

Revenue (189 &) Department.

MISCELLANEOUS SERIES.

G.O., No. 4231

DATED 31st Oct. 1898

[Despatch Abstract.]

with reference to a letter from
Considering that the conclusion that the appellant
Mappurawani Asari, late Forester, South Arcot dt.,
was guilty of making a false charge of trespass,
has not been established; and requesting the B^d of
Rev. to report if there is anything further on record
to substantiate that conclusion.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Cm	17/4/99						

Revenue (1898) Department.

CURRENT No. 5612.

From The Board of Rev. Land Rev.
Madras.

Order

Ref. No. 326.

Dated 6: August 1898

Received 11

Registered 12

Enclosures 5

Spare copies

SUBJECT.

Submitting to Government, appeal
petition from A. Kuppuswami
Asari, late a Forester in the
Arcot Dk appealing against
the order of the Board of Revenue
declining to interfere in the
matter of his dismissal by the
Conservator of Forests, Central Arc.

G.O:	No.	Department.	Date.
012	4434		9-98

G.O.	No.	Department.	Date.
Chas.	1714		99.

His Excellency the Governor in Council,
Fort Saint George,
Madras.

1. Petitioner was a Forester in Tiruvannamalai Taluq, South Arcot District. He was dismissed from service by the Proceedings of the Conservator of Forests Central Circle, dated 9th December 1897.

2. Petitioner appealed from this order to The Honorable The Board of Revenue. The Honorable The Board passed Proceedings on the 29th March 1893 declining to interfere. This order was communicated to the Petitioner on the 27th April 1893.

3. Petitioner most humbly begs to appeal against this order of the Honorable The Board of Revenue and the order of the Conservator dismissing him. (Enclosures 1 and 2.)

4. Four charges against the petitioner are alluded to in the Conservator's proceedings. The Conservator found that the first and third charges were not established viz., that the petitioner wilfully or negligently wasted Government money on demarkation, and that he failed to impound the full number of, goats found trespassing in Pennar Block. (Please vide Conservator's Proceedings Enclosure 1.)

5. *With regard to charge No. 2* that the petitioner acted in direct opposition to the standing order, the Conservator says that it is proved. The standing order referred to here is an order of the District Forest-officer of South Arcot District which was brought to the notice of the petitioner about January 1897, a short time after he was transferred from Kallakurchy Taluq to Tiruvannamalai Taluq. This order directed the Sub-Range officers in Tiruvannamalai Range that they should themselves collect compensation from parties and should not ask the Guards to collect it. This order did not obtain in the Kallakurchy Range, in which the petitioner was serving prior to the 15th December 1896 when he was transferred to Tiruvannamalai Range. Petitioner, while serving in this range, was informed of this by a communication from the Range officer about January 1897. Immediately afterwards petitioner sent a written order to all the Guards under him stating that the compensation amount should not be collected either by them or watchers, quoting the above standing order. Petitioner applied for a copy of this order of his own from the file of the papers of the Sub Range Office to the District Forest Officer on 26th and 31st December 1897 to which the District Forest Officer has replied that the application could not be complied with (Please Vide Enclosure 3.) Petitioner humbly prays that the order of the petitioner may be called for by your Excellency in Council and perused.

6. But in February 1897, forest guard, Abdulrhyman Saib to whom Petitioner gave a compensation notice to be served as usual to the parties, handed over that notice to a watcher named Mahamedkan Saib who is his brother and this watcher instead of simply serving it on to the parties exceeded his duty and collected the

amount of Rs. 2 contrary to my repeated verbal orders to the guard and watcher in pursuance of the written order above mentioned and handed it over to the guard who gave it to petitioner. It is with respect to this collection of compensation amount by the watcher that petitioner is charged with having acted in direct opposition to the standing order.

7. Petitioner humbly submits that as shown above, he was not guilty of disobeying the standing order but that the collection of the amount by the watcher was only a violation of their duty on the part of the guard and the watcher in disregard of Petitioner's written and verbal orders pursuant to the standing order of the District Forest Officer. Petitioner begs to submit that this was the only instance in which the guard or the watcher collected the compensation amount among not less than thirty instances in which compensation was collected from parties during the period in which petitioner was Sub Range Officer in Tiruvannamalai Range. Petitioner respectfully submits that even though the above charge may be held to be proved against him he deserves to be ~~only~~ warned or censured for it and that it may not be considered any ground for his dismissal. The Conservator himself does not press this charge against the petitioner but bases his order of dismissal almost wholly upon the fourth charge.

8. The fourth charge against the Petitioner which the Conservator says is "the most serious," is that he "illegally impounded goats that were grazing in unreserved land and falsely charged the graziers with trespass in reserved forest." This charge was framed against the petitioner out of the remarks made by the Sub-Magistrate of Chengam in his Judgment in Calendar Case No. 97, 1897 quoted in the next para below.

9. In this case the accused was charged with having grazed his goats and sheep in Nathampalli reserved forest without a permit under section 21 d, Madras Forest Act V of 1882. The accused was acquitted and the Sub-Magistrate remarked at the end of his Judgment "that the accusation about the payment of 4 Rs. (to the petitioner) is also well established * * * that the accused was most unjustly dragged into the Court and that the Forester A. Cooposawmi Assari (petitioner) who has acted in a most objectionable way richly deserves prosecution for an offence under section 52 of the Forest Act." (Please Vide Enclosure 4.)

10. The Conservator simply quotes and relies upon these remarks in dealing with the last charge and dismisses the petitioner on their strength.

11. Petitioner submits in the first place that no explanation was called for and taken from the petitioner with respect to this charge that he illegally impounded the goats and falsely charged the graziers nor with respect to the above disparaging remarks which the Sub-Magistrate has made in his Judgment, and that he has been charged and found guilty behind the back and dismissed without any hearing on the assumption that the Sub-Magistrate's remarks amounted to a finding of guilty against the petitioner.

12. On the 18th February 1897 while the petitioner was inspecting the Nathampalli reserved forest within his Subrange, Tiruvannamalai Range, he saw goats and sheep grazed by Sookia Goundan, the accused in the above Calendar Case, within the limits of the said reserved forest and therefore impounded them. On the 19th February 1897 he sent on occurrence report to the range officer, Mr. Madurainayagam Pillai. On the 19th of March 1897 he received a compensation notice issued by the said Range officer under the order of the District Forest Officer to be served upon Sookia Goundan above named in the matter of the grazing of his goats which

were impounded by the petitioner as aforesaid. On the same day the said range officer came to petitioner's station (Chinniyampet village) and took charge of the records connected with the offence reports from him and also the said compensation notice, saying that he was going to report about him and get him suspended on account of the facts connected with charge No. 3, mentioned in the Conservator's proceedings (of which he was acquitted by the conservator himself in his proceedings) and that he might wait at head quarters, Tiruvannamalai, until further orders.

13. Petitioner gave over charge of his office at Tiruvannamalai on the 31st March 1897 to the Range officer himself and received the suspension order on the 23rd April 1897 in connection with the subject matter of charge No. 3 referred to in conservator's proceedings, as intimated by the Range officer on the 19th March 1897.

14. Meanwhile Mr. Madurainayagam Pillai, the Range officer, directed of his own accord and contrary to the terms of the compensation notice above mentioned (Please Vide Enclosure 5), Mr. V. C. Dorasawmi Pillai, Ranger in charge of Chengam, sub-range, to make a sworn deposition before the Sub-magistrate of Chengam charging Sookia Goundan above named with the offence under section 21. d, Madras Forest Act. The complaint was accordingly made on the 31st March 1897 and was filed as Calendar Case No. 97 of 1897. The petitioner was summoned to give evidence on the 19th April 1897.

15. The compensation notice (Enclosure 5) distinctly states that if the party should not give the compensation within 10 days of its service upon him he would be prosecuted. It will thus appear that the District Forest Officer only ordered that the offence might be compounded and directed that the amount fixed by him be paid within 10 days in default of which only, the Range Officer was directed to prosecute the party before the Magistrate. This order of the District Forest Officer was strictly in accordance with No. 9, Procedure Rules under chapter VII of the Madras Forest Act V of 1882 framed by the Collector and District Magistrate, South Arcot District and published in Forest sheet No. 5 of 1893 (Please Vide Exhibit 6 enclosed page 22)

16. But it was the Range Officer that unnecessarily dragged the party into the Court ignoring the above mentioned plain directions of the notice. He caused the complaint to be made first on the 31st March 1897 and instead of serving the notice upon the party and waiting, as he ought to have done, for the time allowed to see whether the party pays the compensation in which case no Criminal Proceedings would have been necessary, served it on the party 6 days after the complaint on 5th April and thus drove the party to waive the option of paying the compensation amount and take the only possible course left to him, namely, maintaining that the impounding was illegal and that he committed no offence, consistently with the defence of innocence that he must put forward later on at the trial of the case in order to avoid punishment. The Range Officer's procedure was against the plain order of the District Forest Officer contained in the notice and cannot be justified under rule 9 of Rules of the Procedure or any rule of the Forest Act or of the Forest Department. The District Forest Officer alone has the power to order prosecution or to compound after prosecution is ordered. The Range Officer has no power to prosecute before serving the compensation notice issued under the order of the District Forest Officer, nor to compound it after prosecution without the written sanction of the District Forest Officer. In this case the Range Officer instituted criminal proceedings for reasons of his own against the party without the written sanction of the District Forest Officer when the compensation notice had not been served.

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17. The party never complained to the Magistrate under Section 20 of the Cattle Trespass Act No. 1 of 1871 or otherwise that the goats and sheep were illegally seized and impounded. If he had been really injured by the action of the petitioner, he would have complained to the Magistrate. It is therefore only natural to suppose that if the compensation notice had been served upon him according to its very terms which the Range officer has bound to do, before complaint was made against him, he would have paid compensation without objection.

18. It will thus be seen that the Sub Magistrate's remark that the accused was unjustly dragged into the Court by the petitioner is quite unfounded. *For Petitioner was only a witness and had nothing to do with the prosecution of the accused. It was only the Range officer that initiated the criminal proceedings against him without the preliminary notice being served upon him.*

19. The trial of the case began on the 19th April 1897. The said Range officer, Mr. Madurainayagam Pillai, conducted the prosecution. The accused pleaded not guilty. He made a statement that his goats and sheep were grazed on unreserved land, that petitioner unlawfully drove them as if they were grazing in reserved forest, that petitioner received Rs. 4 bribe from him on the way they were being driven to the pound, but still impounded them and that he had four witnesses. The petitioner and another were examined as witnesses for the prosecution on the 19th and the case was adjourned for the examination of the defence witnesses. It was again taken up on the 10th June and three witnesses were examined for the defence. The Magistrate acquitted the accused. Towards the end of his judgment he says.

* * * * *

"The accusation about the payment of Rs. 4 is well established. Under the above circumstances I acquit the accused with the remark that he was most unjustly dragged into Court and that the Forester Kuppasawmi Assari who has acted in a most objectionable way richly deserves prosecution under Sec. 52 of the Forest Act." (Please Vide Enclosure 4.)

20. Petitioner respectfully submits that he will presently try to prove from the evidence and the circumstances of the case that he was not guilty of the dishonest conduct imputed to him by the Magistrate. Before doing this, petitioner respectfully begs to invite the attention of your Excellency in Council to certain aspects of the case for the purpose of showing that the Conservator's order and the Honorable the Board's order confirming it have not taken a proper view of the petitioner's case.

21. *The Conservator simply relying upon the above remarks of the sub-Magistrate, says that petitioner's case is a most glaring one and dismisses him as if the sub-Magistrate's remarks are conclusive on the point.* Petitioner respectfully submits that it is very hard that petitioner's conduct should be thus Judged summarily. A third party was charged with an offence under The Forest Act. He and two of his witnesses (another material witness makes no reference to it) make one particular damaging allegation against petitioner that he received 4 Rs. bribe, but for which allegation no disparaging remarks would have been made by the magistrate about the petitioner even if the accused should be acquitted.

