

CONFIDENTIAL.

G.O., No. 2404

Confidential No. 599.

DATED 30 June 1893

[Despatch Abstract.]

Stating that the Govt is not prepared to adopt
the suggestion that an assurance of immunity
from prosecution should be given to the witnesses
in the case of Mr Srinivasa Chari, Dy
Sahib of Pamban.

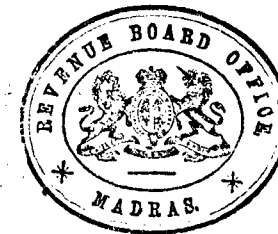
BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

"Confidential"



Proceedings of the Board of Revenue

(Land Revenue),

Dated 15th June

1893,

No. 3555. *Isis*:

READ

Endorsement of the Collector of Madara, on letter from Mr. Francis Esq. as: Head Assistant Collector, Madara, to the Collector of Madara, dated 12th June 1893, Confidential No. 79.

Resolution:-

Submitted for favor of early orders of Government. The case is not one in which, under Section 337 of the Criminal Procedure Code, the Magistrate can tender a pardon to an accomplice, for the offence referred to in the Section 165, Indian Penal Code - under which Srinivasaswami will be tried is only one triable by a Magistrate of the First or Second class and not exclusively triable by the Court of Sessions or High Court. So long as the witness

witnesses are apprehensive of being -
punished for their own share in Srinivasa-
chari's alleged Corruption, there will
be a diffidence on their part to speak
the truth, and the local magistracy wish
to be able to assure them that no proceedings
will be instituted against them for
their share, a comparatively unimportant
share, in the transaction.

2. The Board supports the Collector's
recommendation.

/ True extract /

Received
By: Secretary

The Secretary to Government,
Revenue Department, with
letter in original to be returned.

BB

delb

xx think my Hon: colleagues ^{in H. H. H.} taken
too high a & lofty view of the
position. I entreat to dissent from
him that offering the assurance
proposed is "Compensating with the
"Crown of justice". I shall state
in brief some the maxim "Bonum
"rei-publicae suprema lex" is
that the State is not a mere - Body
personified on the part of highly paid
and powerful officials in an evil
of course a type that no man,
that an absolutely illegal, ob-
ject is not to be seen, conviction
is left untried to secure conviction
& punishment of such offenders &
as the offering of the bribe is a
lesser evil, more. That, if the
officials tempted here are corrupt,
it is not to be seen, it is in the
interest of the whole community that
the State should depend on the
integrity of the high-priest, the
State. ~~There is no~~ but the State to
give such assurance of impunity
- with for the prosecution
will be seen in the evidence.
There is the more reason for it, &
his crime in the State to be
to convict the high-priest - as he
is no evidence except that
the State is not to be seen, & that of the
high-priest - There are plenty
of instances of laws which have
been pulled at which the State
to become dead letters or else
unable to enforce - I cannot
do better than quote one such
instance, namely, the case of
II of 1866; The case of the State
the are the provisions of the Act
not rigorous & enforced enough?
Heavily, if not entirely, because
my Hon: colleagues think it
shod law & his personal in-
-fluence in the State, with the
State, has been sufficient to have
it treated as a dead letter - Ob-
xx

it is, limited to the circumstances of this
Country; ~~that if~~ it should be modified,
but while it is the Law of the Land, it
by executive promises, to be continued
its being set aside. Thirdly, the effect
of such guarantee is to discredit the
witnesses & to lower the value of their
evidence in respect of criminal facts
to which they depose. This case is in itself
a strong one, & the ordinary sanctions
may be relied on to induce the witnesses
to speak the truth. I have written at
some length on this question in connec-
tion with Kunhi Kamma's case in
1888 and recently with reference to
a proposed guarantee in the case of
Kamika Mudaliar the Salem
Sub Magistrate's case which is now
pending. I should prefer that the
case against Srinivasa Chari should
fail rather than that Govt. should
tamper with the course of justice in
the way proposed.

H. H. H.
21 June

When I noted that the assurance
of the State should be given in my mind
the procedure followed by Govt. in
Kunhi Kamma's case, the paper
in which had passed through my
hand my short time ago in
connection with an appeal from
him to Govt. - The procedure then
followed was to give a verbal
assurance & the witnesses then
evidence was wanted that the
Govt. would not prosecute them.
No formal assurance of
immunity from prosecution was
given. That procedure was
applied on the advice of Mr. Justice
(Mr. Justice Philpott) as it is just of the
Madras High Court. I confess I
xx

225
29 June

Handwritten text at the top left edge, partially cut off.

Q

Q

Q

Q

Q

Q

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read Cor. 4497/93.

C.O. mis.

With reference to the Head assistant collector's proposal which is supported by the collector and the Board of Revenue it is observed that in the first place the Govt. cannot guarantee immunity from prosecution; it can only say ^{guarantee} ~~that it will not itself~~ interfere. Secondly it is wrong in principle that the Government should, in its executive capacity, issue orders to countermand the law on the subject being set aside ~~and the statute to it~~. Thirdly the effect of the guaranteed

seen
Laf
29/6/93

Re: assurance of immunity
from prosecution to
witnesses in M. Sriniva-
sachari's case

The Hon. Mr. Cass in 1825.
The Hon. Mr. S. C. C. Jones

I think it would be better simply to say that Govt. is not prepared to adopt the suggestion.

Ms
29 June

56 mis No 2404 de 30-6-93

The Gov is not prepared
to adopt the suggestion that
an assurance of immunity
from prosecution should be
given. 10

To the Court of L.R.

Despatched.

READ AGAIN G.O., N
189

DATE:

CURRENT No

ENCLOSURES TO C. No

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LETTER OF GOVERNMENT

STATEMENT WITH DITTO

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CH.
2.5 June

I think the men should start
briefly the ground on which
Gov. reports from the Board

From order.

To the Comrs of R.
with 1 Encl.

C.P.
28 June 93

To the Cause of L-R- 2 ^{2/3} 30%