M.R.O. 1—77,000—4-6-37.

(1) Number of pages 16

(2) Date of repair

(3) Initials of the Reference

MADRAS RECORD OFFICE.

Government of Madras.

Revenue (Land Revenue) DEPARTMENT.

G.O. No. 1450 Press Mis.
49-50

Dated 3-5- 1869.

Not to be folded or roughly handled

No. 49. Read the following letter from the Superintending Engineer, 6th Division, to the Secretary to Government, Public Works Department, dated Tanjore, 9th April 1869, No. 58:—

Calendar case No. 102 of 1868, in Deputy Magistrate's Court, dated 14th Dec. 1868.
Extract from the Proceedings of the Sessions Court of Tanjore on the above, dated 16th February 1869, No. 144.
Calendar case No. 106 of 1863, in Deputy Magistrate's Court, dated 18th Feb. 1869.
Proceedings of the Sessions Court of Tanjore on the above, dated 1st April 1869.
To be returned.

1. I have the honour to inform you that, in November last, Mr. Assistant Engineer Hayne brought to my notice that certain coolies, who had been employed on Road No. 27 in March 1868, had complained that they had not been paid, while the Overseer, Ponniah Moodelly, had entered the sum, which should have been paid to the coolies, in his Cash Book as paid in March; from the investigation made by Mr. Hayne there seemed to be so little doubt of the correctness of the complaint, and there had been other instances in which the conduct of the Overseer had been so far from satisfactory, and in such cases there is such facility on the part of the accused of tampering with witnesses if sufficient time is only allowed them, that I directed Mr. Hayne to request the Deputy Magistrate at Manargoodi to enquire into the matter, and Mr. Hayne's deposition was taken on the 12th December by the Deputy Magistrate; but, owing to press of business and want of further information, the case was not taken up till the 8th of February 1869, and the Deputy Magistrate passed his decision on the 18th February 1869, finding the prisoner guilty, and committing him to prison for four months.

No. 545, 12th January, from Mr. Hayne.

2. On appeal to the Sessions Court, the Civil Judge released the prisoner, apparently on legal grounds; for in paragraph 3 he says: "The prisoner may be, and very probably is, really guilty of the charge against him (and on this point the Court entertains a very decided opinion), but the evidence for the prosecution is utterly insufficient to warrant his conviction," &c. It is not, of course, for me to offer an opinion on the subject as far as the law is concerned, but from a perusal of the proceedings of the Deputy Magistrate, the conviction is forced upon one that the summing up of the Deputy Magistrate is correct, and that there is no doubt that, in March the Overseer embezzled a sum of Rupees 60 due to the coolies supplied by the 3rd, 5th, and 26th witnesses, and that he paid Rupees 32 to the 3rd and 15th witnesses in October, after misappropriating the sum from March to October; thus, though the prisoner has been released by the Sessions Court, it appears to me that there can be no doubt of his culpability morally.

Calendar case 102 of 1868.

3. One Pitchaiyappa Ravuthan, who is a Contractor, brought an action against the Overseer in the Deputy Magistrate's Court for obtaining from him certain valuable things without payment, and on this charge the Deputy Magistrate found him guilty, and sentenced him to a fine of Rupees 70, but here again the Sessions Court reversed the decision in the following words: "Looking at the whole facts of the case, the Court considers that there is much room for distrusting the evidence of the witnesses for the prosecution, and accordingly, giving the prisoner the benefit of the doubt, it considers that the charge is *not proved*."*

* Underlined by the Court.

4. In 1867 the Overseer was sued in the Small Cause Court by Mr. Supervisor Seton for a sum due to the latter, on account of a horse purchased from him by the Overseer, and the case was given against the Overseer, who, it would appear, in retaliation brought an action against the Accountant in Range No. 6, to recover certain sums he stated he had lent the Accountant, and here again the case was decided in favour of the defendant or against the Overseer.

5. The Overseer departmentally has not given satisfaction in the discharge of his duties, and taking all the above-mentioned circumstances into consideration, I am of opinion that the Overseer should be dismissed from the public service from the date on which he was suspended, pending the decision of the Court in the cases adverted to above.

