

Political (1895) Department.

ORDINARY MS.

G.O., No. 474

Dated 20th July 1895.

INDEXED.

[Despatch Abstract.]

MIR GHULAM-I-ABDAS

Sanctioning the payment to -- of the costs (Rs. 193-4-0) incurred by him in the case against Ghulam Abdul-Qadir.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	1038		95				

In the Presidency Magistrates' Court,

Egmore, Madras.

(Application No. 3297.)

Before *Q. R. James, Esq.* Chief Presidency Magistrate.

Calendar No. 10746 of 1895.

Complainant

Mis Gulam Abbas Saib

Charge

Defamation on 23.6.94
by falsely stating before the
Commissioner of Police, Madras,
that complainant had received
a bribe from one Ahmed
Khan Saib and that
complainant admitted before
Sectt. that complainant had
received a bribe of Rs 150/-
from Mr. Mahomed Khan
Bahadur.

Accused

*Gulam Abdul Khader
Saib*

Duplications

500 JAL

1895
July 6

Judgment.

In April 1894, Ahmed Mahomed
Khan Bahadur, a Carnatic stipendiary,
wrote a letter to the Chief Secretary making
several charges of bribery against the person
complainant. Mis Gulam Abbas, Manager
of the office of the Paymaster of Carnatic
stipends. This letter was forwarded to
the Commissioner of Police for enquiry
and report. A Police enquiry was held
in June 1894 when many witnesses were
examined. One accused in this case
Gulam Abdul Qader Saib was one of
these witnesses and the charge of defamation
now brought against him is in respect
of two statements he made during
that

that enquiry. These statements are set out in the charge framed against him in this case.

Mr. Upshon, Superintendent of Police states that the enquiry was a Police investigation held under the provisions of the Criminal Procedure Code. Also, the witnesses were bound by section 161 Criminal Procedure Code to speak the truth, therefore, if the statements made by the accused were false, they would come under the definition of false evidence in section 191 CrP and would be punishable under the latter part of section 193 CrP rather than as defamation section 500 CrP. But the object of the Police enquiry was that a report might be submitted to Government and not that a case might be put before a Court for trial. I am doubtful therefore whether the Police enquiry was altogether an investigation under the provisions of the Criminal Procedure Code.

Under these circumstances I framed charges against the accused in the alternative of giving false evidence or of defamation under section 193 or section 500 CrP.

The accused admits making the statements charged against him in answer to questions put to him by Mr. Upshon but pleads not guilty to the charges on the ground that the statements

statements were true and made in good faith. The statements are in regard to facts first as to what the accused saw and secondly as to what he said and heard. They are to the effect that the complainant took ^{money} on a certain occasion from one Ahmed Hussain and, when taken in connection with the enquiry in the course of which they were made, amount to a statement that he took a bribe. This if false, would be intentionally giving false evidence or defamation according to whether the circumstances of the case come under sec. 191 CrP or not. Being statements of facts observed or heard by the accused himself they could not have been made in good faith unless they were true, therefore to entitle the accused to an acquittal on either charge he must prove the truth of the statements he admits having made.

The accused has examined 6 witnesses in his defence. The first 5 of these had no evidence to give in regard to the charges except that Ahmed Hussain was a friend of the complainant and that they have seen him at complainant's house. By means of the 2nd defence witness it was endeavoured to show that the complainant had opportunities of exacting bribes from the Carnatic Stipendiaries.

and he stated that he had himself
paid money to complainant thro'
another person. This does not help to
prove that the statements charged
are true and I doubt if it is relevant
to the case at all.

