

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 221

DATED 1st Feb. 1895.

INDEXED.

[Despatch Abstract.]

PETITION

Endorsing para.IV of Petition Rules C on -- from M.R.RY. N.Narayana Aiyangar, Vakil, for L.Venkatarangiah praying for orders for the withdrawal of certain remarks made against his client by the Stationary Magistrate, Guntur, or requesting sanction to vindicate his character in a court of law by suing the Magistrate for defamation.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	179		25-1-95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	804		1895		838		

[6]
1,000-25-10-94.

Current No. 258

Jud DEPARTMENT.

From

hdky

N. Narayana Aiyengar
baker for

Lingamattu Vengatarangiah

No.

Dated 17 — 1 — 95

Received 22 — 1 — 95

Enclosures ²³ — 1 — 95

SUBJECT.

Forw. petn. of his client, praying
for orders for the withdrawal
of certain remarks against
the petn. ^{by the Str. Master} of Regn. Sanction
to vindicate his character in
a court of law by suing the
Mags. for defamation

us 29/1

fo. 258 179. 251 95 hdk/a

C.S.

For order.

Go. 1st July 185 no 22

Para IV of Pet. rules. C

29.1
31/1/95

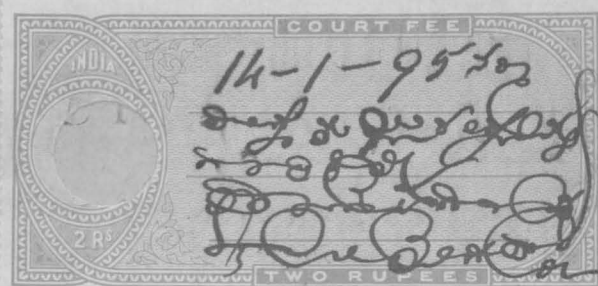
Petitioner - v.

DESPATCHED

6-1896

M.S.

(For order)



1895 14 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1041 1042 1043 1044 1045 1046 1047 1048 1049

පළමු වරට මෙම පොත පිට

[illegible]

ಎರಡನೆಯದೇ ಆಗಿರುವುದು
ಮಾನ್ಯ ಸರ್ವಜ್ಞ ಶ್ರೀ ಮಹಾರಾಜರು ಇವರಿಗೆ
ಇಂತೆಂದು ಹೇಳುತ್ತಿದ್ದಾರೆ. ೧/೫/೨೦/೧೮೯೬

ಶ್ರೀ ಶಿವಶಿಖರ ಕುಳಿಗುಂಟೆ ಪಟ್ಟಣ
 ಮುಖ್ಯ ಸೇವಕರಾದ
 ಮುಖ್ಯ ಸೇವಕರು

To

H. E. THE RIGHT HON'BLE THE GOVERNOR IN COUNCIL,
OF FORT ST. GEORGE, MADRAS.*The humble representation of* LINGAMALLU
VENKATARANGAYYA, *Honorary Bench*
Magistrate, Guntur, Kistna District.

MOST RESPECTFULLY SHEWETH,

That your Lordship's Petitioner most humbly prays that this his petition may be read along with his petition, dated 14th instant.

2. That your Lordship's humble Petitioner is a leading merchant, and has been a Bench Magistrate, in the town of Guntur since the creation of such Magistrates, i.e., for nearly 20 years.

3. That the Bench consists of nine honorary Magistrates, excluding the presiding Magistrate, and is, as at present constituted, composed of representatives of the several communities, thus:—4 Brahmins, 4 non-Brahmins, 1 Mahomedan and with the presiding Magistrate, who is also a Brahmin, there are five gentlemen on the Bench to represent the Brahmin community.

4. That on the 6th November, 1894 one Venkatappayya, a Brahmin belonging to the same sect as the presiding Magistrate, filed a charge of "hurt," admittedly under the advice of the presiding Magistrate, against another Brahmin belonging to a different sect of the name of China Narasimha Rao. The case was taken up by the Bench on the 10th idem, but was adjourned to 14th November on the application of the complainant, and finally disposed of on the 21st November, with the result that the accused was acquitted.

