

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1279	Press ~~Mis.~~
	33-34	
Dated	5-10-19-1887	

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 6th October 1857.

No. 33. Read the following letter from W. ROBINSON, Esq., Acting Magistrate of Malabar ;
to E. MALTBY, Esq., Acting Chief Secretary to Government, Judicial Department,
Fort St. George, dated Calicut, 24th September 1857, No. ¹³⁰₁₈₅₇

SIR,

I have the honor
to submit the accom-
panying correspondence,
&c., for the orders of
Government.

From Session Judge, Tellicherry, dated 17th September 1857, No. 176, and 1 Enclosure.
To do. dated 19th do. No. 4452.
From do. dated 21st do. No. 178, and 1 Enclosure.
To the Actg. Head Asst. Magistrate, dated 19th do. No. 4451.
From do. dated 22nd do. and 1 Enclosure.

2. On the 3rd Instant a Mahomedan, named Vanjee Cudovath Koonjee Mayen, was arrested in Tellicherry, making use of, and repeating the most inflammatory and dangerous language in the public streets. He was proclaiming aloud that the present high prices are to be attributed to the wrath of Allah, and summoning "the faithful to prayer." He repeatedly proclaimed that "murderers of Kafir races will have the honors of Sahids (martyrs for the faith)." "Now there is famine, it is attributable to not following the ways of the faith," &c., and other expressions of an equally dangerous, and murder-inciting tendency. The expressions were used by him passing through one of the principal Mopla Bazaars of Tellicherry, and were heard by all classes, and happily, likewise, by some of the most respectable East Indian Public Officers, attached to the Court and Revenue Department, and he was arrested. The expressions, &c., are therefore proved beyond a doubt. Happily, however, the Moplas of Tellicherry are not so dangerously inclined as those to the Southward, and no party joined the fanatic.

3. The fanatic, however, had timed his preaching, so as to take advantage of a time when considerable excitement was prevailing in the country, just at the close of the Mohorrum, so much so, that the Brigadier Commanding the Provinces found it necessary to adopt precautionary measures at Cannanore and Tellicherry, and placed the former station in a state of defence. Partially in consequence of these measures, and partially from the natural uneasiness that a state of the rice market bordering on famine gave rise to, all classes in North Malabar had been a good deal excited, and nothing could have been more dangerous than such preaching at such a time.

4. Indeed the excitement prevailing was so general, that I found it advisable myself to proceed on a tour through the Northern Division about this time.

5. When I arrived at Tellicherry, on the 8th Instant, I heard of the occurrence above set out. The case was then under examination by the Police Ameen, the Head Assistant having unwisely left it in the hand of the Subordinate Police. In consultation with the Sessions Judge, I at once decided that a bold attempt like this to incite an inflammatory public to deeds of murder by fanatical preaching at such a time as this, was a case specially calling for summary committal to Commissioner, without the intervention of the Mahomedan Principal Sudr Ameen, under recent orders of Government. I therefore personally and repeatedly directed the Acting Head Assistant to pursue this course, and likewise requested him to take up the case for personal investigation. I left Tellicherry on my tour through the country, under the belief that this would be done; but in direct contravention of my instruction, and without giving me any warning of his intention so to act or of his having done so, Mr. Sharpe failed to act as directed, and sent an order to the Police Ameen, to commit the case to the Mahomedan Principal Sudr Ameen.

I only learnt of the step Mr. Sharpe had taken on my return to Tellicherry, 10 days later.

6. The letter of the Principal Sudr Ameen to the Acting Sessions Judge, No. 29. dated 17th Instant, herewith submitted, shews how he has dealt with the case. I would

Thos. Dorey

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remark that it is not a fact that the loud preaching in the street addressed to the Mahomedans was not heard by them. I beg likewise to draw the special attention of Government to the so-called Medical Certificate of Dr. West, Zillah Surgeon. Such a Certificate means nothing, is not a Medical Certificate in the proper acceptation of the term, and ought never to have stopped the trial of the case, much less its committal.

