

Revenue (1899) Department.

MISCELLANEOUS SERIES.

G.O., No. 505

DATED 3rd February 99

[Despatch Abstract.]

Withholding under Section III, rule 3(1) of
the Govt. of India Memorial Rules the memorial
from M.R. By A. Subbaratna Sastri, Late
Dy. Sadr. and Sub. Magistrate, Avarashi,
Coimbatore dt, appealing against the
orders of the local Govt. dismissing him
from the Service.

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

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Sg.	408	Rent.	16399

CURRENT No. 8432

No. 3509 Misc.

Sendt. Mrs. A-575 73rd - Feb 4 1899

memorial will be
Insp and it is in the section

Dated 9th December 1898.

rule 3(10) of the Govt. of India
Memorial rules (quoted below),
and the memorialist informed
accordingly.

(for our orders)

Received }
Registered } 10
Enclosures 9 files of papers.
Spare copies.

SUBJECT.

to the Memorialist

copy to ^{the} Board of Rev. & R., with
6 files of records-ret'd

Submg. to Govt. memorial address-
ed to H.E. the Viceroy in Council -
from M.R. Ry. A. Subbaratna Sastri, --
late Dy. Tahs. & Sub-Magistrate, Ava-
nashi, Coimbatore Dt., appealing ---
against the orders of the local --
Government dismissing him from ser-
vice.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

2,000
6-10-98.



Proceedings of the Board of Revenue (Land Revenue).

No. 3509 Misc. Dated 9th December 1898

Read letter from J.A. Cumming Esq., Ag. Collector of Coimbatore to the Secretary to the Commissioners of Land Revenue, Madras, R. on Paun. No. 1769-Rev., dated 25th November 1898, submitting with records the petition of A. Subbaratna Sastri, late Dy. Tahsildar and Sub-Magistrate, Avanashi, Palladam Taluk, addressed to Govt. requesting that his memorial regarding his dismissal may be forwarded to the Government of India.

Resolution.

The memorial of M.R. Ry. A. Subbaratna Sastri, late Dy. Tahsildar and Sub-Magistrate, Avanashi, Coimbatore District, to H.E. the Viceroy in Council, appealing against the order passed by the local Government in G.O. No. 3848 Misc. Rev., dated 23rd September 1895 dismissing him from service, is submitted in continuation of Board's Proceedings No. 2561 Mis. dated 4th June 1896.

2. The original supplemental memorial to the Government of India, was at the request of the memorialist treated as a review petition to the local Government and disposed of in G.O. No. 5784 Mis. Rev., dated 11th November 1897.

/True Extract/

Donald Davidson
Ag. Secretary.

To the Secretary to Govt., R.D., with memorials & enclos. &

6 files of records forwarded by the Collector.

C.B.

W.S.A.

X Sent Separately

PETITION

0742

REVENUE DEPT.

To

His Excellency the Right Honourable,

Sir Arthur Elibank Havelock, G.C.M.G., G.C.I.E.,

GOVERNOR AND PRESIDENT IN COUNCIL,

Fort St. George.

THE HUMBLE PETITION OF A. SUBBARATHNA SASTRI,
LATE SUB-MAGISTRATE, COIMBATORE DISTRICT.

MOST RESPECTFULLY SHOWETH,

Your Excellency's humble Petitioner most respectfully begs to submit herewith the supplemental Memorial promised in his formal appeal which Your Excellency in Council has been pleased to forward to the Government of India.

2. Petitioner humbly begs leave to submit that there is really no case against him. The so-called case arose out of an illegal enquiry into Petitioner's alleged intimacy with a deceased woman, as shown in paras 2 to 16 of the Memorial. It stands on the false evidence concocted by Petitioner's enemy, a certain Police Inspector, and forwarded by the then Head Assistant Magistrate with a Demi-Official; and it is supported by several incorrect statements contained in the Collector's reports, as demonstrated in paras 17 to 22. And this aspect of the case remains undetected owing to one ungrounded statement and another unexplained omission in the Proceedings of the Board of Revenue, as will be seen from para 23. But, had the Government been so pleased as to grant copies of the essential records upon which the Collector's reports were based, Petitioner's former Memorial could not have failed to convince Your Excellency in Council of the fact of there being no case against him. And, had the Government also been pleased to specify the evidence and arguments making out the charge, Petitioner would have been at once in a position to make a short and clear appeal and would have obtained the necessary redress long before this.

3. In these circumstances, Petitioner most humbly begs to pray that Your Excellency in Council will be graciously pleased to forward the accompanying Memorial to the Government of India for such decision of his fate as the said Government may be pleased to pass.

For which act of justice and mercy, Petitioner shall, as in duty bound, ever pray.

Subbarathna

Telugu Brahmin Street,
COIMBATORE.

29th September 1898. }

To

His Excellency the Right Hon'ble
Victor Alexander Bruce, P.C., G.M.S.I., G.M.I.E.,
Earl of Elgin and Kincardine,
VICEROY & GOVERNOR-GENERAL OF INDIA

IN COUNCIL.

*The humble Memorial of A. SUBBARATHNA
SHASTRI, late Sub-Magistrate, and
Deputy Tahsildar of Avanashi, Coim-
batore District, Madras Presidency.*

MOST RESPECTFULLY SHEWETH,

In continuation of his formal appeal dated 27th April 1896, which the Madras Government was pleased to forward to Your Excellency in Council on 30th June 1896, Petitioner most respectfully begs to submit that in the above appeal, he craved permission to supplement the same on receipt of the requisite copies which he had already applied for. But Petitioner was never given the most material records—records without which Petitioner could not clearly and directly convince Your Excellency in Council of the falsity and concoction of the evidence of a certain particular witness (who was never examined in Petitioner's presence) upon which the whole case against him stands. On a special appeal, the Government also refused those records, informing Petitioner "*that they would not assist him in his defence.*" Petitioner thereupon prepared and submitted a supplement, as well as he could without those records. However, the meaning of the Madras Government in saying that the records refused would not assist Petitioner in his defence was not clear to him, as submitted in para 36 of the supplement. Then, the longer he thought the more he came to the conclusion that the Madras Government would not consider those portions of the Collector's reports which were based on such records and that Petitioner could therefore succeed by addressing a Review to the said Government. Accordingly, instead of preparing a separate Review, the Petitioner requested that the above supplement might be treated as a Review addressed to itself. The Madras Government reviewed his case. The result, however, was that the Government informed him in November 1897 that it saw no reason to modify its former order. Petitioner thereupon fully understood that he could never establish his defence to the satisfaction of Your Excellency in Council, unless and until he was supplied with the copies of the records refused by the local Government, or he was allowed an opportunity of directly showing the falsity and concoction of the evidence above referred to by cross-examining the witness who, as was already stated, was never examined before him. Therefore, in the hope of easily getting such an opportunity, Petitioner immediately preferred a complaint of defamation against the person whose false application for the transfer of his case from Petitioner's file led eventually to Petitioner's dismissal. But Mr. A. C. Dutt, the then Assistant Magistrate in charge of Coimbatore Division before whom the complaint had to be lodged, had unfortunately taken a prejudiced view of the case and was from the beginning for dismissing the

Subbarathna

complaint summarily. He actually asked the District Magistrate Mr. Butterworth if it could not be dismissed summarily under Section 203 C. P. C. The District Magistrate however informed him that he must proceed with the case according to law and also forwarded to him all the records of the Collector Mr. Bradley's departmental enquiry, which Mr. Dutt apparently wanted for his guidance in the case. Mr. Dutt did not however examine the witness above referred to, though he had every reason for examining him under the last clause of Section 540 C. P. C.; but, on the other hand, he relied for his conclusions in the case on the statement of the very man given in the departmental enquiry, though in no sense it was evidence under the Evidence Act, and though Mr. Dutt knew that one of the chief objects in launching the complaint was to get an opportunity of cross-examining that witness and exposing his evidence. The inevitable result was that the Magistrate without calling upon the accused to enter on his defence, discharged the man on the ground that he acted *bona fide* in what he did and within his privilege. Unfortunately, there is no appeal against an order of discharge; and revision is a matter of pure discretion with the superior courts. The Sessions Judge before whom a Revision Petition was put in, did not go into facts. He assumed the facts recorded in the judgment to be correct and agreed with the lower court that the accused was within his privilege, and accordingly dismissed the Revision Petition summarily even without calling for records. And the High Court who were also moved in the matter dismissed, on the 10th ultimo, the Petition for revising the order of discharge, on the same ground, but with a valuable suggestion, not recorded however in the order, that the proper course was to apply for sanction to prosecute the man for perjury. Hence the delay from November 1897, for which Petitioner most humbly begs that he may be kindly excused as the same has occurred on account of judicial courts to which he had to resort in the hope of getting some remedy in those quarters which would have the effect of exposing the whole affair. The case against Your Excellency's humble Petitioner, arose out of an illegal enquiry into Petitioner's alleged intimacy with a woman; it stands on the false evidence concocted by Petitioner's enemy, a Police Inspector; and it is supported by several incorrect statements contained in the Collector's reports; and this aspect of the case remains undetected owing to one *ungrounded statement* and another *unexplained omission* in the Board's Proceedings: while the proved offenders against the Petitioner enjoy all immunity from notice. Petitioner therefore most respectfully begs to submit this humble Memorial setting forth only the salient features of the case with the help of such records as he has. And Petitioner will most thankfully accept such decision of his fate as Your Excellency in Council may be graciously pleased to pass after according a kind perusal to the same, as there is not a higher authority on earth to whom Petitioner can look up for his redress. Petitioner further begs to be kindly excused for the Memorial being somewhat lengthy, because a shorter one is impossible owing to the most peculiar circumstances of the case.

2. To begin with, Petitioner a Government servant of 27 years' standing and who was a Sub Magistrate for many years, was dismissed by an order of Madras Government, dated 23rd September 1895, No. 3848 Mis., on the ground that he told falsehoods.

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3. But, neither the falsehoods nor the evidence and arguments making out the charge are specified in the said order, although Petitioner is entitled to know them distinctly according to the orders of the India Government on the subject of dismissal of Government servants. The omission has rendered it impossible for Petitioner to make a clear and short appeal. He has been put to the extremely difficult task of guessing at the evidence and arguments relied upon in support of the charge against him.

4. However, as stated in the last para of the Board's Proceedings, dated 8th June 1895, upon which the G. O. is based, the falsehoods consist in Petitioner's denying that a certain deceased woman had been his mistress and in his explaining that his denial carried no falsehood with it. (The evidence and arguments referred to are not given even there.)

5. It is therefore submitted that the whole charge against Petitioner must stand or fall according as the denial is found to be false or true.

6. Early in July 1894, one Rahiman Bee the wife of Rajamiah living at Muthugoundanpudur a hamlet or part of Tiruppur village, separated from Tiruppur only by the local weekly market, in Palladam Taluk, preferred before Petitioner as Stationary Sub Magistrate of the said Taluk, a complaint accusing her neighbours, one Syed Khader and his wife and sister-in-law, of the offences of house-trespass and hurt punishable under Sections 451 and 323, I. P. C. Petitioner posted the case to the 19th July 1894 for hearing, but Syed khader alone appeared without the females or a vakil on their behalf, falsely stating that summonses had not been served on them, while the same had been served on them personally and in time and returned to the court before the said date. However, Petitioner adjourned the case for 4 days as requested by Syed khader, so as to enable him to produce his females or a vakil to represent them. Syed khader again failed to produce the females or to get them represented by pleader or some other agent. Petitioner therefore issued bailable warrants against the females on the 23rd July 1894. Syed khader went and requested the Police with the assistance of a dismissed Police Constable to oblige him by not arresting his females. Mr. Devarajulu Naidu the then Police Inspector of the Taluk, who had become the worst enemy of Petitioner (vide appendix V to his Review) and who was seriously bent on harm to Petitioner, took advantage of Syed khader's situation and asked him to make at once an application for the transfer of his case from Petitioner's file with a view to injure Petitioner's reputation and to enable the Police to satisfy their grudge. As Syed khader had personally no grounds to urge for the transfer, the following most attractive fiction was invented by the Police Inspector to serve as grounds for the transfer, and an application was presented to the District Magistrate on the 24th July 1894.

7. The fiction was:—

(1) that a certain woman had been Petitioner's concubine at Coimbatore and that she became pregnant; (2) that Petitioner about 2 months back, intending to keep her at the above Muthugoundanpudur for her delivery, brought her along with him from Coimbatore to Tiruppur by train; (3) that she was delivered in the train; (4) that Petitioner and his uncle went and asked Syed khader to accommodate her and the child in his house but Syed khader and his females

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refused; (5) that Petitioner and his uncle placed the woman and her child on the pial of one Palaniappan's house, near to Syed khader's; (6) that the woman remained in the said pial for one week; (7) that Petitioner then arranging with the Munsif Manigar of Tiruppur, the woman and the child were taken to and placed in the house of one contractor Ramalinga Asari; (8) that the woman remained there one day and died the next day leaving her child behind; (9) that before the death of the woman, her elder sister who had accompanied her, asked Syed khader to go to Palladam and fetch Petitioner, but Syed khader refused to go lest he should be dismissed by his master for absence from duty; (10) that the elder sister's son and a bandyman were then sent from Tiruppur to Petitioner at Palladam; (11) that the woman died afterwards; (12) that about 12 o'clock that night Petitioner came to the place where the woman died; (13) that the Petitioner asked Syed khader to go to Erode along with the elder sister's son and bring her brother, but, Syed khader refused to do so; (14) that immediately, Petitioner arranged with the Police Station House Officer of Tiruppur and sent a Constable along with the elder sister's son; (15) that they both went to Erode and brought the woman's brother with them; (16) that afterwards Petitioner had the corpse of the woman buried and then went away; (17) that the child left by the woman was under Petitioner's protection; (18) that, in consequence of Syed khader's refusal to give accommodation and go to Erode, Petitioner bore him grudge, and then and there instigated the complainant Rahiman Bee to prefer before the Police a complaint of hurt punishable under Section 323 I. P. C. against Syed khader and his females; (19) that Petitioner asked the Police Officer to charge-sheet the case before Petitioner himself; (20) that the Police Officer investigated and referred the case as false; (21) that in the face of such referred charge-sheet, Petitioner maliciously entertained the case on his file; (22) that Petitioner refused to permit him to engage a vakil for his females; (23) that Petitioner told complainant that he was bent on convicting Syed khader and his females; (24) and that Petitioner thereby prevented the complainant from compounding the offence for which Syed khader had arranged with her.

8. The above story was built, as already submitted, by Petitioner's enemy the Police Inspector of Palladam, taking advantage of the following occurrences of mere accident:—About the middle of June, 1894, Petitioner and his wife had been to Tiruppur Railway Station one night to meet his brother, brother's wife and others who were going from Coimbatore to Karur by the night train. The deceased woman and her elder sister with their children arrived at the Railway Station by the same train, the former being delivered in the train. The Station Master asked Petitioner to vacate the waiting room and accommodated those people there. Petitioner and his wife were allowed to be in the Station Master's own room. Next morning, before going back to Palladam, Petitioner was requested by a boy of the above females for some accommodation in the town, stating that they were on their way to Cuddappah where his father was employed as some draftsman. Petitioner asked the Village Magistrate to get them some accommodation and returned to Palladam with his wife. Two or three days after, Petitioner had to go to the Railway Station again to receive his mother who came from Karur. On this occasion, the woman in confinement had died and the Village Magistrate and the Police were making the necessary arrangements

for the disposal of the dead body, etc. They informed Petitioner of what they were doing and proposing to do, and Petitioner guided them to some extent in the matter.

9. The District Magistrate Mr. Broadfoot called upon Petitioner for a report on the above application for transfer, and Petitioner submitted his report with records immediately after receipt of the order. The allegations 1 to 17 which are contained in the first 7 paragraphs of the transfer application concerned purely Petitioner's private character. The remaining 7 allegations which are made in the 8th and succeeding paragraphs of the same were clear and distinct accusations against Petitioner's public character. These accused him of serious offences punishable under the Penal Code and of gross official irregularities summarily punishable by his departmental superior. The essence of the whole application consisted in the charge that Petitioner instigated a false complaint in his Magisterial capacity in which he was bound and expected to do justice to the public every day. If this charge were true, Petitioner deserved to be convicted and kept to rigorous imprisonment without the least compunction. If it were false, Syed khader who made such a false and malicious charge against Petitioner a very responsible officer of Government, should be at once convicted and given exemplary punishment. Besides, if this single charge was found to be a falsehood, the whole application must collapse as a matter of course. Petitioner therefore clearly demonstrated that these accusations were one and all of them deliberately false. The allegations 1 to 17 were equally false so far as they related to Petitioner's conduct. But, Petitioner was perfectly confident that, when convinced of the falsity of the accusations of criminal offences and official irregularities, Mr. Broadfoot would not care to know whether the woman had been Petitioner's mistress or not, whether she was delivered in the train or at Tiruppur, whether she died immediately or many days after delivery, whether Petitioner asked Syed khader to accommodate the party in his house or asked the Village Magistrate to get accommodation elsewhere, or whether Petitioner again troubled the same Syed khader by asking him to go to Erode or sent some other cooly. And Mr. Broadfoot was so far aware of the misunderstanding which existed between Petitioner and the Police Inspector that he would not for one moment believe that Petitioner would have incurred the further danger of asking for the private services of the Inspector's subordinate constable. Petitioner was at the same time thoroughly conscious of his purity and innocence in the matter. Again, according to Law, Syed khader who defamed Petitioner's private character by alleging that the woman had been Petitioner's mistress, was bound to prove the imputation, and it was not necessary for Petitioner to establish the falsity thereof. Petitioner therefore stated simply that the story contained in the first 7 paragraphs of the transfer application, so far as it related to his conduct, was quite false, instead of dealing with the allegations one after another, in which case Petitioner was afraid that his official report would become a nasty rigmarole story. Petitioner, however, to point out clearly that he had nothing to do with Syed khader directly or indirectly, explained to the District Magistrate in his report that he had never seen him until after he appeared before him in court, and that he had neither an uncle nor a father-in-law living, nor any relative in the Taluk. Petitioner humbly begs to submit that, judging from the poor and illiterate condition of Syed khader, and from the fact that theailable warrants

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were issued by Petitioner on the 23rd evening at Palladam and the transfer application put in by Syed khader before the District Magistrate at Coimbatore the next morning, and from the style and language in which the application was couched and the contractions used therein which resembled only the style, language and contractions usually adopted in Police reports, Petitioner immediately concluded that the application was the production of a clever Police hand. Petitioner's suspicion at once fell on his enemy the Police Inspector, but he did not wish to incur the avoidable danger of expressing it without sufficient evidence on hand. Petitioner hoped to take the necessary steps in the matter in due course, and preferred submission of his report without delay. The then external appearances were such that Petitioner believed that one Khaderkhan Sahib the dismissed Police Constable hereinbefore referred to, had invented it, in which Petitioner soon after found himself to have fallen into an error. The Sahib was only a tool in the hands of the Police Inspector. Mr. Broadfoot had however, in the course of dealing with certain Magisterial cases, become personally aware of the misunderstanding between Petitioner and the Inspector; and Petitioner also drew Mr. Broadfoot's attention to the fact in para 3 of the same report.

