Public Works (1890) Department.

RAILWAY BRANCH.

G.O., No. 1081 Ry.

DATED 29th July/90

[Despatch Abstract.]

Pointsment at Cuddalore New Town.—Letter from the Agent, South Indian Railway, requesting to cancel his letter regarding the prosecution of the —, recorded.

Indexed.

P. W. Ry.
1,000—7-2-90.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Atlm 16/7 R 21.7.90 Public Works Departm

Judgment in Calendar Case No 9. of 1890 on the file of the 2nd class Magistrate of Cuddalore Town South Arcot.

Complainant – The South Indian Railway Company
Accused – Chethembara Chetty
Offence – Neglect of duty. Section 46 Act IV of 1879
Finding – Offence not ~~found~~ proved
Sentence – The accused Chethambara Chetty is discharged under Section 253 C.C.P.

The accused was charged by the police at the instance of the South Indian Railway with having at Tirupapuliyur neglected his duty Section 46 act IV of 1879

2 The accused was a pointsman in the South Indian Railway Tirupapuliyur. He failed to close the points on the approach of the No 13. Train and in consequence of the neglect, the Engine was derailed and a delay of 8 hours was occasioned to the passengers train

(3) The 1st witness states that he is of opinion that the derailment occurred owing to the points not having been properly closed –
The 2nd witness states that, when inspected the points, he found them all right but they were not locked.

4 The accused states that he closed the points all right and that he has not been ~~neglected~~ neglectful of his duty.

5. There is no evidence that the derailment took place through any neglect of the accused. The driver of the Engine who inspected the points soon after the occurrence states that he found them all right. They were closed. They were not locked.

The 1st witness for the prosecution says that it is the duty of the Station master to see that the facing points are all right before allowing the train on the line. The (Station master) is not charged for neglect of his duty and from the very fact of his having allowed the train on the line, it is to be presumed that he was satisfied that all was right.

The evidence of the prosecution witnesses is based on supposition. Under these circumstances I think it safe to discharge the accused & I therefore do so.

P W Incl
3736/9

Cuddalore.
23-1-90

(Signed) Geo. S. Gouge
2nd Class Magistrate

(True copy)

2nd Class Magistrate
28.1.90

Corrections (1
interlineation (1)
Compd by

...th Indian Railway

22-1-90

Before the 2d Magistrate of Cuddalore Town

Case No. 9 of 188

1st Witness for the prosecution on solemn affirmation deposes:—

My name is G W Kemp

My Father's name is:— Alexander Kemp

My Caste is:—

My Religion is:— Protestant

My occupation is that of a:— P W Inspector

My age is:— 39

My usual residence is in:— Cuddalore old Town

I know the accused Chithambaram. He was a pointsman in the Tirupapuliyur Station. He was in charge of the north point. On the 22nd ulto. when the No. 13 Train was coming near the Station it is supposed that the accused had the points turned to the siding and when the train was coming in he reversed for the main line but did not hold the points down with his hands. He must have simply thrown the handle of the points over as it is common among pointsmen. This is what I suppose from an inspection of the ground, and the nature of the derailment.

× Cross exn. Reserved

(Signed) G W Kemp
P W Inspector
22-1-90.

I asked the Station Master if the points were locked. He was busy and I was in a hurry so did not wait for his reply; I went off to the points. I did so afterwards. He said in an off handed way that the points were locked. It is the Station Master who generally keeps the key of the point. If the point were locked properly no accidents could happen. When I examined the point they were locked. It is the duty of the Station Master to keep the key and examine his facing point before allowing the train on the line

(Signed) G W Thrup.

P W Dep 9
3736/90

Taken by me read over in English which deponent understands and acknowledged by him to be correct.

(Signed) G. S. Gouge.
2nd Class Magste.

| True Copy |
2nd Class Magistrate
28.1.90

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th Indian Railway.

22-1-90

Before the 2nd Magistrate of Cuddalore

Case No. 9 of 188

2 Witness for the prosecution on solemn affirmation deposes:—

My name is:— Geo. Wale
My father's name is C. Wale.
My Caste is:— Eurasian
My Religion is:— Church of England
My occupation is that of a:— Engine driver
My age is:— 24 yrs.
My usual residence is in:— Cuddalore old Town

I know the accused Chithembaram Naik. He is a pointsman in the Tirupapuliyur Station. About a month ago day and date unknown at about 6-20. P.M. I was bringing No. 13 train into the Tirupapuliyur Station as soon as I got to the northern point my engine dropped off. The engine stopped at about 25 feet from the point. I jumped off from the engine and examined the point. I found ~~them~~ them(1) all right. The points were closed. It was dark and I could not see that the point were half open or not. The point were not locked. I heard some one say lock the point! He spoke in Tamil He said [illegible]. I found them locked afterwards. I ~~did~~ do(2) not know who locked the point. The train arrived at the proper time that evening. It did not arrive before time. The cutter was not in the sling hole. I reported that the point were locked after derailment. I did not ask the Station Master about it.

