M.R.O. 14—13,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1573 Press ~~Mis.~~

28/. 28.

Dated 27-8-~~19~~1863

Not to be folded or roughly handled

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Proceedings of the Madras Government, Revenue Department, 27th August 1863.

No. 281. Read the following Proceedings of the Madras Government in the Judicial Department :—

Declining to interfere with the decision of the High Court, directing the dismissal of Ramasawmy Ayer, Tahsildar of Mannargudi Talook in Tanjore. } (Here enter 18th August 1863, No. 1,323.)

No. 282. ORDER THEREON, 27th August 1863, No. 1,573.

Communicated to the Board of Revenue for information.

(True Extract.)

Deputy Secretary to Government.

To the Board of Revenue with Proceedings Judicial Department, No. 1,323.

Exd. S. T. Augustin.

JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers :—

To THE RIGHT HONORABLE THE GOVERNOR IN COUNCIL,

Fort Saint George.

The humble petition of RAMASAWMY IYER, late Tasildar and Sub-Magistrate of Munnorgoody in the District of Tanjore.

SHEWETH,

1. That your petitioner begs to submit the following appeal to your Excellency in Council, from the enclosed orders of the High Court of Madras directing his summary removal from office for supposed impropriety of conduct in his capacity of 2nd class Subordinate Magistrate of the said Taluq.

2. Enclosed also are the letters of the Acting Collector and Magistrate of Tanjore upon which the Proceedings of the High Court are founded, and my defence given before the Acting Magistrate.

3. To the above documents and to the following explanation of your Petitioner in exculpation of his conduct, he ventures to solicit that consideration and attention of Government which they are ever ready to show to their aggrieved servants.

4. The High Court begin by remarking that the outrage forming the subject of the Acting Magistrate's report has been most inadequately punished; but as that punishment was accorded by the Deputy Magistrate in charge of the Taluq, and confirmed by the Acting Magistrate, your petitioner has only to state that the remark does not affect him.

5. The High Court next remark that "The matter (of the alleged outrage) was immediately reported to the Sub-Magistrate, and a regular complaint was made on the succeeding "day. Instead of proceeding in the matter, he delayed the inquiry under the pretext that he "required the pecuniary value of the injury to be stated. This defence is not only, as the Acting "Magistrate shows, manifestly false, but it would, if true, show that the Sub-Magistrate is so "ignorant of his duties as to merit removal. It would be equally intelligible for a Magistrate, "before whom an information for murder was laid, to postpone action until informed of the "value of the clothes of the deceased." It is true that the matter was reported to your petitioner on the 14th of July 1862. On talking it over to the Sub-overseer, who brought the Yodast, he (Sub-overseer) was ignorant of the exact amount of the damage that had been done, and your petitioner, believing in good faith that it was necessary to know the precise amount of the damage asked the Sub-overseer to proceed to the spot and ascertain particulars and thus come prepared next day to state the complaint. He accordingly came next day and gave a deposition in which he stated the damage at 50 Rupees, which he was not able to do the previous day; and therefore your petitioner's defence, which the High Court state was manifestly false, was not so. On this point, your petitioner, need only refer to the Sub-overseer's deposition.

6. As to your petitioner's ground for considering it necessary in the first instance to ascertain the extent of the damage, he begs to refer to sections 426 and 427 of the Indian Penal Code, the latter of which expressly applies to cases of damages to the amount of 50 Rupees and upwards, while the former to cases where the damage is under that limit. And under each of these sections, the Procedure is different, the law requiring only a summons to be issued in complaints under Section 426, and a Warrant in those under 427, Again, complaints under the former Section are adjudicable by *any Magistrate*, while those under the latter are triable only by a *Magistrate of the District, or Sub-Magistrate of the first Class*; and unless, your petitioner knew under which of these the complaint fell, he could not possibly know under which Chapter of the Criminal Procedure Act (XXV of 1861), whether Chapter XII or XV, he was to proceed. It was under such consideration, that your Petitioner hesitated to enter into an inquiry at once, and asked the Sub-Overseer to ascertain the amount of damage; and notwithstanding the remark in the High Court's Proceedings to the contrary, your petitioner is still unable to see how he was wrong in his view, and wrong to such a degree as to merit removal on that score. It would be the height of presumption and disrespectful in your petitioner to say any thing in such a matter in opposition to so high an authority

as the Highest Court of Judicature in the Presidency, but, in self defence your petitioner is constrained to submit to your Excellency in Council, whether there is any parallel whatever between a case of mischief, in which the extent of punishment and the mode of procedure are, by law, expressly made to depend upon the amount of damage done, and the hypothetical case of murder, and the value of the clothes of the deceased, to which the High Court refer in their Proceedings, in condemnation of your petitioner's conduct.

