

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2366.

Dated 18th Nov: 1895.

INDEXED.

[Despatch Abstract.]

PETITION.

Informing Sheikh Imam Sahib and certain other Muhammadan inhabitants of Tiruchengode, Salem district, that their requests for the transfer of certain officers mentioned in the --and for a free use of the tank called Teppakkulam are inadmissible.

no. 5068/95

[$\frac{G}{9}$]
2,000-12-8-95.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	1289		26				

Current No. 5067

DEPARTMENT.

C.P. Rules.

From

Pro. & Inam Sakh Lotun
Muhammadan inhabitants
of Trichengode, Salem

Order 18 Nov 1954 2366
ms

The petitioners' requests are

inadmissible.

5/11/95 M. N. S.

15 Nov 1955

No.

Dated 26-10-55

Received 28-10-55

Enclosures 2

SUBJECT.

Praying for the transfer
of certain officers mentioned
in the petn., to for a free
use of the tank called
Jeppakkulam

1656/95

Please find the
correspondence in the records
of the Government of
Salem District.
In the meantime
the Government of
Salem District
is requested to
take the necessary
steps to
transfer the
officers mentioned
in the petn. to
the tank called
Jeppakkulam.

Caro

The Petn. is to be
closed 22/11/55

Proceedings of the District Magistrate m.

The 12 July 1895.

Read of 189 .

On the file of the District Magistrate of

Read Report dated 8th 5 Extra No. 1 of the Tahsildar-Magistrate, Tiruchengode on the dispute arising by the Mahomedans in Peria-theppakulam Tank.

Mere bathing in a tank not reserved by lawful order is not punishable under section 277 I.P.C. is in the mofussil outside Municipality no provision of law under which a well can be reserved for drinking purposes with which I am acquainted. is no power given either to the Taluk Board or Union to pass any such order the only way in which such a result can be arrived at is by an order under section 144 C.P.C. by a Magistrate but such order is in force only for two months. No order is now or was at the time the Mahomedans wanted to bathe in force. The Magistrate's idea that he can go on renewing an order under section 144 correct or if correct within limits is objectionable. The tank was not at fact has not been reserved for drinking purposes since the expiry of the last order under section 144 and it appears that Hindus have been allowed to bathe when they wanted to.

Under these circumstances Magistrate's action in arbitrarily stopping the Mahomedans from using tank in the way other castes are allowed to use it and as they the Mahomedans hitherto done cannot be supported. He will allow them to complete their without interruption. It is possible that it may be advisable having regard to the state of the water supply in Tiruchengode to reserve this tank for drinking that case an order should be passed after the present matter is over by the Divisional Magistrate under section 144 when Government will be asked to make it perpetual by a notification in the Gazette. After that no one will be allowed to bathe.

(Signed) G. STOKES,
District Magistrate.

17th July 1895.

(True copy.)

Endorsement on Petition No. 31 from Dadamiah Sahib & Co. of Tiruchengode bringing to notice that E-I-Spector and others caused disturbance during Moharum and requesting that personal enquiries may be made or permission accorded to go to Magistrate.

Petitioners are perfectly at liberty to go to the Magistrate to get redress.

(Signed) F. S. MULLALLY,
Ag. Superintendent of Police.

31st July 1895.

(True copy.)

In the court of the Tahsildar and 2nd class Magistrate in the
District of Tiruchengodu.

Dated 24th July 1894.

In Calcutta No 169 of 1894.

Regina Versus, (1) Kadir Saib and
(2) Jihansir Saib

- offences.
1. Resistance to lawful apprehension of another person Section 225 I.P.C.
 2. Assault to deter public servant from discharge of his duty under Section 353 I.P.C.
 3. Abetment under section 109 I.P.C.

Findings — Not proved.

Sentence — Discharged under section 253 I.P.C.

The accused Kadir Bacha Saib and Jihansir Saib have been charged under Sections 225, 353, and 109 I.P.C., by the Station House Officer, Tiruchengodu, with having assaulted a public servant in the discharge of his duties and obstructed him from making arrest. The 1st witness examined for the prosecution is Mr Venkata Rao, Sheristadar Magistrate, Tiruchengodu. On the 14th Instant was the last day of the Moharram festival, the 2nd accused Jihansir Saib, a leading Mohammedi of Tiruchengodu, complained to him while he was in the Tahsil Cutchery, that the Station House Officer, Mohomed Kasim threatened to put him

1st Sheet.

