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Judicial DEPARTMENT.

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		~~Mis.~~
Dated	26-7-1905	

Not to be folded or roughly handled

No. 29. Read the following letter from W. ROBINSON, Esq., Acting Magistrate of Malabar; to E. MALTBY, Esq., Acting Chief Secretary to Government, Judicial Department, Fort Saint George, dated Calicut, 11th June 1857, No. 82.

SIR,

With reference to the Circular Order, dated 10th June 1856, I have the honor to give cover to the reports* of my Special Assistant, on the two charges noted in the margin, of Extortion and Abuse of Authority and of Torture against the head of Police of Ernaad.

Extortion and Abuse of Authority.
Amerappalotha Kelloo, alias Manavikerna Valia, Tiruppaad, by Vakeel E. Kandapan Nair.

Torture.
Ashary Porayen.

- Versus.
- 1 Kootoosaa, (head of Police Ernaad Talook.)
 - 2 Kalwetty Kooyee Ally Cootty.
 - 3 Badghara Ahmed, (Gomastah Huzoor.)
 - 4 Mallakel Valia Moideen.
 - 5 Nadammol Cheria Moideen.
 - 6 Nadammol Marjan.
 - 7 Pooycoot Coon Hamod.

- Versus.
- 1 Kootoosaa (head of Police of Ernaad Talook.)
 - 2 Kalwetty Kooyee Ally Cootty.
 - 3 Illickel Comoo Cootty, (Kolkar Ernaad Talook.)
 - 4 Irutias Chapoo Menon, (Volunteer Ernaad Talook.)
 - 5 Wycoondah Bahkten, (2nd Gomastah Ernaad Talook.)

2. The more important one is that preferred by Edawanah Tiroopaad, one of the principal Ra-

jahs of the Ernaad Talook, against Kootoosaa, head of Police of the Ernaad Talook, and others, together with translations of the charge, defence, and a copy of the decision of the Sessions Judge, who disposed of the case.

3. The Tiroopaad charged the head of Police, Ally Cootty and others, with having, at the instigation of his near connexion,† 2nd prisoner, Ally Cootty, revived on the most frivolous grounds, a trumpety Police case which had laid over for upwards of two years, and which referred to a matter of a purely civil nature, and on the strength thereof, gone in a threatening manner to his palace and possessed himself of certain documents and then summoned him (Tiroopaad) to Munjerry and there, on the 29th July, extorted a deed from him by threats of committal to the Court on a charge of stealing the documents, and putting him in hand-cuffs &c. The deed thus extorted being in favor of Ally Cootty, his (head of Police,) near connexion, and general agent, and purporting to transfer to Ally Cootty, at a price far below its value, teakwood which he (Tiroopaad) valued at 70,000 Rupees, but which he was forced to sell under duress for 30,000 Rupees.

4. The condition of the parties to the case is as follows: The Tiroopaad, one of the largest jenmies of Malabar, possesses very extensive teak forests in the Nellamboor valley, &c., of the Ernaad Talook, of which Kootoosaa has for 15 years been Tahail-dar. Ally Cootty is an able, bold Mopla merchant, married to Kootoosaa's niece† and a resident of the Ernaad Talook, where he has for years been Kootoosaa's, (Kootoosaa is now failing much from age and disease) most intimate coadjutor.

5. Some years ago, Ally Cootty, after his marriage with Kootoosaa's niece, and while Kootoosaa was Tahaildar of the Talook, obtained from the Tiroopaad the exclusive right of cutting the teak of the entire and very valuable forests, the property of the Tiroopaad in Ernaad on an advance of 70,000 Rupees to be accounted for as the teak was removed, at the market value, and under this contract Ally Cootty has for years been the monopolist wood-merchant of that part of the Ernaad Talook, and claims he be entitled to continue to be so. The Tiroopaad on the other hand probably considers the debt more than paid off, and had become restless under his bondage.

6. Whether Kootoosaa, the head of Police of the Talook was actually a partner in these extensive commercial transactions, of his nearest relation within his own Talook, and how far he was concerned in obtaining by his official influence the first grant above alluded to, never can be ascertained with legal certainty.

7. He has long been held in high esteem and enjoyed the confidence of his immediate superiors, and it may be inferred from the present affluent condition of the family and the natu-

There is also a revenue paid.

ral result of such a combination of circumstances, that he and his family have largely profited directly or indirectly by this trade. I fear Kootoossa has not been above temptation and Ally Cootty is one of the most thoroughly astute and bold men of his race in Malabar, nor can the condition of the accounts as between Ally Cootty and the Tiroopaad be judged of, suffice it, that probably a large unadjusted balance can be made by Ally Cootty to appear against the latter, and any one acquainted with Malabar is aware that the ruin of the great Hindoo families, and the aggrandizement of the Moplas, have too frequently here to be traced to these open ill-defined contracts, with enterprising Mopla merchants, who never relinquish their hold till all that can be squeezed out of them has been wrung dry.

8. Mr. Clarke, the Magistrate, had, I believe, for some time entertained very serious doubts of the benefit of Kootoossa's influence in the Ernaad Talook, and when the charge, the subject of this inquiry came forward, and the equivocal circumstances above shown were brought to his knowledge by the Tiroopaad, he at once said the unfitness of the existing circumstances in the relation between Kootoossa and Ally Cootty, and the natural inference as to the head of Police's general interest in these commercial transactions and unjustifiable doings charged. He therefore removed Kootoossa to the Cawaye Talook, so as to discover the connexion, directing at the same time Mr. Thomas, the Special Assistant, to go into the matter charged.

9. The true circumstances out of which this important case has arisen, have been much distorted, but I believe them to be the following. The Tiroopaad while under the obligation to Ally Cootty (if not to Kootoossa) above shewn to exist, has for some time been anxious to emancipate himself from his influential monopolist creditor, and Kootoossa's influence having, for some months, been rather on the wane, he took heart to do so and was endeavouring either to engage in the lucrative wood trade on his own account or to enter into contracts with others in contravention of the exclusive one existing with Ally Cootty, who he considered had more than worked out his advance. He thus sought to raise a competition in the Ernaad teak trade, which would at least have been very detrimental to the powerful Ally Cootty's interest, backed by all the Tahsildar's family, sympathy and co-operation. A large quantity of timber was actually felled last year by the Tiroopaad in different parts of his (the Tiroopaad's) own jungle in pursuance of this determination. The value of this timber at the lowest calculation fell not short of 39,000 Rupees, and which was valued by the Tiroopaad at 70,000 Rupees. Its true value probably lies between the two.

10. The indisputable facts are these. This valuable lot of timber was in the month of July last, the Tiroopaad's own, but suddenly the whole of it became Ally Cootty's, under a deed of sale, which became the subject of the recent criminal trial. The deed bears the date 7th July 1856, and is alleged by Ally Cootty to be a bonâ fide instrument executed on that date by the Tiroopaad to him and with his full free will, and uninfluenced by any external pressure. He alleges that 39,000 Rupees is the true value of the wood.

11. The Tiroopaad on the other hand lays his charge as set out in para. 2; that the deed was executed by him, but has been antedated, having been really executed on the 29th July under circumstances of great duress and abuse of authority on the part of the head of Police, Kootoossa (Ally Cootty's near connexion.) The Special Assistant, after a pains-taking enquiry, committed the case, and the Subordinate Judge, though doubting the direct evidence, considered that there was circumstantial evidence enough to justify his sending the case for trial before the Session Judge. The result of this trial by assessors, was, that one assessor convicted the head of Police and two others, the Sessions Judge concurring, found that the evidence was insufficient, and acquitted the whole of the prisoners.

12. The defence was conducted by E. Salmon, Esq., Barrister at Law, who was called down for the purpose.

13. A reference to the Foujdaree Udalt, resulted in an opinion that the award of the majority of the assessors must be upheld.

14. The evidence before the Court was unquestionably very poor, and I believe overlaid with falsehood and exaggeration, but reviewing the matter with reference to the conduct of the

head of Police, I must record an opinion most unfavorable to him. Not a doubt remains on my mind, that his official influence was grossly abused; that he was party to a conspiracy which resulted in extorting a deed very favorable to his connexion, and that he was party to the trick of antedating that deed, with a view to avoiding detection.

15. We have the near connexion of the head of Police, Ally Cootty, largely engaged during the greater part of his (Kootoossa's) incumbency as head of Police in that Talook, as the monopolist wood-merchant of the extensive forest of the Tiroopaad. Kootoossa himself may have been extensively interested in his relative's mercantile transactions. No doubt, had his interest at heart, and the present affluent circumstances of the whole family, and other circumstances, incapable of course of proof, leave little doubt in my mind of a pecuniary interest. For years the head of Police and Ally Cootty have been, as the people term it, "one." We have the Tiroopaad bound hand and foot by the deeds, debts and balance of unadjusted accounts to Ally Cootty. We have him (the Tiroopaad) endeavouring, fraudulently perhaps, to evade these obligations, and in pursuance of this endeavour, he has cut wood worth probably $\frac{1}{2}$ a lac of Rupees, which is lying in the jungles, and about which the Tiroopaad is in treaty with other parties.

16. We then find that just about the time for removing this valuable wood to the coast, at the commencement of the monsoon (1856,) when the rivers were filling, one of the conspirators in the case, (3rd prisoner in the criminal charge,) a Mopla and a mere tool of Ally Cootty and Kootoossa's, gives a petition to this head of Police, reviving a frivolous old Police complaint, already 2 years in abeyance, which, as the Session Judge remarks, the head of Police must have known to be of a wholly civil nature, and foreign to his proper Police duties, which still the head of Police most readily entertains, and about which he evinces curious and unusual energy.

17. We find that on the strength of this complaint, the head of Police proceeded to the palace of one of the most influential and respected Rajahs of the country, and possessed himself, in the absence of the Rajah, of certain deeds alleged by the complainant in the Police case with thorough Mopla disregard of truth, to have been stolen. The head of Police then summons him (the Rajah) personally to the Cusbah station, 16 miles distant, on a matter in which he ought scarcely to have called for a Vakeel to explain. We have him (head of Police,) detaining him (the Tiroopaad) there from the 25th July to 5th August, with this criminal case pending over him, and then we find him, (the head of Police,) shuffle over the case and dismiss it by a summary Police decision, which the Sessions Judge justly terms "a very round about vague document," passed on a matter over which he (the head of Police) had no jurisdiction, and in which he carefully suppresses all mention of the Tiroopaad having been kept at the Cusbah station, carefully avoiding likewise all mention of him in the report to the European superior. We then suddenly find the whole of a valuable lot of timber which the Tiroopaad had been at the expense of felling, &c., all at once transferred to the hands of Ally Cootty, out of whose clutches he had been endeavouring to escape, at a price which must be termed singularly moderate, and that without any adequate cause assigned for this sudden change of mind and resolution on the part of the Tiroopaad, unless the duress is admitted.

18. The antedating of a document is an easy matter, and the commonest practice among the people of Malabar. Had the deed been executed on the 7th instead of the 29th July, some mention of it would unquestionably have transpired in the correspondence &c., of Ally Cootty, &c., and the deed would have been registered before the expiration of a month. The Tiroopaad is a man who would never bring a deliberately false complaint, but he appeared personally before the Magistrate, and gave a very clear and most probable account of the whole transaction.

19. From the whole circumstances of the case, a deep and full conviction of the general truth of the charge is forced upon me, a legal conviction however was improbable from the first, for though in the main true that threats, persuasions, and official influence, extorted the docu-

there is a name in evidence

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ment in question, and that it is antedated, the evidence produced was open to suspicion and in-different, and the circumstances attempted to be proved, such as were in this case, improbable, while to avoid the damning inference of its bearing a date on which it could at any time be proved, the Tiroopaad was under the hands of the Police, had been antedated. It is scarcely necessary to add that the ability of Mr. Salmon obtained for the defence set up, and for weak points in the chain of evidence, a most pointed consideration, but after all the verdict of acquittal was not unanimous, and the opinion of the majority was only that the charge was not proved. The head of Police therefore escaped punishment, the question of his re-employment, has now to be disposed of.

20. When Mr. Clarke removed Kootoossa to another talook, he applied for leave and did not join. He was on leave when the case was committed for trial, and I then suspended him from the service. He now claims the benefit of the verdict, and calls on me to reinstate him. But under the circumstances, I have considered it right to lay the entire case before Government, with reference to the Circular Order, dated 10th June 1856, ere complying, as I do not think he is any longer fit to have the charge of a talook.

21. The opinions of different officers and others on the conduct of the Moplah Tahsildar of Ernaad, Kootoossa, have for years been the most divided. Mr. Conolly promoted Kootoossa to that Tahsildarship in 1841, for the sake of having a Moplah head of Police over his turbulent co-religionists, and he maintained him there during his life-time in consideration of the same policy. He thought well of Kootoossa and considered his presence in Ernaad indispensable. Views the most adverse to those of Mr. Conolly's were come to by Mr. Strange the Commissioner, in 1852, and were no doubt entertained by many other officers of the district. Perhaps no official in his position was ever so much before the public and Government as has been Kootoossa. Mr. Clarke formed a most unfavorable opinion of him, and Mr. Thomas's will be gathered from the enclosures. I have not known Kootoossa personally, except in connexion with the outbreak of 1849, and I had then to acquit him of a suspicion, in connexion with that occurrence which was raised against him.

22. The strength of the law and change of circumstances are now such, that the policy which was deemed to necessitate the maintenance of the Moplah Tahsildar in Ernaad, no longer needs consideration. His return thither were out of the question. If deemed advisable to re-employ him in a talook, he would do no harm at Cawaye, but Kootoossa is no longer what he was. He has been 35 years in the service, and is 55 years of age, has become weak of intellect, hard of hearing and suffers from diabetes in a degree which in a great measure incapacitates him for business. I believe the recent scrape he has got into, has in part come about from his having become a mere tool of others, and he ought to be relieved from active service, for which he is no longer in any way fit and probably could not long support.

23. I have offered to recommend Kootoossa for a pension on his sending in his papers, but he naturally wished to be reinstated in the service, and I think that legally speaking, he is entitled to the benefit of the verdict obtained, but I consider that the interest of the public service requires, that he be placed in a less responsible post than the charge of a talook.

24. I have submitted with this record the proceedings in a 2nd case of torture committed by the Special Assistant, in which Kootoossa was the principal defendant. The case was dismissed by the Sub Judge, and does not I consider require further consideration.

25. I must request the permission of Government to give the full pay of the post to the officer who has acted for Kootoossa during his suspension.

(Signed) W. ROBINSON,

Acting Magistrate.

Fort St. George, Judicial Consultation, 21st July 1857.

The Petition of Amrapalath Manooocraman Valia Tiroopaad, to Mr. Clarke, Magistrate of Malabar.

I hereby complain of the dire grievance and disgrace (particularized below,) that I have suffered from the oppression, and abuse of authority, of Kootoossa, Police Officer of Ernaad, and Ally Cootty, the husband of his daughter (or niece) for their own private benefit.

