

PRINTED.

G.O., No. 1206.P

DATED 30-9-98.

*sent to
Madras
30/9/98*

*Hudgson
11/10/98*

[Despatch Abstract.]

Evasion of Plague Regulation

Stating that the powers conferred
by Section. 57. of the Criminal Procedure Code
are quite enough to meet cases of

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government {1898} of Madras. LOCAL AND MUNICIPAL.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

G.O., No. 1206 P., 30th September 1898.

SEPTEMBER.

Evasion of Plague Regulations.

Stating that the powers conferred by section 57 of the Criminal Procedure Code are quite enough to meet cases of —.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following paper:—

From H. D. TAYLOR, Esq., I.C.S., Acting Collector of Ganjám, to the Secretary to Government, Local and Municipal Department, dated Chatrapur, 29th August 1898, Dis. No. 1138-R.—Eng.

I have the honour to point out that there is no provision in the Additional Mufassal Regulations under the Epidemic Diseases Act, 1897, under which persons who evade the same and thereby render themselves liable to punishment under Regulation 36 can be arrested by the police for a breach of such regulations.

2. An offence under section 188, Indian Penal Code, is a non-cognizable offence, and under section 55 (i) of the Code of Criminal Procedure, Police officers cannot, I think, legally arrest, without warrant, a person evading the regulations who is concealing his presence in a town without proceeding to the destination entered in his passport. At the same time the sanction of the Collector is necessary to a prosecution under section 188, Indian Penal Code.

3. Regulation 5 merely allows detention at an inspection station by an officer in charge of the same, and states that every person passing a frontier inspection station shall be bound to declare his destination truly. Regulation 7 allows for detention by the observation staff, where observation circles are established, of persons who have lost, or broken the conditions of their passports.

4. Where, however, no observation circles are established, there is no observation staff and no one is authorised to detain such persons. Yet it is very necessary, where people have wilfully given a false address or destination, that some means should exist of detaining such persons pending the orders of the Collector as to his prosecution.

5. The only course which appears to me to be open to adoption in order to exercise a proper safeguard over the health of the community, is to declare the police generally, or at any rate the officer in charge of each station, to be an observation officer under the rules. He will then have powers to detain, but not to arrest such persons as evade the conditions of the passport. The question appears to be one of real difficulty especially in rural tracts where no observation circles have been established. A person who has wilfully disobeyed orders in the first instance is not likely to pay attention to any great extent to the orders of a village karji or other local authority, and if Police officers have no powers to arrest or detain such persons, the latter may by the time that the orders of a competent authority have been obtained have disappeared, leaving no trace of their future movements behind.

6. I do not wish to give the police any unnecessary authority in plague matters, but I think that some ruling is necessary to define their powers as a general body, when not specially engaged on the observation staff.

ORDER—No. 1206 P., dated 30th September 1898.

The Government considers that the powers conferred by section 57 of the Criminal Procedure Code are quite enough to meet the case stated by the Collector. If the police are informed that a person is evading the Plague Regulations by giving a false name or a wrong address, they can act under this section and detain the person until satisfied that they have got his true name and address. Failing information as to true name and address or the execution of a bond, the police can forward the person to a magistrate.

(True Extract.)

H. TREMENHEERE,
Secretary to Government.

To the Plague Commissioner.
„ all Collectors (A, F, G, H).
„ the Sanitary Commissioner.
„ the Surgeon-General.
„ the President, Municipal Commission, Madras.
„ the Judicial Department.

2107

Government (1898) of Madras.
LOCAL AND MUNICIPAL.

Proof for approval

Recd.

1898.

Enclosures

Regd.

Spare copies

Press
Please consult & strike off
Ling
8/10/98

G.O., No. 1206 P., 30th September 1898.

SEPTEMBER.

Evasion of Plague Regulations.

Stating that the powers conferred by section 57 of the Criminal Procedure Code are quite enough to meet cases of —.

H.S.
8-11-98

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following paper:—

From H. D. TAYLOR, Esq., I.C.S., Acting Collector of Ganjám, to the Secretary to Government, Local and Municipal Department, dated Chatrapur, 29th August 1898, Dis. No. 1138-R.—Eng.

