

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1169

Dated 30th May 1895

INDEXED.

[Despatch Abstract.]

M.R.RY. S. VENKAT RAO.

Declining to reconsider the orders already passed in the
case of----Stationary Sub-Magistrate of Erode, Salem district.

BACK PAPERS.

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

FURTHER PAPERS.

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

In continuation of my Arzi of the 29 March 1895. Sent up.
No. 451
V. Magister
To

No Arzi dated 29 March 1895 has been received in this office.
15/3/95

THE COLLECTOR OF COIMBATORE.

RESPECTED SIR,

In continuation of my Arzi, dated 20th March 1895, and with reference to your order, dated 22nd March 1895, thereon declining to grant me the copies asked for, I beg respectfully to subjoin the accompanying printed representation for favour of submission to Government as being the further explanation called for by Government in their reference of this month, No. 494.

I remain,
Respected Sir,
Your Obedient Servant.

25-3-95.

S. Venkat Rao
10.4.95

RESPECTED SIR,

I understand that your honour has reported unfavourably of me and recommended withdrawal of my Magisterial powers.

2. In connection with this matter, I crave your kind permission to say a few words.

3. The Charges against me as far as I understand seem to be two-fold :—

- (1) The improper language of my order of commitment.
- (2) The suspicion attaching to my character in reference to my original discharge of the case.

4. As regards the tone of the order the Government was pleased to call for an explanation from me and I submitted what I could in the absence of the record, and I repeat that I sincerely repent for what I had done which was not at all intentional but purely accidental; I was so convinced of the falsity of the case for the prosecution and of the strength of the defence that I felt strongly in the matter and in moments of anxiety wrote perhaps rather *strongly* without my being aware of it, and I do not try to defend myself, and I once more beg permission to amply apologise for what I did unwittingly. *I only tried to show it some length that my Commitment could not stand as per High Court ruling 15 March 35.*

5. As regards the other charge of suspicion of my conduct in the matter of original discharge of the case, I beg to submit only two points for your generous consideration :—

- (a) Whether, confining oneself to the recorded evidence that was before me, at the time of discharge, it is, for any unbiased officer, possible to come to the conclusion, at which I had arrived.

is de my order of Commitment

- (b) Granting that it is not possible, whether my conduct was due to error of judgment which all men including higher judicial officers are liable to, or whether it was due to any bad motives.

6. In 1893 when I was on three month's privilege leave, there was a dacoity case in which several persons were said to have been concerned. Some only appeared before my *locum tenens* and in the absence of cross-examination, he committed them and a few of them were convicted and the rest discharged by the Sessions Court, then I rejoined my office and some more appeared before me. I enquired into the case, both prosecution and defence were fully represented and both prosecution and defence were very thoroughly gone into. (I had no power to decline to examine defence witnesses if they offered to examine them under provisions of the Criminal Procedure Code) and the defence plea of *alibi* was established to my satisfaction and in the prosecution several serious discrepancies, delays, improbabilities and defects were elicited, I may even say the prosecution story was almost shewn to be false and concocted, and due to conspiracy. (I for ~~mean swear that it is really a concocted story as I learnt it from the prosecution~~) I accordingly discharged the case, but the then District Magistrate, Mr. Broadfoot, who happened to be the Judge, by whom some of the accused had been first convicted, directed me to commit the case and he gave some grounds for his order; as I was so very conscious of the overwhelmingly strong evidence for the defence and the falsity of the prosecution story, that, in moments of anguish, I had to say, in reply, somewhat strongly and impressively, my own reasons for the discharge: of course I was not then aware that I was writing impertinently or insubordinately and yet I readily committed the case as per his orders.

7. Before the Sessions Court, however, some of the important of the accused's witnesses did not appear since summonses were not properly served on them and some of the few that appeared were won over by the prosecution and notwithstanding that this fact was represented to the Sessions Court and that those witnesses were dispensed with by the defence, the Sessions Court was pleased to examine them as Court witnesses (it was clear that they must speak in favour of the prosecution) and the result was, that, though the jury acquitted the case unanimously, the High Court convicted the accused. I believe that the High Court based their conviction on the materials that were before the Sessions Court. Before the Sessions Court the prosecution witnesses had deposed consistently because that was the *fourth time* they gave evidence in the matter, on the other hand, the defendants were at a disadvantage. Some of the important witnesses to the defence plea of *alibi* were not served with summons properly and did not attend the Sessions Court. Some new facts were introduced at a late stage and the defence witnesses to disprove these facts were won over by the prosecution and on that score the defendants declined to examine them as their witnesses and yet the Court examined them as Court witnesses, and the defendants had no time to produce more witnesses. Thus the defence being at a complete disadvantage the case came to end in a conviction.

8. Possibly if the defence had all the witnesses (which they had before me,) before the Sessions Court, the Sessions Judge too might in all probability have come to the same conclusion at which I arrived or if he should still have come to the different conclusion, it must be due to some new facts which were not before me and which turned up, subsequent to the enquiry before me, i. e., the *Vakalat affair*.

