M.R.O. 1—20,002—12-8-55.

(1) Number of Pages 58

(2) Date of repair 20 12 1966

(3) Initials of the Referencer

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. 1113 Press
B.P. No. ~~Mis.~~

Dated 1- 9- 1874 ~~196~~ .

Not to be folded or roughly handled

No. 13. Read the following Proceedings of the Board of Revenue, dated 21st August 1874, No. 2,349:—

Read again Board's Proceedings, dated 18th July 1874, No. 1,871.

Read also the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Cuddalore, 6th August 1874, No. 408:—

I HAVE the honor, in reply to the Board's Proceedings of the 18th July, Revenue Department, relative to the Deputy-Tahsildar and Magistrate of Bowanigiri, to forward copies of the charge sent to Tiruvengada Mudali and of his explanation, arranged exactly as he pleased.

2. The Board remark, in paragraph 2 of the Proceedings, that there is nothing but the assertion of the Gumastah and Dufterbund to prove that "Report A" of Mr. Lister's letter was not mislaid by the Magistrate at first and given to the Dufterbund as soon as it was found again; but I beg to point out that in his statement before me the Magistrate himself says that he found the report on his table on the evening of the 10th, at once initialled it, and gave it to the Dufterbund. How this statement is to be reconciled with the dates of entries in the general Register I do not see. At any rate, the Magistrate's own statement precludes entirely the entertainment of any hypothesis of his having mislaid the report.

3. Again one of the strongest points against the Magistrate in my opinion is this: if the Report A was really given in to him on the 10th, why did he not take cognizance of the charge set forth in it before the complaint of Balu Reddi, which was only given in on the following day. I doubt any Criminal Court given credence to his explanation that he thought the village-officers might have committed the offence through their official influence, and therefore took up Balu Reddi's complaint first.

4. On the whole, I cannot divest myself of the impression that the Magistrate did not receive the Report A on the date he alleges, and that he put the date "10-2-74" on it not to prejudice any of the parties in either case so much as to lead any reviewing Court to suppose that the village-officers really had complained before Balu Reddi, and therefore I think, for the Magistrate's sake, the case should be judicially investigated; because he will then either be acquitted or convicted, and in either case the result will be more satisfactory than if it were disposed of extra-judicially by the Board. A good opportunity for trying the Sub-Magistrate will occur on the arrival of Mr. LeFanu, an officer who will join the district free of all local prejudice, and who, if he finds a *prima facie* case against the Magistrate, will commit him to the Sessions, where he will have a thoroughly impartial trial.

ENCLOSURES Nos. 1 and 2.—Copies of charge sent to Tiruvengada Mudali and of his explanation.

SUBMITTED for the orders of Government.

2. The offence with which the Sub-Magistrate of Bowanigiri is charged is the fabrication of false evidence by marking a wrong date of receipt on a letter

sent to him and received by him as a Sub-Magistrate, and which he knew would be part of the record in a criminal case tried by him. Thus the act purports to have been done by the Sub-Magistrate in the discharge of his duty, and the sanction of Government is necessary before the prosecution can be instituted.

3. There seems to be sufficient *prima facie* proof that the document was received on the 15th February, that the Sub-Magistrate marked it as received on the 10th, that it was afterwards used in a criminal case to prove that the writer had complained before the 11th, and that this would have been a material fact if the case (a complaint against the writer of the document which was dismissed) had been a doubtful one, which it was not.

4. The Dufterbund and Gumastah, who are the only persons likely to know of the offence, if it was committed, say that it was committed, and an Office Register confirms their statements. If the statements are false, as the Sub-Magistrate declares, they must have been the result of premeditated conspiracy, and the Dufterbund and Gumastah must have falsified the Register; but it is difficult to believe that men determined to make a false charge at such hazards would have stopped where they did without adding the few details which could have been added easily, and would have made the case against the Sub-Magistrate infinitely stronger.

5. On the other hand, no motive for the fabrication of false evidence is proved, and the party in whose favor it was committed, if committed at all, was not unduly favored in the case in which the evidence was used.

