21

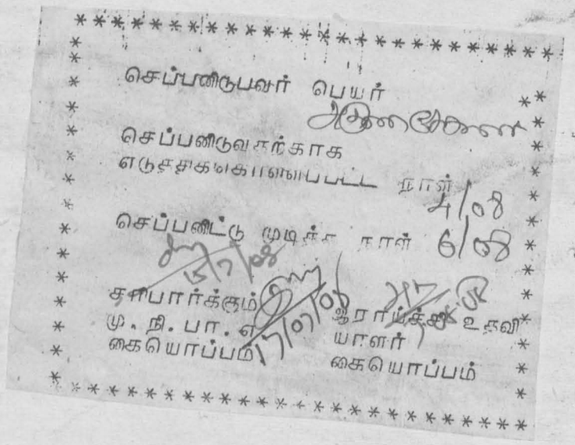
Revenue Department

Minutes of Consultation

2nd March 1858

Back Nos 52 – 54.

Order No 266 dy 27th Feb 1858



No. 52. Extract from the Proceedings of the Board of Revenue; dated 29th September 1857, No. 3263.

* *In Cons. 29th September* 1857. Read letter from the Collector of Rajahmundry dated 21st August 1857,* forwarding copy and translations of the Proceedings held in the case of Krishniah late Javobneviss.

(Here enter No. .)

Ordered that the above letter with Enclosures be laid before Government with reference to Extracts Minutes of Consultation dated 13th May and 8th September 1857, Nos. 447 and 899, Revenue Department.

(A true Extract.)

(Signed) L. FORBES,
Acting Sub-Secretary.

No. 53. Memorandum from the Secretary to the Government of Fort St. George dated 30th January 1858.

* *Dated 29th September* 1857 *No.* 1147.

†*Ex. Mins. Cons. dated 13th May* 1857, *No.* 447.

With their* communication herewith circulated, the Board of Revenue submit, pursuant to orders†, the entire Proceedings having reference to the dismissal of N. Kistniah, late Jawabnevis on the establishment of the Magistrate of Rajahmundry. Orders are requested as to how the Jawabnevis's appeal should be disposed of; his request is that he may be declared eligible for re-employment in the Public Service.

2. The Memorialist's case may be briefly stated as follows. The Prosecutor, a Police officer of the Pittapore talook, was directed by the Magistrate to appear before him in order to answer to certain complaints preferred agaist him. Shortly after his arrival at the Magistrate's station, he reported to that officer that Kistniah (Defendant and the Chief Ministerial servant of Mr. Purvis in the Department in which the Prosecutor had to give the explanation required of him) had asked him for a bribe, and he asked him for two of his peons in order to apprehend Kistniah in the act of receiving it. The Prosecutor received the desired assistance from Mr. Purvis, and with the two peons proceeded to the place where Kistniah lodged, at about 8 o'clock at night. The two peons were told to conceal themselves in a place opposite to Kistniah's lodging, and the Prosecutor went in. He, the Prosecutor, states that after some conversation he was desired by Kistniah to come into a room; that they both went in, and Prosecutor told Kistniah, that he had brought money; that the latter requested that it might be given to him; that he (the Prosecutor) induced Kistniah to go to the street to receive the money on the ground that the noise which the counting of the Rupees would produce might lead to another servant of the Cutcherry who was inside, asking him for a similar payment; that they both went into the street; that there he (the Prosecutor) counted the money (40 Rupees into the hands of the Defendant one after another, in such a manner as to enable the peons to hear the noise; that he afterwards called the peons by a signal previously agreed upon, and that they came up and obliged Kistniah to give the Rupees to them.

The Magistrate certifies that that day the Jawabnevis reported that he was sick.

