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Proceedings of the Madras Government, Revenue Department,
20th March 1873.

No. 210. Read the following Proceedings of the Board of Revenue, dated 21st February 1873, No. 257 :—

Read the following letter from C. T. LONGLEY, Esq., Collector of Salem, to the Secretary to the Board of Revenue, dated 20th January 1873, No. 11 :—

With reference to the endorsement on Board Petition No. 2,928 of 1872, (herewith returned,) I have the honour to request you will inform me on what points the Board desire me to report.

2. The whole history of the case is contained in the records submitted by the petitioner, and the circumstances connected with it are fully stated in my letters to the High Court.

Enclosure No. 1.—Petition.

One Hanumuntha Naidu, the Police Station officer of Shendurmungalum, Namcul Taluq, Salem District, was accused by a ryot of that village of having hushed up a case of theft. The Deputy-Magistrate directed petitioner, the Tahsildar and Sub-Magistrate of Namcul, to inquire and report, which he did to the effect that the accusation was false. However the Deputy-Magistrate held a trial himself and sentenced Hanumuntha Naidu on May 9th, 1872, to 25 days' imprisonment and a fine. He was accordingly sent to the Sub-Magistrate's Jail.

2. Two days afterwards he was removed to the Dispensary as being sick without any order from the Tahsildar or Sheristadar, the former of whom was absent on circuit. Hanumuntha Naidu remained in the Dispensary till the expiration of his sentence on June 3rd, when he was brought before petitioner for formal release. On inquiry, petitioner thought the fact of Hanumuntha Naidu having spent nearly all his time in the Dispensary instead of the Jail looked suspicious, and after some delay released him, but required him to enter into recognizances and to get bail to appear when called on.

3. Meantime Hanumuntha Naidu had appealed to the Sessions Court, and on the 12th August 1872 the Judge reversed the Deputy-Magistrate's sentence and censured his proceedings, at the same time remarking that "the appellant had been made the victim of some party feeling or spite against him." It appears also that the Judge requested the High Court to dismiss petitioner from his post as Sub-Magistrate.

4. On this appeal decision being passed, the Superintendent of Police directed the arrest, without warrant, of petitioner for wrongful restraint and confinement.

5. The case came before Mr. Knox, the Assistant Magistrate, who dismissed it and discharged petitioner under Section 250, Civil Procedure Code, without even formally charging him.

6. On September 13th, the Sessions Judge reviewed the Assistant Magistrate's proceedings, disagreed with his finding, and censured his conduct in the case.

7. The Assistant Magistrate then wrote to the Magistrate of the district requesting him to refer the proceedings of the Sessions Judge to the High Court in order that the censure might be cancelled.

8. The Magistrate of the district did so, and also referred the appellate proceedings of the Judge mentioned in Section 3.

9. On November 13th the High Court reviewed both cases together, and disapproved of the tone of the Judge's proceedings, stating also that petitioner had been sufficiently punished for any error he had committed.

10. The Magistrate of the district also wrote to the Inspector-General of Police objecting to the Superintendent of Police having arrested petitioner without warrant, inasmuch as he was a responsible Government servant and not likely to abscond.

11. The Inspector-General of Police agreed with the Magistrate of the district and communicated to the Superintendent of Police his disapprobation of his conduct in the matter.

12. The Board feel bound in justice to their subordinate, the petitioner, to submit the petition for the orders of Government. They are of opinion that the conduct of the Superintendent of Police was grossly improper, and that the notice taken of it by the Inspector-General is inadequate. Mr. Longley should have brought the case to the notice of the Board on its occurrence. If petitioner still desires to leave the district, the Collector should ascertain, in communication with other Collectors, whether he can conveniently be transferred to a similar post in any of the southern districts.

No. 211. ORDER THEREON, 20th March 1873, No. 346.

Miscellaneous.

THE Board of Revenue here forward an application from the Tahsildar of the Namkul Taluq in the Salem District, praying to be transferred to a similar post in some other Collectorate. The matter is one entirely for the Board's disposal, but they have submitted all the papers in the case to elicit the orders of Government on the proceedings taken against the Tahsildar by the local Superintendent of Police; the indignities he has thereby suffered inducing the memorialist to make this application.