6. The Board are very doubtful whether the prosecution will result in a conviction; but as both the Collector and the Sub-Collector think there should be a prosecution, as there seems to be no need to protect the Sub-Magistrate against prejudice or otherwise, and as Mr. LeFanu's going to the district affords an opportunity of placing the Sub-Magistrate on his trial before a perfectly unbiassed Judge, the Board think the prosecution should be sanctioned. If the Sub-Magistrate is acquitted, he will be in a far better position than if the prosecution is forbidden.

No. 14. ORDER THEREON, 1st September 1874, No. 1,113.

Miscellaneous.

THE Governor in Council sanctions the prosecution of Teruvengada Mudali, Magistrate of Bowanagiri.

(True Extract.)

(Signed) C. G. MASTER,
Acting Secretary to Government.

To the Board of Revenue.
„ the Judicial Department.

Exd. F. R. Bantleman.

Govt. of India 1874 Works.

REVENUE.

To

THE BOARD OF REVENUE.

Dated September 1874.

Read.

G. O., 1st September 1874, No. 1,113.

Encl.

SEPTEMBER.

Nos. 13-14.

Tiruvengada Mudali, Deputy-Tahsildar and Sub-Magistrate of Bowanigiri, South Arcot District.—Sanctioning the prosecution of — for having made a false entry in a public record.

No. 1,871.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 18th July 1874.

Read the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Cuddalore, 1st July 1874, No. 382:—

I HAVE the honor to forward, herewith, copy of a letter from the Acting Sub-Collector Mr. Lister, recommending that Tiruvengada Mudali, Magistrate and Deputy Tahsildar of Bhowanigiri, should be removed from that post and reduced to the position of a Revenue Inspector or Gumastah on 20 Rupees pay.

2. The facts connected with the misconduct of the Deputy Tahsildar are briefly as follows:—

He received a complaint from a ryot named Balu Reddy, on the 11th February last, charging certain Village Officers with having cut down certain Government trees with fraudulent intent. The case was enquired into by Tiruvengada Mudali and dismissed on the 20th February. In the meanwhile, as alleged by the Dufterbund of his office, the Magistrate, Tiruvengada Mudali, sent for him to his house on Sunday, the 15th February, and after asking him on what date Balu Reddy had given his complaint, and on being informed it had been received on the 11th, wrote on a paper which he had in his hand, and in the corner of it, "10th February 1874, C. T." being the date of the day before that on which Balu Reddy's complaint was received, and then handed the paper over to the Dufterbund, who, however, took the precaution of writing on the back of it, and in the General Register, that it was given to him by the Magistrate on the 15th. This paper was a report from the very Village Officers charged with stealing the trees, charging Balu Reddy's servants with having stolen them. The object of the Magistrate in writing the false date of receipt of the report seems to have been to favor the Village Officers by putting them in the position of having been the first to bring the theft of the trees to notice, whereas in fact it was Balu Reddy who brought the matter to light. The fact of the trees having been produced before the Court, moreover, was never entered in the Magisterial Diary, and after the two cases* were over, although for four or five days the Magistrate was [illegible] passed any orders about them, but went off to Vi[illegible] the end of that time, in obedience to Mr. Lister's orders, leaving the trees undisposed of, and on his return at the end of a week they were not to be found, nor were they discovered until the day after their strange disappearance had been enquired into by another Magistrate deputed for the purpose by Mr. Lister†. They were then found in a pond belonging to the father of the Gumastah of the Magistrate's Office, in which place, as reported by the Station-house Officer, search was made at the suggestion of the Magistrate himself and the trees found. All this is very suspicious, and still moreso is the fact that the Village Officer's report has that portion of it torn off on which the Dufterbund wrote his remark, while the fact of the entry of this paper (supposed to have been received on the 10th) in the General Register, subsequent to the papers received on the 11th, 12th, 13th, and 14th goes very far to prove the truth of the statement of the Dufterbund.

* For the charge against Balu Reddy's servants was also enquired into and dismissed.

† A copy of this officer's report to Mr. Lister is enclosed.

3. The Magistrate's explanation, of which a copy is enclosed, is by no means satisfactory, and after a careful review of all the circumstances of the case, I certainly think that Tiruvengada Mudali should be declared unfit even to hold a Magisterial appointment again, and reduced to the post of a Gumastah, even if he be not dismissed the service, a punishment not too severe for his offence.

