

Revenue (1897) Department.

ROUTINE SERIES.

G.O., No. 2045

DATED 8.11.97.

[Despatch Abstract.]

INFORMING Sukhi Reddi, late Reddi,
of Pandulapalle Village, Pembarada Taluk, Sriantapur
District, that, under section 23 of Madras Act III of 1895, as amended by Act II of 1897, no appeal lies

BACK PAPERS.

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

FURTHER PAPERS.

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

Revenue (1897) Department.

CURRENT No. 9244

From

Gubbi Reddi,
Late Reddi of Bandalapatti,
Penukonda Taluk,
Anantapur D.

Order

No.

Dated 16-10-97

Received 26-10-97

Registered 27-10-97

Enclosures

Spare copies

SUBJECT.

Praying for restoration.

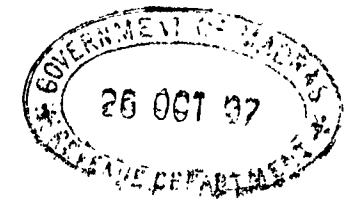
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27.10

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.



To

His Excellency the Right Honorable

Sir Arthur Havelock, C.C.M.C., C.C.I.L.,

Governor-in-Council,

FORT SAINT GEORGE.

PETITION

1897

OOTACAMUND. REVENUE DEPT.

The humble petition of Sabbi Reddi, late Reddi of Bandlapalli, Penukonda Taluq, Anantapur District against the proceedings of the Board of Revenue, Miscellaneous No. 1533, dated 4th May 1897, declining to interfere with the order of the Collector on appeal from the decision of the Head Assistant Magistrate dismissing the appellant from the post of Reddi.

RESPECTFULLY SHEWETH,

The petitioner was dismissed from his appointment of Reddi, by the Head Assistant Collector of Anantapur in connection with a case of theft disposed of by that officer against the petitioner and five others.

Against this order, the petitioner appealed to the *Collector and the *Board of Revenue

* Mis. Appeal No. 81 of 96. with the result that his appeals were dismissed in the proceedings marginally noted, Dissatisfied with these decisions, the petitioner craves leave to approach His Excellency in Council in

revision with a sincere hope that his grievances would be listened to and justice done unto him. The petitioner begs to state the facts of the case which gave rise to this revision very shortly as follows.

In the Village of Bandalapalle of which the petitioner was the Reddi, there are admittedly two factions, one headed by the complainers against this petitioner whom the former believe, the support of the other faction. At the time of the revision when villages were clubbed together about 1893, several applicants came forward for the post of Reddi which was then newly created. Of whom the petitioner, Pedda Nayaga Reddi, Papi Reddy, and Narayana Ammal were the principal ones. The Head Assistant Collector appointed the petitioner as the best man available among the lot and registered the Misal in his name. This created considerable excitement in the village and an appeal was preferred to the Collector by the dissatisfied opponents against the order of the Head Assistant Collector with the result that the

former officer reversed the order of the latter and registered the Misal in the name of Narayana Ammal, one of the opponents. This order in turn was reversed in appeal by the Board of Revenue at the instance of the Petitioner and finally the appointment was conferred on the latter to the utter disappointment of the rival claimants. This naturally incensed the rival claimants and the result was that a case of theft of certain foot wall stones and margosa and other trees belonging to Government, were launched against the Petitioner and his men. The complaint was made by Fakirappa, a dependant of Pahi Reddi, one of the rival claimants for the post of Reddi and the charge was that the Petitioner cut and removed a babul tree that stood under Reddikunta tank two or two and a half months before July 1896, and aided and abetted the Commission of theft by Dusthagiri Sahib and five others in cutting and removing one Girchipi and four Margosa trees and two Margosa Branches, the property of Government standing on poramboke land. This case was inquired into by the stationary Sub-Magistrate of Penukonda in Calendar Case No. 183 of 1896 and he practically finds on the evidence in the case that the charge of theft in respect of the Babul and Girchipi trees could not be true though every one of the prosecution witnesses took oath that the Reddi and the other accused cut and removed them as alleged by them. In fact he was obliged to come to that conclusion on the evidence of Forest Guard and the forest Ranger who gave the lie direct to the case for the prosecution and deposed that the Girchipi Tree appeared to them to have been cut one year previous to July 1896 whereas the Babul Tree was an old one fallen down and dried up long before. The Sub-Magistrate however believed the evidence of the same witnesses in connection with four Margosa Trees and two branches and convicted the petitioner and others under clause C Section 26 Forest Act 5 of 1882. Against this decision the petitioner appealed to the Head Assistant Collector who confirmed the judgment of the Sub-Magistrate. The facts having been thus found against the petitioner he would not have ventured to discuss the evidence in detail in this petition but for the fact that he is conscious that the Courts below have shown manifest disregard to the positive evidence in the case and based their decision on simple surmises. These observations may in the opening be considered not pertinent but from a cursory perusal of the Judgments of the Sub and the Head Assistant Magistrates it would be abundantly clear that in finding the Petitioner guilty of abetment of theft the Courts below found that he did nothing except that he was present at the time of the cutting of these trees by the other accused. There was no conspiracy urged between the Petitioner and the other accused, and in fact the petitioner is not

