(1) பக்கங்களின் எண்ணிக்கை 43+43 (88)

(2) புதுக்கித் திருப்பிய நாள் நவம்பர்

(3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

Judicial துறை

அரசாணை எண். 45 (41-42)	அச்சகம்
மு. கோப்புத் தாள எண்.	பலவகை
நாள் : 12. 1. 1981	199

படி கையாளவோ கூடாது.

8,006—6-9-90.

செப்பனிடுபவர் பெயர் K.2400
செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள் [illegible]
சரிபார்க்கும் மு. பா. [illegible] கையொப்பம் 31/1/96
ஆராய்ச்சி உதவியாளர் கையொப்பம் 31/1/96

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

12th January 1881, No. 45.

Subordinate Magistracy.

Read the following paper:—

No. 41. *Proceedings of the Board of Revenue, dated 21st December* 1880, *No.* 14,162 (*Miscellaneous*).

Read the following letter from J. GROSE, Esq., Collector of Nellore, to the Secretary to the Board of Revenue, dated Nellore, 13th December 1880, No. 4938:—

At the instance of the Acting Joint Magistrate I have the honor to submit the records in Cases 70 (Preliminary Inquiry), 44, and 84 of 1880 on the file of Nandagiri Venkata Seshagiri Row, Deputy Tahsildar and Second-class Magistrate of Podili, with the letters of the Joint Magistrate forwarding them. In the first of these letters the Joint Magistrate says he forwards the record in Case 44, that the Second-class Magistrate may be deprived of, at any rate, Second-class Magisterial powers. On carefully going through papers however, it appeared to me that the man had shown unfitness to be entrusted with any Magisterial powers whatever. Moreover, I am of opinion (in which, after demi-official communication, I find the Joint Magistrate entirely concurs) that it is necessary that the Deputy Tahsildar at Podili should have second-class powers, as otherwise the interests both of the people and Government will suffer. It follows that if our views are confirmed by higher authority, N. Venkata Seshagiri Row must be removed from Podili and degraded. He is drawing Rs. 100 a-month now. The best place (not requiring Magisterial powers) which I could give him under existing circumstances is that of Head Accountant in my office on Rs. 85. Hence I consider it my proper course (though the substance of my letter will concern Magisterial matters) to address the Board of Revenue.

Dated 17th September, 1880 No. 142.
„ 18th do. „ „ 143.
„ 19th do. „ „ 147.

2. The N. Venkata Seshagiri Row concerned is the man who was reduced from the post of Tahsildar of Atmakúr by G.O., 22nd August 1878, No. 1346.

3. I enclose a memorandum which sets out the facts of the three cases to which I am about to refer.

4. In the first case (70, Preliminary Inquiry) the Magistrate misused his powers by remanding a woman on a shameful charge after it became clear that there was only the faintest and most inconclusive evidence against her. He kept the woman under trial from the 4th May to the 3rd June, and issued a warrant subjecting her to the indignity of being personally examined for marks of miscarriage by the apothecary in charge of the Hospital at Ongole. I have no doubt that this warrant was utterly illegal, but I know this point is one on which well-informed officers differ, so do not dwell on its *illegality*. At all events the cruelty and impropriety of issuing such a warrant under these special circumstances are very manifest.

5. In the second case (44) the Magistrate tried a case when he was without jurisdiction to try it, proceeded with the case when he ought to have dismissed it, convicted a man when he certainly ought to have acquitted him, allowed his judgment to be biased by the results of "private inquiry," &c., and cloaked his injustice by writing a judgment which, omitting all reference to the points which told in

favor of the accused, said that the case against him was "clearly proved," whereas it was not, and that the evidence for the defence was "unimportant," though it was in fact most important. In this case there was an appeal and the conviction was reversed.

6. In the third case (84) also the Magistrate convicted when he certainly ought to have acquitted, and his judgment places reliance on mere hearsay; speaks of a statement of the accused as a confession, whereas it was not a confession, and makes no mention of the discrepancies in the evidence which were such as to deprive it of credibility. There was no appeal.

7. This misuse of Magisterial powers and obliquity of judgment, caused by the Magistrate's concentrating his attention on facts which common sense and the law of evidence ought to have made him put out of sight, and refusing his attention to facts which ought to have been prominently before him is so confirmed, and when combined with his method of writing judgments is so dangerous, that I do not think warning would be of any use. The list of eight cases in which the Joint Magistrate had had to find fault with the Podili Magistrate since the beginning of the year (besides these three) shows that he cannot be controlled in the ordinary way. So long as he remains a Magistrate, I fear the people will be oppressed and the interests of justice will suffer.

8. It seems to me to follow that N. Venkata Seshagiri Row must be degraded to a post where he will have no Magisterial jurisdiction. It may at first sight seem harsh that he should be punished so heavily since all Magistrates are liable to make mistakes at times and no dishonest motive is alleged, but the mistakes I have mentioned (and which by the way can only be properly estimated on examining the records) are of a different nature from ordinary mistakes, or such mistakes as could be made through mere ignorance or stupidity. Moreover, N. Venkata Seshagiri Row is neither ignorant nor stupid, and has been familiar with work of a Magistrate for many years.

9. I enclose the letters of the Joint Magistrate submitting the records with translations of all important papers in those records, the Joint Magistrate's appeal judgment with regard to Case 44, and his proceedings in Case 84, and the list of cases disposed of by the Podili Magistrate in which he has incurred the disapproval of the Joint Magistrate since the beginning of the year.

The Board observe that misconduct on the part of the Deputy Tahsildar of Podili is not alleged. The sole question is whether he is fitted to exercise the high Magisterial powers with which he is at present invested, or indeed to be a Magistrate of any class.

2. This is not a matter for the decision of the Board of Revenue; and the Collector's letter and enclosures will be forwarded to Government in the Judicial Department.

3. In the event of V. Seshagiri Row being deprived of Magisterial powers, it will of course be necessary for the Collector to provide him with a post involving only Revenue duties.

(True Copy and Extract.)

(Signed) C. A. GALTON,
Secretary.

No. 42. ORDER THEREON, 12th January 1881, No. 45.

The Government approve the removal of the Sub-Magistrate from his present post to that mentioned by the Magistrate of the district. The powers of the Sub Magistrate are hereby cancelled.

2. The worst case reported, and his handling of which shows the absolute necessity of removing Seshagiri Row from his present position, is Preliminary Inquiry No. 70. He would have shown his discretion in refusing to allow the person of the

accused woman to be examined at all in the absence of any reasonable suspicion that she had procured a miscarriage; but conceding for a moment that such examination was desirable, it might have been effected through the village midwives or other matrons, instead of marching her, a young Brahmin widow, 60 miles to the dispensary in the charge of a single constable. However, that after a certificate from a responsible Medical Officer favoring the woman's innocence, the Sub-Magistrate should have acceded to the preposterous application of the Head Constable for a fortnight's remand "to make further inquiries," is conclusive evidence of either an imbecility or a rashness of character quite incompatible with the responsible functions of a Taluk Magistrate.

3. The behaviour of the Station-house Officer in the conduct of the case will be considered and dealt with by the Inspector-General.

(True Extract.)

R. DAVIDSON;
Chief Secretary.

To the Board of Revenue.
" all District Magistrates.
" the Inspector-General of Police.

