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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial

DEPARTMENT

G.O. No.	834	Press.
B.P. No.		Mis.
Dated 2 — 12 — 1877 T98		

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Not to be folded or roughly handled.

No. 1. ORDER THEREON, 2nd April 1877, No. 834.

With the view of giving effect to the Presidency Magistrates' Act, 1877 (which comes into force on the 1st April 1877), in the Town of Madras, the Governor in Council proceeds to pass orders in regard to the several matters as to which the action of the local Government is rendered necessary by the provisions of the Act.

2. *Constitution of Magisterial Divisions within the Town of Madras, and establishment of a Presidency Magistrate's Court for each Division.*—With reference to Section 7 of the Act, the notification, of which a draft is appended to the letter to the Government of India, dated 19th ultimo, No. 700, defining the extent of the Town of Madras, defining the extent of the Magistrate's Court for each division, will be published as soon as possible after the receipt, by this Government, of intimation to the effect that the Governor-General in Council has accorded his sanction to its issue, as required by law.

3. *Appointment of Chief Magistrate.*—Under Section 9, the Governor in Council resolves to appoint Major T. Weldon, Senior Magistrate of Police, to be Chief Magistrate for the Town of Madras.

4. *Officer to whom commitments for trial before High Court should be notified, and appointment of Crown Prosecutor to conduct public prosecutions.*—As to the action to be taken upon Section 89 (Clause 4) and Section 129, it is observed that it has been ruled by Government in their Proceedings of the 31st March 1874, No. 576, that the Crown Prosecutor shall appear in all Government prosecutions before the Town Magistrates, and conduct all but the most serious cases before the High Court. *Sending acting as the Advocate General.*

Section 4 of the Prisoners' Act V of 1871 the "Superintendent of Prisons for the Town of Madras" is the only officer in charge of the jails within the town, warrants for the execution of sentences of imprisonment or whipping should, under Section 183 of Act IV of 1877, be forwarded, with the accused persons, to that officer.

8. *Mode of inflicting the punishment of whipping.*—With regard to Section 188, which provides for the mode of inflicting the punishment of whipping, it is observed that the provisions of this section are identical with those of Section 10 of the Whipping Act No. VI of 1864, which section has been repealed by, and re-enacted in Section 311 of, the Code of Criminal Procedure; and that in their Proceedings of the 5th April 1864 (No. 423, paragraphs 1 and 2), the Government have issued the necessary orders as to the instrument to be used for the purpose of whipping and the part of the person on which the punishment should be inflicted. The Governor in Council desires that these orders shall be considered as orders made by the local Government under Section 188 of the Presidency Magistrates' Act, and that they be acted upon accordingly.

9. *Procedure if punishment of whipping be prevented.*—The Inspector-General of Jails will call the particular attention of the Superintendent of Prisons at Madras to Section 191 of the Act, which requires that "in any case in which, under Section 189, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it."

10. *Criminal Lunatics.*—Referring to Sections 201 to 204 inclusive of the Act, which relate to criminal lunatics, the Governor in Council observes that their provisions are similar to those contained in the Code of Criminal Procedure (Sections 431 to 434) and in the High Courts' Criminal Procedure Act (Sections 126 to 129). It will be sufficient to invite the attention of the Inspector-General of Jails and the Surgeon-General of the Indian Medical Department to these sections, in view to their requirements being attended to when the necessity for taking action upon them

(True Extract.)

D. F. CARMICHAEL,
Offg. Chief Secretary.

To the Presidency Magistrates, Madras,
with copies of the Orders quoted in paragraph 11.

- " Advocate-General.
- " Crown Prosecutor.
- " Government Solicitor.
- " Inspector-General of Jails.
- " Surgeon-General, Indian Medical Department.
- " Honorable the Judges of the High Court.
- " Inspector-General of Police.

(7)

(24)

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

26th April 1877, No. 1055.

Crown Prosecutor.

Read again:—

Proceedings of Government, dated 2nd April 1877, No. 834.

No. 167. ORDER THEREON, 26th April 1877, No. 1055.