10. The District Magistrate accordingly recorded his opinion that the allegations of Syed khader appeared to be false, but, however, for the benefit of Petitioner, transferred the case to the Head Assistant Magistrate's file, on the ground of a conspiracy against Petitioner; and at the same time the District Magistrate directed that the advisability of ordering the prosecution of Syed khader should be considered. Petitioner had in the meantime got information attributing the authorship of the application to the Police Inspector, but as Syed khader's prosecution was already suggested by the District Magistrate of his own accord, Petitioner thought it better to wait and get the necessary further evidence and prove the Inspector's complicity in the affair, once for all in the course of prosecuting Syed khader.

11. The Head Assistant Magistrate Mr. Ghose discharged the case at the end of September 1894 in C. C. No. 58 of 1894 for want of sufficient evidence. Whether the discharge was correct or not, does not in the least concern Petitioner. But it will be clear from the judgment in the case, that the Magistrate did never even suspect that Petitioner had anything to do with the complainant. The records of the case also show that Petitioner had nothing to do with the complaint or complainant. Syed khader himself has not asked the complainant during enquiry whether she had not had any instigation or any kind of advice from Petitioner in the matter, which he would have been the last man to omit to ask, had he in the least degree suspected that Petitioner had had any interest in the complaint. Yet, the Magistrate did not order the prosecution of Syed khader for the offences of making a false charge and giving false information against Petitioner, punishable under Sections 211 and 182 I. P. C., for which the Magistrate had power, under Section 476 C. P. C., and even though the District Magistrate had suggested the sanction. Petitioner then reminded him of the District Magistrate's suggestion and asked him for a copy of the transfer application so as to enable himself to prosecute Syed khader. Thereupon, the Magistrate called upon Syed khader to show cause why he should not be prosecuted,

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heard him 2 or 3 times without any notice to Petitioner and permitted to produce fresh witnesses to prove the truth of his application, including the truth of the imputation made on Petitioner's private character. At last, the above officer reported to the District Magistrate on 6th December 1894 that he had no power to proceed in the matter, although he had, under Section 476 C. P. C., clearly the power to order prosecution for offences under Sections 211 and 182 I. P. C.

12. The then District Magistrate Mr. Bradley accepted such a report without question and held a preliminary enquiry under Section 476 C. P. C. and examined Syed khader's witnesses on the 11th December 1894, but without any notice to Petitioner. However, the witnesses completely failed to prove Syed khader's allegations. The District Magistrate also saw as every judicial officer must needs see, that the falsity of the charge of instigation was obvious; for, the "complaint of hurt punishable under Section 323 I. P. C." which Syed khader had stated that Petitioner asked Rahiman Bee to prefer before the Police, was not cognizable by the Police, and it would be simply absurd to suppose that Petitioner forgot this simple provision of law in every day's practice and stupidly instigated the preferring of such a complaint before the Police. The falsity of the remaining 6 accusations about Petitioner's official irregularities must have been equally manifest to the District Magistrate from the diary and other records. So, the District Magistrate must have seen that the conviction of Syed khader for the offences of false charge and false information was inevitable in case of a prosecution before any court. The District Magistrate was so deeply convinced of the falsity of those accusations that, after the above date, the District Magistrate did not examine any witness on that subject. He did never ask Petitioner a word about the matter. He did not take to the notice of the Board even the fact of the accusation. He has not said throughout his reports of 55 pages even by implication that Petitioner asked Syed khader for any favour or bore him grudge. And the fact that the District Magistrate was sufficiently convinced that Petitioner never asked Syed khader for any favour and that Petitioner bore him no grudge is proved beyond all doubt by the Collector's own omission to make any mention of those allegations in para 6 of his 2nd report in which he formulates all allegations concerning Petitioner, contained in the first 7 paragraphs of the transfer application.

13. Now, so long as the grudge and instigation attributed to Petitioner as the result of the alleged refusal of Syed khader to give accommodation and go to Erode were entirely disbelieved and found to be sheer falsehoods by the District Magistrate, it was altogether immaterial to him whether Petitioner asked Syed khader for the above favours, even if it were true. But, as shown just above, it is quite false that he did any such thing. Besides, Syed khader's witnesses have, by glaring discrepancies, failed to prove that Petitioner asked him for accommodation, and did not even attempt to say that Petitioner asked him to go to Erode; while it is simply unfortunate if one should think that Syed khader a musalman was asked to accommodate the deceased woman and her relatives who were Hindus of the Bhatraja caste. No sane Hindu would think of lodging them in a musalman's house. Again, Syed khader has stated in the transfer application that Petitioner intended to keep her at Muthugoun-

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denpudur before he brought her from Coimbatore. If so, Petitioner must have necessarily settled a house for her beforehand. Which was that house and what became of it after Petitioner brought the woman? As for Petitioner's asking the Head Constable to send a Constable to Erode, it did not in the least concern Syed khader. If Petitioner had done so, Petitioner's enemy the Police Inspector would have at once reported the matter to the District Superintendent, and brought Petitioner into serious trouble. The Inspector's Head Constable himself would have reported the alleged misbehaviour of Petitioner in his diary. The truth is that the Head Constable sent the Constable apparently with the usual Police motives to the relatives concerned in advance towards his intended future inquest on the corpse of the woman, but on being told by Petitioner that it was unnecessary, as the death was too well known to have been natural, he found that his motives were detected, and prepared and armed himself, as is also usual with the Police in cases of failure, with the explanation that he withdrew the Constable from the Government duty under the orders of the Magistrate.

14. Demonstrating as above the irrelevancy and immateriality of the alleged concubinage, Petitioner begs to submit that the District Magistrate was more than convinced that the allegation itself was false. For, Syed khader who made such a serious imputation on Petitioner's moral character and who was personally bound to save himself from the necessary consequences according to civil and criminal law, did not produce or name a single witness to prove the imputation, even though he had six months' time after he made the imputation, and had also a special notice of two months to prove the same. It would not have been impossible for Syed khader and his friends who assisted him in the transfer application, to have found out within such a long period, witnesses to prove the alleged concubinage if it was only true. There was thus a most miserable failure to prove the allegation which could have been most easily proved if the imputation were true. The authors of the application were so fully aware of the falsity of the concubinage that they naturally expected to get no truthful witnesses to prove it. They knew that their only alternative was to have another nice appropriate falsehood invented and evidence kept ready to prove it; and they accordingly stated in the application, next to the above allegation, that *Petitioner brought the woman along with him from Coimbatore*. If Petitioner had done so, it would have been a most conclusive proof of the alleged concubinage. But, though they relied, at the time of writing it, on their extraordinary cleverness of concocting any evidence to prove anything, yet they subsequently found it an utter impossibility to get any evidence on the point, because they soon learnt that there were best official records conclusively to prove that Petitioner was at Palladam and that it was physically impossible for Petitioner to bring her with him from Coimbatore at the time referred to. They therefore wisely spared all pains of attempting at any evidence in the matter. If Petitioner had only brought the woman along with him from Coimbatore, the fact could have been spoken to by hundreds of witnesses. The failure to produce a single witness, opportunities notwithstanding, necessarily proved the falsity of the allegation. And the falsity of this allegation so deliberately resorted to as the only substantial proof of the alleged concubinage, proved the falsity of the con-

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cubinage itself. The Collector has therefore in para 6 of his report changed the above falsehood, so valuable and favourable to Petitioner's cause, into one that Petitioner met the woman at the Tiruppur Railway Station, even without any explanation from Syed khader or any body else to support the change. In consequence of this unauthorized alteration of the original allegation, the Board and Government, by reading the Collector's report, could have had no idea of the fact that the alleged concubinage was falsified in the above manner. It is accordingly stated in para 4 of the Board's Proceedings that the evidence showed that Petitioner met her at the Tiruppur Railway Station. As already submitted, the evidence and arguments making out the charge against Petitioner not being specified anywhere, Petitioner is unable to know the evidence relied upon by the Board in the matter.

15. Being thus more than convinced that the allegation of concubinage was false, the District Magistrate had absolutely no necessity to go further into the matter. The want of necessity will be still more manifest from the fact that the Collector himself admits in his report to the Board that the private character of an official is of no importance to Government. This view of the Collector is fully confirmed by the fact that the Government itself has not punished Petitioner for keeping a woman though the Government has found that the deceased woman had been his mistress. Accordingly, the keeping of a woman is not one of those acts which are prohibited by the rules relating to the conduct of Government servants. It will thus be seen that any enquiry into the alleged concubinage would, in the circumstances, be simply a matter of inquisitiveness. Your Excellency in Council will thus be graciously pleased to see that an enquiry into the alleged concubinage would have been, in these circumstances, quite improper and uncalled for. But, still, the District Magistrate summoned Petitioner as a witness and questioned him upon oath whether it was not true that the deceased woman had been his mistress, and recorded his denial on the 18th December 1894. On the next day the District Magistrate recorded behind Petitioner's back the sworn statement of the aforesaid witness concocted by Petitioner's enemy, the Police Inspector of Palladam, who was then at Coimbatore, and forwarded by the Head Assistant Magistrate in the custody of the same Inspector with a Demi-Official, knowing that the Inspector was Petitioner's enemy and intending to falsify Petitioner's denial, in view to get him prosecuted for perjury, as will be seen from the Collector's reports. Immediately after this, several statements were recorded by the same Head Assistant Magistrate also on oath and behind Petitioner's back at Tiruppur with the assistance of the same Police Inspector, in view to make out that Petitioner took special interest on account of the woman on her arrival at Tiruppur. Thereupon, the District Magistrate carried on similar enquiries throughout the District by various means to no purpose except that they had the effect of creating greatly scandalous sensation everywhere. (Vide the District Magistrate's letter to the High Court, dated 5th February 1896.) But Petitioner knew nothing whatever about these proceedings of the District Magistrate. Petitioner was entirely left in the dark. He was only able to hear that the District Magistrate was instituting enquiries broad-cast into the alleged concubinage and unfortunately casting discredit on Petitioner's private character which each man holds sacred. Petitioner therefore

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requested that he should be allowed at once to vindicate his private character by taking his own legal action against Syed khader and that the District Magistrate should refrain from all enquiry into the matter. But on 12th January 1895 the District Magistrate passed his written order totally refusing to do any such thing and he immediately commenced his further enquiry into the matter and completely disgraced Petitioner thereby. Apparently, the District Magistrate had no thoughts about Syed Khader's proved false charge that Petitioner instigated a complaint, and his proved false information that Petitioner committed several irregularities in his official capacity,—matters in which the Board and Government have got great interest. The Collector has sent with his report to the Board only a translation of the first 7 paragraphs of the transfer application which exclusively refer to Petitioner's private character but omitted to send a translation of the 8th and succeeding paragraphs of the same which contain the above false charge and false information against Petitioner. Consequently, the Board and Government could have had no occasion to pay any attention to those false and malicious attacks of Syed khader against the public character of Petitioner, a responsible subordinate officer of Government. Their attention was drawn only to the alleged falsehoods of Petitioner in the matter of a woman.

16. But, all this is the necessary result of the illegal enquiry which commenced with Petitioner's examination on oath on the 18th December 1894. To state it more correctly, Petitioner begs to submit that it is to bring about such a result that the Head Assistant Magistrate had recourse to the circumstances in which he sent the contradicting witness with his Demi-Official on the 19th December 1894, in the custody of Petitioner's enemy. The Collector having, however, felt that he was personally responsible for such illegal enquiry into the alleged concubinage, the Collector has assigned two grounds to justify the same. The one ground is that Petitioner applied for general sanction to prosecute Syed khader. But Petitioner did never apply for sanction, but reminded of Mr. Broadfoot's previous suggestion to grant sanction. However, Petitioner has not got the slightest objection to the reminder being treated as application for sanction. But the fact of the matter is that Petitioner had all along been aware that no sanction was necessary, and no court had power to grant or refuse sanction for defamation; and it is impossible to suppose that Mr. Broadfoot thought otherwise even for a moment: for, the law on the subject contained in the Code of Criminal Procedure is so perfectly clear. Petitioner required sanction to prosecute the musalman for the offences of false charge and false information constituted by his allegations about Petitioner's public character, to prosecute for which, sanction was necessary. And Petitioner thought it better to have the sanction accorded specifically for such of these allegations as really deserved sanction, for, it is usual to leave all minor statements out of consideration and take up only the grave and serious allegations such as that Petitioner instigated a false complaint and directed the Police to charge such a complaint and persistently proceeded with the false case even on the face of a Referred Charge-sheet from the Police showing that the case was clearly false. But, with a view to obviate any delay in getting the allegations so specified, Petitioner suggested at the same time

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that a general sanction would suffice according to law. Petitioner begs to submit that, in any case, the word "sanction" used by him or Mr. Broadfoot, could only refer to the offences for which sanction could be given or refused under any law, but not to the defamation that Petitioner had kept a woman, for which no sanction was necessary or could be granted or refused by any authority. The other ground mentioned by the Collector for entering into the said matter is that whether Petitioner made a false report and a false deposition was in question. But when and how this question arose before the District Magistrate, it is impossible for Petitioner to know from the records. The report referred to is dated 28th July 1894 and the deposition referred to is no other than the deposition taken illegally on the 18th December 1894. The only materials which the District Magistrate had before him between these two dates were the depositions of Syed khader and his witnesses recorded on the 11th December 1894 in the absence of Petitioner. And if the witnesses had said anything at all against what Petitioner had stated in his report, and if the District Magistrate had believed what they said, and inferred therefrom anything against Petitioner, the District Magistrate would have most certainly re-examined the witnesses in Petitioner's presence and subjected them to his cross-examination on the 18th December 1894 on which Petitioner appeared. But the District Magistrate did not do so. This itself sufficiently proves that the District Magistrate had clearly seen that the records of the 11th December 1894 did not shew that Petitioner's report was false. So far from having any reason to suspect the truth of Petitioner's report, the District Magistrate was, as demonstrated in the foregoing paragraphs, convinced of the falsity of the charge that Petitioner instigated a complaint and of all other accusations against his public character, as well as of the falsity of the concubinage, before the 18th December 1894. As for the deposition, it came into existence only because it was illegally taken on that day, as proved hereinbefore. And, in the absence of any previous record worth the name, the District Magistrate had no reason to suspect that the deposition was false either. It is therefore manifest that the first record which the District Magistrate had to lead him to suspect the truth of Petitioner's report or deposition, was the statement of the witness whom the Head Assistant Magistrate forwarded with his Demi-Official after the above deposition was taken, in previous communication with the District Magistrate as shown hereinafter. It will thus be seen that, according to the records, the question whether Petitioner made a false report and a false deposition did not arise until after the District Magistrate subsequently entered upon the illegal enquiry. To express it more plainly, Petitioner begs to submit that the question whether Petitioner made a false report and a false deposition, having arisen *only after the illegal enquiry*, could not justify the *previous entering* upon the illegal enquiry. Thus, both of the Collector's grounds fail to justify the enquiry into the alleged concubinage.

Part II.

