

MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

G.O. No.	8	Prose
		Min.
Dated	5	18

Not to be folded or roughly handled

Thro D. L. G.

181011/81

No.

815

District Police office,

Salem 10th November 1881.

From

THE SUPERINTENDENT OF POLICE SALEM.

To

THE Inspector General of Police
Madras

Sir,

I have the honour to bring to
your notice that late Police Constable
No 365 Veziaragavalar Naidoo pensioned
on Rs 2-15-0 per mensem has been
convicted by the Assistant Magistrate
under section 214 of the Indian Penal
Code and sentenced to 6 months Rigo-
rous Imprisonment and a fine of
Rs 50. on the 9th of this month.

This man was a "Law broker"
and was caught tampering with
witnesses in a Police case, was
run in, tried and convicted as
abovementioned. As a warning

to others inclined to follow his
bad example, I recommend his case
being brought to the notice of
Government with a view to his
pension being forfeited under
section 173 of the Civil Pension
Code.

I have the honour to be
Sir
Your most obedient servant

W. P. M. Major
es. Superintendent of Police

McBrook

10-11-8

Brings to notice the
Commission of Police
pensioners who are
with a view to his pension
being forfeited under
the Civil Pension
Code.

Date 10th
10th November 1891.

Inspector General
of Police
Madras

Superintendent of Police,

Salem.

No. 815

10-11-8

1881 DEPARTMENT

ENCLOSURE

In a letter from the Inspector
General of Police, dated 19th November
1881. No. 6357.

RECEIVED

21 NOV 81

No. 6357.

5

CHIEF OFFICE OF THE INSPECTOR GENERAL OF POLICE,
Madras, 19th November 1881.

From

Colonel. H. H. Clarke
Ag. Inspector General of Police,

To

The Secretary to Government
Pension Department
Fort St. George.

SIR,

Enclosures.

I have the honor to submit for
the disposal of Government under Section
173 of the Civil Pension Code, letter No.
815 of the 10th instant from the Superintend-
ent of Police, Salem, reporting the conviction
under Section 214, I.P.C. of late Constable
Mr. Vijayagopal, No. 365 to whom, as a
pension of Rs. 2-15 was granted in G.O.
No. 548 dated 15 June 1881 Pension Department.

I have the honor to be,
Sir,

Your Most Obedt. Servant
H. H. Clarke

Ag. Inspector General of Police

f.O. No 5487. 16 Jan 88

Pension (1881)

DEPARTMENT.

No. 1178

From

The Agt. Inspector General
of Police,

No. 6357.

Dated 19 }
Received 21 } November 1881.

No.

SUBJECT.

Submits a letter for disposal
from Dupt of Police, Salem reporting
that Late Constable No. 26. Virginia-
garooloo to whom pension was
granted in C.O. No. 215 of 15 June 1881. Const.
was omitted under Dec 21st 1881.
No. 114

Copy of letter
sent to the
Dupt of Police
for disposal
of the matter
under the
C.O. No. 215 of 15 June 1881.

C No 8 of 82

In the Court of Session of the Salem Division

The 28th Day of November 1881.

Present: H. H. Williamson J.

Appeal from the Court of the Asst Magt of Salem.

Calendar Case No. 56 of 1881.

Criminal Appeal No. 14 of 1881.

1. Vijayaragavulu Naidu, Pensioner

and.

2. Venkatasellapathi Chetty Naidu } Appellants
Vakil } (Prisoners)

The prisoners were found guilty
of "Offering gratifications to witnesses
in consideration of their screening one
Arumugam Chetti from legal punish-
ment" under Section 244 Indian Penal Code.

The 1st Prisoner was sentenced to
6 months rigorous Imprisonment and
a fine of Rs 50, in default, further im-
prisonment for one month and the
2^d Prisoner to 6 months rigorous Imprisonment.

The sentence of the lower Court is
reversed.

This Appeal coming on for hear-
ing this day in the presence of C.
Puthucherry

C. Pritchard Esquire Counsel for the
Appellants: Upon perusing the pro-
ceedings of the Lower Court; and
after hearing the said Counsel for
the Appellants and the Public Prose-
cutor, the Court delivered the following:

Judgment: This is an appeal against
the decision of the Assistant Magistrate
of Salem in Calendar No. 56 of 1881 in
which he found the Appellants guilty
of "Offering gratifications to witnesses
in consideration of their screening or
Arumugam Chetti from legal punish-
ment" under Section 214 I. P. C. and
sentenced them to imprisonment and
fine.

I am of opinion that the decision
of the Assistant Magistrate is bad in
law and is not borne out by the
evidence.

In the first place the offence
which the Appellants were charged
with having committed was not
one falling under Section 214 I. P. C.
That Section refers to the compromising
of a crime by some agreement ^{not} by
bringing the criminal to justice if a

pecuniary or other gratification is given.
It does not refer to "tampering with
witnesses" as the Assistant Magistrate
appears to think. The conviction being
therefore bad in law must be reversed.