Exd. T. O'Connor.

Govt. of {1881} Madras.

JUDICIAL.

To

THE BOARD OF REVENUE,
&c, &c, &c.

Dated January, 12th.

Issued

Recd. *Encl.*

G.O., 12th January 1881, *No.* 45.

JANUARY.
Nos. 41-42.

Subordinate Magistracy — The removal of N. V. Seshagiri Row, Deputy Tahsildar and Sub-Magistrate of Podili, from his present post to that of Head Accountant in the Nellore Collector's Office, approved, and the powers of the Sub-Magistrate, cancelled.

[illegible] Delay [illegible] by the Sub Magistrate of Wodey.

prepared as directed.

Date	Substance	Sub Magistrate's Explanation
9-1-80	A case under the Abkarry Act was disposed of by a mere Proceedings. It was pointed out to the Sub Magistrate that he should have disposed of it in the usual manner	No explanation was called for
21-1-[illegible]	The Sub Magistrate having convicted a man for [illegible] possession of earth salt it was pointed out to him that intent to defraud the public revenue was necessary to constitute the offence.	Do
15-4-80	It was pointed out that judgments were not in the proper form	Do
3-5-80	The Sub Magistrate was fined 5 R. for delay in the submission of Calendars	The Sub Magistrate explained that the delay was attributable to press of work & circuit.
7-6-80	A prisoner who was [illegible] 4½ years [illegible] to 6 months imprisonment by the Sub Magistrate on a charge under Sections 451 [illegible] I. P. C. it was pointed out to the Sub Magistrate that he should have sent the prisoner up for enhanced punishment under Section 46 C. P. C.	[illegible]
14-6-80	It was pointed out that the headings of the judgment should be properly filled up	Do Do
8-7-80	The Sub Magistrate having dismissed 2 Nonbailable Cases under High Court Proceedings of 18 February 1869 without any enquiry whatever the District Magistrate was asked to take [illegible] conduct	No reply has been received yet from the District Magistrate
27-7-80	The Sub Magistrate having convicted a man under Section 403 I. P. C. without sufficient evidence, the High Court quashed the conviction and sentence	No explanation was called for

17-9-80	The a man of an Offence under Sections 116 and 1[illegible] the Conviction was quashed in appeal and the District Magistrate was asked to deprive the Sub Magistrate of his 2d Class Magisterial powers.	the District
18-9-80	The Sub Magistrate having given a remand to a female in a case of miscarriage without sufficient cause he was reported to the District Magistrate as unfit to be a 2d Class Magistrate	No reply been recd
19-9-80	The Sub Magistrate having convicted certain parties on evidence full of discrepancies which were not mentioned in the judgment and hearsay, it was reported to the District Magistrate that the Sub Magistrate is ignorant of the elementary rules of evidence	Do

Joint Magistrate's Office
29th October 1880

(Signed) T. J. D. Hardinge
Actg Joint Magistrate

(True Copy)

J Grose
Collector

Sub Dt. 4249/80.

Sub of Cases of Neglect & delay &c
Rec. Collection
Letter No. 6538 of 13[illegible]

No 142 Joint Magistrate's Office
Angola 17 September 1880

From The Acting Joint Magistrate,
Nellore District.

To The District Magistrate,
Nellore District.

Sir, I have the honor to bring to your notice, the conduct of the 2nd Class Magistrate of Podily in Calendar Case, No 44, of 1880, on his Court file, with a view to his being deprived if you agree with me, of at any rate 2nd Class Magisterial powers.

2. On perusing the Calendar and Judgment in case, No 44, of the Podily Magistrate's Court, I passed Proceedings pointing out that the Judgment did not set out the facts; that it did not appear how the 1st defendant (there were two) who was acquitted was connected with the case at all: that the Sub Magistrate merely said (which was not

ough) that the prosecution evidence
covers so and so and the evidence for
defence is unimportant. I further
asked for an explanation of the big delay
of over 3 months from the commencement
of the trial (22nd March) to its conclusion
on the 30 June last.

3. An appeal petition was received,
presented by the 2nd defendant,
who had been convicted and sentenced
to pay a fine of Rs.25 (fine paid) for
abetting the offence of giving false information
to a Public Servant, the Police
Inspector under instructions 116 and
182 I. P. Code.

4. The appeal has been duly
heard and decided by me, and
I enclose a copy for your information.
I upset the Sub Magistrate's decision,
and ordered the Rs.25 to be refunded.
I enclose also the record in the case,
including an extract from the Sub
Magistrate's diary.

5. The Sub Magistrate submitted
his letter No 230, a reply to my Proceedings
quoted above, a copy of this document
is also enclosed.

6. I consider the Sub Magistrate unfit to exercise 2nd Class Magisterial powers for the following reasons.

(1) He enquired into a case which he ought to have known he had no authority to enquire into

(2) He failed to dismiss the case, it being a mere summons case, and one obviously concocted, on the non attendance of the complainant - without recording any reason whatever for permitting it to proceed: That he adjourned the case on account of the complainant's absence on 4 occasions.

(3) That he must have adjourned the cases sometimes without giving notice to the parties: for the diary shows they were sometimes all absent, and the case was adjourned, notice could only in such cases have been given by summons. Yet no summonses were issued.

(4) The Sub Magistrate's Judgment does not, as it should do, contain a summary of the evidence of the case, but merely an expression of the Sub Magistrate's belief of the prosecution story and disbelief in that of the

defence which he characterizes as unimportant.

(5) That the Sub Magistrate could scarcely have so expressed himself bona fide — and that his withholding a statement of the evidence shows this — as the briefest statement would have exposed the value of the Sub Magistrate's conclusions.

(6) He quoted in his judgment against the ~~2nd~~ defendant certain irrelevant facts — that the man was a bad character and had brought a case against the complainant and his relations after the filing of the case against himself.

(7) Finally in his reply to my Proceedings he gives as an excuse for one of the adjournments of the case that from the first to the 8th April "that he thought of making private enquiries as to the truth of the case No 44, then under trial," no reason for the adjournment was recorded at the time and one had of course to be found.

Papers relating to Record in Case No 44 of 1880

Encl. in Collector Letter 4938

5

10429/80

I have &c

(Sigd) J. F. D. Hardinge
Acting Joint Magistrate

(True Copy)

In Judl 4249/80

— Grote
Collector

Sub Collector's Office

No 143. Angole 18 September 1880

Depd 20 do

From

T. Von. D Hardinge Esquire

Ag Joint Magistrate

Nellore District.

To,

J Grose Esquire,

District Magistrate Nellore

District

Sir,

In continuation of my letter No

I have the honor to bring under

your notice, the following procedure

of the Sub Magistrate of Podile in case

No. 70 of 1880 on his Court's file in

support of my expressed opinion,

that Venkataseshagiri Rao is unfit

to be entrusted with the powers of

a Magistrate of the 2nd Class.

