M.R.O. 1—20,002—12-8-05.

(1) Number of Pages 24

(2) Date of repair 15/7/2006

(3) Initials of the Referencer

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Public DEPARTMENT

G.O. No.	716	Press
B.P. No.		Mis.
Dated	22nd July	196 1874.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
22nd July 1874.

No. 180. Read the following Proceedings of the Board of Revenue, dated 24th June 1874, No. 1655:—

Read the following letter from J. H. GARSTIN, Esq., Collector of South Arcot, to J. GRIEVE, Esq., Secretary to the Board of Revenue, dated Cuddalore, 30th May 1874, No. 238.

I have the honor to forward, herewith, a letter* from the Acting Joint Magistrate, Mr. Lister, bringing to notice the conduct of Dharmaroya Modali, when Acting as Magistrate of Porto Novo, in the conduct of Calendar Case, No. 349 of 1874, on his file, together with a copy of the Proceedings of the High Court, on a reference by me, quashing the conviction on the ground that there was no evidence to the offence charged, and remarking that, "if the Joint Magistrate's views as to the serious irregularities in the procedure of the 3rd Class Magistrate, are in the opinion of the Magistrate correct, the High Court have no doubt that such steps have been taken, as the existence of matter of this kind against a Subordinate Magistrate requires.

2. I consider Dharmaroya Modali's conduct, in the disposal of this case, to have been so improper, and to exhibit such an indifference to the law of procedure, and such an utter absence of all sense of justice, that I feel I should be failing in my duty if I did not request, as I now do, that his conduct may be reported to Government, with the recommendation that he be never allowed again to exercise Magisterial powers, and with the expression of my opinion, that it would be for the benefit of the public service if he were dismissed from it.

3. The circumstances of the case, and the misconduct of Dharmaroya Modali, are fully detailed in the Acting Joint Magistrate's letter, and are briefly as follows:—

In November last, two ryots of the village of Chinnakommattikuttei, near Porto Novo, each sold two trees standing on the land in their respective enjoyment; and the Village Munsif hearing of it, and being doubtful whether the trees, which had been cut down by the purchasers, stood on puttah land, or on Government poramboke, that is, whether they were private or public property, forbade their removal, and reported the matter to the Porto Novo Magistrate, Dharmaroya Modali, who wrote a yadavst on the subject to the Tahsildar, and, enclosing the report, gave it to the Munsif to send to the Tahsildar, which he did by the hands of the Village Vetti, who delivered the cover to a batta goon at the Talug Cutcherry, being unable, owing to the crowd, to get at the Tahsildar himself. This officer appears, however, not to have received the yadavst or its enclosure. In the meanwhile, the Curnam of the village was appealed to by one of the vendors of the trees (Vadamalai Pathachi) to examine the locality, and decide whether the trees really stood on his land or on Government waste. He did so, and decided that the trees sold and cut down stood on the puttah land of the vendors in both cases. The other vendor (Narayana Pathachi) was the Village Munsif's father. Some days afterwards, the Munsif being apparently satisfied by the Curnam that the trees were not Government property allowed them to be removed, and they were taken away. For doing what they did, the Munsif, the Curnam, the Munsif's father, and the other ryot (Vadamalai Pathachi) were convicted and punished for *theft*, after a series of the most extraordinary Magisterial performances on the part of Dharmaroya Modali, in the course of which he kept no diary, entered false dates in the Calendar, tampered with the records by altering statements taken from accused persons into depositions on solemn affirmation by substituting the word "Witness" for "Defendant," and by interpolating the words "solemnly affirmed," arrested five out of the six witnesses by warrants charging them with theft, and then turned them into witnesses for the prosecution, and finally convicted the Curnam, without his ever having been present during the examination of any of the witnesses and two of the other accused after they had only heard the examination of three of the witnesses. Why the Vetti, who carried the Magistrate's yadavst to the Tahsildar, should ever have been arrested on a warrant charging him with theft, seems inexplicable, for he was not mixed up in any way with the cutting or removal of the trees.

