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(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.

522

Press

Mis.

Dated

1-4-

1873.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
1st April 1873.*

No. 5. Read the following letter from the Government Pleader, to the Chief Secretary to Government, Fort St. George, dated Madras, 15th March 1873, No. 45:—

I have the honour to inform you that I have received communications from the District Magistrates of Trichinopoly, Mangalore, and South Arcot, respectively, requesting me to appear in support of the convictions in three criminal appeals pending before the High Court, and to request instructions whether I shall appear accordingly. The nature of the cases is as follows.

2. The case from Trichinopoly is the notorious Kilianullur case, in which a Police Inspector and others were convicted of getting up a false charge of dacoity against certain persons. There are two appeals in this case (Criminal Regular Appeals, Nos. 4 and 114 of 1873), one by the Police Inspector and the other by the other prisoners. The Acting District Magistrate wishes that I should appear, "as the case is one of great importance, and it is very desirable that the sentence passed should not be interfered with except on very substantial grounds."

3. The Mangalore case (Criminal Regular Appeal, No. 39 of 1873) is one of forgery and fabrication of false evidence, in which a Clerk in the Registration Office is one of the prisoners.

4. The case from South Arcot (Criminal Regular Appeal, No. 49 of 1873) is also one of forgery of a somewhat complicated nature.

5. I also request instructions as to the course to be pursued, in future, on receipt of such communications from District Magistrates. Hitherto the practice has been for the Magistrates to refer important cases in which they wished the prosecution to be represented before the High Court on appeal for the orders of Government, who thereupon, if thought necessary, instructed me to appear; or, in cases in which the Court wished to hear counsel for the prosecution, notice to appear would be sent to me by the Registrar. The new Criminal Procedure Code directs (Section 279) that, when an appeal is admitted, the High Court "shall give notice to the Magistrate of the District who shall inform, if necessary, the Public Prosecutor, Government Pleader, or other officer empowered by Government on that behalf, of the day on which such appeal will be heard." In consequence of this provision, I believe it is not the intention of the High Court, in future, to give me notice to appear in any cases, but to leave it to the Magistrates to instruct me to appear, if thought necessary, and the Magistrates appear to consider this section as dispensing with the necessity for obtaining the orders of Government in each case for my appearing at the hearing of criminal appeals. I would wish to know, therefore, whether I am to act upon the instructions of the Magistrates in such cases without further reference to Government.

G. O., Judicial Department, dated 17th December 1869, No. 2004.

If so, some modification of the Order of Government as to payment of my fees in criminal appeals will be necessary.

On the other hand if it is the wish of Government that I should not appear without their sanction in each case, I request that Magistrates may be directed to refer cases, in which they think it desirable that I should appear, for the orders of Government, as before, communicating with me direct with a view to obtaining an adjournment when necessary, pending the reference to Government. It is much more convenient for the reference to Govern-

Proceedings of the Madras Government, Judicial Department,
1st April 1873.

ment to be made by the Magistrate who knows the particulars of the case, than by me who have to ascertain them for the first time in the Appellate Court, as in the present case. I would also suggest that, if I am to appear on instructions from the District Magistrates, they should furnish me at once with a copy of the Sessions Court Calendar, and, if possible, with copies of the depositions, as it may sometimes be difficult to obtain them from the High Court in time.

No. 6. ORDER THEREON, 1st April 1873, No. 522.

The Government Pleader will appear in the cases in question, and will deal with similar references pending the issue of a general order on the subject, which will shortly appear.

(True Extract.)

Chief Secretary

To the Government Pleader.
To all Magistrates.

No 45

5.

Madras
15th March 1873

From J. W. Handley Esq
Government Pleader

To The Honble W. H. Jackson
Chief Sec^y to Government,
Madras

I have the honor to inform you that I have received Communications from the District Magistrates of Trichinopoly, Mangalore & South Arcot respectively requesting me to appear in support of the ~~Communications~~ Criminal appeals pending before the High Court, & to request instructions whether I shall appear accordingly. The nature of the Cases is as follows—

2. The Case from Trichinopoly is the notorious Kiliamuller Case in which a Police Inspector & others were convicted of getting up a false charge of dacoity against certain persons. There are two appeals in this Case (Crim. Reg. app. Nos 4 & 114 of 1873) one by the Police Inspector & the other by the other prisoners. The acting District Magistrate wishes that I should appear "as the Case is one of great importance & it is very desirable that the sentence passed should not be interfered with"

except

Subt. of 1873 ~~murders~~

JUDICIAL.

