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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial

DEPARTMENT

G.O. No. B.P. No.	527.	Press. Mis.
Dated	26-3-1868	197.

Not to be folded or roughly handled

Q. 100

26th March 1868.

No. 273. Read the following letter from the Inspector General of Jails, to the Chief Secretary to Government, Fort Saint George; dated Madras, 4th March 1868, No. 185.

I have the honor to forward a letter from the Acting Commissioner of Police, enclosing a petition to the Governor in Council from one J. A. Newton, now a convict in the Madras Penitentiary.

2. The prisoner was convicted before the High Court last month of Criminal Breach of Trust, and sentenced to rigorous imprisonment for three years. I think it right to mention that he was convicted before the same Court in November 1864 of a similar offence, and sentenced to rigorous imprisonment for seventeen months.

From the Acting Commissioner of Police, to the Inspector General of Jails; dated Madras, 29th February 1868, No. 987.

I have the honor to forward a petition from one J. A. Newton, now a prisoner in the Madras Penitentiary, under sentence of three years' rigorous imprisonment by the High Court, and request that the same may be forwarded for the consideration of Government as requested therein, if you deem it advisable.

To HIS EXCELLENCY THE GOVERNOR IN COUNCIL,
Madras.

The humble Petition of JOHN ALBERT NEWTON, prisoner in Her Majesty's Penitentiary of Madras.

RESPECTFULLY SHewETH,

That your Excellency's petitioner was tried at the High Court of Judicature on the 4th current on a charge of Criminal Breach of Trust by a servant, and sentenced by the said Court to three years' rigorous imprisonment, against which decision your Excellency's petitioner humbly begs to appeal on the following grounds:—

Firstly.—That during the course of investigation, and at the time of my addressing the gentlemen of the Jury, I called upon the Court for the production of two documents, viz., a Letter Book, and a Cash Remittance Book, which preceded those that were filed in Court, and of which the prosecutor was informed by the committing Magistrate, C. W. W. Martin, Esq., Justice of the Peace at Trichinopoly, to produce before the High Court, as those books were cited by me for my defence, and which were indispensably necessary to aid me in proving the non-validity of the Bill Collector's book, which was deposed by the prosecutor to be a money receipt. Through the non-production of the aforementioned books, your Excellency's petitioner was at a sad loss for proof to impress on the minds of the gentlemen of the Jury that the book deposed by the prosecutor to be a money receipt was not at all such.

Secondly.—That if the Letter and Cash Remittance Books had been produced, your Excellency's petitioner would have been further enabled to prove before Court that no amount had been misappropriated by me, but that it was through a constant confusion of accounts that had given rise before my appointment as Station Master, which led to the misunderstanding of the Company's Assistant Traffic Manager, that I was deficient of the amount I have been charged with. I furthermore beg to state that a defence was given in before the Magistrate who committed my case, and taken down in writing by him and forwarded, together with the proceedings of the case, to the High Court, which defence was not read over to the gentlemen of the Jury to give them a fairer idea of the charge brought against me.

2. I beg to forward, herewith enclosed, the address read out before Court by me, and humbly beg that your Excellency will be pleased to give this my petition your most charitable consideration, as I have a family and aged mother depending entirely upon me for support; and, moreover, beg to state that I awaited my trial for three full months. With all these instances before you, I humbly beg and crave that your Excellency will be pleased to grant this my humble

*Proceedings of the Madras Government, Judicial Department,
26th March 1868.*

petition your most charitable consideration, with a view that I may reap its benefits; for which act of benevolence your Excellency's petitioner shall ever pray.

MADRAS, 27th February 1868.

(Signed) J. A. NEWTON.

MY LORD AND GENTLEMEN OF THE JURY.

Before you arrive at a conclusion of the case now before you, I beg you will be pleased to give the following points your most earnest consideration and pass your judgment accordingly. The points alluded to are as follow:—

1st. The bad system of the Great Southern of India Railway Company; 2nd, the laxity of work on the part of the superiors; 3rd, the several irregularities inflaming my charge; 4th, the wrongful deduction in the charging and committal of the case; 5th, the value of my detail Memorandum Book, which the prosecutor abstracted; and, lastly, the non-validity of the Bill Collector's Memorandum Book, which the prosecutor holds as a receipt book. Each and all of these points I shall prove separately under their different heads.