And others in the lock up if they should bathe in the
Peria Seppakulam tank, one of the tanks at Tiru
chugadu ordinarily used for drinking purposes.
The Magistrate sent for the Station House officer
who said that they should not bathe in the tank as it
had been reserved for drinking purposes. The 2nd
accused said that it was usual for his class and
himself to bathe in the tank on occasions like the
Karam festival &c. The 2nd accused also told the Sheri-
fats Magistrate that Mohomadan constables who
had disguised themselves came up and interfered with
him and others. Hot words were passed between the
2nd accused and the Station House officer in the
presence of the Magistrate and it appeared to him
that the Station House officer was hurrying with
rage and that he was under the impression that he
had been ~~assaulted~~^{insulted} by the 2nd accused and others. The
Station House officer lost temper and was very
rough and did not care for him though he was a
Magistrate. He then sent them away without passing
orders in regard to the Mohomadans bathing in the
tank and so he thought that the Station House officer
was the cause of the disturbances he joined the pro-
cession and took care to have the Station House officer
by his side lest he might create a disturbance if he
should be allowed to go elsewhere. He told the Station
House officer to be by his side always and proceeded
with procession and with the Sub Registrar and ^{with} the
Hospital Assistant to the tank. On the way he enquired
whether it was usual for the people to bathe on
occasions like the Moharram, five festivals &c.
Some said that it was usual for the people to do so.
Others that it was not. He thought however that people
should not bathe in the tank which is reserved
for drinking purposes and communicated his order
to the second accused and Saib Piram Saib, another
leading Mohomadan. When he did so there was

2nd sheet

music, and it is not probable that the order was heard by very many persons in the crowd which was huge. When the procession approached the tank some Hindus and Muhammadans who had disrespected themselves ran outwards to the tank, got down a flight of steps and bathed in the tank. The Magistrate then ordered the constables to prevent other people from getting in. Although the Magistrate had ordered the Station House officer to be by his side, the latter left him without his knowledge and seized the 1st accused by the hand. The Magistrate ordered him not to arrest as it was impolitic to do so on occasion like that but to come back and to merely see that the names of persons bathing were taken down. The Station House officer issued orders accordingly to Constable Santhara Rao who took down names. When the Station House officer came up to the Magistrate, he did not complain that he had been assaulted by the 1st accused though the latter was taken to the Magistrate for having bathed. He did not prefer any complaint against the 2nd accused which he would have been only too glad ^{to do} if anything as alleged had really occurred. The Magistrate considered it undesirable to leave the Station House officer behind when going home and therefore took him along with him. Even then he did not think fit to complain against the 1st and 2nd accused.

2. The 2nd witness. The station house officer on the other hand asserted that when the procession moved on to the tank the Magistrate issued an order to him to arrest those that were bathing in the tank, and that he issued orders accordingly to other constables from near the Sheristadar Magistrate who was on the bank of the tank. This is shown to be false by the evidence of the Sheristadar Magistrate.

3rd sheet.

4th sheet

of Moharram like the others. He does not live in the mohammedan street like other mohammedans. His Cousin Cables did not go in disguise like the other mohammedans from the mosque but went in disguise from the Station. The Station House officers and the mohammedan constables appear to have been kept aloof by the other mohammedans.

3. The 3rd witness states that the Station House officers proceeded to arrest the people bathing in the tank and seized the 1st accused and called him to station but that the 1st accused said in reply that he would not come and that his name might be taken and that he seized the 1st accused by the hand. He appeared to have been at a considerable distance from the Station House officers and it is not probable that he was able to see and hear what was going on near him. He was close to the Sheris ladder Magistrate and if he was able to see and hear all these, the Sheris ladder Magistrate could also have done so. The witness admits that ^{though} he was close to the Sheris ladder Magistrate, he did not call his attention to this or to the 2nd accused having told people to bathe. His evidence appears to be false.

4. The 1st accused states that as he and others were going with the procession the Police who had disguised themselves came up and interfered with them by moving like negroes &c. He told them to be at a slight distance when the Station House officers threatened to put him in the lock up. He was then sitting near the water of the tank to wash himself when a mohammedan constable pushed him into the water and the Station House officer struck him on the cheek. He has filed a separate complaint which has been referred to the Inspector for investigation. The 2nd accused is

