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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / B.P. No.	5047	Press. / Mis.
Dated	31. 8. 1877	197 .

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Archives I—10,006—19-4-79.

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GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

20th August 1877, No. 1984.

Stamps.

Read the following papers:—

No. 172. *From J. W. REID, Esq., District Judge of North Malabar, to the Acting Chief Secretary to Government, dated Tellicherry, 17th March* 1877, *No.* 92.

I have the honor to report to Government that the Munsif of Badagara reports, in the letters shown in the margin, the discovery of thefts of Court Fee Stamps from documents, amounting in value to Rupees 498-2-0; that I have suspended the head, fourth, and fifth gumastahs of that Court, and requested the Magistrate of the District to direct their prosecution by the Government Prosecutor or such person as he may think fit to appoint.

Dated 28th February 1877, No. 24.
" 10th March " " 33.
" 15th " " " 38.

No. 785.

The District Judge should submit a report with full particulars, as required by the Government of India—*vide* G.O., dated 1st November 1875, No. 2320.

FORT ST. GEORGE,
24th March 1877.

(Signed) D. F. CARMICHAEL,
Chief Secretary.

No. 173. *From J. W. REID, Esq., District Judge of North Malabar, to the Chief Secretary to Government, dated Tellicherry, 14th April* 1877, *No.* 119.

In accordance with the Order of Government, No. 785, dated 24th March last, I have the honor to submit a report with full particulars, gathered from a report of the Munsif who made the enquiry referred to below, regarding the discovery that stamps of the value of Rupees 498-2-0 were removed from certain records in the Court of the District Munsif of Badagara.

1. Vakalutnamah executed by the sixth defendant in Suit No. 115 of 1875, on the file of the Badagara Munsif's Court, in favor of Vakil Kunath Shangara Menon.
2. Batta memorandum presented by Vakil Narangapurath Krishnan Nair for the issue of warrant to the second defendant's witness in Suit No. 382 of 1875.
3. Vakalutnamah executed by the first and second defendants in Small Cause, No. 270 of 1877, in favor of Vakil Gopala Menon.

2. On the 16th February last, two Police Constables brought to the District Munsif papers noted marginally (forming part of the record of his Court) which they stated they had found close to the travellers' bungalow which is situated a few yards from his Court.

3. The vakalutnamah, in Regular Suit No. 115 of 1875, bears traces of a stamp having been affixed thereon and subsequently removed. It has no perforation to indicate that the stamp was cancelled. Though the vakalut bears neither date nor the Munsif's initial, there is ample evidence to show that it was once incorporated with the record in Suit No. 115,

for, the value of the stamp is included in the costs of the suit. The head gumastah (who receives such vakalutnamahs as well as other papers* presented to the Court cancels the stamps thereon) was examined, and he stated that he did not receive the vakalut above alluded to. The Vakil who presented it was also examined, and he stated that he did not recollect to whom he delivered it. The fourth gumastah, Shangaran Nair, who prepared the fair copy of the decree in the aforesaid Suit No. 115, stated in his examination that the vakalutnamah was actually incorporated with the record, and that, after the preparation of the fair copy of the decree, he delivered the record to the fifth gumastah, Koudan Panikar, to enable the latter to prepare a list of all the vouchers for transmission to this (District) Court. The fifth gumastah admitted having prepared the list, but stated that the fourth gumastah delivered the record to one Vassu Devan Perembran Nair, who is occasionally deputed to inspect disputed properties in the capacity of a commissioner. The latter was examined. He denied having received any record from the fourth gumastah, but admitted that he used to assist the fifth gumastah in his work.

* *i.e.*, with the exception of vakaluts, razinamas, and petitions presented during the trial of Small Cause suits.

4. It is necessary here, the Munsif states, to remark that it was in the fifth gumastah's possession that the record in Suit No. 115 was found on the day the papers were brought by the constables.

5. The batta memorandum in Suit No. 382 of 1875 bears the Munsif's signature, and the stamp thereon has been duly cancelled. The value thereof is included in the amount of costs.

6. The stamp on the vakalutnamah in Small Cause Suit No. 270 of 1877, presented by the defendant's Vakil, has been removed, and was never cancelled. The vakalut does not, moreover, bear the Munsif's signature.

7. The vakalutnamahs, razinamas, and petitions presented during the trial of Small Cause suits were received by the second gumastah who delivered them to the fifth gumastah. It was the latter who took charge of all the records of such suits immediately after their disposal to enable him to prepare the costs.