2. It appears that in May last a Police Constable was convicted by Mr. Pritchard, Deputy-Magistrate, and sentenced to twenty-five days' imprisonment in the Namkul Subsidiary Jail. The Tahsildar, who has charge of the Jail, discovered that the man had been an in-patient at the dispensary in the town for nearly the whole term of his sentence, and, suspecting that there was something in this which demanded further inquiry, he detained the Constable in the town for a few hours after his sentence had expired, in view to his giving security for his appearance if required. This was on 3rd June.

3. The propriety of this proceeding came ultimately under the consideration of the Session Judge who denounced it in unmeasured terms. This order bears date the 11th September; but on the 12th August the Session Judge reversed Mr. Pritchard's finding, and on the 13th idem, or two months and ten days after the event, the ex-Constable complained to the Superintendent of Police of the action taken by the Tahsildar on his release from Jail, whereupon Captain Gordon

immediately issued a Warrant for that functionary's arrest and bound him over to appear before the Assistant Magistrate on charges of 'Wrongful restraint' and 'Wrongful confinement.'

4. The Government observe that, under the new Code of Criminal Procedure, no step can be taken towards the prosecution of a Magistrate for anything purporting to be done by him in the discharge of his duty without their sanction; but even in the absence of this express provision it is a matter for extreme surprise and regret that an officer of Captain Gordon's standing and presumed experience should have acted in a manner so precipitate and improper. His Excellency in Council entirely agrees with the Board that it was the duty of the Magistrate of the district to have brought the matter at once to special notice; the more so when all the rebuke administered by the Acting Inspector-General of Police is contained in the remark that "Captain Gordon would have shown a wiser discretion had he simply laid an information against the Tahsildar." When the accused was put before the Assistant Magistrate the case was speedily dismissed, the prosecutor and his witnesses failing to make out any criminal misfeasance whatever. The High Court, it is observed, altogether approve the Assistant Magistrate's proceedings, describe the Tahsildar's demand for security as "an error of judgment" only, and declare the allegation that it arose from malice not only not proved but fairly rebutted by the circumstances of the case.

5. With this decision in his favour of the highest Judicial tribunal and with the further assurance that he has in no respect forfeited the good opinion of his immediate superiors the Tahsildar, in the opinion of Government, may well be content to continue serving in Salem, but if he deliberately prefers a change of district the Board of Revenue are ready to sanction the arrangement.

6. It remains only for the Government to consider what notice shall be taken of the conduct of the Superintendent of Police who thus arrested, without Warrant, an officer of the standing and position of the Tahsildar and Sub-Magistrate of Namkul, subjecting him to all the disgrace of such a proceeding, with no further cause than has been related above. His Excellency in Council observes that the step was absolutely unwarranted and unnecessary; and a Police Constable being the complainant it was open to the charge of partisanship. If the dignity and independence of the Native Magistracy are to be upheld such proceedings cannot be tolerated. The Government direct that Captain Cosmo Gordon be immediately transferred to another district, with the intimation that any repetition of such conduct will entail his removal from the department.

7. The Acting Inspector-General of Police, Major Drever, will be informed that his treatment of the subject, when officially brought to his notice by the Magistrate of the district, shows, in the opinion of Government, that he did not appreciate the gravity of the case; and that the Government look to him, as the head of the department, to prevent his officers from misusing their powers in this manner and to make them understand and maintain the proper position of an Executive Police towards the Magistracy. The omission of the District Magistrate, Mr. Longley, in refraining to bring the matter before Government has already been noticed.

Proceedings of the Madras Government, Revenue Department,
20th March 1873.

8. The question of the want of discipline in the Sub-Jail, which led to the detention of the Constable by the Tahsildar after the expiration of his sentence, will be considered in the Judicial Department.

(True Extract.)

(Signed) W. HUDLESTON,
Chief Secretary.

To the Board of Revenue.
,, the Inspector-General of Police.
,, the Judicial Department.
,, the Collector of Salem.

