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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / B.P. No.	6359	Press. / Mis.
Dated	15.11.1877	197 .

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Archives 1—10,006—19-4-79.

No. 2,119.

Proceedings of the High Court of Judicature at Madras, 18th September 1877.

Read Register of Summary Trials held by the Deputy Magistrate of Ganjam in Cases Nos. 11 to 15 and 17 to 24 of 1877.

In Cases Nos. 17, 18, 19 and 20, the accused have been convicted of collecting salt earth from salt swamps or of being in possession of salt earth for the purpose of making salt illicitly, and have been sentenced in three cases (Cases 17, 19 and 20) to pay fines, and in one case (Case No 18) to be imprisoned for seven days.

The convictions purport to be under Act XVII of 1840. That Act, however, does not define what acts amount to breaches of the salt laws, but merely invests the Magistracy (as distinguished from the then *Criminal Courts*) with certain powers of punishment in respect of acts which, under the existing law, amounted to breaches of the salt laws. The declaratory law as to what acts amount to breaches of the salt laws is contained in Madras Regulation I of 1805. Section 18 of that Regulation enacts that "Any person engaging in any clandestine or fraudulent trans-"action with respect to rowannahs or passes, smuggling, or conniving at the smuggling of salt, "making, purchasing, obtaining, selling, or weighing salt in an illicit manner, shall, on conviction, "besides being fined at the discretion of the Judge, according to the circumstances of the "case, be liable to permanent exclusion from the service of the Company."

The High Court are of opinion that the collecting of salt earth from salt swamps or the being in possession of salt earth for the purpose of making salt does not come within any of the terms of Section 18 of Regulation I of 1805.

The Court are aware that a contrary decision was arrived at in 1869 (High Court Proceedings, 1st July 1869) when it was held that being in possession of salt earth for the admitted purpose of making salt was an "engaging in a clandestine and fraudulent transaction with respect to making salt in an illicit manner." That decision was also followed in a subsequent case decided in April 1871.

In one of the cases now under consideration (Case No. 20), the purpose for which the salt earth was collected was admitted to be the making of salt. In the other three cases, it does not appear that any evidence was given or that any admission was made as to the purpose for which the salt earth was intended. It is not, however, sought on that ground to distinguish the cases now before the Court from the case decided in the Proceedings of the 1st July 1869.

The High Court are of opinion that the ruling of July 1869 was erroneous, and they think that the decision then arrived at should be overruled.

An enactment (Act No. VI of 1871) is now on the Statute book under which the acts, for which the accused have now been punished, might be legally dealt with. The Local Government have not, however, issued the notification required by law to bring that Act into force in the District in which the cases now dealt with arose. Until the new Act is brought into force, convictions such as those now before the Court must be held to be illegal.

The High Court annul the convictions of the accused in Cases Nos. 17, 18, 19 and 20 on the file of the 1st Class Deputy Magistrate of Ganjam, and direct that the fines levied be refunded to the accused persons.

Ordered accordingly.

T. WEIR,
Acting Registrar,
Appellate Side.

To

The Sessions Judge of
„ Magistrate of (with spare copies for distribution).
„ Judge of the Court of Small Causes at
„ Subordinate Judge of
„ Judicial Commissioner of
„ Inspector General of Madras Police.
„ Commissioner of Police, Madras.
„ Secretary to the Board of Revenue.
„ Chief Secretary to Government (with 3 spare copies).

Urgent

Copy furnished to Revenue Department

Chief Secretary.

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Rev: 1877: Depte
No. 4109

From
Chief Secretary

Dated
Rec'd 21 Sept.

Furnishing copy of Proceedings of the High Ct. of Judicature at Madras annulling the convictions of the accused in Cases Nos. 17, 18, 19 & 20 on the file of the 1st Class Deputy Magte of Sanjiam & directing that the fines levied be refunded to the accused persons.

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