

[3]
53

1,000-25-7-5

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 79

DATED 12th Jan. 1895

INDEXED.

[Despatch Abstract.]

PETITION

Rejecting -- from Holay Basapah, merchant and resident of the town Bellary, praying to remove the stigma on his character by quashing a certain sentence passed on him though he had undergone the punishment inflicted on him.

A.

BACK PAPERS.

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

FURTHER PAPERS.

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

[9]
1,000-25-10-91.

Current No. 6897

Ind

DEPARTMENT.

Petition

From

*Adlay Basapah
Bellary.*

Order

No.

Petition rules

C: 1 (5)

Dated 22/12

Received 25/12

Enclosures

1894

SUBJECT.

Praying to remove the
Stigma on his character,
by quashing the Sentence
passed on him, though
he had already undergone
the punishment inflicted
on him

The petition must be
dismissed, but I can't
say that I think the
petition well suited of-
ficer.

ms

10/1/95

Order 12 Jan 1895 No 79
The Petr. will be informed
but his request cannot be
granted

17 JAN 95
TR M.S.

To

His Excellency the Governor-in-Council
Fort St. George,
MADRAS.

The Humble Petition of Holay Basapah Merchant
and resident of the Town Bellary.

HUMBLY SHOWETH,

That your Petitioner humbly submits his prayers as follows, before your Lordship-in-Council, for deep, minute and favorable consideration, with sanguine hopes, that your Petitioner's request will meet with some redress.

That your Petitioner is a resident of Bellary, carrying trade as a cloth merchant. Being so, unfortunately his wife died, and he was obliged to remarry. In such remarriage a caste dispute has taken place. In such dispute misunderstandings began to take its course rapidly, day by day between him and his caste people. His enemies concocted a case against him and complained before the Deputy Magistrate at Bellary who tried the case on his file calender case No. 52 of 1892.

That the Deputy Magistrate was prejudiced against your poor Petitioner, though the case was of a civil nature and convicted him with simple imprisonment of 2 months and to pay a fine of Rs. 100, which conviction degraded the Petitioner most heinously and painfully in the eye of his caste people.

That at the time when your Petitioner was tried by the said Magistrate, your Petitioner was involved in great distress owing to the death of his son, daughter-in-law, and a child, all within a week's time. In addition to these, the said charge under section 420 I. P. C. was brought to his doors.

Your poor Petitioner was also ill with fever, suffering pain both in body and mind and moreover he had no one to assist him at his trial or to instruct his vakil properly to defend him at the trial, your Petitioner was not even released on bail when he appealed to the Sessions Court so to enable him to give instructions to his Vakil.

Thus your poor Petitioner's misfortunes were so powerful as to cause him undergo the imprisonment awarded to him. Your Petitioner's feelings were at the time, in such a state that rather he preferred to be hanged, than to have such disgrace, for nothing at all, amongst his friends and relatives.

The accompanying is the paper, signed by respectable Gentlemen of high dignity, which will show to your Lordship, what sort of respect your Petitioner holds in the Town of Bellary.

The Honorable Row Bahadoor A. Sabapathy Moodelliar Garu, as well as the Honorary Municipal Commissioners, Bench Magistrates and Merchants of high possession who pay hundreds to Government, expressed their opinion on the honesty of your Petitioner.

The Deputy Magistrate being quite prejudiced passed his Judgment, against your Petitioner, which judgment was not at all properly scrutinized by the appellate Court and even by the High Court. If your Lordship in Council will kindly cause the records of the said case to be read over (the whole record was translated and printed and submitted for perusal), your Lordship in Council will come to conclusion that the case against your Petitioner is totally of a civil nature and the conviction is only a frivolous and prejudiced one.

That your Petitioner further begs to submit, the copy of the judgment marked F of the High Court Appellate Side Madras. The High Court even took no notice to send for the records, rejected the Petition at once and simply said that no appeal lies on such cases. If they had perused the records of the Lower Courts, they would have passed their Judgment with such remarks that the conviction is totally illegal. The record is filled, from the beginning to the end with all sorts of improbabilities, inconsistencies and contradictions.

