(1) பக்கங்களின் எண்ணிக்கை 38

(2) புதுக்கித் திருப்பிய நாள் 06.09.95

(3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

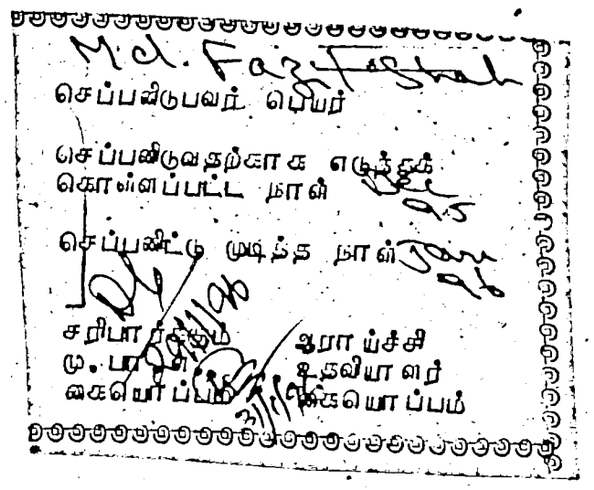
தமிழ்நாடு அரசு

Tamil துறை

அரசாணை எண். 164	அச்சகம்
மு. கோப்புத் தாள் எண்.	பலவகை
நாள் : 25-1-1881	199

மடிக்கவோ கண்டபடி கையாளவோ கூடாது.

ஆவண. கா. 1—18,006—6-9-90.



GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

25th January 1881, No. 164.

Police.

Read the following papers :—

No. 111. *From Colonel C. S. HEARN, C.I.E., Inspector-General of Police, to the Chief Secretary to Government, dated Madras, 20th December* 1880, *No.* 8583.

With reference to Proceedings of Government, No. 1612, dated 6th October 1869, embodying an opinion of the Advocate-General that the Police may, without an order from a Magistrate, inquire into offences by their own force under Sections 44, 45, and 46 of Police Act No. XXIV of 1859, I have the honor to submit, for the consideration of Government, some recent correspondence on this point between the Joint Magistrate and the Assistant Superintendent of Police, Nellore, in order that the opinion of the Law Officers of Government may be taken if necessary.

2. The Joint Magistrate considers that the alteration of the law in Section 110 and elsewhere in Act X of 1872 tends to nullify the opinion of the Advocate-General above quoted and necessitates an alteration of procedure.

ENCLOSURE No. 1.

From W. J. A. SULLIVAN, Esq., Acting Superintendent of Police, Nellore District, to the Inspector-General of Police, Madras, (through the Deputy Inspector-General of Police, Central Range), dated Nellore, 11th December 1880, No. 964.

In submitting herewith copies of certain correspondence between the Joint Magistrate and the Assistant Superintendent of Police, I have the honor to request that you will be so good as to obtain the opinion of the Advocate-General in the matter.

2. Mr. Hardinge, the Joint Magistrate, considers that the opinion* of a former Advocate-General, that the Police may inquire without the orders of a Magistrate into offences by their own force under Sections 44, 45, and 46 of the Police Act, is not in harmony with the existing law. He further contends that as Section 110, Criminal Procedure Code of the new law (Act X of 1872), precludes Police Officers from making an investigation into a non-cognizable offence without the orders of a first or second class Magistrate, and as Section 46 of the Police Act (the one in point) is non-cognizable, therefore the Police in such cases are not empowered to summon witnesses for the purposes of investigation under Section 118, Criminal Procedure Code.

* *Vide* P.W.C., dated 16th October 1869.

3. If this opinion be admitted as correct, superior officers of Police will be considerably baffled in prosecuting departmental inquiries into the conduct of their subordinates. A witness cognizant of certain facts may turn round and refuse to attend the place where the Police Officer is making his inquiry. What then should be done to compel his attendance ?

ENCLOSURE No. 2.

From T. vonD. HARDINGE, Esq., Acting Joint Magistrate of Nellore District, to the Assistant Superintendent of Police, Nellore District, dated 5th October 1880, No. 38.