37
A

This is one of those cases which occasionally crop up and give an unpleasant insight into the [illegible] under which [illegible] live. One Thos. Hammanta Rao, a [illegible] Head Constable - was [illegible] of having [illegible] a [illegible] theft. The Dy Magt ordered the Tahsildar [illegible] Magte [illegible] to enquire into it - He threw it out - but the Dy Magt [illegible] the order [illegible] Complaint

the constable - and sentenced
him to 25 days Rigorous
imprisonment & a fine of 50 Rs.
The man was accordingly sent
to the Tahsildars jail - he was
sentenced on the 9th May - on
the 11th the Police in charge of
the jail, in the absence of
of the Police in charge - the Sheris-
tadar - took him to the Dis-
pensary - and there he remained
till his sentence & Expired - The
Tahsildar had been on circuit
at the time he came in for
a day or two & was in the

Dispensary but did not think
much of the matter - when he was
the 9th was brought to him for
formal check, a few days before
the suspicion that at his sen-
tence of 25 days rigorous imprisonment
had been passed on the Dispenser
but he had been removed by
order of the Police in the absence
the Police in the absence
he determined to look into
the matter - and sent for the
detained the Constable three
or four times in the course of
his duties, - taunting him, very
rigorous & abusive when he reached
the cell & the Constable of-

peated by the Presiding Judge
against his conviction - and
at the same time complained
of the illegal detention by the
Jailor - The Judge refused
the sentence and remanded
in strong terms on the conduct
of the Defts Counsel (Mr Mitchell)
and the Jailor.

3rd Upon the Defts of Plea
arrested the Pelts without warrant
& on a charge of Simple Assault.
His case came before the Police
Magistr who at once di-
rected it to the Judge (Mr Elliot)

Upon this a Rule of this Court
was granted Mr Keane in
Sept Term that an attach-
ment should issue against the Judge
who decided that Mr Keane
had been guilty of "an error
of judgment in demanding secu-
rity" and "that this error arose
from malice" but only that
it did not seem pretty fairly
deducible from the first Affidavit
(Pelts) that the Petitioner was

Complaint against
the Constable false!

Now here we have an
Officer of the Standing & Lobbies
of Tabbitha & Kuplets ate
of men in fact and I take
arrest without warrant
and it subjected to the
Disgrace of such a proceeding
and for no more than to
simply detaining a Con
stable during his term and
for a few hours. The Stet ens

Act which empowers constables &
watchmen - for the Watches
not intended to attend
and a Police Constable
being the Complainant -
was from the Charges & Lobbies
was false. If the Legislature
in declaring Constables
Watchmen Peace Officers
intended such Constables
to be subject -

I would therefore order
Capt. Perkins immediately
to transfer to another Ward

with the intimation that
any relentation of the charge
- shall entail his re-
- moval from the Board

B I invited the Col Drawer the
his treatment of the Negroes
when officially brought to
his notice I knew that he
did not associate at the
private of the cause - and
that it left to him to
prevent his officers from mis-
- using their powers in the

[illegible]
B/ Major Cabell [illegible] was
[illegible] and to make them
understand and maintain
- tain the proper position of
an Executive Officer towards
the Magistracy.
Mr Taylor the Magistrate -
I think been [illegible]
in attending & in the [illegible]
that the [illegible] to retain the
entitled to [illegible] part
- Lieut.

- have many been lost
since they left us to the
the right to have sought
the matter - and certainly
did Ohio's letter - come me.
- Rightly to the notice of
fact.

These are strong measures
but I consider them ab.
- Solutely necessary in justice to the
in Dividuals & the Union of
Jacob & our General Country.

There is a pressing Difficulty
on the part of the Union
to [illegible] it on the Ships they
which must be checked
and obviated - for war
and hostility in fact is the
Table a Character this for time
Ken a powerful Policy
and it is time to Interest
Majesty's Ministry. How we know
a matter of fact Treaty
States - bidding a high of.

ficer treated like a base
born rascal. and arrested
without a warrant! The
Mr Cattle of the Kandyan
Province declared that
he can be in favour of
the Ordinance if
it is to alienate the
Kandyan Province from
the Low Country. it is to create
in the Low Country the feeling of

