

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2186

Dated 28th Oct 1895

INDEXED.

[Despatch Abstract.]

PETITION.

Informing Chowdri Muhammad Kasim, Muthavalli and Muktar,
on behalf of the Mussulman community of Manantoddy, Wynaad taluk,
Malabar district, that his requests for the issue of orders to stop
the beating of tomtom in front of the mosque, &c. are inadmissible.

BACK PAPERS.

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

FURTHER PAPERS.

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

[4/9]
2,000-2-4-95.

Current No. 4682
JNL

DEPARTMENT.

From

Chowdri Mahomed Kasim
Muthaasalli and Muktar,
on behalf of the Mussalman
Community of Manantody, in
Wynad Taluk Inaluhar Dt
No.

Dated 18.

Received 23 } September 1895.
Recd - 24
Enclosures I

SUBJECT.

Regarding dasara feast to be
observed by the Hindus -

MR 32579

Dassara - Malabar

For orders.

As to whether the petition may be
referred to the D.M. for report

Better I think
26/9/95.

Sondh No. 2300
27.9.95

Referred to the Dist Magistrate
of Malabar. for a brief report
26.9.95

The D.M. Malabar
with facts and case is ought to be
retd to govt

over

TO,

His Excellency the Governor in Council,

Fort. St. George,

Madras.

The humble memorial of CHOWDRI MAHOMED KASIM, Muthavalli and Mukhtar, on behalf of the Mussalman community of Manantody, in Wynad Taluk, Malabar District.

MOST RESPECTFULLY SHOWETH,

That, with every mark of respect and great pain of mind, memorialist begs to place the following before Your Excellency in Council, and humbly hopes that justice will be meted out to them in redressing their grievances.

1. That memorialist humbly begs to state that for a long time since it has been the custom and practice for all castes to stop music and Tom-Tom in front of their Jamath mosque at Manantody whenever any procession passed by the public road. That in 1881 when the Hindus attempted to take a procession with music and Tom-Tom abreast of the mosque, the Mussalmans of the place objected to it; that thereupon the Hindus, who are rich and influential, made a criminal complaint against some Mussalmans and adduced false evidence in the case; that the then Deputy Magistrate of Wynaad, Mr. W. E. Underwood, solely relying on the prosecution evidence and without taking the defence evidence, found the accused guilty and had said in his judgment that it was the usual custom for processions to pass the mosque with Tom-Tom and pipes and there was no objection to do so; that the Deputy Magistrate had no reason to add such remarks in his judgment, and further it was not known to the Mussalmans until October 1894; that even after such an order the Hindus used to stop the beating of Tom-Tom and playing the pipes in procession in front of the mosque up to 8th October, when again the Hindus tried to go in procession forcibly with Tom-Tom and music; that the Inspector of Police then informed them of the advisability of stopping the Tom-Tom and music in front of the mosque; that on the representations of the Hindus, the Sheristadar Magistrate of the place, who is himself a Hindu, came to the scene and endeavoured to persuade the Mussalmans to allow their anti-party to take the procession with Tom-Tom and music in front of the mosque; that the Sheristadar Magistrate, having then failed in his attempts, took statements from the parties and began to enquire into the complaint preferred by the Hindus; and that the Mussalmans, fearing that they would not get justice from that Magistrate, applied to the Deputy Magistrate for the transfer of the case to any other court and it was accordingly transferred to the file of the Tahsildar Magistrate of Manantody. That in the meanwhile, the Hindus appealed to the District Magistrate under Section 144 C. C. P.

to set aside the Deputy Magistrate's Proceedings No. 42 dated 9th October 1894, which prohibited the exhibition of Tom-Tom and music in procession when passing the mosque, and the Mussalmans preferred a counter-petition also.

2. That in the case before the Tahsildar Magistrate, it was well proved by the evidence of the prosecution ~~241~~ witness (a Christian) and all the defence witnesses, that it has always been the usual custom to stop Tom-Tom and music when processions passed in front of the mosque and that even Roman Catholic Christians had to stop Tom-Tom and music when their procession passed by. But the Tahsildar Magistrate, instead of punishing both parties for causing inconvenience and obstruction to the public by staying the above procession on the road for a time, however passed an one-sided decision by fining 2 Mussalmans for what offence he deemed proper. That on appeal, the Deputy Magistrate acquitted one accused and confirmed the conviction of the other, and therefore the helpless Mussalmans could not get redress and justice in this case also.