7. I have been anxious to re-open the case, and have the honor to submit my letter* to the Sessions Judge, asking whether this might not be done. His reply,† I likewise submit. I have also had an opportunity of personally consulting Mr. Chatfield on the subject, and I cannot disagree with this highly experienced Officer that, as the "result is inevitable," it will be better not to press the matter further, but to deal summarily with it. At the same time he, I know, feels with me, that a lamentable failure has resulted from Mr. Sharp's disobedience of my instruction. Had I anticipated such disregard, I should have taken the case into my own hands.

8. The defence urged by the Prisoner, and admitted by the Principal Sudr Ameen is, insanity, and to it the Zillah Surgeon has given a kind of countenance. Now this is one of the most dangerous and worthless fellows in the country. He is of Arab extraction, and a connexion of the Kallai Shekh, the principal Mopla Tungul in Cotteyom Talook. This fact of course gives him a certain position in the country, and though he probably has not the Shekh's countenance in this act, the consanguinity gives greater weight to his teaching.

9. In 1839, he was convicted in a very serious case of robbery‡ before the Circuit Court; no insanity was then pleaded, and he was sentenced to 8 years' hard labor in irons. On the expiration of his sentence in 1847, he was discarded by his family, and then took to "religious" life, dressing as an Arab Priest and wandering about the country. He is perfectly able to take care of himself, and never has been heard of as an insane person till this convenient season. The fact that he so timed his fanatical and murderous preaching to the state of feeling in the country, is sufficiently indicative of his sanity and method.

10. I have had the man removed to Calicut, where I have had him before me, and can see no disability or incompetency about him. He is now under the surveillance of the Zillah Surgeon here, and I will report his opinion when he shall have had time to form one. In the mean time, I request the authority of Government to put in force against him the provisions of Section IV of Act XXIII of 1854, and to remove him to Chingleput or Trichinopoly Jail. Here he ought not to remain on any account.

11. I may have to submit Mr. Sharpe's explanation when he has supplied it.

(Signed) W. ROBINSON,
Acting Magistrate.

From R. CHATFIELD, Esq., Acting Session Judge of Tellicherry; to W. ROBINSON, Esq., Acting Magistrate of Malabar, dated Tellicherry, 17th September 1857, No. 176.

SIR,

The Police Ameen of Tellicherry committed to the Principal Sudder Ameen, a Prisoner named Coonby Mayan, accused of using seditious and inflammatory language in the Bazaar and public thoroughfare, to the effect that "God would be propitiated and rice cheapened by the destruction of Kafirs." The Principal Sudder Ameen, supported by the opinion of the Assistant Surgeon, considers the man insane, but there seems a sufficient amount of method in his madness to make it perhaps desirable he should be dealt with under the Malabar Act for the treatment of suspected or dangerous characters. The man was sentenced in 1839 to 8 years imprisonment, and on his release was rejected by his family, when, it is said, he commenced that popular course of religious

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fanaticism which is conveniently converted into madness when it would be unsafe to be considered a sane man in pursuit of an unlawful purpose.

2. I beg to enclose for your information copies of the Principal Sudder Ameen's letter conveying the opinion of the Medical Officer.

(Signed) R. CHATFIELD,
Acting Session Judge.

From the Principal Sudder Ameen of Tellicherry; to R. CHATFIELD, Esq., Acting Session Judge of Tellicherry, dated 17th September 1857, No. 29.

SIR,

I have the honor to submit the original letter of Zillah Surgeon of this date, giving his opinion as to the state of mind of Punjeecadowatha Coonby Mayen, Prisoner in case No. 74 of 1857, on the Criminal file.

2. As the expressions said to have been made use of by the Prisoner (for which he was apprehended by the Police Ameen) was not in the presence of any person of his own persuasion so as to excite them to commit the said act, and from the abovementioned certificate and the Police proceedings, I think, that he was not in his proper sense at the time. The Prisoner is detained in the Jail.