9. The offence is said to have taken place on the night of the 11th September 1893 and the defendants pleaded *alibi* and stay at Palani from about the 1st to 22nd September and examined several witnesses to this effect. Nothing was elicited in cross-examination of these defence witnesses to disprove this plea of *alibi* but before the close of the case the police endeavoured to shew that some time in the month of September the accused were present before the Chittur Magistrate at Chittur, a distance of about $\frac{10}{20}$ miles from Pollachi. I wrote to this Magistrate and he replied that the accused appeared before him only once in September and that was on the 27th September, seeing that this circumstance could not affect the plea of *alibi* inasmuch as it was quite possible for the accused to be at Chittur on the 27th after returning from Palani about the 22nd, and as there was no other evidence adduced, or circumstance stated, which would affect the defendant's plea of *alibi*, I naturally believed in their plea. *Vide my order of discharge*

If, on the other hand, the Vakalat affair had been brought to my notice before the close of the case or even hinted at, I should have hesitated to believe the plea of *alibi*.

In these circumstances, I beg to submit that it is extremely hard that I should be taken to task on the strength of a circumstance which was never known to exist or even so much as anticipated, at the time I closed the case.

10. I may humbly and respectfully add that the High Court too did not say anything about my conduct in the case or as to the merits of the case as it was before me, or as to the propriety of my order of discharge; when they remarked about the tone of the order, they would certainly have noticed the impropriety of the order of discharge if they had thought that it was not possible to come to the conclusion at which I had arrived. This is one great circumstance in my favour, and I humbly beg to submit that your honor will be pleased to consider this circumstance in weighing my conduct.

11. Even the High Court did not touch upon the impropriety or otherwise of the original order of discharge. It must be assumed, I beg respectfully to submit, that the High Court might have thought it was possible, from the recorded evidence that was before me, to come to the conclusion at which I had arrived. I must here observe that the propriety or otherwise of my order, has to be judged solely on the evidence that was before me and not on what it turned out to be subsequently.

11a. I may also add that even Mr. Broadfoot did not go so far as to say that I was not justified in discharging the accused, but only said that the circumstances of the case, after the production of the new documents before him, assumed such an aspect, that the case under the circumstances, might be a matter

** Suppression
of the
prisoner's
name. "On the
10th day
(= 24 Aug)
... we had
gone to Palani
we stopped at
Palani till the
18th or 20th
Parottasi (18)
after 24th
Sept*

18.5.94

*that it was
improper to
assume his
name*

for the Judge and the jury to decide. It may also be observed, that it would appear that Mr. Broadfoot too, would have believed in the accused's plea of *alibi*, if the Vakalat affair had not come to his notice. *Vide* his Proceedings ordering the committal of the case.

12. Secondly, as to the other question, whether, even granting that it was not possible to come to the conclusion at which I had arrived from what was solely before me, it straightaway suggests the only inference of bad motive or *mala fides*, I beg very respectfully to submit that instances are not wanting in which even higher judicial officers often-times err even in murder cases, sessions Judges sometimes sentence men to be hanged but the High Court quash such convictions generally on the merits of the case and *vice versa*, Sessions Judges sometimes acquit accused but the High Court order their retrial on the merits.

13. In conclusion, I beg respectfully to point out that, for what may be termed, unintentionally strong language, and at most, a common error of judgment, the punishment recommended by the District Magistrate is by far out of proportion, especially in the case of an officer of nearly 15 years' standing.

Begging to be pardoned for this intrusion.

I remain,
Most Respected Sir,
Your Obedient Servant.

S. Venkat Rao

10-4-95

6a (1) It appears to me improbable and inconsistent with common sense that a rich Vellala Goundan who is not of the professional dacoit-class would have himself been present at the scene of dacoity - (2) also improbable that he would have taken his son with him a boy a lad of but 14 1/2 years of age and, that, while he had several other sons to help him. It is also highly improbable that this boy would have taken the lead & dealt the fiercest blow while the dacoits numbered over thirty.

Bitter enmity admittedly exists between both parties, on a domestic quarrel, & the first accused not yielding & the near relations & cast members all joining the prosecution side, these latter were evidently seeking to ruin the other side in by hook or crook. & accordingly discharged the case.

Refer on No 457 of 95.
V.M.D.

Coimbatore District Magistrate
office 30th April 1895.

From,

Herbert Bradley Esquire,
District Magistrate
of Coimbatore

To.
The Chief Secretary
to Government Judicial Department,
Coimbatore.

Sir,

In continuation of my letter, dated April 4th, 1895, Refce on No 318 of 95, I have the honor to forward a printed petition from S. Venkat Rao, which reached me on the 16th Instant - As a reference to another argi of the 29th March in red ink is prefixed to it, and no such argi has been received in my office, I called upon Venkat Rao to submit a copy of that argi. I have received no reply and as I think the 29th is a clerical error for the 20th, I can see no use in waiting

any longer, and forward his arzi.

