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Judicial DEPARTMENT.

G.O. No. 1377

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57.58

Dated 20 - 10 - 1918

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Fort St. George, Judicial Consultation, 20th October 1857.

No. 57. Read the following letter from J. W. CHERRY, Esq., Commissioner of Salem; to E. MALTRY, Esq., Acting Chief Secretary to Government, Fort Saint George, dated 30th September 1857, No. 3.

Sir,

Under the orders as per margin,* I have the honor to forward my notes and sentences in 4 cases, viz., Nos. 4, 5, 7 and 8, tried and disposed of by me.

* Extract Minutes of Consultation, 27th July 1857, para. 6.

The Tamil records are ready to be sent if required.

(Signed) J. W. CHERRY,
Commissioner.

Commissioner Case, No. 4.

Charge—Gang Robbery.

Property stolen 1,162-8.

September 11th.

Prosecutor Ramasamy Chetty.—I preferred a Civil Suit in Subordinate Court against my mother-in-law Periacal for 4,610 Rupees. I brought 267 Star Pagodas and some Rupees for the cost of that suit as well as purchases in cloths. I stopped at Darempoory 2 days, I changed 15 Pagodas of one Nunjundoo Chetty in his shop, then 1st prisoner was present. After leaving, 1st prisoner asked me for 2 Pagodas the equivalent of which 8½ he gave me, this occurred one evening at 4½ p. m. at night, I stood in front of Kader Saib's bazaar, then 1st prisoner asked me to change some more Pagodas for himself and the Daffadar and Tannahdar. I replied it is now night, I will see about it in the morning, he then said that they have the money and you are going away and urged my doing it immediately, I followed him to a Makan in the Fort, when 2nd, 3rd, 4th and 6th prisoners were awaiting me as well as 2 bandymen from Salem, 5th prisoner then joined them, 2nd prisoner asked me how many Pagodas have you, I replied 250, then they took me to a house 20 fathoms off to the Makan, the bandy people did not come, I was ordered to take out the money, I took out 10 Pagodas, they spoke some Hindustani. Third and sixth prisoners tied me with a rope in the post of the verandah of that house, 1st and 5th counted the Pagodas and divided them. I attempted to cry out, 2nd prisoner shewed me a dagger and threatened with it to stab me, 3rd and 6th prisoners tied my mouth with a cloth, 3rd prisoner had a sword threatened to murder me and put my body in a well near the house, this occurred between 8 and 9 o'clock, they remained there until 12. 1st, 2nd, 4th and 5th prisoners took me thence to the Salem road, 3rd and 4th remained, 1st and 5th followed me as far as Damarakampatty (about 12 miles) left me there, with a threat to kill me, if I returned to Darempoory or mentioned this matter to a soul, it was then near morning, afterwards I came to Salem, I remained 10 days and then went to my village, there were 2 or 3 houses adjoining the one in which I was robbed. I never knew the prisoners before, there was a little lamp upon a pot, after I went to my village, I mentioned the matter to one Vencatachellum Pillay, Curnum of Kotapatty, but I did not ask him to tell it to the Tahsildar, 7 or 8 days after the said Curnum told me he had verbally reported this to the Tahsildar. I made no complaint before any authority because I had been threatened by the prisoners. There is no door to the house where I was robbed, the outer wall to the extent of 2 or 3 fathoms had fallen down, any one in the road could see what occurred inside. I told the 2nd witness who had gone to relieve himself near the Makan, when you return come and meet me to a shop I pointed out, so he came to the outside of the house where I was tied and called me by name twice, 2nd prisoner replied he is not here, then I saw him (the 2nd witness) by the moonlight, he also saw me and went away, after this 1st witness came to ask me for the cooly of some earrings he had made for me, he called me by name, 4th prisoner replied he is not here, then I saw him, 2nd prisoner threatened me for looking at 1st witness, I told all this to the Tahsildar when I was sent for by that officer, then 2nd and 3rd prisoners only were in custody and the others, viz. 1st, 4th and 5th were pointed out by me and then apprehended. I described the 6th prisoner, upon which he was taken into custody. I did not describe the appearance of 1st, 4th and 5th, before I pointed them out.

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By Court.—The bandymen remained behind with their bandies that evening, my village Curnum was informed by me of this matter, he is now dead, the Village Moonsiff was present at the time of my mentioning it to Kotaputty Curnum. I told no one in Salem by sheer fear, the second witness belongs to my village, I never spoke to him on the matter, I saw him many times, I never saw the 1st witness afterwards, the 2nd witness having seen me may have called out my name, he never asked me what they were doing to me on that night, but he was present when I mentioned this to the Kotaputty Curnum, and he told him that he had seen me, the very first time that I saw the 2nd witness afterwards was when I was telling this matter to Kotaputty Curnum.

By Prisoner's Vakeel.—I got these gold Pagodas from my brother-in-law as a debt, he preferred a charge before the Tahsildar that I robbed him of it, afterwards we razeed it and the Subordinate Court released me.

(The Subordinate Court decision is put in to support this.)

By Court.—I pay 35 Rupees to Government. I am a merchant and worth 4 or 5,000 Rupees. I don't know why the witnesses who saw me tied up did not give the alarm, there were lots of others near the Curnum when I spoke to him on this matter.

14th September.

