

(1) Number of Pages.....8
 (2) Date of repair.....4. 12. 67
 (3) Initials of the Referencer.....23.11.68

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	1231	Press
B.P. No.		Mis.
Dated	14. 8. 1975	196 .

Not to be folded or roughly handled

1231
1

No. 150. Read the following letter from Mr. JOHN D'SILVA, late Sub-Magistrate and Deputy Tahsildar of Ramandrug, to the Hon. D. F. CARMICHAEL, Officiating Chief Secretary to Government, Fort St. George, dated Salem, 25th June 1875:—

I BEG to forward herewith a memorial addressed by me to the Right Honorable Her Majesty's Secretary of State for India, and to request that the Government of Madras will be pleased to cause its transmission.

ENCLOSURE No. 1.

Memorial from Mr. JOHN D'SILVA, residing at Salem in the District of Salem in the Presidency of Madras, to the Right Honorable Her Majesty's Secretary of State for India, &c., &c., &c., London, dated Salem, 25th June 1875.

MOST RESPECTFULLY SHEWETH,—That your memorialist begs most respectfully to submit this his appeal from an order* of the Madras Government, dated 13th January 1875, No. 65, Revenue Department, removing him from his post as Sub-Magistrate and Deputy Tahsildar of Ramandrug, and trusts that Her Majesty in Council will be graciously pleased to give due weight to the following circumstances, and order your memorialist to be restored to his office, and further order the arrears of pay due to him from the date† of suspension to be paid to him.

† 25th September 1874.

2. That on the 27th August 1874 a case of dacoity (robbery) occurred between Garay and Nidukurti, in the taluq of Hospett, in memorialist's jurisdiction, and, upon taking the evidence for the prosecution, your memorialist dismissed the case under Section 195 of the Indian Criminal Procedure Code, and rejected a second charge sheet against the same men, as it was evidently indicative of the *suppressio veri* and *suggestio falsi*. In both cases the Police Inspector, a young and inexperienced man, charged the wrong men, while the real dacoits were, and are still, at large. The men accused were well known in the neighbourhood for their industry, and, when arrested, they were engaged in tending their cattle in the vicinity, the pasture at that time of the year being plentiful there.

3. That, moreover, as the nearest Magistrate on the spot, petitioner was aware of all the illegal steps taken by the Police Inspector to induce the prisoners to confess to the crime and to point out stolen property; also the mode in which the torture was used, the fingers being bent backwards. Marks of violence were visible, the bed of the Nagulapur river being selected for this cruelty; and, though complaints were made on the subject to the Deputy Magistrate, and also of the attempts made by the Police Inspector to exact money and draught bullocks from the prisoners, the petition was rejected by an endorsement.‡ And, had it not been for the secret§ confederacy at work for petitioner's suspension from office, it would have been his duty to see that the parties implicated were duly committed for trial by the High Court.

‡ Dated October 1874.

§ Police Inspector's report to Deputy Magistrate, dated 5th September 1874.

4. That, after holding the usual preliminary inquiry, petitioner despatched|| the extract from his register to the Sessions Judge of the district, and sent also a copy of it for the information of the Deputy Magistrate of the division on the same date; but, before this register was received by him, the Deputy Magistrate ordered the Taluq Tahsildar to proceed to Ramandrug and obtain from petitioner the record of the case in question, as the Police Inspector had reported to him that petitioner had improperly discharged the prisoners. Petitioner informed the Tahsildar that the extracts from his register of preliminary inquiry were already despatched both to the

|| 7th September 1874.

*Proceedings of the Madras Government, Revenue Department,
14th August 1875.*

Sessions Judge and the Deputy Magistrate, and did not hand over the record of the case to the Tahsildar, but awaited further orders from the Deputy Magistrate on the subject.

5. That your petitioner was then suspended from office, and ordered by the Magistrate of the district to proceed to the Deputy Magistrate's camp, which was about some 30 miles away from petitioner's headquarters, and afford him all the information he may require in the cases in question, to which order your petitioner responded.

