[G. 11]
200—23-11-96.

Judicial (189 6) Department.

ORDINARY Mis

G.O., No. 691.

Confidential No. 57

DATED 7-4-96

[Despatch Abstract.]

Kistna Police Torture Case

Passing orders on the report of the I. G. of Police on an alleged case of the torture of a man of the wandering Yerukala caste by the police of Nuzvid.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Con	177	Jud	8/96				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Con	#	628/96					
"	1186	Jud	8/16-7-96				

Confl

No. O. 49.

CURRENT NO. 591

DEPARTMENT.

No. 5965

CHIEF OFFICE OF THE INSPECTOR-GENERAL OF POLICE,

MADRAS, 14th December 1895.

FROM

M. HAMMICK, ESQ., I.C.S.,

INSPECTOR-GENERAL OF POLICE,

Madras,

To

THE Chief Secretary
to Government
Fort St. George.

SIR,

Enclosures. 28

With reference to G.O. No. 2530 Judicial, dated 6th December 1895 Confidential, regarding an Extract from the Report on Native Newspapers concerning some remarks of the Sessions Judge, Kistna on the conduct of the late Superintendent of that District (Mr. Prendergast) and the Head Assistant Magistrate, I have the honor to say that on the 8th October 1895 I called on Mr. Prendergast for an explanation regarding the matter, and on its receipt had called for copies of the Depositions in the Sessions Court before finally disposing of the matter. I now submit (a) the original order of the Sessions Judge (b) Mr. Prendergast's explanation with his original diary reporting the case (c) the copies of the depositions and judgment of the Sessions Court, and request that the Government will pass final orders on the matter.

2. The case occurred on the 27th October 1894, when one Palligadu, a Erikala, came to the Police station at Nazvid in connection with a case of alleged goat stealing. He was detained. On the 28th evening the local apothecary was sent for as the man was ill. On the 30th October the man was admitted as an in-patient in the Hospital and on the 7th November 1894 the man died. He died apparently of Paralysis. The result was that in Sessions Case No. 24 of 1895 one of the constables of Nazvid station was tried and found guilty of having caused grievous hurt to Palligadu when at the Nazvid Police station and in connection with that trial the Sessions Judge passed a Proceedings severely commenting on the conduct of the Superintendent of Police and Head Assistant Magistrate in the case.

3. The order of the Sessions Judge as regards the conduct of the Superintendent of Police is to the following effect—

(a) The conduct of the Superintendent showed great callousness in that it is shown that the relations of the deceased made a complaint to him at Nazvid and that he took no notice beyond referring them to the Magistrate.

(b) The Superintendent when he was informed of the deceased's death held an enquiry but took no further steps to prosecute the accused, or report on the case to the Magistrate.

(c) The Superintendent never registered the case as a crime at any station.

(d) The Superintendent carried away with him from Kistna, when he left the District the records of his enquiry instead of leaving them in the Superintendent's office.

(e) The Superintendent submitted no special report on the case to the Inspector General of Police under order No. 158A of the Police order Book.

(f). The Superintendent of Police wrote a very improper order to the Sub Magistrate, Gunnaveram as follows on the 20th November—

"The undersigned has the honor to inform
"that the Station House officer and Constable
"No 91 Krishnayya have been placed under
"suspension. In this case Mr. Conner (Bez-
"wada Apothecary) informed me that he
"could not say how the dislocation, com-
"pression or rent in the auricle were caused
"unless he had the medical history of the
"case. This should be obtained from the Civil
"Apothecary, Nazvid, and he should be
"then closely cross-examined."

(g) The Superintendent never submitted to the Divisional Magistrate any final report on the case after he completed his enquiry.

4. It is necessary here to state that although the

the alleged ill treatment of the deceased took place in October 1894 and his death in November, the magistrates, dealing with the case, delayed for various reasons, and the Sessions trial did not in consequence take place until September 1895.