+ Examdn.

(Signd) Geo. Wale.

Taken

Ahu 16/7 R 21.7.90 Public Works Departm

23-1-89
Taken by me read over in English which deponent understands and acknowledged by him to be correct.

(Signed) G. S. Gouge.

2nd Class Magistrate

P W Case 8
3736/90

[True Copy]

Corrections 2
Compd: [illegible]

2nd Class Magistrate
28-1-90

Railway,

[illegible] 2 வது [illegible]
[illegible]

[illegible] 1890 [illegible] பிரதிவாதி [illegible]

1 [illegible]

2 [illegible]

3. [illegible]

4. [illegible]

[illegible]

1890 [illegible] 25 [illegible]

(Signd) [illegible]

[True Copy]

2nd Class Magistrate

[illegible]

P W Enc 7
3736/90

23-1-90.

Before the 2nd Magistrate of Cuddalore Town

Case No. 9. of 188

My name is :— திருமலை

My father's name is :— [illegible]

My Caste is :— [illegible]

My Religion is :— சிவ

My occupation is that of a :— Pointsman S.I.R.

My age is :— 30

My usual residence is in :— திருப்பாப்புலியூர்

[illegible] 2ம் தேதி போலீஸார் [illegible]

[illegible] நான் [illegible]

(Signed) திருமலை

Taken in my presence and hearing and contains a full and true account of the statement made by the accused.

(Sd) G. S. Gouge
2nd Class Magistrate

(True copy)

2nd Class Magistrate

REGISTER
No 229

P W Encl 6
3736/90

Proceedings of the Dt. Magistrate of South
rch 1890.

No. 572

South Indian Railway,
AGENT'S OFFICE,
TRICHINOPOLY, 14th April 1890

From

The AGENT,
SOUTH INDIAN RAILWAY,

To

The CONSULTING ENGINEER FOR RAILWAYS,
MADRAS.

Sir,

In compliance with the request contained in your letter No. 413 dated April 11th 1890, I enclose a certified copy of the Second Class Magistrate's Judgment in Calendar Case No. 9 of 1890, Cuddalore Old Town.

I am,
Sir,
Your most obedient Servant
William S Betts
Agent

From
The Agent,
South Indian Railway,
Trich
To
The Consulting Engineer for
Railwa
M
Dated 14th April 18
Received 16/4
No. 572
1 Enclosure.

Adm 16/7 R 21.7.90 Public Works Department

Proceedings of the Dt. Magistrate of South Arcot dated 25th March 1890.

Read letter No. 590 dated 27th February 1890 from the Agent of the South Indian Railway stating that one Chidambara Chettie who was charged with an offence under Section 46 of act IV of 1879 in Calendar Case No 9 of 1890 on the file of the 2nd Class magistrate of Cuddalore Town has been improperly discharged by the Sub Magistrate under Section 253 Criminal Procedure Code and requesting that the records of the Case may be sent for and perused and necessary orders passed.

Read also the records of the above Case.

I have looked into the record and it does not seem certain that the accident was due to pointsman's neglect. The Sub magistrate therefore giving him the benefit of the doubt discharged him and, I think, rightly. As there is no additional evidence put forward I do not consider that a re-trial is needed.

Sd: Henry Sewell
Distt: Magistrate

True Copy forwarded to the Agent of the South Indian Railway for information:-

Sd: Henry Sewell
Dt: Magistrate.

South Indian Rly:
Agent's office
Trichinopoly. 31.3.90

True Copy of a copy.
Kuppoosawmy Iyer
Chief Clerk.

HSA

for Agent.

South Indian Railway.
Dy Traffic Supdtt's office.
Madras 21st February 1890.

No 5705/889.

The Traffic Manager
Trichinopoly.

My Dear Sir

Prosecution of Pointsman R. Chidambaram.
Your No G 8651/2476 of 6. 2. 1890.

