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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	843	Press
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Dated	22-5-1918	

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Proceedings of the Madras Government, Judicial Department,
22nd May 1867.

No. 232. Read the following letter from the Inspector General of Police, to the Chief Secretary to Government, Fort Saint George; dated Madras, 7th May 1867, No. 758.

General Department.

I have the honor to request the sanction of Government to carry on the appeal, to which the accompanying papers refer, at the cost of Government, subject to the usual condition when the result shall be communicated to Government.

2. The case is as follows:—

A charge of theft was preferred against the plaintiff, a wealthy Brahmin in Conjeveram. The property was found in his house. The case was committed to the Sessions, where it failed.

3. When the Inspector, W. Wooden, the defendant, now appellant, first arrested the accused, he used handcuffs in taking him to the station. Subsequently, every consideration was shown, and the handcuffs were not again used.

4. Departmentally, the use of handcuffs is discouraged, but I do not think that the Inspector acted illegally or maliciously, and think that the trial of the point is of such interest to the Public Service that it should be pressed at public cost.

From the Acting Superintendent of Police, Madras District, to the Inspector General of Police, Madras; dated Saint Thomas' Mount, 18th April 1867, No. 142.

I have the honor, herewith, to forward, for your information, the certified copies of Inspector Mr. Wooden's answer to the Plaint and the District Moonsiff's Judgment, with a translation attached, in the action brought against him by one Allavoor Swamy Iyengar of Conjeveram, and in which a verdict of Rupees 500 damages was given against him and the Head Constable, for having hand-cuffed the plaintiff, when taking him as a prisoner, on a charge of housebreaking and theft, to the Police Station, which he was warranted by law to do, if he considered it necessary. Even if the Inspector committed an error of judgment in this case, he did nothing which he was not empowered to do lawfully, and if Officers of Police are to be so harassed in the execution of their duty, I consider that their efficiency will be most seriously impaired.

2. Mr. Wooden has appealed against the District Moonsiff's decision, but, not having paid the Vakeel's fee, the latter has not moved the Court to hear the appeal, and the Judge informs me that it will not come on for hearing for another twelve months, unless special grounds are pointed out for its being heard out of order. The Inspector appears not to be able to pay the Vakeel's fee. I request instructions whether, in the interests of the Service, the Government should undertake the costs of the appeal, and move the Court for an early hearing.

No. 196 of 1866.

Statement taken from the 1st Defendant, Mr Robert Wooden, Police Inspector of Cunchi Division.

I have heard the Plaint read to me. The plaintiff is a high caste Brahmin. He is possessed of a fortune, I cannot say to what extent. He is a respectable man. On the morning of the 3rd February last, Curpoora Vurdacharry came to me, while I was at my office, and reported to me, verbally, saying that, on the night of the 1st February, as he was absent from his house at Vishnu Canchi, his house was broken into, and property, to the extent of Rupees 12,000 and odd, taken away by stealth. On the morning of the 9th of the said month, Curpoora Vurdacharry sent to me one of his men to inform me that the whole of his stolen property was found in the plaintiff's house, and, at the same time, the 2nd defendant, being my Head Constable, sent word to the same effect, urging me to come down to the plaintiff's house. I went there accordingly, and saw there

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the said Carpoora Vurdacharry, as well the plaintiff, together with the Village Moonsiff Cunda-sawmy Moodelly, and some others; also the 2nd defendant, who informed me the whole of the stolen property of Vurdacharry had been found out. The same were given up to the Police Officers by the plaintiff. I compared the list given by the said Vurdacharry with the property found, and it was correct, with the exception of a few jewels missing. On asking the plaintiff, he referred to his wife for it, who first denied all knowledge of it, and, after sometime, she gave up the jewels. Under this circumstance, I arrested the plaintiff and his wife. At the same time, I ordered the 2nd defendant to put hand-cuffs to the plaintiff, and to take them both to the station house, which he did accordingly. This did I order from apprehension that the plaintiff would effect his escape, or commit suicide. I have never had any ill-will, nor did I do anything through malice. I did not receive any notice of 26th May last, as stated in the Plaint, but I received one, dated 6th July 1866. This is all what I have to state, and nothing more. I made the search and arrested the plaintiff and his wife without shame.

(Signed) R. WOODEN,
*Inspector of Police,
Cunchi Division.*

Taken before me upon oath, in open Court, this 11th August 1866.

(Signed) C. VEERASAWMY,
District Moonsiff.

Q.—What was the hour of the day when you caused hand-cuffs to be put to the plaintiff?

A.—It was between 2 and 3 o'clock P. M. of the 9th February 1866.

Q.—How long did the hand-cuffs last?

