

Judicial (1895) Department.

ORDINARY MS.

G.O., No. / 883

Dated 7th Sept: 1895

INDEXED.

[Despatch Abstract.]

MISCONDUCT OF A SUB-MAGISTRATE.

Withdrawing the powers of a Magistrate of the second-class conferred on M.R.RY. P.Krishnama Chariar, Taluk Sheristadar of Hosur, in the Salem district, for incompetency as a Magistrate.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Cno	214/97						

A list of records submitted with letter No. m dated

No.	Description	Remarks
1	b. c. No 90 of 94 on the file of the Sher. Magistrate Hordr.	
2	Complaint	
3	Dispositions of the Complainant 1 st to 3 rd Prosecution accused and off ^{er} defence witnesses.	
4	Exhibits I and A	
5	Translation of the above records	
1	Judgment	
2	Criminal Appeal No 15 of 95 on the file of the Joint Magt.	
1	Appeal petition	
2	Judgment	
1	Calendar Case No. 63465 of 94 on the file of the Sheristda, Magistrate Dittenkarai	
2	Judgment in the above 2 Cases	
3	Letter dated 11.1.95 No. 102 of the Asst Commr and No 140 dated 17.1.95 of the Deputy Commr	
4	This office Proceedings of 5.3.95 No 193 calling on the Sheristda, Magistrate for explanation	
5	The explanation of the Magistrate dated 28.3.95	
1	This office Proceedings dated 29.3.95 No 566 on the file of the Sheristda, Magistrate Dittenkarai	
2	Application for transfer dated 1.6.94	
3	This office Proceedings of 5.6.94 calling on the Magistrate for remarks	
4	Report dated 12.6.94 of the Sheristda, Magistrate	
5	This office Proceedings of 2.7.94 No 2039 transferring the case to the file of the Stationary Sub Magistrate Tripatur.	
6	Judgment of the Stationary Sub Magistrate Tripatur in calendar case No. 380 of 94 on his file.	

Dist

Distric Magistrate

Salem Collector's Office,

18. 6. 1895

From

Ref No. 376
nmh

G. STOKES Esq.,

Collector & Dist. Magte. of Salem.

To

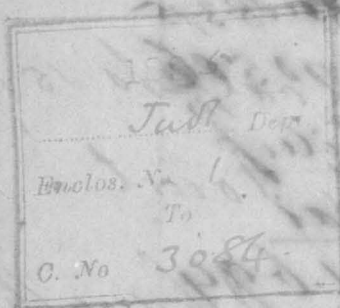
The Secretary to Government,

Judicial Department,

MADRAS.

SIR,

In Submitting herewith the records in calendar case No. 9 of 1894 on the file of the Sheristadar Magistrate of Hosur and of Criminal Appeal No. 15 of 1895 on the file of the joint Magistrate, Hosur, I have the honor to invite attention to the remarks of the joint magistrate in his judgment viz "I am constrained to remark that the utter perverseness of the Sheristadar Magistrate's judgment in the case raises serious doubts



as to his fitness to exercise Magisterial powers" and to recommend the withdrawal of the 2nd class powers vested in Mr. P. Krishnamachariar, Sheristadar, Magistrate Hosur.

2. The facts of the case are these:-
The complainant is the proprietor of a village, and the accused is his lessee. There are on record two written documents purporting to embody the terms of the lease. The complainant has charged the accused with theft and mischief because he felled and appropriated trees amounting to 25 cart loads contrary to the terms of the lease deed (Exhibit A) filed by him. The accused contends that according to the terms of the lease (Exhibit No I) he is entitled to do what he likes with the trees to which the complaint refers and admits having cut and removed 5 cart loads only. Thus the dispute resolves itself into a controversy as to the terms of the lease under

which the village is held and as such the Sheristadar, Magistrate should have referred the complainant to a civil court at the outset but instead of which he convicted the accused of mischief, an offence of which he was not charged or heard.

3. Translation of all the important records in Tamil and Telugu connected with this case are herein enclosed.

4. I have long known this Magistrate as a most unsatisfactory Magistrate of doubtful moral character and I have formed this opinion on an examination of his work and proceedings as they come before me daily. As an example, I would invite the attention of Government to his proceedings in the Akhari case the important records of which

are enclosed, when he was
Sheristadar Magistrate in Attenu-
Karai and to the case of the
Assistant Station Master of
Sawalpatti of which the facts
are hereinafter shortly set out.