22. Petitioner was only a witness for the prosecution and was not a party on his trial for the charges brought against him by the accused. He could not have full opportunity of defending himself as he would have if he was himself put on his defence in a proper proceeding. Moreover, his superior, Mr. Madurainayagam Pillai who was there prosecuting the case conducted the prosecution only in name and actually took the unusual position of pleader for the accused by cross-examining

closely petitioner who was the 1st witness for the prosecution and trying to discredit him as much as possible (Please vide Enclosure 7.) Nor did he cross-examine the prosecution 2nd witness and witnesses for the defence but only petitioner did it as best as he could. Petitioner submits that the unusual spectacle of the prosecuting Range officer cross-examining his own witness and subordinate as if he was on his trial could lead even the most experienced subordinate Magistrate to the only conclusion that petitioner was giving false evidence and that petitioner's conduct was anything but honest. Again the Magistrate's remarks were against the petitioner as a witness. *Petitioner could not appeal against those remarks nor could the accuracy be tested in appeal, as there was no appeal against the sub-Magistrate's Judgment acquitting the accused which the Government only could prefer.* They were the remarks of an inferior tribunal peculiarly influenced by the conduct of the responsible prosecuting officer and even supposing that it was not thus influenced they cannot have any weight as compared with the Judgment of an appellate court of a superior grade. Petitioner therefore respectfully submits that under the above circumstances it was unfair to him that he should be Judged by the subordinate Magistrate's remarks as if they were of high and conclusive authority and that he should be Judged thus even without an explanation from him which is ordinarily allowed in the Department even to one guilty of a serious offence.

23. Coming to the facts of the case, Petitioner respectfully submits that the above remarks of the magistrate have no foundation and that he was misled into making them. The fact that the accused was acquitted of the charge originally laid against him by the petitioner cannot in any way make the conduct of the petitioner objectionable. The result could be regarded only in the same light as it should be in the case of any other Forester who honestly and in the discharge of his duty charges a person with an offence, and fails in his prosecution for want of sufficient evidence for the prosecution to support his charge. To say that petitioner acted in a most objectionable way and unjustly dragged the party into the court, could be justified only if it should be completely proved, from all the circumstances of the case and after the fullest opportunity given to the petitioner to vindicate his conduct that he falsly and dishonestly charged the party with the offence and that he received 4 Rs. bribe from the party in the affair of impounding the cattle as alleged by him.

24. That he acted with any dishonest intention is disproved by the conduct of the accused himself in not complaining to a Magistrate about the impounding, or about the payment of 4 Rs. to the petitioner as alleged by him, by the natural improbability of the story for the defence and by the inconsistent statements of the accused and his witnesses.

25. The accused stated in his statement before the sub-magistrate that the petitioner received 4 Rs. from him and that when he asked him back the 4 Rs., seeing that his goats and sheep were impounded notwithstanding he paid 4 Rs., petitioner refused to give it back to him. (Please Vide Enclosure 8). If this had been really the case, accused would have naturally complained to the magistrate at once, seeing especially that he had 4 witnesses to this according to his own account.

26. Accused further states in his statement that he received 4 Rs. from his brother Tirumalai Goundan, whom he says he asked to bring money. Tirumalai Goundan who is the 1st witness for the defence did not say one word at all in his evidence about handing over the money to his brother, or its being paid over to the petitioner. (Please Vide Enclosure 9). Petitioner submits that nothing can more conclusively establish that the petitioner did not receive any money from the accused than the totally opposed statements of the accused and his chief witness above named about the payment of the money. Further it is most improbable that

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19. The trial of the case began on the 19th April 1897. The said Range officer, Mr. Madurainayagam Pillai, conducted the prosecution. The accused pleaded not guilty. He made a statement that his goats and sheep were grazed on unreserved land, that petitioner unlawfully drove them as if they were grazing in reserved forest, that petitioner received Rs. 4 bribe from him on the way they were being driven to the pound, but still impounded them and that he had four witnesses. The petitioner and another were examined as witnesses for the prosecution on the 19th and the case was adjourned for the examination of the defence witnesses. It was again taken up on the 10th June and three witnesses were examined for the defence. The Magistrate acquitted the accused. Towards the end of his judgment he says.

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"The accusation about the payment of Rs. 4 is well established. Under the above circumstances I acquit the accused with the remark that he was most unjustly dragged into Court and that the Forester Kuppasawmi Assari who has acted in a most objectionable way richly deserves prosecution under Sec. 52 of the Forest Act." (Please Vide Enclosure 4.)

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closely petitioner who was the 1st witness for the prosecution and trying to discredit him as much as possible (Please vide Enclosure 7.) Nor did he cross-examine the prosecution 2nd witness and witnesses for the defence but only petitioner did it as best as he could. Petitioner submits that the unusual spectacle of the prosecuting Range officer cross-examining his own witness and subordinate as if he was on his trial could lead even the most experienced subordinate Magistrate to the only conclusion that petitioner was giving false evidence and that petitioner's conduct was anything but honest. Again the Magistrate's remarks were against the petitioner as a witness. *Petitioner could not appeal against those remarks nor could the accuracy be tested in appeal, as there was no appeal against the sub-Magistrate's Judgment acquitting the accused which the Government only could prefer.* They were the remarks of an inferior tribunal peculiarly influenced by the conduct of the responsible prosecuting officer and even supposing that it was not thus influenced they cannot have any weight as compared with the Judgment of an appellate court of a superior grade. Petitioner therefore respectfully submits that under the above circumstances it was unfair to him that he should be Judged by the subordinate Magistrate's remarks as if they were of high and conclusive authority and that he should be Judged thus even without an explanation from him which is ordinarily allowed in the Department even to one guilty of a serious offence.

23. Coming to the facts of the case, Petitioner respectfully submits that the above remarks of the magistrate have no foundation and that he was misled into making them. The fact that the accused was acquitted of the charge originally laid against him by the petitioner cannot in any way make the conduct of the petitioner objectionable. The result could be regarded only in the same light as it should be in the case of any other Forester who honestly and in the discharge of his duty charges a person with an offence, and fails in his prosecution for want of sufficient evidence for the prosecution to support his charge. To say that petitioner acted in a most objectionable way and unjustly dragged the party into the court, could be justified only if it should be completely proved, from all the circumstances of the case and after the fullest opportunity given to the petitioner to vindicate his conduct that he falsly and dishonestly charged the party with the offence and that he received 4 Rs. bribe from the party in the affair of impounding the cattle as alleged by him.

24. That he acted with any dishonest intention is disproved by the conduct of the accused himself in not complaining to a Magistrate about the impounding, or about the payment of 4 Rs. to the petitioner as alleged by him, by the natural improbability of the story for the defence and by the inconsistent statements of the accused and his witnesses.

25. The accused stated in his statement before the sub-magistrate that the petitioner received 4 Rs. from him and that when he asked him back the 4 Rs., seeing that his goats and sheep were impounded notwithstanding he paid 4 Rs., petitioner refused to give it back to him. (Please Vide Enclosure 8). If this had been really the case, accused would have naturally complained to the magistrate at once, seeing especially that he had 4 witnesses to this according to his own account.

26. Accused further states in his statement that he received 4 Rs. from his brother Tirumalai Goundan, whom he says he asked to bring money. Tirumalai Goundan who is the 1st witness for the defence did not say one word at all in his evidence about handing over the money to his brother, or its being paid over to the petitioner. (Please Vide Enclosure 9). Petitioner submits that nothing can more conclusively establish that the petitioner did not receive any money from the accused than the totally opposed statements of the accused and his chief witness above named about the payment of the money. Further it is most improbable that

petitioner, having received 4 Rs. before impounding the animals as alleged by the accused and his 2nd and 3rd witnesses, would have still proceeded to impound them.

27. The second witness for the defence; Ammaiypaassari, is a man of no substance and is a dependent of Periyathumbi govenden, 3rd witness for the defence. He contradicts the accused by saying that he did not see accused's brother at the time of giving money. "I did not see 1st defence witness, Tirumalai goundan when money was given." He is also inconsistent in his evidence by saying at one time that he saw the money given at about $1\frac{1}{2}$ miles from the pound and at another time at a $\frac{1}{4}$ of a mile from the pound (Please vide Enclosure 10) In the face of the above facts it is difficult to support the statement of the Magistrate in his Judgment that the accused and his witnesses gave their evidence in a natural and consistent manner.

28. The third witness for the defence, Pereyathumbi govenden, states that he was standing on the way while the goats were being driven towards the pound by the petitioner and others and that he did not know where they were seized, whether upon pattaland or upon reserved forest. He too does not support the accused in his statement that his brother brought him the money. He contradicts the 2nd witness by saying the place at which the money was given was just adjoining the pound. He says, "The place where I was sitting, talking with the hill dwellers was one kole (=24 feet) from the pound. The place where money was given was $\frac{1}{2}$ a kole (=12 feet) from the place where I was sitting." (Please Vide Enclosure 11.) This witness was also in inimical terms with petitioner as petitioner impounded goats and sheep of witnesses brothers-in-law, Parasurama Goundan, 8th accused in petitioner's offence report No. 6, dated 29th January 1897, and Munusawmi Goundan, the owner of sheep grazed by the 2nd accused in petitioner's offence report, No. 1, dated 4th January 1897. Vide history in column 9 of the said offence report, one month before the offence enquired into in the present case. (Please Vide Exhibits 12 and 13).

29. The only other witness who speaks to this payment of 4 Rs. to the petitioner is Abdulkadar Saib, the 2nd witness for prosecution. This witness was a temporary special duty watcher under the petitioner, and had been reported 10 days after the offence in question (Please Vide Exhibit 14) for his irregular attendance, to the Range officer with a view to his being dismissed. Consequently he bore enmity towards petitioner. It is remarkable that this witness who gave hostile evidence against the prosecution was not cross-examined by the Range officer, Mr. Madurai-nayagam Pillai, who conducted the prosecution, while he closely cross-examined petitioner. Witness states, "Accused requested that the animals might be released and said that he would pay 4 Rs. The sub Range officer refused to release them and drove them towards the pound. We impounded them and returned to our house. The accused said, 'you have impounded my animals, compensation amount also will be demanded from me'. Then sub Range officer said that he would see that compensation would not be demanded if 4 Rs. be paid to him. The accused then gave 4 Rs. The money was given at a short distance (கூட்டு தூரம்) after we returned from the pound. It was only when we were returning from the pound that the accused gave 4 Rs. to the sub Range officer. No. It is not so. What I said that Rs. 4 was given when we were returning is incorrect. When we were going towards the pound the accused brought 4 Rs. and gave it to the sub Range officer by the side of an odai (ஓடை) near the pound. (Please Vide Enclosure 15). From the above evidence it will be seen how the witness contradicted himself and contradicted the defence witnesses 2 and 3, as to the time and place at which 4 Rs. was given.

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He could have then informed the Range officer of this improper conduct to which he has deposed, if it had been true, but he never did any such thing. In his evidence, he says that he informed guard Abdulrhyma Saib of this. This too is false; for the guard was not well disposed to the petitioner and he would have reported to the Range officer if he had heard this from the watcher.

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32. It will appear from the above inconsistent and untrust worthy evidence of the defence witnesses and the prosecution 2nd witness that the story of the petitioner receiving 4 Rs. and impounding the cattle only with the intention of receiving money from the party is a false one and that it was concocted with the intention that some injury should be done to the petitioner.