1st Witness Chinna Goroovem.—I have looked at the prisoners now before the Court and know nothing whatever about the matter with which they are charged, I have heard the deposition now read, it was given by me before the Tahsildar, one peon Syed Aneeb came to Salem and took me to Darempoory, that peon and one other Ramasamy both told me to state according to that deposition. I told the Tahsildar that I knew nothing, the peons then beat me with shoes before the Tahsildar and made me depose according to the deposition, it was then 10 at night, and it took place in the horse stable of the Tahsildar, it was for this reason that I deposed as I did, but not willingly. The Tahsildar was in the Cutcherry when I first pleaded ignorance and then he came to the stables when I was beaten; besides him, Meer Moortooja Ally, the Jemadar of the Collector was present (4th witness.) This witness before Tahsildar deposed as follows,—about 4 months ago when in 1st prisoner's house one Jenapan caste man, (prosecutor's caste) requested 1st prisoner to change some Pagodas, he consented and sent for 2nd, 3rd, 4th, 5th and 6th prisoners and told them about the prosecutor having Pagodas "let us threaten and rob him of them" and also wanted them to threaten himself (1st prisoner), at 7 in the evening prosecutor came, 1st prisoner took the prosecutor with him, I followed, 4th prisoner, &c. took prosecutor to 3rd prisoner's house, he shewed the Pagodas, 2nd to 6th prisoners threatened prosecutor and 1st prisoner, tied the former up and robbed 200 Pagodas and 100 Rupees from 1st prisoner, prosecutor told 1st prisoner that he got these Pagodas from some hidden treasure belonging to his father, when in Cutcherry 4th prisoner begged I would not reveal this matter. Huzzor Jemadar was present, to-day also 4th prisoner abused me before the prosecutor, threatening at the time of the robbery to complain, they threatened him and sent him away, 4 days after 6th prisoner came to me and requested me to make a nose jewel for 2 Pagodas. (The above was deposed to on the 10th July, on the 27th July he identified the prosecutor and pointed him out to the Police.)

Court.—I don't know whether the prosecutor was present or not when I gave my deposition before the Tahsildar on the 10th July.

2nd Witness Hyderbeg.—I have seen the prisoners before the Court and know nothing about them or this charge of the prisoner. 5 or 6 months ago, I went to Darempoory to give a rice beater to one Narainasawmy, according to the order of the Kotaputty Curnum, that evening I met prosecutor in bazaar street, I asked him when did you come, he replied 2 or 3 days ago, I said to him the manner that I arrived that evening.

Court.—Nothing happened, I did not give such a deposition before the Police. The prosecutor took me before the Tahsildar, I deposed before him as I have just said to the Court, I would swear that I did not say anything as recorded by the Tahsildar, it took place in the verandah of his house, there were many people there, the peons did in no way trouble me, I never saw the 1st witness before the Tahsildar. The signature to that deposition before Tahsildar is mine. I put my signature at the Tahsildar's desire, the deposition was not read to me. The prosecutor told me on the road that I was to depose in a certain way about the robbery that had happened to him at Darempoory, I refused at the time to do so, I never was present when the prosecutor spoke on this matter to the Kotaputty Curnum.

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(This witness before Tahsildar deposed as follows,—when prosecutor was sitting in Kadar Sahib's bazaar, one oilmonger and another took him to the Fort saying that they and the 4 Musselmenn would buy his Pagodas, then prosecutor said when you come back from the channel I shall be at this house, after which I went and called out for him, 2 people who were there then said there is no Ramasamy here, then I saw prosecutor being tied in a verandah and 2 oilmongers counting the Pagodas, the other 4 who were there I don't know, the 2 oilmongers were like the 1st and 5th prisoners, I saw this from 5 to 6 fathoms off.)

Third Witness Syed Aneeb, Peon.—Tahsildar gave me a warrant to apprehend 1st witness (Chinna Goroovem) in the case of the robbery of Chendagaputty Womaloor Talook and Gopal-naickumpetty in the Tengricottah, I heard 1st witness had gone to Ahtoor, I went and did not find him, I came to Salem, I found him in his relations' house at Sherapet, I took him to the Tahsildar at Darempoory, in the road he pleaded ignorance of this robbery, but he told me that one Jenapan came from the east to Darempoory and that 1st, 2nd, 3rd, 4th and 6th prisoners had robbed him of his Pagodas, I took the prisoners to the Cutcherry and did not reveal this matter as I was tired and went home, I thought also that I should enquire well into the matter before mentioning it; on my going to my house 4th prisoner came to me and said I hear that Chinna Goroovem has revealed this matter about the Pagodas, you must make some bundobust that he should not say anything about it. I said very well, then Mahommed Saib came but heard nothing, next day as I went to Cutcherry, 4th prisoner met me and said he had made "bundobust" with 1st witness and begged me to speak to him too, others were there but did not hear what we spoke about, I told all this to the Tahsildar, 4th prisoner asked me whether the 1st witness was to give evidence in the Pagoda case, I said yes, he told it to me.

Court.—I was present when 1st witness gave deposition before the Tahsildar. I heard the deposition now read given by 1st witness, no threats were made to him, it was given in the verandah of a house in front of the Cutcherry, I was present when the first part of his deposition was given. Prosecutor was not present, when the prosecutor came there the prisoners were apprehended.

Prisoner's Vakeel.—The 1st witness' deposition was taken in the morning at about 9 o'clock. I gave a deposition as soon as I had reported this matter to the Tahsildar, my deposition was taken first when I first made over the witness (prisoner in another case) to the Cutcherry, I told the Duffadar and another peon what he told me about the Pagoda case, but I did not report it to the Tahsildar who was there in the pyall of his Cutcherry, thinking, I must make further enquiries about it, the people who were near when the 4th prisoner came went away and that is why I did not tell them. I did not make any other enquiry than what the 4th prisoner told me, I did not ask the 4th prisoner whether he and others had robbed these Pagodas, the prisoner (1st witness) was in the verandah where other prisoners are usually kept, other people could not speak with him as he was in custody and could not see him, whoever is on guard cannot let the prisoners to be spoken with, he was not put in any other place but the Cutcherry.

4th Witness Meer Moortoojah Ally, Collector's Jemadar.—Third witness brought in 1st witness as prisoner in a robbery case at 11 o'clock one day and produced him before Tahsildar, then Tahsildar ordered him to be kept outside the Cutcherry as there were many prisoners inside, so the 3rd witness took him there, I also followed him, 4th prisoner came there and abused him, I told him not to do so, this is all I know, the 4th prisoner is the Tannahdar of Darempoory, and had his belt on, 2nd prisoner was a Duffadar and also a Deloyet in the Huzzoor, I heard he was dismissed for some crime, but what, I don't know, also that he had been in Jail, the 3rd prisoner is a bazaar man, 6th prisoner is a peon of Paramally talook, his house is in Darempoory.