5. Dealing with the case against the Superintendent in the order I have stated it Mr. Prendergast explains that when he was camped at the Travellers' bungalow at Nuzvid on the 4th November 1894 he heard the crying of a woman from the neighbouring Parchery, and that shortly afterwards people came to the bungalow and complained that some people had been using violence, he asked who they were and he understood them to reply some of their own people had done it and upon this he referred them to the local magistrate. I do not think on this point Mr. Prendergast can be accused of callousness. It must be the experience of every Executive officer that complaints of petty assault are continually made in the way described by Mr. Prendergast and if no further statement was made to the Superintendent at the time-and there is nothing to show that anything more was said-I do not think the Sessions Judge is justified in imputing callousness to Mr. Prendergast for his conduct. It was unfortunate that Mr. Prendergast (a)

Prendergast did not make a further enquiry at the time and most officers would, I think, have asked for some details, but hearing the men say that it was an assault by their own people and no allegation being made to show that the deceased was much injured I can understand Mr. Prendergast having told the crowd to go and complain at the local Police station or to the magistrate. I would acquit Mr. Prendergast in any case of callousness.

6. Mr. Prendergast's conduct as to the next allegation made against him was much more open to question. He is accused of not having taken any steps to prosecute the accused constable or to report the case to the magistrate. Mr. Prendergast's explanation is that when he received first information about the alleged torture by the Police he knew that the Taluk magistrate was enquiring into the case and so he intended to make a merely departmental enquiry. Mr. Prendergast in his deposition before the Judge says he was at Gannavaram three or four days after he was at Nuzvid when he obtained information that the Taluk magistrate had a telegram that an Erikala had been killed and that some body was preventing the body being disposed of. Mr. Prendergast returned to (6)

X It is quite impossible that they can only have said this

Nuzvid

vid and made a departmental enquiry
the matter. Mr Prendergast's Weekly Report
I gives the result of his enquiry, which
held at Nazrid on the 8th November 1894 -
day after the deceased had died in Hospital.
is clear that Mr Prendergast concluded
the charge against the Police was fra
ly false, and on this account he did not
e steps to prosecute the constable con-
ned nor to report the case to the Magistrate.

There have been hitherto no very clear orders
to the action of the Superior officers of the
lice in cases of alleged torture by constables
d as the Deputy Inspector General in this
se distinctly stated his opinion that the
se was utterly false, Mr Prendergast
annot I think, be very much blamed
or his opinion which he arrived at before
e final post mortem examination had
een made. It will be seen from his report
hat the account of the post mortem is given
in postscript to the report.

There was no complaint before
Mr Prendergast and he was acting on
information he got from the Sheristadar
at Nazrid. He should, however, most
certainly have treated this investigation
that he made as an investigation under
the Criminal Procedure Code and he should
have reported the whole matter to the

Magistrate
Prendergast

Magistrate having jurisdiction. In fact
he should have treated the case as he would
have treated any similar case in which the
accused was not a constable. I consider
that Mr Prendergast's conduct on this point
must be held to have been very unsatis-
factory. It is of the utmost importance
that when allegations are made against
Police constables of gross misconduct such
as was the case here, the Police should hold
a thorough enquiry themselves into the
matter and obtain final orders on the
subject from the Magistracy and I can-
not understand how Mr Prendergast
could think he had done enough when he
merely reported the enquiry in his Weekly
Report and even there never completed it.
It was his clear duty to either charge the
accused or to submit a referred charge sheet
asking that the case might be treated as false.
He did neither of these things and was much
to blame in my opinion for his omission.
His report referred to above shows clearly
that he did not consider his enquiry finished
as he expressly said that the history of the case
as recorded by the Nazrid apothecary, would
have to be submitted to the apothecary who
made the post mortem and that he would
have to be closely cross-examined on the
reasons alleged to be disclosed by the post mortem.

This

this cross-examination and further enquiry
be left to the Sub. Magistrate and apparently
never troubled his head further about the
case. I think for this he was very much to
blame and deserves the censure of Government.
9. What I have said already refers also
to charge (c). I consider Mr. Prendergast's
action in omitting to register the matter,
which came to his knowledge and into which
he enquired, in the local Police station crime
register very blameable. It was his duty
to do so just as it would have been his duty
to register any other cognizable case which
came under his investigation.
10. As to the Superintendent's having carried
away from Kistna the records in the case I
also consider that Mr. Prendergast was
much in fault. I cannot in the least
understand his explanation. Mr. Prendergast
knows perfectly well that the only personal
record, which a Superintendent carries
away with him from a district, is his file
of Weekly Reports and his own note-book.
He had no business to take away, under
any rule that I am aware of, to take
away with him, the statements taken by
him in a departmental enquiry and his
doing so was a serious irregularity.
Mr. Prendergast has not even now submitted
the records he refers to but the summary of
the

