

12
Jndrial (189) Department.

ORDINARY *mis*

G.O., No. 704

Confidential No. 39

DATED 3-5-99

[Despatch Abstract.]

The Police and the Magistracy

Stating that the Govt concurs in the views expressed by the Dy Inspector General of Police regarding the question as to how far Police officers can criticise the conduct of Magistrates in their Weekly Confidential Reports

No.	Department.	Date.	G.O.	No.	Dep.
FURTHER PAPERS.					
G.O.	No.	Department.	Date.	G.O.	No.

பாதுகாப்புப் பரிவு-1

செப்பனியவர் பெயர் : *S. Sankaranarayanan*

செப்பனியவரின் காத எடுத்தல் : 18.5.2006

கொள்வெட்ட நாள் : 21.7.2006

செப்பனியர் முடிந்த நாள் : *21.7.06*

சுபாபார்க்கம்
 2-ம்-கு. இ. பா. 7.
 கையொப்பம்

சுபாபார்க்கம்
 2-ம்-கு. இ. பா. 7.
 கையொப்பம்

சுபாபார்க்கம்
 2-ம்-கு. இ. பா. 7.
 கையொப்பம்

Confidential

22

Judicial (1899) Department.



CURRENT No. 1600

con c no 135

From

The District Magistrate
Vizagapatam

inst. No 988 dated 8th April 1899

Order

Referred to the Inspector
General of Police for
remarks.

Conf. Reg. No. 11 of 1899

(By order)

A. R. Kneapp.

Ag. Under Secretary.

Dated 1st April 1899

Received 8

Registered 8

Enclosures -

Spare copies

SUBJECT.

Submitting for the orders of Government
the question of how far it is permissible
or proper for an Assistant Superintendent
of Police in his weekly Confidential
report to criticise - unfavorably
or otherwise - the official conduct
of a Divisional Magistrate

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Confidential

Re. G. No. 11
Dis.

3C Judicial C No 1600
Conc No 135

VIZAGAPATAM COLLECTOR'S OFFICE,

Dated 1st April 1899.

FROM

W. O. HORNE, Esq.,

Collector, District Magistrate

Vizagapatam District.

To

The Chief SECRETARY TO GOVERNMENT,

Judicial DEPARTMENT,

Madras.

SIR,

I have the honour to refer for the orders of Government the question of how far it is permissible or proper for an Assistant Superintendent of Police in his weekly Confidential report to criticise - unfavourably or otherwise - the official conduct of a Divisional Magistrate.

2 The point has arisen in this way. In a recent weekly report one of the Assistant Superintendents of this District complained that the acting Head Assistant Magistrate had taken up a Complaint of extortion against a Constable without his knowledge. As the Head Assistant Magistrate was apparently wrong I merely remarked that if any Magistrate neglected the provisions of Section 72 Criminal Procedure Code the matter had only to be reported to be rectified. And ^{that} as it had not been reported this was the first I had heard of it. I also immediately issued a Circular drawing the attention of all

All magistrates to the Section in question. I have since ascertained that the mistake was merely due to the Head Assistant Magistrate's Magistral clerk. Further on however the Assistant Superintendent remarked that complaints against the Police were becoming frequent "owing to the readiness of the Head Assistant Magistrate to take them up." Against this I noted that the remark was improper, and the Inspector General and Deputy Inspector General were good enough to agree with me.

3. So far that was satisfactory. As, however the Assistant Superintendent's tone was critical all through the report, I noted at the end of it as follows:-

"I consider that criticism of a Divisional Magistrate by a Divisional Assistant Superintendent in his Confidential report is improper and request that steps be taken to discourage it. In the present case Mr —'s Complaint against Mr —, noted above, is unsubstantiated and incapable of Substantiation. If the Inspector General thinks otherwise, and if this is repeated, I shall refer the question to Government. The line must be drawn somewhere, and if the Assistant Superintendent is to be allowed the position of a Confidential Critic of the Divisional magistracy it follows that it will be equally proper for him to submit through me expressions of dissatisfaction with my own procedure and administration when they may

Strange that
readiness to
entertain a
complaint
should be
regarded as
any thing
a virtue

may not open to meet with his approval.
H.C.

4. On this the remark of the acting Deputy Inspector General is brief and clear. "I do not agree with the District Magistrate that officers are debarred from making any criticisms on the Conduct of magistrates in their Confidential reports to the Inspector General."

5. The acting Inspector General remarks "The District Magistrate cannot put himself on a level with one of his young assistants. The two offices of District Magistrate and Head Assistant Magistrate differ widely. Of course it would be highly improper for a district police officer to criticise adversely the procedure of a District Magistrate in a report passed through the latter's hands, but I can see no objection to an Assistant Superintendent criticising within bounds any improper procedure he may meet with in the course of his official duty on the part of the District Magistrates' Subordinates." The acting Inspector General then proceeds himself to further criticise the procedure of the Head Assistant Magistrate.

