

No 2155.

High Court of Judicature,
Madras, 17th August 1892.

From

CURRENT NO. 3573.

H. W. Foster Esquire,

Registrar of the High Court
of Judicature, Appellate Side
Madras.

To

The Honorable J. J. Price,

Chief Secretary to Government
Fort Saint George.

Sir,

With reference to G.O. dated 23rd July
1892, No 1330, judicial, I am directed to state
that the extract from the Tanjore Police Super-
intendent's confidential report received
therewith was communicated to Mr. Davies,
Sessions Judge of Tanjore, for his remarks
and explanation, and he has replied
in letter No 355, dated 5th instant, of
which a copy, with its enclosures in original,
is herewith transmitted for the information
of the Government.

2. Mr. Davies impugns the accuracy
of the account given in Mr. Thomas's report
of what took place during the examination
of the witness Thangathammal, and points
on

out that she was a discredited witness at the trial, and that the Court Police Inspector is her nephew. The Sessions Judge has obtained from the two pleaders engaged in the case (the public prosecutor, who conducted the prosecution, and Mr. Kalyana Sundaram Aiyar, who appeared for the defence) a statement of their recollections of what happened while the witness was in the box and their accounts agree in all the main particulars with Mr. Davies's own.

3. The order to the witness to remove the cloth from her head and face seems to be satisfactorily explained, and also the incident of calling in her brother, the Court Sheristadar.

4. With regard, however, to the allegations that the Judge addressed the witness with insulting and opprobrious epithets the High Court regrets to find that Mr. Davies is unable to deny that he made use of the language attributed to him, but he says the expressions were merely muttered expletives forced from him by his indignation at

at the shuffling and obvious falsehoods which characterized the witness's evidence. He states that the words were not communicated to the witness and were not intended to reach her ears or the Jury's. He frankly admits too that this is not a solitary occasion on which his indignation has found expression in such a manner during the session of the Court.

5. The High Court greatly regrets that Mr. Davies should have displayed such a lamentable want of self-control. Though his utterances may have been intended solto voce it is plain that they were sufficiently audible to be heard by many persons in Court, and they must have been intelligible to some. Even if the precise meaning of the words were unknown to the Jury and to the witness their general significance cannot fail to have been understood.

6. While however the Chief Justice and Judges cannot but admit that Mr. Davies has laid himself open to censure in this matter they think it only due to him to add that in every other respect his work at

at Tanjore has been very satisfactory and
for seven years he has presided over a
heavy and difficult Court in a manner
which entitles him to confidence and con-
sideration.

I have the honour to be

Sir,

Your most Obedient Servant

W. H. H.

Registrar.

Current No 2513.

CURRENT NO. 3513

Judicial { 189 } Department.

No. 2155
17 AUG 92
CHIEF SECRETARY
GOVERNMENT OF MADRAS

FROM

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

Dated 17th August 1892.
Received

No. 2155
Enc. ~~one~~

Six

Forwarding with
remarks the explanation of
Mr J. A. Davies, Sessions Judge,
Tanjore, touching his treatment
of a witness in a Sessan Case.

For Orders.

C.
20/8.

Nov
21.8.92.

Mr. Davies' statement, that the
whole account is a gross misrepresen-
tation certainly cannot be
accepted. On the contrary, it
appears to be substantially true,
& shows that Mr. D. so far forgot
himself as to impair the dignity
of the administration of justice
I think he should be told that
such is the opinion of Govt. No
amount of prevarication or shuffling
by a witness can justify such
conduct by a judge.

Mr. D's remarks about the justice
Mr. Thomas shows unwarrantable
prejudice. He talks about the
Court Reporter, forgetting that
Mr. Thomas' report was based
on information furnished by
the Town Reporter also. I would
say nothing about this except
that Mr. D's remarks about the
justice show a prejudice which
is to be regretted.

If any one is moved from Tanjore
I think it should be Mr. Davies.

