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(1) Number of pages 28
(2) Date of repair
(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

JUDL DEPARTMENT

CON JDL - G.O

G.O. No. ~~B.P. No.~~ 894 ~~Press~~ Mis.

Dated 4-4-1888 ~~197~~.

Not to be folded or roughly handled

Confidential.

No. 184

Tellicherry
24th March 1888

From

A. F. Cox, Esquire,
Ag. District Judge,
North Malabar.

To

T. M. Horsfall, Esquire,
Ag. Registrar of the High Court
of Judicature, Appellate Side,
Madras.

Sir,

In my Demi-Official note of the 13th Instant, I had the honour to inform you that a charge of corruption had been made against the Sub Judge before me in open Court and that I proposed to take evidence in support of it.

2. I have completed the examination of witnesses tendered for examination and forward the record for reference. The statements recorded refer to a very large number of cases in which the Sub Judge is supposed to have accepted bribes, but in most of them, there is

nothing proved beyond rumour. I shall therefore, in this report, refer only to the suit which has given rise to the present enquiry and to a few others in which there is something like direct evidence of corrupt conduct on the part of the Sub-Judge.

The application made to me on the 12th Instant was by Mr Richmond, pleader for the Plaintiff in O.S. 21 of 1887 in the Sub Court. He asked me to call up that suit to my own file as he had reason to think that the Sub-Judge had been bribed by the other side. The Defendants pleader, Mr Lemerle had, he stated, asked the Sub Judge to decide the 5th Issue in the suit on 13th March. This issue was a technical one, whether a suit for an injunction would lie and could not, Mr Richmond alleged, be decided without taking evidence to show whether the Plaintiff held possession of the plaint property or not, but he feared that the Sub Judge might corruptly give a finding on the issue against his client, without taking further evidence.

4. Five of the witnesses whom I have examined, gave evidence touching this case. One of them is Mr Lemerle (9th witness) who represented the Defendant in the suit. He stated that he did press for a finding on this technical issue, because his client was anxious to have the case settled and he thought he would succeed on that issue in consequence of statements made by the Plaintiff's own witnesses. Mr Lemerle was questioned regarding conversations between himself and Mr Bras D'Rozario, District Munsiff of Cannanore and a nephew of the latter, who is Head-Master of the Brennen High School, Tellicherry. He denied having told either of these that he expected to succeed in O.S. 21 of 1887, because it was said his clients had settled with *the man* (i.e. the Sub Judge). He remembered speaking of the case a *a fat one* out of which the Sub Judg

would probably make a good thing, but if he made any remark about the Sub-Judge having been "settled", he must have meant settled by the other side.

5 The District Munsiff, Mr D'Rozario and his nephew are the 1st and 16th witnesses. Their statements leave no doubt in my mind that Mr Lemerle did tell them he expected to succeed, because it was said that his clients had settled with the Sub Judge. Mr B. D'Rozario has been a District Munsiff for many years and, I believe, bears a most excellent character for honour and integrity. I do not know much of his nephew, the Head Master, but his demeanour was good. I am disposed to think that Mr Lemerle has not been accurate in his statements. He is the Government Pleader of this Court.

6. The 2nd witness is the broker of Messrs Volkart ~~and~~ Bros Co in this place and a man of some means. He is a friend of the Plaintiff in the suit and is helping him with funds. He says that one Chambādan Krishnen Nair has, while the suit has been pending, often come to his warehouse and, on one occasion, lately said to him "If you get Rs 5000 from Mamad" (the Plaintiff's Karnavan) "the Rs 3000 will be returned". Witness had no difficulty in understanding in consequence of public rumour, that the Rs 3000 was a bribe received from the other side, which would be returned if the Plaintiff paid the larger sum. Chambādan Krishnen Nair is one of two men believed to be the Sub Judge's touts for bribes. His reputation as such is spoken of by almost all of the pleaders of my Court, who have been examined by me, and also by others. Nearly all the leading Practitioners at the bar here, have been examined in this enquiry.

7. The 8th witness says that he sold a cow lately to one Kinhi Pakki (alleged to be another tout of the Sub

Judge) and was instructed to take it to the Sub Judge's house when he would be paid Rs 5 still due for the animal. He did this and going near the portico of the house, saw Chambadan Krishnan Nair talking there with one Kuttiammu Musaliar. The latter instructs Mr Lemierle for the Defendant. Witness was driven off the premises by a Nair boy and afterwards told the Plaintiff's people what he had seen.

