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M.R.O. 7-88400-28-11-80

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	557	Pres.
		Mis.
Dated		18

Not to be folded or roughly handled

In the High Court of Judicature at Madras, 11th
May 1863.

Present.

The Honorable Sir Collyer Hannan Scotland
Knight Chief Justice.

The Honorable Mr Justice Bellamy.

Criminal Petition No 186 of 1862.

Petitioners. Sutchumana Row and Ranna Row
1st and 2nd Prisoners in Case No 189 of 1862 on the
calendar of the Court of Session of Bellary.

1. This is an appeal from a sentence of the
Session Court of Bellary upon two prisoners convicted
of receiving with guilty knowledge 5 Bank Notes of the
value of Rupees 5000.

2. The first observation which arises upon this
conviction is that the recent possession of the Notes
was evidence of the theft, and the statements of the
two persons convicted of the theft in another case was
of course no evidence to show the prisoners receivers
and not thieves.

3. The trial too appears to have been misconducted
as regards the necessary proof. There is no evidence
whatever upon record that there was any stealing of
Bank Notes, and the Session Judge on the simplest
principles of the law of evidence was not justified
in using as evidence of that theft, the record of
the trial of the former prisoners.

4. If, therefore, the evidence had appeared
credible on the point of possession and attempt
to put off five Promissory Notes it would have
been necessary to direct evidence to be taken

on the point first indicated.

5. Three witnesses assert that about 2 1/2 months before the complaint was made to the Magistrate, the first of them at the request of the prisoners took them to the house of the second, and that a negotiation for the passing of 5 Promissory notes took place; and that it was broken off on account of a difference as to the commission to be demanded. One of these witnesses is a mendicant; the 2nd is a man who calls himself a broker, confessedly of narrow means, and who has probably never before dealt with bank notes. The 1st witness alleges that 15 days after the occurrence, he communicated the matter to the Head Constable, who, however, according to the 2nd and 3rd witnesses, took no steps to collect information from the 2nd & 3rd witnesses until 15 days before the Magisterial investigation which took place in August.

6. It is admitted by the 1st witness that he was well acquainted with the theft having been committed, but that he took no steps because he did not know that the notes were some of those stolen. The conduct of the prisoners, as described by the witnesses is altogether inconsistent with probability. It is most unlikely that they would attempt to pass these notes in a village in which the recent theft was a common topic of conversation; that they would have selected for the purpose a person whose admitted circumstances rendered it impossible for him to advance the money and required therefore the intervention of other persons in a matter so delicate and dangerous. Supposing too that the prisoners as alleged, refused to entrust the witnesses with the notes, it was impossible that the design could have been carried out; and if, as the theory for the prosecution assumes, the refusal resulted from a consciousness of guilt, to what purpose should the numbers of the notes have been given? The negotiation, as stated, was clearly abortive from the

the difference as to commission; why therefore should the prisoners have gratuitously furnished the witnesses with a weapon to be used against themselves? The possession of the numbers could in no way facilitate the obtaining of money upon these notes, and it is impossible to believe that the witness should have treasured up the memorandum which he alleges that he wrote down for a period of 2 1/2 months, until he was able opportunely to produce it to identify the notes offered to him with some of those stolen from the Talasildar.

7. The withholding of this evidence becomes still more suspicious when it is recollected that one of these prisoners was actually charged before the Magistrate on a previous occasion with the actual theft, whatever doubts the witness might previously have entertained would have been dissipated by this occurrence. It seems to me that no doubt whatever can be entertained that the evidence of these witnesses is entirely untrustworthy, and looking to the statement made that the prisoners in the case disposed of on the 27th August, stated that they had passed 5 of these notes to the present prisoners, there is the strongest ground for believing that this case was subsequently connected to harmony with the statements so made.

8. Wholly unable to rely upon the evidence, we reverse the sentence and direct the release of the prisoners.

By order of the Court

(Signed) Thos. Wilkins

Ag. Dy. Registrar

(True Copy)

(True Copy) (Signed) W. E. Sullivan

Ag. Session Judge.