ENCLOSURE No. 1.

From A. L. LISTER, Esq., Acting Sub-Collector, to J. H. GARSTIN, Esq., Collector of South Arcot, dated Chinna Salem, 1[illegible] June 1874, No. 353.

I HAVE the honor to recommend that Tiruvengada Mudali, Sub-Magistrate of Bhowanigiri, on 50 Rupees pay, should be removed from that office and reduced to the post of a Revenue Inspector or Taluq Gumastah on 20 Rupees pay for the misconduct herein after detailed.

2. On the 29th March I received Report marked B., dated the 26th idem, from Goor[illegible]samy [illegible] Revenue Inspector of Bhowanigiri division, complaining of some irregularities committed by the Sub-Magistrate in a tree-cutting case, and stating that the timber was not in the office although the case had been disposed of long before.

3. I was engaged at the time with the Pallacoorday Jammabundi, and so I sent the [illegible]tion Row, the Sub-Magistrate of Porto Novo, with instructions to go at once to Bhowanigiri to ascertain what timber there was in the office, to collect all the papers connected with the case, and to take a statement from the Dufterbund.

4. The Porto Novo Sub-Magistrate found no timber in the office; so it had unquestionably been stolen by some one, but although the Sub-Magistrate Tiruvengada Mudali was greatly to blame for not having the timber sold at the conclusion of the cases and for not discovering that it had been made away with until the matter came to my notice, I do not think that he stole the timber himself; and I do not propose to press this point against him.

5. When seven large logs of timber which it was the duty of the Sub-Magistrate to sell, disappeared from his Cutcherry without his knowledge, I will only observe that it shows Tiruvengada Mudali not to be a prudent, discreet, or careful man; his defence is that he was absent on inspection or other duty, but I hope you will pin him to dates on this point, and also as to the reason for there being any delay at all in disposing of the wood.

6. But the missing timber is comparatively a small business, and I do not think there any necessity for reporting to Government; the charge I have to bring against Tiruvengada Mudali, is a far more serious matter, and it is by the serious charge that he must stand or fall. I accuse him of having in his capacity as Sub-Magistrate made a false entry in a public record intending that such false entry should appear in evidence in a Judicial proceeding, and with having thereby committed an offence punishable under Section 193 Penal Code.

7. The record in question is enclosure A; the false entry is the date of receipt "10th February 1874", which Tiruvengada Mudali admits before me to be in his own hand writing.

8. On the 11th February, one Balu Reddy of Chinna Nerkonam gave a written complaint, dated the 10th idem, to Sub-Magistrate Tiruvengada Mudali, who examined him upon it on the following—

(1.) Subba Reddy, Monigar and Munsif of Chinna Nerkonam.
(2.) Venkata Rama Reddy, Monigar and Munsif of Iyambady.
(3.) Krishna Reddy, brother of the above.
(4.) Katha Perumall Pillay, and
(5.) Pichan.

with committing theft by cutting and removing Government trees from Porumboke land.

9. On the same day Balu Reddy gave a complaint to the Station-house Officer at Pinnalur, who forwarded it with an Occurrence report through the Inspector to the Sub-Magistrate; this report did not reach the Sub-Magistrate until the 17th February.

10. On the 11th the Sub-Magistrate issued processes for the appearance of the parties, and witnesses on the 14th. On the 14th the case was not proceeded with but was adjourned to the 17th.

11. On the 17th the complainant and four witnesses were examined; a warrant was issued for the arrest of Pichan, and the case was adjourned to the 18th.

12. On the 18th nothing was done.

13. On the 19th a summons was issued to the Pinnalur Station-house Officer, to appear on the 20th, on which day the Constable and the 1st, 2nd, and 4th defendants were examined and these defendants discharged; the 3rd defendant Krishna Reddy was never summoned. Pichan was arrested and produced before the Sub-Magistrate on the 17th March, after which no further notice seems to have been taken of him.

