistrate	
8					In which the Magistrate usually appears and is in state.

Note. The number of complainants, witnesses and persons examined by each Magistrate should be appended as a foot-note to this Return.

W. J. 3