3. That the District Magistrate, without hearing the Mussalmans in person and allowing them the opportunity of adducing their various documentary and oral evidences, disposed of the appeal in favour of the Hindus by rescinding the Deputy Magistrate's order prohibiting Tom-Tom and music. That this is quite against the religious rights of the Mussalmans and therefore very painful to them. That what the District Magistrate said in his Proceedings No. 605 M. dated 10th April 1895 about the allowing of the procession to be accompanied by Tom-Tom and music in front of the mosque until October 1894 is not correct; that had the District Magistrate made a local enquiry, as he says in his Proceedings, on 4th December 1894 he would have had a different opinion in the matter; that if there had been a local enquiry at all, it must have been made privately inasmuch as the Magistrate has failed to summon any one of the Mussalmans and to receive their evidence on the occasion, and hence the enquiry cannot be deemed conclusive and just.

4. That some of the prosecution and whole of the defence witnesses who comprised of Mussalmans, respectable Moplas of the Shafi sect, Christians, Hindus, and especially the Police Inspector, Mr. Rozario having a thorough experience of 5 years in Manantody—have all given evidence independently before the Tahsildar Magistrate in the above case that processions were never before allowed to be accompanied by tom-toms and music whilst passing the mosque, as the Hindus allege and the District Magistrate observes. That the Inspector of Police has further stated in his deposition that long before this occurrence of 8th October 1894 the Deputy Magistrate had given him (Inspector) orders to stop tom-tomming and music in front of the mosque and that the Roman Catholic Christians had consequently suspended tom-tom and music in 1893 when their procession passed the mosque; this latter statement of the Inspector is well supported by the evidence of other Christian witnesses also. That had the Hindus ever before enjoyed the undisturbed right and privilege of carrying processions accompanied by tom-tom and music, they had no reason to anticipate any molestation on the part of the Mahomedans on the occasion of their contemplated procession on the 8th October and to apply to the Deputy Magistrate for Police protection previously.

5. That memorialist further begs to point out here that the fact of the Deputy Magistrate's (who has studied all the people of Wynaad and their customs well during the past 2 years) refusal to grant protection in compliance with the above frivolous petition of the Hindus, who tried to tease and wound the religious feelings of the

Mussalmans by their unprecedented movement of procession with tom-tom and music in front of the mosque, his passing a prohibitive proceedings in the matter, and of the Sheristadar Magistrate's fruitless interference to pacify and persuade the Mussalmans to yield to the wishes of the Hindus to beat tom-tom and play pipes abreast of the mosque, clearly negatives the groundless contention of the Hindus and the unfounded opinion of the District Magistrate.

6. That memorialist humbly begs to submit another and most important fact to Your Excellency's benign consideration that their religious rules and principles do not at all allow to create any noise and also strictly prohibit even the reading of Koran (Bible) from the mosque at the time of offering devotions and worshipping God and therefore it is quite absurd to suppose that the Mussalmans ever permitted the Hindus to use tom-tom and music in front of their mosque—a sacred place for worship and devotions. That, further the District Magistrate asserts that the mosque is 142 feet from the road, the Dy. Magistrate (Mr. Underwood) mentions the distance as 60 yards and the Hindus limit it to 130 feet; that all these different calculations will become incorrect if the Survey plan is referred to. That the District Magistrate again says in his Proceedings that because the mosque does not face the road directly, a procession going along the road cannot be said to pass by the mosque. This is incorrect and quite against reason, inasmuch as any ordinary man will admit that it is very ridiculous to suppose that the beating of tom-tom and playing of music in procession passing by the mosque will not disturb the devotionists in offering their prayers simply because the mosque does not face the road. That it is the usual custom—nay, a binding rule—throughout India for processionaries to stop tom-tomming and music in front of all mosques, whether they face the roads or not; and to allow the reverse will be sacrificing the religious rights and indulgences granted to the Mahomedan subjects of Her August Majesty the Queen Empress of India.

