

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	686	Press ~~Mis~~
²⁶⁻⁶¹ Dated	16-3-	18 68.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
16th March 1868.*

No. 260. Read the following letter from the Government Solicitor, to the Chief Secretary to Government, Fort St. George, dated Madras, 11th March 1868, No. 138:—

1. I have the honor to report, for the information of the Government, the result of the prosecution of the Jaghcerdar Sooba Row in the Sessions Court of Cuddapah, on which, in accordance with your instructions, I appeared on behalf of the Government.

2. The prisoner was and had been for some time past the Head Accountant in the Vernacular Department of the Office of the Deputy Collector in charge of the Treasury at Cuddapah. In consequence of the recent discovery of certain defalcations in the Cuddapah Treasury, suspicion fastened upon the prisoner, who was brought up before Mr. Lilly (the Magistrate specially appointed by the Government to investigate and report upon the frauds) upon several charges of forgery and cheating, in respect of several separate sums of money. Mr. Lilly appears to have fully investigated three of these charges, and committed the prisoner to take his trial upon them before the Sessions Court of Cuddapah this month. The day of trial was fixed for the 7th March instant.

3. I arrived at Cuddapah on the afternoon of the 6th March instant, and without delay went through, with Mr. Lilly, the papers and records relating to the three cases committed by him to the Sessions. After the fullest consideration, I decided upon selecting for the prosecution at the Sessions the third case which he had committed, and which was Case No. 27 on the Calendar of the Sessions Court, leaving it open to prosecute the two remaining Cases, Nos. 25 and 26, on the Sessions Court Calendar, in the event of the prisoner being acquitted on the trial of the Case No. 27. In selecting this case for prosecution, I was influenced mainly by the considerations that the sum of money involved in it (Rupees 800) was larger than the amount involved in either of the other two cases, the evidence, as well recorded as available in support of the case, seemed to me stronger than the evidence forthcoming in either of the others, and the case itself furnished the most interesting example of the mode in which the prisoner appears for some time past to have succeeded, in the first instance, in fraudulently obtaining public money, and afterwards, in masking his fraud by forging Treasury orders, and altering Treasury accounts and vouchers.

4. With respect to the sum of Rupees 800, the prisoner had been committed by Mr. Lilly upon seven distinct charges or counts under Sections 465, 471, 466, 467, 468, 418, and 465 of the Penal Code, which resolved themselves into the heads of forgery and cheating. On the trial before the Sessions Court, I amended the charges so as to extend to all the documents, vouchers, and accounts relating to the item of Rupees 800, which had been fraudulently obtained and altered by the prisoner, and I added two charges against him under Sections 417 and 420 of the Penal Code for cheating, and a charge under Section 218 of the Penal Code for incorrectly framing public records and writings. I was induced to add the two first charges, because I felt considerable doubt whether the charge under Section 418 of the Penal Code could be made out; in which event, the charge under Section 417 (as it seemed to me) would stand good; and because I foresaw that, in the

event of the prisoner getting off upon the charges of forgery, but being found guilty of cheating, he would, under Section 420 of the Penal Code, be liable to the highest amount of punishment provided for the charges of forgery, other than the charge under the 467th Section of the Penal Code. I was led to add the minor charge, under Section 218 of the Penal Code, as a precaution, and to provide for the contingency of the prisoner's being acquitted as well of the charges of forgery as of cheating, in which event he would, if found guilty of the minor offence, have been liable to imprisonment for three years and a fine.

5. The trial commenced on Saturday the 7th March instant, and lasted two days. It was concluded on Monday the 9th March instant, when the three Assessors found the prisoner guilty of all the charges for cheating, but acquitted him of all the other charges; while the Sessions Judge, differing from the Assessors, found the prisoner guilty of all the charges, except the charge under Section 418 of the Penal Code, and sentenced him to rigorous imprisonment for five years, and the payment of a fine of Rupees 2,000. In default of payment of the fine in three months, the Court ordered the levy of the fine by distress and sale of the prisoner's property.

6. Having thus succeeded in obtaining a conviction of the prisoner upon the Case No. 27 before the Sessions Court, I (after communication with Mr. Lilly) decided upon offering no evidence for the prosecution in the remaining two cases, which were accordingly dismissed. It did not appear to me that any object was to be gained by pressing these additional charges. Even if the prisoner had been found guilty upon them, he could not have been subjected to a greater punishment than that for which he was liable under the charges in Case No. 27, and it was not likely that for them he would have been sentenced to a greater punishment than that involved in the Case No. 27. In this event, the sentences in the other two cases would, as to imprisonment, have only been concurrent with the term of punishment in Case No. 27. But further, the evidence in neither of the two remaining cases was so complete or clear as the evidence in Case No. 27; and it did not seem to me desirable to give the prisoner a chance of an acquittal after the trial on these charges, involving, as it would do, the disclosure of the evidence forthcoming on the part of the Government, and which might be used hereafter in a civil action against him, if the Government thought fit to direct such an action to be instituted for the recovery of all the sums of money fraudulently obtained by him.