14. Now in discharging these defendants the Sub-Magistrate mentioned this report A., no fewer than three times; he wrote that the report had been filed in his Court, and these words have been erased; this is the only mention he made of the report of his own accord; in the other two cases it was mentioned in connection with the statements of two defendants, and the depositions of one witness; so it is quite evident that the report was filed in the first case as evidence on behalf of the accused.

15. On the 21st the very next day, Subba Reddy the Monigar of Chinna Ne[illegible] deposition accusing Lutchmanan and Shemakotya the servants of this accuser Balu [illegible] carrying out these very trees under Balu Reddy's orders; on the 2nd March, these men discharged.

16. Now enclosure A. in which I accuse Tiruvengada Mudali of having made the [illegible] is a report from Subba Reddy and Venkata Rama Reddy, charging Balu Reddy's servants with having cut the very trees which Balu Reddy accused them of stealing.

17. In all counter-complaints the one who *first* complains is supposed to have [illegible] a point, and he can at least urge that the subsequent complaint was brought against him to pay out; and the effect of the Sub-Magistrate having written "10th February 1874", as the date of receipt of this report, which purports to have been written on the 9th is to give seeming priority to the second and later complaint, for Balu Reddy's complaint was dated the [illegible] as received on the 11th.

18. In the General Register, papers received up to the 14th February are entered before this report, which is alleged by the Sub-Magistrate to have been received on the 10th.

19. Sivachidambara Pillay, the Sub-Magistrate's Dufterbund, says that on Sunday, the 15th February, he went to Tiruvengada Mudali's house to obtain his signature to some urzees which the Gumastah Venketramiah had given him; the Sub-Magistrate gave him this report A. to read, and then asked him on what day Balu Reddy gave his complaint; on the Dufterbund saying it was on the 11th, the Sub-Magistrate wrote then on the 15th February; what I assert is the false entry "10th March 1874" on the report.

20. The Dufterbund then returned to the Office and took counsel with the Gumastah Venketramiah; as the General register was written up to the 14th, there was a difficulty about entering this report which purported to have been received on the 10th; so the Dufterbund wrote on the report a memorandum stating forth that he had received it on the 15th, the Gumastah saw the entry on that portion of the report which has now been torn away.

21. It must be remembered that the [illegible] of this report were summoned to appear as accused persons on the 14th, when nothing was done beyond adjourning the case to the [illegible] if the [illegible] had to arrange matters [illegible] they were likely [illegible] negotiations.

22. This is all the evidence there is, and it is all the evidence [illegible] tampering with official records there can well be when Sub-Magistrates have only one Gumastah and one Dufterbund.

23. The only corroborative testimony one could expect to find is afforded by Tiruvengada Mudali himself; he says that he found the report on his Office table on the 10th February, he put his initials on it and gave it at once to his Dufterbund; he took no action upon the report until after the 20th, when he had disposed of the other case; such an unlikely story cannot possibly be believed; if he really had given the report to his Dufterbund on the 10th, it would almost certainly have been entered in the General Register on that day; for Balu Reddy did not complain until the 11th, and so no office tricks could have been attempted when they could not know there was going to be a counter-complaint.

24. I think there can be no doubt that while the first case was pending, Tiruvengada Mudali entered into unholy negotiations with the accused and received this report from them on the 15th, and falsely entered "10th February 1874", as the date of receipt to make it appear that they brought the first complaint against this accuser Balu Reddy's servants.

25. I would suggest that in the event of your determining to report the matter to Government with a view to Tiruvengada Mudali's removal from office, that you should send for him and let him know in precise terms the charge which you will prefer against him, and that he should be required to give in a written and final defence, to cross examine the Dufterbund and Gumastah if he wishes to do so, and to call any witnesses he may desire for his defence.

(True Copy.)

(Signed) J. H. GARSTIN,
Collector.

2. On ch[illegible] 29,
same [illegible]
ties com[illegible]
the offic[illegible]

3. I [illegible]

Enclosure No. 2.—Report of Sub-Magistrate of Porto Novo, [illegible].

Enclosure No. 3.—Explanation of Tiruvengada Mudali.

K[illegible] Rao charge against the Bhowanigiri Sub-Magistrate is a very serious charge, but it is not proved in the papers submitted to the Board.