(Signed) MAHAMOUED HOOSSAIN,
Principal Sudder Ameen.

From P. H. WEST, Esq., Civil Surgeon; to the Principal Sudr Ameen, Tellicherry, dated 17th September 1857, No. 44.

SIR,

With reference to your letter No. 28, of the 12th Instant, I have the honor to report that after a careful examination of the Moplah named Punjeecadavat Coonby Mayen, Prisoner in case No. 74 of 1857 on the Criminal file, it is my opinion that he is a religious fanatic, but in other respects he appears to be of a mild disposition, and perfectly harmless.

(Signed) P. H. WEST,
Civil Surgeon.

(True Copies)

(Signed) R. CHATFIELD,
Acting Session Judge.

From W. ROBINSON, Esq., Acting Magistrate of Malabar; to R. CHATFIELD, Esq., Acting Sessions Judge of Tellicherry, dated 19th September 1857, No. 4452.

SIR,

I have the honor to request that you will kindly transmit to me all proceedings* in the case of sedition of a religious Mahomedan fanatic recently committed to the Principal Sudr Ameen.

I have been exceedingly displeased to find that the Acting Head Assistant acted in direct contravention of my instructions, as to the disposal of this case, which I desired him to commit to you as Commissioner under the recent legislative enactment, and I would be grateful for your opinion on the subject, and whether it be possible to re-open the case. You are aware that

N.B.—The Medical certificate is the most ridiculous document of the character I have ever perused.

the man has been committed before, and I should be glad of any record or other matter affecting his character, which may be forthcoming on your records.

Kindly make over the Prisoner, whom I am thankful to find you have retained in custody, to the Acting Head Assistant, who will transmit him to Calicut.

(Signed) W. ROBINSON,
Acting Magistrate.

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P.S.—I have to acknowledge the receipt of your letter dated 17th Instant, and enclosures, received since the above was written.

(Signed) W. ROBINSON,
Acting Magistrate.

From R. CHATFIELD, Esq., Acting Session Judge of Tellicherry; to W. ROBINSON, Esq.,
Acting Magistrate of Malabar, dated Tellicherry, 21st September 1857, No. 178.
SIR,

In reply to your letter of the 19th Instant, I have the honor to inform you that the entire record in case No. 74 of 1857 before the Principal Sudr Ameen, has been this day submitted to you, with copy of charge and sentence on the same Prisoner convicted before the late Circuit Court in case No. 3 on the Calendar of 2nd quarterly Sessions of 1839 for Robbery.

2. I do not think it would be desirable to proceed further in the ordinary course with reference to this Prisoner, as it seems to me the result is inevitable, and would throw impediments in the way of dealing in the summary manner so desirable in all cases of sedition or fanaticism. This difficulty would have been avoided had the Prisoner been forwarded as you desired to a Commissioner with the extensive powers afforded by recent enactments, but as another course was unfortunately pursued, and although he has not had a formal trial, I am of opinion that the only means of now dealing satisfactorily with the case is pointed out in Section IV and V of Act XXIII of 1854.

3. The Jailor has been directed to make over the Prisoner to your Acting Head Assistant, with a view to his being transmitted to Calicut.

(Signed) R. CHATFIELD,
Acting Session Judge.

Second Quarterly Sessions 1839, No. 3 on the Calendar.

L. S.

From W. B. ANDERSON, 2nd Judge Presiding; to the Joint Criminal Judge of Malabar.

Whereas Pillaycherry Chadayan and Panichy Kadawata Coonby Mayan, charged with Robbery, have been tried by the Court of Quarterly Sessions, and convicted thereof; and a mitigation of punishment has been sanctioned by the Court of Foujdaree Udalt.

It is, therefore, hereby ordered, that you do cause the said Prisoners Pillaycherry Chadayan and Panichy Kadawata Coonby Mayan to be imprisoned and kept to hard labor in irons, on the public roads or other public works, for the term of eight years, to be computed from the 8th April 1839.