There was no use of holding departmental enquiry unless the spot was at once inspected as the marks &c of the wheels would have been obliterated. However Messrs Gresswell & Hawkins who were at the spot immediately after the accident wrote to me as follows:–

"I much regret having mislaid your
" telegram No 1988 on the derailment at Cuddalore
" New Town. I only came across it yesterday and
" it was handed to me late on evening and this
" accounts for its having escaped my notice. I
" think there can be no doubt but that the
" derailment was caused by the carelessness of
" the pointsman as the points must have been half
" open at the time. We could trace the marks
" of the leading wheels of the engine as they gra-
"-dually mounted the switch rail and then
" they dropped off on to the Ballast. The 50th points
" as I dare say you know were only laid on the
" line not long ago and I could trace no
" defects in their condition so this confirms my
" opinion that the derailment could not have
" occurred if the switch handle had been held
" by the pointsman. With all the Compliments of
" the Season."

Signed: Gresswell
29. 12. 89.

With

for Agent.

Pro
373
10
373

No [illegible] South India
Agents' office
No 590. Trichinopoly 27th February 18

From
The Agent
South Indian Railway

To
The District Magistrate
South Arcot, Cuddalore New Town

Sir
May I request you to have the
kindness to send for and peruse the papers
in Calendar Case 169 of 1890 on the file of
the 2nd Class Magistrate of Cuddalore in
in which case there has been a failure of
justice owing to the inability of the Magis-
trate to realise that in some prosecutions
it is unnecessary to produce direct evidence
and that circumstantial evidence may be
good evidence. It is well known for inst
that it is rare for any one to see a murder
committed yet prosecutions for murder are
are frequently successfully conducted thr
the instrumentality of good circumstantial
proof.
The Company is frequently in the
position of a successful prosecutor when
pointsmen have negligently derailed engi
and carriages at points, though no one has
seen the wrong motion given by the point
to their switch handles. It has sufficed to
there has been a derailment & that
experts have testified the points to be in
good working order, for magistrates
to convict the guilty pointsmen. Ma
have felt there was no other alterna

ch

Cooper
for Agent.

points are in good working in

No which is only possible by a wrong mov
given by the pointsman to their switch handles. The Second Class magistrate of Cuddalore does not however look at matters in this light but if pointsmen can escape criminal responsibility for their neglect travelling by railway will become very unsafe

I am
Sir
Your most obedient Servant
Sd. Walter J. Hooper
for Agent

True Copy
Sooppoosamy Iyer
Chief Clerk
31. 3. 1890

No 265

South Indian Railway,
AGENT'S OFFICE,

TRICHINOPOLY, 31st March 1890.

From

The AGENT,
SOUTH INDIAN RAILWAY,

To

The CONSULTING ENGINEER FOR RAILWAYS,
MADRAS.

Sir,

I beg to send you for your information copy of a correspondence which has passed between myself and the District Magistrate of South Arcot in a case in which a pointsman caused a derailment. The Magistrate who heard the case departed from the safe practice of relying on experts, and though there was ample evidence for a conviction elected to discharge the prisoner on the ground that the man denied his guilt, and was not detected in the offence by an eyewitness. It is, I think, greatly to be regretted that Magistrates should set aside the evidence of experienced Railway officials of whose competence to come to a satisfactory conclusion in such a case there can be no doubt. The derailment must have been caused by the pointsman.

I am
Sir,
Your most Obedient Servant
Walter J. Hooper
for Agent.

4

REGISTER
No. 252.
FILE
No.

P W Rec 1
3736/90

From
The Agent,
South Indian Railway,
Trichinopoly.

To
The Consulting Engineer for
Railways,
Madras.

Dated 31st March 1890
Received 2.4.90 No. 465
Enclosure.

Form No. 1.

PUBLIC WORKS DEPARTMENT.

OFFICE OF CONSULTING ENGINEER FOR RAILWAYS,
Madras, 17th April 1890.

Letter from the Agent South Indian Railway
No. 465 dated 31st March 1890, with enclosures.

— Do — Do — No. 512 dated
14th April 1890, with enclosures.

No. 266.

SUBMITTED — for the consideration of — Government.

Sidney Smith
Major R.E.
Dy: Con: Engr: for Rys:

P. W. C. No. 3736.

Form No. 3.

From

THE CONSULTING ENGINEER
FOR RAILWAYS,
MADRAS,

No. 266

Dated 14th } April 1890
Received 18th }

No. OF ENCLOSURES. 10.

Transferred to the Judicial Department for favour of disposal.