4. I have taken a statement from Dharmaroya Modali, which does not, in my opinion, at all exculpate him, and enclose a copy of it for the Board's information.

* Dated 22nd March 1874, No. 43

5. The reputation which this officer brought into the district was bad; but while at Porto Novo he contrived to blacken it still more; and, if the expressions used in a petition sent to me from Porto Novo after he left were fair indications of the estimation in which he was held there, he must have made himself detested, for I was requested to set the town on fire, rather than to let him go back. I have felt it my duty to remove him from the office in which he is at present temporarily officiating.

6. I may mention that this is the officer into whose conduct an inquiry was held in 1866, when he was Treasury Deputy Collector in the Kistna District, relative to his delaying to issue orders to the Superintendents of Salt-pans in that district regarding to the rise in the price of salt, in consequence of which considerable loss of revenue was incurred, and who was severely reprehended, although acquitted of improper motives; who was degraded from 3rd to 4th Class Deputy Collector in 1867 for gross impertinence (*vide* Board's Proceedings of 8th November 1866, No. 8,993), and finally removed by Government from the list of Deputy Collectors for obtaining pecuniary benefits through his own subordinate (*vide* Board's Proceedings of 17th October 1867, No. 6,757, and G. O. thereon, dated 15th December 1867, No. 2,977.)

Read Petition, No. 1,442, dated 8th June 1874, from T. Dharmaroya Mudali.

Enclosure No. 1.

From A. L. LISTER, Esq., Acting Joint Magistrate of South Arcot, to F. H. GARSTIN, Esq., District Magistrate of South Arcot (dated Chittoor Salem, 23rd March 1874, No. 42.

I have the honor to forward, for your perusal, the records in Calendar Case, No. 340 of 1873, on the file of the Porto Novo Sub-Magistrate.

2. On or before the 13th November last, Munsif Appayoo Padiachi reported to Dharmaroya Mudali, Sub-Magistrate of Porto Novo, that some trees on Government land had been cut and misappropriated. The Sub-Magistrate wrote a yadast on the 14th November to the Tahsildar of Chellambrum and gave it with the report to Munsif Appayoo Padiachi to take to the Tahsildar.

3. The yadast and report never reached the Tahsildar. Appayoo Padiachi says, he gave it to Vetti Killian, who avers that he delivered it to a talia peon at the Taluq Cutcheery.

4. Then Sub-Magistrate Dharmaroya Mudali began to take a little independent action. How he got set into motion does not appear from the record, but the Calendar says, that "rumours were abroad," that matter had been settled, and that "all remnant parties" were satisfied in the villages.

5. The Sub-Magistrate Dharmaroya Mudali was not at all satisfied, and he entered with private zeal upon a course of inquiry which was certainly thorough, for he did not give any one he chose to convict a ghost of a chance of escape. There was a difficulty about punishing all concerned, for, when all were arrested as thieves, there was no one to give evidence; but Dharmaroya Mudali got over this difficulty by altering and tampering with the record as pleased; and that his own diary might not be an unpleasant piece of real evidence against him, he abstracted the case without the aid of his Gumastah; made no entries in his diary as the case proceeded (and falsely entered December 8th as the date of commencing trial in the Calendar he published to me, although the last witness was examined on the 3rd December.

6. When the foregoing record reached Dharmaroya Mudali's ears, it appears from the Calendar that he sent for Munsif Appayoo Padiachi and took a recognizance (marked A) from him for his appearance on the 25th at the inquiry for his not having delivered his report of tree-cutting to the Cheliambrum Tahsildar. The recognizance is not on the usual printed form, and, as this is the earliest paper on the record, it would appear that the Sub-Magistrate determined from the first to work the case through without the aid of his Gumastah, and not to be trammelled by any of the usual legal forms, or by the inconvenience of making day to day entries in the diary.