Bad system.—The main point for consideration is, to ascertain what steps are taken by the Company to provide for the safety of the serving officials, Station Masters in particular, with regard to the delivery and despatch of money, which is in all cases the most important point of duty involved on Station Masters. A very bad and dangerous system always has, and does still prevail in the Great Southern of India Railway Company, and if this is not remedied Judicial Officers need not wonder that criminal breach of trust is becoming a common offence. For instance, a Station Master, who is the only official on whom all the responsibility of a station is laid, and for whose safety the Company should first provide for, is the first victim of a non-systematic Company, viz., a Station Master takes charge of all money on account of traffic at the close of the day, and despatches it by the first train to head quarters the following morning. This money is deposited in a moveable wooden box or chest in charge of the Guard, who sees it deposited, and no receipt taken for its deposit from the party who is entrusted with its conveyance. Then I would ask, how could a Station Master refute a charge if made against him, to the effect that he did not deliver over the station collections, when no receipt is given. Then, perhaps, the Court would like to know, why do not Station Masters obtain a receipt. The reason is simply this—the time allowed for the standing of a train at a station is at the very outside only ten or fifteen minutes, and very often a smaller space of time, particularly when a train does not arrive at the fixed time, then the station collections, particularly the one that I was in charge of, is seldom or never under seven or eight hundred, and sometimes a thousand Rupees daily, in which there is a large sum of small coin. To count up this the Guard will have no time, because the space allowed for the standing of a train is barely sufficient for himself to deliver over and receive parcels, luggage, &c.; besides which he has several other duties to execute within this time, and if the train is at all delayed both Guard and Station Master are called upon for explanation. Such is the first bad system of the Company.

Laxity of work.—The next point for consideration is, the laxity of work on the part of the heads of the Department, viz., for instance—1st. In the month of July 1867, a letter was sent to me from the Agent of the Company to pay in an amount of Rupees 15, given me as an advance on my appointment of Station Master of Tanjore, which I was directed to collect on receipt of my pay. Accordingly I despatched the amount advanced to me, together with other moneys, on the 7th August 1867, amounting in all to Rupees 53-1-0, as per true copy herewith produced. An acknowledged receipt of this amount was sent to me on the 9th August, as per acknowledgment now produced. On the 1st October, full two months after the despatch of the advance alluded to, the Agent writes a letter to the prosecutor to call upon me for explanation as to why the money advanced to me was not repaid. It was well for me, that I had fortunately the acknowledged receipt in my possession to refute such a claim, otherwise I should be necessitated to pay the amount over again. I referred the Agent to his own letter, as will be seen in the copy of my answer now produced. 2nd. On another occasion, viz., the 2nd July 1867, the Agent sent me this letter, together with two bills, to collect the amounts therein mentioned,

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26th March 1868.*

and to despatch the money as is usually the custom. The Assistant Traffic Manager, the present prosecutor, cancelled the second item some days after, as will be seen in his own hand-writing, in red ink. This I informed the Agent of when I remitted the collected amounts. The Agent acknowledged the receipt of the remitted amounts, and asked the Assistant Traffic Manager by letter if he cancelled such an amount as mentioned in my letter. In the space of time that intervened between the despatch of my letter, and the Agent's reference, the prosecutor never took the trouble of informing the Agent of his having cancelled such an amount, but called upon me when reference was made to him, as to who authorized me to cancel such an amount. If I had not the letter now produced in my possession, to refute this charge also, I should again be the victim of a superior's gross mistake and forgetfulness. Then I would ask you to consider how is a subordinate ever safe when there is such a laxity of work on the part of superiors. There are other instances also of the same nature, which I need not now refer to, since it will occupy the time of the Court; and as I think that the instances mentioned already are quite sufficient, I will set the others aside.

