

- (1) பக்கங்களின் எண்ணிக்கை 28
(2) புதுக்கித் திருப்பிய நாள்
(3) ஆதாரக் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

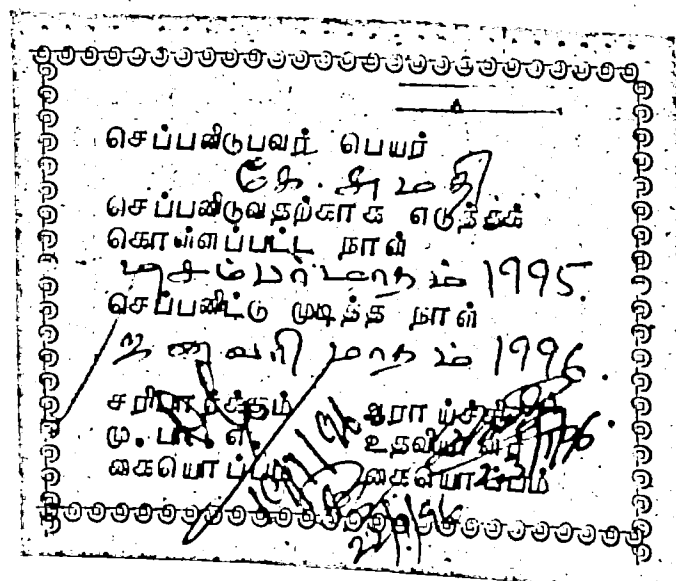
தமிழ்நாடு அரசு

தேதி துறை

அரசாணை எண்.	88	அச்சகம்
மு. கோப்புத் தாள் எண்.		பலவகை
நாள் :	18-1-1881	199

மடிக்கலோ கண்டபடி கையாளலோ கூடாது.

ஆவண. கா. 1-18,006-6-9-90.



GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

18th January 1881, No. 88.

Police.

Read the following papers:—

No. 63. From L. McIVER, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, dated 16th December 1880, No. 2592.

I am directed to forward, herewith, for the information of His Grace the Governor in Council, copy of the Judgment in Criminal Appeal No. 23 of 1880 on the file of the Court of Session of the Tinnevely Division with reference to the Judge's remarks on the Police Inspector.

ENCLOSURE No. 1.

In the Session Court of Tinnevely.

Tuesday the Thirtieth day of November, one thousand eight hundred and eighty.

PRESENT:

JAMES FREDERICK SNAITH, Esq., Officiating Session Judge.

Criminal Appeal No. 23 of 1880.

Vyравanadavi, Pattasalian, Weaver, Age 65, Appellant (First Prisoner).

Appeal against the conviction and sentence by the Acting Head Assistant Magistrate of Tinnevely in Calendar Case No. 20 of 1880.

This appeal coming on for hearing:—Upon perusing the petition of appeal and the record of the evidence and proceedings, and upon duly considering the same after hearing the arguments of the appellant who appeared in person, I do adjudge and order that the conviction and sentence passed on the said appellant be reversed and annulled.

The prisoner, a weaver, was convicted, under Section 500, of defaming Subramania Pillay, Police Inspector of Ambasamudram, in a petition—

Date of Presentation.	Date of Filing.	Date of Hearing.	Date of Order.
9th November 1880 ..	9th November 1880..	29th November 1880.	30th November 1880.

to the Inspector-General of Police in Madras, and fined 51 rupees, or in default three weeks' simple imprisonment.

The sentence has been carried out by the prisoner in the jail.

He now appeals in person, no Vakul being instructed. The point raised by the appellant is whether the case falls within the Exceptions 2 and 10, Section 499, Indian Penal Code.

The conviction is by the Acting Head Assistant Magistrate Mr. Hebbert.

2. The prisoner charged the Inspector of Police with aiding Maravars and sharing in the spoil, and without arresting Sivasangu Tevan when he might have done. I do not think that this information addressed to the Inspector-General of Police comes under the category of a caution. Thus Exception 10 is not applicable. But Exceptions 2, 8, and 9 seem to me to meet the circumstances of this case.

And therefore the real question we have to decide is whether the prisoner acted in good faith. On this point Indian Law Reports, Vol. IV, Calcutta Series, 124, "In a charge for defamation" the question to be decided is, not whether the allegations put forward by the accused in

support of the defamation are in substance true, but whether he was informed and had good reason, after due care and attention, to believe that such allegations were true.