8. A perusal of the record in the aforesaid Small Cause Suit No. 270 of 1877 goes to show that the subject-matter thereof was amicably compromised between the parties, and the suit was struck off the file in compliance with the prayer contained in a joint petition presented by the plaintiff and the defendant's Vakil. In his examination the fifth gumastah admitted that it was he who filed this petition. The Munsif considers that, as this petition bears the signature of the defendant's Vakil, the absence of the vakalutnamah must have struck his (fifth gumastah's) attention, and that if it was not in the record he should have made a report, which he never did.

9. After holding the necessary enquiry the Munsif submitted a report to this Court on the 28th February, and applied for sanction for a criminal prosecution, and for the suspension of the fifth gumastah. Sanction was given by me on the 1st March, and, in the mean time, I ordered the Munsif to suspend the fourth gumastah and to submit an explanation as to why the latter did not report that the stamp on the vakalutnamah in Suit No. 115 of 1875 was not punched out. The explanation offered by him was that, in preparing the fair copy of the decree, he did not carefully see whether the stamp on the vakalut was cancelled or not.

10. Immediately after the receipt of the Court's Proceedings sanctioning the suspension of the fourth and fifth gumastahs, the Munsif ordered the head gumastah to take charge of all the records in their possession. The fourth gumastah readily delivered over all the papers he had in his hands, but the conduct of the fifth gumastah the Munsif considered open to the gravest suspicion. He delivered only a portion of the record which was in his box. On examining that portion, a few batta memoranda were found missing. On the next day he stated in his examination that he was prevented by ill-health from giving over charge of the remaining portion of the record, while in fact the Munsif believes he was not suffering from any disease whatever. The Munsif thereupon made a report to this Court, and I directed the Munsif that the head gumastah and the second gumastah should jointly examine the record in the

fifth gumastah's box, and that if the latter declined to join in that examination it would be at his own risk. In conformity with these instructions the head and second gumastahs took charge of the record in the presence of the fifth gumastah.

11. As the Munsif's suspicion was aroused by the papers produced by the constables, he adds, he ordered the head gumastah to make a careful examination of the other records in his Court. The head gumastah first examined the records of regular suits, and reported that no stamps were found missing. On the 10th March he reported that deficiency of stamps, amounting to Rupees 103 and odd, was discovered in the records of Small Cause suits. This was reported to this Court on the same day.

12. The Munsif in his report of the 14th March explained that a portion of the above record was found in the fifth gumastah's box, and the remaining portion in the record-room.

13. On the 15th March the head gumastah made his final report to the effect that the *total value* of *stamps* which were missing amounted to Rupees 498-2-0.

14. The Munsif proceeds to say that batta memoranda and vakalutnamahs which bore stamps worth Rupees 150-4-0 have disappeared from the record. In addition to this, stamps of higher value which were affixed to plaints and which were duly cancelled have been removed, and others of less value substituted in their place. The deficiency of stamps on plaints amounts to Rupees 347-14-0. It is these two items that form the aggregate sum of Rupees 498-2-0.

15. A great number of plaints are reported to bear unmistakeable traces of the removal of the stamps of higher value, and the substitution of others of less value.

16. With his report, dated 15th March, the head gumastah submitted three* lists, viz., 1, 2 and 3. The List No. 1 shows the number of records which were found in the fifth gumastah's box. The List No. 2 shows the number of records which were found in the record-room and which the head gumastah stated he never took charge of from the fifth gumastah. The List No. 3 shows the deficiency of stamps which were found in that portion of the record which the head gumastah himself admitted he took formal charge of from the fifth gumastah and then consigned to the record-room. Regarding the last-mentioned deficiency the head gumastah was examined, and he stated that in taking charge of the records from the fifth gumastah he merely examined whether the papers shown in the list prepared by the latter corresponded with those in the records, and that he never ascertained whether all the vouchers in each record were complete, or whether the value of the stamps was correct.

* Now before the Joint Magistrate.

17. On the same 15th March the Munsif submitted another report to this Court, and applied for sanction for a criminal prosecution, and the head gumastah's suspension. I on the 17th idem sanctioned the latter's suspension, and directed his prosecution and that of the fourth and fifth gumastahs, as well as of any other person implicated in the case.

18. The matter is now before the Joint Magistrate before whom the head, fourth, and fifth gumastahs of the above Court are being prosecuted by the Government Vakil under the orders of the District Magistrate.

19. On conclusion of those proceedings, I shall make a further report when specimens of the way in which the fraud was committed will be submitted.

No. 1065.

The consideration of this report will stand over till the Government are furnished with the report of the trial of the gumastahs by the Joint Magistrate, and with the further report promised by the District Judge, to be accompanied with specimens of the manner in which the fraud was committed.

FORT ST. GEORGE,
27*th April* 1877.

