

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1962

Dated 19th Sept. 1895

INDEXED.

[Despatch Abstract.]

PETITION.

Declining to interfere on behalf of Singaravelu Mudali, late
2nd-class constable, No. 468, North Arcot district, appealing against
his dismissal.

BACK PAPERS.

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

FURTHER PAPERS.

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

Registered petition

To
His Excellency the Right Honorable
The Governor in Council,
Fort St. George,
MADRAS.

Through the District
Superintendent of Police
North Arcot District
Chittoor

vide G.O. No 696
dated 15 June 1895
herewith enclosed
(a true copy).

The humble appeal petition of SINAGARAVELU MUDALIAR,
late 2nd Class Constable No. 468 of Wallajah
Town Police Station Wallajah Taluk, North
Arcot District, now residing at South Raja Veedi
Tiruvellur.

MOST HUMBLY AND RESPECTFULLY SHOWETH,

With every mark of respect and profound submission that your humble petitioner begs leave to request that your honor will be so good as to lay your petitioner's unfortunate case before the Government for their generous and serious consideration. As your honor is aware that Government stand in the position of parents to their subjects and kind masters to their humble and depending servants, your petitioner who is a subordinate servant lately attached to the Police Department, *is now under suspension.*

2. That your humble petitioner joined the Police Force on the 23rd June 1875 and that during his service he detected several cases and got them convicted and obtained promotion up to the rank of 4th Grade Head Constable on a salary of Rs. 12 in the year 1887 and this will convince your honor by his service book which is now in the Department and he was reduced into 2nd Class Constable for his petty faults and mistakes.

3. That your humble petitioner's service in the Police Department is nearly 19 years and 10 months up to the date.

4. That your humble petitioner and another 1st Class Constable No. 811 Narainasami were escorted with a remanded prisoner Garudachari to proceed to Bangalore and to obtain previous convictions against the said Garudachari who was nominally charged by Wallajah Police under section 380 and 451 I. P. C. and no properties were lost by the complainant and no properties were recovered from the said accused. Your humble petitioner and Constable No. 811 accordingly followed the accused Garudachari to Bangalore where they went to mess at Seetharamier's Hotel. The said prisoner earnestly requested your humble petitioner and another Constable No. 811 to grant him permission to ease himself "or in other words called" to answer the calls of nature. Then your humble petitioner and Constable No. 811 went along with accused on the 7th December 1893 and let him in a lane he (the accused) absconded and ran away.

5. Immediately your petitioner reported the matter to the Inspector of Police Wallajah Taluk and to the S. H. O. at Bangalore verbally. The said S. H. O. Bangalore ordered your petitioner to report the same to the Inspector of Police of that place who was on circuit and returned to cusbah on 10th December 1893 on which date your petitioner reported the facts to the Inspector of Police Bangalore.

6. They (your petitioner and Constable No. 811) tried their best to find out the absconded culprit and their trial was fruitless. The Inspector of Police of Wallajah said that your petitioner was suspended by the Superintendent of Police to prosecute your petitioner who gave over all of his dresses to the Inspector in question.

From a
2nd grade
constable
dressed

7. That your humble petitioner and Constable No. 811 were prosecuted by the City Magistrate of Bangalore who convicted and sentenced them each to undergo 3 months simple imprisonment.

8. That your humble petitioner appealed against the sentence of City Magistrate before the High Court of Bangalore who quashed the sentence of the lower court and released them vide Judgment shown as under.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Tuesday the 20th day of March 1894.

PRESENT.

RAJAH DHARMA PRONINA T. R. A. THUMBOO CHETTY Esq., Chief Judge.

AND

P. N. KRISTNAMURTHI Esq., Judge.

Petitions of Criminal Appeals No. 182, 183 of 1893-94 against the convictions and sentences by the City Magistrate of Bangalore under section 223 of the Indian Penal Code in Criminal Case No. 684 of 1893-94.

APPELLANTS.
In appeal No. 182 of 10-3-94.
Singaravelu.
In appeal No. 183 of 1893-94.
Narainasami
(accused.)

Judgment.

The prosecution in this case was instituted by a 2nd Grade Head Constable J. A. PEREIRA of Wallajah Town Station of North Arcot against two Constables Narainasami and Singaravelu belonging to the Police Force of the said town, under section 223 Indian Penal Code.

