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M.R. O. 1-82,000-16-10-93.

MADRAS RECORD OFFICE.

Government of Madras.

Food
Division DEPARTMENT.

G.O. No. 36	<u>Press</u> <u>Mis.</u>
Dated 7-1-	1956/7.

6/7
Not to be folded or roughly handled

No. 694

Madras 15th December 1866.

From H. J. Brockman, Acting Government Solicitor, Madras

To The Honorable A. J. Arbutnot, Chief Secretary to Government
Madras

Sir,

- Dated 22nd Nov^r 1866. No. 1852. }
Jud. Dept^l. }
1. I have the honor to acknowledge the Proceedings of Government noted in the margin, requesting the Advocate General's opinion, as to whether a Village Inamiff, aware of the Commission of an offence punishable under any of the sections of the Indian Penal Code enumerated in section 138 of the Criminal Procedure Code, and omitting to give information of the same to the Police, is punishable under section 202 of the Indian Penal Code.
2. I have submitted the matter, for the Consideration of the Acting Advocate General, and
3. I now forward a copy of his opinion.

I have the honor to be,

Sir,

Your most obedient servant,

H. J. Brockman

Acting Govt. Secy.

Opinion

1. I think that the Head of the Village is under a special obligation, by virtue of his office, to report to the Police the Commission of all crimes perpetrated in his District. This seems to be a matter of mere Common sense, and is in accordance with the spirit of the unrepealed Sections 8 & 9 of Reg. XI of 1816.
2. But, in the present instance, and quite independently of his official position, the Village Inmoiff was bound, just as any private individual would have been bound, to give information of an offence punishable under S. 457 of the Indian Penal Code, that being one of the sections enumerated in S. 138 of the Cr. Pro. Code, and therefore was indictable for breach of that legal obligation. The point has been formally so decided by the High Court of Bengal on the 7th Aug. 1865 (5 Rev. Just. & Police Journal 100) the Magistrate seems to argue that he is not indictable at all, because others, who violated the same obligation, would have been equally indictable. The reasoning of the Superintendent of Police (para 4 of the Case) is more satisfactory. All have committed an offence, but the offence of the Village Magistrate is the gravest.
3. Of course, it would be open to the Village Inmoiff to show, under the terms of Cr. Pro. C. S. 138, that he had no "reason to believe, that, if the information were withheld, the person, who committed the offence, would

*Received from Mr. ...
22nd Aug.*

*Mr. S. B. ...
The Chief Mag. is ...
has no ...*

*See ...
The Acting ...
S. B. ...*

*Dated 15th ...
Dec. 173 ...*

No. 2742. ...

*Forwarded Copy acting as ...
General's opinion, as to whether a ...
Village Inmoiff, aware of the ...
Commission of an offence punishable ...
under any of the sections of the I. P. ...
Code enumerated in sec. 138 of ...
the Crim. Pro. Code, and omitting ...
to give information of the same to the ...
Police, is punishable under section 138 ...
of the Indian Penal Code.*

not be brought to justice, or would have his escape facilitated."

/signed/ John W. Mayne

Ag. Adv. Gen.

Dec 11/66

(attn copy)

A. J. Broellman

Acting Int. Sec.



Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read letter from the
Magistrate of Tirunelveli
dated 4 June 1852
recorded in No. of the
22nd Ultimo^{for last} - N^o 1852.

Read the following
letter from the Mag. of
Solicitor. Madras

(Dated 15th Dec^r 1852 N^o 694)

Order - 7th Dec^r 1852 N^o 30.

Ordered that a
copy of the acting
advocate general's
opinion be furnished
to the acting Magistrate
of Tirunelveli with re-
ference to G. O. of the
22nd Ultimo^{for last} - N^o 1852, & also
to all Magistrates of
Districts & to the In-
specter General of
Police for informa-
tion.

50 Mag. of Tirunelveli
Magistrate of other Districts
Super. Gen. of Police

[Signature]

Nov 7 - January 19 1853
in No. 2742/55.

65.66

Witnessed

Witnessed by
J. H. [illegible]
[illegible]

21-5-10
9-10-14

Witnessed by
J. H. [illegible]
[illegible]

Dated 27 January 1867

PROCEEDINGS OF GOVERNMENT.

No. 36.

Judicial 1867. Department.

Lat

Witnessed by
J. H. [illegible]
[illegible]

Witnessed by
J. H. [illegible]
[illegible]