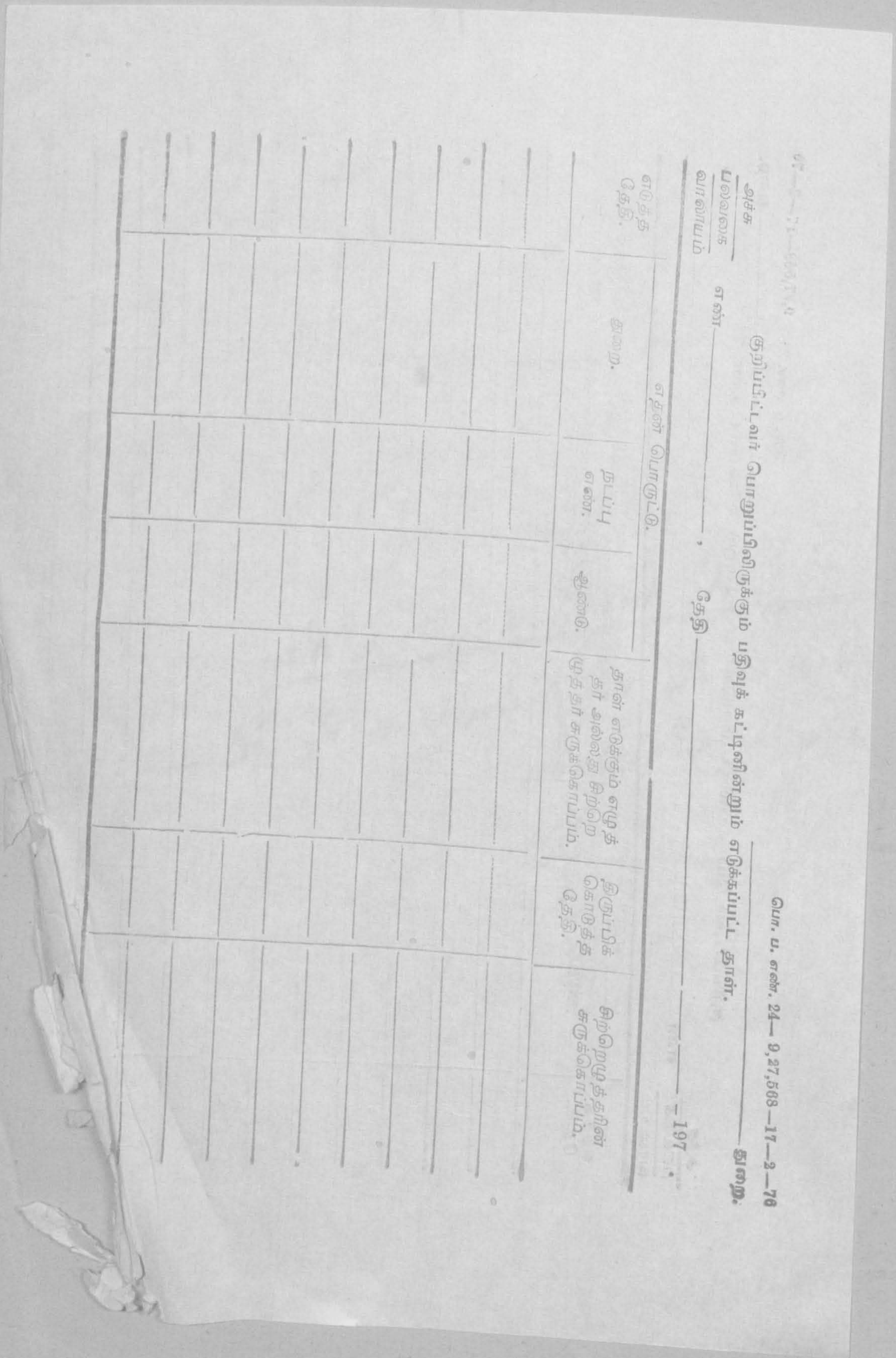
1766/75 - 333/RJ.

CONFIDENTIAL.



டொ. ப. எஸ். 24— 9,27,568—17—2—76

குறிப்பிட்டவர் பொறுப்பிலிருக்கும் பதிவுக் கட்டுகளின்றும் எடுக்கப்பட்ட தாள்.

G. / 11
100—25-6-96.

Judicial (1895) Department.

ORDINARY PRESS

G.O., No. 511

Confidential No. 33

DATED 8-3-95

[Despatch Abstract.]

M. R. Ry. R. Ramachandra Rao

Passing orders re the competency of Dy. Col. — to be in charge of a division.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	115 162	Con —	1894 —				

FURTHER PAPERS.

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

List of [illegible]sures to letter from the D
Magistrate of Malabar dated 6th
1895 Ref on C. 20/Conf.

---

1. Explanation of Mr. R. Ramachandra Rao ...
2. Calendar Statements in Cases 573, 419, 593, 440, 165, 359, 51, 413, 690, 642, 701, 739 on the Betutpudiangady Sub magistrate's file 12
3. - Do - Nos 63, 799, 585, 594, 843, 839 - 841, 794, 795, 84[illegible], 845, 814, 837, 911, 934, 944 on the Ponani ob magistrate's file 13
4. - Do - Nos 29 and 330 on the Alathur Sub magistrate's file 1
5. Narayana Patter's application for leave Mr. Rama Candra Rao's order & Connected papers. 4
6. Copies of order under Sections 248 & 345 C.P.C in Cal Cases 3, 704, 713, 691, 692, 657 on the file of the Betutpudiangady Sub magis.... 6
7. - Do - Nos 813, 819, 909 of the Ponani magistrate ... 3
8. Enclosure 5 & C. No. 5983, received with G.O. 2801/20/11/94 —— — 3 Sets