Prisoner's Vakeel.—3rd witness was guard over 1st witness when I went away, the 1st witness was there on the pyall of the Cutcherry, but I don't recollect how long or any particulars, I did not hear the 3rd witness say anything regarding the 1st witness speaking to him in the matter of this robbery.

Court.—I don't recollect the day, but I know the 3rd witness did tell the Cutcherry people about the witness and his story in regard to the Pagodas, I don't know whether it was the same day, 3rd witness never told me that 4th prisoner wished him to make a "bundobust" about this matter. I was partly present when the 2nd witness gave deposition. I was present when the 2nd witness in his deposition before the Tahsildar spoke about the channel, I heard from that to the end and saw him sign it, it was read to him, I heard the 1st witness give the deposition before the Tahsildar.

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dar now read before me, it is all right, except I did not hear that about 4th prisoner signing to 1st witness not to reveal anything in this matter, I saw 1st witness signing it.

Prisoner's Vakeel.—I don't recollect when the deposition was taken, I think in the outer pyall of the Cutcherry, don't know when; there is no enmity between 4th or other prisoners and myself. Tahsildar advanced some money for roads to other people upon the security of 4th prisoner, but there was no quarrel.

16th September.

Called by Prosecutor, 5th witness, bandyman, sheep merchant.—I know nothing, I am not a bandyman, I never went to Darempoory.

6th witness bandyman, brick-layer.—Do. do. I never before saw prisoners, I saw prosecutor a month since, and have seen him every day. I know nothing.

24th September.

7th witness called by Court, Kotaputty, Curnum.—4 months ago, one day Narapilly, Moon-siff sent for me, I went, the prosecutor was in his charge as a prisoner in another case and he the Moonsiff requested me to enquire into a complaint preferred by the prosecutor's brother-in-law, and mother-in-law, that he had spent their money, I asked him about it and he explained that he took 600 Pagodas of which he expended in merchandize some, and 200 were robbed by some Oil-mongers and Lubbays or Musselmen at Darempoory. I don't know the particulars but you must look at the deposition I then gave in the matter before the Tahsildar; the village Moonsiff, 2nd witness (Hyder beg) and others were present, I told the Moonsiff to report this matter to the Tahsildar and I returned home.

By Court.—I gave a deposition before the Tahsildar, in that deposition I stated the circumstances in regard to the Darempoory Lubbays or Musselmen and Oilmongers. I did not say simply that the prosecutor had said that robbers had taken his Pagodas, what is now read as having been my deposition is not correct. I did not say so. (The report in the trial before Subordinate Judge is put in (68 of 57) wherein the prosecutor was a prisoner on a charge of stealing money and was honorably acquitted, the Subordinate Judge remarking on the want of discretion on the Police, committing a case which shewed nothing but a family arrangement.)

The Moonsiff did not write a report to the Tahsildar regarding the prosecutor's statement as to the theft at Darempoory, the Tahsildar's information on this subject as far as I was concerned was from the deposition I gave before him.

(The information the Tahsildar really received in this matter was from the 1st witness who was a prisoner in a gang robbery case and made the statement he has repudiated before this Court.)

Sentence.

Commissioner's Case, No. 4.

1. The prisoners deny the charge. The 2nd was formerly a Deloyet and a Daffadar in the Collector's Establishment, but was dismissed for bribery and bad conduct. The 4th was the tannah peon at Darempoory at the time of this occurrence, and the 6th, another peon belonging to the Parammutty talook, but then on leave at Darempoory.

The other prisoners are bazarmen in the town of Darempoory.

2. Prosecutor's statement both before the Police and this Court is as follows: That he was changing some gold Pagodas in the bazaar at Darempoory when he was accosted by 1st prisoner who required 2 Pagodas and from whom he received 8½ Rupees in exchange. That 1st prisoner then said that 2nd and 4th prisoners were also in want of gold coins; it being then dusk, prosecutor proposed giving them next morning but at the 1st prisoner's persuasion he was induced to accompany him, that they went to a Makan in the Fort where the 2nd, 3rd, 4th and 6th prisoners were waiting and that 5th prisoner joined them afterwards, there were also 2 bandymen there, he was then taken by the prisoners to a house some 20 fathoms off, there he took out 10 gold pieces, the conversation between the prisoner was in Hindustani a language he does not understand, he was suddenly seized and tied up to the verandah and robbed of all his coin, the 2nd prisoner threatened him with a dagger upon attempting to cry out, 3rd and 6th prisoners tied up his mouth with a cloth, 3rd prisoner had a sword and threatened to put his body into a well, all this occurred

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between 8 and 9 o'clock the prisoners remained until 12; 1st, 2nd, 4th and 5th, took him on to the Salem road, 1st and 5th followed him as far as Domarakanputty about 12 miles and threatened him with death in case he shewed his face in that direction again or mentioned one word of this matter to a soul.

3. The prosecutor further stated that he mentioned this to the Curnum of the neighbouring village who told the Tahsildar of it, that he did not report it himself from sheer fear, that he was about 10 days in Salem, and was afraid to say anything in consequence of the threat of the prisoners; prosecutor also deposes that there was no door to the house and the wall being fallen down any body could see what took place from the road, and that it was a moonlight night when he was attacked and robbed, he also describes how it was that the 1st and 2nd witnesses saw what happened to him on that night, and in what way the 1st, 4th, 5th and 6th prisoners were pointed out by him and described before they were apprehended by the Tahsildar.

4. The prosecutor's story is not supported by what these witnesses said before the Court, for they professed entire ignorance of the whole matter, but their statements before the Head of Police on another occasion, corroborate what the prosecutor stated, and it is chiefly upon the evidence given by these witnesses on that occasion but now repudiated before me, that I consider the prisoners guilty of this charge, I have no doubt whatever that these witnesses have been grossly tampered with before they came to this Court.