2. There is nothing to show that he favored Subba Reddy more than Balu Reddy. The cases against both were dismissed and the Sub-Magistrate of Porto Novo on whom the Collector and Sub-Collector rely, states most distinctly that the evidence against Subba Reddy was such that he could not have been convicted.

There is nothing but the assertions of the Gumastah and Dufterbund to prove that Report A of Mr. Listen's letter was not mislaid by the Sub-Magistrate at first and given to the Dufterbund as soon as it was found again, and these assertions may very possibly be the result of a conspiracy to injure the Sub-Magistrate taking advantage of the opportunity afforded by his carelessness about Report A.

4. It remains to determine whether there is sufficient doubt in the case to justify the Board in recommending Government to allow Tiruvengada Mudali to be put on his trial. The Collector will furnish Tiruvengada Mudali with a full statement of the case against him and give him a week to send in his explanation, which must not be a mere answer to a set questions but a defence arranged as Tiruvengada Mudali pleases. In forwarding this defence the Collector will give his own opinion as to whether the Sub-Magistrate should be prosecuted.

(True Copies and Extract.)

(Signed) J. GROSE,
Secretary.

To the Collector of South Arcot.

Exd. G. A. Turton.

Rec. 28/6/74.

1874.

Board of Revenue,

MADRAS.

Proceedings, 18th July 1874, No. 1,871.

Encl.

JULY.

No. 1,871.

Tiruvengada Mudali—Deputy Tahsildar and Sub-Magistrate of Bhowanigiri, in South Arcot District, charged with having made a false entry in a public record—Collector to obtain and submit explanation from Tahsildar with his own opinion as to whether he should be prosecuted.

Received.

[illegible]

1113

To

The Honorable Members of the
Board of Revenue.

Explanation of Theroorengada
Mudaly Dy Tahsildar and Sub Magistrate
of Coovanagheri division, South Arcot
District.

In reply to the statement sent to me
Instant sent by the Collector under
Board's Proceedings No. 743 of the 13th Instant I beg to offer my explanation as
follows.

Statement furnished to me.	Explanation
The charge against you is that by writing '10-2-74' as the date of receipt of the report from Subba Reddi and Venkatarama Reddi you made a	I have not committed the offence specified in the charge. The report dated '9-2-74' from village Magistrate Subba Reddi and

false entry in a public record intending that such false entry should appear in evidence in a judicial proceeding and that you thereby committed an offence punishable under Section 193 Penal Code.

Venkataramana Reddy of Nereconsume was received by me on '10-2-74' and I have duly entered on it the day as the date of receipt. It was not received by me on '15-2-74' nor did I falsely enter '10-2-74' as the date of receipt.

To Constitute the offence specified in [illegible] ingredients are necessary under Section 192 I.P.C. 1st The act should be such as may appear in evidence in a judicial proceeding; and 2nd the evidence should be such as may cause the entertainment of an erroneous opinion touching any point material to the result of such proceeding.

In the absence of any

of these ingredients there can be no offence.

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2. You will observe that your motive is immaterial; it matters not why you did it; it is not alleged against you that you Committed this irregularity either to favor Subba Reddi or to damage Bala Reddi, because the act itself is an offence irrespective of any motive that may have actuated you.

To constitute the offence of fabricating false evidence under Section 193 I.P.C the intention of the person Committing the offence is essential — Vide Commentaries on Section 192 I.P.C page 120 — so also is the object with which the offence [illegible] mitted. It is only in Cases of giving false evidence under Section 193 the intention of the person Committing the offence is immaterial. The offence of fabricating false evidence in a question Could be Considered as brought home only when the act has been committed with the intention that it may cause the

entertainment of an erroneous opinion touching any point materials to the result of a judicial proceeding; besides, this point should have also been mentioned in the Charge (Vide I, 4. b. R. 38. p. 1/2) the act must have ~~caused~~ caused either favorable or damage to the parties Concerned; and as the Collector Considers that I did not Commit the or disfavor any party in the Case I am free from all blame.