Irregularities.—I will now suggest a few remarks, regarding the several irregularities with which my charge has been inflamed. They are as follows:—1st. I would ask you to consider, whether if the prosecutor was in any way justified to break open my table drawer. 2nd. A Magistrate, who was not a Justice of the Peace, to exceed his power by trying me, when he was informed that I was a British subject. 3rd. The Magistrate who first tried me charged me with criminal misappropriation, and committed me for trial at the Mofussil Sessions; knew perfectly well that the time I had to wait in prison, namely, one whole month, would be to no purpose. 4th. Charged by the prosecutor for having misappropriated sums alleged to have been paid to me on the 5th and 19th October, amounting to Rupees 269-3-0, whereas the Magistrate, who first tried me, distinctly charged me, as will be seen in the copy of the former committal now produced, as having misappropriated sums said to have been paid to me on the abovesaid dates, amounting to Rupees 191-6-0, thereby causing a difference of Rupees 77-13-0 between the prosecutor's charge and Magistrate's committal. 5th. My production before the Mofussil Session Court, and my release by the Mofussil Session Judge on the night of the 2nd December 1867. 6th. My second arrest on the 3rd December by the same Magistrate, who first tried me on the same complaint, afterwards charged me with criminal breach of trust, and hands me over to a Justice of the Peace to undergo a second trial to suit an error in which he had fallen. I consider it illegal that the Magistrate who first tried me should order my second arrest, when I was discharged by a Higher Court, and I would beg to ask whether your Lordship and Gentlemen of the Court agree with me in the same opinion, that the prosecutor should have lodged a second complaint before a Justice of the Peace, under whose warrant I should be taken if my second arrest was in any way considered legal.

It is true that I have been produced before this Court on a similar charge some years ago, and convicted accordingly; but I would beg of you to consider whether the prosecutor, in my present charge, has not taken advantage of my previous conviction, with a view that such conviction would serve as a cloak to his rash proceeding, by his having broke open my office table drawer, which was used by me for the custody of vouchers and records, and placed under my special control and responsibility.

I would beg of you most earnestly, Gentlemen of this Court, just merely for an example, to consider yourselves in a similar position as I have been involved with such a serious amount of responsibility as is distinctly laid down for the observation of Station Masters in the Railway Company's rules, and would beg to ask, if the prosecutor had not broke open my table drawer but called upon me to produce the Company's books, and if I had been short of any one of them, would not the prosecutor hold me responsible for any missing record or voucher; if so, I think it no more than just that the prosecutor should be made to account for all deficiencies attending his rash action; for if the prosecutor had any reason to suspect anything he had no right to break open my table drawer in my absence, but should have acted straightforwardly by sending for me, so long as I pay a security to the Company to ensure my faithful discharge of the duty involved on me, and for which I alone am held responsible. I would again ask, how could

any subordinate, placed in a responsible situation in any Department, consider his position safe at any time, if his superior can take upon himself the authority of bursting open any closed receptacle, used for the custody of property or record, in the absence of the party on whom such responsibility is laid, and then where is the use of any one paying security.

Then it will again be seen, from what has been deposed by the prosecutor before the Magistrate who committed my case, that he took everything the drawer contained, amongst which were money receipts and other books; but to check himself up, that the missing books are not recognized by the Company, and that the receipts have nothing to do with the present case; if so, why should he take them if they were of no use, and what has become of them.

Such being the case, I leave it to you to consider how can any subordinate refute or support any claim when everything is taken out of his possession that is of use to him, and would beg of you to consider who is the responsible party in the case now before you.

Wrongful deduction.—The next point for consideration is, the wrongful deduction in the charging and committing of the case. The prosecutor deposed before the Magistrate that an amount of Rupees 59, over-remitted in the month of October, was on account of copper and defaced coin, a balance outstanding in September's remittances. Then I would ask how comes the prosecutor to deduct this amount from October's collections, when he distinctly charges me for being short of money, said to have been received by me on the 5th and 13th October. Furthermore he says that another amount of Rupees 27-13-0 was over-remitted by me on the 1st or 2nd of October, which he also deducts from the full amount I am now charged with; this again is another instance, viz., how can the prosecutor deduct an amount paid in on the 1st or 2nd of the month from an amount said to have been paid to me some days after. Surely this instance itself is quite enough to show that the prosecutor knows nothing of the station accounts till the close of the month, from the very fact that the weakest mind can sum up at once that no man can pay away an amount before he receives it. Although such an amount added to my credit is more to my own benefit in the present case, I handle this instance merely as an example, to bring it home to your memories for fear that it should escape unobserved, and with a view that I will derive the benefit of every doubt and every flaw inflaming my charge.