17. Now, turning to the witness forwarded by the Head Assistant Magistrate on the 19th December 1894, on whose sole statement the whole proceedings of the Board and Government hinge, Petitioner begs to submit that the circumstances in which this witness was concocted by the abovementioned Police Ins-

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pector are detailed in the succeeding paragraph. Petitioner respectfully begs to submit here such circumstances as are necessary to shew whether the District and Head Assistant Magistrates were also aware of that fact, and if so, to what extent. The District Magistrate admits that the witness was forwarded to him by the Head Assistant Magistrate with a Demi-Official. But the Head Assistant Magistrate had no justification for so interfering in the matter, because he had already reported to the District Magistrate on the 6th December 1894 that he had no jurisdiction whatever in the case. And it is clear from the District Magistrate's report that he did not disapprove of the Head Assistant Magistrate's conduct in having so officiously procured and forwarded the witness to him. Shortly after reporting that he had no jurisdiction in the matter, the Head Assistant Magistrate left Pollachi and encamped himself at Coimbatore for many days before the 19th December 1894 and left the place immediately after the statement of the above witness was recorded. The above Police Inspector was with the Head Assistant Magistrate at Coimbatore for many days before 19th. Both left the place for Tiruppur that night. The Head Assistant Magistrate recorded certain statements there, with the assistance of the said Inspector. This would clearly show that the Head Assistant Magistrate and Petitioner's enemy had to be together wherever evidence was to be recorded against Petitioner. The Head Assistant Magistrate had sufficient official records before him to show that the Inspector was his enemy. Even on the 19th December 1894, that very day on which he forwarded the witness to the District Magistrate, he had an explanation just tendered to him by the Inspector in a matter of 12 months old, showing that he was Petitioner's enemy. The District Magistrate too was aware that the Inspector was his enemy. The District Magistrate had in September 1894 reported to the District Superintendent of Police that the Inspector had "recklessly brought a false charge" against him. He had again himself found, as admitted in his report to the Board, that the Inspector was not on good terms with Petitioner. Lastly, Petitioner had in his sworn deposition on the evening of 18th December 1894 drawn the attention of the District Magistrate to the fact that the Inspector had set up the very application into which the District Magistrate was enquiring. The Inspector and the witness were together with the Head Assistant Magistrate in his office before the witness was forwarded to the District Magistrate, and he was forwarded in the custody of the very Inspector. To the best of Petitioner's subsequent information, the witness's statement was recorded by the District Magistrate in the absence of every body else than Petitioner's enemy. The District Magistrate admits that he sent the enemy to the witness's house after recording the statement. The reason given by the District Magistrate for so sending Petitioner's enemy, is that he was at his cutcherry and knew the witness before. But the District Magistrate could not know that the Inspector had known the witness before, unless he had taken the trouble of ascertaining the fact, directly from the Inspector or had been told of it voluntarily by the Inspector or by the Head Assistant Magistrate in his Demi-Official or beforehand in person. In any case, the District Magistrate must have become aware of the circumstances in which the Inspector knew the witness. What are those circumstances? If they were the ordinary circumstances, there were so many

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Dalayets and Peons of his own who knew the witness much better in such circumstances, as they all lived in the same town of Coimbatore. In that case there was no necessity for the District Magistrate's pitching upon the Inspector of Palladam who was not a native of the Coimbatore town, for the purpose. Therefore the circumstances referred to, must be the circumstances in which the District Magistrate was led to believe that he procured the witness. It is thus plain that the District Magistrate knew that it was the Inspector, who procured the witness. Then it is a most important question whether the District Magistrate, with the knowledge that the Inspector was Petitioner's enemy and that the witness was procured by such enemy, did not think that the evidence he was recording against Petitioner behind his back must be concocted evidence. Petitioner respectfully begs to submit that the District Magistrate must have naturally thought so, unless the Head Assistant Magistrate had previously led him to think otherwise. Petitioner begs to point out that the Collector has, in the face of several official records to the contrary, attempted to show in para 21 of his report that the Inspector was not inimical with Petitioner, and relied on a Demi-Official from the Head Assistant Magistrate which was directly contrary to his own records, as proved by documents printed at page 5 of the Appendix 4 to Petitioner's Review to the Local Government, a copy of which is respectfully submitted herewith for perusal. However, the question with which Petitioner is more directly concerned, is whether the witness's statement recorded by the District Magistrate was true, or false and concocted, and Petitioner has submitted sufficient facts hereinabove to show that it was nothing but a concoction.

18. The concoction was effected by the Inspector in the following marvellous circumstances:—Shortly before the time when he was with the Head Assistant Magistrate at Coimbatore, he somehow happened to be transferred to Pollachi Taluk. Veerabhadraraju a brother of the above witness whose name is Nallamaraju, was a Police Constable in that Taluk and just then in trouble, having been suspended for having wilfully failed to charge a thief who was subsequently charged by another Police Officer and convicted. Gururaju another brother of Nallamaraju was a hotel keeper also at Pollachi, and he was in more serious trouble at that time as he had been charged with a criminal offence before the local Sub Magistrate and was absconding in order to evade the execution of the warrant of arrest issued against him. Nallamaraju was overwhelmed with anxiety in consequence of the danger in which the two brothers were. The deceased woman was their sister. The Inspector who was aware of the fact that the witnesses examined by the District Magistrate on the 11th December 1894 had totally failed to prove the allegation in the transfer application, was also filled with anxiety on account of the danger of a criminal conviction which awaited his Syed khader; and he was very busy trying to concoct some further evidence to save his Syed khader. In such crisis, the Inspector got hold of Nallamaraju through a friend of his and promised him that, if he came and said before the District Magistrate that his sister was in Petitioner's keeping, he would speak to the Head Assistant Magistrate and get the conviction of the thief quashed and see that Veerabhadraraju was restored; that he would likewise speak to the local

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Sub Magistrate and get Gururaju discharged; and that he would always help his family through Veerabhadraraju who would be his future subordinate Constable. Nallamaraju was a man who had, as the Collector admits, left his service in the Police department with a bad character and had been previously reduced from Head Constable to Constable for forging a receipt, and he was also given to drinking and had hardly any character to lose. He saw at once that if he agreed to the Inspector's proposal, he could save both brothers for which he had no hopes otherwise. He knew also that the Inspector was freely moving with the Head Assistant Magistrate and was a well known friend of the local Sub Magistrate, and that the Inspector was therefore in a position to execute his promise in every way. Nallamaraju was however unwilling to accept the Inspector's promise for other reasons. One reason was that he did not relish the idea of exposing the past vices of his dead sister. But it was explained to and readily understood by Nallamaraju that his sister having lived and died a prostitute, he was not falsely maligning her; and that, as the fact of her recent delivery in the train had made her immorality too widely known, he was not going to injure her reputation any further, but that, on the other hand, by saying that she was in the keeping of Petitioner, a Brahmin and Sub Magistrate, he was doing rather an honor than any harm to his late sister, while he had the substantial advantage of immediately saving his two brothers from their serious troubles. Nallamaraju very much feared at the same time that by falsely maligning Petitioner, he would be subjected by Petitioner to serious civil and criminal proceedings. But, the Inspector assured him on oath that his statement would never be recorded in Petitioner's presence and would be confined only to the personal knowledge of the Collector. The 3rd and strongest reason for Nallamaraju's unwillingness was that he feared that the District Magistrate might directly detect the falsity of his deposition by a few words of cross-examination. As against this fear, it was settled between the Police Inspector and Nallamaraju that no room should be given for any cross-examination, but that Nallamaraju should at once induce the District Magistrate to believe his statement by saying that he had a letter from Petitioner about his sister, and by pretending to be able to produce it and eventually stating that it was not forthcoming and so forth. Nallamaraju was thus prepared most systematically and made to consent to go and tell the District Magistrate rather privately that his sister was in Petitioner's keeping; and he was kept ready for the 19th December 1894 with the knowledge that Petitioner had been summoned for the 18th and his expected denial would be recorded on oath on that day. However, before the 19th December 1894 came, Nallamaraju once more showed signs of his natural fear. But the Inspector went straight to the witness's house on the morning of the 19th, before he had taken his breakfast and took him along with him, saying that 11 o'clock was the most convenient hour for him to present his already drafted appeal against the conviction of the thief to the Head Assistant Magistrate. When Nallamaraju too keenly felt his hunger, the Inspector supplied him with food and some sweet intoxicating drugs and got him conveniently intoxicated and made him forget all his fears, in a compound adjacent to the Collector's Cutcherry. Nallamaraju was then at about 2 o'clock conducted to the Head Assistant Magistrate. Shortly after, it so happened that the Head Assistant Magistrate quashed the conviction appealed against by Nallamaraju, and the local Sub Magistrate discharged the criminal case referred to, and the two brothers of Nallamaraju were saved from their danger and restored to their

former status. And Veerabhadraraju has been up to date a favourite Constable of the Inspector in the same Pollachi Taluk. As Petitioner is not allowed copies of those Police and Magisterial records with which he was not formally connected, Petitioner most respectfully begs to request that Your Excellency in Council will be kindly pleased in the interests of public justice to order a reference to the above records and cause the facts herein submitted verified. If there should still be any doubt as to the probability of the Inspector's concoction of the witness, Petitioner humbly submits that he is prepared to prove the fact more directly if an opportunity is kindly given to him.

19. But, the above horrible circumstances in which the witness was concocted, Petitioner trusts, could not have been known for a moment to the District Magistrate. Petitioner begs to submit most clearly and distinctly that the District Magistrate could have never become aware of these. If he had had the least scent in the matter, he would have then and there smashed the Police Inspector. But, unfortunately for Petitioner, the District Magistrate proceeded on the representations of the Head Assistant Magistrate which were based on the tales carried to him by Petitioner's enemy. But, the fact that Nallamaraju's evidence is utterly false can be

* NALLAMA RAJU
SON OF VENCATAGIRI RAJU

Sworn

Sinnammani who died at the Tirupur Station was my sister. She died about six months ago. She was on her way by rail, and was delivered in the train. She was taken to Mathukoundanpudur and died there. I received a telegram from Tirupur in the name of Lachumamma. I missed the train and did not go till the night train. I can produce the telegram. My sister was in the Sub-Magistrate's keeping. I went by night and got to Tirupur about 2 A.M. It was moon light, and I went to that village. My sister was dead. They buried the body and my brother, a Munsiff's Court peon at Erode saw to the funeral. His name is Ellama Raju. He was at Pudur then. The Sub-Magistrate asked me to say nothing about this matter. I have had some correspondence with him. He has sent a letter to me about this subject, and some letters to my sister. We did not see the child. I will produce the Sub-Magistrate's letter. He asked me to return it, and I will produce it. I think my brother has taken the letter. I received the letter after I got the telegram. Perhaps one of my brothers might have it. My brother at Erode has some letters. One of my brothers might have the letter. I will try to make him produce it.

(Signed) K. NALLAMA RAJOO,

(Signed) HERBERT BRADLEY,
District Magistrate.

19-12-94.

seen on the face of it which is printed in the margin.* Nallamaraju stated that his deceased sister was in Petitioner's keeping and, according to the plan originally concerted, he avoided all cross-examination on the point which would otherwise be very severe and lengthy, by resorting to the falsehood that he had a letter from Petitioner and that he would produce it. In order to make the falsehood appear all the more believable, he further stated that he had been asked by Petitioner to return the letter and so forth. The District Magistrate naturally believed the alleged letter to be a conclusive proof of the keeping of the woman and that Nallamaraju had it certainly in his possession. In order to secure such conclusive evidence without loss of time, the District Magistrate ordered Nallamaraju to go to his house and fetch the letter. But Nallamaraju felt at once the most dangerous position in which he had placed himself. For, in order to avoid immediate detection of the falsity of his statement that his sister was in Petitioner's keeping, he had recourse to the stratagem of inducing the District Magistrate to believe that he could produce a document to prove his statement. But now, if he failed, as he must fail, to produce the alleged letter, the very falsity, the detection of which he wished to avoid, would be conclusively established, and he would be ruined. Therefore, as the only means of relieving

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himself from such imminent danger, he began to prevaricate by saying "I think my brother has taken the letter." Thereby, he at once conveyed that he was not certain of the fact. Being asked to give the name of the brother, he failed again and said "perhaps one of my brothers might have the letter" and thereby distinctly informed the District Magistrate that he was neither certain of the name of the brother nor of the existence of the letter. Being still pressed, he had no other alternative than to say what came uppermost in his mouth at the time. Then it came from his mouth that his brother at Erode had some letters, which again conveyed that he was not sure of the letter which he had received being with that brother. Again asked whether it was a fact that the Erode brother had any letter at all, Nallamaraju who knew that it was not a fact but another falsehood, stated that one of his brothers might have the letter. This last statement is nothing but the sum and substance of all his previous statements, most clearly but indirectly admitting that there was no letter at all of Petitioner either with himself or with any one of his brothers. Nallamaraju was however quite regardless of his lie that his dead sister had some letters because he was certain that there would be no attempt to call her. That the District Magistrate was convinced that Nallamaraju's statements about letters were quite false is clear from the fact that he sent the Police Inspector to Nallamaraju's house only to get the telegram which Nallamaraju had previously gone to fetch. Both together made a search in the house and brought the telegram. But the telegram was one which Nallamaraju had received from Lakshmammal who was the elder sister of the deceased woman and who had intended to take her to Cuddappa where her husband was a draftsman, for delivery, and who broke her journey with her at Tiruppur. The telegram did not therefore prove any thing against Petitioner. Nallamaraju's evidence therefore, so far from proving any thing against Petitioner, proved that he was himself a deliberate liar. The mere fact that the man made such a continued series of self-contradictions cannot but demonstrate either that the man was so intoxicated as to be incapable of knowing what he was saying, or that he was most impudently attempting to deceive the District Magistrate into believing his palpable falsehoods. Petitioner begs to submit that it will not be out of place to point out here that the statement, though sworn to, was got signed by Nallamaraju without the same being translated or read over to him. The District Magistrate however ordered Mr. Harding the then Sub-Collector at Erode to find out if Nallamaraju's brother at that place had any letters connecting Petitioner with the deceased woman. Mr. Harding examined the man, but, as must be expected, no letters were found with him, and he distinctly stated that he had no letters. Mr. Harding must have accordingly reported the matter on or about the 21st December 1894.

20. Petitioner humbly begs to submit that Your Excellency in Council will thus be pleased to see that Nallamaraju's evidence, the only evidence on the strength of which the District Magistrate could think that Petitioner's previous report or deposition was false, did itself prove a deliberate falsehood; that such false evidence was supplied by the Police Inspector to the Head Assistant Magistrate who in his turn supplied the same to the District Magistrate; that the statements which were recorded at Tiruppur on the 20th and 21st December 1894, between the same two

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officers, must be equally untrustworthy; and that the only course was to abandon the illegal enquiry commenced from Petitioner's deposition, and drop the whole matter. But the Collector subsequently ordered the Tahsildar of Palladam to make enquiry in this connection. Getting the Tahsildar's witness on the 18th January 1895 saying that Petitioner had taken much interest on account of the woman at Tiruppur, the Collector called on Petitioner on the next day to show that he had not falsely denied the keeping of the woman, in other words, to prove the negative that the woman had not been his mistress. The witnesses examined were on the whole the Tahsildar's and Police Inspector's witnesses. None of them did, however, venture the falsehood that the woman had been Petitioner's mistress. With all their falsehoods and exaggerations, they did not prove that Petitioner did any thing beyond what every man endowed with the ordinary feelings of humanity or any Government Officer would have done in similar circumstances. Petitioner however wanted to show that they were lying and exaggerating. Petitioner could not do so without an effective cross-examination of them. Petitioner could not effectively cross-examine them without copies of their previous statements recorded without any notice to him. Petitioner had not been furnished even with a copy of the transfer application for which he applied to the Head Assistant Magistrate before October of that year. Petitioner was given only one day's written notice of the enquiry. Petitioner put in a petition urging all the above circumstances and praying for an adjournment, but the petition was refused with the remark that it was "a piece of impudent attempt to gain time." In such circumstances, Petitioner was also too severely pressed to give immediate defence on the ground that the Collector was in a great hurry to go to Kollegal on account of jamabandy while Petitioner was all along smarting under excruciating pain in consequence of the nature of the enquiry. Petitioner had therefore no other alternative than to state that he was unable to make his defence. He even requested that he might be let go with a short suspension because he could not more respectfully and accurately describe the unfortunate situation in which he was placed by the Collector. The Collector did not ask Petitioner a word further afterwards, but submitted his report, on the next day, the 23rd January 1895, that Petitioner might be ordered to retire from service on pension. Subsequently, the Board of Revenue were pleased to order copies of certain records without a copy of the Collector's report and ordered an explanation within 15 days' time. In obedience to the order, Petitioner submitted his explanation on the 14th and 19th March 1895, showing that the enquiry into the alleged concubinage was illegal; and that Nallamaraju's evidence upon which the charge of false denial was based, was false and unreliable.

