

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1310

Dated 19 June 1895

INDEXED.

[Despatch Abstract.]

ILLEGAL SENTENCE.

Communicating to the Inspector-General of Prisons, letter from the District Magistrate of Madura reporting that, on appeal, the fine and imprisonment in default imposed on Karuthakaruppan by the Second-class Magistrate of Tiruppattur, Madura district in Calendar case No. 497 of 1894, was cancelled by the Head Assistant Magistrate and stating that the required explanation will be submitted on receipt.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	3062		95				

Form No. 1-A-1,000-25-10-93.

No. 1955

OFFICE OF INSPECTOR-GENERAL OF JAILS,

Dated 22nd April 1895.

CURRENT NO. 2029

From

A. G. CARDEW, Esq., M.A.,

INSPECTOR-GENERAL OF JAILS, Prisons.

To

THE CHIEF SECRETARY TO GOVERNMENT.

SIR,

(one) Enclosures.

I have the honour to submit a copy of a warrant issued by the 2nd class Magistrate of Tirupatur, Madura District in Calendar Case N^o 497 of 1894 by which Convict Karutha Karuppan is sentenced to undergo three months rigorous imprisonment and to pay a fine of Rs 50 in default of payment to undergo three months further imprisonment. As the alternative sentence of imprisonment appears to contravene the provisions of section 33 of the Code of Criminal Procedure the case is submitted for the orders of Government under section 18, act V of 1871.

I have the honor to be,

Sir,

Your most obedient Servant,

A. G. Cardew
Inspector-General of Jails.
Prisons

CURRENT NO. 2029

JUDICIAL. Sept

JAIL (1895) DEPARTMENT.

From

THE INSPECTOR-GENERAL OF JAILS,

To

THE CHIEF SECRETARY TO GOVERNMENT.



Dated

22nd

Despatched

April

1895.

Received

24

No. 1953

Encl. 1.

ENCLOSURES.

Subject.

Submitting for the orders of Govt. the case of one Karuppan who has been awarded an alternative sentence of imprisonment contrary to sec. 33 of the Code of Criminal Procedure — in C.C. No. 497 of 1894 on the file of the 2nd Cl. Magt. Tirunelveli.

501332. 16 94 nio

Ref. No. 96973.5.95

The Dist. Magt. of Madras is requested to state whether the accompanying copy of a warrant correctly specifies the sentence awarded by the sub-magt.; if so, he should report why the Sub-Magt. did not detect the illegality of awarding three months imprisonment in default of payment of fine. & take steps to remedy the defect.

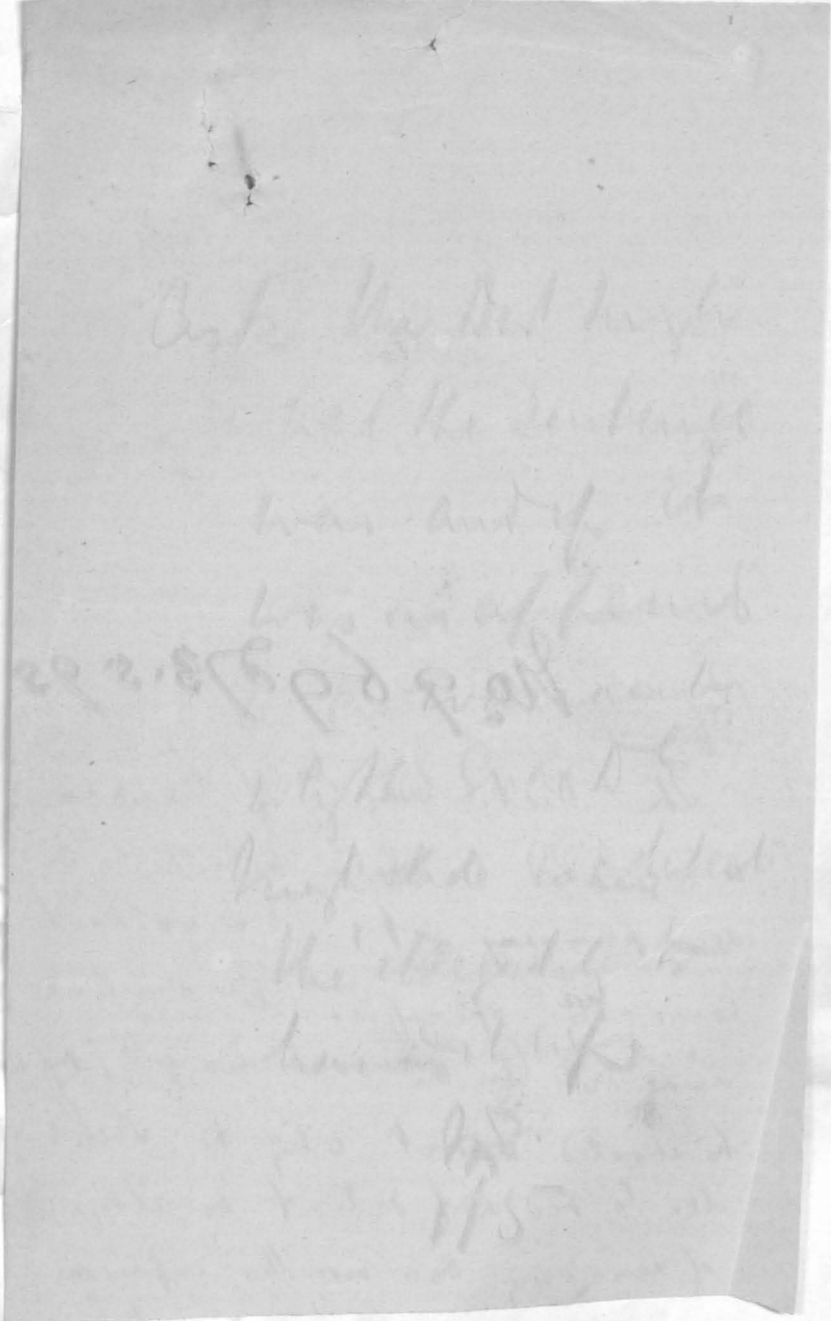
D.M. Madras (94 cots of enclosure &c)

