M.R.O. 14—18,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 28 — 64 — Press Mis.

Dated 7—1— 19 1859

Not to be folded or roughly handled

D

/ No 64 /

Extract from the Proceedings of the Legislative Council
under date the 29th November, 1856.

Read letter dated 4th
Instant, from the Principal Sudder
Ameen of Chinglepute, reporting
a case of torture by the Police.

In the above letter the
Principal Sudder Ameen
reports a Case of Torture
which a Dufadar, 2 Peons, a
Village Monsiff, and another
individual were convicted of
having, with the view of pro-
curing the confessions of the
prisoners in Cases Nos 68, 69 and
70 of 1856, tied their arms, struck
them with fists, suspended one
of them by the arms with a
rope to a Tamarind tree and
ill treated him and the others
in

in various other ways - and were
sentenced under Section VII Regu-
lation X of 1816, to 3 months' im-
prisonment with hard labor in
irons.

2. The sentence passed in
this case is in the opinion of
the Court of Fanjdaree Adalut
too lenient, the prisoners fully
deserving the full penalty pre-
scribed by Section VII Regulation
X of 1816 for the crime proved
against them.

3. They observe that the
Principal Sudder Ameen should
have examined the Surgeon, as
to the nature of the injuries
inflicted on the prisoners.

4. The Court of Fanjdaree
Adalut having reason to be-
lieve that it is still the prac-
tice in some Districts of in-
creasing

securing accused parties by fasten-
ing their arms behind the
back with ropes or twisted
cloths which, by impeding the
circulation cause great pain,
resolve to direct that the attes-
tation of the Magistrates be call'd
to their Circular Order dated
the 21st March 1825 and that
they be required to issue strict
injunctions to the Police against
the use of such ligatures in securing
offenders.

Ordered, that Extract
from these Proceedings (together with
a copy of the Principal Sudder Ameen's
letter) be sent to the Chief Secretary
to Government, for the information
of the Right Honorable the
Governor in Council.

(True Extract)

To, The Chief Secretary to Government.

Register

No. 197

Chingleput 4th November 1856

From,

The Principal Sudr Ameen of
Chingleput.

To,

George Ellis Esquire,
Register to the Court of
Foujdary Udalut.
Madras.

Sir,

With reference to the
Circular instructions of the
Government dated the 20th. Novem-
ber 1855, I have the honor to sub-
mit for the information of the
Court of Foujdary Udalut that
a Case of Torture was detected
and the perpetrators of the re-
crime punished by me under
Section XVII, Regulation X of 1816.

Criminal Cases Nos. 68,
69 and 70 of 1856 were forwarded
to

to my Court by the Police Ameen
of Sheeyambadoo, Carrying only
Talook, and the Prisoners bearing
borne on their persons marks
of torture — I immediately desired
the Zillah Surgeon to make a
report on the subject upon due
examination — And the one which
he accordingly submitted corres-
ponded with the Statements
of the Prisoners in some respects.

Having gone thro' the
trial of these Cases, I was strong-
ly impressed with the idea
that the charges were false — and
therefore acquitting the Prisoners,
requested in my sentence the re-
attention of the Magistrate to
the alleged fact of the torture.

Re referring the mat-
ter to the Acting Head Assis-
tant Magistrate, this functionary

Examined

examined the former Prisoners and sent up the Case to my Court - and the Appendix C is copy of my sentence convicting these Prisoners of torture and sentencing them to three months' imprisonment with hard labor in irons under Section VII Regulation X of 1816.

I am afraid lest the Court should think the punishment to be too lenient. The measure of punishment engrossed my attention some days after the close of the trial - and after I had been convinced of the guilt of the Prisoners and the one which I have declared in what I finally arrived at - If similar treatment had been given by the Prisoners in their private capacity and under ordinary circumstances

circumstances as were not brought as Criminals -, the offence would have been dispensable by a Magistrate under Section XXXI or XXXII Regulation IX of 1816. But because it was committed by Peons and Village Mooneffs - men who had been legally entrusted with the protection of the people within their jurisdiction, the act assumed a serious aspect - and hence arose the necessity of making the punishment somewhat severer than it should be under the other ordinary circumstances - Now the severity did not appear to me to lie in the length of the term of their imprisonment with labor but in their being publicly declared unfit for further employment - and this object being best secured by

by the adoption of the course indicated in para: 15 of the Circular instructions dated 7th June 1855 a, I did consider a severer punishment necessary.

