

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2284.

Dated 7th Nov 1895.

INDEXED.



[Despatch Abstract.]

MR. ALFRED DICKENS.

Recording letter from the District Magistrate of Salem reporting on the petition of--, coffee planter at Shevaroy, with the remark, that the District Magistrate should exercise his own discretion as to bringing the conduct of Mr. Dickens' pleader to the notice of the High Court.

ms

BACK PAPERS.

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

FURTHER PAPERS.

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

CURRENT NO 5006
3000-8.8.94.
Judicial Department.

From the Collector

and District Magistrate,

Salem.

To

The Chief Secretary
to Govt

General Dept
Dated 18.10.95 Madras
Recd 21.10.95
No. 1581
Recd 24.10.95 m

Enclosures
C. No. 1954/1581
Subject.

Report on the petition
of Mr. Alfred Dickens
Coffee planter at
Shervaroy.

MR 228/10
us 3

993 D.13.5.95 Mis

For orders

As to whether the Dm's report may
be 'Recorded' ? & the content of the Vakil
brought to the notice of the High Court,
as suggested in the penultimate para of
the Dm's report ?

Mr. Stokes' report proves that Mr. Dickens
has no grounds of complaint.

Order 7, 1885, No 2284

Recorded with the
remark that the Dist. Mag.
should exercise his own
discretion as to bringing the
conduct of Mr. Dickens' pleader
to the notice of the High Court.

2.11.55.22

5/11/95
Dm. Salem
with original
Note.

No report was called for
of the Dist. Mag. can himself
report the pleader to the
High Court (S. 14 Act. VIII of
1877) Legal Practitioners' Act.

Cover.

5006
Salem Collector's Office,

No. 1581

19-10-1895

From

G. STOKES Esq.,

Collr. & Dist. Magte. of Salem.

To

Chief
The Secretary to Government,
Judicial Department,
MADRAS.

SIR,

In returning herewith the petition of Mr Alfred Dickens Coffee Planter, Yercaud Shernaroy Hills with its enclosures received with G. O. dated 13th May 1895 N^o 993 I have the honor to report as directed in paragraph 3 of the G. O. as follows.

2. Before entering on the particulars of the Case I would explain that at the instance of the Planters' Association last year the Superintendent of Police put men specially on Coffee Theft duty which is and was rife on the Shernaroy and he personally and otherwise

imposed on the Hill Staff the necessity
for watchfulness in the matter. On the
20th January 1895, the Station House
officer Zereaud seized about 40 bags
of Coffee belonging to the Petitioners
Messrs Alfred Dickens, as they were
not covered by a proper pass under
Section 10 of the Madras Coffee
Stealing Protection Act VIII of 1878.
The Station House officer did not
release the Coffee even when the
petitioners remonstrated with him in
person but sent occurrence report
to the Sub-Magistrate charging the
petitioners' men with having committed
an offence under Section 10 of the
said Act and also charged the
petitioners and his agent with
having obstructed the Station House
officer and having insulted him
with intent to provoke a breach
of the peace under Sections 186
and 504 I. P. C.

2

3. The petitioners alleges that these Complaints
were false and frivolous and were made
with a view to prevent him from taking
steps against the Police for their conduct
in the matter. The case against the servants
of the petitioners was tried by the Magistrate
and each of the accused was sentenced
to pay a fine of Rs 15 in default to
suffer 2 weeks simple imprisonment,
but the Head Quarters Deputy Magistrate
quashed the sentence observing that —
" This pass although it does not contain
" all the particulars prescribed by section
" 10 contains sufficient particulars to
" shew that there was nothing wrong
" about the Consignment. The permit,
" as it is, is not invalid as it contains
" information on all the material points
" referred to in section 10 of the Act. Apart
" also Mr Dickens swears that Exhibit
" A was only a temporary pass and

that in addition to it he had given to
" Jacobin Supplier Exhibit II a permit
" containing all the particulars as to the
" Coffee in strict accordance with the
" provisions in the Coffee Act.

