

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2031

DATED 1st Oct: 1895

INDEXED.

[Despatch Abstract.]

MR. FARMER'S JUDGMENT.

Recording, with remarks, letter from the Registrar, High Court, forwarding, with reference to G.O. No. 1173, dated 30th May 1895, copy of Mr. Farmer's reply explaining the nature of the correction made in the proof copies of his judgment, and stating that inquiries will be made whether Sessions judgments cannot be printed at some of the private presses at Vizagapatam.

BACK PAPERS.

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

FURTHER PAPERS.

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

11720 30-595112

11720 30-595112

Judicial { 1895 } Department.

No.

FROM

Ag.
The Registrar of the High Court
of Judicature, Appellate Side,
Madras.



Dated 5th September
Received 7th Sep 9th } 1895.
Enc. one

No. 2454.
Enc. one.

Forwarding with reference
to G.O. dated 30th May 1895, No. 1173,
Judicial, a copy of Mr. H.R. Farmer's
reply explaining the nature of the
correction made in the proof
copies of his judgment and stating
that enquiries will be made
whether Sessions judgments can-
not be printed at some of the
private presses at Vizagapatam.

No. 327.

Vizagapatam Sessions Court,
Dated 29th July 1895.

From

H. R. Farmer Esquire,
Sessions Judge,
Vizagapatam.

To

The Ag. Registrar of the
High Court of Judicature,
Appellate Side,
Madras.

Sir,

I have the honor to acknowledge receipt to-day of your letter no. 1989 of the 24th instant.

2. In this I am called on to submit an explanation "with reference to the provisions of sections 367 and 369 of the Criminal Procedure Code." This explanation is called for in view of an order of Government which speaks of "the alleged contravention" of the provisions of the sections quoted by the High Court. Contravention of these two sections is apparently considered by Government to be alleged by the District Magistrate of Vizagapatam in certain correspondence recorded with the

* No. 1173 dated
30th May 1895,
Judicial
Department.

order of Government which speaks of "the alleged contravention" of the provisions of the sections quoted by the High Court. Contravention of these two sections is apparently considered by Government to be alleged by the District Magistrate of Vizagapatam in certain correspondence recorded with the

Every letter, whether printed or in manuscript, should be docketed and abstracted on the back; and the abstract should state clearly the purport of the letter and not merely its title subject.

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes. (G. O. 8th April 1893, No. 239, Public.)

the G. O. But on reading that correspondence, I fail to find such contravention alleged, and think that this may be the reason that the High Court has not asked for explanation in the terms suggested by Government, and has left out the words "alleged contravention".

3. I take it that I am therefore called upon to submit an explanation with reference to sections of the Criminal Procedure Code which the High Court do not consider that I am alleged to have contravened. As far as I know, I have not contravened those sections, and therefore find it somewhat difficult to understand what I have to explain.

4. What I therefore propose to do is to quote those parts of the District Magistrate's letters which may seem to have some bearing on these sections, and to state the facts in connection therewith.

5. The District Magistrate says that the judgment was delivered on the 31st January. This is in his letter to me dated 24th April last. In his letter

The District Magistrate did not question the accuracy of the statement then

letter to the Secretary to the Commissioner of Land Revenue of the 30th idem, he says that before the final proof is struck off new matter is added and the old matter altered.

"Thus necessitating a re-adjustment of the whole of the matter already comprised"

6. The judgment was pronounced on the 18th March, and dated and signed on that day in accordance with the provisions of section 367, Criminal Procedure Code.

7. Such imperfections as a person revising a clerk's draft, might rectify to make a phrase clearer or a statement more accurate, were rectified by me, and such corrections I have always taken to be corrections of clerical errors and as such provided for by section 369, Criminal Procedure Code. As I understood the section, as explained by the rulings under it, the prohibiting part of it is intended to prevent a Judge from altering a sentence by way of reviewing his judgment. No particular correction is instanced by the District Magistrate, and I believe the corrected proofs will bear out what I say.

8.

For these reasons,

I submit that, as apparently anticipated in your letter, I have not contravened the provisions of section 367 or section 369.

9. I may mention that I have been in the habit of making such corrections as were made in the judgment under reference, under the belief that the practice was recognized in the High Court as not in contravention of the provisions of the law, and I may state that in no former case have such alterations or additions, been objected to by the authorities connected with the District Press. If the District Magistrate had addressed me on the subject, I should, as he must have known, have done everything possible to meet his views, and the necessity for troubling Government and the High Court would have been avoided.

10. The letter of the District Magistrate to Government is, it seems to me, open to other criticism which has probably not escaped the notice of the High Court. I therefore refrain from troubling the High Court with any further remarks on the subject.

11.

