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MADRAS RECORD OFFICE.

Government of Madras.

Public works **DEPARTMENT.**

G.O. No. 3063 Press —Mis.—

36-35

Dated 3. 10. 1867.

Not to be folded or roughly handled

1-D

Proceedings of the Madras Government, Public Works Department, 3rd October 1867.

No. 34. Read the following Proceedings of the Madras Government in the Judicial Department:—

Observing that the case referred to in Public Works Proceedings of the 22nd July 1867, No. 2,196, should have been referred to an Officer exercising the powers of a Magistrate. } (Here enter 25th September 1867, No. 1,546.)

No. 35. ORDER THEREON, 3rd October 1867, No. 3,063.

CIVIL WORKS, No. 4.

Communicated to the Superintending Engineer of the 8th Division, with reference to the Order of the 22nd July 1867, No. 2,196.

(True Extract.)

(Signed) J. H. M. SHAW STEWART, Major, R. E.,
Under Secretary to Government.

To the Superintending Engineer, 8th Division.

Exd. S. T. Augustin.

Proceedings of the Madras Government, Judicial Department, 25th September 1867.

No. 264. Read the following letter from the Magistrate of Madura, to the Acting Chief Secretary to Government, Fort Saint George; dated Madura, 4th September 1867, No. 314.

In obedience to the Order* of Government, dated 26th July 1867, No. 1198, conveyed in their Proceedings of the same date, I have the honor to forward the Depositions and Notes taken by the Sub-Magistrate of Madura in the case referred to in the abovementioned Government Proceedings.

* Judicial Department.

2. I was at Periakolam at the time the case occurred. Deputy Magistrate Mr. Underwood was absent on leave; my Acting Head Assistant was at Ramnad; and my Assistant, Mr. Burrows, was in Tinnevelly, for the Assistants' Examination; and the Treasury Deputy Magistrate was at the time engaged in a long and serious case of "grievous hurt." Gopaul Iyengar who was at that time in Magisterial charge of Madura Town was absent in the Taluq. To avoid delay, the case was prosecuted by Mr. Colquhoun before the Taluq Sheristadar (2nd Class Sub-Magistrate), who convicted the prisoner, and sentenced him to one month's inprisonment. The case was one cognizable by a 2nd Class Sub-Magistrate, and was, therefore, rightly tried, but it ought to have been referred to a Magistrate with full powers, for enhanced punishment, under Section 357 of the Criminal Procedure Code.

Translation of a Deposition given on solemn affirmation before Ramachendra Row, the Sub-Magistrate of Madura Taluq, by Mr. A. Colquhoun, the Sub-Engineer of Madura.

With a view of committing mischief to the building of the Court-house now under construction by Government, on the north side, in front of the Palace of Tiroomalay Naick, at Madura, (1) Sevugaperumal, (2) Irulappa Cotten, (3) Chinna Ganapathy, and (4) Kistnen, who are now employed on the building, did, on the 18th instant, collusively insert the two chatties or pots now before the Court in the west wall of the western room on the north side of the upper story of the Court-house, at the point of support of beam, and also in the wall of the south-west corner of the above room, and cover the same with bricks. From the above act, a loss of 10 Rupees is now sustained. Serveigaren and Audimoolum should be examined regarding the above fact, and the defendants punished. Had it not been discovered, the result would have been a great loss to Government and endangerment to lives.