5. It appears that the 1st witness was apprehended in Salem on suspicion in some gang robbery case; in expressing his innocence of that charge, he revealed the whole of the circumstances connected with this case, he then said he saw the prosecutor carried away by 1st prisoner and robbed by all of the prisoners, as set forth already by the prosecutor, he also overheard them conspiring together and planning the robbery, he said that the 4th prisoner had threatened him not to reveal what he saw; the 4th prisoner is the peon at the tannah station and had an opportunity that others had not, of coming into the Cutcherry, it was upon the information given thus by this witness that the Tahsildar sent for the prosecutor and had the prisoners taken into custody, this witness admits that the statement read before the Court was the one given by him before the Tahsildar, but wished to make out that the same was forced from him, there is nothing to shew that such was the case and the evidence of the 4th witness, the Collector's Jemadar, a Police Officer, whom I have known for some time, and a person of good character, who was present at the time, refutes his assertions of ill treatment, the evidence also of the 3rd witness the peon who apprehended him, the 1st witness in Salem shews that he 1st witness had communicated to him on the road all the particulars of the case now under disposal. That this witness made the statement of his own accord, and that what he said then was true I have no doubt whatever; why he should have reserved it until taken up on a charge of gang robbery himself or why he made no alarm at the time he saw the prisoners robbing the prosecutor are matters only to be accounted for either from fear or perhaps connivance, the latter however is not so probable as we have it in evidence that the 4th prisoner came and threatened or had made a "bundo-bust" with him, 1st witness, while in custody, the 3rd and 4th witnesses' deposition shew this.

6. The second witness also said here he knew nothing of the case, but admits he met the prosecutor at Darempoory about the time in question, he denies ever having given evidence before the Tahsildar against the prisoners and that the deposition was never read to him though he admits having signed it. This man's manner convinced me he had been well bribed to say nothing. Before the Tahsildar his descriptions of what took place agreed accurately with what the 1st witness had said, though the former being in custody, there was no opportunity for them to compare notes, he distinctly recognised 2 men like the 1st and 5th prisoners and said the others were like the Musselmen he saw that night, this witness though he denied it, was present when the prosecutor told the village Curnum.

7. The 3rd witness is a Police peon and deposes as to how he apprehended the 1st witness in another case, and to the fact of that witness revealing what he knew in this case and how the 4th prisoner had endeavoured by bribes to himself, threats to his then prisoner and (1st witness) to keep this matter quiet.

8. The 4th witness is the Collector's Jemadar, a respectable and trustworthy man, he deposes to the same effect as the third witness and proves that no ill-treatment was used to make the 1st witness say what he said, and that the 2nd witness did really state what the Tahsildar recorded from him.

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9. The 5th and 6th witnesses were the bandymen that were in the Fort, when the prosecutor was taken there by 1st prisoner, they were sent for by me at the earnest solicitation of the prosecutor, but when they came, like the 1st and 2nd witnesses, they knew nothing, and even went further and denied ever having been to Darempoory in their lives, or that they were bandymen at all but bonâ fide bricklayers. I did not believe one word they said and consider like the 1st and 2nd witnesses they have seen the prisoner's money.

10. The 7th witness was called for by me, he is the village Curnum to whom the prosecutor first mentioned the circumstance of this robbery, it appears the prosecutor had been charged by some member of his family with having taken and spent their money; in his defence on that occasion the prosecutor explained how it was the money had gone, and accounted for 200 of the 600 Pagodas said to be stolen by him, by saying that he had been robbed of it at Darempoory by some Oilmongers and Lubbays or Musselmen (the same caste and trade as the prisoners) he also confirms the prosecutor's statement as to the 2nd witness being present, when he the prosecutor made the statement before this witness.

11. In the very charge against the prosecutor that the above witness refers to, the case was committed to the Criminal Court, where the prosecutor was honorably acquitted, the Subordinate Judge (case No. 68 of 57) strongly animadverting on the conduct of the Police for committing such a case, the evidence clearly shewed that it was altogether a family quarrel, I ascertained this in order to meet the accusation the prisoner made against the prosecutor that he had stolen the gold coins, of which he had been robbed in this case.

12. This is all the case for the prosecution, it may be naturally asked how it was that one month had elapsed before prosecutor opened his mouth in this matter, and that he actually coming through Salem before going to his own village had never said a word about this robbery, his own explanation is the only one I can give, and that is fear, what he saw the night of the robbery doubtless left an impression he could not get over and knowing that the principal actors on that occasion were Police peons or had been in the Police, I have no doubt a wholesome dread of what they would do, deterred him; it cannot be concealed that the Police of this district have the credit among the people of being somehow or other connected with most of the numerous gang and highway robberies that take place, it was not until falsely charged himself with robbery that the prosecutor stated what he did to 7th witness, which robbery was proved to have been quite unfounded, and which charge now I strongly suspect was got up by the Police in order to forestall what the prosecutor might eventually bring forward in this case.

13. The prisoners cited some witnesses but declined to have them examined, when they arrived, their Vakeel in the defence merely pointed out some little contradictions in the evidence.

14. I consider that all the prisoners are guilty of this charge and looking to the position of 2nd, 4th and 6th as Police and Ex-Police Officers, as well as 1st, 3rd, 5th as bazaarmen combining with the Police in robbing a respectable ryot of so large an amount of ready money I do not feel inclined to make any mitigation of the full punishment, and accordingly award them each 14 years' imprisonment with hard labour in irons under Clause III, Section IV, Regulation XV of 1803, and agreeably to the representations of the Vakeel for the prosecutor, direct the amount robbed viz. Rupees 1,162-8 Annas to be levied upon the prisoners' moveable property under Act XVI of 1850.

Salem, September 29th, 1857.

(Signed) J. W. CHERRY,
Commissioner.

Commissioner Case, No. 5.
Gang Robbery.

14th May.

	Rs.	As.
Value of property stolen.....	513	12
Do. found one tumbal.....	2	8

Prisoner is 2nd prisoner in preceding number, denies the charge and says the tumbal is his own.

