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CONFIDENTIAL.

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Judicial (1895) Department.

ORDINARY Miscellaneous

G.O., No. 2651

Confidential No. 179A

DATED 21st December

[Despatch Abstract.]

References to Sessions Judges
on petitions from convicts under section 401
of the C.C.P.

Directing that — should be —
invariably be made through the High Court.

CIRCULAR.

CHIEF SECRETARY
23 NOV. 1895
COMMUNICATIONS

(By the Court.)

D. W. G. COWIE,
Ag. Registrar.

To

The Sessions Judge of

Chief Secretary to Government, Fort St. George (4 copies).
Secretary to the Government of India, Fort St. George (4 copies).
Under Secretary of State, Foreign Office, London (4 copies).

Secretary to Government, Fort St. George (4 copies).
 " Secretary to the Government of India and the Department, Calcutta (2 copies).
 " Under Secretary of State for India (4 copies, one of which addressed to the Legal
 Adviser, India Office) through the Chief Secretary to Government, Fort St. George.

Exd.—P. Venkataswami Nayudu.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

G.O.

No 3262.

ARTMENT.

It is

Count

in which

for

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G.O. No.

5540

DEPARTMENT

High Court

G.O.

No. 3262

Received 15-11-95
 23-11-95
 25-11-95
 3-12-95

Circular given to post clerk

SUBJECT.

A circular re procedure to be adopted by the Sessions Judge when their opinions are called for by Rule 401 Cr. P.C.

Re corded.

Billie dispose of this along with the High Court's letter on the 21/11/95.

No. 3262.
Circular.

It has come to the notice of the High Court that some Sessions judges in cases in which their opinions have been called for by the Government under section of the Code of Criminal Procedure, have forwarded their replies to the Government to be direct, instead of through the High Court. In all these cases the convictions have been confirmed by the High Court on appeal - but on receipt of the replies from the Sessions Judges the Local Government proceeded to exercise the powers conferred by section 401, Criminal Procedure Code. 2. The High Court directs that in every such case the Sessions Judge's reply be forwarded through the High Court, when the requisition for the opinion has been received through the High Court or not.

(By the Court.)

High Court of Judicature, Appellate Side, Madras, 15th November 1895.

Acting Registrar, Appellate Side.

N^o 3263.

High Court, Madras,
15th November 1895.

No.

From

D. W. G. Cowie Esquire,

At. Registrar of the High Court,

Judicial Secretariat, Appellate Bldg, Madras.

15 NOV. 1895

To

The Honorable J. Price,

Chief Secretary to Government,

Fort Saint George, Madras

Honorable Sir,

I am directed to forward herewith
for the information of the Government a
copy of the High Court's Circular of this date
addressed to all Sessions Judges in which
it is directed that a Sessions Judge
invariably forward through the High
Court his report to a reference from
the Local Government under sec
401, Code of Criminal Procedure.

2. I am to state that the High
Court has been constrained to make
this rule because cases have come

1895

No. 5702

to notice in which Sessions judges have
corresponded with the Government direct
concerning the propriety of convictions
sent by the High Court on appeal.

The cases in question are those
all with in G.O. Judicial, of 7th September
94, No. 2185 & in G.O. Judicial, of 3rd August
95, No. 1628, copies of which were forwarded
the Honorable the Chief Justice with
the letters of the same dates.

In these cases neither the references
the Sessions Judges nor their replies passed
rough the High Court and His Excellency
the Governor-in-Council was pleased to
mit the sentences without requesting
opinion of the High Court which had
all with the cases on appeal.

The Honorable the Judges are fully
ware that the Local Government
not bound to consult any judicial
thority before exercising the powers
lured by section 401 of the Code of
riminal Procedure, but they are
J

of opinion that a Sessions Judge should
not be permitted to correspond with
the Government about the propriety of
conviction which has been confirmed
the High Court on appeal without
his observations through the High Court
and for this reason have framed
the rule now forwarded.

I have the honor to be,
Yours most obedient servant,

D. W. G. Com'l
Asst. Registrar
Allahabad.

1895

To

To

5700

[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

Every letter, whether printed or in manuscript, should be docketed and abstracted on the back; and the abstract should state clearly the purport of the letter and not merely its title subject.

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes. (G. O. 8th April 1893, No. 299, Public.)

[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

N

Memo. No. 28258/23-11-95

The Suptt., Her Majesty's Penitentiary, is requested to submit to Govt. at an early date copy of the judgment of the Sessions Judge, Bellary of the sentencing convict No. 5025 appeals chinnu Sankadu and convict appeals No. 5026 Pedda Subbadu to seven years rigorous imprisonment at Bellary each in Sessions case No. 71 of 1893, and also of the High Court's judgment in the same case.

M. V. S.

Suptt., H. M.'s Penitentiary, Madras

Return D.S. after
herewith
18

CURRENT No. 5402

Judicial { 1895 } Department.

No.

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

2185
7.9.95
1628
3-8-95

Dated 15th November } 1895.
Received 15 }
Rgd 16 }

No. 3263.
Enc. one.

Forwarding copy of a circular addressed to all ss: Judges directing them forwarded through the H. St. cis replies to refces from the Local Govt. under Sec. 101, Cr. P. Code, and stating reason why the rule has been made.