7. If, in offering the foregoing explanation, your petitioner has succeeded in showing that he acted *bonâ fide* in considering it necessary, in the first instance, to ascertain the value of the damage reported, and in accordingly postponing action for a day for allowing of that point being ascertained, the conclusions which the High Court draw from his conduct in that respect, taking it in connection with certain collateral circumstances, lose much of their force. The Court allude to the wealth of the defendant, implying thereby that your petitioner must have been influenced by the man. It is true that the said defendant Rama Iyen is a large landholder in Munnorgoody, and he holds a good social position; but your petitioner begs to assure your Excellency that his wealth is a mythic.. His is in a state of great indebtedness, but unfortunately this is a point not susceptible of easy proof, and your petitioner's assertion, put in opposition to that of so high an official as the Acting Collector to the contrary, cannot, your petitioner is aware, carry any weight. But however this may be, the fact of the said Ramyyen having been eventually committed to the Deputy Magistrate's Court for trial by your petitioner himself and of his having been convicted thereon the evidence recorded in the investigation held by your petitioner, show, he presumes, that his sympathy was not at all with Ramyan in the sense, implied by the High Court; and if further proof were wanting, your petitioner would mention the fact that only just prior to his removal from office, your petitioner tried and committed the said self same Ramyan to the Sessions Court on a charge of his having abused his powers as Village Moonsiff.

8. The Court next advert "to the efforts of which they think that the subordinate "Magistrate's subordinates were fully cognisant being made to buy off the evidence." On this point your petitioner will only state that no information was laid before him by the Police or others of the attempt to bribe one of the witnesses in the case; that at the time this attempt was being made, your petitioner had entered upon the investigation for having delayed which for a day he has since been taken to task so severely; that the party attempted to be bribed was a principal witness in that investigation, and had failed to attend in obedience to a summons, and that a warrant had consequently to be issued. This was the simple truth, and your petitioner will only further submit to your Excellency whether if he was at all in the secret as alleged, *i. e.*, if he connived at the attempt to bribe the witness, whether in such case your petitioner would send a warrant to disturb Ramyan's agents and the witness Ponniya Pillay in the midst of their negotiations. Your Petitioner fails to see what he would have gained by trying to get the witness out of the Police Inspector's hands for the time, which is the interpretation placed by the Acting Magistrate on the issue of the warrant, when there was nothing to prevent the Inspector following the witness and concluding the inquiry in the Taluq Cutcherry itself before and in spite of your petitioner, if he was thought to thwart the Police. This indeed was the proper course for the Inspector and not to detain Ponniya Pillay in opposition to a Magistrate's warrant; and the Acting Collector, it will be seen, admits that your petitioner had to send three different persons for the witness.

9. The last attendant circumstances to which the High Court refer as rendering your Petitioner's conduct in delaying to take action in the Tunnel Case, one of gross impropriety is "The absconding of the principal offender." Your petitioner denies that he timed his proceedings so as to allow the principal offender, Ramyan's son, to escape. The delay of 24 hours your petitioner has already explained. The three days which were allowed for the appearance of witnesses, on which the Acting Magistrate lays some stress, were wanted for other cases and for other business pending in your petitioner's office on the Revenue and Magisterial sides; and your petitioner need hardly submit that in every well-regulated office it is essential that too many cases should not be brought on for hearing or too many individuals congregated