I have the honor to be
Sir,
Your most obedient
humble Servant
(Signed) T. Alagiah
Principal Sudr Ameen

Chingleput.
Principal Sudr
Ameen's Court.
11th November 1856.

From,

Assistant Surgeon J. A. Ballon
Zillah Surgeon Chingleput

To, T. Alagiah Pillay Esquire
Principal Sudr Ameen
Chingleput

Sir,

I have the honor to inform you that I have in compliance with your requisition examined the Prisoners as per margin in Criminal Cases Nos 68, 69 and 70 of 1856.

The 1st Prisoner has a scar partly encircling the right arm just above the bend of the elbow, together with other marks upon both his arms, showing that scars have existed a short time ago, though now healed.

There

These marks and scores appear to be the result of a cord having been tied tightly round the arm, and great force in dragging at them made use of. This coincides with the account given by the Prisoner that these injuries have been inflicted by a rope so applied, and that he was thus tied up or suspended by the arms.

I consider that these injuries have been inflicted about ten or eleven days ago. This also coincides with what the Prisoner states to me, as the time the injuries were inflicted. He has other marks on different parts of his body as from blows of a stick, they also appear to have been done about the same date.

There

There is no appearance at present of his having been injured in his private parts.

The three other Prisoners bear marks upon their arms as if they had been tightly encircled by a cord. These marks I would also judge to have been inflicted about the same length of time as those above specified.

I have the honor to be

Chinglepet
16th July, 1856.

/Signed/ J. A. Ratton.
Zillah Surgeon.

Examined

Appendix B Capitals

Housebreaking with theft.

The Prisoners Seeniem, Ragaviem, Cattam and Raman are charged with having, at about 11 P.M. on the 7th July 1856, entered the Prosecutrix Puchyammay's house at Caimaly, Caranguely Jaffna, by boring thro' the eastern wall, and stolen from the parcoom of her daughter Coalliem annal 2 gold ornaments valued at Rupees 19——.

Criminal Case No 68 of 1856

The Prisoners throughout pleaded not guilty.

The Prosecutrix states that it was a dark night on which the theft in question was committed, but that she still she recognized the 1st Prisoner by the flashes of lightening. It was in the (Coodum?) inner Hall of the House that she was sleeping

with her children.

It is asserted that the Prosecutrix mentioned the circumstance of such recognition to the 2d Witness immediately after the commission of the Crime.

The 1st Witness for the part of the Prosecutrix, stated before the Police Officer that she recognized the 1st Prisoner when he committed the theft on the night in question, but before the Court, he totally denied the circumstance.

The most important of the witnesses summoned in this Case, is the 3d, who states that, on the morning after the commission of the crime in question, he, the Witness, saw the Prisoners at the Well of the Village bathing and afterwards carrying

carrying a bundle with them, and that he reported this circumstance to his own father, the Village Taliary, (3d Witness in Cause No 69) as well as to the Village Munsif, father of the 2d Witness. He further adds that, at noon the same day, he followed the Prisoners at their payment to aforesaid Village for demanding a girl in marriage for the 1st Prisoner; that, as they were returning from that Village the same evening after sunset, the Prisoners went again to it on the plea of their having omitted speaking on some other subject there; that the witness alone went to their Village; that then, about 6 A.M. the next morning, he was going to his house, he saw the Prisoners dividing among

among themselves rice &c in the house of the 1st Prisoner; that he (the Witness) asking the 2d Prisoner what they were about, he replied they had brought the articles from the House of a Brahmin in the "Illedoo" Village; and that the witness again reported the circumstance to his own father and the father of the 2d Witness. The Witness states that, at about 7 A.M. the same morning, as he was going with the 5th Prisoner in the field, 2d and 5th Witnesses with some others came and took the 1st Prisoner to his house where the 2d, 3d and 4th Prisoners were sleeping; that the whole of them were taken, and being asked on the subject of the Cases Nos 69 and 70, confessed the

the crimes, that the 1st Prisoner then producing the iron plough, spoken connected with Case No 69, and Rice &c with No 70, mentioned that they had concealed the Brazen Articles (in No 70) in the Tank.