having told any one to bathe in the tank or having
told the Station House officer not to arrest any one.
5. It is clear from the evidence that the Station
House officer and the other Mahomedan constables
were kept aloof by the other Mahomedans, whom
the Mahomedan constables went in disguise
and interfered with the other Mahomedans that in
playing they were told to keep aloof. The Station Ho-
use officer vowed to put them in lock up if they should
bathe in the Peria Pappalalane according to
~~the Mahomedans~~ ^{the Mahomedans}. The 2nd accused complained against him
to the Sheristadar Magistrate and hot words passed
between them before him. There was ill-feeling
between him on one side and the 2nd accused and
other Mahomedans on the other side. When he joined
the Moharram procession the Sheristadar Magistrate
was present and he should have placed himself
entirely under his control and taken no action ex-
cept with his permission and under his order.
The Sheristadar Magistrate considered it impos-
sible to issue orders to arrest of those that were
bathing in the tank, but the Station House off-
icer would have it that he did issue such an order.
This can not be believed. The Station House
officer told him ^{was} not to come ^{the Magistrate} but to without his
knowledge he left and he says he proceeded
to arrest when he was seized by the hand by the
1st accused. It can not be said that the Station
House officer who should have placed himself
under the orders of the Magistrate, but who
did not without his knowledge and proceeded to
arrest without his permission ^{was} bona-fide
executing his duty as a public servant. It is an-
other that the 2nd accused had told him to take do-
names but not to arrest and that he told
of the Sherist.

others to bathe. If the allegation against the 1st and 2nd
accused were true several persons who were kept
might have been ~~called~~ ^{used} as witnesses and a clever
officer like the station House officer would not
have failed to complain immediately to the
Sheristadar Magistrate at the spot. The omission
to do so shows clearly that the charges are false
and that they have been preferred probably be-
cause the Station House officer learned that
a complainant would be preferred against
him by the accused. I am also constrained to
observe that in laying this charge sheet the Station
House officer was apparently prompted by the
grudge he had against the 2nd accused and others
than ~~there~~ by a bona fide intention to do his duty.
Considering that there was a hot altercation
before the Sheristadar Magistrate between the Station
House officer and the 2nd accused, it would have
been well if the Station House officer had left
the investigation in a case against a person who
had insulted him and in which he was personally
concerned in the hands of the Inspector of Police.
If the latter officer ^{had} made in the course of investi-
gation examined the Sheristadar Magistrate he
would have seen at once that no complaint
had been preferred to him, that the Station House
officer had acted without his permission and
against his order and that the charges were false. It
is to be regretted that this course was not adopted.
As the case against the accused is found to be false
they are discharged under Section 253 IPC.

(Signed) J. V. Irimwasa ayyar
Taluk Magistrate
24-7-96.

True copy

7th Sheet.

To

His Excellency the Governor in Council,
MADRAS.

MAY IT PLEASE YOUR EXCELLENCY,

THE HUMBLE PETITION OF THE UNDERSIGNED
MAHOMEDAN INHABITANTS
OF TRICHENGODE SALEM DISTRICT MOST
RESPECTFULLY SHEWETH :—

Your Excellency's humble petitioners beg to state, that, at a distance of two furlongs, to the west of the town Trichengode, there is a large tank called Teppakulam, that the people of the thousand houses which exist there, were doing all the necessary marriage rites and the funeral ceremonies, in the above said tank, that the Arthanariswarar's floating festival called Tepposchavam, takes place, in the said tank, that 15 or 20 thousand of the people who come to witness the festival, bathe in the same tank, that, in the Moharam festival, on the 10th day, the Mahomedans used to go with the drummers and take the Chapram with Allah placed inside, to the above tank and bathe there, that 700 or 800 of the people, who would get down into the Agnikundam, with the necessary bandages, in their hands, used to resort to the same tank for bathing, that 400 or 500 people would do the same thing, in a minor Kalliamman's festival, that, in the small and large Mariamman's festivals, the people would snatch away the wooden pole, fixed in the ground, would go with the drummers to the tank, throw the pole in the tank and bathe there, that, in the Kaman feast, people would go with tom-tom and bathe there, that, very near the tank, there is a burning ground, where the people either bury their corpses or burn their dead bodies and bathe, in the tank, that, from this reason, the people do not drink water out of the tank, that, from time immemorial, the town was founded, it was only to celebrate the local festivals, the tank in question was dug up.

(2). All the festivals of the Hindus take place only in the same tank.