Prosecutor Kistnappa Naicken.—Two or 3 years ago 10 or 15 robbers came to my house, beat me and also took property out of boxes and my women's jewels &c. according to the list I gave into the Talook. I did not identify any robbers because they were disguised, 2 months ago an

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Ishtyar was published regarding some jewels &c. in the Cutcherry, I then recognised this tumbal, there are no marks except those that were there before the robbery. I don't know when it was found, it is my own I swear, it is all dented, the prisoner was in my house 10 or 15 days and promised to apprehend the robbers, that tumbal was entered in the list in the Cutcherry.

By Prisoner.—Some body else came with you 2 or 3 days afterwards.

1st Witness Attee.—This tumbal belonged to prosecutor, I am a Poojaree to a Pagoda, I took this 4 or 5 times to cook rice, by that I know it, it is now dented, no other marks.

2nd Witness Moonyappen.—8 years ago I borrowed this tumbal from the prosecutor twice, once for a marriage, another time when I went to Kistnagherry, no marks, but I recognise it.

By Prisoner.—I never said before the Tahsildar that this was given to the Curnum for rice when he came to the Village.

3rd Witness Thanegounden.—My field is close to the prosecutor, I go often to his field, there I have seen this tumbal with him, certainly 4 or 5 times, I have also borrowed it twice or thrice for feasts, there are no other marks but the dents now on it.

By Prisoner.—My village and the prosecutor's is one mile distant.

4th Witness, Collector's Jemadar Meer Moortoajah ally.—The prisoner was suspected of some robberies in the Tengricottah talook, then Tahsildar and some ryots searched his house, then this and another tumbal and an axe were found in his house, these things were mentioned in the prosecutor's list, therefore we took them, the prisoner placed them before the Tahsildar and did not conceal them, he said this tumbal was his, prosecutor was not present then, he came after the Ishtyar. I signed the Mozur regarding the search of the prisoner's house.

By Prisoner.—I was not told by Kader Sahib your enemy to bring this charge upon you.

Prisoner.—I did not commit this crime, this is my tumbal, I served as a Peon under many gentlemen, I could not do such a thing, there are many witnesses for this tumbal, but I cite Syed Kamal and Mohodeenkhan, I only produced this before the Tahsildar, if I had stolen it, is it likely I should produce it, many who had been robbed came and said this was not their's, according to the Tahsildar's order I went the next day with him to discover this robbery, one Vencatachellem Peon was with me at that time.

24th September.

Prisoner's 1st Witness Camulkhan.—I know the prisoner, he is not my relative, we live in the same place, if I went to his house it was only for water, the tumbal now before the Court is the prisoner's, when I drank water it was by this tumbal only, 6 or 7 years before when the prisoner was Duffadar when on circuit he used to bring this tumbal, I saw it last 4 or 5 months ago, I know the tumbal well but there are no marks.

By Court.—I don't know why the prisoner was dismissed the Sirkar service as Duffadar.

Commissioner Case. No. 5.
Sentence.

1. The prisoner in this case is the second prisoner in the preceding number, formerly a Deloyet and a Duffadar on the Collector's establishment.

2. According to the evidence of the 4th witness the Collector's Jemadar, several robberies had taken place in the Tengricottah talook in which the prisoner was suspected to have taken part, his house was searched and a brass tumbal and an axe were found in it, these articles were mentioned in a list given by the prosecutor, of things that were taken in a gang robbery that took place 2 or 3 years ago when he lost property to the value of Rupees 513-12.

3. The prosecutor together with 1st, 2nd and 3rd witnesses swore to the tumbal.

4. The prisoner on the other hand produced one witness to swear that it was his property.

5. There were no particular marks by which the tumbal could be recognized and no one spoke to the axe. I do not consider the evidence sufficient to convict the prisoner of this charge and therefore acquit him.

(Signed) J. W. CHERRY,
Commissioner.

Salem, September 29th, 1857.

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Commissioner Case.

No. 7.

Charge—Highway Robbery.
Property stolen 20 Rupees cash.

Prosecutor's Vakeel Veerabudrya.—One month ago one evening at 5½ P. M., 1st and 2nd witnesses came to my field, prisoner came also to purchase some cholum stocks, I was unable to sell any, 3rd witness gave 20 Rupees, the value of some cholum grain he had purchased. I wrapped the money up in a cloth which I kept in my waist, 3rd witness and prisoner went away I and 1st and 2nd witnesses remained talking there till 7 o'clock, we then returned homewards, ¼ of a mile from the town of Razepoor 1st and 2nd witnesses stopped behind to obey the calls of nature, I walked on ahead and saw a mob of 10 people, I mistook them for frequenters of the weekly fair, a man came behind and beat me on the left elbow when I turned and saw the prisoner, he then struck me on the face and back also. I then recognized him and calling him by name, "Adinary are you beating a fellow villager," throwing away his stick he snatched the cloth from my waist containing the money and ran away towards the south, the 1st and 2nd witnesses hearing me came to the rescue, and when they were 1 fathom near the prisoner bolted, I and the witnesses came to a church in Razepoor, examined my wounds by lamplight, reported the matter immediately to the Cutcherry and the Sheristadar, 1st and 2nd witnesses produced the stick left by the prisoner; we have no enmity against the prisoner. The Sheristadar had the peons sent for the prisoner who refused to come, next morning he was again sent for when he came, I don't know whose stick the one now before the Court is, the prisoner is a man of bad conduct and was fined 4 or 5 times in the Talook.

By Prisoner's Vakeel Coopiah.—It was dark, star light, but I recognised the prisoner because he came so close to me, the 10 people were 4 or 5 fathoms off but did not attempt to beat me, they went away with the prisoner, the prisoner was not disguised, I don't know whether the witnesses saw the prisoner robbing me, they were however not far off. I have known the prisoner for 30 years, his house is situated within ¾ mile of mine, he sells and buys bamboos, I don't know to what extent, there were no persons on the road that day from the fair but some Razepoor people were near the Church. I reported to the Sheristadar about 8 or 9 o'clock, we did not attempt to apprehend the prisoner as the 10 men ran with him.