33. That the evidence of the 2nd prosecution witness, Abdulkadar Saib above named, and the evidence of the defence witnesses was concocted, would appear from the fact that forest guard Abdulrhyma Saib who was an enemy of the petitioner and who was retained by the Range officer with him at the prosecution on the 19th April 1897 and on the occasion of the Examination of the defence witnesses on the 9th and the 10th June 1897 was not prohibited by the Range officer from mixing with the defence witnesses, and therefore carefully tutored them. He was brought by the Range officer from his beat Chinniyampettai a village 22 miles from the sub Magistrate's Station, Chengam, with what purpose, it is not known. This Forest guard, Abdulrhyma Saib, had hatred against the petitioner owing to the fact that petitioner took statements from the watchers and reported to the Range officer that he wrote a false diary for the week ending 27th February 1897 and also on account of the suspension of his brother, a watcher named Mahamedkhan Saib, by the petitioner for leaving his beat without leave. Copies of the above proceedings of the petitioner were applied for but they were not granted (Please Vide Enclosure 3.) That forest guard Abdulrhyma Saib tutored the defence witnesses will be apparent from the statement of the defence witnesses 2 and 3. Defence 2nd witness says, "Guard Abdulrhyma Saib enquired of me yesterday morning and this morning about the case." Defence 3rd witness says "this morning guard Abdulrhyma Saib and I were speaking together in the choultry; we did not speak about this case." (This latter statement is evidently improbable). That the guard was tutoring the witnesses was also brought to the notice of the sub Magistrate at the trial, and he has made a note of it in the midst of defence 2nd witnesses' deposition. (Please Vide Enclosure 10.)

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35. Petitioner has been seriously prejudiced by the attitude of his superior Range officer, Mr. Madurainayagam Pillai, who from the beginning of this case assumed a hostile position towards the petitioner and behaved as though he was a Vakil for the defence and thus was determined to get the accused acquitted simply with the object of disgracing petitioner. The Range officer took the unusual procedure which was strangely allowed by the sub Magistrate of cross-examining the petitioner who gave evidence as prosecution first witness and trying to shake his credit as much as possible. (Please Vide Enclosure 7). He did not cross-examine the prosecution 2nd witness, watcher Abdulkadar Saib, who gave evidence quite contrary to that of the petitioner, charging him as shown above with dishonest receipt of money. Nor did he attempt to cross-examine the defence witnesses. The Range officer as shown in the 33rd paragraph brought forest guard, Abdulrhymman Saib who was petitioner's enemy and who knew nothing about this case and detached him from his duty apparently without any necessity for it; and the guard satisfied his grudge and used his opportunity to tamper with the defence witnesses successfully as petitioner was then under suspension. Further the range officer, while he was acting District Forest officer, came from Cuddalore specially to attend the examination of the defence witnesses on the 9th and 10th of June 1897 and was helped by Forest guard Abdulrhymman Saib. As shown in paragraph No. 16, the Range officer caused the complaint to be made in the 1st instance without previously serving the compensation notice upon the party, thereby preparing himself for the party's denial of his guilt and prosecution case being thrown out. All this, petitioner respectfully submits, tends to show that the Range officer was prejudiced against the petitioner and was determined from the beginning to see rather that the petitioner's conduct should be exhibited in as discreditable and dishonourable light as possible than that he should do his duty fairly as prosecuting officer.

36. *Petitioner suffering under such great disadvantages, and especially under going suspension at that time could not have his case established. But for this prejudiced attitude of the Range officer, witnesses would not have spoken so falsely about the petitioner and the case would not have taken the turn that it had.*

37. As regards the fact of the animals having grazed in reserved forest, the petitioner's evidence clearly establishes it. Prosecution 2nd witness, watcher Abdulkadar Saib, the untrustworthy and tainted nature of whose evidence has been pointed out in paras 29 and 30, says, "I and Ammiyapa Asari (defence 2nd witness) drank water at the river of Keeranur village. Sub-Ranger (petitioner) and Paria Karian crossed the river and immediately surrounded and detained the sheep that were being grazed by the accused in land grown with black gram. By that time we, having drank water, ran forwards. Konan's sheep were grazing towards the west in an odai. The sub Range officer asked me and Ammiyapa Asari to go and drive those sheep. I and Ammiyapa Asari drove them and brought them to the flock in the black gram land." Upon this point Ammiyapa Assari above named, the 2nd defence witness, says "on the other side of the river sheep were grazing on the way to Kalnatur and Pudur. They were grazing in land grown with black gram. Ranger watcher and Pariah Kariyan were driving them to the pound. While I was standing on the way there, Ranger asked me also to drive them. I also drove them. When they were being driven, there was one odai (ஒடை) by the way side." From the above it will be seen that the evidence of the watcher Abdulkadar Saib contradicts the evidence of Ammiyapa Asari. The former says that he and the latter Ammiyapa Asari went together and drove the sheep from the side of the odai at the order of the petitioner, while the latter says that he was simply standing on the way while the goats were being driven by the others and joined them afterwards and saw the odai on the way.

38. These are the only two witnesses that spoke about the goats having been grazed upon puttaland. There evidence, as petitioner has shown above, cannot be believed and must naturally be of the same concocted character as that portion which relates to the petitioner's receipt of 4 Rs.

39. To give colour to his false story of the petitioner's illegal and dishonest impounding, prosecution 2nd witness, watcher Abdulkadar Saib said, "Accused said to sub Ranger, 'Why do you drive the sheep that were grazing in puttaland'. The sub Range officer said 'where had your sense gone these many days? Why do you come and ask me when I am driving the sheep?'" The accused then requested him to release the sheep and said that he would pay 4 Rs. at least." Defence 2nd witness with all the tuition that he received could not follow the prosecution 2nd witness on this point. He says, "Ranger did not ask for money. The accused himself requested him to release the sheep and gave him the money. He said he did not want it. The accused said that the kids were in a helpless condition and requested him to take it. He took it". Then in examination by the court he said "I do not know if the Forester told the accused in reply to his request to release the sheep that he was driving them, because he did not see him at Pudur Chekkady". 3rd witness for the defence Periyathumbi Govendey could not say anything about this. Thus the attempt to impute a dishonest native to the petitioner alleged by the accused in his statement in driving the sheep miserably failed. His witnesses did not in the least support it.

40. *The sub Magistrate, the petitioner submits, is therefore wrong in saying that petitioner unjustly dragged the party into the court.*

41. As regards the remark of the sub Magistrate that petitioner prevaricated in his evidence, petitioner begs to submit that the Sub Magistrate's inference is altogether unfounded. The Sub Magistrate says that he could not understand why the forester took 5 hours to travel a distance of 7 or 8 miles. In the 1st place it was not 5 hours that he took to travel the distance. The petitioner in his evidence says, that he started at 11 A.M., and that the impounding took place at about 4 P.M. The petitioner who was the prosecution first witness says in his evidence that the pound was 1½ miles from the place where the goats were grazing and it was about half past one o'clock that the goats were seized. (Please Vide Enclosure 7). Therefore the petitioner took only about 2½ hours to travel the distance of 7 miles. The Magistrate says that all the witnesses are agreed that the statement of the forester that the impounding took place at about 4 P.M. is a lie. The Magistrate is wrong in saying so. The 2nd prosecution witness Abdulkadar saib says nothing directly about the hour of impounding, and says in one part of his evidence, "We did not go to look for the trees. As it was almost sunset. We did not go to the hill." The 2nd defence witness says "We did not go to look for the trees in the Nathampalli forest; it was sunset when the animals were impounded." Third defence witness says "After we impounded the sheep, we went to Puliampatti. It was six o'clock then." Now even supposing that the witnesses were speaking the truth, there was not much difference of time between the hour of impounding mentioned by the petitioner and that of the other witnesses. The 3rd defence witness says that the impounding was before sunset. But the petitioner submits that they only spoke untruth, as they were taught before hand to contradict the petitioner's statement that he went afterwards on that day to look for the trees, by saying that it was sunset when the animals were impounded and that there was no more time to go and look for the trees.

42. *Petitioner most respectfully submits that for the above reasons and under the circumstances of the case it will appear that he did not unjustly drag the party into court or behave in a most objectionable way as remarked by the sub Magistrate,*

with

It is only alleged to be hearsay that anything of the kind occurred and it presupposes that the magistrate also abetted it or was utterly deceived with

with

with all the material and witnesses (including appellant himself) before him, while it refers to various 'exhibits' and so makes shew of evidence, but they merely concern circumstances which might account for possible enmity.

Para 12. This is an instance of reckless accusation of deliberate malice and falsity on the part of his superior officer which I saw no actual ground for and which would not even by itself account for the magistrates' decision.

Paras 14 & 15. I see nothing noticeable in the deposition nor is there anything remarkable in proceedings not being taken against the accused for bribery, especially as concerns the Range Officer, for appellant himself was not charged and if Range officer was so bitter against him, he would have taken care to see to it.

Para 16. It would be very hard to say whether accused quietly accepted the unpounding or not and whether absence of formal complaint by him meant anything. In these matters as is well known it can never be said what the parties concerned will do and when actual complaint is filed, it is as often as not thrown out as false.

Paras 17, 18, 19 and 20. There might or might not be something in all these considerations but I see nothing particular to remark upon either way.

Para 21. It is not said how it is shown that the goats, if outside the forest boundary must have been in a black gram field. I make out from

from appellant's deposition that there was a black gram field on the way to pound $\frac{1}{2}$ a mile from place of seizure.

Para 22. The circumstances alluded to here having been brought up in Court, no remark seems necessary.

Paras 23 to 26. Discrepancies in evidence are of course susceptible of all sorts of deductions: of little value, I consider, especially in regard to specific points of distance, number, time &c, selected from depositions. It is only in concocted cases that identity in this respect is obtained.

The magistrate was no doubt in the best position to assess the value of all this and can hardly have been misled and deceived by a got up case, the only alternative being his connivance with it. The idea of such a comprehensive arrangement is not to be entertained, nor is there even anything to shew that the Range officer had any general understanding with the Magistrate. Certainly 4 or 5 months later and after an absence on leave of $2\frac{1}{2}$ months, it began to be decided by the other way.

Last part concerning second charge. All this is immaterial in view of the fact that he took no notice of the watchers' irregularity & disobedience of his orders.

2. I beg at the same time to submit the Appellant's further representation recently received, on his being provided with copies of papers that are not in the record submitted. I have only to remark on it that there is nothing on record regarding the alleged improper employment of an outside guard to coach the witnesses or about the serving of the compensation notice. As to the latter, the Dt. Forest Officer can of course withdraw an offer of Compounding.

if he likes before it is accepted and proceed to prosecution, and as to the former as I have said already all circumstances were before the court and the magistrate was in the best position to judge of their effect.

3. To sum up I certainly am not led by the Forester's appeal, as a whole, to suppose that he has been the victim in the case of charge IV of an elaborate concoction by his Range officer, involving also connivance (for the mere sake of obliging the Range officer), or inconceivable stupidity on the part of the magistrate.

(Signed) T. P. Peake.

District Forest Officer
South Arcot.

(True Copy)

Donel Davidson
Acting Secretary.

OFFICE OF THE BOARD OF REVENUE
(LAND REVENUE),

Madras, dated 6: August 1898.

READ—endorsement by J. W. Cherry Esquire, Acting Conservator of Forests, Central Circle, dated 15: July 1898, No. 63 forwarding to the Board appeal petition of A. Kuppuswami Asari, late a Forester in the South Arcot District

Reference No. 326 dated 6th August 1898.

Submitted to Government.

2. The memorialist, late a forester in the South Arcot District, was suspended by the District Forest Officer, pending disposal of the charge preferred against him by the Range Officer, Tiruvannamalai Range of having failed to impound the full number of goats found trespassing in a forest reserve. In his report to the Conservator, Central Circle, the District Forest Officer formulated the following 4 specific charges against the forester:—

- (a) that he wilfully or negligently wasted Government money on certain demarcation work which he was specially deputed to do;
- (b) that he acted contrary to the Board's orders in having allowed a guard to collect compensation money in the matter of a forest offence;
- (c) that he did not impound the full number of goats found trespassing in a reserve and that he

and petⁿ to the Board 27.11.98. Petⁿ 4.

he falsified his offence report by misrepresenting the total number;

(d) that he illegally impounded goats grazing on poramboke lands and falsely charged the grazer with trespass in a reserved forest.

