

19.2.14

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1257

Dated 14<sup>th</sup> June 1895

INDEXED.

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[Despatch Abstract.]

TANJORE JUDGMENT FORGERY CASE.

Declining to interfere in the matter of the petition from Kuthur Subbarayar pointing out certain irregularities in connection with his property attached under section 88 of the Criminal Procedure Code by the Joint Magistrate of Kumbakonam in connection with the----- and praying, for the restoration of the property, with the past profits realized by Government.

# BACK PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
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# FURTHER PAPERS.

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CURRENT NO. 2825.

CHIEF SECRETARY  
10. JUN. 1895  
GOVERNMENT OF MADRAS

To

HIS EXCELLENCY THE RIGHT HON'BLE

Beilby Baron Wenlock, G. C. I. E.,

GOVERNOR IN COUNCIL,

Fort Saint George,

MADRAS.

*The humble petition of KOOZHUR SUBBARAYER,  
a Mirasidar of Koothoor Village, Tanjore  
Taluk, Tanjore District.*

RESPECTFULLY SHEWETH,

1. That your Excellency's petitioner was a Mirasidar of considerable wealth and position and a Village Magistrate in Koothoor Village in the Tanjore Taluk.

2. That on or about the 10th or 11th December 1893, the petitioner's moveable and immoveable properties including 146 acres of land in Koothoor, 20 acres in Budalur and 4 houses, a bungalow, a cattle-shed and two vacant house-sites in Koothoor were attached under Section 88 of the Criminal Procedure Code by the Joint Magistrate of Kumbhakonam in the belief that the petitioner had absconded to evade service of a warrant issued against him under Sections 466 and 380 of the Indian Penal Code in connection with the Tanjore Judgment Forgery case.

3. The petitioner surrendered himself to the Joint Magistrate on the 25th of June 1894 and a notice was issued to the petitioner to show cause why the property which had been attached should be restored to him.

4. After hearing the petitioner and examining some of his witnesses, the Joint Magistrate passed an order on the 19th of October 1894, declining to restore the property to the petitioner and ordering the property to be sold and the sale-proceeds to be credited to Government.

5. The petitioner then appealed to the Sessions Judge of Tanjore and his appeal (Criminal Appeal No. 93 of 1894) was disposed of on the 22nd of December 1894, the Sessions Judge holding that the order of the Joint Magistrate should be maintained in so far as it refused to restore the property to the petitioner, but should be modified in so far as it directed a sale by declaring the property to be at the disposal of Government.

6. The petitioner humbly submits that the Joint Magistrate and the Sessions Judge were not right in coming to the conclusion that the petitioner had absconded to evade service of the warrant as will appear from the following facts.

7. The warrant was issued on the night of the 14th October 1893 and was taken to the petitioner's village on the 15th instant. The petitioner had applied for 3 months' leave on private affairs on the 13th of September 1893 long before the issue of the warrant and ascertaining that his application had been recommended for sanction, the petitioner handed over charge of his office to a substitute one Seshappa Aiyar and left his village on the 29th of Purattasi, corresponding to the 13th or 14th October 1893 on a tour of pilgrimage. The petitioner first went to bathe in the Aganda Kaveri in the Trichinopoly District and thence proceeded to Benares and visited other sacred places in Northern India.

8. The petitioner's presence at Aganda Kaveri and at Benares has been clearly proved by his witnesses.

9. The petitioner has in this connection to complain of the refusal of the Joint Magistrate to examine the 5th, 6th, 12th and 13th witnesses named by the petitioner in his list of witnesses who would have proved the petitioner's presence at some of the places visited by him and the protracted illness which prevented him from returning home earlier than he did.

10. That the petitioner did not desire to conceal his movements with a view to evade service of the warrant, is proved by the fact that when he left his village he had no knowledge of any warrant, the fact that he sent in a report from Ayodhya to the Revenue Inspector on the 2nd of January 1894, applying for an extension of leave for 3 months and the fact that he again applied to him for further leave from Allahabad on the 8th of April 1894, and wrote also to the Tahsildar of Tanjore on the same day to sanction an extension of leave for 3 months.

11. The petitioner begs to submit that the fact that he surrendered himself after the conviction of the accused in the Tanjore Judgment Forgery case clearly acquits him of any intention to fly from justice. If that case had resulted in an acquittal and the petitioner had surrendered himself thereafter, there might have been some foundation for suspicion.

12. That the petitioner was innocent of all complicity in the Judgment Forgery case and that he had therefore nothing to be afraid of are established by the order of discharge passed by the Joint Magistrate of Kumbhakonam on the 1st of April 1895 in the inquiry held against the petitioner.

13. The fact of the petitioner's innocence as established by the said order and the fact of his surrender after the conviction of the accused in the forgery case conclusively show that the petitioner was not guilty of any such conduct as would justify the Court in refusing to restore his property.

14. The petitioner also submits that the orders of the Joint Magistrate and the Sessions Judge were contrary to law, inasmuch as the proclamation under

Section 87 of the Criminal Procedure Code requiring him to appear on the 11th of December 1893 was published in the petitioner's village only on the 15th of November 1893, and did not allow the 30 days required by that section.

15. The petitioner further submits that as he had surrendered himself on the 25th of June 1894, the Joint Magistrate was not justified in passing an order subsequently on the 7th of August 1894, that the property should be at the disposal of Government.

16. The petitioner trusts that having regard to the irregularities pointed out and the various circumstances set forth above, your Excellency will come to the conclusion that the order refusing to restore his property was not justified.

17. The petitioner therefore most humbly prays that your Excellency will be pleased to order the restoration of the petitioner's properties with the past profits realized by the Government and held in deposit in the Tanjore Taluq Cutcherry and that even in the event of your Excellency coming to an adverse decision on the merits of the case, your Excellency will be graciously pleased to mitigate the severity of the penalty and direct the restoration of his property at least to the petitioner.

For which act of charity and kindness the petitioner shall as in duty bound EVER PRAY.

The petitioner begs to remain,

Your most humble and

Obedient servant,

Symposium  
 in  
 the  
 19th century.

Judicial Deptt  
CURRENT NO. 2825

No. 1111 - 23 + 95 Mr.  
Prabhu

From, Koothur Subbarayer,  
a Mirasdar of Koothoor Village,  
Tanjore Talug, Tanjore Dt.

CS

order  
Mis d/14<sup>th</sup> June 1895 No 1257

~~Para 4(f) of the rules (rule 4)~~  
The Govt declines to interfere.

D  
12-6-95

13/6/95

No. -

Dated 7<sup>th</sup>  
Recd 10<sup>th</sup> } June 1895  
Regd 11<sup>th</sup>  
Enc: 4

12/6/95

To the Govt (A. & S. JUN 95  
MIS 1111)

para 4(f) does not apply as under  
§ 58 Cr. P. C. the property is at the  
disposal of Govt. and the pet. is  
correct in applying to Govt for its  
restoration as an act of grace.

D

### Subject.

Pointing out certain irregularities  
in the matter of his properties  
attached under Sec. 88 of the Cr. P. C.  
by the Jt. Magistrate of Kumbakonam  
in connection with the Tanjore  
Judgment Forgery case and  
praying for the restoration of the  
properties with the past profits  
settled by the Govt. and held in  
deposit in the Tanjore Talug  
Cutcherry.

R 11/6

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189

READ AGAIN G.O., No.  
189

DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DETTO.

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

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