

BACK PAPERS.

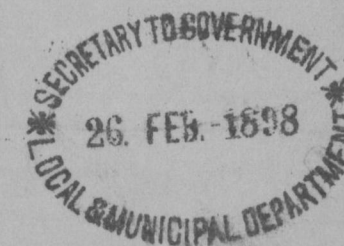
G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

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

Local & Munl. (1898) Department.

CURRENT No. 914 M



From

The Government Pleader,
Madras

Order No. 551 muni & 11/3/98

Communicated to the
Municipal Council, Palni.

No. 183.

1/21
9/3/98
De go
16.3 go

Dated 25-2-98

Received 28-2-98

Registered

Enclosures 2 of 4 each to C. No 3513 &
4347 m of 1897 mtd.

Spare copies

SUBJECT.

Stating that the acquittal in C. C. No 1236
of 1897 on the file of the Stationary Sub Magistrate
of Palni was set aside and the case ordered
to be disposed of by the Sub Magistrate
according to Law.

To

The Chairman, M.C., Palni

thru the Collector of Madras

Copy 14/8/98

2/9/3

11/3/98
10/3/98
11/3/98
8/3

BACK PAPERS.

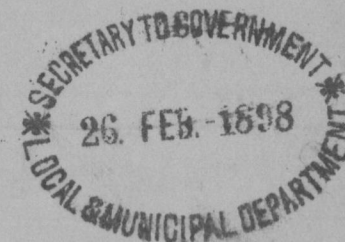
G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

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

Local & Munl. (1898) Department.

CURRENT No. 914 M



From

The Government Pleader,

Madras

h
mas

Order No. 551 muni & 11/3/98

Communicated to the
Municipal Council, Palni.

No. 183.

RA
7/3/98 *De*
16.3.98

Dated 25-2-98

Received 28-2-98

Registered

Enclosures 2 *et* 4 each to C. Nos 35-13 &
4347 m of 1897 etc.

Spare copies

SUBJECT.

Stating that the acquittal in C.C. No 1236
of 1897 on the file of the Stationary Sub Magistrate
of Palni was set aside and the case ordered
to be disposed of by the Sub Magistrate
according to Law.

To

The Chairman, M.C., Palni

thru the Collector of Madurai

copy 14/8/98

2/9/3

11/3/98
10/2/98 *8/3*

BACK PAPERS.

G.O.	No.	Department.	Date.
for	335	hkh	7-2-98
"	2855	hkh	24-12-97
"	12	hkh	6-1-97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Government Pleader's Office,

HIGH COURT,

Madras, 25th February 1898.

LOCAL & MUNICIPAL DEPT
CURRENT No. 914/M

No. 183.

From

E. B. POWELL, Esq.,

GOVERNMENT PLADER,

Madras,

To

THE Secretary to Government,
S and M. Department.

SIR,

With reference to the Proceedings of Government dated 24th December 1897, No 2855 M, Sir, I have the honor to state that Criminal Appeal No 12 of 1898 preferred to the High Court against the judgment of acquittal in C.C. No 1236 of 1897 on the file of the Stationary Sub Magistrate of Palni, came on for hearing on the 9th instant and that the acquittal was set aside and the Sub Magistrate directed to dispose of the case according to Law.

2. Copies of the Sub Magistrate's judgment, the appeal Memorandum and the High Court judgment are herewith sent.

I have the honor to be,
Your most obed^t Servant,

E. B. Powell

Government Pleader.

+ Enclosures returned

Memorandum of Criminal Appeal.

In the Court of the 2^d Class Magistrate
of Palni.

C. C. No. 1236 of 1897.

In the High Court of Judicature at
Madras.

Appeal against acquittal.

Criminal Appeal No. 12 of 1898.

Queen Empress. Appellants.

Pannammal Accused.

The Public Prosecutor on behalf
of the Appellant above named begs to
prefer this Memorandum of Criminal
Appeal to this Honourable Court
against the order of acquittal passed
by the 2^d Class Magistrate of Palni
in C. C. No. 1236 of 1897 dated the 4th
December 1897 for the following among
other grounds.