The last witness Ahmed
Hussain is the only person who could
speak to the truth of the accused's
statements and he says they are
not true. This man made a very
different statement to Mr. Upson at
the Police enquiry. He then gave
details of several bribes which he
said had been paid to complainant
and with respect to the particular
bribe relevant to this case he stated
that it was he who paid it and
entered into considerable details
as to why, how and when it was
paid. The present accused in the
first statement charged against
him merely corroborated the
statement of Ahmed Hussain. The
complainant instituted proceedings
against this man for defamation
but for some unexplained reason
has withdrawn them, and has
continued his case against the
present accused who appears only
to have been a corroborating witness
at

at the Police enquiry. This witness
Ahmed Hussain does not deny his
statements to Mr. Upson but states
that he made them at the
investigation of the accused, that the
facts stated are true but that wherever
the name of the complainant Mir
Gulami Abbass is mentioned that
of the accused Abdul Fawad should
be read. From the difficult & experienced
in getting this witness into court,
from the manner in which he
gave his evidence and from
the different and contradictory
statements which he has made
I consider his evidence is utterly
untrustworthy. Even had this
witness adhered to the statement
made by him to the Police with
regard to the alleged payment
of money to the complainant
it would have been no good
to the defence because it
differs materially from that
of the accused.

The result is that the
accused has failed to prove the
truth of the statements he made
or even to show that they were
probably true.

Under these circumstances

~~Under circumstances~~ the accused must be convicted in the alternative under sections 193 or 500 I.P.C.

In awarding punishment I take large into consideration that as above pointed out, the accused was more a witness corroborating the charge made by Ahmed Hussain than anything else; and the fact that the complainant compounded his case against this Ahmed Hussain who made statements containing very grave charges of bribery against the complainant - no one charge only but several, whereas the present accused is only charged with making one short statement in respect of one alleged bribe.

The accused is fined Rs 200 - in default 4 months simple imprisonment.

(Signed) O.R. Jones
 J. Resident Magistrate
 6. 7. 95



Presidency Magistrate (sub)
 Egmore Madras, 8 July 1895

(In witness whereof)
 I the
 Clerk

After application on 8. 7. 95
 ready for delivery on 8/7/95

Bill showing the Costs incurred by Complainant in the case against Ghulam Abd. ul. Qadir Sahib:-

No.	Dates of expenses.	Description.	Amount		
			Rs.	as	ps.
I.	9 th April 1895	Mr. Syed Nazam-ul-din B.A., B.L., to take out Summons	10	"	"
II.	"	Stamp on affidavit.	"	8	"
III.	"	Fee paid for a summons against the accused	"	8	"
IV.	5 th June 1895	Fee paid for a summons to witness (Mr. Bp. Shon) with ^{letter}	3	8	"
V.	10 th do.	Fees to Counsel (Mr. Syed Nazam-ul-din).	35	"	"
VI.	20 th do.	" Do: " Do: " Do: " Do:	35	"	"
VII.	24 th do.	" Do: " Do: " Do: " Do:	35	"	"
VIII.	2 nd July 1895	" Do: " Do: " Do: " Do:	35	"	"
IX.	6 th do.	" Do: " Do: " Do: " Do:	35	"	"
X.	8 th do.	Fee paid to obtain an attested Copy of judgment	3	12	"
Total Expenses.			193	4	"

Madras
 8th July 1895

Ghulam-i Abha's

Madras
8th July 1895.

RECD 8-7-95

To,
Colonel. H. S. Stewart, J. S. C.;
Paymaster, Carnatic Stipends
Chepak

Most respected Sir,

Impd
8. VII. 95

I beg most respectfully to tender my sincere thanks both to you and the honorable Govern-
ment for the favor shown to me (their humble servant)
by sanctioning the payment of Rs. 45-9-3 being the
costs incurred by me in the case brought against
Ahmad bin. ud-din Khan Bahadur - vide G.O.
No 401 dt. 22nd June 1895 "Political".

2. With reference to 2nd para of the above
G.O. I beg humbly to submit that the necessity
of my appointing a vakil in addition to a Solicitor
and a Counsel was chiefly for the following reasons.

(a) That the defence had on their side a similar
number of Counsels in addition to a Solicitor, that
is to say, they had one of the eminent barristers
(Mr. Norton) instructed by one of the best firms
of Solicitors in Madras (Messrs. Wilson & King) and
assisted by a High Court Vakil (Venabhadra Mudali).