4. In the case of obstructing a public
servant the Petitioner and his Maistry
were discharged as there were no
sufficient grounds from the evidence
recorded for framing a charge.

5. As to the allegations made in the
Petition against the Police and the
Magistrate, I have examined the records
and made enquiries. The petitioner
says that the Station House Officer
seized the Coffee though a permit
was shown to him, which indicated
clearly that it was the Coffee of the
petitioner consigned to Messrs Volkath
and Brothers. The petitioner argues
that he gave 2 permits, one for 40 bags
and the other for 8 bags.

The first (Exhibit A) was simply
an authority in the hands of his servant
to bring Coffee from Mr. C. G. Lechler's
Estate and this was said to have been
produced at the time of the seizure as
soon as this servant who is said to have
lagged behind turned up. The other
pass Exhibit II was for the whole
consignment of 48 bags entrusted
with Jacobin and is said to contain
all particulars.

Exhibit A runs as follows.

" Permit to pass 40 bags Parchment
" Coffee consigned to Messrs Volkath
" and Brothers by Jacobin Supplier.
" 20-1-95 (signed) Alfred Dickens.

^{*}
Railway forwarding
note

Exhibit II is a railway pass for the
consignment of 48 bags of Parchment
Coffee dated 21-1-95.

It will be seen that neither of these
passes possesses all the particulars
as

as laid down in Section 10 of the Act which are:—

- (a) The quantity of the Coffee to be carried or removed.
- (b) The number, description and marks of the packages in which such Coffee is secured.
- (c) The place or destination to which the Coffee is to be carried or removed.
- (d) The names of the Consignor and Consignee.

Exhibit A is obviously incomplete and insufficient and Exhibit II though it contains perhaps sufficiently clearly the most of the particulars necessary is defective in the most important particular viz the specification of the quantity being removed.

A "bag" may be anything. The Head Quarter Deputy Magistrate's observations in the appeal judgment, quoted in para 3 *supra*, are, I

submit

4

submit, not the proper interpretation of the Act which should be strictly construed. The petitioner has not however stated in his petition as to when Exhibit was produced. It certainly was not produced at the time of the seizure, that is, on the 20th January, for, it is dated the 21st January 1895. and was produced by Mr Dickens for the first time when he was examined as a defence witness. In the occurrence report the Station House officer has stated that the Coffee in question was removed in 20 pack bullocks and that when he asked the Coolies for the permit they said that they have none with them, but that one of them known as Sengan ran in the direction he had come and produced a pass (Exhibit A), after the lapse of half an hour. As this pass did not contain

Contain the requisite particulars he charged the parties. The Station House officer has made no mention of Exhibit II.

6. The petitioner says that he himself proceeded to the Police Station and remonstrated with the Station House officer for having seized and detained his Coffee but in vain, that the Station House officer on becoming aware of the steps taken by the Petitioner to effect a speedy release of the Coffee, held consultations with his friends and sent an occurrence report to the Magistrate, and that this occurrence report is dated 20th and is alleged to have been despatched at 7 P.M. of the same day by a Special Constable which however reached the Magistrate at 4 o'clock the following evening through the distance—

5 between the Magistrate's place and the Police station is but a few yards. The Station House officer in his occurrence report and in his sworn statement stated that the Petitioner and his Maistry came to the Police station and obstructed him from putting the Coffee into the room and also called the Station House officer, Damn, Fool, Rogue and that he will write to the Superintendent and get him dismissed. The Station House officer has not mentioned the time of despatch, but when examined said that he did not remember the hour of despatch. He has however deposed to the fact of his having despatched the occurrence report on the night of the 20th idem through a Police Constable. He further adds that as the Magistrate was engaged with the Deputy Collector in

in an auction sale it seem to have
reached him at 4 P. M. I therefore
submit that Mr Dickens's servants
were properly convicted and the
sentences ought not to have been
quashed, that there is no doubt
that Mr Dickens abused the police
and kicked up a row and ought to
have been prosecuted and that
he has no ground of complaint.