guilty of any unlawful act or omission which may go to show that he was a privy to the transaction.

The evidence does not exclude the possibility of the innocence of the Petitioner assuming the facts stated by the prosecution to be true. The poramboke lands in the village of Bandlapalli is under the immediate supervision of a Forest guard stationed at that place and it is a notorious fact that the Forest officers have got a right to authorize the ryots to cut and remove margosa trees provided they comply with certain requisitions of the department. How then can the Reddi be held liable either for abetment of theft, or for a gross dereliction in the performance of his duties when it is quite possible that the petitioner might have honestly believed that the other accused were acting under the orders of the Forest officers. In fact it has been repeatedly held by all the High Courts that the mere presence of the person at the scene of the occurrence cannot amount to abetment of the offence. In any view of the case it would be abundantly clear that the conviction is illegal and the charge of the gross carelessness in the performance of his duties is unfounded. Such being the facts of the case the petitioner urges that his dismissal from appointment for reasons stated above would not commend itself to your Excellency's good sense.

The petitioner also submits that the punishment is exceedingly severe considering the nature of the charge against him. If the other accused in the case had either obtained the permission of the Forest Officers to cut and remove the trees, or had subsequently compounded the case with them the charge under the Forest Act will naturally fail and there could be no abetment, nor could there be any dereliction of duty under the circumstances stated above. The petitioner therefore prays that your Excellency in Council will give best consideration to his grievances and render him justice by restoring to his appointment.

The Petitioner begs to remain,

Respected Excellency in Council,

Your Excellency's Most Obedient Servant,
Late Reddi of Bandalapalli,

Penukonda Taluk,

Anantapur District.

16. 10. 97

IN THE COURT OF THE STATIONARY SUB-
MAGISTRATE OF PENUKONDA.

Calendar Case No. 183 of 1896.

JUDGMENT.

Name of the accused :—(1). Subbi Reddi. (2). Dustagiri Saib. (3). Dungoo Bhayee. (4). Hussain Saib. (5). Alli Saib. (6). Mohadien Saib of Bundlapalli.

Offence :—Removing old fort wall stones and cutting green trees in the Ayacut waste ; Section 379 I. P. C.

Finding :—Guilty, under Clause C. Section 26 Forest Act V of 1882.

Sentence :—The accused are fined 10 Rs. each, in default, sentenced to 10 days' simple imprisonment each.

The accused are charged by the Police with removing old fort wall stones and cutting 8 trees standing on the Government waste. Section 379 I. P. C.

2. The 1st P. W. Fakirapa deposed that the 2nd and 3rd accused and the 4th to 6th (all cousins) have built two houses two months and half back at Bundapally, their native place utilizing the ruined fort wall stones to the extent of 10 or 20 bandies valued Rs. 5 approximately. They have further cut 8 trees from the ayacut waste to the value of Rs. 40 nearly for beams &c. The 1st accused was abetting the offence by standing near the fort wall and also near the trees when they were being cut by the other accused men of his faction. The trees in question were standing on the following poramboke.

- (a) 1 'Girijipe'—near Chakirevu or Dhobi's washing place.
- (b) 1 'Babul'—Under Reddy Kunta Tank.
- (c) 2 Margosa branches of a tree near kurnum's inam.
- (d) 4 Do. trees near (1) Parlakalva, (2) One gutta or village hill Porumboke, (3) Gurapagadda and (4) 'Madiga Valki' or burial ground, one at each place.

