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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

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Not to be folded or roughly handled

Memo for orders

I. Summary Trials under Chap XVIII of the Code of Crim. Pro.

Pending Memoranda on this subject, heretofore made in the Secretariat, appear to have been lost or mislaid. We may therefore begin it all again.

2. The Madras is his - Every Magistrate of a District, has, by virtue of his office, power to try all the petty offences mentioned in Sect 222 of the Code, summarily, i.e. as a Police Magistrate in the Presidency towns &c.

3. By Section 29, Govt may give his power to Divisional Magistrates - i.e. Sub Collectors, Head Assistants & what are called "General Duty Deputy Collectors" of whom there is generally one in each district, in charge of a couple of talukas.

4. Govt may also give the power, by S. 223, to any Magistrate of the First Class.

5. May not a beginning be at once made by issuing an order under Sect 29, giving the power to all Divisional Magistrates. Afterwards it might be given, on the recommendation of the Dist Judge, to any experienced Assistant. The present application from Mr. Gaisbourn on behalf of Mr. Thomson may be laid aside, as it is a matter of detail.

Certainly. This was the intention of the Legislature & it will be given effect to. I will make this Mr. Gaisbourn's general & add that recommendation under Sec. 223 will be favorable.

The Divisional Magistrate,
 & those who may be as Mr. Thomson
 recommended, are first his left hand & right
 class Magistrates, temporary promotion as heads of
 in Salem.

I have been much dis II. There is another subject which may properly
 affect the important in- be disposed of at the same time:—
 formation of the C.C.P. in the labora- Benches of Magistrates.
 tion of that work are active part. May not a beginning be made here?
 has not been availed of before this. I suggest it for every Municipal
 town, which has - as I believe they all
 have - a salaried Magistrate resident
 here. I don't think that should
 they are ready for consulting Benches
 of justice - which part - but we
 town has the requisite material
 & I will call the local provision
 action of having Magistrates to
 name a Bench for disposal of
 business under rules as for
 frequency of meeting etc, which they might
 be invited to suggest - But I am
 quite willing to issue rules without
 & 1 month's impr- and in
 a fine of 50 Rs. prison.

I agree: but it appears
 that legally the District
 S. 277-278-279-285-286.
 289-290-291-294.
 Sec. 323 Court-hurt
 352 Assault
 426 Mischief
 I think true

I have not seen the papers.

Under such a system, he must be
 broken down on cobble heaving his
 work. We had his before Govt. as a
 labor from the Magistrate of Tanjore, who
 showed how utterly overwhelmed his
 three native Subordinates were in the
 principal towns - Tanjore, Manas
 gudi & Nagapattinam, the three Muni-
 cipalities of the District.

In India all down his important but not difficult subject.
 have shown such Benches. I circulate Sir George Campbell's observations
 as recorded in the last Temple Annual
 Report - 1/6/4.
 Note. No expense will be incurred by Benches
 if the complaint will appear, on the Police
 will lay the information, before the salaried
 Magistrate - he will issue process & sit down
 the case for hearing before the Bench, which
 will meet on one day of the week for the
 disposal of all business that may come before
 it.
 If there was any reason for deciding the
 case earlier, as that the Magistrate was only a
 wayfarer, the salaried Magistrate at disposal of
 it, himself, under his ordinary procedure.

Magistrate under rules
 for all North Arcot & Ray
 District Magistrates
 are the 3 class
 Magistrates - and as
 I presume they
 can deal with all
 offences punishable with
 fine of 50 Rs a imprisonment
 for one month, and with
 others.
 If it were that the salaried
 Magistrate must be present
 before a Quorum? - if so,
 his work will not be much lightened.

Summary Trials.

Code of Criminal Procedure

For orders.

3✓

I took part in the preparation and discussion of the important sections relating to the Constitution and powers of Benchies of Magistrates, and I am strongly in favor of giving them in effect wherever it can be done.

The objects of the Legislature were not only to associate the people more fully in the administration of petty criminal justice, but also - perhaps mainly - to enable a safe extension of the Summary powers (Chapter XVIII C.P.C.) by associating Magistrates together on Benches of more than

than one ^{or} by associating
them with quasi associations
on the Bench, and it will
be observed very
considerable summary
powers are conferred
by Sections 224 & 225 on
Bench so constituted.