7. That while this appeal of the Hindus was pending before him, the District Magistrate directed the Wynaad Deputy Magistrate to effect an amicable settlement between the parties; and when the rival communities were called in a Panchayet and required to come to a settlement, the Hindus declining to yield to the wishes of the Mahomedans, who wanted a total cessation of music &c. at all hours of the day and night, said that they would only stop at certain specified hours of the day. Therefore the Deputy Magistrate could not bring about an amicable settlement and he reported the fact to the District Magistrate; that a petition signed by 157 Mussalmans was submitted to the District Magistrate on 16th April 1895, in which they stated that travellers, employees &c. used to offer their prayers without fixed time, that therefore the mosque is always used and occupied for purposes of worship, and that Mussalmans used to suspend music in front of Hindu temples always; but the District Magistrate notwithstanding all these, in his Proceedings No. 1294 (Magl) dated 30th July 1895 directed the Deputy Magistrate to call upon 5 of the Mussalmans to show cause why they should not be bound over to keep the peace. That it is a matter for consideration why the District Magistrate did not require the Hindus, who tried to create a friction and imminent breach of the peace by their ill-advised and premeditated procession accompanied by music in direct contradiction to the long observed customs, to show cause not to bind them over. That the report of the Deputy Magistrate to the above proceedings is, memorialist humbly submits, worthy of Your Excellency's consideration.

8. That there is Durga, named "Kadir Olis' Makan," belonging to the Jamath mosque, which touches the public road. It has been the practice of processionaries

to stop tom-tom and music from the front of Moidinsa's shop to the front of Kasai Kader Bee's house.

Memorialist therefore most humbly and earnestly craves Your Excellency in Council will be generously pleased to take favourable view of all the circumstances and peruse all the records, and to mercifully cancel the District Magistrate's order (herewith submitted) by prohibiting the beat of tom-tom and music in front of the Mosque. That as the Hindus are intending to go in procession with tom-tom &c. during the next Dassra festival, which is fast approaching, Memorialist most humbly prays for an early and favourable order and thus to protect the Mussalman subjects and their religious rights.

For which act of kindness and gracious justice, memorialist and the Mahomedan Community in general will as in duty bound,

Ever Pray,

CHOWDRI MAHOMED KASIM

18th September 1895.

[Large handwritten signature/initials]

[Handwritten signature: H. E. The Governor]

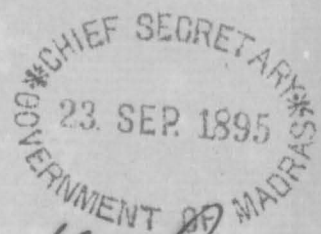
[Handwritten signature: J. P. George]

[Handwritten note: Batch 18" Sep 1895]

[Handwritten signature: J. P. George]

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To,



H. C. The Governor
in Council
Fort St. George,

Dated 18th }
Despd } September 1895
Recd }

Subject.

Memorial— Submitting—
on behalf of Mussalman
of Manautody, praying for
orders to stop Tom-Tom and
music in procession while
passing the mosque—

CURRENT No. 4901

1922 Malabar District Magistrate's Office
Calicut. 15th October 1895.

From, J. Hewetson Esq.
Mag. District Magistrate
Malabar.

To
The Chief Secretary
to Government,
Judicial Department,
Madras.

Sir,
With reference to G.O. no. 2300
Judicial, dated the 27th September 1895,
I have the honor to submit the brief
report called for.

2. Para 1. In 1881 Mr. Underwood, the
then Deputy Magistrate said in his
Judgment in Case no. 101 of 1881— "The
affray . . . arose from the Hindus
passing the Mosque in procession
with tom-toms and pipes. It has been
the usual custom to do so, but on
this occasion the Mussalmans seemed
to have raised some party spirit
in the matter". The Muhammadans
now say that no defence evidence
was

was taken and that they did not know the contents of the judgment until 1894. The first assertion cannot be definitely answered at this distance of time, but it must be presumed that the case was properly conducted, and the Muhammadans given the opportunity of calling evidence; the second assertion is incredible. ||

3. Paragraph 2. The evidence before the Jalsildar Magistrate is not properly analyzed. The second prosecution witness a Roman Catholic, said in re-examination - "I stated that it is said processions with beat of tom tom are objectionable to Muslims because during the time of Mr. Underwood, criminal proceedings were recorded to owing to the obstruction caused by the Muslims. The order in that case was favourable to the Hindus. There was no dispute Subsequently between the Hindus and Muhammadans". This evidence is certainly in favour of the Hindus' contention.