Value of my Detail Memorandum Book.—I will now show one instance to prove the value of my detail Memorandum Book, which the prosecutor abstracted. In the month of April 1867, at the foot of the cash remittance, I made a remark as follows:—"Warrant for Rupees—will follow." and in a few days after, when the warrant was sent, I made another remark at the foot of that day's remittance note, viz., "Warrant for Rupees—due to my remittance, giving reference to the date on which it was due, is herewith sent, which will be seen by referring to the Remittance book alluded to. About five or six months after, this amount, viz., Rupees was disputed by the Agent, to the effect that the warrant was not received. The Assistant Traffic Manager called upon me for explanation, and asked me to prove that the warrant for the amount disputed had been sent by me. Accordingly, I referred to my Memorandum Book, set too and over-hauled the letter files for April and produced the Agent's letter, ordering me to pay the amount disputed to one of the Company's Guards, being the amount of his pay, out of my station collections, and to send the Guard's receipt as a warrant for the amount. The Agent then advised the prosecutor to inform me to take a special credit for the amount over again by sending another warrant, giving reference to the Agent's order which was done in—. Had it not been for my detail Memorandum Book, I should have been at a loss to refute this claim. Through the loss of this Memorandum Book, which the prosecutor abstracted, I am now crippled to refute the present charge brought against me.

Non-validity of Bill Collector's Memorandum Book.—The last and most important point for consideration is, to ascertain the validity of the Bill Collector's Memorandum Book filed in Court by the prosecutor, and deposed by him to be a money Receipt Book. The first question I would suggest is, if this book is considered a receipt, I would beg of you, my Lord and Gentlemen of the Court, to look at this book and test its validity, firstly, why is it not written up in the form of a receipt, if it is at all such. There is no such thing as an acknowledgment of the amounts in

any way; it does not as much contain the words "received from," or "contents received," as should be the case. Then again, if this book is at all a receipt it is evident that the amounts mentioned therein from day to day should exactly correspond with the amounts sent to head quarters on the following day; whereas instead of which it will be distinctly seen by a comparison of this book with the Cash Remittance Book that the amounts have on several occasions been more and sometimes less than those entered in the Bill Collector's book from one month to another. With all these points, your Lordship and Gentlemen of the Court will be pleased to give this my refutation your most valuable consideration, and dispose of my case as is best suited to your discretion and judgment.

No. 274. ORDER THEREON, 26th March 1868, No. 527.

The Governor in Council is unable to see any grounds to justify his interference on behalf of convict Newton.

2. The non-production at the trial of the petitioner before the High Court, of the two papers which he alleges the prosecutor was warned to produce by the Justice of the Peace who committed the case, is a matter which the Court and the Jury had before them, and must have duly considered.

3. The Inspector General of Jails will take measures for communicating to Newton the decision of the Government.

(True Extract).

Chief Secretary.

To the Inspector General of Jails.

No 185

From Lieut. Col. R. J. Wilson ⁵⁷
Inspector General of Jails
To The Honble. R. S. Ellis. C. B.
Chief Secretary to Government
Fort Saint George.

Sir, I have the honor to forward a letter from the Acting Commissioner of Police enclosing a Petition to the Governor in Council from one A. J. Norton now a Convict in the Madras Penitentiary.

2 The Prisoner was convicted before the High Court last Month of Criminal Breach of Trust and sentenced to rigorous imprisonment for three years. I think it right to mention that he was convicted before the same Court in November 1864 of a similar offence and sentenced to rigorous imprisonment for seventeen Months.

I have the honor to be
Sir
Your most obedient

WM

Inspr. Genl. of Jails

Madras

4th March 1868

B 887 of 1867/68

527/6

Madras Police Commissioners
Office 29th February 1868.

I, from,

Major W. E. Dwyer
Ag. Commissioner of Police.