1. Having on July 14th, caused a complaint to be lodged against me and others, by Ally Cootty's agent Vellia Peedujakal Poker, Kootoossa accepted it in right of his Police authority, assembled many peons and people, came to my palace when I was absent, and saying that a complaint had come that (we) had stolen some documents, and that a search must be made within (the house) frightened my sister, took away the documents specified in the margin, and seized, took away, and placed in confinement at the Talook Kutcherri, my stewards Krishna Menon and Pangashy Menon.

2. After I had arrived in my palace on my return from Nedinganaad (they) sent 8 peons and took me away on the 8th Karkadom, put me in confinement in a house near the residence of the head of Police, under a guard of peons, and placed me under severe restraint, and then having said that (they) would cause the peons to disgrace (or abuse) me, criminally commit, and send me to Court in chains, and other words fitted to frighten and annoy me much, and shaken my mind, finally they told me that if I would give an antedated document to the effect that towards the liquidation of a debt to Ally Cootty, I had agreed about the price and sold to him for Rupees 39,000, 2,000 teak poles and 76 large teak trees, which my sister had had felled, and which were worth, as they lay, Rupees 70,000, and that if I would also give some money and trees to the complainant Poker, (they) would release me without disgrace; desiring by all means to escape from the clutches of the above persons, I signed a document, written by the younger brother of the Talook Moonshee, to the effect that the above mentioned trees were sold to Ally Cootty, and also a document in some one else's hand-writing, making over 40 teak poles to Poker, and out of 10,000 Rupees due to me from Ally Cootty, as per document made out in Krishna Menon's name, I caused Krishna Menon to sign and give a document, giving Poker Rupees 1,000.

3. (His conduct) in having thus given an opportunity for all the above treatment of me, is a great grievance.

However, as there was at that time no other course for escape from immediate disgrace, and hoping that on representing the circumstances to you, I might get redress, I acted as if I had consented.

Except under the above circumstances, I would by no means have acted so. I have neither occasion nor authority to incur such a loss, this will be sufficiently proved at the time of enquiry.

4. Since it is clear from the records and decision in the case that Poker's complaint is totally improper and false, and that for the purpose of the complaint there was no occasion either for the seizure of the above documents, or for putting me and my stewards in confinement, it will be perceived, with what purpose such a complaint was got up.

5. As the defendants in this case are punishable by the Sessions Court, there would be no greater grievance to me than your sending this case to the special Assistant Magistrate instead of trying it yourself, because there are good reasons to think that the abovementioned people would even destroy me if I were to go to Ernaad, I have therefore determined to bring my family to Calicut. I have no courage to return to that country, though I might lose every thing belonging to me, until I meet with redress for such gross oppression; my stewards are also afraid of going there.

Considering the power and influence of Ally Cootty and Kootoossa, as well as their daring in committing evil acts, I think it right to inform you that it would not be well even for you to go to that place for the investigation of the case. If you intend that this case shall be tried by the Special Assistant Magistrate, I particularly request you will order that gentleman to conduct the investigation at Calicut. Though I might seem to be saying more than is called for, I have done so, because it is best to be careful regarding the conduct of wicked people. I am moreover afraid as to what troubles may befall my family before they quit Ernaad. Therefore I request you will bestow your kindness on me and my family, and either investigate the case yourself or call the Special Assistant Magistrate to Calicut, and cause him to investigate the case there, and

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render redress, and that you will keep my family from suffering any kind of trouble before they quit Ernaad, and prevent defendants from taking away the timber before the case is disposed of.

It is necessary at once to inform you that the Special Assistant Magistrate, Ernaad Moon-siff, and Nedinganaad Tahsildar, may be among my witnesses.

(True translation.)

1st Chingum 1031.

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

(True Copy.)

(Signed) W. ROBINSON,
Acting Magistrate.

The defence which Vavalapadi Achutha Menon, Vakeel for 1st defendant Kootooosa, and 2nd defendant Ally Cootty, presents.

The petition which Edawana Kelloo Veeraven Tiroopaud laid before the Magistrate against these and other defendants on September 1st 1856, Chingum 18th 1031, stating that for the benefit of 1st and 2nd defendants, the 1st defendant having received a petition from Vallia Pidiakel Poker against the complainant to the effect that, on July 14th 1856, some documents had been stolen, threatened to make a search in the complainant's house, intimidated (the inmates) and took 5 documents concerning Poodicotta Putta farm, that the complainant had been made to sign an antedated document purporting that, having fixed the price of Rupees 59,000 for 2,000 poles and 76 large trees of the value of Rupees 70,000, these had been sold to Ally Cootty, and another document to the effect that 40 teak poles were given to Poker, and stating also that Krishna Menon was made to sign a document making over to him Rs. 1,000 out of a deed drawn up in the name of complainant's steward, Krishna Menon, and acknowledging a debt of Rs. 16,000 from 2nd defendant to complainant, and that all this was brought about and the signature gained through intimidation, and the official power of 1st defendant on Karkadagom 16th and 23rd, (1030) is a complaint instituted from the improper desire to obtain a greater price than was voluntarily agreed to at first, and is by no means true; the signature was not obtained by force.

1. The chief reasons for considering, first the irregularities that have occurred from first to last of this complaint, and 2ndly, that the complainant's and witnesses' depositions which are on the record, are inconsistent and unworthy of credit, and 3rdly, the character of the dispute on both sides will be mentioned below.

2. This enquiry has been conducted in entire opposition to the remark on the 5th para: of the complainant's petition that Mr. Thomas who is enquiring into this case is one of the complainant's witnesses for the proof of his case, and that his conducting the enquiry is a grievance.

3. It is laid down in the regulations that the same Officer who conducts an enquiry in the first instance cannot also take up the appeal in it, but we have a still greater grievance than this viz., it may be seen from Moore's Indian cases page 233 and M. C. Pro. page 234, that (a conduct which) departing from the established course laid down for the administration of justice by lawgivers somewhat learned in the right way and endeavouring to arrive at what he supposes to be the truthful state of things, brings about results not contemplated in the regulations, and introduces a departure from the customs of courts, informalities and confusion is not right.

4. It is laid down in the 12th and 13th Section, Regulation IX of 1816, that the complaint should be certified on oath by the complainant. This complaint was not thus certified on oath by the Tiroopad.

5. In page 100 of the Decisions of the Sudder Deevanee, it is said that complaints not certified on oath, are unworthy of credit.

6. The above quoted regulation which lays down that complaints must be certified on oath arranged that if the complainant's petition turn out a perjury, he should become amenable as perjurer, under 1st, 4th Section, Regulation VI of 1811, and as having suborned perjury under 2nd, 4th Section, Regulation VI of 1811.

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7. It is such a complaint uncertified on oath that the defendants are required to answer to, it is to free the complainant from any thing injurious to him which may come out when the defendant's witnesses are examined, and not only this but from the circumstance of the statement of the Vakeel for the complainant having been taken on oath, it will be evident that it was the opinion of the Special Assistant Magistrate that the complaint should be certified on oath. However besides the circumstance that from the wording of the Vakalutnamah, the Vakeel is not a fit person to be held responsible, there is also room for him to escape from any injury through the fact that administering oaths to Vakeels is no where directed in the regulations.

8. On these accounts unless the abovementioned regulations have been misunderstood, it will appear that according to them, this enquiry as far as it has been conducted, crediting this in formal plaint should be dismissed.

9. Depositions were taken secretly, in the absence of the defendants from the witnesses to the document, the signature to which is said to have been obtained by force, viz., Bagavathy Parambath Oony Cootty Nair, Valiacattil Krishnen Menon, Vadechalath Shangoo Nair and Chapoo Menon the writer of the document, Ernad Moonsee Krishna Menon, who the complainant says was there at the time of writing the document, 2nd Gomastah Vagguntha Vaktan, Pooliara Sungara Nambuthry, Valia Pidikel Poker, Vacail Pangusha Menon; this is not only totally opposed to the direction on Section 2-27, Regulation XI of 1816, that the witnesses should be examined before the prisoners, but greater than even this grievance of examining witnesses in the absence of defendants is that of the answer given when defendants asked to see the depositions viz., that they should not be shewn, nor their contents mentioned.

Therefore as many witnesses in that enquiry as spoke in favor of the defendants, their words are highly important for the defence, and that proof is more credible than what is brought for the complaint.

If it be asked, why? The defendants consider that in the absence of the defendants, the complainants had an opportunity of tutoring and suborning witnesses, and that in such an enquiry prosecuted with much investigation, and a desire to learn the truth, it is not possible to say that those who spoke for the defendants did so because told to by others.

10. Of the witnesses in the secret enquiry, there were three, Krishnen Menon, Oony Cootty Nair, and Vacail Pangusha Menon who by their own and the complainant's clear admission are paid dependants of the latter. All the other witnesses said not only that the document regarding which the complaint had been laid was duly written, and signed on the date mentioned in the document at the place mentioned by the 2nd defendant, but also the defendants understand that it was proved that on the 16th Karkadagom, no such thing took place at the spot mentioned as that where the signature was extorted.

11. The defendants have learned that of the witnesses who spoke in favor of them, Moon-shee was changed to Shernaad, and 2nd Gomastah to Waloowanaad, under the idea that they had told lies, and the Sheristedar and Police Gomastah to Betutnaad for not having spoken the truth.

12. Chuppa Menon (writer of the document) and witnesses Vadechalath Shungoo Nair (Wandoor Amshom Menon) Pooliara Nambuthry, 2nd Goomastah, Moonsee, Teyen Menon (Assistant Moonsee) Police Goomastah, Peishcar and Achutha Menon (copyist) were all kept under Kolkar watch at their houses and some in confinement for many days, as also the Tolook Kolkars Kummoo Cootty, Malakil Moideen, Pooyicooth Coonhy Ahmod Palolil Coroony Nair, Angoth Chatoon Nair, Kakadyagath Coonhoo Baba, Keloo Adiody (acting Kolkar) Marugan (Tiroovaly Amshom Kolkar) and Koduthody Panikar were kept in confinement for many days; of these Malakil Moideen, Kakadyagath Coonhoo Baba, Pooyicooth Goonhy Ahmod, and Angoth Chatoon Nair, were transferred to another Talook, and the rest Teyen, Menon, Chapoo Menon, Coonhy Painkar, Palolil Caroony Nair, Illikel Cummoo Cootty, Kelloo Adiody, and Manyan, are still under Kolkar watch.

13. On the conclusion of the enquiry in this case, of those among the witnesses mentioned in the 9th para, who spoke the truth concerning the defendant's side, Chapoo Menon, Poker, 2nd Gomastah, Kummoo Cootty and others, were included as defendant's, for the purpose of destroying the proof which arose for the defendants from their depositions, it is not lawful to place as defendants in a case, the persons who have been examined in that same case on oath.

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The complainant and his witnesses confess that these persons had inflicted neither bodily discomfort, nor threatening language on complainant.

14. Although it is said in C. O. March 7, 1823, regarding Regulation VIII of 1802, that in murder, robbery and such crimes, a prisoner may be made a witness with the sanction of the Foujdaree Udalt, yet the defendants, consider firstly, that the including of these witnesses in the committal on a charge of not having told the whole truth, is contrary to Foujdaree Udalt's order of 27th February 1832, which lays down that in the event of its afterwards being necessary to include the witness as an offender in the case, no one has authority to do so without the previous sanction of the Session Judge, and also 2ndly, that it is to the detriment of the cause of the defendants.

15. We have from time to time mentioned that through the Vakeel and others of that party we have been unable to obtain the benefit of the questions put to the complainant and witnesses by the defendants. As they happen to get copies of depositions on the complainant's side of the questions before questions were put to the complainant's Vakeel, the defendants consider that they had an opportunity which almost enabled them to conclude and render conformable discrepancies in the words of the witnesses and in the complainant's deposition.

16. The defendants are confident that from the witnesses who spoke for the defendants, having been placed in confinement, many people having been frightened, it has become difficult to speak the truth on the side of the defence.

17. Permission was not given to put all the necessary questions to complainant and witnesses. In the reply of September 22nd, to the petition of Vakeel Ahmod, asking to be allowed to cross-question and to give proof, it was said that permission would be given to put all questions, when applied to at the time of the enquiry it was said "so many questions will not be permitted, you can mention this in your defence," when the paper of questions was seen since it was said "that the questions would not be permitted to be put, and that the paper of questions might be included in the defence, it is now placed with this."

18. The terms of Regulation III of 1819, regarding those who are proved to have obtained property by violence (or oppression) refers to public servants only, the present case has no connection with that regulation.

19. When in the commencement of the present enquiry, the 2nd defendant shewed the document mentioned in the plaint, the remark was made "it is not wanted at present," and afterwards when Puthan Vittil Ahmod was appointed Vakeel and sent, he was told by order of 22nd September, that if he presented himself again in the secret enquiry he should be fined. The Sheristadar Achutha Menon of Ernaad Talook, ordered Ahmod the Vakeel to produce the document, in the deposition which was taken on the 20th September, in the house of 2nd defendant, the deponent (Vakeel) said that he would immediately procure the document from Calicut, through the 2nd defendant, but the Sheristadar saying that he had orders to keep the Vakeel in confinement till the document was given up, placed the Vakeel Ahmod, and the 2nd defendant's nephew (or son-in-law) Beeran Cootty, under restraint in the verandah of 2nd defendant's house, kept peons in guard round 4 sides of the 2nd defendant's house, and rendered it impossible for the women to go out, and on the 11th Canny, or 25th September, one Almeirah was broken open by an axe, and the bonds examined, but not finding the deed mentioned in the plaint, they were sealed up and a report made to your honor by the Sheristadar.

20. Your honor came to the house of 2nd defendant on the 12th Canny, or 26th September, and examined Ahmod Vakeel with reference to producing the document, in his answer to which it is said that 2nd defendant had taken the document in a letter box to Wandoor, where your honor was, and that when he went to Calicut, he had taken the box with him, but that the document should be immediately produced. From the information conveyed by a letter of Ahmod's, written after your honor had, on that day, at 6 o'clock, broken open the door of the house, and prosecuted a search till 8½ at night, the 2nd defendant presented through his Vakeel, a petition to the Magistrate, on September 27th, 29th and 30th, regarding the grievance he had endured. The 2nd defendant having himself seen 10 or 12 peons, Sheristadar, Conservator, Duffadar, Havildar, many people of that country, and people from a distance, giving guard within and without the house, and a stop put to the women's walking about at their pleasure, and the disgrace that occurred, it is manifest.

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21. As provided in Section 17, Regulation IX, of 1816, a proclamation and warrant was issued; in the former is mentioned an offence not in the plaint, viz., that the 2nd defendant is attempting to fabricate a false document, not only was the 2nd defendant produced in obedience to a warrant with the document and put in confinement by peons, but the remark made that he had absconded is not true, as will appear from the deposition of his Vakeel, given when he presented himself.

22. An almeirah and 2 tables, in which were some money and documents, almost to the value of 2 lacs of Rupees, which were taken away from the 2nd defendant's house, have neither been seen nor received by him as yet, this and the circumstance that the doors were broken open, is a proof of this, is it not?

