

Political (1895) Department.

ORDINARY MS.

G.O., No. 507

Dated 2nd Aug. 1895.

INDEXED.

[Despatch Abstract.]

PETITION

Informing K.Easura Pillai, late Head Constable, Anchal Police Station, Travancore, that Government cannot interfere in the matter of his -- appealing against his dismissal.

BACK PAPERS.

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

FURTHER PAPERS.

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

H. B. Grigg Esquire

British Resident

Travancore & Cochin

Per Ye. Ye.

The humble Petition of H.

Esura Pillay Late Head Constable

No. 119 of the Anchal Police

Station

Most Respectfully Sheweth.

That in consequence of his conviction by the High Court under section 411 of the I. P. C. and sentence fining him in the sum of Rupees fifty Petitioner was thrown out of employ.

The original sentence was passed by the First class Magistrate of Quilari and the same was quashed in toto an appeal by the Sessions Court of Quilari in appeal No. 4 of 1864 with a remark that no offence whatever had been made out against the Petitioner.

That it was in Quilari appeal to the High Court against this appeal decision that the conviction and sentence alluded to in the 1st para above was passed. The judgement of the High Court. Copy herein enclosed must expose the palpably erroneous and conflicting nature of the decision by that Court.

That these errors and inconsistencies had been vividly pointed out in the petition to the Dewan, Copy of which is likewise enclosed.

That without the slightest attempt made to meet or explain away, any of the strong objections taken to the High Court judgment in question the Dewan quietly overcomes the difficulty with an assertion as given in his Endorsement herein enclosed "that a man convicted by the High Court cannot be reinstated in the Police" as if in all cases & importantly decided by him, he never dissent from the views of the High Court (whatever may be the nature of such views) and as if in all cases of acquittal or discharge by that Court of public servant they are forthwith restored on production of the judgment without any further enquiry into the matter.

That a careful perusal of the Petition to the Dewan must convince, Your Honor that the conviction is, as such inconsistent and erroneous on points of Law and fact, as it is wholly unjustifiable. The remedy in such cases, lies and must lie in Court, according to the provisions of the Criminal Procedure Code.

The Petitioner's application being in perfect conformity with the provisions of Law, the Petitioner most humbly prays that for the reasons distinctly set forth in the Petition to the Dewan, the question of his restoration to service be directed to be reconsidered and disposed of by the Dewan, and that redress be given to a long standing grievance of six years at least without further delay.

For which act of grace
Petitioner shall ever pray
Srinandram } (Sd) K. Sankar Pillay
February 1898 }
/ True copy /

on conclusion of the case

Page no. 699
1895

President's office on campus
Cochin 10th March 1955

Read petition of February 95
from M. Casura Pillai Late Head
Constable No 119 of the Anchol
station

Endowment thereon

The President sees no reason
to interfere on behalf of the
Petitioner. The enclosures to his
petition are herewith returned

(Sgd) H. B. Grigg
President

சிவ - மனநிலை

1981-5467

To,

His Excellency
The Dewan of Travancore
&c &c &c

The humble Petition of K.
Caswara Pillay, Late Head
Constable No 119 in charge of the
Anchal Police Station

Most respectfully Sheweth,

That Petitioner was accused
of receiving stolen property i.e. of purchasing
a bandy and a pair of bulls - the property
of a man of Ambasamoodram tried and
convicted by the First class magistrate Zinlon

That on appeal against the
conviction and sentence of that magistrate,
the Sessions Court of Zinlon in its judgment
in appeal No 4 of 1864 reversed the judg-
ment appealed against and directed the
acquittal of the Pet^r with a few remarks
that there are no materials disclosed which
may amount to an offence.

That the Government having

appeared against the latter decision, Petre was fined Rupees Fifty and convicted under Section 411 of the I.P.C.

That your Excellency can not fail to observe from a perusal of the High Court decision copy of which is herewith enclosed, that its only claim for acceptance as an authority is that it happens to be a decision of the High Court.

That the essential elements viz Dishonesty and knowledge that the Property is stolen to constitute an offence under Section 411 of the I.P.C. are admitted in that judgment to be desiderata. It is distinctly conceded that the original purchase may be bona fide and innocent that there may have been no dishonesty whatever in it. The case of *Empress v. Harrow* 11 Q.B. 338 has been quoted in the judgment only to give preference to the dissentient Judge Justice (Mr.) West over and above the majority of the Judges of the High Court of Bombay whose opinions were the very reverse.