The admitted facts are these. A prisoner named Garudachari, charged with the offence falling under section 451 and 390 Indian Penal Code, was entrusted to the accused for being escorted to Bangalore for the purpose of getting some information as to the previous convictions and antecedents of the said Garudachari. The accused, while they were in the Bangalore City, went to a Hotel to take their meals together with Garudachari, who, some how managed to escape. The accused reported the occurrence to the Head Quarter Inspector, who, on 1st February 1894, directed the prosecution of the accused before the City Magistrate of Bangalore City.

The complaint was accordingly presented on 17th February 1894 and the accused and witnesses for prosecution were also produced before the City Magistrate, who convicted the accused under section 223 I. P. C. and sentenced each to undergo simple imprisonment for 3 months. The present appeal is against the said conviction and sentence.

We are of opinion that the City Magistrate of Bangalore had no jurisdiction to try and punish the accused who are not the subjects of the Mysore state. The courts in Mysore possess the power to deal only with offenders against its own laws. The accused no doubt negligently suffered a prisoner who was in their custody to escape, an offence punishable under section 223 I. P. C. but the accused, at the time they committed the offence, were the public servants not of the Mysore state but of the British Government, and, as such, were not amenable to the laws of Mysore. Garudachari, whom they escorted, was also charged with an offence committed in British India against the laws of the British Government. In allowing Garudachari to escape, the accused committed no offence against the laws of the Mysore State. As no offence was committed against the laws of the Mysore State, the Courts in Mysore were powerless in the matter. In this view we hold the City Magistrate had no jurisdiction to try the accused.

We quash the conviction and sentence and direct the immediate release of the accused.

(Sd.) T. R. A. THUMBOO CHETTY,
Chief Judge.

(Sd.) P. N. KRISHNAMURTHI,
Judge.

9. That your humble petitioner begs to state that he was under suspension till the case brought against him and disposed of "i. e. 20th March 1894". Your petitioner, quite astonished to hear of his dismissal from the service as per post card (herein enclosed) dated 29-7-94 received from the Police Station writer that he was dismissed from 31-12-93. Vide last para of the Minute Extract granted by the District Superintendent of Police on 15-8-94 noted in the margin.* This is quite objectionable and unlawful order made by the Superintendent of Police. There is no law in the British Government for 2 punishments inflicted upon a man simultaneously i. e. "criminal prosecution and dismissal."

10. That your humble petitioner appealed against the dismissal order of the District Superintendent of Police to the Inspector General of Police who returned the same on 28-5-94 for want of minute extract and ordered him to appeal to the Deputy Inspector General of Police with the required minute extract.

11. That your humble petitioner applied for the minute extract to the District Superintendent on 28-5-94 and remainders sent on 1-8-94 and 10-8-94. The said minute extract received only on 15-8-94 as per cover herein enclosed.

12. The enclosed minute extract contains only petty faults for which your petitioner obtained some black marks and petty fines i. e., forfeiture of his pay for his absence. It never contained any of his good remarks made by the Sub-Magistrates and promotions obtained by his detecting good many cases in the Department. When the minute extract is taken from his service book it ought to be contained both good and bad remarks. This minute extract is not so. It is null and void. This will convince your Honor by calling on the Station Visit Book of Irol Station Chittoor District.

13. That your humble petitioner appealed against the dismissal order of the District Superintendent of Police to the Deputy Inspector General of Police on 18-8-94 by registered postal receipt dated 20-8-94 herein enclosed. The same was acknowledged by the Dy. Inspector General of Police on 22-8-94. The very appeal petition is said to have been forwarded by the Deputy Inspector General of Police to the Inspector General of Police who sent an extract of his order passed on his appeal petition as noted below on 27-2-95 (cover enclosed) in reply to your petitioner's request dated 29-1-95 a copy of which is here in enclosed.

Extract from Inspector General's Order, No. 6732,
dated 19th November 1894.

No. 963.

1. Read Petition, No. 287 of 1894, from Singaravelu Mudali, late 2nd Class Constable, No. 468, Wallajah Taluk, North Arcot, appealed against dismissal.
2. Letter No. S/770 dated 25th August 1894, from Dy. Inspector General, submitting for Inspector General's orders, appeal petitions of late 2nd Class Constable No. 468, Singaravelu Mudali, and late 1st Class Constable, No. 811, Narayanaswami.

