

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1923	Press
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Dated	26. 11.	1923

32-321

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
26th November 1867.

No. 320. Read the following letter from W. D. HORSLEY, Esq., Acting Civil Judge of Cuddapah, to the Chief Secretary to Government, Fort Saint George; dated Cuddapah, 12th November 1867, No. 341.

I have the honor to enclose the copy of an Urzee addressed to me by a District Moonsiff in this Zillah, requesting that a suit filed in the Principal Sudder Ameen's Court against him, as Acting District Moonsiff of Cuddapah, may be defended by the Government.

2. Enclosed are copies and translations of the plaint and answer filed in the suit; and I recommend that, under the provisions of Section 70, Act VIII of 1859, Government undertake the defence of the suit.

3. I am unable at present to offer any opinion on the merits of the suit, as it may possibly come before me on appeal.

No. 93.

To
W. D. HORSLEY, Esq.,
Acting Civil and Session Judge, Cuddapah.

The respectful Urzee of P. SAMY IYER, District Moonsiff of Cadiri.

HONORED SIR,

I hope your Honor might recollect that, while I was officiating as the District Moonsiff of Cuddapah, I had informed your Honor that I committed a rich man, named Fakeer Sahib, to the Magistrate for contempt of Court, under the latter part of Section 21 of the Civil Code Amendment Act. Fortunately for that man, not rightly, he was released by the Magistrate. Fakeer Sahib instituted a suit against me for more than Rupees 9000 in Original Suit No. 36 of 1867 before the Principal Sudder Ameen, alleging that he sustained personal damage by the said commitment. The institution of this suit is prohibited by Section 1, Act XVIII of 1850, and Section 1, Act VIII of 1859. I, however, beg to assure your Honor that the circumstances of the case compelled me to order the said commitment for the faithful and efficient discharge of my duties as a Judge, and for the maintenance of the honor due to a Judicial Bench according to Law; and that, even then, I treated Fakeer Sahib with respect, by allowing him to sit in the bar with my Vakeels, whenever he appeared before me in open Court. If every suitor or witness were to threaten a Judge with one suit at least for each of his hundreds of proceedings, and one Civil Court were to entertain such suits against another Civil Court, with what moral courage and honest pride can a Judge perform his duties, and where is the end to the inundation of suits? Therefore, I request your Honor shall be pleased to recommend to the Government that this groundless and litigious suit be defended by the Government, under Sections 69 and 70 of the Civil Code.

2. While I was coming from Cuddapah to Cadiri in the last month, then the Principal Sudder Ameen's Court was re-opened, but your Honor's Court still under adjournment; wherefore, I thought it advisable to avoid being tried *ex parte*, by filing a reply to the said suit, stating the above-mentioned objections, and left the reply in the hand of Pleader Veerasawmy Iyer, hoping that your Honor will recommend to the Government about this case on my making this application from this station. Pleader Veerasawmy Iyer wants me to furnish him with copies of certain papers in the suit which I tried, and in which Fakeer Sahib was committed to the Magistrate. If I were myself to be defending the suit of Fakeer Sahib against me, your Honor knows that it might be an impediment to my public time; wherefore, I request your Honor will be pleased to order that Pleader Veerasawmy Iyer be assisted by Peer Sahib one of the Goomastahs of the Cuddapah Moonsiff's Court, who is well acquainted with all the facts of the case, and who is able to answer all material questions relating to the said case, and that Veerasawmy Iyer may be furnished with copies of all necessary papers. As soon as I get the said copies through the Vakeel, then I will prepare a state-

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26th November 1867.*

ment of reference to your Honor, to be forwarded to the Government under Section 69 of the Civil Code.

30th July 1867.

I beg to remain &c.
(Signed) P. SAMY,
District Moonsiff.

Order.

Before I can give any opinion as to Government taking up this case, I must see a copy of the plaint. Tell the Moonsiff of Cuddapah to place the services of Peer Saib at the disposal of Veerasawmy Iyer during the hearing and examination of the parties.

2nd August 1867.

(Signed) W. D. HORSLEY,
Ag. Civil Judge.

To

THE COURT OF THE PRINCIPAL SUDDER AMEEN,

IN THE ZILLAH OF CUDDAPAH.

Plaintiff.

Sahukar Fakeer Sahib, of the Town
of Cuddapah.

Defendant.

Samy Iyagaru, Acting District
Moonsiff of Cuddapah.

Bill of complaint put in on behalf of the plaintiff under Section 26 of the Civil Code.

The defendant having included this plaintiff as a defendant in Suit No. 36 of 1867 on the file of the Cuddapah Moonsiff, and directed him to produce a document on the 2nd and 4th of this month, he (plaintiff) took the said document on those dates, and, finding that no Court was held, instituted a suit on the document in question in the Principal Sudder Ameen's Court, in order to have his right established.

2. While there was no fault whatever on plaintiff's part regarding the non-production of the document as per order, the defendant, with intent to disgrace him (plaintiff) through the instigation of Cunniappah Moodelly, the plaintiff in the said Suit No. 36, fined him in Rupees 250, and issued certain illegal orders to attach his conveyances.

3. The record of the said Suit No. 36 shows that the defendant positively took upon himself to disgrace the plaintiff through partiality.

