

FROM

G. D. Wyllow Esq.
SUPERINTENDING ENGINEER

FIRST CIRCLE.

TO

THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT

DATED 27th January
DESPATCHED 2nd February 1894.
RECEIVED 5-2-94.

No. 2389 G.D.

21.8.93.2156

ENCLOSURES 1

SUBJECT.

Bribery cases brought
against Delta Supt. to.
Ch. Suriaprasadarow and
P. Veerasingam —
Reporting that the —
were thrown out by the
Sessions Judge Godavari
District.

J.C. 116/11

With order.

No. 399 Wd 13 Febry '9

Recorded.

Ours
Sd/- 8-2-94

Note: The judgment
in this case to be returned
after the further judgment
referred to at the
end of para 1 is recd.

INDEXED.

15/2

C No 868

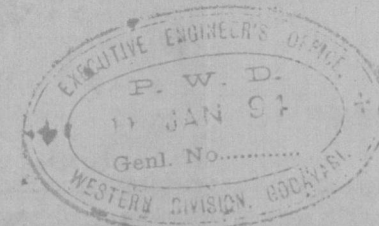
For orders.

Mr. Howley's evidence, as given in para 8 of the judgment contravenes the evidence of the ryots. He shows that sufficient water for a considerable extent of low lying land was supplied by the Delta Superintendent in proper time and before the alleged bribing of him by the ryots. He further states that the high lands would not be entitled to water till after the dates fixed upon by the witnesses as the dates of the bribes.

The statements of the ryots, therefore, that water was withheld after it was available and until the Delta Supt had been bribed is untenable.

In the Amalapur case - para 6 Mr. Howley, by giving dates, breaks down completely the case of the ryots.

The Judge came to think that the case has broken down.



Court of Session, Godavari at Rajahmundry.

CRIMINAL SESSIONS, DECEMBER 1893.

SESSION CASE No. 37 OF 1893.

Present :—H. T. ROSS, Esq., Sessions Judge.

Regina

vs.

1. Chamarti Suryaprakasa Rao.
2. Ryali Veeraju.

The prisoners are defended by Messrs. B. Venkatrao, C. Venkatachellam and A. Sundararamiah.

Offence :—
1st prisoner—Taking illegal gratification in respect of an official Act, under Section 161, Indian Penal Code.
2nd prisoner—Abetting the above offence, under Sections 109 and 161, Indian Penal Code.

Opinion of Assessors :—Not guilty.

1. Mamadi Ramaswamy—Komati.
2. Chitturi Doranna—Kamma.

Finding of Judge :—Not guilty.

Order :—Acquitted and discharged.

Judgment.

1. The 1st accused, a Delta Superintendent in Amalapur Taluq, is charged on three counts with taking bribes from ryots to supply water for their seed-beds, namely (1) Rs. 75 from certain ryots of Bhimanapally, on 29th June 1892; (2) Rs. 35 from certain ryots of Amalapur, on 23rd May 1893, and (3) Rs. 40 from certain ryots of Gunneypally, on 5th June 1893.

2. The 2nd accused, who was 1st accused's Gomastah, is charged with abetting him in the Amalapur case.

3. The 1st witness is the Tahsildar of Amalapur Taluq, and he explains how these cases came out. In the course of his tours of inspection of the crops this year, the ryots complained to him that owing to sufficient water not being supplied for their seed-beds in proper time, the crops were backward and became damaged by excessive rains which followed; and in accounting for such late supply of water for their seed-beds, the ryots complained that they had had to subscribe and give bribes to 1st accused to get water. The Tahsildar took statements from several ryots in each of the three cases now charged, and was proceeding with his enquiry under the Collector's instructions, when it was taken out of his hands by the Public Works Department and entrusted to the Acting Executive Engineer, Mr. Srinivasa Iyengar.

4. From that time, beyond asking the ryots to repeat what they had already stated to the Tahsildar and beyond obtaining from them the subscription-lists of bribes (which they had not produced before the Tahsildar), practically nothing appears to have been done. The Public Prosecutor, in answer to the

Court, is forced to admit that, so far as his instructions go, absolutely no attempt has ever been made to see if there was any corroboration of the ryots' statements in the shape of the departmental evidence which would show when, in each case, water for seed-beds was available and *ought* to have been supplied by 1st accused and when it was in fact supplied, and so forth. In each case the ryots were enabled to fix a specific date for the payment of the bribe by the subscription-list relied on by them, and their case was that water was withheld until such date and was then given after payment of the bribe, except in the Amalapur case, where they say water was not supplied even then; and thus these were peculiarly cases in which it was a simple and obvious matter to test the ryots' statements by seeing if the departmental records and departmental enquiry bore out the allegation that water was in fact withheld till the date specified in each case and then given or not. Again, it has been elicited that the rules of the Department as to the supply of water for seed-beds vary in the case of high lands and low lands, respectively; but no attempt has been made in these cases to show which rule applied in each case, or how such rule was infringed by 1st accused.

5. In face of the very elementary law as to evidence of accomplices, I cannot understand how this prosecution was sanctioned without any attempt to investigate the evidence available at hand for corroboration of the ryots' statements; and the result is that the prosecution has embarked upon the almost hopeless task of seeking conviction where the whole case, on each count, rests on the uncorroborated testimony of accomplices.

