

Government of Madras.
Judicial (19 //) Department.

ORDINARY MS.

G.O., No. 1304

CONFIDENTIAL

DATED 14 - 8 - 19 // .

[Abstract.]

TINNEVELLY CASES.

Instructing the Government Pleader to oppose any application
that may be made on behalf of the accused in the -----to
take down evidence.

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0,000—0-5-11, 4.

Medical DEPARTMENT.

CURRENT FILE.

PAPERS PUT UP WITH CURRENT No. _____

Papers of the department to which the current belongs.

Number.	Date.	Original (=O.) or spare copy (=S.C.)	Remarks. (In this column such of the papers as have been removed for copying, printing, etc., should be marked with a cross.)	Initials of clerk with date in token of return to section.
1189	21-7-11	O		

Papers of other departments.

Department.	Number.	Date.	Original (= O.) or spare copy (= S.C.).	Initials with date of (1) clerk of the Chief Secretariat department acknowledging return of the paper concerned or (2) Despatcher to denote the return of the papers to departments outside the Chief Secretariat.

Urgent

JUDICIAL DEPARTMENT.

CURRENT
4084
JUDICIAL

Received



19

Registered

10

8

1911

Subject.

Requesting to be furnished with instructions in the matter of P. R. Cases Nos. 1 and 2/11 on the file of the Sub Divisional Magistrate of Tinnevely.

ENCLOSURES.

No.

Spare copies

No. 1004

Station Madras, Dated the 8th August 1911

From (Name) C. F. Napier, Esq.,

(Designation) Government Pleader, Madras.

To The Chief Secretary to the Government of Madras.

Judicial Department, Stonehouse Hill, The Nilgiris.
Sir,

With reference to G. O. No. 1189, Judicial, dated 21st July 1911, directing me to conduct the prosecution in P. R. Cases Nos. 1 and 2/11 on the file of the Sub Divisional Magistrate of Tinnevely, I have the honour to ask for directions under section 4 of Act XIV of 1908. That section provides that no person shall have any right of access to the Court of the Magistrate. It does not say that no person shall be present. I am not aware of the object of this provision whether it is intended to keep the evidence secret or whether the object was merely to leave the matter in the discretion of the Magistrate. I think

it

it extremely probable that application will be made by
some one to be permitted to take down evidence for the
benefit of the accused and I therefore request the orders
of Government whether I should oppose such an application.

I have the honour to be,
Sir,
Your most obedient servant,

Chapman

Government Pleader.

Judicial department

P. R. Cases in the file of the
Sub. District Mag. Truncoilly

[C 4084] From the Court Pleader - No 1004 dated 8th August

But

It is not clear on what points Mr. Napier deserves instructions from the Government.

2. The language of section 4 of the Act leaves no room for doubt as to what is intended. "The accused shall not be permitted present during an inquiry under section 3 subsection, unless the Magistrate so directs, nor shall he be represented by a pleader during any such inquiry, nor shall any person have any right of access to the Court of the Magistrate while he is holding such "inquiry". If we contrast this section with section 352 C.P.C. which declares every Criminal Court an open Court to which the public generally may have access, it is plain that we see at once the special object of which the Legislature had in view introducing this provision. It is set forth in the Subjoined
 The Speech of the Honble

Adamson when introducing the Bill which after wards became the Law Act No. of 1908:

"For the procedure enacted in this part of the Bill I claim that while giving the accused a fair trial, it will greatly shorten the proceedings in complex cases and will at the same time put a stop to the publicity and improper comments which have characterized the Alipus and Midnapur cases and kept the public mind in a condition of tension for so many months. The preliminary inquiry held ex-parte and deprived of the accompaniment of lawyers, whose name in these cases is legion, will be greatly curtailed. As the trial will be held before the highest Tribunal in the land the decision will be final".

Comparative secrecy and promptness therefore should thus be the main characteristics of an inquiry under Section 3 of Act No. of 08 as distinguished from an inquiry under the Cr. Procedure Code or other enactments.

3. As to the question raised by Mr. Napier about the concluding part of his letter, namely it goes without saying

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H.C. George
yell dated
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that application to take down evidence on behalf of the accused, should certainly be opposed. Under section 6 of the Act, the accused is not entitled to have be supplied with a copy of the evidence taken under section 3, until the Magistrate being satisfied that there is a prima facie case, frames a charge and makes an order directing that the ~~High Court~~ ^{case} "Be sent to the High Court for trial. But the ~~provision~~ to permit the accused or his friend to have access to the evidence during the interval ~~with the High Court for trial~~ is to virtually set at naught the Express provisions of section 6.

4. It agrees as to the reply to be sent to Mr. Napier.

207
12/8/11

Mr. Napier may, I submit, be directed to oppose any application of the nature he refers to.

2. Submitted ^{however} that the Magistrate has a discretion in the matter, and that the ~~obj~~ object of sec. 4 is not entirely to keep the evidence secret, for upon a charge being framed, the accused has a right to a copy of the evidence.

Yes
to Mr. Napier

The object was to keep the evidence out of the newspapers.

Any proposal for the accused to be opposed.

CHIEF SECRETARY
12 AUG 1911

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NOTES.

Page _____

Issue draft below

Sun

13/8

Recd 5.15 p.m.
W. 7
14. 8.11

Tinnevely cases (Confidential).

READ

Instruction the Govt Pleader to oppose any application
that may be made ^{in behalf of} by the accused in the —
to take down evidence.

[C No 4084] From the Govt Pleader, no 1004, 8-8-11

ORDER No. 1307, dated 14-8-1901.

mis

With reference to his letter
No. 1004 dated 8th August 1911,
the Government Pleader is
informed that any application
on behalf of the accused in
RR. cases Nos. 3-6 on the file
of the Sub-Div^l Magt. of Tinnevely,
for the admission of any person
to take down the evidence
recorded in these enquiries
should be opposed.

wrapper
pleader
20/8/11
16/8/11

Dest. d
15-8-11

To the Govt Pleader, Madras
(9/10)

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