

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1601

Press
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Dated

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Not to be folded or roughly handled

213

Fort St. George, Judicial Consultation, 15th December 1857.

No. 11. Read the following letter from J. W. CHERRY, Esq., Commissioner of Salem; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated 17th November 1857, No. 9.

SIR,

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

Under the orders as per margin, I have the honor to forward my notes and sentence in case No. 22, tried and disposed of by me.

The Tamil records are ready to be sent, if required.

(Signed) J. W. CHERRY,
Commissioner.

COMMISSIONER CASE No. 22.—*Denkenacottah Talook.*

Charge—Highway robbery.

Property stolen, 5 Rupees 3 Annas.

Do. found, 3 „ 8 „ 4 Pice.

Prosecutor Badra Chetty is a petty merchant, states that he went to Tambundapully to collect his debts, he asked the 1st prisoner to come and assist him. The prisoner accompanied him, and brought the 2nd prisoner. In the middle of the journey, while travelling through a thick jungle, the prisoners attacked him, beat him severely and robbed him of all he had. After which he reported to the Tannahdar the robbery, and mentioned at the time the 1st prisoner's name, who was known to him before, identifies the property, consisting of cloths, ear-ring and sundry little articles.

(Note.—The prosecutor seems a little queer in the upper story, but gave his evidence clearly through, with a vast amount of action and grimace.)

1st witness, Moonien, deposed to the article No. 3, viz., an ear-ring, having been given to him by 1st prisoner, in exchange for another previously mortgaged by him.

2nd witness, Mauleega Acharry, proved that article No. 2, a piece of gold, was sold to him by 1st prisoner for 7 annas, that 2nd prisoner accompanied him, knew the 1st prisoner before.

3rd witness, Vencataramanun, deposed to the discovery of articles No. 4 to 26, in the 1st prisoner's house, when it was searched by the carkoon and village officers, that 1st prisoner was present on the occasion, that the prosecutor's mother-in-law then identified them as the prosecutors. In the 2nd prisoner's house, the pie piece, No. 1, was found.

4th witness, Police Peon, deposed to the same effect, and added that the articles were concealed in a bundle and kept on a pandal under the roof and inside the room. 1st prisoner then admitted that the property was the prosecutor's, but that it had been brought there by the 1st prisoner, the pie found on 2nd prisoner was said by him to be his own. 1st prisoner also acknowledged having given No. 3 to 1st witness, and No. 2 to second witness, who produced the same.

5th and 6th witnesses proved the depositions given by the prisoners before the Sub-Court, confirming their confessions before the Police.

1st prisoner denies the charge, and states that he went with the prosecutor and 2nd prisoner, and in the jungle he laid down with a head-ache, 10 fathoms distance, the 2nd prisoner and prosecutor quarrelled, shortly after prosecutor complained to him that 2nd prisoner had robbed him, 2nd prisoner ran away and came in the evening and concealed the bundle in his (1st prisoner's) house. Articles Nos. 2 and 3 were also brought by 2nd prisoner, they both went and gave them to 1st and 2nd witnesses. No. 3 was mortgaged by him to 1st witness, No. 2 was melted by 2nd prisoner, sold to 2nd witness for 6 annas, of which they (1st and 2nd prisoners) each took 3 annas.

2nd prisoner denies the charge, and states that 1st prisoner engaged him as a cooly, and when in the jungle, 1st prisoner and prosecutor quarrelled, 1st prisoner beat the latter. He ran away and saw no robbery; 2 or 3 days after, 1st prisoner sold gold to 2nd witness for 6 annas, of which he got 3 annas, from 1st prisoner as cooly.

Prisoners had no witnesses. Prisoners each sentenced to 14 years' imprisonment with hard labour.

17-10-57.

J. W. C.

Fort St. George, Judicial Consultation, 15th December 1857.

Sentence.—The circumstances of this case, as shewn in evidence, appear to be the following. The prosecutor was going to another village to collect some debts, and took with him the 1st prisoner. The 2nd prisoner accompanied the latter as a cooly. On the road, and when in the middle of a thick jungle, the two prisoners set upon the unfortunate prosecutor, and after severely ill-treating him, robbed him of all that he had, and made their escape.

2. The prosecutor gave immediate information at the next village, he came to, as to the robbery, and the persons who had attacked him, naming at the same time, the 1st prisoner with whom he was previously acquainted.

3. The articles discovered in the 1st prisoner's house, were duly proved, both by the owner as well as the parties who discovered them.

4. The prisoners admitted the charge before the Police; as also before the Criminal Court; here they denied it, but made statements attempting to criminate each other, their statements however contain admissions which corroborate fully the evidence on the part of the prosecution.

5. As I look upon the charge as fully established against the prisoners, and there being no extenuating circumstances, I award the full punishment provided in the Regulations, to sentence them each to 14 years' imprisonment with hard labor in irons, under Clause 3, Section IV, Regulation XV of 1803.

(Signed) J. W. CHERRY,
Commissioner.

Salem, November 17th, 1857.

Note.—This case was committed to the Sessions Court, but transferred to the Commissioner's file, as coming more properly under the orders 25th August 1857, paras. 3 and 4.

No. 12. ORDER THEREON, No. 1601; dated 9th December 1857.

This is a charge of 'highway robbery.' It was committed in the ordinary course by the Head Police of *Denkenacottah* Talook to the Subordinate Court, and by that tribunal to the Sessions Court. The Acting Sessions Judge, however, in lieu of proceeding to dispose of it in the usual way, transferred it to his Commission file. As Commissioner he has convicted the prisoners, and sentenced them to the full term of imprisonment prescribed by Clause third, Section IV, Regulation XV of 1803.

2. The Government observe that the Commissioners under Act XIV of 1857, can only dispose of such cases as are committed to them in their capacity of Commissioner. Mr. Cherry will therefore cancel these proceedings as being unauthorized and invalid and proceed to try the prisoners *de novo* under the rules laid down for Sessions Courts.

(Signed) T. PYCROFT,
Chief Secretary.

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Sessions Court

I am really ashamed
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Judicial Dept^t B
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 No 1101
 C. M. J. 27th December 1857

} here enter
Oct 17 to Nov 5/59.

This is a charge of 'Highway
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tribunal to the Sessions C.C. The
Actg Sessions Judge, however, in
 lieu of proceeding to dispose of
it in the usual way, transferred
it to his Commission file -
At Commisⁿ he has convicted the
Prisoners, & sentenced them to the full
terms of Impr^t prescribed by Clause
third, Sect IV. Refⁿ XV of 1803

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de novo under the rules laid down for
Sessions Courts. D.T.C. 2-12/57.

of A. M. Cherry Esq^r } Dec^r 12th 184th

as being unauthorized
and invalid

Copy to Court 18th Decr.

Judicial 1857 Sept 4th

28th 1867

Arthur & John of Court

21st Decr 1857

Judge & Mr. & Mrs. J. W. March
No. 2 of 1858 - Para 9

11/8/12

2 Decr
1857