

# Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 1778

DATED 25 April

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[Despatch Abstract.]

Requesting the Resident in Travancore & Cochin to  
favour report with the opinion which he has  
formed after perusal of the records connected  
with the case of a British Arabian Contractor  
who was prosecuted for the transport of  
liquor without a proper license.

# BACK PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
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# FURTHER PAPERS.

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Revenue (1898) Department.

CURRENT No. 1483.

From The Secretary to the Commissioner of Salt, Abkari and Separate Revenue, Madras.

Order

Mis. No. 994.

Dated 16th February 1898.

Received 19

Registered 21

Enclosures 7

Spare copies

# SUBJECT.

Submitting to Government letter from the Collector of Malabar reporting on the seizure of arrack belonging to the British abkari renter of the outlying parts of Cochin by the Cochin Circar authorities and requesting to obtain compensation for the renter's loss from the Cochin Circar.

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| G.O. | No. | Department. | Date. |
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| G.O. | No. | Department. | Date. |
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不

Cashmere

Shariyatu Kumbhatka, center of outlying patterns  
of British Cochin.

The abkari ruler of the Cochin Sirkar states that when arrack is brought through the river from Travancore for the use of my depôts in Stendric Silva and Mundamveli pattans under cover of written permission granted by the Travancore Ruler and of the pass granted from this Office, he will seize it as contraband from the river, which is within the limits of the Cochin Sirkar territory.

But I beg to state that arrival can  
- not be brought to the above patterns  
except through the river, which is within  
the limits of the Indian Sinear territory,  
and if the legion thus brought is seized,  
I cannot conduct my business and I  
will have to pay the risk etc out of  
my pocket.

I beg therefore that your honour will be pleased to write to the Southern Division Catcherry in that State and get the necessary permission for the arrival being transported without molestation.

Dated 25<sup>th</sup> October 1886

(True translation)

10.2.25.162

In Collection of  
11-2-88. Malabar

In the Second class Magistrate's Court of Cochin

Present

Magistrate: - Venkateswara Iyer

Calendar Case No. 69 of 1972.

Cochin Sirkar ————— Complainant.

Theriatte Kunjakkutty residing  
in Mazhuvancherri Paramba in  
Ayyampalli Muri in Pallipuram  
Preverte, Abkari Contractor of  
outlying portions of British  
Cochin Taluk. } Accused.

1. Wazhapallil Mathu Pyle, Abkari  
Farm Inspector of Cochin Taluk  
in Cochin State. 2. Kudassan Muri  
Kasava menon of Cherayi Muri. 3.  
Ezhuman Nappu residing in Kurva  
Paramba. 4. Ezhavan Kunjappan  
residing in Puthi paramba. } Witnesses  
for  
Complainant

1. Korattur residing in Mazhuvancherri  
Paramba in Ayyampalli Muri. 2. Puttan.  
Purayil Ettan of Korattur. 3. Ezhavan  
Kannan residing in Puttanvestil  
Paramba. 4. Changanadil Achyuta Menon } Witnesses  
for  
Accused

Letter No. 100. on 1st 4.12  
1972 to Board. 1972

RECEIVED

1483

The employees of the native Cochin  
reuter seized the boat and arrack belonging to  
the accused when he was transporting 3 casks  
of country arrack in a boat from a place  
called Cheruwaypu to the south of Nizampin-  
jilli in Pallipuram Province of Cochin Taluk  
and the Alakari Superintendent Narayana  
Panikkar charged the accused before this  
Court of having committed the offence of  
carrying liquor illicitly (Smuggling) The  
accused on the other hand alleged that the  
liquor was purchased from Travancore  
territory and was being transported to his  
shop in Mundam Talipattam on the authority  
of permit n<sup>o</sup> 65385 dated 20<sup>th</sup> October 1896  
granted by the Cochin Deputy Collector and  
that the arrack which consisted of two sorts  
amounting in all to 100 gallons was pur-  
chased from the Travancore contractor  
who had granted a permit dated 8<sup>th</sup> Thulam  
1072 under sections 13 and 14 of Regulation I  
of 1054 of the Travancore State and the accused  
therefore prayed the Court to release his arrack  
and boat. This Court having had a doubt  
as to whether the arrack should be  
handed

4  
handed over to the accused or whether a  
full inquiry should be held to investigate  
the offence of smuggling with which the  
accused is charged reported the matter to  
the District Magistrate in letter n<sup>o</sup> 36 dated  
9<sup>th</sup> Thulam submitting all the records  
connected with this case. The District  
Magistrate in his order n<sup>o</sup> 331/1067 dated 18<sup>th</sup> Thulam  
directed this Court to hold a full inquiry  
in the matter and then to give its de-  
cision. Hence this case was filed and  
ported for Enquiry.

The depositions of the witnesses and  
the accused mentioned in the margin have  
been taken and the following exhibits have  
been filed.

#### Complainant's Exhibits

(1) Permit dated 8<sup>th</sup> Visakhilam 1069 granted  
to Vakkappuramath of Kizhukutthakka farm  
of Odayanperur by the divisional officer  
of Kottayam (in Travancore territory)

#### Accused Exhibits

(1) Permit granted by the Deputy Collector  
British Cochin dated 20<sup>th</sup> October 1896, n<sup>o</sup>  
65385 to the owner of the outlying pottams  
who

What was  
the law?

who is the accused in this case.

(a) Permit no. 59 granted on 8<sup>th</sup> Thulam 1072 to the employees of the British pattern reuter from the Abhari Contractor office of Manampattiyak for having sold 100 gallons of arrack.