(a) In regard to the Akhari cases
above referred to viz Nos 634
65 & 94 on the file of the Sheristade-
dar Magistrate Attenukarai,
the Deputy Commissioner of Salt
and Akhari Revenue has brought
to my notice that the decisions
passed by the Magistrate on the
evidence recorded in these
cases are clearly wrong
if not perverse and that the
remarks in the judgment in
the latter case to the effect
that "the prosecution is almost
nearly unsatisfactory in all
Akharis' eyes" are bad enough

x vide last para of
Shr. Mays. J. 1st in
C. No. 65 of 1894.

x vide his explanation
on the back of the Dms
Pros. marked D.

if only expressed in Court but when
they are introduced into the judgment
they are still more objectionable
After examining the records, the
Magistrate was called on to
explain the irregularities and
inconsistencies in the finding.
The Magistrate without explain-
ing in detail each of the points
therein noticed has confined his
explanation only to the remarks
passed by him in his judgment.
He has stated that he intended
the remarks to apply to the
Akhari Peth officers and
peons who came as witnesses
in the cases so that more
satisfactory evidence might
be put in by them in future
Thereupon, I have passed

proceeding to the effect that in weighing the evidence, the magistrate showed great want of discretion and his comments on the cases were most improper

(b) While this magistrate was at Etteukarai he had to enquire into the so called complaint of an abandoned Brahmin woman with whom he appears to have had, and still has as appears from a letter received from her to him in Hosur lately, an illegitimate connection, of having been assaulted by the Assistant Station master of Samalputty with intent to outrage her modesty -

~~from~~ reasons entirely
unconnected with the
transfer application

marked E

vide para 29 of the Judgment
marked F.

Section 354 I.P.C. In the course of trial the magistrate having taken an undue and abnormal interest in the case and having shown undue haste in the issue of a warrant against the accused an application for the transfer of the case to the file of some other magistrate was presented. The case was then transferred to the file of the Stationary Sub. Magistrate, Vripatur, in my Proceedings dated 2.7.94 No 1039^m. This magistrate has in para 12 of the judgment delivered in the case alluded to the interest that has been taken by the Sheristadar Magistrate in the early stage of the enquiry and has further remarked that the case is

not a true one and has been developed by interested parties at every stage so as to make it an offence."

5. A list of all the important records submitted is herewith sent.

6. There is another case quite recently decided by this Magistrate and which now is in appeal before the joint Magistrate. I cannot therefore -

submit the records to Government at present. If desired, they will be sent afterwards.

The facts of the case are shortly that the accused in the case let his mare out to graze on the road side. A country stallion pursued the mare with a view to cover her. The accused who had a stout bamboo with him in trying to drive off the horse broke the horse's leg with a blow of the bamboo. For this, the Magistrate has convicted the accused of mischief and sentenced

him to three months rigorous imprisonment and a fine of Rs. 25.

I have the honor to be

Sir

Your most obedient servant

John

District Magistrate


18-6-95

&

103288: 14.12.86 Mi/24

From the Collector

and District Magistrate,

Salem.

To The Chief Secretary to

Government Judicial Department. Coimbatore

Dated 26.6.95
Ref No. 376

Enclosures 3
+ file of papers
+ per list

Subject.

Recommending the
withdrawal of 2nd class
powers vested in Mr. P. Krishna machariar
Sheristadar, Magistrate
of Hosur

MS 3/7

(For orders)

Des. Mag. J. R. Sub.

[25.]
600-7-5-95.

DEPARTMENT.

C. No. 3084

7.12.86

from Dist. Mag. Salem.

FOR ORDERS.

In this current the Dist. Mag. recommends the withdrawal of magisterial powers from the Sheristadar Magistrate of Hosur, P. Krishna machariar; this officer appears to have first been invested with magisterial powers in December 1886. The following instances of his inefficiency as a magistrate are cited.

