

Public Works (1896) Department.

G.O., No. 1929W

DATED 2nd July 1896

[Despatch Abstract.]

Prosecution Accepting the judgment
of the 2nd Class Magistrate
Coonoor on the — of a contractor
by Sub overseer Ramasami Deyappa
Coimbatore Dn for theft and directing
that the law charges incurred by the Sub-
Overseer be reimbursed to him

СНОВ.
27/5 96.

Cm

486

Prosecution of a contractor
by Sub-overseer Ramaswami
Aiyangar, Coimbatore
division -

These papers should be submitted again
with a Note for Orders, giving a brief
 précis of the file and showing on what
points orders are required.

ASH 7.6.96
No. 1929W, dt 2nd July 1896

Issued
C.M.S.
19.6.96
19th June 1896
26/7

No. 1929W, dt 2nd July 1896.

Note for His Excellency the
Governor:-

The following précis is
submitted in accordance with
instructions conveyed by His
Excellency in his rescript
dated 7 instant:-

The Order on Proceedings of 7th inst.
28.5.96 is now sanctioned.
ASH
18.6.96

One Muthuswami Pillai,
a petty contractor employed on
the road between Coonoor and
Mettupalaiyam, was charged
with the theft of 3 teak planks
and 14 pieces of teak rafters,
the property of Government, from
the sites of two bridges below
Burliar. The case took place
on 9th August 1895 before the 2nd-
class Magistrate of Coonoor who
acquitted the accused on the
ground that there was no
theft, though the wood was
actually removed and recovered
by the Police.

The defense of the accused
was that he removed the
wood under the orders of Rama-
swami Aiyangar, the Sub-overseer
in charge of the lower section of
the Great Road. The court,
however, did not hold the Sub-
overseer guilty, for the -

following reasons:-

- (1) The wood was removed on 17th June 1895; whereas the Suboverseer ceased to have charge of the bridge works on 15th May 1895, from which date his duties were confined to looking after the road.
- (2) That he was relieved of the bridge works by one Kumaraswamy Maistry, an enemy of his.
- (3) That the prosecution witnesses, who accused the Suboverseer of connivance, were his enemies - a fact conclusively proved (in the opinion of the Sub-magistrate) by the evidence of Mr de Azaral Assistant Engineer who testified that the Suboverseer had assisted him, when in charge of the Nilgiri Sub-Division, to reduce the rates of wages etc.

The 2nd Class Magistrate therefore exonerated the Suboverseer of complicity, and also acquitted the ~~overseer~~ accused, believing the wood to have been removed by him not without the consent of Kumaraswamy, the Maistry.

in charge, and others; the whole affair being a conspiracy to ruin the Suboverseer.

The Suboverseer ^{was} had been ordered to conduct the prosecution by the Executive Engineer, to vindicate his character. He former now argues that having done so, and obtained judgment in his favour, the Government should reimburse him the costs, which amount to Rs 106.

The Supt Engineer, in submitting the Suboverseer's appeal dated February 10th 1896, in which by the way the latter threatened to sue Government at law, in the event of his request not being complied with, disagreed with the Magistrate entirely, considering the judgment a most extraordinary one, and the Suboverseer to be the guilty party. This letter was sent to the Government Pleader for his opinion, but he replied that there was nothing in the English portion of the evidence, or in the judgment, which in his opinion would justify a charge being made against the Suboverseer. The Supt

No. 680.

Berhampore,
23rd June 1895.

To,

The Executive Engineer,
Coimbatore Division,
Coimbatore.

Sir,

In forwarding you a copy of the evidence taken yesterday at the Hullar Bridge regarding certain materials stolen from the Bridges on the Ghat Road, I beg to report as follows:-

When I took over charge of the Sub Division about the middle of last month, I observed a lot of the old material laying about. In the presence of the Sub Division Clerk I ordered the Sub overseer to collect and stack all this material in some convenient place Bridge by Bridge (which he has not done so up to date vide reminder copy attached) and that I would take an account also of all the new materials received for the works. On the 24th of May he wrote for an advance of Rs 50 for carts (his letter attached) when he was directed to apply to Rungai Gowden for them at Cooroor.