W. Mastin

Acting Collector

S^d H. H. H.

Removal of Ram Das
from the office of
Collector to the
Court of Sessions

Removal of Ram Das from the office of
Collector to the Court of Sessions.

Ram Das, Bhumistah in the salary
of the Court has been dismissed from his
Office from the 5th instant, as he has been
convicted by the Sessions Court of the
offence with which he stood charged.

His name ought to be struck off from the
Baramul Jagaramappa, Bhumistah
in the salary of Ram Das has been trans-
ferred to succeed him; consequently his
(Jagaramappa's) name should be entered
in the Pay abstract. Ram Das is not to
get the salary of his post from the 20th instant
the day on which he was committed to the
Court, up to the date of his dismissal.

Signed at Patna
Collector

(True translation)
R. Master
Acting Collector

Noted

The date of commitment is said to be
22nd August in the Court of Sessions.

Memo No 182 dated 22nd July 1863
From the Collection of Debary to the
present Deputy Collector.

One Ram Gov Simastah in the
Court of Sessions being convicted of the offence
of receiving stolen property was furnished
by the Sessions Judge & was consequently
dismissed from his post by the late Magistrate in
No. 182 dated 22nd July 1863. A Simastah
in the Railway Station was transferred to
successor the said Ram Gov. The Simastah
Simastah in the Railway Station was
conferred on one Ram Gov on the con-
dition that he should vacate the post in
the Board, on appeal, were to pronounce
him to be innocent & order his restoration.
All then this appointment should be consid-
ered temporary. But the Board having
no authority in the matter he (Ram Gov)
appealed to the High Court. In this
appeal he was declared innocent.

and the sentence of the Session Judge was
quashed. It is hereby ordered that he
should be appointed to the post of Assistant
in the Railway Office which was written
held by him & that his appoint.
should be brought into force from the 1st
Instant. It is also ordered that him & his
name should be struck off from the
Baroward (i.e. the payment list)

(True Translation)
W. W. W. W.
Collector

Plsd. at the Session Judge's
19th October 1900 at Bellary

BELLARY COLLECTOR'S OFFICE.

No. 111.

Date, { Remanding Taluk Haspett
17th September 1870.

From,

The ~~off~~ COLLECTOR OF
BELLARY.

To,

The Chief Secretary to Government
Madras

Sir,

With reference to Proceedings of the Madras
Government dated 25th ultimo & No. 13 in the Pension
Department, I have the honor to state that in
a statement Rana Rao and his brother were
convicted by the Session Judge of Bellary of
receiving with guilty knowledge 5 Bank notes
of the value of 5000 Rupees.

2. That officer appeared to have arrived
at that conclusion from the recent possession
by the prisoners of the notes in question. The
witnesses assert that about 2 1/2 months ago
before the complaint was made to the Magistrate
the first of them at the request of the
prisoners had been taken to the house of the
owner that a negotiation for passing 5 Promissory
notes took place which was broken off on
account of a difference as to the Commission
to be demanded.

3. The High Court however on reviewing
the Proceedings of the Session Court on appeal
were of opinion that the conduct of the prisoners
as

as described by the witnesses was altogether inconsistent with probability. It was most unlikely (the High Court thought) that they would attempt to pass these notes in a village in which the recent theft was a common topic of conversation, and that they would have selected for the purpose a person whose admitted circumstances rendered it impossible for him to advance the money as he was a mendicant.

4. The High Court were further of opinion that there was the strongest ground for believing that this case was connected, by harmonizing with the statements made in another case, where the prisoners alleged they had passed 5 of these notes to the present prisoners. They therefore reversed the sentence and directed their release.

5. I enclose copy of the Proceedings of the High Court in the trial of this case and also of the orders regarding his dismissal and reinstatement.

I have the honor to be,

Sir,

Your most Obedient Servant.

W. Maslin
Acting Collector