put back into G.O. 2801/20-11-94

Malabar Distri[illegible]gistrate's Court
Calicut [illegible] February 1895

Ag Dist Ma

UNDER SECRETARY * 9 FEB 95 * PUBLIC ETC DEPT'S

List of Enclosures

5
Jud
Enc. 7
O. No. 575

Cw. 27/C I

Trevandrum
1st January 1895

From
M. R. Ry. R. Ramachandra Rao Avergal
Deputy Collector on leave

To
H. Moberly Esquire
Acting District Magistrate of Malabar

Sir

Adverting to your reference on current No. 20/Confidential dated 22 November 1894 I have the honour to submit the explanation called for by Government in its order dated 20 Nov. 1894 No 2801 Judicial. Please permit me to state at the outset that I deeply regret having given room to you to be dissatisfied with the discharge of my work and that I hope you will be pleased to alter your opinion after perusing the following. In your letter to Government you have cited five charges against me and I beg to respectfully offer my remarks about hem one by one.

Charge I 2. Your first charge is that I display considerable ignorance of law as is shown in my having considered it necessary to have made my reference in C C 91 dated 10 Aug: 94 (Ap A to your letter to Government) The District Magistrate seems to have misunderstood my reference as implying that I considered that the accused may be tried on evidence recorded in his absence. But this interpretation is not in the least borne out by my language. If my reference be read as a whole it is clear that I was endeavouring to bring to your notice the grave irregularity that had already occurred. The law requires that if the accused be suspected of being incapable of making his defence the District Surgeon ought to be examined and that the examination of witnesses ought to be deferred until the Magistrate is concerned that the accused is capable of making his defence. But this procedure has not been adapted by my predecessor: on the other hand he has recorded that the trial may go on in the absence of the accused. I knew this was

convinced

Sheet 2

was wrong and it was against this order that I wished to consult you. Unfortunately the reference does not seem to have been couched in very happy terms inasmuch as Mr. Bradley has misunderstood it. But to any one who reads the reference right through and considers it as a whole there can be no reasonable doubt as to my state of knowledge of the law. By suggesting the writing of a judgment as an alternative at the close of para 5 of my reference I did not mean such a course was legal: I adopted the language in the alternative as a courteous method of saying that I disagreed with my predecessor. Virtually it now happens that while I am reporting an irregularity I am now understood as not having noticed that very irregularity.

II

3. To make the matter more conclusive if necessary I may add that I examined the District Surgeon a day after I made the reference and long before I received the District Magistrate's reply. I beg you to kindly ponder over this for it clearly establishes that I was aware of the correct procedure and adapted it without

waiting for your instructions and that any reference was not due to any misapprehension of law on my part.

4 Charge II The Second charge against me is that I did not exercise sufficient supervision over the Submagistrates. The single fact that you adduce in evidence thereof is that I forwarded a calendar (C.C. 369 of 1894 on the file of the Submagistrate of Alathur) without passing any remarks though the offence tried was really robbery and as such beyond the cognizance of the Alathur Second Class Magistrate.

5 What I always do when I receive a calendar is to initial it in coloured pencil with date of receipt. If my work for the day be light I read the calendar through and pass it on to the office with or without remarks after initialing it in ink. If my work be heavy, I send it on without the ink initials. I do this because I am very anxious that the office registers should be capable of shewing up to date the quantity and despatch of work turned out by the Submagistrates.

Sheet 3

I have given office orders to my clerk in the sense and he was acting accordingly.

6. The calendar in question was sent into the office but without the ink initials. In spite of this and in direct contravention of my orders the magisterial clerk most probably by mistake despatched the calendar to you. If the error – want of jurisdiction – had escaped my notice after I had perused the calendar, I must plead guilty to the charge you are pleased to make: but as it is in this instance the blame rests not on me but on the magisterial clerk. I may add that the clerk had not committed a similar mistake before so as to put me on my guard and make me take special precautions agst such a rare mistake the occurrence of which could not be foreseen with any amount of diligence.

7. You say that a Subdivisional Magistrate is expected to read the calendars before sending them on to office. I beg to state, subject to corrections that I am not aware of the existence of any rule to this effect and from my experience of several divisional

There is no such rule but the High Court Circular requires prompt submission of these calendars offices the rule if it exist is more honoured in the breach than in the observance.

8. Charge III. The third charge is that my judgment in C.C. 100 of 1894 is incomplete and contravenes the provisions of Section 367 C.P.C. It is necessary for me to give concisely the circumstances of the offences enquired into in C.C 100 and the connected case C.C. 89 (Judgments in which form Appendices B and C to your letter to Government)

Where I have not known the recent. Perhaps Mr R. Row may be able to give specific instances.

Some Abkari officers arrested on the frontier the accused with arrack who resisted and assaulted the officers. The Smuggling of Arrack was the offence tried in C.C. 100. the resistance in C.C 89. The charge sheet in the former was presented by the Abkari Department and contained the names of two witnesses. The charge sheet in the latter was presented by the Police Department and contained the names of four additional witnesses.

9. You admit the correctness of the finding in ~~Criminal~~ Calendar case 100: hence your indictment against me resolves itself into two Sub-heads (1) I

W. [illegible] does not admit this?
X/13

Sheet 4

ought not to have considered in ~~Criminal~~ Calendar case 100 of 1894 the evidence recorded in ~~Criminal~~ Calendar case 89. (2) The judgment is technically incomplete.