the enquiry is given fully in the Weekly Report.
11. Mr. Prendergast submitted no special
report under Rule 158 A of the Police orders
and I do not think for this he can be blamed.
The rule left the decision of what should and
what should not be reported very much to
the discretion of Superintendents. I have
lately in my order No. 87. published in
Police Gazette dated 26th October 1895 made
the duties of Superintendents clear on this
point. In every case of a charge of torture
a special report has now to be made to the
Inspector General and to the District Magis-
-trate.
12. As regards the communication to the
Sub. magistrate of Gunnavaram objected to
by the Sessions Judge. I agree with the Sessions
Judge in considering that the wording of it
was improper. It was certainly not Mr.
Prendergast's duty as Superintendent to
instruct the Sub. Magistrate as to the way
in which he should do his duty, and the
wording of the communication was open to
misconstruction.
13. The last charge against Mr. Prender-
-gast that he did not submit any final
report of the outcome of his investigation
to the Magistrate is really part of the
earlier charge. The fact is that Mr. Prendergast
misconceived his position right through.

He

he treated the complaint against the constable in this case as if it were a private matter with which the public had no concern and this is a fault to which Police officers are specially liable.

14. Mr Prendergast's enquiry was fair enough as far as it went. At least it appears to have been so from the report contained in his weekly diary submitted to the Inspector General for week ending 10th November 1894, but he let the matter drop as soon as the Magistrate took it up, and clearly he had not thrashed the case out. He concluded much too soon that the charge was a false one.

15. The result of the postmortem examination held at Bezwada should have shown Mr Prendergast that he had not got to the bottom of the case and he should have continued his investigation or if he did not do that he should at all events have informed the magistrate of the conclusion he had arrived at and obtained his orders on the subject.

16. It is noticeable that Colonel Portens expressly said in his remarks on the margin of the report that he did not like the Police story, and he carefully did not endorse Mr Sullivan's view that the case was false. He asked a question on the diary and in the usual course the diary should

should have been returned with the question answered. From the date on the diary it seems clear that Mr Prendergast never returned the paper and in consequence the matter received no further notice from the Inspector General. Mr Prendergast's omission to return the diary was a serious one. Had it been returned I have little doubt that Colonel Portens would have asked for a further report on the result of the further cross-examination promised by Mr Prendergast but never held.

17. On the whole, I am of opinion that the Sessions Judge was fully justified in commenting on the Superintendent's conduct and I am of opinion that Mr Prendergast while not having shown any callousness in the case did treat the matter in a very careless fashion. The accusation was a most serious one, and the certificate of the apothecary as to the Postmortem examination should have shown Mr Prendergast that the matter was one which could not be explained in the way the Police attempted. Mr Prendergast having begun an investigation into the case should have registered the crime and made a final report to the Magistrate having jurisdiction in the matter. I do not blame him for not having submitted a special report on the matter to the Inspector General

General, but I blame him for not having completed the enquiry which he began, and kept the local magistrate informed of his conclusion. The result of this careless- ness was that the magistrate apparently wailed in vain for the Police report and in consequence the enquiry was so much delayed that the final result was much less satisfactory than was to be desired. Had Mr Prendergast done his duty and thrashed the matter thoroughly out at first none of the subsequent troubles would have occurred.

I have the honor to be,
Sir,
Your most obed.t Servant,

M Hammick,
Inspector General of Police.

M.

CURRENT NO. 5911

(1895) DEPARTMENT.

FROM

M. HAMMICK, Esq., I.C.S.,

INSPECTOR-GENERAL OF POLICE,

Madras,

To

THE Chief Secretary to Government. For I.S.G.

CHIEF SECRETARY'S GOVERNMENT OF MADRAS 16 DEC 1895

No. 5965

Dated 14th December 1895.

Received 15

Rpd 16

SUBJECT.

Submitting, ~~report~~ in reference to G.O. No. 2530, Jud. dated 6th December 1895. Confidential, regarding the Police Torture Case referred to in the a fortnightly report on Native papers.

1 Piece

Read - again the following papers -
G.O. No. 691 Judicial, dt 7-4-96.
Read - again the following papers -
G.O. 25-20 Jud dt 6-12-95.
also
Read - the following papers -

[G/25]
600-23-7-95.

Dept. DEPARTMENT.

C. No. 5911.

Mr. Hammett has dealt with these cases in a very satisfactory manner. A remark might be made to this effect. MS JG

FOR ORDERS.