7. On the 25th, Munsif Appayoo Padiachi was examined. The examination took the form of question and answer, and the words, "first defendant," are inserted between the lines.

He was asked what he had done with the report; and he replied, that he had sent it by the Vetti to the Tahsildar. He was then asked where the trees were? and he said, that Pannuga Pillai, Kunnia Pillai, Chinnaraya Padiachi, Pandia Pillai, and Pungapathi Tonnasami Pillai, these five, with some three others who had cut the trees, had removed them.

8. On the same day, warrants were issued for the arrest of these five persons and for Vetti Killian on a charge of theft. On the 26th, recognizances were taken from Pannuga Pillai and Ponnusami Pillai.

9. On the 28th idem, Muthoocoma Chetty, who purchased the timber by his agent Pannuga Pillai, was examined as the first witness. Ponnusami Pillai who had been arrested on warrant was examined as "defendant," a space being left in which to write the number "2" was subsequently entered as the number, and defendant was scratched through, and "witness" written above it. Why this was done we cannot say. The witness was examined on the 28th, because "28" is the date which now appears in the deposition (C), but it was evidently inserted after the deposition was written in the blank space which had been left. The statement that the oath was administered to this defendant or witness, whichever he was at the time of the examination, was manifestly entered subsequently.

10. On the same day Pannuga Pillai was examined (marked D); he was entered as a defendant. This word is scratched through, and the words, "a witness," written after it.

11. Now on the 30th a surety bond (marked E) was taken from one Veeraiandra Mudali for the appearance on the following day of Ponnusami Pillai and Pannuga Pillai, charged with theft, and of Appayoo Padiachi who did not deliver the Sub-Magistrate's yadast to the Tahsildar of Cuddalorum according to orders, and warrants were issued for the arrest of Narayana Padiachi, Vadamalai Padiachi, and Rungasami Padiachi; and on the 1st December, recognizances were taken from them, and also from Killian and Kunaia Pillai to appear to answer a charge of theft.

12. On the 3rd December, Kunaia Pillai was examined (E). It is entered in the deposition that he was the fourth witness, but the word witness and the statement that he was sworn were evidently inserted after the deposition was written. Rungasami Padiachi, who had been arrested on warrant, was the fifth witness and Vetti Killian was examined; and from words inserted between the lines, it appears he was taken as the sixth witness.

13. Up to this date warrants had been issued for the appearance of nine persons, and seven had been arrested; of these seven, five had been converted into witnesses, and two remained with Munsif Appayoo Padiachi. As there were several persons in the villages associated together with Munsif Appayoo Padiachi, no arrests were made, and the names of Chockalinga Padiachi and Pandia Padiachi, no arrests were made, and the warrants were returned without being executed.

14. After the six witnesses in the case had been examined, a warrant for theft was issued for the Curnam Moothoosami Pillai, who appeared the next day and executed a recognizance; and on the 5th December another warrant for theft—the eleventh and last in this case—was issued for A. Rungasami Chetty, who was luckier than the Curnam, for, although they were both arrested after all the evidence had been recorded, the Curnam had the bad luck to arrive in time for the exploits, while Rungasami Chetty, who was not produced until the 10th, missed both the evidence and the acquittal, and was seemingly allowed to go about his business. In support of my charge against Dharmaroya Mudali, that he tampered with the record at pleasure, I would draw attention to the English Memorandum. At the foot of the first page, the date entered is 23-11-73, and the whole of the first sheet purports to have been written on that day; but on the top of the page, Appayoo Padiachi, Narayana Padiachi, Vadamalai Padiachi and Curnam Moothoosami Pillai are entered as the accused; but these were not but four accused on that day. Two named Pillai are entered as the accused on that day were Pannuga Pillai and Ponnusami Pillai, from whom recognizances to appear on the following day were taken. Warrants were issued for Narayana Padiachi and Vadamalai Padiachi on that day, and they appeared only on the 1st December, while Curnam Moothoosami Pillai not only was not present on the 28th, but it had not then reverted to Sub-Magistrate Dharmaroya Mudali that he would be an accused in the case, for his warrant was not issued until the 3rd December, the day on which Rungasami Pillai was

examined. I assert, therefore, that the Sub-Magistrate's notes, which purport to have been written on the 28th November, must have been written after the 3rd December, the day on which he determined to make the Curnam an accused.