10. As regards (1) I beg to submit the following. The offences are parts of the same transaction and it was open for me to try them together at the same trial. The falsity of one case involves conclusively the falsity of the other. If I had commenced the trial of ~~Criminal~~ Calendar case 89 first and discharged the accused before commencing ~~Criminal~~ Calendar case 100. I could have discharged the accused in ~~Criminal~~ Calendar case 100 without recording a single line of evidence. If I had but given a single Calendar number to both the cases, the second judgment would have been even superfluous.

11. As regards (2) para 9 it is clear from the judgment in ~~Criminal~~ Calendar case 100 itself that I meant it to be read along with the judgment in ~~Criminal~~ Calendar case 89. In fact there is an express reference to the effect in the judgment itself. I am aware that strictly speaking my judgment is technically defective to a certain extent,

but my error is almost a matter of every day occurrence and I therefore respectfully beg Government to Kindly Consider whether under the Circumstances the irregularity is so grave as to force the Conclusion that I am unfit to be a Subdivisional Magistrate.

R. R. Rao

D

12. Charge IV. As regards the fourth charge you have set out at full length the Circumstances in your letter to Government; you appear to admit that I had sufficient information to issue a preliminary order in the case of Avoker Kutti; hence your heads of indictment seem to be (a) I called on Abdulla to shew cause on insufficient information (b) I bound down Abdulla and Avoker on insufficient evidence.

13. I beg Government to Kindly peruse the Police Inspector's report. The Police Inspector reports (i) that Abdulla collected men on his side (ii) that Abdulla did not complain though assaulted (iii) that there is a general talk that he meditates revenge and (iv) that the Police Inspector believes that Abdulla has

Sheet 5

15

has got men ready to fight on his behalf. I respectfully beg to admit that a Magistrate is justified on the above information in issuing the preliminary notice.

14 (b). As regards Avoker Kutti the following facts have been elicited. He was seen by Constable No. 656 outside Fatima's house in the midst of a large crowd; the crowd behaved in such a manner that the Adhigari reasonably feared a breach of the peace and found it necessary to give directions to the effect. Fatima had sent a petition that Avoker was attempting to break into her house. Avoker was again seen standing outside the house when Constable No. 903 went to the house; this shews that the interference of constable No. 656 on the previous occasion had not the desired effect and Avoker continued to assemble men and beleague Fatima's house.

Not at all there is no evidence that he assembled them

D

Avoker Kutti states that he did not attempt to commit a breach of the peace and starts a theory that all Fatima's property belongs to Kunjoli Kutti Moopen who lives in Belathpudiyangadi. He examines but one defence witness and that witness is this self same Kunjoli Kutti Moopen who naturally deposes in Avoker's favour in order to support the person who speaks to his possession. This evidence is not of much weight. Further Avoker Kutti makes a false statement as that he was not present when the Police came which statement is highly suspicious.

15. As regards Abdulla, in his statement he harps on the fact that Fatima's property is his under a registered document. This shews that so long as the ~~dissipation~~ devolution of the property remained in abeyance ill-feeling is likely to exist between the fractions. Constable No. 656 says that he was of opinion that Abdulla was trying to commit a breach of the peace and it was freely talked about that he had assembled men for the purpose. Abdulla has not examined a single person on his behalf. The Inspector's Report should also be read in this connection. Both the factions retaliate secretly each on the other.

not evidence

16. I respectfully beg to submit that the above are sufficient grounds for binding the persons to keep the peace.

Sheet 6

In Security cases the requisite evidence is much less than what is necessary to secure a conviction. Further I wish to draw special attention to the fact that the cause of disagreement between the parties continued to exist in full rigour. I had the advantage of noticing the demeanour of the Defendants and seeing how they were followed and backed up. As it was though I tried the case in Palghat far away from the Defendants amsam, they were accompanied by a very large number of adherents. I humbly beg you to consider that had I not bound down the persons and had a breach of the peace occurred whether I may not reasonably be taken to task. Police interference had to be invoked twice and the parties are Moplas. I may add that the required sureties were immediately found and though Abdulla had engaged a leading Vakil, he has not thought fit to file a petition against my order.

[illegible]

17. Charge V. The last charge you are pleased to make is that I suspended a stamp-vendor for a month on insufficient grounds. I beg leave to give in brief the

Sd/- same Kunishi K.H. 11 .

the circumstances of the case.

On the 29th June 1894 the Subordinate Judge of Palghat wrote to the Head Assistant Collector that the civil court stamp-vendors kept an insufficient stock of stamps and that the public were put to inconvenience on account thereof. The Tahasildar was directed to make an enquiry and statements were obtained on the 5th July from all the civil court stamp vendors including Narayana Putter the vendor that I suspended.

On the Tahasildars report all the stamp vendors were suspended by Mr Francis on the 25th July.

Meanwhile on the 9th July after he had made his statement Narayana Putter applied for two months leave on a substitute named by him. On the recommendation that no substitute was necessary leave was granted without substitute by Mr Francis on the 21st July.

on

18. It is necessary to understand fully Narayana Putter's position. He kept an insufficient stock: the

Sheet 7

18

the authorities got aware of it: and he knew on the 5th July that the authorities were aware of it. He applies for two months leave on the 9th July: leave is granted. But on the receipt of the Tahsildars report about insufficient stock he is suspended on the 21st July. But taking advantage of the change of divisional officers, he enters on his duties on the 3rd August when aware of his suspension. His conduct also throws a curious light on his leave application: he gives the reason for his leave to be that he had to go to Madras to take his son and get him treated. The necessity for the leave arises when he comes to know that he will be punished and would not be satisfied with less than two months leave. When the divisional officers change, the necessity suddenly evaporates: He joins but after ten days leave.