Besides this, the 2 Talook peons and 1 Magistrate's peon, who, agreeably to the warrant, brought the 2nd defendant from the Huzzoor were dismissed on a charge of conniving with the 2nd defendant on the way, and giving him an opportunity of seeing the 1st defendant, as before mentioned by the 2nd Defendant, this led to his future guards causing him annoyance.

23. When the 2nd defendant was asked whether he would give the documents as evidence, he replied on the 30 Cania (24th October) that he would, and gave them with a list after the 2nd defendant had requested that Ahmod the Vakeel might be released, the seals removed from his door, and the peons and Sheristadar withdrawn from his house, orders were given accordingly on the 1st Thulan (16th October,) he also requested that he might be allowed to go and see his children, and to secure some property which was left outside, upon which an order was given to the Sheristadar to the effect that permission from 2 P. M. till 6 P. M. had been given to 2nd defendant to go to Edwana, 6 miles off, and see his house, and to enquire whether he delayed after 6 o'clock and to send him off, having conformed to these orders, the next day he was brought under strict guard to Augaddipoorom, and detained there, on the 5th Thulan, he requested that he might be released on security, &c., but it was refused on the 21st October, the character of the subsequent enquiry has been particularized in his defence of the 10th Thulan.

24. It is admitted in the 3rd para: of the plaint that the deed was signed and given in such a manner as to lead the defendants to think it was done voluntarily. It is clearly admitted in the plaint and Vakeel's deposition that having, on the 24th Karkadagom 1030 squared former accounts, the complainant gave defendants a contract for Rupees 67,544-4-5½ worth of timber, and it is laid down in the contract that till 1841, teak, blackwood, and benteak are to be sold, and measured at the water head to 2nd defendant at the market price, and to no one else.

25. The document said to have been signed under duress on the 26th Mithunom 1030, is not an agreement, but is like a receipt to the effect, that the account of trees and money due according to the first document, had been settled.

The complainant confesses to Rupees 67,544-4-5 mentioned in the first document of Karkadagom 24th, in order to pay a debt of Rupees 2,000 due by the complainant in Tellicherry, after the Court's decision in the Choakaran's case, he sent his servant Kunen Menon to 2nd defendant with a note asking for Rupees 2,000 to be given to this said Kunen Menon, upon which 2nd defendant sent a note to Avoker Mullayendagagath Kunjee, and caused Rupees 2,000 to be given to Kunen Menon. This Rupees 2,000 is included together with the Rupees 67,544-4-5 abovementioned, in the deed now under enquiry, i. e., in all Rupees 69,544-4-5: if the complainant dispute merely this Rupees 2,000, it may be proved from his own writings, &c.

26. After deducting out of the account of Thulan 1031, Rupees 19,500 admitted to have been liquidated by the receipt of 1038 trees, of the remainder due, viz., 50,044-4-5 the document said to have been extracted through duress, arranged for the payment of Rupees 39,000 by the delivery at the water head before 30th Vrichigom 1032 of 2,000 teak poles of more than 8 (inches in diameter?) and 76 large logs, in all 2076 pieces of teak timber. It is especially necessary to enquire whether the crediting of these Rupees 19,500 to the complainant in the deed declared to have been extracted by force, was for the benefit of complainant or defendant. What the 2nd defendant asserts is, that he has not (even) succeeded in taking off all these trees, and that some of them are still lying there.

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Of the witnesses to the deed in question the 1st is the complainant's steward Oony Cootty Nair, the 2nd Vallicuth Kishna Menon; it is to be enquired whether these persons were placed as witnesses, and their signatures taken for the benefit of the complainant or that of 2nd defendant.

27. It is shewn in the proceedings that the complainant admits the very thing urged by the 2nd defendant, viz., that the 2nd defendant gave the complainant a receipt for the timber as having been delivered according to the items of the agreement of Thulan i. e., that if they were handed over at the water head, before the 30th Vrichigom, the 2nd defendant would admit to have received Rupees 39,000 out of 50,044-4-5.

The witnesses for the prosecution also testify that the 2nd defendant did so give the receipt.

It is very important to consider to whom this receipt was necessary, to the complainant or defendant.

A copy of the document said to have been extracted by duress, though obtained by the complainant was not mentioned, till at the request of the defendant's Vakeel, it was shewn to your honor, looked at and placed among the records. The stewards of the complainant have signed as witnesses, both the documents given by complainant to defendant and the receipt given by the latter to the former: if those witnesses signed through fear, was it not to have been expected they would at once lodge a complaint?

28. The nature of this prosecution, and also the admission of the complainant that he signed, as if he agreed with the defendants, will be made use of in the illustrations given below.

It will be seen from pages 229 and 230 of Macpherson's Civil Procedure, that till a document is proved a false one, it should be credited, and that those who object to a document should prove their statement.

29. Whatever admissions one party make regarding a document may be regarded as proof for the other party when people make admissions, says Macpherson, at page 224, 225, opposed to their own interest even a little is sufficient, and we must consider it as decidedly unbiassed. Therefore the four admissions regarding the document made by the complainant and his Vakeel at a time when they were (as they say) freed from restraint, are of the nature of those abovementioned in Macpherson's these (four admissions) are

1st. That the complainant signed and delivered the document as if voluntarily.

2nd. The clear fact of the signature on the deed acknowledged to have been given willingly and that on the present document being fac-similes, and this proof latter that this was therefore given without fear.

3rd. That the stewards of the complainant who now testify in his favor, signed the deed as witnesses.

4th. The complainant admits that a receipt given by the 2nd defendant for the property mentioned in the deed, is in his hands.

30. If the 104 page of the Decree book of Sudder Dewanee Udalt, dated 7th April 1857, and M. C. Pro. page 239, stating that the signature to a document admitted to be a correct one, should be compared with the one declared to be false, are referred to, the signature in the admitted and contested deed will be found to be alike. Since in a document signed through fear, a tremor and quaking of the hand should appear, the absence of this warrants us in saying that there never was any such thing.

31. The proof that is to be derived from the circumstance that, be this plaint true or not, and the (alleged) grievance true or not, although it was possible for the complainant to have filed a charge immediately on his confinement, or as soon as he was released, he did not do so, will be shewn below.

32. If special notice is taken of the circumstance that the complaint of grievances suffered in July 29th, Kirkadagom 16th, was not made till September 1st, Chingom 18th, a month afterwards, not only should the complaint be dismissed on this one account, but after the complainant had signed the document on the 26th Mithunom, and gone to Cherpulcherry, because when his heirs urged him, he replied that he was not inclined to, at the suggestion of a Tamboran, who became an enemy of the 1st defendant on account of decision No. 27 of 1854, in the Sub Court of Calicut, the 3rd Tiroopad who is the husband of the daughter of that Tamboran, pressed the complainant and caused him to file the plaint.

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In order to get over the objection of the delay in the complaint, the complainant has falsely fixed, and mentioned the date 22 days later, viz., that on Karkadagom 16th, he signed through fear, the document which in reality he had signed on Mithunom 26th, intending whatever the month or the date, to say what might suit their purpose at the time, and so carry on the suit they have only mentioned in the plaint, that a document was written and antedated, and signature obtained through fear; during the enquiry, they have said that a document dated Mithunom 26th, was signed through fear on Karkadagom 16th, this is to clear up the delay of 22 days mentioned above. Then to get over the injurious circumstance of the many days delay.

It is clear from the dates on those papers, that it was with intent to deceive, and falsify that in the plaint the 1st Chingom is entered for the purpose of afterwards saying that the delay had been either only in presenting it, or in placing it on the file after it had been presented. Is it not a grievance to the defendants that no questions were allowed to be put on this matter?

33. A few things will be here remarked regarding the condition of the complainant who says he was forced to sign through fear.

The complainant is a Rajah in that neighbourhood, he is possessed of many agents, much property and much knowledge of business. This complainant, and his agents have conducted (or caused the conduct of,) several Police, and Civil law suits.

It will appear from the 3rd para. that the complainant confesses that meaning at the time to complain of what was then done to him, he with a fraudulent intention pretended to consent, and gave his signature.

Will a man who plots such cheating, and underhand treachery, fear to perform any other deed?

The means by which he was frightened was, he says, the assertion that Poker's stolen documents were found with him.

The complainant and witnesses have said that when they went to make the search, the Coilpatt (head of the house, a female) said, "Is it to search for this that you are come? this we can give you: we have no fear with regard to this," and gave the document.

It is evident from these words, that there was no cause for fear in that, therefore it is not stated whether it was on this account or for fear of being sent to Court, and punished for a crime which he had never committed or why he was frightened, it would have been better if he had said they had forced him to sign, by standing round him with weapons ready to kill him, for there would have been some little consistency then.

Now will any one believe that the complainant, a man so skilled in conducting a suit, was so terribly frightened, and that even after released, he delayed many days before filing a plaint.

Does such a complainant as this require Government aid as described above?

34. Besides the reasons shewn in the paras. up to 17, notice will now be taken of the inconsistencies, and discrepancies apparent in the pleadings.

The complainant's witnesses, Oony Cootty Nair, Pangashy Menon, Krishna Menon, Truth Kadunganny Nair, and Pallicuth Ittirarichen Nair, said "the deed was written and complete, the date was not entered," since the 1st, 2nd, 3rd, 4th and 5th witnesses say that "the date was put after the Tahsildar had come," your honor listening to the request of the defendants, to look at the original and copy of the document, and see whether there appeared to have been a place left for the date which was afterwards filled in, it did not appear, on examining them, that there had been a space left, and the date written subsequently.

When the complainant's Vakeel was questioned concerning this, he said, "with the exception of the month and date, all else was written and finished," "after the Tahsildar arrived, the month and date were written," it will appear that this differs from the statement of witnesses.

35. In the plaint it is said, "the document was antedated and written," the complainant's Vakeel says in his deposition that "placing the date of Mithunom 26th, it was written in Kirkadagom," the 1st witness that the Tahsildar only said "place the month of Mithunom," Chappa Menon inserting the 26th of his own accord, the 2nd witness that "Ally Cootty told Chappa Menon to place the 25th or 26th," the 3rd witness that "Chappa Menon said what date is to put Ally Cootty what month is to be placed," and Tahsildar said "Mithunom 26th," the 4th wit-

There is more to come

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ness that the Tahsildar asked "is it not all written yet," that Chappa Menon replied "the date has not been entered" the 5th witness that "the Tahsildar enquired is it all written? that Ally Cootty replied it is finished, the date has not been entered, that the Tahsildar directed them to insert Mithunom 26th."

36. The complainant's Vakeel says that the complainant was only frightened by being told that he should be sent to Court in chains, the 1st witness says that the peon Kummo Cootty having brought an iron pair of handcuffs, said "do you see this? this will be placed, you had better sign," the 2nd witness that a peon saying "do (you) not sign? do you see this?" shewed a chain, the 3rd witness that a peon said "handcuffs will be put to your hands," the 4th witness that the Tahsildar said, "is not Kamoo Cootty here? that a peon held a long iron thing, witness cannot tell what, and asked do you see this?" and that he saw this from a distance in the court-yard surrounding the house, the 5th witness that a peon holding handcuffs in his hand said "(you) must sign and give, handcuffs shall be placed to (your) hands," that this was on the verandah of the porch, and while standing near the complainant, and that he saw from close at hand the Tahsildar come in a muncheel, and ascend the house, the other witnesses say that "(the Tahsildar) got out of the mancheel outside the steps," and that it was not possible to see (the Tahsildar) coming in a muncheel.

The complainant says inconsistently that "handcuffs and chain" are two different things.

37. The business having been completed, the 1st witness says that he and complainant went to Cherpelcherry after the 23rd, the 3rd witness that having staid in Munjerry the 23rd and 24th, on the 25th he and 2nd witness and complainant went to Calicut.

38. The 4th and 5th witnesses, that Ally Cootty and complainant sat on chairs, the 2nd Gomastah, Moonshee, Puliara Nambuthry on a grass mat, that Poker stood near Ally Cootty, Chappa Menon was writing apart near a light, the complainant's Vakeel said that Chappa Menon, 2nd Gomastah, Puliara Nambuthry, were on a mat. Besides these discrepancies, the 1st, 2nd and 3rd witnesses have said that they don't know much about these things.

The 1st witness says that when they reached the complainant's house, there were 8 peons, the 2nd witness that there were 15 peons, the 1st witness says, they gave up 8 documents, the 2nd witness, that they brought (out) a bundle, that they gave 5 documents. The complainant's Vakeel says that they placed him in a position of bodily suffering, that they did not do so, that it is not stated in the plaint that the complainant voluntarily cheated them, the witnesses that no bodily suffering was inflicted, besides this, the witnesses say that (he) was placed on a chair and treated with respect, the complainant's Vakeel, that the witnesses had not said so, and that there was no reason for them to say so.

The complainant's Vakeel and witnesses have made the following numerous discrepant and inconsistent statements, the complainant's Vakeel says that the complainant who is accustomed to the dignity and comfort of a chair, was while in that, his usual position, frightened and obliged to sign: that the 2nd Gomastah, Ally Cootty, Poker, Puliara, Nambuthry Moonshee paid the complainant honor and bid him sit on the chair.

That the complainant suffered forcible imprisonment, "that the particulars of it were that the complainant came in muncheel, that his mattress and pillow, the Brahmin cook, and his steward, the 1st witness, were with him, that the only objection was to his going as far as he wanted, that he might go to bathe, &c., and, in reply to the question of whether his shield and sword bearers accompanied him, "that he would enquire and say."

That 8 peons were forcibly sent and made to seize and bring the complainant, that the particulars of this are that, "at the complainant's desire, they delayed for 5 days, that one day having seen the body of a dead buffalo, he returned to his house, instead of going to the Talook, that this was, because the peons were aware of the good understanding existing between the complainant, the Tahsildar and Ally Cootty, that the peons assisted the complainant, that the Tahsildar and Ally Cootty traded jointly in the trees in dispute, that this was not mentioned in the complaint, and that it was not so because the deed was in Ally Cootty's name, that before this the Tahsildar and Ally Cootty, have often cheated him, that he has not laid complaints regarding those things, because he knew he should not be permitted to prove them; that the document now under dispute was not extorted by force, and that the defendants acted with the intention of making it appear that it was (all) done voluntarily.

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39. The complainant's Vakeel says that the first copy that was made of the document by Chappa Menon, was corrected in the hand-writing of Chappa Menon and Moonshee, and in the answer to the 26th question, that this was changed for one written by Chappa Menon, and replying that as regards how that paper was got, he would enquire and answer; in the answer to the 28th question he said that having gained over Chappa Menon they got it from him the next day.

When for the purpose of proving the use of force, this copy corrected in the hand-writing of Government servants, was sufficient, what reason could there be for the complainant to wish to have this changed, and get another written.

How could it be that the defendants who caused the violence, should alter and give the paper?

When the complainant's Vakeel said that the 1st witness had got the paper in question, and was asked regarding it, he said in the answer to the 27th question, that he had not said so, and the 1st and 3rd witnesses said they knew nothing about the circumstance.

