

1931

Kenya

No. 17213

SUBJECT

C0533/413

Raw bands.

Petition.

Previous

Subsequent

Gov. Signal 251

5 May 2

Enclosed petition from Gen. Chand re his resignation from Police Force in October 1924, address correspondence on the case and submit observations thereon.

The facts appear to be -

Chand was suspected of laying a false charge, was found guilty in a departmental inquiry & was sentenced to reduction in rank.

By direction of the A.G. this punishment was cancelled & he was charged before a Court.

He was first convicted and then, on appeal, acquitted owing to contradictory evidence, although the judge thought that there was some foundation for the charge.

The C.S.P., Mr. Spicer, then decided to discharge him as not likely to become an efficient police officer.

After consultation with Chand's lawyer, it was decided to give him the option of resignation instead.

He exercised this option.

There would appear to be no question of hardship involved, as Chand seems to have been lucky in escaping imprisonment.

? ~~ask~~ ask the Gov. to inform Chand that his petition has been received but that the S.P.S. sees no reason to interfere.

P. B. Underwood 5/5

L. Dixon Russell

be stated to have been
shown in this case.

W. H. Allen
6/16/31



(Flag A)

This case has left a very unsatisfactory impression on my mind.

In the first place, I am by no means satisfied that a Sub-Inspector of fifteen years' service - eleven years of which were continuous - who is on the pensionable establishment, could properly be dismissed, quite summarily, by the Commissioner of Police, under section 34(2) of the Police Ordinance, as amended by the Revision of Laws (Operation) Ordinance, 1926, as "unlikely to become an efficient non-commissioned officer". Surely, if a man has been promoted from an Assistant Sub-Inspector to a Sub-Inspector, it is rather late in the day to say that one does not think he is likely to become an efficient non-commissioned officer.

It will be observed that the Acting Commissioner of Police, in his letter of the 13th July, 1927, to Messrs. Daly and Figgis, states that the Commissioner of Police issued the order that the Sub-Inspector should be discharged from the force as "unlikely to become an efficient police officer, under section 34(1)". (This would seem to be an error for section 34(2)(1).)

As regards the facts of the case with reference to the alleged false charge, the judgments of the Judges must be taken to be correct; and Mr. Justice Sheridan, in dealing with the case against Gurbux Singh, appears to have taken the view that the charge brought against Gurbux Singh was quite unproved. Mr. Justice Stephens' judgment is not so favourable of Ram Chand. But it must be remembered that Ram Chand was accused of being an accessory to the offence of Gurbux Singh, and therefore that Mr. Justice Sheridan's remarks would, it would seem, cover

* This suggests that if
he accused had sufficient
departmentally his
position should be
reconsidered.

cover Ram Chand also. In any case, nothing was proved against the officers, and the charges against them broke down.

I certainly think that before an officer of this standing could be dismissed, a proper enquiry should have been made by the Commissioner, with proper charges and a proper finding against the officer, with detailed reasons. At present it is by no means clear to me on what was the real ground the officer was dismissed.

There remains this to be said, that the officer has accepted the position into which he was put, with, it is stated, the concurrence of his legal adviser; but I must say that the letter of the 18th October, 1927, threatening him that he would get no payment of any kind, no leave, and no passage to India, does not appear to me to be suitable to be used by the Commissioner to a subordinate.

The matter has been apparently enquired into by Sir Edward Grigg and Sir Edward Denham, who, it is said, were satisfied with what had been done; and three and a half years have elapsed since the matters took place. So far as can be ascertained, no legal advice on this question of dismissal appears to have been taken. I should like to know what the Attorney General has to say on section 34 of the Police Ordinance.

The difficulty is to know what is to be done. The whole matter seems to have been dealt with in an extremely summary way under a doubtful section, and before a decision is taken, I think that the matters indicated above might be sent to the Governor for his comments.

15.6.31.

? Reply on the lines suggested by Sir A. Russell, but as regards A we should make it clear that we have not overlooked paras. 5 and 6 of the Memo, which shows he was apparently got rid of as a result of an enquiry into other serious charges, although the original dismissal order was withdrawn in consequence of his acquittal on the previous charges in Court. What we do not know is the nature of the charges or of the enquiry. The fact that he could not be charged in Court does not preclude the possibility of departmental action nor dismissal for misconduct under Section 34 (h) if the enquiry into the serious charges justified it - but switching off to dismissal on the ground that he was not likely to become an efficient officer seems to require a good deal of justification.

H. T. Allen
23/6/31.

G. J. Jeffries
24.6.31.

A. C. C. Parkinson 24.6.31.

G. J. P. P. at once
25.6.31.

I have modified para. 5 - the Acting Commr's letter was appendant to a discussion and a record - it unduly terse of what passed then. I am not prepared to say that it was improper.

W. C. B.
8.7.31 at once.

To Gov. 492 1 Answd. 15 July 1931 Cons.

Gov. Byrne No. 534, 11.9.31.

Submits memo by the Solicitor Genl. in support of views previously expressed that no

grounds

grounds exist for reversing decision in regard to Chand's claim for compensation.

Mr. Roberts Vray.

I think this makes it clear that morally Mr. Ram Chand has no case. You will advise on the legal aspect, but it looks to the lay mind as if he had no legal case either. He resigned his post - see flag C, and even though he only did this under threat from the Acting Commissioner of Police, this resignation would seem to dispose of any legal claim? ack. and thank for the explanation given and ask that the petitioner may be informed that the S. of S. has given his petition careful consideration but is not prepared to accede to it.

C.G. Eastwood,
19.X.31.

Ram Chand's resignation was clearly intended by him to be conditional upon his receiving "all his dues". We do not know the instructions he gave to his legal advisers, and they may have exceeded their authority in agreeing upon the terms of his resignation. Whether he has received "all his dues" is a question of opinion, and we are in no doubt as to his present view of the matter, though at the time of his resignation he may have meant by "dues" the sums which the Government had agreed to pay him. If, however, he meant more than this, it might be open to question whether his resignation ever became effective. But, having regard

5
regard to the time which has elapsed, he can hardly raise this point now. In view of the adverse comments made by Stephens J., when he was finally acquitted, I do not think he has much of a claim in respect of his costs, and presumably, the grant of a pension would not in any case be legally possible. There remains his claim for compensation and gratuity. I suppose legal authority could be found for the former, if necessary. As regards gratuity, I am not sure what the Code of Regulations is, but I gather that he could legally have been granted a gratuity under section 334 upon resignation. If so, the fact that he resigned does not affect the legal aspect of his claim under that section.
As to whether he should ^{or should} not be granted either a gratuity or compensation, the position seems to me to be shortly this: that his original dismissal had to be revoked, as it could not fairly be allowed to stand, seeing that he had obtained from the courts a verdict in his favour in respect of the matters leading to his dismissal. He is then dismissed under provisions which are subsequently shown to be inapplicable, and this dismissal is also withdrawn. The conclusion is almost irresistible that the information against him in support of the other complaints which are relied upon did not warrant dismissal under any other Ordinance or Regulations, (and from such details as are now supplied, this ~~partially~~ ^{seems to be the case}), ~~or~~ ^{otherwise} he would have been dismissed. He is therefore forced by threats to resign. It is, of course, quite useless for the Solicitor-General to deny compulsion. I presume compulsory dismissal is not a recognised method of dispensing

No. 2227
P. 2227
D.P.

dispensing with an officer's services, at least (a) where there are no grounds which would justify ~~the~~ dismissal, and (b) where it is proposed to pay no pension or gratuity which the officer might be granted.

Putting it even shorter: the Government forced Ram Chand to resign because they could find no adequate grounds to dismiss him. To my mind this, prima facie, shows a fairly good case for some form of redress.

On the other hand, he has delayed three years before sending his petition. The petition is dated 15th February, 1931, and it seems from the petition that his previous move in the matter was made when he called on the Commissioner of Police in February, 1928. I agree with the Solicitor-General that this shows a weakness in his case. Whether it does so sufficiently to dis-entitle him to any consideration is a different question. In 1928 he may have known nothing about the procedure by way of petition to the Secretary of State.

Handwritten signature

3.11.31.

The Police Ordinance in force at the time (Chapter 36 of the Revised Laws) provided that any Asiatic Non-Commissioned Officer might be discharged by the Commissioner at any time

- (i) if likely to become an inefficient Non-Commissioned Officer.
- (ii) if medically unfit.
- (iii) on purchase of discharge.

- (v) A. when sentenced to be dismissed from the Force for misconduct.
- (v) B. On reduction of establishment.

In the case of Ram Chand none of these conditions was applicable; before he could be got rid of under ~~Section 334~~ ^{condition (v)} it would have been necessary for him to be "sentenced to be dismissed" by a competent authority. This could only have been done by the Governor after enquiry by a committee of Executive Council under Colonial Regulations 42, etc. (As Ram Chand's salary was £210 per annum, the provisions of Colonial Regulations 40 and 41 did not apply). It is not unnatural that the Commissioner preferred the easier course of securing his resignation; but the letter of 18th October 1927, flagged B, employs a threat which it was not within the Commissioner's power to carry out.

As regards gratuity, Section 334 of the Code of Regulations referred to on page 6 of the first enclosure to 1. appears as No. 802 of the current Code (Third Edition) and applies only to Officers compelled to retire on grounds of ill-health, abolition or re-organisation of office. Gratuities to Asiatic Non-Commissioned Officers of the Police Force are specifically provided for under Section 37 (2) of the Police Ordinance; and are payable only after 12 years' continuous good service.

It is thus clear that Ram Chand's claim to a gratuity is without foundation. If anything is to be done for him it must be by way of ex gratia compensation for the irregular procedure adopted by Government in getting rid of him. Such compensation would, of course, have to be specially voted by Legislative Council, but however irregular

*No. 1214
Secretary
11/11/31*

*Amalendu I find
it difficult to believe
that any person
having such a superior
in other than a
civil sense of his
procedure.*

*re amended by § 2(2)
of No. VII of 1916.*

the procedure, perusal of the papers leaves no doubt in my mind that substantial justice was done; and I would reply to No. 3 in the terms proposed by Mr. Eastwood.

J.P. Hunter
4/11

I agree: but I think we might in a conf. despatch comment on the irregularity of the procedure and the difficulties in which the S.D. is placed in a case of this kind.

B. J. Jeffries
5.11.31

I agree with Mr. Jeffries. I think it is improbable the threatening letter has as a matter of fact already been examined as in para 5 of the 1st despatch - No 2.

Strick
5/11/31

G.P.P.

5/11/31
Wes.
6.11.31

J.P. Hunter
10.11.31

at me
10.11.31

Mr. Jeffries

The letter has pointed out that under § 50 of the 1927 Ordinance, an Asiatic N.C.O. may be dismissed for an aggravated or repeated offence by his superior officer subject to confirmation of the sentence by the Commission. I am afraid that my minute of 4th Nov overlooked this provision. I have included by the earlier (June) minute on this file.

It is therefore conceivable that the letter of 28th Oct. was based on more than an empty threat; and the draft conf. despatch will not do.

Para 5 of No 2 expresses sympathy with the disapprobation of the letter and in the case we may have it at that.

J.P. Hunter
5/12/31

I agree that it is not necessary to bring in the Col. Reg. procedure if a man is convicted of an offence under the Police Ordinance (there is a list in Section 48). But apart from this question of detail, the point is surely that

on their own admission they
had no evidence against
Ram Chand which would
justify his dismissal.

I have put up a revised
dft. in somewhat more
general terms.

C. J. Jeffrey
7.12.31

Sagre. Dft passed

J. H. Allen
8/12
atance

Notes received

DESTROYED UNDER STATUTE } 10 DEC 1981
3- 40 819 (3-Annid) }
3- " " Conf _____ }

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X 172.13/31

Kenya

5-8

C. O.

Mr. Jeffries 7.12.31
Mr. Allen 8/12

C.D.
R 1 - DEC
D 9 5

- Mr. Tomlinson.
- Sir O. Bottomley.
- Sir J. Shuckburgh.
- Sir G. Grindale.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

Li. ~~Sec~~

10 DEC 1931

(acc. dft.)

for comment

DRAFT.

Kenya

Conf

Gov. Byrnes.

I have n. to refer to my despatch No. 819 of even date, on the subject of a petition submitted to Lord Cranfield by Ram Chand, formerly of the Kenya Police, regarding the circs. in which his appt. was terminated.

I have no doubt that in this case substantive justice was done, and I have decided not to accede to the petitioner's requests. At the same time I regret that I am unable to regard the procedure which was adopted as satisfactory.

I am naturally anxious to co-operate to the fullest extent

2 dfts.

with you in maintaining a high standard of conduct and efficiency in the Service, and I am sure that you will realize that any failure to observe proper precautions in the handling of cases of delinquency may be a source of difficulty and embarrassment when I come to deal with a petition from the person concerned.

(587) RUFFE-LISTER.

KENYA.

No. 534



1721-1/31
3
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

11. September, 1931.

RECEIVED
12 OCT 1931
GOV. OFFICE

Sir,

1102

I have the honour to refer to Lord Passfield's despatch No. 492 of the 15th of July, in which further information is requested on certain points of a petition submitted by one Ram Chand formerly of the Kenya Police.

2. The points raised by Lord Passfield are answered in the enclosed memorandum by the Solicitor General which I trust will be sufficient to support the views expressed in my despatch No. 251 of the 5th May that no grounds existed for recommending any reversal of the decisions reached in 1927 by my predecessor and by Sir Edward Denham when administering the Government.

Memorandum.

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

BRIGADIER-GENERAL.

G O V E R N O R .

THE RIGHT HONOURABLE

J. H. THOMAS, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON S.W.

1721-1/31
10 1931

10
THE RAM CHAND CASE

(MEMORANDUM BY THE SOLICITOR GENERAL)

1. Ram Chand joined the Police Force on the 7th October, 1914, and was discharged at his own request as time expired on the 19th February, 1918. He was at the time a First Grade Assistant Sub-Inspector and, as such, was non-pensionable. He was re-enlisted in the same rank on the 6th June, 1919, and was subsequently promoted to the rank of Second Grade Sub-Inspector (pensionable position) on the 1st February, 1922. He was confirmed in this appointment on the 6th September, 1924. Since there was a break of over 15 months between the period of his first discharge and re-enlistment, his previous service was not allowed to count as continuous.

2. Towards the end of 1919, whilst the Petitioner was stationed at Kisumu, he was charged with inflicting grievous hurt on a witness whilst investigating a murder case. The learned Magistrate, in discharging the Petitioner, stated in his judgment "there is no doubt in my mind that there is something behind this case which has not transpired, but I have such grave doubts in my mind as to whether any ribs were broken that I am going to give the accused (Petitioner) the benefit of the doubt and discharge him". The learned Magistrate then recommended that he be transferred to another station. This was a serious charge and the Petitioner was not honourably acquitted but only got the benefit of the doubt. He was consequently transferred to Mombasa.

While at Mombasa, the Assistant Superintendent in a letter dated the 10th March, 1922, stated that "this man (Petitioner) has the most unhappy knack of quarrelling with every Assistant Sub-Inspector and Sub-Inspector he meets. He is "up against" all the men and is always creating trouble. I consider him lazy and antagonistic to all orders and discipline".

Again

Again at the same station during May, 1926, he was severely reprimanded for a breach of discipline.

