

Memorial of
J. S. Vanderpool

G.

(Forwarded)

Recd in office 2/10

Papers to be read in Proceedings:—

Again G.O., dated 18, No.

2- Again G.O., dated 30 June 1891, No. 1286 Ind.?

Current No. of 18, dated from

P- Current No. 14 of 1891, dated 2 Jan from P.S.

Order of 23.1.92 No. 157.

The expression "on more than one occasion previously the Govt." has had cause to regard with grave displeasure the conduct of Mr. Varada Rao is incorrect for the first six words of this sentence the words "on a previous occasion" should have been used. In other respects the sentence has no reason to modify. P. 7 30 June 1891 No. 1286 Ind.

(From orders)

16 Jan.

To Mr. J. Varada Rao. (This the Govt. of Malabar)

Appellations Dept.

Copy to Revenue Dept.

(with copy of Memo.)

23 JAN 92

IN M.S.

CURRENT NO. 14

C. 8/1

R. 19/1

(1892) DEPARTMENT.

Go. 30.6.91:1286 Capt. Tull.

7.7.91:712R.

12.7.91:1449ms

14.7.91:740R Sub.

Pub. C. No. 3244/91, lodged.

THE PRIVATE SECRETARY TO THE 12.11.91.

Tull. G.O. 1998 of 12.11.90.

RIGHT HONORABLE THE GOVERNOR,

Pub. G.O. 728 of 31.10.90

Pub. " 314 of 25.4.90

" " 868 of 31.10.89

THE CHIEF SECRETARY

" " 806 of 13.8.88.

" " 1403 of 1.10.87

TO GOVERNMENT,

— 2257 of 25.10.86

DEPARTMENT.

— 493 of 8.3.86

1338:11-8-90.

Dated 2nd

Received

January

1892.

Recd
JRP

CHIEF SECRETARY
4 JAN 92
ENCLOSURES
H.E. Govt note

Subject.

TRANSFERS a petition from

requesting that the comm. be passed
in him in G.O. 1286 Tull. of 1891
may be modified

For Mr. Schmit

Reference

I have made a complete list of the

cases which are put up in the cases.

fully this success in all of the

by 1885 to see if any other papers

can be traced. C.L.

6/1/92

H.M. & Co.

For Orders.

Such papers as can be traced in
the records of the office about Mr.
Varada Rao are put up.

C.L.
7.1.9216
7 Jan.

G.O. No. 1286 dated 30 June
1891 contains what led to Mr. Varada
Rao's reduction. The whole matter
was fully discussed & was considered
in Council.

This does not seem to improve Mr. Varada
Rao's case in any way. In fact it at his
lays about the case of Pichee Dyer rather
makes it worse. He says that his lenient
punishment of that individual was
due, not to his having undervalued
the gravity of the offence charged, but to
his doubts of Pichee Dyer's guilt, and
he proceeds to show the reasons for such
doubts. ~~He felt~~ He felt
bound to accept the findings of the higher
courts in the matter, ~~as~~ but as promised
with his doubts by imposing a trifling
punishment. If he really believed the
man innocent, he should have refused
to punish him at all and should have
referred the case to his superior officer,
but the course he adopted showed
complete weakness as well as error
of judgment. As regards the rioting
cases there is nothing further to be
said. The petition contains nothing

Petition from ^{Mr.} J. Varnora Row

DATED 18. 12. 1891.

TRANSFERRED to the Chief Secretary to
Government for disposal, with reference to
His Excellency's remarks.

(By Order.)

[Amadulla

Private Secretary.

GOVERNMENT HOUSE,

2nd January 1892.

to induce Govt. to modify the censure
passed. Varada Rao merely says that
a Magt. is not the condemned because
his judgments do not stand in appeal.
This was not the ground on which he
was censured.

The only point in which the C.O.
needs modification is the statement
that he had "more than once" in-
curred the grave displeasure of Govt.
There was as far as appears only
one previous occasion on which
he was formally censured - viz.
Pichu by his cue. His conduct was
called in question in trivial matters
on other occasions but no censure
was recorded.

del

9 Jan^y

Letter in the Hon. Mr.

Stokes' remarks

JHS

11/1/92

So do I. But I understood from
what the C. S. said yesterday in
Council that Varada Rao had suppressed
entirely the fact that there was another
occasion on wh. he was censured. But
of course if this is not so, the C.O. sh^d.
be modified, as suggested by the
hon. Mr. Stokes.