21. To meet this explanation, the Collector had no materials. In support of the illegal enquiry, the Collector has assigned only the grounds which Petitioner has shown hereinbefore to be untenable. As for Nallamaraju's evidence, the Collector found it impossible to show that it was not false. He at last forwarded Petitioner's explanation to the Board on the 18th May 1895, indirectly admitting that Nallamaraju's evidence was false, which will be plain from the following facts. The Collector states that, were it proved that the woman had been in Petitioner's keeping, he would have recommended Petitioner's prosecution. In the absence of

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the woman, the evidence of her nearest relations like Nallamaraju would be the best evidence in the world to act upon. Therefore, if it did not show on the face of it that it was a deliberate falsehood, the Collector had no reason to disbelieve the evidence, that is to say, that the keeping was not proved. However, for the reasons submitted in the succeeding paragraph, the Collector did not wish to let it be understood at once that he had so disbelieved the evidence. Therefore, the Collector has elsewhere in the same report attempted to support the evidence in the following ways:—

Firstly.—The Collector says that a brother of the woman produced the photograph of Petitioner which was formerly the property of his sister, without saying which brother produced it, when it was produced, whence the brother got it, or whether he produced it voluntarily or under orders. As Petitioner had never given a photo and had no occasion to give one either to the woman or to any of her relations, Petitioner thought at once, as submitted in his Review, that Nallamaraju's brother the subordinate Constable and writer of Petitioner's enemy at Pollachi might have been supplied with a photo by the said enemy and made to hand it over to the Collector so as to save Nallamaraju who had saved him before, and at the same time to enable the Collector to meet Petitioner's explanation. Petitioner could not directly and more fully meet the evidence in connection with photograph, because he was refused, among others, a copy of the statement taken by the Collector along with the photo, even by the Government, on the ground that it would not assist Petitioner in his defence. But the whole mystery of the matter was unravelled on Petitioner's happening to see, in the possession of Syed khader while cross-examining Petitioner in the recent defamation case, a certified copy of the very same statement which has been refused to Petitioner by the Collector, the Board and the Government alike—a fact which Petitioner trusts will at once convince Your Excellency in Council of the manner of treatment which Petitioner had received from the Collector, and of the special kindness and indulgence shown to the other side. The statement is dated 26th March 1895. It is from no other brother than the same proved perjurer Nallamaraju. He has not however stated, as the Collector has written in his report and led the Board and Government to believe, that he personally knew that the photo was formerly his sister's property. But he has stated that he got it from her son, a boy, so as to lead the Collector to believe that the photo was genuine, just as he tried by awful prevarication on the 19th December 1894 to deceive the same officer into believing that he had a letter from Petitioner. It is not clear from the statement of the 26th March 1895, whether Nallamaraju was called on to appear, or whether he appeared voluntarily, or was taken as before by some body, before the District Magistrate. But, it is manifest that, being told that his statement of the 19th December 1894 had been sufficiently proved to be false in Petitioner's explanation of the 14th March 1895, and that his conviction for perjury was inevitable, he procured or was supplied with the photo and had kept it in readiness for his defence. He however justly feared that the District Magistrate would no longer believe him and did not therefore produce the photo until he first obtained the District Magistrate's orders to bring it. And, as a matter of fact, the Collector had had no faith in Nallamaraju's words as would be evident from the fact that even at the time of

taking the photo, the Collector did not question him about the letter or letters. The Collector did not, however, ask him the simple question whether he acquired the photo after or before the 14th March 1895, the date of Petitioner's explanation, even though it was then five months after Nallamaraju had made his former deposition and four months after the Collector had submitted his first report against Petitioner. And, it is a world known fact that it is not a difficult thing for one to procure another's photograph. Moreover, in the recent defamation case, Mr. Dutt questioned Petitioner with reference to Nallamaraju's statement of 26th March 1895, whether Petitioner gave his photo to the deceased woman or any of her relations. Petitioner answered in the negative. If Mr. Dutt believed the answer, he was bound to find that the alleged concubinage in support of which it was produced, was a deliberate falsehood. But, before disbelieving the answer, he was bound by the express provision of law contained in the last clause of Section 540 C. P. C. to call Nallamaraju to prove the photo or at least to show the photo to Petitioner and ask him whether it was not his. Mr. Dutt would not have omitted to do so in the circumstances if he had only been sure of the genuineness or identity of the photo. Nor did Syed khader's pleader who actually cross-examined Petitioner with reference to his certified copy of the above statement, suggest such a course. This necessarily induces Petitioner also to conclude that the photo was not really his, but of some wrong person appearing like him.

Secondly.—The Collector states, in para 12 of his report, that the letters mentioned by Nallamaraju would have reached his hands "but for a gross piece of disobedience on the part of one of my subordinates"—Mr. Harding, as Petitioner has been able to find out and submit in his Review. But Petitioner begs to submit that letters which had never come into existence could not have ever reached the Collector under any circumstance whatever. There is not a particle of evidence that any letters ever existed. No letter could have ever existed, as Petitioner had never written and had no occasion to write any letter either to the deceased woman or any of her relations. Nallamaraju has, by his gross prevarication and contradictions, clearly let the Collector know that his statements were entire falsehood. In such circumstances, it would have been impossible for Mr. Harding, to get any letter, even if he had strictly obeyed the Collector's orders in the matter. Petitioner is refused a copy of the Demi-Official in which the Collector must have stated any reasons for laying such a charge against Mr. Harding. The copy is refused even by the Government on the ground that it would not assist Petitioner in his defence. But, if Petitioner had been given a copy, he would have easily convinced the local Government, either that the Collector had given no reasons for imputing disobedience to Mr. Harding or that any reasons given by the Collector were not proper but were only calculated to lead the Board and Government to believe Nallamaraju's evidence which was manifestly false. Petitioner does not know, whether Mr. Harding was at all asked to explain the fault attributed to him in the matter, and how he explained it. But, the mere fact that the Collector has never asked Nallamaraju to account for the failure of the letters, will, Petitioner humbly submits, readily convince Your Excellency in Council that the Collector knew

Nallamaraju

Subordinate

that Nallamaraju's evidence was a hopeless falsehood. However, agreeably to his accusation against Mr. Harding, the Collector has stated that Petitioner subsequently purchased the letter, though, on being asked, the Collector has informed Petitioner in writing that he only heard so.

Thirdly.—The Collector refers to a case of 1892 on the file of the Deputy Magistrate, Coimbatore, saying that the relations of the deceased woman with Petitioner were directly brought in question in that case. The Collector has not in the least attempted to show how. The facts of the case are that certain admitted enemies of Nallamaraju and who had also been previously convicted in a case brought by Nallamaraju and whose conviction had also been confirmed by the Appellate Court, collected their adherents, and all of them intimidated Nallamaraju by threatening to beat and hurt him and also abused him by saying that he got them convicted by taking his sister to Petitioner, the Sub Magistrate. Such abuses and threats are often resorted to by enemies and convicted persons. And Nallamaraju's sister must have been also known to them to have been immoral. Petitioner therefore begs to submit that the reference to the above case is simply uncharitable. On the other hand, the case clearly proves that Nallamaraju was perfectly aware that his sister had nothing to do with Petitioner and that he did not brook the false imputation. And this shows only that Nallamaraju's present deposition is nothing but the result of the malicious concoction described hereinbefore.

Fourthly.—The Collector says that 4 out of the 5 brothers of the deceased woman have informed him that they knew of her relations with Petitioner. Excepting Nallamaraju whose evidence is shown to be false, they are only 3. Of those 3, the Erode brother has not stated so in his deposition before Mr. Harding. Therefore if he had subsequently stated so, no further evidence is necessary to prove that such statement is a concoction. The remaining 2 brothers were the Police Constable and the hotel keeper at Pollachi. But it is by saving them from their dangers, that Petitioner's enemy the Police Inspector procured Nallamaraju's evidence. They were therefore the creatures of Petitioner's enemy. If only copies of their statements had been furnished to Petitioner, he would have been able directly to convince the Local Government of the fact of their concoction. Petitioner begs permission to add that he has got sufficient materials to prove that the fifth and eldest brother of the deceased woman, who was at Satyamangalam, had stated before the local Sub Magistrate in the presence of the Deputy Magistrate of that Division, Mr. Chappen Menon, that he had never heard that she was ever kept by Petitioner, though the Sub Magistrate, in pursuance of the Deputy Magistrate's orders, tried to his utmost, to extort some evidence from the man against Petitioner. And Mr. Chappen Menon must have accordingly reported to the District Magistrate the fact of the 5th brother having denied all knowledge of Petitioner's alleged relationship with his sister. But this most important fact in Petitioner's favor has been omitted by the Collector in his report. And the Collector's statement made instead, viz, "the fifth has not been examined as I prefer not to summon him and I have not been near his residence" must have led the Board and Government to think that the Collector had no idea of the fifth brother's knowledge in the matter.

Substantially

Fifthly.—The Collector states that certain prominent officials and others have told him that the woman had been in Petitioner's keeping. But Petitioner most respectfully begs permission to submit that he has been given no chance of knowing who those gentlemen are, what information they gave, or how they acquired the same, and that under these circumstances, it is extremely difficult for one to criticize the so-called evidence. The Collector who has thought it necessary to give their names in his report to the Board so as to lead the Board and Government to believe Nallamaraju's deposition, has, as admitted by himself, omitted the names in the copy of the report furnished to Petitioner. Fearing that the names of prominent officials and other persons would go to mislead the Board and Government more than any other, Petitioner made a special Petition to the Local Government in August 1897, requesting that the names might be disclosed so as to enable Petitioner to show that their information was quite untrustworthy, irrespective of their calling and position, but the names were withheld even by the Government. Your Excellency in Council would be graciously pleased to consider whether it is fair that the Collector's report based on such information, the falsity of which Petitioner has been denied an opportunity of proving, should be acted upon and Petitioner condemned unheard. As against such evidence, Petitioner humbly begs to submit that, in the recent defamation case, one Mr. Bhujanga Row, a graduate of the Madras University, a professor of the Coimbatore College and Teacher of 32 years standing in the same institution, has stated in public court and upon oath that, although he was Petitioner's neighbour all the time (2½ years) Petitioner was Sub Magistrate in Coimbatore, he did not hear of Petitioner having kept a woman. This fact having been elicited from Mr. Bhujanga Row, not by Petitioner but by his adverse side, is unquestionably a conclusive proof of the fact referred to. But, most unfortunately for Petitioner, Mr. Dutt has most significantly omitted all reference in his judgment to such openly-given evidence recorded by himself, apparently because, if Mr. Dutt mentioned this evidence in his judgment, he would have placed himself under the necessity of comparing the value of the same with the value of the evidence secretly given to the Collector and make unpleasant comments on the latter.

Sixthly.—The Collector states that Petitioner said to him verbally on 21st January 1895, that the charge of false denial was substantially true. Petitioner begs to submit that he did never say so. If Petitioner had only said so, the Collector who has taken and caused to be taken so many statements against Petitioner secretly and behind Petitioner's back, would not have hesitated to record such direct statement of Petitioner then and there. Again, the Collector has not stated that Petitioner said so, in his first report dated 23rd January 1895 which was immediately after the alleged offence. But the Collector has made such a statement only in his report forwarded 4 months after the above date and 2½ months after Petitioner had shown that Nallamaraju's evidence was false and unreliable.

Seventhly.—The Collector at last takes up Petitioner's statement of 22nd January 1895, that he was unable to make his defence, and points out that Petitioner conveyed thereby that he had no defence to make. Petitioner begs to submit that Your Excellency in Council will be kindly pleased

Substantially

to consider whether the words "unable to make my defence" does not convey that Petitioner had his defence but was unable to make it. If it necessarily conveyed that Petitioner had no defence to make, this was just the statement which the then circumstances would have warranted. For, Petitioner was called on to prove that he had not kept the woman while no witness said that he had kept her, and therefore there was no necessity for any defence. And Petitioner did not know that the Collector had taken Nallamaraju's statement previously, or that the Collector had thought to use it to prove the keeping of the woman, or that the Collector intended to take Petitioner's defence first, and then examine or not examine Nallamaraju.

Eighthly.—The Collector then points out that Petitioner had no necessity to put in such a statement unless he was guilty of the charge. Petitioner begs to submit that the above statement was the only statement which could be reasonably expected in the circumstances according to the rules of enquiry. Petitioner would have, however, put in a somewhat detailed statement, but for the unfortunate circumstances described in para 20 supra. In order to show that he did not subject Petitioner to any pressure, the Collector has attempted to make out that the statement was voluntary.

Part III.

22. Now arises the fundamental question why the Collector and the District Magistrate should have had recourse to such ways as the above, in order to show that Nallamaraju's evidence is true, while it is manifestly false, while he has himself disbelieved it as demonstrated hereinabove, and while by showing it to be true, he could have had no other satisfaction than that of exposing Petitioner's falsehood in denying his relationship with a woman. Therefore, Petitioner humbly begs permission to submit that, after Petitioner had discovered and pointed out in his explanation that the joint interference of the Head Assistant Magistrate and Petitioner's enemy the Police Inspector in the matter of evidence against him was the cause of the District Magistrate's Proceedings against him, the Collector, as will be clear from para 21 of his second report, called upon the Head Assistant Magistrate to explain his conduct in the matter. The Head Assistant Magistrate explained to the Collector Demi-Officially that, when he took charge of the Division, which was four months before, *viz.*, at the end of August 1894, he was not aware of the Inspector's enmity with Petitioner, because there were no complaints by Petitioner against the Inspector, pending at that time. And even this explanation is not true because such complaints were pending at that time to the knowledge of the Head Assistant Magistrate, according to his own reply to Petitioner and reports to the Collector which are printed at page 5 of the Appendix IV. Thus, the Head Assistant Magistrate had no means of exonerating himself. But, it would at least be something, if Nallamaraju's evidence were true. Therefore, the Collector has further attempted as above to show that Nallamaraju's evidence was not false, but Petitioner's explanation was false and concocted. Whereas, not a word of his explanation was false, as demonstrated in Appendices IV and V.

Rubborating

23. But, most unfortunately for Petitioner, there is no reference in the Proceedings of the Honorable Board of Revenue either to the illegal character of the enquiry held by the District Magistrate which has not only directly spoiled Petitioner's private character but eventually ruined him in his official career, or to the circumstances in which the District Magistrate happened to get Nallamaraju's evidence. If the Honorable Board of Revenue had only entered into a slight discussion in their Proceedings on the illegality of the District Magistrate's procedure or on the necessity of the Head Assistant Magistrate's forwarding Nallamaraju with a Demi-Official, Petitioner begs to submit with confidence that the Board of Revenue could not have had any order to record against Petitioner, but would have been pleased then and there to leave Petitioner undisturbed. It is however quite clear from the first para of the Collector's second report that the very first point whence the illegality began, *viz.*, Petitioner's deposition upon oath on the 18th December 1894, attracted at once the attention of the Board of Revenue, long before Petitioner pointed out the same in his explanation. The Collector was accordingly called upon to explain why he examined Petitioner upon oath on the above date. He explained that he did so under Section 476 C. P. C. with a view to sanction the prosecution of Syed khader for the offence of giving false information. But, as shown hereinabove, there was no necessity for the District Magistrate to enquire into the alleged concubinage for the purpose of granting sanction to prosecute for the offence of false charge or false information; and as for the defamation, no court or officer had any jurisdiction under the Code of Criminal Procedure. Therefore, the Board did not accept the Collector's explanation; and they apparently found that the Collector had no justification for the illegal examination of Petitioner which was closely followed by the illegal evidence of Nallamaraju obtained to contradict Petitioner. Petitioner humbly begs to submit that he was entitled to the full benefit of the above valuable finding of the Board of Revenue. Such a finding, so favorable to Petitioner's cause, does not find a place in their Proceedings. But, they state instead, in para 3 of the Proceedings that Mr. Bradley put Petitioner on his defence and took statements on the above date. But this statement of the Board is opposed to the Collector's own explanation in which he distinctly states that he examined Petitioner as an applicant for sanction to prosecute Syed khader, as indeed Petitioner required sanction though not for the offence of defamation about which he was illegally examined. To the best of Petitioner's understanding, the Collector's explanation did not convey that Petitioner was put on his defence. Besides, the fact that Petitioner was put upon his oath must militate against all supposition that he was put on his defence. And the summons issued by the District Magistrate expressly directed Petitioner to appear and give evidence as a witness. Then, so as to show that the Collector was right in having adopted the supposed course of putting Petitioner on his defence, it is stated that from the evidence taken on the 11th December 1894, the Collector had reasons to believe that Petitioner was guilty. But it must have been at the same time plain to the Board of Revenue that the Collector would not have been justified in putting Petitioner on his defence with reference to the above evidence, because Petitioner could not have had any idea of that evidence as it was recorded in his absence.

Rubborating

This difficulty has been got over again by the statement that Petitioner had notice to appear on the 11th December 1894 but he failed to do so, which means that Petitioner should thank himself if he had not had any idea of that evidence. But, this statement is incorrect: for, the Collector admits in para 28 of his second report that no written order was sent to Petitioner to appear before the District Magistrate on the above date. As the Collector himself admits in the same para that Petitioner failed to appear before the Head Assistant Magistrate, Petitioner could have received no verbal order either, in the matter. Petitioner begs to submit that if the Demi-Official referred to, stated that any verbal order was given to Petitioner, then the Demi-Official must be false. And Petitioner is prepared, if necessary, to prove the same more conclusively. If Petitioner had only received any manner of notice for that date, he would have most certainly and willingly appeared before the District Magistrate and easily convinced him that the whole transfer application was the tissue of deliberate falsehood and that it was invented by the Police Inspector, by having cross-examined Syed khader alone who was put on oath by the District Magistrate. Then, turning again to Nallamaraju's evidence, Petitioner most humbly and respectfully begs to invite the kind attention of Your Excellency in Council to para 4 of the Board's Proceedings in which some abstracts of witnesses' statements are given without being weighed in the least. He humbly begs to point out that though it is concluded in para 6, that Petitioner had kept the woman, yet there is no sort of mention of Nallamaraju's evidence which alone could support that conclusion, in para 4. It will appear from this para that Nallamaraju's evidence was not altogether before the Board of Revenue, while, as a matter of fact, the same was before them. This will only show that the Board utterly disbelieved that evidence and were fully convinced of the illegal nature thereof, and accordingly thought it safe to omit to mention it in their Proceedings. Petitioner begs to point out only one more unfortunate circumstance in this connection. The witness Alami cited and examined by Syed khader himself had distinctly proved that Petitioner had nothing to do with the child. This evidence is however ignored. But the evidence subsequently obtained during the admitted illegal enquiry that Petitioner looked after the child is used against Petitioner. Petitioner is aware of only one circumstance which is admitted by the Collector in his report. The circumstance is this. After recording Nallamaraju's evidence supplied by the Head Assistant Magistrate and before ordering Palladam Tahsildar to send evidence—a period during which the whole Proceedings of the District Magistrate were a profound secret at least so far as Petitioner was concerned,—the Collector happened to meet the Hon'ble Mr. J. Sturrock, Commissioner of Land Revenue during the Christmas holidays; and the Hon'ble Mr. J. Sturrock then spoke to the Collector about the charges against Petitioner. How the Hon'ble Mr. J. Sturrock had at all come to hear of any charges against Petitioner, previously, as the Collector puts it, is a thorough mystery to Petitioner. But, if the Collector had only spoken to the Hon'ble Mr. J. Sturrock about the charges, Petitioner begs to submit that the Collector must have represented to him that Petitioner was guilty, for, the Collector had, to the last, tried to show that Nallamaraju's evidence was true. But whatever might have been the cause of the above statements in the Board's

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Proceedings, Petitioner begs permission to submit that those statements must have considerably prejudiced Petitioner's case before the Local Government. For, the statement that Petitioner was put on his defence on the 18th December 1894, must have naturally led the Government to think that there was some real charge against Petitioner, that he was given an opportunity of defending himself so early as 18th December 1894, and that yet he did not succeed in making his defence, though, he was given time until 22nd January 1895, that is, a space of 34 days; while in reality there was no charge against Petitioner; while there was no evidence to support such charge except what was concocted out of a conspiracy; and while he was never given an opportunity of defending himself, if any defence were at all called for. In the same manner, the Board's statement that Petitioner had notice to appear before the District Magistrate on the 11th December 1894, but he failed to do so, must have caused the Government to think that Petitioner disobeyed the order of his official superior. And, it is scarcely necessary to submit that in consequence of the omission of all reference to the illegality of the enquiry into the alleged concubinage, the Local Government could have had no occasion to think of the same.