It is observed that the effect of the order contained in paragraph 5 of the Proceedings of Government, dated 2nd instant, No. 834, directing the Crown Prosecutor to be a Public Prosecutor for the purposes and within the meaning of Sections 168, 173, and 181, of "The Presidency Magistrates' Act, 1877," will be to impose upon the Crown Prosecutor the following additional duties:—

(1.) Under Section 168. To present appeals to the High Court from orders of Presidency Magistrates directing the acquittal, dismissal, or discharge of accused persons, when directed by the Government to do so.

(2.) Under Section 173. To appear before the High Court, in support of the prosecution, in appeals preferred by persons convicted on trials held by the Presidency Magistrates, in cases where the prosecution was conducted by himself as Crown Prosecutor, and also in other cases where the persons so convicted may appeal by Counsel and the High Court may think it expedient that the conviction should be supported by Counsel.

(3.) Under Section 181. To appear before the High Court upon the hearing of applications made to it, under Section 47 of "The High Courts' Criminal Procedure Act, 1875," for the transfer to itself of cases from the Courts of Presidency Magistrates, on behalf of the Magistrate to whose decision or proceedings the application relates.

2. These duties were not contemplated when the appointment of Crown Prosecutor, on its present footing, was sanctioned by the Order of Government, dated 31st March 1874, No. 576. By that order all that the Crown Prosecutor was required

Sd/-
JUDICIAL.

THE PRESIDENCY MAGISTRATES

Secy. to the
Magistrates

26th April, 1877.

G.O., 2nd April 1877, No. 834.

APRIL
NO. 1.

Whereby Magistrates' Act—Orders passed
in the town of Madras.

to direct that, for every case in which that officer may be required to appear before the High Court as such Public Prosecutor, a fee of Rupees (30) thirty (being the same as that allowed to the Government Pleader in similar cases) shall be paid to him.

(True Extract.)

Assistant Secy. to Govt.

To the Honorable the Judges of the High Court.

- Crown Prosecutor.
- Accountant-General.
- Advocate-General.
- Government Solicitor, } for information.

Mineral Department
Proceedings of the Madras Government.

*Read again Pro of Govt 2^d April
 1877. N^o 834. -*

Order 26th Apr. 1877. No. 1055.

*It is observed that
 the effect of the Order con-
 tained in para. 5 of the
 Proceedings of Govt dated
 2^d Instant, N^o 834, directing
 the Crown Prosecutor to be
 a Public Prosecutor for the
 purposes & within the meaning
 of Sections 168, 173 & 181 of
 "The Presidency Magistrates
 Act, 1877" will be to
 impose upon the Crown
 Prosecutor the following
 additional duties.*

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JUDICIAL.

**THE HON. THE DEPTIES OF THE
 HIGH COURT.**

1st 2^d April 1877.

1st 2^d

1st 2^d

1st 2^d

G.O. 2001. 1877. N. 1055.

**APRIL.
 No. 167.**

*Order of Govt. - Directing that a list of
 persons to be added to the Crown Prosecutor's list
 of persons who may be required to appear
 before the High Court be made. It is
 ordered that the list be made.*

duties:—

(1) Under Section 162-80 present Appeals to the High Court from Orders of Presidency Magistrates directing the acquittal, dismissal or discharge of accused persons, when directed by the Govt. to do so.

(2) Under Section 173- To appear before the High Court, in support of the prosecution, in appeals preferred by persons convicted on trials held by the Presidency Magistrates, in cases where the prosecution was conducted by himself as Crown Prosecutor, and also in other cases where the persons so convicted may appeal by Counsel and

This is quite a new power given to Govt. — to appeal against acquittals by Town Magistrates.

For appeals to be High Court from sentences of Pres. Magistrates is quite a new case for Govt. It is late allowed where the sentence is more than 6 months. Up to 6 months was a cumbersome & expensive. What of certiorari.

For upcountry cases the Govt. is called on to support the prosecution.

also present

High Court
The Govt. may think it expedient that the conviction should be supported by Counsel.

(3) Under Section 181- To appear before the High Court upon the hearing of applications made to it, under Section 47 of "The High Courts' Criminal Procedure Act, 1875," for the transfer to itself of cases from the Courts of Presidency Magistrates, on behalf of the Magistrate to whose decision or proceeding the application relates.