3. The Conservator of Forests, Central Circle, considered that charge (a) was not proved against the forester and that (c) was not clearly brought home to him. He was satisfied, however, that (b) and (d) were proved. As regards (d), the grazer who was charged with the offence of illicit grazing was tried before the 2nd class Magistrate of Chengam. This officer acquitted the accused with the remark "that he was most unjustly dragged into court and that the forester Kuppuswami Asari who has acted in a most objectionable way richly deserves prosecution for an offence under section 52 of the Forest Act". In its order No. 569 dated 13 July 1897, Government drew particular attention to the duty of officers to protect the ignorant ryots from oppression by subordinates and as the forester's conduct afforded a glaring instance of such oppression, the Conservator dismissed him from the service.

4. The forester appealed to the Board with the result that it declined to interfere with the Conservator's order of dismissal. He now appeals to Government but the Board has no recommendation to make in his behalf.

5. He alleges in para 11 of his memorial that he has been charged and found guilty behind his back, and dismissed without any hearing on the assumption that the sub. magistrate's remark amounted to a finding of guilty. He admits, however, in para 22 that

* The pet. after coming to Govt. he has been charged with a crime and found guilty behind his back.

that at the trial he conducted the cross examination of most of those who gave evidence against him, and from the record it will be seen that he himself was very fully examined by the Court and by the Range Officer through the Court. As pointed out by the District Forest Officer, the memorialist cannot be regarded as innocent unless it is held that the Range officer and the ^{memorialist's} subordinates entered into a conspiracy with the accused to ruin the memorialist and succeeded in misleading the Magistrate who investigated the case.

Lowell Davidson
Acting Secretary.

To.

The Secretary to Govt. R.D.
with petⁿ 13 enclosures & 5 files of D.
records to be ret^d.

and copy of office Note by the
D.F.O. South Arcot of 27.2.98.

and petⁿ to the Board of 14.1.98. Petⁿ 4.

* Sent separately

Revenue (1898) Department.

CURRENT No. 4434.

L. up (not) to

From

*A. Govindasami Assari
Lali Forestier in
Trivannamalai Taluk
No. South Arcot Dist.*

Order *R*

To be over
~~Recorded~~ pending
receipt of the original
petition.

*Mll
12/88*

Dated 14 June

Received 22 "

Registered 23 "

Enclosures 1.

Spare copies.

SUBJECT.

*Praying for restoration or
at least to exonerate him from
the imputation of bad conduct &
permit him to resign the ap-
pointment.*

P. 29-6-95

Sup. C. rate

FURTHER PAPERS.

Memo of Enclosures.

Conservator's Proceeding	...	...	...	1
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Board's	do.	...	...	...	2
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Board's	do.	...	...	...	2
Copy of the order given to the guards from the Chekkady sub Range office file that they should not collect compensation themselves quoting the Range officer's order on the standing order.					3

Judgment Calendar Case No. 97, 1897	...	...	4
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Compensation notice	...	...	...	...	5
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Procedure rule under VII of Madras Forest Act }
V of 1882. }

A. Coopoosawmi Asari Forester Prosecution 1st } 7
witness deposition.

Suka Goundan Accused statement	...	...	8
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Tirumalai Goundan defence 1st witness deposition 9

Ammaiyapasari defence 2nd witness	do.	10
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Periyathumbi Goundan defence 3rd witness de- } 11
position.

Offence report No. 6 dated 29th January 1897 ...	12
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Offence report No. 1 dated 4th January 1897	...	13
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Order of the Range officer Mr. Madurainayagam Pillai dated 2-3-97, to dismiss the watcher Abdulkadar Saib from duty. } 14

Prosecution 2nd witness watcher Abdulkadar } 15
Saib deposition.

Note showing date of Disbursement of pay for January 1897 to the following subordinates of the Chekkady sub Range staffs Forester A. Coopoosawmi Asari, Guard Abdulrhman Saib and Watcher Abdulkadar Saib 23-2-97. 16

Complaint given by the military officer
Chenguan, for the Government, in 17

District Judge, Springfield, Mass. } 1871
 the People.

*Copy submitted through the hands of the Deputy
A. Buchanan
Lab. Secy.
17th March 1898.*

TO

GOVERNMENT OF MADRAS

His Excellency the Governor in Council,

Fort Saint George,

Madras.



THE HUMBLE APPEAL PETITION OF A. COOPOOSAWMI
ASSARI MOST RESPECTFULLY SHOWETH:—

1. Petitioner was a Forester in Tiruvannamalai Taluq, South Arcot District. He was dismissed from service by the Proceedings of the Conservator of Forests Central Circle, dated 9th December 1897.

2. Petitioner appealed from this order to The Honorable The Board of Revenue. The Honorable The Board passed Proceedings on the 29th March 1898 declining to interfere. This order was communicated to the Petitioner on the 27th April 1898.

3. Petitioner most humbly begs to appeal against this order of the Honorable The Board of Revenue and the order of the Conservator dismissing him. (Enclosures 1 and 2.)

4. Four charges against the petitioner are alluded to in the Conservator's proceedings. The Conservator found that the first and third charges were not established viz., that the petitioner wilfully or negligently wasted Government money on demarkation, and that he failed to impound the full number of, goats found trespassing in Pennar Block. (Please vide Conservator's Proceedings Enclosure 1.)

5. With regard to charge No. 2 that the petitioner acted in direct opposition to the standing order, the Conservator says that it is proved. The standing order referred to here is an order of the District Forest-officer of South Arcot District which was brought to the notice of the petitioner about January 1897, a short time after he was transferred from Kallakurchy Taluq to Tiruvannamalai Taluq. This order directed the Sub-Range officers in Tiruvannamalai Range that they should themselves collect compensation from parties and should not ask the Guards to collect it. This order did not obtain in the Kallakurchy Range, in which the petitioner was serving prior to the 15th December 1896 when he was transferred to Tiruvannamalai Range. Petitioner, while serving in this range, was informed of this by a communication from the Range officer about January 1897. Immediately afterwards petitioner sent a written order to all the Guards under him stating that the compensation amount should not be collected either by them or watchers, quoting the above standing order. Petitioner applied for a copy of this order of his own from the file of the papers of the Sub Range Office to the District Forest Officer on 26th and 31st December 1897 to which the District Forest Officer has replied that the application could not be complied with (Please Vide Enclosure 3.) Petitioner humbly prays that the order of the petitioner may be called for by your Excellency in Council and perused.

6. But in February 1897, forest guard, Abdulrhyman Saib to whom Petitioner gave a compensation notice to be served as usual to the parties, handed over that notice to a watcher named Mahamedkan Saib who is his brother and this watcher instead of simply serving it on to the parties exceeded his duty and collected the

amount of Rs. 2 contrary to my repeated verbal orders to the guard and watcher in pursuance of the written order above mentioned and handed it over to the guard who gave it to petitioner. It is with respect to this collection of compensation amount by the watcher that petitioner is charged with having acted in direct opposition to the standing order.

7. Petitioner humbly submits that as shown above, he was not guilty of disobeying the standing order but that the collection of the amount by the watcher was only a violation of their duty on the part of the guard and the watcher in disregard of Petitioner's written and verbal orders pursuant to the standing order of the District Forest Officer. Petitioner begs to submit that this was the only instance in which the guard or the watcher collected the compensation amount among not less than thirty instances in which compensation was collected from parties during the period in which petitioner was Sub Range Officer in Tiruvannamalai Range. Petitioner respectfully submits that even though the above charge may be held to be proved against him he deserves to be only warned or censured for it and that it may not be considered any ground for his dismissal. The Conservator himself does not press this charge against the petitioner but bases his order of dismissal almost wholly upon the fourth charge.

8. The fourth charge against the Petitioner which the Conservator says is "the most serious," is that he "illegally impounded goats that were grazing in unreserved land and falsely charged the graziers with trespass in reserved forest." This charge was framed against the petitioner out of the remarks made by the Sub-Magistrate of Chengam in his Judgment in Calendar Case No. 97, 1897 quoted in the next para below.

9. In this case the accused was charged with having grazed his goats and sheep in Nathampalli reserved forest without a permit under section 21 d, Madras Forest Act V of 1882. The accused was acquitted and the Sub-Magistrate remarked at the end of his Judgment "that the accusation about the payment of 4 Rs. (to the petitioner) is also well established * * * that the accused was most unjustly dragged into the Court and that the Forester A. Coopooaswami Assuri (petitioner) who has acted in a most objectionable way richly deserves prosecution for an offence under section 52 of the Forest Act." (Please Vide Enclosure 4.)

10. The Conservator simply quotes and relies upon these remarks in dealing with the last charge and dismisses the petitioner on their strength.

11. Petitioner submits in the first place that no explanation was called for and taken from the petitioner with respect to this charge that he illegally impounded the goats and falsely charged the graziers nor with respect to the above disparaging remarks which the Sub-Magistrate has made in his Judgment, and that he has been charged and found guilty behind the back and dismissed without any hearing on the assumption that the Sub-Magistrate's remarks amounted to a finding of guilty against the petitioner.

12. On the 18th February 1897 while the petitioner was inspecting the Nathampalli reserved forest within his Subrange, Tiruvannamalai Range, he saw goats and sheep grazed by Sookia Goundan, the accused in the above Calendar Case, within the limits of the said reserved forest and therefore impounded them. On the 19th February 1897 he sent on occurrence report to the range officer, Mr. Madurai-nayagam Pillai. On the 19th of March 1897 he received a compensation notice issued by the said Range officer under the order of the District Forest Officer to be served upon Sookia Goundan above named in the matter of the grazing of his goats which

were impounded by the petitioner as aforesaid. On the same day the said range officer came to petitioner's station (Chinniyampet village) and took charge of the records connected with the offence reports from him and also the said compensation notice, saying that he was going to report about him and get him suspended on account of the facts connected with charge No. 3, mentioned in the Conservator's proceedings (of which he was acquitted by the conservator himself in his proceedings) and that he might wait at head quarters, Tiruvannamalai, until further orders.

13. Petitioner gave over charge of his office at Tiruvannamalai on the 31st March 1897 to the Range officer himself and received the suspension order on the 23rd April 1897 in connection with the subject matter of charge No. 3 referred to in conservator's proceedings, as intimated by the Range officer on the 19th March 1897.

14. Meanwhile Mr. Madurainayagam Pillai, the Range officer, directed of his own accord and contrary to the terms of the compensation notice above mentioned (Please Vide Enclosure 5), Mr. V. C. Dorasawmi Pillai, Ranger in charge of Chengam, sub-range, to make a sworn deposition before the Sub-magistrate of Chengam charging Sookia Goundan above named with the offence under section 21. d, Madras Forest Act. The complaint was accordingly made on the 31st March 1897 and was filed as Calendar Case No. 97 of 1897. The petitioner was summoned to give evidence on the 19th April 1897.

15. The compensation notice (Enclosure 5) distinctly states that if the party should not give the compensation within 10 days of its service upon him he would be prosecuted. It will thus appear that the District Forest Officer only ordered that the offence might be compounded and directed that the amount fixed by him be paid within 10 days in default of which only, the Range Officer was directed to prosecute the party before the Magistrate. This order of the District Forest Officer was strictly in accordance with No. 9. Procedure Rules under chapter VII of the Madras Forest Act V of 1882 framed by the Collector and District Magistrate, South Arcot District and published in Forest sheet No. 5 of 1893 (Please Vide Exhibit 6 enclosed page 22)

16. But it was the Range Officer that unnecessarily dragged the party into the Court ignoring the above mentioned plain directions of the notice. He caused the complaint to be made first on the 31st March 1897 and instead of serving the notice upon the party and waiting, as he ought to have done, for the time allowed to see whether the party pays the compensation in which case no Criminal Proceedings would have been necessary, served it on the party 6 days after the complaint on 5th April and thus drove the party to waive the option of paying the compensation amount and take the only possible course left to him, namely, maintaining that the impounding was illegal and that he committed no offence, consistently with the defence of innocence that he must put forward later on at the trial of the case in order to avoid punishment. The Range Officer's procedure was against the plain order of the District Forest Officer contained in the notice and cannot be justified under rule 9 of Rules of the Procedure or any rule of the Forest Act or of the Forest Department. The District Forest Officer alone has the power to order prosecution or to compound after prosecution is ordered. The Range Officer has no power to prosecute before serving the compensation notice issued under the order of the District Forest Officer, nor to compound it after prosecution without the written sanction of the District Forest Officer. In this case the Range Officer instituted criminal proceedings for reasons of his own against the party without the written sanction of the District Forest Officer when the compensation notice had not been served.