I have the honor to request that you will forward to me, as early as possible, the Cheemakurty Station Reports, under dates the 7th and 9th August 1880, and any other reports of that station touching the conversation which is alleged to have taken place between Mr. Clough and the Police Constables. I request also that you will be good enough to forward the Police Inspector's diaries in connection with this case, and to report under what authority was the investigation held by the Inspector, and what was its result.

2. Police Constable No. 654, in his written statement before the Police Inspector, says that the Inspector summoned the witnesses under Section 118, Criminal Procedure Code. If so, he was

investigating into a cognizable case, or one referred to him. It does not appear that any complaint was referred to him by a competent Magistrate when he was holding the investigation referred to.

3. The constable states further that the warrant for the arrest of Bungarigadoo was endorsed to him, and that he was making inquiries in regard to the man in the adjoining villages of Boodavada until the 26th July. I request to be informed what induced the constable to make the so-called inquiries when he knew from the Mudam of Boodavada that the defendant had been to Ongole, hearing of certain summonses against him.

4. The constable speaks of certain questions put by him to the accused Bungarigadoo during the inquiry before the Taluk Magistrate, but it does not appear from the Taluk Magistrate's record that the defendant, Bungarigadoo, has at all been examined. I wish to know to what questions the constable refers.

5. As this case has been adjourned till next Monday, the 11th October 1880, I request you will send the documents above called for so as to reach this office before that date.

6. I request also to draw your attention to the statement of the Police Constable that the inquiry in the original case was commenced on the 17th July, which does not seem to have been the case.

ENCLOSURE No. 3.

From M. G. A. WORSOP, Esq., Assistant Superintendent of Police, Nellore District, to the Joint Magistrate, Nellore District, dated 9th October 1880, No. 57.

I have the honor to forward herewith the station reports and diaries called for in your letter, No. 38, dated 5th October 1880. The Inspector inquired into the matter on complaint being made by petition to him. The offence comes under Section 45 of the Police Act. The accused being his subordinate, case was inquired into *suo motu*. The case had not up to that date been referred to the Police for inquiry. As your letter, dated 5th, did not reach me until to-day (the 9th October), I regret that I am unable to obtain and send answers to the information required in the latter portion of your letter so as to be in time for your inquiry on the 11th October. Ongole Inspector Mr. Snugg has, however, been instructed to attend your Court with Constable No. 654, and be ready to give information on any point that you may find necessary.

ENCLOSURE No. 4.

From T. VONDONGE HARDINGE, Esq., Acting Joint Magistrate of Nellore District, to the Assistant Superintendent of Police, Nellore, dated 14th October 1880, No. 56.

Your letter No. 57, dated 9th October 1880.

I beg to point out that the case does not come under Section 45 but Section 46. Whether it comes under Section 45 or 46 it is a *non-cognisable* case. Of course the Inspector could make a departmental inquiry, but in such an inquiry he could not of course summon witnesses as he is alleged to have done.

ENCLOSURE No. 5.

From M. G. A. WORSOP, Esq., Assistant Superintendent of Police, Nellore District, to the Joint Magistrate, Nellore District, dated 26th October 1880, No. 58.

With reference to your letter, No. 56, dated 14th October 1880, I have the honor to inform you that the putting Section 45 instead of Section 46, Police Act, was a clerical error. With reference to Sections 45 and 46 being *non-cognisable*, I have referred to Proceedings of Government of Madras, Judicial Department, of 6th October 1869, No. 25, in which the following questions were submitted to the Advocate-General:—

(1) "Are Magistrates justified in absolutely refusing to entertain a charge because the Police have exceeded their powers by making a preliminary inquiry?"

(2) "Does Section 133 (New Code, Section 110) preclude the Police from inquiring into offences against special and local laws without an order from a Magistrate? If so, into what class of offences against special and local laws are they thus precluded from inquiry? In particular, are they precluded from inquiry into offences under Sections 44, 45, and 46 of Police Act?"

(3) "Does Section 133 (or 110, New Code) operate to preclude Police Officers from inquiring departmentally into complaints against their subordinates under Sections 161, 193, 221, and 223 of the Indian Penal Code, and from prosecuting them for such, after inquiry?"