### Judgment

This case was taken up under clause

(a) of section 163 of criminal procedure on the report of the Superintendent employed by the Abhari Contractor of Cochin taluk regarding the liquor and articles produced by him.

The case for the prosecution is that these three casks of arrack were seized while they were being illicitly transported from the house of K. Kochunni residing in Cheruvayappu.

The defence is that the liquor in question was lawfully purchased by the accused from the Abhari Contractor of Kottalikkadu in Travancore under Exhibit no. 2 and was being transported to his shop in the outlying pottu of British Cochin of which he was the reuter (as per exhibit no. I).

The

6  
The point for consideration in this case is whether the liquor brought before this Court was transported from Cheruvayappu or was taken from Kottalikkadu.

Four witnesses have been examined to prove that the liquor was transported from Cheruvayappu - of these the 3<sup>rd</sup> and 4<sup>th</sup> witnesses are persons who saw the liquor being purchased (from K. Kochunni residing in Cheruvayappu) and taken to the boat. The 4<sup>th</sup> witness is one who took part in getting into the boat a portion of the liquor.

The first and second witnesses are two persons who seized the liquor from the mouth of the Cheruvayappu canal while the liquor was being transported in a boat by the accused and his view the above witnesses stood a lengthy and detailed cross examination and there is no discrepancy or contradiction in the statements made by them so as to discredit their evidence.

Four witnesses were examined for the defence. The evidence of the 1<sup>st</sup> and 2<sup>nd</sup> witnesses has proved nothing for the accused.

The

The third witness is the Abhari Contractor of Totulikkadu (in Travancore) who is said to have sold the liquor and granted exhibit no. 2 (permit) to the accused. This witness has contradicted himself by one stating that he has power to grant only permits for the transport of 60 Kannathas of liquor within his farm and stating on another occasion that he can grant permits for the transport of 60 Kannathas of arrack beyond the limits of his farm. This witness has also stated on another occasion that the Magistrate and the Division Pishkar usually grant permits for the transport of liquor beyond the limits of the farm. On the whole the words of this witness are not at all consistent. To verify the statements of this witness it is necessary to ascertain whether there are any laws on the point in the Travancore territory.

In Sections 13 and 14 of Abhari Regulation no. I of 1864 of the Travancore state rules regarding the validity of passes granted by Abhari Contractors are laid down. Copies of these sections are

are on record. Section 14 of this regulation states that the permit granted by an Abhari Contractor or Sub-contractor cannot be used to transport a quantity exceeding 100 gallons and that it becomes invalid when the liquor is taken to a place beyond the farm. It therefore appears to this Court that the exhibit no. 2 and the statements made by this witness with regard to it are incredible.

Is this  
Cochin or  
Travancore  
territory?

The 4<sup>th</sup> witness for the defence deposes that he saw the arrack and the boat being seized while he was travelling in a boat. It is stated that the witness was travelling from Ernakulam in a boat (poled by a boatman) and when he reached Thamara Vattam he saw at that time the liquor being seized and he remembers the date of this occurrence to be the 9<sup>th</sup> of Chulam. I doubt think all these to be probable. Though it cannot be said that such things cannot possibly occur such occurrences are most likely to be very rare. In the absence of sufficient cause for these improbable occurrences there need

need, <sup>not</sup> be ~~any~~ doubt in ascertaining that ~~these~~ are unreal.

This offence comes under Section 38 of Regulation No 3 of 1910. From the proceedings of the Appeal Court of Cochin dated 12<sup>th</sup> December 1963 in which this section has been expounded, it appears that arrack cannot be ~~to have~~ transported beyond the limits of the farm without the Contractors' permit and that any breach of this rule is an offence. Copy of the proceedings in question is also on record.

The accused states that he does not clearly understand what the case for the prosecution is. He also states that the rautar (Cochin Lika. rautar) himself admits that K. Koshchunni (from whom liquor is said to have been purchased) is one who is recognized by the rautar (having executed an agreement to him as appears later on) and therefore the arrack purchased from Koshchunni cannot be illicit. The accused also pleads that the Akkari Contractors Superintendent who first petitioned the Court about the matter was not examined. But

The protocol  
is not enough.

In all probability

as a perusal of all the records in the case will sufficiently meet these objections, there does not appear to be sufficient reason to consider these objections to be very valid.

The accused has been examined and has given proper answers to the questions put <sup>to</sup> him. All the witnesses were examined in the presence of the accused. Under these circumstances it is a very lame excuse for the accused to plead that he has not understood the case for the prosecution. After K. Koshchunni was examined he should have been questioned as to the nature of the agreement executed by him to the Cochin rautar. When we consider the fact that the prosecution has hinted that this Koshchunni has executed a kaichit only to sell one bottle of arrack by retail, the reason why the latter was not examined as a witness (by the defence) is not far to seek. If the prosecution would be benefited by examining the Superintendent who first petitioned this Court, he would have been examined. Considering that the prosecution had

not examined the Superintendent as  
a witness, there was nothing to prevent  
the accused from examining him as a  
witness.

For the above reasons the accused is  
convicted of an offence under Section 38. *vide opening  
of judgment.*  
of regulation 3 of 1010 and he is sentenced  
to pay a fine of Rupees twenty five, and in  
default to undergo one month's simple  
imprisonment. It is also ordered that the  
liquor, cash, and boat &c seized in the  
case be confiscated and disposed of by  
the Pirkar at its discretion.