3. The original case from which the trouble arose, resulting in his final resignation in 1927, was as follows:-

- (a). A first information report was sent from the Police at Mombasa by Sub-Inspector Gurbux Singh (referred to by the Petitioner) to the Resident Magistrate on the 11th June, 1926, setting out a breach of the Motor Traffic Ordinance by one Taj Din. The Police later applied to withdraw the charge owing to the discrepancies in the evidence. The Resident Magistrate refused this application and ordered the case to be proceeded with, the trial resulting in the acquittal of the accused (Taj Din) and the Police action being criticised;
- (b). On receipt of this information the Commissioner of Police ordered a full Departmental Enquiry to be held by the Superintendent in charge of the Mombasa Police. This enquiry resulted in the Commissioner reducing the Petitioner from Second Grade Sub-Inspector, and he thus became a non-pensionable officer. An opinion having been obtained from the Attorney General, the Commissioner also ordered that the two Sub-Inspectors (Gurbux Singh and the Petitioner) be prosecuted under section 211 of the Indian Penal Code - laying a false charge with intent to injure - and section 109 of the Indian Penal Code - abatement thereto;
- (c). Both the Sub-Inspectors were convicted of

the

12

the charges by the Resident Magistrate at Mombasa, which resulted in their automatic dismissal from the Force;

- (d). A re-trial was ordered in the Petitioner's case and the Magistrate's conviction was quashed, the re-trial Judge acquitting Ram Chand on the ground that the conflict of evidence was such that a conviction would be unsafe, but recording his opinion orally that probably some of the allegations against Ram Chand were true, and saying that in the event of a conviction, he had intended to increase the sentence previously passed.

4. Representations were then made to the Commissioner by the Petitioner's advocates for his reinstatement. Meanwhile two other serious charges were reported to the Superintendent of Police, Mombasa, against the Petitioner, viz:-

- (a). That the Petitioner about year and a half previously placed a native Constable in plain clothes in the house of an Indian in Mombasa, on pretence that burglary was about to be committed, with a view to the Indian, the occupant, sending his wife to another house, thus to enable the Petitioner to seduce her. It was proved that the plain clothes man was sent there by the Petitioner without the knowledge of the Officer in charge, and also that the Indian had intended sending his wife elsewhere;

- (b). That the Petitioner was seen running away from a house where a fire had occurred, and where an Indian was burnt and it was said that the

Petitioner

13

Petitioner earned a sum of Shs.1,000/- for helping in a conspiracy over a woman to do away with the deceased Indian.

The Commissioner immediately detailed the Assistant Superintendent in charge Criminal Investigation Department to proceed to Mombasa and hold a further enquiry. Definite evidence however could not be found to charge him in Court, although the Commissioner of Police was satisfied that the gravest suspicion rested upon him, and that he was an entirely unsuitable person to remain in the Police Force.

5. It was on perusal of this enquiry that the Commissioner issued his Order that -

- (a) The Petitioner having been acquitted by the Court, the dismissal Order passed as a result of his original conviction be withdrawn, and
- (b) The Petitioner be discharged from the Police Force as "Unlikely to become an efficient Police Officer".

The Petitioner, through his advocates, then appealed to His Excellency the Governor.

6. On the Legal Department being consulted, it became clear that the order of the Commissioner of Police discharging Ram Chand from the Police Force as "Unlikely to become an efficient Police Officer" could not stand, taking into consideration the amount of service which he had already done.

7. Finally, in a meeting arranged between the Solicitor General, Petitioner's advocate, and the then Acting Deputy Commissioner, it was intimated to the Petitioner's advocate that, if his client would resign from the Police Force, Government would grant to him all emoluments from the date of his reduction, as if he had never been reduced, including House Allowance and the period of leave to which he would have become eligible

in

714

In the ordinary way. The Petitioner's advocate agreed and said that his client (the Petitioner) would voluntarily resign if these concessions were granted to him. (The position at this time was that the Commissioner of Police was satisfied that this man Ram Chand was a rascal of the worst type, who should not be a member of the Police Force for one day longer than was necessary, and he was quite determined, and rightly so, I submit, that his connection with the Police Force should be terminated at the earliest possible moment).

8. These arrangements were made known to the Petitioner but he haggled over the question of his resignation on the pretence that a Uniform Allowance was due to him, which was not the case. Later, the Petitioner waived this claim, but subsequently he raised it again, and the matter was again referred to Government and it being quite evident that he was going back on the arrangement which his advocate had made on his behalf, the Commissioner was authorized to write him a final letter, in terms of his letter No. P-118/127 of 18th October, 1927, referred to by the Petitioner in his paragraph 7 as a "threat". In all the circumstances of the case, and particularly in view of the fact that there was no doubt but that Ram Chand had authorized his advocate to settle the matter on his behalf in the first instance, and was now attempting to go back on the arrangement made, it was considered that the terms of this letter were justified, peremptory though they were.

9. The Petitioner then accepted the terms of settlement and tendered his resignation. All sums due, totalling Rs 223/1/5 were paid to him and it was explained to him that as he had not completed the minimum period, he was neither eligible for pension nor could the

question of granting him a gratuity be considered.

10. Again in October, 1927, Ram Chand petitioned to His Excellency the Governor asking that his case might be reconsidered with a view to the transfer of his services to some other Department or the granting to him of some compensation, and requesting a personal interview.

The following reply was sent him through the Commissioner of Police:-

"His Excellency has carefully considered all the facts leading up to your resignation from the Police Force, and is satisfied that you have no legitimate ground for complaint. His Excellency is unable to see that any good purpose would be served by granting you an interview and furthermore he is not prepared to transfer you to another Department nor to make any grant to you by way of compensation or otherwise nor reopen, in any way, the question of your resignation".

11. On the 15th December, '27, Ram Chand again made an application to the Commissioner asking for pension or alternatively Gratuity under section 334 of the Code of Regulations.

The case was again referred to Government whereupon he was informed that he was not entitled to a pension nor was he eligible for a gratuity. He was further informed that he was not compelled to resign from the Police Force, but that he had resigned voluntarily on certain terms and that his resignation and the terms upon which it took place were approved by his legal adviser.

7?

12. I will now deal with the allegations and requests of the Petitioner as set forth in his Petition.

with

With reference to paragraph 1, it is not the fact that Ram Chand was discharged from the Police in 1918 on medical grounds; he was discharged as time-expired, at his own request.

With reference to paragraph 2, it is incorrect to say that after the enquiry, Sub-Inspector Gurbux Singh was promoted to a higher grade. The facts are that an enquiry into the conduct of Gurbux Singh was not held until after the enquiry into the allegations against Ram Chand, and Gurbux Singh was promoted before any allegations had been made against him. The promotion was automatic, by reason of his seniority. A copy of the Enquiry which was held to investigate the charge against Ram Chand was enclosed with Kenya despatch No. 251 of the 5th May, 1931. I submit that a perusal thereof will show that Ram Chand's statement that no evidence against him came out at the enquiry is entirely without foundation.

Ram Chand makes vague allegations about the fabrication of evidence by a certain Police Officer. These allegations were the subject of an enquiry some months later by the Deputy Commissioner of Police, and were found to be baseless.

With reference to paragraph 9 (1), the answer is that there was a very great deal against Ram Chand during his 12 years service.

With reference to paragraph 9 (2), nobody wanted Ram Chand to continue his service in the Police Force, he was, in fact, a positive menace to the integrity and well-being of the Force.

With regard to paragraph 9 (3), I am of the opinion that no refund of any costs incurred by Ram Chand in the course of the criminal proceedings against him should be paid to him, that no compensation should

be paid to him, nor any pension or gratuity. It is incorrect to say that Ram Chand tendered his resignation entirely through the written threat of the Police Department. At the end of paragraph 6 of the Petition he admits that when his advocate advised him to do so, he agreed to resign on the understanding that he would get all his dues. Ram Chand did get all his dues on his resignation.

But Ram Chand may not agree with this

This story can be not documented instead of being compelled to

13. In conclusion I would submit that Ram Chand is deserving of no sympathy. Instead of summary dismissal, which he deserved, he was allowed to send in his resignation voluntarily, and received very good terms for doing so. To my mind, Ram Chand has no legitimate cause of complaint. I would further point out that Ram Chand has allowed nearly four years to elapse between his resignation from the Police Force, and his petition, thus shewing, to my mind, that his faith in his own case is not very strong.

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Downing Street, 218

June, 1931.

Mr. Eastwood

Mr. ~~Dunn~~ *W. Russell*

Mr. ~~Podder~~ *W. P. ...*

Mr. ~~Furness~~

Mr. C. Bottomley

Sir J. Shuckburgh

Sir G. Grindley

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State

W. Russell
W. P. ...
had ...
in ...
17/21

Case No. 3
15 July

C. D.
R 8-JUL
11/31

Sir,

I have, etc., to ack. the

receipt of your despatch No. 251 of

the 5th of May, in which you

enclosed a petition addressed to me

by one Ram Chand regarding the

circumstances under which he resigned

the

from Kenya Police Force in October,

1927. Before I consider finally the

reply to be given to this petition,

I shall be glad to receive further

information on certain points in

regard to which I am at present not

in some doubt
satisfied.

2. In the first place it is

not clear to me from the information

available that it was justifiable to

dismiss summarily a Sub-Inspector of

fifteen years' service - eleven years

of

DRAFT.

KENYA

No. *492*

Gov.

of which were continuous, -- who was on the pensionable establishment, under Section 34(2) of the Police Ordinance as amended by the Revision of Laws (Operation) Ordinance, 1926, ~~as unlikely to become an efficient non-commissioned officer~~. It is difficult to see how it could ~~be~~ ^{fairly} be said that a man who had been promoted from being ^{an} Assistant Sub-Inspector to be a Sub-Inspector ~~is unlikely~~ ^{is unlikely} to become an efficient non-commissioned officer."

3. As regards ^{the} alleged false charges made by Gurbux Singh and Ram Chand, the judgment of the Judges must be taken to be correct. Mr. Justice Sheridan, in dealing with the case against Gurbux Singh, appears to have taken the view that the charge brought against him was quite unproved. Although Mr. Justice Stephens's judgment was not so favourable of Ram Chand, Ram Chand was accused of being an

x It is not unfair, I think, for us to employ this style in official copies. But I understand from Mr. Burke that there is no actual objection to our doing so if it gives anyone any pleasure.



accessory to the offence ^{of} Gurbh
 Singh, and therefore it would seem
 that the remarks made by Mr. Justice
 Sheridan in regard to the charge
 against Gurbh Singh ^{thus} applied equally to
 the charge against Ram Chand. In any
 case, Nothing was proved against
 either ~~offence~~ and the charges against
 them broke down. In the circumstances
 it would clearly have been unjustified
 to dismiss summarily Ram Chand for an
 offence of which he had been acquitted
 in the arts.

4. It would appear, however,
 from paragraphs 5 and 6 of the memoran-
 dum enclosed in your despatch that
 Ram Chand was dismissed as the result
 of two other serious charges brought
 against him. The fact that he could
 not be charged in Court ^{would} does not
 necessarily
 preclude the possibility of
 departmental action not dismissal
 for

for misconduct under Section 34 of the Police Ordinance?

if the enquiry into the serious charges

were to be justified, but I consider that an

an officer of Ram Chand's seniority should

not have been dismissed on the ground

that he was "unlikely to become an

efficient Police officer", but that a

proper enquiry should first have been

held by the Commissioner with proper

charges and a proper finding against

him, with detailed reasons for his dismissal should

5. Further, I feel bound to

remark that the letter addressed to

Ram Chand on the 25th October, 1927,

on behalf of the Acting Commissioner

of Police, was not a suitable one to be

written by the Head of a Department to

a subordinate. In that letter Ram Chand

was threatened that unless he handed in

his resignation, his services would be

dispensed with and he would get no

payment of any kind, no leave and no

passage to India.

It is too late for such an enquiry to be held now, but I shall be glad to receive full particulars of the serious charges referred to.



6. The petitioner asks that his case may be favourably considered for a

refund of his costs, award for compensation and pension or gratuity under

Section 334 of the Code of Regulations.

On the facts at present before me, I am

not satisfied that the petition should

not be granted, I shall therefore await

your comments on the points raised in this

despatch before considering the question

further. So far as can be ascertained

no legal advice on the question of

dismissal was taken, and I shall be glad

to have the Attorney-General's comments

on the action taken under Section 34 of

the Police Ordinance.

I am, &c

(Signed) PASSFIELD.

Some the, that you should obtain the opinion of



KENYA.

No. 251

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
30 MAY 1931
COL. OFFICE

5th May, 1931.

My Lord,

Petition.

I have the honour to enclose a Petition addressed to Your Lordship by one Ram Chand, who resigned from the Kenya Police Force in October 1927. As Your Lordship will observe, Ram Chand contends that he was forced by threats to resign from the Police Force, and asks for the payment to him of certain costs which he alleges were incurred by him in the course of criminal proceedings in 1927. He also asks for compensation for his treatment, and for a pension or gratuity under Section 334 of the Kenya Code of Regulations.

492 - 15 JUL 1931

Memorandum.

2. I enclose a memorandum which gives a history of this case. In view of the fact that the petition has only been submitted after a lapse of 3 $\frac{1}{2}$ years, and that the circumstances of the case were very fully considered in all their aspects by my predecessor and Sir Edward Denham as Acting Governor, I see no ground for recommending any reversal of the decisions then reached after the fullest investigation.

3. The following observations may, however, be of assistance to Your Lordship in dealing with the various points in the Petition:-

Paragraph 1. It is not the fact that Ram Chand was discharged from the Police in 1918 on medical grounds; he was discharged as time-expired

THE RIGHT HONOURABLE
LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON S.W.

at

at his own request.

Paragraph 2. It is incorrect to say that after the enquiry, Sub-Inspector Gurbux Singh was promoted to a higher grade. The facts are that an enquiry into the conduct of Gurbux Singh was not held until after the enquiry into the allegations against Ram Chand, and Gurbux Singh was promoted before any allegations had been made against him. A copy of the Enquiry which was held to investigate the charges against Ram Chand is enclosed. Perusal thereof will show that Ram Chand's statement that no evidence against him came out at the enquiry is entirely without foundation.

Enquiry.

Paragraph 4. It is submitted that, although Mr. Justice Stephens acquitted the Petitioner, he only gave him the benefit of the doubt, and intimated that, in his view, some of the allegations against him were probably true. A copy of Mr. Justice Stephens' judgment is enclosed.

Judgment.

Paragraph 7. The letters which passed on the subject of Ram Chand's resignation were severe in tone as he demurred to accept the terms of the arrangement settled with his advocates to whom he had entrusted the disposal of his case.

Paragraph 8. See paragraph 9 of the enclosure.

Paragraph 9 (1). The enclosure will show that Ram Chand's 12 years' service had not been by any means entirely satisfactory.

Paragraph 9 (2). I am informed that the allegations which are made about the fabrication of evidence by a certain Police Officer were the subject

of

of an enquiry some months later by the Deputy Commissioner of Police and were found to be baseless.

Paragraph 9 (3). It is incorrect to say that Ram Chand tendered his resignation entirely through the written threat of the Police Department. At the end of paragraph 6 of the Petition he admits that when his advocata advised him to do so, he agreed to resign on the undertaking that he would receive all his dues which were handed over as detailed in paragraph 8 of the enclosure.

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12/1/53

I have the honour to be,
My Lord,
Your Lordship's most obedient,
humble servant.

BRIGADIER-GENERAL,
GOVERNOR.

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N A I R O B I,
P.O.Box. 877.
Kenya Colony.

Dated. 18th February, 1931.

RECEIVED
23/2/31 No. 80

File No. _____
Ackd. _____

The Right Honourable,
Lord Passfield, P.C.,
Secretary of State for the Colonies.

Through,

His Excellency,
The Governor,
Kenya Colony.

Your Lordship;

I have the honour to place before Your Lordship
the following ~~PETITION~~ with the humble request
that I may be given full justice as one of His
Majesty's Subject.