I would meet these
applications favorably
and on the basis on which
each Magistrate proposes
to constitute these Benches
respectively.

The Magistrate of
Salem simply wishes
to associate two or
more ~~official~~ Magistrates
together in order to secure
the fuller summary power
and relief from detailed
record &c. This Bench
will be an admirable
and absolutely safe
one. It will take all
the powers given by
Sections 51, 223, 224 & 225 C.P.C.
according

according to the circumstances
under which it sits, and
will dispose summarily
of a large mass of important
cases.

The Magistrate of
Canara proposes an
absolutely popular Bench,
- with very restricted power
chiefly to manage petty Town
Cases. The men he names
are well selected and
with powers so narrowed
that they can absolutely
do no harm, and will
be thus trained for higher
jurisdiction.

By starting these two
Benches the ~~system~~ will
be tried as it were at
both ends.

I have scarcely a doubt
that many of these applications
will shortly come up
when a more perfect
organization and system
may be given to the whole
thing. I would not press
the

the movement too much
at present, but would
encourage the establish-
ment of Magistrate
Benches when properly
recommended

1899 M

Letter from the District
Magistrate of South Borneo
27th April 1893. 1124/95.

Ordinary jurisdiction

Judicial Department

Memorandum.

The provisions of
the Code of Criminal
Procedure relating to Benches
of Magistrates are, as follows.

Section 50. "The Local Govern-
ment may direct, any two or
more Magistrates to sit together
as a bench, and may invest
such bench with the powers of
a Magistrate of the first, second
or third, class, and, direct it to
try such cases, or such classes of
cases, only, and within such
limits, as it thinks fit."

Section 51. "In the absence of
any special direction as to the
powers of any such bench, it shall

have

have the powers of a Magistrate of the highest class, to which any one of its members belongs, and who is present taking part in the proceedings."

section 52. "The Magistrate of the District may, subject to the general orders of the Local Government, make rules for the guidance of Magistrates, benches in his district."

"Such rules shall not be inconsistent with the provisions of this Act, and may deal with the following subjects:-

The classes of cases to be tried;
The times and places of sittings;
The constitution of the bench for conducting trials.

The mode of settling differences of opinion which may arise between the Magistrates in Session."

section 53. "The Magistrate of the District may, subject to the like orders, vary or amend, from

Summary jurisdiction

- viz (1) offences punishable with fine only or with imprisonment not exceeding six months, or with both - i.e. all summons cases
(2) offences relating to weights & measures
(3) - Hurt
(4) Theft where the value of the property stolen does not exceed 50 paise
(5) Receiving stolen property
(6) Mischief
(7) House trespass
(8) Criminal intimidation &
(9) abetment of, or attempt to commit any of the foregoing offences:

ss. 277-279 - offences affecting the public health, safety, convenience, decency & morals.

ss. 323-336 - Hurt

61
from time to time, any rules made by himself or by his predecessor under the last preceding section."

section 224. "The Local Government may invest any Bench of Magistrates invested with the powers of a Magistrate of the 1st class, with power to try summarily all, or any, of the offences mentioned in section two hundred and twenty two."

section 225. "The Local Government may invest any Bench of Magistrates invested with the powers of a Magistrate of the 2nd or 3rd class with power to try summarily all, or any of the following offences:

Offences coming within [⊕] sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334.

336, 341, 352, 426 & 447 of the Indian Penal Code, any offences against Municipal Acts, and the Conservancy clauses of Police Acts punishable with fine or with imprisonment not exceeding one month.

Section 227 "In cases, where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses nor the reasons for passing the judgment, nor draw up a formal charge, but he or they shall enter in, or register, to be kept for the purpose, the following particulars:-

- (a). The serial number;
- (b). The date of the commission of the offence.
- (c). The date of the report or complaint.
- (d). The name of the complainant.

(2)

s. 341 - wrongful restraint & wrongful confinement

s. 352. assault.

⁴⁴⁷
ss. 426, mischief.