(Signed) D. F. CARMICHAEL,
Chief Secretary.

No. 174. *From J. W. REID, Esq., District Judge of North Malabar, to the Chief Secretary to Government, dated Tellicherry, 2nd August 1877, No. 218.*

In continuation of my letter of the 14th April last, I have the honor to report, for the information of His Grace the Governor in Council, that of the three individuals, gumastahs of the Munsif's Court at Badagara, whose prosecution was ordered, and who were tried by the Acting Joint Magistrate, copy of whose calendar is enclosed, the Head Gumastah Kallit Nelyoden Ramen Nair and the fourth Gumastah Cheryatta Shangaran Nair were acquitted, and the fifth Gumastah Vayatt Kondan Panikar was sentenced, under Sections 409 and 261 of the Indian Penal Code, to six months' rigorous imprisonment and to pay a fine of Rupees 350, and in default to undergo further rigorous imprisonment for six months.

2. I shall not repeat the substance of my report of the 14th, but relate the way in which the defalcation is shown by the records, and give my opinion as to the way in which the fraud appears to have been perpetrated.

3. There were, as observed in my report of the 14th April, three lists prepared under the Munsif's orders by gumastahs in his Court—

No. 1 shows the particulars of records found in the fifth gumastah's box.
" 2 is a list of records found in the record-room which the head gumastah declared were placed there by the fifth gumastah, and which he did not assume charge of.
" 3 is a list of records which the head gumastah admits he took charge of from the fifth gumastah, in which stamps are found deficient.

4. All the records above referred to are, with few exceptions, records in Small Cause suits. Such records are always retained under the orders of the High Court in the Munsifs' Courts, while records of all original suits and petitions connected with original suits are required to be despatched within the month after that of disposal to the District Court for custody.

5. Records in List No. 1 :—

(1). The number of suits, records of which are in this list, is 1,647. These are suits in small causes disposed of from May to December 1876 and January and February 1877, and original suits disposed of in October and November 1876. In 1877 out of that number the deficiency to the amount of Rupees 48-11-0 was found.

(2). The papers in which deficiency was found are (1) plaints, (2) vakaluts, (3) batta memorandums or statements by parties putting in batta for service of process. The deficiency in plaints amounts to Rupees 6-11-0, that in vakaluts in Small Cause suits Rupees 1-8-0, and the vakaluts which were found as stated in the report, viz., one belonging to Original Suit No. 115 of 1875 (Exhibit B), and one filed in Small Cause Suit, No. 270 of 1877 (Exhibit A). The deficiency in batta memorandums amounts in Small Cause suits to Rupees 38-8-0, and Rupees 2 in original suits. Some of these stamps have only the first and large hole by which, under Section 30 of the Court Fees' Act, the figure-head is punched out, but not the small hole which is required to be punched out when the head gumastah who has charge of the record-room receives them into the record-room.

(3). The plaints in which the deficiency is found are five in number :—

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
215 of 1876	3 14 0 (including 8 As. batta.)	2 2 0	1 12 0

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These stamps have both holes punched out. Held to the light it is evident that two stamps of a total value of 3 Rupees had been taken off, and two stamps of 1 Rupee and 4 Annas, respectively, substituted.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
460 of 1876	3 0 0 (including 12 As. batta.)	2 8 0	0 8 0

These stamps are punched with both holes. An 8-Anna stamp has, from the fact of the holes in the paper and in the stamp not agreeing, been substituted for a 1-Rupee stamp.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
549 of 1876	2 12 0 (including batta.)	1 0 0	1 12 0

These have both holes punched. It is evident from the appearance as in preceding case a 4-Anna stamp has been substituted for a 2-Rupee stamp.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
556 of 187}	4 6 0 (including batta.)	2 14 0	1 8 0

Similar to last case both holes punched. An 8-Anna stamp substituted for Rupees 2.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
429 of 1876	1 10 0 (including batta.)	0 11 0	0 15 0

The figure-head only is punched. It is evident one 1-Anna stamp has been substituted for a 1-Rupee stamp.

(4). The vakalutnamahs, excluding one found by the constables with stamp abstracted (A), were filed in two suits and are wanting altogether. All batta memorandums are missing.

6. Records in List No. 2 :—

(1). The number of suits, records of which are in this list, is 958. They are of suits disposed of in the months from January to March 1876 and June and July 1876. In forty-six out of that number the deficiency to amount of Rupees 53-2-0 was found. The papers in which deficiency was found were (1) plaints, (2) batta memorandums.

(2). The deficiency in plaints amounts to Rupees 31-6-0, and in batta memorandums, Rupees 21-12-0. All the batta memorandums are missing.