1. My name is Ram Chand and I joined the Police force in 1914 and was discharged in 1918 on Medical grounds. I rejoined the Police force in 1919. During the interval I had no employment, but was under-going Medical treatment in India.
2. In 1922 I was promoted to the rank of 2nd Grade Sub-Inspector of Police and my service was confirmed by the Secretary of State for the Colonies (Pensionable Grade) and in May 1926 I was transferred to Nairobi and in July 1926 I attended a Departmental enquiry at Mombasa on instructions of the Commissioner of Police and there I came to know that I was

he note

accused of "Abetting a false accusation". Sub-Inspector Gurbux Singh was a witness called against me at that enquiry although he was supposed to be the offender in the principal offence i.e. "The person who made the false accusation". After the enquiry Sub-Inspector Gurbux Singh was promoted to a higher grade and I was reduced by Mr. Spicer, Commissioner of Police, on the recommendation of Mr. E.S.R. Sullivan Tailleur, the Superintendent of Police at Mombasa. In the enquiry no evidence against me came out and if the enquiry file has not been altered or added to, perusal of it will substantiate my statement.

3. On my reduction I appealed to the Commissioner of Police for an interview and mentioning that nothing against me had come out from the evidence of the various witnesses at the Departmental enquiry, but the Commissioner of Police refused to reconsider my case and also refused to grant me an interview.

4. In November 1926 Attorney General again raised the matter saying that the Department has no right to settle serious case and the case should be dealt with by the Magistrate. Therefore Sub-Inspector Gurbux Singh, for some reasons, was then charged before the Resident Commissioner at Mombasa (Mr. A. Dickson) for the principal offence "making a false accusation" and I was also charged before the same Magistrate with "Abetment". Sub-Inspector Gurbux Singh was sentenced.

to one month R.I. for the principal offence and I was sentenced to one year R.I. for "Abetment". The sentence against Sub-Inspector Gurbuz Singh was quashed by Mr. Justice Sheridan with remarks characterising the evidence in full detail especially mentioning Police witnesses. My case was ordered for retrial by Court of Appeal of Kenya Colony. On retrial I was acquitted by Mr. Justice Stephens. From both judgments it may be seen that both Gurbuz Singh and myself were entirely innocent and victims of some plot to damage us. Although there was clearly perjury and a clear proof against a certain Police officer who fabricated the false evidence and influenced certain Police officers but no action was taken to see that the offenders were brought to Court and justice was done. When I was sentenced to one year R.I. by the Magistrate at Mombasa, I was dismissed from the service and when the sentence was quashed and retrial was ordered by the Appellant Court, my Advocate referred the case to the Commissioner of Police, who did not consider my order of dismissal remarking it a premature. When I was acquitted and matter was again referred to the Commissioner of Police, who without giving any due consideration issued order of my discharge" being unlikely to become an efficient Police officer", which could not be equitably applied to my case, who has been twelve years in the Police Force.

See page 213
without a single blot and strongly recommended by all Police officers under whom I had worked and especially in a case of a Pensionable Police Officer.

6. My Advocate made a Petition to His Excellency the Governor explaining the whole above facts and in consequence of the above application all the previous orders of the Commissioner of Police were cancelled and I was re-instated as a 2nd Grade Sub-Inspector (Pensionable Post) and I was asked through my Advocate to resign as no good purpose could be served, when this matter is gone so far and I agreed to resign on the undertaking that I will get all my dues.

7. In the beginning of October 1927, I was asked to tender my resignation but I refused to do so on the grounds that nothing was settled about my Gratuity or Pension and Compensation for my expenses and damages caused in the course of this case. I, instead of receiving any satisfactory reply, received a letter No.P.119/127 dated 18.10.27 from the Commissioner of Police (Copy attached) threatening me that if I would not tender resignation my services will be dispensed with and I will get nothing, therefore under the above threat, I tendered my resignation (Copy attached herewith) and the wordings of the resignation will speak themselves. *For details.*

8. On 24.10.27 I sent a petition to His Excellency the Governor (Copy attached herewith) and a copy of the above application was also sent to the Commissioner with a forwarding letter (Copy attached herewith) and in February 1928, I was called by the Commissioner of Police ^{who} informed me that His Excellency ^{was} is not prepared to consider my case and at my request copy of reply ^{from} His Excellency the Governor was given to me (Copy attached herewith).

9. Being not satisfied I now beg have to proffer the following requests and trust that my case may kindly be considered favourably:-

1. Why did the Police Department ask me to resign when there was absolutely nothing against me during the whole of my 12 years service?
2. Was it safe for me to continue service in the Police Department after what has happened and especially when no action was taken against the Police officer responsible for all this trouble?
3. Though innocent of any Crime or Misconduct vide Mr. Justice Sheridan's remarks on this case

(Copy of Judgment attached herewith) and considering that I have spent a large portion of the best years of my life, in Government Service (blotless) and also I had to bear considerable

expenses in my efforts to obtain Justice and had to suffer the indignity of a fortnight in His Majesty's Prison at Mombasa before I was released on bail.

I would therefore request that my case may favourably be considered for a refund of my costs, award for Compensation and Pension or Gratuity under Section 334 of the Code of Regulation considering that I tendered my resignation entirely through the written threat of the Police Department and there is no stain upon my character whilst serving in the Police.

I have the honour to be,

Your Lordship's most obedient servant,

Rasachand

P. O. Box 877,

Nairobi

Kenya Colony

Copy.

Kenya Police.

No.P.II8/153. 30
Office of the Commissioner.
P.O.Box, 83, Nairobi.
4th February 1928.

CONFIDENTIAL.

Sub-Inspector Ram Chand.
Kenya Police.
(on leave.)

With reference your letter dated the 30th December, 1927, I am instructed to reply to you as follows in reference to

- (1) Your petition to His Excellency the Governor.
- (2) Your application for pension or gratuity.

2. His Excellency the Governor has carefully considered all the facts leading up to your resignation from the Police Force and is satisfied that you have no legitimate ground for complaint. His Excellency is unable to see that any good purpose would be served by granting you an interview and furthermore he is not prepared to transfer you to another Department, nor to make any grant to you by way of compensation or otherwise - nor to re-open, in any way, the question of your resignation.

3. You originally joined the Police on the 7th October 1914; you resigned on the 19th February 1918. You rejoined again on the 6th June, 1919, finally resigning in September, 1927. It would appear, therefore, that you are not entitled to a pension in respect of either period of service, nor are you eligible for a gratuity under Section 334 of the Code of Regulations.

4. I am to add that you were not compelled to resign from the Police Force, but you resigned voluntarily on certain terms and that your resignation and the terms upon which it took place were approved by your legal adviser.

Sd. James Lumley.
Atg: Commissioner of Police.

Nairobi,
15th December 1927.

The Commissioner of Police,
Kenya Colony, Nairobi.

Sir, I beg to submit, for your recommendation and approval the following applications :-

a. An application for pension, according to scale, with regard to my total service in the Kenya Police, approximately twelve years. It is true that my service was broken after three years and four months, entirely through ill-health due to my Police duties in Kenya; and that I rejoined the Police Force as soon as I was physically fit, about twelve months later.

b. Alternately, if my application for pension cannot be entertained I beg to apply for one month salary for each year of service vide Section 334 of the Code of Regulations.

I beg to remind you that I tendered my resignation entirely through the written request of the Police Department through the Solicitor General and that there is no stain upon my character whilst serving in the Police.

I beg to remain,
Sir,
Your obedient servant.

Sd. Ram Chand.
Sub-Inspector of Police.

Kenya Police,
Nairobi, 24th October 1927. 32

His Excellency the Governor,
Kenya Colony and Protectorate,
Nairobi.

Your Excellency,

I beg to place before you the following PETITION, with the humble request that I may be given full justice as one of His Majesty's subjects (LET RIGHT BE DONE.)

My name is Ram Chand and I am serving, nominally only, as a second grade Sub-Inspector in the Kenya Police.

I joined the Police Force 1914 and was discharged in 1918 on medical grounds. I rejoined the Police Force in 1919. During the interval I had no employment, but was undergoing medical treatment in India.

In July 1926 I attended a Departmental enquiry at Mombasa on instructions of the Commissioner of Police, and I became aware that I was accused of "Abetting a false accusation". Sub Insp Gurbux Singh was a witness called against me at that enquiry although he was supposed to be the offender in the principal offence i.e. "the person who made the false accusation". After this enquiry S.I. Gurbux Singh was promoted to a higher grade and I was reduced by Mr Spicer Commissioner of Police, on the recommendation of Mr E.S.R. Sullivan-Tallyour, the Superintendent of the Police at Mombasa. In this enquiry no evidence against me came out, and if the enquiry file has not been altered or added to, perusal of it will substantiate my statement.

On my reduction I appealed to the Commissioner of Police asking for an interview and mentioning that nothing against me had come out from the evidence of the various witnesses at the Departmental enquiry. I have a copy of my appeal to the Commissioner of Police and his reply refusing to grant me an interview.

In November 1926 S.I. Gurbux Singh, for some reasons known to himself, was then charged before the Resident Commissioner at Mombasa (Mr Ainsworth Dickson) for the principal offence "making a false accusation" and I was also charged before the same Magistrate with "Abetment".

S.I. Gurbux Singh was sentenced to one month R.I. for the principal offence and I was sentenced to one year R.I. for "Abetment".

The sentence against S.I. Gurbux Singh was quashed by Mr Justice Sheridan with remarks characterising the evidence in full detail, especially mentioning Sultan Khan and Jadh Singh. My case was ordered for retrial. On retrial I was acquitted by Mr Justice Stevens. From both judgments it may be seen that both Gurbux Singh and myself were entirely innocent and victims of some plot to damage

Since then I have information which proves to me that further efforts have been made by certain Police Officers at Mombasa to establish a criminal charge against me. Police armourer Noordin gave a statement to the Headquarter Superintendent of Police that certain Police Officers at Mombasa tried to influence him to swear that he had been entrusted by me with money to purchase opium at Mombasa. Police armourer Noordin refused to do this. P.A. Noordin's statements are with the Commissioner of Police and so far as I know, no action has been taken.

Also I am aware that Superintendent E.R.S. Tallyour tried to influence to Inspector Bugden, who was in charge of Mombasa Police Station at that time, to abstain from giving evidence which

which would ~~have been in my favour~~ be in my favour, but Inspector Bugden did not agree, and was very shortly afterward transferred to Kisumu.

So far as I am aware no action has been taken by the Department against any of the witnesses concerned in making false statements against me. The statement in the Police Departmental enquiry File and the statements in Court do not corroborate each other and it is apparent that there must have been some undue influence.

My dismissal from the Police has been cancelled and I have been re-instated as a Second grade Sub-Inspector CONDITIONALLY upon my tendering my resignation from the Force.

I now beg leave to proffer the following requests and trust Your Excellency as His Majesty's Representative in Kenya will see that **RIGHT IS DONE**.

a. Why does the Police Department ask me to resign, when there is absolutely nothing against me during the whole of my 12 1/2 years service.

b. Would it be safe for me to continue service in the Police Department after what has happened.

c. Would it not be only fair and just to me under the circumstances, and considering I have spent a large portion of the best years of my life, in Government service, to transfer me to another Department, in order to enable me to continue my service towards pension.

Though innocent of any crime or misconduct vide Mr Justice Sheradin remarks on these cases, I have had to bear considerable expense in my efforts to obtain justice and had to suffer the indignity of a fortnight in Prison at Mombasa before I was released on bail. I would therefore request that Your Excellency may favourably consider a claim from me for a refund of my costs and award for compensation.

I would earnestly beg that your Excellency might call for a report from Mr Justice Sheradin on these cases.

If your Excellency is not satisfied with this petition and would grant me an interview, I would wish the same to take place in the presence of Mr J. Lumley, the acting Commissioner of the Police.

I beg to remain,
Your Excellency,
Your most obedient servant.

Sub-Inspector of Police.

Copy to :-
The Commissioner of Police, Nairobi.

Nairobi,
Dated, 20th October 1927

The Commissioner of Police,
Nairobi.

Sir,

With reference to the Attorney General's letter No. 27/173
dated 29th August 1927.

I herewith beg to tender my resignation from the Kenya Police
Force as desired by that Department, the date of actual resignation
to be that on which my leave expires and on which I acknowledge full
receipt of all my dues.

I beg to remain,
Sir,
Your obedient servant,
Sd. Ram Chand,
Sub-Inspector of Police.

Office of the Commissioner, 35
P.O. Box 83 Nairobi,
18th October 1927.

Mr Ram Chand,
Ex, Asst. Sub-Inspector,
Kenya Police Nairobi.

I am directed by Government to inform you that unless you hand in your resignation, as agreed upon between the Government and your Solicitor, Mr Figgis on the 20th instant, your services will be dispensed with and you will get no payment of any kind, no leave, and no passage to India.

Your resignation as an active member of this Force is to date the 31st August last, but you will proceed on leave for which you are eligible as from the 1st of September.

Immediately on receipt of your letter of resignation in the above terms arrangements will be made for a single passage for you to India. You will of course be paid all that is due to you including house allowance up to the 31st August but from the 1st September you will draw leave pay only until your leave expires, when you will be struck off the strength of the Kenya Police.

Jd. J.F. Wolsley Bourne.

For atg: Commissioner of Police.

23rd July 1927

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His Excellency the Acting Governor.

Nairobi.

Your Excellency,

We have the honour to inform you that we have been instructed by our client, Sub-Inspector Ramchand, to make a report to you in connection with his treatment at the hands of the Commissioner of Police, with a view to his obtaining some redress for the losses which he has suffered as the result of such treatment.

Our client joined the Police as an Assistant Sub-Inspector on the 7th October 1914, and on the 16th February 1918 on expiry of his term was discharged on medical grounds. He rejoined the Police on the 17th June 1919 as a 1st grade Asst. Sub-Inspector and was promoted being confirmed by the Colonial Secretary.

He has many certificates of merit from the various officers under whom he served and during his entire twelve years' service has had no report against him as regards his efficiency. The only reprimand against him standing confirmed in his file is in connection with a trivial occurrence which took place at Mombasa, and that reprimand was at the hand of the Superintendent whom he considers to be responsible for his reduction and dismissal as detailed hereunder.

A complaint was last year lodged at the Police Station, Mombasa, with regards to a breach of the Motor Ordinances by an Indian, the matter came before the Magistrate and the accused was acquitted in view of the evidence adduced. It was suggested by the Police Authorities that our client and another Police Officer named Gurbux Singh conspired to have a false charge laid against the Indian in question.

An enquiry was held by Superintendent Taylor at Mombasa, and, of course, the Police have been obliged to object to letting us peruse the file or informing us as to the contents of the file or of proceedings at that enquiry.

Our client alleges that, if the record of the evidence taken at that enquiry is accurate, the facts disclosed should have exonerated both himself and Gurbux Singh from any suspicion of misconduct in connection with the charge brought against them. The result, however, was that the Commissioner of Police reduced our client from being a Sub-Inspector (a pensionable post) to the grading of Assistant Sub-Inspector, while almost immediately afterwards Gurbux Singh was promoted to Sub-Inspector on the recommendation of Superintendent Tgylor.

Not only was our client reduced in rank, but he and Gurbux Singh were prosecuted before Mr. Ainsworth Dickson at Mombasa. Through his counsel our client complained bitterly of the method by which the case against him was conducted, and we need only refer to the judgment of Mr Justice Sheridan when the case of Gurbux Singh came before him for revision to enable you to form an opinion as to the merits of the case against our client.

Our client was convicted and sentenced to a term of imprisonment for which conviction he appealed, with the result that a fresh trial before the Supreme Court was ordered, eventuating in the conviction of Mr. Ainsworth Dickson being quashed.

The case against Gurbux Singh was dealt with on revision with a similar result, the judge making very strong remarks as to the prosecution evidence.