2. On the 2nd of May last, the

station Officer of Podile sent an

occurrence report to the 2nd Class Magistrate setting forth that constable No 926, had informed him that there was, he thought, in the well of Kásá Pulliah's compound, a child rolled up in cloth. Accordingly he, the station officer, accompanied by 5 constables and the village Magistrate, went to the said well and had it (it was only thigh deep) carefully examined by one Nimmadu. Nothing was found but some dirty rags, with dark marks on them. A washerman, one A. Narigadu was of opinion, the marks on the cloths were blood marks. He also stated that one Ellamraju Paravatamma (a Brahmin widow) had not given him her menstruous cloths to wash since Siva Ratri. Further enquiries were being made and a report would be submitted.

hrs 27
56
57
18
134

A similar report was submitted to the 2nd Class Magistrate by the village Magistrate of Podile.

(3) Apparently, the Police Station officer considered there was suspicion of the commission of a cognizable case, (murder or causing miscarriage) and submitted this occurrence report under section 114 C.P. Code.

(4) The 2nd Class Magistrate seems at once to have taken the matter into his own hands under section 115 C.P. Code, I presume, and on the

14th and 5th of May he examined
one Avala Narigadu (2) Gaddelari
Ramudu (3) Garrau Ninimadu
(4) Lubbasing, Constable No 926
(5) B. Venkiah Constable No 570
and (6) Tupatudi Chengamma village
Munsiff of Podile.
(5) Avala Narigadu, the Dhoby, stated
as before, but added that he thought
Parvatamma was sick of fever
and that was why, she did not
send him her cloths. The 2nd & 3rd
witnesses spoke to searching the
well and getting out the rags,
they said the well sank. Constable
No 926 spoke being present
at the search of the well. Constable
Venkayya No 570 said, he was
told to go in search & a silver

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well and getting out the rags,
they said the well sank. Constable
No 926 spoke being present
at the search of the well. Constable
Venkayya No 570 said, he was
told to go in search & a silver

cup belonging to one Hodand Ramiah. He was to search in the backyards and topes. While searching accordingly, in Hasa Pallayya's backyard, he noticed something white. It turned out blue Gaza cup. Looked into the well, while searching and saw a cloth floating, and suspected, that it might be a cloth rolled up with the embryo of a child. There was one large cloth (2 cubits long & one broad) and one rag.

(b). The Sub-magistrate, on the 8th May wrote a yadast to the Inspector of Police to come up & detect the case but nothing

further was done, till the 16th
May when, a second occurrence
report was received from
the Station House officer.
It was presented in person
by Syed Mazoon who was examined.
(7). He deposed to the following
effect that "by enquiries made by
himself & his subordinates,
it was learnt that Ellamraga
Parvatamma procured abortion.
In spite of all enquiries made,
no evidence could be procured.
An anonymous petition received
by the Police Superintendent
that Parvatamma procured abortion
and buried the ifant in the
house was referred to the Inspector"

of the division. From what I
learnt ~~that~~ it appears that
Porvatamma surely procured
abortion. Therefore I request
that a warrant to take
her to the Medical Officer
for inspection, & another to
search her house to discover
the infant may be issued. This
Crime comes under section
312 I P Code."

8. These two warrants were
accordingly issued by the
Sub Magistrate. Ellamraga
Poravatamma was taken to Coyole
and examined by the Apothecary
Mr Prichard who certified

that "he can find no symptom of a late miscarriage on the prisoner. Neither can I find anything in the cloths sent, which are herewith returned sealed as requested"

9. Ellamma, Parvatamma was produced again, before the 2nd Class Magistrate at Podili on the 15 May with the certificate, when a second deposition was taken from the Station House Officer who stated, that Nothing was found in Parvatamma's house, that no evidence was forthcoming. He asked however for 10 or 15 days more. The Constable No 563, who took Parvatamma to

Angole and back (60) miles was also examined. As also the Shoby A. Narasijadu. He distinctly said he was not aware she had been pregnant or had procured abortion.

(10). The case was then adjourned until the 3rd June to get more evidence. The accused was released on bail.

(11). On the 3rd of June, the case came again and was finally disposed of. The station House Officer said, he could get no evidence. Of Maneraga Paravatamma made a statement to the effect that she had neither been pregnant nor had she procured a miscarriage

He was under section 195 C.P. Code released.

(12). I am disposed to think that in a case of mere suspicion such as this, by the Magistrate having jurisdiction the P. Code section 114 must mean a District or Divisional Magistrate or a 1st Class Magistrate or a duly empowered Magistrate, otherwise, the mere possession of an occurrence report would give a 2nd Class Magistrate authority to do that which the Code expressly says he must be empowered to do - that is to take up Cases on suspicion.

~~'37. But apart from the~~

13. That a positive objection, which if well founded, would render the whole proceedings of the sub Magistrate as I believe them to be, quite ultra vires. I consider that the sub Magistrate showed that he was wanting in the tact and discretion that a 2nd Class Magistrate ought certainly to possess.

(14) A few dirty rags were found in a well by Constable who gives an unsatisfactory account of his presence in the backyard where the well was situated.

Ellamma says Pasratamma's complaint with these rags was simply that she lived 40 or 50 yards from the well, that she had not sent her menstruous cloths to the dhoby for 2 months, that there were rumours that she had miscarried, though it was distinctly stated

that no evi[illegible] obtained to show that this was true. and an anonymous petition had been received by the Assistant Superintendent of Police (forwarded to Police Inspector for enquiry) accusing Parvatamma of procuring abortion & burying the child in her house.

(15). On these facts, the Cub Magistrate, at the request of the Station House Officer issued warrants for the arrest of Parvatamma for the search of her house, and directed that the woman be taken to a cycle and examined by the Apothecary. Not contented with this unwarranted, as I think, and certainly indiscreet exercise

of his Magisterial powers. The submag
finding that the woman showed no
signs of a miscarriage and that it was
not true, that there was a dead child,
or foetus, in her house, was so wanting
in common sense as to grant a remand
for 15 days at the request of a
Police Constable, to obtain further
evidence when he had it already
recorded that evidence could
not be obtained and when it
was obvious even supposing
persons came forward to depose
that Parvatamma had, in fact,
been pregnant, it would be
impossible to find her guilty
of causing a miscarriage
in the fee of medical evidence
to the effect that nothing of

the sort had occurred.

I enclose the records in the case,

I have &c.

(Signed) T. & D. Hardinge

Agent Magte.

(True copy)

J. Grose

Collector.

Judgment 1/80

Sa Jndr: 4249/80

No 147

Joint Magistr's Office
19 September 1880

From
The Joint Magistrate of
Sellore

To
The District Magistrate of
Sellore

Sir,

In continuation of my letter No 143 of the 18 Instant, I have the honor to forward a Copy of Proceedings passed by me, in Connection with case No 849 of 1880, on the file of the 2nd Class Magistrate of Podily.

The Sub Magistrate, you will see, is ignorant of the elementary rules regarding, and has not or fails to show the power of correct appreciating, evidence. I forward the record in the case alluded to.

I have &c.
[illegible]

/True Copy/

J Grote

Dist. Magistrate

[illegible] were taken from the Defts.