6. That the Deputy Magistrate then proceeded to re-examine the cases. The first he committed to the Sessions without in any way noticing the conduct of the Police, and the second he himself dismissed after summoning and examining the complainants. In the case committed, the presiding Judge, concurring with the assessors who aided him in the trial, unconditionally

* *Bellary District Gazette*, page 13, dated 16th January 1875.
Case No. 93 of 1874, committed by the Deputy Magistrate of the Harpanhalli Division, tried 5th November 1874.

Present

Louis Forbes, Esq., Sessions Judge.

only of the alleged assailants by the witnesses, the steps taken by the Police to secure that end were faulty on the face of it; and that the mischief was rectified too late by the Police Inspector after his arrival." These, with other circumstances, were the grounds on which petitioner discharged the prisoners when he first examined the case.

7. That the second case referred to was actually trumped up by the Police Inspector is evidenced by the fact that the alleged complainants did not appear; they did not complain to the headman and village Magistrate of their own village, nor to the adjacent village authorities, but admitted before the Deputy Magistrate that they complained to the Police Inspector after his arrival to their village, and inviting them to do so by promising them a large share of the stolen property which he said he had discovered, and otherwise threatened them; and this fact is further corroborated by the entries made in his diary by the headman and village Magistrate of Nagulapur on two different dates in August 1874.

8. That, under these circumstances, petitioner had to send for the alleged complainants without the aid of the Police,—a course which any Magistrate, having regard for the welfare of the people committed to his charge, would pursue,—in order to test the entries made in his diary by the village Magistrate of Nagulapur above referred to, especially as the customary village report as to the occurrence of a second dacoity on the same date in the same neighbourhood and by the same prisoners was not received by petitioner. But the Deputy Magistrate and Collector of the district were very easily duped into the conclusion "that the witnesses were tampered with otherwise than by the Police,"—an opinion diametrically opposed to the case *per se*.

9. That the Collector of Bellary, without waiting for the issue of the case committed to the Sessions, hastily and indiscriminately reported to the Madras Board of Revenue the circumstances of the case as depicted to him by the Deputy Magistrate V. Venkatachallam, and recommended petitioner's dismissal from the public service, a prejudicial bias having been previously created in the mind of the Collector towards petitioner by the said Deputy Magistrate. This recommendation of the Collector was made upon reports forwarded to him by the Deputy Magistrate under two heads,—“irregularities” in the cases in question and “intemperate habits,”—which have no foundation soever.

(i). “Irregularities.”—The mistake in the diary is purely a clerical error; the gumastah* (clerk) prepares it. The accounts of batta to prisoners prove this at a glance.

(ii). The complaint was reduced by petitioner into writing in English, and the examination proceeded in the ordinary language (Telugu) in use in the district under Section 334 of the Code of Criminal Procedure. In dealing with illiterate men, petitioner considered it best to have the evidence recorded in their own vernacular in open Court in his hearing and under his personal direction and superintendence, which course is pursued in many mofussil courts in order

*Proceedings of the Madras Government, Revenue Department,
14th August 1875.*

to give fair play. A Police Inspector's initials to a Magistrate's record are not warranted by any precedent. If he did so, he must have done* it in the Deputy Magistrate's Office to

whom the record was subsequently sent by petitioner; for he again stated that he did not initial the whole, but made certain broad marks or signs on others, and was particularly anxious in pointing out that those marks or signs made by him in the third prisoner's confession existed, and that that confession was the very identical one. It is this confession which petitioner remarked in his decision was obtained by some threat or promise, as, from the inquiry made by petitioner, it was not voluntary, and did not fulfil the requirements of Section 122 of the Indian Code of Criminal Procedure.

Dated 7th September 1874.

(iii.) As to “intemperate habits,”—and the Deputy Magistrate might have spared himself the trouble of quoting a correspondence, the origin of which he was not acquainted with,—the reports made to the Collector were false, the Collector himself admitting, in his report to the Board of Revenue, that there was no evidence. Petitioner, on several occasions, was suffering from fever peculiar to a hilly climate such as Ramandrug, as shown by the medical certificates,

† Dated 26th March 1873.

“ 21st July ”

† Mr. Sewell to Government, Annual Report, dated May 1874 (Magisterial.)

copies† of which are attached. A late Acting Collector of Bellary reported‡ to Government that such an imputation towards petitioner had no foundation.