(Signed) A. COLQUHOUN,
Sub-Engineer in charge of 1st Range.
(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

Translation of a Deposition given on solemn affirmation, on 29th June 1867, *before Ramachendra Row, the Sub-Magistrate of Madura Taluq, by Mr. Colquhoun, the Sub-Engineer of Madura.*

With a view of committing mischief to the building of the Court-house now under construction by Government, on the north side, in front of the Palace of Tiroomalay Naick, at Madura, the bricklayers now before the Court and employed on the building, viz., (1) Sevugaperumal, (2) Irulappa Cotten, and (3) Chinna Ganapathy, did, on 18th instant, collusively insert the two chatties or pots now before the Court in the west wall of the western room on the north side of the upper story of the Court-house, at the point of support of beam, and also in the wall of the south-west corner of the above room, and did cover the same with bricks. This having been brought to my notice by the witnesses Audimoolum and Serveigaren, I went and inspected the building, and found

the statement to be correct. By their having done so, not only a loss of 10 Rupees is now sustained, but also a great loss was likely to occur to the Government, as well as endangerment to lives if no proper measures were taken to rectify it at present. The witnesses should, therefore, be examined, and the defendants punished.

(Signed) A. COLQUHOUN,
Sub-Engineer in charge of 1st Range.
(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

The evidence was read over to the witness in Tamil, which he understands, and was acknowledged by him to be correct.

(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

Translation of a Deposition given on solemn affirmation on 29th June 1867, before Ramachendra Row, the Sub-Magistrate of Madura Taluq, by Audimoolum, son of Audinarrayana Moodelly, who has now come to Madura from Madras, by profession a builder, and aged 20 years.

Answer.—I do not know the date, nor the day of the week, but about 10 or 12 days ago, I was one day engaged in the building of the Court-house which is now under construction in front of Tiroomalay Naick's Palace at Madura. Sevugaperumal, whose name I came to understand now, and who is now before the Court, inserted a pot in the wall of the upper story, and another pot in the corner wall, and having screened the same with bricks, &c., raised the wall. Irulappa Cotten and Ganapathy, who are now before the Court, and whose names I am now given to understand, had witnessed the same. They questioned him (1st defendant) "why does he do so;" he answered in the affirmative. I then informed the prosecutor of the above particulars. The 1st defendant and his fellow workmen, the 2nd and 3rd defendants, as well as certain others, having undertaken the construction of the building, had been employed on the same. I do not know the cause of inserting the pots in the walls.

The defendants denied having questions to the deponent.

(Signed) AUDIMOOLUM.

Answer to the question of the defendant.—I did not inform Mooroogasa Moodelly and Ganapathy Cotten that Cundasawmy Moodelly and Jaganada Cotten inserted the pots, nor did I tell so to the defendant. The distance between the place where I was, and that where the 1st defendant was employed was about 15 feet.

(Signed) AUDIMOOLUM.

The evidence was read over to the witness in Tamil, which he understands, and was acknowledged by him to be correct.

(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

Translation of a Deposition given on solemn affirmation, on 29th June 1867, before Ramachendra Row, Sub-Magistrate of Madura Taluq, by Serveigaren, son of Periacaruppen of Madura, of Agambadia caste, a bricklayer, and aged 17 years.

Answer.—I do not know the date, nor the day of the week, but one day about 10 or 12 days ago, I was working in the Court-house which is now under construction at Madura. Sevugaperumal, now before the Court, was also working there. He inserted a pot in the western wall of the upper story, and having covered it with bricks, &c., and raised up the wall in question, I objected him from so doing, but he told me to be silent. The distance between the place where I was working, and that where he was employed was about 10 feet. The other defendants Irulappa Cotten and Chinna Ganapathy were doing their duties without speaking anything. I do not

know from what motive the pot was inserted in the wall. I did not inform the prosecutor of the above circumstance. The wall in which the pot was inserted was raised by the above defendant.

(Signed) SERVEIGAREN.

The evidence was read over to the witness in Tamil, which he understands, and was acknowledged by him to be correct.

(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

Translation of Notes of evidence in Calendar Case No. 447 of 1867 on the file of the Sub-Magistrate of Madura.