(3). The plaints in which deficiency is found are fifteen in number, of which a few samples are mentioned :—

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
1592 of 1875	3 10 0 (including batta.)	0 14 0	2 12 0

Both holes are punched out. A 4-Anna stamp has been substituted, as is plainly evident from the inconsistency of the holes on paper and stamp, for one of 3 Rupees.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
1735 of 1875	4 4 0 (including batta.)	1 4 0	3 0 0

As last, appearance shows a 1-Rupee stamp has been substituted for a 4-Rupee stamp.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
12 of 1876	4 4 0 (including batta.)	1 0 0	3 4 0

As last, appearance shows a 12-Anna stamp substituted for a 4-Rupee stamp.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
53 of 1876	4 2 0 (including batta.)	1 2 0	3 0 0

A 1-Rupee stamp has been substituted for one of 4 Rupees.

7. Records in List No. 3:—

(1). The number of suits, records of which are in this list, is 494. They are of suits disposed in the months of September to December 1873, and all months of 1874 and 1875.

(2). The deficiency to amount of Rupees 396-5-0 was found in all. The papers in which deficiency was found are (1) plaints, (2) batta memorandums.

(3). The deficiency in plaints amounts to Rupees 309-13-0, and in batta memorandums, Rupees 86-8-0. The batta memorandums are all missing.

(4). The plaints in which deficiency is found are 360 in number, of which a few stamps are mentioned:—

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
1421 of 1873	4 8 0 (including batta.)	2 9 0	1 15 0

This is one of the oldest suits. There was no punch to fit the figure-head then, but a triangular cut used to be made through the figure-head. Evidently one 1-Anna stamp had been substituted for a 3-Rupee stamp.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
1643 of 1873	4 4 0 (including batta.)	1 6 0	2 14 0

Two 1-Anna stamps have been substituted for two stamps of the value of Rupees 3.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
1159 of 1874	4 4 0 (including batta.)	0 5 0	3 15 0

Apparently one 1-Anna stamp has been substituted for a 4-Rupee stamp.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
1900 of 1875	3 6 0	2 6 0	1 0 0

A 1-Rupee stamp has been substituted for one of 2 Rupees.

S. C. Suit No.	Proper Value.	Value in Plaint.	Deficient.
	R. A. P.	R. A. P.	R. A. P.
613 of 1875	4 12 0 (including batta.)	1 14 0	2 14 0

Two 1-Anna stamps have been substituted for one 1-Rupee stamp and one 2-Rupee stamp.

8. The procedure followed which gave the fifth gumastah, the most prominent and the only convicted perpetrator of these frauds, the opportunity to commit them, appears to have been as follows.

9. According to the Munsif's statement (1) plaints, (2) vakaluts, and (3) batta memoranda (with some other papers) were received by the head gumastah. After cancellation of stamps, papers were brought to the Munsif to be dated and initialed, not on the stamps, but on back of the papers. The only papers ordered to be initialed and dated on the stamps are copies by the office granting them—*vide* Proceedings of Madras Government, dated 7th October 1875, No. 2191. Such papers were then, the Munsif stated, distributed by the head gumastah to other clerks, but plaints were retained by the head gumastah. The vakaluts mentioned above by the Munsif must refer however to *vakaluts* in regular suits, for he stated in the first sentence of his deposition that *vakaluts*, razinamas (compromises), and petitions in Small Cause suits were received by the second gumastah whose duty and practice was to attend on the Munsif in Small Cause suits, and the stamps on razinamas in Small Cause suits were cancelled by the second gumastah and read aloud by him. The fifth gumastah used to sit below the bench to receive papers in Small Cause suits and prepare statements of costs immediately after disposal. *Vakaluts were*, if the fifth gumastah was not engaged on other duty, *handed to the fifth gumastah to cancel and file*. All records of Small Cause suits disposed of during the day were in the evening taken charge of by the fifth gumastah who deposited them in his box of which he had the key, and after parties were furnished with copies, the fifth gumastah had to prepare lists of the records. Such lists the fifth gumastah gave to the head gumastah to be deposited with the records to be consigned to the record-room, the head gumastah taking charge of such at no stated times, but at his leisure.

10. The second gumastah gave much the same evidence, and further stated that, if documents had to be returned to parties, the head gumastah would take them from the fifth gumastah to do so.