Should be 25th July
[illegible]
Yes See Supra

19. I suspended Narayana Putter therefore on the following grounds.

(a) Resumption of duties when aware that he was suspended and arrangements have been accordingly made.

[illegible]

Self same Kunioli K. H.

(b) Breach of discipline in having joined without permission.

(c) Giving false reasons in his application for leave. Of course all along by suspending the vendor I mean suspending his license.

How was he known that the reasons he gave false

20. The above exhausts the charges you specially make against me and I hope you will be pleased after perusing the above to alter the opinion you have formed against me. In case you formulate fresh charges I beg to be favoured with a Copy of the same. In submitting the above explanation, I do not want it to be understood as asserting that I could not have done better but simply to shew that I was justified in doing as I did and that the errors will I hope be considered by Government as trifling and likely to occur ? in the case of all Officers.

21. In addition to the above I beg to add a few remarks. I was quite taken by surprise when you charged me with ignorance of Criminal Law for I had all along flattered myself (if I may be excused in saying so) into the belief that that was the subject in which with the exception of Mathematics I most excelled. Not only in the Law Class but even after I entered Government Service I spent a good deal of time & attention in reading the Standard treatises as well as the Commentaries on the Indian Acts etc. I have reason to suppose that I did not do ill in the examination by both the Standards.

Sheet 8

22. I exceedingly regret that you should judge of my work by the few cases you have cited in your letter to Government. If you kindly examine the Palghat Office registers, you will be pleased to see that I did turn out a lot of useful work though my tenure of office was brief. Several pending Magisterial Cases were disposed of. A number of intricate Land acquisition Cases pending even so long was disposed of; a Comparison of the two statements for the two half years of 1894

he was only in charge for 6 weeks

Sely same Kunisti K.H. 11

(be) will clearly bring out the difference.

23. I also beg Government to graciously bring to mind the Services rendered by me in the other districts I have served. It is not becoming on my part to recount them and accordingly beseech Government earnestly that before passing orders censuring they my consult the other Collectors I have served under viz Messrs Winterbotham Welsh. I ~~dance~~ etc. I may add that Mr. Welsh has recorded in one of his communications to Government that I am fit to be a Divisional officer.

What?

Mr W's opinion to [illegible] worth much

24. In conclusion I beg to convey to Government my thanks for the opportunity afforded me for submitting this explanation and beg to be excused for its length.

25 I beg to be excused for the delay in submitting this explanation. It is entirely due to the late receipt of records from the Head Assistants Office; the last of the papers I required was put into my hands only on the 14th January.

26 The following records are enclosed.

Sheet 9

1. Copy of Head Assistant Magistrate's letter dated 10-8-94. Rep on C.C. 91 of 94.
2. Copy of judgment in Criminal Case 100 of 1894
3. Do Do 89 of 1894.
4. Records in M. C. Nos 37 & 38 of 1894
5. Records in C.C. No 91 of 1894

I have honour to be,
Sir,
your most obedient servant
Manackandra
22 Jan
Deputy Collector.

Subj: same Kuniole K[illegible] 11

Revenue Department

Malabar Dy Collector's Office

$\frac{2}{3}$ 901 : 600 450

From

MRRy
R. Ramachandra Rao Avgl
Deputy Collector
Malabar

MRRy Ramachandra Rao's
Explanation

To

The District Magistrate
of Malabar

Dated 18 } January 1895
Despatched 22 }
Received H. MOBERLY.
28 JAN. 95

Enclosures: — 3 papers & records in 3 cases

Papers
5
9 [illegible]
6
595

Subject

Submitting an explanation called for by the District Magistrate

---

595

MALABAR District Magistrate's Court
Calicut, 6th February 1895;

Refd C No. 20/Conf.

FROM

H. Moberly Esqre
Ag District Magistrate MALABAR.
Calicut

TO

The Chief Secretary
to Government
Judicial Department
Madras.

SIR,

Sent separately with the enclosures

As directed in G.O dated 20th November 1894 No. 2801, I have the honor to forward Mr. Ramachandra Rao's explanation.

2 I cannot consider his reply to my first charge as ingenuous. He says that he was endeavouring to bring to notice the grave irregularity of which Mr. Francis ~~had~~ been guilty in examining witnesses in the absence of the accused, but says nothing about having himself examined three witnesses on the 10th August, in the absence of the accused. The following is an extract from the diary for 10th August 1894.

"1st Court witness Avaran Kutti deposes.
2nd Court witness Ummar deposes.
3rd Court witness Aidru Haji deposes.
The District Magistrate addressed for certain instructions"

Mr. Rama Chandra Rao asks that his letter dated 10th August 1894, Ref on C C No. 91 of 94

894 may be read right through. I had read it carefully before addressing Government and can only say that, if Mr Rama Chandra Rao really knew the law I cannot understand why he asked Mr Bradley if he could write a judgment under C.P.C S. 470 and report the case for the orders of Government.

3 Paras 4 - 7. I forward calendar statements in Cases 573, 419, 593, 440, 165, 359, 581, 413, 690, 642, 701, 739 on the file of the Betutpudiyangadi Sub Magistrate; in cases 636, 799, 585, 594, 843, 839, 841, 794, 795, 844, 845, 814, 837, 911, 934, 944 on the Ponani Sub Magistrates' file and in cases 329 and 330 on the Alathur Sub Magistrate's file. Government will see that Mr Rama Chandra Rao took some times six, eight and even eleven days to read Calendars. He handed over charge to Mr Murphy on 9th September, yet calendars which he had received on 4th August had not been perused. The High Court's rules require that Calendars shall be despatched so as to reach the Sub Divisional Magistrates within 48 hours after the disposal of the cases. Calendars in Cases 440, 419, 593 & 701 on the file of the Betutpudiangadi Sub Magistrate were not despatched in proper time, yet Mr Rama Chandra Rao made no remarks. Before I had been

in

in charge a week, I found that the Sub Magistrates in the Head Assistant's division were very careless about sending calendars in proper time, and that Mr Rama Chandra Rao took no notice of their conduct.