I think also that we must consider this question in its relation solely to the matter which is charged as defamatory, for it seems that the prisoner, who has reasons for wishing the Inspector out of Ambásamudram, is so anxious for his transfer that he attached a sheet from an old Mahazir to the petition complained of.

This fact would not affect the question of good faith as to the charges, and merely proves that prisoner wishes, at any price, to be rid of the Inspector.

By Act XVIII of 1862, Section 27, good faith may be presumed, unless the contrary appear.

3. Now I hold that the contrary does not anywhere appear in this case, *quod* the alleged defamatory matter.

There is not any allegation in the petition that I have not myself heard many times; it is nothing astonishing therefore that the defendant heard the charges and believed them.

The strongest allegation which would strike a stranger is that of the Inspector's relations with Sivasangu Tevan. The Inspector cannot complain of this, if the common rumour be true that Sivasangu Tevan was for years the Inspector's bandy-driver; nor as to the delay in arresting Sivasangu, which is a matter of public notoriety.

4. For these reasons I quash the conviction, though practically there will be no result as the defendant has served out his imprisonment.

5. I regret to see that the Inspector is allowed to remain in Ambásamudram. He was originally turned out of the taluk for conducting Sessions Case 56 of 1876, which the defendant has filed in this appeal. I myself tried that case, and as a result the then Superintendent of Police went down and made a local inquiry and himself prosecuted the Inspector before the District Magistrate, but the witnesses had been tampered with and the case failed, though the truth was well known.

Since then this Inspector has been put in jail on a charge brought against him by his own department, and has been committed to the Sessions, where he again escaped. A man of such evil repute should not be in a hurry to institute prosecutions for defamation, lest he be answered by the 1st Exception, though the 2nd, in my opinion, sufficiently meets this particular case.

In 56 of 1876 no one man could appear to greater disadvantage, and therein he admitted that a predecessor of mine had condemned his conduct in a most unqualified manner. It is clear that two Judges have formed the worst opinion of him; that his own department have twice prosecuted him; and that two Head Assistant Magistrates have viewed his conduct with disfavor (one of them in connection with this very Sivasangu Tevan), and yet he is still retained in Ambásamudram on the plea that he is a good detective.

6. I think this prosecution ought never to have been instituted, and that the charges in the petition, being matters of common talk, should have been seriously investigated by the Police Department, and particularly that charge of the Inspector's holding property in the taluk where he has, by an error of judgment been put back and wherein he is now serving.

With this object I shall send the petition to the Superintendent of Police and point out to him that this Court views with displeasure the retention of this Inspector in Ambásamudram, an area which gives him scope for great mischief.

4th December 1880.

No. 2414.

Referred to the Inspector-General of Police, whose attention will be drawn to paragraphs 5 *et seq.* of the Judgment of the Sessions Judge of Tinnevely. The Inspector-General will report on the advisability or otherwise of keeping the Inspector referred to at Ambásamudram any longer.

(Signed) R. DAVIDSON,
Chief Secretary.

18th December 1880.

No. 69. From Colonel C. S. HEARN, C.I.E., Inspector-General of Police, to the Chief Secretary to Government, dated Madras, 21st December 1880, No. 8606.

With reference to endorsement, No. 2414, dated 18th December, on a letter from the Registrar of the High Court of Judicature (herewith returned with enclosure), I have the honor to state that the matter has already come under my notice.

2. The grounds given by the Sessions Judge for condemning the character of Inspector Subramania Pillay are—first, hearsay and public notoriety; second, that he has been twice prosecuted by his own department. The Inspector was acquitted on each occasion, and I believe it is a primary judicial maxim that accused persons are presumed to be innocent until found guilty. As a matter of extra-judicial opinion I am not prepared to affirm that the Inspector has always been immaculate, but the crucial ordeal of two criminal trials has failed to establish proof of dishonesty against him.

3. Inspector Subramania Pillay is a man of remarkable detective ability and he possesses an intimate knowledge of the Marayers, the caste which furnishes all the most dangerous criminals of the district. This caste is very strong in Ambásamudram. The Inspector's conduct certainly fell under suspicion in that taluk some years back and he was removed, with the result that grave crime greatly increased. When all efforts had failed to effect the arrest of the notorious dacoit and murderer Sivasangu Tevan (alluded to by the Sessions Judge, Inspector Subramania Pillay was sent back to Ambásamudram. He arrested Sivasangu Tevan within three weeks (so that the Sessions Judge is wrong in attributing *delay* in the matter to this Inspector), and since then grave crime has been so effectually dealt with that Ambásamudram was never before so quiet. Although the petitioner in the case before the Sessions Court desired the Inspector's removal, the Superintendent states that the inhabitants generally most earnestly wish him to remain. Further, the Superintendent believes that the Inspector's removal will cause a serious revival of crime.