6. I cannot consider the Inspector General's decision satisfactory, and point is added to its deficiencies and to my Complaint by the acting Deputy Inspector General's remark against the sentence in which the omission to comply with Section 72 Criminal Procedure Code is noticed by the Assistant Superintendent. That is as follows "The Magistrate ought to have informed

ignorance." Seeing that the young officer in question has been thought fit by Government for his position, and as I am perfectly satisfied with him, it is not I think for the Deputy Inspector General to animadvert upon his youth, but the Inspector General passed over the remark without reproof and it will go back to the Assistant Superintendent to confirm him in his attitude.

7. In the Police order it is laid down that the District Superintendent should inform the District Magistrate Confidentially of certain matters relating to the procedure of the Subordinate magistracy, but I think that, even if Superintendent includes Assistant Superintendent, Subordinate magistracy does not include Divisional magistrates of the Covenanted Service. I also think that, even for such Confidential Communications as the Police orders prescribe, the weekly report is not the proper place.

That report is addressed to the Inspector General and not to the District Magistrate, and I venture to submit that the Inspector General is not the person to whom reports against the magistracy should be made.

Although the present acting Inspector General apparently considers that he has to a certain extent powers of rebuke and censure over "young Assistants", he has no control over even the Subordinate magistracy and may well leave them to their proper head - the District Magistrate. So far as the Subordinate magistracy is concerned I should not

not probably, as a matter of fact, object when it comes to Divisional magistrates be criticised the District Magistrate, who forwards the report, is given the alternative of either saying nothing, in which case he appears perhaps wrongly - to endorse the remarks against his own subordinate, or of defending him and submitting his defence to the approval or dissent of the Deputy Inspector General and Inspector General, officers to whom the District Magistrate should not I submit be called upon to justify his conduct or opinions. It may well happen for instance that the Inspector General is of the same service as and junior to the District Magistrate, in which case some District Magistrates might object to be instructed in the relations, for instance, between themselves and their Head Assistants.

8. The remarks which have led to the above reference are doubtless of no great importance in themselves and I regret to trouble the Government with such a petty squabble, but it is a question of principle and as the acting Inspector General dissents from the position which I have taken with regard to it, and the acting Deputy Inspector General has by a reference to the Magistrate's age, made the Assistant Superintendent's remarks more offensive I think it is better to settle the question at once. I may remark that during the three years for which I have been District Magistrate

Magistrates and Police officers in the District have been more than harmonious, and it is in order to continue this and to avoid the friction which I foresee that I have made this protest against the innovation introduced by the lately arrived Assistant Superintendent and Deputy Inspector General, supported by the acting Inspector General.

I have the honour to be
Sir
Your most obedient servant
W. Verne
District Magistrate

No. 0-49

6c
Ind. 2784
Cor. 2. 153
Confidential

DEPARTMENT

CHIEF OFFICE OF THE INSPECTOR GENERAL OF POLICE,

No. *1589*

Madras, *19th* April 1899.

From

W. J. A. Sullivan Esquire,
M. HAMMICK, Esq., I.C.S.,

ag. INSPECTOR-GENERAL OF POLICE,

Madras,

To

THE Chief Secretary to Government,
Pottacammund.

SIR,

Enclosures.

With reference to endorsement No. 988 dated 8th instant on Current No. 1600 from the District Magistrate, Vizagapatnam, ^{Enc. e. 135} I have the honour to submit the following remarks.
2. The Weekly Report of the Assistant Superintendent of Police, Narsapatnam, dated 18 March 1899, which has given rise to the present correspondence, is enclosed. I will leave this document with its various remarks and counter-remarks to speak for itself, and will not needlessly take up the time of Government by quoting and commenting upon each in detail.

3. The only remarks to which as far as I can see, any objection can be taken are:-

(1) The Assistant Superintendent's remark "There seem to have been a great number of cases against the Police in this Sub-Division perhaps owing to the readiness of the Head Assistant Magistrate to take them up."

(2) The Acting Deputy Inspector General's remark that "He (the Head Assistant Magistrate)"

Magistrate, is very young and probably acted through ignorance".

Now as regards (i) the Government will observe that both the Acting Deputy Inspector-General and I checked the Assistant Superintendent, and pointed out that the remark should not have been made;

As regards (ii) the reference to the Assistant Magistrate's youth was doubtless merely a slip, which I see the Acting Deputy Inspector-General noticed and corrected before returning the Weekly Report to the Assistant Superintendent, as the words "very young" have been scored out. But surely this small slip is an insufficient cause for Mr. Horne's lengthy protest, and when he goes on to remark that "the Acting Deputy Inspector-General has by a reference to the Magistrate's age made the Assistant Superintendent's remarks more offensive" (the italics are mine) it seems to me that the District Magistrate has imputed to the Deputy Inspector-General a course of action never for one moment contemplated by this officer.

