

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 838.

Dated 24 *Apr* 1895.

INDEXED.

[Despatch Abstract.]

M.R.RY.L.VENKATARANGAYYA.

Considering that--has not shown sufficient cause for
sanctioning the prosecution of the Stationary Sub-Magistrate,
Guntur.

met

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	221		1-2-95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2371		95				
	2426		95				

From

Lingamellu Vengatarangin

Suntur

Dated 15. 2. 95

Recd 18. 2. 95

Recd 19. 2. 95

Encls. 2

Subject.

Submt. a duly signed petn
praying for the withdrawal of
certain remarks against
the pett by the S.H. Magt, or
reqd. sanction to vindicate
his character in a Court
of Law by suing the Magt
for defamation

1320/95

804

Just

Go. 221. 1-2. 95 mis
179. 25. 1. 95
re p.p. rules.

No reply has yet been received from the

S.M. of 25 Jan 95 re 179, T.D. mis. There
is no need to wait for it. - Matter of the two
petition is clear but apparently the Defending
statements alleged against the Stationary Sub.
- magt are that he described the pett's attendance
at the bench as "irregular" ^{and} that he was per-
sonally interested in the case, & spoke of
the judgment of the magistrates as "perverse".
There is no defamation in the first two statements;
they are admitted true by the pett, & not amounting
to the Submagt's duty to report the matter. As
regards the allegation of "perverseness" the pett
sends no copy of the Submagt's letter &
there is only his word for it that the expression
was used; if used, bona fide & does not
amount to defamation. In these reasons
perhaps it will suffice to say

Order 24 April 1895, N. 838.

The Court does not consider that the
P.C. has made out ^{sufficient} case for sanctioning
the pros. of the Submagt (from order)

Petitioner - 24.2.15 23.4.95

Recd with
this reply - 16.5.95

4/4/95

23/2

Submitted.

26/7/95

(For orders)

1320/95

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.

2

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 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 finding of the majority of the Bench was illegal and against the weight of the evidence, as he tries 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

3

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 Taluk 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.

Lingamallu Venkatarangayya

17th January 1895.

1.

The Honble Mr J. F. Prier. C.S.I.
Chief Secretary to Government
Department.

RECEIVED
CHIEF SECRETARY
18 FEB. 1895
DEPT OF MOUNTAIN

Honble Sir,

With reference to my Government Endorsement dated 1st February 1895, no 221, stating that my petition of the 17th ultimo could not be considered as it was signed by my wakil, I respectfully beg to resubmit it duly signed by myself and earnestly pray that the matters therein represented will receive consideration of government, and sanction granted to me as prayed for for proceeding against the stationary magistrate for maligning my conduct without reasonable grounds. I further beg to submit that my petition contains no allegations which cannot be supported by records in the case.

I beg to remain
Honble Sir,

15th February 1895 Your most obedient servant
Guntur.

Vinayamallu Venkata-
-rangayya.
Block Magistrate Guntur.

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804

2

The House in 1881

Chief Secretary to Government
Department

Mr. W. H. ...

With reference to the ...
dated 1st January 1881, ...
that my letter of the 17th ...
could not be considered as it ...
applies to my ...
to admit it ...
myself and cannot ...
matter then ...
receive consideration of ...
and ...
proposals for ...
the ...
proposing ...
reasonable ...
to admit that my ...
no objection which cannot be ...
supported by ...
I ...
How ...

18th January 1881
Chief Secretary to Government
Department

When given for copying
When copied
When examined
When signed

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO G. 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.