Yr.

Colonel W. J. Wilson
Inspector General of Jails.

Sir,

I have the honor to forward a
Petition from one A. J. Newton now a
Prisoner in the Madras Penitentiary under
sentence of 3 years rigorous imprisonment
by the High Court and request that
the same may be forwarded for the con-
sideration of Government as requested
therein if you deem it advisable.

I have the honor to be,

Sir

Yours most obedient servant

W. Dwyer
Ag. Commissioner of Police.

Received by Mr. Dwyer 26/2/68

Received by Mr. Dwyer

the day of Feb

the day of Feb

the day of Feb

the day of Feb

the day of Feb

the day of Feb

the day of Feb

the day of Feb

the day of Feb

the day of Feb

the day of Feb

To

His Excellency,
The Governor-in-Council,
Madras.

25/2/5

The humble petition of John Albert
Newton, Prisoner in Her Majesty's Pri-
sonary of Madras.

Respectfully sheweth.

That Your Excellency's Petitioner was tried
at the High Court of Judicature on the 4th Dec.
rent on a charge of Criminal Breach of Trust
by a servant, and sentenced by the said Court
to 3 years rigorous imprisonment, against which
decision Your Excellency's Petitioner humbly begs
to appeal on the following grounds.

Firstly.—That during the course of inves-
tigation and at the time of my addressing the
Gentlemen of the Jury, I called upon the Court
for the production of 2 documents, (viz. a Letter
Book and a Cash Remittance Book which pre-
ceded those that were filed in Court, and of which
the Prosecutor was informed by the committing Mag-
istrate C. H. H. Martin, Esquire, Justice of the Peace
at Trichinopoly to produce before the High Court
as those books were cited by me for my defence
and which were indispensably necessary to
aid me in proving the non-validity of the Bill
Collector's Book which was deposed by the
Prosecutor to be a Money Receipt.) Through

known

Sheweth Contents of Book

3/20

The Judge's Book
of facts.

Dated 29 July 1855
Answered 27 March.

Forwarded as Petition from
Council of Madras relating
to submit the same to
Government.

Received at Madras 29/7/55

25/2/55

the non-production of the afore-mentioned Books.
Your Excellency's Petitioner was at a sad loss for
proof to impress on the minds of the Gentlemen
of the Jury that the Book deposed by the Prosecu-
tor to be a money receipt, was not at all such.

Secondly.- That if the latter and Cash Remittance
Books had been produced, Your Excellency's Pe-
titioner would have been further enabled to
prove before Court that no amount had been
misappropriated by me, but that it was through
a constant confusion of accounts that had given
rise before my appointment as Station Master
which led to the misunderstanding of the
Company's Asst. Traffic Manager, that I was
deficient of the amount I have been charged
with. I furthermore beg to state that a defence
was given in before the Magistrate who ex-
amined my case and taken down in writing
by him & forwarded together with the proceed-
ings of the case to the High Court, which de-
fence was not read over to the Gentlemen
of the Jury to give them a fairer idea of
the charge brought against me.

I beg to forward herewith enclosed, the
address read out before Court by me and
humbly beg that Your Excellency will be pleased
to give this my Petition your most charitable
consideration, as I have a family & aged Mother
depending entirely upon me for support & more.
I over beg to state that I awaited my trial for
3 full months. With all these instances before

you, I humbly beg & crave that Your Excellency
will be pleased to grant this my humble Peti-
tion your most charitable consideration, with
a view that I may reap its benefits. For which
act of benevolence.

527
Your Excellency's Petitioner,
shall ever pray.

P. H. S. Penitentiary,
Madras, 27th Feby.
1868-

J. H. K. K. K.

1873

Just. DEPARTMENT.

No. 515.

From The Inspector General of Jails.

Dated 14th March 1873.

FOR ORDERS.

There appears to me to be no
ground to suppose interference by
you. The non production at the trial
of Feb. in the High Court, of the two
papers which he asked the Prot. to
produce. When the case was
dismissed by Mr. Justice S. P. Keble, & the
High Court & the
lawyer had been then & must have
been considered.