I have the honour to point out that there is no provision in the Additional Mufassal Regulations under the Epidemic Diseases Act, 1897, under which persons who evade the same and thereby rendered themselves liable to punishment under Regulation 36 can be arrested by the police for a breach of such regulations.

2. An offence under section 188, Indian Penal Code, is a non-cognizable offence, and under section 55 (i) of the Code of Criminal Procedure, Police officers cannot, I think, legally arrest, without warrant, a person evading the regulations who is concealing his presence in a town without proceeding to the destination entered in his passport. At the same time the sanction of the Collector is necessary to a prosecution under section 188, Indian Penal Code.

3. Regulation 5 merely allows detention at an inspection station by an officer in charge of the same, and states that every person passing a frontier inspection station shall be bound to declare his destination truly. Regulation 7 allows for detention by the observation staff, where observation circles are established, of persons who have lost, or broken the conditions of their passports.

4. Where, however, no observation circles are established, there is no observation staff and no one is authorised to detain such persons. Yet it is very necessary where people have wilfully given a false address or destination that some means should exist of detaining such persons pending the orders of the Collector as to his prosecution.

5. The only course which appears to me to be open to adoption in order to exercise a proper safeguard over the health of the community is to declare the police generally, or at any rate the officer in charge of each station, to be an observation officer under the rules. He will then have powers to detain, but not to arrest such persons as evade the conditions of the passport. The question appears to be one of real difficulty especially in rural tracts where no observation circles have been established. A person who has wilfully disobeyed orders in the first instance is not likely to pay attention to any great extent to the orders of a village karji or other local authority, and if Police officers have no powers to arrest or detain such persons, the latter may by the time that the orders of a competent authority have been obtained have disappeared, leaving no trace of their future movements behind.

6. I do not wish to give the police any unnecessary authority in plague matters, but I think that some ruling is necessary to define their powers as a general body, when not specially engaged on the observation staff.

ORDER—No. 1206 P., dated 30th September 1898.

The Government considers that the powers conferred by section 57 of the Criminal Procedure Code are quite enough to meet the case stated by the Collector. If the police are informed that a person is evading the Plague Regulations by giving a false name or a wrong address, they can act under this section and detain the person until satisfied that they have got his true name and address. Failing information as to true name and address or the execution of a bond, the police can forward the person to a magistrate.

(True Extract.)

for Secretary to Government.

To the Plague Commissioner. (A. 7. 5. #)
 „ all Collectors (A).
 „ the Sanitary Commissioner.
 „ the Surgeon-General.
 „ the President, Municipal Commission, Madras.
 „ the Judicial Department.

For the Pres

LOCAL AND MUNICIPAL DEPARTMENT.

WJ

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following paper :—

in full From the Collector of Ganjam, Dis No 11381
dated 29-8-98.

Order No 1206 P. d/30-9-98.

The Government considers that the powers conferred by Section 57. of the Criminal Procedure Code are quite enough to meet the case stated by the Collector. If the Police are informed that a person is evading the Plague Regulations by giving a false name or a wrong address, they can act under this section and detain the person until satisfied that they have got his true name and address. Failing information as to true name and address or the execution of a bond, the Police can forward the person to a Magistrate.

(True or tract)

(sd) H. Lrenenhere.

Secretary to Government.

- To
- The Plague Commissioners.
 - all Collectors (A) F G H
 - The Sanitary Commr
 - " Surgeon General
 - " President M.C. Nagar
 - " Judicial Dept.
- Sup 15/10/98*
Sup 15/10/98

Plague
Local & Munl. (1898.) Department.

CURRENT No. 16108



From

H. D. Taylor Esquire I.C.S.
Acting Collector of Ganjam

Order

No. 11387/98

Dated Chhatrapur 29th August 1898

Received 6-9-1898

Registered 6-9-1898

Enclosures

Spare copies

SUBJECT.

Pointing out to Government that
there is no provision in the Regulations
for arrest of persons convicted for
breach of Plague Regulations &c.

BACK PAPERS.

G.O.	No.	Department.	Date

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No. 1388
 Dated 29th August 1888
 From
 H. D. Taylor Esq., I.C.S.,
 Acting Collector of
 Gaujam.