17. The party never complained to the Magistrate under Section 20 of the Cattle Trespass Act No. 1 of 1871 or otherwise that the goats and sheep were illegally seized and impounded. If he had been really injured by the action of the petitioner, he would have complained to the Magistrate. It is therefore only natural to suppose that if the compensation notice had been served upon him according to its very terms which the Range officer has bound to do, before complaint was made against him, he would have paid compensation without objection.

18. It will thus be seen that the Sub-Magistrate's remark that the accused was unjustly dragged into the Court by the petitioner is quite unfounded. *For Petitioner was only a witness and had nothing to do with the prosecution of the accused. It was only the Range officer that initiated the criminal proceedings against him without the preliminary notice being served upon him.*

19. The trial of the case began on the 19th April 1897. The said Range officer, Mr. Madurainayagam Pillai, conducted the prosecution. The accused pleaded not guilty. He made a statement that his goats and sheep were grazed on unreserved land, that petitioner unlawfully drove them as if they were grazing in reserved forest, that petitioner received Rs. 4 bribe from him on the way they were being driven to the pound, but still impounded them and that he had four witnesses. The petitioner and another were examined as witnesses for the prosecution on the 19th and the case was adjourned for the examination of the defence witnesses. It was again taken up on the 10th June and three witnesses were examined for the defence. The Magistrate acquitted the accused. Towards the end of his judgment he says.

* * * * *

"The accusation about the payment of Rs. 4 is well established. Under the above circumstances I acquit the accused with the remark that he was most unjustly dragged into Court and that the Forester Kuppusawmi Assari who has acted in a most objectionable way richly deserves prosecution under Sec. 52 of the Forest Act." (Please Vide Enclosure 4.)

20. Petitioner respectfully submits that he will presently try to prove from the evidence and the circumstances of the case that he was not guilty of the dishonest conduct imputed to him by the Magistrate. Before doing this, petitioner respectfully begs to invite the attention of your Excellency in Council to certain aspects of the case for the purpose of showing that the Conservator's order and the Honorable the Board's order confirming it have not taken a proper view of the petitioner's case.

21. *The Conservator simply relying upon the above remarks of the sub-Magistrate, says that petitioner's case is a most glaring one and dismisses him as if the sub-Magistrate's remarks are conclusive on the point.* Petitioner respectfully submits that it is very hard that petitioner's conduct should be thus Judged summarily. A third party was charged with an offence under The Forest Act. He and two of his witnesses (another material witness makes no reference to it) make one particular damaging allegation against petitioner that he received 4 Rs. bribe, but for which allegation no disparaging remarks would have been made by the magistrate about the petitioner even if the accused should be acquitted.

22. Petitioner was only a witness for the prosecution and was not a party on his trial for the charges brought against him by the accused. He could not have full opportunity of defending himself as he would have if he was himself put on his defence in a proper proceeding. Moreover, his superior, Mr. Madurainayagam Pillai who was there prosecuting the case conducted the prosecution only in name and actually took the unusual position of pleader for the accused by cross-examining

closely petitioner who was the 1st witness for the prosecution and trying to discredit him as much as possible (Please vide Enclosure 7.) Nor did he cross-examine the prosecution 2nd witness and witnesses for the defence but only petitioner did it as best as he could. Petitioner submits that the unusual spectacle of the prosecuting Range officer cross-examining his own witness and subordinate as if he was on his trial could lead even the most experienced subordinate Magistrate to the only conclusion that petitioner was giving false evidence and that petitioner's conduct was anything but honest. Again the Magistrate's remarks were against the petitioner as a witness. *Petitioner could not appeal against those remarks nor could the accuracy be tested in appeal, as there was no appeal against the sub-Magistrate's Judgment acquitting the accused which the Government only could prefer.* They were the remarks of an inferior tribunal peculiarly influenced by the conduct of the responsible prosecuting officer and even supposing that it was not thus influenced they cannot have any weight as compared with the Judgment of an appellate court of a superior grade. Petitioner therefore respectfully submits that under the above circumstances it was unfair to him that he should be Judged by the subordinate Magistrate's remarks as if they were of high and conclusive authority and that he should be Judged thus even without an explanation from him which is ordinarily allowed in the Department even to one guilty of a serious offence.

23. Coming to the facts of the case, Petitioner respectfully submits that the above remarks of the magistrate have no foundation and that he was misled into making them. The fact that the accused was acquitted of the charge originally laid against him by the petitioner cannot in any way make the conduct of the petitioner objectionable. The result could be regarded only in the same light as it should be in the case of any other Forester who honestly and in the discharge of his duty charges a person with an offence, and fails in his prosecution for want of sufficient evidence for the prosecution to support his charge. To say that petitioner acted in a most objectionable way and unjustly dragged the party into the court, could be justified only if it should be completely proved, from all the circumstances of the case and after the fullest opportunity given to the petitioner to vindicate his conduct that he falsely and dishonestly charged the party with the offence and that he received 4 Rs. bribe from the party in the affair of impounding the cattle as alleged by him.

24. That he acted with any dishonest intention is disproved by the conduct of the accused himself in not complaining to a Magistrate about the impounding, or about the payment of 4 Rs. to the petitioner as alleged by him, by the natural improbability of the story for the defence and by the inconsistent statements of the accused and his witnesses.

25. The accused stated in his statement before the sub-magistrate that the petitioner received 4 Rs. from him and that when he asked him back the 4 Rs., seeing that his goats and sheep were impounded notwithstanding he paid 4 Rs., petitioner refused to give it back to him. (Please Vide Enclosure 8). If this had been really the case, accused would have naturally complained to the magistrate at once, seeing especially that he had 4 witnesses to this according to his own account.

26. Accused further states in his statement that he received 4 Rs. from his brother Tirumalai Goundan, whom he says he asked to bring money. Tirumalai Goundan who is the 1st witness for the defence did not say one word at all in his evidence about handing over the money to his brother, or its being paid over to the petitioner. (Please Vide Enclosure 9). Petitioner submits that nothing can more conclusively establish that the petitioner did not receive any money from the accused than the totally opposed statements of the accused and his chief witness above named about the payment of the money. Further it is most improbable that

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Vide Enclosure
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petitioner, having received 4 Rs. before impounding the animals as alleged by the accused and his 2nd and 3rd witnesses, would have still proceeded to impound them.

27. The second witness for the defence; Ammaiyaapaassari, is a man of no substance and is a dependent of Periyathumbi govenden, 3rd witness for the defence. He contradicts the accused by saying that he did not see accused's brother at the time of giving money. "I did not see 1st defence witness, Tirumalai goundan when money was given." He is also inconsistent in his evidence by saying at one time that he saw the money given at about $1\frac{1}{2}$ miles from the pound and at another time at a $\frac{1}{4}$ of a mile from the pound (Please vide Enclosure 10) In the face of the above facts it is difficult to support the statement of the Magistrate in his Judgment that the accused and his witnesses gave their evidence in a natural and consistent manner.

28. The third witness for the defence, Pereyathumbi govenden, states that he was standing on the way while the goats were being driven towards the pound by the petitioner and others and that he did not know where they were seized, whether upon pattaland or upon reserved forest. He too does not support the accused in his statement that his brother brought him the money. He contradicts the 2nd witness by saying the place at which the money was given was just adjoining the pound. He says, "The place where I was sitting, talking with the hill dwellers was one kole (=24 feet) from the pound. The place where money was given was $\frac{1}{2}$ a kole (=12 feet) from the place where I was sitting." (Please Vide Enclosure 11.) This witness was also in inimical terms with petitioner as petitioner impounded goats and sheep of witnesses' brothers-in-law, Parasurama Goundan, 8th accused in petitioner's offence report No. 6, dated 29th January 1897, and Munusawmi Goundan, the owner of sheep grazed by the 2nd accused in petitioner's offence report, No. 1, dated 4th January 1897. Vide history in column 9 of the said offence report, one month before the offence enquired into in the present case. (Please Vide Exhibits

12 and 15) 29. The only other witness who speaks to this payment of 4 Rs. to the petitioner is Abdulkadar Saib, the 2nd witness for prosecution. This witness was a temporary special duty watcher under the petitioner, and had been reported 10 days after the offence in question (Please Vide Exhibit 14) for his irregular attendance, to the Range officer with a view to his being dismissed. Consequently he bore enmity towards petitioner. It is remarkable that this witness who gave hostile evidence against the prosecution was not cross-examined by the Range officer, Mr. Madurai-nayagum Pillai, who conducted the prosecution, while he closely cross-examined petitioner. Witness states, "Accused requested that the animals might be released and said that he would pay 4 Rs. The sub Range officer refused to release them and drove them towards the pound. We impounded them and returned to our house. The accused said, "you have impounded my animals, compensation amount also will be demanded from me". Then sub Range officer said that he would see that compensation would not be demanded if 4 Rs. be paid to him. The accused then gave 4 Rs. The money was given at a short distance (கூடும் தூரம்) after we returned from the pound. It was only when we were returning from the pound that the accused gave 4 Rs. to the sub Range officer. No. It is not so. What I said that Rs. 4 was given when we were returning is incorrect. When we were going towards the pound the accused brought 4 Rs. and gave it to the sub Range officer by the side of an odai (ஓடை) near the pound. (Please Vide Enclosure 15). From the above evidence it will be seen how the witness contradicted himself and contradicted the defence witnesses 2 and 3, as to the time and place at which 4 Rs. was given.

30. This witness met the Range officer subsequent to the occurrence on the 23rd February 1897. (Please Vide Exhibit 16) and also on the 19th March 1897.

He could have then informed the Range officer of this improper conduct to which he has deposed, if it had been true, but he never did any such thing. In his evidence, he says that he informed guard Abdulrhymman Saib of this. This too is false; for the guard was not well disposed to the petitioner and he would have reported to the Range officer if he had heard this from the watcher.

31. With the full consent of the Range officer, the watcher, though he was, present with petitioner when the goats were impounded and knew the real facts gave evidence as a prosecution witness in full support of the defence in a manner quite opposite to what was given by the petitioner as the 1st prosecution witness. The Range officer strangely did not cross-examine this witness, nor was the petitioner allowed to cross-examine him. This witness who was ordered on the 2nd March 1897, by the Range officer himself to be dismissed (Please Vide Exhibit 14, Petitioner's Diary No. 104 week ending 27th February 1897,) on recommendation of the petitioner was inexplicably considered to be in service by the Range officer and he got pay without any deduction; evidently because the Range officer thought his evidence to be of great value.

32. It will appear from the above in consistent and untrust worthy evidence of the defence witnesses and the prosecution 2nd witness that the story of the petitioner receiving 4 Rs. and impounding the cattle only with the intention of receiving money from the party is a false one and that it was concocted with the intention that some injury should be done to the petitioner.