Immediately upon conviction by the Magistrate, an order was made dismissing our client from the Police force, and upon the order for retrial being made we entered into communication with the Commissioner of Police and wrote him our letter of the 22nd April 1927 (copy of correspondence is attached). We eventually received a reply dated 10 May 1927 showing that the dismissal was entirely automatic as the result of our client's conviction; the latter paragraph of this letter is of importance in the light of subsequent events.

Upon our client's acquittal we wrote again to the Commissioner of Police on the 14th June 1927 asking that the order for dismissal be revoked as from the date of dismissal and that the full facts of the case be gone into. We received a reply dated 17th June 1927 in which it was stated that an enquiry would be conducted and that the matter had been referred to the Government.

We can only say that our client states that neither he nor Gurbux Singh have been asked a single question by the officer placed in charge of this enquiry, and that we have not been informed as to any directions given by Government as the result of the reference to Government above referred to.

The Officer detailed to conduct the special enquiry saw our Mr. Eggle, who referred him to Mr. Burke who had charge of the defence in the original prosecution at Mombasa.

We received a letter from the acting Commissioner of Police dated 2nd July 1927 asking for definite allegations against Officers of the Force, but ignoring our request for reinstatement of our client, to which we replied on the 4th July and 12th July.

We were surprised to receive a letter dated 13th July 1927 from the Acting Commissioner of Police showing that the Commissioner of Police, without having even afforded an interview to a member of our firm, had left instructions that the order for dismissal (on the grounds originally alleged) was to be cancelled and a fresh order of dismissal to read respectively to the original date of dismissal was to be issued dismissing our client from the Force under an entirely different pretext, and on which, in view of his service and his certificates of merit from the various Officers under whom he has acted, we contend was not justified.

The Section of the Police Ordinance upon which the dismissal purports to be based is obviously only intended for Assistant Sub-Inspectors who are upon their trial, and could not equitably be applied to the case of an officer who has been twelve years in the Force and was admittedly a most competent Officer.

As a Sub-Inspector our client was a pensionable Officer, and we would ask that the whole question of the justification for his conduct on be gone into, and then submitted for perusal to Government.

We would also ask that direction be given for cancellation of the recent order for dismissal, and that our client be paid his full salary as Sub-Inspector for the period since his dismissal together with all emoluments attached.

We would also point out that our client was at the time of his dismissal entitled to 5 months' leave, and this should be provided for.

We may say that we have seen the Acting Commissioner of Police before writing to you, but he is apparently handicapped in dealing with the matter in view of the specific instructions left by Mr. Spicer prior to his departure on leave.

If any thing is not clear to you in connection with the case, our Mr. Figgis would be pleased to arrange an interview at your convenience.

We sent a copy of Mr. Justice Sheridan's judgment in the principal case versus Gurbux Singh to the Acting Commissioner of Police, but would merely set out here the concluding remarks, which are as follows:-

"I do not hesitate to express the hope that if the accused has suffered departmentally as a result of the proceedings in this case, his Superiors will re-consider his position in the light of this judgment).

Finally, our client has been dealt with both departmentally and by prosecution, and in view of Section 80 of the Police Ordinance (Law of Kenya Vol. 1, page 395), we respectfully submit that all departmental punishment should be cancelled.

We have the honour to be,
Excellency,
Your obedient servants,
Sd, Daly & Figgis.

13th July 1927.

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Messrs. Daly & Figgis,
Advocates,
Nairobi.

Gentlemen,

Ré-Sub-Inspector Ramchand.

I have the honour to acknowledge the receipt of your letter dated 12/7/27 on the above subject and to inform you as follows:-

Mr. Spicer Commissioner of Police prior to his departure for England on the 4th July 1927 and after perusal of all files and enquiries in connection with the conduct of the Sub-Inspector arising out of a case of laying a false charge under section 211 I.P.C. at Mombasa in March last year, issued an order that this Sub-Inspector's dismissal was to be cancelled and that he was to be discharged from the force from the 22nd. February 1927 and unlikely to become an efficient Police Officer under section 34, sub Sec.

(1). Cap. 36, of the Laws of Kenya, provided nothing further transpired in a departmental inquiry now being held at Mombasa.

The departmental enquiry has now been received and discloses nothing to cause me to alter Mr. Spicer's decision, as I am of opinion this Sub-Inspector can no longer be employed in any position of trust such as his attendant on a Sub-Inspector of Police.

I would be pleased to interview Mr. Figgis if he will make an appointment.

Sd. J.H. Lumley.

Acting Commissioner of Police

IN HIS MAJESTY'S SUPREME COURT OF KENYA AT MOMBASA.

Criminal Revision Case No.3 of 1927.

(From Original Sentence in Criminal Case No. 26 of the Resident Commissioners Court at Mombasa)

Gurbax Singh s/o Booda Singh.....Appellant.
(Original Prosecutor)

versus

Rex.....Respondent.
(Original Prosecutor)

JUDGMENT.

This is an application for revision of a case tried by the Resident Commissioner, Mombasa. The accused was convicted of making a false charge of an offence with intent to injure contrary to section III I.P.C. The charge is contained in the first information report and reads:-

"The complainant states that on the 11th June 1926 at about 12.30 P.M. he saw the accused driving motor cycle No. 1403 recklessly and negligently at Elliminy Road and Salla Road junction. Also the accused did not obey the "Legal order when he was signalled to stop the Machine and let the other traffic pass which was approaching from other direction.

The signatory to this report is p.a. Amolo a native policeman 12 years standing and it is on his evidence that the conviction rests. ~~It is the evidence~~ The Magistrate who was greatly impressed by the honesty and steadiness of his evidence, found that after a very long and severe cross-examination "his evidence remains unshaken" and that "the few facts ~~which appear~~ which appear from evidence support his statement". That Amolo signed the first information is common cause. Amolo says that he signed this report under a threat from the accused that he would be sent to the orderly room if he refused and that the accused told him the substance of the report was that "at 12.30. you saw Tej din passing. You " took his number and reported to the police station. The reason suggested for making a false charge ~~against~~ against Tej Din is that he and Ram Chand, a Sub Inspector of police were on bad terms and that Ram Chand instigated the charge alleging that Tej Din was suffering a swollen head. It is further suggested that Ram Chari and the accused in this case put their heads together and enlisted Sultan Khan a Punjabi Indian Police constable

to a question put by the Court adding:- " I told Gurbux Singh that Abdi was not on " duty" when Taj Din passed. Nevertheless Gurbux Singh told " me to call Abdi. I told Gurbux Singh that Hussain was on duty when the cycle passed". Here again arises the puzzle as to why Abdi and not Hussain should be sent for. Hussain contradicts Omolo's evidence when he says " Omolo never spoke to me about the case I did not know Tajdin before seeing him in Court.Omolo never spoke to me" about the case either before or after the occurrence." I will now consider the instructions said to have been given by Sultan Khan to Omolo :- Sultan Khan says :- I said to Omolo,if you do not know Taj Din you are to state the number on which he is riding and take it to the Police Station." If he is riding the number given by Ram Chand it was all right." Omolo was to take any number as an excuse to go and " see Taj Din ".I take this to mean in the first place that if a cycle No.403passed Omolo was to report the fact and that if Taj Din passed on a vehicle with a different number he was to report that fact. This latter presupposed that Omolo knew Taj Din's appearance. How could Omolo know Taj Din? His own evidence was that he knew him by sight and had so known him since his garage was burnt, but that the first time he knew his name was the day Sultan Khan spoke to him. Now Sultan Khan's evidence is that " I told him"(Omolo) that if Taj Din passed in a motor car or cycle to take the number and report to either Ram Chand or Gurbux Singh - no one else. Ram Chand would make a case against Taj Din.The constable said he knew Taj Din since the time his garage was burnt".Here Mr Burke argued there is no evidence of Sultan Khan having in any way described Taj Din to Omolo who said he learned his name for the first time when Sultan Khan spoke to him, but taking the evidence of both witnesses on the points, one may reasonably say that Omolo knowing an Indian, whose garage was burnt was told by Sultan Khan that Taj Din was his name, ordinarily this would be more reasonable construction than saying that Omolo was merely told to arrest an Indian named Taj Din.Mr Burke's point, however, as I understand it, is that the whole story including the instruction of Omolo being a trumped up story, the omission in the evidence of any description of Taj Din is pit fall into which the witnesses have fallen. Having regarded to the nature of the charge there is something in his point. Now to deal with Omolo's interview with Gurbux Singh when he returned to Police Station with the information as to Taj Din having passed. Omolo in saying that he recognised the first information report to which he had subscribed his signatures says :- " I asked Gurbux Singh what he had written after I had signed".I asked him what I should say in the Court. Gurbux Singh told me" at 12.30 you say Taj Din passing" you took his number and reported to the Police Station." The point made by Mr Burke here is useless from the point of view of securing a conviction. Passing on a cycle is no offence and as Mr Burke contended is it likely that, if there were serious designs of having Taj Din convicted, Omolo should not have been tutored to say something containing the elements of an offence. I. Latter in his evidence he repeated " all I was told was to go to the Court and say I had seen the cycle passed at 12.30".Then he goes on to say that he was told to call Abdi, a point on which I have already commented.

The evidence of Inspector Bugden has been rejected by the Magistrate and Counsel for the defence has argued very strongly that this evidence is not only worthy of belief when taken by itself, but that it is corroborated by legitimate inference to be drawn from the evidence of Hussain. There is no suggestion of Bugden knowingly having given false evidence. Crown Counsel made that point clear to me. It was suggested that in as much as two Police Officers who worked under Bugden are involved that he may unconsciously have favoured them. In the first place there is no evidence as to how long those Officers had worked under Inspector Bugden, in the second place although Bugden cannot remember which of the R.E.A.A.A.Askari went to the Police Station it is established by other evidence for the prosecution that it was Hussain who went. Bugden's evidence is:- I had a conversation with Gurbux Singh over it.Later I saw police constable Omolo.I cannot remember what date it was the first part of June. At the same time I saw the R.E.A.A.A.Askari- my impression was it was the one Abdi but I am not sure. My conversation with Omolo was to the effect that Omolo was reporting against the R.E.A.A.A.Askari, that the latter had seen Taj Din riding and now refused to give evidence. Omolo accused the R.E.A.A.A.Askari of having been bribed by Taj Din. I was busy and told Gurbux Singh to get on with the case. I am sure my impressions given are correct". As I have said it is established that Hussain is the only R.E.A.A.A.Askari who went to the Police Station. Now although Hussain states that he did not see Omolo

Omolo at the Police Station. In fact says Omolo was not there. Omolo swears that he saw him there. Hussain says he saw Inspector Bugden there and Bugden says that he remembers Omolo and Askari (R.E.A.A.A.) which he was not sure - being at the Police Station. Reasonable inference to draw in my opinion is that Omolo and Hussain were at the Police Station on one occasion or during the period in question and that Bugden was there at the time. Now Abdi bin Said after stating that he did not know Taj Din, which does not necessarily exlude his knowing him by sight says that Taj Din went to see him about the matter at 4.P.M. For what purpose did Taj Din interview Abdi ? Hussain Similarly said he did not know Taj Din and had never spoken to him until he met him in the Court. His evidence reads:- I do not know about Ram Chand and Taj Din having a civil case about a cycle. I never spoke to Taj Din until I met him in this Court. Taj Din never asked me to be a witness in this or any other case. I never said in this Court that Taj Din had asked me to be a witness in the motor cycle case and I had refused. The affidavit I came to the Registrar to swear had reference in Taj Din and his case. I went to the about Indian clerk's office, to have the affidavit written. I was passing there when the stout man called me and I was going to Mr. R.S. Campbell's office from the Hazari Mosque. I cannot remember when this was..... I was not taken there by Taj Din. I saw the stout lawyer "in passing" The argument for the defence here is that Hussain did not know Taj Din, that it at the instance of Taj Din he went to Mr Patel's office - in short that the evidence corroborates the truth of Inspector Bugden's evidence when he says Omolo accused the R.E.A.A.A. Askari of having been bribed by Taj Din. Reading through Inspector Bugden's evidence I do not think it can reasonably be said that Inspector Bugden's impression of the episode is extremely vague, for referring to his conversation with Omolo and the R.E.A.A.A. Askari, although he could not be certain which R.E.A.A.A. Askari it was, he said I am "clear about the happening as I subsequently saw the Superintendent of Police about it within a few days". There is no motive other than a desire to speak the truth proved for this positive statement and he said he had no other interview with Omolo and the R.E.A.A.A. Askari except the one referred to.

I will now deal with the point of Sultan Khan having been diverted from his customary duty at the Railway Station for the purpose of receiving instructions as to the carrying out of the plot. I agree with Counsel for the defence that there was no reason for such an action for the instructions could have been given at any time and particularly so when Sultan Khan and Ram Chand happened to be off duty. There being no reasons for the action it must to my mind be considered improbable. Being improbable strong evidence is necessary to establish it as a proved fact. The Occurance book was produced in the Lower Court and it shows that Sultan Khan and Okelo left for duty at the Railway Station on 10th June at 3.25. True this entry is in the handwriting of the accused but their return from the Railway Station is in the handwriting of Sub-Inspector Jodh Singh a Crown witness who endorsed that "All returned" giving the hour at 4.45, suggestion were made by the Crown Counsel that this book is loosely kept, but they must be disregarded. The book is produced by the prosecution, it is an official record and at least more reliable than oral evidence. I could not be asked to hold that Jodh Singh made an inerrate entry and at the same time hold that his evidence was reliable. How could Jodh Singh have summons to Sultan Khan, as he says he did at 4.30 when the Occurance book shows that latter not to have returned until 4.45. As regards the 6th June Jodh Singh's accuracy was tested. He says:- I can not remember the circumstances of the summons given to Sultan Khan on the 6th June. The record shows it was handed to him at 4.p.m. I can not remember whether he was at the Police Station at that particular time" when the Occurance book is looked at it is seen that Sultan Khan left the Police Station at 3.15 and returned at 5.5. No that Jodh Singh's entry in the summons book is not accurate. If the summons at all it must have been sent to Sultan Khan at the Railway Station. Still this witness is insistent that he remembers the circumstances of the 10th June. It is curious thing that although Okelo was told to take another Askari, no Askari could be found to take Sultan Khan's place (Vide Okelo's evidence). Okelo says that he reported to Jodh Singh that he had returned alone, but how then does it come about that Jodh Singh entered "all returned".

