

In the court of the 2nd class Ma-
- gistrate of Thiruvidadanurhoor

Calendar case $\frac{439}{86}$.

Regina India Imperatrix. V. Veera Padaiyachee.

Witnesses

1. Saminada Padaiyachee.
2. Krishnan.
3. Vairahpurai Padaiyachee.
4. Sami Aiyar
5. Kunnathan, alias Vunai Kallathan.

Charge. Rescuing cattle when being
taken to cattle pound, sec-
tion 24, act I of 1871.

Finding. Not guilty.

Sentence Acquittal, section 245. C.C.P.

The prosecutor and 1st witness
Saminada Padaiyachee is a naval
watchman, P. W. D., on the Veerasolapur
river

river. He says that, when he was taking four cows and 2 calves of the accused to the cattle pound at Nanjanoor, for damaging the canal on the river in Govinda-param, the accused came up & took them away.

2. The accused denies the truth of the charge. He admits that the prosecutor was taking the cattle to the pound, but released them on his (accused's) promising to pay him annas 8, that he (accused) then offered to pay annas four only, whereupon the prosecutor refused to take it and went away threatening him with injury.

Of the four witnesses examined by

by the prosecutor, two, (i.e. the 2nd & 4th) speak to seeing the prosecutor taking the cattle. Of the remaining two, one (i.e. the 3rd) alone speaks to the rescue. But he contradicts the prosecutor as to his (prosecutor's) remonstrating with the accused against his (accused's) conduct. Besides, he does not live in the village where the offence is said to have occurred, and from his own version it is highly suspicious that he was on the spot as he alleges. I do not, therefore, believe his evidence. The remaining witness (i.e. the 5th) does not support the prosecutor, but supports the accused.

4. There is no doubt that the prosecutor was taking the accused's cattle to the pound. But on the way he seems to have released them on the promise of a bribe of annas 8, by the accused. The accused then took him to

to his house promising to give the money,
 but on arriving there, probably reduced
 the amount to annas 4. which he (pro-
 secutor) is said to have refused to take
 and gone away. As the defence has
 not been gone into, no evidence has
 been adduced to prove what took
 place at the house. But it is clear
 from one of the prosecutors' own
 witnesses (i.e. the 5th) that the accused
 took him (prosecutor) to his house pro-
 mising to pay him annas 8. for releasing
 the cattle.

5. I am of opinion that the case as
 brought is false, and acquit the accused.

6. A copy of the judgment will be sent
 to the Executive Engineer in view to such
 notice being taken of the watchman's
 conduct as may be deemed proper.

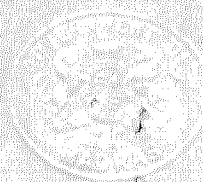
samp. Andapellaiampettai, 26. 11. 86
 J. P. Colundysamy
 2nd Class Magistrate.

samp. Sathapuram, 27-11-86
 J. P. Colundysamy
 2nd Class Magistrate.

/True copy/ Aldrich
 Major D. L.
 Sup. Eng. 606

enclosure no 1 in letter
from the Sup^y Court
bureau no 1533.T.J.
10-1-87

Copy of Judgment



N^o 1975.

From.

Tanjore Sub Div^y Office
Camp: Kumbakonam. 15.12.86.

The officer in charge.

Tanjore Sub Division

To

The Executive Engineer

Tanjore Division

Sir,

I have the honor to report that
in obedience to your N^o 3435 of 30.11.86
the services of cavalgar Saminada
Padayachee were dispensed with from
the afternoon of the 8th Instant.

I wish however to bring to your
notice that the Magistrate does not
seem to have considered the crime
committed by the defendant in
offering a bribe to a public servant.

The Magistrate in para 2
of

of his judgement states "The accused denies the truth of the charge. He admits that the prosecutor was taking the cattle to the pound, but released them on his (accused's) promise to pay him annas eight, that he (accused) then offered to pay annas four only. x x x"

I have looked up the Penal Code and section 161 reads as follows: "Whoever, being x x x a public servant, x x x agrees to accept x x x for himself x x x any gratification whatever, other than legal remuneration for doing or forbearing to do any official act x x x shall be punished x x x."

The Magistrate expresses no doubt on the point that the cavalgar agreed

agreed to accept annas eight for forbearing to pound the cattle. The Cavalgar is therefore guilty under this section.

again turning to section 109.

Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made in this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Illustration (a). A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

It is perfectly well known though
very hard to prove that the Cavul-
gars do accept illegal gratifica-
tions for the non performance of
their duties. The men however only
draw Rupees four per month. It
seems very hard that they should
be tempted by men of some wealth
like the accused.

I do not know whether we
can have the man, Veera Padu-
chee, prosecuted by referring the
case to the collector. If not I re-
quest that you will obtain per-
mission for me to depute the subor-
dinate in charge Kumbakonam
taluk to prosecute officially.

It appears certain that a
conviction will be obtained and if
a

a heavy sentence is passed, it will
go some way to putting a stop to
the malpractices of subordinates,
by preventing outsiders placing
temptation in their way.

I have &c.

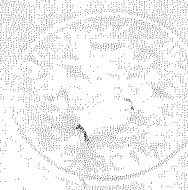
/s/ A. H. Ford.

Dist. Officer

16.12.86

/True copy/

A. Smith Major R.C.
Sup. & Magistrate 6th Div.



No 3685.

Executive Engineer's Office
Tanjore 20th Decr/86

From

The Executive Engineer
Tanjore Division

To

The Superintending Engineer
6th Circle

Sir

I have the honor to forward
herewith original letter from the
Sub D^y Officer Tanjore No 1975 of
the 15th Decr together with the judg-
-ment of the 2nd class Magistrate
of Thiruvidadamaruthoor in the charge
brought by one Saminatha Pada-
-yachee, a naval watchman in
Veeracholei River, against one Veera
Padayachee, for having rescued
cattle

Encls: No 2 in letter
from the Sup^d Engr
6th Circle. No 1533.TJ
10-1-87.