W.D.

by

March 14/73

1873

My Lord & Gentlemen of the Court - 2/10

Before you arrive at a conclusion of the case now before you, I beg you will be pleased to give the following points your most earnest consideration and pass your Judgment accordingly. The points alluded to are as follows:-

1st. The bad system of the G. S. I. R. Co. 2nd. The facility of work on the part of the Superiors. 3rd. The several irregularities influencing my charges. 4th. The wrongful deduction in the charges & committed of the case. 5th. The value of my Detail Memo. Book, which the Prosecutor a-betters. & lastly, The non-validity of the Bill Collector's Memo. Book which the Prosecutor holds as a Receipt Book. Each & all of these points, I shall prove separately under their different heads.

'Bad System.'

The main point for consideration is to ascertain what steps are taken by the Company to provide for the safety of the various Officials. Station Masters in particular, in the receipt & delivery & despatches of money, which is in all cases, the most important point of duty, involved on Station Masters. A very bad and dangerous system always has and does still prevail in the G. S. I. Railway Company, and if this is not remedied, Judicial Officers need not wonder that Criminals Breach of Trust is becoming a common offence. For instance a Station Master who is the only Official on whom all the responsibility of a station is laid, and for whose safety the Company should first provide for, is the first victim of a non-systematic Company. viz. A Station Master takes charge of all money on account of ~~travellers~~ ^{the day} and despatches it by the first train to Head Quarters the following morning. This money is deposited in a moveable wooden box or chest in charge of the Guard who sees it deposited, and no receipt taken for its deposit from the party who is entrusted with its conveyance. Now I would ask how could a Station Master refute a charge if made against him, to the effect that he did not deliver over the Station collections, when no receipt is given. Then perhaps the

General

Don't would like to know, why do not station masters obtain receipts. The reason is simply this, - the time allowed for the standing of a train at a station is at the very best only 10 or 15 minutes, & very often an another space of time, particularly when a train does not arrive at the fixed time. Now the station collections, particularly the one that I was in charge of, is tedious or never under 7 or 800 & sometimes a thousand Rupees daily, in which there is a large sum of small coin. To count up this the clerk will have no time, because the space allowed for the standing of a train is barely sufficient for himself to deliver over & receive Passes, Luggage, &c. besides which he has several other duties to execute within this time, and if the train is at all delayed both Guard and station master are called upon for explanation. Such is the first bad system of the Company.

Scarcity of work.

The next point for consideration is the scarcity of work on the part of the Agents of the Department. viz: for instance. In the month of July 1867 a letter was sent to me from the Agent of the Company to pay in an amount of Rs. 15000 as an advance on my appointment of station master of Tanjore, which I was directed to return on receipt of my pay. Accordingly I despatched the amount advanced to me, together with the attending invoices in the 15th August 1867, amounting in all to Rs. 53-1-0 as per true copy herewith produced. He acknowledged receipt of this amount was sent to me on the 7th August as an acknowledgment now produced. On the 1st October 1867 2 months after the despatch of the advance attached to, the Agent writes a letter to the Prosecutor to call upon me for explanation as to why the money advanced to me was not repaid. It was well for me, that I had fortunately the acknowledged receipt in my possession to refute such a claim, otherwise I should be necessitated to pay the amount over again. I refer to the Agent to his own letter as will be seen in the copy of my answer now produced. 2nd. On another occasion, viz: the 27th July 1867,

52/51
The Agent sent me this letter together with 2 bills to collect the amounts therein mentioned & to despatch the money as is usually the custom. The Asst. Traffic Manager, the present Prosecutor, cancelled the 2nd item some days after as will be seen in his own handwriting in red ink. This I informed the Agent of when I remitted the collected amounts. The Agent acknowledged the receipt of the remitted amount and asked the Asst. Traffic Manager by letter if he called such an amount as mentioned in my letter. In the space of time that intervened between the despatch of my letter, and the Agent's reference, the Prosecutor never took the trouble of informing the Agent of his having cancelled such an amount, but called upon me when reference was made to him, as to who authorized me to cancel such an amount. If I had not the letter now produced in my possession, to refute this charge also, I should again be the victim of a superior's gross mistake & forgetfulness. Then I would ask you to consider how is a subordinate ever safe, when there is such a scarcity of work on the part of superiors. There are other instances also of the same nature, which I need not now refer to, since it will occupy the time of the Court, and as I think that the instances mentioned already are quite sufficient, I will set the other aside.