2/164

With reference to the 2nd question the Advocate-General was of opinion "that the Police *may without any such* order (of a Magistrate) inquire into offences by their own force under Sections 44, 45, and 46 of the Police Act." With regard to the 3rd question, the Advocate-General was of opinion "that Police Officers could not inquire departmentally without orders of Magistrate and *prosecute* under the Penal Code; but that they could do so under the *Police Act*."

As, then, Police Officers *can* inquire into cases *under the Police Act* against their subordinates and order their prosecution, I beg to know whether they cannot, for purpose of inquiry, summon witnesses under Section 118, Criminal Procedure Code.

ENCLOSURE No. 6.

From T. VONDONGE HARDINGE, Esq., Acting Joint Magistrate of Nellore District, to the Assistant Superintendent of Police, Nellore District, dated Ongole, 29th October 1880, No. 60.

I have the honor to point out that the present law, Act X of 1872, is not the same as that in force when the Advocate-General wrote the opinion quoted in your letter, No. 58, of the 26th instant.

2. Under Act X of 1872 the present law, offences or cases, are divided into those that are cognizable and those that are non-cognizable. Whether an offence or case is cognizable, or non-cognizable, depends on whether it is one for, or in which, a Police Officer can or cannot arrest without warrant. Whether, again, a Police Officer can or cannot arrest without warrant is to be known by referring to the schedule at the end of the Act, and in the case of offences or cases under special or local laws, by a further reference to those laws themselves for the purpose of ascertaining whether the offences are punishable with more or less than three years' imprisonment. Section 109, Criminal Procedure Code, gives a Police Officer, in charge of a Police Station, power to investigate cognizable cases; Section 110 distinctly states that in non-cognizable cases, without an order of a first or second class Magistrate, he cannot do so.

3. To apply this statement of the law to the matter in hand:—The Police Act is a local law. Offences treated of in Sections 45 and 46 of that Act are punishable with less than three years' imprisonment, therefore they are non-cognizable cases. Section 110, Criminal Procedure Code, therefore prohibits a qualified Police Officer from making any investigation under Chapter X of the Code without the order of a first or second class Magistrate. The Police Inspector was therefore wrong in summoning witnesses under Section 118 of the Code.

4. In the opinion of the Advocate-General touching questions (1) and (3) submitted to him by the Inspector-General of Police, I, of course, concur. That is to say, I consider that in any case brought before a Magistrate by the Police, the fact that they committed irregularities, or exceeded their powers, would not justify the Magistrate in refusing to dispose of the matter in the ordinary course. I consider also that Police Inspectors, &c., have a perfect right to make departmental inquiries into any charges brought against their subordinates.

5. The Advocate-General's answer to question (2) moreover seems to me to have been right at the time. Section 133 of the old Procedure Code laid down that no Police Officer could, without the express order of a Magistrate, inquire into, or take cognizance of, any *offence punishable under the Indian Penal Code*, except those for which they might arrest without warrant. Now, of course, the offences specified in Sections 45 and 46 of the Police Act are clearly not punishable by the Penal Code, and therefore Police Officers were not precluded from inquiring into and taking cognizance of such offences.

6. The new Code (X of 1872), as stated in paragraph 2, has altered all this. Offences under special and local laws, if non-cognizable, and those under Sections 45 and 46 of the Police Act are non-cognizable as we have seen, cannot be *investigated* by any Police Officer without the order of a first or second class Magistrate.

7. I would, in conclusion, recommend that you bring the Advocate-General's opinion given in Police Weekly Circular of the 16th October 1869 to the notice of the Inspector-General of Police with a view to its being brought into harmony with the existing law.

No. 2461.

Forwarded to the Advocate-General for an expression of his opinion.

FORT ST. GEORGE,
24th December 1880.

(Signed) R. DAVIDSON,
Chief Secretary.

To the Government Solicitor.

No. 112. *From E. BARCLAY, Esq., Government Solicitor, to the Chief Secretary to Government, dated Madras, 6th January* 1881, *No.* 15, *forwarding the following opinion of the Advocate-General:—*

OPINION.