4. The Sessions Judge appears to have been mistaken in supposing that the Inspector possesses land in Ambásamudram Taluk. The Inspector did once employ Sivasangu Tevan as a bandyman, for the purpose of worming out information from him, but it was for a period of one month only.

5. I conceive that the Sessions Court has travelled somewhat beyond its province in exercising direct control over executive action by means of a communication to the Superintendent of Police. The opinion of the Court should, I submit, have been communicated to the District Magistrate for consideration. Under this view I have already instructed the Superintendent of Police to consult with the District Magistrate on the subject, at the same time expressing my own opinion that in face of the strong view held by the Sessions Court there is no course open but to remove the Inspector from Ambásamudram whatever the consequences may be.

No. 70. ORDER THEREON, 18th January 1881, No. 88.

The Government approve the Inspector-General's instruction to the Superintendent to dispose of the matter after consulting the District Magistrate.

2. The Session Judge was undoubtedly wrong in suggesting to the Superintendent direct the removal of the Inspector to another taluk. He should have conveyed the suggestion to the District Magistrate, who, if agreeing with it, would have pressed it on the Superintendent. The latter could decline compliance with the suggestion only if he had the support of the Inspector-General, when a reference to Government would be requisite.

(True Extract.)

R. DAVIDSON,
Chief Secretary.

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

Exd. T. O'Connor.

Gobt. of (1881) Madras.
JUDICIAL.

To
ALL DISTRICT JUDGES,
&c., &c., &c.

Dated January, 18th.

Issued

Recd.

End.

G.O., 18th January 1881, No. 88.

JANUARY.
Nos. 68-70.

Police.—Orders passed respecting the disposal of the case of Police Inspector Subramania, whose removal from Ambasamudram in the Tinnevely District was suggested by the Session Judge.

No 2592 7/8

From

Lewis Mc Iver Esquire,
Acting Registrar of the High Court
of Judicature at Madras.

To

The Honorable R. Davidson, C. I. S.,
Chief Secretary to
Government.

Honorable Sir,

I am directed to forward
herewith for the information of His Grace
the Governor in Council copy of the judgment
in Criminal Appeal No. 23 of 1880 on the
file of the Court of Session of the Tinnevely
Division with reference to the Judge's remarks
on the Police Inspector.

I have the honor to be,
Honorable Sir,
Your most obedient servant,
Lewis Mc Iver

High Court of Judicature,
Madras, 16th December 1880.

By
R. Leathem

Acting Registrar
Appellate Side

In the Session Court of Tinnevely

Tuesday the thirtieth day of November,
One thousand eight hundred and eighty

Present

James Frederick Smith Esquire,

Offg. Session Judge.

Criminal Appeal No. 20 of 1880.

Tyrannadani - Pattasaliu } Appellant
Weaver. Age 65 } (Not Prisoner)

Appeal against the conviction and sentence
by the Acting Head Assistant Magistrate of
Tinnevely in Calendar Case No. 20 of 1880.

This Appeal coming on for hearing: Upon
perusing the Petition of appeal and the record
of the evidence and proceedings, and upon duly
considering the same after hearing the arguments
of the Appellant who appeared in person,
I do adjudge and order that the conviction
and sentence passed on the said Appellant
be reversed and annulled.

The prisoner, a weaver, was convicted
under Section 500 of defaming Subramania Pillay,
Police Inspector of Chembasamudram in a Police

Date of			
Presentation	Filing	Hearing	Order
9th November, 1880	9th November, 1880	29th November, 1880	30th November, 1880

TO BE RETURNED
WITH REPLY

Subvent (1880) Appellant.

Mr. J. Registrar of the
High Court of Madras
at Madras.

To the District Secretary
to Government.

Dated 16th }
and 17th } December 1880.

18/80
19/80
20/80

Respectfully for the information
of His Honor the Government
of the Madras Government
in Criminal Case No. 20 of 1880
on the file of the Court of
Sessions of Tinnevely Division
with reference to the subject
mentioned in the enclosed letter
with enclosure.

Respectfully for the information
of His Honor the Government
of the Madras Government
in Criminal Case No. 20 of 1880
on the file of the Court of
Sessions of Tinnevely Division
with reference to the subject
mentioned in the enclosed letter
with enclosure.

to the Inspector General of Police in Madras,
and fined 51 Rs or in default 3 weeks
simple imprisonment.