That your Excellency can further decide upon what meaning can be attached to the observation of a mere imaginary line dividing Travancore from British India as if these two territories had no definite boundaries of their own.

That great stress further appears to have been laid upon the alleged destruction of the Bandy by the Petre. The remains of this Bandy were produced by a Vakil in whose house the same were found.

The Petre humbly admitted to the complainant the purchase of the Bandy and Bulls alleged to be stolen, and promised restoration of the same on the latter satisfactorily making out the alleged theft. What motive then could the Petre possibly have to burn and destroy the Bandy in question? He can have none. The destruction can only negative the presumption of Bona fide purchase and perfect innocence which have been fully established and admitted amply in the judgment. Is it at all likely that any man with an ordinary share of common sense will embark upon a career so palpably suicidal? most assuredly not. Petre who was a Station House officer must certainly be supposed to be able to calculate the consequences of such bare faced rashness.

That had it not been for this supposed complicity of the Petre in the destruction of the Bandy by others interested in such destruction, the High Court it is perfectly clear, could never have convicted the Petre.

That the attribution of dishonesty & knowledge that the property is stolen to a person who was declared in the first part of the judgment to be a Bona fide purchaser and honest must necessarily be as irreconcilable with each other as the adoption for guide, of the opinion of a dissentient single Judge is objectionable.

That it is fully open to

Your Excellency to discard altogether judgments of Criminal Courts, and to exercise Your own discretion in dealing with the matter departmentally is a point upon which there can not possibly be two opinions.

That Petr ever since the decision of the High Court, has been addressing numerous petitions to the Supt. of Police praying for restoration to service. He has neither decided the matter nor granted the Petr an endorsement whereupon he may appeal to Govt.

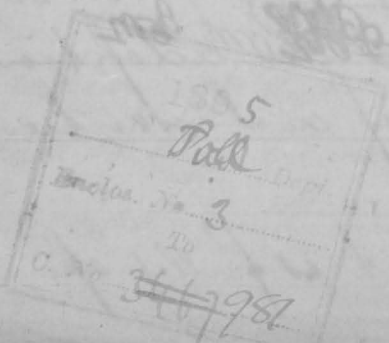
That Petr therefore submits this appeal to Your Excellency with an alternative prayer that either the necessary records be ordered and the matter decided by Your Excellency or that the Supt of Police be directed to graciously consider these reasons, to decide the question of Petr's restoration and to grant him an Endorsement empowering such decision that Petr may be in a position to appeal to Govt. if there is necessity for it.

For which act of grace
Petr shall ever pray.

Trivandrum 2
26 Kartigay 1070

True Copy

or. om. (or) or. om. (or) or. om. (or) or. om. (or)



No 55
7 19

Hayar Cutcherry

Trivandrum 5th January 1895

Read petition dated the 26th Kuthigay 1070 from K. Casarapilly late Head Constable No 119 of the Aachal Station complaining that he was dismissed from service for having been convicted in a Criminal Case & requesting that as the High Court's decision was not based on facts proved, he be restored to his appointment.

Order thereon

The petitioner is informed that a case convicted by the High Court cannot be reinstated in the Police. Further petitions on the subject will not be noticed.

Signed S. Shunegara Sobadaya
Kewau

(True Copy)

or. om. (or) or. om. (or) or. om. (or) or. om. (or)

In the High Court of Travancore
Session appeal No 30 of 1864
Sessions case No 4 of 1864 Lulow
Sessions Court

Criminal case No 45 of 1864 on the file
of the 1st class Magistrate's Court, Lulow.

Head Sircar Vakeel for prosecution &
K. Narayana Menon for 1st prisoner
and 2nd & 3rd prisoners - present.

The facts of this case are shortly
these. The complainant swears that he hired
out his bandy and pair of bulls to certain
persons to go to Tenkasi, the bandy being
in charge of his driver Thodalamootho.
On arrival there the driver (it is said) left
the bulls & cart in a shed from which they
disappeared. A complaint was made to the
British Police and within 12 days the bandy
and bulls were found in the possession
of the prisoner's - police officers (1st prisoner
is Head Constable) at the Anchal Police Station
in Travancore.

