

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1242

Press
~~MIS.~~

5752

Dated

26-7-47

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 29th September 1857.

No. 51. Read the following letter from G. A. HARRIS, Esq., Commissioner; to E. MALTBY, Esq., Acting Chief Secretary to Government, Fort St. George, dated Chittoor, 10th September 1857.

SIR,

I have the honor to forward the record of a case of highway robbery disposed of by me, as Commissioner, for the information of Government.

(Signed) G. A. HARRIS,
Commissioner.

Commissioner's Court, in the Zillah of Chittoor.

List of packet in case No. 1 of 1857.

Sixteen documents marked from Nos. 1 to 16, as particularized in the report submitted with the record by the Police Ameen of Vencatagery.	
Report	...17
Particulars of papers connected with the examination held before the Commissioner.	
Arraignment.	...18
Abstract of the evidence given by the witnesses, &c	...19
Defence of the 1st prisoner	...20
Do. of the 2nd do.	...21
Do. of the 3rd do.	...22

(Signed) G. A. HARRIS,
Commissioner.

No. 52. ORDER THEREON, No. 1242, dated 26th September 1857.

In this letter, Mr. Harris forwards the proceedings of a trial held by him as Commissioner, on three individuals committed before him on a charge of highway robbery. The prisoners were convicted and sentenced to 14 years' imprisonment with hard labor in irons, the punishment which Session Judges have to award for this offence, under Clause 3, Section 4, Regulation XV of 1803.

2. Government observe that the conviction is sustained by the evidence, and the only question for their consideration, therefore, is, whether grounds exist for mitigating the sentence. This is the case in their opinion as the prisoners did not carry dangerous weapons, or use violence in the first instance, and it does not appear that they have been punished before or are known as bad characters. On the other hand the neighbourhood where the robbery occurred has an unfavorable notoriety, and the protection of travellers calls for a due measure of punishment.

3. After weighing all these circumstances, the Right Honorable the Governor in Council considers that the ends of justice will be satisfied by the punishment of 3 years' imprisonment with hard labor in irons, and resolves to mitigate the sentence to this extent.

(Signed) E. MALTBY,
Acting Chief Secretary.

No 20.

1st Prisoner's Deposition.

Question. You have heard all the prosecution & witnesses have said. Say anything you have to say in your defence.

Answer. I am not guilty of his charge. I know nothing of it. The prosecution & the others have spoken falsely against me. We are cultivators of land in the Shaduk Kooduk jungle & here we live. We did not commit his crime. But we have no witnesses to dispute his charge. We did not do it, however. Why the prosecution & witnesses have deposed against us as they have, I know not. I cut logs & beams in the jungle. It was four o'clock in the afternoon. The prosecution & others came into handies & encamped here. I asked him to get from him a little chumam for my settlement. This is all I have to say.

No 21. The deposition of 2d Prisoner.

Question. As before.

Answer. I know no sin (I am innocent). I know not why the Prosecution & the others speak as they have done. We are cultivators in the Shaduk Kooduk forest & dwell here. There are no witnesses for his affair (dispute). This is all I have to say.

T. O.

Deposition of 3^d Prisoner

Question - as above

Answer. I did not do this. I know not why
the Prosecutor & the others have imputed
me. I dwell as a cultivator in the
Sedul Kundul jungle. I have no interest
in the matter at all. This is my statement

by

15-9-57.

on 15th 9th 1957

Memo

This is a case of highway robbery in which
3 prisoners were tried by the Commissioner in
N. West, Mr. George Harris, and sentenced to
14 years with hard labor in prison, in
accordance with C 3 & 4 Reg. XV of 1903 -

Their conviction is founded upon their
recognition by the Prosecutor & witnesses
who were aided by moonlight ^{at the time of the robbery} in seeing
them. The 1st prisoner had also been seen
by them the evening before when he came
to the spot in the jungle where they were
sitting with their blankets & asked for
betel. -

The prosecutor & the ^{parties} ~~prisoners~~ are strangers
to the prisoners, & there is no apparent
motive for their ~~prosecuting~~ giving willfully
false evidence against them. -

There consequently seems no reason to
mistake or disturb the conviction - and
in this case the only question is whether
the punishment is to stand or to be
retracted. -

The circumstances of the robbery are not aggravated. There were only 3 men - they carried no offensive weapons, & they sought ^{to effect} their end by theft. It was only on the prosecution waking & grappling with the 1st prisoner, that anything like violence occurred. The prisoner then broke away & joined his 2 companions who threw stones (one of which struck the prosecutor) to deter pursuit & ran off.

They were captured in their boats near the spot the following day & the police reports do not show that they are notorious characters or have been punished before.

It is imperative on Superior Judges to pass a sentence of 14 years upon a conviction of robbery - and the Jydhary Khawlat is empowered to mitigate the punishment either with or without a recommendation

from the Judge who tried the case.

- In this instance Mr Harris has made no recommendation.

- In the papers leading up to this - see travellers are subject to molestation from thieves & robbers, and it is necessary to make examples on conviction, but viewing the circumstances of the case I submit the question whether the sentence might not be mitigated considerably. - In actual gang robberies committed by armed bands with great violence the Jydhary Khawlat are not in the habit of mitigating the sentences below 7 years, but in cases like the present mitigation is carried down to 3, 2 & 1 year. - In this instance it appears to me that a sentence of 3 years would satisfy the end of justice.

- The money carried off with the turban was trifling, only 2 Rupees, but

this is an accidental circum-
-stance & little affects the merits
of the case.

17 Sept 1857

W

P.S.

This case is so unimportant that the
Magistrate might have left it to the ordinary
tribunal instead of forwarding it to the
Commissioner but a discretion has been
exercised in the Magistrate's ~~discretion~~ ^{discretion}
with respect to ^{young} Robbery, and perhaps
therefore Govt will not wish remarks
to be made on this point.

W

Enclosed with the above remarks.

H

W

W

1857 Annual Sept 4

Extract. Minutes: Court: dated 26th Sept 1857.

Recd letter from J. A. Harris, Civil &
Criminal Judge of Chittoor, & Commissioner
under Act XIV of 1857 dated 10 Sept

H

W

In this letter Mr Harris forwards the
proceedings of a trial held by him
as Commissioner on 3 individuals,
convicted before him on a charge
of Highway robbery. - The prisoners
were convicted & sentenced to 14
years imprisonment with hard
labour in view of the punishment which
Sesam Judges have to award for this
offence under C3 & 4 Reg. XV of 1803.

2 - Govt observe that the conviction
is sustained by the evidence, & the
only question for their consideration
therefore is whether ^{it} should exist
for mitigating the sentence. This
is the case in their opinion as
the prisoners did not carry dangerous

weapons or use violence in the
first instance, and it does not appear
that they have been furnished before
or are known as bad characters.
On the other hand the neighbourhood
where the robbery occurred has an
unfavourable history, and the pro-
tection of travellers calls for a due
measure of punishment. -

3 - After weighing all these circum-
stances the D. & H. the J. in C. consider
that the end of justice will be
satisfied by the punishment of 3
years imprisonment with hard labour in
Canada to ^{investigate} ~~investigate~~ ~~the~~
crimes, and ~~thereby~~ ~~the~~
sentence to that extent -

22 Sept/57

Wm

To G. A. Harris Esq.
Commr. under Act XIV of 1857.
Chittore - with
22 May. Enclaves. Sept 1st 1857