* Madras Act III of 1871.

⊙ Act XXIV of 1859. s. 48.

⊙ Cases in which there is no appeal are petty cases in which a sentence of imprisonment not exceeding one month only, or of fine not exceeding 50 Rs. only, or of whipping only, is passed - and cases tried summarily by a District Magistrate, or a Magistrate or Bench of Magistrates invested with the powers of a Magistrate of the 1st Class, passes a sentence of imprisonment not exceeding 3 months only, or of fine not exceeding 200 Rs. only, or of whipping only. See Sections 273 & 274 of the Code.

* S. 222 "The Magistrate of the District may try the following offences in a summary way, and on conviction of the offender, may pass such sentence as may be lawfully inflicted under section 20 of this Code. [s. 20 prescribes the punitive powers of the several grades of Magistrates.]

(a) These offences are specified in the margin of the preceding sheet.

⊙ S. 223. "The Local Govt. may invest any Magistrate of the first Class with power to try summarily all or any of the offences mentioned in section 222. (This section is quoted above).

* S. 224 is quoted in the preceding sheet.

⊙ S. 225 is also quoted in the preceding sheet.

(e). The name, parentage and residence of the accused person. ✓

(f). The offence complained of is proved.

(g). The prisoner's plea.

(h). The finding, and, in the case of a conviction, a brief statement of the reasons therefor.

(i). The sentence, and

(j). The date on which the proceedings terminated.

Section 228. "If a Magistrate or Bench of Magistrates, acting

under section 222, 223, or 224,

passes a sentence of more than three months' imprison-

ment, or of fine exceeding 200 Rupees,

or if a Bench of Magistrates, acting under section 225, convicts any person,

such Magistrate or Bench of Magistrates shall, before passing sentence, record a

judgment.

judgment embodying the substance of the evidence on which the conviction was had, and also the particulars mentioned in s. 227.

+ ss. 227 & 228 are quoted above.

Such judgment shall be the only record in cases coming within this section.

Section 229. "Records made under section 227 and judgments recorded under section 228, shall be written by the presiding officer, either in English or in the language of the district in which the trial was held, or, by direction of the Court to which such presiding officer is immediately subordinate, in the language of the presiding officer."

Section 230. "The Local Government may authorize any Bench

Bench of Magistrates, empowered to try offences, mainly, to prepare the record or judgment by means of an officer of such Court, and the record or judgment so prepared shall be signed by each member of such Bench present conducting the proceedings."

2. It will be seen from the notifications in the Calcutta Gazette of the dates noted in the margin that in Bengal the power of appointing Benches of Magistrates has been pretty freely used; and that in the districts in which such Benches have been constituted, the Members of the Municipalities established there

+ sheets of the Gazette
herein inclosed.

1st Jan. 1873 (Calcutta
Gazette p. 120).

1st May 1873 (Calcutta
Gazette p. 662.)

there have all been appointed
Honorary Magistrates and
vested with powers of a
Magistrate of the 3rd class.

3. The Draft of Rules,
under section 52 of the Code,
proposed for Bengal, will
be found at page 119 of the
Calcutta Gazette of 15th
January 1873 (herewith sent.)

4. In this Presidency
there is only one Honorary
Magistrate - Mr. M. Brown
of Arjerakandy in Malabar.
The circumstances, under
which he was appointed,
are stated in the papers
recorded in Proceedings of
Govt., Ind. Dept., 11th Sept. 1865,
No 1315, and 12th Jan'y 1869, No 52.

* I infer this from the
Magistrate's letter. He
does not expressly
say so. Unless the
summary powers were
given - the advantages
he anticipates will not
be secured.

5. In order to
with a view to the foregoing
Minor Deiraults for
order for applications
from the Magistrate, please
Sanction to be respectively
for the appt. of Benchers
of Magistrates -
in Selam Town it is
proposed to constitute a
Bench of Special Magistrates
to act as a Quorum
of them. To deal summarily
in the Municipal & Town
cases.