4. Paras 8 - 11. I have not admitted the correctness of the finding in Calendar Case No. 100. What I said was "I do not doubt the correctness of the finding in Calendar Case No. 89." I cannot agree with Mr Rama Chandra Rao that the falsity of one case involves conclusively the falsity of the other. The one accused in C. Case No. 100 may have smuggled arrack; the fact that the charge against the five accused in C. Case No. 89, of assaulting a public servant was not proved, does not prove that the charge of smuggling arrack was false.

5 Paras 12 - 16. I do not deny that Mr Rama Chandra Rao was justified in calling on Avoker Kutti and Abdullah to shew cause why they should not be bound over; I do not however think that he was justified in binding them over on the evidence recorded. Constable No. 656 said "When I went there I was of opinion that

defendant

Selj same Kunioli K

defendant was trying to commit a breach of the peace. There was talk in the crowd that both the defendant and Avoker Kutti had gathered persons". The constable's opinion is not evidence, and the statement made by persons in the crowd is not evidence. Further the Inspector's report was not evidence, and I am surprised that in para 15 of his explanation, Mr. Ramachandra Rao should refer to it, as if it were evidence.

6 Paras 17-19.

In para 19 Mr. Rama chandra Rao says he suspended stamp vendor Narayana Pattar on the following grounds:-

(a) Resumption of duties, when ~~ordered~~ aware that he was suspended, and arrangements have been accordingly made.
(b) Breach of discipline in having joined without permission.
(c) Giving false reasons in his application for leave.

The records of the case, which I forward do not bear out this statement. On the 25th July 1894 Mr. Francis passed an order, suspending the licenses of 4 stamp vendors for one month. Mr. Francis directed that the licenses of Narayana Patter and Subbramania Pattar, shall be suspended first, and then when their term of suspension had expired, the licenses of Madhavan Nair and Parameswara Patter. Narayana Patter applied for leave on the 9th July 1894 i.e. 16 days before Mr. Francis passed his order suspending the licenses and asked that one Subramania Pattar might be appointed as his substitute. On the 12th July, the Tahsildar forwarded the application with the remark that no substitute was necessary. On the 21st July Mr. Francis granted leave without substitute. Mr. Ramachandra Rao's statement that the man applied for leave when he came to know that he would be punished is pure assumption for it was impossible for Narayana Patter to say on 9th July what order Mr. Francis would pass on 25th July. On the 3rd August Narayana Patter returned from his leave and reported having done so. The Tahsildar at once wrote to the Head Assistant Collector saying that Narayana Patter had returned

(1) Naryanana Patter's application for leave
(2) Mr. Rama Chandra Rao's order No 1044/22.8.94 and connected papers.

Dep. same Kunhi K

defendant was trying to commit a breach of the peace. There was talk in the crowd that both the defendant and Avoker Kutti had gathered persons". The Constable's opinion is not evidence, and the statement made by persons in the crowd is not evidence. Further the Inspector's report was not evidence, and I am surprised that in para 15 of his explanation, Mr. Ramachandra Rao should refer to it, as if it were evidence.

6 Paras 17-19.

In para 19 Mr. Ramachandra Rao says he suspended stamp vendor Narayana Pattar on the following grounds:-

(a) Resumption of duties, when ~~ordered~~ aware that he was suspended, and arrangements have been accordingly made.

(b) Breach of discipline in having joined without permission.

(c) Giving false reasons in his application for leave.

The records of the case, which I forward
o not bear out this statement. On the 25th July 1894 Mr. Francis passed an order, suspending the licenses of 4 Stamp Vendors or one month. Mr. Francis directed that the licenses of Narayana Patter and Subbramania Pattar, shall be suspended first, and then when

(1) Naryanana Patter's application for leave
(2) Mr. Rama Chandra Rao's order No. 1044/22.8.94 and connected papers.

when their term of suspension had expired, the licenses of Madhavan Nair and Parameswara Patter. Narayana Patter applied for leave on the 9th July 1894 i.e. 16 days before Mr. Francis passed his order suspending the license and asked that one Subramania Patter might be appointed as his substitute. On the 12th July, the Tahsildar forwarded the application with the remark that no substitute was necessary. On the 21st July Mr. Francis granted leave without substitute. Mr. Ramachandra Rao's statement that the man applied for leave when he came to know that he would be punished is pure assumption for it was impossible for Narayana Patter to say on 9th July what order Mr. Francis would pass on 25th July. On the 3rd August Narayana Patter returned from his leave and reported having done so. The Tahsildar at once wrote to the Head Assistant Collector saying that Narayana Patter had returned

returned from his leave as no substitute had been appointed and pointing out that Narayana Patter's license had to be suspended for one month in accordance with ~~the~~ order of 25th July. – Mr Rama Chandra Rao's order thereon was as follows:–

"Narayana Patter will at once enter on ~~the~~ his period of suspension for a month ordered in this office order.

For presuming to enter on his duties without sanction before his leave was out, he will be further suspended for an additional period of one month."

How Mr Ramachandra Rao can reconcile this order with the statements in para 19 of his explanation, I do not understand.