11. The head gumastah, examined as defendant, made the following important statements: That petitions are called for twice a day, and then petitions and *vakaluts* were brought to him by the vakils and parties. He admits that all the stamps in No. 3 list were correct when filed. He said that when he was not otherwise busily engaged he used to punch out the stamps at the window near the bench. When busily engaged he used to send the stamps downstairs by a batta peon (Muni Kurup) or a commissioner, and they would punch out the stamps on the floor of the record-room; that, after having the paper brought back again after punching, the papers used to be distributed to the gumastahs. A portion of the records in Small Cause suits were kept by the fifth gumastah in a corner of the record-room in which the lists of the papers were not signed; these records were found in the record-room and are mentioned in List No. 2; that the fifth gumastah used to prepare costs and give copies to parties requiring copies; that he used to tell the fifth gumastah that when his box was filled with records they should not be kept there and should be transferred to the record-room, and used to get the reply that "they should be kept in the box a year, because the parties apply for copies of the decrees after five or six months, and then it would be difficult to get the records from the record-room;" and the fifth gumastah also told him "that he would make the additional small hole, so it would be very easy for the head gumastah to transfer them to the record-room."

12. Among the papers in List No. 1 out of the whole number of suits 1,674, in fifty-nine of these in which the stamps on plaint are all correct, the figure-heads only have been punched out, not the small hole. In the five suits in which deficiency is found in List No. 1, in four the small hole has been and in one has not been punched out. These are all of 1876, which would be consistent with the head gumastah's statement as to fifth gumastah keeping records with him.

13. There is direct evidence in the record that the fifth gumastah sold stamps to witnesses in the case, and was seen to take a packet of stamps from Court by the Massalji, saying he was going to take them to his country, South Malabar; that he used to go to Court and do work out of office hours in the morning; that he was seen by the Massalji of the Court in the record-room examining records; and that he got the Massalji to fetch him water to the record-room, and said he wanted it to stick on stamps which had come off. The Massalji declares he has seen the fifth gumastah punch out

stamps in the record-room, and the head gumastah has sometimes given him papers with stamps uncancelled to hand to the fifth gumastah.

14. It is plain therefore that either the head gumastah was hand-in-glove with the fifth gumastah in the fraud, or that when the records were sent downstairs to be punched or at some other time the fresh stamps were taken off and old stamps of which the figure-head was punched out taken off the records in fifth gumastah's possession which had not been placed in record-room, put on, and these papers then placed before the Munsif. There are two ways which may account for their passing through the Munsif's hands when he was initialling them, so that he did not have any suspicion. One may be that he being only able to see before him punched out stamps and in the hurry of business not being able to know if the plaints, &c., were stamped with the full value, initialed them. The second may be that stamps quite intact were taken off after presentation, and stamps of equivalent value, the figure-heads of which had been punched out, *but in which the smaller hole had not been made*, which had been abstracted from old records were pasted on the papers, and they were *then* put before the Munsif, who even with the most strict scrutiny would be unable to form any other opinion than that the proper stamps were on the papers. The uncancelled stamps taken off the papers newly put in were of course available for sale.

15. As to head gumastah being helped by a batta peon and an amin if not by others also, and fifth gumastah being helped by a commissioner, I have made enquiries of the Sub-Judge and the Munsifs, and find that in all of their Courts, till a more or less recent period, the assistance of commissioners and amins has been given to different gumastahs. The practice though objectionable doubtless was extenuated by the fact that all hands have a great deal of work to do.

16. The fourth gumastah is only chargeable with having allowed the Vakalut B in Suit No. 115 to be passed through his hands without reporting the figure-head was not punched out. It is in a regular suit. He says he did not observe it was not cancelled. He is not engaged in Small Cause work, and he may perhaps have overlooked it. I have directed him to return to his work, and to receive his back pay.

17. The head gumastah fell under a certain amount of suspicion on a former occasion in 1869, while he was third gumastah in the Tellicherry Munsif's Court when a Vakil took a document evidencing a sale of jenmom from among the records in his charge, and it was on its return by the Vakil found countersigned with an Anandravan's signature which was alleged to be a forgery. The matter came under the then Acting Judge Mr. Leman's notice, and this gumastah was not punished, and I subsequently promoted him for length of service. But that case combined with this have made me come to the opinion that the head gumastah is not a fit person to be entrusted with the important duties of head gumastah, and I have accordingly suggested to the Acting Munsif the propriety of his reduction to a gumastahship of Rupees 10 under the powers given to the Munsif by Section 23, Act III of 1873.

18. I enclose the plaints in the Small Cause suits above mentioned as specimens, as directed by Government in their Proceedings, No. 1065, dated 27th April last.

ENCLOSURE No. 1.

COURT OF THE JOINT MAGISTRATE OF MALABAR,
Pellicherry, 3rd May 1877.

CALENDAR CASE No. 37 of 1877.

JUDGMENT.