The 4th Witness (the) Village Munsif of Illendoo (Village) and the 5th Witness (the Police Duffadar), deposed to the discovery, in the 1st Prisoners House and in the Tank, of the iron Ploughshares, rice &c connected with Cases Nos 69 and 70 of 1856.

Name of the stolen articles in this (No 68) case were found upon the Prisoners. They have not confessed the crimes. The Cases of the Native Witnesses particularly those in the petty

Villages

Villages are so low, that I cannot conceive how the lightening could have thrown into the Hall, an inner building, so much light as to render the recognition of Prisoners by the Prosecutrix possible.

According to the evidence of the Prosecutrix and her 2nd Witness, the circumstances of such recognition were, immediately after the commission of the Crime, reported by her to the 2d Witness; and according to the testimony of the 3d witness, the Prisoners were seen on the morning of the 8th July at the Well under a very suspicious circumstance namely the carrying of a Bundle. Why, if all these had been true, were the Prisoners not immediately taken and thereby prevented from committing

committing the theft in No. 69 and 70 on the night of the 8th of the month. It is strange indeed independently of the above circumstance, that although the Prisoners intention of again committing a theft on the night of the 8th had been reported, on the morning of the same date, by the 2d Witness to the 1st witness and by the 1st witness to the Prosecutor in No. 69 -, Apts no measures were adopted by those Villages authorities for the immediate apprehension of the Prisoners.

This omission on the part of the Villages Authorities coupled with the undeniable fact of the Prisoners having been tortured after their apprehension, and the prevarications of the 3d and 5th Witnesses in this case and the 4th witness in No. 69 - for which they were fined, two in 2 Rupees each, and one in 5 Rupees, render the alleged circumstances of the discovery of the iron Ploughshare, Rice, Brazen Articles &c both in the House of the 1st Prisoner and in the Tank too suspicious and ineffective to establish the crime charged against the Prisoners.

The 1st Prisoners House has no door and it is highly improbable he would have gone out with the 3d Witness leaving the stolen Articles in a place not secured by a door, and it would not have been a matter of difficulty for his Enemies to have put such like Articles in it during his absence.

In releasing therefore the

the Prisoners in this Case and in Cases Nos. 69 and 70 of 1856, I have to solicit the attention of the Magistrate to the Commission of torture on the Prisoners, as I have reason to believe, by the Police Duffadars the 5th Witness with the assistance of the 1st Witness in No. 69 and 4th and 5th Witnesses in this Case, whose Depositions are ordered to be sent to the Magistrate together with a copy of the letter from the Civil Sub Surgeon dated the 16th Instant.

Chingleput 23d July 1856.

(Signed) T. Anglicah.
Principal Sudr Amen.

Criminal

Criminal Case No. 69 of 1856.

Theft.

The Prisoners Seénan, Rajaënan, Cattan and Ranëan are charged with having, at 12 P.M. on the 8th July 1856 entered the Buffalo shed (left open) on the west side of the Prosecutor Veerasamy's Naikè house at Illeedoo, Caranguoly Taluk, and stolen therefrom 5 iron ploughshares valued at 8 annas.

Before the Police the Officers 1st, 2d and 4th Prisoners pleaded guilty, but before the Court they with the 3d deny the Crime.

Vide Sentences in Case No. 68 of 1856.

Chingleput 23d July 1856.

(Signed) T. Anglicah.
Principal Sudr Amen.

Criminal

Housebreaking with Theft.

Criminal Case No. 70 of 1856.