To

THE GOVERNMENT PLEADER,

Trichinopoly, Mangalore, &c.

Dated April, 1st.

Recd.

Enc.

G. O., 1st April 1873, No. 522.

APRIL
Nos. 5-6.

Authorizing the Government Pleader to appear before the High Court in support of the convictions in the three criminal appeals from Trichinopoly, Mangalore, and South Arcot, and to deal with similar references pending the issue of a General order on the subject.

except on very substantial grounds."

3 The Mangalore Case (Cr. Reg. ap. N^o 39 of 1873) is one of forgery and fabrication of false evidence, in which a Clerk in the Registration Office is one of the prisoners.

4 The Case from South Arcot (Cr. Reg. ap. N^o 49 of 1873) is also one of forgery of a somewhat complicated nature.

5 I also request instructions as to the course to be pursued in future on receipt of such Communications from District Magistrates. Hitherto the practice has been for the Magistrates to refer important Cases in which they wished no prosecution to be commenced before the High Court on appeal for the Orders of Government, who thereupon, if thought necessary, instructed me to appear; or, in Cases in which the Court wished to hear Counsel for the prosecution, notice to appear would be sent to me by the Registrar. The new Criminal Procedure Code directs (Section 279) that when an appeal is admitted, the High Court "shall give notice to the Magistrate of the District who shall inform, if necessary, the Public Prosecutor, Government Pleader or other Officer empowered by Government on that behalf, of the day on which such appeal will

will be heard." In consequence of this provision, I believe it is not the intention of the High Court in future to give me notice to appear in any Cases, but to leave it to the Magistrates to instruct me to appear, if thought necessary, & the Magistrates appear to consider this action as dispensing with the necessity for obtaining the Orders of Government in each Case for my appearing at the hearing of Criminal appeals. I would wish to know therefore whether I am to act upon the instructions of the Magistrates in such Cases without further reference to Government. If so some modification of the ~~former~~ ^{present} ~~mode~~ ^{mode} ~~of~~ ^{of} ~~my~~ ^{my} ~~appearance~~ ^{appearance} as to payment of my fees in Criminal appeals will be necessary. On the other hand if it is the wish of Government that I should not appear without their sanction in each Case, I request that Magistrates may be directed to refer Cases in which they think it is desirable that I should appear, for the Orders of Government, as before, communicating with me direct with a view to obtaining an adjournment where necessary, pending the reference to Government. It is much more convenient for the reference to Government to be made by the Magistrate who knows the

L. J. S. C.
dated 17th Decr
1869
N^o 2054

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 who have to ascertain them for the
 first time in the appellate Court, as
 in the present Case. I would also
 suggest that, if I am to appear on
 instructions from the District Magis-
 trates, they should furnish me at once
 with a copy of the Supreme Court Calendar
 & if possible with Copies of the depositions
 as it may sometimes be difficult to
 obtain them from the High Court in
 time.

I have the honor to be
 Sir
 Your most obedient Servant
 J. W. Handley
 Government Pleader

From order

1891
 1st April 1893 No 522

Refer to the 20th
 appear in the case in question
 with that in the similar
 instances, but in the matter
 be present as in the matter
 of 20th April appear.

Spoke Pleader
 all magistrates
 1891
 1890

1891

13.12.17
8.9.27-18

Vol. 1 of 1873

Judicial
The Government Reader

April

1 April 1873 522

1873. 5. 6.

Authorizing the Govt. Reader to appear before the High Court in support of the convictions in the 3 Criminal appeals from Wellington, Mangalore, and South Africa, and to deal with similar references pending in the High Court.

Vol. 1 of 1873 Sept.

From
The Govt. Reader
to the Chief Justice
to Govt.
Dated 15.2 March 1873
Revenue - 14
No 115

Copy No 542.

Instructions from
District Magistrates
to appear in support
of convictions in
Criminal Appeals to
the High Court.
Requests instructions
for reference to
the High Court.

Should not do
this until we have
decided the new
stating them
This is a
copy of the
instructions from
the Govt. Reader to
the High Court in
support of the convictions
in the 3 Criminal
appeals from
Wellington, Mangalore,
and South Africa, and
to deal with similar
references pending
in the High Court.
The Govt. Reader
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