8. This is the only evidence about O.S. 21 of 1887, but I have thought it right to accept evidence referring to other cases as well.

9. One of these is called Vayil Ahmed Haji's case. This man was Defendant in O.S 50 of 1883 in which Mr J. L. Rosario represented him. He is 5th witness in this inquiry and denies having given any bribe to the Sub-Judge, though he admits having borrowed about Rs 3000 from the Bank when the case was pending. This was, he says, to buy elephants. Mr Sherman

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Sherman, the Agent of the Bank Tellicherry (3rd witness) proves the loan from the Bank, which he heard soon after was for the Sub Judge. Mr Rosario gives important evidence and states that while the case was pending, his client came to him in distress, because the Sub Judge had sent for him and demanded Rs 5000 as a bribe. V. Ahmed Haji had told the Sub Judge that he could afford no more than Rs 2500 and feared therefore that he might lose the suit. A few days later, Mr Sherman consulted Mr Rosario (who acts for the Bank) about Ahmed Haji saying he wanted to borrow about Rs 3000 and asking if he was worth so much. Mr Rosario said he was and the loan was given. Shortly afterwards, Mr Rosario was riding a tricycle along the road close to the Sub Judges house and saw his client coming from that direction. He called out that he wished to speak to him afterwards at his office. Ahmed Haji promised to attend, but never once came near him till the suit closed in his favour. Previously he had been a most fidgetty, troublesome client and the change in his conduct was remarkable. It is not difficult to judge what Mr Rosario's belief is in the matter.

The 11th witness is at present acting as District Munsif of Nadapuram. He was for the Plaintiff in this suit and got a second appeal filed. The High Court remanded the suit and the Sub Judge again found for the Defendant. This was confirmed, because the High Court refused to give an adjournment and the appeal was not argued.

Mr Rosario, 6th witness also gives evidence about an other suspicious case. He was retained in two appeals by one Pārapravan Kunhammed Haji and believing that his client had bribed the Sub Judge, refused to oppose an application to have the appeals called up to the District Court. About a month ago P. Bavotti Haji, a brother of Kunhammed Haji showed him, in connection with another case, a letter to the latter from his son Māyan. Māyan wrote that the Vakil had consented, the Rs 1000 was not wanted and so he returned the money. This can only mean one thing. Bāvotti Haji (21st witness) says that he cannot now find the letter and Mayan (22nd witness) knows nothing of such an affair. There is no other evidence about this case at present.

12. Mr Gopala Menon (15th witness), a leading pleader of my Court, speaks of a suspicious circumstance in a case he calls the Pillambilavil Case. He was for one of the parties and, after it had closed, happened one morning to pay a friendly visit to the Sub-Judge in his house. He found one of the parties (not his client) standing at the gate with a bundle under his arm that might have contained money. The Sub Judge told Mr

Gopala Menon, during the visit, that a party to a suit had actually come bawling to his gate and the peons had been told to drive him away. No peons were about the house, but the man had disappeared when Mr Gopala Menon left. That morning, contrary to the usual practice, the Sub Judge delivered Judgment orally against the party seen at his door and the rumour was that this was because of the accidental morning visit.

13. There is one more case I would refer to, known as Chekkon's case. Mr Rosario has heard there was bribery in it, but the 23rd witness gives more definite evidence. This man had an appeal before the Sub Judge at the same time that Chekkone had one. Chekkone said he was going to give a bribe and advised witness to do the same. Chekkune left Tellicherry to get money and brought back sovereigns worth Rs 700. Witness went with him to the Sub Judge's house and saw Chekkune enter with the gold and a letter. On returning, Chekkone said he had paid directly to the Sub Judge and could arrange that witness should do the same.

14. It is not worth while to refer to other cases in which pleaders and others have heard rumours of bribery; but I will refer to the evidence given about the two men Kunhi Pakki and Chambàdan Krishnen Nair. Every one seems to believe that these men have solicited bribes for the Sub Judge. They have both been seen constantly about the Court, though Kunhi Pakki is a cloth hawker and Krishnen Nair, a young fellow not long away from school. Mr Imbicchunny Nair (11th witness) says that Kunhi Pakki is believed not to have touted for the last 6 months, because the Sub Judge found he over did it, soliciting every one, and causing risk of detection. Chambadan Krishnen Nair was examined by me as 4th witness. He was

summoned to produce all registered bonds or hypothecation deeds that existed in his name. He brought none and did not know of any though he thought that ~~possibly~~ his father might possibly have used his name in such documents. His father has unfortunately left Tellicherry for a time. Witness had never heard that he himself had figured as creditor for Rs 1000 in the Insolvency Schedule of one Puthiadath Raman Nambiar. That he did so is proved by a certified copy of the Schedule filed by Mr Richmond and it is of course asserted that the debt had connection with bribery. The 23rd witness gives damaging evidence against this young man. He says that in a suit Kunjee v. Paku the latter told him Kunjee had bribed the Sub Judge. Witness therefore spoke to Chambadan Krishnan Nair (the tout) about it and asked if he could not settle the matter with the Sub Judge. Krishnan Nair promised an answer next day and next day said if Rs 1000 were brought after a month, Paku might feel sure of a decree.