A.—The plaintiff was brought to the Station-house at 4 o'clock the same day, and then the hand-cuffs were taken off. The plaintiff, before the hand-cuffs were put, said "my son-in-law brought me this misfortune; I would not care if I lose my life." This expression led me to apprehend that the plaintiff would commit suicide or escape.

Q.—If that had been your apprehension, why were the hand-cuffs taken off after he was brought to the Station-house?

A.—Because he was locked up in the Station-room, where he remained about 14 or 15 days, and afterwards he was sent up to Stroepermatoor, to be examined there by the Sub-Magistrate of that place.

Q.—When he was sent up to Stroepermatoor, had the plaintiff hand-cuffs put to him?

A.—I was not present at the Station at that time, so I did not know if plaintiff had hand-cuffs put to him.

Q.—During his stay in the Jail for 14 or 15 days, where was he allowed to take his meals?

A.—He was allowed to go out and take his meals, and without hand-cuffs, because he had a good guard on him, and because he was composed.

Q.—How far is it from the plaintiff's house to the Station-house?

A.—One and three-quarters of a mile.

Q.—During his transit from his house to the Station-house, had he not any guard upon him?

A.—He had two Constables put over him. Before he was brought out of the house, there were collected about 400 or 500 Brahmmins in the street opposite to the said house. My authority to arrest him is according to Section 100 of the Criminal Procedure Code, and to put the hand-cuffs, according to Police Order, No. 45, dated 17th September 1860.

(Signed) R. WOODEN,
Insp. of Police, Cunchi Division.

Taken before me upon oath in open Court, this 7th September 1866.

(Signed) C. VEERASAWMY,
District Moonsiff.

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No. 196 of 1866.

The Taluk Moonsiff's Court of Conjeeveram, &c.

Present.—C. Veerasawmy Pillay, Taluk Moonsiff.

Plaintiff.

Allavoor Swamy Iyengar.

Vakeels.

Ramyer.

Poonambala Moodelly.

Defendants.

1. Police Inspector,

Mr. R. Wooden.

2. Deputy Serjeant, Mr. Leaby.

By themselves.

The plaintiff, who claims to be a wealthy, respectable, and high caste man, states that, in the case of theft which took place in the house of one Carpoora Vurdacharry, of Chinna Conjeeveram, in February 1866, the defendants, out of malice against the plaintiff, charged him and his wife with having committed the same, and, with intent to disgrace them, entered their house on the 9th idem, without a search warrant, and further ill-treated them, and disgraced the plaintiff by hand-cuffing him; that the Court of Session has acquitted him and others of the charge brought against them; and that, therefore, he claims a sum of 1000 Rupees to be recovered from the defendants in the shape of a fine, alleging that the act of hand-cuffing was a wrongful one, and done with intent to disgrace him.

2. The 1st defendant, in his Khyfeut, denies the malice imputed to him, but admits that the plaintiff is a wealthy, respectable, and high caste man; that he had entered his house without a warrant; and that he had hand-cuffed him, fearing that the plaintiff might either escape, or put an end to his life.

3. The 2nd defendant's Khyfeut is of the same purport as the 1st defendant's.

4. *Points.*

1. What is the cause of the malice or ill-will against the plaintiff.
2. In what way did the defendants ill-treat the plaintiff.
3. How long, and on what occasions, the plaintiff was hand-cuffed.
4. What is the cause of the 1st defendant hand-cuffing the plaintiff.

These are the points given.

5. *Plaintiff's Documents.*

A. No. 7.—An extract from the decision of Session Court in case No. 12 of 1866, 1.

6. *Plaintiff's Witnesses.*

No. 10. Annooriyengar, 1.

No. 11. Annariguracharriar, 2.

No. 12. Cooty Sumnacharriar, 3.

Fourth witness has been excluded by the plaintiff's Vakeels.

7. By the document, marked A, filed by the plaintiff, it is proved that the plaintiff has been acquitted by the Session Court.

8. Three witnesses have been examined on behalf of the plaintiff, and the defendants state that they have no witnesses nor documents to produce.

9. The plaintiff's witnesses depose to the fact of the 1st defendant having requested of the plaintiff a loan, and the plaintiff's non-compliance with the request. That this circumstance affords a just cause for any serious enmity between the parties the Court would not believe, nor has any evidence been adduced to show the existence of a long-standing enmity between the parties; but it is proved that the 2nd defendant had been inflicting two blows, with clenched fist, on the breast of the plaintiff, and, although this act may not have been the result of an ill-will, yet that act itself was undoubtedly extremely unlawful.