24. **SUMMARY.**—An accused person, undergoing trial by Petitioner, attributed to him concubinage as the cause of Petitioner's instigating a false complaint against him. The then District Magistrate Mr. Broadfoot found the charge of instigation to be an obvious falsehood, and referring to the Police conspiracy against Petitioner, suggested that the accused should be prosecuted. His successor Mr. Bradley held a preliminary enquiry into the charge of instigation and found that it was such a deliberate falsehood, that he did not ask Petitioner a word about it and did not take to the notice of the Board even the fact of the accusation. Thus the allegation of concubinage was absolutely irrelevant, immaterial and obviously malicious. Again, the accused person who had six months' time to prove the allegation, most miserably failed to prove it. Moreover, he had alleged that Petitioner brought the woman along with him from Coimbatore to Tiruppur by train as the best and conclusive evidence of the alleged concubinage. But Mr. Bradley found this allegation to be such a dangerous falsehood, that he has thought it safe to change it in his report into one that Petitioner only met the woman at the latter station. Thus, the District Magistrate must have seen that the alleged concubinage was also false. Still, subsequently, the District Magistrate illegally questioned Petitioner upon oath whether it was not true that the woman had ever been his mistress, and recorded his expected denial. Immediately, the District Magistrate recorded a sworn statement contradicting Petitioner's denial from a witness forwarded by the Head Assistant Magistrate knowing that the witness was procured by Petitioner's enemy, the Police Inspector. Immediately after this was done, the Head Assistant Magistrate and the Inspector went to Tiruppur and obtained certain statements also on oath and also without any notice to Petitioner. These latter statements show at most that Petitioner got accommodation for the deceased woman and her relatives in their unfortunate condition, and that, after her death, Petitioner sent information to her relatives and arranged for the burial of the dead body, as her relations on the spot were a single married woman with a lot of children. On such illegal and secretly recorded evidence,

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Petitioner was found guilty of having falsely denied the alleged concubinage. And it is tacitly admitted by the Board of Revenue that the enquiry was illegal, and the evidence of the 19th December 1894 illegal and false. If Your Excellency in Council should be so pleased as to consider it just and fair that Petitioner should answer a charge which arose in such circumstances, Petitioner humbly submits that he has shown that the evidence of the 19th December 1894, cannot be any thing but a maliciously concocted falsehood. Petitioner most respectfully and humbly begs to request that Your Excellency in Council will be so graciously pleased as to ignore for a moment the existence of the above evidence and banish from mind all impressions derived therefrom and then consider whether Petitioner's acts at Tiruppur, grossly colored and exaggerated as they are, prove that Petitioner did any thing beyond what every man endowed with the ordinary feelings of humanity or any Government Officer placed in similar circumstances would have done. Again Petitioner has stated on oath, that, on the first occasion when he rendered assistance, he had happened to go to Tiruppur with his wife in order to see his brother and his brother's wife and others who went from Coimbatore to Karur. This statement is not contradicted by any witness but is on the other hand proved even by Petitioner's hostile witness examined by the Tahsildar. On the 2nd occasion, Petitioner happened to be there to meet his own mother who came from Karur. The Collector himself admits that Petitioner's mother was present with him on this occasion. If the deceased woman had been Petitioner's concubine, Petitioner most humbly begs permission to ask whether it is just and proper to think that Petitioner would have taken either his wife or mother with him on such occasions; and whether it is generous and consistent with principles of human nature to suppose that Petitioner's mother and wife belonging to strictly religious and well-bred orthodox Brahmin family did not possess that hatred and jealousy which is common to woman-kind in general and that they had lost all sense of modesty and self-decency so as to be present with Petitioner when he was engaged in the services of a Sudra kept-woman. Against this invincible proof of Petitioner's innocence in the matter, the Collector states that Petitioner has not made all such statements in his report and that he has made them only in his deposition, and further suggests that these latter statements are tantamount to admissions of the facts which he has denied in his report. Petitioner most thankfully owns in the present circumstances that he would have acted very wisely if he had stated all these things in his report. But, for the reasons submitted in para 9 supra, Petitioner was brief in his report in regard to the allegations concerning his private character. Moreover, Petitioner's report was a literal reply to the allegations of the accused, but his deposition was an answer to the questions put by the District Magistrate. In conclusion, Petitioner begs to submit that it is admitted that the Head Assistant Magistrate forwarded the witness of the 19th December 1894 with a Demi-Official, and it cannot be denied that he sent him in the custody of the Police Inspector, knowing that the witness was got up by that very enemy of Petitioner. It is shown that the District Magistrate recorded the witness's statement knowing that he was procured by the said enemy of Petitioner. Now, the simple question is whether the Inspector proceeded to procure the witness, of his

own accord, or under the orders of the Head Assistant Magistrate. But, Petitioner is not prepared to say that he procured the witness under the orders of the said officer. Then, the irresistible conclusion is that the Police Inspector proceeded voluntarily and in order to gratify his grudge against Petitioner, and that he concocted the witness in the circumstances described hereinbefore, so as to show that Syed kader's allegations which had been previously proved to be false were not false; and that the Inspector having effected this, so manoeuvred as to induce the Head Assistant Magistrate to forward the witness to the District Magistrate. Then, it necessarily follows, as a logical inference, that it was the Inspector who invented the false allegations originally. And this is Petitioner's sole defence asserted in his deposition on the 18th December 1894, and now conclusively established. **Your Excellency in Council will thus be pleased to find that Petitioner made no untrue averments either in his report or statement, as stated in the order of dismissal.**

(a) It is next stated in the dismissal order that Petitioner's petitions subsequent to the Collector's report were disingenuous and full of falsehoods. But Petitioner has not at all uttered even a single falsehood in any of those petitions. And if the supposed false and disingenuous statements are kindly ordered to be specified for the sake of justice and mercy, Petitioner will readily show that they are nothing but plain unalloyed truths. As for prejudice and harsh conduct, Petitioner humbly begs to submit that he felt that the treatment he received was harsh, that he was perfectly certain that the District Magistrate would not have proceeded in the way in which he had done, but for certain extraneous circumstances, and that therefore, as an aggrieved party, he took the liberty of explaining that the conduct of the Police Inspector and Head Assistant Magistrate had led him to be prejudiced against Petitioner. The Board of Revenue have taken no exception to Petitioner's doing so. And the Collector has himself admitted prejudice in his letter to the High Court dated 27-2-1896 by not saying a word against Petitioner's distinctly attributing it.

(b) As for the previous character of Petitioner, which was the 2nd and last ground of the Board of Revenue recommending Petitioner's dismissal, he has given a detailed account of the same in Appendix V. Petitioner trusts that Your Excellency in Council will be pleased to find that his previous conduct has always been good and deserving encouragement. And there is no reference to the previous character in the order of the Government.

(c) The Collector has, at the same time, referred to an extraneous matter in his first report, viz., the conviction of one Raghavaiyar falsely and maliciously represented as Petitioner's relative. But, as soon as Petitioner had reasons to believe that the Collector had referred to it, Petitioner represented in his explanation to the Board of Revenue that the reference was unjustified on the ground that Petitioner was neither a party nor a witness to the case, nor any explanation taken from him in connection therewith. Petitioner at the same time requested that any necessary explanation should be taken from him, but no such thing was ever done. Petitioner is not told of the reason why. But, Petitioner begs to submit one most significant fact on the point. The Head Assistant Magistrate who convicted the above Raghavaiyar

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iyar has, in his judgment, stated that he would separately proceed against Syed khader the prosecutor, but apparently not done so. If the Head Assistant Magistrate had only proceeded against Syed khader, Raghavaiyar's conviction would have at once proved wrong. Syed khader would have no other alternative than to confess that he brought this case also at the instigation of Petitioner's enemy the afore-said Police Inspector, so as to tarnish Petitioner's reputation. And, there would have been no room for the Collector to proceed with the present so-called case against Petitioner. The most deliberate falsehood persistently repeated by Syed khader that the above Raghavaiyar was Petitioner's *mother's brother*, while he was no body to Petitioner, not even a member of his sect, must alone sufficiently prove that the case was so maliciously concocted as to affect Petitioner at the onset.

PRAYER.—Feeling that he has thus established his perfect innocence throughout the matter, Petitioner most humbly begs to pray that, if Your Excellency in Council should also be pleased to find him so, Your Excellency in Council will be graciously pleased to pass such orders as Your Excellency in Council will be pleased to pass in the case of every innocent Government servant undeservedly punished. If, through some misfortune of Petitioner, Your Excellency in Council will be pleased to consider that he has falsely denied any acts done or omitted, Petitioner most humbly begs to pray that Your Excellency in Council will be kindly pleased to punish him directly for the acts or omissions, of which he may be found to have been guilty, but not for false denials of the same. For, such latter charge could have never come into existence but for the admitted illegal procedure resorted to by the District Magistrate on the representations of the Head Assistant Magistrate; and by punishing Petitioner for such false denials, it would seem that whenever an unfortunate Government servant is found to have done an unpunishable private act, an illegal enquiry may be held under some circumstance or other and evidence obtained to show that he has denied the act and he may be punished for the false denial instead of the act denied. Finally, Your Excellency in Council's humble Petitioner begs leave to submit that, should Your Excellency, to the misfortune of the Petitioner, come to the conclusion that he has made a false statement in denying his private relationship with a woman—a denial, which, the Petitioner begs pardon to submit, carries with it more virtue and honor and innocence than otherwise, Your Excellency would at least be graciously pleased to notice that the punishment is unduly severe and out of all proportions to the magnitude of the offence, if any, and that a public servant who has faithfully served Her Majesty's benign Government for no less than 27 years and has justly laid claim to the full privilege of his pension, should not be ruthlessly shunted out of service without the benefit of pension even and thrown into the cold world at large in his old age and with his large family without any means of sustenance. Petitioner accordingly begs to pray for justice and mercy at the hands of Your Excellency in Council.

Subbarathnam

Telugu Brahmin Street,
COIMBATORE.

29th September 1898. }

APPENDIX IV.

Petitioner's reply to the Collector's remarks contained in his report to the Board, dated 18th May 1895, Exhibit V, upon which is based the subsequent charge against Petitioner, viz., that his explanation is a tissue of falsehood; the remarks being opposed to facts and records.

The Collector in para. 6 of his report, dated 18th May 1895, Exhibit V, remarks that petitioner affects to reduce the charges against him, to the denial of the two main allegations, viz., that he entertained the deceased woman as a mistress and that he had her child under his protection. Petitioner begs to represent that at the time he submitted his explanation to the Board, he had not been furnished with the Collector's report to the Board. He was, therefore, ignorant as to whether the Collector had recorded separate findings against him on each of the allegations or had taken the two broad facts of the case, viz., petitioner's entertainment of the woman and protection of her child. Petitioner considered that these were the essential allegations which he had to meet, and that the others were subsidiary ones which could be dealt with, in disposing of these two. Petitioner met these two allegations by stating that the protection of the child was not alluded to in the charges furnished by the Collector and by shewing that the evidence of Nallama Razu, the only direct witness, was unreliable. He had not the least intention of shirking the other allegations, and he has shewn in paras. 1 to 19, Appendix III, that every one of the other allegations is false, as he could have shewn at any time.

Reply to
para. 6 of the
Collector's
report.

2. The Collector in para. 8 of his report remarks that the statement in para. 4 (1) of petitioner's explanation, Exhibit VI, is irrelevant, because petitioner referred to records made by the Collector in his enquiry into the subject of granting permission for Syed Kadir's prosecution.

Reply to
Collector's
para. 8.

Petitioner humbly submits that he considered it relevant because the Collector had submitted to the Board some of the depositions made during that enquiry.

3. In the same para. the Collector remarks that petitioner's statement in para. 4 (2) of his explanation is built upon Alimi's evidence, a deposition of only 4 or 5 lines. Though her evidence consists of only 4 or 5 lines, it distinctly proves that petitioner had nothing to do with the child. Moreover this witness was cited and examined by Syed Kadir on his own behalf against the petitioner; and neither Syed Kadir nor the District Magistrate treated her as a hostile witness.

4. The petitioner humbly submits that the Collector's statement about his having inspired the nurse, Alimi, to make a charge against peon Rungaswami Naik is supported by no evidence. With regard to the Collector's statement about petitioner having previously brought charges against this man of having sided

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with the Police, petitioner asked the Collector for records on which he based this statement; but the Collector informed the petitioner that his application was too vague.

5. With reference to the remainder of the same paragraph, petitioner humbly submits that he believed that his evidence given on 18th Dec. 1894 had been credited by the District Magistrate. Petitioner on that occasion had stated that he obtained the accommodation for the deceased woman through the Munsiff Monegar of Tirupur; the Collector, immediately after, examined the Munsiff Monegar but did not question him on this point and petitioner therefore concluded that he had been credited, as the Collector did not try to contradict his evidence by the Munsiff Monegar. The Collector states that he did not know that the Munsiff Monegar he was examining was the Munsiff Monegar mentioned by petitioner; but, petitioner understood that the Collector must have been aware of the fact of this witness being the Munsiff Monegar referred to by petitioner. The summons of the Collector, sent by the Deputy Collector, cited by the Collector himself, shows that the Tahsildar was directed to send the Monegar of that village of which Muthugounden Pudur was the hamlet; and the Tahsildar must of necessity have informed the Collector that he had directed the Munsiff Monegar of Tirupur to appear before him, as Muthugounden Pudur was a hamlet of that village. The Collector has refused petitioner a copy of the Tahsildar's report, on the ground that it is not in existence. (Vide File No. 3, pages. 12 & 13.)

The Collector says further that at that time he had not the least idea that petitioner's report of the 28th July was false. Whereas the Board has found that so far back as the 11th December the Collector had reason to believe that the petitioner had been guilty of deliberate falsehoods in denying in his report to the District Magistrate all connection with the deceased woman. (Ex. II, para. 3.)

6. With regard to the Collector's remarks in para. 9 anent petitioner's statement about a concocted Police occurrence report to the effect that the woman, Alimi, had stated she was nursing a child who had been given her by the Sub-Magistrate, petitioner submits that the report of the local Village Magistrate Govindu Rao, dated 29th August 1894, will show that Alimi said to the Police that she got the child not from the petitioner but from its grandmother. The Collector remarks that any Sub-Magistrate would have had such a remark expunged from a similar report. Petitioner did not apply for the expunging of that portion of the Police report, because he had so far back as 28th July 1894 submitted his report to the District Magistrate denying his connection with the child; and he thought he might have his own redress against the policemen concerned in the course of his prosecution of Syed Kadir, for which orders were daily expected in pursuance of Mr. Broadfoot's order of 30th July 1894.

7. With regard to the Collector's statement in para. 10, that petitioner would have been allowed an opportunity of cross-examining the Head Constable of Palladam, Andiappa Pillay, "if the Head Constable's evidence had been taken into consideration against him;" petitioner humbly begs to request attention to para. 4 of the Collector's first report to the Board, dated 23rd January 1895, in which he makes the following statement:—" * * * but after examining the petitioner (Syed Kadir) and some witnesses produced by him, and also the Head

Reply to
Collector's
para. 9.

Reply to
Collector's
para. 10.

Rubbarally

Constable of Tirupur, I found reason to believe, &c." From the depositions themselves taken on 11th December, it will be seen that no Head Constable of Tirupur was examined on that day, and the only Head Constable examined on the occasion was Andiappa Pillay, Head Constable of Palladam. And that the Collector used Andiappa Pillay's evidence against petitioner will be more apparent by a perusal of the Board's proceedings, Ex. II, para. 3, in which it is stated that "Syed Kadir and certain others were then examined and from the evidence taken (on the 11th December 1894) the District Magistrate had reason to believe that the allegations contained in Syed Kadir's petition against the Sub-Magistrate were either true or were so nearly founded on truth that they might have been believed by him to be true when he wrote his petition, and that the Sub-Magistrate was guilty of deliberate falsehoods when he denied all connexion with the deceased woman." Thus, the Collector had taken the Head Constable's deposition into consideration against petitioner.