		Narasiah whose evidence was most necessary to absent at Ravipadu, the Case was posted to 5th June and Security bonds were taken from the Defts.
5.6.80 Saturday	Podile	Defts and Complt. appeared. Sonayajula Narasiah did not appear. Orders were given to summon him again. Case was posted to 21st Inst. and Security was taken from him.
21.6.80	Marripadi	Defts and the witness Sonayajula Narasiah did not appear. The Case was posted to 24 Inst.
24.6.80 Thursday	Pathapadu	Defts and witness S. Narasiah appeared. Complaint did not appear. Case was posted to 28 Inst. and Security bonds were taken from the Defts. The witness was informed of the date of postponement.
[illegible] Monday	Tharlapadu	As parties did not appear, Case was posted 30 Instant.
30.6.80 Wednesday	Handinampalli Rajavaram	Parties appeared. Enquiry began. S. Narasiah, 4 witness for the defence gave Kyfiets. 1st Deft Suraparaz Venkiah was acquitted under Sec 211 C.C.P. as the Charge was not proved. 2nd Deft Velagapudi Hondiah was charged under Secs. 116 & 182 I.P.C. 2nd Deft was released as he paid the fine.

(True Extract)

(Sd) N V Seshagiri Rao
2nd Class Mgr.

(True Copy)

J Grose
Collector & District Mgr.

Month & date	Camp	Subject	No. of items
22.3.80 Monday	Podile	Ky feet on solemn affirmation was taken from Tarumella Kotappa of Pathalapad in Podile division, as he presented a petition charging one [illegible] Venkiah 2 Velagapudi Kondiah under sections 177 and 182 of the Indian Penal Code.	
27.3.80 Saturday	Badugulam Irasalagundam Garimmapenta.	Summons were issued to defts 1 Surapuraz Venkiah 2 Velagapudi Kondaya and witnesses 1 Vema Narigadu, 2 Munnela China Kotaya and 3 Sheik Mazoor, to appear on the 30 Instant.	
[illegible]day	Madugu	In obedience to the summons the [illegible] appear. The summons were not returned. The case is posted to 31 Inst.	
31.3.80 Wednesday	Pathalapadu	Defts appeared. The case is posted to tomorrow and security bonds were taken from the defts.	
1.4.80 Thursday	Rajuvaram	In obedience to the security bonds the defts appeared. Enquiry was begun. Compl't was reenquired on solemn affirmation. On solemn oaths [illegible] from Vemanarigadu, [illegible] Chinna Kotappa, Sheik Majoor, Musukur Guravadu, Sheik Imam, the 2nd, 3, 4, 5 & 6 witnesses for prosecution. The defts 1 Surapuraz Venkaya and Velagapudi Kondiah were enquired. The case was posted to 8 April and security bonds were taken from the defts.	

Lus Jud: 4249/80

8.4.80 Thursday	Cambhala padu Nandipalem Pothavaram Podile.	Defts appeared. As the Complainant did not appear the case was posted to 9 of this month and Security bonds were taken from the defts.
9.4.80 Friday	Podile	Defts appeared. As the Complt did not appear the case was posted to 19 Instant and Security bonds were taken from the defts.
19.4.80 Monday	Pedaricatla Chinarikatla	Parties did not appear. Case was [illegible] 26 Instant
26.4.80 Monday	Podile	Parties did not appear. Case was posted to 5 May
5.5.80 Wednesday	do	Parties did not appear. Summonse were issued to the defts and Complt, to appear on the 11 Instant.
11.5.80 Sunday	do	Defts appeared. As the Complt did not appear bonds were taken.
12.5.80 Wednesday	do	Parties appeared. Enquiry was refugun. 1st deft Swarapanz Venkiah was re examined. He asked to call for the defence witnesses. 2nd deft Velagapudi Kondiah has enquired. He called for defence witnesses. Kyfiet was taken on solemn affirmation from Pachidoza Nagiah the 1st defence witness. Case was posted to 21 Inst. Summonse were issued [illegible] witness, and Security bonds were taken. The Complainant was informed of the date to which the case was posted.
21.5.80 Friday	Rayavaram	Parties and defence witness Gayam Kotireddi appeared. The witness was enquired and Kyfiet taken on solemn affirmation. As another witness Sonnarazala

Memorandum on the facts of 3 cases disposed of by the 2nd Class Magistrate of Podili.

18

Case 70- Preliminary Inquiry.

On the 2nd May 1880 the Police sent an occurrence report informing the Magistrate that some rags with marks on them said to be marks of blood had been found in a certain well and that a woman named E. Parvatamma had not given menstruous cloths to her washerman to be washed since the 9th March. The Magistrate proceeded to examine into the case as if he had received a complaint that E. Parvatamma had caused herself to miscarry.

The first hearing was on the 4th and 5th May. All that was ascertained then was that two cloths were found in the well marked apparently with blood and stinking, that E. Parvatamma, a Brahmin widow who up to two months before had been giving menstruous cloths to a certain

washerman had given him none for three months, that when she did so the clothes were marked similarly to those found in the well, and that she had been suffering from fever which might (in the washerman's opinion) have stopped menstruation.

On the 6th May the Magistrate directed the Police Inspector to make enquiries.

On the 14th May the Head Constable of the Police Station said that from ~~the~~ rumours and an anonymous petition to the Assistant Superintendent he had reason to believe that E. Parvatamma had caused herself to miscarry and asked for warrants to search her house and take her before the Medical Officer at Ongole for examination.

The warrants were accordingly issued. E. Parvatamma was taken to Ongole and examined by the Apothecary at the Municipal Dispensary, who certified that he could find no signs on her of a recent miscarriage. He examined also the clothes which had been found in the well but found nothing to notice on them.

E. Parvatamma was produced before the Magistrate again on the 19th May with the Apothecary's certificate. The Station Officer deposed that though there was a rumour that she had miscarried & and an anonymous petition had been received to the same effect he had found no evidence of the fact, but asked for a remand of 15 days. The washerman, also, being examined deposed that he did not know either that E. Parvatamma had been pregnant or had had a miscarriage. Nevertheless the Magistrate granted a remand.

On the 2nd June the case came up again and no further evidence being forthcoming the prisoner (who had been out on bail) was released.

Case 44.

Two men were charged with telling another man to inform a Police Inspector that a fourth man had torn up a certain crime report though he had not done so, or in other words with abetting an offence under Sec 182 I.P.C. The Police Inspector

did not complain but on the contrary gave evidence for the defence so that under Sec 467 Criminal Procedure Code the Magistrate had no authority to entertain the case. Nevertheless he did so. It is to be observed also that it was a summons case.

On the 22nd March the complainant deposed that the offence above described had been committed 2 months before. His story was to the effect that a certain man had beaten his wife, that the Curmun (3rd witness for the defence) wrote a report of the crime to a Police station, and that the second accused told Venia Narizadu (2nd witness for the prosecution) to tell the Police Inspector that complainant had taken the report and torn it up.

The trial began on the 1st April. The 1st witness for the prosecution (Complainant) said that the statement against him had been made to the Police Inspector and

and that the Police Inspector had inquired into it and found it false, but apparently knew nothing of the offence charged by personal observation. The 2nd witness for the prosecution Venna Nanjadu said the second accused and the 2nd witness for the defence, a Village Magistrate, had told him to make the false statement about complainant to the Police Inspector. The 3rd and 4th witnesses said they heard 2nd accused and 2nd witness for the prosecution telling Venna Nanjadu to do so. The 5th and 6th witnesses said they heard 2nd accused himself make the false statement to the Police Inspector on another occasion.

The first witness for the defence attended on the 12th May. He was the Police Inspector concerned and he deposed that though the statement about complainant tearing up the report had been made to him by the Karnam (3rd witness for defence) the accused did not make it.