REMARKS:—That the appellant was guilty of gross negligence in allowing a prisoner in his custody to escape has been very clearly proved and I order his dismissal.

4. Both Constables are now dismissed.
(Sd.) C. A. PORTEOUS Col.,
Inspector General of Police.

True extract forwarded to the petitioner, late 2nd Class Constable, No. 468, Singaravelu Mudali, with reference to his petition, dated 29th January 1895. The enclosures received with the Appeal petition were sent back through the Deputy Inspector General of Police, Central Range, to whom application should be made for return of the same.

Asstt. Inspector General of Police

Chief Office,
MADRAS,
20th February 1895.

14. Again your petitioner applied the Deputy Inspector General of Police for the return of his records on 28-2-95 as per copy herein enclosed. The Deputy Inspector General sent an order noted below received only on 9-3-95.

Memorandum.

Endorsement by the Deputy Inspector General of Police on petition dated 28-2-95 of Singaravelu Mudali late 2nd Class Constable No. 468 requesting to return to him his appeal records.

Petitioner must apply to the Superintendent of Police North Arcot to whom all the papers connected with his appeal were returned on 22-11-94.

(Sd.) W. J. A. SULLIVAN,
Deputy Inspector General of Police.
Central Range.

15. That your humble petitioner again applied to the Deputy Superintendent of Police North Arcot for the return of records on the receipt of Deputy Inspectors General's order on 10-3-95 (a copy of his letter to the Deputy Superintendent is herein enclosed). Thereupon the Deputy Superintendent sent another minute extract in a cover (which is herein enclosed on the 29th March 1895 instead of sending his records. Again your petitioner sent a letter dated 30-3-95 to the Deputy Superintendent a copy of which is herein enclosed at last the Deputy Superintendent sent all the records in a cover dated 15-4-95 (Postal mark) is here with enclosed for your honor's perusal.

16. That your humble petitioner begs leave to state that several cases have been detected by your petitioner during his service with great difficulty in the Police Department and several of them were come to conviction by several Magistrates.

In such circumstances your petitioner was dismissed for this paltry mistake, instead of giving him encouragement to find out the absconded culprit. This sort of punishment (dismissal) is quite objectionable unjustifiable and unlawful one.

17. That your petitioner is entitled to get back his appointment after the criminal case brought against him quashed by the High Court of Mysore.

18. That your humble petitioner therefore solicits the kind favor of Government to peruse all the records, service books of his long service (nearly 20 years) of the Police Department and to cancel the order of his dismissal and to restore his former appointment of 2nd Class Constable to him with his arrears of pay due to him from the date of his suspension up to the date.

19. That your humble and dependant petitioner is ready to find out and arrest the absconded accused Garudachari in case of putting him on the former appointment and of giving him all the necessary expenses incurred to him such as Train charge &c.

20. That your humble petitioner further begs to state that he has a large family consisting 10 souls starving day and night for want of daily bread and they are depending solely upon your humble petitioner.

21. For which act of kindness your humble petitioner and his large family, as in duty bound, shall ever pray.

(Sd.) SINGARAVELU MUDALI.

Singaravelu Mudali

TIRUVALLUR, }
1st May 1895. }

W. 1249
Forwarded

Vallur
12.2.95

Sd. Insp. Gen. of Police
Central Office

4189

No. 6732.

Chief Office of the Inspt. General of Police
Madras, 19th November 1894-

Enclosure No. 2
To letter No. 4322/131/95
From Inspector General of Police.

Official Memorandum.

Read.

1. Petition No. 287 of 1894 from Singaravelu Mudali, late 2nd Class Constable, No. 468, Vallajah Taluk, North Arcot, appealing against dismissal.
2. Letter, No. S/770, dated 25th August 1894, from Deputy Inspector General, submitting for Inspector General's orders, appeal petitions of late 2nd Class Constable, No. 468, Singaravelu Mudali and late 1st Class Constable No. 811, Adayaraswami, who were convicted by the City Magistrate, Bangalore, for negligently allowing a prisoner to escape from their custody.

Remarks: _____

That the appellant was guilty of gross negligence in allowing a prisoner to escape has been very clearly proved and I order his dismissal.

The

2. The Superintendent should have retained appellant under suspension and reported his case to Inspector General for orders - Police Order, No. 250 -

3. A mistake was made in prosecuting the appellant and other Constable before the Bangalore Magistrate.

4. Both Constables are now dismissed.

To
(Signed) C. A. Porteous Col.,
The Dy. Supt General of Police, C. Range -
for communication to petitioners.

