(1) Number of pages 10 Sheets

(2) Date of repair 2.2.85

(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / B.P. No.	Press. / Mis.
1888	
Dated 22.11.1878	197 .

Not to be folded or roughly handled

Archives I—5,806—24-2-78.

1888
97

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

22nd November 1878, No. 1,888.

Read the following paper:—

No. 295. From J. W. HANDLEY, Esq., Government Pleader, Madras, to L. A. CAMPBELL, Esq., Under-Secretary to Government, Revenue Department, dated Madras, 31st October 1878, No. 139.

I HAVE the honor to acknowledge receipt of the Proceedings of Government, Revenue Department, noted in the margin, referring for my opinion the question of the recovery, from the estate of one Runga Charlu, late Taluk Gumastah, Guntoor, of moneys said to have been embezzled by him.

12th October 1878, No. 1,656.

2. I know something of the case against Runga Charlu besides what is contained in these papers from having appeared in support of the conviction on his appeal to the High Court, and I think there would be great difficulties in the way of making him Civilly liable for the whole amount of the defalcations. He was tried and convicted together with the Curnam, Munsif, Mohatad and two Vetties [illegible] of Nidamaree for two cases of embezzlement in connection with that village. His part in these [illegible] accounts, by which in one case Rs. 800 was made to appear as having been paid on account of Nidamaree, whereas only Rs. 80 had in fact been paid; and in the other case, Rs. 47 odd was entered as paid by Nidamaree, whereas it had in fact been paid by another village, Ippattum.

Runga Charlu was sentenced to ten years' rigorous imprisonment, which was reduced by the High Court to five years.

3. Now in this case and probably the same is true of all the other instances of embezzlement, there was not a particle of evidence as to who got the money. It was quite sufficient for the conviction of the prisoners to show that there was a fraud to which they were all parties by which loss was caused to Government, but this would not be enough to make any one of them liable in a Civil Court to make good the whole amount embezzled. There could be little doubt on the facts that they all combined to cheat Government; but whether they all shared the plunder, and, if so, in what proportions, it was impossible to say. The High Court considered the village officers to be the chief culprits, and the Gumastah to be only a tool; but however that may be, it is clearly almost impossible to trace any particular sum of money to his hands so as to sue him for it.

4. Possibly a suit would lie against the Gumastah for damages for having caused the loss to Government by his fraudulent entries in the accounts in conspiracy with the village officers, though I know of no exact precedent for such an action; but such a case even if maintainable would be very difficult of proof. In every one of the numerous transactions of seven years over which these frauds extend, the part taken by the Gumastah and the loss caused to Government would have to be clearly proved, and thus the complications of such a suit would be extraordinary. Considering that it is probable that, as is usually the case, the property of the Gumastah will turn out to be of much less value than is supposed, and very likely to be said to belong to an undivided family, thereby involving other law suits before it can be got at, it seems doubtful whether it is worth while to enter upon such a tedious and expensive litigation.

Appendix

5. The only other method I can think of by which the Gumastah's property might be made answerable for the frauds on Government is by prosecuting him again for some of the other fraudulent transactions, and pressing the Court to inflict a heavy fine; but it is of course uncertain whether the Court would do so, and there would be an appearance of vindictiveness about the proceeding which Government might not like.

No. 296. ORDER THEREON, 22nd November 1878, No. 1,888.

Miscellaneous.

RECORDED; it is to be regretted that the Court did not, on conviction, impose a fine, with additional imprisonment in default of payment; in which case the money would probably have been found by the prisoner or his friends.

(True Extract)

(Signed) L. A. CAMPBELL,
Under-Secretary to Government.

To the Government Pleader.
„ the Board of Revenue.

Exd. W. H. French.

1888
2

difficulties

Cobt. of (1878) Michaelmas

REVENUE.

To The GOVERNMENT PLEADER,

&c., &c.,

Dated November 22nd.

Printed 1878.

Rock.

C.O., 22nd November 1878, No. 1,393.

NOVEMBER.

Nos. 295-296.

Printed by Berger, Clarke, & Co. Limited, at the Queen's Printing Office, Rock.—Recording letter from the Government Pleader relating to —, and advising the impossibility of making the property available for the same.

Madras
15th Novr. 1878

My dear Mr Martin

Jem D.O. re
Puja Charities case.

I do not think it would do to try to get anything out of his relations in the manner you suggest. If it should ever come out it would not look well.

The Courts certainly should enforce a fine in such cases

Difficulties

when the person convicted is
known to Justices. frequently, & they
generally I think do so, but
I do not see how anything
can be done to secure this
practice being universal.
To issue any general instructions
to Judges, Magistrates or
this Court would be to dictate
to them in a matter which
the law leaves to their discretion.
It is not the practice for
Presenting Counsel in cases
to press for any particular
punishment or object to any
thing short of that which
suits with the Court strictly
so. that it would hardly do
to issue any general order to

all Juvenile Offenders
to ask for a fine in most
cases. I am afraid the
matter must be left
to the Courts who may
generally be relied on to
look after the interests
of Govt.