The second witness for the defence ~~attended~~ was examined on the 21st May

He was the Village Munsiff said by 2nd, 3rd and 4° witnesses for the prosecution to have joined with the accused in telling Vema Naregadu to make the statement about complainant. He denied the fact.

The third witness for the defence was examined on the 30° June. He was the Curnum who wrote the report. He said he knew nothing more about it than that he had written it and that the accused did not tell the Police Inspector that the Complainant had torn it up.

There is no evidence, it is to be noted, that complainant did not tear up the report.

The Magistrate delivered judgment on the 30° June; in it he said that the fact that 2nd accused had told Vema Naregadu to make the false statement to the Police Inspector was distinctly proved, that the defence evidence was not of an important character, and that the second accused had been twice convicted under Sec 323 I.P.C, was a bad character, and had lately brought a case against complainant and his relatives which was

dismissed. He convicted 2nd accused and sentenced him to a fine of Rs 25 or in default to 15 days simple imprisonment.

The trial had then lasted more than 3 months. On several occasions when the case was called up the Complainant was not present and the Sub. Magistrate ought to have dismissed the Charge under Sec 205 Criminal Procedure Code unless he had good reason to the contrary, which he does not seem to have had. Moreover on being called to account for his delay by the Joint Magistrate he says (with regard to one adjournment: "I thought of making private inquiries as to the truth x x and adjourned x x. My personal inquiries convinced me that the complaint x x was true, that 2nd accused was a bad character in the village and several times punished"

There was an appeal to the Joint Magistrate and the conviction was reversed

Case

Case 84.

On the 19th June 1880 a Postal Overseer deposed before the Podile Magistrate that on the 15th March a certain Mail runner said he had been assaulted by the 4th accused when carrying the mail on that day and that the mail had been delayed in consequence for an hour. The 2nd witness was the mail runner. He said that the 4 accused stopped him when he was carrying the mail, that the 1st and 2nd accused beat him so that he fell down, that the 3rd and 4th witnesses came and released him, and that the 3rd witness carried on the mail that day. The 3rd witness said he carried the mail one day when 2nd witness had fever. He said nothing about seeing the assault or releasing 2nd witness, but had heard of an assault. The 4th witness said he saw the 1st accused beat the 2nd witness near a well in front of 1st accused's house, that 2nd accused was present, that he interfered and took first accused home while 3rd witness carried

carried 2nd witness home. He declared that he knew nothing of any assault on 2nd witness whilst he was carrying the mail. Hence the assault he deposes to must have been an assault at a different time and place from the assault deposed to by 2nd witness. What he says of 3rd witness is not confirmed and therefore must be taken to be contradicted by 3rd witness. Moreover he says nothing of the 3rd and 4th accused being present at the assault though 2nd witness said they were.

At this point the Magistrate seems to have come to the conclusion that though no offence under Sec 44 of the Postal Act was proved a prima-facie case had been made out of a common assault by the 2nd accused and under Sec 206 Criminal Procedure Code he asked 2nd accused what he had to say? He said that 2nd witness came to his Pandal drunk one day, that he told 2nd witness to go out, and that as 2nd witness did not go out he pushed and carried him out into the road, striking a blow

at the same time. Obviously this was not an admission of the charge, but a justification of an assault committed under entirely different circumstances from those represented by the Prosecution.

The Magistrate in his judgment delivered on the 17 July sets out the hem-say of 3rd witness as evidence, refers to the statement of 1st accused as a confession and makes no mention of the discrepancies on the evidence.

1st Accused was convicted. There was no appeal.

Nellore, Collector's office
13 December 1880

J Grose
Collector.

IV

Collectoris
Memorandum
referred to.

Enc: Collectoris letter
No 4938, dt 13.12.80

10129/80

GO Insl 45/81

In Insl. 42199/80

Proceedings of the Acting Joint Magistrate of Nellore under date, the 19th September 1880. No. 382. No. 148.

In a petition to the Podile Sub-Magistrate, dated the 18th June 1880, the Angole Cumbum line Overseer stated that on the 15th March 1880, the runner Polugadu who had to carry the mail from Chinamanagundam to Buchayas well, was attacked in the way by (1) M. Rayalu, karnam of Chinamanagundam, (2) Aiyavarappa, (3) R. Venkatiah and (4) C. Poliah. They beat him, threw away the mail-bag, and caused disturbance. The runner had to return to the previous stage, and despatch the mail bag by another cooly. This was a complaint under section 44,

however it appeared to me that the man

Post Office Act. Seshayya (the Overseer) deposed before the Sub-Magistrate as above - from a report (not produced) given by the runner.

2. 2d witness (G. Polugadu) deposed that sometime ago he and some other runners (washermen) brought an arrack case against the 1st defendant. Three months ago one day at about 5 P.M. he was carrying the tappal. The 4 defendants came across him. - 1st defendant abused him. 1st and 2d defendants gave blows on his neck, and he fell down. The 3d and 4th defendants, though present, did nothing. All went away. Returned with V. Guravian, A. China Boudiah, P. Thirravadu. Guravian carried the bag that day. There occurred a delay of one

one hour.

The 3d witness, V. Guraviah, said he only carried the tappal 2 days for 2d witness. It was 2 months ago. The 2d witness was then suffering from fever. Here some hearsay is recorded by the Sub-Magistrate.

3. 4th Prosecution witness — A. Kondiah, deposed that he saw one evening the 1st and 2d defendants and 2d Prosecution witness, near the well, in front of the 1st defendant's house. The 1st defendant was beating the 2d Prosecution witness. Saw the 1st defendant give 3 blows to the 2d Prosecution witness. This was 3 months ago. The 2d witness was lying down. The 3d witness took the 2d witness to his house.

4. The man, Chirravadu, was not examined.

however it appeared to me that the man

5. It seems then that the 3d witness denied all knowledge of the matter. Something, however, that he had heard, was recorded as evidence by the Sub-magistrate who also appears to have received, as evidence, a statement by the Overseer, of the contents of some written complaint, made to him by the runner (2d witness). The evidence of the 4th witness did not agree with that of the 2d witness. He spoke of an assault that was committed by the 1st defendant near a well, opposite to 1st defendant's house. He mentioned the 2d defendant as present, but did not say anything of the 3d and 4th defendants, nor of Chirravadu. He said that 3d witness took the 2d witness away. Chirravadu was not called.

1. Though the evidence was such, the 1st defendant was asked what he had to say to the charge (as charge technically so called was framed) and it does not appear except from the judgment what was meant by the term. The 1st accused then explained that the runner came, one evening, drunk to his pandal, and was walking up and down. He took him to the tank, where he fell down being drunk. He admitted that he gave him a blow at the time.

7. In his judgment, the Sub Magistrate begins by referring to this statement of the 1st accused. Then quotes the supposed evidence of the 1st witness derived from a report (not produced) made to him by the runner. Next mentions that the 2d witness deposed accordingly. Then notices with approval the hearsay evidence of the 3d witness, and however it appeared to me that the man

lastly accepts the statement of the 4th witness that 1st accused beat the 2d witness near the 1st accused's house. Not one word is said of the discrepancies between the statements of these witnesses.

8. The Judgment is neither signed, nor dated, nor does it contain the finding and Sentence. The Sub-Magistrate's attention is called to Section 464, C. P. Code.