I have read the correspondence between the Joint Magistrate and the Assistant Superintendent of Police of Nellore upon the question, whether Police Officers are authorized to investigate offences committed by members of the Police force under Sections 44, 45, and 46 of the Police Act (Act XXIV of 1859), without an order from a Magistrate of the first or second class. Offences under the above-mentioned sections are non-cognizable offences within the meaning of the Criminal Procedure Code, and Section 110 of the Code expressly prohibits investigation by the Police into non-cognizable offences without an order from a Magistrate of the first or second class. Section 111 of the Code provides that nothing in Section 110 shall be held to interfere with the exercise of any powers vested in a Police Officer by any special or local law, but neither the Police Act nor any other special or local law authorises the Police to "investigate" offences or to require the attendance of witnesses before Police Officers. The power to investigate and the obligation of persons to attend as witnesses are created by the Code and are limited by its provisions, and in the case of non-cognizable offences there is neither the power nor the obligation except where the investigation by the Police is authorized by a Magistrate.

2. I concur in the statement of the law contained in the letter of the Joint Magistrate to the Assistant Superintendent of Police, dated the 29th October 1880, No. 60.

MADRAS,
6th January 1881.

(Signed) P. O'SULLIVAN,
Advocate-General.

No. 113. ORDER THEREON, 25th January 1881, No. 164.

The opinion of the Advocate-General will be communicated to the Inspector-General of Police and to all District Magistrates for their information and guidance and that of their subordinates.

(True Extract.)

Chief Secretary.

To the Inspector-General of Police.
„ all District Magistrates.

Exd. T. O'Connor.

M/25

Govt. of {1881} Madras.

JUDICIAL.

To

The INSPECTOR-GENERAL
OF POLICE,

&c. &c. &c.

Dated January, 25th.

Read.

Read.

G. O., 25th January 1881, No. 164.

JANUARY.
Nos. 111—113.

Police.—Communicating, for information and guidance, opinion of the Advocate-General on the question, whether Police Officers are authorized to investigate offences committed by Members of the Police Force under Sections 44, 45, and 46 of the Police Act without an order from a Magistrate of the first or second class.

3/1629

4/1P:

Chief Office of the Inspector General of Police,

No. 8383 Madras, 20th December 1830.

From

The Inspector General of Police,

To

The Chief Secretary
to Government
Fort St George.

Sir,

Enclosures 6. With reference to Proceedings of Government No 1612 dated 6th October 1869 embodying an opinion of the Advocate General that the Police may without an order from a Magistrate inquire into offences by their own Force under Sections 44. 45 and 46 of Police Act No XXIV of 1859, I have the honor to submit for the consideration of Government some recent correspondence on this point between the Joint Magistrate and the Assistant Superintendent of Police Nellore, in order that the opinion of the

the Law Officers of Government may be taken if necessary.

2. The Joint Magistrate considers that the alteration of the law in Section 110 and elsewhere in Act X of 1872 tends to nullify the opinion of the Advocate General above quoted and necessitates an alteration of procedure.

I have the honor to be
Sir
Your most obedt servt,
C Lucas
Inspector General of Police.

5/12

2/3

No. 964
Confine

Office of the Supt. of Police,
Nellore District,
dated 11th December 1880.

From

THE SUPERINTENDENT OF POLICE,
NELLORE DISTRICT.

To

THE Inspector General of Police
Madras.
Through the Deputy Inspector General
of Police
Central Ranges.

Sir,

I do submit herewith copies of certain Correspondence between the Joint Magistrate and the Assistant Superintendent of Police. I have the honor to request that you will be so good as to obtain the opinion of the Advocate General in the matter. in

2. Mr Harding, the Joint Magistrate + vide P.R.C. dated 16th October 1869. Considers that the opinion of a former Advocate General that the Police may Enquire without the Orders of a Magistrate into offences by their own force under Sections 44, 45 46 of the Police Act is not in harmony with the existing law. He further Contends that as Section 110 C.C.P. of the new law (Act X of 1872) precludes

Dept. 1880 DEPT.
From Nellore
The Inspector Genl.
of Police,
To The Chief Secy
to Govt
Fort St George
Dated 20 Dec 1880
No. 8333.
Submitg for consideration
correspondence between the
Joint Magte & the Asst Supt of
Police, Nellore requesting
to be favd with Govt orders
thereon

Received 21 Dec 1880
Copied 21 Dec 1880

No. 752.
2461
forwarded to the Advocate General
for an expression of his opinion
Fort St George
24 Dec 80.
for Chief Secy.

