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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1713	Press Mis.
Dated	27-8	1891.

Not to be folded or roughly handled

27TH AUGUST 1891, No. 1713, JUDICIAL.

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

READ—again G.O., dated 26th June 1891, No. 1273, Judicial.

ORDER—dated 27th August 1891, No. 1713, Judicial.

The following notification will be published in the *Fort St. George Gazette*:—

NOTIFICATION.

In supersession of Notification No. 250, published in the *Fort St. George Gazette*, dated the 30th June 1891, the Governor in Council is pleased to make the following order:—

1. One or more special Magistrates appointed for any local area may sit as a Bench, together with any salaried Magistrate whom the District Magistrate shall from time to time nominate for that purpose. The salaried Magistrate shall be the Chairman of the Bench so constituted and the Bench is hereby invested with the powers of a Magistrate of the third class—

(1) to try summarily offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341 and 352;

(2) to try summarily offences against Municipal Acts and the conservancy clauses of Police Acts, punishable only with fine or with imprisonment for a term not exceeding one month;

(3) to try, in accordance with Chapter XX of the Code of Criminal Procedure, offences against section 5 of the Towns Nuisances Act, 1889 (Madras).

Provided that, with the approval of the District Magistrate, any three or more special Magistrates, of whom one is a pensioned Magistrate of experience or specially designated by the District Magistrate, may sit together as a Bench and shall exercise the powers of a Magistrate of the third class in respect of the offences specified in clauses (2) and (3) above, and with the sanction of Government in respect of the offences specified in clause (1).

The pensioned Magistrate or person specially designated as aforesaid shall, if no salaried Magistrate is present, be Chairman of such Bench.

2. All existing rules made by District Magistrates for the guidance of Benches in their several districts as to the times and places of sitting shall continue in force until modified or withdrawn.

3. Differences of opinion shall be settled by the votes of the majority of the Magistrates present, the Chairman having the casting vote.

4. If any person charged with any of the offences specified above is arrested without warrant and has not been released on bail, he shall be produced for trial before the ordinary Magistrate having jurisdiction. If such person has been released on bail or if process to compel his appearance is issued by the ordinary Magistrate having jurisdiction, the bail-bond or the process shall require him to appear in accordance with its terms before the Bench of Magistrates having jurisdiction. The District Magistrate or the Sub-Divisional Magistrate shall exercise the same powers in regard to withdrawal or reference of cases from Benches as he possesses in the case of Magistrates under section 528 of the Code of Criminal Procedure.

5. Under section 265 of the Code of Criminal Procedure, every Bench of Magistrates is authorized to prepare the record and judgment of the Bench by means of any clerk of the regular establishment deputed by the District Magistrate for this purpose.

6. Nothing herein contained shall affect the operation of the second clause of section 15 of the Criminal Procedure Code, 1882.

7. Under section 260 of the said Code, every Bench of Magistrates exercising first-class powers is hereby invested with power to try summarily any or all of the offences specified in that section, and every Bench of Magistrates exercising powers of the first or second class is hereby empowered to try summarily all or any of the offences specified in clauses (1) and (2) of Rule 1 *supra*.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To all District Magistrates.
„ the Government Pleader
Gazette.

Exd. P. L. Pereira.

4 ✓
Govt. of {1891} Madras.
JUDICIAL
—

Issued

Recd.

Encl.

G.O., 27th August 1891, No. 1713.

originals for
containing notes
are not available

AUGUST.

Powers of Bench Magistrates.

Directing publication in the Fort St. George
Gazette of notification regarding — in superses-
sion of that published in the Gazette of 30th June
1891.

and in Proceedings:—

1887, No. 925

1887, No

ted from

ed 22 Aug from the D. W. M. M. M.

Order 10 Sep. 189 No 157

The following list
will be published in
the Gazette.

Not

Under the provisions of
Section 10 and 15 of the Code of
Criminal Procedure, A.D. 1882
the following is placed
in addition to the papers con-
sidered by notification No. 158
280 and 282 published in the
Madras Gazette of 30 Sep.
1887 and 30 July 1889, pages
respectively,
283, 370 and 513, to confer on

Anantapur. 8
North Arcot, Chittoor. 8
South Arcot, Cuddalore. 8
Bellary. 8
South Canara, Mangalore. 7
Chingleput, Saidapet. 8
Coimbatore. 7
Cuddapah. 8
Ganjam Chatrapur. 8
Godavari, Cocanada. 8
Kistna, Masulipatam. 8
Kurnool. 8
Madras (when necessary).
Madura 8
Malabar Calicut. 10
Nilgiri, Ootacamund. 8
Nellor
Salem.
Tanjore.
Tinnevely. 8
Trichinopoly. 8
Vizagapatam. 8

The Collectors of

The District Magistrates of

1893/9/9

8/

of the special Magistrates
 constituting the Cochin Bench
 and named in the margin
 the powers of a Magistrate of the 1st
 class for the trial of ~~the~~ European
 British subjects charged with any
 offence triable by a Magistrate of that
~~class~~ ~~which are~~ ~~Magistrates~~
 class and in respect of which
 has been made return
 before such Bench. It is
 authorized to be authorized,
 to entertain complaints
 also
 is pleased to
 each of the above named
 maintain and
 21 Aug 1889
 modification of the
 the provisions of the Code of Criminal
 1883
 is further
 Special Mag^{ts} shall
 4 Sept 1889
 2. Para. 3 follows the Notificⁿ provided
 4th of the Gazette of the 21st/8/89
 Para. 1. follows G.O. No. 1005 of 1889

GOVERNMENT OF MADRAS.
 JUDICIAL DEPARTMENT.