together at the same time, to the inconvenience both of the people and of the officials, but that the appearance of parties should be so timed as to admit of due attention being given to the various matters coming before a Tahsildar particularly in so large a District as Tanjore. It was with this, and this view only, that three days were allowed for the appearance of the witnesses in the case in question. Such time is allowed as a matter of course in every public office according to circumstances, i. e., with reference to other cases on the file at the time and the press of other work; and your petitioner had no reason whatever to apprehend that the case in question would assume the features or reach the proportions it afterwards did to induce his setting aside all other work to take up this one instanter. The "High Court themselves indeed "do not disapprove of the investigation having been delayed until all the cases had been "disposed of. Officers whether Native or European, they add, should never be wantonly har- "rassed until there is clear ground for calling for explanation, and tardiness in entering upon "such an enquiry is very preferable to precipitation". It seems, after this, your petitioner respectfully submits, inconsistent to say that your petitioner's "dilatoriness was intended to "furnish the principal offender the opportunity to escape." If your petitioner had any intention whatever to favor the escape of Ramyan's son, and had been in communication with him on the subject, by far the simplest plan would have been not to give three days time for the case to come on and thus lay himself open to animadversion, but to advise the offender to escape on the night at least of 15th immediately after your petitioner had taken the prosecutor's deposition and seen what the nature of the case was, and summon the parties to appear next day. Your petitioner trusts that your Excellency will see no such trace of prearrangement in the fact of his having given, in the ordinary course of business, three days time for the case to come on and for the offender having escaped two days before the time so fixed.

10. The truth of the matter is, escaping to Karical is a favourite mode of avoiding, for the nonce, any pressure brought to bear on the Tanjore Mirasidars, as deserting to Pondicherry is with the people of South Arcot; a pressing demand for a private debt or the public Kist or a warrant for apprehension, is sufficient to drive a man to Karical for the moment without a thought for the future. The Government must be aware that when called upon to sign the survey accounts in the time of a former Collector, the Mirasidars affected escaped bodily to Karical. Your Petitioner ventures to put it to the present Acting Collector Mr. Morris whether in a Magisterial case, before himself when he was Joint Magistrate at Mayaveram in which a powerful influential and wealthy landholder of the Sheally Taluq named Ramyan, was charged with an offence, that landholder did not escape to Karical, and whether the case is in consequence still pending unsettled on the joint Magistrate's file. Besides, your petitioner would be extremely foolish to advise such a step as escape to Karical on the part of one whom he wished to favor, when it is known that all his property in the District would be liable to attachment and confiscation under the law.

11. In the 4th paragraph of the High Court's Proceedings, it is stated as a further reason for your petitioner's unworthiness to remain in public employ, that your petitioner is reported by his official superior Mr. Morris, "As a man bold and unscrupulous," and that he is further shown "to have exhibited that boldness by traversing the District with one already punished" for misconduct. On the first part of this, your petitioner has only to submit that if an opinion of an individual Officer such as that expressed by the present Acting Collector of Tanjore as to the character of a servant in the position of a Taluq Tahsildar and Magistrate who has faultlessly served the Government for 16 years is considered by your Excellency to be sufficient to deprive that servant of office, your petitioner will rest content with the decision. He only begs leave to submit, for the perusal of Government, the accompanying certificates testifying to your petitioner's antecedents. Mr. Morris cannot have personally known your petitioner for more than 3 years out of the 12 during which he states he has known him.

12. In regard to the charge that your petitioner has been traversing the District with a person already punished for misconduct, your Petitioner begs to state that, that person was lately the Taluq Dufladar. Your petitioner denies that he ever associated with this dismissed Peon. The difference in their social positions is in itself sufficient to forbid such a thing. Further your

petitioner can have no possible motive in going about with him; but this much the petitioner knows to be the case, that the Peon, still in hopes of re-employment, keeps hanging about the Acting Collector's the Deputy Collector's and Taluq Cutcherries; and if inquiry were at this moment made, the probability would be that he would be found among a crowd of Woomaduvars at the Collector's Cutchery plaguing the Collector to re-employ him.