The Prisoners Seeman, Rajavium, Callan and Rattinam are charged with having, about 12½ A.M. on the 9th July 1856, entered the Prosecutrix Rathaemany Ummals house at Illeadoo, Caraingaely Talook by removing the latch of the back yard door and then unmaking off the lock of the door of a godown below thereof, a Brass pot & Vz. of the value of Rupees 24-4-8.

The 1st, 2d and 4th Prisoners pleaded guilty before the Police Officer, but before the Court, they with the 3d have denied it.

Vide Sentence in Case No. 68 of 1856.

Chingleput 23d July 1856

(Signed) T. Alagiriah

Principal Sudr Ameen

Appendix

Appendix C. Capital

In Criminal Case No. 105 of 1856.

Torture.

The Prisoners Iyalloo Nack (Puffadar), Veradasspa Nack (Peon), Balakistnama Nack (Peon), Abdul Sabee (Village Munsiff) and Comarasawmy Mandaly are charged with having, about 3 months ago in the year 1856, apprehended the 1st, 2d and 3d Witnesses and another named Ramen (not produced) while at Cannacoly, Caraingaely Talook, as if they were guilty of Housebreaking and Theft and in view to procure their Confessions in Criminal Cases No. 68, 69 and 70 of 1856, tied their arms, struck them with their fists, suspended the 1st Witness by the arms with a rope to a Tamarind tree and thrashed him and the others in various other ways.—

The

The Prisoners throughout pleaded not Guilty, but the witnesses who, as Prisoners in the Criminal Cases referred to in the charges, suffered the ill-treatment, distinctly deposed to the several Counts of the charge.

When these witnesses appeared as Prisoners in the aforesaid Criminal Cases they bore marks of ill-treatment on their persons. The Gillah Surgeon was immediately sent for and requested to give a report on examining them. In his report dated the 16th July 1856, he distinctly declared that the said witnesses had actually suffered the ill-treatment, the marks of which they bore on their persons. And the testimonies produced to establish the charges when brought

brought against them (new witnesses) were so suspicious that they were acquitted and the attention of the Magistrate was drawn to the alleged fact of torture. The Acting Head Assistant Magistrate examined the witnesses and forwarded the cases to the Court. And although these witnesses were Prisoners and had an interest in giving such testimonies, yet in giving such testimonies, guilt of the Prisoners so far as the Report of the Surgeon goes to show.

It was admitted by the present Prisoners themselves in the former Cases that the present witnesses had no marks of injury on their persons before their apprehension and that these visible on their persons were

were the consequence of their being tied up with respect to prevent their escape which they attempted to effect on their apprehension. But the cause of the marks of scratches on the other parts of their bodies is not explained by this defence. More over the circumstances related by those very individuals regarding their apprehension evidently shew the quiet manner in which they had surrendered themselves, the first witness as he was walking in the field together with some others connected with the party who deposed against him in the former Cause, and the other witnesses as they were lying down in a hut, and therefore it is impossible to believe that they could have attempted to

(A) 14

to effect their escape and that when they could least expect success being surrounded by considerably a greater number of persons not being against them —

The present witnesses declared, and the Surgeon confirmed the Statement that they had suffered the injury on the 10th or 11th day previous to their appearance before the Court. — This carries the probable day of torture prior to the date of their apprehension as Criminals. As the present Prisoners themselves admit that these witnesses had no marks of torture on their persons when they were apprehended by them, the only conclusion which can be reasonably drawn is that the torture preceded the connection of the charges and that this connection

was

was merely the scheme planned
for escaping the consequences of
the torture. What was the motive
of this torture whether for pro-
curing confession or for procuring
their obedience or for other pur-
poses, I cannot positively venture
to say but it is quite certain that
it was inflicted and therefore
I find the Prisoners guilty of the
crime of torture and accordingly
sentence them to three months
imprisonment with hard labor
in irons under Section VII Regu-
lation X of 1816.

Chinglepet the 31st October 1856.

(Signed) J. A Maghiah.

Principal Sudr Ameen.

True Copies /

Register.

Copd by
A Brains.

JUDICIAL DEPARTMENT.