3. As to fort wall stones 3rd P. W. Pedda Nagi Reddi testifies that the accused 2 to 6 removed on the day in question nearly four bandy loads. 7th and 8th prosecution witnesses Lingapa and Mohadinapa try to support him but they do not know what quality was so removed.

4. The 3rd and 4th prosecution witnesses Pedda Nagi Reddy and Chennarayadu have seen the accused cutting the Girijipe (a) Margosa tree near Parlakalva (d); 6th prosecution witness Pedda Obadu supports the first

witness regarding the babul stating that he cut it himself for the 1st accused (b). The 5th prosecution witness Narayanigadu corroborates 1st witness with reference to a margosa tree (d) which stood near madiga burial ground. The 2nd is an eye witness for felling the rest 2 branches and 2 trees all margosa (d). The cutting went on (as per 1 P. W.) three successive days and the 1st accused took only one babul tree for himself. 9th prosecution witness kurnam Narayenapa affirms that the trees in question appear to have been cut three or four months ago and the margosa tree which stood near Gurappa Gudda was on the boundary line of a patta lands.

5. The 1st prosecution witness admits that he lives in the house of the opposite party to the 1st accused. The 2nd has deposed against him regarding the embezzlement case. The 3rd had been fined Rs. 15 in an assault case. The 6th is the 1st accused's horse keeper now out of service. The 8th differs from others regarding the size of the fort wall stones removed.

6. The accused one and all denied the offence. The 1st stated that he does not know anything regarding the alleged charges. The fort wall he said is in a dilapidated state as ever, and he has not seen anybody while cutting trees. He and the 2nd state that the complaint is an outcome of enmity. 3rd accused pleaded alibi. The 4th stated that he lives separate from the rest of the accused and has no concern with them. The 5th alleged that he was ill for the last 10 months. The 6th said that he lives with the 5th accused and they both are not connected with the rest of the accused.

7. The Court witness Revenue Inspector Venkobachari was examined as to the state of the stamps &c. He affirmed that he found seven trees interfered with in the poramboke land within two furlongs from the village. He notes that except the babul which is a very old one, every other tree seems to have been cut within the half year. Regarding the Fort wall stones he is not in a position to give any definite statement. Because the wall has been long in a ruinous state & no mark of removal of stones could be found.

8. 3rd defence witness Mohadin Sab and 4th Chena Reddy state that they have sold four beams each to the 2nd accused. The latter is a close relation of the 1st accused. 5th and 6th Shaik Hussain and Khaja Hussain testify that the 2nd accused's house was built one year ago. 7th Venkatasawmy affirms that the 2nd accused had asked him for 3 Margosa trees, but he had none to give him. This witness is indebted to the father-in-law of the 1st accused. 8th Tirmalappa states that he built the 2nd accused's house carting all new stones.

9. Eswarapah affirms that the 3rd accused was with him without a day's break from last year's Mahoram upto this year's (one full year) at Nigavalli, 50 miles away from Bundlapally where the offence has taken place. The 10th Hussain Saib also found the 3rd accused absent from the village 8 days before that last Mohoram. The 11th and 12th Narayenapah and Gulukkan swear that the 4th accused was employed under them for cultivation purposes during the last year and that he has not taken part with the 2nd accused in building a house. They admit that they have lent him Rs. 62 for buying a bullock. The 13th and 14th witnesses Nattu Sab and Modin Sab depose that the 5th accused was sick of venereal diseases during the last year, and the 6th was attending to sheep &c. grazing. These two live separate from the rest of the accused, being members of a divided family. The last witness is the maternal uncle of the two accused. The 2nd Forest guard Gurappa affirms that he had not heard of the occurrences before and that the 8 trees appear to have been cut some three months back. While the Forest Range Officer, Subba Row's 1st defence witness, testifies that (a) Girijepi, appear to have been cut one year back, and (b) the babul is an old tree fallen down, dried up long ago. He states, that two of the morgasa trees (d), have been cut to the roots and dug out. The other two appear to have been felled down only three months back. The loss of the trees, he estimates at 8 Rs. nearly.

