

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1527

Dated 20th July, 1895

INDEXED.

[Despatch Abstract.]

ENHANCEMENT OF SENTENCES.

Directing the Crown Prosecutor to move the High Court to enhance the sentence passed in Calendar Cases Nos. 11937 and 12956 of 1895 on the file of the Presidency Magistrate's Court, Black Town, and pointing out to the Commissioner of Police the subject of paragraph 2 of G.O. No. dated 3rd November 1894, No. 2638, in regard to the enhancement of sentence in such cases.

BACK PAPERS.

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

FURTHER PAPERS.

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

Presidency Magistrates' Court,

Black Town, Madras, 18th June 1895.

No. 157.

FROM

Sultan Mohidin Saib Esq^r,
PRESIDENCY MAGISTRATE,

TO

O. R. Jones Esq^r,
Chief Presidency Magistrate,
Madras.

Sir,

Calendar Case N^o 12956 of 1895.

Regina v Madway & another.

With reference to your memo dated yesterday, I have the honor to state that as the 1st accused Madway an old offender with two previous convictions had not had Corporal punishment; I thought twelve stripes was a sufficient punishment to act as a deterrent.

The record of the case is herewith sent for perusal and return.

The papers which accompanied your memo are returned.

I have the honor to be,
Sir,
Your most obedient servant,
M. N. M. M. M.
Presidency Magistrate

1st accused was the
Reccan. He was convicted
under S. 441 & S. 442
and sentenced to
fine of Rs 25.
M. N. M. M. M.

No 149

1895

1895

Forwarded to the
Comptroller of Police

Mr. Sullivan's
reason for the very
limited jurisdiction
in this case does not
seem to me to be in
any way sufficient. I
think this is a case which
might be referred to
Government in case it
should see fit to have
the Law Officer to move the
High Court for revision
with a view to obtaining
the sentence.

The documents presented
with your memo. of 14th 92nd
are returned.

The original records are
returned to the Registrar.

D.R. Jones

Chief Clerk of Court

By order

1900 6 25

(1)

No 149

Magistrate
Madras

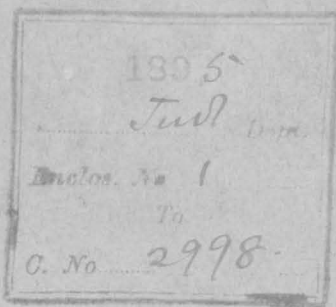
Dated 18th
Despatched 18th } June 1895
Received

No 157

Enclosures (3)

Subject

Forwarding the record
of the Proceedings in Calandar
No 12956 of 1895. &c.



G. 300-24-7-94.

CURRENT NO. 2998.

No. 53

City Police Office,

Madras, 20th June 1895

From

Colonel F. W. H. Fox
THE COMMISSIONER OF POLICE,
MADRAS.

To

The Chief Secretary to Government
Private the Governor
Stam House Hill

Sir,

With reference to G. O. dated
13th June 1895 No 1282, Indicia B.
I beg to submit that as the Chief
Presidency Magistrate has no power
to revise the proceedings of the other
Presidency Magistrates no satisfaction
can be obtained by bringing to his notice
cases like that of the Custom House
Peon Sabapathy. He can only advise
and how little effect that advice sometimes
has may be judged from the following
facts.

2 — On 31st May 1895 the day after
I wrote to you asking that steps might
be taken to move the High Court to enhance
the sentence passed upon the peon Sabapathy.

(1)

Received by O. dated 24th May 1895
to 1123 Judicial Transferring to me a
letter from the Chairman Harbour Trust
Board in which he complained of lenient
sentences passed in certain thefts and
directing me to take action under para-
graph 2 of G. O. dated 31st November
1894. The Chief Presidency Magistrate
wrote to Mr. Sultan Mohiuddin Sahib
the Magistrate concerned on the subject
of insufficient punishment.

3 — In spite of the advice he had
a day or two before received Mr. Sultan
Mohiuddin Sahib on 10th June 1895 —
sentenced to 12 stripes a man named
Madamay convicted by him under
Sections 380 and 75 of the Indian Penal
Code. This man stole property worth
Rupees 12 from the house of Mr. Mr. J.
Mitchell, Rozapoor on the night of
5th June 1895. The present is his third
conviction. He was convicted by the
Chief Presidency Magistrate on 12th
October 1892 under Section 379 of the
Indian Penal Code and sentenced to
One month rigorous imprisonment.

and the same Magistrate convicted him
on 28th June 1894 under Section 380 and 75
of the Indian Penal Code and sentenced
him to 3 months rigorous imprisonment.
The first of these cases was a theft of
property worth Rupees 17.12. from the
premises of Messrs. Spencer & Co. Bombay.
Read also the second a theft of property
worth Rupees 20. from the house of
Reverend E. W. Hatten, Egmore.