In this case the third defendant Vayatt Kondan Panikar, the fifth gumastah of the Munsif's Court at Badagara, is charged under Sections 409 and 261 of the Penal Code with criminal breach of trust as a public servant, and with the fraudulent removal from documents entrusted to him of Government stamps in order that they might be used on other documents, and the first defendant Kallit Ramen Nair, the head gumastah of the same Court, is charged under Sections 109, 409, and 261 with abetting the said third defendant Kondan Panikar, in committing the

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offences charged against him. To these charges the parties plead "not guilty." Another gumastah Shangaran Nair was arraigned along with them, but there being no evidence against him of criminality he was discharged without being put on his formal defence.

It appears that, on the 16th February last, the third witness, a Police Constable, picked up on the highway at Badagara near the Munsif's Court three papers folded together. On examining them he found them to be connected with the Munsif's Court, and he accordingly took them to the Munsif. These papers turned out to be: (A) Vakalutnamah executed by the defendant in Small Cause Suit No. 270 of 1877 on the file of the Court, which had been filed by the fifth witness; (B) Vakalutnamah executed by the sixth defendant in Suit No. 115 of 1875 in favor of Vakil Shangara Menon, fourth witness; and (C) Batta memorandum presented by Vakil Narangaparath Krishnan Nair in Suit No. 382 of 1875. The stamp on (C) has been properly cancelled, and no fraud has been committed respecting it. The Vakalutnamahs (A) and (B) show that they had borne Court fee stamps which have been removed. They were in all probability filed in the Munsif's Court, but there is nothing on the face of them to show that they were. They have not been initialed or dated by the Munsif or head gumastah (first defendant). These papers ought to have been in the custody of the fifth gumastah (third defendant), and he was thereupon called on by the Munsif for explanation. That explanation being unsatisfactory the records in his charge were examined, and some of them were found to have stamps on them below the proper valuation, and a large number of batta memoranda were found missing. It appears that the fifth gumastah (third defendant) had formally given over charge of the records in Small Cause suits (the only records retained in Munsifs' Courts) from September 1873 till December 1875, and these were consigned to the record-room. The records in all suits disposed of in 1876 and 1877 should have been in the custody of the third defendant (fifth gumastah). On examination part of these was found in his boxes at the Court, and the List No. 1 shows these and the deficiency in the stamp valuation amounting to Rupees 4-8-11. The remainder of the records from 1st January 1876 were found in the record-room though they had never been formally handed over to the first defendant (head gumastah), and the List No. 2 shows what these are and the deficiency in the stamp valuation amounting to Rupees 53-2-0. In consequence of these discoveries the records which had been handed over to the first defendant (head gumastah) and consigned to the record-room were examined, and a deficiency in the stamp valuation to the extent of Rupees 396-5-0 discovered. List No. 3 shows these records, and the instances in which the stamp valuation is deficient. Accordingly the prosecution of the first defendant (head gumastah) and third defendant (fifth gumastah) was ordered. The prosecution of the second defendant (fourth gumastah) was also ordered as he admitted having received the vakalutnamah (A), and did not report that the stamp had not been cancelled. Nothing to implicate this defendant came out in the evidence. As regards the first and third defendants it may be stated generally that the line of defence adopted by the first defendant is that he received the papers presented in Court, certified to their being properly stamped, cancelled the stamps or had them cancelled under his orders; and that the frauds were committed by the third defendant (fifth gumastah) who has charge of all the records in Small Cause suits till they are formally consigned to the record-room. As regards the List No. 3 he admits having taken charge of the records, but states that he did not examine them, but merely looked to see if they corresponded with the list prepared of them. The line of defence adopted by the third defendant (fifth gumastah) is that he has nothing to do with the correctness of the stamp valuation which is the duty of the head gumastah (first defendant), and that, if there is any deficiency now, the first defendant (head gumastah) is responsible for it, and not he.

In putting the first and third defendants on their formal defence, the latter has only been charged with fraud in connection with the deficiency found in the boxes under his immediate charge, and the first defendant has been charged with abetting him by illegally omitting to cancel the stamps.