The 2nd witness says that he supposes the copy of this deed was with the receipt which Ally Cootty gave in the usual form, acknowledging the receipt of the property mentioned in the document, said to have been extracted by duress, and that he has seen a paper copy in Chappa Menon's hand-writing in the complainant's palace

40. The complainant without mentioning in the plaint the way in which this important document got into his hands, kept it concealed: afterwards the defendants observing and drawing attention to it in the bundle of the vakeel's paper, your honor having taken it and placed a mark upon it put it, with the records.

It is clear that at the time when complainant signed and gave the original to the 2nd defendant, he kept by him, as is the custom, the copy which he had written, but thinking that if this was known, it would prove the falsity of his complaint, he concealed it.

The 4th and 5th witnesses are from another Talook.

From numerous such discrepancies and the Vakeel's admission in the answer to the 22nd question, that because when the deed was written and finished (the complainant) refused to sign, the 1st defendant was sent for, it will be apparent that when they began to get the signature, the date had been placed, and that the assertion that a place had been left for the date is false.

41. It is mentioned in the plaint, that the trees which are included in the deed forcibly signed, belong to the Coilpath, this is nearly what the Coilpath and 1st complainant have agreed in together to say, for the purpose of cheating the 2nd defendant.

They have merely said this in support of an agreement which they made between themselves, and registered otherwise when they made this agreement, they should surely have transferred to the Coilpath's name, the deed which by the admission of all, the complainant executed with the 2nd defendant when he received Rupees 67,000 in Karkadagom of 1030, or else surely the complainant should have sent me a deed to the 2nd defendant through the Coilpath, to the effect that he had appointed the Coilpath to liquidate the debt due to the 2nd defendant. If we consider this state of things, it would appear that they from the first premeditated accumulating wealth by saying after the complainant had received money from the 2nd defendant, for the benefit of his family, that the trees mentioned in a deed making them over to 2nd defendant, until 1841, were the property of the Coilpath, that trees of former contracts which had not been removed had been so, and by fabricating other unjust claims, and also that thinking their former agreement might come in useful, and that the 2nd defendant might be somewhat accommodating in the matter of price after a dispute had been raised, they got up this case after the complainant had been got willingly to make and sign the deed.

Besides this, the assertions that the 2nd defendant owes the complainant Rupees 10,000, and that the deed had been made out in the name of Steward Krishna Menon, are not true, there is no occasion for giving a document in such a way, if it is to be given at all, it should be in the name of the complainant.

42. In the list that was presented on Kanny 30th (October 14th) was stated that on before and after it, the 2nd defendant was in Calicut, and these were also mentioned the names of the witnesses who would prove it, and witnesses both to the price of other things and papers to shew

There is also a receipt for

that the document in dispute is a proper one, and in the abstract of defence presented by the 2nd defendant's Vakeel on Tholam 10th (October 25th) are mentioned proofs, and since the 2nd defendant's grievance will not be removed unless they are fully examined and understood, if such proof will be taken, if such witnesses are examined secretly apart from the defendants the complainant will assuredly cause their testimony to fail.

43. Placing credence on an unjust complaint it has come about, that of the trees of a former agreement, those which, according to the receipt given, remain after deducting those which have been removed; and of the trees that were given in Tholam of 1031, 532 logs; of the 258 logs which were produced by 200 trees felled, according to agreement, allowing me to fell 300 trees fit for the ribs of ships, the 83 that remained after 175 had been removed; that is 615 teak trees (under these 2 last heads) and 36 felled out of 50 Ayne trees permitted (by agreement) in all 2727 trees, remaining from former accounts, which have not been removed for want of water to float them, have together with the trees of the present dispute, been detained by Magistrate's orders, and since the taking of them away for sale at the market price has been prevented the 2nd defendant suffers great loss.

It is a great grievance to the 2nd defendant that he was not permitted to question the complainant's Vakeel and ascertain for certain who is to be the responsible party for the defendant's loss, according to Section 43, Regulation IX of 1816, viz., the authority issuing the order, or the complainant who called for the obstructive order.

44. Truth not being on the side of the complainant, the complainant's Vakeel and the steward Kishna Menon came to the 2nd defendant while under a peon-guard, and said that if the complainant got a little money, he would drop the case, when the peon on guard seeing and seizing them, sent them to the Talook, and the Walloowanaad Tahsildar made a report on the circumstance.

The 3rd defendant has learnt that your honor thinking that perhaps it might be private roguery on the part of the Vakeels, wrote to the Tiroopad, and in his answer to that, the Tiroopad said that he had himself deputed the Vakeel and steward to go to the 2nd defendant, to see if the thing could be settled, and that there was no occasion to suspect them, the very records in the case therefore are a proof that the complaint is a false one.

45. Besides all the circumstances connected with the 1st defendant, in the above said matters, that which should be pointed out separately, will be here shewn, the assertion in the plaint that the 2nd defendant has married the daughter of 1st defendant, is not true, as also that the 1st defendant concocted Poker's complaint that a document had been stolen. It is not a complaint which came before the 1st defendant, but before Vadakuth Rama Menon, who was acting head of Police on 28th Medom (April) 1853: according to an order sent by that individual to search for and bring the stolen documents, and a petition given by Poker, the complainant then, to the effect that the document was in the complainant's (then 3rd defendant's) house, and that they should be sought for and obtained, the 1st defendant by virtue of his authority as head of Police, proceeded with the enquiry in the usual way, the documents were then given up, the case gone into and dismissed on August 3rd.

If that decision and the records of the case are looked at, it will appear clearly that the 1st defendant has in no instance departed from his legitimate authority or committed any irregularity, but has acted impartially. It will appear from the facts in that decision, that there was no occasion for the complainant to fear, or to give to Poker and to 2nd defendant, a document signed through fear.

46. It was on Karkadagom 16th, in the middle of the period when according to leave obtained, he was undergoing a course of medicine, that the 1st defendant is said to have gone to another place and frightened the complainant.

To ascertain the truth of this one circumstance, if enquiry is made, both regarding the nature of the treatment and as to whether the body should be moved and other things, as every one is acquainted with the custom of the country, and also if we consider the inconsistency in the assertion that on 2 separate occasions the signatures to documents in 2 separate matters,

N. B.—Probably a mistake for 1st defendant.

were extorted through fear, and that of these one document was brought and signed near the 3rd defendant, and that in the other the defendant went to another place, the inconsistency and falsehood of it will be convincing.

It may be proved by many witnesses, that the 1st defendant was under a course of medicine, and that till this was concluded, he did not go out.

47. The circumstances which the Manjerry Karanapaud Samudry Tambiran, and many influential people joined together to lay before the Commissioner against the 1st defendant, a head of Police, were not true. The Government having come to the conclusion from a consideration of his position, conduct and many other circumstances, that in the first place he was a very useful man for police purposes, many complimentary orders have reached the 1st defendant to this effect.

Besides this, in consequence of the order that the 1st defendant should not be removed from this Talook, (Ernaad) all his enemies and those who have come to be included as offenders and criminals under the regular exercise of his authority, having on this occasion joined together and plotted, they got up a proclamation published by beat of tom-tom, to the effect, that the 1st defendant being far away, all who had grievances were to complain, as some said they did not know of that proclamation, one Athigary was suspended for not having made it known, on these accounts, and because it was at a time when the 1st defendant was not present, the complainant's heirs and the abovementioned persons plotted together, and got up many complaints, and among them the present one.

In these matters, no investigation whatever was made in the presence of the 1st defendant, and he has learnt that even when he was at hand, depositions have been taken without confronting him with the witnesses.

From the existence of the English records of the Commissioner in 1852, and from the 1st defendant having in 1851, caused Valliaminal Mamoda to be obliged to reside at Tellicherry, on account of his evil intentions, and in 1854, having brought a fine upon him, and had security taken of him, by a report in another matter, and from the enquiry that was made in 1846, regarding Napadath Mootha, and from the Magistrate's decision in 1856, consequent on the 1st defendant's report of Soobaramanya Shastree, a Vakeel in the Moonsiff's Court, and the Vakeel of the Munjerry Karanapad, and the Samudry Rajah, and from other occurrences, taking advantage of all these causes of hatred to the 1st defendant, they have got up the present case.

48. The 1st defendant is confident that on an examination of the book, specifying the particulars of the occupation of the peons, it will appear that the complainant's assertion that 8 peons were sent to seize him, is untrue, and that there was no guard kept at the house (where the complainant staid in Munjerry) but that the peons were employed on other duties.

49. We most respectfully request you will, after looking at, and weighing all the above mentioned circumstances, relieve us from the injury caused by the false complaint, and preserve our dignity to us innocent persons, who are living with such respectability. 19th Thoolam 1032.

It appears from the Palghaut and Ernaad Moonsiff's record, that the complainant's witness, Thruot Kaddungunny Nair, who says that on Karkadagom 16th, when he saw the document signed through fear, and after that till the 22nd he was in Munjerry, has made a perjured statement. This is shewn in the separate deposition that was taken from the Vakeel. this can be proved by other witnesses, and written evidence. Same date as above.

(True translation.)

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

(True Copy.)

(Signed) W. ROBINSON,
Acting Magistrate.

There is no such person as

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Statement of a case disposed of by the Sessions Court, Zillah Calicut.

No. of the case.	Names of the prisoners.	Crime.	Remarks by the Session Judge.
56 on the Calendar 1855-56, on the criminal file.	1. Kootoossa (head of Police of Ernaad.) 2. Kaloovetty, Cooye Ally Cootty. 3. Waliapidiagukel Pokur. 4. Waycoonda Bukdan, 2nd Gromasta Ernaad Talook.	Conspiracy to extort documents and extortion of documents. 1. The prisoners are charged with having one day between the 25th July and 6th August 1856, with intent to prejudice and defraud Amarampalatha Kelloo, alias Mana Vickrama, Valia Tiroopad, by compelling him to sell to the 2nd and 3rd prisoners certain timbers, the property of the said Tiroopad, at a greatly inadequate price among themselves, conspired, confederated and agreed. 2. They are further charged in pursuance of the said conspiracy, with having caused to be exhibited against the Tiroopad before the 1st prisoner, being then an officer of Police to whose jurisdiction the said Tiroopad was subject, a certain charge of stealing valuable documents, the property of the 3rd prisoner. 3. They are further charged in pursuance of the said conspiracy, with having seized and retained the said Tiroopad for about 10 days, and with having, while in such custody, intimidated him by threats of disgrace from being handcuffed and forwarded to Court, a threat which the said 1st prisoner, being then and there an officer of Police, had power to put in execution. 4. They are further charged with having in pursuance of the said conspiracy promised to release the said Tiroopad on condition of the execution by him of 2 documents evidencing the sale of the timbers as aforesaid. 5. They are further charged with having in pursuance of the said conspiracy, by threats and intimidation caused the said Tiroopad to sell the timbers as aforesaid to the said 2nd and 3rd prisoners.	In this case, the prisoners were tried by three Assessors constituted in the form of a jury, with the Presiding Judge. Two of them acquit the prisoners, and one pronounce them guilty of the charge. The Presiding Judge being of the same opinion as the majority of the jury, acquits the prisoners of the crime charged on the following grounds. The prisoners pleaded not guilty. Before I proceed to comment upon the evidence adduced for the prosecution, I think it better to give a brief resumé of the proceedings of which the present charge of extortion is said to have arisen. The record shews that on the 14th July, Poker the 3rd prisoner presented a petition before the head of Police, stating that the documents which in a previous petition presented in the month of April 1853, were said to have been stolen, were in the possession of the 2nd and 3rd witnesses for the prosecution and in the Terumelpaad's house. The 1st prisoner the head of Police acting upon the said petition went on the 16th July, to the Kovillaghom and instituted a search and got possession of the documents, after which he left the Kovillaghom the next day taking with him the 2nd and 3rd witnesses, and leaving a summons for the subsequent attendance of the Terumelpaad himself.

On the 20th July, it is said the Terumelpaad returned from a visit, and on being made acquainted with the proceedings of the Tahsildar, he is represented as having written two letters to Ally Cootty, the 2nd prisoner successively, and one to the head of Police, in order to avoid the necessity of his appearing before the head of Police at Munjerry, in conformity with the summons.

It is proper here to mention, that none of these letters are on record, but the documents B and C, letters from Ali Cootty, are said to be answers to the Terumelpaad's letters. On the 25th July, the Terumelpaad left his Kovillaghom and arrived at Munjerry, where it appears he remained till the 5th August.

The charge arises from the acts said to have been done by the 1st and 2nd prisoners in conjunction with Poker, and the 4th prisoners, between the 25th July and 8th August. The Terumelpaad who was first examined here deposed that during that period, 3 documents were extorted from him by threats and violence, this document are as follows: A deed of sale in favor of Ali Cootty of 2076 logs of timber said to be worth about 79,000 Rupees, and sold to Ali Cootty at the reduced price of 39,000. This document upon which the charge entirely rests is alleged to

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have been signed by the Terumelpaad, on the 29th July, in the Cholakaad house, Munjerry, this signature the prosecutor states was obtained by threats of personal violence, it was dated or rather antedated the 7th July.

The two other documents were in favor of Poker, but as these are not on record, and as they are in a manner altogether secondary, the charge as before stated resting upon A, I shall not stop to allude to them further.

Before considering the oral evidence adduced to prove the extortion of A, it is essential to consider the documents B and C.

That one of these bears the signature of Ali Cootty is clear enough, and the other is I think in his hand-writing, both are of course denied by him, there can be no doubt that these documents are written with the view of inducing the Terumelpaad to come to Munjerry, the contents allude to something which renders his presence essential, and further that the endeavours made to dispense with his presence have failed. We are left however to conjecture in the absence of the letters to which these are said to be answers and the Terumelpaad admitted that he could not produce copies of the letters he addressed to Ali Cootty and the head of Police. But the utmost these answers shew are rather the inference to be drawn from them is that the writer desired the Terumelpaad's attendance at Munjerry and that he did go there is admitted. We have the document F, copy of the decision passed by the head of Police, dismissing the charge brought by Poker.

This decision is certainly a very round about and vague document, and on a perusal of the same, one cannot but come to the conclusion that the matter was entirely of a civil nature ab initio, a fact which the head of Police must have known, but the decision is of a similar nature with many others in the District where a vicious practice obtains of the head Police officers dealing with matters quite foreign to their actual bona fide Police duties, a fact noticed and commented upon by the Sub Judge. This decision then may be a wrong one, but as it must have been sent to the Magistracy, the head of Police must have known that their attention would be called to it, and if wrong, the head of Police would be held answerable for his proceedings, the document goes no way to corroborate the charge of extortion.

Before I go further, it is proper to state the position in which the Terumelpaad and Ali Cootty stand towards each other. The Terumelpaad is Ali Cootty's debtor to a large amount some where about 70,000 Rupees, and it appears from the document No. 1, that the Terumelpaad formerly agreed to sell to Ali Cootty exclusively the wood out of his jungle at the current price of the day, and in this way the debt was to be liquidated. Up to the period, when the document A, is said to have been extorted this agreement was in full force.