The Secretary to Government,
 Local and Municipal
 Department.
 Sir,

I have the honour to point out
 that there is no provision in the Additional
 Maffaol Regulations under the Epidemic &
 Diseases Act 1887, under which persons who evade
 the same and thereby rendered themselves liable
 to punishment under Regulation 36, can be
 arrested by the Police for a breach of such regu-
 lations.

2. An offence under Section 188
 Indian Penal Code is a non-cognizable offence,
 and under Section 55 (i) of the Code of Criminal
 Procedure, Police officers cannot, I think, legally
 arrest, without warrant, a person evading the
 regulations.

regulations who is concealing his presence in a town without proceeding to the destination entered in his passport. At the same time the sanction of the Director is necessary to a prosecution under Section 88 Indian Penal Code.

3. Regulation 5 merely allows detention at an inspection station by an officer in charge of the same and states that every person passing a frontier inspection station shall be bound to declare his destination ^{truthfully} ~~truthfully~~. Regulation 7 allows for detention by the Observation staff where Observation Circles are established, of persons who have lost, or broken the conditions of their passport.

4. Where however no Observation Circles are established, there is no Observation staff and no one is authorised to detain such persons. Yet it is very necessary where people have wilfully given a false address or destination that some means should exist of detaining such persons pending the orders of the Director as to his prosecution.

5. The only course which appears to me to be open to adoption in order to exercise a proper safe guard over the health of

the Community is to declare the Police generally, or at any rate the officer in charge of each station to be an observation officer under the regulations. He will then have powers to detain, but not to arrest such persons as evade the conditions of the passport. The question appears to be one of great difficulty especially in rural tracts where no observation Circles have been established. A person who has wilfully disobeyed orders in the first instance is not likely to pay attention to any great extent to the orders of a Village Khajji or other local authority, and if Police Officers have no powers to arrest or detain such persons, the latter may by the time that the orders of a competent authority have been obtained, have disappeared, leaving no trace of their future movements behind.

6. I do not wish to give the Police any unnecessary authority in plague matters, but I think that some ruling is necessary to define their powers as a general body, when not specially engaged on the Observation staff.

I have the honour to be,
Sir,

Your most obedient servant
H. B. Bradshaw
for Asst. Secy. of Govt.

copy

July 20 1908

[L & M.]
150-30-6-97.

LOCAL AND MUNICIPAL DEPARTMENT.

Papers to be read in proceedings:—

Again G.O., No.	dated	189 .
Again G.O., No.	dated	189 .
Current No. 1600 P	of 189 P, dated 29. 9. 98	, from Coll. of Sanjan
" "	" 189 , "	" "
" "	" 189 , "	" "

Print memo

ORDER. N: 1206 P. of 30-9-98.

The Government considers that the powers conferred by Section 57 of the Criminal Procedure Code are quite enough to meet the case stated by the Collector. If the Police are informed that a person is evading the Police Regulations by giving a false name or a wrong description address, they can act under this section and detain the person until satisfied that they have got his true name and address. Failing information as to true name & address or the execution of a bond, the Police can forward the person to a Magistrate. The Collector is not quite correct in stating that his sanction is necessary for every prosecution under Section 108 of the Criminal Code. Any public

To the Police Comr:
all Collectors (A.F. G. H.)
Secretary Comr:
Muzungu
President of the Council
Judicial Dept

To Jd. for C.I. It is
regretted that the paper
was not sent for C.I. before
being submitted to H. M.
H. S.

27.9.98. 2.

29.9.98

or his superior officer

"public servant 'concerned'" may
complain under Section 195(1)(a)
of the Criminal Procedure Code.
Thus, a person ~~not~~ failing to present
himself daily for inspection in
accordance with the passport
granted to him may, in the opinion
of fact, be prosecuted either by the
officer who issued the passport or by
the local authority before whom he
was required to present himself. Should
Collins or the President Mr. E. Mander
~~find any~~ feel doubt as to the
public servant who should institute
prosecution in any particular case,
the question should be referred for the
orders of Government.

3. Subordinate police should be
not be employed more than is
necessary in enforcing Plague
Regulations - vide G.O. No 1023. P. 4/7-9-98.