15. The next point to which I beg attention is to the case of the lucky man, Ranganami Chetty. It was on the 8th December that a warrant for his arrest was issued, but his name has been interpolated in the examination of Munsif Appavoo Padiachi made on the 25th November. Had Ranganami Chetty's name really been mentioned on the 25th, a warrant for his arrest would of course have been issued. His name, you will observe, is inserted between the lines. No number is given to him; but on the contrary, the names which went before are summed up "5." Can there be any room for doubting that the name of Ranganami Chetty was interpolated on or after the 8th December, when a warrant for his arrest was issued.

16. A third clear case of *tampering* with the record is the altering from defendants to witnesses Poonusami Pillai and Paramya Pillai that they were examined as accused persons on the 28th November is clear apart from the original entry by a recognizance being taken for their appearance as on the 28th.

17. Of the six witnesses examined for the prosecution, five were arrested on warrants as accused persons. No entry was made in the diary until the 8th December. No place was recorded. The 8th December was falsely written in the Calendar as the day of commencing trial. The fourth accused the Curnam was not present during the examination of any of the witnesses, and the second and third accused Narayana Padiachi and Vadivalai Padiachi were not present during the examination of the first three witnesses.

18. As the only suspicion against Vetti Kullian was that he had failed to carry a report from his Village Munsif to the Tahsildar, Dharmarova Mudali, should explain why he arrested him on a warrant for theft.

19. I think the case should be referred to the High Court as one of no evidence. The Tahsildar, to whom Mr. Sharp referred the case for inquiry on the Revenue side, reports that the trees were on putta land. The Munsif Appavoo Padiachi being doubtful as the first instance, said the trees were not to be removed until it had been ascertained whether they stood on Government or putta land, and as they insisted on removing them, he properly reported the case, with his having been punished for theft. The Curnam went upon application, in the ordinary course of business, to measure the land, and found that the trees stood on putta land, and said on. He too has been punished for theft.

(True Copy.)

(Signed) J. H. GARSTIN,
Magistrate.

Enclosures Nos. 2 to 8.—Records.

The Board concur with Mr. Garstin, in thinking that the records now submitted show that Dharmarova Mudali is absolutely disqualified both by his ignorance of law and his peculiarities of disposition for Magisterial duties, and they resolve to recommend Government to forbid the future employment of the man in any Magisterial capacity whatever.

2. It would serve no useful purpose to relate the particulars of the case, which was tried by Dharmarova Mudali while acting as Sub-Magistrate of Porto Novo—a post from which he has since been removed—because this has been already done by Mr. Lister and Mr. Garstin. Dharmarova Mudali's defence is sufficiently set out in one of the enclosures to Mr. Garstin's letter and in Question No. 1,442 of 1874, which was duly considered by the Board, before they resolved to recommend Government not to re-employ the man as a Magistrate.

3. Nevertheless, the Board are not of opinion that Dharmarova Mudali has shown himself in this instance as an evil person to be unfit for the public service, as the post of Record-keeper, and they resolve to direct Mr. Garstin to re-instate him in the acting appointment from which he has been removed.

No. 180. Order number 22nd July 1874, No. 910.

Miscellaneous.

His Excellency the Governor in Council approves of the Board's recommendation in this case, and resolves to declare Dharmarova Mudali incapable of being employed hereafter in any Magisterial capacity whatever.