8. The Collector states that he was satisfied for three reasons that Syed Kadir had not been set up by the Police Inspector:—

(a) The first reason given is that the Police Inspector had no hand in the enquiry under section 476. But, the enquiry against petitioner which commenced with his own examination on the 13th December 1894, followed by that of Nallama Raju the next day, and of others at Tirupur on the 20th and 21st December was admittedly under section 476, C.P.C.; and the Collector owns that he sent the Police Inspector of Palladam to Nallama Raju's house to secure a document (telegram); and the Inspector secured it. Thus the Inspector had a hand in the enquiry.

(b) The second reason given by the Collector is that the witnesses produced were Syed Kadir's friends and relatives, and if the Police had had any hand in their evidence, it would have been much stronger. The petitioner however respectfully submits that these depositions would never have been as strong as they were, had not some influence been brought to bear on the witnesses.

(c) The third reason is that the petitioner himself in his report of the 28th July ascribes the instigation of Syed Kadir to a certain Kadir Khan and not to the Police.

At the time petitioner wrote his report of the 28th July, he only had evidence connecting Kadir Khan with Syed Kadir, viz., Kadir Khan accompanied Syed Kadir as often as he came to Palladam, took him to the Police Station on the 23rd evening (July) and went with him to Coimbatore on the 24th, and caused him to present the petition, reported upon. Petitioner, therefore in his report of 28th July 1894, mentioned that Kadir Khan had misguided Syed Kadir. Soon afterwards, petitioner received evidence that the said Kadir Khan, a dismissed Police Constable, and the Station House Officer, took Syed Kadir to the Inspector's house and that the Inspector sent Kadir Khan to Coimbatore with Syed Kadir, with instructions that the petition should be presented. Up till this time, petitioner had only suspicions against the police, and did not care to venture a report on suspicion. At this stage, petitioner did not deem fit to report this, as he anticipated that he would have a formal opportunity of bringing the circumstance to light during the proceedings which were to be taken against Syed Kadir. On the earliest date, when petitioner was examined, he took the opportunity of stating that Syed Kadir had been set up by the Police Inspector.

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Reply to
Collector's
para. 11.

9. With regard to the Collector's statement in para. II "I cannot find in it [petitioner's deposition of 18th December] a word about the Police Inspector's favourite Head Constable Andiappa Pillay, nor is it suggested that the Police had fabricated false evidence or made a false record in favour of Syed Kadir and against the Sub-Magistrate. This misstatement in the petition (to the Board) must have been intentional," petitioner humbly submits that he has stated the words "The Head Constable," though not the name. And a reference to the latter portion of petitioner's deposition (File No. 3, pp. 7 & 8) and the records therein referred to, especially the Village Magistrate's report, will shew that the woman Alimi did not state to Head Constable Andiappa Pillay that she got the child from petitioner but that this Head Constable had falsely entered in his occurrence report that Alimi had told him so. The reference will further shew that the Constable had obtained a certain Karuppa Gounden who was admittedly a bad character. The Police had recently let him off in a case of house-trespass brought against him, and he was thus under obligation to the Police. On the pretext of his statement that another woman had threatened to kill the child in Alimi's possession and bring a charge of murder against him, the Police made a report that they had examined Alimi in that connection and that she had declared that she had received the child from petitioner. The petitioner in his deposition did not indeed use the expression "favourite Head Constable" in referring to Andiappa; but to the best of petitioner's information it is an undeniable fact that the Police Inspector had him transferred from another station to his own, as he has stated in para. 4 (ii) of his explanation to the Revenue Board.

Reply to
Collector's
para. 12.

10. With regard to para. 12, the Collector's statement about letters which petitioner was said to have written to the deceased woman's family, has been met in para. 24, Appendix III. The petitioner however would respectfully submit that he did not see the Collector during the Christmas holidays; the last occasion on which he saw the Collector in 1894 was Sunday the 23rd December, on which day the Collector mentioned nothing about the letters to the best of petitioner's recollection. All that the Collector mentioned on that occasion was that he had called for records of cases in which the deceased woman was supposed to have appeared before the petitioner.

Reply to
Collector's
para. 13.

11. With regard to Nallama Razu's character alluded in para. 13, the Collector himself admits in the same para. that the man had left the Police force with a bad character, and during his service Nallama Razu had been reduced regarding a document. And in the case of defamation which he brought in 1892, the Deputy Magistrate of Coimbatore expressed his dissatisfaction with the man's character. (*Vide F. 3, pages 66 and 67.*) As for his suspension as a private Vakild, petitioner begs to submit that he actually did suspend Nallama Razu twice—once for misbehaviour in connection with a case of theft, and the second time for enquiries into his character.

Reply to
Collector's
para. 14.

12. In regard to para. 14, petitioner begs to state that the information which the "prominent officials" and others gave the Collector is quite false. Petitioner requested to be furnished with the names of these informants in order to take proceedings against them; but the request has been refused by the Collector, Board and Government. (*Vide Exhibits VII, VIII and IX.*)

Subbaratna Sastriar

13. The reply to paras. 17 to 20 is respectfully submitted in paras. 15 and 17 of Appendix II.

No. 88.

PALLADOM STATIONARY SUB-MAGISTRATE'S OFFICE,
23rd August 1894.

FROM A. SUBBARATNA SASTRIAR,
Stationary Sub-Magistrate, Palladom,
To THE HEAD ASSISTANT MAGISTRATE,
Coimbatore.

SIR,

Arzi No. 55, dated 25-5-94.
Do. " 57, " 5-6-94.
" 59, " 6-6-94.
" 60, " 8-6-94.
" 64, " 16-6-94.

I beg to state that I have not been able to know what final orders were passed on the marginally-noted arzis. If they are not yet disposed of, I beg to request that the subjects therein referred to may be enquired into at your earliest convenience and the results communicated to me in due course.

I beg to remain, Sir, your most obedient servant,
(Signed) A. SUBBARATNA SASTRIAR,
Stationary Sub-Magistrate.

No. 189.

MEMO.

Reference—Arzi No. 88, dated 23rd August 1894, from the Stationary Sub-Magistrate of Palladom, requesting that the subjects referred to in the Arzis quoted in the letter may be enquired into, if not yet disposed of, and the results communicated in due course.

ORDER.

Urzi No. 55, dated 25th May 1894, was recorded on 1st June 1894 by Mr. M. J. Murphy.

57 & 60. A copy of the Proceedings passed on the above arzis, dated 29th June 1894, has been communicated to the Sub-Magistrate.

59. In this connection the Inspector of Police, Palladom, has been requested to obtain and forward the explanation of the Police. No reply has yet been received. A reminder has been sent to the Inspector now.

64. The Inspector of Police was requested to report on this matter on 26th June 1894. No reply has yet been received. A reminder has been sent now.

(Signed) M. GHOSE,
Ag. Head Assistant Magistrate.

6th September 1894.

67 of 1895.
Magistrate

COIMBATORE HD. ASST. MAGISTRATE'S OFFICE,
29th March 1895.

FROM M. GHOSE, Esq.,
Ag. Head Asst. Magistrate, Coimbatore,

To THE DISTRICT MAGISTRATE,
Coimbatore.

SIR,

In reply to your Memo., dated 26th March 1895, in No. ^AMagistrate of 1895, asking me to report how the Palladom Sub-Magistrate's letter, dated August 23rd, 1894, No. 88, was disposed of, I have the honor to submit herewith copy of my Memo., No. 189, dated 6th September 1894, by which the said arzi has been disposed of.

With regard to the Sub-Magistrate's arzi, No. 59, dated 6th June 1894, it has been since reported by the Inspector of Police, Palladom, that the paper was returned by him to the late Sub-Magistrate, Mr. Subbaratna Sastriar, and a Memo. has been sent to the Sub-Magistrate to submit the arzi, &c., with the Police report, and they have not been yet received here, and a reminder will be again sent to the Sub-Magistrate.

Regarding the other paper, No. ⁶⁴16-6-94, reminders have been sent to the Inspector of Police, Palladom, and his report has not been yet received. Another reminder will issue now.

I have the honor to be, Sir, your most obedient servant,
(Signed) M. GHOSE,
Ag. Head Assistant Magistrate.

14. In para. 21, the District Magistrate referring to para. 2 of petitioner's explanation, Part II, states that no complaints from petitioner against the Police were pending at the time when Mr. Ghose took charge of the Head Assistant Magistrate's division from Mr. Murphy (on or about the 1st September 1894); and he bases this remark on a Demi-Official from Mr. Ghose, dated 20th Mar. 1895; whereas, at the very time alluded to, complaints were actually pending from petitioner against the Police, as will be seen from the documents printed marginally, viz., petitioner's arzi to the Head Assistant Magistrate, dated

Reply to
Collector's
paras. 17 to 20.

Reply to
Collector's
para. 21.

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No. 34 of 1895.

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COIMBATORE HD. ASST. MAGISTRATE'S OFFICE,
15th May 1895.

FROM

M. GHOSE, Esq.,
Ag. Head Asst. Magistrate, Coimbatore,

TO

THE DISTRICT MAGISTRATE,
Coimbatore.

SIR,

In continuation of my letter, No. 67 of 29th March last, I have the honor to report that the Stationary Sub-Magistrate of Palladom has since reported that the paper * referred to in para. 2 of my previous letter is not forthcoming in the records of his office. And as regards the other reference, viz., the Sub-Magistrate's arzi, No. 64, dated 16th June 1894, referred to in the last para. of my previous letter, the Palladom Police Inspector has since reported that there are no records with him regarding the arzi and that the paper in question was not handed over to him by his predecessor. Under these circumstances, I have the honor to state that nothing could be done on these references.

I have the honor to be, Sir, your most obedient servant,
(Signed) M. GHOSE,
Ag. Head Assistant Magistrate.

23rd August 1894;

Mr. Ghose's reply

thereto, dated 6th

September 1894;

and Mr. Ghose's

letters to the Dis-

trict Magistrate,

dated respectively

29th March 1895

and 15th May 1895.

(Vide also Appen-

dix V.)

Reply to
Collector's
paras. 22-27.

15. In reference to paras. 22 to 27 embracing petitioner's paras. 3 to 8, the petitioner begs to submit that, in the murder case referred to, petitioner committed three accused to the Coimbatore Sessions, but discharged the fourth (the father of two of the accused), on the ground that the first report of the Village Magistrate did not mention him, as being concerned in the case. The Sessions Judge convicted the three accused; but on appeal to the High Court, their convictions were quashed. After the conviction by the Sessions Judge the Inspector of Police made a motion before the District Magistrate, Mr. Broadfoot, with a view to the committal of the fourth accused, urging that petitioner had improperly discharged him and that he had burked certain depositions recorded on the scene of crime. In the mean-while the High Court had quashed the convictions of other three accused, so the District Magistrate, Mr. Broadfoot, declined to interfere in the matter with the remark that the fourth accused could not "have taken a leading part from his age and general debility." [Vide Proceedings No. 30 of 1894. File 5, page 61].

With regard to the question as to whether petitioner recorded depositions at the scene of crime or not, the Police Inspector stated that petitioner had taken certain depositions, but had burked them; and in a subsequent arzi the Police Inspector averred that if petitioner had committed the fourth accused, the High Court would not have quashed the convictions. The petitioner reported that he did not take depositions, but had simply made pencil notes of the names of witnesses, &c., as there was no necessity for taking regular depositions. The Head Assistant Magistrate reported to the District Magistrate [vide his letter to District Magistrate, dated 27th August 1894, No. 175, File 5, page 64], that petitioner's statement that no depositions were recorded, was "absolutely accurate;" nevertheless the Police Inspector presented the latter arzi above referred to, and the District Magistrate, Mr. Bradley, the successor of Mr. Broadfoot, found fault with the petitioner for not preserving the pencil notes and gave him a black mark, and added that the High Court was induced "as the result of his misconduct to acquit the prisoners." [Vide District Magistrate's Order, No. 1076 of 1894, File 5, page 71.]

The petitioner thereupon represented in arzi No. 68 of 27th September

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1894 that the Police Inspector was endeavouring to tarnish his reputation and requested that the remarks should be cancelled. The District Magistrate, however, replied (in Order No. 1255 of 6th October 1894), "The order was not passed without full consideration of the facts and the impression the Sub-Magistrate's conduct has made upon the Acting District Magistrate would not be effaced if the order were cancelled." [Vide File 5, page 78.]

16. Petitioner humbly begs to submit that under such circumstances he was led to believe that the Collector's order against him, in face of the decision of the High Court, was due to the representations of the Police Inspector.

17. In regard to the other case referred to by the Collector, viz., a torch-light house-dacoity case, the local Police had investigated the case and had referred it to petitioner as false, with the endorsement of the Inspector that the charge appeared "maliciously false." The petitioner on due enquiry found that the charge was perfectly true and accordingly committed it. The Sessions Court of Coimbatore convicted all the accused, awarding sentences of eight years apiece; and the High Court confirmed the convictions.

18. In such a case petitioner humbly submits that the Police Inspector was the responsible officer for sending such a referred charge sheet; and, according to the standing Police orders, No. 98, should have fully satisfied himself of the falsity of the charge, before referring the case.

19. In regard to the reports which the petitioner submitted about this case to the District Magistrate and Head Assistant Magistrate respectively, the Collector remarks that no mention is made by the petitioner of the Inspector of Police; and that petitioner's present mention of the Police Inspector was an after-thought.

The petitioner would humbly point out that in his report to the District Magistrate on this case, dated 10th August 1894, he states, para. 2:—

"I beg permission to add that this is a case which Krishna Gounden, a Head Constable of the Palladom Station House, referred to me, as wilfully false, with the Divisional Inspector's endorsement that the same was maliciously false."

In petitioner's report of the same case to the Head Assistant Magistrate, dated 1st August 1894, he simply mentions that the case had been referred to him by the Palladom Station House Officer. The apparent omission of the Inspector's name in this report was because the object of sending this report was not to bring to notice any misconduct on the part of the Police, but simply to request the Head Assistant Magistrate to forward to the Sessions Court certain records bearing on the case which remained in his office. The fact of the case having been referred by the Police was simply mentioned by way of describing it, as petitioner was informing the Head Assistant Magistrate that it had been committed to the Sessions. And even in this connection, petitioner begs to submit that according to the Police standing order, above referred to, the Police Inspector is bound to countersign every referred charge sheet, as proof of his being satisfied of the falsity of the case. Accordingly the statement that the case had been referred by the Palladom Station House Officer, implied that the Inspector was concerned in referring this case. Moreover this report to the Head Assistant Magistrate is dated 1st August 1894, when petitioner had only committed the case; whereas

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the report to the District Magistrate is dated 10th August 1894, viz., the day following the conviction of the case by the Sessions Judge of Coimbatore. In this latter report he wished to bring to the notice of the District Magistrate the conduct of the Station House Officer and the Inspector, between whom the case had been wilfully mismanaged.

20. In para. 26, the District Magistrate says that he supported petitioner throughout. The matter referred to is that the Police Inspector had made a false statement in his diary against petitioner, and the District Magistrate himself found that the Inspector had "recklessly brought a false charge" against petitioner. But the District Superintendent of Police dissented from this opinion of the District Magistrate; and petitioner received no further communication on the subject. If, in the same way in which the Inspector's remark was sent to petitioner, his explanation on the strength of which the District Superintendent disagreed with the District Magistrate, had also been sent to petitioner, he would have shown that the explanation was not correct, but misleading.

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Collector's
paras. 28 & 29.

21. With reference to paras. 28 and 29 of the Collector's report, dealing with paras. 9 and 10 of petitioner's explanation, Part II, petitioner begs to submit that the Collector here charges petitioner with shiftiness by referring to his deposition of the 18th December 1894, along with the above said paras. of the explanation.

At the commencement of petitioner's deposition [printed marginally],
SUBBARATHNA SASIRI, SUB-MAGISTRATE.
Sworn.

I did not appear in accordance with the instructions of the Head Assistant Magistrate, because I was not well and I asked him to excuse me. I did not get any reply. I thought that he would excuse me because he knew that I was not well. I was obliged to go to Karur on account of my grand mother's death, as she died without a son. I wish to press the charge of giving false information against this Mussulman. Before proceeding I wish to add something to the matter of the Head Assistant Magistrate's instructions. I did not consider it (Head Assistant's Magistrate's notice) an order to appear. I thought it was left to myself and that I was at liberty to spare myself.

particularly his reference to the Head Assistant Magistrate's notice will show that this deposition mainly related to his non-appearance before the Head Assistant Magistrate.