No. 102.
No. 105.

No. 50. ORDER THEREON, 3rd May 1869, No. 1,450.

ESTABLISHMENT, No. 11.

As the Superintending Engineer expresses the opinion that he has no doubt of Overseer Ponniah Moodelly's moral culpability in the matter of the charges on which he was tried by the Deputy Magistrate of Manargoodi, and as Captain Oakes reports that departmentally the Overseer has not given satisfaction, the Government confirm Ponniah Moodelly's dismissal from the date on which he was suspended.

(True Extract.)

Colonel, R. E.,
Secretary to Government.

To the Superintending Engineer, 6th Division.
" Controller of Public Works Accounts.

Exd. S. T. Augustin.

read their Lordships letter enclosed in which the Secretary of the Treasury had written from the Police Court in Leeds where he was sworn faithfully on the part of the accused by Counsel in the Matter of Superintendent Cline in which Lordships Letter, that Mr Harris's Mr Bennet to request the Deputy Magistrate of Leeds to transmit to the Secretary of State's Department a Certificate on the 12th December last the Deputy Magistrate, had ceased to exercise of business and want of further information the case was not taken up till the 8th of February 1869 and the Deputy Magistrate passed his decision on the 10th February 1869, stating the Treasury solicitor and counselling him to pursue for his costs.

Counsel to the Treasury Counsel the Chief Judge released the Treasury solicitor entirely on legal grounds for in fact says the Treasury may be said very probably is really guilty of the charge preferred against him (and on this point the Court entertains a very decided opinion) but the evidence for the prosecution is utterly insufficient to warrant his conviction. The Act is not of course for me to offer any opinion on the Judges decision

as

as the Court is concerned but Superintendent Cline of the Leeds Borough Police Court for obtaining from him certain valuable things without payment and on this charge the Deputy Magistrate found him guilty and sentenced him to pay £10, but there appears to the Assistant Court Barrister to be the direction in the following words "Looking at the whole facts of the case the Court considers that there is sufficient reason for sustaining the evidence of the Prosecutor for the Prosecution, and according to giving the Treasury the benefit of the doubt which exists in

the

Public Works Department

£ 1450-

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 3rd *December* 1869.

Read the following

From the Acting Engineer (Here enter No. 33 dated 9th June 1869.
6th Division

To the Superintending
Engineer

Sir,

I have the honor to report for the information of Government that Provincial Moodelly was tried & convicted by the Deputy Magistrate of Tirupatoor on certain charges of Embezzlement & sentenced by the Sessions Court — I however the Overseer was found guilty, recommended that he be removed from the Public Service —

Public Works Department

£ 1450-

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 3rd December 1869.

Read the following

From the Acting Engineer (Here enter No. 33 dated 9th June 1869.
6th Division

To the Superintending
Engineer expresses the opin
that he has no doubt
Overseer Provincial Moodel
moral Culpability in
the matter of the charge
on which he was tried
by the Deputy Magistr
of Dharmapuri, and as
Capt Oakes records that
departmentally the Over
has not given satisfactio
the Government confirm
Provincial Moodelly's dism

No. 1450

Ag. A

Dated 9th June 1869
Received 12th August 1869

Ex. 4,
£ 1450- 3rd Dec. 1869.
Respecting that Provincial Moodely was tried & convicted by the Dy Magistrate of Tirupatoor on certain charges of Embezzlement & sentenced by the Sessions Court — however the Overseer was found guilty, recommended that he be removed from the Public Service —

No 1450

R.C. 2nd Sept. 1869. No. 26
C. 17th Sept. 1869. No. 19

from the date on which
he was suspended.

C.A.B.