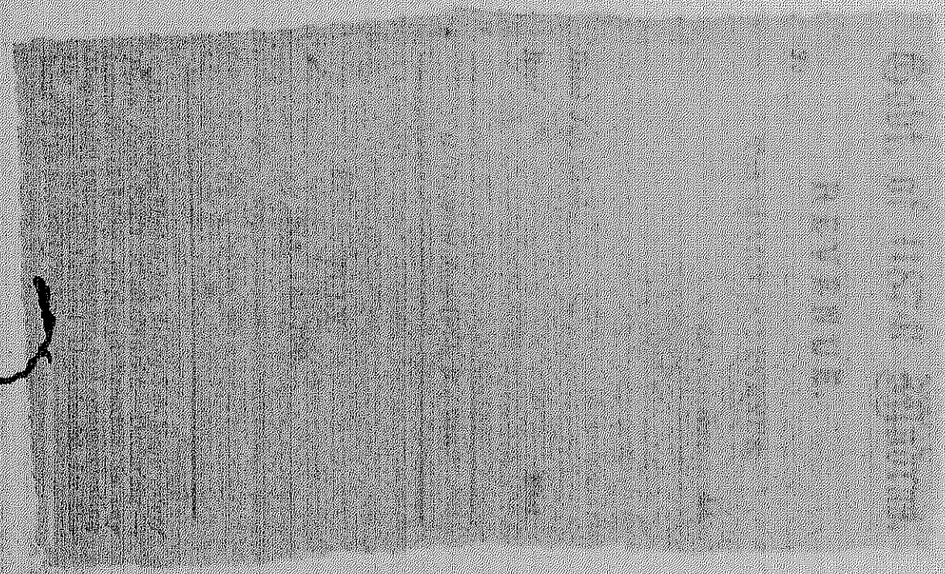
2. The papers will be communicated to the Judicial Department for the issue of the necessary instructions to the Magistracy.

(True Extract.)

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

To the Board of Revenue.
„ the Judicial Department.

Exd. A. Grubert.



Revenue Department.

No. [illegible]

From [illegible]

Date [illegible] 187[illegible]

F O R O R D E R S.

Parish of Bradninch

Proceedings of the Board of Guardians

held 22nd June 1874

Rural Union No 4

held 8th June 1874 from 3rd Proceedings

Mr Lee

No 268

Read also the following

Letter from J. Ellis Esq. Secretary to the Board of Guardians

Sir,

I have the honor to forward herewith a letter from the Relieving Officer of the Bradninch District, stating that he has granted relief to Catherine Hayes and her family, consisting of three children, under the circumstances mentioned in the enclosed letter.

Dated 22nd June 1874

No 1842

[illegible] a copy of the Proceedings of
the High Court of Justice in reference to
the granting the writs of
[illegible] Habeas Corpus ad subjiciendum
of the officers charged with re-
[illegible] Mr Lt Col Turner and
the officers of the Magazine and
the High Court has the honour
[illegible]
[illegible]
[illegible]

standing on the Record in their
Respective employments, and the
College aforesaid hearing of it
and being doubtful whether the
Grey mentioned had been sent down
by the Parliament should or should
not be received or admitted to Exa-
mination, Resolved, That they were present
at publick Exercises, forbade them
to proceed and keep and held the matter
till the Parliament's Pleasure should be
known concerning the Report gave
it to the aforesaid to send to the
Parliament which should be done by the
Council of the College with all
diligence that the Comons in Parliament
assembled may be informed of the
Reasons of their Proceedings

Ordered that the Petition of Benjamin Allen
presented to this Court be referred to
the Committee appointed to consider
of the Petition of Mr Thomas Allen
and that they have power to send for
persons papers and records and to
examine the matter and report their
opinion therein to this Court

Ordered that the Petition of Mr Thomas
Allen presented to this Court be referred
to the Committee appointed to consider
of the Petition of Benjamin Allen
and that they have power to send for
persons papers and records and to
examine the matter and report their
opinion therein to this Court