[illegible]
Lt Col R.E.
Ag: Jt Secy: to Govt. P.W.D.

Subject.

~~Submitting~~ for the consideration of Govt. letter from the Agent, S.I.R., bringing to notice that a pointsman who was charged under section 16 of Act IV of 1879 has been improperly discharged by the Magistrate, who tried the case.

It is no use sending the case to the Govt. in this state. The evidence recorded at the trial — if the papers sent up are all that there is — is meagre and unintelligible, & even contradictory. One set of witnesses imply that the pointsman was not at his points, but merely threw the handle over; and as they were not locked in that position, as apparently they should have been, they joggled to half open & so derailed the Engine. Another theory put forward is that the pointsman being at his points reversed them after the engine & tender had passed. [In that case however wd. not the Engine & tender have kept the rails & the carriages ~~were~~ been derailed?] The regulations & instructions for the Company in the matter don't seem to have been produced to the Court. If the case has failed it appears to me that the reason was that ~~the~~ it was not properly & thoroughly investigated by the Company's officers & that no trouble was taken to put the evidence before the Courts in a proper manner. It wd. be entirely useless to appeal agt. the acquittal on the case as it stands & there is no use in sending it to the Judl. Dept. The Agent's contention that it is the duty of the Courts to convict if railway Experts tell them there is no doubt won't hold water a moment. If their Experts want criminal convictions they must condescend to prove their cases. I thought that the rules for accidents Engineers recently sanctioned were in force on the S.I.R. If so, why were they not observed & what steps have been taken by the Cong. Engr. Dept. in this case? The technical advisers of Govt. might at least have noted on the case for the information of Govt. They should now do so.

Wo
22 Apr

1/18/4

Atw. 21/4/90
R 22/4/90

sent again
8/23/7

Atw 16/7 R 21.7.90

No 1002

South Indian Railway,
AGENT'S OFFICE,
TRICHINOPOLY, 18th July 1890

From
The AGENT,
SOUTH INDIAN RAILWAY,
To
The CONSULTING ENGINEER FOR RAILWAYS,
MADRAS.

Sir,

Since writing my letter No. 465, dated 31st March, 1890, I have been making further enquiries regarding the derailment at Cuddalore New Ton referred to therein, and I find that the prosecution having been conducted by the police the evidence brought forward against the accused was not nearly so clear, full, and conclusive as it might have been. Under the circumstances therefore I beg that my letter may be cancelled.

Instructions have been issued that in future prosecutions of this nature are to be conducted by the Company's prosecuting inspectors, and not entrusted to the Agency of the Police who cannot be expected to be so well acquainted with the best course to follow in bringing home guilt to railway employés who have seriously failed in their duty.

I am, Sir,
Your most obedient servant
William [illegible]
Agent

REGISTER
No. 783.
FILE
No. 1166.

P.W. Incl 6899/90

From
The Agent,
South Indian Railway,
Trichinopoly.

To
The Consulting Engineer for
Railways,
Madras.

Dated 18th July 1890
Received 21.7.90 No. 1002
5045
Enclosure.

Adm 16/7 R 21.7.90

Form No. 1.

Public Works Department.

Office of Consulting Engineer for Railways,

Madras, 22nd July 1890.

Letter from the Agent, South Indian Railway, No: 1002, dated 18th July 1890.

No. 512.

Submitted to Government, with reference to this Office endorsement No: 266[*], dated 17th April 1890.

2. The Agent, South Indian Railway, now requests that his letter No: 465 dated 31st March 1890, may be cancelled under the circumstances explained by him, with regard to the prosecution of the pointsman at

Subject.—

[*] The circular put up.

at Cuddalore New Town.

Sidney Smith
Major R.E.
for Offg. Consg. Engr. for Rys.
LS

~~For Mr J. H. Gantin~~

Form No. 2.

B No. 1081 R d/ 29th July /90.

J.H.S. 27/7/90
Recorded.

Vh
W.S. R

SIC 2/81

R 31. 7. 90.

M Alm. 23/7 R 28.7.90

P.W. C. No. 6899

From

THE CONSULTING ENGINEER
FOR RAILWAYS,
MADRAS,

No. 512

Dated 22nd } July 1890
Received 22 }

No. of Enclosures. One.

Subject.

Submitting letter from the Agent, S.I.R., cancelling one previously forwarded on the subject of the decision of a Magistrate impugned.

B

No. 1081 R d/ 29th July /90.

R