Copy of letter from
the Tanjore Sub D^y
Officer No 1975
15-12-86

cattle when being taken to pound,
and to request permission to
prosecute the man who offered
the bribe to the Carulgar. It
would be well to make an ex-
-ample, and a conviction seem
fairly certain.

I have &c.

/s/ C. M. Smith

Executive Engineer

No 1533 J.F.

Copy forwarded to the Chief
Engineer with a request that he
will be good enough to accord
sanction for the prosecution of the
man in question.

Enclos 2.

- 1. copy of
Indegment
- 1. copy of
letter from
the Langire
Sub Div
officer.

Indegment
10/11/87

Aldemith

Major P. L.

P.W. 208 ✓

Memo

The rules laid down in paras 404 & seq of the P.W. Code refer solely to cases in civil courts. The case in point being of a criminal nature should be placed in the hands of the Public Prosecutor of the Tanjore District.

WWS

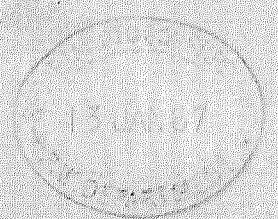
17.1.87

E.W.

W. It is a question whether it is advisable to prosecute? I do not see why the brother-in-law Saminda should have been dismissed. L.E. W. Circle. See separate memo.

From
Major A. B. Smith Rb
Supd Engineer Bangalore
To The Chief Engineer
P. W. D.

No 1533 T.J.
Dated 10th January 1870
Ry 13/1/87
Encl 2.



Forwarded copies of correspondence in connection with a case brought against Vira-padaiachi by Saminda-da Padaiachi, Karal-gar, and requests for reasons given permission to prosecute the former who offered bribe to the latter.

From the S.E.V.C. No: 1533. J.F. d. 10.1.87
requesting orders for the prosecution of V. Veera Padaiyachee for offering a bribe to a public servant.

The Supg Engd is requested to obtain and submit the opinion of the Govt Pleader of the District on the case.

Vide G.O. No: 1507. W.
Dated 7th June 86

WWS

17.1.87

E.W.

To the Supg Engd. V. J.

Dec

17/1/87

18/1/87

No 1507 May 15-8-86.

Memo

Envelope no 1 of letter no 1967 J.T. 29/2/87
No. 75

May 14 February 87

From

S. A. Saminadaiyer
Government Pleader
May 14

The Executive Engineer
May 14

Sir,

With reference to your letter No. 429 dated 5th February 87, I have the honor to inform you that on a perusal of the judgment and other papers therein referred to, I am of opinion that a prosecution will lie as against Vennadaya Chetty who appears to have offered a bribe to the complainant Saminada Padayachee who was then a public servant.

The enclosures are herewith returned.

I have &c.

Sd/- S. A. Saminadaiyer
Government Pleader

(True copy)

Chadpoth

Executive Engineer

24.1.87

as

Paul 1986
5/10/87

see 1/10/87

see 1/10/87

Public Works Department.

From

The Executive Engineer,
TANJORE.

To

The Supg Engineer
6th Circle

Station

Tanjore

No. 688

Dated

24

Despatched

24

Received

February 27

ENCLOSURE. 1 + 2 = 3

1. Indignment
1. Pleader's letter
1. Govt letter -

Reference.

Sir,

In returning your
redorsement no 16762-3
26.1.87
I have the honor to
forward herewith copy
of letter from the
Govt Pleader giving
his opinion as to the
prosecution of Kera
Padayachee, who
offered a bribe to

over

No 19677

Submitted to the Chief
Engineer P.W.D. for orders
with reference to his
Memorandum No 178.C,
Dated 18th January 1887.

L. W. Martin
Executive Engr, in ch. of
6th Circle

Supg Engr's Office, 6th Circle
Trichinopoly
28th February 1887.

28

P.W.D. No 1674

From,

The Supg Engineer
6th Circle

To

The Chief Engr
P.W.D.

No 19677

Dated 28th Feb 1887
23.2.87
Enclor 1.

Forward for orders

Tanjore Engr's
letter together with
the letter from the
Govt Pleader giving
his opinion as to the
prosecution of Kera
Padayachee who of-
fered a bribe to a
Govt servant.

The Supg Engineer
is authorized to prosecute
the man who offered
a bribe to the naval
watchman. The
Government Pleader of
the District will conduct
the prosecution.

24/2/87

401507Wd/15.6.86

Issue over as within

J. E. M. C. L. L. L.
5/3/87

J. E. M. A.

Enc. 3.3.87

No 1507 87 15/6/86

I think the prosecution should not be sanctioned. The Kavalgar will of course deny the offence now alleged. There will then be the evidence of the 5th W. who will be open to the remark that he gave evidence directly contrary to that which he was cited to give & has probably been "squared". Besides, having already favoured the Dept he will probably tone down his story into hearsay or make out that he was mis-taken. The statement made by Dept himself will of course be withdrawn & his Vakil will say he made it to escape from the charge of which he was acquitted but which is really true. The foll. is the order.

12/3/87 18/4/87

The Govt are not prepared to sanction the proposed prosecution. The man might well have been charged in the alternative, that he either illegally rescued his cattle or offered a bribe to procure their release, but this was not done.

It is difficult to say what the evidence on the latter charge, by itself, will be far from & the man has already been subjected to one prosecution charge which the Magistrate found

12/3/87 1/7/87

B5

A4

H/3