7. I feel that my report of the result of this prosecution would hardly be considered complete, if I did not furnish the Government with a short statement of the facts elicited on the trial. It appeared clearly that it was part of the prisoner's duty to write out, or cause to be written out, for the signature of the Deputy Collector, Mr. Ward, all takeeds, orders, and documents in the Vernacular Department, which required such signature. It was also part of his duty to read over such takeeds and other documents to the Deputy Collector, who used to sign them upon the request and of explanation afforded by the prisoner. The prisoner, or one of his Assistants, at his dictation, or under his instructions, entered the number and purport of each takeed signed by the Deputy Collector in a book called the Register Entry Book of Takeeds. It was also part of the prisoner's duty to examine

all the monthly Vernacular accounts and vouchers sent from the various talooks in the Cuddapah District to the Collector's Treasury, from which Vernacular accounts abstract English accounts were from time to time prepared for transmission to the Accountant General, accompanied by the original vouchers. Although the prisoner did not himself prepare these abstract English accounts, he furnished the material for them, and handed over to the English Accountant the vouchers for transmission to the Accountant General. In the Case No. 27, the fraud committed by the prisoner was effected and carried out in the manner following: On the 14th February 1867, the prisoner made out a Takeed, addressed to the Tahsildar of the Voilpaud Talook, in the words following:—"Jagheerdar Suba Row has paid into the Treasury Rupees (800) eight hundred, with the request that the same may be disbursed to the Cash Gumastah of your talook. You shall therefore debit the amount to Miscellaneous deposits and pay it over to Vencoba Row." This Takeed was afterwards taken by him to the Deputy Collector, to whom in accordance with the usual practice, he read it over, or rather mis-read it. This Takeed was marked A. at the trial, and bears the signature of the Deputy Collector, Mr. Ward, and the countersignature of the prisoner. Mr. Ward swore that the Takeed was an irregular one, and that he never would have signed it had he known the contents of it. The entry of this Takeed A. in the Register Entry Book above referred to (proved to be in the prisoner's handwriting) does not refer to the Takeed A. at all, but purports to relate to a Takeed calling upon the Tahsildar of the Voilpaud Talook to furnish accounts and returns of Currency Notes. It was, moreover, abundantly proved, both by the evidence of witnesses, and from the Cash accounts of the Deputy Collector's Office, that the prisoner never did pay into the Treasury the sum of Rupees 800 mentioned in A. Vencoba Row, the Nagidi Gumastah of the Voilpaud Talook, the person named in the Takeed A. as the payee of Rupees 800 mentioned in it, proves the receipt by him of that sum from the Voilpaud Talook Treasury; the purchase by him from the same Talook Treasury of eight Currency Notes for Rs. 100 each, and the delivery of them to a servant of the prisoner's, named Mahomed Saib, pursuant to the prisoner's request contained in a letter from the prisoner to Vencoba Row, marked E. Four out of these eight Notes were afterwards traced to the prisoner's possession. Vencoba Row also proved the preparation of the monthly accounts of the Voilpaud Talook for February 1867, and the despatch of them and of the vouchers in support of them to the Deputy Collector in charge of the Treasury at Cuddapah, who, in due course, handed them all for examination to the prisoner. These accounts and vouchers have been altered so as to exhibit an addition of Rupees 800, and the voucher N., which was forwarded to the Accountant General, exhibits a most clumsy alteration, in words and figures, from the sum of Rupees 8-0-1, being the amount actually paid under the head of Judicial Deposits, to the sum of Rupees 808-0-1. It will thus be seen that the prisoner, having fraudulently obtained the Takeed A., without having paid into the Treasury the sum of Rupees 800 mentioned in it to have been so paid by him, and after having obtained that sum upon A. from the Voilpaud Talook, afterwards alters the monthly accounts transmitted from that talook and the vouchers accompanying it, one of which, N., was afterwards transmitted in due course to the Accountant General at Madras.

