

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	2074	Press ~~Mis.~~
Dated	17-12-1918	

Not to be folded or roughly handled

5-11-20

*Proceedings of the Madras Government, Judicial Department,
17th December 1867.*

No. 206. Read the following letter from the Inspector General of Police, to the Chief Secretary to Government, Fort Saint George ; dated Madras 20th November 1867, No. 2120.

Referring to G. O., No. 1357, dated 21st August 1867, I beg to submit a Circular by the Magistrate of South Arcot, which I venture to believe goes far beyond the intentions of Government.

2. "Mr. Reade practically prohibits Sub-Magistrates from attending inquests at the instance of the Police: they are not to go to the scene of a crime "unless satisfied—of what does not appear—by the preliminary inquiry and report of the Police Officers." Of course, every Magistrate will screen himself under this order; and if he at length do proceed to the spot, it necessarily follows that he cannot see the corpse in a condition to form a sound judgment of the circumstances of death, because it is rarely possible that the preliminary inquiry of the Police, under Chapter IX of the Code of Criminal Procedure, can be closed before decomposition has far advanced. Mr. Reade seems to have lost sight of the fact that his Heads of Villages are the authorities required to hold inquest and inquiry, under Section 161, Code of Criminal Procedure.

3. The Police procedure hitherto has been strictly guided by the law, and ruling of the Sudder Court dated 20th June 1861. When a charge, or information of an offence specified in column 3 of the Schedule annexed to the Procedure Code, including, of course, murder, or other offence against the person involving death, is preferred, or suspected to have been committed, the Police give immediate information to the Magistrate, under Section 135, Code of Criminal Procedure, and, also, in accordance with Section 161, Code of Criminal Procedure, to enable him, as suggested by the law, to proceed, or depute a Magisterial Officer, to the spot. Circular No. 14 of the Sudder Court, dated 20th June 1861, lays down that "the inauguration of the new Police has not divested them (Magistrates and Sub-Magistrates) of a single duty previously incumbent on them", and requires the Magistrate to repair to the spot and investigate the case, for reasons very forcibly and earnestly put by the Judge of Tellicherry, now the Honorable Mr. Justice Holloway. These sentiments have ever since guided Police Officers, and the wholesome practice which prevailed amongst Magistrates up to that time has continued without cavil in most districts.

4. The above ruling was passed before the Code of Criminal Procedure (dated 5th September 1861) came into operation; but I fail to see wherein the Procedure Code in any way alters the law, or sanctions a change in the sound practice under the old law, as respects Magistrates. It distinctly reserves the former duties of the Heads of Villages (Section 161) as quasi coroners in this Presidency, and these, as the Government are aware, are Magisterial Subordinates.

5. It becomes a very important consideration, with the frequently biassed and ignorant class of men who hold these appointments, that they should, if possible, retain the guidance which the old practice provided in the presence of the Sub-Magistrate at the inquest and preliminary investigation on the spot in murder cases.

6. Police Officers—who are always present at every inquest and make local inquiry into the causes of death—have, therefore, been instructed, in the spirit of the

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ruling above alluded to, to use their best endeavours to secure the presence of a Magistrate on the spot in cases of murder, or other violent crime by which human life has been destroyed; and failure on their part to do so has been considered a serious dereliction of duty, and been severely noticed. I should be afraid to reverse this wholesome practice, unless distinctly ordered to do so.

7. I, therefore, trust that the Government will see fit to cancel Mr. Reade's order, and require Sub-Magistrates, as a rule, to attend preliminary investigations whenever murder, or other violent offence involving death, is believed to have been committed.

8. The Government may be assured that the Police do not unnecessarily harass Magistrates in this respect. The G. O., No. 147, dated 23rd January 1867, invited the fullest discussion of the demerits of the Police in this respect; and, in the whole Presidency, Mr. Hathaway is the only Officer found to complain on this point. I have had the return of his Taluq examined from the 10th January to 20th October. There occurred 75 cases in which inquiry into unnatural deaths were held by Heads of Villages and the Police on the spot; in four cases only did the Police seek the personal attendance of a Magistrate. The fact is, experienced and thoughtful Magistrates know too well the safety and value of the present practice in these important cases to find fault with even a little occasional over-anxiety on the part of the Police for the presence of a Magistrate on the spot.