7. The petitioners against the Magis-
trate says "I immediately gave
notice to the Magistrate through
my pleader that I would take
objection to the jurisdiction of the
Magistrate to try me being an
European British Subject and at
the same time intimating to him
my right and desire to be tried
by a Justice of the Peace competent
to try such a subject. It was therefore
agreed

6. "agreed that I should put in my
appearance formally in the Court
the following day to which the case
had already stood adjourned and
that the case would be sent up to the
proper Magistrate for disposal of."

There is not a shadow of evidence as
regards the allegations therein made,
whereas in the Police Charge Sheet and
the sworn deposition of the Station House
officer Mr Alfred Dickens has been
said to be an Eurasian Planter and
the statement has not been objected
to either by Mr Alfred Dickens or by
his Pleader at the time of enquiry.

8. The Petitioners further says "The Magis-
trate has not even stated whether
he believed or disbelieved the evidence
for the prosecution, nor has he given
any reason whatever why he has
dismissed the case.

In

In this case irrespective of the Station House officer, a Police Constable and a Maistry were examined. These two witnesses have deposed that Mr Alfred Dickens spoke in English which language they do not know and that they were able to give out only a few words. The Magistrate has recorded that he saw no ground for framing a charge.

9. The Petitioner has stated that while he was in the Court the Magistrate surprised him with the following.

"I would not have convicted your men yesterday if you had not retained Shreenewasa Dyenger. I would have let them go if you had engaged any other Vakil on their behalf".

The Magistrate denies having made the statement attributed to him either in Court or elsewhere and reports that

7 that he heard at Yercaud in April last that the Pleader Mr Shreenewasa Dyenger sent a telegram to Mr Dickens to come to Salem at once several days after he fined his Coolies and that he took Mr Dickens to the Town Sub-Magistrate's Court to put in a false affidavit of this nature. The Sub-Magistrate says that as soon as he heard this he recorded the statements of 6 persons (3 pleaders, one gumasta, one Station House officer, and one Estate Superintendent) who were present in the Court when he tried the petitioner and his servants. These deponents say that they heard no such statement, as attributed to him. He also submits a copy of judgment in C.C. No 139 of 1894 on his file wherein he has convicted the petitioner's son under Section 323.I.B. and

and sentenced to pay a fine of Rs 50.

10. In proof of his statement, to the effect that the Sub-Magistrate was actuated by an unworthy conduct towards his pleader, the petitioner has quoted at length a true copy of a letter written by the Sub-Magistrate to Mr. G. Kothanda Ramayyar his late official Superior. The Sub-Magistrate says ⁱⁿ that letter in question was written by him and is his private property and that it was stolen from him. Mr. Dickens when asked to produce the letter said it was with his Pleader and that he had only seen it in his possession. He seems never to have had possession of it. The letter is a private one and as there is nothing wrong in the Magistrate's having written such a letter to his friend, there

8 is no ground to take any notice of it. Prima facie on the facts this Vakil seems to have committed the offence of retaining stolen property in regard to this letter, for the letter was either stolen from Mr. Kothanda Ramayyar, Dyar Auzgal or Criminally misappropriated, and that it was so must have been known to this Vakil, however he received it as he had no ground to believe that Mr. G. Kothanda Ramayyar sent it to him. This stealing of private letters and trying to turn them to account against the writer is not unknown in this District as I have another case of it pending before me at this moment. That his conduct has been technically within the Penal Code I think there can be no doubt; but however that may be, the conduct of the Vakil, in regard to this

this letter seems dishonorable and
highly discreditable to his professions
and should, I think, be brought to
the notice of the High Court under the
Pleader's Act.

11. The letter obtained from the
Pleader is herein enclosed.

I have the honor to be
Sir

Your most obedient servant

J. Whist.
District Magistrate.

Copyd by
20-10-95

21-10-95

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

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURE 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.

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