The Defendant pleads that the charge is a malicious one. He states that the Prosecutor came to his house one night when he was sick, and wanted to speak to him privately; that he declined as he was unwell, but the Prosecutor having said that he had only one word to tell, he went to the street wishing to know what he had to say; that the Prosecutor immediately called out "Rungiah," and the two peons came; that on seeing them and thinking that they had come for some unfriendly purpose he went in; that the peons then came into the hall and asked him to deliver up the Rupees which the Prosecutor said he had given him; that he said he received no money whatever; that so saying, he went into the street again, when he saw the Prosecutor give some money tied up in a cloth to one of the peons, and that they counted it and went away.

Kistniah, in relating the history of his case in his Petitions to the Board and the Government, as well as in his Memorial to the Court, states that after he went to the street the Prosecutor placed the silver coin wrapped up in a cloth "on the street pial of the house," called for the peons, and told them to take it, in order to represent it as money given to him. This differs from what was stated by the Defendant before the Magistrate as already explained. Kistniah signs in Teloogoo, while his Petition is written in English, and it is doubtful if the difference is to be attributed to the Defendant himself, or to a mistranslation of his Teloogoo story into an English Petition.

Evidence was received by the Magistrate on both sides, and, considering the charge proved, and the defence untrustworthy, he dimissed the Jawabnevis from employment.

An important feature in the case is the fact that the Prosecutor entertained ill feeling against the Defendant prior to the date of the charge now under consideration, and made pre-arrangements for the apparent purpose of getting Defendant into trouble. This is manifest from the record, as well as from the Prosecutor's own confession. He deposed that, previous to his leaving his station for the Hoozoor as required, he took a letter from one Gotaty Vencatrauze to Kistniah the Defendant, requesting the latter to receive whatever he, the Prosecutor, might offer, "merely with a view of shewing the letter to the Magistrate," and so using it against the Jewabnevis. He added also that, as he was informed that Kistniah the Defendant and others, intended to lower his position in the service, and encouraged his enemy "Palaparty Seetaramoodoo," he took the said letter &c., with him, and set out from Pittapore with the intention of shewing the injustice, Kistniah had done to him, and "bringing" his conduct "to the notice of the authorities."

The evidence does not require much consideration, and its inconsistences are not such as to make it untrustworthy. The witnesses for the Prosecutor, on whose testimony the Magistrate's sentence is based, are the two Duffadars deputed by the Magistrate; a Deloyet who chanced to be present having brought the Jawabnevis Dufter from the Cutcherry, and the Prosecutor's Masaljee. The Statements of the two first witnesses agree, and in those of the others there are discrepancies but, as already stated, they are not such as to weaken the evidence.

The Defendant cited five witnesses. Of these one was his Masaljee, and the rest are persons who have been either employed in, or have been hanging about the Cutcherry. One deposes that the money was offered to Defendant but that he refused it. Another speaks nearly to the same effect, but his evidence is, as the Magistrate says, open to suspicion. He says he was inside the house when the Prosecutor entered it, and that almost immediately after he came out, and stood under a neighbouring cocoanut tree to enjoy sea breeze, the Prosecutor and Kistniah came out, when the conversation alluded to took place, the story is improbable. The other witnesses do not say any thing to the point.

The points in the Jawabneviss defence before the Magistrate and in his petitions are as follows. He states, that according, to the evidence for the Prosecution, he went into a room with the Prosecutor; and he urges the improbability of his leaving a private room and resorting to the public street, where there were people, for the purpose of receiving a bribe. The evidence for the Defence shews that there *were* people in the street. He further urges that the witnesses for the Prosecutor state, that before he (Defendant) gave up the money to the peons, he returned to the house and went into a room, and he asks whether, if he had thus had an opportunity, he would not have concealed the money so as to avoid its falling into the hands of the peons. Thirdly he notices that the Prosecutor's Masaljee deposed that he saw from a distance of one fathom his master give the Rupees to him (the Defendant,) and he asks if it is probable that he would have taken a bribe in the presence of the Prosecutor's servant, and in the public street where there were many people.