(3). In the year 1894, on the 10th day of Moharam, at about 3 O'clock, Allasamy's portable cars, and disguisers' marched forth, in grand array and with full play of the disguisers in harmony with the beats of the drummers, up to the precincts of the Taluk Cutchery, when the Head Constable Mahomed Kassim Sahib brought the Constable Fakir Beik Sahib, with the disguise of a Digambar, tied iron chains to one of his legs who entered our crowd, confused us by playing on one side of our crowd, with the iron chain tied to his leg and beating us all round; other constables such as Kitta Kathar Khan Sahib, Chabu Mian Sahib, Syed Moideen Sahib, Gulam Rasul Sahib, Syed Moideen Sahib, Gulam Rasul Sahib, the Taluk peon Babjee Sahib, all these five peons, clapped their shoulders, took, in hand, their clubs and disturbed us. When we asked them to clear from the crowd, they, with one voice, threatened to prosecute us, when we would get down into the alleged Teppakulam tank for bathing. This fact, we duly reported to the Shristadar and Magistrate. So, the

Sheristadar Magistrate, the Town Magistrate who was also the Chairman, the Dresser, and some other officers, went with the Taluk constables, along with the Allasamy's car, to the large Teppakulam, above mentioned, so as to guard us against such opposition. The Magistrate ordered the Head Constable, to stand by him and not to mingle with the crowd. The Head Constable not only violated the orders but also ordered his own Constables to drag and bring thither such men who would bathe in the tank. After ordering so, he did not stop but accompanied his Constables.

(4.) The Constable Kathir Khan Sahib and the Head Constable, dragged Kathir Batcha Sahib who was just washing his hands and face, from the tank, and brought him, before the Magistrate. The Magistrate said that it was wrong, on his part, to have entered the crowd, that he must leave Kathir Batcha Sahib alone, at once. The Head Constable, in spite of the express order of the Magistrate, to the contrary, charged Kadir Batcha Sahib and some other Mahomedans, before the 2nd Class Magistrate and also sent the Charge Report to the Magistrate. The Magistrate enquired into the matter, arrived at the conclusion, that what the Head Constable did was wrong, and dismissed the case. We have received copies of such Judgments.

(5.) In the year 1895, the Moharam festival commenced on the 25th June and continued till the 4th July. When we were going with the Allah's car, that day evening, at 4 P.M., preceded by the drummers, the Inspector of Police, his writer and the Village Munsiff Raja Gounden, came together before us. The Village Munsiff and the writer, upon the order of the Inspector of Police, entered our crowd, ordered us to stop the beat of tom-toms and music, and wrote down the name of each disguiser. While we were passing through the large Kalamman's temple, the Tahsildar, the Police Inspector, the Sheristadar, the Sub-Registrar, the Dresser, Venkatesa Tawker, the elder brother of Animur Jamindar, the Vakil Narasa Aier, Appu Aier, the Cutchery Gumastahs, all these obstructed our path and stood across the road. The Police Inspector ordered that, in case we violated their orders, and went our way to the large Teppakulam tank, he would shoot us down. The Tahsildar said that he would punish us. The Vakil Narasa Aier who stood close by, raised considerable objections as to the lawfulness of the utterance of the Police Inspector. The very same Inspector was lately transferred to Dencanikottah, as having been concerned in the case. A review of the order made to the Police Inspector for immediate transfer within 24 hours will testify as to the truth of the case and the Police Superintendent has accorded sanction against the said Police Inspector for prosecution.

6. All round the large Teppakulam, the Head Constables, the other Police Constables, the sub-station Head Constables and the other Constables, the Taluk peons, the Village Thottis, stood, upon the order of the authorities.

7. Fearing that there will be serious disturbance, we came back to our temple.

8. That day, the Tahsildar informed to all, by beat of tom-toms, that any one who desired to bathe, in that tank, might take tickets from him and do so. Further, he called for a list showing as to the number bathing in the tank, that

day. We prepared the lists accordingly, went to the Tahsildar, submitted them before him. He refused to comply with our request and said that he would punish such persons who would bathe in the tank and took depositions from us to the effect.

(9.) The Hindus were not allowed for a long time to pass the musjid with tom-tom. During the marriage of the daughter of Subroya Chettyar, the people came to the musjid well, with accompaniments of music, upon the inducement of the Tahsildar and the Police Inspector. With the object of creating a dispute between ourselves and the Hindus, they did so. If they should play music, in future, before our musjid, no doubt, there will be a disturbance.

(10.) This Tahsildar created a dispute in the same manner, between the Hindus and the Mahomedans at Palcote. So also, in order to create a similar misunderstanding here, he allowed the Hindus only to bathe, in the tank, in and out of the time of Hindu festivals, above mentioned and allowed the Hindus to play music before musjid, while he restrained this Mahomedans from going to the large Teppakulam tank, during the time of Moharam and thus put a stop to our Moharam feast.