When questioned before the Court regarding this agreement, the Terumelpaad after some hesitation admitted the document, No. 1, alleging however that it too was forced from him through fear of the 1st prisoner, the Tahsildar, now up to this moment no complaint whatever had been preferred regarding the document, No. 1, in fact the Terumelpaad admitted in his deposition that the contract was in force, the assertion that it was forced from him was made merely to induce the Court to believe that all along he has been the victim of the Tahsildar. The contract is, considering the position of the contracting parties, a very liberal one, so far as the Terumelpaad is concerned. I now proceed to notice the direct oral evidence adduced to prove the charge that the document A was extorted by threats and violence, on the night of the 29th July.

Five witnesses depose to this point.

It is proper to mention in this place, the fact that all these witnesses were examined by the Special Assistant Magistrate in the absence of the head of Police, the party chiefly concerned. In his absence they were at liberty to say what they pleased, there was no cross-examination and nothing brought forward to test the truth of their statement. I consider this mode of procedure very improper, and altogether opposed to fairness and equity, so far as the Tahsildar from having an opportunity of cross-questioning the witnesses he was sent away from the Talook altogether, this in a manner holding out an inducement to his enemies to come forward.

The evidence of these witnesses having been obtained under circumstances so unfair to the 1st prisoner, the Court must necessarily receive it with due caution. The 1st witness' deposition

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is remarkable for the accurate and graphic description it gives of all that took place from the moment the Terumelpaad left his Kovilaghom, up to the date of his release on the 5th August.

This witness pretended that he came to the Kovilaghom by mere accident, yet he was at once engaged in the business, went with the Terumelpaad, remained with him throughout, saw him insulted and threatened, and the document A signed by him, with the fear of handcuffs, before his eyes, yet this man who was not in confinement and who could easily have got away takes no step whatever to bring the painful position of the Terumelpaad to the notice of the authorities, one of whom was residing in the talook or the one next to Munjerry. But the man was no chance visitor. He is a dependant of the Terumelpaad, and we shall ultimately see had something more to do with the document A itself.

The next evidence is that of the two Karistens of the Terumelpaad, the 2nd and 3rd witnesses. They deposed that they were taken to the house where their master was confined by the head of Police himself, when he went in the evening of the 29th, to extort the document from the Terumelpaad! that after they came to the house they saw him surrounded by Ali Cootty and others, insulted and at last terrified by the exhibition of a pair of handcuffs to sign the document A, that it was the head of Police who called out for Camoo Cootty when the Terumelpaad refused to sign, and immediately that individual appeared, and shook the handcuffs in the Terumelpaad's face. All this they saw, and yet from the position where they were it was almost impossible to witness all these alleged acts, there being a division between the place and it was almost dark, after the signing of the document A by the Terumelpaad, it was brought to them and they attested it as a true and valid document!

The 4th and 5th witnesses depose to the same point. They happened to be at Munjerry on other business, and were asked by the 2nd and 3rd witnesses to stand security for them, and in pursuance of this object, they went to the house where the Terumelpaad was confined, and were permitted to remain passive spectators of the acts of the head of Police.

The evidence of these witnesses is entirely vitiated by certain returns from the Moonsiff of Palghaut, by which it appears that the 4th witness could not have been at Munjerry on the 29th July at all! yet he swears that he was present, and saw the whole affair acted over on the evening of that day.

I cannot accept of this evidence for the prosecution. It bears internal evidence of concoction not to be mistaken by those conversant with native testimony, each man tells his story in almost the same words one with another, they never falter or hesitate, but run it off from beginning to end, showing one scene after another with a tenacity of memory singularly remarkable. It is to my mind a regular fabrication, all this about torture, fear, threatenings and handcuffs. The charge is that the acts of violence were perpetrated to induce the Terumelpaad to sell the wood at a greatly reduced rate, the evidence on record to prove this is very loose, and unsatisfactory, the evidence so far as it goes, tends to shew that the value of wood differs in the jungle on the river's banks and at Calicut, it is only about half the value in the forest, but we have no evidence to prove that the wood mentioned in A, was all cut and on the river's side, logs were there to be sure, but of their exact value we cannot come to a conclusion on the evidence before the Court.

In fact the price set forth in A, does not appear to be under the price paid by Ali Cootty for wood formerly purchased from the Terumelpaad.

On careful consideration of all the evidence for the prosecution, I cannot satisfy my mind that the prisoners are guilty of the acts imputed to them, and I do not believe the document A, was extorted by threats of violence as stated by the witnesses. On the hypothesis that it was so extorted, then, by the witness' own shewing, the head of Police took every step possible to make his acts known to all, every act was done before the public, men of whom the head of Police knew nothing permitted to be present and to witness acts of intolerable oppression. When pushed on this point, the witnesses say it was his boldness that led him to disregard the publicity. I ask is it consistent with human nature and experience that the Tahsildar if disposed to perpetrate such gross acts of violence, should have done so before the public, where was the necessity? there was no necessity for the exercise of boldness, why common prudence would have told him that it might be as well to do the thing in a corner, yet we find him spurning even common caution,

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and lending himself to the perpetration of a crime, which, if brought home to him, inevitably consigned him, after a long career of honorable service, into the felon's cell. I would ask is it consistent with the motives which generally operate with the worst of men when about to commit crimes? men do not wash their dirty cloth abroad.

We are also to consider that this alleged violence took place about a month after the Magistrate had been out in those parts levying fines, upon the Mopla population, and when the vigilance of the Magistrate was directed, not only against the Moplahs in general, but upon the head of Police in particular, whose conduct he suspected more or less.

I also must remark upon the singularity of the proceeding before the Special Assistant Magistrate, who could have given a better account than the Terumelpaad himself of what was done to him? Yet he was not once examined upon the question!

In their defence it is pleaded that the document A was executed not on the 29th but on the 7th July and signed by the Terumelpaad on the 8th July on return from Munjerry.

In his deposition the Terumelpaad stated that he was visited by Ali Cootty every day during his detention. The 2nd prisoner among other witnesses cited Mr. Andrews a merchant, residing in Calicut, who swore that on the 28th July, Ali Cootty was in his office at Calicut, and executed a karar for the building of a Pattimar, and that document has been filed on record, this evidence is corroborated by the evidence of two other witnesses who deposed to having seen Ali Cootty at Mr. Andrew's house on the day specified.

Two other witnesses, native merchants, depose on oath that Ali Cootty executed a document with them on the 29th July at Calicut. I can see no reason for discrediting the testimony of Mr. Andrews, who could have no motive to give otherwise than true testimony in the matter. We have also the evidence of three witnesses who depose that the document A was executed by the Terumelpaad on the 8th July, after his return from Chalpulcherry, their evidence is in my opinion better than the evidence for the prosecution, their testimony is that the document A was written on the 7th July, and signed on the 8th, the 1st witness who deposed to this, states that he wrote out the document at the dictation of "Oony Cootty Nair (1st witness for the prosecution) Krishna Menon, 3rd witness for the prosecution and Ali Cootty," the Court put the question to the 1st witness who dictated the wording of the bond A, a question not usual, but which was answered without hesitation by the 3rd witness who deposed to the writing of the document, if their evidence was false, I do not think they would have stated that the document was dictated by the 1st witness for the prosecution as also the 3rd witness.

Upon a careful consideration of all the circumstances in evidence, I am of opinion that there is not evidence on record to establish the charge against the prisoners, and concurring with the opinion of the law officer who sat as an assessor and with the other assessors who both gave opinions that the prisoners were not guilty, I accordingly acquit them and direct their release.

(Signed) H. D. COOK,
Acting Sessions Judge.

13th January 1857.

(True Copy.)

(Signed) H. D. COOK,
Acting Sessions Judge.

Finding of the Law Officer or Assessors and Sentence by the Sessions Judge.

Two of the Assessors acquitted the prisoners, and one pronounced guilty of the charge. The Presiding Judge has consequently resolved to refer the case for the final sentence of the Foujdaree Udalt.

4th February 1857.

(Signed) H. D. COOK,
Acting Sessions Judge.

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The prisoners are acquitted—the Foujdaree Udalut, having in their proceedings, under date the 12th March, ruled that as the majority of the assessors acquitted, and the Presiding Judge approved of the acquittal, the prisoners must be immediately released.

18th March 1857.

(Signed) H. D. COOK,

Acting Sessions Judge.

(True Copies.)

(Signed) W. ROBINSON,

Acting Magistrate.

From E. G. THOMAS, Esq., Special Assistant Magistrate; to W. ROBINSON, Esq., Acting Magistrate of Malabar.

SIR,

I have the honor to make the report called for in your letter of Instant.

On the 19th August 1856, Amarapallom Tiroopaud complained both by letter and personally, before Mr. Clarke, the Magistrate, that Kootoossa, head of Police of Ernaad, had illegally placed him in confinement, and by means of intimidation extracted from him a deed agreeing to sell 2057 logs of teak to Ally Cootty (the husband of a niece of Kootoossa's) for the sum of Rupees 39,000, being little more than half the fair market price.

The complaint was sent to me for enquiry on the 20th August 1856, I commenced the investigation at Wandoor, and committed it for trial before the Sub Court on the 1st Instant.

The circumstances that have prolonged the enquiry, inordinately are various, a native holiday of several days intervened, then feeling dissatisfied as to learning the truth from the witnesses brought before me by the parties, I determined to make a separate and independent examination for myself on the spot, and therefore postponed the regular enquiry for a time, the 2nd defendant Ally Cootty, then suddenly absented himself with the antedated deed, and could not be found again for 17 days. I had to pay several visits to the timber lying 20 miles off in different parts of the forest, and also to take evidence at Cherpelcherry in the Sub-Collector's division; for reasons detailed in remarks sent up with the committal, the absence of Kootoossa was enforced during the early part of the investigation, and therefore when the witnesses were confronted with him, I permitted a very full cross-questioning which occupied parts of several days, added to these things was the delay caused by the necessity of preparing other cases which sprang up at the same time against Kootoossa and others of the defendants, and some of which though comparatively minor in themselves, became committable from connection with the graver case.

The chief circumstances of the charge are as follows.

The 2nd defendant Ally Cootty, having long had almost the monopoly of the teak trade from the forests of the Edwana Tiroopaud, and learning that, in contravention of a deed made with him agreeing to sell teak to none but him for 10 years to come, they were in negotiation with other parties, made in conjunction with Kootoossa, the plan the carrying out of which has resulted in the present case.

The 3rd defendant Valiapidi Poker was either induced to, or did voluntarily renew, a complaint which he had made and voluntarily dropped after a short and ineffectual enquiry 2 years before, he now charged the Edwana Tiroopaud and his stewards with having in their possession a deed of his, connected with land, which deed he had complained of having lost 2 years before: this deed the Tiroopaud had with the mediation of Ally Cootty purchased of Poker's brother, the rightful owner of the deed and the land in right of his wife.

Armed with this complaint, Kootoossa went with a number of peons to the house of the Tiroopaud and demanded the deed. The chief Tiroopaud was absent, but the other members of the family who were present, astonished and alarmed at such a visit, demured and sent for Ally Cootty who, though he cheated, was still always on good terms with them, and who frequently acted as a mediator with the head of Police on all matters; on his arrival he assured them they need fear nothing, it was a very simple matter, and the Tahsildar merely wished to look at the deed: they immediately produced it and Kootoossa taking it, left the place giving

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directions for the stewards to be brought at once to the Talook Cutcherry and issuing a written order for the appearance of the Tiroopaud there also.

The Tiroopaud who was at the time absent at Cherpelcherry was written to and returning to his house was taken by peons after some days to Munjerry; he had done what he could to ward this off, writing to both Kootoossa and his right hand man Ally Cootty; the former did not reply, the latter wrote to say that the presence of the Tiroopaud was indispensable.

Arrived at Munjerry, he was placed under close guard and now for the first time began to perceive the real object of the proceedings that had been instituted against him: he had hitherto looked upon Ally Cootty as a friend and support not knowing that he was cognizant of his secret intentions with regard to the timber, but Ally Cootty now told him plainly that he must sign away at a great loss all the teak trees of last year's felling: separated from his stewards and all relatives he was visited only by those whom Kootoossa and Ally Cootty chose should do so, and while incessantly plied to sign the deed in question, was also kept in constant remembrance of the Police charge on which he had been nominally summoned.

From Ally Cootty himself through messages from Kootoossa, from the public servants that saw him, he had one incessant threat of being sent to Court in handcuffs, and was told plainly that his only chance was to submit to the wishes of the unscrupulous men who had him in their power: he is said to be a very weak character, and was seen by many in tears; on the 4th day when the deed was ready and the Tiroopaud was thought to be prepared to submit, he was taken by peons in the afternoon to a neighbouring house (where lived 2 public servants, the Talook Moonshee and the seller of the stamped papers, and where the deed had been prepared in consultation with several and by the hand of the latter); there he found Ally Cootty, peons, Moplahs, &c. he was desired to sign the deed, but declined with much emotion, and after a time Ally Cootty finding his efforts vain, sent (it is supposed) to Kootoossa one of the many peons who were moving about and the head of Police thereupon arrived in his Munchel with the stewards of the Tiroopaud, who had been given strictly to understand that they were to persuade their master to sign if he showed any disinclination.

Kootoossa then told the Tiroopaud to sign, and when the latter still delayed, complaining of the hard terms and injustice, called out to a favorite peon, the peon Kummoo Cootty immediately appeared, and brandishing handcuffs in the Tiroopaud's face shouted "sign, sign."

The head of Police again ordered him to sign and in trembling and tears he took the deed and pen offered by the Talook stamp seller and signed away about Rs. 70,000 worth of timber for Rs. 39,000, this was about 7 or 8 at night and the party immediately broke up, the Tiroopaud being conducted back to his place of detention.

Still however he was not released, the police charge was still kept hanging over him and he learnt that more was yet to be required of him before he was freed.

Some documents were now made up in Kootoossa's house and with his superintendence and correction in favor of Poker, by these the Tiroopaud was required to sign away to Poker a certain number of teak trees, and Rupees 1,000, and the 2nd Gomastah took the distinct intimation to him from the head of Police that if he did not sign them he should be sent to the Court, Ally Cootty who had left Munjerry for a time returned to enforce this and by his threats and influence as a go-between with Kootoossa succeeded in getting the Tiroopaud to sign one of these deeds also, one of his stewards signing the other: this was done in the house in which he was detained and the peons were immediately removed. Poker's Police charge disposed of, and himself, after receiving a warning not to inform, allowed to go free.

Even then it seems, so timid and astounded was he at the conduct of his quondam friends, (at least so in appearance if sometimes dubious in act), that he had not made up his mind to complain regarding the matter to the European authorities, but was induced to do so by the advice of one or two friends, and the indignant reproaches of a younger relative who told him that the family would appeal whether he personally did so or not; he went first to the house of his wife and then by a circuitous route to Calicut laying his complaint on the 7th or 8th day.

Such are the circumstances of this extraordinary charge against a head of Police and his associates: the proofs are various and such as to leave not a doubt as to the truth of the whole

there is also a revenue pa.

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statement, but to elicit one's astonishment at his audacity, and wonder at what could have made him such.