4/

Police Force - Kandyan Police.
Mr Wille here came from
it & but here the Superin-
tendent visits and here
a Native Magistrate can
interfere only at Sessions
Circuit. If we are ever to
have a Magistracy - from &
independent in the Pro-
vince of its judicial functions
and then a Kandyan Police Force

on the very powerful Police
which we have organised.
Such conduct as this can-
-not be tolerated. The spectacle
of a Magte arrested by the Police
without warrant & for merely
keeping a Police man a few
hours in his house, demoralises
Magistracy & Police alike. I
do not think any thing less
than what I have sketched
will meet the exigencies of
the case -

Mr Langley should be directed
to enquire carefully into
the circumstances of that
Constable being kept in
the Dispensary during the whole
of his sentence of "rigorous
imprisonment" - and
also into the conduct of
the Jail Guard in removing
the prisoner from the Jail
without the sanction of
the Officer in charge - Such
entire supersession of the latter

I have very carefully considered the papers and entirely concur in the opinion expressed by Mr Lieut that Captain Como Gordon should be most severely censured and that he should be at once transferred to another district. Colonel Brewer has not dealt with Captain Gordon's conduct in the manner which it deserved & I quite agree with

is desirable to erect Barracks. The Buildings must include the absence of the Sheriff the Superintendent of the Jail - the Police have no under Ground powers of action - and it is most undesirable that they should be permitted to exercise any of they are not authorised. I should not be allowed to expend the Jail funds & work. Mr Taylor shall be told to see that similar powers are not found.

L. O.S.

I entirely agree with Mr Seeni and Kurlli: Capt Gordon's conduct is quite unnecessarily and I am most important, further general reasons

attested to Mr Sim; that it should be severely dealt with.

The Petitioner's sentence was confirmed & he had undergone it, which must have been pain him very unperfect satisfaction. Could it not have been represented before? and if not why does not the Govt defer

change &c

Mr Sim that this should be noticed by the Government.

Captain Como Gordon has given an explanation of his conduct which is most unsatisfactory. This explanation removes any necessity for calling upon him for defence before passing the orders proposed by Mr Sim

RE

5th March 73.

Revenue Department.

No. 346-

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 20 February 1873.

Read the following Proceedings of the Board of Revenue

Submitting Petition from Tahsildar of Namkal taluk, in Salem D.t, regarding treatment to which he was subjected by Police & Judicial Depts for his conduct in certain case, &c

H.E. 21 Febry: 1873, No 257.

Note. The Hon'ble Mr Sim's remarks (concurred in by H.E. & the Hon'ble Mr Ellis) are incorporated in the first paras 6 & 7. A note is appended at the end of the draft, explaining the system of Appeals from Magisterial sentences, with reference to H.E's inquiry. &c.

See Sekunta

Note

S. D. S.

W.E.

W

S. D. S.

The Board of Revenue have forwarded an application from the Tahsildar of the Namkal taluk in the Salem district, praying to be transferred to a similar post in some other Collectorate. The matter is one entirely for the Board's disposal, but they have submitted all the papers

in

in the case, to elicit the orders of Govt on the proceedings taken against the Tahsildar by the local Supt of Police, the indignities he has thereby suffered inducing the Memorialist to make this application.

2. It appears that in May last a Police constable was convicted by Mr Pritchard, Dep. Magistrate, and sentenced to 25 days imprisonment in the Nannilam Subsidiary Jail. The Tahsildar, who has charge of the Jail, discovered that the man had been an in-patient at the Dispensary in the town for nearly the whole term of his sentence; and suspecting that

that there was something in this which demanded further enquiry, he detained the Constable in the town for a few hours after his sentence had expired, in view to his giving security for his appearance if required. This was on 3 June.

3. The propriety of this proceeding came ultimately under the consideration of the Sessions Judge, who denounced it in unmeasured terms. His order bears date the 11th September, but on the 12th August the Sessions Judge reversed Mr Pritchard's finding, and on the 13th idem, or two months and ten days after the event, the Ex-Constable complained

complained to the Supt. of Police of the action taken by the Tahsildar on his release from Jail, whereupon Captain Gordon immediately issued a Warrant for that function-ary's arrest, and bound him over to appear before the Assistant Magistrate on charges of 'Wrongful restraint' and 'Wrongful confinement.'