The 1st witness, Mr. Colquhoun, deposes as follows:—

With a view of committing mischief to the building of the Court House now under construction by the Government on the north side, in front of Tiroomalay Naick's palace, at Madura, (1) Sevugaperumal, (2) Irulappa Cotten and (3) Chinna Ganapathy, who are now before the Court, and who are employed on the building, inserted, on 18th instant, the two chatties or pots, now before the Court, in the west wall of the west room on the north side of the upper story of the above building, at the point of support of beam, and also in the wall of the south-west corner of the above room. They covered the same with bricks, and carried on the work of building. The witnesses informed me of the same. I went, and on inspecting the walls, found the information to be correct. By the above act, a loss of 10 Rupees has now occurred. Had it not been now discovered, the future consequence would have been a great loss to Government and danger to lives.

2nd Witness Audimoolum.—About 10 or 12 days ago, I was employed on the building of the Court House now under construction in front of Tiroomalay Naick's palace at Madura. Sevugaperumal, who is now before the Court, and whose name I came to understand now, inserted two pots, one in the wall of the upper story and one in the corner wall, and, having screened the same with bricks, raised up the walls in question. The other defendants Irulappa Cotten and Ganapathy, having observed the same, questioned him as to why he did so; he answered in the affirmative. I informed the prosecutor of the above circumstance. The first defendant and his fellow workmen, the 2nd and 3rd defendants, and some others, having undertaken the building, were engaged in the work. I do not know from what motive the pots were inserted. I did not say to Mooroogasa Moodelly and Peria Ganapathy that the above pots were inserted by Cundasawmy Moodelly and Jaganada Cotten, nor did I tell so to the defendant. The distance between the place where I was working and that where the 1st defendant was working was about 15 feet.

3rd Witness Serveigaren.—About 10 or 12 days ago, I was employed on the building of the Court-house now under construction at Madura. Sevugaperumal, now before the Court, was also working. He inserted a pot in the western wall of the upper story, and, having covered it with bricks, raised up the wall. I objected to it; but he told me to be silent. The distance between the place where I was working and that where Sevugaperumal was, was about 10 feet. The other two defendants, viz., Chinna Ganapathy and Irulappa Cotten, were also working without speaking anything. I do not know from what motive the pots were inserted, nor did I report the circumstance to the prosecutor. The wall in which the pot was inserted was constructed by the defendant and others.

(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

29*th June* 1867.

Translation of a Declaration given, on the 29th June 1867, before Ramachendra Row, Sub-Magistrate of Madura Taluq, by Sevugaperumal, son of Sevugaperumal, of Marava caste, bricklayer, and aged 22 years.

Question.—You have now heard what the complainant and witnesses deposed. What do you say in your defence?

Answer.—I and 7 or 8 others raised the walls of the upper story of the Court-house which is now built at Madura. Neither did I insert the pot in the above walls, nor do I know who inserted it. I heard that the complainant took out the pot from the walls. I have no witnesses.

(Signed) SEVUGAPERUMAL.

The above was taken in my presence and hearing, and contains accurately the whole of the statements made by the accused.

(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

Translation of a Declaration given, on 29th June 1867, *before Ramachendra Row, Sub-Magistrate of Madura Taluq, by Irulappen, son of Madakone, of Zedaia caste, a brick-layer, and aged about* 40 *years.*

Question.—You have heard the statements of the prosecutor and of his witnesses. What do you say in your defence ?

Answer.—I have been employed on the new Court-house building at Madura. Neither did I insert the pot in the wall of the above building, nor do I know by whom it was done so.

(Marked) IRULAPPEN.

The above was taken in my presence and hearing, and contains accurately the whole of the statements made by the accused.

(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

Translation of a Declaration given, on 29th June 1867, *before Ramachendra Row, Sub-Magistrate of Madura Taluq, by Ganapathy Pillay, son of Arcattan, of Madura, of Vellala caste, Siva sect, a cooly, and aged about* 26 *years.*

Q.—You have heard the statements of the prosecutor and his witnesses. What do you say in your defence ?

A.—I have been employed on the building of the Court-house at Madura. Neither did I raise the wall of the upper story by inserting a pot therein, nor do I know who did so.