To all Colls
The President Mr. E. Mander
" Marine Dept
" Sanitary Commr.
" Surgeon General

Long
19/8/98. note This submitted
for ^{city} ^{for officers mentioned in}
that prosecution under Section
196 & 197 Cr. P.C. require the sanction
of fact - not there under Sec 195.

which, it is thought, may be
sanctioned by the executive officer
concerned. The question of framing a
Regulation may be considered
19/8/98 when difficulty actually arise

NOTE FOR THE Secretary

Section 3 of the E. D. Act 1897 is

" Any person disobeying any
" Regulation or order made under
" This Act shall be deemed to have
" Committed an offence punishable
" Under section 188 of the I. P. Code."

2. This has been amplified as follows
in the Madras Plague Regulations

15. Any person disobeying or contravening or refusing to submit himself to any Regulation made under the Epidemic Diseases Act, 1897, or obstructing any measure which has been taken by Government, or which any authority, or officer appointed under competent authority to carry out such Regulation, has been required or empowered to take under any such Regulation, shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code, and shall be liable on conviction to imprisonment of either description for a term which may extend to six months or fine which may extend to one thousand rupees or both.

3. Section 195 (1) (a) ^{of I. P. Code} requires that
" No Court shall take Cognizance of
" an offence punishable under
" ... section 188 of the Indian Penal
" Code except with the previous sanction
" or on the Complaint, of the public
" Servant concerned or of some public
" Servant to whom he is subordinate."

4. Under revised Muzaffar Beg
17, every person from an infected
part is bound to take out a
passport & to present himself for
examination for ten days. If he
omits

omits to do so, he may be prosecuted by any officer ⁱⁿ "the public servant concerned" i.e. any officer authorized to work the passport rules and either the officer authorized to issue passports or the officer authorized to inspect the passenger. It does not seem necessary that the order destroyed should have been ^{one} promulgated by the public servant ^{prosecuting}. The reference in the E.A. Act to section 104 of the I.R. Code relates only to punishment and not to the definition of the offence.

Long
26/8/98

L. & M. Dept.
500-10-3-98

NOTE FOR THE SA

If a person breaks the conditions of a passport granted by a H.A., how can it be held that the directions of the passport were promulgated by the H.A.?

Look up passport Regs.

HT

20/9/98

Please see note below

Long
26/8/98

LOCAL AND MUNICIPAL DEPARTMENT.

Again G.O., dated 189 , No.
 Current No. of 189 , dated
 Current No. 16709 of 1890, dated 29.8.98

from the
 from the Coll. of Sanja

SUBJECT.

Arrest of persons evading Plague Regulation

FOR ORDERS.

I don't see any reason to doubt that if the Police are informed that a person is evading the Plague Regs they can act under S. 57 C.P.C.; that is, they can detain the person until satisfied that they have got his true name & address & they can then release him on a bond. Failing info as to true name & address or the execution of the bond, the Police can forward the person to the Magistrate. I don't see what more can be wanted. The C.O. says that a person under S. 188 M.C. requires his sanction. This raises a curious question - The offence consists in disobedience to the order of a public servant lawfully empowered to promulgate such order. The public servant may be a Magistrate in charge of a frontier inspection station, who has permitted a person a passport binding him to permit himself to pass through the head of a certain village. In that case, the Magistrate may authorize the person, under S. 195 (1) (a) C.P.C. & the C.O.'s intervention is not required. But there are some Regs made by Govt. disobedience to which the Govt. would prosecute. Must Govt. give sanction in such such case? The point had better be looked into. Maybe it has been considered elsewhere. If needed be, I suppose we can issue a Reg under the E.A. Act, that in all cases where Govt. sanction is needed it may be given by the Magistrate of the 2nd class, District Collector & so on.

whether if persons evading the Plague Regulations by giving false addresses and destinations may not be arrested by the Police under Section 57(1) of the Criminal Procedure Code. If this provision of law is considered insufficient, a special Plague Regulation giving the necessary power seems necessary.

Long
14/8/98
H.M.

I don't think so. The Police should keep out of this.

HT

15/9/98

The Police are not to be employed more than is necessary in enforcing Plague Regs. But this is a case of punishing breach of them. I think there is a distinction here, way there is the law.

HT
17/9/98