

Judicial 1275 Ms

11-8-96

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Judicial (1896) Department.

ORDINARY *Ms*

G.O., No. 1275

Confidential No. 110

DATED 11-8-96

[Despatch Abstract.]

Kistna Police Torture Case

Recording letter from the Surgeon General  
submitting the explanation of the Civil  
Apothecary at Nuzvid re his conduct  
in connection with the —.

# BACK PAPERS.

| G.O. | No.  | Department. | Date. | G.O. | No. | Department. | Date. |
|------|------|-------------|-------|------|-----|-------------|-------|
| Con  | 62   | 3996        |       |      |     |             |       |
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# FURTHER PAPERS.

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Madras 15 July 1896.

From.

Civil Apothecary P. Venkatarani.

Madras Medical Department.

To.

The Secretary to the Surgeon General  
with the Govt. of Madras.

Thru the District Medical Sanitary Officer.

Madras

Sir,

In obedience to your Memo No. 494 dated 29 April 1896 I beg respectfully to submit the following explanation to which I solicit the Surgeon General's very kind consideration.

2. The charge of giving false evidence which I am now called upon to explain appears to refer to two statements made by me in my evidence before the Sessions Judge Madras: (1) that the deceased in reply to my inquiry told me that he had been hurt by falling into a pit and (2) that until his death no rumours about the Police torture had ever reached my ears.

3. I. The first statement is considered false by the Judge, because, having once believed that the man had been tortured, he then easily assumed that if he had been tortured he would not have told me a different story. Now I beg to submit that this assumption is altogether unfounded. For he was already in Police Custody even when he was first brought to the hospital and the Police according to their regulations continued to

be in charge of him till his death. In fact the Police were in attendance upon him when I questioned him on the point. He was an ignorant Granthala man, sorely injured and frightened so that, supposing that torture had really taken place, it was under the circumstances almost certain that he would not have dared to make such a statement against the Police. Without meaning any discredit to the Police Department, I beg to represent that the Police can and do actually exercise much influence in such cases; so that, even supposing that the man had been really tortured, it is most unlikely that they would have spared any pains to hush up the matter as soon as the man's condition became serious. On the other hand, the probability is that the man would have felt it personally safe not to disclose any version compromising the Police. In this connection, I would also beg respectfully to refer to the remarks of the Sessions Judge, Godavari, who tried a companion case based on the same facts in paras 9 and 19 of the Judgment which is herewith submitted, especially with reference to the evidence of the man's own father, which is fully believed by that Judge. This man, who was not in the custody or apparently under the influence of the Police, but

whose evidence is nevertheless discredited by the Sessions Judge Krishna, said at the inquest that his son's illness was due only to "natural causes," and that when he had complained to Mr. Oldfield of torture, he had been drunk. This evidence is disbelieved evidently because he is considered to be a false witness put up by the Police. If so it is difficult to perceive how it can be impossible or unlikely that the son (the deceased) who was actually in Police custody should have told such a version of the story as he did. Moreover, I would also beg to submit that any medical evidence in the case is amply borne out by the other and superior medical evidence given in the case as well as by competent medical authorities in General as being quite consistent with the deceased's version of that story and with my statement that the patient showed no symptoms whatever which might be calculated to arouse any suspicion regarding the truthfulness of his statement i.e. the retention of urine & paralysis which could rightly be assumed to result from an injury to the spinal column, which injury seemed to be sufficiently accounted for by a fall into a pit.

A. II. With regard to my 2<sup>d</sup> statement I beg to submit, that it is quite natural

that I should have heard no rumours regarding the torture affair. Firstly no complaint was made at all, till 4<sup>th</sup> November though the deceased had been there 6 days in the hospital; and when it was actually made it was made in such a casual way that Mr. Oldfield the Head Assistant Magistrate did not evidently think it deserving more attention than merely stepping into the hospital as he was passing by and making a cursory enquiry, while Mr. Hendrick who is a first class Tehsildar and who was for several years District Superintendent of Police in this District, seems to have considered the complaint at the time as only relating to an assault amongst the Gurmukhs themselves. Secondly. This was the first complaint made even to these officials and the man died two days later on the morning of the 7<sup>th</sup>. The complaints were made at the bungalows of these officers and no enquiries were conducted and nothing further happened, on the 5<sup>th</sup> and the 6<sup>th</sup> so that there is nothing strange if no rumours regarding the matter could in those two short days, reach me, a medical subordinate in the place; for as I have already submitted the Police would, if really guilty, have had an eye over the man's relatives and prevented them from spreading rumours. I also beg to

submit that, even at the inquest held on the 8<sup>th</sup> Nov. by the Tashildar Magistrate, none of the nearest relatives of the deceased imputed to me any knowledge of the torture, or made the slightest suggestion that the deceased had ever told me the prosecution version of the story. I have been called upon to prove a negative viz. that I did not hear any rumours and I beg to submit that this would be a most difficult thing for any person to do. I can only repeat that I did not and under the circumstances, could not hear any rumours.