13. What the Acting Collector calls in his letter an important Government work is in reality no Government work at all. It is entirely and exclusively for the benefit of the Sub-Engineer Achuta Naidoo's village of Kudithangichery. He, by the opportunities and influence he possesses as Sub-Engineer in charge of the Taluq has been able to devise and to obtain sanction for carrying out the work for the benefit of his own and to the detriment of surrounding property belonging to other Mirasidars, and your petitioner confesses that it appeared to him, as it did and does to others in the District, that a public servant holding the office and enjoying the opportunities as Achuta Naidoo does, should be able to project, and carry out, with impunity plans for the improvement of lands acquired by him in the Taluq in which he is employed, to the manifest injury of other's interests, but this knowledge of unfairness did not deter your petitioner from doing his duty.

14. It will occur to your Excellency in Council as strange that if your petitioner's conduct in the Tunnel case was open to the suspicion which the Acting Collector has since represented it to be, nothing was said about it by the Deputy Magistrate when disposing of the Case or by the Acting Magistrate himself when he reviewed it on appeal, but that action was taken and proceedings commenced some 6 months after the case had been closed and finally disposed of. It would be unbecoming on the part of your Petitioner to say any thing regarding the character of the investigation held by the Acting Collector, but an inspection of the record of the inquiry, and my defence, would show the animus with which it was conducted.

15. Under these circumstances, your petitioner begs that your Excellency in Council will give an attentive consideration to all the bearings of the case, and the very slender grounds on which he has been deprived of office with a stigma on his character on the mere suspicion and surmise, and direct his restoration to the situation from which he has been so inconsiderately and summarily removed, or, in the event of any doubt remaining upon the mind of your Excellency as to the propriety of restoring your petitioner, you will be pleased to order the whole Record of the Case to be gone into by the full Court including the Judges of the late Supreme Court.

And your Petitioner shall ever pray.

MADRAS, *3rd June* 1863.

TO HIS EXCELLENCY THE GOVERNOR IN COUNCIL,

Fort Saint George.

MOST HONORED SIR,

With consummate diffidence and humiliation, I beg leave to bring the following few lines before your Excellency's benign notice.

I have on the 3rd instant, addressed an appeal petition to your Excellency in Council against the decision of the High Court, dismissing me from my post of Tahsil and Sub-Magistrate As some of the facts I am desirous of laying before your Excellency in Council, are not therein mentioned, I request that this petition may be taken as a supplement or in conjunction with my former one.

(1). I have drawn out Memoranda of the (11) eleven depositions taken by the Acting Magistrate to ground my dismissal upon. Of these the (9) nine noted in the margin concern only the charge brought against me of having altered a warrant, and the remaining two of the Sub-Engineer and Sub-Overseer go to prove the charge of partiality. As stated in paragraph 8 of my first petition, the first charge was caused by the Sub-Engineer and Police Inspector having prevented on the 18th June the serving of a warrant issued in the name of one Ponniah Pillay, witness in the case of Tunnel breaking, who

That of Police Inspector Muttialoo Naik..... 1
" " Ponna Pillay 2
" " Govinda Pillay 3
" " Authimoolum 4
" " Perumaul Naiken... 5
" Constable Sambasiva Iyen 6
" " Namasevaya Naiken 7
" Duffadar Dorasawmy Naiken..... 8
" Dufterbund Srinivasa Iyengar 9

did not obey the summons. It, the warrant, has accordingly been returned by the Police on the next date, and has been sent to the then Deputy Magistrate with the records connected with the Tunnel breaking case. While the Sub-Engineer, &c., are liable to be punished for having prevented the serving of the warrant; that circumstance was neither inquired into at the Deputy Magistrate's office, or on appeal, in the Acting Magistrate's Court, nor has any decision been passed upon it in either place. The return of the warrant will clearly testify the truth of the above facts. To ward off this blame, the Sub-Engineer, &c., tried their best, and first brought upon me a charge of having changed a warrant. Though they and their subordinates gave several proofs for that charge, it was decided to be a false one. While the inquiry was being prosecuted the Police Inspector persuaded the Constable, who is the 6th witness, to give evidence against me. I then requested the Acting Magistrate to inquire into this matter; but no inquiry was conducted about it. The deposition of that witness will prove to your Excellency in Council that my above assertion is nothing but truth; moreover having got into my possession a letter and a self written Memorandum,, sent by the Sub-Overseer (11th witness) to the 7th witness, Police Peon Namasivayen, the returner of the said warrant and the principal witness in this Case, persuading him to give evidence against me, I showed them to the Acting Magistrate and requested that an inquiry may be conducted at least about this, but nothing took place. I believe that the enclosures marked E, F, will by themselves place the above assertion beyond all doubt.