The sentence has been carried
out by the Prisoner in the goal.

He now appeals in person, Mr. Vakil
being instructed. The point raised by the
Appellant is whether the case falls within
the exceptions 2 and 10 Section 499 Indian
Penal Code.

The conviction is by the Acting Head
Assistant Magistrate Mr. Herbert.

2. The prisoner charged the Inspector of
Police with aiding Narayana and sharing
in the spoil, and without arresting Sivasa-
nagudewan when he might have done.

I do not think that this information was
addressed to the Inspector General of Police
comes under the category of a caution. Thus
Exception 10 is not applicable. But in
Exceptions 2, 8 and 9 seem to me to meet the
circumstances of this case.

And therefore the real question we
have to decide is whether the prisoner acted
in good faith. On this point Indian Law
Reports Vol II Calcutta Series 124 "In a charge

630K
for defamation the question to be decided
is, not whether the allegations put forward
by the accused in support of the defamation
are in substance true, but whether he was
informed and had good reason after
due care and attention to believe that such
allegations were true.

I think also that we must consider
this question in its relation solely to the
matter which is charged as defamatory, for
it seems that the Prisoner who has reasons
for wishing the Inspector out of Madras
is so anxious for his transfer that
he attacked a sheet from an old Mahajir
to the petition complained of.

This fact would not affect the question
of good faith as to the charges and merely
proves that Prisoner wishes at any price
to be rid of the Inspector.

By Act XVIII of 1862, Section 27
good faith may be presumed unless
the contrary appear.

3. I would hold that the contrary
does not anywhere appear in this case,
quoad the alleged defamatory matter.

There is not any allegation in the petition that I have not myself heard many times. It is nothing astonishing therefore that the Defendant heard the charges and believed them.

The strongest allegation which would strike a stranger is that of the Inspector's relations with Sivasangu Sevani.

The Inspector cannot complain of this, if the common rumour be true that Sivasangu Sevani was for years the Inspector's handy driver. Nor as to the delay in arresting Sivasangu which is a matter of public notoriety.

4. For these reasons I quash the conviction, though practically there will be no result as the Defendant has served out his imprisonment.

5. I regret to see that the Inspector is allowed to remain in Ambassamudram. He was originally turned out of the latig for conducting Sessions Case 56 of 1876 in which the Defendant has filed in this appeal. I myself tried that case and as a result the then Superintendent of Police went down and made a local inquiry and himself prosecuted the Inspector before the District Magistrate.

Magistrate, but the witnesses had been tampered with and the case failed, though the truth was well known.

Since then this Inspector has been put in gaol on a charge brought against him by his own Department and has been committed to the Sessions where he again escaped. A man of such evil repute should not be in a hurry to institute prosecutions for defamation, lest he be answered by the 1st Exception, though the 2nd in my opinion sufficiently meets this particular case.

In 56 of 1876 no one man could appear to greater disadvantage, and therein he admitted that a predecessor of mine had condemned his conduct in a most unqualified manner. It is clear that 2 Judges have formed the worst opinion of him, that his own department have twice prosecuted him, and that two Head Assistant Magistrates have viewed his conduct with disfavor. One of them in connection with this very Sivasangu Sevani and yet he is still retained in Ambassamudram on the plea that he is a good detective.

6. I think the prosecution ought never to have been instituted, and that the charges in the petition being matters of common talk should have been seriously investigated by the Police Department; and particularly that charge of the Detective's holding property in the hotel where he had by an error of judgment been put back and wherein he is now serving.

With this object I shall send the
petition to the Superintendent of Police and
point out to him, that this Court views with
displeasure the retention of this suspect
in Ambasamudram, an area which gives
him scope for great mischief.

4th December 1880.

1 Signed J. Fred. Smith.

Off^r. Sessingridge.

(True Copy)

Signed J. L. Snodgrass

Offr. Sessinghude.

1 True Copy!

J. Morgan

Respectfully Registrar,

Appellate Side.

Copied by
A.H.

Ex.
K. Lillman

No. 8606

Chief Office of the Inspector General of Police,

Madras, 21st December 1880. 9

From

The Inspector General of Police,

To

The Chief Secretary
to Government
Fort St. George

Sir,

Enclosures.

With reference to endorsement No 24/14 dated 18th December on a letter from the Registrar of the High Court of Judicature (herewith returned with enclosure) I have the honor to state that the matter has already come under my notice.