4 — The insufficiency of the sentence
passed on Madamay on 10th June last was
brought to the notice of the Chief Presidency
Magistrate and I have the honour
to forward for the information of
Government Mr. Sultan Mohiuddin
Sahib's explanation and the Chief
Presidency Magistrate's endorsement
thereon with a recommendation that
the Law Officers of the Crown may be
instructed to move the High Court with
a view to an enhancement of the
sentence.

I have the honour to be
Sir
Your most Obedient Servant
K. S. J. G.
Commissioner of Police
M. S.
Allen

Judicial Dept
CURRENT NO. 2998

Jo. 1232 : 23.6.95

Jo. 1123 : 24.5.95

Spapers

Jo. 1210/95

Jo. 2411/94 + back papers

From

The Commissioners of Police
Madras

To
The Chief Secretary to Govt.
Fort St. George.

Dated 20th June 1895
Received 22nd June 1895

CHIEF SECRETARY
GOVERNMENT OF MADRAS
22 JUN. 1895

No. 63.

Circular no. 500/95

Madras.

Reporting an instance of lenient
punishment passed on offenders
by a Pres. Magistrate requesting that the
Law Officer of the Crown be instructed
to move the High Court for enhancement
of the sentence -
N 25/6.

W. Memo No. 1492

27.6.95

The Chief Pres. Magistrate is requested
to forward to Court the records in
C. C. No. 12956 of 95 on the file of
the Presidency Magistrate's Court, Black-
town and in that in which
one Sabapathy, a person employed
in the Sea Customs House, Madras,
was convicted of Theft under
Sec. 381, I.P.C. by the
second Pres. Magistrate, Black-
town, on the 27. May last.

26.6.95

To the Chief Pres. Magistrate, Madras

R.N. V
copy
27/6/95

Judicial Dept
CURRENT NO. 3174

From

Ref. No. 1492/95

Spapers

(No. 2998 + 3174)

For orders

O.R. Jones Esq.
Chief Pres. Magistrate
Madras

CHIEF SECRETARY
GOVERNMENT OF MADRAS
3 JUL 1895

The Chief Secretary to Govt.
with the Governor & Home Secy

Encl. (4) 8

No. 168

Dated } 2.7.95
Despatched }
Recd } 3.7.95
Refd } 4.7.95

Subject

Forwarding records in cases
calendar nos. 11937 & 12956 of 95
on the file of Presidency Magistrate's
Court, Black Town, Madras

As to whether the Crown
Prosecutor may be instructed
to move the High Court to enhance
the sentence passed by the 2nd
Pres. Magistrate, Black Town, in
the cases supd to. See C. C. No. 11937
the accused was convicted of
Theft under

No. 168

CURRENT NO. 3174

Presidency Magistrates' Court,

Egmore, Madras, 2^d July 1895.

FROM

O. R. Jones, Esq.

Chief Presidency Magistrate,
Madras,

TO

The Chief Secretary to Government,
"With the Governor Stonehouse Bill"

Sir,

As directed by memorandum No. 1492, dated 27th June 1895, I have the honor to forward the records of the two cases therein referred to as well as certified copies of the same.

2- If Government decides to instruct the Law Officers with regard to these cases, I would request that the copies only may be sent on to them and that the originals may be returned as the Magistrate will be required by the High Court to submit the records for revision on an application to that effect being put in by the Law Officers of Government.

I have the honor to be,
Sir,
Your most obed^t servant

O. R. Jones

Chief Presidency Magistrate

S.O. 413-6-95, No 1232

C. No. 2998 + 3174

FOR ORDERS.

The H.C. had better be
moved in both these cases.
In the second the witness
should include the case of
the receiver who has been
let off with a fine.

BS
1577/95

as to whether the Crown Prosec-
utor may be instructed to
move the High Court to enforce
the sentences passed by the
Presy. Magistrate, Black-
burn (Mr Sultan Motidin
Sahib) in the cases refd to.
In C.C. No 11937 the accused
was convicted of Theft under
section 381, I.P.C. & sentenced
to 3 hours simple imprison-
ment and a fine of Rs 15.
In the other case, the first
accused - an old offender with
two previous convictions for
Theft - was convicted again
of Theft under section
380 and sentenced to 12 stripes
on his being asked about the
latter case. Mr Sultan Motidin

P.T.

explained

says that, as the offender in question had not had corporal punishment on the previous occasions, he considered that public stripes was a sufficient punishment to act as a deterrent.

Mr Jones & Col Con however think otherwise and recommend that the Law Officers of Court ~~may~~ be directed to move the High Court for revision in view to enhancing the sentence.

2. In his letter ^{referred in G.O.} of 13 June 95, No 1232. The Commr of B.V. suggested that steps might be taken to move the High Court to enhance the sentence passed in C.C. No 11937 of '95, but he was asked to bring the case to the notice of the Chief Presy. Magistrate in accordance with G.O. of 3 June 94, No 2638. Presy. Col Con ~~repeatedly~~ now points out (vide No 2998) that, inasmuch as the Chief Presy. Magistrate has under the present Law no power to revise the proceedings of the other Presy. Magistrates, no

FOR ORDERS.