7 I am well aware that the Head Assistant's Division is a very heavy one so far as Magisterial work is concerned. I did not judge of Mr Rama Chandra Rao's work by the few cases referred to in my letter of 13th November. Copies of orders under C.P.C sections 248 & 345 need not be retained for four and seven days for perusal. I forward copies of such orders in Calendar Cases 703, 704, 713, 691 692, 657 on the file of the Betul pudiangadi Sub Magistrate and in Calendar Cases 813, 819, 909 on the Ponani Sub magistrate file to show the unnecessary long time – Mr Rama Chandra Rao took in supervising Calendars.

8 I regret the delay in replying to G.O of 20th November 1894 No 2801. – Mr Rama Chandra Rao's explanation was received on 28th Ultimo. I then had to call for the papers relating to Narayana Patter's suspension and these I received only last night.

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

Ag District Magistrate

CURRENT No. 595

Judicial Department

Con 115 } 894
" 164 }

FROM
THE ~~COLLECTOR~~ DISTRICT MAGISTRATE OF MALABAR.

To
THE Chief Secretary to Government
Judicial Department
Madras

CHIEF SECRETARY GOVERNMENT OF MADRAS 9 FEB 1895

Dated 6 }
Despatched 8 } February 1895.
Received 8 }
Regd 9

No. 20

Enclosure. (Sent separately)
8 as per list

Subject.

Submitting the explanation of M.R.Ry R. Ramachandra Rao called for in G.O dated 20th Nov 1894 No 2801.

NB
11/2/95

500—20-6-94.

Jud. DEPARTMENT.

No. 595

From District Magte., Malabar.

Dated 6 February 1895,

FOR ORDERS.

This current is Mr. Moberly's reply to G.O. No 2801 of 20 Novr. 1894 which directed him to obtain & submit the explanation of Ramachandra Rao for the irregularities he committed when in charge of the Palghat sub Division.

2. The indictment against him is set out in the note for orders in that G.O. His explanation will now be given.

(1) Procedure in the case of a criminal lunatic

Ramachandra Rao explains that his reference was not intended to imply that he "considered that the accused "might be tried on evidence recorded "in his absence, but to draw the Dist. Magte's attention to the "grave irregularity" which his predecessor Mr. Francis had committed in examining witnesses in the absence of the accused and before he was convinced that the accused was capable of making his defence. He states that Mr. Francis "recorded "that the trial might go on in the "absence of the accused". Mr. Moberly makes no reference to this, & the records of the case have not been submitted, so that the statement cannot be verified. I may mention that Mr. Francis has himself informed me that he was merely gathering material for a report to Govt. under

I agree with the C.S.

On charges I & V, Ramachandra Row gives an explanation which is hardly truthful – That is the best ~~that~~ can be said.

As to charge II, obviously he did not scrutinise calendars properly.

I don't think much of Charge III. Technically he was wrong, but no practical harm was done – Of course I don't say that the acquittal in No 100 was right or necessarily followed on that in No 89.

Charge IV. I dare say he was right in requiring the security, but, if so, he did the right thing in the wrong way.

He will have to cultivate the judl. faculty & to learn to think more humbly of himself if he is ever to be of any use.

KB
20/2/95

I agree with the Hon. Mr. Bliss about the several

s. 466 of the Cr.P.C., & never contemplated a judgment of acquittal or conviction; the reason why these statements were recorded in the absence of the accused was that he was so violent – having actually broken down the subjail door on one occasion – that it was out of the question to have him in open court. This same violence was the reason of his transfer to Calicut. – Strictly speaking such statements being recorded in the absence of the accused, are not evidence; there appears however no reason why departmental enquiries should not be made in order to amplify the report to Govt: this cortimg is not a "grave irregularity" – though not strictly regular. – The "grave irregularity" consists in the belief that such ex-parte statements are evidence forming material for a judgment of acquittal or conviction. – It is difficult to ~~believe~~ attach credit to Ramachandra Rao's explanation when one reads in his letter (vide red tape in R.O. 2801 / 20.11.94):– "Evidence has "been recorded and there are materials "to write a judgment as contemplated "in S. 470 C.P.C." – This shows clearly that he did commit the "grave irregularity" of believing these ex parte statements to be material for a judgment.

That he was not merely pointing out his predecessor's irregularity is further apparent from the fact that he himself summoned three witnesses & examined them in the absence of the accused, besides having a statement from the Civil Surgeon who, under s. 509 of the Cr.P.C. could not have given evidence in the presence of the accused at Calicut before the [illegible] stationary sub-magte who might [illegible] have visited the jail.

Submitted
m. R.K.
20
& Novr
95

charges to [illegible] there is enough to warrant our sending Ramachandra Rao to work directly under the Collr for a few months. The lesson will do himself a great deal good. From what I have seen & heard of him I hope he will do well eventually

J G 25/2

Rd
28 Feb

I do not see what else can be done in such a case

WS

DEPARTMENT.

No.

From

Dated 189 ,

FOR ORDERS.

Before leaving this charge I should however point out that the lunatic appears to have been charged under S. 295 of the I.P.C.; this being so his personal appearance might have been dispensed with under S. 205 Cr. P.C. It is hardly worth while mentioning this, however, as, being a lunatic, he was not likely to appoint a pleader.

The explanation of this charge must, it is submitted be characterized as exceedingly disingenuous.