Irregularities.

I will now suggest a few remarks regarding the several irregularities with which my charge has been inflamed. They are as follows: 1st. I would ask you to consider, whether if the Prosecutor was in any way justified to break open my drawers. 2nd. A Magistrate who was not a Justice of the Peace to cancel his power by trying me, when he was informed that I was a British subject. 3rd. The Magistrate who first tried me charged me with Criminal Intimidations, and committed me for trial at the Sessions, whom perfectly well, that the time I had to wait in Prison, namely one whole month, would be to no purpose. 4th. Charged by the Prosecutor for having misappropriated sums alleged to have been paid to me on the 3rd & 19th October amounting to Rs. 269-3-0 whereas the Magistrate who first tried me distinctly charged me, as will be seen in the copy of the former commitment now produced as having misappropriated sums, said to have

was paid to me on this account, due to Rs. 191-6-0
causing a difference of Rs. 71-13-0 between the Prosecution
charge and Magistrate's commitment. 5th The production
before the Magistrate's Session Court, and my release by this
Magistrate's Session Judge on the night of the 2nd December 1867.
The Magistrate's arrest on the 8th December by the same Magistrate
who first tried me, on the same complaint, after
he charges me with Criminal Breach of Trust and
hands me over to a Justice of the Peace to undergo
a second trial to seek an error in which he has failed.
I consider it illegal that the Magistrate who first tried
me, should order my second arrest, when I was discharged
by a Higher Court, and I would beg to ask whether your
Lordship & Gentlemen of the Court agree with me in the
same opinion, that the Prosecutor should have lodged
a second complaint before a Justice of the Peace under
a second warrant, I should be taken if my second arrest was
in any way considered legal.

It is true that I have been produced before this Court on
a similar charge some years ago & convicted accordingly. But I
would beg of you to consider whether the conviction on my part
charge has not taken advantage of my previous conviction, with
a view that such conviction would serve as a cloak to his
proceeding, by his having broke open my Office Table
Drawer, which was used by me for the custody of books
& Records & placed under my special control & responsibility.
I would beg of you most earnestly, Gentlemen of
this Court, just merely for an example, to consider your
selves in a similar position as I have been involved with
such a serious amount of responsibility as is distinctly laid
down for the observations of Station Masters in the Railway
Company's Rules, and would beg to ask if the Prosecutor had
not broke open my Table Drawer & called upon me to
produce the Company's Books, and if I had been short of
any one of them, would not the Prosecutor hold me responsible
for any missing Record or book? If so, I think
it no more than just that the Prosecutor should be made
to account for all deficiencies attending his rash action.
For if the Prosecutor had any reason to suspect anything
he had no right to break open my Table Drawer in my
absence, but should have acted straight forwardly by
sending for me, so long as I pay a security to the Company.

23/11
I would again ask, how could any subordinate, placed in a
responsible situation in any Department, consider his position
safe at any time, if his Superior can take upon himself
the authority of bursting open any closed receptacle used
for the custody of property or Records, in the absence of the
party on whom such responsibility is laid, & then where is
the use of any one paying security.

Then it will again be seen from what has been
deposed by the Prosecutor before the Magistrate who committed
my case, that he took everything the Drawer contained,
amongst which were money receipts and other books, but
to clear himself says, that the missing books are not required
by the Company and that the receipts have nothing to
do with the present case; if so, why should he take
them if they were of no use, & what has become of them?

Such being the case, I leave it to you to consider, how
can any subordinate refute or support any claim, when
everything is taken out of his possession, that is of use
to him, & would beg of you to consider who is the proper
party in the case now before you.

Wrongful Deductions.