No. 685

Madras, 26th November 1895.

FROM

D. A. McCREADY, Esq.,

SUPERINTENDENT OF PRISONS
FOR THE TOWN OF MADRAS,

TO

THE Chief Secretary
to the Govt of Madras.Reference your letter No. 2825 dated 23rd instant

SIR,

I have the honor to submit
herewith Copy of Judgment in
Bellary Sessions case No. 71 of
1893 and of the High Court's
appeal Judgment in the same
case.

Returned to Suplt
21/12/95

I have the honor to be

Sir

Your most obedient Servant

A. J. Hazlett
Superintendent of Prisons

From

5605
THE SUPERINTENDENT OF PRISONS
FOR THE TOWN OF MADRAS,

To

THE Chief Secretary
to the Govt of Madras
Fort St George

Dated 26 Novem 1895
Received 27

No. 685

CHIEF SECRETARY
ENCLOSURE
27-NOV. 1895
GOVERNMENT OF MADRAS
SUBJECT.

Submitting Copies of
Judgments of Bellamy
Sessions Case, of the
High Court appeal.

Judicial DEPARTMENT.
C. No. 540245605

FOR ORDERS.

In the two cases referred to be
the High Court in para 3. of the a
current, the convicts had appealed
to the High Court and the appeals
had been dismissed.

The High Court picks out two
cases to justify the
issue of this circular, to correct
its apparent annoyance at the
procedure adopted by Govt, which
gives the least possible support to the
adoption of the course it has followed.

The judgments in the ^{first} case referred
to (that in G.O. 2185 J. 79-94) have been
procured & are put up with this
current. This shows that the
Sessions Judge clearly summed up for
an acquittal of all the prisoners, &
that the High Court refrained from
passing any opinion on the guilt

THE SUPERINTENDENT OF P.
FOR THE TOWN OF

CHIEF
27
26

inocence of the Prisoners
because it was a Jury case.
In the second case that
with in go 1628. J. the High
3595
own judgment seems clearly to
that it thought the Jury was
in the inference that it drew
from the evidence, & that it regretted
that it had not in the case of one prisoner
of the affairs
a minute misdirection was
discovered (pointed out) it could
of find that there had been any
misdirection of the Jury.
The Court might have been in-
structed to be rather pleased that
the foot. was able to release men
from it itself. thought were
not get could not, under the law, acquit
misdirections convicted, but instead, it
rules in the tone of praise. of the
current.

Govt. has material for a
Cochling report but it is submitted
that considering all things it may
turn the other cheek, & that the
order on this may be simply
"Recorded"

29-11-95
The High Court can pass the
order & the Govt. cannot interfere
the matter is with the High Court about.
12/12/95
22/11

FOR ORDERS.

H. E. THE GOVERNOR.
THE HON'BLE MR. H. W. BLISS, C.I.E.
THE HON'BLE MR. J. GROSE.

It appears to me that it should be
down as a matter of practice, that
references to Sessions Judges in
cases shd. be made thro' the High
Court only as a matter of courtesy -
avoid needless friction.
I should like to know if the manner of
dealing with these two particular cases was
a departure from previous
custom?
12/12/95
C. 29/11

be read in proceedings:-

ARTMENT.

Again G.O., dated

Again G.O., dated

Current No. 5402

" "

" "

189 , No.

189 , No.

of 1895, dated

" 189 , "

" 189 , "

, from

" "

" "

Office

No need to read the
other papers in the file

ORDER.

Recorded

W. H. 1295

12/12/95

(from orders)

Note for H.E. the Governor.

The adoption of the practice desired
by H.E. will, it is submitted, be
secured by the circular of the
High Court now under consideration.

A search has been made,
but no cases can be traced
in which the opinions of Sessions
Judges in these matters have
ever been asked for through the
High Court. The manner of
dealing with these two cases
was thus in accordance with
previous custom.

I can remember nothing but
past references.
W. H. 1295
12

not see this. The H.C.
only ensure sessions
to Govt. being sent
H.C.
D. go further, and
all such cases as
H.C. should
Sessions Judges through
H.C. This course seems to
able for many reasons -
not see that it can be
way derogatory to Govt. while
could be gratifying to the H.C.

W
15 Dec

W
5 Dec

High com

HA

H.E. the Governor.

(from orders with note.)

DATED

Spare

Issued

H. C. of course, but
don't see any need to print it.

S. Judges. will correspond
through H.C. in conformity
with High Ck Circular, and the
of the order is for guidance

is only. Give the
all a copy but better
to make to order conf.
W. savings

Total ..

In hand ..

C 18/12

R 20/12

Submitted to H.W. in

H.E. the Governor's notes.

I have
W. B. 1295 implied

replies in

through the

The references should pass

The same channel: perhaps in

order might use.

MEANT FOR DESPATCH

I don't object 1 Recorded

DO

19/12/95

JS

2 References to persons for

with regard to cases coming

letter 401 C.C.P. had

.. 10000 I will in future

the down the C.J. with C.

flung about,

20

22/11

C. 29/11

W

5 Dec

6/1/96