2. These duties were not contemplated when the appointment of Crown Prosecutor, on its present footing, was sanctioned by the Order of Govt. dated 31st

31st March 1874, No 576, A
By that Order all that
the Crown Prosecutor
was required to do
was -

(1) To appear before
the Presidency Magis-
trates in all Government
prosecutions;

(2) To conduct all but
the most serious cases
before the High Court
Sessions and

(3) To act as the
Associate General's junior
in all the remaining
cases at Sessions.

3. As it is expedient,
therefore, that the Crown
Prosecutor should be
specially remunerated for the
additional duties which
he will have to under-
take as Public Prose-
cutor under the Presi-
dency

he required to

Note - the remuneration
of each officer for being
ordinary duties is 100
Rupees, viz 500 Rs a month.

To The Honble the Judges of the High Court
The Crown Prosecutor
The Asst. General
The Govt. Solicitor for information
The
M.F.
11/4/75

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16
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Desp 4/5

deney Magistrates & etc,
The Governor in Council
is pleased to direct that
for every case in which
that officer may appear
before the High Court
as ^{Public} Prosecutor,
a fee of Rupees (30)
thirty (being the same
as that allowed to the
Government Pleader
in similar cases) shall
be paid to him. —

Judicial Department. 9

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter—*again*

Proceedings of Govt. 19th March 1877. Nos. 707 & 708.

Order 2nd April 1877. No. 834

With the view of giving effect to the Presidency Magistrates' Act, 1877 (which comes into force on the 1st April 1877), in the Town of Madras, the Governor in Council proceeds to pass orders in regard to the several matters as to which the action of the Local Government is rendered necessary.

[Signature]

Judicial

1055

26-4-1877

15-1-47 ✓
27-2-48 ✓
10-5-50 ✓
28-4-52 ✓

by the provisions of the Act.

2. With reference to Section 7 of the Act, the Notification of which a draft is appended to the Letter to the Govt. of India dated 19th Instant No. 708 - constituting two Divisions within the Town of Madras, defining the extent thereof, and establishing a Presidency Magistrate's Court for each division, will be published as soon as possible after the receipt, by this Govt., of intimation to the effect that the Govt. of India in Council has accorded its sanction to its issue, as required by law.

Constitution of Magisterial Divisions within the Town of Madras, & Establishment of a Presidency Magistrate's Court for each Division.

Appointment of Chief Magistrate.

3. Under Section 9, the Governor in Council resolves, to appoint Major J. W. H. M. Senior Magistrate of Police, to be Chief Magistrate for the Town of Madras.

Officer to whom commitments for trial before High Court should be notified - & Appointment of Crown Prosecutor to Conduct public prosecutions.

4. As to the action to be taken upon Section 89 (clause 1) and Section 129, it is observed that it has been ruled by Govt. in their order of the 31st March 1874, No. 56, that the Crown Prosecutor shall appear in all Govt. cases before the Town Magistrates, and conduct all but the most serious cases before the High Court Sessions, acting as the Advocate General's Junior in all the remaining cases at Sessions. In accordance

accordance, therefore, with
this ruling, the Governor
in Council resolves to
direct that the Crown
Prosecutor shall be the
officer to whom Commit-
ments for trial before the
High Court should be
notified under clause 4
of Section 89, and with
reference to Section 129, His
Grace in Council empowers
the same officer to
conduct prosecutions
before the Presidency
Magistrates in all
cases in which the
prosecution is instituted
or carried on by, or
under the orders, or with
the sanction of the
Govt.,

Appointment of
Public Prosecutor

Power to order pri-
soner in jail to be
brought up for
examination -
Procedure when
appellant is in
jail.

30
Govt. - the Govt. Solicitor
furnishing ^{him} with the
necessary briefs in every
such case. -

5. The Governor in Council
also directs that the Crown
Prosecutor shall be a
Public Prosecutor for the
purposes, and within the
meaning, of Sections 168,
173 and 181 of the Act.

6. The attention of the
Inspector General of jails
will be drawn to the
provisions of Sections 139
& 171, as to the power
of the Presidency Magi-
strates to order prisoners
confined in the jails
at Madras to be brought
up

up for examination in any case pending before them, and in regard to the procedure to be observed when a prisoner in jail desires to prefer an appeal to the High Court, and that Officer will be requested to issue the necessary ^{for the guidance of} instructions, ^{the} ~~the~~ ^{right} of Prisons for the Town of Madras in reference to these matters. —

7. As under Section 14 of the Prisoners' Act V of 1871, the "Superintendent of Prisons for the Town of Madras" is the only officer in charge of the jails within

Officers to whom warrants for execution of sentences should be sent.

