

- (1) பக்கங்களின் எண்ணிக்கை 38
- (2) புதுக்கேத் திருப்பிய நாள் 1929
- (3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

3.4.11 துறை

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

மடிக்கவோ கண்டபடி கையாளவோ கூடாது.

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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.

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. von D. 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

M. C. Faruq
செப்பன்குபவர் பெயர்
செப்பன்குதற்காக எடுத்த
கொள்ளப்பட்ட நாள்
செப்பன்கு முடிந்த நாள்
சரிபார்க்கும் இரா ய்ச்சி
மு. ப. ர. இ. க. தவியா எர்
கையொப்பம் கையொப்பம்

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. von D. 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-cognizable* 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-cognizable*, 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?"

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. von D. 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.

7/20
Govt. of (1881) Madras.

JUDICIAL.

To
THE INSPECTOR-GENERAL
OF POLICE,
Sec. Sec. Sec.

Dated January, 25th.

Recd.

Recd.

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/
164

Chief Office of the Inspector General of Police,
Madras, 20th December 1830.

No. 8583

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

to Law Officers of Government may
be taken, if necessary.

3. 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
Your most ^{obedient} obedient servant,

W. H. Mearns
Inspector General of Police.

5/1/74

5/1/74

Jan 11 1880 DEPT.

From (Police)

The Inspector Genl.

of Police,

To The Chief Secy
to Govt
Govt Secy

Dated 20 Dec 1880

No. 3393.

Submits for consideration
correspondence between the
Magistrate & the Asst. Supdt of
Police, Nellore regarding
Police Enquiry Officers
and their own fees & that
an order from Magistrate

is submitted

2461

Forwarded to the Advocate General
for an expression of his opinion

For Secy
24 Dec 80

For Chief Secy

The Govt. Secy
High Court

23/12-

No.

964
Luo fine

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 Range.

SIR,

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.

+ Vide
P.R.C.
dated
16th October
1869.
Mr. Hardinge, the Joint Magistrate
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 considers that as Section 110 C.C.P.
of the new law (act X of 1872) precludes

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. 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 exigent 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?

I have the honor to be
Sir

Your most obedient servant

J. H. Williams
Supt of Police

7.
164

I cannot see that the want of law can make any difference in the law
JH

at 38...
 1881
 The Acting Joint Magistrate of
 Chellur District

To
 The Assistant Superintendent of Police
 Chellur District.
 Sir,
 I have the honor to request that
 you will forward to me as early as
 possible the Chumakurthy Station
 Reports under dates the 7th and 9th
 August 1881 and any other Reports of
 that station touching the conversation
 which is alleged to have taken place
 between Mr. Chapp and the Police
 Constables. I request also that you
 will be good enough to forward the
 Police Inspector's Report in connection
 with this case and to report under
 what authority was the investigation
 held by the Inspector and what was
 its result.
 Police Constable 152 in his
 written statement before the Police Inspector

Office of the Supt. of Police,
 Nellore District.
 From
 The Superintendent of Police,
 Nellore.
 To
 The
 Dy. Supt. of Police,
 Chellur District.
 Dated 11th 8th December 1880
 Inspected 11th 8th December 1880
 Received
 Filed
 No. 964
 Enclosures 5
 Subject
 Chumakurthy Station
 Conversation
 between Mr. Chapp and
 the Police Constables
 Police and Inspector
 to examine the Officer of
 the Chumakurthy
 Station

say that the suspects summoned
the witnesses 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 Bumpay
was endorsed to him and that he was
making enquiries in regard to the
man in the adjoining village of Boodanda
until the 26th July. I request to be
informed what induced the Constable
to make these called enquiries when
he came from the village of Boodanda
that the defendant had been to the
hearing of certain summonses against
him.

4. The Constable speaks of certain
questions put by him to the accused
Bumpay during the enquiry before
the Salug Magistrate, but it does not
appear from the Salug Magistrate's
record that the defendant Bumpay

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

Yours most obedient servant

Wm. J. V. D. Harding

By joint magistrates

/True Copy/

W. H. Sullivan
By Supt of Police

at 12:30 p.m. and at 1:30 p.m. the last day of the
month of October 1880. The following is a list of
the names of the persons who were present at the
meeting held on the 9th October 1880.
From

The Assistant Superintendent of Police
at the Police Station, Chellore District.
The Joint Magistrate and District
Magistrate, Chellore District.

Sir,
I have the honor to forward
to be herewith the Station Reports and
returned. Cases called for in your letter of 3rd
dated 5th October 1880. The Inspector
enquired 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 enquired into
and noted. 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 regret that I am unable to obtain
and send answers to the information

inquired in the latter portion of your
letter as to the time of your inquiry
on the 11th October. One of the Inspectors
Mr. [unclear] 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.