Dated 25<sup>th</sup> Thiruvallur }  
8<sup>th</sup> December 1896. }  
Sd/- Venkateswara Iyer  
2<sup>nd</sup> Class Magistrate.

True Translation

Order 2 to Mr. Clerk  
for the Pirkar  
for the Pirkar (Sd/- Clerk).  
For Collection of mulatam.  
11-2-98.

*[Signature]*  
1898

1898  
2  
1483

In the Anjikhaimal District Magis-  
trate's Court.

Wednesday, the 3<sup>rd</sup> Pongal 1072, Correspond-  
ing to the 16<sup>th</sup> December 1896.

Present

M. R. R. P. Shungunny Menon A.C.  
District Magistrate.

Appeal No. 49 of 1072 from  
the decision of the 2<sup>nd</sup> Class Magistrate  
of Cochin in Calendar No. 69 of  
1072 convicting the Appellant of  
the offence of Smuggling under Section  
38 of Regulation III of 1010 and  
sentencing him to pay a fine  
of Rs 25 and in default of  
payment of the fine to under-  
go simple imprisonment for  
one month.

Appellant - Marthuvancheriparambath  
Thariath Kunjaku.

Appeal decision - Confirming  
the decision of the lower Court.

*[Signature]*

2

| Date                                |                                     |                                     |                                      |                              |                              |
|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------------------|------------------------------|------------------------------|
| of presentation                     | of filing                           | of notice issued by court to appear | on which appellant ordered to appear | of hearing                   | of order.                    |
| 27 <sup>th</sup><br>Thischigom 1072 | 27 <sup>th</sup><br>Thischigom 1072 | ..                                  | 2 <sup>nd</sup> Dham 1072            | 3 <sup>rd</sup><br>Dham 1072 | 3 <sup>rd</sup><br>Dham 1072 |

### Judgment.

1. This is an appeal from the <sup>decision of the</sup> 2<sup>nd</sup> Class Magistrate of Cochin convicting the Appellant of the offence of smuggling under Section 38 of Regulation III of 1010 and sentencing him to pay a fine of Rs 25 and in default of payment of the fine to undergo simple imprisonment for one month. The facts of the Case for the prosecution are that the Appellant was arrested at Chervaiyu in the Pallipuram Proverthy of the Cochin Taluq while he was transporting <sup>native Cochin</sup> <sup>3</sup> <sub>Casks</sub>

Mun Casks

Casks of arrack to British  
Cochin from the house of one  
Kuttathura Cochunny on the night  
of the 8<sup>th</sup> Shulam last and that  
he had no permit to export  
the liquor from the Cochin  
Alkari Contractor or from  
the Sirkar Officials. The  
fact of the arrest is proved  
by prosecution 1<sup>st</sup> and 2<sup>nd</sup>  
Witnesses. Prosecution 3<sup>rd</sup> and  
4<sup>th</sup> witnesses are that the  
arrack in question was taken  
by the Appellant from the  
house of Kuttathura Cochunny  
in Cheruvappu. The evidence  
of these witnesses is believed  
by the 2<sup>nd</sup> Class Magistrate  
who examined them and who  
had therefore the opportunity  
of observing their demeanour  
whilst under examination.

Mm

I see nothing in their deposition to discredit their evidence.

2. The Appellant admits the seizure of 3 Casks of liquor from his possession. His defence is that the liquor was being transported from Kottullykad in Travancore to British Cochin and that he held permits from the Deputy Collector of <sup>British</sup> Cochin and from the Travancore Abkari farmer. These permits are filed as Exhibits I and II. For the reasons stated in the judgment of the 2<sup>d</sup> Class Magistrate, this Court is also of opinion that the evidence of the defence witnesses is unworthy of credit.

3. I am further of opinion that even if it be granted that the arrack in question was brought from Travancore under Ex. II it must be regarded

as

as Contraband liquor in this State as according to the Travancore Abkhari Regulation the Abkhari farmers have power to grant permits to convey liquor only within the limits of their farms, and as according to the Revenue rules and the Agreement between the two States passes granted by the Peishkars of the one State will alone be held valid in the other.

4. There is however clear evidence on the record showing that the arrack taken from the Apelcant was brought from the house of Kuttathur Cochunny and not from Travancore. This Cochunny is as stated by the defence 2<sup>d</sup> witness only a retail vendor and is not therefore competent to sell

Mr. Jack

? Import within 2

Such a large quantity of arrack. The removal of arrack from the limits of the Cochin Alkari Contractor's farm without his pass is an offence (Vide Proceedings of the Appeal Court dated 12th Meenam 1063).

I therefore see no reason to disturb the finding of the lower Court. The sentence is light. I confirm the finding and the sentence and dismiss the appeal.

Pronounced in open Court

Sd/- P. Shungunnykumar

District Magistrate

(True Copy)

P. Shungunnykumar

District Magistrate

Copy supplied for appeal defendant - 5-5-72  
 Copy ready \_\_\_\_\_ 6-5-72  
 Copy delivered \_\_\_\_\_ 6-5-72  
 Fee realised \_\_\_\_\_ Rs. 100-100.