To return to the evidence of Sultan Khan, he says Ram Chand told him to say-Omolo held up his hand to stop but Taj Din did not stop Ram Chand surely knew that the R.E.A.A.A. Askari and not Omolo ordinarily controlled the motor Traffic and gave signals, so why should he in-coaching Sultan Khan have mentioned Omolo. Another discrepancy worthy of mention is that Sultan Khan at one time says he told Omolo that Ram Chand

in the conspiracy and that Sultan Khan gave instructions to Police constable Omolo as to what he was to do in furthering the scheme. Sultan Khan was undoubtedly an accomplice; the evidence leaves no doubt on the point. The instigation is said to have taken place on the 10th June - the incident on which the charge was based occurring on the 11th June. The definite fixing of the time of this incident must obviously be an important factor in the case, the prosecution have accepted that the time Taj Din rode past the point where Omolo was on duty was 12.30. Omolo states that having had instructions about taking Tajdin's number immediately he passed, he went to the Police Station, a few minutes distant and is fixed the time; the first information report is a check on the accuracy of his statement in its mention of the hour 12.30 (it is a curious fact that although Omolo was given the number at 10.30 he deferred making a note of it until the cycle had passed 2 hours later carrying the number in his head all the time). On this important point of time the evidence of Omolo is contradicted by both Sultan Khan and Taj Din, Sultan Khan's evidence is "on my back I asked the constable Omolo whether he had got Taj Din's number as required by Ram Chand. He said he had". This was about 11.30. And later in answer to Mr Burke he said - "I am certain of my time, because I had a watch. It was 11.30 when I saw Omolo on my return" from Kilindi. I know this because a motor driver asked "me the time". So that although Taj Din rode past at 12.30 according to Omolo, Sultan Khan swears that Omolo was in possession of the information that he rode past one hour before the event, according to Omolo, took place. When Sultan Khan was confronted with the contradiction he said - "When I enquired as to the time of the alleged offence and was told it was 12.30, I replied that at 12.30 I was at my meal at the hotel and Taj Din was present in that Taj Din would bring two witnesses to prove that and get me "into prison". It is a fact not unworthy of notice that this witness although he had no personal knowledge of the fact swore "Taj Din did pass the point". How could he possibly tell? on his own showing he was in the hotel with Taj Din at 12.30. The time of passing fixed by Omolo and even if it could be shown that Tajdin passed prior to 11.30, Sultan Khan again according to himself was dependent on Omolo for the information, and now to turn to Taj Din's evidence on this point of time, he says - "I rode by 10.30 or 10.45 to 11..... I passed Whiteaway's corner once only on June 11 on a motor cycle. I did not pass in any other vehicle". In no case is there any suggestion of uncertainty on the part of those 3 witnesses in fixing the time; in fact two of them give evidence as to how they did fix time. That there is a wide disagreement is an important matter for the defence.

I will now contrast the evidence of P.C. Omolo with that given by the two R.E.A.A.A. Ankarles Abdi and Hussain. Omolo states that Abdi was relieved from duty at 11 a.m. by another askari who must have been Hussain. Omolo says - "When Sultan Khan had given me instructions I went and told "Abdi. This was at 11; I think although I had no watch". (The instructions given by Sultan Khan I shall have occasion to refer to later). Earlier he says - "Sultan Khan came to me about 11 a.m. that same day and gave me instructions" Yes Gurbux Singh told me to call Abdi because "I had said he (ABDI) was on duty when Sultan Khan came to see me". In passing I venture to characterize it as absurd that Abdi should be required in connection with an incident said to have taken place at 12.30. But what does Abdi say on the subject of Omolo having spoken to him at 11? "He came" 2.30 to my house and again at 3 P.M. I did not see him" any other occasion about this matter. The first time Omolo spoke to me about this matter was at 2.30 P.M. I left duty at 11". And again on the point as to why Abdi should be required at the Police Station in connection with an event placed by Omolo at 12.30 the following passage in Abdi's evidence is illuminating: - "When Omolo came to see me at 2.30 he told me "I was wanted at the Police station in connection with that evidence of the happening at 12.30 and "that if I did not go I would be imprisoned". That was all he said". Two points were very properly stressed for the defence here. Firstly the contradiction as to the time of speaking. Secondly the strange procedure of asking a person to go to the Police Station for the purpose of making a statement in regard to something that happened when he was off duty. Did the conspirators decide to "square" the R.E.A.A.A. Askari for the purpose of supporting the charge, they surely would have sent for the askari who was on duty at the time the incident happened. Mr Burke referred to this as suggesting what a clumsy conspiracy was attributed to Ram Chand and Gurbux Singh. In regard to Hussain, Omolo says "I told Hussain that number 403 was wanted at the Police Station" and he went to tell me if he saw it pass. He refused". This same answer he repeated in answer to a

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 Ram Chand wanted to make a case against Taj Din and gave his direction about taking a number, yet later he denied having tutored Omolo to conduct. I find evidence in this case thoroughly unreliable. The charge against the accused in that of making a false charge; it is lightly brought and not absolutely rare in this country in such charges the evidence required to be subjected to the closest scrutiny and in the result I do not find it to pass the test in the present instance. Earlier in the proceedings I pointed out that in this case the accused should both on the grounds of the gravity of the offence and his own request have been sentenced on being convicted, to a term that would have enabled him to appeal rather ask to have the similar remedy of revision applied to his case I should not allow the refusal to exceed to his request to operate his disadvantage the Magistrate erroneously was under the impression that proceedings in revision were as favourable to an accused person as the right of appeal. The evidence in the case being such as I have characterise it, the conviction and the sentence can not stand and are quashed.

Although outside the province of this Court, I do not hesitate to express the hope that if the accused have suffered Departmentally, as a result of the proceedings in this case, his superiors will reconsider his position in the light of this judgment.

Ed. Joseph Sheridan.
 Judge.

18-6-27.

THE RAM CHAND CASE.

1. Ram Chand joined the Police Force on the 7th October, 1914, and was discharged at his own request as time expired on the 19th February, 1918. He was at the time a First Grade Assistant Sub-Inspector and, as such, was non-pensionable. He was re-enlisted in the same rank on the 6th June, 1919, and was subsequently promoted to the rank of Second Grade Sub-Inspector (pensionable position) on the 1st February, 1922. He was confirmed in this appointment on the 6th September, 1924. Since there was a break of over 15 months between the period of his first discharge and re-enlistment, his previous service was not allowed to count as continuous.

2. In 1919 his conduct at Kisumu was unsatisfactory and as the result of a recommendation from the Resident Magistrate he was transferred from that station.

3. In 1922 when stationed at Mombasa he received an unsatisfactory report from the Assistant Superintendent there and at the same station in 1926 he was severely reprimanded for a breach of discipline.

4. The original case from which the trouble arose, resulting in his final resignation in 1927, was as follows:-

- (a) A first information report was sent from the Police at Mombasa by Sub-Inspector Gurbux Singh (referred to by the Petitioner) to the Resident Magistrate on the 11th June, 1926, setting out a breach of the Motor Traffic Ordinance by one Taj Din. The Police later

later applied to withdraw the charge owing to the discrepancies in the evidence. The Resident Magistrate refused this application and ordered the case to be proceeded with, the trial resulting in the acquittal of the accused (Taj Din) and the Police action being criticised:

(b). On receipt of this information a full Departmental Enquiry was held by the Superintendent in charge of the Mombasa Police. This enquiry resulted in the Commissioner of Police reducing the Petitioner from Second Grade Sub-Inspector to Assistant Sub-Inspector. An opinion having been obtained from the Attorney General, the Commissioner also ordered that the two Sub-Inspectors (Gurbux Singh and the Petitioner) be prosecuted under Section 211 of the Indian Penal Code - laying a false charge with intent to injure - and Section 109 of the Indian Penal Code - abetment thereto;

(c). Both the Sub-Inspectors were convicted of the charges by the Resident Magistrate at Mombasa, which resulted in their automatic dismissal from the Force;

(d). A re-trial was ordered in the Petitioner's case and the Magistrate's conviction was quashed, the re-trial Judge acquitting Ram Chand on the ground that the conflict of evidence was such that a conviction would be unsafe, but recording his opinion orally that probably some of the allegations against him were true, and saying that in the event of a conviction, he had intended to increase the sentence previously passed.

5. Representations were then made to the Commissioner of

of Police by the Petitioner's advocates for his reinstatement. Meanwhile two other serious charges were reported to the Superintendent of Police, Mombasa, against the Petitioner. A further enquiry was held, but definite evidence, however, could not be found to charge him in Court.

6. It was on perusal of this enquiry that the Commissioner issued his order that -

- (a) The Petitioner having been acquitted by the Court, the dismissal Order passed as a result of his original conviction be withdrawn, and
- (b) That the Petitioner be discharged from the Police Force as "Unlikely to become an efficient Police Officer".

7. The Petitioner, through his advocates, then appealed to the Governor and, as a result of discussions between these advocates and the Government officers concerned, the Commissioner was authorised to write him a final letter on the lines set out in the Commissioner's letter No.P.118/127 of the 18th October, 1927, a copy of which accompanies the petition.

8. The Petitioner ultimately tendered his resignation. All sums due, totalling £223.1.6, were paid to him and it was explained to him that as he had not completed the minimum period, he was neither eligible for pension nor could the question of granting him a gratuity be considered.

9. In October 1927 Ram Chand petitioned the Governor asking that his case might be reconsidered with a view to the transfer of his services to some other Department or the granting to him of some compensation

compensation, and requesting a personal interview.

The following reply was sent him through the Commissioner of Police:-

"His Excellency has carefully considered all the facts leading up to your resignation from the Police Force, and is satisfied that you have no legitimate ground for complaint. His Excellency is unable to see that any good purpose would be served by granting you an interview and furthermore he is not prepared to transfer you to another Department nor to make any grant to you by way of compensation or otherwise nor re-open, in any way, the question of your resignation."

10. On the 16th December, 1927, Ram Chand again made an application to the Commissioner asking for pension or alternatively gratuity under Section 334 of the Code of Regulations and was informed that he was not entitled to a pension nor was he eligible for a gratuity. He was further informed that he was not compelled to resign from the Police Force, but that he had resigned voluntarily on certain terms and that his resignation and the terms upon which it took place were approved by his legal adviser.

COLONY AND PROTECTORATE OF KENYA

Office of the S.P. Mombasa.

PRECIS OF SUBJECT.

Enquiry file re Ram Chand Ex S.I. Police
and papers concerning.

C.R. 832/26

(Mr. A.B. Patel arrived at S.F. Office with these two affidavits which commenced the enquiry. M.R.S.T. S.F.)

AFFIDAVIT

i, Abdi bin Salim of Mombasa make oath and say that:-

1. I am an employee of R.E.A.A.A. bearing No. 3 in Mombasa, and my duty is to see the Traffic at the stand situate on Salim Road and Kilindini Road-Junction where I stand from 7 a.m. till 11 a.m. and again from 3 p.m. to 6 p.m.

2. Yesterday the 11th June 1926 when I was off duty one Police man by name Omolo came to my house at about 2.30 p.m. and told me that at about 12.30 p.m. he had seen one Taj Din riding on Motor Cycle No. 403 which was running very excessive speed and that he had stopped him, but the said

ASST. COMMISSIONER Taj Din had disregarded the instructions. The said Omolo requested me to give evidence to the effect that I myself had seen the occurrence as stated above. I replied "I was not present and that I could not tell lies". There-

upon he told me that he was sent by the Sub-Inspector Police to do so because the Sub-Inspector had some trouble with Taj Din and the said Sub-Inspector wished to prosecute the man. I said "I am sorry, I can't tell lies".

Taj Din met me at about 4 p.m. when he was going to Kilindini in a Taxi and I told him the whole story.

3. The said Omolo again visited my place at about 8.30 p.m. and requested me to give false evidence to the facts stated above and I replied that I could not do so because that would be bare lies.

Sworn at Mombasa,
This 12th day of June, 1926.
Before Murray Jack.

Dy. Registrar.

Ed. in Arabic

This is the true copy.
A.B. Patel,
16/6/26.

Certified true

copy.

1/4/31

R.F. Rainford

A F F I D A V I T

I, Hussein bin Salim Ndigo of Mombasa make oath and say that :-

1. I am an employee of R.E.A.A.A. bearing No. 4. in Mombasa and my duty on the 11th June 1926 was to see the Traffic at the stand situate on Salim Road and Kilindini Road Junction from 11 a.m. to 3 p.m. and again from 6 p.m. to 10 p.m.
2. Same day at about 12 Noon I saw Taj Din going to Kilindini in a Taxi. I did not see him going on any Motor Cycle that day. Little before 2 p.m. Amolo before going off duty asked me the address (house) of Abdi bin Salim. I said Why he wanted his address. He said one Hindi Tundi had passed on motor cycle with very high speed whereupon I asked him the time of such passage. He said he did not know the time and that he wanted the address of the said Abdi. I gave him the address.
3. At about 3 p.m. Abdi came on duty and he told me that Amolo had been to his place asking him to give false evidence against Taj Din to the effect that he drove the Motor Cycle with high speed at 12.30 p.m. that day and that the said Abdi had refused to do so.

Certified true copy
1/4/31

R. Ramsay

ASST. COMMISSIONER

Sworn at Mombasa
 This 14th day of June, 1926
 Before Murray L. JACK
 Dy. Registrar

Right thumb mark of
 Hussein bin Salim.

This is the true copy.

A. B. Patel.
 16/6/26.

C.R. 832/26.

15.6.26.
4.10 p.m.

Received instructions from Supt. in charge to enquire into a report made by Mr. K. B. Patel, Solicitor, Bombay, in which he states that Sub. Inspector Ramchand has made a false charge against his client, Taj Din.

(sd) E.D. Theunissen.
A.S.P.

16/6/26.
9 a.m.

I proceed to Court and ask for a remand in the case, until enquiry is completed. I also obtain copies of sworn statements from two R.E.A.A. men and copy of form F/16 A.

(sd) E.D. Theunissen.
A.S.P.

Certified true copy
1/3/31.

R.F. Rainford

ASST. COMMISSIONER

16.6.26.

7547 1/C. Sultan Khan. Indian Kenya
Police States :-

At 4 p.m. 10.6.26. I was in the P/S. S. I. Ram Chand and A.S.I. Gurbux Singh were there. Ramchand said to me I want a case against Taj Din, tell the man on No. 6 Point that if he sees Taj Din riding any sort of Motor Vehicle he must take down the number and report at Police Station. I gave these instructions to 5026 3/C. Omolo Olwooch who was on Point No. 6.

On 11.6.26 at about 10.30 a.m. I went to Kilindini on my return I saw Omolo he told me that he had taken down the number of Motor cycle A.403 ridden by Taj Din, and asked me to call the R.E.A.A. man (Abdi Salim) as a witness, I did not do this.

Ramchand told me on my return to P/S that as soon as the above case was finished he would give me further instructions for the man on No. 1 Point for another. He also told me that I had to go to Court to give evidence in above case. I told him I could not, because I knew nothing about the case. He said you hear what Abdi says and say the same, and also that you saw Abdi, holding up his hand but Taj Din refused to stop. I told him I could not do it.

R.O.C.

(sd) E.D. Theunissen.

A.S.P.

Certified true
copy.
1/4/31

R.F. Ramchand

ASST. COMMISSIONER

16.6.26. 2 p.m. 5026 3/C. Olomo Olwooch, Kenya
Police, Msa, States :-

I was on No. 6 Point duty on 11/6/26 at about 11 a.m. 1/C Sultan Khan came to me and gave me a Motor Cycle No. A.403 and told me to watch for this number. I asked him if the owner had committed any offence he said yes. A short time after I saw Taj Din riding the above cycle he was riding very slowly and went down Salim Road. I took the number and reported at P/S.

A.S.I. Gurbux Singh was at the P/S when I reported I told him that Sultan Khan had told me to take the number, when I saw Taj Din on the road, I did not make any charge, because no offence had been committed, I thought the number was wanted for some other case. G. Singh told me to go back to my point and tell the R.E.A.A. man Abdi Salim, to come to the P/S to make a statement re above case. I told him to go, he at first said he would but later said he would not go to the P/S to tell lies as he knew nothing about the case.

I went on duty again from 6 to 10 p.m. at G. Singh, again told me to tell Abdi Salim to come to P/S to make a statement and that he had to give evidence in court, he again refused to go.

R.O.C.

(sd) E.D. Theuflissen.
A.S.P.

Certified true
copy
1/4/31.

R.F. Rainford

ASST. COMMISSIONER.

16.6.26 3 p.m. Taj Din S/O Amin Bux. Indian.

States:-

I have a Garage in Msa. I know S. I. Ram Chand for the past 14 months I have been doing repairs to his Motor Cycle and Sidecar. He never used to pay me my fees, he used to give me from 2 to 5 Shs. though my fees were much more. The amount he owed me mounted up to about Shs. 250/- I had no chance of recovering this so took Civil action against him and won my case.

(sd) E.D. Theunissen. A.S.P.

R.O.C.

3.30 p.m.

Supt. i/c.

