PROCEEDINGS OF THE PLAGUE COMMISSIONER.

(1899)

MISCELLANEOUS.

No. 306

Dated 1/2/99

Despatched

Recd from Fm
11/8/99

[Despatch Abstract.]

Plague Regulations

Recording papers connected with the prosecution before the Sub-Magistrate of Kurnool of certain arrivals from Bangalore for offences agst the ——

BACK PAPERS.

No.	Date.	No.	Date.

FURTHER PAPERS.

No.	Date.	No.	Date.

C. No. 1642

KURNOOL COLLECTOR'S OFFICE,
Kurnool, Dated 23rd March 1898.

Dis. No. 4390/Jud. 98

ENCLOSURE

FROM
Mahomed Raza Khan Esqr.,
COLLECTOR OF
Kurnool.

TO
THE
Plague Commissioner,
Madras.

SIR,

I have the honour to state that a party of five persons, Monigar Massum Saheb of Kurnool and his relations returned here on the morning of 18th Instant from Bangalore by road. Intimation having been received beforehand of their expected arrival Dr. Powers, the Additional Medical Officer and the Plague Sanitary Inspector went out beyond the Segregation shed near the second mile on the Gooty Road and inspected the party who had passports. One of the five persons, a boy of about 15 years, was concealed and another boy from Kurnool substituted and shown in his place. The medical officer being satisfied that nothing was the matter with any of the 5 persons allowed them to go into the town.

The next day my Head Quarter Dy. Collector, Mr. Mahdi Hassain Sahab Bahadur, having learnt that the boy examined the previous day was not the boy who had really arrived from Bangalore, immediate enquiries were instituted by him and the real boy was traced out. He had a glandular swelling at the left arm pit but had no fever at all. Dr. Power then consulted the District Medical and Sanitary Officer and they were of opinion that the case was not one of plague. They also deemed it sufficient to segregate the party from Bangalore in their own house which is separated from other houses at one end of the town to prevent egress from and ingress into the house and to disinfect their clothings &c. and the house

house and the necessary arrangements were accordingly made.

2. I was not present at the Head Quarters when the arrivals entered the town or when the false personation was discovered but the facts mentioned in para 1 supra were reported to me by the Municipal Chairman, Kurnool in a letter which reached me at Banganapalli at about 8 P.M. on the 20th. I at once started for Kurnool which I reached the following night at about 8 after a journey of 52 miles by road and 40 miles by rail. Immediately after my arrival I saw Dr. Power who told me that the suspicious boy has had no fever ever since his arrival and that there was nothing suspicious in the state of ~~the~~ his health. I took Dr. Power yesterday early in the morning to the house of the persons concerned & we found the boy all right and healthy. Only he had some

hard glandular little swelling in his left arm pit which when pressed by Dr. Power gave no pain at all ~~to the~~.

3. The District Medical and Sanitary Officer, Dr. Patch, who has inspected and examined the boy tells me that all the five persons composing the party who arrived from Bangalore are free from plague and are healthy. He further says that the boy referred to above has a lump under his left arm which is somewhat hard but causes no pain on pressure. Dr. Patch adds that the swelling appears to him to be of long standing. His relations tell me that the boy has had that swelling since a long time. As already mentioned the arrivals have been segregated in an isolated house and are being carefully watched. Myself and Dr. Power daily inspect them and find them all healthy.

4. When they were questioned as to why they concealed the boy and substituted another at the time of the examination held by Municipal Chairman and others, they replied that as the boy in question got fever during the time to they halted at the 5th mile of the Gooty Road and as they were ill-advised by somebody that the boy will be separated from them if taken to Kurnool, they through ignorance of the rules acted so. Legal steps however will be shortly taken for their prosecution under the Indian Penal Code.

5. As Doctors Patch and Power after carefully examining the boy has satisfied me that the case is not one of plague, I have not taken the steps prescribed in Additional Regulation No. 21 and Government Order No. 829 P
17.8.98
but

but have thought it advisable that the circumstances should be intimated to you for your information.

I have the honour to be
Sir
Your most obedt Servt.

[illegible]
24th Feby
[illegible]

Expd

C No 1642

1898

REVENUE DEPARTMENT.

FROM

The COLLECTOR OF

KURNOOL.

TO

THE Plague Commissioner

Madras

Prop

Recorded.

Dated 23rd
Despatched November 1898
Received 28/11/98

2. The result of the steps taken for the prosecution of the offenders, should be reported

Dis No. 4390/Genl of 1898.

29/11/98

29/11

ENCLOSURES. Nil

SUBJECT.

Submitting a report regarding Plague arrivals of persons suspected with Plague from Bangalore on 18th November by road.

To the Coll of Kurnool

Desp. 30/11/98

FORM II.—CALENDAR AND JUDGMENT.

(For use in cases where there are two or more accused persons.)

District of Kurnool

Calendar of cases tried by the Second Class Magistrate of Kurnool Town ~~Taluk~~.

Offence.*	Date of Report or complaint.	Date of Commencing trial.	Date of Sentence or order.	Explanation of delay, and Remarks.
18-19 November 98 Kurnool	30-11-98	6-12-98	12-12-98	

* The place of offence should also be noted in this column.