9. This case should have been dismissed. It was impossible to believe a word of evidence for the prosecution. The statement of the Accused, that he had struck the complainant in bringing him out of his pandal when drunk and abusive, is not such an admission of the commission of an offence as would fall under Section 324, I. P. Code. Obviously the Accused thought himself

himself, and, under the circumstances stated by him, he was quite justified, in giving, if necessary, a blow to the Complainant.

10. This Case shows: 1st, that the Sub-Magistrate is unacquainted with the Elementary Rules of Evidence: 2nd, that the Sub-Magistrate has no power or fails to excercise the power if he possesses it, of correct appreciation of Evidence.

11. The Sub-Magistrate's summary of the evidence in his judgment is not full enough. Discrepancies where they exist, should not be kept out of sight. The attention of the Sub-Magistrate is called to the Evidence Act of 1872.

Sd/ F. V. D. Hardinge
Ag. Joint Magte

/True Copy/

B Hardinge
Ag. Joint Magte.

J.N. 21.9.80

however it appeared to me that the man

No. 230.

To

J. V. D. Hardinge Esquire,
Joint Magistrate,
Nellore District.

Sir,

As ordered in Auditor's Proceedings of the 16th Instant, I humbly beg to enclose Record of Case No. 44, Extract of my Diary in that case and the copies of Calendar and Judgment in Case No. 45.

2. I further beg to submit that the big delay in the disposal of the case No. 44 was due to my having been on circuit on several occasions as might be seen from the Diary Extract and the inability of the parties and witnesses to appear before me on the appointed

however it appeared to me that the ma

days. The 3rd witness for the defence had been in the Cambum Taluq and there was delays in his coming here. The trial was commenced on the [illegible] April. As cross-complaints had been filed be[illegible] me by both the parties against one another and as one of them was dismissed in case No. 45, I thought of making private enq[illegible] as to the truth of the other case No. 44 and adjourned it to the 8th Instant. My personal enquiries convinced me that the complaint in Case No. 44 was true, that 2d accused was a bad character in the [illegible] and several times punished. After adjourning the case from day [illegible] day, both the parties were pr[illegible]t again on the 12th May, and the trial resumed. One defence witness,

Case was

Podile, — 26th July 1880

was examined that day.

fence witness was present

Examined on the 21st Idem. The

3rd defence witness who had been

in the Cumbum Taluq, appeared

before the Court on the 24th June,

when the Complainant was absent.

On 30th June, the said witness and

the parties were present and the

ultimately disposed of.

I beg to remain,

Sir,

Your most obedient servant,

(Signed) N. V. Seshagirikow,

2d Class Magistrate

(True copy)

V. Hardy

Acting Joint Magte

however it appeared to me that the man

10439/80

29

Judgment in Appeal Case No. 7 of 1880 on the file of the Joint Magistrate of Nellore.

In Judr: 42 [illegible]

From what Court the appeal is preferred — } The Court of the 2d class Magistrate of Podily.

No. of the case in that Court.. No. 44 of 188[illegible]

Number of the appeal. No. 7 of 1880

Name & description of appellant: Velagapoodi Rondiah. Brahmin. cultivator.

The sentence & law under which it was imposed in the Lower Court — } 25 Rs fine under Secs 116 & 182 I.P.C.

Whether confirmed, modified or reversed - - - } Reversed.

A complaint petition dated the 22d March was presented to the 2d class Magistrate of Podily by one Turumella Kotuppa, charging Sooraparazu Venkiah

however it appeared to me that the ma[illegible]

and Velagapoody Kordiah (both of Potalapaud village) with giving false information to a public servant (the Police Inspector of the Taluq) with a view to cause him to use his lawful powers to the injury of him, the petitioner. This petition set forth that this offence was committed 2 months before the date of petition.

The information said to have been given to the Inspector was to the effect that the petitioner had torn up an official letter written in the name of Village Magistrate of Kandallapally to the Station Officer of Rayawarum informing him that one Mala Vama Narigaudoo of Kundallapully had beaten his wife. It was further stated that one Muwoala Chinakotiah even heard the 2d defendant threatening Narigaudoo to induce him to give evidence that the

report was run up. A list of 4 witnesses was appended (1) Vama Narigandoo (2) His wife (3) M. Chinakotiah (4) Saik Magoon. The Police Inspector was also said to have enquired into the truth of the alleged tearing up of the paper and decided that it was untrue.

2. On the 1st April the whole case for prosecution was completed. The complainant (1st witness for prosecution) then stated as his reason for not complaining till 2 months after the date of offence that he had "press of work". He added that 2 witnesses Musuku Guruppa & Shaik Imaum were present when the 1st and 2d defendants were giving false information to the Police Inspector.

3. The 2d witness V. Narigandoo said he had quarrelled with his wife & that the Inspector came to his village & took him to Patalapad where inquiry was made. He was dismissed with a caution. On the way to Patalapand however it appeared to me that the man

the 2d defendant Kondiah & the Village Munsiff, of Potalapaud, Kotiah told him to say to the Police Inspector that the complainants Kotuppa had torn up a plant regarding the quarrelling in his (witness) house; that he refused to do so as he knew nothing of the matter. The Inspector did not ask anything about it. The Inspector was in front, then 2d defendant, then Kotiah, then Narigandro, then his wife Muruvala China Kotiah & Shaik Mazoon saw them from a garden close by the way.

4. The 3d & 4th witnesses (Muruvala China Kotiah & Shaik Mazoon) said they saw the procession of the Inspector = passing their garden at 5 P.M. about 2 months back. The Inspector was 20 yards in front of 2d defendant. They heard the 2d defendant and Village Munsiff asking Narigandro to tell the Inspector that the report had

been torn up by Rotuppa. The witnesses however were not quite at one in their depositions. Nor did they agree with Narigaudoo, for whereas Narigaudoo omitted all mention of the presence of the 1st defendant in the procession from Rundallapully to Potalapaud, Chinakotiah said the 1st defendant was there heading the procession. Shaik Mazoon said the 1st defendant was there, but he walked next to the Inspector. Moreover Shaik Mazoon further differed from Chinakotiah & Narigaudoo in stating that the Village Munsiff of Potalapaud and 2d defendant walked together, whereas Chinakotiah & Narigaudoo had said the Village Munsiff walked behind the 2d defendant.

5. The 5th witness Musaku Guruvadoo (one of the 2 after thoughts) said the Inspector came to his village Potalapaud and sent for him. On going he saw 2d defendant however it appeared to me that the man

who was present telling the Inspector that complainant had forcibly taken the report & torn it up. The 1st defendant was also present, but he was not heard to say anything.

6. The 6th witness Shaik Imaum (the other afterthought) a Mudam said he brought Rasukee Guruvadoo to the Police Inspector, as he was ordered to do so by 2d defendant. On arriving found the door open, the 1st & 2d defendants were with the Inspector. Heard the 2d defendant tell the Inspector that the complainant Rotuppa tore up the Randallapully (Narigandoo's village) report.

7. On the same day (1st April) the 1st and 2d defendants gave statements to the effect that they made no complaint against the complainant to the Police Inspector. Nothing is said about witnesses & it does not appear from the record that they were

asked if they had any.