(iv.) As to the Tahsildar's report about the daily cash account not having been written up, petitioner begs to submit that a full explanation was submitted on the subject to the Collector and Deputy Magistrate. This refers

On 23rd September 1874.

to one day in September 1874. When the Tahsildar visited the Droog on the 10th of that month to obtain from petitioner the record in the dacoity cases above referred to, the cash account of the branch treasury under petitioner's charge was under preparation owing to the transactions with the Commandant and Public Works Department on that date having taken place at a late hour. The tappal clerk was on leave for the day, and therefore the work connected with the district post had also to be attended to by the only other clerk on the spot. Nevertheless, the account was prepared that evening and the extract therefrom despatched to the taluq cutcherry. The following morning the Tahsildar examined the treasury, and satisfied himself as to the correctness of the cash balance, &c., therein. Petitioner was with him when he was going over the accounts, and had seen him return to his own station at 10 o'clock.

10. That, in dealing with petitioner, the Madras Board of Revenue did not go into the evidence in the dacoity case disposed of by petitioner as acknowledged in their Proceedings, but appear to have laid much stress on

Board's Proceedings recorded in Proceedings of Madras Government, 18th January 1875, No. 63, Revenue Department.

the second part of the Collector's report regarding some previous correspondence as to “intemperate habits,” and came to the conclusion that petitioner should be removed from his situation, and recommended to the Government that the Collector should be instructed to provide petitioner with a clerkship in the Huzur or in the Collector's own office. The Madras Government, in the order already quoted, adopted the Board's suggestion. Petitioner has accordingly been removed from the date of his suspension, the Collector informing§ petitioner “that he will be provided with a clerkship when opportunity offers.”

§ Order of Collector of Bellary, dated 26th January 1875, No. 11.

11. Thus your memorialist, who is a servant of Government of upwards of twenty years, and during that period has discharged situations|| of trust and responsibility, has been summarily dealt with for discountenancing the old torture system, which is still resorted to, and for otherwise performing his duties in strict

|| *See* Certificate of J. W. B. Dykes, Esq., late Collector of Nellore.

1231
2

13

*Proceedings of the Madras Government, Revenue Department,
14th August 1875.*

accordance with the law laid down for his guidance. The original cause of petitioner's suspension has been lost sight of by the controlling authorities, and also the merits of the case, which formed the subject of the correspondence with the Board of Revenue, have not been reviewed; but a gratuitous assumption of false and frivolous reports has been the cause of petitioner's removal from his office, and great injustice done to him.

12. The Madras Government has been appealed to, but, in their endorsement² on memorialist's petition, No. 1,087. of 1875, they are not disposed to alter the view already taken by them.

Dated 17th May 1875.

13. That the Deputy Magistrate, who reported certain circumstances against petitioner is now in his dotage, being above fifty-five years of age, and is retained in the public service contrary to a ruling of the Government of India. His mental faculties are failing him: his conclusions are ill-judged, and are apt to mislead the controlling authorities.

14. And that your memorialist trusts that Her Majesty in Council may be moved to consider that memorialist has made out a case in which Her Majesty's prerogative may be worthily exercised, and that memorialist's prayer may be granted. And your memorialist, as in duty bound, will ever pray.

No. 151.

ORDER THEREON, 14th August 1875, No. 1,231.

Miscellaneous.

PETITIONER is informed that his memorial has been received, and will be forwarded to the Secretary of State.

(True Extract.)

(Signed) A. MACGREGOR,
Acting Secretary to Government.

To the Petition Department.

To
The Chief Secretary to Government
Fort St George

Sir,
I beg to forward herewith
a Memorial addressed by me
to the Right Honorable Her
Majesty's Secretary of State for
India, &c. request that the
Government of Madras will
be pleased to cause its transmission.

I beg to remain,

Sir,

Yours most Obedient Servant,

Salem

25 June 1875.

W. S. S. S.

Govt. of 1875: 37th
REVENUE.

THE PETITION DEPARTMENT.

Filed August, 14th.

Recd.

G. O., 14th August 1875, No. 1281.

AUGUST.
Nos. 150-151.

Mr. J. D. Siva, late Sub-Magistrate, and Deputy
Tahsildar of Ramanthapur. — Informing — that his
Memorial will be forwarded to the Secretary of
State.