The evidence shows that in Small Cause suits the record after the disposal of the suit passed from the hands of the second gumastah who attended on the Munsif for the purpose of reading papers into those of the third defendant (fifth gumastah) who prepared the bill of costs, and this bill appears in each case to have been correctly prepared. At the close of the day the records in all suits disposed of during the day were retained by him and secured in his boxes, and they were retained by him for upwards of a year without being handed over formally to the first defendant (head gumastah). These boxes were locked and the keys retained by the third defendant (fifth gumastah) except during the period when he was on leave about September 1876, when the keys were delivered to the first defendant (head gumastah). It would thus appear that the third defendant (fifth gumastah) had opportunity to remove stamps from the records, provided they came into his hands without the stamps being cancelled. Now the whole of the evidence sufficiently shows that the stamps were passed through the hands of the various gumastahs without cancellation. Of course the gumastahs are unwilling to admit this, but there is no doubt about the fact. It has been represented that the noise made in cancelling the stamps by means of an ordinary punch and mallet caused serious inconvenience in the Court, and that the practice was to punch out the figure-heads in the record-room. I have no doubt this is substantially true, and that, while some stamps may have been cancelled by the first defendant (head gumastah), a considerable portion was left by him to be cancelled by the third defendant (fifth gumastah) on the record coming to

him. It was therefore easy for the latter to remove a stamp of a high value and replace it by one of a smaller value to hide the mark made by the gum, and to remove any papers bearing uncancelled stamps which would not likely be missed from the record.

The first witness for the prosecution speaks to the general practice of the Court, and states that when third defendant (fifth gumastah) was called on to deliver over the records in his charge, he said he could not then do so and feigned illness.

The second and ninth witnesses speak to the general practice of the Court, to the exclusive custody by the third defendant of the records after the disposal of the suits, and to the discovery of the deficiency referred to in the evidence.

The third witness proves the finding of exhibits A, B, and C.

The fourth witness proves the filing of B, and the fifth that of A.

The sixth and the sixteenth witnesses prove that the third defendant was in the habit of coming to the Court in the morning and working with the records. The latter also states that he gave the third defendant water in a cocoanut shell which, it is suggested, was for the purpose of removing stamps.

The seventh, eighth, and seventeenth witnesses depose to having received or purchased Court fee stamps from third defendant.

The eighteenth and nineteenth witnesses depose to having received Court fee stamps from one Perumbra Nair, a volunteer assistant of the third defendant.

The other witnesses were to prove that the plaints were properly stamped when presented in Court, and this has been admitted on behalf of the defendants.

On this evidence the conclusion I come to is that so far as regards the records shown in List No. 1 they were properly stamped when received by first defendant, and that when they passed the Munsif and went into the hands of third defendant they were in the same condition, and that many of the stamps had not been cancelled; that when the records passed to the third defendant the stamp valuation was correct as proved by the bill of costs prepared, and correctly prepared, in each case by third defendant, and that they have subsequently remained in his custody in two boxes of which he held the keys. To explain away the damaging admission connected with the calculation of costs, which the evidence shows is done as may be naturally expected from the stamps on the record, the third defendant alleges that he prepared the bill of costs from the plaint, as he is unacquainted with English, and does not therefore know the values of the stamps which are expressed in English. This of course is subterfuge. That the third defendant removed the stamps is rendered almost certain by the fact that the evidence shows he disposed of some.

The defence of the third defendant was only the throwing of the blame on the first defendant, and he merely recalled and examined the second prosecution witness on his behalf. The first defendant's defence was to throw the blame on the third defendant. He recalled and examined on his behalf the first and second prosecution witnesses.

In considering the evidence, I think there is nothing against the first defendant but gross carelessness, highly culpable but scarcely criminal. I think therefore that he is entitled to be acquitted.

Against the third defendant, I think there is sufficient evidence to justify his conviction. He admits the custody of the records in List No. 1, and the evidence I think sufficiently shows that those records were properly stamped when they became the subject of his trust. They now exhibit a deficiency as stated in the charge of Rupees 48-11-0, and the third defendant has not accounted for that deficiency. At the same time he is shown to have disposed of Court fee stamps with which a gumastah has nothing to do.

The whole of the evidence shows that a state of utter anarchy prevailed in the Badagara Munsif's Court. The evidence proved that a large portion of the work of the first defendant (head gumastah) was done by a batta peon, an amin, and a commissioner, whilst the third defendant was assisted by a commissioner and a batta peon. In fact a very large portion of the work of the gumastahs appears to have been done by commissioners, amins, and peons. It was owing to this irregular system that opportunity was afforded for the commission of this long continued fraud.

As recorded above, I acquit the first defendant Kallit Ramen Nair, and convict the third defendant Vayatt Kondan Panikar under Sections 409 and 261 of the Penal Code, and sentence him to be rigorously imprisoned for six months, and to pay a fine of Rupees 350, or in default to be rigorously imprisoned for a further term of six months.

(Signed) D. BUICK,
Acting Joint Magistrate.

5042/20

No. 175. ORDER THEREON, 20th August 1877, No. 1984.