The powers they could
exercise - under specially
decrees. could be those
of the highest powers Magistrate
present. but the summary
powers would have to be
specially conferred & enable
the Bench to exercise them
when the Magistrate of the District was
not on the Bench - as
these powers are not
inherent in any other

class of Magistrates - and
have not yet been enforced
by the Govt. on any individual
Magistrate. I think this
might be done with
advantage in many cases.

In the case of Canara. the
Magistrate proposes the appt. of
7 Honorary Magistrates of the
3rd Class - of whom 3 shall
form a Quorum. In the
proposed by Government the
cases specified in Sec. 225
of the Cr. Pro. Code shall include

Feeling Springs

Making a false alarm or serious

Rash driving or riding

Indiscreet conduct with respect

to Fire. Combustibles or

Explosive substances -

with respect to any animal

committing public nuisance

Selling of obscene books &c

Amusing others by obscene songs &c

Voluntarily causing hurt

or on provocation

Rashly or negligently endangering life &c

Wrongful restraint

Using criminal force without provocation

Committing mischief

Committing criminal trespass

and breaches of Municipal Acts

and Company clauses

of Police acts punishable

10✓
L.A. Fine. or Imprisonment
not exceeding one month.

Magistrates of 3rd Class can

Imprison for not exceeding
one month

Fine. not exceeding 50 Rs.

or both.

In Canara S. Magistrate 5th
has been instructed the powers of
the District Magistrate in cases
of simple assault & breach
of Municipal and Police
Acts. & excluding mischief
& Trespass. S. of this in the
questions of Civil & Cr.

I think it is very
advisable that the powers
of the Code should be the Govt.
& exercise of creating
Honorary Magistrates
Batches of Magistrates
and Summary jurisdiction
should not be left "dead
letters"

and I think that these
applications might be

admitted to the advantage
of the public and to the general
administration.

The Magistrates might be
directed to submit drafts
of the rules they would propose
before the appointments are
sanctioned.

I request orders.

31. July 73. 

Procs of Govt of Botocampo 21 July
1874 No. 1339.

S. 29. C. C. P.

It is the intention of H. E. Inf.

to confer on every Magt of a Division
of a District, exercising the powers of

Magt of the first class, the power of
Summary Trials which is vested in
the Magt of the Dist. by S. 222 C. C. P.
A Notice to that effect will immediately
be issued. 211. Further,

S. 223.

H. E. Inf. is prepared, on due grounds
shown, to invest any qualified Magt.
of the first class who is not in charge of a
Division of a District with the same powers.

3. Lastly, in view of giving relief to the
burdened Magistracy in Municipalities
lower, & to deriving benefit to the public in the
more expeditious disposal of certain
petty cases, and well as a mark of
distinction to numerous public spirited
individuals amongst the upper classes,
H. E. Inf. desires that Magts of Districts
will furnish the names of four or five
of the leading residents in every Municipi-
pality, who will generally, he supposes,
be members of the Municipal Commission,
as qualified and willing to be gazetted to be
Honorary Magistrates; — it being the
intention of H. E. Inf. to form a Bench

21 July 1874 - 1339

of Magistrates in every
Municipality - the quorum
to consist of two Honorary Magistrates
with a salaried Magistrate as President
and to invest every such Bench of
less than two with the powers of a

Magistrate of the first class to try summarily
offences coming within certain Sections
of the Indian Penal Code; and all
offences against Municipal Acts, and the
Ordinance offences against the Contaminated
clauses of the Public Act.

It is requested that the nomination of these
Honorary Magistrates may be submitted with all
practicable despatch.

5. Ordered that the following Notice be
published in the Fort St George Gazette.

Notice

Under the authority vested in him by
Section 29 of the Code of Criminal Procedure, the
Right Honorable the Judge in Civil is pleased to confer
on every Magistrate of a Division of a District,
exercising the powers of a Magistrate of the
first class, the power of "Summary Trials"
as is vested in the Magistrate of the District
by Sect 222 of the Code.

D.H.

2077-4.

To all Magistrates of Districts dated 24/7
Gazette 28/7

Not to exceed 50 Rs.
Fine exceeding 50 Rs.

11-12-66 ✓
7-12-69 ✓

101 50M339 JWC
2-7-74

28-5-22265 JWC
5/4/22-5 ✓