Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 2478

DATED 14th May

[Despatch Abstract.]

Recording B.P. comm.ns documents officers G.C. recording proc.s of the Jud.l hearing comm.ns judgment of the High Court in criminal appeal No. 457/96 in a forest case.

BACK PAPERS.

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

FURTHER PAPERS.

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

Revenue (1897) Department.

CURRENT No. 3924

Seey

Order Misc No. 24/780/14th may/97.

Recorded

15/5/97

From The Secretary to the Commissioners of Land Revenue

No. 162

Dated 2 April 1897

Received 11.5.97

Registered 12.5.97

Enclosures

Spare copies

SUBJECT.

Communicating to all Collrs. and Conservators G.O. recording Proge. of the Jud. Dept. Communicating Judgment of High Court in Criminal Appeal No. 451 of 1896 in a forest case.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

REVENUE DEPARTMENT.

1897.

Board of Revenue

(Land Revenue),

MADRAS.

Printed May 6th.

Proceedings, Forest No. 162, 22nd April 1897.

APRIL.

Communicating to all Collectors and Conservators Government Order recording, with remark, Proceedings, Judicial Department, communicating judgment of High Court in Criminal Appeal No. 451 of 1896 in a forest case.

PROCEEDINGS OF THE BOARD OF REVENUE
(LAND REVENUE).

READ—letter from the Government Pleader, Madras, dated 31st March 1897, No. 287.

ABSTRACT.—Forwarding a copy of the judgment in Criminal Appeal No. 451 of 1896 on the file of the High Court.

READ—the following Government Order, Mis. No. 2002, Revenue, dated 13th April 1897 :—

Read—the following Proceedings of the Judicial Department, No. 446, dated 29th March 1897, on letter from the District Magistrate of Salem, No. 235-M, dated 3rd March 1897 :—

In reply to your memorandum No. 525, dated 2nd instant, I have the honour to submit herewith a copy of the High Court's judgment in Criminal Appeal No. 451 of 1896 received with Government Order, No. 246, Judicial, dated 19th February 1897.

Order—

Communicated to the Revenue Department with the request that the remarks of the High Court may be noted against the Deputy Magistrate's name.

Order—Mis. No. 2002, Revenue, dated 13th April 1897.

Recorded.

2. The High Court's judgment will be communicated to the Board of Revenue for information and for communication to all Collectors and other officers concerned.

(True Extract.)

(Signed) A. R. KNAPP,
for Ag. Secretary to Government.

To the Board of Revenue (Land Revenue).

ENCLOSURE.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday, the 20th day of January 1897.

PRESENT:

The Honourable Sir ARTHUR COLLINS, *Kt.*, Chief Justice,

and

The Honourable Mr. Justice SHEPHARD.

Criminal Appeal No. 451 *of* 1896.

The Public Prosectuor ... ... *Appellant.*
Kandasami Chetti ... ... *Accused.*

Appeal under section 417 of the Code of Criminal Procedure against the judgment of acquittal passed on the accused in Criminal Appeal No. 83 of 1895 on the file of the General Duty Deputy Magistrate of Salem reversing the finding and sentence of the Stationary Second-class Magistrate of Námakkal in Calendar Case No. 241 of 1895.

This appeal coming on for hearing, upon perusing the petition of appeal and the record of the evidence and proceedings before the lower Courts and upon hearing the appellant and the arguments of Mr. M. E. Sriranga Chariar, Vakil, for the accused; the Court delivered the following

Judgment.—1. The Deputy Magistrate has dealt with the evidence and the judgment of the Second-class Magistrate in a very perfunctory way. There is a great deal of evidence against the accused which he has not noticed.

2. We cannot accede to the argument that the prosecution is bound to prove that the wood in respect of which the charge is laid was actually being brought from a forest. Obviously the sandalwood must have been found in and brought from a forest, and section 56 of the Forest Act throws upon the possessor the onus of proving that it was not the property of Government.

3. We must set aside the acquittal and direct that the appeal be reheard by the District Magistrate.

4. We must again point out that more care ought to be taken in framing the charge setting out the words of the rule which is said to have been infringed.

(Ordered accordingly.)

(Signed) J. T. GILLESPIE,
Ag. Dy. Registrar, Appellate Side.

RESOLUTION—No. 162, dated 22nd April 1897.

Communicated to all Collectors and Conservators.

2. Attention will at the same time be drawn to the instructions conveyed in paragraph 2 of Board's Proceedings, Forest No. 167, dated 28th March 1895, to the effect that the presumption raised against an accused by the provisions of section 56 should not be taken advantage of in any case in which there is room for reasonable doubt.

(True Copies and Extract.)

Secretary.

To all Collectors, except Madras.
„ Conservators of Forests.
Copy to the Secretary to Government, Revenue Department.

APPENDIX.

Read—the following Proceedings of the Board of Revenue (Land Revenue), Forest No. 167, dated 28th March 1895 :—

Resolution—Forest No. 167, dated 28th March 1895.

* * * * *

2. It will be seen from paragraph 6 of the Government Order that the Government is satisfied that the Deputy Tahsildar's searches were generally justifiable and initiated on reasonable grounds. In future after such searches have been made the Board considers that prosecutions should be confined to a limited number of clear cases selected as suitable for exemplary treatment. The presumption against the accused raised by the provisions of section 56 of the Forest Act should not be taken advantage of in any case in which there is room for reasonable doubt.

* * * * *

Exd. A. F. Eccleston.

When given for copying _____
When copied _____
When examined _____
When signed _____
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READ AGAIN G.O., No. 189 , DATED

CURRENT N

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A	
LETTER OF GOVERNMENT.								
STATEMENT WITH DITTO.								
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.								

N.B.—
A = Copy in full.
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