This seems to be a case in which serious action must be taken - Mrs Rundegat is known to be familiarly acquainted with Telugu. It is impossible, under the circs, that the people who complained of him could have said "Mareilla" when asked who had been beaten - they came and said "Kotti Vesinaru" which more than "they have beaten". According to Thomas' Dictionary, it means "they have struck down", and according to my reflection, it is an intensive form which might well be used to mean "they have killed". Mr. P. said "Who?" - the complainants could not have replied "our people" in the singular; if they used any inflexion of the word "Mareilla" it must have been "Mareevani", that is, "our man," in the accusative. That, it was this man who had been beaten or struck down - I cannot understand Mr. P's failing to grasp this meaning.

When, however, he did know that a man had been killed, what did he do? Nothing. Even when at Nagoid (for the second time) he knew that the man had died, with what an utter discrepancy in the statements of these wretched, ignorant people, the accusation was that a constable had beat down the deceased by the hair of his head till the deceased's head was brought between his own knees & kicked him on the back" (see his deposition) he, when he got to Nagoida he found the apothecary of opinion that the man's spine had been dislocated & that he had received other injuries, from one of which (no doubt, from the paralysis, that followed the injury to the spine) he had died - yet he did nothing & did not suspend the constable or take the smallest trouble to see that they were brought to justice. A more extreme case of absolute indifference to the performance of public duty it would be difficult

The currents the I.G's refer to

G.O. 2530. J. 6.12.95

The facts of the case cannot be sufficiently abstracted in any note which would be of any use as long as the original papers. These papers appear to require to be perused.

The Sessions Court Judgment gives the case. The Progs. of the same Court points out who is to blame.

Submitted that the Sub Magte's fault is not including the Pttr. in the case committed to the Sessions needs no notice. The Judge thinks there wd. be no satisfactory evidence after so long.

There is apparently no

sufficient evidence to warrant any Progs. against the Civil Apothecary of Nugwid. The Sessns Court Progs. have been sent to the Dist. Surgn, who with no doubt have taken care that his very suspicious conduct is duly recorded against him.

There remain the Hr. Asst. Magte (Mr. Oldfield) & the Supt of Police (Mr. Prendergast.)

Mr. Oldfield, it is submitted, appears to have taken the matter very quietly, & should be asked for an explanation in reply to the Sessions Courts remarks. His deposition is worthy of perusal & is marked with red tape.

The L.G's letter states the W case with reference to Mr. Prendergast in a way that cannot be improved upon. Mr. P's explanation is mainly an argument in defence of the accused & convicted constable.

Mr. Hammick considers Mr. Prendergast a good Police officer in many ways & it is probably for this reason that he only recommends a censure.

I am not sure as to this. Let the proper procedure be carefully followed - or we shall fall into difficulty, when Mr. P. appeals.

W

Whose performance of this duty the Supt. has had previous good reason to complain - I think it would be more than just if he were reduced to an assistantship, as Mr. Forbes suggests - the least that can be done is to reduce him from Supt. 4th grade, acting 3rd grade, on Rs 800 to Supt. 5th grade on Rs 600; & he should be placed at the bottom of the 5th grade & he will recover his position on the next occurrence of a vacancy.

I presume that in this case there is no need of a formal statement of charges. If there is, a necessary preliminary step will be to have definite charges framed & answered.

As Mr. Oldfield, it is necessary to read his deposition & appreciate his entire indifference of this serious case, which occurred almost in his sight - He should be called on for explanation.

The D.M. Mr. Atkinson should also be called on to explain his inaction both when Mr. Prendergast's diary passed through his hands, and when the Sessions judgment & proceedings reached him. On the first occasion, he should have seen that action steps were taken to bring the offenders to justice. If, in the hurry of business, he forgot the matter as soon as the diary passed out of his hands, after which there was nothing to remind him of it, it was all the more incumbent on him on the second occasion to call Mr. Oldfield's explanation & to bring the matter to the notice of both the case & against that officer, who remained his immediate subordinate - before whom the proceedings &c. he did nothing at all. Those must have been evident that charges & sentences on all those made by the Sessions J. against Mr. O. could not be allowed to pass without notice. Either Mr. O. was answering of the censure of both or the charges were unfounded & the Sessions J. should have been called on to withdraw them.

It would be well to ascertain what record, if any, has been made against the Nugwid Apothecary

BS

FOR ORDERS.