Compd. Alkari Contractor

M

District Magistrate

To be returned to  
Colonel when the list

Encls. 3 to Mr. Col  
Letter from Mr. Col  
to Mr. Col

Encl. V  
Sd/-

Appeal judgment  
in Kumbhakur  
Case.  
of the Cochin 1st class  
Magistrate

Camp Elavanna, 21<sup>st</sup> January 1897

To

The British Resident  
in Travancore and Cochin

Sir,

In reply to your letter dated 8<sup>th</sup>  
January 1897, Ref. on C. no. 4061, I have  
the honour to state that it is not neces-  
sary to await the decision of the Appel-  
late Court. Our reporter informed me in  
a petition dated the 19<sup>th</sup> ultimo, which  
I sent to you with my endorsement dated  
6<sup>th</sup> January 1897, Ref. on M. no. 1283  
that the Sub Magistrate's decision had already  
been confirmed. This indeed is not a  
matter for surprise seeing that the Sub  
Magistrate in his judgment, of which I  
have a certified copy, admits that he  
consulted the Appellate Court before  
convicting the accused.

He doubts  
full inquiry

2. The Sub Magistrate expresses his  
astonishment that the accused should  
have been unable to understand the  
nature of the charge which had been  
brought against him. After reading the  
Sub Magistrate's judgment, I must admit  
that I am no wiser than the accused  
may I therefore ask you to kindly to  
subjoin me? The evidence for the prose-  
cution showed that the heifer had been  
brought

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bought from one Kochummi in the Cochin State. This person is admitted by the Cochin ruler — at least, so I understand the judgment — to be one of his authorised agents. Surely, therefore, the liquor is not contraband as long as it was in the Cochin State. Was the accused convicted on the ground that he intended to commit an offence against the Abkari law prevailing in the Madras Presidency by importing Cochin arrack into British Territory? If so, I think the British authorities might well have been left to deal with him.

3. The Sub Magistrate has not considered it necessary to examine either the Cochin Contractor, Superintendent who first put in the complaint against the accused or K. Kochummi who sold the liquor to the accused on behalf of the Cochin Contractor. These are doubtless informalities — so also is the Magistrate's omission to mention the date of the offence — to comment upon which may seem hypercritical. But may I ask whether K. Kochummi who aided and abetted the offence committed by the accused — whatever that was — has been prosecuted, and if not, why

Yes that is  
strange

why he has been allowed to go free?  
4. I am unable to understand why the accused should have tried to pass liquor which he had lawfully bought in the Cochin State through Cochin territory on a permit granted by the Travancore ruler. Is this believed to be due merely to an aberration of intellect or has the prosecution any other theory to account for it? I may note in this connection that the Travancore ruler's evidence was disbelieved because he failed to pass an Examination in Travancore Abkari Law which was held by the Sub Magistrate. May I ask whether you consider this a sufficient reason for believing the witness to have perjured himself

I have etc.

By H. W. Dancer,

Collector of  
Malabar.

(True copy)

For Collector of  
Malabar.

11. 2. 98.

11. 2. 98  
11. 2. 98

In the Appeal Court of Cochin  
Tuesday the 20<sup>th</sup> Edavom 1072 corresponding  
to first June 1897.

Present

J. C. Krishna Menon Esq. Second Judge  
K. Narayana Menon Esq. Third Judge.  
Criminal Revision Petition No. 22 of 1072  
Criminal Revision Case No. 22 of 1072  
Kunhabeku - - - Petitioner  
Narayana Panikar and another  
Counter Petitioners

Petition under section 327 of the Criminal  
Procedure Regulation praying the Appeal  
Court to revise the decisions of the 2<sup>nd</sup>  
class Magistrate of Cochin in Case -  
No. 69 of 1072 and the District Magistrate  
of Arjithymal in Appeal No. 49 of 1072.

COLLECTO-  
14-JUL-1897  
This Petition coming on for hearing  
upon perusing the Petition and the  
records submitted in accordance with  
the order of this Court dated at -  
Makarom 1072, the Court passed  
the following order.

Entered in the Court of Appeal  
at Cochin on the 20<sup>th</sup> Edavom 1072  
972, 972 - B. Menon (Petitioner)

1898  
4  
1483

There is admittedly nothing on the records to show that the accused knew or ought to be taken to have known that his vendor had no right to sell the quantity of arrack which he purchased from him. The conviction is therefore bad and is quashed. The fine, if already realized, must be refunded to the Petitioner ~~and~~ to go to

(Sd) J. C. Krishna Menon  
Second Judge

(Sd) K. Narayana Menon  
Third Judge

(True Copy)

(Sd)

Registrar

(True Copy)

(Sd)

District Magistrate

True Copy  
 By *[Signature]*  
 Second class Magistrate

This Copy is given to Kunjakkun

Second class Magistrate *[Signature]* 9-7-97

*[Signature]*

Magistrate of Cochin High Court

List of expenditure incurred on account of the seizure of the arrack brought by Kunhakku, alkari Contractor of the outlying battoms of the British Cochin.