The Police case which was dismissed and reported to me in the usual way is such as contains in itself ample ground for suspicion i. e. the reasons given by Kootooma at last for dismissing the case are such as he must have been aware of at the very commencement of it, and therefore render his subsequent conduct wholly unjustifiable; but be the case true or false, for Kootooma to summon and keep at his Talook for several days one of the first men in the country when the usual course would have been to have allowed of a Vakeel was such a vigorous step that he took pains to conceal it. In reporting the case in the monthly return while the presence of other defendants is referred to, all mention of the Tiroopaud is omitted.

The terms of the document in question also look any thing but open and honest; in it 2047 teak trees are disposed of for Rs. 39,000, measurement and calculation shew that those same trees are worth at least Rs. 65,000. When I visited the timber in dispute, Ally Cootty made several contradictory statements regarding the figures on them, and made a palpably false assertion about the date on which his own stamp had been struck assigning a date of 10 months back to marks which most certainly had never seen a week if a day's rain, when I visited the spot the monsoon had ceased about six weeks, the other party prove by witnesses that the marks were struck after the signing of the deed.

These different circumstances shew clearly that all was not quite correct in the matter; but we turn now to what is more important and necessary, the testimony of eye-witnesses to the whole transactions.

The complainant's witnesses, 8 in number, prove every minute circumstance most fully and satisfactorily, but fearful of being misled by a fabrication, I proceeded to Munjerry alone, interdicting both the parties from coming there for a time, and after the widest and most searching enquiry, I got exactly the same tale without one single discrepancy (with two exceptions) from numerous parties, some having seen one circumstance and some another, but not one deposition being made that was not perfectly consistent with the statement put forward by the complainants.

The exceptions were the stamp-seller and a village accountant, (whom I examined, not knowing at that time that one was deeply implicated and the other one of the defendant's witnesses,) these 2 men spoke of such a deed having been signed, but under totally different circumstances: their depositions did not perfectly agree, but I looked into the matter of the date they mentioned and found ample testimony to prove that the respective parties could not have been at the place assigned to them on the date mentioned, and that their statement must of course be a fabrication.

Fully and clearly proved as is the case, there are circumstances about it which make one exceedingly incredulous. Could the head of Police really have been so bold and even if bold so open and foolish? for we must suppose his audacity such that he did not for a moment fear that either those he injured or the members who looked on would dare to inform against him. Again, can a high-born Nair really have been frightened into signing such a deed against his will?

On these improbabilities, I have remarked at some length in papers sent with the case to Court, and I deem it will be thought enough for me here to remark that my opinion of Kootooma, after having, as nearly as our respective positions will permit, lived (i. e. eat and slept in their houses and spent very many hours apart from my Moonshees,) among the people of Ernaad and neighbouring talooks, and studied both him and them for some months, as very different from that of his former European superiors.

I think retaining him in one post for the period of 15 years would have been enough to ruin most native public servants. The departure in this instance from the usual and most necessary practice of changing Tahsildars from one talook to another every three or four years, has it appears to me brought about natural and grievous consequences, looking I believe, like most other native officials, to his own interests first, and those of Government only second, he has succeeded in obtaining an influence which is most injurious to the interests of the people, opposed to the end of justice, and such as lowers Government in the eyes of its subjects. They complain that though he has committed numerous irregularities and they have frequently complained, they can get no redress and still he is left fixed there "as if the jenmy of Ernaad had been made over to him," he behaves as if it were such "and it is he and not Government that rules us."

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So wide, so powerful, have I felt his influence to be during my late enquiries, that I don't wonder at his having calculated on safety from informers, had the two chief charges now brought against him depended for their proof on half a dozen persons, I can well conceive that he would have escaped; it has just happened to be the very large number of persons who were cognizant, I believe, that has at length overmatched his power and brought his conduct to light, what steps he has gone through to reach this height of audacity, will probably never be known, but I am satisfied he might have gone very considerable lengths, without being in the slightest danger of conviction.

Through the influence of his official position, the ties of connexion by marriages, fellow creed feeling, wide-spread terror and devotion, this one man has a net-work of bold, active emissaries throughout the talook, keeping up the impression of his speedy return, encouraging his supporters, and suppressing evidence during three months, in a way that no one who has not experienced it will believe.

That Government may be something more than a name in Ernaad, if for nothing else, it appears to me, that he must be removed.

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

(True Copy.)

(Signed) W. ROBINSON,
Acting Magistrate.

To E. C. G. THOMAS, Esq., Special Assistant Magistrate of Malabar.
Complaint of Aahary Porrayen, inhabitant of Carakoonoo Deahom and Umshom, in the Ernaad Talook.

On the 6th Meenon, 1030, (18th March 1855,) I heard that there was a hidden treasure in a tank at Cattomondeh Deahom, of the Tiroovaly Umshom. With the view of taking it out, I and my son Chatoony, in conjunction with Tattan (gold smith,) Charoo and Peringolen (black smith) Oony Cootty, as well as Eddakaravallapil Moyan Mopla, and Pattikadden Coonhymoo Mopla, proceeded to the spot at about half a nari (5 1/2 p. m.) before sunset. After we had dug the ground to the depth of a fathom and a half, we found a copper pot, equal in capacity to three Yedangalies, with a cover to it. We immediately returned, and as the day had dawned by the time we reached my house, the pot was left in my possession. All the other parties went away. At this time, Kaloovety Ahly Cootty Mopla got intelligence of the matter, and Cherria Moideen Mopla, a Kolkar of the above talook, with another Mopla Kolkar named Marjan, and 4 or 5 other Moplas whom I know not, seized me and all the other persons abovementioned, with the exception of the black smith Oony Cootty, and took us to Ahly Cootty Mopla. This individual then told us thus: "you should give me the money composing the hidden treasure you have obtained in the Cattomondeh tank," upon this, we answered, "we have not obtained such a thing, how then can we give it to you." After this, the aforesaid Kolkars and Moplas seized, bound and beat us, inflicted on us serious bruises, and then shut us up in a room there, for that night. At daybreak we were sent under the charge of the aforementioned Kolkars, to the Potatah Veed house, in which the Tahsildar lives. There also we were caused to be bound and beaten by the same Kolkars. The arms of myself and Charoo, the gold smith, were broken by beating, besides which, serious bruises were inflicted on us. Upon this, we fearing that we would be put to death, disclosed to the Tahsildar the particulars connected with the finding of the hidden treasure. We were then sent under the custody of the aforesaid Kolkars to my house, for the purpose of bringing the copper pot above adverted to. The pot was immediately conveyed to the Tahsildar's house, where it was opened and inspected. The Tahsildar then observed, "when so much money is found, the Sircar must take it. It will not be given back to you." Saying this, he took the pot, with the money in it, inside the house. As we had received serious bruises, three Rupees were given to each of us for the purpose of procuring medical aid, and then we were released, the Tahsildar telling us at the same time, that if we represented the matter to any body, we should be beaten to death. He sent us under peons to our houses. The afore-

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said gold smith afterwards died from the effects of the very injuries he had received. When the pot was opened and inspected, about three-quarter parts of it were found to contain venetians and old gold fanams. We therefore pray your worship will be so condescending as to institute an enquiry, and ascertain whether the money above referred to has been paid into the Sircar treasury or appropriated by the Tahsildar and Ahly Cootty Mopla. If the money has not been paid into the Sircar treasury, I pray that the Tahsildar and Ahly Cootty Mopla, as well as Carpenter Chatony, black smith Oony Cootty, Eddakaravalapil Moyen Mopla and Pattikaden Coonhymoo Mopla, who are acquainted with the above circumstances, may be sent for and examined, the money aforementioned obtained and restored to me, my grievances redressed, and protection afforded me.

Dated 25th Khancee 1032, (9th October 1856.)

Mark of Prosecutor.

(True translation.)

(Signed) W. ROBINSON,

Acting Magistrate.

The defence of Kootoossa, 1st defendant, and Kaloovetty-cuy Ally Cootty, 2nd defendant, through their Vakeel, Achooda Menon.

In the statement made before the Special Assistant Magistrate on the 13th October, by the complainant, Carpenter Porrayan, it is stated, that on the night of the 7th Menou (18 months previously) the complainant and his son Chattoony, gold-smith Charu, black-smith Oony Cootty, Edacara-Valapil Moyen and Pattikaden Cunhurmar were caught tied, and tortured in the house of 2nd defendant, and in the day time of 8th, the above, (with the exception of Oony Cootty) were treated in the same way close to the house of 1st defendant, in order to obtain from them treasure which these 6 persons had found in the Kutumoonda tank, that the treasure was received by the 1st defendant on the 8th, that in consequence of the injuries then received gold-smith Charu died, 16 months afterwards, in the month of July or Karkadagom, after 4 days fever, and that the plaint is now lodged for the recovery of the treasure.

1st. The plaint is totally a false one, the 1st and 2nd defendants did not in any way receive the treasure, nor cause the injuries mentioned in the plaint, and it will appear from the following, that the enemies of the 1st and 2nd defendants who are mentioned below, invented the story and lodged the complaint.

2nd. Besides considering the circumstance that it is 18 months since the injuries were inflicted and treasure taken, it is also essentially necessary to notice that the facts were not made known or mentioned to Government servants, also that this thing, which many people are said to have seen and heard, has not even secretly been known by any one for a year and a half is to be strictly scrutinized.

If this thing had not been one which was just got up, it must have been made known to either Mr. Collett, Mr. Conolly, Mr. Clarke, Mr. Platel, the native Jemabundy officers, also the Hon'ble Governor General of Bengal and several other gentlemen with his Lordship, when it is remarked that the circumstance was not mentioned to one of these Gentlemen, we may conclude that no such thing took place. Various reasons are given for not having informed. Chattoony says that it was the thought that the sustenance which they got from the defendants, would cease. Kunny-anmoo that the gentleman would not take complaints against the 1st defendant.

3. Chattoony's mother, Ittichera, that some had said, "if you tell we will kill you," the deceased Charoo's wife Mangelly, that peons constantly came to prevent them from complaining. Oony Cootty, that if he told, he thought they would do something or other to him: a thing which they would not thus secretly inform of, is it credible that many were acquainted with. If we look at the one assertion that they did not tell because the Magistrates were favorable to the 1st defendant, and therefore they thought there would no benefit accrue from informing, can it be said that they did not inform through ignorance.

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The complainant confesses that he formerly said to the 1st defendant that "if any one died he would complain." Before the gold-smith Charoo died, the Special Assistant Magistrate was in office here, and since they thought that he was not favorable to the 1st defendant, like the other officers they might have informed and complained before Charoo's death, what prevented this?

Is it in any way possible that such a public thing so talked, and conversed of amongst people could be unknown to Government?

Will even children believe that sworn European Officers if they had information would favor the 1st defendant and quash the enquiry.

It appears markedly in the complaint that the torture was inflicted for the purpose of obtaining treasure, and that the defendants should now be made to restore this.

4. It is of the first importance to learn whether the complainant, and the others, had possession of the treasure, how they got information that treasure had been buried in the tank, as also by whom buried, in what part of the tank and at what depth they might expect to find it; only after we have learned that they thus did obtain possession of treasure, can it be enquired whether they were tortured on that account. If it should turn out that the treasure was not found, there is not a doubt that the whole of the story is a fabrication, and opposed to the truth.

Moyen whom the complainant confesses, went with him to find the treasure says, his aunt's daughter's husband, Rayen, told him 2 years before, that there was treasure in a tank in Kuttoo-moondoo Deshom, that to get it, he and the said Rayen went one night to the tank, that they dug and could not find it; that afterwards having mentioned the existence of the treasure to the complainant after 3 or 4 days, one night they all took it to the complainant's house and concealed it.

All who profess to have gone agree to this statement.

5. How did Rayen get this information? Since Moyen confesses that for 2 years after Rayen had told him (he or they) did not make any effort, and that digging after one night they did not find it.

If we markedly weigh the confession that the Rayen who says he formerly knew, did not know, and that after possessing such knowledge for 2 years, he did not make any effort for this period than the representation that the treasure was the cause of the circumstances narrated, what more need be shewn to make it clear that the whole is false?

It may be learned from enquiry that the tank in which the treasure is reported to have been found, is one which never dries up, that there was not treasure in it, that 2 years ago it was dug in, also it will appear upon examination, that the treasure cannot be taken from the tank.

6. Things being as (they are shewn to be) in the 4th and 5th para. as they all agree that suddenly one night the complainant, and others went there and dug, that immediately they found it, and that it was found by the chief man of the party; if we consider the credibility of the relation that this Mussulman took it to the house of, and left it in the charge of a low caste Hindoo who had helped him, that as there was a lock to the pot, they did not know what there was inside, that without any one wishing to open and know the particulars (of the contents) or to divide the shares, they concealed it, and that till they gave it to the 1st defendant they did not know what was in it, it will be clear that there is no saying what the thing was.

If all these things are weighed, nothing more is needed to shew that the whole is a tale and a jest.

7. Unikootty who was one of the party that found the treasure, says, we concealed the pot in the house of complainant, to divide shares in the evening, and separated; afterwards that he went at midday to see his sick uncle in Valloovangaat of Walloowanaad talook and returned, after staying there 6 or 7 days, and then heard the news of the infliction of torture. The narration that he went away regardless, almost at the time appointed for dividing the shares, and staid there away 6 or 7 days, without being anxious about the treasure, shews its own falsity.

8. That the character of the torture said to have been inflicted on the premises of the 1st and 2nd defendants is not credible, and that gold-smith Charu did not die of torture will be here shewn, and the discrepancies between those who profess to have suffered the torture pointed out, since they all confess that gold-smith Charu having recovered from the illness brought on

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by the torture, walked about, that he died after 4 days of fever, after the lapse of 6 months, and that he died not of torture, but of fever, the defendants are not for a moment chargeable for having killed him by torture. This is clear, and no other proof is required.

10. Was any torture inflicted is what we have to enquire, it is said that the 1st defendant sat on a chair and had them tied, loosed and beaten 11 times. Besides the circumstance that on all 4 sides of the 1st defendant's house there are huts, houses, and many people, as the complainants say, that they shouted from the torture, it was easy for many to see, hear and learn, and since many officials frequent the head of Police's house, it was also to be expected that they might have known surely.

When there was good reason for the head of Police to think that the publication of this vile conduct, was derogatory to his position, and since it turns out that no one else there saw or knew of the circumstance, this is strong proof for the defence the saying that a head of Police thus acted without fear, and the nature of that conduct by no means agree (or is impossible) when we observe that the complainant and witnesses when questioned regarding the torture, replied that they could not recollect particulars of things that had happened 18 months before, and yet described the clothes, jackets and caps of the peons, and 1st and 2nd defendants particularising the color and kind, it will be believed that the whole is a lying tale got up.

When from the description of tying and beating, there was no reason for a hand to be broken, the saying that it was broken is inconsistent.

When they say that first they were tortured in the 2nd defendant's house, and then that those who would not confess then were brought to the 1st defendant's house and confessed there, it is necessary to establish that those who inflicted torture in both instances, were the same persons.

11. If the particulars of doors, &c., in the 2nd defendant's house by which the complainant professes to have entered, are compared with a plan of the house, discrepancies and inconsistencies will appear.