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BS

[G / 25] 600—23-7-95.

16

Mr. P's work has already been very severely commented upon, however in G.O. ~~DEPARTMENT.~~ 2168 24.10.95 before that ~~G. No.~~ and ~~again~~ in G.O. 2303. 22.9.94

The L.G. does not report whether any action has been taken against the S.H.O. of Nugwid under secs. 201. 202. & 203 I.P.C. (causing disappearance of evidence of an offence; omitting to give information of offence; and giving false information about an offence) as the Sessions Court in para. 3. of its Progs. hoped would be taken.

W 2/9/96

H.H.

Mr. Prendergast's conduct seems to deserve more than a censure.

It might be a slight palliation of Mr. Prendergast's action in summarily dismissing these poor Yerkulas from his presence if he had been able to show that he had taken some

Mr. Prendergast's conduct was such as to call for punishment. ~~FOR ORDERS.~~ It would be wrong to press it very much into a matter of censure. He may not have been "callous" when the first complaint was made as he did not realize its importance, but it was such that he ought to have made further inquiries & ascertained how important it was. No Police Officer who was fit for his work would have been so easily satisfied as he was. His subsequent conduct in the case was very faulty as pointed out by Mr. H. The records of his inquiries were certainly not much "personal" records as he might take away from the district, & he obviously ought to have had them with him when he came to give evidence before the Sessions Court. I agree, too, with Mr. Forbes that the Weekly Reports ought not to be taken away from the district but I am not sure what old he ordered in

17

pains to ascertain — although unsuccessfully — what their complaint really was; but he did not do so or make what can be regarded as the slightest attempt to do so. He admits that he sent them away after putting to a couple of words a couple of questions of the vaguest import, which, he must well know, were utterly inadequate to discover whether their complaint related to an atrocious* murder or to an everyday assault.

A nation's appeal to the European officer in the belief that he will get a fair hearing & even handed justice is the mainstay of our administration; & it is impossible lightly to pass over conduct which w? weaken his faith in the efficacy of that appeal. This apart altogether from the fact that Mr. Rendsparks' neglect, if not very seriously endangered the bringing to justice those that were guilty of the outrage.

Kustna Torture

Case

this matter & I will ask Mr. Hammick about it. Mr. Rundsparck did he reduced to grade. Whether he did

FOR ORDERS.

The point at the bottom of the 5th Grade, rank is lone 10 places, I am not to talk. It will be a very heavy punishment indeed. Perhaps he might have the 3d place in the 5th Grade I don't think there is any need for framing formal charges &c.

As for Mr. Oldfield, the papers seem to show conclusively that he did not act as a Divisional Mag

*"Kotlu" is a word of the weakest significance — especially if accompanied by the intensive Veyuta —

WS

did have done. The S.I. said in his Pro of the 16th Sept 1895 that his conduct was "disgraceful" & "inexcusable" & that he had not "got to grips with his duties & his grave responsibilities as a Dist. Mag", & that it was "high time that he did so." He also said that the S.H.O. ought to be prosecuted for certain offences. The Dt. Mag. must have taken some action on this. Let us call on him for a report, and ask the communications on this subject he may have received from Mr. O. We shall then be in a position to deal with Mr. O. direct

18

If it is important (as in these circumstances now of Mr. O. seemed before the end of 1894 it may have come to our notice through a passage in the Vernacular newspapers in Dec 1895 this alone is enough to show that Mr. Rundsparck's conduct was wrong.

J.G.
31/12/96.

All this is most true. Mr. Hammick, I hope, must do us the justice to see that the responsible positions of Magistrate & Police are better understood in future — they should (& will) be told so. It is not the first time the Police & Magistracy have been united on the Magisterial bench, & I trust it will not be the last. There was a time (only a few years ago, which Mr. Carmichael brought to notice) of the Police reporting on the Magistracy, instead of the Magistracy on the Police! Things may be a little better now than they were then, but there is evidently room for further amendment.

WS

4 Further matters against Mr P. are (b) (c) (d) (e) of Mr. Hammick's letter — failure to investigate, report & register the crime — Mr Hammick also fully with these points. Mr P. did report the case in his confidential weekly diary to the I.G. before after making a preliminary inquiry on which he concluded the case was false, but after receiving Mr. Cowan's medical report, which must have shown how serious the matter was, he appears made no further investigation or any report to the Magte. No admissible explanation of this most grave neglect is offered: — see para 8 of Mr. Hammick's letter.

