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Appointing the Assistant Superintendent of Police in the district of Nilgiris and the Prosecuting Inspectors of Police in other mufassal districts to be the officers to whom — in cognizable cases shall be given by Appellate Courts in those districts.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again G.O., dated 1st July 1891, No. 1296, Judicial.

READ—also the following paper :—

From M. HAMMICK, Esq., I.C.S., Inspector-General of Police, to the Chief Secretary to Government, dated Madras, 12th July 1895, No. 4195.

I have the honour, with some hesitation, to ask for re-consideration of the terms of G.O., dated 1st July 1891, No. 1296, Judicial.

2. The Government in this order left it to the discretion of Divisional Magistrates to give notice or not as they pleased to the police as regards appeals. It is said that "it is the business of the police to be on the alert for the presentation of an appeal and in special cases to meet it by moving the District Magistrate to depute the Public Prosecutor to oppose it."

3. I need not go over the reasons which lead me to wish that all Inspectors should have notice of appeals, the matter has been discussed fully in the papers on which the above order was based. But I venture to point out that Superintendents can, I think, be trusted to see that Inspectors do not waste time in attending Appellate Courts, and I may also say that all the best Superintendents in the force, the officers most keen on getting good work out of their Inspectors, Messrs. Agar, Stevenson, Mullaly, Fawcett and others, all look upon it as most important that Inspectors should have notice in these cases. Mr. Stevenson says: "I think it most important that notices should be given, especially in appeals. Many a good case is lost owing to such notices not being given." Mr. Agar is equally strong. Mr. Fawcett says: "No matter with what pains or skill they (the police) have worked a case to conviction, a convicted person may obtain the aid of a redoubted vakil who overthrows the prosecution easily enough as it is unchampioned." All the Superintendents write in the same way and the matter is continually being represented to me.

4. But at all events—and this is the real point I wish to bring before Government—our procedure should be uniform, and every Superintendent should be treated alike. As it is, each Magistrate exercises his option. In Tanjore the District Magistrate has issued an order to all Divisional Magistrates to send to the Snperintendent and Assistant Superintendent notices of dates on which appeals against the sentences of their respective Magistrates are to be heard. In Tinnevelly the District Magistrate declines to issue such an order. In Malabar Mr. Fawcett says—

"There have been appointed lately a new Joint Magistrate and a new Special Assistant Magistrate, and as both these gentlemen heard appeals and reversed cases without intimation to the police, and as some were important cases, I wrote and asked them to be kind enough to inform the police when appeals were to be heard.

"The former replies—'He sees no necessity. In cases of special importance or where he considers it advisable, he will do so.' The latter quotes a District Magistrate's order vetoing intimation to the police."

In Chingleput the District Magistrate was of opinion that the issue of notices to Inspectors would make the police idle and neglect their duty; so he ordered Divisional Magistrates to give notice only in important cases.

5. For myself I have no fear that any general order for notices of appeals to be given to Superintendents and Assistant Superintendents or to Inspectors will make the police idle. If an Inspector wishes to be idle, he can find plenty of excuses to be so, but I do not think he will make use of the courts for the purpose. The Inspector

who wishes to attend at appeals is the man who takes an interest in his cases and likes to work them out to the end. The best Inspectors are the men most frequently in the courts. If a man does not know his cases and has not worked at them, he fears to come into a court where his ignorance is likely to be found out.

6. In any case, I cannot help thinking that the Government will agree that the police in every district should be treated alike in this matter, and that it should not be left to the option of the Magistrates to give notice to the police or not. If notice is not to be given, let the rule be so for all districts. But in that case I am afraid I cannot hold the police to blame for not hearing of appeals and making arrangements when necessary to oppose them. I am afraid however alert an Inspector is, he can hardly be expected to hear of appeals unless he wastes his time in constant attendance on the courts to make enquiries about them, and this is not advisable and cannot, of course, be allowed.

7. I may add that I understand that in all Salt and Abkári cases the Magistrates are bound to give notice of appeals under an order of Government in 1885. If it is considered important in these cases that notice should be given, surely it is equally important in Police cases. I have never heard complaints from Magistrates of delay or inconvenience resulting from Salt and Abkári Inspectors being heard in Salt appeals and I certainly do remember cases in my own court in Cuddalore where the presence of the Salt Inspector was distinctly an advantage.

8. I have ventured to refer this matter to Government as, wherever I go, Superintendents represent it to me, and, as I have said above, whatever view may be taken on the matter, I think it cannot be held to be good policy to have one rule in one district and another in another. For myself I agree with my Superintendents in considering that the police should have notice in all cases of appeals against convictions and I believe no harm whatever would result from such a course being ordered.

ORDER—dated 7th August 1895, No. 1644, Judicial.

On reconsideration, the Government resolves to cancel so much of G.O., dated 1st July 1891, No. 1296, as relates to the communication to the police of the dates fixed for the hearing of appeals in cases prosecuted by them. Since the issue of that order Prosecuting Inspectors have been appointed for all districts except Nilgiris, and this has, in the opinion of Government, changed the entire aspect of the case. His Excellency the Governor in Council is therefore pleased to appoint, under the provisions of section 422 of the Code of Criminal Procedure, the Assistant Superintendent of Police in the district of Nilgiris and the Prosecuting Inspectors of Police in other mufassal districts to be the officers to whom notices of appeals against convictions in cognizable cases shall be given by Appellate Courts in those districts. Instructions should be issued to all Division Inspectors to inform the Prosecuting Inspectors concerned beforehand of the cases in which, if there should be any appeal, his attendance would be most essential.

2. The Government is not disposed to attach much importance to the objection raised on the previous occasion that the giving of notice to the police would entail delay in the disposal of appeals. The slight delay which may occur may be disregarded in view of the fact that the interests of justice require that the magistracy should grant reasonable time for the attendance of Prosecuting Inspectors in important cases.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Inspector-General of Police.
„ all District Magistrates.
„ the Honourable the Chief Justice, with C.L.

Exd. A. Raitt.

Govt. of {1895} Madras.

JUDICIAL.

Issued

Recd. *Encl.*

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