10. The defendants, in their Khyfeut, admit that the hand-cuff was put on the plaintiff at four in the evening, and that it was removed as soon as the plaintiff was brought to the Station. The plaintiff's witnesses depose to the fact of the plaintiff being taken from Conjeeveram to Stroepermatoor, without being hand-cuffed, and the 1st defendant being present at the time. The statement of the 1st defendant, to the effect that he had hand-cuffed the plaintiff through fear that he might either escape or put an end to his life, and that he had been led to anticipate this from hearing the plaintiff say that his son-in-law had been the cause of his being brought to such a risk, and

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that he does not care about even losing his life, seems extraordinary, since the disgrace caused by hand-cuffing would have been prevented if he had not hand-cuffed him, and, moreover, there is no evidence to prove that the plaintiff made use of such expressions, though, on the other hand, the plaintiff's witnesses depose that the plaintiff told the defendant that there was no necessity to hand-cuff him, and that he will submit to all his requirements; hence, it is manifest that there were no grounds for the 1st defendant to apprehend and hand-cuff the plaintiff. It appears that the plaintiff was hand-cuffed and escorted to the Station, which is about 1½ of a mile distance from the plaintiff's house, in order that the public on the road may look and laugh at the plaintiff, for, if the act of hand-cuffing is intended for securing the plaintiff, surely the same precaution must have been continued while the plaintiff was by himself a prisoner in the Station, and during the fourteen days he remained in custody, when he was allowed to go out for his meals, and, further, when he was taken to Streepermatoor, a distance of twenty miles. If on these occasions such precaution was considered unnecessary, how much stronger would be the reason against the adoption of such precaution when the plaintiff was taken over to the Station from his house, surrounded by Constables. Such fallacious reasoning on the part of the 1st defendant seems not only ridiculous, but shows that he had been actuated by malice in so doing. The defendants produce a Police Order, No. 45, dated 17th September 1860, as their authority for hand-cuffing the plaintiff. The Court, having carefully perused the order, concludes that the plaintiff, who, according to the statement of the defendants, is a respectable man, has been unnecessarily prosecuted and disgraced, as paragraph I of the Order directs only such measures to be taken as would prevent the escape of a person arrested, and not more; and this accords with the provisions of Section 96 of the Criminal Procedure Code. The Order further directs the exercise of a calm and unbiassed judgment, and the showing of every consideration for the feelings of the individual in custody, which is consistent with the first duty of preventing escape. The last paragraph directs that the cruelty of hand-cuffing should be avoided. It is clear, therefore, that the defendants had, in violation of this order, acted intentionally, cruelly, unwarrantably, and most unjustly towards a respectable man, as the plaintiff, in hand-cuffing him on the road.

11. The defendants entering the house of the plaintiff without a warrant appears unlawful by Section 54 of Act XXIV of 1859.

12. On these grounds, the Court awards plaintiff 500 Rupees damages and costs, with interest at 1 per cent. from this date; the first defendant to pay 400 Rupees, and the 2nd defendant 100 Rupees.

Rupees 101-14-0 allowed for plaintiff's costs.

This decision has been pronounced on the 13th November 1866.

(Signed) C. VEERASAWMY,

Taluq Moonsiff.

(True Copy).

(Signed) P. DEVARAMBA,

Sheristadar.

(An approximate Translation).

(Signed) J. G. GRAHAM,

Head Inspector.

No. 233.

ORDER THEREON, 22nd May 1867, No. 843.

The Government authorize the appeal referred to in the foregoing letter to be carried on at the public expense in the first instance; but it will be determined hereafter, when a copy of the decree is furnished, whether the costs, if any, are to be borne by the Government or not.

(True Extract).

Chief Secretary.

To the Inspector General of Police, with enclosures, returned.

Ed. J. H. Burns.

Jud. DEPARTMENT.

No. 1037.

From *The Inspector General of Police.*

Dated *7th May* 1867.

FOR ORDERS.

I think it applied may be come out on the usual terms at 1/2 price of pot at in the first instance.

But the sole present of an expensive sum having been awarded by the 1st Moonsiff of damages - viz 500 Rs - I do allow the appeal to be preferred in the usual way at the pot. cost. The case seems to me a bad one against Mr. wooden and had it not been such the chances are I think that Mr. wooden...

could have begged his immediate Superior
to interfere & get the sent transferred to the
File of the Civil Court. The Plaintiff
appears to me to have been sure that
sort of man to whom it was quite unnecessary
to apply handcuffs unless with the usual
Police object of extracting a confession to
secure their removal.

W.D.

I don't see much presumption of malice
on the part of Wooder but probably a want
of judgment. I agree with my Colleagues
in their opinion that the appeal should
be preferred and the expenses undertaken
by Government N.

22nd May 1867 H^o 843

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N. J.

W.D.

To his Majesty's Secretary
of the Privy Council
London 27/5