That the Appellate Courts treated the case trivially considering that the conviction is of a very simple nature; but for the Petitioner who underwent the imprisonment it is such that it is one to put his life to an end.

That your poor Petitioner humbly begs to place before your Lordship in Council the following, which your Lordship and members in Council will bring the same into your deep consideration. That if a man is convicted for the offence which he did not commit his conscience does not allow him to be quite, though he underwent the sentence awarded to him and compels him to take such steps as to cause such Proceedings to be quashed. So your poor Petitioner's case is of such. Though your Petitioner has undergone the sentence and knows perfectly well, that the days which were passed in Jail would not be regained, still his conscience wants him to cause such conviction to be quashed in representing his innocence to your Lordship in Council.

The following is the brief story of his case which may kindly be brought into consideration.

The charge brought against your Petitioner was for cheating, that the Petitioner induced one Poropah complainant to execute a Pro-note for Rs. 200 in his favor with fraudulent intention as the complainant says of not paying the same. At the enquiry your Petitioner as a defendant, plainly stated, that he did not pay the said Rs. 200 and the pro-note in question was executed only for binding the debtor with regard to the caste dispute and a Karar marked G. was also executed by your Petitioner in favor of the complainant as a security to the said Pro-note. After the execution of these documents the pro-note was entrusted by the complainant himself to one of the witnesses of the defence called Basapah (3rd witness for Defence) and not to the defendant at all. The witness admitted that the pro-note is with him and not with the Defendant (your Petitioner). The Deputy Magistrate totally failed to order for the production of the pro-note and the Karar above said and to file them in the record, for which your Petitioner is highly to be regretted.

The Deputy Magistrate without giving least consideration to the facts of the defence and its witnesses passed judgment marked A. that your Petitioner's intention was of a fraudulent one, which your Petitioner submits is totally incorrect and unjust. If your Petitioner had such bad intention, he would have at once said that he paid the amount of Rs. 200. Your Petitioner being an honest person revealed the facts before the Deputy Magistrate which had actually taken place between him and the complainant.

The prosecution witnesses who came forward, were tutored to give evidence against your poor Petitioner, and the evidence* so brought forth ~~was~~ was mingled with full of contradictions and the evidence adduced Marked E. on behalf of the defence totally raised the prosecution to the ground.

That your Petitioner most respectfully submits, that a perusal of the judgments of the Deputy Magistrate and of the Sessions Court marked A & B will convince your Excellency in Council, that the case is one of a purely Civil nature and the complainant through spite and ill will tried to twist the same into a Criminal offence.

That your Petitioner also submits, that the inference drawn by the Sessions Judge in his judgment marked B. viz "That your Petitioner never intended to make the loan," is quite inconsistent with the conduct of your Petitioner and the evidence on the record. The Mahazar marked D which was signed by several respectable Gentlemen consisting of merchants and officials will show what sort of conduct your Petitioner is bearing.

The complainant in the said case admitted as per his statement No. 1 in E that a long standing enmity is in existence between your Petitioner and him as regards caste dispute. Being so, he says, he was silent, until 12 days after the execution of the pro-note without complaining against your Petitioner. That your Petitioner is a respectable man aged 60 years and has never been concerned in any Criminal case before and his respectability can easily be proved by the said Mahazar marked D.

That the punishment he received has been already undergone in 1892 but the disgrace is still standing on him, which he wants to be quashed off by the mercy hands of your Excellency in Council.

That your poor Petitioner most humbly implores your Excellency, that your Excellency in Council will be pleased to remove the stigma on his character and protect him from shame and disgrace during the remaining part of his old age.

For which act of kindness your petitioner shall ever pray.

BELLARY,

Dated 22nd Decr 1894.

*May kindly
be returned
after some
with it*

N.B.—The following Documents are herewith forwarded.

- Marked A. Judgement of the Deputy Magistrate.
- " B. Do. of the Sessions Judge.
- " C & F. Do. of the High Court of Madras.
- " D. Mahazar of respectable Gentlemen.
- " E. Complainant's Petition, Witnesses statements both of prosecution and of Defence.
- " G. Karar Executed by the Defendant.

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