The Govt: Solicitor
High Court

24/12/-

Police Officers from making an investigation into a non. cognizable offence without the order of a 1st or 2nd Class Magistrate, and as section 46 of the Police Act (the one in point) is non-Cognizable, therefore the Police in such cases are not empowered to summon witnesses for the purpose of investigation under section 118 C.C.P.

3. As this opinion is admitted as correct, Superior Officers of Police will be considerably baffled in prosecuting departmental enquiries into the conduct of their Subordinates, & witnesses cognizant of certain facts may refuse to attend the Court and refuse to attend the place where the Police Officer is making his enquiry. What then should be done to compel his attendance?

I have the honor to be
Sir
Your most obedient servant

J. [illegible]
Supt of Police

7 / 169

I cannot see that
our difference in

OFFICE OF THE SUPT. OF POLICE,
NELLORE DISTRICT.

From

The Superintendent of Police,

Nellore.

To

The Dy Inspr General of Police
Ceylon.

Dated 11th December 1880

Despatched 11th December 1880

Received

Filed 21st Dec. 1880

No. 964

Enclosures. 5

SUBJECT.

Submitting copies of certain correspondence between the Joint Magistrate and the Asst. Superintendent of Police and requesting that he may be favoured with the instructions of the Honorable Colonial Secretary in the matter.

say that the Suspects summoned the enclosed under Section 118 C.P.C. Yes, he was investigating into a Cognizable case or one referred to him. It does not appear that any complaint was referred to him by a competent magistrate when he was holding the investigation referred to.

3. The Constable states further that the warrant for the arrest of Bungeriyan was endorsed to him as that he was making enquiries in regard to the death of a man in the adjoining village of Bindavada and the 20th July. I request to be informed what induced the Constable to make these called enquiries the distance from the limits of Bindavada that the defendant had been brought to hearing of certain summonses against him.

4. The Constable speaks of certain questions put by him to the accused Bungeriyan during the enquiry before the Salug magistrate, but it does not appear from the Salug magistrate's record that the defd Bungeriyan has at all been examined. I wish to know to what questions the Constable refers.

5. As this case has been adjourned till next Monday, the 11th October 1880, I request you will send the documents above called for so as to reach this Office before that date.

6. I request also to draw your attention to the statement of the Police Constable that the enquiry in the original case was commenced on the 17th July which does not seem to have been the case.

I have the honor to be
Sir
Your most obedient servant
(Signed) J.V.D. Hardinge
Ag. Joint Magte

(True Copy)

W.H. Sullivan
Ag. Supt of Police

No 357

Nellore District
dated 9th October 1880.

From

The Assistant Superintendent of Police
Nellore District

To

The Joint Magistrate
Nellore District.

Sir,

I have the honor to forward herewith the statement + called for in your letter No 38 dated 5th October 1880. The Inspector enquired into the matter on complaint being made by petition to him. The Offence Cognizable under Section 45 of the Police Act. The accused being his subordinate case was enquired into suo motu. The case had not up to that date been referred to the Police for Enquiry. As your letter dated 5th did not reach me until today (the 9th October) I report that I am unable to obtain and send answers to the information

+ to be returned

expected in the latter portion of your
letter so as to be in time for your enquiry
on the 11th October. Quite desperate
Doss Lodge has hereto been instructed
to attend your Court with Constable
No 654 and be ready to give information
on any point that you may find
necessary.

I have the honor to be
Sir
Your most obedient servant
(signed) Wm. L. Worrop.
Assistant Supt of Police

Camp Pamir:
9th October 1869.

/True Copy/
W. Elliott
Asst Superintendent.

No 58 Office of the Asst Supt of Police
Salem 26th October 1869.

From
The Assistant Superintendent of Police
Salem District

To
The Joint Magistrate
Salem District

Sir.