9. I venture to submit a copy of an order by the Magistrate of Coimbatore, which I think meets the case.

CIRCULAR TO ALL SUBORDINATE MAGISTRATES.

The Subordinate Magistracy throughout the district are hereby enjoined to exercise greater caution and judgment in granting remands at the instance of Police Officers, and, further, they are reminded that, by Section 161 of the Criminal Procedure Code, it is the imperative duty of the nearest Station Officer to make inquiry and report in all cases of sudden deaths, and that, ordinarily, the Magistracy have nothing to do with attendance on inquests, save in exceptional or suspicious cases, which must first be inquired into, and all particulars reported by the Station Officer.

The duties of the Police in this matter as prescribed by law are not to be performed by the Subordinate Magistracy, who, unless satisfied by the preliminary inquiry and report of the Police Officers, will, on no account, hereafter, give attention to requisitions for attendance at inquests by the Police.

(Signed) C. W. READE,
Magistrate.

14. CIRCULAR.

Proceedings of the Sudder Court, 20th June 1861.

Read the Calendar of Cases Nos. 17 and 18 of 1861, on the file of the Session Court of Tellicherry.

The Sudder Court direct that paragraph 16 of the remarks of the Acting Session Judge of Tellicherry be circulated for the information of the several Village Officers.

Para. 16. I trust that the Magistrate will make both Taluq Magistrates, Sub-Magistrates, and Adigherries distinctly understand that the inauguration of the New Police has not divested them of a single duty previously incumbent upon them; that they are, as soon as practicable, to repair to the scene of the crime, and investigate and report without delay the first statement made in crimination of any person whatever. With a people so truthless and so unscrupulous, the Courts

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will find the task of administering justice even a more terrible responsibility than it now is, if they are to be deprived of this important test of the credibility of a witness' statement.

(True Extract).

(Signed) THOMAS WILKINS,
Acting Deputy Registrar.

NOTICE.

The attention of a Sub-Magistrates is directed to the following Extract of an Order of Government, dated 21st August 1867, No. 1357. They will recollect that, in the case of inquests, they must use their discretion as to the necessity or otherwise for their personal attendance. Section 161, Criminal Procedure Code, does not render their presence requisite on such occasions; but it is obvious that, if, from the written report of a Constable, or from other circumstances that may have been brought to their notice, there is reason to believe that the death of the deceased was accompanied by suspicious circumstances, they should then attend.

COIMBATORE MAGISTRATE'S OFFICE,
6th September 1867.

(Signed) P. GRANT,
Magistrate.

No. 207. ORDER THEREON, 17th December 1867, No. 2074.

The attention of the Government has been directed to Circulars addressed by the Magistrates of Districts to the Subordinate Magistracy, on the subject of their attendance at inquests upon summons from the Police.

2. It would appear that the intention of paragraph 4 of the G. O., dated 21st August 1867, No. 1357, has been partially misunderstood by some Magistrates. It was not by this Order intended to relieve the Magistracy from the responsibility of attendance on inquests when, from the written report of a Constable, or from other circumstances that may have been brought to their notice, there is reason to believe that death was accompanied by suspicious circumstances; nor was it contemplated that there should be any relaxation of the duties imposed by Section 161 of the Code of Criminal Procedure on Heads of Villages on the occurrence of unnatural or sudden deaths.

(Signed) R. S. ELLIS,
Chief Secretary.

Therefore order

Mr. C. Reade has written
an memo-circular about
the question of inspection
& the attendance of Sub-Mar.

Mr. Grant has perfectly
understood and expressed
the order of Govt. It may
be as well to send
these circular & orders
to Major, condemning
the one and approving
the other.

Bill

I must pass on

26270
21-8-67
266-7
21-8-67

enter on the August
Journal after discussing
the adoption of a course
similar to that enjoined
in the French Circular,
but I would not specially
refer to that paper or
place it in competition
with the French -

4. N. W. 1/4

[illegible]

Judicial Department. 5

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the
Inspector General of Police

G.P.O. No. 120

Order thereon. 17 Dec. 1867. N. 2074.

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145-1850

To the Inspector of Police
— Master of all Districts } a

20/12

Ad. 1867. Department.

No. 2074

PROCEEDINGS OF GOVERNMENT.

Dated 17 December 1867.

206.207.