4. Two

4. Two Moplahs for the defence said that to their knowledge processions had stopped near the Mosque for 15 or 20 years -

5. Two other witnesses, one a Jijan, and the other a Roman Catholic Constable, said that on two occasions the tom toms had stopped near the Mosque. The evidence given by the Police Inspector is very vague - "The Hindus used to have music if the Muslims did not object. On some previous occasions witness saw Hindus going with tom-tom unobstructed by Muslims".

6. Paragraph 3. Nothing is on record as to the local inquiry made by Mr. Moberly.

7. Paragraph 4. The evidence alluded to has been dealt with above.

8. Paragraph 6. It is not necessary to argue about the exact number of feet the road is from the Mosque; the Muhammadans themselves filed with their petition to the District Magistrate

Magistrate a plan, in which they admitted the distance to be 42 yards. The Mosque is therefore some distance from the road.

9. Paragraph 7. The Muhammadan Contention that music should stop on every day and at all hours cannot be allowed. The Hindus were willing to stop music during fixed hours of public worship, but to this the Muhammadans would not agree. The Settlement therefore fell through.

10. The order to bind over certain Muhammadans was cancelled, as the ^{Deputy} District Magistrate reported that there was no danger of a breach of the peace.

11. Paragraph 8. This year's Dassa has passed over without disturbance.

12. As the Mosque is ^{so} far distant from

from the road there can be no reason why processions passing along the road should stop their music near the Mosque. The Judgment of 1881 shows what the Custom has been, though sometimes the Hindus have not insisted on their full rights. Even now the Hindus are willing to make a reasonable concession to settle the matter, and it is the Muhammadans who are standing out for impossible terms.

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

J. Hewitt
Ag. District Magistrate

Sd.
Mc
16/10

CURRENT No. 4901

Reyce No. 2300/95.

Dasara in Malabar

jud

WR 4492 + 4901/95.

UNDER SECRETARY
PUBLICITY DEPT.

From

The District Magistrate
Malabar.

To

The Chief Secretary
to Government
Judicial Department
Madras.

To Order 28 October 95 No 2186
Mis

The petitioner's requests are
inadmissible.

25-10-95

26/10/95

To

The Petitioner. 3 Dec 1/11

MR 24/10/95

with Encls. relt.
Capt R. 3/11/0

Dated. 15th October 1895

Despd 16 - 10 - 95

Recd 18/10 Enclures 2
Subject: C No 4492 + 4901/95

Hindu Procession -

Submitting a brief
Report - Called on the
Memorial of the Muham-
madans of Manantaddy
regarding the order passed
by the District Magistrate
on — in front of the Mosque

(Clerk)

Judl DEPARTMENT.

C. No.

300-500-95

Note FOR ORDERS

With reference to H.M.'s remarks
inside, G.O. No. 2186 of 28 Oct. 95, Judl. mis
is submitted for perusal. In that case, the
H.M.'s report was in the first instance, invited.

MR 16.11.95

18/11/95

I am very aware of troubling H.M.'s Office
in any way as when I was alone
myself I was constantly troubled
by the then Govt. myself - I therefore
have constantly stopped calls for
reports and either referred parties
to the local authorities or have referred
the petitions without remark.

In this case however as the squabbles
between Hindus and Muhammadans
have of late been brought into
some prominence I deemed it
desirable to after perusing
the allegations made in the

This did not happen
from the docket printed in
the list

22/11/95

petition call for a brief report - that
it been a case of a squabble about
any other matter I would have
followed my usual course

LD
20/11/88

FOR ORDERS.

H. E. THE GOVERNOR.

THE HON'BLE MR. H. W. BLISS, C.I.E.

THE HON'BLE MR. J. GROSE.

When given for copying _____
When copied _____ } 189
When examined _____
When signed _____

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 FILLED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.-

A = Copy in full.
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e 21/11
R 22/11