With reference to your letter No 56
dated 14th October 1869 I have the honor
to inform you that the question as to
the Police [illegible] power of
Police to [illegible] Sections 45 and 46 having
been referred to [illegible]
Inspector General of Police on the 25th ultimo
questions were submitted to the Advocate
General.

(1). Are magistrates justified in
absolutely refusing to entertain a
charge because the Police have exceeded
their powers by
enquiring?

(2) Does Sec 15 (Cr. Proc. Code, Sec. 40) preclude

the Police from enquiring into offences against Special and Local Laws without an order from a Magistrate?

2. Is into what class of offences against Special & Local Laws are they thus precluded from enquiry? In particular, are they precluded from enquiry into offences under Sections 44, 45, 45 & 46 of Police Act?

(3) Does Section 133 of (110. Ind. Code) operate to preclude Police officers from enquiring departmentally into Complaints against their Subordinates under Sec. 161. 193. 221. 22. of the I.P.C. and from prosecuting them for such, after enquiry? With reference to the 2nd question the Advocate General was of opinion that the Police may without any such order (of a Magistrate) enquire into offences by their own Force under Sec 44 & 45, 45 & 46 of the Police Act. With regard to the 3rd question the Advocate General was of opinion that Police Officers could enquire departmentally (2)

12/16 8 80

without order of Magistrate and prosecute under the Penal Code: but that they could do so under the Police Act."

2. So, then, Police officers can enquire into cases under the Police Act against their subordinates and order their prosecution. They to know & letter they are not to for purpose of enquiry. Summon witnesses under Section 118 Crim. Proc. Code.

I have the &c

Sir

Your most obedient servant

(Signed) [illegible]

Assistant Supt of Police

(True copy)

W. [illegible]

Supt of Police

Encl. 68

No. 60

29th October 1880

Sept 31st Do.

From

The Acting Joint Magistrate of

Sellore District

To

The Assistant Superintendent of Police

Sellore Dist.

Sir

I have the honor to point out

that the foregoing law Act X of 1872,

is not the same as that in force when

the Advocate General wrote the opinion

quoted in your letter No 5-8 of the 26th inst.

2nd Under Act X of 1872 the present

law offences or cases are divided into

those that are cognizable and those

that are non cognizable. Whether an

offence or case is cognizable, or non-

cognizable, depends on whether it is

one for, or in which a Police officer

can or cannot arrest without warrant.

Whether against Police officers or

Annexed Arrest without warrant is to be known by referring to the Schedule at the end of the Act and in the case of offences or cases under Special or Local Laws, by a further reference to those Laws themselves for the purpose of ascertaining whether the offences are punishable with more, or less than 3 years' imprisonment. Sec 109 C.P.Code gives a Police officer in charge of a Police station, power to investigate Cognizable cases; Sec 110 distinctly states that in non-Cognizable cases without reference to a 1st or 2nd Class Magistrate he cannot do so.

3 To apply this statement of the law to the matter in hand:- The Police Act is a Local Law. Offences treated of in Sections 45 & 46 of that Act are punishable with less than 3 years' imprisonment, therefore, they are non-Cognizable cases. Sec 110 C.P.Code, therefore, prohibits a qualified Police

Officer, from making an investigation under Chapter X of the Code without the order of a 1st or 2nd Class Magistrate. The Police Inspector was, therefore, wrong in summoning witnesses under Sec 118 of the Code.

4 In the opinion of the Advocate General touching questions (1) and (3) submitted to him by the Inspector General of Police I, of course, concur. That is to say I consider that in any case brought before a Magistrate by the Police the fact that they committed irregularities or exceeded their powers would not justify the Magistrate in refusing to dispose of the matter in the ordinary course. I consider also that Police Inspectors do have a perfect right to make departmental Enquiries into any charge brought against their subordinates.

5 The Advocate General's answer to question (2) is in the negative

to have been right at the time
Sec 133 of the Old Procedure Code, laid
down that no Police Officer could,
without the express order of a Magistrate,
enquire into, or take Cognizance of, any
offence punishable under the Indian
Penal Code, except those for which
they might arrest without warrant.
Now, of course, the offences specified
in Sec 45 & 46 of the P.C. are
clearly not punishable
Code and therefore
Officers prohibited fr
into, and taking Cog
Offences.