(b) That to my misfortune Mr. W. Grant (whom
I first engaged) went home, owing to the sudden
death of Mr. Grant, and to add to my grief, the
case having been posted during the vacation
of the High Court, there was a famine of Counsel
in Madras, all having availed themselves
of the long leave, had left for Cozy, Bangalore,
Mysore or Coonoor.

(c) That I considered it expedient to face
my enemy sufficiently armed and therefore
engaged Mr. Vizam. ud-din B.A., B.L., to work
up the case here, as both my legal advisers
were present.

Messrs Smith and Short, were at Poonoor and Bangalore respectively, and were coming down here only on the dates of hearing.

(d) That Mr. Nizam-ud-din was thoroughly conversant with my whole case from beginning to end.

3. Under the above explanations, I beg humbly to solicit that you will kindly write to the benevolent Government the chief causes that led me to engage 2 Counsels in addition to a Solicitor.

4. I beg to enclose a bill for Rs. 193-4- being the amount of costs incurred by me in the case against Ghulam Abd. ul. Jadir Salih who was fined by the Magistrate Rs. 200- on the 6th Instant. - Vide Copy of judgment herewith attached.

5. In conclusion I beg respectfully to state that it will be seen by the perusal of the above-mentioned bill, that I limited my expenses in accordance with the Government Orders, & was content with a vakil alone with whom I contracted on a daily fees of Rs. 35 which is less than Rs. 52-8-0 per diem which a Solicitor charges.

I beg to remain
Honoured Sir,

Your most obedient and humble Servant
Durr Ghulam-i Ahla's

(1895)

No. 492 of 1895

From

Sir Ghulam i Abbas
Ch.

Dated 4th July 1895
Recd 8th 5

Submits a bill of costs incurred
by him in the Criminal suit
against Ghulam Abd-ul-Qadir
which is in the sum of Rs. 25-8-0

1005

Roll End

no. 492

925

No. 287 of 1895.

Paymaster Carnatic Stipends
Office Chepak 9th July 1895.

From

The Paymaster Carnatic Stipends,
Chepak.

To.

The Chief Secretary to Government,
Fort St. George.

Sir,

I have the honor in continuation of my
letter No. 227 dated 31st May 1895, to forward with my
recommendation for the favorable consideration of Govern-
ment the enclosed petition from the Manager of my office
and trust that his explanation may be accepted as satis-
-factory.

I have the honor to be,

Sir,

Your most obedient servant

J. S. Newall.

Colonel
Paymaster Carnatic Stipends,
Chepak.

Infa

925

401: 22.6.95. Rules for Members, Councils
337: 18.6.95.
297: 8.5.95.
Govt. 45795.
223: 9.4.95.
Govt. 22/95.
176/95.
155/95.
92/95.
Hr. the Governor

Political (1895) department.

From

CHIEF SECRETARY
10 JUL 1895
GOVERNMENT OF INDIA

The Paymaster
Carnatic Shpendo
Chepak.

To

The Chief Secretary
to Government
Fort St. George.

Dated 9th July.
Recd 10
Sept 11

No. 287 of 1895
3. Enclosures.

Forwards a petition from his
Manager with recommendation
for the favorable consideration of
Government.

For Orders

This is an application from the
Manager of the Office of the
Paymaster, Carnatic Shpendo,
for payment of the costs incurred
by him in ^{the} second of the
cases which he was permitted
to file against Carnatic Shpendo
claiming for defamation (vide go
of 22.6.95. No. 401).

He also explains, with
reference to go. of 22.6.95. No. 401,
what led him to engage 2 counsel
in addition to a Solicitor in the
first case, and shows that he
has tried to limit his expenses
in the present case.

of 20th July 1895 No 474

19 July

ORDER

~~Payment of the costs~~ The
payment to Mr Ghulam. i. e. Abbas
of the costs incurred (Rs 193-4-0)
incurred by him in the case against
Ghulam Abd-ul Qadir is sanctioned

C.S.
17.7.95

18/7/95

P.C.S. (21)
Acc. Secy (21)

127 JUL 95

WITH ORDER

When given for copying
When copied
When examined
When signed

189.

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BRING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.