| Number | Month and date |            | Particulars                                                                                                     | Amount |    |    |
|--------|----------------|------------|-----------------------------------------------------------------------------------------------------------------|--------|----|----|
|        |                |            |                                                                                                                 | Rs     | as | p  |
| 1.     | 1896.          | October 24 | Cost of taking ashore the arrack and the boat seized.                                                           | 1      | -  | -  |
| 2.     | do             | do.        | Telegram sent to the Collector.                                                                                 | 5      | -  | -  |
| 3.     | do             | do.        | Cost of taking Copies for petitions from the 2 <sup>nd</sup> class magistrates' Court.                          | -      | 4  | -  |
| 4.     | do             | do.        | Consulting fee for Mr. Gopalakrishnan Vakil                                                                     | 5      | -  | -  |
| 5.     | do             | 25         | Petitions forwarded to Peshkar's Office Division including postage.                                             | -      | 8  | 5  |
| 6.     | do             | do.        | Ferry hire to Ernakulam to engage Mr. Gopalakrishnan.                                                           | -      | 4  | -  |
| 7.     | do             | 26         | Petition forwarded to the Deputy Collector, Cochin and Court-fee.                                               | -      | 9  | -  |
| 8.     | do             | do.        | Ferry hire to go to Ernakulam to get information regarding the Case from Gopalakrishnan.                        | -      | 4  | -  |
| 9.     | November       | 4.         | Petitions forwarded to the Deputy Collector of Malabar and postage.                                             | -      | 9  | -  |
| 10.    | do             | 9.         | Cost of boat hire and Coolie hire from Koppally to the 2 <sup>nd</sup> class magistrates' Court, Mattencherry.  | 5      | 2  | -  |
| 11.    | do             | do.        | Fees paid to Gopalakrishnan.                                                                                    | 25     | -  | 10 |
| 12.    | do             | do.        | Cost of Stamp paper to Vakalatnama for Messrs. Raphael and Rappin Vakil                                         | -      | 13 | 4  |
| 13.    | do             | 10         | Cost of petition forwarded to the Collector Malabar                                                             | -      | 9  | -  |
| 14.    | do             | 16         | do do do                                                                                                        | -      | 8  | 6  |
| 15.    | do             | 19         | Cost of taking Copy of an order from the Deputy Collector's office, Cochin                                      | -      | 5  | -  |
| 16.    | do             | 21         | Cost of boat and Coolie hire from Koocheepooly to the 2 <sup>nd</sup> class magistrates' Court at Mattencherry. | 5      | -  | -  |
| 17.    | do             | do         | Stamp paper for a Vakalatnama for Mr. Gopalakrishnan.                                                           | -      | 13 | 4  |

| No. | Date        | Description                                                                                                                                                                        | Rs. | Annas. | Paisas. | No. | Date        | Description                                                                                                                                     | Rs. | Annas. | Paisas. |
|-----|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|--------|---------|-----|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------|-----|--------|---------|
| 18  | November 22 | Paid to Mr. Gopala menon on account of fees.                                                                                                                                       | 35  | 10     |         | 36  | December 19 | Cost of petition forwarded to the Collector of Malabar including writing charge.                                                                |     | 8      |         |
| 19  | 23          | Cost of boat and Cooly hire from Koocheepally to the 2nd Class Magistrate's Court at Muttencherry.                                                                                 | 4   | 12     |         | 37  | 20          | Paid to Mr. Gopala menon on account of his fees.                                                                                                | 20  |        |         |
| 20  | 20          | Batta deposited in the said Court for the witness Attan abkari Contractor, native Cochins.                                                                                         | 2   |        |         | 38  | 21          | Cost of petition forwarded to the Collector of Malabar including writing charge.                                                                |     | 9      |         |
| 21  | December 2  | Cost of boat and Cooly hire for producing witnesses from Koocheepally to the 2nd Class Magistrate's Court, Muttencherry, for enquiry.                                              | 6   | 3      |         | 39  | 22          | Paid to Mr. Raphael fees including receipt stamp.                                                                                               | 20  | 10     |         |
| 22  | 22          | Cost of boat and Cooly hire for my boat.                                                                                                                                           | 3   | 6      |         | 40  | 23          | Expenses incurred for producing witnesses to the British Cochins Sheridadar Magistrate's Court including boat hire and Cooly hire.              | 1   | 3      |         |
| 23  | 23          | Cost of boat and Cooly hire from Pallipuram (Koppikad) for witness Kannan and the other witnesses from Koocheepally to the 2nd class Magistrate's Court, Muttencherry for enquiry. | 10  | 8      | 2       | 41  | 24          | Stamp for Vakalat for Mr. P. D. Pally Vakil for the above Court.                                                                                |     | 8      |         |
| 24  | 24          | Cost of my boat and Cooly hire for the said case.                                                                                                                                  | 2   | 14     |         | 42  | 25          | My boat hire and Cooly hire to attend before the said Court.                                                                                    | 1   | 13     | 4       |
| 25  | 25          | Cost of taking the Copies of Judgment from the 2nd Class Magistrate's Court.                                                                                                       | 1   | 12     | 5       | 43  | 26          | My boat hire and Cooly hire from Koocheepally to Ernakulam to take Copies of the records of the said Case from the District Magistrate's Court. | 2   |        |         |
| 26  | 26          | Fees paid to Mr. Bepko Vakil.                                                                                                                                                      | 20  |        |         | 44  | 27          | Cost for taking the Copies of the depositions of witnesses including writing fees and paper.                                                    | 12  | 5      |         |
| 27  | 27          | Receipt stamp for do.                                                                                                                                                              |     |        | 10      | 45  | 28          | Boat hire for Vakil and others going to Thamaravattam and other places for local enquiry.                                                       | 5   |        |         |
| 28  | 28          | Ferry hire to Ernakulam to give appeal to the District Magistrate.                                                                                                                 |     | 2      |         | 46  | 29          | Fees paid to Vakil P. D. Pally including Bill Stamp.                                                                                            | 20  | 1      |         |
| 29  | 29          | Stamp for Vakalat for Mr. Gopala menon in appeal.                                                                                                                                  |     | 13     | 4       | 47  | 30          | Boat hire, Cooly hire and other expenses for the witnesses produced by me before the Sheridadar Magistrate's Court.                             | 5   | 3      | 10      |
| 30  | 30          | Telegram to the Collector of Malabar.                                                                                                                                              | 5   |        |         | 48  | 31          | Boat and Cooly hire for myself to go before the said Court.                                                                                     | 3   | 13     |         |
| 31  | 31          | To writing the telegram do.                                                                                                                                                        |     | 8      |         | 49  | 32          | Ferry hire to Ernakulam to take Copy of the permits from the District Magistrate's Court.                                                       |     | 2      |         |
| 32  | 32          | To boat and Cooly hire to go to the District Magistrate's Court for appeal enquiry.                                                                                                | 2   | 4      |         | 50  | 33          | Cost of the said Copy to take from the Court including writing fees.                                                                            |     | 10     |         |
| 33  | 33          | Ferry hire to Ernakulam to take Copy of the Judgment from the District Magistrate's Court.                                                                                         |     | 2      |         | 51  | 34          | Cost of the boat and Cooly hire for going to the appeal Court for the revision Case.                                                            | 2   | 14     |         |
| 34  | 34          | Cost of the Copy taken from the District Court including value of the paper.                                                                                                       | 1   | 12     | 5       | 52  | 35          |                                                                                                                                                 | 2   | 8      |         |
| 35  | 35          | Ferry hire to Ernakulam to give revision before the appeal Court.                                                                                                                  |     | 2      |         | 53  |             |                                                                                                                                                 | 2   | 10     |         |
|     |             |                                                                                                                                                                                    |     |        |         | 54  |             |                                                                                                                                                 |     |        |         |