In answer to the Petition of Mr
Thomas Allen presented to this Court
for the removeall of the Tenure
of the College mentioned to lay
one of the Rentals of the Manor
(Walmsley Padiham) to examine
the Contents and peruse such Writings
and Evidences as concern the
said Manor and Rentals and to
report their opinion to this Court
or a Committee to be appointed for
that purpose

In answer to the Petition of Richard
Holden and Nicholas Holden
presented to this Court for the
Purchase of Certain Lands in
Goodshaw and Crawshawbooth (Pa-
rish of Whalley) now in the
Occupation of Mr Thomas Allen
of Pendle Forest Gentleman
and formerly entailed by Mr Thomas
Hoghton Esquire deceased upon

does not in any opinion at all excuse him until he encloses a copy of it for the Board's information

The reputation which the Office has brought into the District would not be established at Port Arthur if the contractor did not strictly observe, and if the employees were not to feel that they are under the eye of the Customs officer who has the authority to call them to account for any irregularity

I am, Sir, Your obedient servant

[illegible]

Collector

[illegible]

Esq.

[illegible]

[illegible]

[illegible]

and Subordinate Civil Board's
Proceedings of 17th October 1867
No. 6757 and G.O. thereon dated
13th December 1867 No. 2972).

Chief Secretary's Office
Calcutta
22nd May 1874

I have been
directed by His Excellency
the Governor
in Council

The Board concurs with the Lieutenant Governor in thinking that the Regulations which have been sanctioned by Government for the employment of Police in any Magisterial capacity should not be allowed to interfere with the proper and useful functions of the Police, which are strictly Executive and Preventive.

2. The Board are of opinion that the Police should be employed in Magisterial duties only when it is necessary to do so for the purpose of preventing the commission of offences, and that the Police should not be employed for the purpose of conducting prosecutions.

3. The Board consider that the Police should not be employed in the service of summonses, warrants, and other processes, except in cases where the persons to be arrested are likely to abscond, or where the service of the process by the Police is necessary for the prevention of crime.

4. The Board are of opinion that the Police should not be employed in the service of summonses, warrants, and other processes, except in cases where the persons to be arrested are likely to abscond, or where the service of the process by the Police is necessary for the prevention of crime.

5. The Board are of opinion that the Police should not be employed in the service of summonses, warrants, and other processes, except in cases where the persons to be arrested are likely to abscond, or where the service of the process by the Police is necessary for the prevention of crime.

6. The Board are of opinion that the Police should not be employed in the service of summonses, warrants, and other processes, except in cases where the persons to be arrested are likely to abscond, or where the service of the process by the Police is necessary for the prevention of crime.

7. The Board are of opinion that the Police should not be employed in the service of summonses, warrants, and other processes, except in cases where the persons to be arrested are likely to abscond, or where the service of the process by the Police is necessary for the prevention of crime.

8. The Board are of opinion that the Police should not be employed in the service of summonses, warrants, and other processes, except in cases where the persons to be arrested are likely to abscond, or where the service of the process by the Police is necessary for the prevention of crime.

9. The Board are of opinion that the Police should not be employed in the service of summonses, warrants, and other processes, except in cases where the persons to be arrested are likely to abscond, or where the service of the process by the Police is necessary for the prevention of crime.

10. The Board are of opinion that the Police should not be employed in the service of summonses, warrants, and other processes, except in cases where the persons to be arrested are likely to abscond, or where the service of the process by the Police is necessary for the prevention of crime.

Secretary

Secretary to Government

Revenue Department

Political and Secret

Read Dec 3rd 1874

Presented by Prof. Bell

Referred to the Committee on Patents

Read and ordered to be printed

Submitted to the Board of Regents

Referred to the Committee on Patents

Reported back with the recommendation that the petition be granted