The complainant and witnesses do not say how the 2nd defendant got information of the finding of the treasure, nor what the respective distances apart are of the 2nd defendant's house. The talook Cutcherry, the place where the treasure was found, and the houses of the complainants, nor how it was that talook peons were under the orders of the 2nd defendant, or how it came to pass that talook peons came and caught and took them away immediately that they had found and concealed the treasure before day-break on the 6th.

12. The complainant and witnesses say that the complainant and goldsmith Charu's hands were beaten and broken, the witness Ooner Nair says that peons seized the hand and broke it, that it was the wrist-joint that was broken, that it was not broken but injured and hanging, that he could not tell whether (the bone) was broken, and that for four inches in length the middle of the wrist was smashed, that he did not look at it very carefully.

Vasooodeven Namboodry says he did not take hold and look at the complainant and Charu's hands, saw them from a distance and knew only what was told him; Govinthen Nair says, that he looked from pollution-distance and cannot mention details.

Country doctor Thury Cootty says, that he did not perceive that the hand was broken; that he did not lay hold of it and look, and did not professionally attend to the broken hand. Pougoda Charvo's younger brother says that it was this Thury Cootty who prescribed for the hand. Ramootty Charoo's elder brother says that native doctors were not consulted regarding the broken hand. Besides these discrepancies, Parangoda says that in the wrist near the five fingers, the bone was snapped, broken into pieces and rattled, that the hand there was bent, that the bone was not so broken, and that no matter had formed and burst; that because they had no money they did not make use of a doctor, and that there never was fever from the torture from the time it was inflicted; Ramen Cootty says he did not see that the hand was broken and hung down, and that he rubbed on some lotions.

Thus they have deposed in their different ways.

If we consider the fact that clearly appears that there is now nothing the matter with the complainant's hand, it will be manifest that it is easy for them to exaggerate the injury on Charoo's hand as no one can see it.

13. It appears in the copies of depositions given, that in October 13th, the complainant Chattung Cunjarmoo Parangoda, Ittichery and Nungeally were examined, on the 14th of October, the 2nd defendant was present according to warrant for the enquiry in the Amarapollum Tiroopad's complaint.

In the reply of the 21st October to the petition asking why after having directed 2 securities to be brought, such was not then accepted, what was the offence of the petitioner and the proof; on account of what offence security was not taken, and why it was first said that security would be taken, it is said that security was not taken because the defendant has absconded, delayed in coming from Calicut, consulted with the head officer and such things, if before that, this complaint had come, and the enquiry in it had been completed on the 13th, why this circumstance was not mentioned in the reply, the defendants are at their wits end to understand; again it appears from the copies of the depositions that in October 17th, Ooneery, Vasooodeven Numboodry, Kouthen, Ithachy Oomah, and on the 18th Oony Cootty were examined. When on the 14th before both these dates the defendant was present as a prisoner, why were the witnesses not examined before him according to Clause II, Section XXVII, Regulation XI of 1816.

That unless depositions are taken on oath before the opposite party, they cannot be used for the proof, will appear from M. C. Pro. page 237.

14. We can give an example to show that the Ernaad Tahaildar and the Munjerry Adighary, the Ettiyote Kuttoony Tiroopad and Amaruppellum Tiroopad having consulted together, and confused the Special Assistant, and given him the idea that it was true, and they and the gentleman's Tien Moonshes Cannen having consulted and given their consent for the manufacture of proof, the depositions were taken and concocted according to their (own) style.

In Paragoden's deposition it is said "when Charoo was lying sick from the torture, he called out "Oni Ishwara" tied up crooked or bent (Koochy Katty.)

Rama Kutty says tied up crooked (Koochy Katty.)

Uny Kutty says descended into the tank (Kolathil Keyenlin.) These words are not usual in this neighbourhood, and if the meaning were asked of the deposer he could not explain them, but they are words that are used in Kartenaad, Tellicherry and Cannanore, and are the gentleman's Moonshes Cannen Ramen, and others' own words.

By this and by Sanscrit words that are written in the depositions and which, if we consider the position of the deponents, such words as they would not say, it will be clear that they did not according to Clause I, Section XVIII, Regulation XII of 1802, write exactly the words of the deposer, but words which they did not say.

If the deponents were examined on the very subject of those depositions without being allowed to look at them, it will appear manifestly that what they said was not written.

15. When it was asked whether there were any questions to put to these witnesses who had been examined, and in the beginning of this questioning discrepancies came out, without permitting all requisite questions, the gentleman stopped the enquiry.

The abovementioned persons having persuaded the gentleman that the proof was not sufficient for committing the parties to Court. Head officer Ramoony Marar requested that Ettiyote Kuttoony Tiroopad, formerly Athigary of Irumbily, but turned out for taking Government property, and having aided in a murder, might be appointed to the Amshom where this treasure (case) had been concocted as then more proof would be forthcoming; and in the middle of this enquiry, the Special Assistant Magistrate summoned the Tiroopad to Augadipoorom and sent him as Athigary to Karakeonoo Amshom, where the case had been got up. The defendants have learned that the abovesaid Ramoony Marar &c., went to Carakoonoo Amshom, constructed many handcuffs and having placed the people of that neighbourhood in hand-cuffs and in confinement, and bothered them in many ways, and having made all the evidence consistent, and arranged for many person to be caused to say that they had seen and that they had heard and having informed the gentleman at Augaddiprom the gentleman arrived in that locality, and in one or two days examined 40 odd people.

Since it is most important to place on record in the case a letter received by 1st defendant on 4 Veruksha from Moossen Kootty, with reference to this circumstance, it is herewith sent.

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naad, and, as giving a brief view of the whole case, I have commenced it with a copy of the committal.

Complainant.

Acharee Parayan.

Witnesses.

- 1 Eddakara Valeppil Mooyen.
- 2 Ashary Chatooney.
- 3 Pattickaden Coonjammoo.
- 4 Asharichy Itticherry.
- 5 Do. Nangely.
- 6 Palesherry Oonneery Nair.
- 7 Kuroopatha Vassodevan Namboory.
- 8 Chackoombroth Kondoo Nair.
- 9 Paneekel Onney Cootty.
- 10 Thattancundy Paromboth Pavengoder.
- 11 Thattancundy Tayoth Veetil Ramen Cootty.
- 12 Pathenapavembil Ittachoo Oomah (woman.)

Defendants.

- 1 Kootoosaa (head of Police Ernaad Talook.)
- 2 Calvetty Cooyil Ally Cootty.
- 3 Waddagarrah Ahmod (Huzzoor Gomastah.)
- 4 Maliakel Valia Moideen.
- 5 Madamel Cheria Moideen.
- 6 Madamel Mayan.
- 7 Pooycoot Coon Hamod.

} Peons.

The 1st and 2nd defendants are charged with having directed, and the 4th, 5th, 6th and 7th with having on the 16th March 1855, (7th Menon 1030) night, and on the 17th (8th Menon) at Eddawanah Deshom of Thiroovaly Amshom and Mellackom Deshom of Munjerry Amshom of Ernaad Talook, inflicted torture and violent beating on the complainant, the 1st and 2nd witnesses and Tattan Charen (since deceased) causing such serious injury to them that the hand and tooth of complainant and the chest and frame of 1st witness were damaged for life while Thattan Charen was more or less laid up for 6 months, his shoulders dislocated or otherwise injured, his arm broken, and his whole frame in agony till the time of his death, 17 months afterwards, in a high fever.

The 1st witness having heard from his relatives of the existence of a pot of hidden treasure in a certain small tank in the jungle, went there and searched for it with a relation, but in vain, though they had searched only about half the bottom of the tank his companion now gave up the thing as a myth, but Moyan wishing to be perfectly satisfied about it, determined to search once more, and as the position of the tank near a public road, and yet with much jungle in its neighbourhood, was such that it was necessary the search should be made at night, but not without companions on account of wild beasts, he revealed the secret to some Hindoo neighbours (who had befriended and often fed him since he was suddenly left an orphan at 12 years of age) and the party, consisting of complainant, 1st, 2nd, 3rd witnesses and Tattan Charen set out in company with the understanding that if any thing was found, they would be content with the share Moyan gave them.

During the night they went to the tank and after digging a while, found a metal pot full of something heavy, which they were unable at the moment to open; they took it early in the morning to the house of complainant, determining to open and divide it among themselves that evening.

Edakara Valapill Koonhattoomah hearing of the finding of this treasure (to which she had an undoubted family claim,) appealed to Ally Cootty to see justice done to her; when Ally Cootty got intelligence of the circumstance he sent off his people (one of them a Government peon) and at the moment when they were assembling, according to arrangement, they were seized by Ally Cootty's "peons" (4th and 6th defendants) and people, and taken to his house (3 miles off), part of that night they spent in his house and the complainant and Moyan were severely beaten. their arms tightly tied behind, and a large wedge, sometimes a plough and sometimes a plantain tree being then driven down between their arms and their backs, the shoulder sockets and chest were violently strained.

They however denied all knowledge of the treasure but one of the number Coonhamoo having already confessed (at the moment of the seizure,) the matter was not to be dropped thus, so Ally Cootty dictated a note to Kootoosaa mentioning the fact of the treasure having been found, and telling him to get possession of it; with this note the parties were sent under peons, with their arms still tied, to Kootoosaa's house at Munjerry; arriving there before day-break, they were again questioned and still denying, were repeatedly tortured

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in the manner already described and severely beaten, till after several hours of endurance they felt that with a little more they must die.

A large swelling was caused over the eye of the 2nd witness, the hand of Parayan (complainant) injured for life, the arm was broken (by 3rd defendant), the shoulder apparently dislocated and mortal injury done to the chest of Tattan Charoo, and the chest of Moyan was injured for life.

Ally Cootty and Kootoosaa in their respective houses personally superintended and directed the torture which was inflicted by 3rd, 4th, 5th and 6th defendants.

Moyan (1st witness) now confessed, upon which they were loosed, given some canny and taken back to their houses in such a state, that they could hardly walk, after some delay and more ill usage they gave up the treasure, and were brought back to Kootoosaa's, and after being given Rupees 3 each and told that if they ever complained they should be killed, and that the treasure was for Government, they were taken to the neighbouring house of Pooy Cootyally, a great friend of Kootoosaa and once made by him Athigarry, but dismissed for inability, there kept for 2 or 3 days till their wounds had in some measure healed and then taken to their houses, still in a most distressing condition; a peon occasionally came to see how they were and whether they were thinking of complaining; they were now and then given a little money by Ally Cootty.

A tooth and the right hand wrist of complainant are both bent aside from the effects of the torture, the chest of Moyan was so strained and injured as well as his whole frame, that he is now unable to carry loads on the head, and always feels pain at ascending any steep incline. Tattan Charoo formerly an active gold-smith, was more or less laid up for 6 months, and from that time could only partially carry on his work, his arm occasionally failing him, he complained frequently with screams of pain in his chest and all over his body; he died 17 months after, screaming with agony in a burning fever till within 24 hours of his death, from the time of torture had looseness of bowels.

The above circumstances were not brought forward or made matter of complaint till 20 months after they were said to have taken place, and though described to have been perpetrated so openly and boldly, no tidings of it seems to have reached the ears of the European Officers. So strange a tale requires very strong proof to gain any credit.

The circumstances however are not very simple or brief or asserted to have been confined to such secret locality or time as to debar one from expecting a considerable amount of testimony, but on the contrary, it wears a complicated and lengthy aspect, and above all professes a publicity of preparation which places it in the most obvious danger of being refuted by the entire absence of such public testimony; a fabrication would hardly contain such a lengthened variety of times, places, persons and circumstances, for a far simpler and equally atrocious tale might easily have been framed and obviously far more easily proved: the multiplicity of minute and unnecessary particulars court a break down and whether exaggerated or not look more as if they were thrust upon the narrators by at least some proportion of truth in them, than as if fabricators wishing to prove a flagrant act had thus purposely clogged it with difficulties. Moreover the hand of the complainant has undoubtedly been in some way injured, the question is how and when.

Incredible as is the activity and boldness attributed to the defendants, (six out of seven of whom are public servants) the charge takes so public a stand, and challenges an ordeal in which, from the position of the parties accused and their known influence among those who formed the public asserted to have been cognizant, it might so safely be prognosticated, it would fail, that it was clear it might fairly be left to depend upon the evidence to the facts related: a full searching inquiry could not but result in one of two things, establishing or breaking it down; from the publicity among Moplahs that it claimed, the chances were in favor of its breaking down, whether true or false, for partly from creed influence, and partly from fear, of its breaking down, whether true or false, for partly from creed influence, and partly from fear, the overawing power of Kootoosaa and Ally Cootty among them in these parts is boundless and the assiduity and boldness that was displayed in suppressing the evidence when the inquiry had commenced was not small, the alternate use of intimidation and bribery in suppressing all information against these two men on any subject whatever was so frequent and conspicuous that on taking up this enquiry I felt at least this relief, "if it is not true it will most certainly break down."

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The charge being brought while my time was much occupied with another inquiry, the completion of the investigation of it at various times and places, occupied many days. I, first telling the man to bring his witnesses, examined them at Wandoor, a few days after, I suddenly visited the spot, and took down the evidence of women and the neighbours I happened to find about, and afterwards sent for and examined one or two more persons who were mentioned in the papers before me; the complainant and witnesses were then all taken to Augadipooram, confronted with the defendants and cross-questioned by them and me; I then once more returned to the locality, and took briefly the evidence of a large number (about 60) of the inhabitants of the Deshom, visited the tank where the treasure was said to have been found, the Tahsildar's tank where they had been tortured, and the out-house of Pooy Coottyally, where they had been kept immediately after it.

Most of the witnesses are poor illiterate people, who had never seen a Cutcherry before; the testimony of all of them, though taken strictly apart from one another, coincides most fully; throughout the whole long series of minute circumstances said to have occurred 18 months before, there is but one partial discrepancy, viz., regarding the question of whether they were tied or not during a certain part of the time included in the above tale; most of the particulars, especially those regarding the man who has lately died, were not volunteered but gradually extracted in reply to questions, and as from the very first the greatest care was taken to prevent collusion, and as far as possible witnesses deposing to the same circumstances were examined immediately after one another without the possibility of communication, this remarkable agreement in the minute description of the sufferings of the dying man looks very strong.

The complainant is evidently a man of some character and independance; the rest of his immediate party both men and women have most certainly neither the courage nor the skill to fabricate such a tale. The depositions of the complainant and 3 first witnesses was all that was at first offered, and they of course came prepared and gave their statements with a precision, and gravity which might be construed in various ways, but the stamp of nature and truthfulness was strong and simple on the narrations of the women and the other witnesses, and also during the cross-questioning of the 1st witness; the comparatively unrestrained emotion of their narratives at their own doors on the very spot where some of the circumstances had taken place, can ill be transferred to paper, and would probably appear in no Court. Going across country looking for the tank, I lost my way, and meeting an old woman she was asked "where is the tank where the treasure was found?" Without another word she mentioned and pointed out the course to take; in position, &c., it agreed with the particulars mentioned of it.