33. That the evidence of the 2nd prosecution witness, Abdulkadar Saib above named, and the evidence of the defence witnesses was concocted, would appear from the fact that forest guard Abdulrhymman Saib who was an enemy of the petitioner and who was retained by the Range officer with him at the prosecution on the 19th April 1897 and on the occasion of the Examination of the defence witnesses on the 9th and the 10th June 1897 was not prohibited by the Range officer from mixing with the defence witnesses, and therefore carefully tutored them. He was brought by the Range officer from his beat Chinniyampettai a village 22 miles from the sub Magistrate's Station, Chengam, with what purpose, it is not known. This Forest guard, Abdulrhymman Saib, had hatred against the petitioner owing to the fact that petitioner took statements from the watchers and reported to the Range officer that he wrote a false diary for the week ending 27th February 1897 and also on account of the suspension of his brother, a watcher named Mahamedkhan Saib, by the petitioner for leaving his beat without leave. Copies of the above proceedings of the petitioner were applied for but they were not granted (Please Vide Enclosure 3.) That forest guard Abdulrhymman Saib tutored the defence witnesses will be apparent from the statement of the defence witnesses 2 and 3 Defence 2nd witness says. "Guard Abdulrhymman Saib enquired of me yesterday morning and this morning about the case." Defence 3rd witness says "this morning guard Abdulrhymman Saib and I were speaking together in the choultry; we did not speak about this case." (This latter statement is evidently improbable). That the guard was tutoring the witnesses was also brought to the notice of the sub Magistrate at the trial, and he has made a note of it in the midst of defence 2nd witnesses' deposition. (Please Vide Enclosure 10.)

34. Petitioner respectfully submits that he has tried to show that the charge of dishonest conduct in his part has been a concoction owing to the hatred borne against him by forest guard, Abdulrhymman Saib and watcher, Abdulkadar Saib, prosecution 2nd witness, and owing to the inconsistent and unreliable evidence of the witnesses. This charge of dishonesty having been disproved, there remains nothing against the petitioner in his conduct in connection with the case.

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30. To give colour to his false story of the petitioner's illegal and dishonest impounding, prosecution 2nd witness, watcher Abdulkadar Saib said, "Accused said to sub Ranger, "Why do you drive the sheep that were grazing in pattaland". The sub Range officer said "where had your sense gone these many days? Why do you come and ask me when I am driving the sheep?" The accused then requested him to release the sheep and said that he would pay 4 Rs. at least." Defence 2nd witness, with all the tuition that he received could not follow the prosecution 2nd witness on this point. He says, "Ranger did not ask for money. The accused himself requested him to release the sheep and gave him the money. He said he did not want it. The accused said that the kids were in a helpless condition and requested him to take it. He took it". Then in examination by the court he said "I do not know if the Forester told the accused in reply to his request to release the sheep that he was driving them, because he did not see him at Pudur Chekkady". 3rd witness for the defence Periyathumbi Govenden could not say anything about this. Thus the attempt to impute a dishonest native to the petitioner alleged by the accused in his statement in driving the sheep miserably failed. His witnesses did not in the least support it.

41. As regards the remark of the sub Magistrate that petitioner prevaricated in his evidence, petitioner begs to submit that the Sub Magistrate's inference is altogether unfounded. The Sub Magistrate says that he could not understand why the forester took 5 hours to travel a distance of 7 or 8 miles. In the 1st place it was not 5 hours that he took to travel the distance. The petitioner in his evidence says that he started at 11 A. M., and that the impounding took place at about 4 P. M. The petitioner who was the prosecution first witness says in his evidence that the pound was 1½ miles from the place where the goats were grazing and it was about half past one o'clock that the goats were seized. (Please Vide Enclosure 7). Therefore the petitioner took only about 2½ hours to travel the distance of 7 miles. The Magistrate says that all the witnesses are agreed that the statement of the forester that the impounding took place at about 4 P. M., is a lie. The Magistrate is wrong in saying so. The 2nd prosecution witness Abdulkadar saib says nothing directly about the hour of impounding, and says in one part of his evidence, "We did not go to look for the trees. As it was almost sunset. We did not go to the hill." The 2nd defence witness says, "We did not go to look for the trees in the Nathampalli forest; it was sunset when the animals were impounded." Third defence witness says "After we impounded the sheep, we went to Puliampatti. It was six o'clock then." Now even supposing that the witnesses were speaking the truth, there was not much difference of time between the hour of impounding mentioned by the petitioner and that of the other witnesses. The 3rd defence witness says that the impounding was before sunset. But the petitioner submits that they only spoke untruth, as they were taught before hand to contradict the petitioner's statement that he went afterwards on that day to look for the trees, by saying that it was sunset when the animals were impounded and that there was no more time to go and look for the trees.

42. Petitioner most respectfully submits that for the above reasons and under the circumstances of the case it will appear that he did not unjustly drag the party into court or behave in a most objectionable way as remarked by the sub Magistrate,

but that he only acted honestly in the discharge of his duty and lawfully impounded the cattle. That, if the complaint had not been made before the compensation notice was served, the party would not have been dragged into the court and would very probably have paid the compensation amount. That, but for the determination of the Range officer to bring the petitioner into discredit with the aid of the known enemies of the petitioner who took advantage of petitioner's suspension there would have been no reason for the Magistrate to pass the damaging remarks about the petitioner. And that the Magistrate's remarks are not in any way justified by the unreliable evidence of the defence witnesses.

43. Petitioner most respectfully submits that the petitioner's dismissal by the Conservator is a very severe punishment, especially taking into consideration the fact that no explanation was called for from the petitioner, the circumstances of the case and the faithful service of the petitioner for over eleven years in the Forest Department. Petitioner also again respectfully submits that undue importance has been attached to the remarks in the judgment of the Sub-Magistrate about which petitioner could not appeal or the soundness of which there was no opportunity to test by a resort to appeal and that they are not in themselves of such a conclusive authority as to be the basis of the severe punishment now awarded to the petitioner.

44. Petitioner respectfully submits that he has served for the pretty long period of eleven years and three months in the Forest Department, from 1886 February to the end of March 1897 conscientiously and without any blot on his character and was serving faithfully and under very difficult conditions for five years out of this period on special duty as Forest Demarcation officer in addition to the discharge of his ordinary duties in the most malarious hilly parts of the District in the Division of Gingee, Sivcadu and Muttakadu reserved forests and in Kallakurchy Taluk such as Takari, Parigum, Puttai reserved forests in the Jagiadar of Jadayagounder and Kurumbagounder, Jagiar hills. Poolangeemalay, Gangavaram, Thandavasamudram and Thrungikadu reserved forests in Villupuram Taluk; and in Chekkady, Valasaimal, hills, Perungkoluthur Swamymalli hills, Nathampalli hills, in Tiruvannamalai Taluk and never took leave in all that period though he was very often suffering from Malarial fever; while others who were in charge before in these places were very frequently changing their posts. Petitioner has greatly suffered in health by long service in the above most feverish places.

Petitioner respectfully submits that his faithful service about one half of which was under difficult circumstances may receive consideration at the hands of your Excellency in Council.

Petitioner therefore most respectfully prays that your Excellency in Council will be pleased to graciously consider petitioner's case and reverse the Conservator's and The Honorable Board's order of dismissal and restore petitioner to his appointment, or at least exonerate petitioner from the imputation of bad conduct and permit him to resign the appointment.

For which act of kindness and mercy your Excellency's petitioner shall ever pray.

Your Excellency's obedient and humble servant,
Petitioner,

13th June 1898.
CUDDALORE,
NEW TOWN.

A. Moopoolawami, assary
Late Forester.

SOUTH ARCT.

17. 6. 98.

MEMORIAL PRESS, - MADRAS.

Depd 17. 6. 98.

P. 3002 4 225

31-12-97

Deposition of Thirumalai
Koundan, 1st Defence witness

About 4 or 5 months ago on a certain day at about 4 P.M. I was in the kitchen floor and saw Annappai and a paraga driving the accused's sheep. The Range, the Monic of Kallakudi and Periyatam bellowman accompanied them. The accused came to me. Said that his sheep were being driven to the pound and requested me to intercede on his behalf. The kitchen floor is ~~low~~ on the way to Kalnathur and Pudur. The accused said that all the sheep which grazes in the black grass fields were being driven to the pound. Thereon I went to the Range and asked him whether the sheep which grazes in a (private) field were being driven to the pound. The Range

2
Ranger said that I had no
business to question him
on the subject. Thereupon I
followed him and repeating
my question. But he said
he would not let off the
sheep. They went to the
pond where they numbered
the sheep. I then came
away to the thrashing floor
I know only this much. The
thrashing floor is 2 miles dis-
tant from Chinnampettai.
and is to the south east of
it. Chekkadi is ~~about~~ half
a mile south of (Pond) the
thrashing floor. The Nattam
palli forest is two miles
south of the thrashing floor &
Pond is south of the pond.
One has to cross the Pudur
Chekkadi pond in order
to reach the Nattampalli
forest from the thrashing
floor. Hence sheep driven to
the pond from the Nattam
palli forest have to go by
the thrashing floor. When I saw
the sheep they were being driven
by

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by the Ranger from north
to south.
Deposition of Arumayappa
Asai, 2nd Defence witness.
The Ranger, Perama Koun-
dan's son, the watcher, and
myself went to inspect timber.
The Kowdan said that he
has to go to the Mottai
hill. After crossing a river
on our way to Pudur &
Kalmattur we saw sheep
grazing in a black gram
field. The Ranger, the watch-
er & Para Marjan drove the
sheep to the pond. I
was standing there & was
asked by the Ranger to
assist in driving the
sheep which I did.
Near a stream the Ranger
took from the account a set
of money consisting of four
two anna pieces, two for
anna pieces and three
Rs. I myself saw it.

The ranger do not ask for
 the money but the accused
 gave it of his own accord
 begging him to let off his
 sheep. The Ranger refused
 the money. But the accused
 said that the poor animals
 were being needlessly driven
 and asked him to accept the
 sum which he at last took.
 By this time the pound was
 approached and the sheep
 were there counted, but were
 not let into the pound.
 On the accused furnishing
 surety for payment of
 the pound amount, the
 money was let off the sheep
 which he drove back.
 I don't know if the
 black gram field is in
 Malnathur. It is about
 2 miles distant from
 Chinijam pettai. The
 field is fenced (?) the stream
 joins the field to the
 west. The Marattar runs to
 the north of the field. The
 pound is a mile and a half
 away.

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away from the field. The
 pound is in Pudur and
 south of Pudur is the
 Mattampalli forest. No
 timber was inspected
 that day. It has
 become late in the evening
 by the time the
 sheep were impounded. One
 has to cross Pudur in
 order to reach the Mattampalli
 hill. I know the man
 here present (1st defence
 witness). He was in the
 thrashing floor. He saw
 the sheep being driven by
 as waylaid and
 begged that the sheep
 might be let off. The
 thrashing floor is half a
 mile south of the black
 gram field. Before giving
 the money the accused was
 for some time conversing
 with the Ranger. I do
 not know nor have I
 heard of the Forester having
 encamped at Pudur chekka
 to the Court. I do not
 know.

4
the range. 6
know whether the forester said
that he would not let off
the sheep because no boy
saw him when he was
encamped in Pudur chek.
I was following
the forester when he drove
the sheep. When he began
to drive the sheep he accused
grokes that they may be
let off, but he refused. Be-
sides this there was no
other talk. I did not
see the defence witness
when the money was
given. The place where the
money was given is south
of the "o dai" and north
of the thrashing floor.
I do not know if the
Thimulalai Kouridan is
aware of money having been
given to the forester by the
accused.

To Forester. The place where
the sheep was driven is north
of the Pudur pound. I have
never gone to the Mottai
hill. But I can point out which

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which hill is so designated
I do not know the
forest pound. It was
about 2 o'clock when the
money was given. The sheep
were driven at noon. The
sheep were impounded in Sora
after the money was taken.
The place where the money
was given is a fourth of
a mile distant from
the pound. Yesterday morning
and this morning Ghanshi
dul Bahadur examined me
in connection with this case.
Having no means of procuring
his morning's meal I took
a loan of rice from the
accused. I am a labourer
in Cheringampittai. I do
not carry the plough. To
a question the forester
asked me as to why there
were a large number
of ploughs in
my house I answered
that they were all brought
by husbandmen.
To the Court. Before the
accused gave money to the
forester

8
yesterday he showed me the
no. of coins he has ~~which~~
which he said he was
going to give to the forest.
I recollect there were four
two anna pieces and two
four anna pieces. The Mongar
was not present when the
coins were shown to me.
Myself & the Pachai are the
only persons who know it.

Deposition of Periyatambi
Koundan, Mongar of Athipadi.
2d defence witness.