(ii) Failure to ~~s~~ scrutinize calendars properly

14 H.C. Rules 17 December 1884 No. 3687 (page vi of appendix to Weir's H.C.R.)

Ramachandra Rao was only called on to explain one case but the Dist. Magte now complains that he has delayed Calendars, & that he did not insist on his Submagtes sending in their calendars within 48 hours after the disposal of the cases. The High Court Circular requires (a) that Submagtes should submit calendars "so as to "reach the office of the Subdivisional "Magte within two days from the close "of the proceedings"; (b) that "the Subdivl. "Magtes must be responsible for "their not being unduly delayed "in their offices".

Ramachandra Rao certainly offended

in this matter; but the offence is not very serious & would probably not have been repeated if the District Magte had pointed it out. I notice that the Dist. Magte has made no comment on the delay in any of the calendars he now submits. He or rather his office is as much to blame as Ramachendra Rao.

(iii). The disposal of an abkari case with reference to a judgment on a connected case of assault

Ramachendra Rao admits that his judgment in the abkari case was "technically incorrect" & pleads that the error was trivial; he also contends that the falsity of the assault case involves the falsity of the smuggling case. This is an illogical inference. As he says however, the two cases might have been disposed of at one trial, & it would have saved time, had this course been followed.

The error in this case is, it is submitted, not very serious, & might have been passed over with a censure.

(iv) Taking security to keep the peace without sufficient evidence

This is a more serious charge. It is not disputed that Ramachendra Rao was justified in issuing the preliminary order calling on the defendant to show cause why he should not give security. – There is, I submit, nothing in the rest of his explanation which [illegible] be co[illegible] to modify the final order – [illegible] might [illegible] as mentioned in previous note, the [illegible] evidence [illegible] amounts to nothing [illegible] more than that a crowd was assembled at which the defendants were present. The police inspector's report & Fatima's

500—20-6-91.

DEPARTMENT.

No.

From

Dated 189 ,

FOR ORDERS.

is it likely that suspended by Mr. Francis

petitions are not evidence & cannot be taken into consideration in an enquiry the object of which is to "enquire into the truth" of the statements contained in them.

This case seems to shew a serious want of appreciation of evidence. Perhaps sufficient reason for taking security might have been shewn, if Ramachendra Rao had questioned the witnesses more sensibly; but the record of their statements discloses no such reasons.

(v). The suspension of a stamp vendor for returning to duty within the period of his leave

Ramachendra Rao's explanation is that the order of suspension was passed because the man returned to duty knowing himself to have been suspended by Mr Francis & hoping that his successor Ramachendra Rao would not be aware of the order of suspension, & that by this means he would escape the period of suspension.

This is exceedingly far fetched. As Mr. Moberly points out, the stamp-vendor could not be certain that he would be punished, & it is pure conjecture that he applied for leave in order to escape punishment. It was moreover extremely improbable that the Tahr: would forget to see that he was suspended, even if the new divisional officer was not aware of the order. ~~He~~ Further he himself expressly reported to the Tahr. his return to duty & Ramachendra Rao's order suspending him seems to have been passed without giving him any opportunity for explanation. — The only reason assigned for the punishment is "presuming "to enter on his duties without "sanction before his leave was out"; in the face of this it is not possible to attach much weight to Ramachendra Rao's statement that he was also suspended for "giving false reasons "in his application for leave" (presen

This case shews an excess of haste & want of judicial spirit. The order seems to have been passed in a moment of temper.

2. I have now come to the end of the Explanation. Items (ii) & (iii) are, it is submitted, not very serious; items (i) & ~~(ii)~~ (v) give disingenuous statements; the explanation on item (i) may also be characterized as untruthful; item (iv) evidences utter lack of the judicial faculty.

3. Ramachendra Rao. In conclusion ask Govt to consult the other Collectors under whom he has served before ving him.

D 15/1/95

~~for Govt. to decide whether~~ D

Ramachendra Rao's Explanation

H.S. (for orders)

I have been through the papers in this case.

The explanation on Charge I. I should feel disposed to call more than disingenuous. It is clearly not true. The Rows statement in his letter to Mr. Bradley in GO 2807 dated 20.11.94 Mdtt. "Evidence has "been recorded and there are materials "to write a judgment as contemplated in Section 470 C.P.C." shows that R. Row is either very forgetful or untruthful.

As regards the statement made with reference to Charge II in para 5. of the letter of explanation, I have examined the Calendars forwarded ~~[illegible]~~. I find that R. Row sent in to the Office a ~~[illegible]~~ large ~~[illegible]~~ proportion without the "ink initials" and he apparently never had them sent back. He has evidently been very negligent in this respect: the statement in the concluding portion of para 7 is as far as my experience goes untrue: most Sub-divisional Magistrates do read ~~their~~ Calendars sent up to them. Ramachandra Rows experience of Sub Divisional charges cannot be a large one.

Charge III. R. Row practically admits to have some foundation.

I have been through the papers connected with Charge (IV) There was not an iota of evidence justifying a call to give security. Whatever may be R. Row's opinion of himself — it appears to be a very exalted one, he certainly cannot appreciate evidence and he does not know what con-

Stated evidence and what not.

The facts of the case in connection with charge (iv) and being documentary they cannot be controverted & are at variance with ~~the~~ the [illegible] explanation.

He appears to be careless, not by any means accurate in his statements and to have so high an opinion of himself that he cannot, even when at fault, brook correction. It is submitted that he should be limited to the ordinary work of a Deputy Colr. attached to the Colr. and not be allowed to have a separate charge until he shows himself to have attained more experience than he at present has.

18/2/95

M R Ry Ramachandra Rao's explanation

~~AH~~ & C.S.

(For orders)

C.S.

Should not this be circulated

D
21·2·95

C.19/2 C.23/2
R 21/2 R 7/3

$\left[\frac{G.}{24}\right]$
100—20-12-94.