16 In all this evidence there is nothing that proves anything conclusively against the Sub Judge and yet I have now not the least doubt that he has for some time been systematically corrupt. I had till quite recently no suspicion of it, but I am now convinced that his reputation stinks in the nostrils of the people. I will extract what some of the leading pleaders of Tellicherry have said about him in this enquiry. Mr Rosario, the leader of the bar (6th witness) says "There is undoubtedly a general belief of his dishonesty. I have never met a man who has believed him to be honest. I am quite convinced that people would come forward and give evidence of corrupt acts. I think I know 3

or 4 who would admit having bribed him, but only if convinced they would not be prosecuted."

16. Mr Lemerle (9th witness) says:- "The opinion of the bar in the case of nearly all pleaders has been that some Judgments of the Sub Judge in big cases were not honest, because the Sub Judge has been corrupt. We used jokingly to ask one another at the bar table on which side was the weight of evidence. This meant something very different from the ordinary meaning of the words."

17. Mr Imbicchunny Nair (11th witness) now acting as District Munsiff says:- "I consider the bar's estimate of the Sub Judge is not in favour of his honesty. I have a decided opinion which I think I have already indicated clearly enough."

18. Mr Puvādan Raman (13th witness) says "When he first came here 15 years ago, he was known to be strictly honest. Then he went to Trevandram and was for some time, I believe, known to be an honest man. He came back here 4 or 5 years ago a second time and his reputation has been different— horrible. My honest opinion is that he takes bribes. This is believed throughout Malabar."

19. Mr Gopala Menon (15th witness) says "The bar distrusts the honesty of the Sub Judge. We ask one another sometimes which side has given weighty evidence? meaning bribery. The term white evidence is also borrowed from the heading of an article in the Malabar Spectator."

20. Such bold statements as these made by the leaders of native society in Tellicherry, who are, I trust, men of honour, will, I think, convince the High Court that it is necessary at once to place the Sub Judge under suspension and appoint a special officer to con-

duct a searching enquiry into his conduct.

21. I am afraid that it will be difficult to obtain direct evidence of bribery unless it is announced that persons giving such evidence will not themselves be proceeded against for having given bribes. There appears to be so strong a feeling of indignation against the Sub Judge that evidence will, I believe, be forthcoming.

22. I shall not furnish the Sub Judge with a copy of this letter, but he is fully aware of the statements made before me. They were taken down by one of the pleaders of my Court, who watched the case on his behalf and who has informed me that the Sub Judge does not at present wish to make any representations to

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to the High Court in this matter.

I have the honour to be,
Sir,
Your most obedient Servant

Ag. Dist. Judge.

bS

High Court No.

From

The Ag. Distt. Judge
of North Malabar.

Confidential

Dated 24th March }
Despatched 27th March } 1888.
Received }

No. 184

28 enclosures as per list.

Recommending that Mr Kunjan Menon, Sub Judge of this place be suspended from his post and a commissioner appointed to investigate into the charges of bribery preferred against him.

In file 1/1608/88

No. 1068.

High Court of Judicature,
Madras, 6th April 1888.

From

F. M. Horsfall Esquire,
Acting Registrar of the
High Court of Judicature
at Madras.

To

The Honorable H. E. Stokes,
Chief Secretary to Government
with the Governor,
Stonehouse Hill.

Sir,

I am directed to forward for the orders of Government, letter* no. 184, dated 24th ultimo, from the Acting District Judge, North Malabar.

2. The papers deal with charges of corruption made against the Tellicherry Sub Judge, Mr K. Kunjan Menon, and Mr Cox is of opinion that there is strong ground for believing that if the Sub Judge were placed under suspension and a regular inquiry instituted, ample evidence would be

*in original with enclosures. To be kindly returned.

be forthcoming to prove the charges made. Having regard to the fact that the evidence already taken comes from persons of undoubted respectability and position — including several of the leading members of the Bar — the High Court is strongly of opinion that the Sub Judge shall be suspended pending a regular enquiry.