8. The case was adjourned without any reason (recorded in the diary or record of case) until the 8th April when, as the complainants was not present (although the defendants was present) the case was adjourned till the 9th and again for the same reason was adjourned from the 9th to the 19th April. On the 19th the parties were not present & the Court was on circuit so the case was adjourned till the 26th. Again for the same reason the case was adjourned from the 26th April till the 5th May. Whether the parties even got notice of these adjournments does not appear and from the fact that they did not attend on the days fixed it seems impossible they could have had notice unless Summonses had been issued & that was not done till the 5th of May - when all parties were summoned to attend however it appeared to me from the wit-

on the 11th May. On the 1st the defendants were present. but the complainant was for the 3rd time absent. The case was adjourned till the 12th May (next day). On the 12th the parties being present. the 2 defendants were re-examined. They then cited witnesses - the Police Inspector & 2 others. Of these the Police Inspector was examined. Summonses are issued for the attendance of the other 2 defence witnesses on the 21st May. On the 21st May the 2nd defence witness appeared and deposed. It is stated in the Diary that as the evidence of the 3rd witness (said to have gone to Ravipaud Kunool District) seems to be material a summons is issued to him to appear on the 5th June. On 5th June the 3rd witness did not appear so a 2nd summons was issued for him to appear on the 21st June. On the 21st June the parties were

not present - so the case was adjourned till the 24th June. On the 24th the defendants and the 3d witness were present but not the complainant - so the case was adjourned till the 28th. On the 28th the parties were not present - so the case was adjourned till the 30th June when the evidence of the 3d witness (defence) was taken and the case finally disposed of.

9. The Police Inspector - 1st defence witness stated that the Karnam of Kandallapally Somayazula Narasiah (3d defence witness) told him that 7 or 8 days previously some Mala had beaten his wife, that he, the Karnam - at once sent a report to the Station, but that it was torn up by complainant. Some one had told him so. He denied that the 2 defendants ever told him anything about this, against the complainant

however it appeared to me from

complainant.

10 The 2d defence witness Rotireddy Vil-
lage Munsiff of Potalapaud said he knew
nothing of the case and denied that he and
the 2d defendant ever asked Narigandoo
to say anything in the matter.

11 The 3d defence witness S. Nassiah Karnam
of Randallapally denied that he had
ever told the Police Inspector that the
complainant had torn up a report sent
by him to the Rayavaram Station Officer,
regarding a quarrel in Narigandoo's house:
but did not deny - and he apparently
was not directly asked whether he had
or had not written and despatched such
a report.

12. The 2d class Magistrate of Podily in
his Judgment on the evidence above set
out says as follows:- "It is distinctly
proved by the evidence for the prosecution

that on the mornings of the 25th date of Offence
2d accused told the 2d witness for the pro-
secution to state falsely before the Po-
lice Inspector then present that the com-
plainant had previously torn away a
cover to the adress of the Station Officer of
Rayavaram, and that the 2d witness
refused to comply with the requisition.
Accused deny the charge. The defence evi-
dence is not of an important nature. The
2d accused had twice been formerly sen-
tenced to imprisonment for a period of one
month on each occasion for offences com-
mitted under sec 323 I.P.Code. He is
a bad character and I doubt not that he
had abetted 2d witness for the prosecution
to give false information against the com-
plainant with dishonest intention. This
2d accused had lately bought a case

however it appeared

against this complainant & his relations,
after the filing of this case, it was dismissed
as no offence in Calendar case No 45 of
1880. I consider the 2d accused deserves
punishment."

13. Now in the first place I consider
that the Sub Magistrate had no jurisdic-
tion to enquire into in a case as this
at all. It was of an offence under secs
177 & 182 I.P.C. Sec 46 of the C.P.Code
says that complaints of offences falling under
Chapter X of the I.P.Code not falling
within Sec 435 or 436 of the Act, shall
not be entertained in any Criminal Court
except with the sanction or on the complaint
of the public servant concerned or of his
official superior. The 2d class Magis-
trate of Bodily is not so for as I know
the official superior of the Police Inspec-
tor. No allusion is made to this point

by the Podily Sub Magistrate. 57

14. Waiving however this technical objection in the 2d place I consider the evidence for the prosecution to have entirely failed. No evidence was given regarding the letter at all. There was nothing to show that the letter was not in fact torn up by the complainant. the evidence tendered was only as to the fact that a complaint to that effect was made by the accused to the Inspector. Moreover the evidence such as it was was full of discrepancies. The witnesses who tried to show that Narigandoo was being tempered with give different stories, and their stories, and Narigandoos, are not at one. The witnesses to prove the direct complaint to the Police Inspector were "after thoughts" – not mentioned in the complaint petition. Further

however it appears

Further the complaint was laid two months after date.

15. In the 3d place the defence evidence is to my mind of a highly important nature. The Police Inspector denied, and his evidence is purely to be taken before that of the 5th and 6th prosecution witnesses, that any complaint was made to him by the 1st and 2d defendants. The 2d defence witness a village Magte denied the truth of Narigandoo's evidence.

16. The Sub Magistrate says the 2d defendant deserves to be punished as he was a bad character twice previously convicted & hurt. He also alleges against him that he had brought a charge against the complainant & his platoon subsequently to the filing of the complaint against him which was dismissed as false

false. Neither of these facts ought to have been mentioned.

18. I have no doubt the charge is a false one and annul the conviction of the 2d defendant and order that the fine Rs 25 (which was collected) be refunded to him

17. In acquitting the 1st defendant the Sub Magte showed that he did not believe the evidence of the 5th and 6th Prosecution witnesses.

Date of			
Presentation	Filing	Hearing	Order
24.7.80	27.7.80	16.9.80	16.9.80

Ongole
16th September 1880

Signed / T. V. D. Hardinge
Ag Joint Magte

/True Copy/

R. D. Hardinge
Ag Joint Magte

Rd M.
however

Judl. Department.

Press to be read not print enclosures to Grove's letter.

No. 4249.

From the Board of Revenue

Dated 21st Dec/80. No: 14162.

FOR ORDERS.

Say/ 12th Jany/81 No 45

The Govt approve the removal of the Sub Mage from his present post to that mentioned by the Mage of the St. The Powers of the Sub Mage are hereby cancelled.

2. The worst case reported, & his handling of wh shows the absolute necessity of removing Seshagiri Rao from his present ~~[illegible]~~ position, is Preliminary Enquiry No 70. He wh have shown his ~~[illegible]~~ discretion in refusing to allow the person of the accused woman to be examined shall in the absence of any reasonable suspicion that she had procured a miscarriage; but ~~[illegible]~~ conceding for a moment that such examin was desirable, it might have been effected through the village midwives or other matrons, instead of marching her, ~~[illegible]~~ a young Brahmin widow, 60 miles to the dispensary, in the charge of a single Constable. However, that after a certificate, found a responsible

The Board transfer a letter from the Collector of Nellore (with its Inclos:) which recommended that the Tahsil:-Magtis of Podili be degraded to a post not involving magisterial jurisdn:, with the remark that they observe that no misconduct in the

Medical Officer, favoring the woman's innocence; the Sub Magr. &c. have acceded to the preposterous applⁿ of the Head Constable for a fortnight's remand, "to make further inquiries" — is conclusive evidence of either an imbecility or a rashness of character quite incompatible with the responsible functions of a Taluk Magr.