Judgment in Calendar case No 426 of 1898, on the file of the Second class Magistrate of Kurnool Town

COMPLAINANT. Regina by Chakrapani Naidu Plague Sanitary Inspector.

	Name of accused.	Age.	Father's name.
1.	Masoom Sahib	56	Sali Sahib
2.	Mahaboob Sahib	15	Hayath Sahib
3.	Ibram Sahib	30	Masoom Sahib
4.	Abdul Wahab	11	Hayath Sahib
5.			

	Caste or religion.	Calling.	Residence.	Taluk.
1.	Mahamadan			
2.	Do	Merchants	Kurnool	Ramallakot
3.	Do			
4.	Do			
5.				

Offence Disobedience to Plague rules and false personation offences under Sections 188 and 419 I.P.C.

Finding The 1st & 3rd accused guilty under Sections 188 & 109 & 182 I.P.C, the 2nd accused guilty under Section 188 I.P.C and the 4th accused guilty under Section 182 I.P.C.

Sentence The 1st & 3rd accused are sentenced to pay a fine of rupees thirty each the 2nd accused to pay a fine of rupees ten & the 4th accused to pay a fine of Rs 15 or in default to undergo rigorous imprisonment for one month each. (Sd.) A. Doraswami Iyer 2nd Class Magistrate.

(True Copy)

(Sd.) A. Doraswamy Iyer
2nd Class Magistrate

(True Copy)

Inpr 20-1-99 19/1

for Collector

Judgment

1. One Mahaboob Sahib of Kurnool a boy of about fifteen years of age was charged on the 30th of November before this Court by the Plague Sanitary Inspector Mr. Chickrapani Naidu with failing to appear for observation on the 18th and 19th of November before the ~~Plague~~ Additional Physical ~~Medical~~ Officer Doctor Power of Kurnool an offence under section 188 I.P.C and one Masum Saib (2) Ibrahim Saib with abetment of the same.

2. The 4th accused Abdul Wahab the younger brother of Mahaboob Saib was also charged with the offence of cheating by personation by representing himself to be the 2nd accused before the said Doctor & Inspector an offence under section 419 I.P.C and the other three accused also with the same offence for knowingly substituting one person for another.

3. The following five witnesses were examined for prosecution viz (1) Chidambara Rao Garu Municipal Chairman (2) the said Doctor Power, the Plague Doctor (3) Chekrapani Naidu, the Plague Sanitary Inspector (4) Hanumantha Rao, Municipal Peon and (5) Syed Abdul Gafoor, the School master of the Mahamadan school in which the 4th accused had been ~~being~~ studying.

4. The prosecution story runs to the following effect:— The accused Nos 1, 2 and 3 and two other women arrived from Bangalore a Plague infected locality at Kodikonda a road frontier Inspection station on the 10th of November, where they were given passports with instructions to appear before the Plague authority at Kurnool for 10 days for observation. It must be observed that the accused travelled by road and not by rail. On their arrival at the outskirts of the municipality of Kurnool on the 18th of November the Plague Doctor and the Inspector went to meet them outside the town near the municipal Plague segregation Camp. The 1st, 3rd, 4th accused and the two Gosha women presented themselves for inspection. The Inspector says that he called out the names one after another according to the passports and that the 4th accused answered to the name of the absent 2nd accused, but the Doctor does not exactly remember it, although as a rule he used to call out the names of the passport holders before inspection. The Doctor passed all of them for good health and they went into the town.

5. Again on the morning of the 19th of November accused 1, 3 & 4 appeared before the Doctor at the municipal Hospital for observation and they were passed for good health that day also.

6. Meanwhile it reached the ears of the municipal Chairman that the 2nd accused who had actually arrived from Bangalore was falsely personated by the 4th accused his brother, who had never gone to Bangalore, before the Doctor on the 18th & 19th of November and that the 2nd accused was then actually suffering from Plague.

7. The Chairman accompanied by some of his staff immediately repaired to the house of the accused. The 1st, 3rd & 4th accused appeared before him representing

them

S

themselves to be the individuals that had arrived from Bangalore. The Chairman's examination and cross-examinations of the accused were of no avail in finding out the truth. All the three persisted in representing that it was the 4th accused that had arrived from Bangalore and that his name was Mahaboob Sahib given in the passport. The Chairman would not be satisfied with all these explanations. In the end he got a clue by which he learnt that the 4th accused had been studying in the school at Kurnool and that he had not gone to Bangalore at all. This fact was amply verified by the school records and that the statement of the teacher. The three accused were confronted with this information and they then openly admitted the whole truth and begged for pardon.

8. The boy (i.e.) the 2nd accused was subsequently found by the doctor to possess a swelling in his arm-pit and he was consequently segregated in one of the houses in the Camp.

9. The prosecution witnesses corroborate the above story.

10. Now going into the legal aspect of the question it remains to be discussed whether the facts on record constitute an offence under Section 419 I. P. C.