The next point for consideration is the wrongful
deductions in the charging & committing of the case. The
Prosecutor deposed before the Magistrate that an amount
of Rs. 50 over-remitted in the month of October was on
account of Copper & defaced Coin a balance outstanding
in September's remittances. Then I would ask how comes
the Prosecutor to deduct this amount from October's
collections, when he distinctly charges me for being
short of money said to have been received by me on the
5th & 19th of October. Furthermore he says that another
amount of Rs. 27-13-0 was over-remitted by me on the
1st or 2nd of October, which he also deducts from the full
amount I am now charged with. This again is another
instance viz: How can the Prosecutor deduct an amount
paid in on the 1st or 2nd of the month from an amount
said to have been paid to me some days after. Surely

This instance itself is quite enough to show that the Prosecutor knows nothing of the relation accounts till the close of the month, from the very fact that the weakest mind can sum up at once, that no man can pay away an amount before he receives it. Although such an amount added to my credit is more to my own benefit in the present case, I handle this instance merely as an example, to bring it home to your memories for fear that it should escape unobserved, & with a view that I will derive the benefit of every doubt & every plea in my charge.

Value of my Detail Memo Book.

I will now show one instance, to prove the value of my Detail Memo Book, which the Prosecutor has abstracted. In the month of April 1867, at the foot of the Cash Remittance, I made a Remark as follows: -
"Warrant for Rs. will follow and in a few days after, when the Warrant was sent, I made another remark at the foot of that day's Remittance Note, viz: -
"Warrant for Rs. Due to my Remittance giving reference to the date on which it was due is herewith sent, which will be seen by referring to the Remittance Book and to. About 5 or 6 months after, this amount viz: Rs. was disputed by the Agent, to the effect that the amount was not received. The Agent's Manager called upon me for explanation & asked me to prove that the Warrant for the amount disputed had been sent to me. Accordingly, I referred to my Memo Book, set to and overhauled the latter files for April & produced the Agent's letter ordering me to pay the amount disputed to one of the Company's Guards, being the amount of his bill out of my Station collections, and to send the Guard's receipt as a Warrant for the amount. The Agent then advised the Prosecutor to inform me to take a Special credit, for the amount over again, by sending another Warrant, giving reference to the Agent's order which was done in. Had it not been for my Detail Memo Book, I should have been at a

loss to refute this claim. Through the loss of this Memo Book, which the Prosecutor abstracted, I am now crippled to refute the present charge brought against me.

Non-validity of Bill-Collector's Memo Book.

The last & most important point for consideration is to ascertain the validity of the Bill Collector's Memo Book, filed in Court by the Prosecutor & deposed by him to be a Money Receipt Book. The first question I would suggest is, if this Book is considered a Receipt, I would beg of you, my Lord & Gentlemen of the Court to look at this Book & test its validity, firstly, why is it not written up in the form of a Receipt, if it is at all such. There is no such thing as an acknowledgement of the amount in any way, it does not at all contain the words "Received from" or "Contents Received" as should be the case. Then again, if this Book is at all a Receipt it is evident that the amounts mentioned therein from day to day should exactly correspond with the amounts sent to the River, on the following day, - whereas instead of which, it will be distinctly seen by a comparison of this Book with the Cash Remittance Book that the amounts have on several occasions been more & sometimes less, than those entered in the Bill Collector's Book from one month to another. With all these points before you, I beg your Lordship & Gentlemen of the Court will be pleased to give this my reputation your most valuable consideration, & dispose of my case as is best suited to your discretion & judgment.

Judicial Department

527/14

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the
Inspector General of Jails.
Here, enter 4th March 1868/1865

Order 26 March 1868 No 527.

The Governor in
Council is unable to see
any grounds to justify
his interference on behalf
of Convict Newton

2 The non-production
at the trial of the petitioners
before the High Court,
of the two papers which
he alleges the promoter was
warned to produce by the
justice of the Peace who
committed the case, is a
matter which the Court
and the jury had before
them and must have
duly considered

3 The Inspector
General

WOL

G. N.

Let. Am. 25. March 1868
at 10.30

General of Sails will take
measures for communi-
cating to Newton the
decision of the Government.

AW.

Inspector General of Sails. dep.

General Fund

2/23. 2/24.

List 1868. Department

No. 527.

PROCEEDINGS OF GOVERNMENT.

Dated 26th March 1868.