T.I. Substantive sentence expires on 28 June so a copy of this must be received by the 10th June at latest

The Dist. Magt. Madras.

Please copy + show

25



Papers to be read in proceedings: *Ind.* DEPARTMENT.

Again G.O., dated 189 , No.
Again G.O., dated 189 , No.
Current No. of 189 , dated from

Current No. 2029 of 1895, dated 22 April from *the J. of Prisoners*

ORDER.

Ind.

With reference to Sec 18 of the Prisoners Act, 1871. The Court orders that the warrant in question shall be read as if the word "six weeks" were substituted for the word "three months" in the description of the penalty to be undergone in default of payment of the fine.

2. The S. Magistrate of Matamoras will take due notice of the carelessness of the 2^d class Magistrate of Tampico, M. R. P. M. R. F. de la Roca.

S.
22-4-95

* He should take immediate steps under CrP. 5438 to move the High Court to reverse the sentence.

To the J. of *Prisoners* (R. 10)
... N. Magistrate of Matamoras (H. 10)
with warrant.

Note
The above follows S.O. 1 June 94, No 1332. But it is not clear whether Sec 18 of the Prisoners Act

improves a local Court to amend
warrant in such a way
as to alter
by altering the sentence
passed by a judicial Tribunal
Sec 395 of the C.C.P. lays down
that no Court, other than a
High Court, shall alter or re-
view its judgment except as
provided in Sec 395 or to correct
a clerical error. If, in the pre-
sent instance, the words "Three
months" in the warrant are
considered to be a clerical error
for "six months further like im-
prisonment", the necessary alter-
ation should, it is thought, be
made not by Court but by
the sentencing Court or by an
authority to which the said Court
is subordinate. If, on the other
hand, the words in question are
not considered to be clerical
errors, the proper course to follow
would seem to be to ask either
the Court of Sessions or the N. Magis-
trate concerned by Madras to
move the High Court to revise
the 2nd class Magistrate's direction. In any case
it may perhaps be as well to consult
the Advocate General on the point.

Error in a warrant

* They occur in a warrant not
in a judgment. Submitted that the
effect of S. 18 of Act V of 1871 is to
give Govt. the power to issue specific
orders that an illegal sentence shall
not be carried out, but that steps
should be taken simultaneously
to amend the sentence by moving the
High Court.

[G]
69
1,000-18-3-5.



Memorandum.

Read the following

Depd Telegram to the
N. Magistrate, Madras

326-
In private reply to Reference
Third ultimo No 969 regarding
sentence passed on
Kamtha Kampram -

D. 24/11/95

At
11/11/95
R. S.

Vol No. 795 of 95

12th June 1895

From

J. Swigg, Esquire,
 Ag District Magistrate,
 Madura.

To

The Chief Secretary to Government
 Judicial Department
 Madras.

Reference:—

Sir,

With reference to your telegram of the 11th Instmt. calling ^{for} reply to G.O. no 969, dated 3rd May 1895, regarding sentence passed on Karetthakampan, accused in C. C. no 497 of 1894, on the file of the 2nd Class Magistrate of Tirupatūr, I have the honor to state that on appeal the Head Assistant Magistrate has cancelled the fine and also the imprisonment in default awarded by the Sub Magistrate.

2. The explanation called for will be submitted on receipt from the Head Assistant Magistrate to whom a reminder has been sent.

I have the honor to be
 Sir,

Your most obedient servant,

Acting *W. Swigg*
 District Magistrate.

Copied by *Al*

Examined by *JK*

Refer by telegram

Judicial Dept
CURRENT No. 2891
From

The District Magte.

CHIEF SECRETARY
15 JUN. 1895
GOVERNMENT OF MADRAS
Madura.

To
The Chief Secretary
to Government
Judicial Dept
with the Governor
Stone House Hill

Dated 12th June 1895.
Received 15th June 1895.
Repd. 17th June 1895.

Ref No. 795 of 95
Enclosures 1 nil

SUBJECT.

Reporting that an appeal
the fine and imprisonment
in default imposed on
Kamthakarnuppan was cancelled
by the Head Assistant Magistrate
and stating that the required
explanation will be
submitted on receipt.

R 17/6.

ms.

Note
This G.O. will be entered
in the Call Book with refer
to para 2 of the D. Magistrate's
letter.

17/6/95

Refce No. 9699.3.5.95
1 telm 326/95

C. No. 2029 + 2891
d/19th June 1895 No 1310
The D. Magistrate's letter will
be commd. to the S. Secy. of
Prisons for information.
19/6/95

14/6
Sd/-
19/6

To the S. Secy. of Prisons (C. No 2029-8
2891-4)

Done
24/6/95

When given for copying
When copied
When examined
When signed

189

READ AGAIN G.O., No.
189

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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

N.B. -

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.