I. The ~~[illegible]~~ behaviour of the Station House Officer in the conduct of the case will be considered & dealt with by the I. G.

P.G.

To Bd. Rev. [illegible] Sang 7/1
To all Dt. Magr. [illegible] Desp. 20/1
To I. G. Police
Gazette

[illegible] 160

Look of the Talks: is alleged & that the sole question is whether he is fitted to exercise the high magisterial powers (2d Class) with which he is at present invested or to be a Magtr. of any class and that this is a matter beyond the Board's decision — Mr Grose's letter embodied in Boards proceedings

23/12/-

summaries the case against
the Submagte.

87.7
5/1

Feb. 81

FOR ORDERS.

Revenue Department

Mis: No. 14,162

Proceedings of the Board of Revenue

Dated 21st December 1880.

Read the following letter from J. Grose Esquire, Collector of Nellore to C. A. Galton Esquire Secretary to the Board of Revenue, Madras, dated Nellore 13th December 1880 No. 4,938.

At the instance of the Ag Joint Magistrate I have the honor to submit the records in cases 70 (Preliminary Inquiry) 44 & 84 of 1880 on the file of Mandagiri Venkatta Seshagiri Row Deputy Tahsildar and 2d Class Magistrate of Podili with the letters of the Joint Magistrate forwarding them. In the first of these letters the Joint Magistrate says he forwards a record in Case 44 that the 2d Class Magistrate may be deprived of at any rate second class magistrate Powers. On carefully going through papers however it appeared to me that the man

J 17-9-80, No. 142
18-9-80, " 143
19-9-80, " 147.

had shown unfitness to be entrusted with any Magisterial powers whatever. Moreover Law of opinion (in which after demi-official Communication I find the Joint Magistrate entirely concurs) that it is necessary that the Dy Tahsildar at Podili should have second class powers as otherwise the interests both of the people and Government will suffer. It follows that if our views are confirmed by higher authority, N. Venkata Seshagiri Row must be removed from Podili and degraded. He is drawing Rs 100 a month now. The best place (not requiring magisterial powers) which I could give him under existing circumstances is that of Head Accountant in my office on Rs 85. Hence I consider it my proper course (though the substance of my letter will concern magisterial matters) to address the Board of Revenue

2. The N. Venkata Seshagiri Row concerned is the man who was reduced from the post of Tahsildar of Atmakur by G. O. 22d August/70 No. 1346.

3. I enclose a Memorandum which sets out the facts of the 3 cases to which I am about to refer.

4. In the first case (70. Preliminary Inquiry) the Magistrate misused his powers by remanding a woman on a shameful charge after it became clear that there was only the faintest and most inconclusive evidence against her. He kept the woman under trial from the 4th May to the 3d June, & issued a warrant subjecting her to the indignity of being personally examined for marks of miscarriage by the Apothecary in charge of the Hospital at Ongole. I have no doubt that this warrant was utterly illegal, but I know this point is one on which well informed Officers differ, so do not

Pre-Enquiry No 70.

dwell on its illegality. At all events the cruelty and impropriety of issuing such a warrant under these special circumstances are very manifest.

5. In the second case (44) the magistrate tried a case when he was without jurisdiction to try it, proceeded with the case when he ought to have dismissed it, convicted a man when he certainly ought to have acquitted him, allowed his judgment to be biased by the results of "private inquiry" &c, and cloaked his injustice by writing a judgment which omitting all reference to the points which told in favour of the accused said that the case against him was "clearly proved" whereas it was not, and that the evidence for the defence was "unimportant" though it was in fact most important. In this case there was an appeal and the conviction was reversed.

6. In the third case (64) also the

the magistrate convicted when he certainly ought to have acquitted, & his judgment places reliance on mere hearsay, speaks of a statement of the accused as a confession whereas it was not a confession and makes no mention of the discrepancies in the evidence which were such as to deprive it of credibility. There was no appeal.

7. This misuse of magisterial powers and obliquity of judgment caused by the magistrates concentrating his attention on facts which common sense and the law of evidence ought to have made him put out of sight & refusing his attention to facts which ought to have been prominently before him is so conformed, and when combined with his method of writing judgments is so dangerous that I do not think warning would be of any use. The list of 8 cases in which the joint

Magistrate had had to find fault with the Podili Magistrate since the beginning of the year (besides this 3) shows that he cannot be controlled in the ordinary way. So long as he remains a Magistrate I fear the people will be oppressed and the interests of justice will suffer.

8. It seems to me to follow that N. Venkatadeshagiri Row must be graded to a post where he will have no Magisterial Jurisdiction. It may at first sight seem harsh that he should be punished so heavily since all Magistrates are liable to make mistakes at times and no dishonest motive is alleged but mistakes. I have mentioned (and which by the way can only be properly estimated on examining the records) are of a different nature from ordinary mistakes or such mistakes as could

be made through mere ignorance or stupidity. Moreover Sri Venkata Seshagiri Rao is neither ignorant nor stupid & has been familiar with work of a magistrate for many years.

9. I enclose the letter of the Joint Magistrate submitting the records with translations of all important papers in those records, the Joint Magistrate's Appeal Judgment with regard to Case 44 & his proceedings in Case 824 & the List of Cases disposed of by the Podili Magistrate in which he had incurred the disapproval of the Joint Magistrate since the beginning of the year.

The Board observe that misconduct on the part of the Deputy Tahsildar of Podili is not alleged. The sole question is whether he is fit to exercise the high magisterial powers with which he is at present invested or indeed to be a magistrate of any class.

2. This is not a matter for the decision of the Board of Revenue: & the Collector

letter and enclosures will be forwarded to Government in the Judicial Department.

3. In the event of V. Sachagiri Row being deprived of Magisterial powers it will of course be necessary for the Collector to provide him with a post involving only Revenue duties.

(True Copy & Extract)

Sd/-
Secretary

To
The Chief Secretary to Govt. J. D.
with 15 original enclosures.

Ex. J. S. Wadia
Copy
Ramachandra

22-1-78 No. 1346.

Judl. (1800) Dept.
(Magistrates.)

No. 45/81

No: 4249.

From B. of Revenue
Dt 21st Dec 2
Rt 22

No. 14162

Forwarding Proceedings of the Board of Revenue dated 21st Dec 2/80.

No. 45/81

Ex: 14

Proceedings of the Board of Revenue dated 21st Dec 2/80.

Forwarding Proceedings in the Judl. Dept. letter from Collector of Nellore regarding the unfitness of the Dy Tor. & 2d Class Magte of Podili to hold a Magistrate.

Under the provisions of Sec: 54 of the C.P.C. the Rt: Hon: the Gov: in Council is pleased to cancel the magisterial powers with which Nandagiri Venkata Seshaghiri Rao, Dy: Tahsildar of Podili in the Dist: of Nellore, is invested.

(From orders)

8/7
8/1

Gazette.
8/1

13/8/98

Govt. of 1881 Madras.

Jud 6

Gazette

G.O., 12th Jany 1881, No. 45

Nos. 41–42

Subordinate Magistracy. The removal of N. V. Seshagiri Row, D. Tahdr. & Sub Magte of Podili from his present post to that of Head Accountant in the Nellore Collr's Office, approved, and the powers of the Sub Magte, cancelled.