1. The Sub Magistrate was wrong in
acquitting the accused.

2. The Sub Magistrate found that the Public had a right of way and any interference with that right was an obstruction.
3. The street has not been included from the operation of Section 23 of District Municipalities Act.
4. The joint Magistrate's judgment by which the Sub Magistrate allowed himself to be guided is erroneous in as much as he considers that obstruction to some specific person must have been proved.

Madras.

6th January 1898

(Signed) E. B. Powell

Public Prosecutor

(True copy)

Swaminathan

Agst of copyists

Petition

Cr Ap No. 12 of 1898

33/98

1/9/98

In the High Court of Judicature at Madras.

Wednesday, the ninth day of February,
One thousand eight hundred and ninety eight.
Present:-

(L.S.) The Honourable Sir Arthur J. St. Collins, Chief Justice
and
The Honourable Mr. Justice Benson.
Criminal Appeal No. 12 of 1898.

The Public Prosecutor. — Appellant.
Ponnammal. — Prisoner.

Appeal under section 417 of the Code of Criminal Procedure against the Judgment of acquittal passed on the Accused in C.C. No. 1236 of 1897 by the 2d class Magistrate of Palni.

This appeal coming on for hearing, upon perusing the Petition of Appeal and the record of the evidence and proceedings before the Lower Court, and upon hearing the Appellant, and Mr. N. Subrahmanyan, Counsel for the prisoner, the Court delivered the following Judgment:— We cannot accept as correct the reason given by the Sub Magistrate for acquitting the Accused in this case. The prosecution 1st that the alleged

148.

alleged that the street in question
was a public street and that the
accused exposed goods for sale there
so as to cause obstruction. The accused
urged that the street was a public
street, and alleged that it was a
private street belonging to the temple
authorities and that she had permission
from them. The question in issue clearly
was whether the street was a public
street or not. The Sub Magistrate did
not try that question, but acquitted
the accused under the belief that he
was bound by a remark of the Joint-
Magistrate, in another case, in regard
to the same street to the effect that
the claims of the Temple authorities should
either be admitted by the Municipality
or be contested before a Civil Court.
By this remark the Joint Magistrate
meant to lay down that a mere claim
to the street by the Temple authorities
should be sufficient to drive the
Municipal Authorities into the Civil
Court, we must hold that the Joint-
Magistrate

2d Sub Magistrate

168.

Magistrate was in error.

Whether it was a public street
or private one is a question of fact
which it was necessary for the
Magistrate to decide on the evidence
adduced before him. This was not
done. We must, therefore, set aside
the acquittal and require the Sub
Magistrate to restore the case to
his file and dispose of it accord-
ing to law.

It is urged by the Accused's
Counsel that the Accused was her-
self the accused in the former case,
and that she is protected by the
general exception in Section 79, Indian
Penal Code. That may be a good
defense if it appears on the evidence
that the facts necessary to make that
exception applicable are established,
but the Magistrate has not acquitted
the Appellant on that ground, nor
does it appear from the papers before

3d Sub

139

as that the necessary facts are established.

We cannot, therefore, acquit her on that ground, but we leave it open for the magistrate's decision.

Ordered accordingly.

of J. I. Gillespie,
Deputy Registrar,
Appellate Side.

(True copy.)

Per a nancy

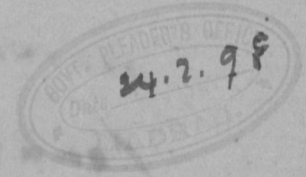
4th Most obed
Ed by Llu

Ag. Suppl. of Copyists.

*But the necessary facts were
published.
We cannot, therefore, repeat here
the ground, but the same is open
the High Court's decision.
Indicated accordingly.
J. L. G. G. G. G.
Deputy Registrar
Appellate side*

Judgment.

Ord. apl. no. 12 of 1898.



HIGH COURT, APPELLATE SIDE.
P. P. No. 59

Application made 10-2-1898
Stamp papers paid for 189
Do. do. 189
Copy ready 24-2-1898
Do. delivered 24-2-1898

Co

SECRETARY.

2/9/14 Not 1898

When given for copying _____
When copied _____
When examined _____
When signed 12/3 } 189

READ AGAIN G.O., No. _____, DATED
189

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING WANT FOR DESPATCH
IN ORIGINAL.

N.B.—

- A = Copy in full.
- B = Not to be copied.
- P = Copy abstract only.
- Q = Copy heading only.