This case of fraud on the Stamp Revenue, discovered in the Court of the District Munsif of Badagara, North Malabar, is another instance of the ill-consequences, in District Munsifs' Courts, of entrusting the duty of examining and cancelling stamps to inferior and underpaid gumastahs. Instead of the head gumastah, as the chief ministerial officer, doing this duty exclusively, the fourth gumastah practically received the stamped documents to be filed in Court, and handed them to the fifth gumastah who had every opportunity allowed him of abstracting the used stamps, which had not been cancelled as required by the Act, and using them again in fraud of the public revenue. In this case the head gumastah, before consigning papers to the record-room, further failed to examine them on their return from the fifth gumastah, in order to satisfy himself that the requisite stamps were affixed to them.

2. The extent of the fraud as detected amounted, in stamps, to the total value of Rupees 498-2-0, composed of Rupees 150-4-0 on batta memoranda and vakalutnamahs, and Rupees 347-14-0 on plaints.

3. The individual originally suspended and ordered to be tried was the fifth gumastah; but on further reports, the District Judge ordered the suspension and trial of the fourth gumastah and the head gumastah as well. The trial proceeded before the Joint Magistrate of Malabar.

4. The result of the trial is that the Joint Magistrate acquitted the head and fourth gumastahs, and convicted the fifth gumastah (Vayatt Kondan Panikar), sentencing him to six months' rigorous imprisonment and fine of 350 Rupees, or in default of payment of fine to a further period of six months' rigorous imprisonment. Against this clerk there was direct evidence, beside the fact that he was practically in charge of the records, that he sold stamps to witnesses, and was seen to take packets of stamps out of Court.

5. It appears that most of these frauds occurred in documents forming part of the record in Small Cause suits, which, according to rule, are detained in the Munsif's Courts, while the records in regular suits are transmitted within the month to the District Court. In some cases, holes were punched only, as required by Section 30 of the Act; but in most cases, the fraud consisted in substituting stamps of smaller value for those of required higher values. In some cases—those of vakaluts—the stamps were altogether abstracted. The system in the Court appears to have been of the loosest kind. The head gumastah received documents and distributed them to other gumastahs. When not busy he punched the stamps himself; when busy, he sent them by a peon, an amin, or a commissioner, to the record-room where the punching was supposed to take place. After the supposed cancellation of the stamps, the papers were placed before the Munsif who initialed and dated them, not on the stamps, but on the backs of the papers; the records were then intermediately placed by the fifth gumastah in a box of which he held the key; and finally were returned to the head gumastah to be placed in the record-room at leisure. So careless a system must be corrected at once. No amins or commissioners should be permitted to take part in the duty of examining and cancelling stamps, which, as more than once directed recently, should be discharged by the head gumastah alone in the Munsifs' Courts.

6. The convicted fifth gumastah, Vayatt Kondan Panikar, is dismissed the public service; and is debarred from re-employment in it in any capacity whatever. Grave suspicion appears to attach to the conduct of the late Head Gumastah Kallit Nelyoden Ramen Nair; considering that he once before, in 1869, fell under suspicion in connection with the forgery by a Vakil of the Tellicherry Munsif's Court, in which Ramen Nair was third gumastah, of signature to a sale deed. But the Government will not object to his proposed reduction to the post of gumastah on 10 Rupees a-month: though, considering the circumstances disclosed, the punishment must be regarded as a lenient one. The Government approve of the fourth gumastah, Cheryatta Shangaran Nair, being permitted to return to duty and to draw his arrears of pay.

7. These Proceedings will now be reported to the Government of India, with reference to their Financial Circular letter, dated 7th October 1875, No. 3635, recorded in G.O. in this Department, dated 1st November 1875, No. 2320.

(True Extract.)

D^r F. CARMICHAEL,
Chief Secretary.

Assistant Secy. to Govt.

To the District Judge of North Malabar.
„ all District Judges.
„ the Revenue Department.
„ Accountant-General.

301 6

Erd. J. Wright.

6 R

Revenue Department
No. 3849

Govt. of [1877] Madras.

JUDICIAL.

To

The DISTRICT JUDGE of
NORTH MALABAR.

&c., &c., &c.

Dated August, 20th,

Issued 31-8

Recd. 30 August

Encl.

G.O., 20th August 1877, No. 1984.

Read

AUGUST.
Nos. 172—176.

Mis (J) 31-8-77 No. 5047.

Stamps.—Orders passed on papers relating to a series of frauds in stamps in the Court of the District Munsif of Badagara, North Malabar District, and these Proceedings reported to the Government of India.

Little order

Govt. Rs. 1-9-0
Ins. Rs. 1-0-0
Other Rs. 2-0-0
Postage Rs. 0-4-0

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Copy to Mr. Stokes

Govt. Rs. 1-9-0
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