Given under my hand and the seal of the Court, this 15th August 1839.

(Signed) W. B. ANDERSON,
2nd Judge Presiding.

Be it known that the Prisoners Pillaycherry Chadayan and Panichy Kadawata Coonby Mayan within mentioned have this day been released.

Military Police Office,
Cannanore, 8th April 1847.

(Signed) C. HALSTED,
S. M. P.

(True Copy.)

(Signed) R. CHATFIELD,
Acting Session Judge.

(True Copies.)

(Signed) W. ROBINSON,
Acting Magistrate.

From W. ROBINSON, Esq., Acting Magistrate; to G. R. SHARPE, Esq., Acting Head
Assistant Magistrate, Tellicherry, dated Calicut, 19th September 1857, No. 4451.

SIR,

I have the honor to request that you will with as little delay as possible submit a concise

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report of the circumstances, &c., connected with the case of that fanatic who was recently taken up in Tellicherry for giving vent to dangerous sentiments and expressions in the public streets, together with such facts as you can collect relative to his former character, &c.

I request that you will likewise kindly submit an explanation of your not having given effect to my instruction to you, to try the case and commit it to the Session Judge, as Commissioner under the recent orders of Government, and of your not giving me any intimation of your intention not to do so.

I have requested the Session Judge to make over the prisoner to you, and you will have the goodness to arrange for his speedy transmission in safe custody to Calicut.

(Signed) W. ROBINSON,
Acting Magistrate.

From G. R. SHARPE, Esq., Acting Head Assistant Magistrate of Malabar; to W. ROBINSON, Esq., Acting Magistrate of Malabar, dated Tellicherry, 22nd September 1857.

SIR,

Agreeably to your letter No. 4451, I have the honor to enclose a report of the circumstances of the case of the fanatic therein alluded to.

2. I am endeavouring to ascertain further particulars of his former conduct, for which purpose orders have been sent to the Coteyom Tahsildar, and the Police Ameen of Tellicherry, and on receipt of their reports copies thereof shall be at once sent to you.

3. Copies of the proceedings in the case before the Police Ameen are herewith sent for your further information.

4. The prisoner was only handed over to me at 5 o'clock P. M. on the 21st instant, consequently he left Tellicherry en route for Calicut early this morning under escort of peons.

5. In your letter mention is made of some "instruction" to me; as there is nothing in the records of this Office on the subject, may I request you to be kind enough to inform me of the number and date of the communication containing such "instruction," as I fear it must have miscarried, and I will then investigate the matter with a view to ascertain through whose negligence this unfortunate circumstance has occurred.

(Signed) G. R. SHARPE,
Acting Head Assistant Magistrate.

Report of a case of a fanatic called for in the Magistrate's letter, dated 19th September 1857, No. 4451.

Prosecutor, Sircar.

Witnesses.

1. Gregory Laport,
Writer in Principle Sudr Ameen's Court.
2. Ioquin Arojo,
Sheristadar of the Coteyom Talook.
3. Victor Monterio.
4. Chocaren Oracatory Alipy.
5. Paroo Coonoo Palom Chundoo.
6. do. Ramen.
7. Mavila Hanaden.
8. Odacadatha Moota Cootially.
9. Calotha Madathel Kristna Putter.

Charge.

6. Prisoner is charged with having at 6 A. M., on 3rd September 1857, in the public

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street of Tellicherry, in the Talook of Coteyom, used inflammatory language tending to cause a breach of the peace.

1st Witness deposes, that at the time specified in the charge, while sleeping with 2nd witness in the west verandah of his house, he heard the noise of a man, whom he found to be the Prisoner, saying "Mussulmans must make prayers, he who kills the Kafirs and dies himself, will become a saint. Because Mussulmans don't pray, therefore there is scarcity." Witness heard Prisoner repeat the same words immediately afterwards, opposite 3rd witness' house.

2nd Witness states, that on the morning in question, he heard the Prisoner say two words viz., "Kafirs" and "death."

