M.R.O. 14—13,000—27-9-24.

# MADRAS RECORD OFFICE.

## Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 100 Press ~~Mis.~~

33.32

Dated 27 — 1 — ~~19~~ 1857

***Not to be folded or roughly handled***

Jud
100

## *Fort St. George, Judicial Consultation, 27th January* 1857.

Read again letter from Medical Board, 24th September 1856.

No. 33. Read the following letter from GEORGE ELLIS, Esq., Register to the Court of Foujdaree Udalut; to T. PYCROFT, Esq., Chief Secretary to Government, dated 14th January 1857, No. 2.

SIR,

1. I have the honor by direction of the Judges of the Court of Foujdaree Udalut to acknowledge the receipt of an Extract from the Minutes of Consultation, under date the 9th October last, together with a letter from the Secretary to the Medical Board and enclosures herewith returned, requesting the Court of Foujdaree Udalut to call for the Proceedings of the Joint Magistrate and of the Session Judge in the Case in question and report their opinion thereon to Government.

2. The Court of Foujdaree Udalut having had the above proceedings before them have recorded the following observations.

3. It appears that the Prosecutor was apprehended and detained in the Dresser Gopaulsawmy's house on suspicion of having stolen a box containing money and papers; that whilst in custody he was seen there by a Subadar, Havildar and others and was the same morning taken to the guard room in the Barracks at Ongole, where he was also seen in the course of the day by several Native Officers and Sepoys, and in the afternoon by the Commanding Officer, Captain Wood, and the Tahsildar, and that he was consigned to the latter's charge the same evening on account of the theft.

4. The Prosecutor, a boy about 15 or 16 years of age, complained that evening to the Tahsildar and Peons that he had been burnt on his wrist by the Dresser to make him discover the stolen box, and he showed a blister of about the size of half a Rupee on his wrist.

5. There is no proof of this burning save the boy's testimony, corroborated by the existence of the blister observed the same evening, while there are many discrepancies in his statement, and moreover his declaration that he mentioned and showed the burn to the Havildar and others in the guard room (a statement altogether contradicted by them) contrasts strangely with his admission that he neglected to do so to the Subadar, Havildar and others at the Dresser's house, or to the Commanding Officer and Tahsildar at the guard room. Every individual who has been examined clearly proves that the lad did not mention or show his burn, nor was the burn observed by those who had good opportunity of seeing it, till late the same evening. If the boy had been burnt it is singular that his relations did not mention the fact to Captain Wood when interceding on his behalf during the day.

6. It appears to the Court probable that the blister (seen on the boy's wrist after dusk) was produced by the application of the acrid juice of some plant, when the boy was allowed to go to some distance from the guard house to take his food, and that as the blister did not rise until after dusk, he did not till then complain, and that his complaint was then brought forward, to procure his own release on the charge of theft, and revenge himself on his accusers.

7. The Court of Foujdaree Udalut concur with the Session Judge, to whom an appeal from the Joint Magistrate's sentence was preferred by the 3rd Prisoner in the Case, in considering the evidence totally insufficient for conviction and that the Joint Magistrate misappreciated the evidence and probabilities of the Case and that he was decidedly in error in convicting the accused.

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No. 34. ORDER THEREON, No. 100; dated 23rd January 1857.

The Court of Foujdaree Udalut, submit their observations upon the Case of 2nd Dresser Gopalsawmy, formerly attached to the Garrison of Ongole. The Dresser was sentenced by the Joint Magistrate of Nellore to six months' imprisonment on a charge of Torture, but the conviction was reversed on Appeal by the Session Judge.

2. The Foujdaree Udalut, concur with the Session Judge in considering the evidence totally insufficient for conviction, and that the Joint Magistrate misapprehended the evidence and probabilities of the Case, and that he was decidedly in error in convicting the accused.

2 The Foujdaree

*Fort St. George, Judicial Consultation, 27th January* 1857.

3. The Government think it much to be regretted that the Proceedings of Mr. J. Minchin, Joint Magistrate, in this Case should have been so hasty and ill-considered, and his Judgment given on such inadequate grounds. The Dresser it would seem was on his arrival at Nellore at once released by the Session Judge, and the Government now resolve to furnish him through the Medical Board with copy of the letter of the Foujdaree Court containing their opinion on his Case.

(Signed) T. PYCROFT,
*Chief Secretary.*

Ex.d. J. A. Wilson.

No. 100 Judicial Dep.
Extract Mins: of Cons: dated 23d January 1857.
Encl. a/a letter from Judicial Dept. 24 Sept. 1856
From Foujdaree Adawlut 14 Jany/57

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The Court of Foujdaree Adawlut submit their observations upon the case of 2d Dresser Japads among prisoners by a Native Assistant of Surgeon

The Dresser was sentenced (by his 2 months imprisonment) by the Joint Magistrate of Nellore on a charge of Torture - but the conviction was reversed on appeal by the Sessions Judge.

2 The Foujdaree

Advanced concerning the Session Judge in considering the evidence totally unsupported for conviction, and that the Sessions Magistrate misapprehended the evidence and probabilities of the case, and that he was decidedly in error in convicting the accused ——

3— The Govt think it much to be regretted that the proceedings of the Sessions Judge Mr J. Minchin, and the Sessions Magistrate in this case should have been so hastily & ill considered — and his judgment given on such inadequate grounds — The Dispatch would seem to have been written on his arrival at Nellore at once acted upon by the Sessions Judge — and the Govt now resolve to support him in this & Judicial Board letter of this date — copy of the foregoing — same Court — containing their opinion on this case.

Copy of Foregoing Despatch with 2 Inclosures
" Judicial Bd with copy of Govt letter 14th Jany 57 } Disp 28

JP

Indpt Cons: 27th January/57.

Judicial 1857 Dep[ar]t[men]t

No. 100

Extract Mins: of Cons:

2/23d Jan: 27/57.

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