(1) In c.c. no 90 of 1894, the sub-magistrate convicted the defendant of mischief, where the charge brought against him was theft & the evidence showed that the matter in issue should have been dealt with by a civil not a criminal court. But briefly the facts are as follows. The complainant was the landlord of the defendant and accused him of committing theft by removing certain trees from the land leased out to him. The defendant admitted the removal of the trees & set up a bona fide claim of right as his defence. The evidence is carelessly recorded but the complaint, so far as can be gathered appears to be based on a lease executed in 1880 (Ex. A.) which contains a clause expressly forbidding the defendant to remove trees without the permission of the complainant. - The defence is based on a pattern granted seven years later.

For orders

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favour of the defd. (Ex.I) which contained
no such prohibitory clause. - The only
mention of trees is to be found in the phrase
"I find you & your heirs to enjoy all
other fruit trees situated on the lands
except mango trees". - Mango trees are
not concerned in the case, & the use of the
word "enjoy" in a "Kazampatta" cannot well
be taken to expressly prohibit the felling
of trees. - There was thus nothing in the lease
permitting or prohibiting the defendant's
action in so many words & the obvious
course would have been to refer the com-
plaint to the civil courts for a deter-
mination of the legal force of the ^{patna} lease
(Ex.I) as soon as he admitted the
execution of it in cross-examination. The
Sub-mag. however went on with the
case, framed a charge of theft, heard
Defence witnesses, & convicted the defd. of
mischief in spite of the fact that the
whole evidence on both sides showed
that he had acted openly & that there
was no proof whatever of dishonesty
on his part. - It is noticeable too that
Sub A - on which the complaint appears
to have been based - was not properly
proved - a copy being produced when the
original might have been produced. -
The Joint Mag. in reversing the conviction
on appeal remarked: ~~that~~ the "perverse-
ness of the S.M. Magistrate's judgment in
this case raises serious doubts as to
his fitness to exercise magisterial
powers".
The original judgment was written on
the 18th January 1895 -

(ii) In cc. 63 & 65 of 1894 disposed of on
the 23rd May 1894, the Sub-mag. acquitted

FOR ORDERS.

[G.
25.
600-7-5-95.

DEPARTMENT.

C. No.

FOR ORDERS.

the accused who were charged with selling
lorry in an unlicensed place i.e. at the
foot of the tree from which the lorry was
drown. - The pros. evidence contained
no discrepancies & the defence witnesses,
who were called to prove the accused's
defence, ~~with important~~ refused to fact
materially differing from what the accused
had stated & further contradicted ~~one~~
another.

The sub-mag. however in one ^{instance} ~~case~~
dismissed the case with the bare remark
"The pros. appears to be incredible", &
in the other, with the remark - "I
do not believe the Pros. which is
almost nearly unsatisfactory in
all abhari cases".

Then called on for an explanation of his
conduct, he made no attempt to justify
his disregard of the discrepancies in the
defence, & merely stated that he only
intended his offensive criticism of the
pros. in abhari cases, to apply to the
abhari officers & persons examined in those
two cases. In mitigation he actually
pleaded that he had acquitted very few
such cases & had always imposed severe
sentences on them.

The Dist. Mag. in passing orders on the
explanation ~~was~~ remarked that the mag.

and to convey his opinion that
other evidence than that of persons of petty
officers was required in abhari cases

[Cl.]
[25.]
600-7-5-95.

C. No.

FOR ORDERS.

showed great want of discretion in weighing the evidence, & that the comments which he made in his judgments were unjustifiable, & warned him that he would be reduced if he did not amend.

(iii). The Dist. Magt. further reports a case in which the Sub-magt. tried a complaint brought by an abandoned Brahman woman against the Assistant Station-master of Samalpetti. The Sub-magt, it is said, "appears to have had" and still has, as appears from a letter "received from her to him in Hoar" "lately in illegitimate connection" with the complainant - It is to be observed, however, that the Sub-magt. denies the alleged connection, repudiates the letter, & that the Dist. Magt. assigns no reasons for refusing to accept his denial. -

In the trial of the case the Sub-magt. displayed undue & abnormal interest, issuing a warrant against the accused with undue haste. He left the division while the case was proceeding, & was accordingly heard & tried by another magt. who, in dismissing it, remarked that the "case had been developed by interested parties" "at every stage some to make it an offence"

(iv) In a case still sub-judice in the appellate court, the sub-magt. sentenced a man to 3 months rigorous imprisonment & a fine of Rs 25 on a charge of mischief when he had merely broken the leg of a country stallion when endeavouring to prevent it from covering his own mare. The Dist. Magt. asks if he should submit the records in this case.