Myself and the Sub Mongar
went to inspect timber. We
wanted to obtain a pair of
kiss was timber outside the
forest. The forester said he
would go in advance and
come to my shed. I took
Tott Raman and Ammayap.
Pasari with me. I sent all
of them away in advance in the
direction of Pudur & they went
away. About 20 minutes after
I started and went on horse.
back. The Forester has also
preceded me and was standing
at

31
at a place about
miles distant. I asked
him why he was standing
there. He said that
sheep were grazing and that
he would ~~follow~~ attend
to the matter. I asked him
to follow after his business
was over and went my
way. I went to Pudur and
made enquiries as to whether
timber fit for beams was
be procurable. They said
that I should go
enquire at the Puliyampatti
forest. When we were
there talking the forester and
others were seen ~~in the~~
coming from the north
driving sheep. The flock
was stopped next to the
pond. The Mongar gave
a receipt. When nearing
the pond an accused
gave Rs 4 to the forester
that the sheep might be
let off. The amount was
received but the sheep were
not.

16
or released. -
The sheep came from north
to south and must have
been driven from the place
where I last saw the
Forester stand. There is no
reserve to the north of the
found. The Mattampalle
reserve is south of the
found and the sheep could
not have proceeded from
that reserve.

By Forester Kappasani Asai.

Amayappasani, Para Raman
alias Karigan, myself and
watcher Pachai were present
when money was given. After
impounding the ~~cattle~~ sheep
we went to Pulijampatti
But as it was 6 o'clock
we returned. But we inspected
no timber.

To the Court, The distance
between the place where
I sat enquiring about the
found timber and the
found was about 10 links.
The

11/24/39

31
the place where the
money was given was
10 links away from
where I sat. The
money was given in
the "Osai". I do not
know if he accused
accompanied the Forester
+ gave the money or
if he came running to
him and gave it.
At the witness's suggestion

Myself and Guard Abdul
Rahiman Sahib were
talking together this mor-
ning in the Chatram.
But we never spoke
about this case.

cc.
14/9/39

6231

31-10-70

286

Enclosure No. 13

Examination of the
accused Sukai Venga Rowndar

Question - Why should you
not be punished for having
on the 12th February '71
grazed 29 goats and 27
sheep without a pass
in the Nattampalli reserved
forest?

Answer - I do not graze
it in the forest, but in
the black gram fields belonging
to Arumadri of my village.
There was no standing corn
in the fields when I graze
the sheep.

Q. Why has this complaint
been brought against you?

A. On the way from
Cheriyampattai to Range
passed through the black gram
fields in question and asked
me why I graze my
sheep in the fields and
said that the animals
should be impounded. I

Said

2
to that the sheep were grazing
in a puttah land and not
in a reserved and that
therefore there was no ne-
cessity for impounding them.
The Ranger replied saying "I came
to Kalmathur and waited for
3 days and none of you then
took care of me. The black
ram field is a lame excuse.
Drive on you fool. He
then drove the sheep himself.
My sheep and the ~~foreign~~
shepherds were grazing together.
The shepherd's name is Sinner
Korani. The Ranger drove all
the sheep and asked one Pachai,
a carpenter, and the Talayai
of Harjadi to drive the sheep
which were drinking water in
the stream close by. All
the sheep were driven to the
pound. The shepherd - he is
the man I now see here.
I followed the Ranger & protested
saying that the sheep were
grazing only in a puttah
field and asked that
they may be let off. The
shepherd's name is Gajan. He

He received a kick from
the Ranger and begged for
him. I however followed
the Ranger and begged him
to let loose my sheep.
He said that he would
not let off the sheep until
he (his wants) was attended
to. Thereupon I called
my younger brother who was
on the thrashing floor and
asked him to bring some
money that we might
pay the Ranger and take
back our sheep. The Sub
Ranger demanded Rs. 10 for
letting away the sheep. My
brother brought Rs. 4 which
I gave to the Sub Ranger
who took it from me
and drove away the sheep
to the pound saying that
he could not with pro-
priety let off my cattle
alone as an impound
the shepherds which were
also in the flock. At
the

4
to point the sheep were
numbered and the Ranger
in the Pound Munsif said
that I had to pay Rs
4-12 for their release. I
protested against this amount
on the ground of my having
already paid Rs. 4 to the
Ranger and asked for the
return of the Rs so that
I might pay the amount
in the pound. The Ranger how-
ever ~~said~~ asked me to
pay the Rs 12- and said
that in return for the
Rs paid to him he
would take care that
no compensation money
was demanded from me.
Pachai, Asari, a shepherd,
and my elder brother, the
witnesses present here were
all present then.

compensation

2.10.97
21-10-98
21/10

Enclosure No. 1 to

Deposition of V. C. Dorai.
Swami Pillai, S.D.O., Chengam

On 12.2.97 Sukai
Venkataswami of Pudur
Chekkadi grazed 29
goats & 27 sheep in
the Nattampalli reserved
forest without a permit.
This is an offence under
Section 21 D of the Forest
Act. Witness. Kuppusami
Asari, Sub Ranger, Chekkadi,
watcher Abdul Khader
Sahib (Chenijampettai)
There have to be
Summoned.

Cy.

11/9/98.

G.O. No. 4221
31-12-27

Enclosure No. 12 to C. No.

Deposition of Forester A. Kuppaswami Azari

On 16.2.27 I inspected the Nattampalli reserved forest along with Watcher Abdul Khader Sahib. The accused was then grazing 39 goats and 37 sheep. I drove him to Piddan Chekkav village and he confined them in the pound there. I then reported the case to the Range Office. It was myself and Watcher Abdul Khader who drove the animals. After leaving the border of the forest we crossed a ~~field~~ and met a carpenter and a talayari who were coming to inspect timber. I asked these men also to drive the sheep. The statements the accused makes against me are

are entirely false. He speaks
of the investigation of the
guard & the watcher and his
statements are also due to
the grudge he bears against me
for my having impounded his
sheep.

To the Court. There were
no rocky plants between the
places where the accusers
sheep were grazing and
that where the shepherds
were. The distance might
be about a chain. The
forest boundary and the place
where the sheep grazed were
near to each other, that is
the distance between them might
have been about a half a
chain. The pound was about
a mile and a half distant
from this place. The reserve
is south or perhaps south west
of the pound. I can not
be exact on this point.

On that day I started
from Chinnampettai as Perama
Koundan

Koundan the monitor of
Attipadi had asked me if
20 class timber could be
given to him on permit.
I was therefore going to
inspect the hill that he was
to see if timber was pro-
curable. I do not recollect
the name of the hill. It
was on my way to the hill
that I inspected the forest
& found the sheep which I
subsequently impounded. The
hill is out of the precincts
of the reserve. One of the
reserves is the hill. I
was on the reserve forest.
One has not necessarily to
cross the reserved forest
in order to reach the hill.
I thought I could have a
look at the forest on my
way to the hill. It was
about 3 or 4 o'clock when the
sheep were impounded. It
was after this that we
went to the hill. We
ascended

ascended a little but as
the night had by that
fortune approached we had
to come down. In all
we went to a distance of
about a mile from the
pond. Near the pond the
recorder implored me to let
him loose his sheep. There
was no other talk. The sheep
herd also came to the pond.
To the Court at the instance
of the F.R.O. we started
from Cheringanpettai at about
11 o'clock. It was myself and
the watchman who started from
the place. I do not recollect
if I went walking or on horse
back. I recollect that the Asari,
a Paraya (Talayari) and Pera
-na Koundan's son were the
only persons who came to
inspect the timber. I met
these men when I was driving
the sheep. I do not remember
when at what hour of the
day I met them. It might
have been 1 o'clock or half past
one.

one. I met them in a large
gram field. Horse gram was
also sown in the field.
There was no stream beside
the field. The pond was
about a mile distant from
the place. But the path to
the pond was round about &
we went by that route. The
Asari and the Talayari were
driving the sheep as far as
the pond. Perama Koundan
stopped at the foot of a tree
on our way to the village of
Pudur. I cannot say
what distance there was bet.
between the tree & the
village. I cannot say
if it was one or one eighth
of a mile. The place where
he stopped was south
west of the village.
The hill where timber has
been inspected is situated
to the north west of the
reserve. The distance bet.
between these two might be
about one eighth or one fourth

6
a mile. Early that morning
I saw Perama Koundan's son
Chinijampettai. I do not
recollect if whether I asked him
to accompany me or to meet
me in any appointed place.
I inspected the ~~map~~ timber
in a portion of the hill. It
was then about 4.30 or 5.0
o'clock. When Perama Koundan's
son stopped at the foot of
a tree I ~~was~~ talking talk
to him. I ~~do~~ do not remem-
ber what the subject of our
conversation was. He told
me that he sought the shade
of the tree to screen himself
from the sun. Perama Koundan's
son came on horseback. He
accompanied me all the way
down to the place where
we had a conversation.
We did not cross Pudur village
on our way to the reserve.
The route to the latter is
1/2 mile away from the former.

Deposition of Abdul Khader Sahib

Myself, Ranger Kuppuwami Asari,
Subtambi Koundan son of
Perama

7
Perama Koundan, Para Kart
yan the totti, and Ann
yappa Asari started for
Chinijampettai to inspect
timber. All of us excepting
Periyatambi went away
in advance and he followed
on horseback. Myself and
Annayappa Asari went
to the Kiranur river to
drink water. The Sub
Ranger and Karigan cross
the river and drove the
accused's sheep which
were grazing in the black
gram field. We ran to the
spot and was asked by the
Sub Ranger to drive the
Shepherd's sheep which were
grazing in a place to the
west of the above field. We
thereupon drove them & brought
them to the black gram
field. All four of us then
drove the sheep to about
half a furlong. The Ranger
and the Koundan's son
went away in advance.

8
The range and the Periya
tambikoundan were standing
a place which was
about half a furlong off the
point. The accused protested
saying "what else why do
you drive sheep which were
grazing in a poramboke
fields. The Sub Ranger
replied saying "where had you
your common sense all these
days? you ask me when
your sheep are being driven.
The accused then offered to
give Rs. 4 and asked that
the sheep might be let
off. The Sub Ranger refused
and has the sheep impounded.
On our way home from the
point the accused asked whether
any compensation money would
be demanded from him his
sheep having been impounded.
The Sub Ranger said that he
would see that no compensation
was demanded from him if Rs. 4
was paid by him. Thereupon the
accused gave Rs. 4. This took
place after we had proceeded
about a distance of about

compensation

9
about half a furlong
from the point. The
Sub Ranger received the
Rs. 4. ---
It was on our way
back from the point
that the accused gave
Rs. 4 to the Sub Ranger.
He said this is not correct
it was on our way to
the point that the money
was given near the
"Odai". He received the
amount but said that
he would inform the
Sheep but take care
that no compensation
money was demanded from
the accused. The accused
thereupon asked for the
return of the Rs. 4 stating
that he could not pay
both the Sub Ranger and
the point and that if
the Rs. 4 was returned,
he would pay that to the
point and release the
Sub Ranger.

10
Rangar refused to return money although he accompanied us to a distance about half a furlong away for the return of money. We came away home. -- -- --
he never went to inspect timber as night had fallen. I swear that this is true. The Sub Ranger kicked the rangers. I swear to the truth of this statement also. I did not speak of all these facts to the Guard. It was on the following morning that I reported all these facts. I do not know if he reported about them. I never asked him to report.

1998.

abr

~~pp 55 56 and 66~~ of file D.

Pages 4-21 of file E - flagged H

page 5 of file E
c 8/10/98

Read Petition (duplicate) from A. Kuppuswami Asari, late a Forester, South Arcot district, dated the 17th June 1908.
- C.No: 4434/98
Read also Board's Reference No. 323 of 1908 dated 6-8-08 submitting to Govt. A. Kuppuswami Asari's petition.
- C.No: 5612/98.

NOTE.