3rd Witness states, that opposite his house he heard a noise of a man saying, "If Kafirs don't pray, we must kill them, O God," but witness did not see who said the words, nor did he enquire, but Mr. Laport came and asked me if he had heard what the Mopla had said.

4th Witness states, that he heard the Mopla say "we must pray."

5th, 6th and 7th witnesses (neighbours of Prisoner) and 8th and 9th witnesses (Mukeyastan and Adighery of his village) state in almost similar words that they have known Prisoner 6 or 7 years, that he lives on his brother's-in-law charity, that he wanders about, when he speaks to persons they fancy he is mad, but that they do not consider him a dangerous character.

The Ganoth Ameen reports, that after enquiring in Chavacherry he learnt, that from two or three years once or twice in a month Prisoner speaks like a madman.

Prisoner denies that he made use of the words "don't pray, we must kill them, O God," but witness did not see who said the words, nor did he enquire, but Mr. Laport came and asked me if he had heard what the Mopla had said.

Upon receipt of the Police Ameen's report, dated 2nd Instant, and the depositions of 1st, 2nd, 3rd, and 4th witnesses (all that could be obtained to substantiate the charge) the Acting Head Assistant Magistrate having given full consideration to the circumstances contained in the depositions, and feeling doubts as to the sanity* of the Prisoner ordered the Police Ameen to make what enquiries he could without causing delay in the case, and to commit it in the usual course to the Principal Sudr Ameen under the provision of Regulation XXIII of 1854, the case appearing to him to be fully met, and to be one expressly contemplated by the 2nd Section of that Regulation. How the case has been dealt with by the Court there is nothing before the Acting Head Assistant Magistrate to show.

*Not a matter with which an Officer incompetent to adjudicate to the case had ought to do.

Regulation does not apply when distinct Sedition is clearly proved.

(Signed) G. R. SHARPE,
Acting Head Assistant Magistrate.

(True Copies.)

(Signed) W. ROBINSON,
Acting Magistrate.

No. 34.

ORDER THEREON, No. 1279; dated 5th October 1857.

Under the circumstances reported in this communication, the Right Honorable the Governor in Council deems it advisable to exercise the powers conferred by Section IV Act XXIII of 1854, and accordingly directs that Vanjee Cudovath Koonjee Mayen be forwarded to Trichinopoly, and be kept in custody in the jail at that Station until further orders.

2. A warrant of commitment is enclosed which is to be forwarded with the prisoner to the Session Judge of Trichinopoly, who will report periodically on the prisoner's health and behaviour.

3. The manner in which the Principal Sudr Ameen of Tellicherry disposed of the charge preferred against this prisoner, of publicly using language to excite the people to sedition and murder, appears so questionable that the attention of the Judge of the Foujdaree Udalt will be requested to the case, and the Government await what further explanation the Acting Head Assistant Magistrate may have to offer for neglecting to obey the instructions which the Acting Magistrate states that he gave in personal communication to commit this prisoner for trial on a charge of sedition before the Commissioner.

(Signed) E. MALTBY,
Acting Chief Secretary.

Exd. H. Morgan.

To The Session Judge of Trichinopoly.

Whereas the Right Honorable the Governor in Council, for good and sufficient reasons, has seen fit to determine, under the provisions of Act XXIII of 1854, that Vanjee Cudovath Koonjee Mayen, shall be placed under personal restraint at Trichinopoly, you are hereby required and Comma'ded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Right Honorable the Governor in Council and the provisions of Regulation II of 1819.

Fort St. George, 6th October 1857.

By Order of the Right Honorable the Governor in Council.

The Agt. Chief Secy.

No 1279

J. D. G.

Ex. Minis. of Cons. of 5th Oct. 1857

Recd letter from Sec. Magte of Malabar.
d 24 Sept 1857 No 130

H
J. D. G.

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Copy to the A. G. S. of the State of New York
 " " Judges of the S. C. - Dispt. 5th
 " " - Session Judge of the S. C. - Dispt. 5th

