

- (1) Number of pages 4
(2) Date of repair 6-2-1970
(3) Initials of the Referencer _____

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.
B.P. No.

2013

Press
Mis. ✓

Dated 28. 8. 1876

196

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Registration.

No. 42. *Read the following letter from F. R. H. SHARP, Esq., Acting District Magistrate of Nellore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Nellore, 3rd July 1876, No. 322:—*

I have the honor to address you on the following subject.

2. On the 10th April last the Acting Sub-Collector and Joint Magistrate suspended D. Anantaya, Sheristadar and Sub-Registrar of Ongole, as I gather from his letters to me, Nos. 312 and 345, of the 5th and 22nd May respectively, on account of certain accusations against him of malpractices in his various official capacities of Sheristadar, Magistrate, and Sub-Registrar, but chiefly on the ground of accepting bribes in the Registration Department.

3. On the 10th May the Joint Magistrate proceeded to try D. Anantaya on a specific charge of bribery in his official position as Sub-Registrar. It then came to Mr. Hardinge's notice that, as Sub-Registrars are not removable from office without the sanction of Government, he could not, with reference to Section 466 of the Criminal Procedure Code, try D. Anantaya, *quâ* Sub-Registrar, without the permission of Government or of the Inspector-General of Registration, who,

Madras Government, Judicial Department,
Nos. 16 and 17 of 1st November 1875.

it appears from the Proceedings quoted in the margin, is authorized by Government to give permission. The Govern-

ment Order quoted by the Inspector-General in his letter embodied in the above Proceedings does not appear to have been furnished to the Revenue or Magisterial Departments, as it cannot be found either in this or in the Sub-Collector's Office.

4. Mr. Hardinge then reported the matter to me in his letter, No. 312, of the 5th May, giving a short statement of the case against Anantaya, and requesting me to ask the Inspector-General to accord his sanction for the prosecution. I sent on the Joint Magistrate's letter to the Inspector-General with a foot-note (of the 8th May, No. 250,) requesting him to comply with Mr. Hardinge's request.

5. The Inspector-General in his letter to me, No. 99, of the 12th May, after taking exception to the suspension of D. Anantaya, remarked as follows: "No complaint has yet been made against" the Sub-Registrar "to this department as far as I am aware. In the absence therefore of any information before me which would justify my according the requisite sanction, I beg to be favored with full information respecting the charge entertained by the Acting Joint Magistrate, the circumstances under which it has been preferred, whether any preliminary inquiry has been made, and whether any and what evidence exists to sustain a criminal prosecution."

6. This letter was forwarded to the Joint Magistrate with my foot-note, No. 260, of 17th May 1876, requesting him to give the further information asked for. He supplied this in his letter, No. 345, dated 22nd May 1876, in which he also remarked that he suspended D. Anantaya in his capacity of Sheristadar, not of Sub-Registrar. This was forwarded to the Inspector-General of Registration with this office foot-note, No. 267, of 24th May 1876.

7. The Inspector-General in his letter, No. 133, of the 30th May, wrote as follows: "While thanking Mr. Hardinge for bringing the complaint in question to the notice of this department, I beg that the complaint may be referred to

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the Registrar of Nellore to enable that officer to make a departmental inquiry into the charge and report the result to this office, when sanction will be accorded for prosecuting the Sub-Registrar criminally if necessary."

8. I communicated the Inspector-General's determination to the Joint Magistrate in letter, No. 282, of 2nd June 1876, requesting him to abstain from further action against D. Anantaya, *quid* Sub-Registrar, and, if he thought it would be of any use, to communicate the substance of the Inspector-General's remarks quoted above to the complainants in the bribery case. I had intended addressing Government on the subject generally, but Mr. Hardinge in his letter, No. 454, of the 28th June, has requested me to ask Government direct for sanction for the prosecution of Anantaya not only on the charge of bribery already referred to, but on two other similar complaints. I submit that letter to Government with the rest of the correspondence quoted with a request that Mr. Hardinge may be authorized to try D. Anantaya on the charges described therein and on any others which may come to notice during his inquiry and which it may appear to him to be expedient to take up.