5 The neglect to report the matter to the Magte is only an indication of what is, I think, becoming very manifest of late years; the tendency on the part of the police to regard themselves as a separate dept., acting more or less independently, & with distinct responsibilities. The liabilities with which the police were invested by Sir Wm Robinson were of an entirely different tendency. The police were to be the direct assts of the magistracy, working in

subordinate to them in all matters of criminal investigation & criminal information. We wd have considered it inconceivable that a police officer shd have made a departmental inquiry or any other sort of inquiry into a grave matter of this sort without reporting every step of it to the Divisional or District Magte. Down to the close of Col. Hearn's administration this was the well understood relation of the two. It is still theoretically the relation that shd subsist: but since Col. Hearn's time the separation has been, it appears to me, becoming wider. In Tinnivelly I found that it was regarded as a sort of favor that S/Supt. perused the confidential weekly diaries after returns from the D.S. & I.S.; & I was not able to get it understood that they shd invariably be seen by me, even where the D.S. or I.S. had made no remarks. In Chingleput I found that the Supt. of Police (Swan) resented my calling on him for reports or information by endorst on magisterial Calendars instead of by a formal letter! Of course Mr. Prendergast's conduct all through appears to me to be most reprehensible. There is no doubt a strong feeling among police officers that they should screen their men as much as possible - but if they are detected in so doing, and I hold that Mr. P. is in this position, I think it is only right that Govt should make a serious example. Any intelligent man on being approached by a noisy crowd ought to have no difficulty in making out what the disturbance is all about, if he only knows the language. Now Mr. P. talks Telegu like a native, and there is no excuse for his not having grasped the situation on the spot: his subsequent conduct was as bad - and he appears all through to have avoided sifting the matter to the bottom, as he should have done. He should I consider be degraded as the hon. Mr. Pelly proposes - and the points on wh. he has been held guilty shd be clearly stated in the order.

W
6 Mar

I soon disabused him of this; but it led to considerable friction. It showed however, how much the Police misapprehended their position. In other parts of India such difficulties do never arise

6 In the present case the Dist. Magte (Mr. Atkinson) saw the weekly diary when it passed thro' him on its way to the D.S., but as owing to the practice which I have referred, it did not return through him he had no special means of recalling the case, unless he made a note of it as he perused it; & he did not see Col Forbes' remark. Considering the views taken of this weekly diary, its submission thro' the D. Magte, did not exonerate the Supt from making a special report to the Dis. Magte or the D. Magte or both. Still this is there any excuse for his not continuing the investigation & reporting the case under the Code for the

orders of a Magte. And by not returning the Weekly diary (vide para. 16) he kept the D.S.P. & the S.S. – especially the latter; ignorant of its further history. This was also a most serious omission.

With reference to Mr Hammicke's para. 7 it shd be distinctly laid down that a special report shd invariably be submitted to the Div. Magte & the Dt Magte in every case of alleged police torture, or of gross misconduct on their part. And Mr H. has apparently now ordered this to be done in future (para. 11)

The carrying away of the records of the depart. injuring is also significant of the opinion wh the Police are apt to entertain of their independent position. Mr Hammicke mentions (para. 10) that a Supt is allowed to carry off not only his note book, which is probably unobjectionable, but his "Weekly Diaries"! This is a fact of which I was ignorant. The Weekly Diaries give a confidential history of the crime of the district with the remarks of the Dist Supt the D.S.P. & the S.S., & to carry these out of the district & regard them as private property – seems to be absurd! If there is any objection to a Supt reading how his predecessor's admn was castigated or applauded by the Officers named, the Diaries may be purged with the Dist Magte or

This practice should be stopped some all diaries now in possession of Supts serving in districts other than those in which they were originally dispatched should be returned to the Supts of the latter districts. I cannot see any reason why the Supts should not have charge their predecessor's diaries.

It certainly looks wrong – but I agree with the hon. Mr. Grose that before anything is done, we should consult the I.G. W

a Supt. leaving the dist.

9 With regard to the communication to the Subsupte of Gunnadaram re Mr of Mr Connor, the Apothecary, it was doubtless improper: but I dont think he had any ulterior motive. He appears to have meant no more than that the discrepancies between the medical experts shd be carefully examined. But it was open to misconstruction.