3. You have heard the evidence against you given before the Sub-Collector; the dufterbund asserts that you sent for him to your house on the 15th February asked him on what date

I have heard the evidence against me given before the Sub-Collector by Siva chithamba-bara Pillai dufterbund of my office. I did not send for him to any house on Sunday the 15th February

Babu Reddi complained and on his replying "the 11th" that you wrote in your own house on the 15th February '10-2-74' as the date of receipt of Subba Reddi's report; as you took this document now to the file of a case then pending in your Court an almost irresistable though technically rebuttable inference is raised that at the time you made the false entry you intended that it should appear in a judicial proceeding

neither has he stated in his deposition that I did so. He has stated that he came to my house to take my signature to some paper that I ordered him to take the report from Subba Reddi and Venkatarama Reddi who were there at the time, that when he had read it I asked him on what date Babu Reddi put in his complaint, and that on his replying that it was on the 11th I entered on the report '10-2-74' as the date of receipt. It is very surprising to me 1st - that I should have intended to fabricate

a false evidence in a
public record for no
advantage;
2nd - that it should be
said in the Statement
that I sent for the
Defterbund at the
time when the offence
is alleged to have been
Committed;
3rd - that it should be
alleged that I commit-
-ted the act before
his eyes: and
4th - that it should be
stated that I inquired
him of the date on which
Balu Reddi made
his Complaint Consi-
-dering it would be
of use to the act.

These are Suffi
-cient fully to throw
full discredit on his State
-ment and to show
plainly that he owes
me a grudge ~~to~~ in
our official Connection.

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The report in question, it is true, was used in a judicial proceeding. But it is not without raising a rebuttable inference as stated in para 2.

4. It is in your favor that there is against you only the evidence of your gumastah, your dufterbund and ... is against you that these men Composie the whole of your office Establishment and that no other person Could reasonably be expected to know anything about the way you Conduct business in your office.

I admit the reasonable inference that no others except my office people Could know the way I conduct but as the dufterbund has clearly stated in his deposition that I Committed the offence specified in the charge in my house in the presence of Subba Reddi and Venkata rama Reddi who were there with him, the inference that others Could not know does not arise here.

5. It is of Course possible that the assertion of these men may be the result of a Conspiracy to injure you, you have not hitherto put forward this plea, but you are not therefore debarred from doing so now- in fact you are to have the widest possible latitude and say anything you please in your defence you have never complained of the gumastah and as far as the Sub-Collector or I know you have never been on bad terms with him; this raises a very strong presumption that he is speaking the simple truth from a sense of duty; if you now

In fact, the dufter- bund and others have given evidence against me solely with the intention of causing injury to me; the dufter- bund has admitted in his deposition that I have rebuked him in official matters. I have pointed out to the Collector instances of [illegible] on his part and of the want of proper attention to his work generally as well as the mistakes that he committed in the work done by him; I have also mentioned these in my Statement. It is true that I never complained of my gumastah (taking him alone); but he and others have inten- tionally deposed against

urge that there was a Conspiracy, I shall be glad to examine any witnesses you can call to prove it, as the mere averment of a plea you have not hitherto put forward is not likely to have much weight unless supported by evidence.

ne. through the intimacy that exists between them as office mates. The gumastah was not examined in my presence. I do not expect that I will derive any good from re-examining him since he is bound, in consideration of his all along the statement once made by him, according to the circumstances before an officer of high position though to his conscience it may be false. If the Said Subba Red and Venkatarama Ch had at the commencement been examined by the Sub-Collector the Conspiracy &c. of my office people would

have been disclosed and the truth got out. When the Sub-Collector examined me I have repeated by requested him that these people should be examined.

It is necessary here to repeat that on the report received on 10th February, the same day it was entered as the date of receipt

6. Another important point for you to remember is that if you really had found the report as you allege on your office table, and put the date on the 10th February, your office establishment, even if they were disposed to conspire against you, could have had no reason to withhold this report as Babu Reddi did not bring his complaint until the following day.

Another strong point against you is that you never found always convenient to look into all papers and pass the necessary orders on all the papers received on one day on the very date of their receipt. The report in question is one received on the 10th. As a counter complaint on the same subject was brought on the following day the 11th, by Babu Reddi against the

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1820

fault with your dufterbund, for detaining this report, which you would almost certainly have ~~failed~~ had the blame rested with him.

village magistrate and others I thought the latter might sometimes have committed the offence through their official influence, and took up this case first; after it was over I have duly proceeded with the report in question. I did not say it was the ~~fault~~ report was detained, nor was there any occasion to scold him on that account.