W

13 Jan.

1. Aiyar, the dismissed Village Munsiff. He said in his cross-examination:—
“I did not examine Chinna Lukshmi (Prosecution 2nd Witness in the Preliminary enquiry) before the Magistrate came. No statement was taken from Chinna Lukshmi before the Magistrate came because she was unable to speak. I am sure I did not take any statement from Chinna Lukshmi before the Taluq Magistrate came. I did not sign the document Exhibit P now shown to me. I was present when the Taluq Magistrate examined Subba Battar (Prosecution 1st Witness in the Preliminary enquiry) and Chinna Lukshmi.”

2. Exhibit P was produced in the Sessions Court by Constable Ramasami Kone (Prosecution 6th Witness.) He was not examined in the Preliminary enquiry before me. Before the Sessions Court he made the following statement: “At 5-30 or 5-45, Lukshmi was able enough to speak a little. Then the Village Munsiff took a statement from her. I was present then. By the time we had finished taking statement the Tahsildar arrived. After his arrival he also took a statement from Chinna Lukshmi. The Village Munsiff gave to me the statement he had taken from Chinna Lukshmi. I had it pasted on the File Book at the station thinking that it was not so (very) important. I did not paste it in the File Book. I instead of saying that I kept it in the File Book said from failure of memory that I had pasted it. I did not hand over the statement to the Tahsildar because he had taken statement of the same nature. I produced statement P to the Taluq Magistrate on 17th July 1890 or 32 days after the date of offence.”

3. Of the 3 signatories to Exhibit P the Village Munsiff denies his signature. The other two were Kuttalalingam Pillay (Court 2nd Witness) and Hariharamien (Court 1st Witness) both examined before the Sessions Court and not by me. Court 2nd Witness said “No statement was taken from Chinna Lukshmi that day. I remained there as long as the Taluq Magistrate remained there. He took statement from Chinna Lukshmi.” When I said that no statement was taken from Chinna Lukshmi, I said so thinking that the Village Munsiff had not taken any statement from Chinna Lukshmi. In cross-examination he further said “the signatures on Exhibits R, O, P, which are again shown to me now are alike. There seems to be no difference between them. I did not see the Village Munsiff sign them. I cannot swear that they are the

cross-examination he made the following allegations. "I know not who wrote the body of the statement. I did not see the Police there when this statement was taken. I know in whose custody Exhibit P was after it had been signed by myself and others. I don't remember if Constable Ramasamy Kone was present when the statement was taken." It was Ramasamy Kone that produced the statement on 17th July 1890.

Copy of the letter written by the Superintendent of Police.

PALAMCOTTA,
16th July 1891.

MY DEAR VARADA ROW,

It is with great sorrow that I hear of your intended departure from the District. The Police lose a good friend in you. But for your able support we would not have been able to put down Nanganéri Maravars. Your very name is sufficient to instil fear in them. In case I do not see you I thank you on behalf of my men for all you have done for us.

I am, yours sincerely,
(Signed) E. STEVENSON.

J. Varada Rao.
18.12.91

Police and sen
of my work as a Magistrate.

11. I beg Government also to refer to the Acting Collector, Tinnevely for an opinion of my work in the affected parts of my division during an anxious period of 3 months and to the opinion expressed on my work by my past Collectors Messrs. Lee Warner and Nicholson and also by the late Governor Lord Connemara and earnestly beg Government not to condemn me on the solitary instance of the High Court reversing and passing adverse remarks on this single judgment of mine, which is the general lot of most Magistrates.

Your Excellency's Obedient Servant.

18th December 1891.

Aiyar, the

"I did not examine Chinna Lukshmi (Prosecution 2nd Witness in the Preliminary enquiry) before the Magistrate came. No statement was taken from Chinna Lukshmi before the Magistrate came because she was unable to speak. I am sure I did not take any statement from Chinna Lukshmi before the Taluq Magistrate came. I did not sign the document Exhibit P now shown to me. I was present when the Taluq Magistrate examined Subba Battar (Prosecution 1st Witness in the Preliminary enquiry) and Chinna Lukshmi."

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I am, yours sincerely,
(Signed) E. STEVENSON.