The petitioner, late a Forester in the South Arcot district, was suspended by the order of the District Forest Officer pending the disposal of a certain charge preferred against him by the Range Officer, Tiruvannamalai Range, of having failed to impound the full number of goats found trespassing in a forest reserve. In his report dated the 21st November 1907 the District Forest Officer, South Arcot, formulated the following four specific charges against the petitioner:-

(1) that he wilfully or negligently

2
asted Government money on certain
demarcation work which he had been
specially deputed to do;

(2) that he acted contrary to the Board's orders in having allowed a forest guard to collect compensation money in the matter of a forest offence;

(3) that he failed to impound the full number of goats found trespassing in a reserve and that he further falsified his offence report by misrepresenting the total number; and

(4) that he illegally impounded goats ~~grazing~~ on unreserved land and falsely charged the grazier with trespass in a reserved forest.

The Conservator of Forests, Central Circle, ~~while holding that the first~~

with regard to
apparently held that the
of the above charges ~~was not proved~~
real responsibility rested with the Range officer whom he ordered to pay half the expenses incurred. The other half was to be charged against his work. The Conservator held that the third was not clearly brought home to

large
was satisfied that the other two

charges were proved. The Conservator

was of opinion that the fourth charge

page 12 of file E.

p. 13 of file E

p. 20 of file E

Vide his Pags. d. 9-12-97, p. 22-23 of file E. flagged A

* i.e. collecting compensation improperly;
+ false charge of trespass

3
B.P. No. 196 Forest d. 29-3-98-
p. 7 of file A.

para 44 of the petn.

was a most serious one, especially in view of the fact that the Government had in its order No. 569 Revenue, d. 13th July 1897 drawn particular attention to the duty of officers to protect the ignorant ryots from oppression by their subordinates. The Conservator was satisfied that the petitioner's conduct afforded a glaring instance of such oppression, and ~~consequently~~ directed his dismissal from the service. On appeal by the petitioner the Board of Revenue held that there ~~was~~ were no grounds for interference in his behalf and accordingly dismissed his appeal.

~~*****~~

The petitioner now appeals to Government, and prays that he may be restored to his appointment, or at least that he may be exonerated from the imputation of bad conduct and permitted to resign his appointment.

2. As has been stated above, the Conservator of Forests found the petitioner guilty of the two following

charges, viz., (1)

(1) that he acted contrary to the Board's

orders in having allowed a forest

guard to collect compensation money

on the matter of a forest offence,

and (2) that he illegally impounded

goats grazing on unreserved land and

unlawfully charged the grazer with tres-

pass in a reserved forest.

The petitioner discusses the first of

the two charges referred to above in

paragraphs 5 to 7 of his appeal. 11

I Allowing the guard
to collect compensation

money. This matter is

clearly set out in his

Range Officer's report on

the case filed 2. It

appears to have been a general

order that Submagistrate

should collect such sums

themselves and not allow

guards or other lower

subordinates to do so. At

the same time then

appears to have been

considerable similarity

in the matter as the range

officer. (para 2)

This portion of the charge is
comparatively venial: the
other is the really serious
case 8/2

The petitioner charged
a certain individual
with having allowed
his goats & sheep
to trespass in a
reserve. The case
was brought into
Court.

The appellant maintains
that the practice was
allowed in the ^{revenue} ~~the~~ ^{rich} ~~the~~
in which he was before
he was transferred to the
Piruvanamalai Range.

The lower authorities
(D.F.O., Conservator, Bd.)
do not notice this. It
is clear from the D.F.O.
original papers (p 12 of
paper shipped H) that
this was not held a
very grave offence.

II

Illegal impounding
of goats & (it might have
been added) receiving
^{illegal}
~~poor~~ gratification.

No independent
departmental enquiry
has been made into
this charge. Neither the
D.F.O. nor the Conservator
appear to have over-
carefully scrutinised:
the evidence or record
of the Submagistrate
of Chengam, but both

accept & adopt as
their own, the Submagistrate
dicta on the
matter.

Whatever the
truth of this matter
of the impounding
may be, I submit, that
the evidence won't
bear any examination.

The Submagistrate
points out certain
weak points in the
petitioner's evidence:-

(1) That the reserved
forest where the animals
were said to have been
grazing, was not in the
direct road to the place
whither petitioner said
he was going on the day
in question.

(2) That the matter of
going to the reserve &
impounding the
animals in a pound
(in all a distance of 7 or 8 miles)
~~was not mentioned~~ took
the petitioner from 11 am
to 4 pm.

(3) That the petitioner
did not state definitely

In his judgment stopped

The petitioner in his deposition^{x y}
states that he started about 11 am.
& that the impounding was not
about 3 or 4 o'clock.

Vide statement flapped x
the original is below x.

Am accused knew this

how far from the
pound it was that he
met certain witnesses
& whether petitioner rode
or walked.

These prevarications
& evasions merely show
that petitioner was
not sure of his ^{affairs} witness.
They do not necessarily
establish the falsity of
petitioner's case.

The Submagistrate
glances over the defence
evidence with the
comprehension remarks
that "the ^{accused &} defence witness
"saw their evidence
"in natural & consistent
"names which stamped
"their versions to be true."

The case
being a summons case
the accused's statement
was taken first on 19-1
His story was briefly that
his goats & sheep were
grazing in one Aruadi
field; that the Submag
on his way from C

pettai proceeded to
drive off the animals
to the pound; that
the Subrange's reason
was that accused had
"not ^{taken} care" ~~for~~ of him
when he was in Kaluati;
that a carpenter, ^{Pachai,} a
Tatarani helped the
Subrange to drive the
sheep & goats; that the
Range killed the
Shepherd in charge of
the animals; that
accused thereupon called
his younger brother
from a threshing floor
close by & asked him
to bring some money
to pay the Subrange;
that the brother brought
Rs 4 which was paid
to the Range who
nevertheless drove
away the sheep &
the pound saying that he
could not with propriety
release the accused's sheep
but also releasing those
lost sheep which were

Apparently accused
village.

3 persons (the other translation is
wrong)

500

2,000 001 001

Y
originals
below Y

that the pound ~~the~~ keeper
demanded 4/12/0 from
accused for releasing the
animals; & that the
Subrange was not given but
the 4 Rs but promised the
accused that no compensation
~~the~~ composition money
should be demanded of
him. The accused cited
as his witnesses (1) Pachai
(2) the Carpenter (asari)
(3) the Shepherd & (4) his
elder brother

On the same
day the prosecution
evidence was taken viz.
that of the Subrange
(the appellant) and a
Forest watcher Abdul
Kader. The ~~discrepancy~~
weak points in the
Subrange's evidence have
been pointed out (vide sup.)
The watcher "hedged". He
states that he & the carpenter
went to drink water in
the river while the Range
& another went &
accused's sheep.

gave the 4 Rs on the latter promising
 not to see that ^{compensation} ~~constructive~~
 money was not demanded
 of the accused. The witness
 repeated the statement
 that the 4 Rs was given
 coming home after the
 impounding. Asked
 apparently a third time,
 directed himself or
 others on the way to

x Altho' they were
present on 19-4-89
Vide last sentence
of accused's statement

the pound. But there is no mention of the accused's brother having brought the money.

The case was then apparently adjourned. For we find that the defence witnesses were not examined till the 10th of June 97th or nearly two months afterward. Of course, it would be impossible to get at the bottom of any matter if the enquiry were prolonged in this absurd way.

The defense witnesses
examined were

(1) Tirumalai
Rownden, apparently the
accused's elder brother

(2) Amwayappa basia apparently the carpenter of the accused's tale.

(3) Perrya Tambi, a woman mentioned by the forest watcher but not by accused as far as

No. 1. Thangph enough
says nothing of the 4 Rs he
for the accused (according to
the accused's story)

Deposition flagged
the other depositions
are in continuation
of the originals above
below.

No 2 acknowledges
that the Forest warden examined him about the case, &
that the accused gave
him "a loan of 4 Rs", on

the morning of the hearing (19-6-27)

for his meals & states
that the 4 Rs was taken
by the Range from the
accused & says nothing
about accused getting it
from his brother; that
the sheep were not
impounded at all but
driven away by the
accused on his giving
security to the pound
keeper; that he did
not hear the Subrange
give any reason for
impounding the sheep.
This witness gives details
of the Rs 4 alleged to
have been paid to the
Subrange viz 4 two anna
pieces, 2 four anna
pieces & 3 whole Rupees.

No 3 explains that tho'
he started with the
Subrange he went away
to look after some of
his own business &
returned to find the
Subrange driving
the sheep to the
pound. The witness
says that the 4 Rs
was given near the
pound, but he cannot
say whether accused
brought the money to
the Subrange or whether
he had the money with
him & gave it him on
the spot.

It is submitted
that no conclusion can
be drawn from an enquiry
conducted in the manner
this one was & on the
evidence it elicited.

The Range Officer
was apparently present
cross examining the
Subrange tho' he
at the first hearing
the Subrange's

ment sufficiently
condemns him. He
clearly must have
calculated upon no
one reading the evidence
recorded in Tamil.

It is submitted
therefore that the fourth
charge cannot be
maintained. There seems
no use ordering
a fresh enquiry
departmentally at this
length of time. But
perhaps some punish-
ment should be awarded
the appellant for
his bad demarcation
work & for his obeying the
~~Government~~ order about
collecting composition
money himself & not
allowing subordinates
to do so.

Yr
Hlly
4/10/98

As the Board have appeared
to his dismission the weak points
of the case might be pointed out -
(3) I asked whether there is anything
to substantiate the conclusion that
he was a bad character.

Yes. Hlly 4/10/98
The serious offence
against him
8/10/98

To the Under Secretary.

Please see the draft
order submitted below

Rt.
25.8.98

Secy
Hlly
28.8.98

Issue

25.8
31/10/98

Mr
Hlly
28.8.98
for
me

Read petition from A. Kuppuswami Asari late a Forester in the South Arcot District dated 17th June 1898 (C.No.4434)

Read also ^{Board's} ~~Books~~ Proceedings, Land Revenue, Ref. No.326 Forest, dated 6th August 1898 (C.No.5612).

Order Mis. No: 4231 dt 31 st Oct 98

With its Proceedings read above the Board of Revenue submits to Government a second appeal from A. Kuppuswami Asari, late a Forester in the South Arcot District, against the order of the Conservator of Forests, Central Circle, directing his dismissal from the service.

2. The Chief ^{charge} upon which the appellant ^{was} ~~has been~~ dismissed is ^{that} ~~he~~ illegally impounded certain goats grazing on unreserved land and falsely charged the grazier with trespass in a reserved forest. This charge is admittedly based on the evidence adduced at the trial before the Sub-magistrate of Chengam in Calendar case No.97 of 1897 on the file of that court and on the Sub-magistrate's remarks in ^{his} ~~the~~ judgment ~~in that case.~~

3 The Government has carefully perused the copies of the depositions & judgment. ~~submitted by~~ ^{letter of opinion on the record before} the appellant; that the result of ~~the~~ ^{trial} does not establish ~~any~~ ^{the} charge against the appellant.

The inquiry before th

appears to have been unduly and unnecessarily protracted; and the value of the evidence recorded ^{has been} thus much

diminished. The prevarications in the ~~appellant's~~ ^{appellant's} evidence pointed out by the Sub-magistrate do not necessarily establish ^{the} falsity of ^{this} case. The evidence

of the other witnesses abounds with the contradictions, in some ⁱⁿ instances quite

irreconcilable, and does not ^{of appeal to be sufficient to sustain} ~~substantiate~~ the Sub-magistrate's ^{opinion, on which the charge against the} ~~statement~~ that the wit-

nesses for the defence gave their evidence

"in a natural and consistent manner which

"stamped their versions to be true."

4. The Board of Revenue ~~of~~ is there-fore requested, before final orders are passed on this case, to report whether there is anything further on record to substantiate the conclusion that the appellant was guilty of making a false charge of trespass.

f.w.
Mlu
287.1

21/10/98

To the Bd LR, with encls

To

The Board of Rev. (L.R.)
with the encls.

24.3-11.98

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189

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