I have thus shown to the Honorable Members of the Board that the charge made against me by the acting Sub Collector has no grounds, that I did not commit the offence in question, and that the statement of my dufterbund who says that I did commit the offence are unworthy of being admitted as we were on bad terms.

I have been in Government employ for 20 years and have discharged my duties without any mistake to the Satisfaction of several respectable gentlemen; this itself is sufficient to bear testimony to my good character.

I therefore pray that the Honorable Members of the Board will be pleased to take my case into their deep Consideration and render Justice.

I beg to Remain

Honorable Gentlemen

Your most obedient Servant

/Sijned/ C. Tiruvangadam

Dy. Tahsildar and

Sub Magistrate.

Boovanagheri
30th July
1874

(True translation)

Charge & Statement of reasons for it prepared under Board's Order

The Board of Revenue having directed me in their Proceedings No. 743 of the 18th Instant to furnish you with a full statement of the case against you & to give you a week to send in your explanation, I direct you to acknowledge the receipt of this order on receiving it & to submit to me within seven days of that date a defence arranged as you please

The charge against you is as that by writing '10-2-74' as the date of receipt of the order from Sri Ra Reddi and Venkataramana Reddi you made a false entry on a public record, intending that such false entry should appear in evidence in a

in a judicial proceeding and that you thereby committed an offence punishable under Section 193 Penal Code.

You will observe that your motive is immaterial; it matters not why you did it; it is not alleged against you that you committed this irregularity either to favor Subba Reddi or to favor Balu Reddi; because the act itself is an offence irrespective of any motive that may have actuated you.

You have heard the evidence against you given before the Sub-Collector; the duftarband asserts that you sent for him to your house on the 15th February — asked him what was the date Balu Reddi complained and on his replying "the 11" that you wrote in your own house on the 15 February '10-2-11' as the date of receipt of Subba Reddi's

Reddi's report; as you took this document on the file of the case then pending in your Court an almost irresistible though technically rebuttable inference is raised that at the time you made the false entry you intended that it should appear in a judicial proceeding

It is in your favor that there is no evidence of your gumastah, your duftarband and the document; but it is against you that these men compose the whole of your office establishment and that no other person could reasonably be expected to know any thing about the way you conduct the business in your office

It is of course possible that the assertion of these men may be the

the result of a conspiracy to injure you
you have not hitherto put forward
this plea, but you are not ther
debarred from doing so now
you are to have the widest possi
latitude and say any thing you please
in your defence. You have never com-
-plained of the gumastah, and, so far
as the Sub-Collector or I know you
have never been on bad terms with
him; this raises a very strong presump-
-tion that he is speaking the simple
truth from a sense of duty; if you now
urge that there was conspiracy, I shall
be glad to examine any witnesses you
can call to prove it, as the assertion
-ment of a plea you have not hitherto
put forward is not likely to have
much weight unless supported by
evidence.

Another

1613
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Another important point for
you to remember is that if you really
had found the report as you allege
on your office table, and put the date
on then and there on the 10 February
your office establishment even if
they were disposed to conspire against
you, could have had no reason
to withhold this report as Balu
Reddi did not bring his complaint
until the following day

Another strong point against
you is that you never found fault
with your duftery band for detaining
this report which you would almost
certainly have done had the blame
rested with him

25-7-72

(Sgd) A. L. Lister
Sub-Collector for
Collector

(True Copy)
P Madgavaiy
Deputy Collector
for Collector

1143
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PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 21st August 1874.

Read again Board's Proceedings dated 18th July 1874 No. 1871.

Read also the following

No. 408.

From J. H. Garstin Esquire
Collector of South Arcot

To The Secretary to the Board of Revenue
Madras.

Sir,

I have the honor in reply to the Board's Proceedings of the 18th July Revenue Department, relative to the Deputy Tahsildar and Magistrate of Bowanigiri to forward copies of the charge sent to Tirumungada Mudali and of his explanation, arranged exactly as he pleased.