5. I answered Mr. Oldfield's enquiries regarding the man so far as I heard and knew; and this Mr. Oldfield does not deny, though he does not remember the particulars of the conversation. This is very unfortunate; but I submit that from this nothing can be inferred to make out that I gave him a garbled account of the matter. In fact, the absence of anything in the conversation which would have struck Mr. Oldfield as noteworthy, would raise a presumption in my favor. It would at any rate, have been dangerous for one to hide matters; for it could have been immediately discovered and flung into my face, if Mr. Oldfield had chosen to step into the ward and question the patient himself.

6. In the above it is assumed that the finding of the Sessions Court Khatia and

of the High Court is doubtless the true one.

But I would most respectfully point out that the case has been tried again (in the case of the 2<sup>d</sup> Police prisoner) before Mr. C. K. J. District and Sessions Judge of Godavari, who has had much experience in all these parts, and all the facts having been gone over again and the previous judgments of the Sessions Court, Kistna and of the High Court having been read by him, he took an exactly opposite view of the case. In fact he found that no torturing had occurred at all. He believes my evidence as regards the first statement and as regards the 2<sup>d</sup> he expresses the opinion that "rumours might prevail without reaching the ears of the Civil Officer."

7. I beg to submit that whatever may be the true finding as regards the torturing it is quite clear that the whole case is of so uncertain a nature that even the Judges who have tried the case cannot agree on any points; and I submit that I cannot be punished with suspension and possible dismissal on such a doubtful case. But whatever may be the final judgment on the case, I submit that my evidence in connection with it is perfectly true and is unaffected by the question of the real cause of the injury sustained by the deceased. I crave attention to this striking

difference of opinion amongst the Judges, not so much to prove the truth of my statement, as to indicate that it does necessarily follow from all the circumstances of the case that some of the Judges would be justified in disbelieving it.

8. I would also submit that no motive whatever has been suggested which would adequately explain the theory of my giving false evidence at the risk of injuring my prospects in every way by bringing myself into trouble.

9. Lastly, I beg to submit that all these points would have been brought forward before the High Court, if I had known that I was being practically charged with giving false evidence, when the case was being heard on appeal. I could have then engaged Counsel and defended my statements as I have done above; but this I had unfortunately no opportunity to do.

10. In conclusion, I beg to leave my humble case in the hands of the Surgeon General with the prayer that he may be pleased to consider deeply these six points:—

(1) That even if the other story viz. of torture were true, what with the strict watch of the Police and what with the very meagre and unintelligible information given at a late date even to the Magistrate and the Police, I should be quite unable to get at any other than the deceased's version of the incident.

(2) That the superior Medical evidence in this case and the views of the other Competent Medical authorities in general bear out my opinion on all Chief points.

(3) That at the Tahsildar's enquiry none of the near relatives and attendants had any complaint to make against me or to suggest that even on a single occasion I was by any one given any the slightest hint about torture.

(4) That in a subsequent case based upon the very same facts and evidence, a long experienced Judge after having gone into all the facts and thought over the prior judgments considered the defence version of the case to be totally true.

(5) That any reasonable motive cannot be made out for one of my humble service and experience of 15 years damaging himself by adopting a story which, if fabricated, could be easily disproved medically and exposed legally.

(6) That all the evidence now sought to be used against me is taken almost on credit, unsworn by any Counsel on my behalf as I was a mere witness in the case.

11. As in all such cases as this, the merits of past service are rightly taken into account, They have to submit herewith for the Surgeon-General's very generous consideration Copies of testimonials given and opinions expressed

by those I had the honor to serve under and of the fact that my previous career has been unblemished.

I beg to

P. Venkatramiah

Refce on Ct. No. 1451  
Dt. 4/1896.

To. The Secy. to the Surgeon-General with the Govt. of Madras

Forwarded. I cannot help thinking that the charge against the Apothecary of giving false evidence is decidedly weak. The likelihood as regards the prisoner's telling him a story which would incriminate the Police is surely extremely small and the probability is quite the other way. The second count is not only vague and difficult to meet but is expressly denied by Mr. Mackenzie.