5. On perusing the records of the case, of which I have given an abstract of the material points in an Appendix, I felt that the Village Munsiff had a certain amount of reason in his plea. I was not convinced that he had signed or written Ex P. or that having done so he corruptly disowned it intending to screen a fellow Brahmin from a conviction for murder. I considered that he was entitled to be let off. On the other hand there was the judgment of the High Court to the contrary effect and the call of the District Magistrate directing me to take due notice of the Village Munsiff's conduct.

6. As the dismissal of hereditary Village officials is a *quasi* judicial proceeding in which the officer dismissing has to form an independent opinion, I ought perhaps to have decided the matter solely on my view of what was right; but my respect for the opinion of the High Court precluded me from acting in this way, and I determined to pass on the Village Magistrate a comparatively light punishment not because I did not appreciate the gravity of the offence alleged against him but because I was not convinced that he was guilty of it, yet felt myself bound to recognize the authority of the opinion of the High Court.

7. I have on receipt of the G. O. recognized that this compromise was an error but I earnestly and respectfully beg Government to note that it was a mere error of judgment and in no way due to my failure to appreciate the gravity of the offence alleged against the Village Munsiff.

8. I trust that Government will be pleased on a consideration of the above statement to mitigate the censure and the cumulative punishment passed on me in the assurance that I have profited by the experience now gained.

9. In regard to the subject matter of G. O. dated 30th June 1891, No. 1286 I beg to point out that there were two trials and not one trial as observed by Government. There was however only one judgment pronounced by me. I beg to state that at the time when I passed the judgment I firmly believed that the parties before me were not concerned in the rioting and that families of peaceable citizens were dragged into Court in consequence of factious enmity and hatred. In a whole mass of conflicting testimony I followed the course

THE GOVERNOR IN COUNCIL,
MADRAS.

YOUR EXCELLENCY:—

With reference to G. O. dated 30th June 1891 No. 1286, (Judicial) communicated to me by the Collector of Tinnevely I most respectfully beg to submit that Government will be pleased to take into its kind and merciful consideration the following. A word of explanation seems necessary why I venture to solicit the attention of Government now. In the G. O. aforesaid I am informed that Government had had to notice my conduct on more than one occasion previously with grave displeasure. So far as I am aware the only occasion on which I happened to incur the displeasure of Government was in connection with a G. O. communicated to me by the Board of Revenue in December 1890. On this occasion before passing on me a very severe condemnation which has caused me deep and heartfelt pain neither Government nor the Board of Revenue was pleased to call on me to offer an explanation of my conduct. Hence I now beg leave to do so.

2. As regards the convict Chithambara Kistna Iyer alluded to in the Board's Proceedings aforesaid I beg to represent that no effort was wanting on my part to secure that justice should be done. In fact on a representation being made to me that the case was for various reasons likely to be spoilt in the 2nd class Magistrate's Court, I withdrew it to my own file on the 14th September 1889 and committed it to the Court of Session on the 19th Idem. He was convicted in the following Sessions.

3. The High Court in confirming the conviction of the prisoner remarked that the Village Munsiff probably suppressed Ex. P which purported to be a statement made before him by one of the girls who was poisoned, viz., Lukshmi-ammal *alias* Chinna Lukshmiammal when she was under the fear of approaching death in order to save a fellow Brahmin. I was called on by the District Magistrate to take due notice of the Village Munsiff's conduct.

No. 728 of 31.10.90
Printed at No. 24
S.O. 1286
30.6.91 A

Police and sent as the best evidence
of my work as a Magistrate.

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J. Varada Rao
Asst Collector Malabar
(on leave)

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9. In regard to the subject No. 1286 I beg to point out that there was nothing observed by Government. There was nothing to be observed by me. I beg to state that at the time I was not believed that the parties before me were the families of peaceable citizens were dragged into enmity and hatred. In a whole mass of con-

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READ AGAIN ORDER OF GOVERNMENT, DATED
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FURTHER PAPER, No. 85 OF 18 72.

ENCLOSURES

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Confidential No. 17
1892.

Judicial DEPARTMENT

G.O., DATED 23.1.92

No. 157

Series. mis

~~Confidential~~

First copy sent to Press Copy sent 22/1

Returned for signature 22/1

Despatched 22.1.92
in M.S.

[Despatch Abstract.]

Mr. J. Varada Rao making
certain correction in G.O. No 1286
of 30. June but declining in any
other way to modify the contents
passed on — Statutory Circular