Modes of inflicting the punishment of whipping. —

within the Town, Warrants for the Execution of Sentences of imprisonment or whipping should ^{under Section 183 of Act IV of 1871} be forwarded, with the accused persons, to that Officer. —

8. With regard to Section 188, which provides for the mode of inflicting the punishment of whipping, it is observed that the provisions of this Section are identical with those of Section 10 of the Whipping Act No. VI of 1864, which Section has been repealed by, and re-enacted in Section 311 of the Code of Criminal Procedure; and that in their Proceedings of the 5th April 1864,

N.B.

N^o 166 (paras 12), the
Govt have issued the
necessary orders as to
the instrument to be used
for the purpose of
whipping, and the part
of the person on which
the punishment should
be inflicted. The Govt
in Council desire that
these orders shall be
considered as orders
made by the local
Govt under Section 188
of the Presidency Magistrates
Act, and ^{that they be} acted upon
accordingly. The instruc-
tions contained in the
last two sentences in para.
3 of the Proceedings above
quoted, as to the Officer
who should superintend
the

¹³
the execution of sentences of
whipping passed by the High
Court, and as to the presence
of a Medical Officer on such
occasions, shall also apply
to cases of execution of similar
sentences passed by the
Presidency Magistrates.

Procedure if pun-ishment of whipping be prevented. 7. The Inspector General of Prisons will call the particular attention of the Supt. of Prisons at Madras to Section 191 of the Act, which requires that "in any case in which, under Section 189, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it."

Criminal Lunatics.

10. Referring to Sections 201 to 204 inclusive of the Act, which relate to Criminal Lunatics, the Governor in Council observes that their provisions are similar to those contained in the Code of Criminal Procedure (Sections 431 to 434) and in the High Courts Criminal Procedure Act (Sections 126 to 129). It will be sufficient to invite the attention of the Inspector-General of Jails and the Inspector-General of the Indian Medical Department to these sections, in view of their requirements being attended to, when the necessity for taking action upon them arises.

11.

Expenses of
Complainants
and witnesses.

11. It remains now to consider the subject of the Rules to be framed under Section 245 for regulating the payment, on the part of Government, of the reasonable expenses of Complainants and witnesses attending trials before the Courts of Presidency Magistrates. The Gov. in Council observes that under the Orders of Govt. noted in the margin similar rules have been made under the corresponding section of the Code of Criminal Procedure, and also to regulate the payment of travelling allowances, &c., to prosecutors and witnesses from the Treasury attending Criminal

Pro. 4th June 1873, N. 997.
 — 7th Sept. 1863, N. 1153.
 — 8th April 1864, N. 1493.
 — 11th July 1871, N. 906.

Criminal trials at the
High Court Sessions; and
As it is very desirable
that, as far as practicable,
there should be uniformity
in this respect in all the
Courts in the Presidency
Copies of the Orders above
quoted will be com-
municated to the
Presidency Magistrates
with the request that
they will state whether
the Rules therein contained
would be suitable for
their Courts, and, if they
cannot be adopted in
their entirety, what alter-
ations or modifications
they would suggest;
submitting at the same
time

15
time a draft of the Rules
which they propose to
be presented under Section
245. —

To
The Presidency Magistrates 6
for the Town of Madras. 6
The Inspector General of Police 6
The District Magistrate, Indian Med. 6
The Crown Prosecutor, Dept. — 6
The District Solicitor. 6
The Honble the Judges of the
High Court. 6
28.3.77.

17-72

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✓

1-3-45 ✓
 18 X 45 ✓
 3-10-13 ✓
 15-1-47 ✓
 10-1-50 ✓

Presby. Assoc. Act. Adv.
 paid giving sheet to the
 "Presby. Assoc. Act. Adv."
 on the same basis.

28-6-20 ✓
 25-6-35 ✓

Date recd }
 Recd. } 1877, No. 100

7-7-21 ✓

1877

13-12-17 ✓

1877

4-2-16 ✓

1877

1-8-13 ✓

1877

2-4-08 ✓

1877

16-1-96

1877

1-3-10 ✓

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