(True Copy)

Mammill
Supt General of Police.

1895
gnd. Dept.
22
4187

Recd. 445

No. O. 48.

CURRENT No. 4187

DEPARTMENT.

No. 4820.

CHIEF OFFICE OF THE INSPECTOR-GENERAL OF POLICE,

MADRAS, 30th August 1895.

FROM

M. HAMMICK, Esq., I.C.S.,

INSPECTOR-GENERAL OF POLICE,

Madras,

TO

THE Chief Secretary
to Government.
Colacamund.

SIR,

Enclosures.
Three.

I have the honor to submit an appeal from one Singaravelu Mudali, late 2nd Class Constable, No. 468, North West, appealing against his dismissal confirmed on appeal by Colonel Porteous in his order, No. 6732, dated 19th November 1894 -

2. The facts of the case are that the appellant and another Constable were sent in charge of a prisoner to Bangalore by Mr. H. E. Sullivan the acting Assistant Superintendent of North West in December 1893. These two men while in Bangalore allowed their prisoner to escape. The men were tried in the City Magistrate's Court at Bangalore and found guilty and sentenced to

to 3 Months' simple imprisonment for
negligently allowing a prisoner to escape.
2. On appeal the Chief Court upset this
retained decision holding that the Constables had
no authority to detain the prisoner in
for Mysore Territory.

3. The judgment of the lower Court shows
that the Police were distinctly careless
in looking after their prisoner, and had
the matter happened in British territory
there can be very little doubt that a
conviction would have stood. As a matter
of fact probably the Constables had
no right to detain the prisoner in
Mysore Territory and in doing so were
committing an offence against the Mysore
laws. Technically therefore the appellant
can hardly be said to have committed
a fault when he let the man go. The
fault was in the Assistant Superintendent
who sent the men on an illegal errand
viz. to take a Madras prisoner under
arrest and keep him in Bangalore in
the Mysore Territory until they had
found

found out about his previous connections.

4. If the Government take this view
of the matter, it may be inclined to
cancel the order of dismissal, although
no doubt the men did not do as they
were told and by their carelessness
allowed the prisoner of whom they had
charge to escape.

I have the honor to be,
Sir,
your most obedient servant,

Mammeth,
Inspector General of Police.

Encl. 1/2 M.

20 696 R D 1895

[G.]
[24.]
500-23-7-95.

Papers to be read in proceedings:—

FROM
M. HAMMICK, Esq., I.C.S.,
INSPECTOR-GENERAL OF POLICE,
Madras,

TO
THE Chief Secretary
to Government,
Rota Camund.

No. 4820.

Dated 30th August 1895

Received 2/9

Reg. 2/9

Encls 23



Submitting with remarks an appeal from one Singaravelu Mudali, late 2nd Class Constable, No. 468, North Precb, appealing against his dismissal confirmed on appeal by Colonel Porteous.

usg/r

(over)

For orders.

The I.G.'s letter sets out the facts connected with the petitioner's dismissal.

10-9-95

I submit this to you as the I.G. raises a legal point.

I don't see however that it affects the merits of the case. No doubt the decision of the Mysore High Court was correct. The man was not in legal custody and his escape and allowing him to escape was not an offence against Mysore law.

But there is another aspect of the case. The constables, started with the man in legal custody and at the time that he escaped - evidently owing to their culpability - they believed him to be still in such custody. They certainly would have been convicted if the occurrence had taken place in British territory and they had been tried by a British magistrate and it is certainly not equitable that they should escape without punishment because on a legal point only their conviction was set aside.

I submit that the appeal should be dismissed. The other man's case was dismissed because he was not in legal custody at the time he escaped.

Again G.O., dated

189 , No.

Again G.O., dated

189 , No.

Current No. 4189

of 1895, dated 30 Aug, from the I.G. of Police.

" "

" 189 , " "

" "

" 189 , " "

ORDER. 19th September 1895, No. 1962.

His

The Govt declines to interfere on behalf of the petitioner & he shall be informed accordingly.

(From order)

17-9-95

To

The I.G. of Police & to with the

16-9-95

25/9/95

Appeal from a dismissed
Idia comotable.

(From order)

CS
mis

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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Q = Copy heading only.