(Signed) GANAPATHY PILLAY.

The above was taken in my presence and in my hearing, and contains accurately the whole of the statement made by the accused.

(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

Translation of a sentence passed in Calendar No. 186 *of* 1867, *on the file of the 2nd Class Sub-Magistrate of Madura.*

Prosecutor.		Defendants.
Mr. Colquhoun	*Versus*	1. Sevugaperumal, 2. Irulappa Cotten, 3. Ganapathy.

Charge.

The defendants are charged with having, on 18th June 1867, inserted a chatty or pot in the wall of the upper story of the Court-house, which is now being built by Government at Madura, and raised the wall in question, and thereby committed mischief, punishable under Section 426 of the Indian Penal Code.

The prosecutor (the 1st witness) states that, on his being given to understand by the witnesses that the defendants have, with a view of committing mischief to the building of the Court-house which is now under construction by Government in front of the Palace of Tiroomalay Naick at Madura, inserted two pots within the walls of the upper story, and raised the same, he (prosecutor) went and inspected the same ; that he found the information to be correct ; that, from the above act, a loss of 10 Rupees has now occurred, and that if it was not now discovered, the future consequence would have been a great loss to Government and endangerment to lives.

The 2nd witness deposes in favor of the 1st witness, and adds that the 2nd and 3rd defendants remonstrated in vain with the 1st regarding the insertion of chatties or pots.

The 3rd witness corroborates the statement of the 2nd, and states that he did not inform the prosecutor of the occurrence, and that the 2nd and 3rd defendants were working at the time without speaking anything.

The 1st defendant denies the charge, but states to his having heard that the complainant took the pots from within the walls in question, to his having built the same, and to his having no witnesses in his defence.

The 2nd and 3rd defendants deny the charge.

From the documents held in the inquiry, it is proved that the 1st defendant did, with a view of committing mischief to the building of the Court-house, insert the pots within the walls, and carry on the work, and that the defendant and others have constructed the walls in question.

As the above defendant is the one that carried on the work of the construction of the wall, and as it appears that he inserted the pots with a view of committing mischief and loss to the building, he deserves to be punished.

No proof is adduced against the 2nd and 3rd defendants.

The Court finds the 1st defendant Sevugaperumal guilty of the offence of mischief punishable under Section 426 of the Indian Penal Code, and accordingly directs that the said defendant be kept to rigorous imprisonment for a term of one month.

The Court does not find Irulappen and Ganapathy guilty of the offence of mischief laid to their charge, and accordingly directs them to be set at liberty, under Section 272 of the Criminal Procedure Code.

(Signed) RAMACHENDRA ROW,
Sub-Magistrate.

Madura, *29th June* 1867.

No. 265. Order thereon, 25th September 1867, No. 1546.

The Governor in Council concurs with the Magistrate of Madura in considering that the case adverted to in the Proceedings of Government, Public Works Department, dated the 22nd July last, No. 2196, should have been referred by the 2nd Class Sub-Magistrate of Madura to an Officer exercising the powers of a Magistrate, for such sentence or order as he might have deemed proper in the matter.

2. The Tamil Depositions and Notes received with the foregoing letter will be returned to the Magistrate.

(True Extract).

Chief Secretary.

To the Magistrate of Madura, with enclosures, returned.
„ Public Works Department.

Ext. J. H. Burns.

Lieh

Civil Dept

No 3063

Commd to the
Subs/Engr of the 8 Dn.
in the reference to the
order of the 22 July 67,
No 2196 -

H.

Fort St George
3rd Octr 1867

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p W 1864. Depts

A 3729

P.W. & Ke Masters Fees

Judicial dept

D/ 25th Sept 1864

Rec 4th Oct 1864

A 1576.

ex 3063 - 3d Oct. 1864

Observing that P.W. the case referred to in Pro. of the 22nd July 64, A 2195 should have been referred to an officer exercising the powers of a Magistrate -

William Baker

No. 34-35