1st Witness Chinna Naiken.—Deposes do. and states that he saw the prisoner taking his hand from the waist of the prosecutor and ran, he did not see what was in his hand, the stick before the Court is the prisoner's, I saw the prisoner within one fathom, I looked for the rupees, but could not find them. I applied to the Sheristadar immediately and told him the above circumstances, 2 or 3 days after the Tahsildar took deposition from me.

2nd Witness Chinna Padiachy.—Deposes as the prosecutor and further states did not go with prosecutor to the Cutcherry but came at 9 o'clock. I hear the prisoner is a bad man, I don't know whether he is a merchant, I am not related to prosecutor.

3rd Witness Gopaul Chetty.—I gave 20 Rupees to prosecutor in his field, the value of some cholum I bought of him, prisoner and 1st and 2nd witnesses were there. I heard that night that prosecutor had been beaten by prisoner and had wounds, the prosecutor 4 or 5 hours after came and told me that he had been robbed by the prisoners of the Rupees given by me. Prisoner is a bad man and has been punished for abuse and assault.

By Vakeel.—The Tahsildar did not question me as to what the prosecutor told me.

(Prisoner cited 6 witnesses for alibi and emmity).

23rd September 1857.

29th September.

Prisoner's 1st witness Rungapah Chetty.—Deposes to the prisoner being in his house on Tuesday from evening till 10 at night, I took some bamboo sellers to his house from whom he bought 30 Rupees worth of bamboos, the account was settled at 7½ o'clock, I borrowed 2 Rs. from him. 2nd and 3rd witnesses were present, every Tuesday I do business with the prisoner, the next morning I heard the prisoner was apprehended and in the Cutcherry, as I was walking along the road 2 or 3 days before I heard the village Moonsiff, one Veerappah Chetty's son and others heard them plotting to have the prisoner taken up on some charge or other, they came to the Cutcherry when he the prisoner was there, Veerapah Chetty told the Tahsildar, I was coming here to give evidence on behalf of the prisoner, upon which I was kept in custody by the peon, I remonstrated and nothing was therefore done to me, the prisoner is a merchant, worth 2000 Rupees.

Fort St. George, Judicial Consultation, 20th October 1857

Prosecutor's Vakeel.—I am not a debtor besides the 2 Rupees to the prisoner. I never told what I heard of Veerapah Chetty's son to the Prisoner, it was dusk but I recognised their voices. I did not see them, I never mentioned this to any body.

Prisoner's 2nd witness Palany Gounden.—I went to buy bamboos one Tuesday evening at dusk, of the prisoner, I was there only one hour, 1st and 3rd witnesses were there, next day at 5 o'clock, the prisoner was taken to Singallapoorum to the Tahsildar, I don't know how many bamboos the prisoner bought about 30 Rupees worth, 1st witness was buying bamboos of the prisoner.

Prosecutor's Vakeel.—3rd witness was asking ropes of the prisoner for purchase.

Prisoner's Vakeel.—No body told me not to give this evidence, I did cooly business before for Prisoner, but there was no balance due to me. I did not go the next morning to ask him for the bamboos, I went to another village.

Prisoner's 3rd witness Veery Chetty.—I bought bamboos of prisoner 30 days ago but I don't know the date, I went in the evening. It took me one hour to take the bamboos to my house, there were some people there but who I don't know, 2 or 3 days after the prisoner was apprehended by the peons. I can't say whether I saw 1st and 2nd witnesses there or not, the prisoner's business extend to 3 or 400 Rupees. I don't know what business the 1st witness has with the prisoner, he comes to him often.

Prisoner's 4th witness Soobbun.—I heard the prisoner and prosecutor's concubine but know nothing. I don't know whether Veerapah's son came to Salem or not, he told me nothing. I don't know to what amount the prisoner has dealings. I know nothing of the prisoner's conduct.

Prisoner's 5th witness.—I know nothing of the quarrel between prisoner and prosecutor's concubine, I know nothing of Veerapah Chetty.

Prisoner's 6th witness.—

Do.

Do.

Note.—The Tahsildar reports that the prisoner was fined 5 times for assault, that he was concerned in a gang robbery case in which he was released in 1850, another charge of robbery with rape in 1856 was brought against the prisoner, but he was released for want of proof and that the list he sends shews him to be a man of bad character.

29th September 1857.

(Signed) J. W. CHERRY.

Sentence.

Commissioner's Case.

No. 7.

1. The prosecutor's statement is that the prisoner was present when the 3rd witness gave him 20 Rupees on account of some cholum and that he with 1st and 2nd witnesses went homewards, while 1st and 2nd witnesses were stopping behind to obey the calls of nature, he was attacked by the Prisoner with whom he is well acquainted and robbed and wounded by him.

2. The 1st and 2nd witnesses saw the assault and robbery, and confirm the prosecutor's story, the 3rd witness deposed to his having been the person who paid the 20 Rupees to the prosecutor and to the presence of the prisoner at the time.

3. The prisoner denied the charge and cited 6 witnesses for alibi and emmity, these however upon examination failed to my mind to establish any thing of the kind, I convict the prisoner of the charge and as the Tahsildar gives the prisoner a very bad character, I sentence him to 7 years' imprisonment with hard labour under Clause III, Section IV Regulation XV, of 1803 in irons, and upon the application of the prosecutor's Vakeel, award the prosecutor the amount he was robbed 20 Rupees, leviable under Act XVI of 1850.

(Signed) J. W. CHERRY,

Commissioner.

Salem, September 29th, 1857.

Fort St. George, Judicial Consultation, 20th October 1857.

Commissioner's Case.

No. 8.

1st Prisoner Collundan Coraver.

Charge, Gang Robbery.

Property stolen..... 3 8

Found 0 8, on the prisoner.