I am attaching statements of all persons concerned, in a under the Motor Traffic Ord. It appears that S. I. Ramchand has committed an offence under Sec. 211 I.F.O.

(sd) E.D. Theunissen.
A.S.P.

Kenya Police
17/8/26
9.30 a.m.
Mombasa.

A.S.P.
Please have A.S.I. Gurbach Singh before me. I wish to question him. He was present with Ram Chand when this charge was laid. He is at present on the "Dumra" get him when he returns.

(sd) E.R. Sullivan Tailleur.

S.P.

Certified true
copy.
1/4/31.

R.F. Rainford
ASST. COMMISSIONER

17.6.26.

2:30 p.m. A.S.I. Gurbux Singh, Kenya Police, Mombasa.
States:-

On 11.6.26 at 1 p.m. I was on duty in the charge office when No. 372 3/C Omolo of Point No. 6, came to the Police Station and reported that he saw an Indian riding Motor Cycle No. A.403 on the Kilindini Road, recklessly and he refused to stop when signalled to do so, other cars were coming from the opposite direction he was going very fast. I entered the report in O.B. and cut a C.F. and made a remark that a summons would be applied for as soon as the name was known.

Next morning means 12.6.26

I told P.C. Omolo to call the R.E.A.A.A. who was on duty with him to make a statement at 2.15 p.m. Omolo returned and said his witness would come next morning. Next morning I asked Omolo where his witness was as the case had to go to Court, he then told me that the R.E.A.A.A. refused to come to P/S because he knew nothing about the case.

I then got angry with Omolo and asked him why his witness did not come; and that if it was a false report he made he would be taken before the S.F.

He then said he was told by Ramchand to make a report against (Taj Din). I did not ask any more questions and sent him back to his Point.

On 12.6.26 at about 2 p.m. I saw Ramchand in P/S and asked if he had given instructions to Omolo to bring a case against (Taj Din) and that if Omolo was telling the truth it will be a very bad case against us. Ramchand said he gave no instructions and knew nothing about the case. That night I was walking towards the Police Lines, with Ramchand, Omolo was on duty at Point 6. I asked Omolo in Ramchand's hearing whether the story he told me about Ramchand's instructions to him was correct, he denied everything and said he never said anything about Ramchand.

Omolo then said (Taj Din) went to the R.E.A.A.A. man's house and gave him something so as he should not give evidence in the case. I did not hear the conversation between Ramchand and Sultan Khan on the 10.6.26.

Note Ramchand left P/S at 12 M.D. see O.B.

Note this took place after 6p.m. 12.6.26. Case went to Court 9am, 12.6.26.

(sd) E.D. Theunissen, A.S.P. R.O.C.

17.6.26. Supdt. i/c at present on board 3 p.m. ship.

(sd) E.D. Theunissen, A.S.P.

3.30 p.m. Supdt. i/c: A.S.I. Gurbux Singh attached.

(sd) E.D. Theunissen, A.S.P.

Certified true copy. 1/4/31.

P.T. Rainford

ASST. COMMISSIONER

KENYA POLICE

12.15 p.m.
18 JUN. 1926
MOBASA.

C.P.

To you for your perusal. This preliminary enquiry was not completed before accused (S. I. Ram Chand) was transferred and therefore I was unable to charge him. I informed him that I was investigating a charge against him before he left, and he would be given an opportunity to defend if I found it true. I am of the opinion that the charge is in fact and substance true and I take a serious view of it. The Complaint was laid by Barrister Patel of Msa on behalf of his client Taj Din accused in our Police case.

57

(sd) E.R. Sullivan Tailyour.
S.P.

C.P.

This matter can only be gone into in Mombasa. The S.P. should have delayed this S.I. and completed his enquiry.

J.M.L.
28/6.

Certified true copy.
1/4/31.

R.F. Rainald

ASST. COMMISSIONER

No. P.18/1/A/26/5

Office of the Commissioner of Police,
P.O. Box No. 83,
Nairobi, 30th June, 1926.

The Superintendent of Police,

Mombasa.

RE: COMPLAINT AGAINST POLICE - S.I. RAM CHAND

With reference to your letter No. M.18/4/26 dated the 19th June, 1926, the following is the Commissioner's order :-

ORDER:-

This man (S.I. Ram Chand) should never have been transferred pending completion of inquiry.

2. The Sub-Inspector will return to Mombasa at once.
3. Superintendent of Police, Mombasa, will frame charges departmentally forthwith and hold full inquiry.
4. Case to be withdrawn.
5. On completion of inquiry, return File with full record of investigation, evidence, finding and recommendation.
6. The Sub-Inspector to have every opportunity of cross-examining the witnesses.
7. Give the original complainant and his representative a chance of being present at inquiry.
8. On completion, the Sub-Inspector to return to Depot for duty.

Sd/- R.G.B. Spicer
COMMISSIONER, KENYA POLICE.

COUNTERSIGNED
(sd) James M. Lumley.

for COMMISSIONER, KENYA POLICE.

Certified true
copy.
1/4/31.

Copy:- the Superintendent i/c Police
Depot, Nairobi.

R.F. Rainsford

R.B.P.

ASST. COMMISSIONER

A. B. PATEL.

B. A. LL. B.

P. O. Box 274.

BAR AT LAW

MOMBASA, 5th July 1926.
(Kenya)

Telegrams "Patel Advocate"

To

The Superintendent of Police,
Mombasa.

Sir,

TAJDIR

I am very sorry that I shall not be able to come to your office at 2.30 p.m. to-day as promised by me yesterday. Unexpectedly a murder case, in which I have to defend accused at the instruction of the Crown, has been fixed for hearing 2.15 p.m. for hearing before the supreme court. I hope to be excused.

I have the honour to be

Sirs
Yours obediently,

(sd) A. B. Patel.

Advocate for Tajdir.

Certified true copy.
1/4/31.*P. S. Ramsford*
ASST. COMMISSIONER

POLICE CASE NO. 832

1926.

Kenya Police
2.15 p.m.
5 Jul. 1926
Mombasa.

S.I. arrives Sat. Case put back till today for appearance of Compt's lawyer. Attached letter stating lawyer cannot attend. I continue the case as S.I. cannot be kept here indefinitely.

(sd) H.R.S.T.

S.P.

I propose to read the statements taken already and let S.I. Ram Chand cross-examine if he cares to on them.

(sd) E.R.S. Tallyour,
S.P.

Page 7 Taj Din present statement read out to S.I. (accused).

Question:- How do you know you won your case on the 16th.

Answer:- I did not know. I meant I filed a civil case to get the money. The case is not finished.

Question:- Why did he say he had won it.

Answer:- I did not. I meant I had filed a suite.

Question:- Did you give me notice in writing about my money.

Answer:- Yes I did. Every month about 6 or 7 times once a month like a bill.

Answer:- I have no receipt.

Answer:- I had no copies before I got a notice from the S.I. then I made copies.

Answer:- I was shown a note by the S.I. with 650/- on it and asked to sign it. I refused.

Answer:- After this incident I was given a notice.

Answer:- After this notice I sent the bill to the S.I. for 224/-

Question:- I sued him in Court for the amount owed me by the S.I.

No more questions to ask.

Certified true copy.
1/4/31.

RF. Rainford

ASST. COMMISSIONER

(sd) E.R. Sullivan Tallyour,
S.P.

Statement on page 2 of Abdi bin Salim read out to the S.I. (Abdi present)

Answer:- I did not see Taj Din riding a bicycle myself.

Answer:- I told Taj Din at 4 p.m. because I wanted the "Serkali" to know about this.

Answer:- I did not tell the P/S but the accused came to me on duty at 7 p.m. and said to me why have you refused to give this evidence against Taj Din. I said I did not see him.

Answer:- I heard Taj Din had come to my house but I was out.

Answer:- I had no talk about Taj Din about this Shauri at my house.

Answer:- When you came to me at 7 p.m. P.C. Omolo was not there.

Answer:- P.C. Omolo never told me I had got bakshiesh from Taj Din for this shauri.

CONTD.

ANSWER:- I used to see you passing.

ANSWER:- I have not been requested to take anyone else's number by this E.I.

By ms:-

When the E.I. came at 7 p.m. what else did he say?

ANSWER:- He said that I (Abdi) would see him and Omolo would see him.

(sd) E.R. Sullivan Tallyour.
S.P.

A.B.I. Gurbux Singh statement read to accused.
A.B.I. G.S. present page 8.

No questions to ask.

By ms:-

12.6.26.
before
Court.

I did not think there was anything suspicious about the case at first. Afterwards when the R.E.A.A.A. refused to come in I got suspicious.

I knew there was a civil case between S.I. R. Chand and Taj Din. From the civil case I knew they were not on good terms.

I did not stop the prosecution of the case, nor did I take any steps to stop this case going to Court.

(sd) E.R. Sullivan Tallyour.
S.P.

Pg. 6. Statement of 5026 J /Gr. Omolo read out.
P.C. Omolo present.

ANSWER:- P.C. Sultan Khan told me if I saw No. 403 pass my way write down the number and bring it to the P/C.

ANSWER:- I asked why to P.C. Sultan Khan and P.C. Sultan said the case concerns Man Chand.

ANSWER:- I was not told the reason of this "case concerns Man Chand."

ANSWER:- I took the report to the P/S at 12.30 when I saw him pass (Taj Din).

ANSWER:- He was not going fast - an ordinary pace.

ANSWER:- I did not stop him.

ANSWER:- I got to the P/C at 12.35.

ANSWER:- I made the report to A.B.I. G. Singh

ANSWER:- I was told to put my signature the A.B.I. told me this is S.I. Man Chand's case but as I had brought the charge I was to sign.

ANSWER:- I don't know what I put my signature to. It was not read to me. I was told by the A.B.I. to say at what time I brought the number to the P/S.

ANSWER:- I did not see him at the P/C that day.

ANSWER:- At 8 p.m. I saw S.I. R. Chand and A.B.I. G. Singh at my point.

ANSWER:- The R.E.A.A.A. man Abdi Talim was not there. The other R.E.A.A.A. man was there.

ANSWER:- I never told you that Taj Din had spoken to the R.E.A.A.A. man and in consequence they had refused to give evidence.

ANSWER:- I was on duty for the week.

ANSWER:- I did not see you passing on your motor cycle that week.

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copy.
1/4/31.

ORD.

ASSI

Answer:- You never told me but P.C. Sultan Khan told me.

Answer:- I was called with R.E.A.A.A. man before I.P. 1/c P/S.

Answer:- I was not asked about the case by I.P.1/c

Answer:- I did not tell I.P.1/c that Taj Din had given backsheesh to the R.E.A.A.A. man.

Answer:- I did not say I brought this number only because P.C. Sultan Khan told me to.

Answer:- You never said anything to me about this case.

Answer:- I do not know Taj Din and the R.E.A.A.A. men are friends.

Answer:- I did not see Taj Din going to the R.E.A.A.A.'s house.

Answer:- Taj Din never spoke to me.

Answer:- I did not see Taj Din speak to the R.E.A.A.A. man.

Answer:- I heard Taj Din ask the short R.E.A.A.A. where the house of Abdi was the other R.E.A.A.A.

Answer:- I saw Taj Din going along the Hospital Rd I don't know where he went.

Answer:- He made in the direction of Abdi's house (R.E.A.A.A.)

Answer:- I have not had any conversation with any of the S.I. and A.S.I.s about this case.

Answer:- At 2 p.m. on 11th I was relieved and went to the P/S to report off and then A.S.I. G. Singh told me to get the R.E.A.A.A. ~~man~~ man as evidence.

Answer:- I told Abdi R.E.A.A.A. that he was a witness in this case. Abdi said I went go as witness as I didn't see him (Taj Din)

Answer:- I don't know whether S.I. Ram Chand and Taj Din were friends or not. I'm don't know Indian affairs. Nor do I know about a civil case.

Answer:- I did not tell Abdi (R.E.A.A.A.) that the S.I. and Taj Din had quarrelled.

Answer:- I was told by P.C. Sultan Khan at 11 a.m. on 11th to get this cycle No.

Answer:- The tall man Abdi R.E.A.A.A. was relieved at 11 a.m. or very soon after.

Answer:- Abdi and myself were present when P.C. Sultan Khan told me.

Answer:- The short R.E.A.A.A. man was not present.

Answer:- It was after 11 a.m. a little.

Answer:- I was told by the A.S.I. Gerbux Singh to call the tall man (R.E.A.A.A.)

By me:

I called the tall man (R.E.A.A.A.) as witness altho' he wasn't present because he was present when P.C. Sultan Khan told me just after 11 a.m.

Answer:- I thought it wasn't a true case at the time.

Answer:- I found the short R.E.A.A.A. man at the P/S. I never called him as my witness.

Answer:- I never told Inspt.1/c that I thought this was a fake case because what are my superiors doing. Its their concern.

Answer:- I was sent to Court as a witness.

Answer:- I was told by A.S.I. G. Singh to give evidence at what time I saw the cycle pass at the Court.

Certified true
copy.
1/4/31:

R. P. Rainsford

ASST. COMMISSIONER

Answer:- From Court I came to S.P.'s Office.
Answer:- I didn't tell the I.P.i/c. I told the A.S.P.
Answer:- No one taught me to say anything I said what I saw before the A.S.P.

(sd) E.R.Sullivan Tailyour.
S.P.

Page 5. Read statement to accused of P.C.Sultan Khan (present).

ASST.

Answer:- At 4 p.m. on 10th I was told by you to bring this case give information to P.C.Omolo as in my statement. A.S.I. Gerbux Singh was present.

Answer:- You and A.S.I. Gerbux Singh was present.

Answer:- At 10.30 a.m. 11th I told P.C.Omolo.

Answer:- I said to P.C.Omolo to bring the No. of Taj Din if he passes. S.I.Ram Chand wants it.

Answer:- You told me no offence but to bring the No. and we will make an offence, i.e. A.S.I.G.Singh and you.

Answer:- I dont know the reason I was told.

Answer:- I did not tell I.P.i/c P/S.

Answer:- I did know the case was not true but I got instructions.

Answer:- I know Taj Din for 5 years.

Answer:- Acquaintance not a friend.

Answer:- I have seen you and Taj Din together often playing chess.

Answer:- He is a friend we have not quarrelled.

Answer:- I did not tell Taj Din this was a false case I was afraid of more "laneno".

Answer:- I was told by you to go and give evidence in the Court and I refused.

Answer:- I did not tell I.P.i/c because I was afraid of "fitna" if I told him you would have fixed it up with the S.P.

Answer:- What I mean by fitna is that when I.P.Boy was here I brought a case of gambling and I told the Inspector I was a gambler.

Answer:- I am quite sure it was 4 p.m. 10th when you told me about this case.

Answer:- No one else was there except A.S.I. G.Singh and you.

Answer:- At the r/s Hsa near it not inside it.

Answer:- I was going to the tea shop at 4 p.m. when you saw me.

Answer:- I went to my house at 3.30 p.m. I did not go to the Rly Station.

(sd) E.R.Sullivan Tailyour.
S.P.

Statement made to me after questions read over :- I was told by S.I.Ram Chand on the 11th to bring news of the case in the Court after it is finished. He was alone when he told me. I was ~~xxxx~~ told on Salim Road at 8 a.m.

(sd) E.R.Sullivan Tailyour.
S.P.

Certified true
Copy.
1.4.31.

R.F. Rainsford

ASST. COMMISSIONER.

KENYA POLICE
7 p.m.
5 JUL 1926
MOMBASA.

Page 3 Statement of Hussein bin
Salim read out (present)

Answer:- 11 a.m. on 11th I went on duty.

Answer:- On another day I went to the P/S with an askari not on 11th.

Answer:- I went before I.P.i/c who asked me and I said I knew nothing about it.