In para. 9 of petitioner's explanation, petitioner explains his non-appearance before the District Magistrate, and he further explains why the District Magistrate recorded in his proceedings in File No. 9 of 1894, that petitioner failed to appear before him, even though he was ordered to so appear. And this explanation is that he had received no orders from the Head Assistant Magistrate, and that the latter's letter to the District Magistrate, to the effect that he had directed the parties to appear before the District Magistrate, led that officer to think that the petitioner had also been directed to appear. And in para. 10 of petitioner's explanation, petitioner has shown that he was at a loss to know how the District Magistrate became aware of the petitioner's non-appearance before the Head Assistant

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Magistrate, inasmuch as the letter of the Head Assistant Magistrate in which he states that he directed the parties to appear before the District Magistrate did not convey at all that petitioner had not appeared before him. Petitioner, therefore, humbly begs to submit that his explanation does not afford any instance of shiftiness. And in support of his statements he would beg to refer to the following facts, bearing on this portion of the case:—

The Head Assistant Magistrate had been directed to enquire into the allegations of Syed Kadir against the petitioner with a view to Syed Kadir's prosecution. The Head Assistant Magistrate requested petitioner to present himself on the 3rd December 1894 at Pollachi. (*Vide* notice, dated 22nd November 1894.) Petitioner being too ill to drive at the time a distance of 25 miles, begged to excuse himself. (*Vide* letter, dated 24th November 1894.) The Head Assistant Magistrate now found that he had no jurisdiction to grant any sanction, and he accordingly referred the matter to the District Magistrate, stating "I have directed the parties to appear before you on the 11th instant (December)." The petitioner, not having been present at the Head Assistant Magistrate's Court, received no direction.

The District Magistrate in his judicial proceedings, dated 12th January 1895, (File 1, p. 38,) says however that petitioner was ordered to appear before him, and he therefore insisted on petitioner's appearance. Petitioner accordingly explained in para. 9 (of his explanation to the Board) that he had received no orders to appear, and that the Head Assistant Collector's letter, above referred to, had led the District Magistrate to believe that petitioner had been ordered to appear. In his report, however, the Collector himself admits: "It is perfectly true that no order was sent to the Sub-Magistrate," but he adds that "a verbal one *seems* to have been given," and bases this latter statement on the report above referred to of the Head Assistant Magistrate and a demi-official of the latter. (*Vide* Exhibit V, para. 28.) No verbal order was given, nor could any verbal order to appear have been given, as the petitioner was never before the Head Assistant Collector between the 22nd November (the date of notice) and the 11th December (the date on which the parties were to appear before District Magistrate).

22. With regard to para. 31 of the Collector's report, dealing with para. 11 (ii & iii) of petitioner's explanation, petitioner humbly begs to represent that there was no attempt to gain time on his part, when he applied for an adjournment on 9th January 1895, in order to carry on a suit and prosecution for defamation against Syed Kadir. Petitioner had been awaiting the result of the order of the District Magistrate, Mr. Broadfoot [predecessor of the present District Magistrate, Mr. Bradley] as to the advisability of ordering the prosecution of Syed Kadir, as will be evident by petitioner having made an application on this matter to the Head Assistant Magistrate on 29th September 1894. No order was passed on this till the 12th January 1895, that is, till three days after petitioner had applied for the adjournment, when the present District Magistrate disposed of the matter, by refusing to grant any sanction to prosecute the said Syed Kadir.

Though the occurrences referred to in Syed Kadir's allegations took place in June 1894, no actual enquiry with regard to them took place till the

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para. 31.

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following December; and when petitioner saw that the manner of the enquiry was prejudicial to him, petitioner thought fit not to lose any time, and put in the application on the 9th January for adjournment of the same, expressing that he would at once proceed against the said Syed Kadir in order to clear his character.

23. In regard to charges against himself, petitioner only received the written charges on the 18th January 1895. And petitioner is quite at a loss to know from what source the Hon'ble Mr. Sturrock had his information about these charges before or during the Christmas holidays.

24. With reference to the succeeding para. of the Collector's report, also numbered 31, and dealing with para. 11 (iv) of petitioner's explanation, petitioner humbly begs to submit that the expressions referred to in Exhibit X (File 3, p. 48) were noted immediately by petitioner's Vakil who has since been made Government Pleader of the Coimbatore District. And petitioner humbly prays that the said Vakil may be examined on this subject, if there is any doubt in the matter. Petitioner, moreover, humbly urges that he has not made improper use of these notes, as stated by the Collector. These notes were taken by his own legal adviser on his behalf and were made over to petitioner by the Vakil before he left the Collector's Office.

The Vakil has stated to the Collector behind petitioner's back, several months after he had been reported against, that he would not have given the notes to petitioner, had he known that petitioner would have used them as he did. But petitioner cannot understand how the Vakil could have refused to give the notes, if petitioner required them, as they were taken down by him solely for petitioner's use. Petitioner lawfully referred to them in his defence.

25. With regard to the Collector's statement that the Vakil had stated in open Court that he had advised, or was going to advise petitioner not to make any defence, petitioner begs to submit that his Vakil was scarcely in a position to give him such advice; as he at that moment was not fully acquainted with the facts of the case, as will appear from his application for adjournment, put in a little while before on that date in which he stated that there had been no time for him to take proper instructions from petitioner and to give him proper legal advice.

26. In this connection, petitioner respectfully begs to draw attention to the Collector's statement at the end of para. 31:—"I am informed that, as a matter of fact, the letter of the 22nd January [that he was unable to make his defence] was put in under the advice of his Vakil who subsequently refused to draft a petition to the contrary." Petitioner humbly urges that the information supplied to the Collector on this point is entirely false. He applied to the Collector for any record containing that information and was told that it was not on record.

27. With regard to paras. 32 to 35 (both inclusive) dealing with paras. 12, 13, 14, and 15 of petitioner's explanation, petitioner submits that the material points therein raised have already been explained hereinbefore, excepting the portions relating to the money order, which will be dealt with later on.

Reply to
Collector's
next para.
also num-
bered 31.

Reply to
Collector's
para. 32
to 35.

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28. In para. 36, the Collector states that petitioner's covering letter, forwarded with the second part of his explanation, is a specimen of impudence. Petitioner would humbly beg to ask if the terms of the letter are impudent. The letter is printed in the margin.

To HERBERT BRADLEY, Esq.,
District Magistrate,
Coimbatore.

Most Respected Sir,

In continuation of my arzi, dated 14th current, I respectfully beg to forward herewith the remaining part of the explanation therein referred to.

2. I humbly beg to request that your honour will be kindly pleased to accord a patient perusal to this and the former part and forward them with a favourable endorsement, considering my singular misfortune explained in the latter part.

3. The necessary references are duly marked and submitted herewith together with a list, except Ex. Z, which is not yet to hand and which I shall try to send soon.

COIMBATORE, } I beg to remain,
19-3-95. } Most honored Sir,
Your honour's most obedt. servt. & petnr.,

A SUBBARATHNA SHASTRY.

Reply to
Collector's
para. 36.

It will further appear from the letter that petitioner had sent with it all exhibits up to Y, including, of course, Exhibit B, which is the statement of his, taken on the 19th January. (Vide also para. 14, part II, Exhibit VI.) The Collector, however, states in para. 39 of Exhibit V, that petitioner had "carefully avoided sending" it up.

29. With regard to para. 37 of the Collector's report, petitioner begs to submit that he believed that Nallama Razu's evidence could alone, if true, prove petitioner's keeping the woman; and petitioner shewed that this evidence was unreliable. Petitioner did not take undue interest in the deceased woman; but simply acted in a manner which he and the Munsiff Monegar and the Station House Officer thought fit. Petitioner, therefore, thought it unnecessary to explain this part of his conduct. And with regard to the Collector's remark about the petitioner not explaining the evidence concerning the deceased woman's child, petitioner humbly submits that the nurse, Alimi, whom Syed Kadir himself examined on his own behalf, stated that she obtained the child from its grandmother and was nursing it on payment by her. Petitioner has only to point out, as he has already done in his explanation to the Board, that her deposition was not sent to the Board. Petitioner further begs to submit that the dancing girl, Sellamuthu, subsequently examined by the Head Assistant Magistrate, was not cited by Syed Kadir, even though she was his village neighbour.

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Collector's
para. 37.

30. With regard to the Tahsildar of Palladom, who, the Collector states, informed him that the facts were absolutely true within his knowledge, petitioner humbly begs to represent that he is at a perfect loss to understand how the Tahsildar could have brought himself to have made such a statement. The Tahsildar, as the record shews, was not an eye-witness of anything that took place, and must have depended on information that had reached him, which information, petitioner submits, is entirely false, and which he has given to the Collector behind petitioner's back.

31. With regard to para. 38 of the Collector's report, in which reference is made to petitioner's statement that the deceased woman was on the occasion in question bound for Cuddapah, petitioner submits that the statement was in effect made by her nephew, Kodandaram Razu, and not by petitioner, who simply repeated it on the authority of this boy. The lad informed the Tirupur Station

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Collector's
para. 38.

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Master that the woman was bound for Arkonum Junction where passengers change for Cuddapah. The fact of the matter is, as will appear from the Affidavit of her elder sister Lakshmiammal who accompanied her, that she was bound in the first instance for Erode *en route* for Cuddapah. Her brother, Ellama Razu, resided at Erode, and the woman wished to call at that station on her way to Cuddapah. Petitioner in his deposition simply made statements in accordance with the information which he had received from the boy.

32. With regard to the Collector's remark at the end of para. 38, about petitioner taking "so much interest in his concubine and her child," because his wife was childless, petitioner humbly begs to state that he exhibited no special interest in this woman who was not his concubine, and he would represent that the Collector's inference with regard to his being childless is untenable, for a Brahmin could never have any such dealings with a Sudra child, and would under no circumstances seek for consolation for lack of offspring from his wife by having recourse to a concubine.

33. With regard to the Money-Order transaction alluded to by the Collector in paras. 34, 38 and 39, petitioner begs to submit that he cannot be held responsible for any remissness on the part of his brother at Coimbatore in not purchasing the requisite stamps for his Vakil's certificate on the dates on which they were available. This brother had written to petitioner that he wanted money for the required stamps and entrance fees to reach him at Coimbatore on the 18th June without fail. The fact that petitioner's brother intended to have the money on the 18th June will be evident from his having paid into the Treasury at Coimbatore on the above date Rs. 5 on account of his entrance fees (F. 3, p. 69); and petitioner received his letter asking for a remittance on the 16th evening, when the time for issuing money orders at Palladam had passed. The 17th June was Sunday, and, as he had to meet his mother at Tirupur on the 17th night, he thought he could despatch a telegraphic money order from Tirupur Station on the 18th morning. He accordingly staid at Muthugounden Pudur, a part of Tirupur, that night, in order to carry out his intention the following morning. Petitioner, however, was mistaken when he thought he could send a Telegraphic Money Order from Tirupur Station, for at that time no Telegraphic Money Order Department existed at the Tirupur Station, and such a department was only opened there some months later.

In making his deposition, petitioner had uppermost in his mind what he originally intended to do, and he accordingly stated that he had sent a Telegraphic Money Order to his brother at Coimbatore—which was an error as to the exact means by which the money order was sent. The essential fact was that the money had been sent on that morning to the very brother for the very purpose for which the latter required it.

34. The Collector then connects petitioner with the telegram. But petitioner humbly submits that the Money-Order transaction was with the Post Office, and it was conducted from the Railway Station at 7 in the morning of the 18th June 1894. The telegram to Nallama Razu, announcing the death of his sister, was sent from Muthugounden Pudur to the Railway Station about 9 A.M. The former was sent by petitioner to his brother in Coimbatore; the latter was sent to Nallama Razu by his surviving sister, Lakshmi Ammal. The two transactions were thus entirely different, and were conducted from different places and between different parties.

Reply to
Collector's
remarks,
about Money
Order.

35. Witness Govinda Gounden states that petitioner gave him Rs. 2 for the purpose of sending a telegram, and that he gave these Rs. 2 to his servant, Avanashi Moodalli, and that the latter simply brought him back a receipt at 10 A.M. Avanashi Moodalli himself owns in his deposition that his master gave him Rs. 2 and despatched him to the Telegraph Station. He, however, says that he brought back change for 4 annas and the Collector has believed it. But, this was impossible, for, both master and servant own that only Rs. 2 were taken to the Railway Telegraph Station (*vide* F. 3, pp. 54 & 56); and the Collector himself admits that the cost of the telegram was Rs. 2. Thus there could be no balance left out of the Rs. 2.

36. Lakshmi Ammal, the sister of the deceased woman, declares in her affidavit that she gave the Munsiff Monegar Rs. 5 for despatch of a telegram to her brother, Nallama Razu, and for other expenses. This Munsiff Monegar gave petitioner Rs. 2 out of these Rs. 5 for the purpose of sending the telegram, as he himself had to leave Muthugounden Pudur in order to help a vaccinator who was awaiting him. Petitioner handed these Rs. 2 to Govinda Gounden, the master of Avanashi Moodalli, and the money simply passed through the petitioner's hands, but in no wise emanated from his purse. Moreover, the telegram runs in the name of Lakshmi Ammal, while the money order is in the petitioner's own name.

37. The mistake that petitioner made in his deposition when he stated that he had sent a money order to his brother for Rs. 15, while he only sent Rs. 12-8, arose from the habit of sending money orders in round numbers. Moreover, this transaction had taken place six months previous to his deposition. The Collector accounts for the Rs. 15 mentioned by the petitioner by allotting Rs. 12-8 to the money order, 4 annas for commission, Rs. 2 for the urgent telegram, and 4 annas change which remained. This would doubtless account for the Rs. 15, if correct; but it has been shewn above that the Money-Order transaction and the despatch of the telegram were entirely different one from the other, and both Govinda Gounden and his servant, Avanashi Moodalli, declare that they only received Rs. 2 for sending the telegram; no change could have been left from these Rs. 2; and Avanashi Moodali's statement to the effect that he had brought back 4 annas change from the Railway Telegraph Office, which is relied upon by the Collector, is quite false. And the falsity of this item entirely upsets the Collector's argument connecting petitioner with the telegram.

Explained.

K. Subramanyam

K. Subramanyam

APPENDIX V.

Reply to other remarks of the Collector contained in paras. 2 to 5 and 40 to 44 of his report to the Board of Revenue. (Ex. V.)

Reply to
paras. 2 to 5

1. Petitioner's explanation to the Board was sent to the Collector on the morning of the 20th March 1895. Petitioner had been under suspension, without even subsistence allowance. He was not ordered that he should not leave Coimbatore. He felt his stay at Coimbatore very unpleasant, and he desired to be away for some time. So on the night of the 20th March he left Coimbatore, and later on remained at Madras. While at Madras he received Collector's notice directing him to see him at Coimbatore with a view to some further explanation. Petitioner replied that he was unable to return to Coimbatore for some time to come on account of his ill-health and requested that any further explanation might be taken from him in writing. The Collector thereupon in his memo., dated 6th April 1895, informed petitioner that he was given until the 30th April 1895 to appear before him, and that if petitioner was too ill to attend, he should submit a medical certificate. Petitioner hoped to be able to obey the order some time before the 30th April. But most unfortunately, about the middle of the month, he got worse, and had to place himself under medical treatment for many weeks. (Vide the certificate of the Superintendent of the Ophthalmic Hospital, dated 24th April 1895, forwarded to the Collector, and the correspondence between the two officers, dated 27th and 30th April 1895, File No. 5, pages 1 to 4.) Yet the Collector calls this stay of petitioner at Madras a deliberate insubordination. (Vide para. 5, Ex. V.)

2. It appears that the Collector wanted petitioner on the 21st March, the day following his departure from Coimbatore. Petitioner's brother, Venketramana Iyer, a 2nd grade pleader, went to the Collector's office and informed him of the petitioner's absence. The Collector sent his Deputy, Soundraraja Iyengar, to see if petitioner was in his house. The Deputy drove to petitioner's house with a pleader of the District Court and some other people and caused a search to be made for petitioner. (Vide Venketramana Iyer's deposition, dated 17th April 1895, File 5, page 5.) The Board does not call Venkatramana Iyer's complaint a false complaint. (Vide Board's Proceedings, dated 11th May 1895, No. 1204, Routine, File 5, page 10.) The Collector, however, calls the complaint a false one, and connects petitioner with Venketramana Iyer's act of sending it to the Board and bases his opinion on what appeared to the Collector to be the similarity of styles between the letters of petitioner and the said complaint to the Board.

3. The Collector states in the same para. of Ex. V that petitioner was at Coimbatore on the 21st March, and left it in order to avoid his appearance before him. (Vide also para. 2, Ex. V.) Petitioner begs to submit that there is not a tittle of evidence to support this statement of the Collector. Petitioner humbly submits that the two witnesses whose depositions the Collector has sent to the Board, with his letter of 26th April 1895, i.e., Venkatapathi Avedhani and Sankara Sastry would have most satisfactorily proved that petitioner had left Coimbatore on the night before the Deputy Collector came to search for him. But the Collector has not questioned them on that point at all. Petitioner has got in addition the following among other witnesses to prove that he left Coimbatore on the 20th March night, i.e.:—

Subscribed

1. Kullier of Coimbatore.
2. Subramani Iyer at Erode.
3. Krishnier, Kurnam of Perundurai.
4. S. Sitharama Sastry, a Schoolmaster at Tirupattur.

Reply to
paras. 40
to 44.

4. In regard to latter portion of the Collector's report referring to the previous history of petitioner's public life, he begs to submit that some 20 years ago, when petitioner was a Special Sub-Magistrate during famine, he reported a Village Munsiff who swindled Money Dole and Mansion House Funds. The Joint Magistrate ordered his immediate apprehension and directed petitioner to conduct his prosecution, which petitioner did. The Police took the prisoner from Subsidary Jail to the Court of trial with hand-cuffs. The Village Magistrate being a wealthy man, procured his discharge by buying over witnesses. He complained to the Assistant Superintendent of Police against hand-cuffing; that officer supported the usual Police explanation that it was done under orders of the Magistrate. He then complained to the Joint Magistrate against petitioner. The complaint was dismissed as groundless. He then filed a civil suit against petitioner and it was dismissed in all Courts in petitioner's favour with costs. (*Vide* judgment of the High Court in 2nd Appeal, No. 186 of 1879, File 5, page 11.)