9. To sum up the evidence against the accused regarding the Fort wall stones appear rather insufficient. Four morgosa trees together with two branches appear to have been cut within the village limits of two furlongs. The prosecution has fairly established that the 2nd to 6th accused with the aid of the 1st the village Reddy have committed the offence. The defence adduced by 2nd to 6th accused is far from satisfactory and is entirely a got up one. The 1st accused practically has no defence. His plea of enmity is untenable. Had it not been for that no information would come leaked out from the village. Hence I find all the accused equally guilty of tree cutting, under Clause C. Section 26 of Forest Act V of 1882. They are accordingly fined 10 Rs. each in default sentenced to 10 days' simple imprisonment each.

[Signed] S. RAGHAVENDRA ROW,
Stationary Sub-Magistrate.

[True copy.]

IN THE COURT OF THE HEAD ASSISTANT MAGISTRATE,
OF ANANTAPUR,

The 14th day of September,

One thousand eight hundred and ninety six.

From what Court the appeal is preferred ... Stationary
Sub-Magistrate, Pennkonda.

Number of the cases in the Court, ... C. C. 183 of 1896.

Number of the appeal ... C. A. 51 of 1896.

Name and the description of the appellant. { 1. Subba Reddi. 2. Dastagiri Sab.
3. Dangu Sab. 4. Hussain Sab.
5. Alli Sab. 6. Mahadeen Sab of
Bundlapalli.

The sentence and law and which it was imposed in the Lower Court } Fined Rs. 10 each under section
26 cl. C. of the Forest Act V. of
1882.

Whether confirmed or revised ... Confirmed

If modified the modification. —————

Date of	Order.	3-9-96.
	Hearing.	11-9-96.
	On which appeal order.	11-9-96.
	by Court to appear.	3-9-96.
	Filing.	3-9-96.
	Presentation.	3-9-96.

Heard Appellant's Vakil Mr. Seshasastrulu and the respondent Bhattu Fakeerappa.

JUDGMENT.

The accused in this case were found guilty of cutting down various trees on Government land in the village of Bundlapalli, Pennkonda Taluq, about the beginning of May last.

The main grounds of appeal are that, the trees in question were all cut down some months before, that, as the cutting of the trees, went on for three consecutive days,

the villagers must all have been aware of it, and the Forest guard who stay close at hand would also have heard about it, that no complaint was made in the matter either to the Forest guard or Ranger, and that the case was concocted by the 3rd prosecution witness a Reddi Mirasidar, who is the rival of the 1st accused, the Reddi now in office. The evidence relied upon by the accused is that of the Revenue Inspector, a Court witness, and of the Forest Ranger

a defence witness regarding the probable date of the cutting of the trees. Their evidence shows clearly that one or two of the trees had fallen down about a year ago, but in regard to the other trees it does not prove anything very definite. The Range officer considers that one Margosa-tree may have been cut three or four months ago and that only four Margosa trees were recently cut. His evidence was given on 4-8-96. At the best the evidence of these two witnesses can only be considered as roughly approximate. As to the argument that the Forest guard had heard nothing about the alleged cutting down of the trees I cannot see how it helps the defence. The evidence shows that the trees were certainly cut down within the last six months and he knew nothing about it. He was not more likely to know of it, if it happened at the beginning of May than if it happened some months earlier. The accused first professes to know nothing about the cutting of the trees; as village Reddi he ought to have known had they been cut down before. The argument that the case was brought by a rival to the first accused does not seem to me to be of much value in a case like this. Considering the Reddi's position in the village it is obvious that only a rival would bring such a matter to light. I think the prosecution evidence is quite trust worthy and I am convinced that the accused did take part in cutting down the trees. I therefore confirm the conviction and sentence.

(Signed) N. MACMICHAEL,
Ag. Head Assistant Magistrate.

14-8-96.

Proceedings of the Acting Head Assistant Collector of Anantapur. Dated 4-10-96.

Read petition dated 22-5-96 from Kadiri Narasima Charlu of Shrotriem Fakirpally Penukonda Taluq—complaining against the Reddy of Bandlapally for embezzlement of Government money—etc.

Read this office endorsement thereon Ref. C. P. 496 to the 27-4-96

Tahsildar of Penukonda forwarding the petition for enquiry and report.

Read Penukonda Tahsildar's arzi Dis. No. 974 reporting 14-7-96, above petition.

Read again this office Ref. on C. P. No. 496 on the 29-7-96.

Tahsildar's arzi requesting him to report the amount of the bakki-patti for January and February 95 etc.