|     |       |     |                                                                                                                                                                |    |    |    |  |  |
|-----|-------|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----|----|----|--|--|
| 55. | March | 13  | Cost of petition forwarded to the Collector of Malabar                                                                                                         | "  | 9  | "  |  |  |
| 56. | do.   | 31  | Paid to Cooly who brought Mr. Gopalamenon's letter giving information to the date of inquiry for revision                                                      | "  | 8  | "  |  |  |
| 57. | June  | 1   | Boat and Cooly hire for going to the appeal Court for enquiry of the revision Case.                                                                            | 2  | 12 | 3  |  |  |
| 58. | do.   | 4   | Boat and Cooly hire to Ernaaculam to take Copy of the revision from the appeal Court.                                                                          | 3  | 4  |    |  |  |
| 59. | do    | do. | Cost for taking the judgment Copy from the appeal Court.                                                                                                       | "  | 3  | 2  |  |  |
| 60. | do.   | 5   | Paid to Mr. Gopalamenon, as fees.                                                                                                                              | 10 | "  | "  |  |  |
| 61. | do.   | 10  | Cost of petition forwarded to the                                                                                                                              | "  | 8  | "  |  |  |
| 62. | do.   | 15  | Collector of Malabar.                                                                                                                                          | "  | 6  | 6  |  |  |
| 63. | do    | do. | Cost of petition presented to the Deputy Collector of Cochin                                                                                                   | "  | 8  | "  |  |  |
| 64. | July  | 2   | Cost of petition forwarded to the Collector of Malabar including writing fees.                                                                                 | "  | 8  | "  |  |  |
| 65. | do.   | 9   | Cost of taking Copy of petition presented by myself and counterpetitioner                                                                                      | "  | 10 | 2  |  |  |
| 66. | do    | do. | Cost of taking the Copy of the judgment from the said Court to forward to the Collector of Malabar.                                                            | "  | 7  | "  |  |  |
| 67. | do    | 11  | Cost of forwarding petition to the Collector of Malabar including writing fees.                                                                                | "  | 9  | "  |  |  |
| 68. | do.   | do. | To forwarding petition to the Dewan of Cochin and to the District Magistrate's Court to release arrack from the 2 <sup>nd</sup> class Magistrate, Nativ Cochin | "  | 10 | 6  |  |  |
| 69. | do    | 17  | Cost of Cooly hire to take back the arrack from the 2 <sup>nd</sup> class Magistrate's Court.                                                                  | 6  | 12 | "  |  |  |
| 70. | do    | do. | For taking Copy of the order issued by the District Magistrate from the 2 <sup>nd</sup> class Magistrate's Court.                                              | "  | 3  | 2  |  |  |
| 71. |       |     | Loss sustained by the reduction of 30 gallon arrack, loss from the seized arrack.                                                                              | 36 | "  | "  |  |  |
| 72. | do.   | 18  | Boat hire and repair of the expenses paid to Kaya pelly Coorhee Barid on handing over to him the seized boat.                                                  | 63 | 2  | 10 |  |  |
| 74. | do.   | 26  | Forwarding petition to the Collector of Malabar including writing fees.                                                                                        | "  | 8  | "  |  |  |

|                               |         |     |                                                                                                                 |     |    |   |  |  |
|-------------------------------|---------|-----|-----------------------------------------------------------------------------------------------------------------|-----|----|---|--|--|
| 75.                           | August. | 14. | For taking Copies of petition and Supra Diary from the 2 <sup>nd</sup> class Magistrate's Court of Nativ Cochin | 1   | 10 | " |  |  |
| 76.                           | do.     | 17  | Interest on Rs 25 paid as fine to the Court up to the date of refund.                                           | 2   | 1  | " |  |  |
| 77.                           | do      | 18. | Boat and Cooly hire to Ernaaculam to pay fees to Mr. Gopalamenon.                                               | 2   | 3  | " |  |  |
| 78.                           | do.     | do. | Fees paid to Mr. Gopalamenon.                                                                                   | 15  | "  | " |  |  |
| 79.                           | do      | do. | Due to Mr. Gopalamenon according to his bill balance fees.                                                      | 55  | "  | " |  |  |
| Coe hin                       |         |     | Total Rupees.                                                                                                   | 454 | 4  | " |  |  |
| 18 <sup>th</sup> September 97 |         |     | (Sd.) Kumbhakur.                                                                                                |     |    |   |  |  |
|                               |         |     | ab Kari Contractor on flying platform.                                                                          |     |    |   |  |  |

(True Copy)

Calicut.  
11<sup>th</sup> February 1898

*Att*  
11.298

For Collector of Malabar

For. Ref. on M.P. No. 412  
1897.