2. The grounds given by the Sessions Judge for condemning the character of Inspector Soobra-moniah Pillay are 1st hearsay and public notoriety. 2nd that he has been twice prosecuted by his own Department. The Inspector was acquitted on each occasion and I believe it is a primary judicial maxim that accused persons are presumed to be innocent until found guilty. As a matter of extra-judicial opinion I am not prepared to

Enclosure I

In a letter from

the Acting Registrar

of the High Court of

Judicature at Madras

dated 18th December 1880

No 2592.

Admitted 4/192/80

to affirm that the Inspector has always been immaculate, but the crucial ordeal of 2 criminal trials has failed to establish proof of dishonesty against him.

3. Inspector Soobramoniah Pillay is a man of remarkable detective ability and he possesses an intimate knowledge of the Maravars, the caste which furnishes all the most dangerous criminals of the district. This caste is very strong in Ambasamudram. The Inspector's conduct certainly fell under suspicion in that taluq some years back and he was removed, with the result that grave crime greatly increased. When all efforts had failed to effect the arrest of the notorious dacoit and murderer Sivasangu Thaven (alluded to by the Sessions Judge) Inspector Soobramoniah Pillay was sent back to Ambasamudram. He arrested Sivasangu Thaven within 3 weeks (so that the Sessions Judge is wrong in attributing delay in the matter to this Inspector) and since then grave crime has been so effectually dealt with that Ambasamudram was never before so quiet. Although the petitioner in the case before the Sessions Court desired the

10
the Inspectors removal & the Superintendent states that the inhabitants generally most earnestly wish him to remain. Further the Superintendent believes that the Inspectors removal will cause a serious revival of crime.

4. The Sessions Judge appears to have been mistaken in supposing that the Inspector possesses land in Ambasamudram taluq. The Inspector did once employ Sivasangu Thaven as a bandy man, for the purpose of worming out information from him, but it was for a period of one month only.

5. I conceive that the Sessions Court has travelled somewhat beyond its province in exercising direct control over executive action by means of a communication to the Superintendent of Police. The opinion of the Court should submit, have been communicated to the District Magistrate for consideration. Under this view I have already instructed the Superintendent of Police to consult with the District Magistrate on the subject at the same time expressing my

my own opinion that in face of the strong
view held by the Sessions Court there
is no course open but to remove the
Inspector from Ambasaumdrum whatever
the consequences may be.

I have the honor to be
Your most ^{Sir,} obedt Servt,

Wm
Inspector General of Police

EB

Indicial DEPARTMENT.

No. 4152 44238

From Registrar High Court

Dated 16 Decr 80: no 2572

Inspr Gen. Police d/21 Decr 80 no 8606
FOR ORDERS.

18th Jan'y 1881 No 88
Pay to the Registrar High Court

11 The Govt approve the
I.S. instruction to
the Capt. to dispose of
the matter after consulting
the S.C. Judge -

2. The Lepin Judge was undoubtedly wrong in suggesting as Police Inspector of
to the Supdt, direct, the removal of the Inspr. to another taluk. He sh^d. have conveyed the suggestion to the Supt. & Ambasamudram. The Jy. is of opinion that his retention is in the interests of the public good.

G.P. 2-1970-251
132

The Colson Co. I after careful
deliberation complies with the suggestion
only if he had the support of the T. E., unless
a reference to Govt. will be requisite. - J. M.

8.7.2.1910
 51
 to all
 T.R.

Feb. 1880 DEPT.
From *James*
The Inspector Genl.

The Inspector Genl.

of Police,
(S. H. 419777)
To

The Chickadee

10/10/11
The Chief Seef
No. 4238 16 Gar
Johar Dao

Dated 21st Dec 1580.

Dec 22
No. 8000.

Offering his personal service
to the Society of the Friends
of the African Race
in 1804 + remained in the
service of the Society of Friends
of the African Race
until his death in 1844

Ben Inspector of
Ambassadors
Tunawolly
FOR ORDERS.

14
88

Ben Inspector of

copy
1/11

Ben Inspector of
Ambassadors
Tunawolly
FOR ORDERS.

14
88

Ben Inspector of

copy
1/11

Govt. of Madras

Just.

18th Jan 1881, A.D. 88
Nos. 68-70.

Police. Order passed
respecting the disposal
of the case of Police
Inspector Subramania
whose removal from
Ambasamudram in
the Tinnevely SD was
suggested by the
Session Judge