

8.7.85

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2174

Dated 25th Oct. 1895

INDEXED.

[Despatch Abstract.]

APPEAL AGAINST ACQUITTAL.

Declining, with remarks, to prefer an appeal to the High Court against the sentence of death acquittal passed by the Taluk Magistrate of Madakasira, Anantapur district, in Calendar case No. 5 of 1895.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	5908		1895				

Dr. Magistrate
Anantapur Collector's Office,

Dated 28th September 1895.

Current No. 940 of 95
Enclosure (Recd)

CURRENT NO.

From N. E. Brodie Esquire
Magistrate
The Collector of

Anantapur.

To

The Chief Secretary

to Government,

Fort Saint George.

Sir,

I have the honor to request that Government will be pleased to move the High Court, under Section 417 C. C. P., to set aside the order of acquittal under Section 245 C. C. P. passed by the Taluk Magistrate of Madakira in C. C. No. 5 of 95 on his file, the records of which (with translations of the Vernacular portions thereof) are herewith submitted.

2 The accused in the case were a ^{cents} 3-25 of land on puttah in the village of Kandiragambhatti, Madakira Taluk, adjoining which there are lands which are Government waste on which date trees, 1500 to 2000 in number stood. In fasli 1303, he wanted to get the waste land on puttah but this request was not complied with on the ground that it contained date trees. When the Karan was a

away at Madakira for jamaabau dy,
it appears from the records, the accused
had cut and burnt the date trees standing
on the Government waste and cleared
the land for cultivation. The Kuruan,
who is the most important witness
in the case, has deposed in the clearest
terms before the Taluk Magistrate,
that the trees were cut from the
Government waste, and referred also
to certain revenue accounts to prove
that the land on which the trees were
cut is assessed waste. The Revenue
Inspector who is also another important
witness in the case, has merely stated
that he did not assign the land on
which the date trees stood. On this
evidence the Taluk Magistrate acquitted
the accused on the ground that the
land formed part of their patta land
though no evidence was adduced by
them in corroboration of their
statements. The value of the
trees destroyed is estimated at
Rs 377, and it appears that the
inquiry held by the Taluk Magistrate
was of the most perfunctory description
and his decision contrary to the
evidence that was recorded.
It seems desirable that the
matter should be reopened.
It may be observed in conclusion

that although date trees are apparently
"unclassified" trees the cutting of
which for "agricultural or domestic
purposes" is allowed under Rule
7 of the rules framed under Section
26 of the Madras Forest Act
(published in Notification dated
9-7-94 No 419 pages 981 to 983 of the
Fort Saint George Gazette dated
21st August 1894) the accused in this
case cannot plead such exemption
inasmuch as the trees were not
required for any purpose but were
merely cut and burnt.

I have the honor to be,
Sir,

Your most obedient
servant,

Thuyak
for Sd. Magistrate

1/10
4/10
6/10

C.S. E
Endorsement

Referred to the Em.
Pleaser for favour of opinion
as to the probable result
of an appeal in this case.
(By order)

Ap. Under Secretary

At 12/10/95
To the Em. Pleader with
records & the record

Mag. Judicial
REVENUE DEPARTMENT,
CURRENT NO. 4/53
From S.S. Bradie Esq.
The Collector of
Anantapur.

To Chief OCT. 1895
The Secretary to the
Government of
Torch St. George
MADRAS.

Dated 28th }
Received 8th } September 1895
Recd 8th

Current No. 940 of 95
5.10.95

Enclosure.s (Records) 20.

Subject.

Submi. Mag. records
in Cal Case No 5 of 95
on the file of the Taluk
Magistrate of Madakasira
for order.

[G]
25
600-23-7-95,

Just. DEPARTMENT.

C. No. 4753

FOR ORDERS.

In this current the St. Magt.
of Anantapur recommends an
appeal against the acquittal
in C.C. No. 5 of 1895 on the file
of the Taluk Magt. of Madakasira.
The date of the judgment is 1st
April and the appeal time conse-
quently expired on the 1st Instant,
the St. Magt's letter being received
on the 8th unaccompanied by
any explanation of the delay.
In these circumstances it ^{seems} appears
useless to institute an appeal.

There appears no reason why the
St. Magt. should not have made
his recommendation in ample
time, for on the reverse of one
of the enclosures will be found
Mr. Nicholson's direction that
the records should be called for

on the 9th of June. It should not have taken anything like three months to obtain them and to decide that an appeal was necessary.

D
12/10/95

There seems to be in attempting an appeal in this case as the appeal time has expired and there seems to be no explanation of the delay. There has no doubt been a failure of justice. Should not the Dept. be called upon to explain who are responsible for this delay in bringing this matter forward?

D
17/10/96

Appeal against acquittal

H.M.

FOR ORDERS.

I think so - The Rev. Dept. might also consider
(1) what notice should be taken of the conduct of the Taluk.
(2) whether for. cannot be even with the accused by the imposition of penal assessment

D
21/10/95

C 19/10
R 24/10

[G.]
24.

500-21-5-05.

Just. DEPARTMENT.

Papers to be read in proceedings:-

Again G.O., dated

189 , No.

Again G.O., dated

189 , No.

Current No. 4755 of 1895, dated 28.9.95 from St. Magte, Anantapur

" "

" 189 , " , "

" "

" 189 , " , "

ORDER. 25 Oct 1895 No 2174

At this late date any appeal would be time barred and the Govt. is therefore not prepared to accept the St. Magte's recommendation. He should explain who is responsible for the delay in bringing the matter forward.

2. It ^{will be} ~~should~~ be considered in the Rev. Dept. what notice should be taken of the conduct of the Tahsildar and whether the Govt. cannot recoup the loss caused by the accused's act by imposing penal assessment.

(From Orders)

D
28/10/95 22.x.95

30

D
24/10

The St. Magte, Anantapur (Q+O) ^{dispd}
Rev. Dept. ^{in the records} ^{6 to 1/11/95}
returned to the St. Magte

Note
As the land is said to be
runa back and not runa
or poramboke penal assessment
could not apparently be lived.

D
24/10

Appeal against acquittal

CS.

(From Orders)

The Rev. Secy for counterintelligence

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

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. 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.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.