28

Malabar Collector's Office  
Calicut, dated 27<sup>th</sup> September 1897

From

G. W. Dance Esqre. I. C. S.  
Collector of Malabar.

To

The Resident in Travancore and  
Cochin.

Sir,

With reference to para 4 of my letter Ref on  
M. P. No. 412 dated 30<sup>th</sup> July 97, I have the honor to  
enclose a bill for Rs 454-4-<sup>9</sup>/<sub>16</sub>, being the actual ex-  
penses to which our renter was put in consequence  
of the seizure of his arrack by the Cochin officials.

2. From the Correspondence forwarded to me  
with your endorsement ref on Cno. 2830 dated  
5<sup>th</sup> instant I gather that the Dewan is disposed  
to resent any application to compensate the renter  
from the funds of the Cochin Ricar. I must therefore  
again draw your attention to my letter, Fur. ref. on  
M. P. No. 1283A dated 21<sup>st</sup> January last. The information  
for which I applied therein has not yet been furnished  
to me notwithstanding the marginally noted reminder.  
If therefore I do not correctly understand the facts  
and have heard only one side, it was not for want  
of asking for information.

I have &c.

(sd) G. W. Dance.

True Copy.

*G. W. Dance*  
11.2.98

For Cochin of Malabar  
11.2.98.

8. Fur. Ref on M. P. No. 181 27/12-6-97

1. Fur. ref. on Cno. 2931-A dated 20-2-97
2. Ref. on M. P. 1283-13 27/13-3-97
3. Ref. on M. P. No. 96181 27/14-3-97
4. Ref. on M. P. No. 1283-13 27/31-3-97
5. Fur. Ref. on M. P. No. 1283-A 27/14-5-97
6. Fur. Ref. on M. P. No. 1283-A 27/31-5-97
7. Fur. Ref. on M. P. No. 181 27/4-6-97

Ref. on Cno. 3096 of 97

President's office  
Trivandrum, 6<sup>th</sup> November 1897.

From,

J. D. Rees Esquire, C. J. E.  
Ag. Resident in Travancore and Cochin.

To

The Collector of Malabar.  
Calicut.

Sir,

With reference to your letter Jur. Ref. on. M. P. No. 412 of the 24<sup>th</sup> September last, I have the honor to observe that the appeal Court at Ernakulam having held that the conviction of the abkari renter of the Outlying Pattoms of Cochin was bad and having quashed it there is now, I think, no sufficient reason for asking for the information asked for in your letter Jur. Ref. on. M. P. No. 1283A of the 21<sup>st</sup> January last being furnished. That letter criticizes a judgement which is not upheld by the superior Courts of the Sircar. I presume it is not contended that the action of the Sircar officials and of the Sirkar Courts in the matter was not bona fide. In any case whether the claim for Compensation put forward by the abkari renter be —  
justifiable

justifiable or not. I do not think I should be in order in demanding the amount from the Dewans unless I have the authority of the Government to which I would suggest the matter should be referred if the claim is pressed.

I have &c.  
sd. J. D. Rees.  
Ag. Resident.

(True Copy.)

For Collector of Malabar.  
11-2-98

Ret  
Ad  
11-2-98

Encls. 7 to Mr. A.  
Mr. A. in leg.  
in Mr. A. of Mr. A.  
Board of Mr. A.

Copy of Malabar Collector's letter Fur. Ref. on M.P.

No. 412/1897, dated 9th February 1898.

"I have the honor to report that the abkari contract of the 2nd lot of the outlying Pattoms of British Cochin, for the lease commencing on the 1st October 1896 and ending on the 30th September 1897, was purchased by Mazhuvancheri parambatthi Thariatthi Kunhaker. There was a keen competition between him and Ambali Santharan and P. K. Ittan, who jointly rented the adjoining abkari farm from the Cochin State. The outlying pattoms therefore fetched Rs. 2510 against Rs. 150 in the previous year.

2. Under the terms of his contract <sup>our</sup> renter was at liberty to import arrack from Travancore. As, however, his farm was completely surrounded by that of his unsuccessful rivals at the auction he was apprehensive of reprisals, and he made known his apprehensions to me in a petition dated 20th October 1896.

3. Our renter's fears were well founded. He was transporting 100 gallons of arrack from Travancore through his rivals' territory on the 23rd October 1896 when it was seized by the Cochin officials. It was contended for the prosecution that the arrack had not been imported from Travancore, but had been purchased from one Kochunni, a licensed retail vendor of arrack in the Cochin State. Kochunni, it was urged, had no power to sell so large a quantity. Our renter was therefore fined Rs.

Rs.25, and his liquor and boat confiscated.