Orders are solicited as to whether they

FOR ORDERS.

should be sent for, or as to whether the other cases as cited constitute sufficient justification for withdrawing the Shrivastava Magt's powers.

D
16-7-95

Wt.

In the last case, if the facts found are as stated by the Dist. Magt., exhibits so gross a misuse of magt. authority that we ought to have the records. Please call for them by O.M. J. L. 24/7/95

P.T.O.

Misconduct of a
Sub-magistrate

FOR ORDERS.

[Signature]

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



Memorandum.

Judl. DEPARTMENT.

N^o 1737

26-7-95

Read the following

With reference to para. 6 of his letter
of 18th June 1895, Refuⁿ. 376, the
District Magistrate of Salem is
requested to submit the records in
case referred to therein, in which
Sheristadar Magistrate of Hosur passed
a sentence of 3 months' rigorous imprisonment
+ a fine of Rs 25 on a charge of mischief.

25-7-95

To
The D.M. of Salem. Despatch
26/7

MR
24-7-95

[Handwritten signature]
21/7/95

of records Submitted with letter do

No.	Description of Records	Remarks
	Calendar case no 44 of 95 on the file of the Sheristadar Magistrate Hosur	
1	Depositions of the 1 st to 6 th Prosecution Witness, accused and of the 1 st to 4 th Defence Witness.	✓
2	Translation of the above records	✓
3	Judgement	✓
4	Proceedings dated 8.6.95 of the District Magistrate of Salem calling on the Sher- istadar Magistrate Hosur for explanation	✓
5	Report dated 12.6.95 no 76 of the Sheristadar Magistrate Hosur submitting explanation	✓
	Criminal Appeal no 38 of 1895 on the file of the Joint Magistrate Hosur	
1	Petition of appeal dated 3.5.95	
2	Argument of the appellant dated 29.6.95	
3	Judgement	

CURRENT NO. 4057.

Salem Collector's Office,

21st August 1895.Reference No. 376
M.K.

From

G. Stokes Esquire,

Collr. & Dist. Magte. of Salem.

To

Chief -

The Secretary to Government,

Judicial Department,
Madras.

Sir,

In reply to your memo dated
26th July 1895 no 1737 judicial
I have the honor to submit
the records connected with the
Case therein referred to as
per list herein enclosed.

I have the honor to be

Sir,

Your most obedient servant

The Collector



Judicial Department.

CURRENT NO. 4037

From the Collector

and District Magistrate,

Salem.

To

The Chief Secretary
to Government
Judicial Department
Madras.

Dated 21st August 1895
Rev 24th Do.

Ref No. 376
M.R.

Enclosures 4 files
one lib

Subject.

Submitting the records
connected with the
Case referred to in his
Memo dated 26th July 1895
No 1737.

(Gordon)

Ref. No 1737
26-2-95

Judicial Dept.

C. Nos. 3084 & 4057.

FOR ORDERS

The records of the case mentioned in clause 4 of the preceding note have been obtained and show that the statement of the case given by the Dt. Magte is substantially correct. The witnesses for the prosecution deposed that the accused had broken with a stick the leg of a country stallion valued at Rs. 40 when ~~he~~^{it} was endeavouring to cover a mare belonging to him. The most detailed account of the proceedings is ~~best~~^{given} by the 6th witness who says: "Two horses were running one after the other. The horse was about to cover the mare. The accused then drove the horse away from the mare. He pelted a stone at him. The stone did not hit the animal. The horse again attempted to cover the mare. The accused then beat the horse twice in the hind leg with a stick he had. The stick was as thick as the hand and 3 cubits long. He had the stick with him, but did not go and bring it to beat the horse."

Gazette (Notified) 10/9/95

(830)

Misconduct of a Sub. Magistrate

Mr. G. S. Forbes Esq

mt.

(From Orders)

mt.
H

DESPATCH
EX

H. b.

Please payette and return home
with fair. I keep the case.

14/7
7/19/91

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

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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

N.B.

A = Copy in full.
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