To
The Supdg Engr & Dy [illegible]
Controller
Dept 24/5/69

I feel great difficulty in forming a conclusion about this case. The Depy ~~Sub~~ Magistrate, after a very careful enquiry, in which he examined 49 Prosn. & 26 W^s. pros, found the overseer guilty and convicted him. The grounds taken for the conviction seem to me fair & reasonable. The Sessions Judge however, notes some weak points in the trial & acting on them, annuls the Depy ~~Sub~~ Magistrate's decision. — I think I should have let the decision stand; for where some coolies are independent labourers, & others are coolies whose hire is due & is paid to their immediate masters, it is difficult to get the coolies themselves to depose to facts of guilty omission - The case against the overseer was ultimately thrown out & he is entitled to the benefit of the Sessions Judge's view, unless the Supt. Engineer is able to show that he is morally & departmentally unfit for his office. — We have an opinion to this effect from Captain Oakes, a zealous, painstaking officer and it seems to me that on the whole the P.W. Depart^t. should be relieved from the necessity of continuing to employ a man in whom it is clear no confidence can be placed, although he has come triumphantly through the late ordeal.

17.4.69. W.D.

I agree with the opinion expressed by the Chief Justice. In a case of this sort where considerable doubts may exist as to the guilt of the accused on certain specified charges, the expediency of returning the accused to the Public Service can only be decided by the opinion of the Superior officer to the Dept. for whom professional opinion is decided opinion by a competent officer. Should abide by it.

J.P.

4/11

For orders

The accompanying papers relate to certain charges upon which Overseer Connialy Bro. Selby was tried and convicted by the Deputy Magistrate of Travancore Imaravaydi, & of which he has been acquitted on appeal to the Superior Court at Sangore.

The first of the charges was that although the Overseer alleged that he had made certain payments to Coolies, amounting to Rs 60, viz Branch 28, Rs 32 of that amount were actually not disbursed until October, while the remainder was misappropriated by the Overseer. On this charge he was sentenced by the Deputy Magistrate to

four months imprisonment.

The Sessions Court quashed this sentence chiefly on the following grounds:-

1. That on the 12th Dec/68, or about three months before the case came on for hearing, and when the charge was first preferred before the Deputy Magistrate by Mr Bayne, the Range Officer, the latter was not aware of the amount of money embezzled or the names of the parties to whom it should have been paid.

2. That a number of the Coolies to whom money was supposed to be due, admitted having received payment.

3 That several Village Officers swore to the fact that the money said to be due to Coolies was really due to certain Sweetmeat to whom the Overseer paid it,

The Sessions Judge considers that "the Prisoner may be, and very probably is, really guilty of the charge against him (and on this point the Court entertains a very decided opinion) but that the evidence of the Prosecution is utterly insufficient to warrant his conviction."

The other charges against Perumal Pradelly were preferred by Contractor Pitcha Pattan Rawuthan, who brought an action against the Overseer and the Deputy Magistrate Court (1) for obtaining from him Cutcha Arrack, valued at Rs 38, without fragment. by keeping at the time employed under the Overseer in carrying out Contracts, and (2) for having attempted to obtain from the Prosecutor a gratification for an act

(the Overseer's)
performed in his official Ca-
pacity. The Overseer was
acquitted of the latter charge,
but found guilty of the other,
and fined £5 70. The Sessions
Court reversed this sentence on
the ground that the Overseer
struck only for the Article,
and said he would pay for
them, and that two witnesses
swore to the fact of the
Articles having been found
for. The Sessions Court con-
sidered that there was much
room for disbelieving the
evidence of the witnesses for
the prosecution.

The Acting Engr is
of opinion that the Sessions Ct
sufficiently established the Over-
seer's moral culpability, and
as disciplinarily he has
not given satisfaction, Capt
Oakes recommends that he
be dismissed from the

public service from the date
on which he was suspended.

Orders are requested.

Lieutenants
Cooper
Wm

Ceo. 1453

Govt. of India.

PUBLIC WORKS.

To

The Superintending Engr.

Circle

Dated

Recd.

No. 49/57

Pamban Road Rly - Jetty &c

Rec. drawings, forwarded for
approval, of Pamban
Road Rly. Jetty, drawn on
the Tanjore Dt., enquired