4. Our renter appealed to the District Magistrate. This, however, was merely a formality because the Sub-Magistrate admitted in his judgment that he had taken counsel with the District Magistrate before convicting the accused. Previous to the receipt of orders from the District Magistrate he was doubtful whether any offence had been committed.

5. Our renter next went up to the Cochin Court of appeal, which, in its order dated 1st June 1897, set aside the conviction on the ground that there was nothing to prove his guilty knowledge.

6. That Kochunni should have been punished for selling liquor wholesale when he had only a retail license I could understand.

But what offence had been committed by our renter in purchasing arrack from a licensed vendor assuming the <sup>prosecution</sup> story to be true -

was not so obvious. I therefore wrote on the 21st January 1897 to the Resident in Cochin requesting him to enlighten me. Not

receiving any reply I sent the marginally noted reminders. Finally on the 27th Sep-

tember 1897 I sent to the Resident a bill for Rs.454-4-0, being

|                                               |
|-----------------------------------------------|
| 1. Fur. Ref. on C.No. 2051A/R. 96d/20-2-1897. |
| 2. " " " " " N.P. 1285B/96, d/13-3-1897.      |
| 3. " " " " " 181/97, d/ 17-3-1897.            |
| 4. " " " " " 1285/96, d/ 31-3-1897.           |
| 5. " " " " " 1285/96, d/ 14-4-1897.           |
| 6. " " " " " 1285A, /96, d/31-4-1897.         |
| 7. " " " " " 181/97, d/ 4-6-1897.             |
| 8. " " " " " Do d/12-6-1897.                  |
| 9. " " " " " 412/97 d/30-7-1897.              |

our renter's actual expenses in the case, and asked him, either to be good enough to inform me of the nature of the offence committed by our renter or to ask the Cochin Sircar to pay his bill. This elicited a response dated the 6th November last to the effect that

there

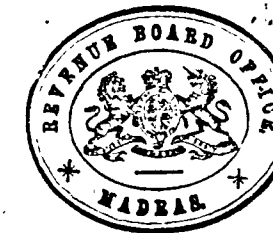
there was no necessity now to discuss the nature of our renter's offence, seeing that his conviction had been reversed, and that no demand for compensation would be made without the authority of the Madras Government.

7. It is true that the conviction was reversed. But it is equally true that our renter has suffered severely in pocket owing to the action of the Sircar officials. He is clearly entitled to compensation. Who is to pay it? I submit that there is no reason why the Madras Government should do so. The Malafides of the prosecution is evidenced by the fact that no proceedings were taken against Kochunni. There can therefore be little doubt that he and the Sircar renters were acting in collusion. The subsequent proceedings before the Sub-Magistrate and the District Magistrate, which I have detailed above, there, I submit, characterised by any thing but impartiality. I therefore request that the Government may be moved to ask the Cochin Sircar to make good our renter's loss.

/True copy/

*W. B. Srinivasan*  
AG. Assistant Secretary.

2  
8/11  
18-298



# Proceedings of the Board of Revenue

(Separate Revenue),

Dated 16<sup>th</sup> February 1898.

Slis No. 594

Read letter from the Collector of Malabar Fur Ref on

+ Copy attached H.P.No. 412/1897, dated 9th February 1898.

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## Resolution.

The Collector's letter with enclosures is submitted for the consideration and orders of Government.

2. Briefly the case appears to be that an Abkari contractor for parts of British Cochin surrounded by Native Cochin territory was convicted and punished by the Cochin Sub-Magistrate for transporting liquor through the State limits without a proper transport permit-Viz-one from a Travancore Peshkar.

So much may be gathered from the District Magistrate's Judgment in appeal. The lower Court's judgment is not very understandable; the prosecution evidence was that the liquor had been purchased in Native Cochin territory from a licensed retail dealer and the defence that it had been obtained in

Travancore territory.

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/True extract/

Ag. Assistant Secretary.

18-298

-x-  
Note

A copy of this B.P.  
should not be sent to  
the Resident in Travancore  
& Cochin.

3/6  
25/4/8

-x-

Read B.P. No 594 d/16-2-98 (C.L. 1480)

G.O. No. 1778 d/25 April 1898.

In the concluding sentence  
of his letter disposed of in G.O. No.  
282 judicial d/16-2-98 the  
Resident in Travancore and  
Cochin states that he had called  
for the records of the case in which  
a British Ahkari Contractor was  
prosecuted in the Cochin Courts for  
the transport of liquor without  
a proper licence. He will be  
requested to favour Govt with  
the opinion which he has formed  
after the perusal of the records  
and with the knowledge which  
he ~~must have~~ <sup>no doubt possesses</sup> of all the <sup>surrounding</sup> ~~circumstances~~  
stances. ~~The Govt consider that~~  
If there is no reason to suppose  
that the British Contractor was  
acting throughout otherwise than  
honestly, it would apparently  
be for consideration whether  
some compensation should  
not be procured for him from  
the Cochin Govt for the trouble  
and expense to which he  
has

has been put

K.D.  
22/4/98

SP  
22/4/98

(From order)

To

The Resident in Transvaal of Cochran

through the Political Dept

The B. of Peace (Dep. Peace)

24/4/98

When given for copying \_\_\_\_\_  
When copied \_\_\_\_\_  
When examined \_\_\_\_\_  
When signed \_\_\_\_\_

189

READ AGAIN G.O., No.  
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

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

B.B.-

A = Copy in full.  
B = Not to be copied.  
P = Copy abstract only.  
Q = Copy heading only