The Public Prosecutor on behalf of
the District Magistrate represented
that the case was one falling under
Section 193 I. P. C. and suggested that
the Section should be altered, accord-
ingly but he was unable to point out
any authority under which an ap-
pellate Court can change the Section
under which an accused person has
been found guilty to one of an entirely
different character.

The Prosecutor in this case was
a Head Constable who had charge
of a case in which one Arumuga
Chetty was accused of causing grievous
Hurt. Among his witnesses in that
case were Peshay Chetty, Narasimha
Chetty and Vankataram Chetty. The
Head Constable's story is that on the
day of the trial of Arumuga Chetty's
case he saw the said 3 witnesses sit-
ting with the present 2 Defendants
and.

and heard 1st Defendant offer the witnesses Rs 10 each "to give evidence in favour of the Defendant" i.e. Annamga Chetty that he at once wrote a chit to the Submagistrate who came and ordered them off.

I am unable to believe the evidence of this Head Constable. In the first place he is flatly contradicted by the submagistrate. The Head Constable says that when the submagistrate came up Teshay Chetty said "if you give Rs 50 all right," yet the submagistrate denies hearing any such words uttered. Now the submagistrate was nearer to the window than the Head Constable and if Teshachetty (3rd witness) is to be believed who says that he said the words in a loud voice and that the submagistrate was only 4 yards off when he uttered them, it is impossible that the Head Constable should not have heard them. Then the Head Constable is again contradicted by the submagistrate as to the words he said

(1)
submagistrate used when he saw the parties sitting in the veranda. The Head Constable moreover deposes that he first pointed out the parties to the submagistrate's clerk. This he subsequently denied but said he told Narasayan a gunastah who has a lock and sat down. This Narasayan was not called as a witness, yet he would have seen the best witness as he must have overheard the conversation of the Defendants. Again the submagistrate saw only the 2 Defendants and 2 witnesses viz. Teshachetty (3rd witness) and Venkatarama Chetty (5th witness) whereas the Head Constable and witness say all 3 witnesses were there.

Then as to the 3 witnesses who say that they were solicited by the Defendants to "get Annamga off" I regard their evidence as a tissue of lies. It would take up too much time to point out all their contradicting statements for they contradict

themselves and each other ^{must} on points and
their evidence is utterly unworthy of
credit. They admit that they have
gained for more being unwilling to
sell themselves for so low a price as
Rs 10. They are related to each other
and are evidently on bad terms with
the accused. The 3rd witness Secha
Chetty admitting that he is at enmity
with the 2nd Defendant. The 4th wit-
ness Narasimha Chetty denies that
there was any talk about Rs 50 being
given whereas 3rd witness Secha Chetty
says ^{that} was the sum they demanded
for their infamy. This 5th witness
is a suspected character who has
been convicted on 3 occasions. The
5th witness Venkatanama Chetty gives
a totally different version of what
the 1st Defendant said when he
offered them money from that
given by the P. O. Constable
and the other witnesses (said to
who also contradict each other on

(13)
this point). This witness is also an
old offender.

The Assistant Magistrate re-
marks "all 3 witnesses gave depositions
before the sub magistrate as to this
matter and they agree with what
is now said." The depositions ^{are} on
the record as they should have
been if the Assistant Magistrate
referred to them. I however sent
for them and find that they differ
in many respects from those given
before the Assistant Magistrate.
It is difficult to imagine how the
Assistant Magistrate could with
the evidence before him have come
to the conclusion that there cannot
be the slightest doubt that the
Defendants tried to tamper with
the witnesses. He entirely over-
looked the fact that the prosecution
did not attempt to show why these
Defendants should have espoused
Arumuga Chetty's cause; he does
not notice that if the case had
been

been a genuine one. There was nothing
 to prevent the Submagistrate taking
 it up at once. He neglected to observe
 the extreme improbability of Vakil
 and a petition writer venturing to
 transfer with witnesses in such a
 public place as the veranda of
 the Court of the Submagistrate
 before whom the witnesses were
 at any moment liable to be called
 and his appreciation of the evidence
 was most weak.

I reverse the finding and
 sentence of the Assistant Magistrate.

Date of			
Presentation	Finding	Hearing	Order
11 Nov 1881	12 Nov 1881	23 Nov 1881	28 Nov 1881

Signed Frank Wilkinson
 Ag Session judge
 True copy

Ag Session judge
 12-12-81

To
 The Superintendent of Police, Salem
 with reference to his letter no. 873
 of the 6th Instant.

12-12-81

CALENDAR No. 56 OF 1887.

Offence

Finding

Sentence

Tampering with witnesses under Section 214, I.P.C.
GUILTY
The defendant is sentenced to 6 months
rigorous imprisonment and a fine of Rs. 100
or in default further imprisonment
for one month. The 2nd defendant is sen-
tenced to 6 months rigorous
imprisonment.

The two defendants Vipin Agarwal
Raidoo & Venkatesh Chetty
are charged with offering gratifica-
tions to three witnesses in considera-
tion of their securing acquittal
from Chetty for a legal punishment.
The evidence for the prosecution
is that on the 26 October 1991
Chetty was to be tried under Section
338 I.P.C. for causing grievous hurt
to a woman by a stick & dangerous
act.