Answer:- Askari never said anything to the I.P.i/c to my answer above.

Answer:- I.P.i/c never said anything to the askari in my hearing.

Answer:- Taj Din never came to my house. He doesn't know it.

Answer:- Taj Din knows Abdi's house. Their houses are near each other.

Answer:- I don't remember I.P.i/c asking Omolo for the offence he charged Taj Din with.

Answer:- I was told to go to Court. I was afraid and I went. I wasn't called.

Answer:- I did not see P.C. Sultan Khan at the Court nor at the P/S.

Answer:- I saw P.C. Sultan Khan at 8.30 a.m. the day of the Court from the P/S direction.

(sd) E.R. Sullivan Tailleur.
S.P.

S.I. Ramchand now calls I.P. Bugden in his defence.

Answer:- Taj Din was charged for reckless driving about 3 weeks ago. Case withdrawn on instructions from A.S.E. because the case was a doubtful one.

Answer:- I don't remember them being called before me but to the P/S. I saw them at the P/S.

Answer:- I heard them talking. The R.E.A.A.A. man and 1 police man.

Answer:- I can't recollect what the Police man said but that the R.E.A.A.A. had seen Taj Din riding his motor cycle and that the R.E.A.A.A. refused to give evidence.

Answer:- I don't know what R.E.A.A.A. replied. I understood he had seen Taj Din once on that day.

Answer:- I was doing surveillances. There was a lot of noise and I told A.S.I. Gurbux Singh to shut them up. I can't remember them brought before me. They might have been brought before me or it might have been I spoke to them.

Answer:- He told me that the R.E.A.A.A. had knew about offence having been committed but refused to give evidence.

Answer:- The R.E.A.A.A. said he has seen no offence.

Answer:- The askari Omolo said that Taj Din had been to the R.E.A.A.A. man.

By me:

See statement in Court file he says short man

On the 12th before case went to Court there was some talk between the askari and the R.E.A.A.A. man (Tall man) i.e. Abdi.

Answer:- The askari said the charge was for riding fast.

Answer:- When I heard this case I didn't worry about it as I was busy with surveillances as I thought it was ordinary case in the course of the day.

KENYA POLICE
5 JUL 1926
MOMBASA.

Certified true
copy.
1/4/31.

R.F. Rainford

ASST. COMMISSIONER.

By me

I didnt go into the case myself but told A.S.I. Gerbux Singh to go into. I did not know then why the R.E.A.A.A. man had refused to appear in Court. I did not suspect it was false or else I would have gone into myself.

Answer:- I said to A.S.I. Gerbux Singh go into the case and send it to Court. I have seen Taj Din ride fast. I have not run him in as it was not necessary. I didn't think he was committing an offence.

He is definite Answer:- Case was sent to Court the same morning about this I saw the askari at the P/S.
see Court file.

(sd) E.R. Sullivan Tailyour
S.F.

S.I. Ram Chand produces O.B. entry 32 1C/6/26 which shew P.C. Sultan Khan to Rly Station at 3.15 p.m. (Entry by A.S.I. G. Singh) and entered back against the main entry at 4.45 p.m. by A.S.I. Jodh Singh.

Seen by me

(sd) E.R. S.T.
S.F.

A.S.I. Jodh Singh called by S.I.R. Chand

Answer:- P.C. Omolo asked me about the case when it was coming on at 7 a.m. 16th and I referred him to A.S.I. G. Singh at 8 a.m. He asked me at the P/S.

Answer:- He wanted (P.C. Omolo) to know the contents of the case.

Answer:- I had no other talk about this case with P.C. Omolo.

(sd) E.R. Sullivan Tailyour
S.F.

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copy
1/4/31.

RF. Rainsford

ASST. COMMISSIONER

By me:-

The O.B. entry 1/0. Okello NCO 4/c reported P.C. Sultan Khan off. I did not see P.C. Sultan myself. I dont know whether he was on the Rly Station or not. I went on duty at 4 p.m. at P/S.

(sd) E.R. Sullivan Tailyour
S.F.

KENYA POLICE
5 Jul. 1926
7.20 p.m.
MOMBASA

S.I. Ram Chand, Police

States :-

I dont know anything about this case.

(sd) E.R. Sullivan Tailyour
S.F.

Re O.B. 32/10/6/26

I call 1/C F.C. Okello **Oliech** who is entered as going on Rly Station duty ~~with~~ with P.C. Sultan Khan at 1.15 p.m. and coming off duty at 4.45 p.m.

I dont remember as its long ago but if its written in the book I sent, I reported the others pass on. I reported this day. When we go on duty we all report X but the 1/C reports off duty. If an askari goes off duty I would report before his time is up.

X This must be Altered. All should report off together.

E.R.S.T.
S.P.

(sd) E.R. Sullivan Tailour.
S.P.

S.I. Ram Chand asks the opinion on the demeanour of P.C. Sultan Khan when he took his statement.

A.S.P. replies I thought his statement was straight forward. I question him in it to make things quite plain. He shewed no hesitation and answered me straightly.

(sd) E.R. Sullivan Tailour.
S.P.

8 p.m.
5/7/26

F.C. Sultan Khan asked to prove his being at two places at once, i.e. F/S (near) and Rly Station states on that day he had a summons to serve and got leave from 1/Gr Okello Oliech. P.C. Okello Oliech says it was long ago and cannot remember whether P.C. Sultan Khan did or did not get leave. P.C. Sultan Khan serves process on Indians at the F/S.

(sd) E.R. Sullivan Tailour.
S.P.

certified true copy.
1/4/31

R.F. Rainford

5/7/26

ASST. COMMISSIONER

Enquiry commenced at 2.15 p.m. and completed at 7.45 p.m. I consider it more satisfactory both to accused parties concerned to finish an enquiry of this nature at one sitting if possible. S.I. Ram Chand called all the witnesses concerned and the answers given are answers to his X examination. These by me are stated by me.

(sd) E.R. Sullivan Tailour.
S.P.

5/7/26

I close enquiry and proceed to return to recover the evidence and write up findings.

(sd) E.R. Sullivan Tailour.
S.P.

5/7/26

Findings

This is an enquiry brought by one Tej Din an Indian Cycle and carriage owner of Bombay in which he states he was initially charged with riding a cycle 403 to the danger of the public by the Police at the investigation of accused S.I. Ram Chand. He was in fact charged and the case sent to Court, - but -

57
 but withdrawn by the S.P. when this complaint was laid. It has been my duty to find out whether this case was false and the investigator S.I.R.Chand. The evidence given by the two R.E.A.A. men pg 2 & 3 are clear statements and unshaken in my opinion by the cross examination of the S.I. The S.I. apparently tried to prove that they were bribed by compt Taj Din to do what is beyond my comprehension. They said that they saw and heard and their demeanour before me under gross examination was in their favour, I can generally tell when a native is lying, I have had too much to do with sifting truth from lies in this country. So much for these two witnesses. Taj Din's statement merely refers to his civil case against the S.I. and he confined himself to this. He has apparently had some difficulty in getting money owed him by the S.I. and the relationship is strained. Finally a civil case was taken out. Was this enough to make this S.I. risk this case with which he is charged. I regret to say but from my knowledge of this S.I. he is perfectly capable of it. The witnesses P.C. Omolo and P.C. Sultan Khan I am convinced were telling me the truth. It is quite ~~obvious~~ evident they were agents of S.I.R.Chand for neither P.C. Sultan Khan who is friendly with Taj Din or P.C. Omolo would have any reason for making a case unless instructed to do so. One point must be discussed here. P.C. Sultan Khan says he saw S.I. Ram Chand on 10th at 4 p.m. when he should have been at the Rly Station. P.C. Sultan Khan's explanation is given. P.C. Sultan Khan is certainly used to serve process on Indian. Unfortunately P.C. Okello Clie cannot help us as its a month ago. He has been known to leave the Rly Station on this duty before. I now come to the statement of A.S.I. G. Singh. He is not cross examined by S.I. R.Chand. I am afraid his evidence gives me a strong suspicion that he participated with S.I.R.Chand and I am very sorry to see it. This A.S.I. gives every promise of being useful in the Police and this only proves the thorough bad influence S.I. R.Chand had over the staff here. When you get an A.S.I. influenced, there is little chance of P.C. Sultan Khan, the Indian askari and P.C. Omolo ~~escaping~~. Insp. Budden's evidence is of little value to the defence. It merely showed he was busy at the time and left the case to A.S.I. G. Singh. A good Inspector but has yet to learn the little ways of S.I.s and when a African witness refuses to come to Court, a rare occurrence, things lie at the back of it which want going into. The weight of the evidence proves to me that S.I. Ram Chand out of spite falsely charged by instigation Taj Din, and endeavoured, fairly

Certified true copy
 1/4/31:

R.F. Rainsford

ASST. COMMISSIONER.

Both P.C.
 Omolo and P.C.
 S.Khan belong to
 the P/S Staff

- successfully -

successfully, and perverted to his own ends, A.S.I. G. Singh, P.C. Sultan Khan and P.C. Omollo and had it not been for the action taken by R.E.A.A.A. man Abdi bin Salim the case would have gone through.

I therefore find him guilty under Sec. 49 SS 35 P.O. 1911 ~~and~~ and recommend he be (1) reduced to the Rank of A.S.I.

(2) Kept in future in white areas.

6/7/26 (sd) E.R. Sullivan
Tallyour.
S.F.

Police Note

His C & S roll is with his O.C. who I presume with pass sentence on his if confirmed. I have therefore not filled up his crime form.

6/7/26 (sd) E.R. Sullivan Tallyour.
S.P.

ORDER

Finding and sentence
of S.P. Lbisa confirmed.

(sd) S.

23/7
22/7

certified true copy.
1/4/31.

R.F. Rainford

ASST. COMMISSIONER.

Copy-

69

No. M. 1503/26.

ATTORNEY GENERAL'S OFFICE,
P.O. Box No. 112,
Nairobi, 30th September, 1926.

The Commissioner, Kenya Police,
Nairobi.

KENYA POLICE
6 Oct. 1926
Mombasa.

Re: Complaint against Sub-Inspector Ram Chand
Ref: your No. P. 118/79/L of 29th instant

The Police File containing the Record of Proceedings of a Police Departmental Enquiry into certain allegations against the above named was handed to me at Mombasa by Superintendent Sullivan Tailyour for my advise on the matter.

Superintendent Tailyour submitted that as Ram Chand had been punished departmentally he could not now be proceeded against under the Indian Penal Code in respect of the same offence; vide Section 56 of the Police Ordinance.

I disagree with this submission. Although I have already advised in the case of E.P.C. Carter that a person who has been convicted of an offence and sentenced by a Court of Justice should not be again tried departmentally for the same offence the reverse does not apply because I am of opinion that serious offences against the Indian Penal Code should never be dealt with departmentally.

The Police Ordinance provides for departmental trial in respect of offences against the discipline only and there is no intention to usurp the functions of the ordinary Courts.

A Police Askari may be punished departmentally for striking his Superior Officer but if grievous hurt is thereby caused to the Superior Officer the offence must be dealt with only by a Court of Justice.

In my view an offence against Section 211 of the Indian Penal Code is a serious one and more serious still when the offender is a Police Officer.

From perusal of the Magistrate's record and that of the Enquiry Proceedings I have come to the conclusion that there is evidence to support a charge under Section 211 of the Indian Penal Code and advise that proceedings be instituted forthwith.

SD/- A. MacCarthy
CROWN COUNSEL
for ATTORNEY GENERAL.

Certified true
copy.
1/4/31.

R. P. Ramsford

ASST. COMMISSIONER.

No. P. 188/79/H

Office of the Commissioner of Police
P.O. Box No. 83,
Nairobi, 4th October, 1926.

The Superintendent of Police,
Mombasa.

Reference above you must now proceed to
prosecute this A.S.I. accordingly.

Enquiry File returned herewith.

(sd) R. G. B. Spicer.
COMMISSIONER, KENYA POLICE.

COUNTERSIGNED

(sd) E. K. Catchpole.
STAFF OFFICER
to COMMISSIONER, KENYA POLICE.

Copy **II** : - The Supdt. of Police i/c Depot
for information of A.S.I. Ram Chand.
He should appear in civil clothes.

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R. F. Rainford
ASST. COMMISSIONER.

Advocate
600...

Mombasa. 25th February 1927.

Dear Doran,

res. Revision application by Gurubax Singh

In this case I desire to bring to your notice - though I believe you are already aware of it - the following facts which I consider to be fatal for the petitioner's defensive arguments.

1. Gurubax Singh's own statement runs as follows :-

"Next morning I came on duty at 8 a.m. P.C. Amolo was going on point duty. I asked him why his witness had failed to appear. On that he told me the witness was given bribe by accused (Taj Din) and he now refused to come as a witness. When I heard his story I took the matter to Inspector Bugden the Insp.i/c, to whom I reported the matter. He asked Amolo in Swahili. P.C. Amolo made the same statement. Then Inspector Bugden told me to call the R.E.A.A.A. man by name Hussein as he wanted to see him before sending the case to Court. I therefore told P.C. Amolo to bring the R.E.A.A.A. man Hussein to the Police --- Station as soon as possible. On Monday P.C. Amolo brought Hussein to the Police Station and reported to me. I told P.C. Amolo to take him to Inspector Bugden. I do not know what Inspector Bugden said to him but after a few minutes He instructed me to send the file to Court. His instructions were carried out".

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R. S. Lawrence

ASST. COMMISSIONER.

I do not know if "on Monday" appears on the original file but if it does appear so then Gurubax Singh has no defence. By "Next morning" he means Saturday the 12th June 1926 and if the red underlined words are true then it follows that Gurubax Singh was not to send the case to Court till Mr. Bugden had seen R.E.A.A.A. man Hussein. By "Monday" he means Monday the 14th June 1926. When Amolo brought Hussein to Police and took him to Mr. Bugden, Mr. Bugden few minutes after he had seen Hussein instructed Gurubax Singh to send the file to Court. From the Police

First report (complaint) you will see that it was forwarded to the Resident Magistrate, Mombasa, at 9 a.m. on the 12th June 1926. In consequence whereof the annexed summons was issued the same day. This proves Gurubax Singh sent the case to Court on 12th June 1926 against instructions from Mr. Bugden (if any).

2. The second position is ^{this} that I do not know whether O.B. has been exhibited or not and if it has been exhibited or can now be exhibited the Duty hours of following persons were as follows :-

- (a) Amolo point duty at 9.55 a.m. on 12th June
- (b) Gurubax Singh on duty at 7.55 a.m. on 12th June
- (c) Bugden off duty 9.40 a.m. to 11.50 a.m. on inquiry on 12th June. (See Bugden's statement).

Mr. Gurubax Singh says when P.C. Amolo was going on duty point I asked him why his witness had failed to appear, this plus alleged reply could not be at 8 a.m. but if at all it was at 9.55 a.m. when Amolo actually left for point duty. From here it is evident that case was submitted before Amolo could make any statement and that when at 9.55 a.m. he was going and he made such statement then it could not have been referred to Mr. Bugden before his return to Police station which happened at 11.50 a.m. And this fact conclusively proves that Mr. Bugden and Mr. Gurubax Singh both conspired to make a false story which actually they have now made, and in case at all if it happened on Saturday the 12th June then even it is an impossibility.

3. I hope this will assist you in getting the application dismissed and in case if I am not able to be understood by you you may very gladly ask further explanation from me in the matter.

Yours sincerely,
(sd) A.B. Patel.

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R.F. Ramsford

ASST. COMMISSIONER.