No. 28.

Extract from the Minutes of Consultation under date the 7th January 1857.

Read the following Extract from the Proceedings of the Foujdaree Udalut.

Submitting with the observations of the Foujdaree Udalut copy of a letter from the Principal Sudr Ameen of Chingleput, reporting a case of Torture committed by the Police. } (Here enter 29th November 1856, No. 64.)

1. With the foregoing Extract, the Foujdaree Udalut submit a letter from the Principal Sudr Ameen of Chingleput, who, in obedience to the Circular Instructions of Government, dated the 20th November 1855, has furnished the Court with a copy of his sentence in Criminal Case, No. 105 of 1856, wherein the undermentioned Prisoners have been convicted of "Abuse of Authority," viz.

1. Iyaloo Naick, (Duffadar.)
2. Vurdappa Naick, (Peon.)
3. Balakistnama Naick, (Peon.)
4. Abdul Nabee, (Village Moonsiff.)

and

5. Comarasamy Moodelly, (not in the public service.)

2. The offence proved against the Prisoners is, that, in order to procure the confessions of certain persons apprehended by them on a charge of House-breaking, they struck them with their fists, tied their arms together, suspended one of them by his arms from a tree, and ill-treated him in a variety of ways.

3. The Governor in Council concurs with the Foujdaree Udalut in considering that the Prisoners had rendered themselves amenable to the full extent of the punishment awardable under Section VII. Regulation X. of 1816, and that the sentence of the Principal Sudr Ameen is altogether inadequate.

4. Resolved that the first four Prisoners be forthwith dismissed and declared, by Notification in the Fort Saint George Gazette, incapable of re-employment in the Public Service, and that orders be similarly issued forbidding at any time the entertainment in any Office under Government of the 5th Prisoner.

(A true Extract.)

Chief Secretary.

R.A. J. A. Wilkin.

Ind. Dept

Extract from the Proceedings of the Govt of Fort St George dated 7th January 1857

Read Extract from the Proceedings of the Foujdaree Adawlut Circuit entered 29th Novr 56

1. Ordd the foregoing Extract, be Fd. do. submit a letter from the Pt. Assistt of Chingleput, who, in obedience to the Circuit Instructions of Govt dated the 20th Novr 56, has furnished the Court with a copy of his sentence in Criminal Case No 105 of 1856, wherein the undermentioned prisoners have been convicted of "abuse of Authority" viz.

1. Tyalee Naick. (Duffadar)
2. Vindassa Naick (Peon)
3. Balakistnama Naick (Peon)
4. Abdul Nabee (Village Monegar)

and

5. Comarasamy Moodelly. not in the public service

2. The offence proved against the Prisoners is that, in order to procure the confession of certain persons apprehended by them on a charge of Housebreaking, they struck them with their fists, laid their arms to the back by their sides, and threatened them in a variety of ways.

† suspended over the head by his arms from a tree

3. The Pt. in C. concurs with the Fd. in considering that the Prisoners had rendered themselves amenable to the full extent

Notification.

Whereas the persons specified in the annexed list have been enrolled before the Court of the Principal Sudder Ameen, Chingleput, of making personal violence in order to procure the confinement of certain parties apprehended by them on a charge of Housebreaking & it is hereby ordered that the first four Prisoners be dismissed the Public Service, & declared disqualified for re employment under the Govt. in any Capacity whatsoever; and that the fifth prisoner, who is the son of Armlage Peon forfeit be held incapable of discharging his father in his Office, & of being entertained in any Office or Service in any other Public Office whatsoever.

1. Ryder Naick (Duffadar in the Company's Cloth)
2. Vardappa Naick (Peon in the same)
3. Balakistnama Naick (Peon in the same)
4. Abdul Kabir (Village Munsiff of Tirukalikundram)
and
5. Comarasamy Mudaly.

D. F. C. 11-12-56.

Copy to the Kanjeevaram Collector & Magistrate

Rockbridge Cour 13 - January
Judicial 1785 - Depositions

No 28.

Johnson & Mainor's Court

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