Before the trial the Head Constable heard the 1st defendant say to the three witnesses Sheshay chetti, and Karasimha chetti and Venkatarama chetti that he would give each of them Rs. 10. if they gave evidence in favour of Arumugam chetti, the 2nd defendant was then sitting close by. He accordingly wrote a chit to the Sub Magistrate which is produced requesting him to come personally and see the tampering going on.

As soon as the Sub Magistrate came up the Head Constable says that Sheshay chetti said "If you give us Rs. 50 all right" they then saw the Sub Magistrate and all three got up and went off to avoid him.

The Sub Magistrate says that as soon as he received the chit he came to the window and saw the 2 defendants sitting with the two witnesses, the Sheshay chetti and Venkatarama chetti but heard nothing. As soon as they saw him they rose up and dispersed and he subsequently ordered

ordered the Salem Station House officer to charge the defendants according to law. The taker is produced.

All the three witnesses Sheshay chetti, Karasimha chetti and Venkatarama chetti state that the 1st defendant offered them money to save Arumugam chetti, they corroborate each other and the Head Constable and the Sub Magistrate for Sheshay chetti & Venkatarama chetti state that just as the Sub Magistrate came to the window Sheshay chetti said to the 1st defendant "If you give us Rs. 50 all right". Karasimha chetti confirmed the Sub Magistrate for he says he was not present when the Rs. 50 were mentioned then coming for the Sub Magistrate seeing the 2 defendants and only two of the witnesses instead of three.

The witnesses further state that the 1st defendant offered to

to deposit the money with the 2nd defendant until the trial was over but they refused to consent to this.

All the three witnesses gave depositions before the Sub-judge as to this matter and they agree with what is now said.

The defendants deny the charge and call three witnesses. These depose to the effect that they saw the 2nd defendants at the Cutcherry engaged in other work. Two of them say that they did not see the Club Magistrate come up which shews that they could not have been there at the right time.

There cannot be the slightest doubt that the defendants tried to tamper with the witnesses. The 1st defendant appeared & have taken the leading part and made the propositions but the 2nd defendant was present throughout the whole transaction, the

the money was offered to be deposited with him, and after they dispersed he came up to Shetty Chetti and said "Don't tie a stone round my neck" shewing the consciousness of his guilt.

It is an every day statement of complainants and defendants that their witnesses have been bought over and it is a well known fact that men make a trade of selling evidence. Men like the defendants are the cause of the evil, they debase the morality of the native public and disgrace the Law Courts by using them as though they were gambling houses. Detection in such cases is extremely difficult.

For these reasons an exemplary punishment must be passed on the defendants.

They are brokers or Dalals and petition writers but pride themselves in the name of "private wakeels".

Findings & Sentence
Vijayaragavala Reddy & Venkatasubbaiah Chetti
are

are both found guilty under section
274. I. P. C.

Vijayaragavala haidari is sentenced
to 6 months rigorous imprisonment
and a fine of Rs. 50 or in default
further imprisonment for one month.

Venkatashellapathi chetti is senten-
ced to four months rigorous im-
prisonment.

Salem } Signed by Mr. Mulla
9-11-81 } Asst. Magistrate
True copy

19-12-81 Asst. Magistrate.

Forwarded to the Superin-
tendent of Police Salem with
reference to his letter No 817 of
11-10-81.

For the reasons stated above
the above is stated in detail and
the same is forwarded for the
information of the Government
in the name of the
Magistrate.

1903

1881 DEPARTMENT.

ENCLOSURE 2

In a letter from the Inspector
General of Police, dated 21st December
1881, N^o 6994

No. 6994.

25

CHIEF OFFICE OF THE INSPECTOR GENERAL OF POLICE;
Madras, 21st December 1881.

From

Colonel H. D. Clarke
(Offg. Inspector General of Police,

To

The Secretary to Government
Pension Department
Fort St George.

Sir,

Enclosures
Two

Referring to your Memo. N^o 1114
dated 29th November 1881 I have the
honor to forward herewith copies of
judgments of the Assistant Magistrate
and the Sessions Judge; the former
convicting Pensions Constable Vizia
ragavulu under Section 214, I.P.C.
and the latter quashing that
conviction.

I have the honor to be
Sir
your Most Obedt Servant
H. D. Clarke
Offg. Inspector General of Police

✓ *Letter* (1881)

DEPARTMENT

No. 1913

From

Col. H. L. Coele

Offg. Inspector General

of Police,

No. *6994*

Dated *21st*

Received *22*

December 1881

No.

Em 2

SUBJECT.

*Forward copies of judgments
of Jt Magistrate and Sessions
Court of Salem in the case
of Provisioned Constable Vi-
riaxagavulu*

With Order 80 of 82

Order No. 5-1-82

*The result of the appeal
has rendered unnecessary
the reference to Government,
which appears to have been
made with undue precipitancy*

*For
27/12/81
GAC*

To the Inspector General of Police

No. 5-1-82