Prosecutor Soobroy Gounden.—In my field while asleep in the shed, at midnight 2 people sat upon me, I gave the alarm and my neighbour Nulla Ummal passed it on, 1st 2nd, 3rd witnesses in a cattle shed 20 fathoms off came to my assistance, the robbers ran away, we gave chase. I cut off the prisoner from the rest, he beat me with the stick before the Court. I fell down, my thigh was swollen for 10 days, 2nd witness beat the prisoner who fell down he was apprehended and brought him to the Village Moonsiff, prisoner received a wound on his head from the beating, the pick was found on the prisoner, on going with the Moonsiff to my hut I missed this pick and a leather bucket, the pick belongs to the Village Moonsiff, 3rd witness borrowed it, I only identified the prisoner when he was captured. I know him before, he lives next village to me, I know nothing of his conduct, I don't know who accompanied him that night.

By Court.—I don't know how the prisoner who is an old man beat me a young man, but he did so undoubtedly.

1st witness.—Sick and absent.

2nd witness Colunda Counden.—Deposes to the same effect, heard the alarm raised by Nulla Ummal, I caught the prisoner and beat him on his head, I heard the prisoner calling out the names of Gooroooven, Andy and Palny, and said he was being killed.

3rd witness Sengada Counden.—I was first roused by Nulla Ummal's alarm, awoke the 1st and 2nd witnesses and deposes as above, saw 4 people running, gave chase, we caught the prisoner who confessed before the Moonsiff.

4th witness, Village Moonsiff.—One month ago one Friday night after patrolling the village I went to sleep, I awoke by a noise of villagers coming, we went to the prosecutor's shed, he and the 1st, 2nd, and 3rd witnesses brought me the prisoner with the pick upon him, prosecutor missed the pick and a leather bucket, prisoner confessed that he and one Andy, Palny and Gooroven came to rob, the pick is mine, 3rd witness borrowed it from me.

(Prosecutor and 3rd witness are brothers and live together.) I knew the prisoner before but am ignorant of his conduct.

5th witness, Father of prosecutor.—Deposed as the 4th witness, I only ordered the 3rd witness to bring the pick from 4th witness for my use.

Prisoner's defence.—I did not commit this crime, I omitted to make obeisance because I am blind, to prosecutor when he comes to my village hence the enmity and the cause of this charge against me.

23rd September 1857.

Sentenced to 2 year's imprisonment with hard labour in irons under Section XXI Reg. VII of 1802.

Sentence.

Commissioner's Case.

No. 8.

The prisoner denies the charge, he is an old man of the Coraver caste and was caught in the act of running away with others who had attacked the prosecutor in his field and robbed him of some 3-8 worth of property.

2. The prosecutor and witnesses seem all respectable ryots and their story of the capture of the prisoner upon whom was found a pickaxe, they identified, is both consistent and credible.

Fort St. George, Judicial Consultation, 20th October 1857.

3. Though the prisoner in his efforts to escape called out the names of some of his companions, yet the Tahsildar did not consider there was evidence sufficient to commit them. This old gentleman's capture was made in consequence of his inability to run fast enough when the hue and cry was raised after the gang.

4. I convict him of the charge, he cited no witnesses and in his defence stated that he had been made a victim to the village Moonsiff, to whom he omitted to pay proper respect. I sentence him to 2 years' imprisonment with labour in irons suitable to his age, under Clause III, Section IV, Reg. XV of 1803.

(Signed) J. W. CHERRY,

Commissioner.

Salem, 23rd September 1857.

ORDER THEREON, No. 1377; dated 20th October 1857.

No. 58.

With this letter, Mr. Cherry sends his notes and sentences in four cases tried by him as Commissioner. Three of these cases Nos. 5, 7 and 8 require no remark and the proceedings of the Commissioner in them is approved. As respects the remaining case No 4, Mr. Cherry is requested to send all the Police proceedings, and the record of the case No. 68 of 1857, in which the prosecutor Ramasawmy Chetty had been charged with theft or fraudulent embezzlement. Pending this reference, the prisoners are to be kept in confinement without irons or labor.

(Signed) E. MALTBY,

Acting Chief Secretary.

Exd. F. Cartledge.

as is entirely self-evident
 satisfaction. at the same
 the contradiction of their
 testimony that the fact that
 they were fully informed. they
 did not know the identity
 of the person of the "cigarette"
 who had been seen in the
 street. They also state that the
 person who was seen was the
 one of the robbery
 and they would all
 be glad for the prosecution
 to have very badly got off
 and that they had been
 evidence
 that the prosecution had
 not been given if not
 of pagoda as mentioned

that he went to a grammar
school at the time mentioned.
and of instructions etc. - and

I do not put much weight
on the report of the 3. witnesses
to call attention to the
things that appear in the first
handwritten from the first
handwritten and probably has
them to get away with it.

The scheme of the prosecution
is up easily accounted for
it might be induced by fear
It appears that the
isolable. that a person is
not a person.

had very much more at
order to refuse a charge
interesting. We accuse
him in the present
manner of having stolen
things. - and of course.

I do not make out
where the prosecution
is situated.

Could the prosecution
be trial mentioned before
the sub. judge be asked for
It would have been about
as certain - if possible if.

the prosecution was only pro-
posed of the same nature.
if it had disappeared in
an unreasonable manner
I would prefer it to be
before the court in the
proposed by
the the statement is
involvement of the
I concur
and the statement is
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Memo

With this letter Mr. Cherry forwards his notes
in 4 cases tried by him as Commissioner
numbered 4, 5, 7 & 8.

The following 3 cases ^{appear to} call for no orders

No 5 - One prisoner was put on his trial for a
robbery committed upwards of 2 years ago &
properly acquitted for want of evidence

No 7 - One prisoner was tried for a recent highway
robbery - He was identified at the time & has been
sentenced to 7 years imprisonment with hard
labour, his property being held answerable under
Act XVI of 1850 to reimburse the proprietors of

No 8 - The prisoner was charged with petty robbery
he having gone with others armed with sticks
at night to rob in a field - He was cap-
tured at the time & being an old man
has been sentenced to 2 years imprisonment
& hard labour as befits his years.

The remaining case, No 4, is one of difficulty
& importance, regarding which I request the

orders of Govt.