When making payments at Berhampore at the beginning of this month, Mr. Coombes

drive.

Engineer was then asked to explain the circumstances in which the prosecution was launched. In reply he submits copy of the following order by the Executive Engineer to the Suboverseer:-

"The Suboverseer must conduct the prosecution at his own expense but if the result is to exonerate him from all alleged amivance with the theft, I will recommend to Government that his costs be paid by Government," and also states that, on receipt of the judgment, the Executive Engineer left in record his opinion as follows:-

"I do not agree with the judgment and am not at all ~~satisfied~~ satisfied with the manner in which the Suboverseer has come out of the case. I shall therefore take no further steps in the matter, or if the Suboverseer applies to be reimbursed costs of prosecution I shall not recommend it."

The Suboverseer contends that if the Executive Engineer was not satisfied with the judgment he should have set the law in motion to get the order of the Sub-Magistrate cancelled. This not having been done, he maintains that the decree of exoneration was good, and that he should be recomped his costs according to promised recommendation.

Prosecution of a contractor
by Suboverseer Ramaswamy
Aiyengar, Coimbatore Div.

The Superintending Engineer

driver on the steam roller informed me that he had heard that some of the teakwood of the old bridges was being taken by this same contractor, Moosaswamy, to his place at mettupalayam for making furniture for the Sub overseer but that he had not quite sufficient proof as yet. On this I ordered Koomarasamy Maistry in charge of these bridges to be on the watch and to warn the fitter on the Kullar Bridge also to be on the look out with the result as now reported.

I am of the opinion that the Sub overseer did order this man to remove the materials otherwise he would not dare to do so, for he is now working for us on these same works and has money due to him.

I respectfully request orders at an early date, in the meanwhile I have informed the Sub overseer that he cannot go on leave until I hear from you.

Further I beg to bring to your notice the action of the Forest Ranger at mettupalayam and request that he may be reported to the Head of his Department as I do not see that he had any business whatever to interfere.

I beg to remain,
(Sd) S. Kearne
Subd^r officer

N^o 2553.

Sub Overseer Ramaswamy Iyengar should be ordered to at once lay a charge in the local courts against Contractor Druthusamy Pillai of attempt to commit theft of Government property. On the result of this charge my further action with regard to the Sub overseer will depend.

2. As the contractor was undoubtedly found in the unlawful possession of Govt property, whether removed by himself or by order of the Suboverseer, his contract should be cancelled and given elsewhere.

3. The Forest Ranger's action appears to have been due to excess of zeal and does not, I think, call for reprimand.

(Sd) W.B. de Winton,
Executive Engineer.
24 June 1895

(True copy)

Supg. Engineer, & Circle

No. 233
W

From,

J. C. Lammie, Esq., M. Inst. C.E.,
Supg. Engineer, 4 Field,

To,

The Chief Engineer,
I.W. Department.

Sir,

Enclosure.

With reference to your Memorandum

1 Copy of letter from No. 2201 C, dated 9th instant, I have the
the J.D.O. Nilgiri honor to forward for your information copy
with Encl. No. 2553
of 29 June 1895. of correspondence explaining the circumstances
in which the prosecution was launched

before the receipt of the Suboverseer's telegram
dated 11 July 1895.

I have the honor to be,
Sir,

Your most obedt. servant,

J. C. Lammie
Supg. Engineer, 4 Field.

OL.S.1
L660/36

2201 cal 9-5-96
2029 cal 22-4-96
1487 cal 14-2-96

P. W. CURRENT No. 4610

From

The Supy. Engineer,
4th Circle

Encl 1

Recd: 15.5.96

Dated 15th May 1896
Desp. 18th May 1896

No. 233
W

Encl: 1

S. V. Ramaswamy Iyer
Sub Overseer

Forwards for information
Copy of Correspondence explaining
the Circumstances under which
the prosecution of was launched
before the receipt of the Sub Overseer
Telegram