11. I submit herewith a copy of the judgment itself which has provoked this criticism. It may throw further light on the matter. It was given to be printed on the 28th of March. I have, up to date, received only one proof, but no doubt the other copies will be received before this letter is fair-copied and despatched. If this reference be the means of directing, to the Criminal administration of the District, the attention which it seems to me to call for, it may yet serve a useful purpose.

12. I may mention in conclusion that the prisoners were not kept in custody until the judgment was pronounced, but were released on the 1st of February.

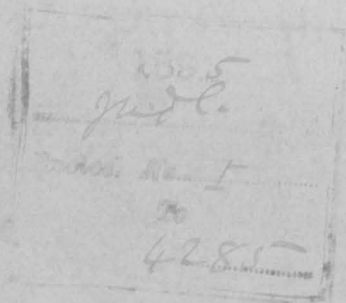
I have &c,
(Signed) H. R. Farmer,
Sessions Judge.

(True copy.)
High Court of Judicature, }
Appellate Side, } D. W. L. Bowie
Madras, 5th September 1895. } Sg. Registrar

E. N.

Enclosure No. One, to letter from the
High Court of Judicature, Appellate Side, Madras,
dated 5th September 1895, No. 2454.

Copy of reply from the
Sessions Judge of Vizagapatam
explaining the nature of
the correction made in the
proof copies of his judgment.



No. 2454.

High Court of Judicature,
Madras, 5th September 1895.

From

CURRENT No 4285

D. W. G. Bowie, Esquire,
Ag. Registrar of the High Court
of Judicature, Appellate Side,
Madras.

I.

The Honorable J. F. Price, C.S.I.,
Chief Secretary to Government,
Fort St. George.

Honorable Sir,

I am directed to acknowledge
receipt of G.O. dated May 30th, 1895,
No. 1173, Judicial, in which the High
Court is asked to issue such orders
as may be deemed requisite with
regard to the "alleged contravention"
by the Sessions Judge of Vizagapatam,
of the provisions of sections 367 and
369, Criminal Procedure Code. The
Government apparently supposed
that

that the contravention of the provisions of these sections was alleged in a letter from the District Magistrate of Vizagapatam dated 30th April 1895, No. 3046, a copy of which was forwarded to the High Court. On reading this letter it was obvious that no infringement of the law was alleged by the District Magistrate, and the only allegation that the law had been infringed was contained in the Government Order under reply.

2. A copy of the Government Order was however forwarded to the Sessions Judge, and I am directed to forward a copy of his reply, dated 29th July 1895, No. 327. Mr. Farmer points out that the Government was mistaken in supposing that any contravention of the provisions

** This must be read with the D. Magistrate's letter to the Sessions Judge of 24 April 95, No 1622 & the latter letter to the High Court of 26 April 95, No 210 in which case there is an obvious allegation of irregularity in the fact that the judgment was not completed until after delivery*

Govt. did not suppose anything was wrong with the letter

of sections 367 and 369, Criminal Procedure Code, was alleged in the District Magistrate's letter and he explains the nature of the correction made in the proof copies of his judgment. The mistake appears to have arisen in a misapprehension on the part of Government of the scope and intention of section 369 of the Criminal Procedure Code, the nature of the alteration prohibited being clearly indicated by the words "except as provided in section 395." The section does not prohibit alteration in the phraseology of a judgment or the correction of printers' errors.

3. The District Magistrate appears to have been mistaken in stating that the judgment was pronounced on January 31st. It was really pronounced

"or to correct a clerical error"

pronounced on March 18th - but the accused were released on February 1st being required under section 366 to attend to hear judgment - pronounced at a future date. The Judge required time to write his judgment - which is a very lengthy one, - but being satisfied that the accused were not guilty, he was unwilling to detain them in custody till he could complete his judgment.

4. As to this the High Court is of opinion that the time taken to write the judgment was unduly long and the judgment itself might with advantage have been considerably abridged. Mr. Farmer has explained that he did not like to put a stop to other work and took his time over the judgment as the accused were not in custody. The High Court has pointed out to him

him that it would have been better to have postponed other cases for two or three days and have completed this before undertaking other work. The High Court fully understands that the work of printing such a judgment must have been a severe strain upon the Collectorate Press. Enquiries will be made whether the work of printing Sessions judgments cannot be undertaken at some of the private presses at Vizagapatam as was formerly done, and the Government Press thus relieved.

I have the honor to be,
Honorable Sir,
Your most obedient servant,
D. W. E. Cowie
Acting Registrar.

Just. DEPARTMENT.

Read again 5.0 d 30. May 95. No 1173

C. No. 4285 of 95

FOR ORDERS.