The Magistrate in his decision speaks of the letter written to Kistniah by a *third party* requesting him to let off the Prosecutor cheap as evidence in support of his guilt. Kistniah argues that this fact is not sufficient to convict him; that it is necessary that its actual delivery and its acceptance should be established; while in his case the letter was not even delivered. The record shews that Kistniah knew nothing about the letter till it was produced in the inquiry before the Magistrate, and that it was delivered to the Magistrate by the Prosecutor.

The Magistrate says that if the Defendant had been innocent he would at the moment have appeared before him and reported the conspiracy, if such it was. The Defendant explains that

it was not necessary that he should have done so, because the Magistrate himself sent the peons, and was therefore cognizant of the whole affair.

The Defendant brings to notice that of the two Duffadars, one is hostile to him on account of his brother, a talook Duffadar, having been dismissed from office in the department of the Cutcherry over which he, defendant; presides, and that the Deloyet is his enemy on account of his brother having been, in the same department; sent to a jungly and feverish station, and lastly he urges that he is not himself, a Rajahmundry man, and that therefore he has enemies in the office.

The story of the Prosecutor seems to me a very doubtful one, his own conduct is suspicious in having obtained a document, to which the Defendant was no party, avowedly for the purpose of using it against him. It is difficult to believe that an astute experienced Cutcherry servant would leave the privacy of his house and go into the public street, for the purpose of receiving a bribe, the very reason assigned for his doing so, that the counting of the Rupees might be overheard in the house, being equally applicable to the street, particularly as the Prosecutor admits that he paid them out with a lowd ring on purpose that the noise might be heard. The reasons assigned by Defendant for the enmity of the Duffadar and Daloyet are very much those that would excite that feeling against a Magistrate's Jawabneviss supposed to have influence in dismissals and appointments, and certainly in the Northern Circars there is, at all times, a party feeling against servants unconnected with the country, and their ruin is seldom left unaccomplished at some time or other.

No. 54. ORDER THEREON, No. 266; dated 27th February 1858.

The Right Honorable the Governor in Council having carefully considered the Memorial submitted by Kistniah and the evidence and other Proceedings in his case, resolves that the Memorial be transmitted to the Honorable the Court of Directors, with an expression of the opinion of this Government, that although they have not felt authorized to reverse the decision passed by the Magistrate of Rajahmundry dismissing the Memorialist from his employment, and to order his restoration to office, they consider that there is doubt attending his case of which he should have the benefit. They will therefore recommend to the Honorable Court that the prayer of his Memorial be granted, and that he be declared eligible for future re-employment in the public service.

(Signed) H. FORBES,
Acting Secretary to Government.

Revenue Department.

No 3263

Extract from the Proceedings of the Board of Revenue, dated 29th Sept. 1857.

Read Letter from the Collector of Rajahmundry dated 21st August 1857, forwarding copy and translations of the Proceedings held in the case of Krishniah late Jaoabnavis.

(Here Enter No)

Ordered that the above letter with Enclosures be laid before Government with reference to Extracts Minutes of Consultation dated 13th May and 8th September 1857. No 1447 and 897 Revenue Department.

(A true Extract)

Z. Dawkes.
Aff. Sub Secretary

To,
H. Forbes Esq
Aff. Secretary to Government
Revenue Department.

Memorandum.

7 d/29 Sept/57 No 1147

With their Communications hereunto circulated, the Board of Revenue submit, pursuant to Orders, the entire Proceedings having reference to the Insolvency of A. Kistniah, late Jawabnuvees on the Establishment of the Magistrate of Rajahmundry. Orders are requested as to how the Jawabnuvees's appeal should be disposed of; his request is that he may be declared eligible for re-employment in the Public Service.

8 Govt Memorandum dated 15th May 1857 No 1147

2. The Memorialist's case may be briefly stated as follows. The Prosecutor, a Police Officer of the Pittapore Talook, was directed by the Magistrate to appear before him in order to answer to certain complaints preferred against him. Shortly after his arrival at the Magistrate's Cutcherry he reported to that Officer that Kistniah (Defendant) and the Chief Ministerial servant of Mr Purvis in the

Rec'd 19th Decr/57 No. 3944.