3. As the Sub Court adjourns on the 9th instant, the High Court do not consider that this is a case of such urgent necessity as would justify them in acting under the powers given them by part 1, section 19 of the Civil Courts Act, and would therefore suggest that the Government should suspend the Sub Judge and appoint an officer of sufficient standing to make the investigation proposed by Mr Cox. It is requested that immediate orders may be passed.

I have the honor to be,
Sir,
Your most obedient servant,

Acting Registrar,
Appellate Side.

Exd. H.

consultation with any Vakil whom he likes to appoint (the Govt Pleader is unfortunately concerned in the principal case & supposed ~~not~~ to have suppressed the truth), and to frame & submit for the consideration of Govt. such formal charges as can be supported by apparently credible evidence. I w.d also authorize him to guarantee any partic. person or persons, at his discretion, against prosecution for giving a bribe to the S. J.

Eventually if a case is made out I think Mr. Powell w.d prosecute, with the same Vakil as junior & Mr Justice Wilkinson be app. Commissioner but we need not decide that

Yet

10 Apr.

I concur generally in this note, but if a Commission is to be eventually appointed should wish to be consulted again

C

The depositions sh.d be returned forthwith direct to Tellicherry & H.C. informed of what we have done & that we sent orders direct to save Mr Cox leaving.

10 April

AM.

CN 1608

Judicial {188 8} Department.

No. 6

FROM

THE Ag REGISTRAR OF THE HIGH COURT OF JUDICATURE AT MADRAS, APPELLATE SIDE.

CHIEF SECRETARIAT 9 APL 88

Dated 6th April
Received } 1888.

No. 1068.

Encl. one letter with 28 Encls.

Forwarding for orders a letter from the Acting District Judge of North Malabar, and other papers dealing with the charges of corruption made against the Tellicherry Sub-Judge.

For orders.

The Sub Judge can be suspended under sec. 18 of the Madras Civil Courts' Act 1873, & a Commissioner appd. under sec. 3 of Act XXXVII of 1850.

D.G.P.
9 Ap.

There is scarcely evidence as yet on which to formulate specific charges under Act XXXVII of 1850. If it is decided to suspend the Sub Judge, it would I submit be best to let Mr. Cox complete the preliminary enquiry & frame charges. Another officer of the standing of a district judge could then be appointed as Commissioner under the Act.

H.C.
9 Ap.

As the Sub Judge's Court has adjourned or is about to do so there seems to be no necessity to suspend him at present. Mr. Cox' Court closes at the end of the week. I would telegraph to him to remain & complete his enquiry in

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Jud. Department.

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[25]

CHIEF SECRETARIAT MADRAS

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following paper

From Regr. High Ct. 6 April 88. No. 1068.

Tel.

Order, 14 April /88 No. 894

Ordered that the following telegram be despd. to the Dt. Judge of N. Malabar.

"Your confidential report 24 March to High Court concerning Sub Judge Kunjan Menon x Govt. desire you to remain & complete enquiry in consultation with any vakil selected and to frame formal charges supportable by credible evidence. You may guarantee any person ~~against prosecution for~~ proffering bribe ~~giving~~ immunity from prosecution. [illegible] ~~The depositions will be returned to Mr. Cox Distt.~~ Depositions ~~sent to you~~ retained by Govt."

x8 Court 14/4

2. The High Ct. will be informed that the above orders have been sent direct to the Dt. Judge, ~~to prevent his leaving~~. The Govt. will not suspend the Sub Judge at present as his court has adjourned or is about to do so. ~~to adjourn~~. Any charges framed by Mr. Cox should be submitted to Govt.

I 16/4

E

Confd.

when the question of the apptmt of a Commissioner under Act 37 of 1850 will be considered.

J.E.S.
14 Apr

A.C.P.
14/ap.

The Hon the Judges of the High Court with Cy. } Despd 14/4/88

Depositions to sent to Dt Judge - 14/4/88

Office

Despd infm

Despd teleg sent down signed at once, also depositions be sent to Tellicherry + wire order to [illegible] Ct soon.

A.C.P.
14/4.

82A/14

[7.]

ORDINARY, MS.

Judicial DEPARTMENT.
G. O. DATED 14 April 1888
No. 894.

confidential

When given for copying 14/4

[Despatch Abstract.]

K. Kunjan Menon - Sub Judge.
Tellicherry.

14 sheets

P. 1 to 13