[G.]
[25.]

600-8-3-95.

DEPARTMENT.

C. No.

FOR ORDERS.

advantage can be gained by bringing to his notice cases of inadequate sentences. The only way of obtaining satisfaction in such cases is by moving the High Court to enhance the sentence in exercise of its revisional powers. Col. Con appears to misapprehend the object of the orders directing him to bring inadequate sentences to the notice of the Chief Presidency Magistrate. Para 2 of P.O. of 3.11.94 No. 2638 ^{part} read with the last two sentences of Mr. Jones' letter disposed of therein shows that it was intended to give the Chief Presy. Magistrate an opportunity of examining the record of the case complained of with a view to ascertaining whether there is any satisfactory reason for

Yes - It is a good plan to cause the Chief Presy. Magistrate to criticise the others - It seems clear that in revising the C.P.C. the Chief Presy. Magistrate ought to be given powers over the others, like a Dist. Magistrate has.

BM

light sentence imposed. In the absence of any satisfactory explanation, it was intended that a report should be submitted to Govt. This course has been followed in the case of the man Madurai who was sentenced to corporal punishment, & as no satisfactory explanation is forthcoming it is submitted that an appeal should be made to the Crown Prosecutor may be instructed to move the High Court to enhance the sentence.

In the other case, the course directed in G.O. 573-11-94 No 2638 has not been followed, & orders are solicited as to whether the Commr of Police should be directed to follow it, or whether steps should at once be taken to ~~have~~ ^{have} more for the enhancement of the sentence.

11-7-95
12/7/95

Cases of inadequate sentences passed by Presy. Magistrates.

FOR ORDERS.

* This can be done although the man was whipped as he was liable to imprisonment and whipping being an old offender. but see please Section 391 C.C.D. I should whether this applies -

C157
137

Judicial Department
Extract from the Minutes of the Hon'ble Mr. Bliss C. J. C. dated 15th July 1895 on Circular No. 2998 and 3174 Judicial.

It seems to me that in revising the Criminal Procedure Code the Chief Presidency Magistrate ought to be given powers over the others, like a District Magistrate has.

Communicated to Mr. L. J. Forbes, Officer Special duty in connection with the revision of the Code of Criminal Procedure.

Done Davidson
19.7

A. J. Under Secretary

O. T. Camund
19th July 1895 }

Note Y

File
 Please put up the originals
 from which this note is
 extracted, so that I may
 see the precise point raised
 S. C. R.

Abstract 880 1527 20725 put up

Ref
 Let this be sent out. It only
 comes up when that is need.
 Please send it home with the
 concerned papers. I have already
 written Mr. V. about it.
 24/7/55

[G.]
 24.
 500-21-5-95.

Jud DEPARTMENT.

Papers to be read in proceedings:—

Again G.O., dated	189	, No.	
Again G.O., dated	189	, No.	
Current No.	of 189	, dated	from
" " 2988	" 1895	"	— Comm: of Police
" " 3174	" 1895	"	— Chief Pres: Mag:

ORDER. Of 20th July 1895 No 1527

The Crown Prosecutor will be
 instructed to move the High Court
 to enhance the sentences passed in
 C.C. 11937 & 12956 on the file of the
 Presidency Magistrate, Black
 Town. — In the ^{C. no 12956} ~~second~~ ^{case} the
 motion should include the ~~case~~ ^{case} of
 the receiver who was punished with
 a fine only.

2. It is observed that the Comm: of
 Police appears to misapprehend the
 object of para. 2 of G.O. of 3-11-94 No.
 2638 J. He was directed to bring
 cases of inadequate sentences to the
 notice of the Chief Presidency Magi.
 in order ~~that that might be done~~ ^{that that might be done} the
 record of the cases ~~concerned~~ ^{concerned} with
 a view to ascertaining whether any
 sufficient cause for a lenient sentence
 has forthcoming. In the absence of any

That that officer should first
 have an opportunity of examining

Satisfactory explanation, it was, of course,
intended that a report should be submitted
to Govt recommending enhancement of
sentence, ~~provided that the same was~~
~~not recommended by the court~~

D
11.4.95 LD

The Commr of Police. Q-18/7/95
The Chief Secy. High with original
records rel'd. Copied 23/7
The Commr. Secy. Ass.

Office note E only 3/4 of whole
Communicate A.M.'s note to
Mr. Forbes in connection with
the Revision of the C.C.P.
D
14.6.95

Under
24/7/95

Enhancement of
Sentence

C.S.
miss (from order)

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

189

READ AGAIN G.O., No. _____
189

DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT A A A A A A A

LETTERS 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.