M.R.O. 14—13,000—27-9-34.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 18	Press ~~Mis~~
3rd. 35	
Dated 6-1- ~~19~~ 1862	

Not to be folded or roughly handled

Read

Proceedings of the Madras Government, Revenue Department, 6th January 1864.

No. 34. Read the following Proceedings of the Madras Government in the Judicial Department :—

Declining to act on the recommendation of the Magistrate of Nellore to dismiss Nyapathi Kistna Row, Sub-Magistrate of Ongole, from his appointment. } (Here enter 23rd December 1863, No. 2,010.)

No. 35. ORDER THEREON, 6th January 1864, No. 18.

Communicated to the Board of Revenue for information.

(True Extract.)

(Signed) C. G. MASTER,

Deputy Secretary to Government.

To the Board of Revenue, with Proceedings Judicial Department, No. 2,010.

Exd. S. T. Augustin.

JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from J. W. B. DYKES, Esq., Magistrate of Nellore; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Judicial Department, Fort Saint George, dated Nellore, 10th December 1863, No. 33.

Nyapathi Kistna Rau, Sub-Magistrate and Tahsildar of the Taluq of Ongole in this District, having been tried and acquitted on two separate charges* of a corrupt and malicious exercise of his authority as a Magistrate, to keep persons in confinemont, I submitted† for the consideration of the High Court, whether it was right that he should be allowed to remain a Sub-Magistrate, as the Court in acquitting him had observed,‡ his conviction would have been a certainty under a differently framed indictment, and the Court had not remembered till too late the provisions of Section 244 of the Code of Criminal Procedure.

* Cases Nos. 63 and 64 on the file of the Sessions Court of Nellore. The calendars in which cases are forwarded herewith, and requested to be returned when no longer required.

† 13th October 1863, No. 223.

‡ No. 63, 20th and 21st paragraphs.

2. The Proceedings of the High Court in reply, ruling that the Judges could not interfere on the "extra Judicial remarks" of the Sessions Judge, &c., reached me just as a material witness in both the cases was being tried for perjury.. And the man (the Tahsildar's Gumastah) having been convicted,§ I again addressed the High Court,¶ and submitted for the consideration of the Judges, whether it was to the public interests, that the Sub-Magistrate who had escaped Jail by an accident, or by perjury, should return to his Taluq to administer justice.

§ Cases Nos. 100 and 101 of 1863, on the file of the Sessions Court of Nellore. The calendars in which cases are forwarded herewith, and requested to be returned when no longer required.

¶ November 11th, No. 242.

3. I also submitted‖ for the consideration of the Judges, whether the case ought not to be viewed with reference to the *right* the public have to be assured as far as possible, of the integrity of every Officer exercising the powers conferred on a Sub-Magistrate.

‖ Paragraph 4.

4. And the High Court, in answer to this second application, having replied** that they deem themselves precluded from taking cognizance of such questions, and that the proper course for me to pursue is to address the Government direct, I do myself the honor to submit accordingly for the consideration of Government the correspondence, &c., referred to.

** 25th November 1863.

5. Hearing that the Sessions Judge, Mr. Story, who tried the Sub-Magistrate, had also written to the High Court to urge his dismissal, I applied for a copy of the letter and beg to submit the same†† with the other records.

†† 7th November 1863, No. 85.

6. And the whole case being fully set forth in these records, I shall perhaps be only swelling a somewhat bulky correspondence, if I again go over the details. And I will therefore simply submit as directed by the High Court, for the orders of Government, whether it is fit that a man should remain Sub-Magistrate, who, had he got his dues, would now be in Jail for gross oppression, and in the opinion of the Sessions Judge, who tried him, the Joint Magistrate, who committed him, and myself who have known him for four years, is wholly unfit for the post. He is no ways deficient in abilities. But his character is scandalous; and I strongly recommend his dismissal.

ORDER THEREON, 23rd December 1863, No. 2010.

The High Court having, on a review of the evidence in the cases referred to, declined to order the dismissal of Nyapathi Kistna Rau, Sub-Magistrate of Ongole, the Governor in Council is not prepared to act on the Magistrate's recommendation.

2. If the Magistrate has other reasons for considering it undesirable that the Sub-Magistrate should resume his office, the specific instances in which the Sub-Magistrate has shown himself unfit for his appointment should be laid before the Board of Revenue who have been authorized to deal with such cases.

(True Extract.)

Chief Secretary.

To the Magistrate of Nellore,
(with four enclosures returned.)
" Revenue Department.
" Honorable the Judges of the High Court.

Encl. T. McMootry.

Revd 1864. Dept.
Pro: of Govt for Jany.
No. 22.

Proceedings of the
Madras Govt in
the Jud. Dept.

Dated 23d. Decemr/63.
Received 4th Jany 1864.
No. 2010.

No 18.

Communicated to the
Board of Revenue for infor-
-mation-

Fort St George
6th January 64

To Collector & Dt Board
with Dy Sec. 2010 3 Comps 6 Jany

To obtain to act on
the recommendation of
the Magistrate of Chittoor
to dismiss Nyapathi
Histon Row, Sub Magistrate
of Congeo from his appoint-
ment.

No. 34 & 35.

No 18. 6 Jany
William Oaten