6. In the Amalapur case, though his evidence was not strictly corroborative evidence, the Village Munsiff (28th witness) was put forward to depose, and he did depose, that some of the ryots asked him to assist them in raising subscriptions to pay to the 1st accused and that he refused; but this case is exploded by the evidence of the Sub-Divisional Officer, Mr. Howley (1st defence witness). The ryots' case is that having waited for 5 or 6 days after their canal received water and not having yet obtained water for their seed-beds, they consulted together on 19th May and went to 1st accused who demanded Rs. 100 before he would supply water, and they began collecting subscriptions accordingly on 20th May. They fix this date definitely by its being entered on the subscription-list (Exhibit D) on which they rely. Mr. Howley, however, proves beyond doubt that the Bobbar-lanka main-sluiice (which is quite beyond the control of the 1st accused) was not opened till 16th May, and that water could not have reached the canal where these ryots depend on it, and where 1st accused had control over its supply to these ryots, before 18th May. It follows that these ryots' case that 1st accused had withheld their supply for 5 or 6 days before the 19th May, is false, and it is not their case that they bribed 1st accused to get the *earliest* supply; and thus the very reason for their alleged bribery of 1st accused is cut away.

7. In all three cases, with the exception the Village Munsiff in the Amalapur case, the prosecution witnesses are persons who took part either in negotiating the alleged bribes, or collecting the alleged subscriptions for the bribes, or in making the alleged payment of the bribes; and, as already remarked, although independent evidence on the very material points when water ought to have been supplied to these ryots and when water was in fact supplied—in other words, whether the truth of the alleged bribe-giving was supported by the existence in fact of its alleged cause and its alleged results—was admittedly available, none has been put forward by the Crown, and the Court is asked to convict on the uncorroborated evidence of these accomplices.

8. In these circumstances I do not consider it necessary to discuss in detail the evidence for the prosecution. It is supported by 11 ryots in the Bhimanapally case, 10 ryots in the Amalapur case, and 6 ryots in the Gunneypalli case, and it is all substantially the same—that they waited days and days for water, though water was available in the main canal, that a deputation of them then went

and asked 1st accused for water, that 1st accused refused to supply water until he was paid his "mamool," that they returned to the village and collected what they could, and then paid the 1st accused and got water, except in the Amalapur case where they say, the 1st accused did not consider Rs. 35 sufficient. Their evidence is not marked by material discrepancies, nor is it conclusively negatived by the Water reports and Progress reports (XI and XII Series) which have been put in for the defence. But the effect of these reports, supported by Mr. Howley's evidence (1st defence witness), is to show that sufficient water (*i.e.*, the sluices opened 1 to 2 feet with 5 to 6 feet head of water at the lock) for the seed-beds of a considerable extent of *low* lying lands was supplied by 1st accused in proper time and before the alleged bribing of him by these ryots, and Mr. Howley further shows that by the rules of the Department the *high* lying lands would not be entitled to water till after the dates fixed upon by the witnesses as the dates of the bribes in these cases; and, as already remarked, the prosecution has taken no pains to show which of these ryots' lands were high and which were low and when they were entitled to water and how much (*i.e.*, how much the sluices ought to have been opened with reference to the head of water) in each case. Added to this indefiniteness, there is the experience, to which Mr. Howley speaks, that the ryots of Amalapur are only too ready to make unfounded complaints of not getting water; and there is the non-production of the subscription-lists before the Tahsildar and certain material differences in the statements made to him and those now made, which throw doubt on the testimony of these accomplices even standing by itself. But, in the further absence of corroborative evidence—and the more especially when departmental evidence was actually at hand which could have been used if it really went to corroborate these accomplices—it is certainly unsafe to act solely upon these accomplices' testimony.

9. Concurring with both Assessors, I accordingly find the accused not guilty and I direct that they be acquitted and discharged.

H. T. ROSS,
Sessions Judge.

9th December 1893.

h. 15/3

*Forwarded to the Executive Engineer,
Godavari Western Division, in reference to his
letter h. 799 dated 12th December 1893.*

*Sessions Court, Godavari
Rajahmundry
8th January 1894*

Sessions Judge

Enros
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PW 31/868/94

Bring this up on 10-1-93 07

No. 2389 G.D.

FROM

G. D. Wyllowicz
SUPERINTENDING ENGINEER

FIRST CIRCLE.

TO

THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT.

Enclosures. /

Judgment.

Camp Viraghattam
DOWLAISHWERAM, 28 January 1894

SIR,

With reference to G.O. No. 2156 W. dated the 21st August 1893, I have the honor to report that the cases of bribery brought against the Delta Superintendents Ch. Suriaprakasaram, & P. Virasalingam were thrown out by the Sessions Judge Godavari District. The Delta Superintendents were first tried by the Joint Magistrate & they were committed by him to stand their trial before the Sessions Court. The charges against Suriaprakasaram were first tried & a copy of the Judgment of the Sessions Court is herewith forwarded for your perusal & return. The judgment in cases filed against P. Virasalingam has not yet been received, & it will be forwarded to you on its receipt from the Executive Engineer.

2. The particular reason given in the Judgment for discharging the cases against Suriaprakasaram is that the facts elicited from the departmental evidence which was available did not corroborate the statements of

the ryots. Mr. Srinivasa Aiyangar Assistant Engineer who was in charge of the Western Division, & who made a departmental enquiry regarding these cases relied perhaps too much on the previous investigations made by the Tahsildar of Anjalapuram. Sriaprasadarow has been reinstated, under the orders of the Executive Engineer, with my approval.

I have the honor to be

Sir,

Your most obedient

G. S. S. S. S.
Sup^g Eng^r 1st Circle

Ed. 1/2