2. With regard to his previous history, I find that he was tried as Tahsildar in two or three Taluks and finally in Karur. Here his work was so unsatisfactory that Mr. Sturrock transferred him to Pollachi with a severe reprimand and passed him over for promotion. Mr. Broadfoot transferred him to Erode - vide sealed cover enclosed. I forward the records connected with his transfer from Karur to Pollachi - I request that they may be returned when done with.

3. At Pollachi I found him in-Subordinate and quarrelling with the Police to such an extent that the Magisterial and Police work suffered. I enclose the records relating to an order passed by me in the matter. I request that they may be returned.

4. Mr. Dance when acting as collector here recorded in his service Register "in Subordinate, lazy, and untrustworthy."

I have the honor to be,
Sir,
your most obed^t serv^t

John B. Pringle

~~John~~ District Magistrate

C.V. 30/11

Judicial (1895) Sept.

CURRENT NO. 2182

10864/95 m. 10/5
2611/94

From

The District Magistrate
of Coimbatore

To

The Chief Secretary
to Govt. Jud. Dept.

Coimbatore

Refce. at No. 10864/95
29 MAY 1895
CHIEF SECRETARY
GOVERNMENT OF MADRAS
Encls.

Dated 30/4

Received 2nd May 1895
Encls. 3 + 1 sealed cover

Encls. 3 + 1 sealed cover
Sent in a separate cover
Subject.

Forwarding a printed petition
from S. Venkat Rao Station-
ary Magistrate of Erode
and reporting further on
his conduct.

10/5
2611/94
10/5

Encls.

[G.
25.]
G.O. 13-3-95.

Judicial DEPARTMENT.

C. No. 2182/95.

FOR ORDERS.

In G.O. of 26 ap. 95, No. 864, J. D. M. has
the Govt. accepted the D. M.'s recommendation
that S. Venkat Rao, Stationary Sub-mag.
of Erode, should be deprived of mag.
powers & reduced to a ministerial appointment
on Rs 50 p.m., on account of his insubordina-
tion & dilatoriness in the discharge of his
duties as a magistrate.

The D. M. now forwards a supplemented
petition together with the records connected with
the magistrate's transfer from Karur to Pollachi
& other papers establishing the charges against him.
There is nothing in this petition
which is likely to induce Govt. to
take a more lenient view of the
man's conduct; on the contrary the
attempt to mislead Govt. which is
to be found in para 9 of the pet. (vide
marginal note) is an additional proof
of his dishonesty.

R. 13.5.95

Moreover it now appears that
his past record was bad - a circumstance
which was not clearly brought to
the notice of Govt before.

Submitted therefore that the
petr. shes. be informed that

"The Govt. sees no reason to
reconsider the orders already
passed in his case."

22/5/55 16.5.55
The Resident Magistrate
(at Kumbakonam) *pal*

The Dist. Magt. sent a large
number of wholly unnecessary
enclosures with his report

26.5
There is nothing new brought forward by
the petitioner. He goes on apologising as
how that he finds that his impertinence
and insubordination have got him into
trouble. He may consider himself
by lucky indeed in having got
off as cheaply as he has. Had the
Dist. Magistrate brought forward at
the time of preparing his original
charge what he has now done Kumbakonam
Now would in all probability have
been far worse than he has. The
seems ~~inadequate~~ for a considerable

Appeal from a retired station
Sub-magistrate

FOR ORDERS.

G.
25.
600-5-95.

Judicial DEPARTMENT.

C. No.

FOR ORDERS.

CS
from order

Order of 30th May 1895 No 1169.

The petr. shes. be informed
that the Govt. sees no reason to
reconsider the orders already
passed in his case.

2. The Dist. Magt. is better
accompanied by a large number
of wholly unnecessary enclosures

from order, 22

27-5-55 29/5/55

The Dist. Magt. Kumbakonam
(Q+O with enclosures return)

*Desd
30/5*

OK to copy and N. to enquire.

*12/6
30/5*

Truly back to have been lazy, careless and
insubordinate and impertinent. He must
have been very bad to have excited
the ire of the mild Mr. Sturrock,
who not only severely upbraided
him for his conduct but also passed
him over for promotion. Mr. Sturrock
& Dancer who followed in Sturrock's steps
of the petr. in the most unfavourable
terms and prior to the occurrence of
the case which has led to his reduction
he was severely upbraided by Mr.
Bradley for same unpardonable
procedure and the wasteful tone of
an explanation which he sent up.
Now again he has got into trouble
for impertinence and insubordination
of the Hon. Mr. Kinn and he has the
impudence to tell Government that
this was "not intentional but purely
accidental".

24/5/95

Appeal from a returned STS. Sub. No. 1

FOR ORDERS.

Han

When given for copying _____
When copied _____
When examined _____
When signed _____

189.

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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