9. I must also request Government to consider whether the interests of public justice will be advanced by such a course as the Inspector-General of Registration has adopted in this case. D. Anantaya is charged with bribery on grounds which appear reasonable to his official superior in every department but one; that official superior is on the spot where the charge can be best inquired into; he is a Magistrate and Justice of the Peace invested with the most extensive authority, accustomed to deal with evidence, with some twelve years' judicial experience, and with a suitable official establishment for conducting investigations of a *quasi*-judicial nature.

10. It is surely tantamount to a denial of justice to tell presumed poor ignorant people that they must travel nearly 150 miles from Ongole to Nellore and back again in order to lay a complaint against an official at Ongole before a native gentleman who personally, I have every reason to believe, is unexceptionable in character, but who cannot officially command the confidence which the European Sub-Collector must inspire in ignorant natives. And, presuming the complainants do appear before the Registrar, he has no power and no staff to summon their witnesses or otherwise to conduct a *quasi* judicial investigation. Perhaps the Inspector-General intended that the Registrar should proceed to Ongole to hold the investigation. Even if that were so, such a course would be impossible at present, for the Registrar is on leave and his duties are being performed by the Treasury Deputy Collector, who certainly has no leisure for uninterrupted attention to a *quasi*-judicial inquiry even in Nellore, far less at Ongole.

11. Even presuming that the Registrar succeeds in holding a satisfactory departmental inquiry and the Inspector-General decides thereupon that the Sub-Registrar should be prosecuted before the Magistrate, I need hardly remark how prejudicial to the interests of justice such a delay will be. If the accused is innocent and is proved so he will have remained for months unnecessarily under suspicion; if he is guilty, he has ample opportunities for getting up false evidence and tampering with witnesses; and after all the accused would be put on his trial

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before that Magistrate whom the Inspector-General of Registration cannot trust to decide whether he should be tried or not.

12. In conclusion I request that Government will be pleased to accord permission to Collectors or to District Magistrates to sanction prosecutions against Sub-Registrars for charges connected with their official acts. The Revenue Department is already burdened with the duty of supervising their work to some extent; and as in most cases Taluq Sheristadars are practically ex-officio Sub-Registrars, the appointment of Sub-Registrar is really in most cases made by the Revenue Department, and it is anomalous that an official of the grade of Taluq Sheristadar should be appointed and dismissed by, and in every way subordinate to, the Revenue Department in all his most important duties, and yet that no action can be taken with reference to a comparatively unimportant part of his work without reference to an officer hundreds of miles away who is perhaps ignorant even of his name, or at any rate of his character and conduct generally.

No. 43. ORDER THEREON, 7th August 1876, No. 1606.

The Governor in Council is of opinion that the Inspector-General of Registration had enough before him in the case to enable him to sanction the Sheristadar-Sub-Registrar's trial, and that the course he adopted was calculated to facilitate the man's escape.

2. Under the provisions of Section 466 of the Criminal Procedure Code the Governor in Council is pleased to empower Divisional Magistrates to receive complaints of offences committed by Taluq Sheristadars of their divisions in the capacity of Sub-Registrars.

3. With reference to G.O., 4th July 1868, No. 1062, Judicial, the Governor in Council observes that the prosecution of a Sub-Registrar "for any act purporting to be done by him in the discharge of his duty" needs to be sanctioned by Government.

4. But for "offences committed" it seems inadvisable to withdraw Taluq Sheristadars as Sub-Registrars from the jurisdiction of the Divisional Officers to whom they are subordinate in their revenue capacity.

(True Extract.)

W. J. Lewis
Col.
Chief Secretary.

To all District Magistrates.
To the Board of Revenue.
„ Revenue Department.
„ Inspector-General of Registration.

Exd. W. J. Lewis.

DEPARTMENT

G.O. No.
B.P. No.

Press
Mis.

No. 3425
Received by Dept. of Justice
Vol. of 1876

JUDICIAL.

To ALL DISTRICT MAGISTRATES,

&c., &c., &c.

Dated August, 7th.

Issued — 18

Recd. 21 Aug 1876

Encl.

G.O., 7th August 1876, No. 1606.

AUGUST.
Nos. 42-43.

Registration.—Observations made with reference to the presentation of the Sub-Registrar of Orange for receiving bribes, and Divisional Magistrates empowered to receive complaints of offences committed by Tahiti Schoolmasters of their divisions in the capacity of Sub-Registrars.

1876-1877

Encl.

28th Aug 1876