Copies of letters to Govt. dated 18th & 19th Novr 1857.

Answered 23rd Decr 1857 No 3253 to Govt. dated 8th Decr 1857 No 3961

Submitting a list of Persons who have been employed as Jawabnuvees & Mustahsils & Tahsildars & who have been dismissed at the Recommendation of the Collector of the case of Kistniah Collector's reference.

No 52.

27

30 Copies/58 Printed 5th July 1923.

the Department in which the Prosecutor had to give the explanation required of him) had asked him for a bribe, and he asked him for two of his peons in order to apprehend Kistniah in the act of receiving it. The Prosecutor received the desired assistance from Mr. Purvis, and with the two peons proceeded to the place where Kistniah lodged, at about 8 o'clock at night. The two peons were told to conceal themselves in a place opposite to Kistniah's lodging, and the Prosecutor went in. He, the Prosecutor, states that after some conversation he was desired by Kistniah to come into a room, that they both went in, and Prosecutor told Kistniah, that he had brought money, that the latter requested that it might be given to him, that he (the Prosecutor) enduced Kistniah to

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The Defendant pleads that the charge is a malicious one. He states that the Prosecutor came to his house one night when he was sick, and wanted

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Kistniah

Boake

2

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7"

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The Defendant brings to notice that of the two Duffadars, one is hostile to him on account of his brother, a Talook Duffadar, — — — — — having been dismissed — — — — from office in the Department of the cutcherry over which he, defendant, ~~of the Collectory~~ presides, and that the Deloyet is his enemy and accomplice

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The story of the Prosecutor seems to me a very doubtful one. His own conduct is suspicious in having obtained a document, to which the Defendant was no party, avowedly for the purpose of using it against him. It is difficult to believe that an astute experienced Cutcherry Servant would leave the privacy of his house and go into the public street, for the

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the papers might be overheard
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feeling against a Magistrate's
~~Incumbency~~ ~~proceedings~~ supposed to have
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appointments, and certainly
in the Northern Circuit there
is, at all times, a party feeling
against Servants unconnected
with

with the Country, and their
ruin is seldom left unaccom-
-plished at some time or
other.

30-1-58

It is very possible that a con-
-spiracy had been concerted against
the accused. at the same time that
it was not as prosecutor. Suppose that
he was in the habit of taking
bribes. in weighing the case: the
character for truthfulness & honesty of
the police officers would have the
~~same~~ contrary effect.

Thos. Irwin left the box & the
~~Court~~ of the charge & together: let
the depositions not form a portion
of ~~the~~ to ~~retire~~ the ~~Court~~ but let the
Magistrate's decision

Have looked carefully thro' the evidence
and I do not see any room for believing that
a conspiracy can be proved against the

The Complainant had only one fr.
Pethapoor Sunday before the Poll
but it is not at all probable that
two of the Collrs best friends whom he
appears to have consulted on the
at once become parties to a conspiracy
against one of the most influential officers
in the Collrs Office at the back of a man
of no influence whatever.

The evidence of Colah Venkataj also
seems to bear out the same conclusion.
He is obliged to admit his own letter but
he is clearly in a muddling state of all his
statements are not the truth. His mode
of accounting for the letter being written is
absurd & altogether [illegible]

[illegible] The accused rests his defence chiefly on the im-
probabilities of the charge. I think however that the
probabilities are rather against the accused. It is
not at all unnatural or improbable that a Collr
should be anxious to get rid of such a matter
as this. The fact is not only not
[illegible] but is proved & is
admitted by the accused himself. Nor does any suspicion
of the kind attach to the Complainant. I think therefore
that the Complainant's memorial transmitted
by the Collr with the opinion of the Collr that the Police
Report should be acted upon with the opinion of the Collr
& the Police Report should be acted upon