5. That on the same date, i.e., the 6th November 1894, the wife of the complainant preferred a charge of hurt accompanied by mischief, cognizable only by the Stationary Sub-Magistrate, against the same accused, with his mother and father. The records in the first case being material for the defence in the second case, the accused applied and obtained public copies of them and on perusal finding many material omissions in the depositions recorded by the presiding Magistrate, brought the same to the notice of the Magistrate, who took the extraordinary and illegal step of correcting the judgment previously recorded (vide endorsement, dated 26th November 1894). That the accused in the case finding the presiding Magistrate from what he let fall during the trial of the Bench-case, was predisposed and prejudiced against him, and fearing that he could not hope for justice from such a prejudiced Judge, in the second case, applied on the 23rd November, for time to move the higher authorities to have the case transferred to another Magistrate.

6. That the Stationary Magistrate, who is also the presiding Magistrate of the Bench was very much disappointed, as can be gathered from his letter, dated 27th November 1894, to the joint Magistrate, that the accused escaped punishment in the Bench case; that he was very much pricked that the accused brought to light the irregularities which he committed in the Bench-case, namely, by suppressing material portions of the evidence when favourable to the accused and incorrectly taking it when he chose to record it; and he was greatly provoked when time was asked of him to move higher authorities to have the case transferred to the file of another Magistrate.

7. It was not till all these circumstances occurred that the Stationary Magistrate thought of your Lordship's Petitioner's irregular attendance on the Bench, and his so-called interest in China Narasimha Row, (the accused). It was on the 27th November, i.e., a week after judgment in the hurt case was pronounced, four days after the petition for transfer of the case before him was put in, and the day after the petition pointing out his irregularities in the Bench-case was filed, that he thought of reporting your Petitioner to higher authorities.

CHIEF SECRETARY
22 JAN 1895
GOVERNMENT OF MADRAS

Accepted

Harayana Aiyangar
Vakil, High Court

17-1-95

1892
Dep't.
Enclos. No.
To 258
C. No.

8. To take the charges seriatim. *First.* (As to the irregular attendance, para. 2 of the Stationary Magistrate's letter, dated 27th November 1894, to the joint Magistrate.)

Your Lordship's Petitioner begs to submit that there are no expressed rules laying down a maximum or minimum number of sittings for which Bench Magistrates should be present and your Petitioner, whenever he happened to be at his head-quarters, makes it a point to be present on the Bench. For the greater portion of the last year your Petitioner, on account of family litigation, had to leave Guntur and to go to Madras and Masulipatam and other places in order to arrange for the conduct of the suits and adjust his own mercantile accounts. Then he had a domestic calamity in his own house, and subsequently his own illness confined him to his house for some time. As there are no rules laying down, that Bench Magistrates should previously obtain leave when they have to leave their head-quarters, and that they should report the cause of their absence when they are temporarily incapacitated by sickness to be present on the Bench. Your Petitioner had no opportunity of reporting to the authorities either his absence from the town or his confinement to his house by illness. Your Petitioner further begs to submit that during the very long period of twenty years for which he has been a Bench Magistrate, no Magistrate has ever found fault with Your Petitioner for irregular attendance.

Second. As for your Petitioner's so-called interest in the case, it is already premised that your Lordship's Petitioner is a leading merchant of the town, and as such has transaction with many European and native firms in Madras, Coconada, and Bombay. He has necessarily under him a large establishment of clerks and workmen, among whom there are Brahmins, non-Brahmins, Mahomedans, &c.

The accused in the case accidentally happens to be a relation of a Brahmin clerk under Your Petitioner who is himself is a non-Brahmin. In other words, Your Petitioner who is a non-Brahmin is alleged to have shown an "interest of an almost personal nature" in getting off unpunished not his own relation, not a man of his own sect, not his own clerk, but a Brahmin who is a relation of a Brahmin clerk of his. It is not alleged that your Petitioner has so behaved himself on the Bench as to shew his bias in the case, or that he influenced improperly his co-Bench magistrates, or that he suppressed any evidence or suggested any false explanations.

