

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1757

~~Press~~
~~Mis.~~

624 626

Dated

31-7-1867.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
31st July 1867.*

No. 624. Read the following letters:—
From the Inspector General of Police, to the Acting Chief Secretary to Government,

Fort Saint George, dated Kotagherry, 5th July 1867, No. 1,155.

1. The question has arisen at the Mount whether a charge of nuisance, preferred by the Police Officer in charge of a Police Station to a Magistrate, is subject to the Stamp Act.

2. Public nuisance (Section 290) is not an offence for which the Police may arrest without warrant under the Indian Penal Code.

3. Under the Police Act (Section 48) a person may be arrested without warrant if the offence be committed *in view* of a Police Officer, not otherwise; and many cases are prosecuted in which this condition of arrest is not and could not be enforced.

4. Under the 'Towns' Improvement Act, Section 134, the Police may arrest without warrant, but the usual course is to take out a summons. To enforce arrest by the Police without warrant in all cases would, I am sure, be a most unpopular measure, and arrests are now deprecated departmentally.

5. I do not think that such reports and charge sheets can be brought within the operation of the Stamp Act. But I beg the instructions of Government for the guidance of the Police.

Referred for the opinion of the Advocate General.

(Signed) W. HUDLESTON,

Secretary to Government.

10th July 1867.

No. 625. From the Acting Government Solicitor, to the Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 29th July 1867, No. 506.

1. I have the honor to acknowledge the Order of Government noted in the margin, referring, for the opinion of the

Dated 10th July 1867, and made on letter from
Inspector General of Police to Government, of
5th idem, No. 1,155.

Advocate General, the question of stamp on a charge of nuisance preferred by a Police Officer in charge of a Police Station to a Magistrate.

2. I have submitted the matter for the consideration of the Acting Advocate General; and

3. I now forward a copy of his opinion, and return the Order above noted.

OPINION.

If a petition or application in writing were presented to a Magistrate, which contained a complaint of an offence under Section 290 of the Indian Penal Code, I think it would require a stamp of one Rupee under Clause 10 of Schedule B. in Act XXVI of 1867. But it would be open to the Court, under the exemption appended to that Clause, to exempt it from Stamp duty.

(Signed) J. D. MAYNE,

Acting Advocate General.

27th July 1867.

(True Copy.)

(Signed) H. J. BROCKMAN,

Acting Government Solicitor.

Proceedings of the Madras Government, Revenue Department,
31st July 1867.

No. 626.

ORDER THEREON, 31st July 1867, No. 1,757.

Separate Revenue, No. 36.

Stamps.

1. The opinion of the Acting Advocate General will be communicated to the Inspector General of Police, and the papers will be forwarded for the consideration of the Government of India, with the recommendation that pending the amendment of the Stamp law, an order be issued under Section 2, Act XVIII of 1865, exempting from Stamp duty all charge sheets laid by Police Officers before Magistrates in cases in which they are not competent to arrest without warrant.

2. This Government cannot suppose that it was the intention of the Legislature to hamper the operations of the Police by the imposition of a Stamp duty on their official reports and informations to Magistrates, while it is observed that the exemption, provided for special cases at the discretion of the Court, can only operate in the form of a refund of Stamp duty already paid.

(True Extract.)

(Signed) W. HUDLESTON,

Secretary to Government.

To the Inspector General of Police,
the Acting Government Solicitor,
the Board of Revenue,
the Judicial Department.

Copy Opinion.

In my opinion all parties who receive payments from the Administrator General whether as Creditors, Legatees, or entitled in distribution, are bound to give receipts with the proper Stamps impressed or affixed, one or other, but which is matter of indifference.

It seems to me matter of perfect indifference whether the Administrator General has his Receipt Book stamped, or purchases adhesive Stamps.

As regards the Cases specified in Para. 4 of the Administrator General's letter, it appears to me that when Money once comes into the custody of any Officer of Government, whether Administrator General, Military Secretary, Accountant General, or Sub Treasurer, for the benefit of, or on account of an Estate, it must be considered as in the custody of Government until the Administrator General pays it over to the party entitled, whether in distribution, or as a Creditor or Legatee. I do not think that Government by making Rules that one Officer shall transfer money to another, merely changing the custody, or rather the person or title where such Custody is, can entitle itself to claim a Stamp upon each such

such transfer — but in all cases where any ordinary Executor or Administrator would be bound to give a Stamped Receipt, as far as half yearly interest on Government Promissory Notes or the like, then I am of opinion the Administrator General is bound to give one also.

When the Administrator General makes payments, the person receiving the same must bear the expense of the necessary Stamp; when he receives payments, he must give a properly stamped receipt, charging the value of the Stamp to the Estate receiving such payment.

/Signed/ Tho^d Sydney Smith
Adm^r Gen^l

October 15th, 1860.

/True Copy/
A. Boyson
Gov^r Sol^r

Opinion

I have already given an opinion on a precisely similar question, upon a reference from the Inspector General of Police, answered this day. I need only observe further that the power of exempting from stamp duty is one reposed in the discretion of the Court, and should be exercised with reference to all the circumstances of the case. Where the complaint is preferred by a public officer on public ground, and is in itself a proper one, I conceive the Magistrate would be fully justified in exempting from stamp duty.

/Signed/ John D. Mayne

Ag. Adv. Gen.

July 27 /67.

(True Copy)
A. Brothman
Clerk of Court

22.1757.

In opinion of the Regt

Ad. Gen. Sir John Murray
the Subj. of the Regt - A
the person who is known
for the crime of the 1st
of June. with the Regt.
that finding the amount of
the Stamp last amount to
issued under the 2. Act of
1853. Remitting from Stamp
the charge sheet laid
by the officers before the
in cases in the Regt. not
impossible to arrest the
warrant to his for. cause

W. J.

Suppose that it was the
intention of the Legislature
to transfer the operations
of the Office by the imposition
of a stamp duty on this
official reports & information
& duties. While it is
stated that the exemption
provided for special cases at
the discretion of the Court can
only operate in the form
of a refund of stamp duty
already paid.

James Latta Inspector General of Police
Attest: 31st July 1871
Attest: 31st July 1871
Attest: 31st July 1871
Attest: 31st July 1871

15/10/35

Rev. O. V. Prasad
P. O. of Cankar, July 20th 1947.
From acting Secy to Govt.

Madras

To Secy to Govt. Rev. Dept.
Madras

Dated 29th July
Recd 30th July

No. 586

(2 Encls)

Forwards acting as directed
Govt's opinion relative to the
question of stamp on charge
of insurance effected by a Police
officer in charge of a Police
station to a magistrate, and
return the order of Govt.

29th July 1947

N: 624 @ 626