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8. These are briefly the facts of this case. But for the difficulty of proving the case for the prosecution against the prisoner Sooba Row without the evidence of Vencoba Row, the person named as the payee in the Takeed A., it would have been perhaps desirable to have charged Vencoba Row for aiding and abetting Sooba Row. The whole of the evidence in the case, and the manner in which Vencoba Row gave his evidence before the Scasions Court, have no doubt in my mind as to his participation in the prisoner's guilt. The letter E., moreover, which he produces and swears to having received from the prisoner, is a curious document. One-half of it has evidently been torn off. While it gives Vencoba Row notice that the Takeed A. for Rupees 800 will soon be on its way to the Voilpaud Talook, it directs him to pay only Rupees 600 to Mahomed Saib, the servant of the prisoner. Mahomed Saib swore that he received from Vencoba Row only about Rupees 700 in Currency Notes, all of which he paid to the prisoner. Of these Notes only four for the aggregate sum of Rupees 400 have been traced into and out of the prisoner's possession. The question, therefore, arises, what has become of the remaining Notes? And suspicion naturally rests upon Vencoba Row to the extent at any rate of receiving two Notes for Rupees 200 out of the sum of Rupees 800. I have suggested to Mr. Lilly that no effort should be spared in tracing the remaining four Currency Notes which were paid out of the Voilpaud Talook to Vencoba Row in February 1867. If any of them are traced into his possession, and he is found to have dealt with them otherwise than, as he says, by immediately handing them over to the prisoner's servant, Mahomed Saib, the (perhaps slight) suspicion, which now cannot but rest upon him, will be confirmed.

9. I have full Notes of the whole of the evidence taken at the trial, a copy of which I shall forward, if the Government require it.

10. I understand that the prisoner is a man of property to the extent at least of Rupees 10,000. It is worthy of the consideration of the Government whether they will not at once direct a civil action to be brought against him in the Civil Court of Cuddapah, for the recovery of the full amount which may be ascertained to have been fraudulently received by him.

11. I have the honor to request the sanction of the Government to the disbursement of my fees and travelling expenses in this case. My fees amount to Rupees 600, and my travelling expenses amount to Rupees 30-8-0.

No. 261. ORDER THEREON, 16th March 1868, No. 686.

Miscellaneous.

1. Ordered to be communicated to the Board of Revenue and to the Accountant General.

2. Payment of the Government Solicitor's fees and expenses, aggregating Rupees 630-8-0, is sanctioned.

3. The Government assume that Vencoba Row has been suspended from his employment in the public service, and they await Mr. Lilly's proposals as to further

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proceedings to be taken against him. His conduct seems to be scarcely reconcilable with the supposition that he was ignorant of Sooba Row's frauds.

4. The Government also desire to receive Mr. Lilly's opinion on the question whether a civil action should be at once instituted against Sooba Row.

5. The Government would be glad to hear from the Accountant General how the "most clumsy alteration in words and figures" in voucher N., which was part of the fraud, came to be passed unnoticed in his department.

6. The conduct of the Deputy Collector will of course be fully reported on by Mr. Lilly in due course.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
.. the Accountant General.
.. the Government Solicitor.
.. W. S. Lilly, Esq.

Exd. S. T. Augustin.

Understood from Mr. H. G. Smith, the
Collector; that the Puxon's fraudulent appo-
sitions had extended to more than one
Saloon. It would be well to ascertain if
such has been the case and if it has, to
discover those Saloon Subordinaries who
in each Saloon have been the payees of
the drafts; treating them in fact, as thieves
and of bail paid, as to be treated -

Al. then to be appraised
then to get list of days

W. H. H.
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W. H. H.
W. H. H.

W. 686 51
Addressed to the Comm.
to the Hon. of the
Act for the
which his fees & expenses
amounting to \$639.80... is
sanctioned.
The Govt. assumes
that the Auditor has been
disfranchised from his employment
in the public service & they
awoke Mr. Lillie's proposals
as to further proof. & to take
of it him. His conduct seems
to be severely reprobated with
the supposition that he was
ignorant of Lillie's fraud
The Govt. also...

I receive W. L. Lloyd's opinion on
the question whether a Civil
Disobedience Institute
is a good thing.
The first of the glads
I have from the last year
is the most clumsy
attention in words to
figures in Voucher N.
The first part of the fraud
is the passage
mentioned in his report.
The conduct of the
first part of the fraud
is the passage
mentioned in his report.
10 March 68.

Pro 28
19 December 1867 N. 238.

Repe 1868 Depth
120 of Court & in March
from N. 800
The Govt. Solr. Madras.

The Chief Secy to Govt.

11th March.
12th March.

N. 130

Reports the result of the
prosecution of Jaghaddar
Sobha Row in the Sessions
Court of Cuddalore,
on which he appeared
on behalf of Govt. and
requested disbursement
of his fees and expenses.

N. 260-261.

1868-16 March
11th March

c 13 March 1868