4. Independently of this proceeding, the defendant committed the innocent plaintiff to the Assistant Magistrate, in view to his being punished under Sections 174, 175, 179 and 180 of the Penal Code. During the investigation of that case by him (Assistant Magistrate), the defendant wrote to the Assistant Magistrate to say that he (Magistrate) will positively punish the plaintiff. This circumstance shows the enmity the defendant has against the plaintiff. Conscious of that circumstance, the said Magistrate adverted to it in his sentence, and, considering the plaintiff innocent, released him on the 18th instant.

5. The defendant not only assumed an undue authority in respect of the plaintiff, but also, through grudge, committed him, after using disgraceful language towards him, who is a very respectable man; consequently, this suit is brought by plaintiff for damages on account of defamation of character, for loss in indigo trade between 1st and 18th February, and for costs incurred during that period.

The defendant being a District Moonsiff, and the plaintiff a Sahukar worth two lakhs of Rupees, and a respectable man, the amount of loss which plaintiff is entitled to receive, and which the defendant is able to pay, is Rupees.....	6,000	0	0
Amount of loss of profit in the indigo trade during this period, which was the season for carrying on extensive trade.....	2,500	0	0
Amount of Vakeel's fee and other expenses incurred by plaintiff in this case, in which he was committed without any ground.....	1,000	0	0
Total Rupees...	9,500	0	0

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6. I request that, after trial of the suit, the amount sued for, as well as the costs, may be recovered from the defendant and paid (to the plaintiff).

19th February 1867.

(Signed) B. TATCHARLU,
Pleader.

I, the plaintiff, Fakeer Sahib, do declare that what is stated above is true to the best of my belief and information.

(Signed) FAKEER SAHIB.

Filed in Court this 19th February 1867.

(Signed) S. MARCAR,
Principal Sudder Ameen.

To

THE COURT OF THE PRINCIPAL SUDDER AMEEN,

IN THE ZILLAH OF CUDDAPAH.

Statement respectfully presented by Poodocottah Samy Iyer, Acting District Moonsiff of Cuddapah, and defendant in Original Suit, No. 16 of 1867.

The plaintiff in this suit, Fakeer Sahib, being a party to a suit before me, and which was properly cognizable by me, I examined him as a witness in due course. Although he was bound by Law to produce before me a document in that suit, yet, as he omitted to do so, and showed great disrespect to my Court, I thought that the fine which I could by Law impose upon him was insufficient, and committed him to the Magistrate, under Section 21 of Act XXIII, with a recommendation that he may be imprisoned, but, owing to his good fortune, he was released there, and yet, according to law, he had no ground whatever to bring this suit or any such suit against me as a Judge. This suit is liable to dismissal under Act XVIII of 1850, and Section 1 of Act VIII of 1859.

2. On every occasion of this plaintiff's attendance before me in Court, I caused him to sit on the bench occupied by Vakeels, treated him with respect, and gave him good advice for his welfare, but I never disgraced him in any manner.

17th June 1867.

(Signed) P. SAMY,
Acting District Moonsiff.
(Signed) K. VEERASAWMY,
Pleader.

I declare that what is stated in this is true.

17th June 1867.

(Signed) P. SAMY,
Ag. District Moonsiff of Cuddapah.

Filed in Court this 29th June 1867.

(Signed) S. MARCAR,
Principal Sudder Ameen.

No. 321.

ORDER THEREON, 26th November 1867, No. 1923.

The Honorable the Governor in Council grants authority for the defence, in the first instance at the public expense, of Original Suit No. 16 of 1867, instituted in the Principal Sudder Ameen's Court of Cuddapah, against the Acting District Moonsiff of Cuddapah Poodocottah Samy Iyer, but will determine, when copies of the Decree and Judgment are furnished, whether the costs, if any be adjudged against the Acting District Moonsiff, shall be borne by that Officer or by the Government.

(True Extract).

To the Acting Civil Judge of Cuddapah.
Exd. J. H. Burns.

Chief Secretary.

[illegible]

Signed: J. Nathan
Princl. Sec. Amine

[illegible]

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17-6-67

(Signed) P. Lamy

Ag. Dist. Munsif, Chudachan

(Signed) Veerachandrar

Pleader for Deft.

Filed in Court this 29th June 1867

(Signed) S. Narayan

Prin. Secy. Secy.

(True Copy)

Compared

B. M.

W. M. M.

Ag. Civil Judge

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from *The Acting Civil Judge of Chudachan.*

(Here enter No. of the letter 1867 No. 141.)

ORDER thereon, 26 November 1867, No. 1923.

The Honorable the Governor in Council grants authority for the defence, in the first instance at the public expense, of O. S. No. 16 of 1867, instituted in the *Prin. Secy. Secy.* Court of *Chudachan* against the *Prin. Secy. Secy.* *Prin. Secy. Secy.* but will determine, when a copy of the Decree is furnished, whether the costs, if any be adjudged against the *Prin. Secy. Secy.* shall be borne by that Officer or by the Government.

To

The Acting Civil Judge
of Chudachan. *2/12*

Ind. O. 1867 Sept 4.

No. 1923

Pres. Madison

Ind. O. 26 Nov 67

Ind. O. 1972/69

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