11. Here the 4th accused no doubt pretended to be the 2nd accused. It must also be presumed that the 1st and 3rd accused have knowingly substituted the

4th accused a boy of about eleven or twelve for the 2nd accused a boy of about fifteen years. There is nothing on record to show that the 2nd accused had any knowledge of this substitution. He might have been simply asked by the 1st and 3rd accused his elders to go home direct into the town and send his younger brother ~~[illegible]~~ to meet them on the way. That the 4th accused had actively cooperated with the 1st and 3rd accused in the false personation is quite evident from the records.

12. But to constitute an offence under section 415 I.P.C the damage or harm caused or likely to be caused to the person deceived (i.e.,) the Plague Doctor, in mind, body, reputation or property must be necessary consequence of the act done or omission made by the Doctor, by reason of misrepresentation of facts by the accused viz the omission to segregate the party which he would have done had the true state of facts been given to him or the harm must be necessarily likely to follow the omission. Here no harm is caused or is likely to be caused to the doctor in mind or body reputation or property in consequence of his omission. It may be argued that the doctor represents the public of Kurnool and the public are likely to be harmed by the omission or it may be said that the Doctor had suffered in mind in consequence of his omission.

13. I think by the above construction the strain put upon the section will be too strong for it to bear.

14. It must also be noted that the swelling might be due to the Plague the boy had suffered under and not to the disease the boy was then suffering under.

15. Under the circumstances I do not think that the fact constitutes exactly an offence under section 419 I.P.C.

16. The offence in my opinion may fall under section 182 I.P.C. From the present classification of section 182 I.P.C into A & B, it is evident that no injury need be caused by the public servant falsely informed to a third person to constitute an offence under the 1st or B division of the section.

17. Here the accused 1, 3 & 4 gave to the Doctor a public servant information which they knew full well to be false & thereby caused the doctor to omit to segregate them which he ought not to have done if the true state of facts were known to him.

18. The accused came from an infected area, they have lost some of their number out of plague at Bangalore and the 2nd accused had swellings in the armpit. Under the circumstances the doctor ought to have naturally segregated the accused at least thro' suspicion. This they wanted to avoid and descended to practise all sorts of machinations.

19. Therefore the facts on record for prosecution disclose that (1) the 2nd accused has committed an offence under section 188 I.P.C by not presenting himself

for inspection on the 18th and 19th November as he was bound to do under Revised Regulation 17 and that the 1st & 3rd accused have abetted the same as the offence must have been committed under their instructions; (2) that the 1, 3 & 4 accused have committed an offence under section 182 (A) I.P.C. by giving false information to the doctor.

20. Both the sections relate to only summons cases.

21. The facts proved against them were stated to the accused and they all admit the same in toto.

22. I therefore find the 1st & 3rd accused guilty under section 188 & 109 and 182 I.P.C.; the 2nd accused guilty under section 188 I.P.C. and the 4th accused under section 182 I.P.C.

23. All the accused being members of the same family, any fine inflicted on any member will touch the same purse.

24. It must also be noted that all the accused were very much aggrieved at the time seeing that they had lost some of the prominent members of their household at Bangalore, and that they have also sustained a great loss in their mercantile transaction at Bangalore owing to the prevalence of the dire disease at that place.

25. Under the circumstances I sentence the 1st and 3rd accused to pay a fine of rupees thirty each; the 2nd accused to pay a fine of rupees ten

And

and the 4th accused to pay a fine of rupees fifteen in default to undergo rigorous imprisonment for one month each under section 245 C.P.C.

Signed A. Dorasamiengar
2nd Class Magistrate
12-12-98

(True Copy)

Signed A. Dorasamiengar
2nd Class Magistrate

(True Copy)

19/1

Ed

Mtn
20.1.99

2/926 of 1899
fm

A No 926

Dis No. 63/P of 99
Encl: 1

Kurnool COLLECTOR'S Office
Dated 5th January 1899.

FROM

Mahamed Razakhan Esqr.
COLLECTOR OF
Kurnool

TO
THE Revenue Commissioner
Madras

SIR,

Adverting to your R Cho 1642 D/29-11-98 I have the honour to forward for your information a copy of the Judgment in calendar case no 426 of 98 on the file of the Sub Magistrate of Kurnool Town who enquired into the case against Masum Sahib, Mahaboob Sahib, Ibrahim Sahib and Abdul Wahab and convicted them under S.S. 188, ~~1~~82, & 109 I. P. C.

I have the honor to be,
Sir,
Your most obedient Servant,

Rafiullah
20/1/99
fm Collector.

Copied ~~[illegible]~~ 18/1
Examined 1/1 [illegible]
20-1-99

H.C. 2,000—6-98.
491

FROM

THE COLLECTOR OF

Karnal

TO

THE Financial Commissioner

Punjab

Read Chios 1642/98
& 926/99.

24/1/99

Dated 5th

Despatched January 1899.

Received

29/1

Proceedings No. 306 d/1/2/99

Recorded.

No.

ENCLOSURES.

25/1/99

SUBJECT.

Forwarding a Copy of Judgment in Calendar Case No. 42b of 98 on the file of the Sub Magistrate of Karnal town

Kul.
24.1.99

When given for copying
When copied
When examined
When signed

189 .