DEPARTMENT.

Papers to be read in Proceedings :—

Again G.O., dated 18 , No.

Again G.O., dated 20th Novr 1894, No. 2801 Judl.

Current No. of 18 , dated from

Current No. 595 of 1895, dated 6 Feby from the Dist. Magte of Malabar.

Order : 8th March 1895 No. 511.

In the letter read above the Dist. Magte submits the explanation called for from Deputy Collector M.R.Ry Ramachandra Rao in G.O. No. 2801 Judl. d/ 20-11-94.

2. The first charge against him is serious ignorance of the law as evidenced by his method of enquiring into a case against a criminal lunatic. The ~~records of the~~ papers relating to this matter shew that the Dy Collr. recorded evidence in the absence of the accused, & contemplated, as a possibility, the ~~acquittal of the~~ disposal of the case upon such evidence, and in spite of the fact that the accused was in such a state of mind as to be incapable of making his defence. The Govt. is compelled to characterize M.R.Ry Ramachandra Rao's explanation that he ~~wished~~ merely intended to draw the Dist. Magte's attention to an irregularity committed by his predecessor

hardly
as ~~un~~truthful

This statement cannot be reconciled with the following remark which occurs in his ~~Ramachandra~~ ~~Rao's~~ own letter orig!——

following

"Evidence has been recorded and "there are materials to write a "judgment as contemplated in S "470 of the Cr. P.C."

3. The second charge is that he failed to scrutinize with proper care and promptitude the calendars in magisterial cases tried by the subordinate magistracy of his division. ~~This has been substantiated~~ ~~the Govt. is unable~~ The Govt. is unable to admit Mr. R. Rama-chendra Rao's contention that it is altogether the exception for a divisional magte. to peruse calendars before sending them into his office, and it is clear from the calendars accompanying the Dist. Magte's letter that he was ~~painfully~~ frequently very dilatory in the disposal ~~of these~~ of this branch of his work. ~~calendars.~~ thereof is

Dt. Colr.

His statement as to his invariable practice in disposing of calendars seems to be borne out by an examination of the calendars themselves.

4. The third charge is that he disposed of one case in a judgment solely based upon evidence recorded in another; neglecting to set forth the facts in his judgment, & assuming without sufficient cause that the falsity of the one case necessarily involved that the falsity of the other.

This charge has been clearly made out

The fourth charge is that he required security to keep the peace from certain individuals when the record of his enquiry showed that there was ~~nothing~~ no ~~to justify~~ evidence justifying the order. It may be that it was expedient to take security from these individuals but the Dt. Magte's enquiry was altogether inadequate; ~~[illegible]~~ & his

---

[G./24]
100—20-12-94.

DEPARTMENT.

Papers to be read in Proceedings :—

Again G.O., dated 18 , No.
Again G.O., dated 18 , No.
Current No. of 18 , dated from

Current No. of 18 , dated from

explanation shews that he certainly cannot appreciate evidence, & does not ~~know~~ clearly comprehend what constitutes ~~evidence~~ [illegible]

6. [illegible] ~~The~~ fifth & last charge is that he suspended the license of a stamp vendor for "presuming to "return to duty within the period "of his leave" — Mr. R. Ramachendra Rao explains, inter alia, that the main ~~real~~ reason why the man was suspended was for "giving false reasons in his application "for leave". This statement is not borne out by the records & must be ~~stigmatized~~ regarded as disingenuous. It is clear that the Dy. Colr. ~~Ramachendra Rao~~ inflicted a disproportionate punishment if not altogether unmerited ~~[illegible] in a hasty moment~~ for there is no other tangible explanation of his act —

~~7. Summing up the Govt. considers that Ramachendra Rao has been proved [illegible] careless, inaccurate in his statements, unable to brook correction, & wanting in judicial faculty. Many of these faults no doubt are due to his youth & self-conceit, & will, the Govt. trusts, pass away as he grows older & wiser. It is impossible, however, to pass it~~

7th. H.E. the G. in C. considers that Mr. R. R. Ramachendra Row has been shown to be at present unfit to hold a sub-divisional charge. He will therefore be

~~matters over. T. Ramachandra has~~ will ~~accordingly be punished by~~ ~~being~~ remitted to the ordinary ~~work~~ duties of a Deputy Collr. attached to the Collector of the district. Until he has shewn signs of marked improvement it will be impossible to again place him in charge of a division. The Collector under whom he is serving ~~should~~ ~~will supply~~ will exercise special supervision over him and submit a half-yearly report to Govt. regarding his ~~conduct~~ work.

(From orders)

D
5.3.95

S.D.
6/3/95

The Collr. of Malabar with papers recd
The Revenue Dept.
The Public Dept.

9/3/95

Office note

ask if Public wants a copy of this
D

Conduct of a Deputy Collector

C.S.

(From orders)

[G/75.]

NOTE FOR THE UNDER SECRETARY.

Submitted for perusal.

S. A states that the ord[illegible] should communicated to the Public [illegible]t. and suggests that it may be [illegible]rinted.

[illegible]
[illegible]/3

Communicate
it will suffice if the copies are type-written, I think
D
7.3.95

NUMBER OF COPIES REQUIRED.
Order complete.
Letter only.
Order complete with Letter.

Spare Copies.

Struck .. ..
Issued .. ..

Total ..

In hand ..

f GOVERNMENT .. .. ..

f GOVERNMENT.

ATEMENT WITH DITTO

ERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

B.—
A = Print in full.
B = Not to be printed.
F = Print abstract only.
Q = Print heading only.

A