4. The Govt observe that under the new Code of Criminal Procedure no step can be taken towards the prosecution of a Magistrate for anything purporting to be done by him in the discharge of his duty without their sanction; but even in the absence of this express provision it is a matter for extreme surprise and regret that an officer of Captain Gordon's standing and presumed experience should have acted in the hasty and improper way he did. His Excellency in Council entirely agrees with the Board that it was the duty of the Magistrate of the District to have brought the matter at once to special notice, the more so when all the rebuke administered by the Acting Inspector General of Police is contained in the remark that "Captain Gordon would "have shown a wider discretion, "had he simply laid an in-"formation against the Tah-"sildar." When the accused was put before the Assistant Magistrate

in a manner to precipitate and aggravate.

4.272

Magistrate; the case would speedily dismissed; the prosecutor and his witnesses failing to make out any criminal misfeasance whatever. The High Court, it is observed, altogether approve the Asst: Magistrate's proceedings, describe the Sub: dilatory demand for security as "an error of judgment" only, and declare the allegation that it arose from malice not only not proved, but fairly rebutted by the circumstances of the case. With this decision in his favor of the highest judicial tribunal, and with

I agree to for-
ward this letter for the
Govt. DL

5 -29-

with the further assurance that he has in no respect forfeited the good opinion of his immediate superior the Tahsildar, in the opinion of Govt, may well be content to continue serving in Salem, but if he deliberately prefer a change of district, the Board of Revenue are ready to sanction the arrangement

DS 28/2

6. It remains only for the Govt to consider what notice shall be taken of the conduct of the Supt of Police, who thus arrested without warrant an Officer of the standing & position of the Tahsildar & Sub Magr of Namkal, subjecting him to all the disgrace of such a proceeding without any further cause than has been related above. H.E. will observe that the step was

Reference from Rr —
Red — regarding the Sale
Elder of Nam Kuk,
Salem District.

Ramphal Tahsildar

6 31.7

was absolutely unwarranted & unnecessary; and, a Police Constable being the complainant; it was open to the charge of partisanship. If the dignity & independence of the Native Magistracy are to be upheld, such proceedings cannot be tolerated. He Govt. direct that Corporal Cotmore Gordon be immediately transferred to another district, with the intimation that any repetition of such conduct will entail his removal from the Dept.

7. In regard to the Rt Hon'ble the Inspr Genl of Police, Major Greven will be informed that his treatment of the subject, when officially brought to his notice by the Magistrate of the Dist., shows, in the opinion of Govt., that he did not appreciate the gravity of the case; and that the Govt confidently look to him as the Head of the Dept to prevent his officers from misusing their powers in this manner, & to make them understand & maintain the proper position of an Executive Police towards the Magistracy. The absence of the Dist. Supt, Mr Longley, in refraining from laying the matters before Govt., has already been noticed.

H.E.C. 2/3/-

Please turn over.

Mems: on the question put by His Excellency as to appeals.

There is an appeal to the Distc Magr on Divisional Mags from every decision of a Sole Magr.

There is an appeal from all decisions of Divisional & Distc Magrs to the District Judge — where the sentence exceeds 1 months imprt or 50 Dr fine.

In both cases the procedure is quite simple & inexpensive — very different from the English system; where, to bring a Magr's proceedings before the Queen's Bench by writ of certiorari requires a long purse; & besides is allowed only on points of law & material errors of procedure, not to consider the credibility of the evidence.

The delay in the present case, where the defendant had been out of jail two months when the Judge reversed his sentence, is owing to the Vacation. Defdt was sentenced to 25 days in May; and during May & June, the 2 busiest months of the year, all the chestnuts are allowed to accumulate. A man sentenced by a Divisional Magr during his term has of course no Distc Judge to appeal to till the Vacation is over.

14 Boards of Revr. Dec 21 - 45 Revd 1873
6 Magrs Police Courts
5 Divisional Magrs
5 Collectors of Salem

Case of the Tahsildar arrested by the Salem Police in Salem — Amended Sept

Govt. of {1873} Madras

REVENUE.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated March 20th.

Recd. Encl.

G. O., 20th March 1873, No. 346.

MARCH.
Nos. 210-211.

Tahsildar of Namkul in Salem District arrested by the Police.—Proceedings Board of Revenue on the application of the Tahsildar for transfer to a similar post in some other Collectorate, with orders thereon.