ORDER—dated 26th June 1891, No. 1273, Judicial.

The following notification will be published in the *Fort St. George Gazette*:—

NOTIFICATION.

In supersession of all previous notifications relating to Benches of Magistrates, His Excellency the Governor in Council is pleased to make the following order under section 15 of the Code of Criminal Procedure regulating the powers of benches appointed under that section:—

1. One or more special Magistrates appointed for any local area may sit as a Bench, together with any salaried Magistrate whom the District Magistrate shall from time to time nominate for that purpose. The salaried Magistrate shall be the Chairman of the Bench so constituted and the Bench is hereby invested with the powers of a Magistrate of the third class—

(1) to try summarily offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341 and 352;

(2) to try summarily offences against Municipal Acts and the conservancy clauses of Police Acts, punishable only with fine or with imprisonment for a term not exceeding one month;

(3) to try, in accordance with Chapter XX of the Code of Criminal Procedure, offences against section 5 of the Towns Nuisances Act, 1889 (Madras).

Provided that, with the approval of the District Magistrate, any three or more special Magistrates, of whom one is a pensioned Magistrate of experience or specially designated by the District Magistrate may sit together as a Bench and shall exercise the powers of a Magistrate of the third class in respect of the offences specified in clauses (2) and (3) above, and, with the sanction of Government in respect of the offences specified in clause (1).

The pensioned Magistrate or person specially designated as aforesaid shall, if no salaried Magistrate is present, be Chairman of such Bench.

2. All existing rules made by District Magistrates for the guidance of Benches in their several districts as to the times and places of sitting shall continue in force until modified or withdrawn.

3. Differences of opinion shall be settled by the votes of the majority of the Magistrates present, the Chairman having the casting vote.

4. If any person charged with any of the offences specified above is arrested without warrant and has not been released on bail, he shall be produced for trial before the ordinary Magistrate having jurisdiction. If such person has been released on bail or if process to compel his appearance is issued by the ordinary Magistrate having jurisdiction, the bail-bond or the process shall require him to appear in accordance with its terms before the Bench of Magistrates having jurisdiction. The District Magistrate or the Sub-Divisional Magistrate shall exercise the same powers in regard to withdrawal or reference of cases from Benches as he possesses in the case of Magistrates under section 528 of the Code of Criminal Procedure.

5. Under section 265 of the Code of Criminal Procedure, every Bench of Magistrates is authorized to prepare the record and judgment of the Bench by means of any clerk of the regular establishment deputed by the District Magistrate for this purpose.

6. Nothing herein contained shall affect the operation of the second clause of section 15 of the Criminal Procedure Code, 1882.

7. Under section 260 of the said Code every Bench of Magistrates exercising first-class powers is invested with power to try summarily any or all of the offences specified in that section.

(True Extract.)

J. F. PRICE,
 Chief Secretary.

To all District Magistrates.
 „ the Government Pleader.
 Gazette.

Exd. S. J. Pereira.

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Gobt. of {1891} Madras.
JUDICIAL.

Issued

Recd.

Encl.

G.O., 26th June 1891, No. 1273.

JUNE

Powers of Bench Magistrates.

Directing publication in the Fort St. George
Gazette of notification regarding — in superses-
sion of all previous notifications.

11

As ordered the original of G.O.
of 26 June 1891 No. 1273 is
submitted.

2. There is a Bench with first-class
powers at Cochin (the papers are
put up with another court) &
several second-class Benches
will be found, detailed in the
Cardinal's list in G.O. of 28 May
No. 925 and?

3. The meaning of the notification is
not very apparent in respect of
the point in question.

Sec. 15 C.C.P. gives Govt. power to
invest any Bench with powers of
the 1st, 2nd or 3rd class & it is
also therein provided that, in
the absence of any special
order to the contrary, a Bench
shall have the powers of the
Magistrate of the highest class
who happens to be present.

Sec. 261 C.C.P. gives Govt. power
to confer on any Bench or this
class Bench power to hear
summarily certain offences.

This Section can only mean
if a 2nd class Bench receives
power to try cases summarily
it has power to sentence ^{to 12 months} ^(or less) ^(or imprisonment) ^{or fine}
whereas if the power
be conferred on a 3rd class Bench
sentence cannot exceed 1 month.

Para. 1 of the notification lays down
that one or more special mag.
may sit together as a Bench &
may exercise the powers of a
Mag. of the Third class to try
summarily certain offences &
regularly certain other offences,
and para. 6 of the notification says
that nothing in the notification is to
affect the operation of Sec. 15 of the
C.C.P.