The case is a singular one—
Bribe was asked—we is
it shown clearly for what a
bribe could have been given—Nor does it seem
clear is it not that the accused & bribe giver
were in collusion to get the accused
out of the way—to withdraw the complaint
& the prosecution—& the money—a sum fixed
& the terms arranged—Def to come out with the
stick to receive the money—give receipt as usual with
a clear & there should be two persons who do see
that the money after some altercation does pass to
[illegible]

Vide 7-1
record—

215

The Def[t]
the Head Police Officer in the
Collectorate is a Mahomedan
[illegible] is said to be a notorious
character—is said to have
stated openly that he was
[illegible] the Collr—that he
had been [illegible]
to prevent the [illegible]
as the [illegible]
[illegible] appears from the Police Report
[illegible] that he asked the Complt
to send Head [illegible] to ask
to send the Despatches
[illegible] & sent to ask
directed to select his own
witnesses—

The charge is [illegible]
seems to be fairly fixed upon
the accused—that [illegible]
in [illegible] solicitations
similar to [illegible]
take bribes—

No charge is so easily made
as one of this nature—& none
I have more readily believed—

In this case the Def[t] is
placed—

Copy sent as Lr. Hort to E.
dy 9th April 1858. No. 13.

Revenue 1858 Dept
Dy. to Cons. 2. March

No. 209

Memorandum from the
Acting Secretary to the
Govt. of Fort St. George.

Dated 30th January 1858.
Recd.

No. 266. 27th February 1858.

No. 53.

Explaining the evi-
dence and other proceedings
in the case of A. Kistniah
late Jawabnevis in the
Establishment of the Collr.
of Rajahmundry dismissed
from employment on a charge
of bribery.

R

2/16

in favor a petition that he
really can do nothing but submit
his unhappy case to the justice
Equity of his contrives which he
can defend a petition
to dispose Kistna of his
and Wreck the mind but
to the petitioner's letter of the 30th
to the Madras Government
it is that the procedure of
to day is not correct with
petitioner's application

Copy

C 30th Jany/58 R 5th Feby

No. 266

Extract from the Minutes of Consultation

Under date the 27th February 1858.

Read again Letter
from Krishnyah late Jumbunnie
on the establishment of the Collector
of Rajahmundry dated 1st April
and recorded in Diary to Consul-
tation 19th May 1857 No. 330

Read also the following
papers.

Extract from the Proceedings of
the Board of Revenue

Memo: by the Secretary

Here enter 29th September 1857 (3263)

Here enter 30th January 1858.

The Right Honorable
the Governor in Council having
carefully considered the Memorial
submitted by Kistniah and
~~the Proceedings~~ of the evidence
and other Proceedings in his
case ~~forwarded by the Secretary~~,
resolves that the Memorial
be

be transmitted to the Honorable the Court of Directors with an expression of the opinion of this Government that although they have not felt authorized to reverse the decision passed by the Magistrate of Rajahmundry dismissing the Memorialist from his employment, and to order his restoration to office, they consider that there is ~~sufficient~~ doubt attending his case of which he should have the benefit. They will therefore recommend to the Honble Court that the prayer of his Memorial be granted and that he be declared eligible for future reemployment in the public service.

Forwd to the Bd of Rev. with 3 Encls Cirs 1st March

7/20

Revenue 1858 Departt
Dp. to Cons: 2 March

No
Extract Mins. of Cons:
Dated 27th Feby 58.

C 18 Feby R 23

Copy in a Letter to C.
of 9th April 1858. No 13

Revenue 1858 Depth
Dy. to Cons. 2nd March

No 266

Extract Mins. of Cons.
Dated 27th Feby 58.

Transmitting to the
Honorable the Court of Directors
the Memorial of H. Fleetwood
late Juvalenvis in the es-
Establishment of the Magistrate
of Rajahmundry and
recommending that the re-
prayer of his memorial be
granted and that he be re-
declared eligible for future
re employment in the public
Service.

No 52 at 54.