In the absence of any such facts as above, the Stationary Magistrate's characterisation of the motive for Petitioner's attendance on the Bench during the trial of this particular case, as personal interest, is simply *defamatory* and does unmerited injury to your Petitioner's feelings. It will be more probable and stand to reason that the Stationary Magistrate has himself "an interest of an almost personal nature" in the case, seeing that the complainant is a Brahmin of the same sect as the Magistrate, that he is a brother-in-law of the Purohit of the Magistrate, that he is a man who is on visiting terms with the Magistrate, and lastly that he preferred this charge, on his own showing, on the Magistrate's advice. It will be observed that the Magistrate improperly behaved himself on the Bench by recording evidence not as deposed by witnesses but as suited his own prejudged notions of the case. For instance, in a place where it was deposed that the *complainant beat the accused*, he recorded that the *accused beat the complainant*, and omitted to record *most* evidence favourable to the accused. Your Petitioner leaves for the consideration of Your Excellency in Council whether all these savours "an interest of an almost personal nature" on the part of the Magistrate or whether your Petitioner's attendance during the trial of this case justifies the remark "an interest of an almost personal nature." It will be seen that out of the seven Bench Magistrates present, six were for acquittal, and one for conviction of affray, an offence which was not before the Bench, and the presiding Magistrate alone stood for conviction for hurt. If the Stationary Magistrate had thought that the findings to make out in his letter already quoted, *he* could have moved the District Magistrate to move the High Court to order for retrial. He did not do anything of this sort. The parties

never moved in the matter. The Magistrate himself did not think of the case again till after the petition bringing to light his own omission and irregularities. Then he took the extraordinary step of correcting his own judgment after granting copies to the parties. Your Petitioner believes that one named Lunka Yegganna Garu, Sub-Magistrate of Aminagadda, was dismissed from service and very nearly escaped prosecution for altering the date of a judgment after pronouncing it. It was in 1888 that the Government dismissed him. Whereas this Magistrate alters with impunity and without fearing any word of remonstrance from his superiors, a material portion of the record and takes shelter under the plea of clerical error, vide his endorsement, dated 26th November 1894.

9. It is for Your Excellency in Council to consider whether Magistrates can in the face of law alter judicial records once closed. This Magistrate seems, from a judgment of the Head Assistant Magistrate in a criminal appeal, No. 48 of 1894, dated 12th November 1894, which your Petitioner already submitted with his previous petition, to be incapable of "dealing with testimony judicially at all" (*vide* Head Assistant Magistrate's judgment, para. 5). He seems to be in the habit that while cases are under trial he used to discuss them with witnesses and parties in their own houses privately, and to act upon private information, (*vide* para. 10 of the Head Assistant Magistrate's judgment). The warning which the Head Assistant Magistrate gave him does not seem to have had any effect upon him, for as would appear from the judgment, he still lays stress on what the parties told him and on what he has seen privately in his walks. It is further submitted that in his zeal to serve the complainant he overstates his case when he says in his letter that he saw a bleeding wound on the complainant's hand, whereas the complainant himself, both in his complaint and in his earlier deposition, contented himself with saying that he received a contusion on the head.

10. That the Stationary Magistrate's remark that the judgment of the majority of the Bench "is perverse" is not understood nor could your humble Petitioner understand how *he* can be held responsible for it, when it was the judgment of the majority, and your Petitioner begs to submit that a petition to your Lordship is not a proper place for analysing the evidence of the case and entering into a defence of the judgment.

11. That the Stationary Magistrate has unnecessarily and maliciously thrown aspersions on your Petitioner's character which he values most, and unless he clearly satisfies your Lordship, that his conduct throughout the case is above all suspicion and thus clears his character, your Lordship's Petitioner fears that he will fall in the estimation not only of his compeers but also of the public. Your Lordship's humble Petitioner begs to add that he is a member of the District and Taluq Boards and believes that he is much respected both by the European and native gentlemen of the station for the high character he always maintains.

12. Under these circumstances your Lordship's Petitioner earnestly prays that your Excellency in Council will be graciously pleased to issue orders for the withdrawal of the said remarks against your Petitioner or be pleased to accord him sanction to vindicate his character in a Court of Law by suing the Magistrate for defamation.

13. For which act of charity your Petitioner as in duty bound shall EVER PRAY.

17th January 1895.

High Court Chambers
No 16

Atarazana Aiyangar
Vakil High Court
Vakil for Petitioner

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