2. The Board remark in para 2 of the Proceedings that there is nothing but the assertion of the Gumastah

and Duffadar bound to prove that "Report A" of Mr Lister's letter was not mislaid by the Magistrate at first and given to the Duffadar as soon as it was found again but I beg to point out that in his statement before me the Magistrate himself says that he found the report on his table on the evening of the 10th, at once initialed it and gave it to the Duffadar bound. How this statement is to be reconciled with the dates of entries in the General Register I do not see. At any rate the Magistrate's own statement precludes entirely the entertainment of any hypothesis of his having mislaid the report.

3. Again one of the strongest points against the Magistrate in my opinion is this; if the report A was really given in to him on the 11th why did he not take Cognizance of the charge set forth in it before the Complaint

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of Balu Reddi which was only given in on the following day. I doubt any Criminal Court given Credence to his explanation that he thought the Village Officers might have committed the offence through their Official influence and therefore took up Balu Reddi's Complaint first.

4. On the whole I cannot divest myself of the impression that the Magistrate did not receive the report A on the date he alleges and that he put the date "10—2 74" on it not to prejudice any of the parties in either case so much as to lead any Reviewing Court to suppose that the Village Officers really had Complaint before Balu Reddi and therefore I think for the Magistrate's sake the case should be judicially investigated because he will then either be acquitted or Convicted, and in either case the result will

be spare Satisfactory Chau
if it were disposed of & tried
Judicially by the Board. A good
opportunity for trying the Sub. Ma
gistrate will occur on the arrival
of Mr Le Fanu an Officer who
will join the District shortly
local prejudice, and who if he
finds a prima facie Case
against the Magistrate will
Commit him to the Sessions,
where he will have a thoroughly
impartial trial.

Collector's Office, Thanjore
Cuddalore } 3rd I. H. Garstin
6th August 1874 } Collector

Submitted for the orders
of Government.

The Offence with which the
Sub. Magistrate of Bowanagore
is charged is the fabrication of
false evidence by marking a
wrong date of receipt on a letter

sent to him and received by him
as Sub. Magistrate, and which
he knew would be part of the Record
in a Criminal Case tried by him.
Thus the Act purports to have been
done by the Sub. Magistrate in the
discharge of his duty, and the sanc
tion of Government is necessary
before the prosecution can be insti
tuted.

There seems to be sufficient
prima facie proof that the docu
ment was received on the 15th Fe
bruary, that the Sub. Magistrate
marked it as received on the 10th,
that it was afterwards used in a
Criminal Case to prove that the
writer had complained before the
11th, and that this would have been
a Material fact if the case (a Com
plaint against the writer of the do
cument which was dismissed) had
been

been a doubtful one which it was not.

The Duffadars and Gumastas who are the only persons likely to know of the offence if it was committed, say that it was committed and an Office Register confirms their statements. If the statements are false as the Sub Magistrate declares, they must have been the result of premeditated Conspiracy and the Duffadars and Gumastas must have falsified the Register but it is difficult to believe that men determined to make a false charge at such hazards would have stopped where they did without adding the few details which could have been added easily and would have made the Case against the Sub Magistrate infinitely stronger

On the other hand, no motive for the fabrication of false

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Evidence is proved, and the party in whose favor it was committed

Committed at all was not unduly favoured in the case in which the Evidence was used.

The Board are very doubtful whether the prosecution will result in a Conviction but as both the Collector and the Sub Collector think there should be a prosecution, as there seems to be no need to protect the Sub Magistrate against prejudice or otherwise, and as Mr Le Fanu going to the District affords an opportunity of placing the Sub Magistrate on his trial before a perfectly unbiassed Judge, the Board think the prosecution should be sanctioned. If the Sub Magistrate is acquitted, he will be in a far better position

than

1113/29

that if the prosecution is forbid

Dr

True Copy & true Copy

J Grole

Secretary

To

The Secretary to Government W.P.

with 2 original Enc: and Board's

Pro: dated 18th July 1874 N° 1871

No 1113

The G. in C. sanctions the prosecution of Benvenga da Municipal Magistrate of Bowaniga

To Bo'Mum 3108
Jan Sept 5-9-74

1 Sept 74