18th Aug.
In the copy of Mr. Davies' letter
to the District "Is it because

The H.C. considers that Mr. Davies' ex-
planation in respect of the language
which he used may be accepted.
The report sent up by the Dist. appears to have
been substantially correct. Mr. Davies accounts
for his having ordered the woman to remove
the cloth from around her head, but
he must surely know enough of local
manners & customs to be aware that
the order, ~~as given~~ ^{as given} ~~was~~ ^{was} ~~unjustified~~ ^{unjustified}
unless the woman was
in a position at the time of giving it
which would be regarded by a woman in the
position of the witness & by many others as
an indignity. It is not at all clear that
what was said by Mr. Davies to the woman
in open Court was not as strong as alleged
in the Dist. report. Mr. D. had by his own
admission just been delivering himself
of what he calls "muttering" imprecations
of a pretty highly spiced type, & he had
made a remark questioning whether the
woman ^{Tanjore} ~~Thayam~~ was a caste woman.
It is very likely that when the woman
appeared Mr. Davies would have merely
said "I would not have sent for you
had I known that she was your sister".
It seems not at all improbable that
the alleged prevarication and shuffling
in her answer imputed to Thayam was
the result of her being old, nervous and
timid when in the box. Mr. Davies
treatment of the woman does not appear

$\frac{1}{2}$
23 Augh

How & Circ

I discern in the majority of those
 'connoisseurs' who are interested
 in saying, & the original weight
 an affirmative that 'It is known
 &c.' There is no note of intima-
 -tion at the end of the sentence -
 & the affirmative form is a good
 deal stronger than the question form.
 Dr. not charge W. Diller with
 being prejudiced against the Miss. He
 has ^{only} had opinion of the
 (as shown by Justice Parker also
 has) & ~~perhaps~~ ^{perhaps} the ^{very} evidence
 with our opinion ^{but} that opinion
 may be ^{very} honestly formed, - though it
 is certainly prejudicial to the
 successful prosecution of Miss
 case. Dr. W. Diller is
 expressing regret that Dr.
 D. as Dr. W. Diller has such
 a bad opinion of the Miss
 evidence generally -
 I am inclined to agree that if
 any ^{one} would it Dr. W. Diller
 Dr. W. Diller has not. H. S.
 25/8/92

I do not think we need go beyond Sir D.
Stokes' first para - unless we might regret
the evident want of good feeling between
the bench & the police. But Mr. Davies
is I fancy worth Sir of Thomas - &
the High Court speak in high terms of him
as a Judge in a heavy & difficult court.

cl
26/8

in
del) Orders might have been drafted
at once without further circula-
tion

Gen. McKim
 10, Broad Street
 N.Y. - N.Y. P.O.
 248

The question of moving Mr. Davis
 might lie over until his return
 from leave & be decided according
 to convenience then.

Mr. [unclear] The majority seem to be against
noticing Mr. D's remarks about
the Police

Wes
12th

Judicial

DEPARTMENT.

[5]

Papers to be read in Proceedings:—

Again G.O., dated 4. June 1892, No. 1059. Mis

Again G.O., dated 23. July 1892, No. 1330. Mis

Current No. of 18, dated from

Current No. 3513 of 1892, dated 17. Augt from The High Court.

Order. 9/14 9. 92 No. 1721 Mis.

2. H.L. the Gov. in Council is unable to accept the statement in para 2 of Mr. Davies' letter of 5th August 1892 No. 355 that the whole account of his treatment of the witness is a gross misrepresentation. On the contrary it appears to be substantially true & shows that the District Judge so far forgot himself as to impair the dignity of the administration of justice. No amount of prostration or shuffling by a witness can, in the opinion of Govt, justify conduct such as Mr. Davies' in this instance.

Note

No reference has been made to the prejudice of Mr. Davies against the police or to Mr. D's transfer as H.E. is of opinion that para 1 alone of the Hon Sir H. Stokes note should issue & the Hon Mr. Gerstin would not "go beyond an expression of regret that Mr. D. should have such a bad opinion of Police evidence generally." As regards Mr. D's transfer which is the only other point the Hon Sir H. Stokes considers that it may lie over.

The Hon. the C.J. (with five enclosures returned Dec 14/9)

* Passed by C.L. late on 2nd evening put in Chief Secretary's basket 3rd 4th Sunday - Went to C.L. on Monday 5th with these papers.

x 2.9.92.

10/10/10

10/10/10 29
10/10/10 29

Mr. Davies
Mr. J. J. T. (Tangier)

From orders

SP 10/10/10

10/10/10 29

deep

with

10/10/10

27/9

10/10/10

10/10/10

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Judicial DEPARTMENT.

G.O., DATED 14. 9. 92

No. 1721

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Returned for signature. 10. 9. 92

Despatched 14. 9. 92

[Despatch Abstract.]

Mr. J. A. Davis C. S. Passing
on his explanation of
the complaint made against
him