Yrs. sincerely
J. W. Bently

difficulties

REVENUE DEPARTMENT.

No. 4823.

From The Govt Pleader

Dated 31st October 1878.

FOR ORDERS.

Sir,

I have the honor to forward herewith a petition presented to this Court by Purmanund Ghanshyam praying for the issue of a commission to examine witnesses at Ahmedabad in support of the allegations contained in the petition.

2. I am directed to request that you will be pleased to move the Court to issue the commission prayed for.

I have &c.

(Signed) Pleader

18th Nov 1878

Difficulties

No 139 Madras
31st October 1878

From
J. W. Handley Esqre
Government Pleader
Madras

To Loone A. Campbell Esqre
Under Secretary to Government.

Sir,

I have the honor to acknowledge receipt of the Proceedings of Government Revenue Department noted in the margin, approving for my opinion the Question of the recovery from the Estate of one Renga Chariu late Taluq Gomastah & Sentence of moneys said to have been embezzled by him.

2. I know something of the case against Renga Chariu besides what is contained in these papers from having appeared in support of the Conviction on his appeal to the High Court, and I think there would be great

difficulties

12th October 1878
No 1656

A4823
Sd Deputy Mr Hope one
Sec

FOR ORDERS.

Govt desire to be Master

to Write d/o —

My dear Handley.

Re No 139 of 31st ult
on Ranga Chariu's case.

Govt seem to think a civil suit
will be a useful precaution, & think
further proceedings can be left
deprecated.

But will there be any harm in
the Collr consulting his friends as to
what sum they are willing to pay on
his account, & so omitting part of his
suit?

Supposing his reputation alle-
comes, to secure ourselves in future,
take any steps to move the Govt to
award fine in all such cases?

If we cannot do so generally, is
there any harm in our in each case
urging to direct Public Prosecutor
upon a verdict of guilty to attend
& commend in by the Judge, to move
the Judge to impose a fine as well
as any imprt sentence may
seem to deserve!

6/11/78

C 20/11 Copy sent 7 Nov 1878

C. 6-11-78. R 4-11-78.

difficulties in the way of making him Civilly liable for the whole amount of the defalcations.
He was tried and convicted together with the Kurnam, Maniff, Moopanar and two Vettis of the village of Nidamaru for two cases of Embezzlement in connection with that village. His part in these transactions was in making false entries in the Salary accounts, by which in one case Rs 800 was made to appear as having been paid on account of Nidamaru whereas only Rs 80 had in fact been paid, and in the other case Rs 217 odd was entered as paid by Nidamaru whereas it had in fact been paid by a Sthan village Mpattam.
Kunga Charlu was sentenced to 10 years rigorous imprisonment which was reduced by the High Court to 5 years.
3. Now in this case and probably the same is true

of all the other instances of embezzlement, there was not a particle of evidence as to who got the money. It was quite sufficient for the conviction of the prisoners to shew that there was a fraud to which they were all parties by which loss was caused to Government, but this would not be enough to make any one of them liable in a Civil Court to make good the whole amount embezzled. There could be little doubt on the facts that they all combined to cheat Government but whether they all shared the plunder and if so in what proportions it was impossible to say. The High Court considered the village Officers to be the chief Culprits and the Gomastah to be only a tool, but however that maybe, it is clearly almost impossible to trace any particular sum of money

to his hands so as to sue him for it.

4. Possibly a suit would lie against the gomastah for damages for having caused the loss to Government by his fraudulent entries in the accounts in conspiracy with the village Officers, though I know of no exact precedent for such an action, but such a case even if maintainable would be very difficult of proof. For every one of the numerous transactions of 7 years over which these frauds extend, the part taken by the Gomastah and the loss caused to Government would have to be clearly proved and thus the Complications of such a suit would be extraordinary. Considering that it is probable that, as is usually the case, the property of the gomastah will turn out to be of much

less value than is supposed and very likely to be said to belong to an undivided family, thereby involving other law suits before it can be got at, it seems doubtful whether it is worth while to enter upon such a tedious and expensive litigation.

5. The only other method I can think of by which the gomastah's property might be made answerable for the frauds on Government is by prosecuting him again for some of the other fraudulent transactions and pressing the Court to inflict a heavy fine, but it is of course uncertain whether the Court would do so and there would be an appearance of vindictiveness about the proceeding which Government might not like.

I have the honor to be
Your most obedient Servant

J W Hamby

Government pleader

Revenue 1878 Sept

Item No 4823.

The Government of Madras

No 1888 - 22 November 1878

To

The Under Secy

to Government

No 139

Dated 3 Oct

Rec'd 4 Oct

Transmitting Extract

Minute by Rivaz

Chamberlain Commissioner

in the Guntoor Valley

Province as to

possibility of making

his property answerable

for [illegible]

Order

Co 12. 10-78. 2nd 107-28.
28. 7. 78 - 173-74.

Resolved; that the question raised by the above minute, whether the property of defaulting proprietors in ryotwari tracts can be made liable for the money which they have been found by the Revenue authorities to have misappropriated, be referred to the Government of India for consideration.

No 1888

295

295
296

6-11-78. 27-11-78.