IN HIS MAJESTY'S SUPREME COURT OF KENYA AT MOMBASA

(Criminal ~~XXXXX~~ Revision Case No.3 of 1927) 13

(From Original Sentence in Criminal Case No.26 of 1926 of the Resident Commissioners Court at Mombasa)

Gurbax Singh s/c Boota Singh..... Appellant
(Original Accused)

VERSUS

Rex..... Respondant.
(Original Prosecutor)

JUDGMENT

This is an application for revision of a case tried by the Resident Commissioner, Mombasa. The accused was convicted of making a false charge of an offence with intent to injure, contrary to section 211, I.P.C. The charge is contained in the first information report and reads: "The Complainant states that on the 11th June 1926 at about 12.30 P.M. he saw the accused driving a Motor Cycle No. A-403 recklessly and negligently at Kili-dini Road and Salim Road Junction. Also the accused did not obey the "Legal order when he was signalled to stop the Machine and let the other Traffic pass which was approaching from "other direction.

The Signatory to this report is p.c. Amolo a native Policeman of 11 years standing and it is on his evidence that the conviction rests. The Magistrate who was "Greatly" impressed by the honesty and steadiness of his evidence, found that "after a very long and severe cross-examination his evidence remains unshaken" and that "the few facts which appear from evidence support his statement". That Amolo signed the first information is common cause. Amolo says that he signed this report under a threat from the accused that he would be sent to the orderly room if he refused and that the accused told him the substance of the report was that "at 12.30 you saw Taj Din passing, you took his number and reported to the police station. The reason suggested for making a false charge against Taj Din is that he and Ram Chand, a Sub Inspector of Police were on bad terms and that Ram Chand instigated the charge alleging that Taj Din was suffering from a swollen head. It is further suggested that Ram Chand and the accused in this case put their heads together and enlisted Sultan Khan a Punjabi Indian Police constable in the conspiracy and that Sultan Khan gave instructions to Police Constable Amolo as to what he was to do in furthering the scheme. Sultan Khan was undoubtedly an accomplice; the evidence leaves no doubt on the point. The instigation is said to have taken place on the 10th June - the incident on which the charge was based occurring on the 11th June. The definite fixing of the time of this incident must obviously be an important factor in the case, the prosecution have accepted that the time Taj Din rode past the point where Amolo was on duty was 12.30. Amolo states that having had instructions about taking Taj Din's number immediately he passed he went to the Police

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Station, a few minutes distant and is fixed the time; the first information report is a check on the accuracy of his statement in its mention of the hour 12.30 (It is a curious fact that although Amolo was given the number at 10.30 he deferred making a note of it until the Cycle had passed 2 hours later carrying the number in his head all the time). On this important point of time the evidence of Amolo is contradicted by both Sultan Khan and Taj Din. Sultan Khan's evidence is "On my back I asked the Constable Amolo whether he had got Taj Din's number as required by Ram Chand. He said he had. This was about 11.30." and later in answer to Mr. Burke he said: "I am certain of my time because I had a watch. It was 11.30 when I saw Amolo on my return from Kilindini. I know this because a Motor Driver asked me the time." So that although Taj Din rode past at 12.30 according to Amolo Sultan Khan swears that Amolo was in possession of the information that he rode past one hour before the event, according to Amolo, took place. When Sultan Khan was confronted with the contradiction he said: "When I enquired as to the time of the alleged offence and was told it was 12.30 I replied that at 12.30 I was at my meal at the hotel and Taj Din was present and that Taj Din would bring two witnesses to prove that and get me into Prison". It is a fact not unworthy of notice that this witness although he had no personal knowledge of the fact swore "Taj Din did pass the point". How could he possibly tell? On his own showing he was in the hotel with Taj Din at 12.30, the time of passing fixed by Amolo and even if it could be shown that Taj Din passed prior to 11.30, Sultan Khan again, according to himself, was dependent on Amolo for the information. And now to turn to Taj Din's evidence on this point of time. He says: "I rode by about 10.30 or 10.45 to 11..... I passed Whiteaways corner once only on July 11th on a Motor Cycle. I did pass in any other vehicle". In no case is there any suggestions of uncertainty on the part of those 3 witnesses in fixing the time; in fact two of them give evidence as to how they did fix time. That there is a wide disagreement is an important matter for the defence.

I will now contrast the evidence of p.c. Amolo with that given by the two R.E.A.A. Askaris Abdi and Hussein. Amolo states that Abdi was relieved from duty at 11 a.m. by another askari who must have been Hussein. Amolo says: "when Sultan Khan had given me instructions I went and told Abdi. This was at 11; I think although I had no watch." (The instructions given by Sultan Khan I shall have occasion to refer to later). Earlier he says: "Sultan Khan came to me about 11 a.m. that same day and gave me certain instruction Yes Gurbux Singh told me to call Abdi because I had said he (Abdi) was on duty when Sultan Khan came to see me". In passing I venture to characterize it as absurd that Abdi should be required in connection with an incident said to have taken place at 12.30. But what does Abdi say on the subject of Amolo having spoken to him at 11? "He came 12.30 to my house and again at 8 p.m. I did not see him on any other occasion about this matter. The first time Amolo spoke to me about this matter was at 2.30 p.m. I left duty at 11". And again on the point as to why Abdi should be required at the

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Police Station in connection an event placed by Amolo at 12.30 the following passage in Abdi's evidence is illuminating:- "When Amolo came to see me at 12.30 he told me 'I was wanted at the Police (station) in connection with that evidence of the happening at 12.30 and' that if I did not go I would be imprisoned". That was all he "Said". Two points were very properly stressed for the defence here. Firstly the contradiction as to the time of speaking. Secondly the strange procedure of asking a person to go to the Police Station for the purpose of making a statement in regard to something that happened when he was off duty. Did the conspirators decide to "Square" the R.E.A.A. Askari for the purpose of supporting the charge, they surely would have sent for the Askari who was on duty at the time the incident happened. Mr. Burke referred to this as suggesting what a clumsy conspiracy was attributed to Ram Chand and Gurbax Singh. In regard to Hussein, Amolo says "I told Hussein that No. 403 was wanted at the Police Station" and he was to tell me if he saw it pass. He refused". This same answer he repeated in answer to a question put by the Court adding:- "I told Gurbax Singh that Abdi was not on duty when Taj Din passed. Nevertheless Gurbax Singh told me to call Abdi. I told Gurbax Singh that Hussein was on duty when the cycle passed". Here again arises the puzzle as to why Abdi and not Hussein should be sent for. Hussein contradicts Amolo's evidence when he says "Amolo never spoke to me about the case. . . . I did not know Taj Din before seeing him in Court. Amolo never spoke to me about the case either before or after the occurrence". I will now consider the instructions said to have been given by Sultan Khan to Amolo. Sultan Khan says:- "I said to Amolo. If you don't know Taj Din you are to state the number on which he is riding and take it to the Police Station. If he is riding the Number given by Ram Chand. . . was all right. Amolo was to take any number as an excuse to go and see Taj Din". I take this to mean in the first place that if a Cycle Number 403 passed Amolo was to report the fact and that if Taj Din passed on a vehicle with a different Number he was to report that fact. This latter presupposed that Amolo knew Taj Din's appearance. How could Amolo know Taj Din? His own evidence was that he knew him by sight and had so known him since his garrage was burnt, but that the first time he knew his name was the day Sultan Khan spoke to him. Now Sultan Khan's evidence is that "I told him" (Amolo) that if Taj Din passed in a Motor Car or Cycle to "take the number and report to either Ram Chand or Gurbax Singh - no one else. Ram Chand would make a case against Taj Din. The Constable said he knew Taj Din since the time his garrage was burnt". Here Mr. Burke argued there is no evidence of Sultan Khan having in any way described Taj Din to Amolo who said he learned his name for the first time when Sultan Khan spoke to him, but taking the evidence of both witnesses on the points, one may reasonably say that Amolo knowing an Indian, whose garrage was burnt was told by Sultan Khan that Taj Din was his name. Ordinarily this would be more reasonable construction than saying that Amolo was nearly told to arrest an Indian named Taj Din. Mr. Burke's point, however, as I understand it, is that the whole story including the instruction to Amolo being a trumped up story the omission in the

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evidence of any description of Taj Din is pit fall into which the witnesses have fallen. Having regarded to the nature of the Charge there is something in his point. Now to deal with Amolo's interview with Gurbax Singh when he returned to Police Station with the information as to Taj Din having passed. Amolo in saying that he recognised the first information report to which he had subscribed his signatures says :- "I asked Gurbax Singh what he had written after I had signed". I asked him what I should say in the Court. Gurbax Singh "told me" at 12.30 you saw Taj Din passing you took his number and reported to the Police Station". The point made by Mr. Burke here is deserving of consideration. But Gurbax Singh told Amolo to say Court is useless from the point of view of securing a conviction. Passing on a Cycle is no offence and as Mr. Burke contended is it likely that, if there were serious designs of having Taj Din convicted, Amolo should not have been tutored to say something containing the elements of an offence. Later in his evidence he repeated "all I was told was to go to the Court and say I had seen the Cycle passed at 12.30". The he goes on to say that he was told to call Abdi, a point on which I have already commented.

The evidence of Inspector Bugden has been rejected by the Magistrate and Counsel for the defence has argued very strongly that this evidence is not only worthy of belief when taken by itself, but that it is corroborated by legitimate inference to be drawn from the evidence of Hussein. There is no suggestion of Bugden knowingly having given false evidence. Crown Counsel made that point clear to me. It was suggested that in as much as two Police Officers who worked under Bugden are involved that he may unconsciously have favoured them. In the first place there is no evidence as to how long those officers had worked under Inspector Bugden, in the second place although Bugden cannot remember which of the R.E.A.A.A. Askaris went to the Police station it is established by other evidence for the prosecution that it was Hussein who went. Bugden's evidence is :- I had a conversation with Gurbax Singh over it. later I saw police constable Amolo. I cannot remember what date, it was the first part of June. At the same time I saw the R.E.A.A.A. man - my impression was it was the one Abdi but I am not sure. My conversation with Amolo was to the effect that Amolo was reporting against the R.E.A.A.A. Askari, that the latter had seen Taj Din riding and now refused to give evidence. Amolo accused the R.E.A.A.A. Askari of having been bribed by Taj Din. "I was busy and told Gurbax Singh to get on with the case. I am sure my impressions given are correct". As I have said it is established that Hussein is the only R.E.A.A.A. Askari who went to the Police Station. Now although Hussein states that he did not see Amolo at the Police Station. In fact says Amolo was not there. Amolo swears that he saw him there. Hussein says he saw Inspector Bugden there and Bugden says that he remembers Amolo and Askari (R.E.A.A.A.) - which he was not sure - being at the Police Station. Reasonable inference to draw in my opinion is that Amolo and Hussein were at the Police Station on one occasion or during the period in question and that Bugden was there at the time. Now Abdi in Said after stating that he did not know Taj Din, which

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does not necessarily exclude his knowing him by sight says that Taj Din went to see him about the matter at 4 p.m. For what purpose did Taj Din interview Abdi? Hussein similarly said he did not know Taj Din and had never spoken to him until he met him in the Court. His evidence reads :- " I do not about Ram Chand and Taj Din having a Civil case about a Cycle. I never spoke to Taj Din until I met him in this Court. Taj Din never asked me to be a witness in this or any other case. I never said in this Court that Taj Din had asked me to be a witness in the motor cycle case and I had refused. The affidavit I came to the Registrar to swear had reference in Taj Din and his case. I went to the Stout Indian Clerks's office, to have the affidavit written, I was passing there when the Stout man called me in. I was going to Mr. R.S. Embell's office from the Mazuli mosque. I cannot remember when this was..... I was not taken there by Taj Din. I saw the stout lawyer " "In passing". The argument for the defence here is that Hussein did know Taj Din, that it at the instance of Taj Din he went to Mr. Patel's office - in short that the evidence corroborates the truth of Inspector Bugden's evidence when he says Amolo accused the R.E.A.A.A. Askari of having been bribed by Taj Din. Reading through Inspector Bugden's evidence I do not think it can reasonably be said that Inspector Bugden's impression of the episode is extremely vague, for ~~xxxx~~ referring to his conversation with Amolo and the R.E.A.A.A. Askari, although he could not be certain which R.E.A.A.A. Askari it was, He said "I am clear about the happening as I subsequently saw the Supdt. of Police about it with in a few days". There is no motive other than a desire to speak the truth proved for this positive statement and he said he had no other interview with Amolo and the R.E.A.A.A. Askari except the one referred to.

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I will now deal with the point of Sultan Khan having been diverted from his customary duty at the Railway station for the purpose of receiving instructions as to the carrying out of the plot. I agree with Counsel for the defence that there was no reason for such an action, for the instructions could have been given at any time and particularly so when Sultan and Ram Chand happened to be off duty. There being no reason for the action it must be my mind be considered improbable. Being improbable strong evidence is necessary to establish it as proved fact. The occurrence book was produced in the Lower Court and it shows that Sultan Khan and Okolo left for duty at the Railway station on 10th June at 3.25. True this entry is in the hand writing of the accused but their return from the Railway station is in the hand writing of Sub Inspector Jodh Singh a Crown witness who endorsed that "All returned" giving the hour at 4.45 suggestions were made by the Crown Counsel that this book is loosely kept, but they must be disregarded. The book is produced by the prosecution, it is an official record and at least more reliable than oral evidence. I could not be asked to hold that Jodh Singh made an inaccurate entry and at the same time hold that his evidence was reliable. How could Jodh Singh have given summons to Sultan Khan, as he says he did, at 4.30 when the occurrence book shows that latter not to have returned until 4.45. As regards the 6th June Jodh Singh's accuracy was tested. He says :- "I cannot remember

the circumstances of the summons given to Sultan Khan on the 6th June. The record shows it was handed to him at 4 p.m. I can not remember whether he was at the Police Station at that "particular time". When the occurrence book is looked at it is seen that Sultan Khan left the Police Station at 3.15 and returned at 5.5, so that Jodh Singh's entry in the summons book is not accurate. If the summons was sent at all, it must have been sent to Sultan Khan at the Railway Station. Still this witness is insistent that he remembers the circumstances of the 10th June. It is curious thing that although Okolo was told to take another askari, no askari could be found to take Sultan Khan's place (vide Okelb's evidence). Okelb says that he reported to Jodh Singh that he had returned alone, but how then does it come about that Jodh Singh entered "all returned".

To return to the evidence of Sultan Khan. He says Ram Chand told him to say :- "Amolo held up his hand to stop but Taj Din did not stop". Ram Chand surely knew that the R.E.A.A.A. Askari and not Amolo ordinarily controlled the Motor Traffic and gave signals, so why should he be coaching Sultan Khan have mentioned Amolo. Another discrepancy worthy of mention is that Sultan Khan at one time says he told Amolo that Ram Chand wanted to make a case against Taj Din and gave his directions about taking a number, yet later he denied having tutored Amolo to conclude I find evidence in this case thoroughly unreliable. The charge against the accused is that of making a false charge; it is lightly brought and not absolutely rare in this country in such charges the evidence requires to be subjected to the closest scrutiny and in the result I do not find it to pass the test in the present instance. Earlier in the proceedings I pointed out that in this case the accused should both on the grounds of the gravity of the offence and his own request have been sentenced on being convicted, to a term that would have enabled him to appeal rather than the similar remedy of revision applied to his case I shall not allow the refusal to exceed to his request to operate his disadvantage the ~~Magistrate~~ Magistrate erroneously was under the impression that proceedings in revision were as favourable to an accused person as the right of appeal. The evidence in the case being such as I have characterise it, the conviction and the sentence cannot stand and are quashed. Although outside the province of this Court, I do not hesitate to express the hope that if the accused has suffered departmentally, as a result of the proceedings in this case, his superiors will reconsider his position in the light of this judgment.

(sd) Joseph Sheridan.

18.6.27.

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W. P. Rainford

ASST. COMMISSIONER