Ms. A. 9. 2. 35

I have the honor to be
Sir
Your most obedient servant
(Signed) Mr. L. A. Norrop.

Camp Ramur
9th October 1889.

True copy
W. H. [unclear]
Supt of Police.

at 58 Office of Asst. Supt of Police
Oct 26th October 1889
From
The Assistant Superintendent of Police
Mellon District
The Joint Magistrate
Mellon District
Sir.

With reference to your letter of 26th
dated 14th October 1889 I have the honor
to inform you that the section 46 of the
of Sec 46 Police Act was a clerical error
With reference to sections 46 and 48 being
non cognizable I have referred to the
Minister of Government of Madras of 14th
October 1869. In 25 in which the following
questions were submitted to the Privy
Council.

- (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 the [unclear] (Code Sec. 40) prohibit

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 & Local Laws are they thus
precluded from inquiring? In particular,
are they precluded from inquiring into
offences under Sections 44, 45, & 46 of Police
Act?

(3) Does Section 133 or (10. Pen Code)
operate to preclude Police officers
from inquiring departmentally into
complaints against their Subordinates
under Secs 161, 193, 221, 22 of the I.P.C. and
from prosecuting them for such, after
inquiry? 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 Secs 44, 45,
& 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.

So, then, Police officers can inquire
into cases under the Police Act against
their subordinates and order their
prosecution. I beg to know whether
they may, for purpose of inquiry,
Summon witnesses under Section 118
Crim. Proc. Code.

I have the honor to be
Sir
Your most obedient servant
Signed / Mr. L. J. J. J.
Assistant Secy to the
[True copy]

W. H. Sullivan
As Superintendent of Police

1/2-60

On 29 October 1880
recd 31/10/80

The Acting Joint Magistrate of
Mellon District

To
The Assistant Superintendent of
Police
Mellon District

Sir,
I have the honor to point out,
that the present Law Act of 1842,
is not the same as that in force when
the Advocate General wrote the opinion
quoted in your letter No 58 of the 26 inst.
2. Under Act of 1842 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 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 the order of 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 created by 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 Police Officer

19/10/82
Officers, from making any investigation under Chapter I 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 Associate General touching questions (1) and (2) submitted to him by the Inspector General of Police, I, of course, consider 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 Associate General also answers to question (2), that no one can

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,
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 Sec 45 & 46 of the P.
clearly ~~are~~ punishable
Code and therefore
were not precluded from
inquiry and taking cognizance
of such offences.

The new Code (1872) as stated
in Para 2 has altered all these offences
under special and general laws, if
non-cognizable, and under
Sec 45 & 46 of the Police Act are non-cog.
nizable as we have seen cannot be
investigated by any Police Officer
without the order of a Magistrate.

Magistrate.

15/11/88
I would in conclusion recommend
that you bring the Advocate General's
opinion given in Police Weekly Circular
of the 16th October 1889 to the notice of the
Inspector General of Police with a
view to bringing it into harmony with the existing law.

I have the honor to be
Sir

Yours most obedient servant

Yours J. V. D. Harding

J. V. D. Harding

(True Copy)

W. H. D. Harding
Asst. Supt of Police

Opinion 16 12 P
16

I have read the Correspondence between the Joint Magistrate and the Assistant Superintendent of Police of Bellore 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 ~~not~~ 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. Power to investigate and the

1850 28/11

Encl. No. 1. 66.

In a letter from the
Inspector General of
Police dated 11/10/50
20/10/50 No. 8583

Encl. No. 1. 66.

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 29.th October 1880 N^o 60.

(Signed) C. B. Sullivan
Advocate General.

Madras 6.th January 1881.

(True Copy)

Wm. Mackay

Government Solicitor

6-10-62

Ernest Barclay
Government
Solicitor

To the Chief Secretary
to Government
Fort Saint George
17.6.1841

[illegible]

22-15

Forwarded with ~~enclosure~~
with reference to order of
Government dated 24th of
December 1880 N^o 2461.

Ernest Barclay

Government Collection

$$\frac{191}{7}$$

~~128192~~ 128192

The H. of India 20 Sept 47

From
The Literary Joint, League
of Hell
To The Great Sup

Dated 4th October
 Recd
 Answered
 at 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 make

17

105

25 Jan 1881, No. 164

Nos. 111-113

Police ^{Comp for imp. & guidance} ~~The~~ ^{the} opinion of
the force as to
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 Magt of the first or
second class.

✓