It is thus clear that

That a Bench consisting of
 15 members, but under sec 15 clause 2
 of the Act, they are to be sworn in
 as Bench members, but the power
 of the Bench is not to be limited
 by the fact that it cannot try the
 cases of a Bench of 15 members
 only.

The Bench of 15 members
 is not a Bench of 15 members
 but a Bench of 15 members
 and the power of the Bench
 is not limited by the fact
 that it cannot try the cases
 of a Bench of 15 members
 only.

The Bench of 15 members
 is not a Bench of 15 members
 but a Bench of 15 members
 and the power of the Bench
 is not limited by the fact
 that it cannot try the cases
 of a Bench of 15 members
 only.

The Bench of 15 members
 is not a Bench of 15 members
 but a Bench of 15 members
 and the power of the Bench
 is not limited by the fact
 that it cannot try the cases
 of a Bench of 15 members
 only.

that if a 2nd class Magistrate
 happens to be sitting on a
 Bench of which the
 other members are 3rd class
 Magistrates only that Bench
 exercises 2nd class powers.
 But at the same time, the
 Bench has been expressly
 invested with powers to try
 certain classes of offences only
 for those only as if they were
 Mag. of the Third class.

if it be the true interpretation
 of the Act, it was in
 view of the fact that in
 draft No. 10 of the Bill of 1884
 the result of this ~~change~~ seems to be
 that even where a 2nd class
 Mag. is sitting on the Bench the
 powers of sentencing are limited
 to those of a Mag. of the 3rd
 class. It is in the belief
 that this represents the true
 interpretation of the Act, and
 that the J.O. to which the
 objection was drafted.
 The above interpretation can hardly
 be correct for it is clear from
 the clear language from No. 2 of
 28 May 1884, to 205 d.d. that
 the Govt. added this para. with
 the express intention of giving
 a Bench in which a 2nd class
 Mag. is sitting power to
 try the offences specified in
 para. 1 as if it were a 2nd
 class Mag., i.e. to give sentences
 in excess of 1 month.
 The foregoing meaning would
 be rendered perfectly clear if
 the following were substituted for
 para. 6:—
 "In the event of any member of
 a Bench of Mag. constituted as
 above possessing 2nd class
 powers, the Bench shall be
 deemed to be a Bench of 2nd class."

The 2nd Cl. to try any of the offences specified in para. 1, 2 & 3 of this notification in the manner therein prescribed. If this view be accepted it may not be necessary to make any special provision for Branches ^{having} First-Class powers. ^{as they are only those such as not, desirable} but if it is considered desirable to make the notice complete it would be easy to add another clause to the effect that where any member of the Branch has 1st Class powers these 15 shall apply & the Branch shall be regarded as invested under sec. 260 (3) with powers of the 1st Class to try the offences specified in sec. 260 in the manner prescribed therein.

6. It seems essential before a Branch can exercise the powers referred to in sec. 260 & 261 C.P. that it should be specialy empowered in that respect; the mere presence of a Mag. of the 1st or 2nd Class raises the powers of the Branch consequently but does not it is submitted, empower the Branch to try summarily the offences specified in sec. 260 & 261 C.P.

7. In the present distance from Muzool there is certainly no necessity to appoint a Minisami Rayda and a Magistrate. It is also a special Magistrate. fact the Minisami meaning is a clear attempt he has attempted to explain it.

6/21 Aug.
S. 22 Aug.

Under sec. 260 of the said Code every Branch of Magistrates exercising First-Class powers is hereby invested with power to try summarily any or any of the offences specified in that section & every Branch of Magistrates exercising powers of the first or second class is hereby empowered to try summarily all or any of the offences specified in clauses (1) & (2) of rule 1 supra.

(From notes)

To all the 67 J. 25 Aug.
J. 25 Aug.
J. 25 Aug.

Para 13. It is better to republish the whole thing, it will save trouble hereafter. It is simple order getting C. Minisami Rayda is a Minisami. He has indicated the following out-pare. 2.

Papers to be read in Proceedings:—

Again G.O., dated 26 June 1891, No. 1273 *dot*.

Again G.O., dated 18, No.

Current No. of 18, dated from

Current No. of 18, dated from

Order 27th Aug 91 N: 1713
The following notification will be
published in the F. S. J. Gazette:

Notification.

In pursuance of the notification
in the Fort St. George Gazette dated
30th June 1891, the G. in C.
is pleased to make the following
order:

St
25-0-0

ORDINARY PRINTED

Jubilee DEPARTMENT

27. 9. 91

17/3.

1. 9. 91

4. 9. 91

Flowers of Bush Blo.
trees.

Direct publication in the
Fort St George Gazette of
notification regarding
an supersession of
published in the Gazette
of 30 June 91

15-6-03

5.1.04

27.9.30

4.6.31

21.5/57

18.1-05

16.1-06

30.1-07

11.3-07

26-9-08

14-8-09

29-7-10

9-6-13

10-10-13

24-8-13

27-11-13

10-6-14

16-8-14

28.5.15

21-10-27

13 9/2 per