Penukonda Tahsildar's arzi thereon Dis. No. 1082 Read. 15-8-96.

also the other connected papers and records in C. C. Nos. 183 and 150 of 96 on the file of the Stationary Sub-Magistrate Penukonda and in C. A. 51 on the file of the Head Assistant Magistrate. 96

ORDER.

There are two charges against the Reddi of Bandlapalli, first that he embezzled Rs. 13 paid to him by Narasimma Charlu of Fakirupalli on the 6th January 1895, and second, that he took part in cutting down various trees on Government waste in his village. As regards the first charge the Reddi's contention is that the Rs. 13 were not paid by Narasimma on the 5th but on the 25th January and that as he had remitted the collections to the Taluq on the 20th January he had to keep this sum till the February remittance. He urges that the receipt produced has been tampered with and that a '2' which was originally before the '5' of the date has been scratched out. A perusal of the receipt shows that this is possible. With the first February remittance the Reddi sent Rs. 25-12-0 on account of Narasimma Charlu, the remaining Rs. 12-12-0 having been paid by the latter on the 6th February. Narasimma Charlu, however, asserts that on this date he paid the Reddi Rs. 25-12-0 and that the Rs. 13 previously paid has been permanently embezzled. He has no receipt or other evidence to prove this payment and hence this charge of his is dismissed. The only fault that the Reddi is clearly proved to have committed in this matter was his failing to note in his rozu on the 25th January the payment of the Rs. 13. He only entered it on the 6th February.

The second charge has already been dealt with in the judgment in C. A. 51 of 96. Apart from the dishonest intention found to be proved against him in that case it is clear that the facts elicited in his defence if believed showed the grossest carelessness and negligence on his part. Believing as I do that he was guilty of theft I order his dismissal.

(Signed) A. MACMICHAEL,
4-10-96. Ag. Head Assistant Collector and Magistrate,

(True copy).

M. SUBRAMANIAM,
16-10-96. Ag. Head Clerk.

Disposal No. 144 of 13-1-97.

Enclosures: Nil.

Miscellaneous Appeal No. 81 of 1896.

PROCEEDINGS OF THE COLLECTOR OF ANANTAPUR.

Dated the 4th day of January 1897.

Subbi Reddi, late Reddi, of Bandlapalli, Penukonda

Taluq *Appellant.*

Read petition No. 2149 of 1896 and Current No. 3642 of 1896 presented by appellant appealing against the order of the Head Assistant Collector Penukonda dismissing the appellant from his post of Reddi.

Read also Head Assistant Collector's letter Disposal No. 2997 of 12-12-96 and the records received therewith.

Notice served and the party present and heard.

ORDER:—The appellant was dismissed on the ground that he was convicted of the offence of abetment of theft. The conviction was upheld by an Appellate Court and is in force. The only question then for me to consider is whether dismissal is too severe a punishment for that offence. On this point, I agree with the Head Assistant Magistrate. A person who was convicted of a criminal offence of this nature is morally unfit to hold the post of a Reddi. The appeal is therefore dismissed.

(Signed) K. C. MANAVEDAN RAJA,

Acting Collector.

(True copy).

SUNMUGASUNDRAM PILLAI,

Deputy Collector.

PROCEEDINGS OF THE BOARD OF REVENUE.

(LAND REVENUE).

Dated 4th May 1897.

No. 1593 Mis.

Read again Board's Proceedings, dated 1st March 1897, No. 646, Routine.

Read endorsement of the Collector of Anantapur, dated 9th April 1897. Dis. No. 1932 of 10-4-97.

Resolution:—The Board declines to interfere.

(True Extract)

R. C. C. CARR,

Secretary.

To

The Petitioner

through the Collector of Anantapur

with seven enclosures returned.

Government of Madras.

Read no: 9244 of 97

REVENUE DEPARTMENT.

Endorsement No. 2045. d/8.11.97

The petitioner is informed that no appeal lies to Government under Section 23 (1) of Madras Act III of 1895.

Note

The Head asst collector
order dismissing the
from the post of retd of Pandalapalli (Mantapam)
petr was passed on
4-10-96.

LA
Cuvoo 97

(By Order.)
(cc)

Under Secretary to Government.

FORT ST. GEORGE,

189 . }

To the petr per. 11-11-97

ED 5/11/97

189

DATE _____

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTERS OF GOVERNMENT

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

B.B.—

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