6. The New Code (X
in Para 2 has altered
Under Special and L
Non-cognizable, and
Sec 45 & 46 of the Police
Cognizable as we have
investigated by any
without the order of

Act are
by the Penal
Officers
enquiring
Cases of
(872) as stated
all these Offences
l Laws of
be under
are non-Cog:
cannot be
Police Officer
2nd Class

Magistrate.

7. I would in conclusion recommend
that you bring the Advocate General's
opinion given in Police Weekly Circular
of the 16th October 1869 to the notice of the
Inspector General of Police with a
view to bring it to bring brought into
harmony with the existing law.

I have the honor to be
Sir
Your most obedient servant

/Signed/ J. F. D. Harding
Ag. Joint Mag.te

/True Copy/

W. Hutchinson
Ag. Supt of Police

Encl. No. 1. to 56.

1880 Sept.

From a letter from the Inspector General of Police dated Madras 20th Sept. 1880 No. 8538.

Subject Powers of Police Officers

Opinion 16/162 1880

I have read the Correspondence between the Joint Magistrate and the Assistant Superintendent of Police of Nellore upon the question whether Police Officers are authorized to investigate offences committed by Members of the Police force under sections 44. 45. and 46 of the Police Act (Act XXIV of 1859) without an order from a Magistrate of the first or second class. Offences under the above mentioned sections are non-cognizable offences within the meaning of the Criminal Procedure Code. and section 110 of the Code expressly prohibits investigation by the Police into non-Cognizable offences without an order from a Magistrate of the 1st or 2nd Class. Section 111 of the Code provides that nothing in section 110 shall be held to interfere with the exercise of any powers vested in a Police Officer by any special or local law but neither the Police Act nor any other special or local law authorises the Police to investigate offences or to require the attendance of witnesses before Police Officers. The power to investigate and the

the obligation of persons to attend as witnesses are created by the Code and are limited by its provisions and in the case of non Cognizable offences there is neither the power nor the obligation except where the investigation by the Police is authorized by a Magistrate.

I concur in the statement of the law contained in the letter of the Joint Magistrate to the Assistant Superintendent of Police dated the 29th October 1880 No. 60.

(Signed) C. A. Sullivan
Advocate General.

Madras 6th January 1881.

(True Copy)

Government Solicitor

Judicial 1881. Sept 17

From Police

Ernest Darelay
Government Solicitor

To the Chief Secretary
to Government
Fort St George

17 Sept 1881

1 Enclosure
1st Rec 23 Sept

No 15

Forwarded with enclosure
with reference to order of
Government dated 24th
December 1880 No 2461.

Lewis Wardlaw
for
Government Solicitor

25th Jany 81 No 164

The opinion of the Advr: Genl: will be
commund: to the Dy. Sy. of Police & Govt
Sick: Magistrates for their information
& guidance & Asst Sy of State for Home Dept

The Dy. Sy. of Police 28 Jany 81 Sept 17th 1881
and Dr Magistr: 13 Dec 80

From
The Acting Joint Magistrate
of Chittoor

To The Chief Sup.

Dated 4th October

Despd
Received
Answered
No 56 Enclosures.
your letter No 57.
Dated 9th October 1880.

Subject.

Sir
I beg to point out
that the case does not
come under section 45
but section 46. whether
it comes under sec: 45
or 46 it is a non-cognizable
case. of course, the
Inspector could not

a departmental enquiry, but in which an
enquiry he could not conveniently
intervene as he is alleged to have done.

I have the honor to be
Sir
Your most obedient servant

/sd/ J.V.D. Hardinge
Sy. Joint Magistrate

/true Copy/

W. Mullaney
Sy. Supt of Police

19
164

Govt. of 1881 Madras.

No. 25 Jany 1881. No. ~~44~~ 164

Nos. 111 – 113

Copy for information & guidance

Police. Powers of Officers of

the Torrace to search on

the question whether Police

Offrs are authorized to in-

vestigate offences committed

by members of the Police

force under Secs. 44, 45

& 46 of the Police Act

without an order from

a Magte of the first or

second class.