10 Having regard to the whole history of Mr P's connection with this case, the least mark of the Govts disapprobation can, it is submitted, be degradation to an Asst Supt.

The same remarks made by Mr Forbes as to European officers receiving complaints from natives apply as much to Mr Oldfield as to Mr Prendergast. Indeed Mr O. appears to have behaved the worse of the two – for from Mr Hammetts judgment, Mr O. appears to have understood from these poor people quite plainly that the police had beaten their relative to death – and then shuffled out of it, by passing them on to the Supt of Police. If the Magistrates are going to be so supine

11 With regard to Mr Oldfield, he was Head Asst Magte in charge of the Division. He had about 4 years service at the time. Mr P. was not, quoad this matter, in any sense his senior. The responsibility was in fact on the Head Asts shoulders as being Divisional Magte. However the main fault

Kistna Police torture c

H.H. & case

This was only a part of his apathy & indifference all through

BS

in their supervision of the Police, it is no wonder that the relations between them have assumed the unsatisfactory condition as stated by Mr. Forbes.

He must be called upon to explain all that is put forward against him.

I am at a loss to understand why Mr. Atkinson never came up to Govt. with this report of the District Judge. It is a matter of great regret that such bad cases should have to be brought to our notice by vernacular papers. W

I think his explanation should be called for. BS

in Mr. Oldfield was his neglect to pass orders on the Inspectors report of 10th Nov. On his receiving that report, he had no further excuse of ignorance: and it became his clear duty to control & superintend the investigation thenceforwards. His conduct in neglecting to do so is "absolutely inexcusable" as the Judge says. There is no doubt the plea of youth & inexperience And it is difficult to say how he ought be dealt with. No special explanation has been taken from him: but if his evidence before the Sessions Court & the testimony of the records may be considered sufficient without further reference.

1. The I.G. may be asked whether any steps are taken against the [illegible] S.H.O of Nuzvid

2. He may be asked to deal with the Civil apothecary of Nuzvid. He will be able to say whether his report is possibly the result of an honest or a competent man.

I should rejoice if this man could be run in. There are so many complaints of Police torture - & so few proofs - that when we get a clear case, we ought to make an example. W.

BS 19/2/96 JS

W 6 Mar

8.0 691 7-4-96

S.F. 17.2.6

R9/3

This should be confidential (at any rate for the present) 5/3

[G. 24.] 200—5-10-95.

Judicial DEPARTMENT.

Papers to be read in proceedings:— 24 Confidential

Again G.O., dated 6th December 1895, No. 2530-J 2

Again G.O., dated 189 , No.

Current No. 5911 of 1895, dated 14-12, from I. G. of Police

" " " 189 , " , "

" " " 189 , " , "

ORDER. 7th april 1896 No. 691.

In the order read above the Govt. called upon the I.G. of Police to report the true facts of an alleged case of torture of a man of the wandering Erukala caste, by the Police of Nuzvid, Kistna District. The above letter is the Inspector General's reply.

2. With this letter are enclosed the judgment and record in Kistna Session case No. 24 of 1895 the Proceedings of Mr. Haworth, d. 11th/12th Sept. 95, the Sessions Judge, and the explanation which Mr. Prendergast, the then Superintendent of Police, furnished to the Inspector General with regard to his conduct in the matter. These documents have been carefully considered by His Excellency the Governor in Council and it appears to the Government that serious notice of their conduct in the case of both the Superintendent of Police and Mr. Oldfield, the Head Asst Magistrate at Bezwada, is called for.

3. The main charges against Mr as embodied in the Proceedings dated 16

~~16th September 1895~~ of ~~the Kistna~~ Mr Hammett
~~Sessions Judge~~, to whom the Govt. is ~~much~~ indebted for his thorough investigation of the matter, may be thus summarized:-

(a) that he showed great callousness in that when the relations of the deceased Erukala made a complaint to him at Nuzvid on the 6th November 1894 that the Police had ill treated the deceased, he took no notice beyond referring them to the magistracy:

(b) that when he was informed of the deceased's death he took no steps to prosecute the accused members of the police force or to report on the case to the Magistrate:

(c) that he never registered the case as a crime at any station:

(d) that he carried away with him, when he left the District, instead of leaving them in the Superintendent's Office, the records of his enquiry into the case:

(e) that he never sent to the Divisional Magistrate at the close of his enquiry any final report on the case: and

(f) ~~that he~~ improper order to the Gunnavaram Sub Magistrate on the 20th November in connection with the case.