(2.) For the second charge of partiality, there were two witnesses; one the Sub-Engineer, who is my enemy and who prevented the serving of the warrant in the first case, and the other the Sub-overseer, who was his comrade in the above preventive act, and who tried to dissuade a witness. The Sub-Engineer states in his deposition on being questioned by the Acting Magistrate, that it appears as if acted unfairly in the case. Thus even in that the blame is not directly laid upon me. Neither is the charge proved in any other way. This deposition does not at all agree with that of the Sub-Overseer; nay in some places, one is quite at variance with the other. I am therefore still at a loss to know what was the ground of the Acting Magistrate's having formed a bad opinion about me on two such depositions, and of his having reported it to Higher Authorities. I humbly request your Excellency in Council to Judge for yourself what ground there was in these two depositions to make the Acting Magistrate to write a very bad report about me as appears from the order of the High Court.

(3.) Though I have set up in my first petition my arguments against the fact that I have near me a man who has suffered punishment, found in the High Court order as being stated by the Acting Magistrate, yet I am not inclined to conclude this petition without slightly bringing it again to the notice of your Excellency in Council. If the above fact were true is it not right to expect that it would be touched upon by any one in the records connected with this inquiry. Or is it not just that the Acting Magistrate should, if he has any doubt of the same, question me about it and take down my defence regarding the same. While neither was the case, it is extraordinary to find how this was joined as a charge only in the reports of the Acting Magistrate.

My ultimate object in stating all these facts is to show that the opinion arrived at by the Acting Magistrate is not at all in accordance with the records connected with the inquiry, and that the cause of my dismissal is nothing but the displeasure of the Acting Magistrate.

I therefore beg of your Excellency in Council to bestow some pity on me who has suffered from such injustice and restore me to my post as Tahsildar of Mannargoody.

மடசாயி ஐயர், மாஜி. சப். மே.

15th July 1863.

Proceedings of Government in the Revenue Department.

Sanctioning on the recommendation of the Board of Revenue, the appointment of Rajahgopala Charry as Tahsildar of Manargoody, subject to the result of the appeal which the Tahsildar and Sub-Magistrate has preferred to Government in the Judicial Department.

(Dated 21th July 1863, No. 1,385.)

ORDER THEREON, 18th August 1863, No. 1,323.

The Governor in Council has carefully considered the papers relating to this Case, and is of opinion that there is no ground for interfering with the decision of the High Court, directing the dismissal of the Petitioner from his office of Sub-Magistrate of the Manargoody Talook of the Tanjore District.

2. The Governor in Council also approves the order of the Board of Revenue, forbidding the transfer of Ramasawmy Iyer to the Salt or Customs Department.

3. Orders will be issued in the Department of Public Works with a view to inquiry being made regarding the lands held by Sub-Engineer Atchuta Naidoo in the Manargoody Talook.

(True Extract.)

Chief Secretary.

To the Magistrate of Tanjore,
(with record returned.)
„ Public Works Department.
„ Revenue Department. ✓
„ Honorable the Judges of the High Court.
To Ramasawmy Iyer,
(with four documents returned.)

Exd. T. Dunn.

Rev. 1863 Dept.
Proceedings
No. 2019.

Proceedings of the Madras Govt. on the Ind. C. Office Letter

Dated 18th August
Received 25th " 1863.

No. 1323.

From C.W. Dept. of Rev. 63
No. 3003
From P.W.D. 8/7 Dec. 63
C. No. 93

Declining to interfere with the decision of the Bengal Council declaring the decision of the Commissioner of Salt & Customs in favour of the Zemindar of Jeypore.

No. 1573. 27th August

Withdrawn order

No. 1573

Communicated to the Board of Revenue for information.

C. G. (W)

Fort St. George
27th August 1863.

5 Copies to the Bengal & Bombay Govts. No. 1323. 1573
Dept. 27 Aug.

Ind. C. Cons. 63 No. 471-472.

No. 281 & 282.