Six⁺ prisoners, some of whom belong to the Govt. Police were charged with robbery by open

- 1. Kurumooze Chetty - Small merchant
- 2. Selar Sahib - A dismissed Peon.
- 3. Mummoo -
- 4. Chanda meah - Tannak Peon.
- 5. Kethy Kyen - Small merchant
- 6. Sydos - Peon. -

violence, & being convicted have been sentenced to 14 years in prison & to the sequestration of their property to make good the loss sustained by the prosecutor

The Prosecutor says that he came to Darampoor with 267 star pagodas (worth about Rs 1100) to change them for silver to carry on a lawsuit in which he was engaged. That the defendants hearing this got him at night to a lonely house where he was tied up & forced to surrender his money under threats of death. After some hours confinement they let him go, ordering him to return straight to his Village & threatening to kill him if he mentioned to any one what had passed.

The Prosecutor made no mention of the occurrence some time afterwards, & gives these threats as the reason of his silence. He declares that all the prisoners were previously strangers to him.

- In support of this statement he named 2 witnesses, who had seen him while tied up & in the hands of the prisoners.

- One is a goldsmith of Darampoor who came to ask him for payment of some ^{apparently} savings - the other is an inhabitant of Perumthar Village (Lottapully) & had come to Darampoor about the same time.

- Both these Witnesses deny all knowledge of the robbery before the Commissioner & declare that the depositions attributed to them before the Police are fabricated.

- The 2nd Witness said he had merely seen the Prosecutor in Darampoor on the evening in question & asked him when he was going home.

3rd Witness - The 3rd Witness Syed Hussain a Peon shows on account of another robbery that the 1st Witness was arrested & treated at first as a prisoner. - He says that the 4th Prisoner ^{came & asked} told him of the 1st Witness had given evidence about the robbery & afterwards said that arrangements had been made for keeping him silent. He heard 1 Witness give his deposition before the Subdar.

4th Witness - The 4th Witness - the Collector's Peon who states how the 1st Prisoner was brought

had said so

in as a prisoner - & adds that the
4th prisoner abused him - The prisoner
states that he was present when the
1st & 2nd Witnesses gave their depositions
before the Subildar

5th & 6th Witnesses - A sheep merchant & a handymen
summoned as witnesses by the Prosecutor
declare that they know nothing on the
subject -

7th Witness - The Cotaputty Curum was summoned
by the Court & examined - From his
statement the Prosecutor appears to have
mentioned the robbery to account for
money which his relations accused him
of having made away with.

(Note - The criminal charge brought against the Prosecutor is not here stated
to, but the complaint of his family that he failed to account for money in which
they had a share)

- The prisoners may then be said to have been
convicted on the unsupported evidence of the
Prosecutor, because all his 4 witnesses failed
him before the Commissioner -

- Mr Cherry indeed attaches some weight to
what 2 of those witnesses are stated to have
deposed ^{at first} before the head of Police, but as

these statements were afterwards denied
on oath, they become worthless (whether
really true or false) as evidence against
the prisoners at the bar -

The Commissioner observes that "he has no
doubt whatever that those witnesses have
been grossly tampered with before they
came to the Court" But even if so,
still one important point ^{remains unexplained which} deeply affects
the credit of the statements they are said to have given
before the Subildar - If they did really
see the prisoners tied up & in the hands
of the robbers why did ^{they remain silent} ~~not~~ ^{they did not} go to the Police? Derampong
is a large town, near the Collector's Station,
with a resident Subildar & Police Establishment
& whatever the character of the 1st Witness may
be the 2nd Witness belongs apparently to the
Prosecutor's Village, & it is not probable that
he would have gone ^{passively} away leaving
his acquaintance in such a dangerous place
without an effort to relieve him -

Again the 3rd & 4th Witnesses summoned
by the Prosecutor also fail him, & doubt
arises from the place where the outrage
is said to have been committed - It is so

lonely spot, but a house near the road
& into which any one passing along the
road could see, part of the wall having
fallen down. It was also moonlight
& there was a lighted lamp inside the
building. Here the ^{states that he} prosecutor was kept
for some hours, & yet no evidence
is produced before the Commissioner
of the fact.

The conviction thus really rests on the Pro-
secutor's statement only. & that statement
ought therefore to be beyond all suspicion.
But it is not so - the Prosecutor gave no
early intimation of & made no efforts to
recover his large loss, or would have
been his natural conduct. - He has
been himself tried on a charge of frau-
-dulently appropriating this money, & though
he was honestly acquitted, it must
discredit his statement against the prisoners.
That he only made the charge against
them some weeks after the alleged robbery,
& when he had ^{privately} been called to account
by his family for this & other money.

Whether the Prosecutor's charge is
in fact or altogether false may be a
matter of doubt - but I feel very
strongly that there is not sufficient
evidence to convict these prisoners, &
that by letting the sentence be carried
out a great injustice might be committed.

If the Court ^{take a} ~~feel~~ similar view of the case
three courses seem open -

1st to pardon & discharge the prisoners
at once -

2nd to ask the opinion of the judges of the
King's Bench upon the case -

3rd To wait till Mr. Bonehead, an expe-
rienced Judge, takes his seat in Council
& then place the papers before him -
while ordering the prisoners to be kept
in confinement only without iron
& labour. -

15 Oct 1857.

J. H.

7
1793

With this order Mr. Cherry
states & sentences in four cases tried
by him as Commissioner - Three
of these cases Nos 5, 7 & 8. require no
remark & the proceedings of the
Commissioner in them are approved.
As respects the remaining case
No 4, Mr. Cherry is requested to
send all the Police Proceedings, &
the record of the case, No 68 of 1857,
in which the Prosecutor Ram Arany
Chetty had been charged with theft
& fraudulent embezzlement - Pending
this reference the prisoners are to
be kept in confinement without work
or labor -

J. M.

M. Cherry Esq
Govt under Act XIV of 1857. Salem - Dispt 20th

P. H. S. S. S.

7 No 1793.

1793-1857

Con 20th October 1857
Judicial 1857 dephart

28th 1857

Abstract of Bonds

28th October 1857

C. 16 Oct
"17"