(11.) We informed the same, by means of the wire, to the District Collector and the Divisional Magistrate and also we petitioned the Collector for our redress of grievances. The Collector ordered that it was unjust on the part of the Tahsildar to have restrained the Mahomedans from bathing in the tank, while he freely allowed the Hindus to do so, that he had no power to do so, that the Taluk Magistrate was wrong in passing such orders, that the Mahomedans might bathe, as usual, in the tank. Upon that, we ourselves, the Alla's cars, and the Drummers all went to the large Teppakulam and bathed there and thus celebrated the Moharam feast.

(12.) We humbly request your Excellency to get for us, a compensation value of Rs.1,000 for having delayed the Allasamy's festival for 13 days, for our loss and our public disgrace, from the Tahsildar and the said Police Inspector.

(13.) Excepting this large Teppakulam, the people of the thousand houses there, have no other river or a tank, to bathe, for a distance of 7 miles. We were bathing formerly, in the small Teppakulam, in the town. Some 20 or 25 years back, while Mr. Manuel was the Tahsildar of Trichengode, he ordered that the small Teppakulam in the Town, should be reserved, as it contained fresh water and left open for drinking purpose only. He further repaired the same tank at his own cost of 6,000 or 7,000 Rs.

(14.) This custom continues upto date. Some 20 years back, during the time of famine, when Mr. Longley was the Collector, he came there together with the Zillah Surgeon; the Zillah Surgeon was asked by him to look into the nature of the small Teppakulam water. The Doctor certified as to the good quality of the water. Upon which, Mr. Longley repaired it at a cost of 4,000 Rs. Besides these, there are in the town, Musjid well, Chinnan well, Kanakapillai's well, Odyar's well, Thumbachetty's well, Subramania Gurukul's well, the Higher milky spring water well, the Lower milky water spring well, Kalamman's well, Muthan Tope well. These 11 wells are those in which we can get down and fetch water.

(15.) Besides these, there are 7 other wells such as, Erakath Covil well, Agraharam well, Munyappen Covil well, Subroya Chettyar's well, Appavu Chettyar's well, Mariamman's new well, all in the heart of the town. All these wells are used by the people for drinking purposes. Of these, the people drink chiefly, the small Teppakulam, the Chinnan well, the musjid well waters.

(16.) While the facts are so, the Tahsildar out of a bad motive, wrote to the Collector to say that the tanks and wells in the town are unhealthy and cause guinea-worm, that only the Large Teppakulam, situated at a distance of 2 furlongs contained good water, was fit to be drunk and be reserved.

(17.) If your Excellency be pleased to make a visit once, to the town of Trichengode, test the quality of water there, your Excellency will be doing a very great justice to the poor people of Trichengode.

(18.) The Tahsildar, with a bad view to reserve the tank in question, writes very often to the Collector and the Deputy Collector and goes, in person, to visit them. If that tank should be reserved, the people of the thousand houses there will suffer a great deal and very likely, there will be a great disturbance.

(19.) As we are all very poor people, we are at a loss to understand at what time the Tahsildar of Trichengode will do injury to us.

(20.) At Palkote, this very Tahsildar created a great dispute between the Hindus and the Mahomedans. The Hindus never preferred any complaint, regarding the Teppakulam, in question, either to the Tahsildar or the Police Inspector.

(21.) If your Excellency will be pleased to transfer the said Tahsildar and other constables concerned in the matter, and to order for the free usage of the large Teppakulam out of the town, for bathing purposes, your Excellency will be a doing a very great favour to the poor aggrieved inhabitants of Trichengode.

(22.) In this town, after the arrival of this Tahsildar, the Police Inspector now transferred, the Head Constable the other Police constables, there were disturbances, in 1894 and 95, during the Moharam festival and before their time, we never knew of such disturbances. Only they are there, so many disturbances arise. To corroborate our statement, we have herewith attached true copies of the orders of the Collector and the Superintendent of Police, who transferred the Trichengode Police Inspector as having been at the bottom of these disturbances.

(23.) Under these circumstances, we the undersigned Mahomedan inhabitants pray for the immediate transfer of the above mentioned officers and the free use of the tank in question. The copy of the Police Superintendent's order according sanction against the Police Inspector is herewith appended.

We beg to remain,
Your Right Honorable Excellency,
Your Excellency's humble servants,

சென்னை நகரில்
சென்னை நகரில்
பெருந்தேவியார்
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Mathersahib
Shahabuddin Ragabkhan
Mopidin Sahib

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A. Shair Muhammad
Disa...
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عبدالله بن محمد
 ليد محمد الدين
 ١٢٩٢
 ملا محمد
 قلم محمد بن محمد

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189

READ AGAIN G.O., No.
 189

DATED

CURRENT No.

ENCLOSURE G.O. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DITTO.

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