With his letter of 5. May 95. No 1622 The D. Magistrate of Hyderabad (Mr Wolfe Murray) forwarded to Govt. copies of certain correspondence relating to the issue of copies of the Sessions Judge's judgment in what is known as the Binnia Apatam Murder case. The following passages occur in the correspondence:—

(i) " * * * considering that the judgment was delivered on 31. January last, and nearly 3 months have elapsed, a manuscript copy might, I would suggest have been furnished to the Magistrate. — vide D. Magistrate's letter to the Judge of 24. April 95. No 1622.

(ii) " The prisoners were released on the 1. February 1895. The judgment

which is an unusually long
one could not be completed
and fair copy prepared before
the 28th of March. - V. Dennis
Judge's letter to the High Court of
26 April 95, no 210.

(iii) "To print $\frac{1}{3}$ of it ^(judgment) has taken
the Court 30 days. The reason
being that 4 or 5 proofs have
to be sent to the Judge before
the final proof is struck off
and every time either new
matter is added or the old
matter altered, thus necessitating
a readjustment of
the whole of the matter already
composed." - D. Magistrate's letter
to the Board of 30 April 95, no 3046.

On a perusal of these
remarks the Court came
to the conclusion the inference
that the judgment was not
completed when it was
pronounced in open court
and that the Judge had
made material alterations
in the same after delivery,
thus infringing the provisions
of Secs 367 & 369 of the
O. P. Code. It therefore brought
the matter to the notice of the

FOR ORDERS.

High Court in S.O. 30. May
95, no 1173.

2. The Sessions Judge (Mr Farmer)
who appears to have been
called upon by the High Court
for an explanation now
states that the judgment
was pronounced on the 18th
March (and not on the 31st January
as mentioned by Mr Mr. J. Murray)
that he released the prisoners
before the delivery of the judgment,
namely, on the 1st February, that
he merely rectified "such
imperfections as a person
revising a clerk's draft might
rectify to make a phrase clearer
or a statement more accurate"
and that the corrected proofs
will bear out his statements.
The High Court forwards this
explanation with its comments
and says that the D. Magistrate
was mistaken in stating that
the judgment was passed on the
31st January and that the Court
appears to have misapprehended
the scope and intention
of Sec 369 of the O. P. Code in having passed the

orders it did in the first instance.

3. In the circumstances now brought to notice Mr Farmer does not appear to have comprehended the provisions of Secs 367 & 369: ~~part~~ of the C.C.P. as it was at first supposed. It would seem that the Court was misled in this case by the remarks contained in Mr Wolfe-Murray's letters to the Sessions Judge and the Board. In the former he stated that the judgment was delivered on the 31st January ~~which states~~ ~~ment, however, the Sessions Judge did not then think fit to contradict~~ and in the latter he (Mr Wolfe-Murray) reported that four or five proofs had to be sent to the Sessions Judge before the final proof was struck off and that at every time either new matter was added or the old matter changed, thus necessitating a readjustment of the whole of the matter already composed. It has now transpired that these remarks were

[J]
[58]
1,000-25-7-96.

CURRENT No.

ENCLOSURE

ORDER

LET

ST

P

[G]
[29]
800-23-7-96.

DEPARTMENT.

C. No.

FOR ORDERS.

FOR ORDERS.

not well founded

Perhaps the following order will suffice

Order of 1-10-95 to 2031.

W
26 Sep

Recorded

DISPATCH

24/9/95

My impression is that Mr. W Murray was not so far wrong, notwithstanding what Mr. F. says

25/9

2. The Court observes that the Dist. Judge's incorrect statement that judgment was delivered on the 30th January, read with the Dist. Judge's admission that the "judgment" could not be completed & fair copy prepared before the 28th amounted to the allegation "verbal", ~~but to the inference~~ that the judgment was delivered before it had actually been written & signed as required by S. 367 of the C.P.C.

3. The District Judge's statement that the additional alterations made in the proof of the judgment were such as to necessitate "a readjustment of the whole of the matter already composed"

naturally led to the inference
that the alterations were not
mere correction of clerical
errors' such as are permitted
by s 869 of the CrP.

W. Farmer's judgment

FOR ORDERS.

20-9-55
21/9/55

The Hon. the C. J. - v.
The Dist. Magistrate, Vizagapatnam
Public Debt in 1911
This is the outcome of Mr. H. H. H. H.
and inaccurate way
of making statements. What
he said was meant to be
an allegation such as Mr. H. H.
both in the mean as the husband
I am fully certain in a d.o.
relating to some other person
under 20-9-55.

S. C. B.
12/10/55

H. H. H. H.
H. H.

DESPATCH

not yet received
H. H.
1/10/55

20-9-55
25/11/55