5. Such being the truth, the Collector states in para. 42 of Ex. V., page 43, that petitioner "was sued civilly in the Erode Munsiff's Court and he lost the case both there and in the Civil Court."

6. Fourteen years ago when petitioner was a Taluq Sheristadar and Magistrate, the Police helped rather an unusual procession of the left-hand people, and the right-hand people who opposed it were ill-treated by the Police. The latter people made complaints against the Police. The Police Inspector personally beat and hurt a member of the right-hand party and the man preferred a charge against the Inspector who in his explanation falsely stated that the man was under the influence of petitioner. The Assistant Superintendent of Police forwarded it with his support to the Joint Magistrate who without taking a word of explanation from petitioner reported to the District Magistrate that he was biased in favour of right-hand people. The District Magistrate transferred petitioner to his own office on the same pay. Subsequently, the very same District Magistrate in para. 9 of his letter to the Board, dated 15th May 1886, reported that he had decided that his order in petitioner's case was severe and that he was possibly wrong about petitioner's partiality; and recommended him to the post of Town Sub-Magistrate.

7. The present District Magistrate refers, however, to this matter, and in so referring, states in para. 43 of Ex. 5, page 44, that petitioner "assisted the Brahmins in a disturbance." This statement is contrary to all records on the subject.

8. In 1893, when the petitioner was Stationary Sub-Magistrate of Coimbatore town, and according to the arrangements of the new scheme, doing in addition the work of two other Magistrates and was in consequence extremely over-worked for want of such reliefs as were granted later on. (*Vide* the then District Magistrate, the Hon'ble Mr. Sturrock's report on the Criminal Administration, dated 7th May 1893.) The Police brought before petitioner a charge of High Road

Dacoity against certain innocent persons; petitioner released them on bail pending further enquiry. The then Police Inspector, Mr. MacNamara, now a prisoner convicted of theft of Government Treasury and sentenced to four years in Calendar Case No. 10 of 1895, on the file of the High Court, caused his Head Constable to forward a false report to the District Superintendent attributing corrupt motives to petitioner in the matter, and supported the explanation by personal misrepresentations and by means of an anonymous petition to the District Superintendent who wrote a demi-official to the District Magistrate, Mr. Dance, enclosing the said anonymous petition. (*Vide* copy of the D. O. File 5, page 12.)

Consequently, the District Magistrate did not accept petitioner's explanation and transferred him to Palladam on 1st July 1893, just when he had reduced the most heavy file to the lightest state possible. The same District Magistrate, Mr. Dance, records a few days later the following remark in his review of the works of the Sub-Magistrates in the District for June 1893:—

"The largest number of cases was disposed of by the Stationary Sub-Magistrate of Coimbatore who was trying to make up for lost time. If he continues to do good work at Palladam, I will consider whether he may be restored to the post, from which he had been transferred, on the occurrence of a vacancy."

Petitioner further begs to submit that the Hon'ble Mr. Sturrock has in his Administration Report, dated 7th May 1893, stated as follows:—"The delays in Coimbatore and Perundurai could not be avoided with the heavy files * * * but the decision of Government to add the work formerly done by the Taluq and Sheristdar Magistrates to that formerly done by the Coimbatore Town Sub-Magistrate has, I fear, imposed on that Court a heavier burden than it can bear."

9. As for the above High Road Dacoity case, the Assistant Magistrate, Mr. L. G. Moore, to whom it was transferred, discharged the accused with the remark that the case was thoroughly mismanaged by the Police. (*Vide* his judgment in C. C. No. 1 of 1893, File 5, page 20.) On some further suggestion of the District Magistrate, the Assistant Magistrate subsequently convicted some of the accused discharged, for receiving stolen property. But the same District Magistrate, Mr. Dance, who found fault with the petitioner for releasing them on bail pending enquiry, quashed on appeal the conviction of the Assistant Magistrate with the remark that the case had been concocted by the Village Magistrate. (*Vide* judgment in Criminal Appeal No. 27 of 1893, on the file of the District Magistrate of Coimbatore, page 26.)

10. Notwithstanding such experience of the effect of the Police influence on his own official superiors, petitioner was discharging his Magisterial duties at Palladam as strictly as usual.

11. In November 1893, petitioner discharged a case of cattle poisoning on the ground that the Police had destroyed the viscera of the cattle which should have been preserved for transmission to Chemical Examiner. The complainant in the case applied to the Head Assistant Magistrate for redress and he ordered petitioner to submit the records in the case together with an explanation from the Police Officer concerned. Petitioner asked the Police Inspector to forward

Subramani Iyer

Subramani Iyer

the explanation from his subordinate concerned. The Inspector knew the seriousness of the order of the Head Assistant Magistrate. He had determined to manage not to send it. Petitioner continued sending reminder after reminder for 6 months and then petitioner was tired and reported the persistent disobedience on the part of the Inspector. (*Vide* petitioner's arzi to the Head Assistant Magistrate, dated 6th June 1894, No. 59, File 5, page 27). The Head Assistant Magistrate sent his order direct to the Police Inspector to forward the explanation at once and "explain the extraordinary delay of over 7 months." (*Vide* the Head Assistant Magistrate's memo. to the Police Inspector, dated 27th July 1894, File 5, page 30). The Inspector sent the explanation not until 11th November 1894, (*Vide* his report to the Head Assistant, dated 11th November 1894, File 5, page 33,) when however he did not return the original petition in the case which had been sent to him for reference. The Head Assistant Magistrate sent him 2 orders to return that petition, one on the 15th November and the other on the 8th December 1894. The petition attributed unfair motives to the Police Inspector. He did not therefore wish to send it back to the Head Assistant Magistrate. At last on the 19th December 1894, the day on which he effected the subornation of Nellama Raju against petitioner and on which the Head Assistant Magistrate forwarded the said Nellama Raju to the District Magistrate and the latter recorded his deposition on oath against petitioner, and not till that date, the Police Inspector reported falsely and most audaciously that he had long ago handed over the petition and explanation personally to petitioner. (*Vide* the Inspector's letter to the Head Assistant Magistrate, dated Coimbatore, 19th December 1894, File 5, page 38.) The date on which he pretends to have handed them over to petitioner is some day in February 1894, and it is most remarkable that he did not say so until after 10 months had elapsed after the event, and until after he saw that Nellama Raju's deposition was recorded by the District Magistrate and that petitioner was undone.

The Head Assistant Magistrate did not however question the Inspector any more on the subject of the petition but called upon the Inspector's successor and the Palladam Stationary Sub-Magistrate for the paper and the correspondence went on almost until 18th May 1895, on which the District Magistrate made his final report against petitioner, after which the whole subject apparently dropped altogether. (File 5, pages 39—45.)

12. Thus the Inspector of Police gained a complete victory in the matter by persistently disobeying the order of the Head Assistant Magistrate for 11 months, by subsequently leading that officer into believing that he had returned the petition together with the explanation to petitioner 10 months before, and by successfully preventing that officer from doing any sort of justice to the aggrieved party who put in the petition for redress for the loss.

13. In the meantime the party presented a 2nd petition to the Head Assistant Magistrate, but she was at once put down by the Police by charging her with an offence of house-breaking.

14. In the meantime, on 25th May 1894, petitioner had to report a gross neglect of duty and disrespect to Court on the part of a Head Constable of the

R. H. H. H. H.

Inspector, called Paramananda Moodelly. The Head Assistant Magistrate simply recorded the report for reasons not known to the petitioner.

15. On 10th August 1894, petitioner reported to the District Magistrate the fact of the Police Inspector having endorsed on the referred charge sheet in a case of Torch-light House Dacoity that it was maliciously false—a case which petitioner subsequently committed to the Sessions Court which convicted and sentenced the prisoners to 8 years' rigorous imprisonment, the conviction and sentence being confirmed by the High Court on appeal. The Inspector was decidedly responsible for such a case being referred as false. (*Vide* secs. 158, 169 and 172, C.C.P., and also the Police Order No. 98.)

16. The Police Inspector felt keenly the strictness with which petitioner was doing his Magisterial duties, but instead of trying to be equal to it by doing his Police duties properly, the Inspector had recourse to the less difficult task, as it was to him, of concocting false stories against petitioner in order to domineer over him.

17. Accordingly the Police Inspector and his Head Constable, the above Paramananda Moodelly conjointly formed a sworn combination with a rich ryot and ex-Monigar who was an enemy and Dayadi of the Palladam Village Magistrate and took hold of a friend of the ryot's, whom petitioner had convicted for theft on the Police charge sheet, and concocted a case of bribery against petitioner and the said Village Magistrate. But the then District Magistrate, Mr. Broadfoot, dismissed the case without even questioning petitioner about it. Petitioner requested the District Magistrate to give him an opportunity of an explanation in the matter in order to lay before him the whole circumstances relating to the Inspector's atrocities. But he informed petitioner that it was unnecessary. (*Vide* District Magistrate's order to petitioner, dated 10th August 1894, No. 1016, File 5, page 53.)

18. The present District Magistrate however refers to this case in para. 42 of Ex. V., page 43.

19. The Police Inspector reported to the District Magistrate in para. 11 of his letter, dated 25th May 1894, that petitioner burked certain depositions which he had recorded in a case of murder. But the Head Assistant Magistrate found the above statement of the Inspector to be false. (*Vide* para. 9 of the Head Assistant Magistrate's report to the District Magistrate, dated 27th August 1894, No. 175, File 5, page 64.) Petitioner does not however know what notice has been taken of the Inspector's conduct in making such a charge against petitioner.

20. Then in the last portion of his report to the present District Magistrate, dated 31st August 1894, File 5, page 69, the Police Inspector observes to the effect that the Hon'ble Judges of the High Court were not right in quashing on appeal the conviction of the said murder case by the Sessions Court.

21. The Police Inspector in his diary, dated 15th August 1894, falsely reported that petitioner committed an illegality in sending a case to him for investigation without taking a sworn deposition from the complainant. In his explanation to the District Magistrate, petitioner showed that there was no such omission on his part and that the Inspector's diary was entirely false. The District Magistrate also found that the Inspector had "recklessly brought a false charge" against petitioner. But the District Superintendent of Police received an

R. H. H. H. H.

explanation from the Police Inspector and reported to the District Magistrate that he did not concur in his opinion. (*Vide* his letter to the District Magistrate, dated 13th October 1895, File 5, page 82.)

22. In such circumstances, the Police Inspector, on 23rd July 1894, obliged Syed Kader by postponing the execution of the bailable warrants which petitioner issued against his female relatives on account of their wilful disobedience to the summonses issued to them in the 1st instance, and which had been served on them personally and in time. The Police Inspector thus obliging Syed Kader, instigated him to present the false petition which he did, for the transfer of his case from petitioner's file.

23. The District Magistrate has forwarded to the Board of Revenue the Judgment in this case and those in the case of Raghavier referred to in para. 4 of his Report, dated 23rd January 1895, Ex. IV, without any explanation being taken from petitioner. If an explanation had been taken on the subject of the two cases from petitioner for the same reasons for which the Judgments thereof were sent to the Board as against him, petitioner would have satisfactorily explained all matters and there would have been no report from the Collector against petitioner.

24. If at least the Board of Revenue had ordered an explanation from him in reference to the above Judgments as requested by petitioner in para. 11 of his explanation to the Board, dated 14th March 1895, petitioner could have convinced the Board that the Collector's Report against him was the result of the machinations of his enemy, the Police Inspector, Mr. Devarazulu.

R. Subbarao

VII
P. No. 1769 of 1898
Rev: 1798

Revenue Dept.
B. P. No. 3509 this (Land Rev)
d. 9. 12. 98 forwarding a
Memorial to the Govt.
of India from Mr. Ry A.
Subbaratna Sastri, late
Dy. Tahsildar and Sub-
Magistrate, Avanashi,
Coimbatore district -
Cus. 84 32 of 1898.

To Under Secretary.

D
In G. O. No. 3848 dated
23rd September 1895 the
Govt. held that the
memorialist had been
guilty of deliberate
falsehoods on a large
scale and ordered his
dismissal from the service.
Attention is solicited to the
notes stitched with the
order referred to, in which
the facts of the case are
set forth and discussed.
In May 1896 the 2nd
memorialist Submittance

1898
REVENUE DEPT.
Sub. No. File No: 4
8432

to Govt. a formal appeal addressed to the Govt. of India against his dismissal, promising at the same time to submit, on receipt of copies of certain documents, a further memorial regarding his case. The formal appeal was forwarded to the Govt. of India with this Govt's letter no. 2517 d. 29.6.96.

The memorialist submitted his supplemental appeal in December 1896, but subsequently requested that it might be treated as a review petition addressed to the Local Govt. Thereupon the Govt. reviewed his case, but saw no grounds to modify its decision of 95 dismissing ^{him} ~~therefrom~~. The Govt. of India was also informed of this, it has inquired what action was taken on the Supplemental

2. The memorialist had sent a duplicate copy of this direct to the Govt. of India.

3. The memorialist had sent a duplicate copy of this direct to the Govt. of India.

3

Supplemental memorial - please see G.O. No. 5784-84A.

P dated 11th November 1897.

P Attention is invited to the note stitched with the last-quoted order, in which the facts of the case will be found recapitulated.

Q The memorialist now submits an appeal to the Govt. of India against his dismissal, and requests that it may be forwarded to that Govt. in continuation of his formal appeal of 1896. A copy of G.O. No. 5784 d. 11th November 1897, in which the Govt. declined to modify the order dismissing the memorialist, was despatched to him on the 15th November 1897 and probably reached him in due course. The present memorial to the Govt. of India is dated the 29th September 1897 and it is not known how many days after this date

* forwarded to the Govt. of India with letter no. 2517 d. 29.6.96

vide Despatch entry at foot of the G.O.

Supposing petitioner got it by 1-Dec-97, from that date to 29 Sep-98 is all but 10 months. But the G.O. of India allows only 6 months.

4
It was submitted to the Collector of Coimbatore, through whom it has been forwarded. The memorialist does not refer to the delay that has occurred in the submission of the memorial in the covering letter addressed to this Govt, but explains it in paragraph 1 of the memorial itself as due to the Courts to which he has had recourse (since the date of the order of November 1897) with a complaint of defamation against Syed Kadir, the individual whose application for the transfer of his case from the memorialist's file led eventually to the latter's dismissal from the service. It is submitted that the explanation given by the memorialist for the delay in the submission of the memorial does not appear to be valid in view of the following

Please see para 2 of the note under G.O. No. 57842 11.11.97 P

5
He was dismissed for "deliberate falsehoods on a large scale"; it was considered undeniable that such an officer should be retained in the public service
20.23/9/95 S.H. 23/1/9
203848 17i

Please see portion marked with blue-chalk at page flagged R

following grounds:-
(i) It is not understood why the memorialist did not have recourse to the Courts earlier.
(ii) The charge on which the memorialist was dismissed was not that he kept a certain widow as his mistress.
(iii) Even if the Courts found Syed Kadir guilty of defamation, it would not affect the result of the independent departmental inquiry.
(iv) The memorialist alleges that he was ^{never} ~~not~~ given an opportunity of cross-examining Syed Kadir. This is not the first time that the memorialist makes this allegation and it will be seen from the collector's letter on the memorialist's appeal disposed of in G.O. No. 57842 11.11.97 P that ~~it is~~ the memorialist himself stated that he wished his appeal against Syed Kadir to be dismissed.

dispensed with

(V) The conclusion arrived at in the departmental enquiry as to the relations between the memorialist and the widow who was alleged to be his concubine, was not exclusively based on the evidence given by Sejed Kavar, and the memorialist knew this.

h If it is decided that of the explanation given by the memorialist is not satisfactory, it is submitted that the memorial may be withheld under clause 10 of rule 3 of Section III of the Govt. of India Memorial Rules.

ess If, however, it is held that the memorialist's explanation is satisfactory, it is submitted that he may be called upon to make good statement that the delay has been due to the courts. He would also be asked to send authenticated copies

Please see para 5 of the note under No. 5784 d 11.11.97

x Paras 15 & 16 of his appeal under No. 5784 d 11.11.97.

9

copies of the L.O. of 1895 dismissing ^{him} ~~the memorialist~~ and that of 1897 declining to modify the order of 1895. The memorialist refers to several papers in the course of the memorial. He may perhaps be asked to produce copies of such of them as have been granted to him.

P.L.
20.1.99.

Secy

For order whether the memorial should be withheld; or the memorialist called upon to complete the file of copies to accompany the memorial & the memorial then forwarded to India.

M.L.
21.1.88

H.M.

This is a case in which there is no satisfactory explanation of the delay. It is his duty to satisfy the P.T. & he does not do so. It is not for the P.T. to cross-examine & elicit an explanation.

inordinate
M.R.

then the delay was
unavoidable

Moreover on general grounds
there seems no reason for
indulgence. The Memorial
may be withheld under the
Rules.

23/1/88

I always shrink from
withholding petitions addressed
to a superior authority, but
there seem sufficient grounds
for so doing in the present
case -
28-1-88-

Do Under Secretary

A draft order is submitted
on the docket of the current.

31-1-89

Secy
1-2-88
J. H. [Signature]
[Signature]

For copying
Copied
Examined
Signed

G.O., No.
189

DATED

Enclosures to G. No.

Order of Government

Order of Government

Statement with [unclear]

Papers not filed up, being meant for despatch
in original.

N.B.-

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

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