Whatever the truth as regards the causation of the man's injuries may be it seems clear that if these two points are all there is to go on as regards the Civil Apothecary (and it seems to be so) it would be advisable to set aside the original remarks of the Dist. Judge Krishna in view of the remarks of the Dist. Judge Godavari and of the explanation submitted.

Sd/- W. Hickero Surg. Capt.  
Dist. Med. & San. Offr. Krishna

(True Copy)

D. Simpson

Surgeon-Captain

Secy: Surgeon-General  
with the Govt. of Madras.

Masulipatam  
15<sup>th</sup> July 1896

CONFIDENTIAL.

CURRENT No. 3312.

No.

Encl.

From

SURGEON-MAJOR-GENERAL G. SIBTHORPE, F.R.C.P.J.

OFFICE OF SURGEON-GENERAL

WITH THE GOVERNMENT OF MADRAS,

Madras, 21<sup>st</sup> July 1896.

SURGEON-GENERAL WITH THE

GOVERNMENT OF MADRAS,

Madras,

To

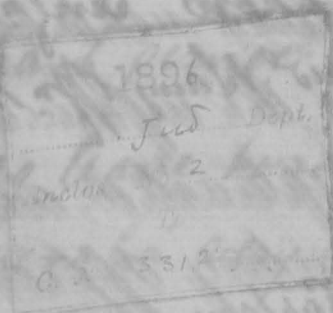
THE Honble the Chief Secretary to Government  
Judicial Department.

SIR,

In continuation of my letter <sup>48</sup> No. 792.J. dated the 30<sup>th</sup> April 1896. Confidential, I have the honor to state that the matter was first reported to me in October 1895 and after obtaining the Apothecary's explanation and the remarks of the District Medical and Sanitary Officer Krishna thereon I agreed with the latter that no criminal charge had been established against the Apothecary and accordingly directed that he should be severely reprimanded for the inattention and carelessness displayed by him in dealing with the case and the same entered in his Confidential Report.

2. On receipt of Confidential G.O. No. 691. Judicial dated the 7<sup>th</sup> April 1896 I again called upon the Apothecary for a further explanation and to show cause why he should not be severely dealt with. I now enclose for the information of Government a copy of his explanation and of the District Medical and Sanitary Officer's covering minute.

x mgo. 792.J.  
4.5.96



3. It will be seen from the above documents  
as also from the papers already before Government  
that there has only been a suspicion against the  
Apothecary of having made a false statement, but  
in the absence of any evidence bringing home  
this charge against him, it becomes difficult  
to discredit his version of the affair. Especially  
as it has since been so strongly supported by  
the District Judge of Godavary. I do not therefore  
consider that his conduct calls for any further  
notice.

I have the honor to be

Sir,

Your Most Obedt. Servant

C. T. Vincent.

Surgeon Major General

Surgeon General with the Fort of Madras

Judgment forwarded  
in original to be  
kindly returned

From

SURGN.-MAJOR-GENL. C SIBTHORPE, F.R.C.P.I.,

SURGEON-GENERAL WITH THE

GOVERNMENT OF MADRAS,

Madras,

To

No.

ENCLOSURES.

Dated 21<sup>st</sup> } July 1896.  
Received 26  
Regd 27

No. \_\_\_\_\_

UNDER SECRETARY  
JUL 96

*Subject.*

Encls 2.

Submits explanation  
of Civil Apology Venketaramiah  
regarding his conduct  
in connection with the  
case of Police torture &  
considers that no further  
notice need be taken of  
the matter.

13 S.G.-250-12-12-95.

Am.  
for orders.

Supra 9. of 70. 691. J.  
7.4.96

Govt., while asking the Surg. Genl.  
to report "whether anything had been  
done with reference to the Ser<sup>mt</sup>  
Judge's remarks in regard to the  
conduct" of this man, left him  
to "deal with him as the certain-  
stances may require."

The matter having been im-  
pudently left in his hands this letter  
may perhaps be recorded.

no  
f.g. 86

N. / Order. No. 1275 & 11<sup>th</sup> sept. 1896.

Recorded

MF 6896

(f.o)

10 the S. General. (Qro)  
with copy of judgment etc  
D. H. 11/8

*Returned for Signature.*

*Despatched.*

READ AGAIN G.O., No.  
189

DATED

*Spare Copies.*

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LETTER OF GOVERNMENT.

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH  
IN ORIGINAL.

N.B.—

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