5. Turning, however, from the personal aspect of the question to the general principle, so far it is permissible for Assistant Superintendents or for the matter of that for Superintendents to criticise the official conduct of the magistracy in their Weekly Reports, it appears to me that this is a matter in which no hard line can be laid down.

Assistant

7c
6. Assistant Superintendents should certainly not be encouraged to criticise too freely the proceedings of their Divisional Magistrates - their relations to them being somewhat similar to those of the District Magistrate and Superintendent, but as a matter of fact, I have not noticed any undue tendency on their part in this direction. Again the Weekly Report should certainly not be made the channel for any comments upon the District Magistrate as he is the head of the District and the Weekly Report (Mr. Horne thinks otherwise) is written as much for his information as for that of the Inspector-General of Police.

7. But, to debar police officers absolutely from the right of passing any remarks upon the conduct of the Magistrates including Divisional Magistrates of the Covenantal Service, would, I think, rob the Weekly Report of a great part of its value. All depends upon the tone and spirit in which the criticism is made and the circumstances which have given rise to it. It is far better that small differences of opinion on procedure and the like should be discussed and settled through the medium of this Confidential Weekly Report than through public letters passing through an office.

8. For these reasons, I cannot agree with the District Magistrate that any special orders of Government are called for in this matter and would venture to suggest that the suppression of improper criticism by one junior officer of another's action may well

let

as heretofore, in the hands of their District
as in which Category I of course include
but magistrates.

I have the honour to be,
Sir,
Your most Obedt Servant,

J. H. Sullivan
Ag. Supt Genl of Police.

C 27-4-99
8C
JUDICIAL (1899) Department.

CURRENT No. 1784

(This course
will not be
printed W.)
No 104 of 3-5-99
[The Govt concurs in the views
expressed in paras 5 to 8 of the
Ag. S. G. letter, copy of which
will be communicated to the
Dist Master of Verag. with
reference to this letter first
read above]
From 26-4-99
To Mr. Sullivan Esquire,
Ag. Supt Genl of Police,
Madras.
The question
raised in para
of
Do Mr. Sullivan Esquire
Ag. S. G. letter of 27th Nov 1898
with enclosure
GOVERNMENT OF MADRAS
21 APR 1899
No. 1589

In Orders

The letter explain themselves -

The remark about Mr. Wood

age which probably was the

direct cause of Mr. Horro

publish has been withdrawn -

The 1.6 letter is moderate

in enalizing - & it is submitted

that it is unnecessary to do

more than to communicate it

to Mr. Horro with the remark

that the matter is as a whole

Sat. thinks it best not to

lay down any hard & fast

rule. Any Mr. Supt. who

hangs on the words of propriety

in his reports will doubtless be promptly checked.

Dated 19th April/99.

Received 21-4-99

Registered 22-4-99

Enclosures one &c No 160 refd.

Spare copies

SUBJECT.

Submitting remarks on the
question of how far police
officers can criticise the conduct
of magistrates in their Weekly
Reports.

17/4/99

9c
Receipt for a Registered Article.
registered article No. 928 addressed to—

Address—

Registration Clerk (initials)

Receipt for a Registered Article.
registered article No. 929 addressed to—

Address—

Registration Clerk (initials)

BACK PAPERS.

G.O.	No.	Department	Date

FURTHER PAPERS

G.O.	No.	Department.	Date

Receipt for

Registration makes transmission more secure; but the Post Office is not responsible for loss unless the article is insured. Currency notes or a part of a Currency note must be registered. Coin, jewels, &c., must be insured. An article may be insured up to Rs. 500 at a Branch Office and up to Rs. 1,000 at other offices. Postage and registration fee (2 annas) must be prepaid in stamps. Sender should write his name and address in lower left-hand corner of envelope. Acknowledgment of delivery of a registered letter or parcel can be obtained by sender on prepayment in stamps, or an attested copy of addressee's receipt can be obtained within six months on payment of 3 annas.

The public are recommended to use the cloth-lined registration envelopes available at every Post Office. These envelopes cover registration fee, but not postage.

Registration makes transmission more secure; but the Post Office is not responsible for loss unless the article is insured. Currency notes or a part of a Currency note must be registered. Coin, jewels, &c., must be insured. An article may be insured up to Rs. 500 at a Branch Office and up to Rs. 1,000 at other offices. Postage and registration fee (2 annas) must be prepaid in stamps. Sender should write his name and address in lower left-hand corner of envelope. Acknowledgment of delivery of a registered letter or parcel can be obtained by sender on prepayment in stamps, or an attested copy of addressee's receipt can be obtained within six months on payment of 3 annas.

The public are recommended to use the cloth-lined registration envelopes available at every Post Office. These envelopes cover registration fee, but not postage.