When questioned, 1st prisoner alleged
that he purchased the cart and bulls for
35Rs from a person named by him. It is in
evidence that the true value was much
more than this. The prisoner also showed
a sale document which has since disap-
peared. No satisfactory explanation of
this disappearance is given.

The prosecutor informed the prisoners that the bandy &c were his and the matter was laid before the magistracy.

Meanwhile, it is in evidence, the prisoners joined in burning the bandy (so far as it could be burnt) and in concealing in the ground the iron work appertaining thereto.

We think that the bandy &c is clearly shown to be the prosecutor's 1st witness and that as a fact it was stolen property when it reached the Head Constable's hands though the evidence does not show distinctly that the original receiving by him was dishonest.

We think property stolen (in the ordinary sense of the term) in British India may be the subject of the offence punishable by Section 411 of the Penal Code. The reasons given by Mr J. West in *Empress v. Moorga* (Cuttack P. C. R. L. Bombay 338) are sound though the Majority of the Court in that case were of another opinion. The inconveniences which he pointed out as likely to accrue from holding the ^{view} of property to his own, apply tenfold in a case like the present where a mere imaginary line divides Travancore from British India.

We think however as already intimated that the wording of Sections 400 & 411 of the Penal Code as in force here are sufficiently wide to cover this case.

Possibly as said above the original purchase by 1st prisoner may have been innocent, appearances are however

against him. But the subsequent retention of the property and its destruction are we think, inconsistent with innocence. Prisoners knew then or had reason to know that the property was really stolen and to prevent its recovery by the lawful owner that they deliberately put it out of their power to ever restore it to him.

In reversal of the Zillah finding ^{we} ~~we~~ convict all the prisoners of dishonestly retaining stolen property having reason to believe the same to be stolen property under Section 411 and sentence them the 1st prisoner to a fine of Rs 50 and 2nd & 3rd prisoners to a fine of Rs 40 each. In default of payment one month's rigorous imprisonment in each case.

Of the fine, if recovered 30 Rs will be given over to the prosecutor as compensation for the loss of the bandy. The bulls will also be returned to him.
22nd Aug 1864

Signed K. Krishnaswamy Rao.
Chief Justice
Signed W. E. Cramby. Judge

"True copy"

W. E. Cramby

This Excellency of
The Governor in Council
of Fort St George its
Dependences

CHIEF SECRETARY
19 JUL 1898
GOVERNMENT OF MADRAS

The humble Petition of H. Coarua
May Late H. Constable No. 119
of the Archal Police Station
Quilon Division
Travancore

Most Respectfully Sheweth

That in forwarding herewith
Copies of the Petition addressed to the
Division and the British Resident of Travancore
Petitioner humbly begs to draw the attention of
your Excellency in Council to the arbitrary
and oppressive orders of those authorities declining
interference with the legitimate prayer of
Petitioner for restoration to his former substantive
appointment as set forth in the Endorsement
likewise enclosed.

That the judgement of the
Local High Court on which these authorities
rely will be found on careful perusal

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Poll
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Shalit cannot further

The probability of
his having not undergone
beyond the ground

That the provision of Law
is that in cases of erroneous
the remedy lies with the local
out.

the Local Government and the Political Agent have declined to grant relief on a clearly erroneous conviction.

For which act of grace
I shall ever pray

M. A. D. 10905
31st Aug 10905

உதவி-மாண்புமிகு பேரவைத் தலைவர் அவர்களே

Judicial Dept 981

CURRENT NO. 3467

From,
H. Easura Pillay
Late Head Constable no. 119,
of the Archal Police Station,
Travancore.

Dated 31st Aug 1895
Recd 19th July 1895
Rys 20th
Enc.

Subject
Submitting a petition appealing
against the order of the Dewan
the British Resident in Travancore
dismissing ^{him} from service and
praying that he may be
restored to his former appointment.

H. E. the Governor.
Mis 72nd August 1895
ORDER No. 507. Criminal
The Govt. declines to
interfere on behalf of the
petitioner
Dd
31/7/95
C.S.
26.7.95

no. -
Petitioner (a) Mro' the Resident.
in T. & C. (M.S.)
Note The case against petitioner
was a clear one & there are
no grounds for interference
there whatever. The
C.S. 26.7.95
At the remarkably light
before the Comr.
31/7

Pl. Cancelled & No. + say R.M.
WITH ORDER

When given for copying
When copied
When examined
When signed

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO G. No

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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IN ORIGINAL.

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