4. With regard to the last charge, the Govt. is willing to believe that Mr. Prendergast was not actuated by any improper motive and only meant to call the attention of the Magistrate in view of the discrepancies that existed, to the necessity of a careful examination of the Apothecary. The language in which the memo. was couched was, however, open to misinterpretation and should not have been used.

5. With regard to the other charges embodied in the Proceedings of the Judge, the Govt. has very carefully considered Mr. Prendergast's explanation dated the 17th October 1895 and furnished to the Inspector General of Police, but before passing the final orders, which may involve him in serious consequences, the Govt. will give him an opportunity of submitting any further explanation which he may desire to offer. In the view of Govt. the gravamen of the charges is that Mr. Prendergast, if he cannot be accused of personal callousness, exhibited throughout the case the most highly culpable indifference to the performance of the plain duties of his office. The nature and circumstances of the first complaint made to him were such that no Superintendent of Police alive to his responsibilities ought to have been satisfied without taking pains to ascertain fully and immediately the real character of the accusation . Further, when he did know that a man had been killed and that the charge, whether true or false, was that the deceased had come by his death at the hands of the police,

Mr. Prendergast, beyond making a departmental inquiry which was never completed, neglected to take any steps to prosecute the constables implicated, being equally inactive even when later he had the result of the postmortem examination before him; nor did he ever report the case for the orders of the Magistrate. The particular faults of procedure have been already summarized; but to these may be added the neglect to return to the Inspector General, who had refrained from endorsing the Superintendent's opinion as to the falsity of the case, a reply to the question noted on the ~~charge~~ diary for the week ending the 10th Novr. 1894.

6. The Govt. observes that the District Magistrate, Mr. Atkinson, appears to have taken no action of any kind in the matter either when Mr. Prendergast's diaries referring to the case passed through his hands, or when he received the judgment and Proceedings of the Sessions Court in the case. On the first occasion he should have seen that active steps were taken to bring the offenders to justice. If in the press of business the matter passed out of his mind when the Superintendent's diary had left his hands, after which there was nothing to remind him of the case, it was all the more incumbent on him on the second occasion to bring the matter to the notice of Government. It should have been evident to him that charges so serious as those which were made by the Sessions Judge against Mr. Oldfield and Mr. ~~Pren~~

Prendergast could not be allowed to pass without notice. Either these officers were deserving of the censure of Govt., or the charges were unfounded and the Sessions Judge should have been called upon to withdraw them. In either ~~case~~ alternative the Govt. should have been informed and not left, as it has been, to learn of the case from outside sources. The District Magistrate will accordingly be now requested to report what, if any, action he took in the matter and the reason why he neglected to bring the case ~~was not brought~~ to the notice of Govt.

7. The District Magistrate will also be requested to obtain and submit to Govt. with his remarks and copies of any correspondence which may have passed between him and Mr. Oldfield on the subject, an explanation from ~~Mr. Oldfield~~ that officer upon the following points:—

(a) Why he took no notice of the complaint of the Erukalas that their relative had been killed by the Police which was made to him in person at Nuzvid in November 1894 ?

(b) Why, being the responsible Divl. Magistrate, he did not himself assume cognizance of the case or take steps to ascertain for certain whether the Superintendent of Police would enquire into and report upon the case?

(c) Why, when he received no report from the Superintendent, he neglected to cause an enquiry to be made into the case ?

(d) Why he permitted several months to elapse before the formal preliminary

Kistna Torture case

N.L.

enquiry into the case was undertaken by a Magistrate ? Upon receipt of this explanation Mr. Oldfield's conduct will be dealt with.

8. The Inspector General of Police does not state in his report whether any action was initiated against the Station House Officer of Nuzvid under sections 201, 202 and 203 I.P.C. as suggested in paragraph 3 of the Sessions Judge's Proceedings. Information on this point should be ~~fi~~ furnished.

HM

(From orders)

9. Finally, the Surgeon-General will be requested to report whether any thing has been done with reference to the Sessions Judge's remarks in regard to the conduct of the Civil Apothecary at Nuzvid.

~~The~~ The Surgeon-General should deal with him as the ~~case~~ circumstances may ~~be~~ require.

S.R.
23.2.6

Hy. Police
Dy. Kistna,
Surgeon General
Sessions Judge, Kistna.

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