On visiting Pooy Cootty Ally's house, a Mopla servant woman was met, who gave some indefinite recollections very corroborative of the statements of the sufferers.

Certain parts of the tale require very public confirmation and after a time it was not wanting. Two persons recollect hearing screams of agony which from their time and direction they believe from subsequent information to have been that of the sufferers: many people testify to having seen them taken along the road in a miserable state by peons, and some of them identify the defendants, very many more (chiefly Moplahs) depose, some to having seen the beating and torture inflicted at the houses of sufferers, and others to the sound state before, and the injured state after, about the date in question, with the information regarding their treatment which they gleaned from themselves, and from others, at that time most of these last witnesses were remarkably reluctant, and evidently in most cases told but one quarter of what they knew, the public part of the proceedings has been testified by the fullest amount of public evidence, and the desire to prove the more secret parts has not produced abortive and strained witnesses, except two, who volunteered and whom I did not credit, though their tales were consistent, and with regard to an important point, viz. the torture inflicted in Ally Cootty's house.

Altogether 78 persons, 25 Hindoos and 53 Moplahs, have testified to the truth of the case.

The widest inquiry I have been able to make at different places, among various castes and grades, during many days, and without the intervention of peons or Moonshes, has only confirmed the connection that the case was a reality.

Against the credibility of the case are the fact of the long silence, the improbability of the European Officers having never heard of it, and the extreme fool-hardiness of such conduct on the part of the head of Police and those associated with them.

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The reply is, we were threatened with death by those who had already once brought us very near it, all the country knew the instances of influential men complaining against Kootoossa, and in return getting nothing but disgrace and annoyance, if not punishment, and it was proverbial that every charge against Kootoossa failed, even before the European Officers, therefore we dared not; now that he has been removed, and we see another charge against him being inquired into, we have been encouraged to come forward.

As expressed in former communications to you and the Sub Court, I am of opinion that the dread and the devotion inspired by Kootoossa (for 15 years in this single post) as proved before me in many instances, is such that there is hardly any thing I can well conceive he might not commit with a reasonable expectation of impunity; the tongues of the people have been tied, and even now, while he is under trial, they tremble in expectation of his return, and though anxious in the extreme to ensure his dismissal by informing against him, it is seldom their own grievances they dare to bring forward, but those of their neighbours; the trifling circumstance seems to me significant, and I do not think justice will be done unless the case is thoroughly sifted, irrespective of the improbabilities which hang about it, the remark made to me "the very boldness and atrocity of the circumstances ruin their credibility: it would be better and wiser only to tell part" may have some truth in it.

If any amount of evidence whatever may be permitted to overcome the prima facie improbabilities of the case, it certainly has been given full, clear, consistent, without an important discrepancy, without the veracity of the witnesses being impugned, it is far more perfect than what has hanged many a man, and too natural, too complicated to have been a fabrication.

The case was committed with others on the 29th November, thrown out by the Sub Court as a fabrication, an appeal suggested on public grounds by me, and over-ruled by you.

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

(True Copy.) (Signed) W. ROBINSON,
Acting Magistrate.

Report of a case forwarded to the Sub Court and disposed of, in the month of December 1856.

No.	Namcs.	Crime charged against the prisoner.	Mode in which the prisoners were disposed of, and when discharged, the grounds thereof.
182.	1. Kootoossa (head of Police, Ernaad Talook.) 2. Kaloovettoocooy Ally Cootty. 3. Badaragaray Karen Ahmod, Gomastah, Huzzoor. 4. Maliakel Valia Moideen. 5. Nadamul Cheria Moideen. 6. Nadamul Murgan. 7. Pooycooth Coonjamod.	Torture and Extortion.	1. I am clearly of opinion that no case requiring the investigation of the higher Court exists against the prisoners. 2. The charge is that 4 persons, with one deceased, were cruelly beaten and tortured in three several places, to extort a brass pot supposed to contain treasure, which those persons had found. 3. At the outset of such a case as this, I fail to recognize, an adequate motive for the conduct which is ascribed to the prisoners. The hope of gain to accrue from the discoveries of coolies, seems inadequate to tempt a native officer of Police to so gross an abuse of his powers, particularly at a time at which the labours and surmises of the torture Commissioners were leading to suspicion of malpractice in every case.

The mode in which the violence is alleged to have been committed, presents still stronger ground for suspicion. Beatings first administered in the house of the accusers, then in the house of a Mopla merchant (Allice Cootty) 2nd prisoner, then in the 'Tahsildar's house, and then as if to render the atrocity patent to every man who had eyes to see and ears to hear, it is alleged that for 6 long hours, the head of Police was rash enough to remove the persons from his own house, a place of comparative privacy, to the side of a tank, admitted to be sometimes used for bathing,

There is reason to believe pa.

and to be at no great distance from inhabited houses. It is suggested that the necessity of wetting the cloths to tie the arms of the tortured was the ground for this measure, as if the procuring of water without proceeding to a tank for it were not an easy process. The victims after hours of agony, then consented to give up this pot, and they wended slowly homewards and did so.

4. It is equally difficult to discover the motive which stimulated the tortured to so protracted a resistance, for the principal sufferers (prosecutor, 1st, 2nd and 3rd witnesses) all assert that though they had gone 8 miles, dug assiduously for hours, and brought home the pot which was lodged for a day in the house of 3rd witness before their capture by the peons, they had not had the curiosity to open it and inspect its contents. So that they consented for hours to endure an agony, at the very narration of which humanity shudders to conceal the possession of what might be no more than a brass pot priced 2 Annas. I utterly refuse to believe that the courage and physical endurance of those who assert this would have nerved them to such suffering, even for an adequate object, and still less for one of which they had no definite conception.

5. Of course, I do not lose sight of the extreme improbability of the statement that so little curiosity was shown on the subject of the contents of a vessel for which the possessors had laboured assiduously. It is also difficult to understand why the pot should have been buried in the house of 3rd witness. It had been carried through the public roads, and no motive for concealment existed.

6. The endurance of torture so protracted, is still more inexplicable, seeing that for the extraction of this information no necessity existed, for the 3rd witness, on his first apprehension, admitted that he had discovered treasure, but he pertinaciously asserts that he was then left untouched, and no enquiries were made as to its place of lodgment. Now torture is inflicted not for the pleasure of indulging in cruelty, but for the attainment of some object. Is it credible that when the perpetrators of this outrage found a man so facile as the 3rd witness, they would have run the unnecessary risk of torturing others, when at a small expense of trouble the whole matter could have been elicited from a much more yielding subject.

7. I merely advert to the discrepancy as to the manner of conveying the persons from 2nd prisoner's house to that of the 1st, because by itself I should not deem it of much weight.

8. It is impossible not to be struck with the strange romance of the whole story. The 1st witness, a mere cooly, had been aware for 2 or 2½ years of the existence of this hidden treasure deposited by a relative, yet so long a delay elapsed before his search for it, and he a Mopla, had then the romantic generosity to impart his knowledge to these Achaies apparently merely to diminish his own share, and when the precious freight was obtained, he lodges it not in a place known to himself, but in the hands of one of another caste and creed.

9. The injuries sustained are then supposed to support this case. I am clearly of opinion that so far as the prosecutor and 1st witness are concerned, these are altogether fictitious. The prosecutor's fingers are flexible enough as I showed him in open Court and I never saw a man with a better chest or lungs apparently in better order than those of the 1st witness. It is alleged however that a person now dead was most seriously injured, his arm broken and himself rendered incapable of exerting himself in his trade. The witnesses (7th, 8th, 9th, 10th, and 11th) are most discrepant as to the time at which the swelling ceased before death, and the 11th speaks to the grating of the bone above the wrist, a fact of which the medical attendant (9th witness) of deceased is clearly not cognizant. Disbelieving the substance of the story of course this mere confirmatory evidence would not affect my conclusion but I believe it to be altogether false.

10. It only remains to observe that the demeanour of the witnesses when questioned was of the most unsatisfactory character. The shape of the pot for which they did and suffered so much was differently described by every one of them. One gave it no handle, another a handle at the bottom and another a pipe at the side. Three were unable to describe whether it was locked or not and one (3rd witness) positively swore that it had a padlock and chain. This is not a slight discrepancy, it is on a point which all must have observed. The manner too in which each of the professed discoverers of the brass pot tried to avoid describing it, was very conspicuous, and nearly as important as the discrepancy.

11. It only remains to advert to the improbability of so long delay existing in the report of the case. They hesitated not to inform many persons (7th and 8th witnesses) of all the facts,

yet dreaded informing an European Officer on the point. It may be well to notice that the complainant when detailing that he was threatened with death if he complained alleges himself to have answered that he should complain if any body died of it. This is obviously interpolated to explain the delay which tells so strongly against the case. It is of course incredible that such a conversation happened, for if it did, it is quite inconsistent with the alleged dread entertained of the accused. The case only appears after the prisoners had been 2 months in arrest on another charge.

12. Deeming the whole case a fabrication, I direct the release of the prisoners.
3rd December 1856.

(Signed) W. HOLLOWAY,
Acting Sub Judge.

To the Acting Magistrate of Malabar.
4th December 1856.

(True Copy.)

(Signed) W. ROBINSON,
Acting Magistrate.

Mungerry, Ernaad Talook, Zillah of Calicut, 3rd December 1856.

Having been officially requested by the Special Assistant Magistrate to record my "full and careful opinion of the way in which justice has been administered in this talook, and of the character and conduct of the native Police servants," I proceed to comply with the request, occupying myself the position of a public servant, I must confess, I approach the task with much delicacy, while I at the same time feel, that I would be wanting in my duty to the Government, and would be compromising my own character besides, were I out of mere complaisance, either to withhold altogether, or express with reserve my opinion on the subject just because I could not honestly and conscientiously speak in favorable terms of public servants. I shall therefore freely state my convictions, leaving them to be estimated at whatever they may be deemed to be worth.

I do most unequivocally and unqualifiedly assert that justice has been most grossly and outrageously perverted, indeed, to say that justice has been at all administered, would be a misapplication of terms. The whole of the public servants from the highest to the lowest, with a few exceptions, recklessly regardless of the trust reposed in them, have kept but one object steadily in view, to the attainment of which they have most assiduously devoted the whole of their energies day and night; and what has that object been? why the acquirement of gain by means of bribery and extortion! The consequence has been that illicit gain being the predominant principle, the decisions, with some exceptions, have been either purely dishonest or glaringly partial, not through any errors of judgment, from an erroneous appreciation of the evidence, but by a wilful perversion of the truth. The exception have been cases wherein justice has been allowed to take its course, simply because nothing could be gained by perverting it, the parties concerned being indigent and unable, although willing, to administer a bribe. No wool would have been obtained even if the shears had been applied; the Police have been the terror of the well-disposed and the shelter and security of the wicked. This is a most damning statement, but it is nevertheless the fact. The guilty have often been allowed to escape, while the innocent have been frequently made the guilty. The way has been to get up false charges sometimes of the gravest character, against persons of wealth and position in society, who have a regard for their character, and to establish them by suborned testimony. The means of escape was then shewn, a bribe was demanded, and if the accused gave it, the charge was dismissed on the ground of "no evidence." In such cases, I have been credibly informed, the whole of the proceedings were modified. The depositions were altered so as to represent the witnesses as speaking in favor of the accused. This is the kind of persecution which all those who had dared to speak out before Mr. Commissioner Strange against the Tahsildar, have ever since been subjected to: and so rare has the persecution been, that some unable to endure it have sought relief by quitting the talook for good, and taking up their abode elsewhere, while others have been able to continue to dwell in it only by appeasing the wrath of their persecutor by liberally complying with his avaricious exaction. The head connived at, yea, openly sanc-

there is reason to believe for

Fort St. George, Judicial Consultation, 21st July 1857.

tioned their regularities and excesses committed by his subordinates. The people passively submitted to any amount of personal injury and spoliation rather than complain, for they knew, from bitter experience, that instead of obtaining redress, the tables would be turned against them and from being the aggrieved, would be made the aggrieving party. If the individual complained against was, either the personal friend, dependent or creature of the head of Police, a hearing even was positively denied. The complaint was summarily rejected without any investigation. Indeed, redress in such cases was held or sought for under the conviction that it would never be afforded to no where to whom justice had been refused, because the individual complained against was a protege of the head of Police in appealing to me observed with the utmost ingenuousness, that he seriously doubted whether the British were the rulers of the country, for, said he, if they were, I am sure I would obtain redress of my grievance, whereas now I am denied it! I referred him to the European Officer of the district, assuring him that his wrongs would be heard there, if a hearing had been denied him elsewhere; I need scarcely add, that as a public servant and a British subject, I was much chagrined and grieved at hearing this reflection. In this manner is the Government brought into disrepute by its own servants.

It is my firm belief that torture has been resorted to in Police cases, to extort confessions, although no cases went up before the Torture Commission from this Collectorate. It has also been used to a great extent as a means for forcing compliance with illegal exactions. No extreme cases have been reported to me as having occurred while I have been here; but I have repeatedly heard it positively declared to me that torture is an ordinary occurrence, although not much practiced of late years, and I see no reason for withholding my credit, for my informants were influenced by no ulterior motives in making the declaration, if it were not true. It was given to me as a piece of news merely, while in conversation with them on topics of general interest. There are one or two cases however notorious throughout the talook, which I am sure a single individual is not ignorant of, as far as my own experience goes, I have frequently overheard parties pressed and frightened into their giving their depositions, whence I conclude statements not made were introduced into them, and in one or two cases, I will not speak too confidently, if my senses did not deceive me, I believe I heard persons, who were under examination at the time, suddenly cry out as if on the infliction of some bodily pain, but I cannot say how the pain was caused, for I did not hear the infliction of blows, or slaps. One case of ill-usage however has fallen under my own notice, several prisoners, whose only offence, I was told, was that they had resisted the over-bearing conduct of some peons who entered the premises of their master, were brought out, and having been cruelly beaten in the open Cutcherry, were made to run for their lives. Of this instance, I think, I may say, I was almost an eye-witness, for I distinctly heard the order to beat given. I heard immediately the infliction of blows and I saw the men running away. Besides I immediately sent to learn what was going on, and the report brought me corroborate what I had myself overheard. In this case servants were maltreated out of revenge to their master.

Were I to speak with individual reference to the head of Police, Kootoossa, I would say that when viewed in the light of a private individual, merely divested of his office, one would be led to form a very favourable estimation of him. He appeared as a friend, sincere, generous, beneficent, benevolent and hospitable; he was charitable, a staunch friend and supporter of his class, and a rigid observer of all other outward ordinances of his religion. But when regarded in his official character, he exhibited different traits, he seemed unjust, partial, reckless of the feelings and interests of others, insincere, unworthy of confidence, haughty, cruel, tyrannical and overbearing. He abused the immense influence that he enjoyed, and the power which his official position gave him, he used them not for the interests of the State, but for his own private gain and that of his relatives and friends. He obstructed the administration of civil justice by prohibiting individuals from giving their evidence as witnesses, and try forcing parties to execute Vakalutnamahs prejudicial to their own interests, and to enter into disadvantageous compromises. His connection with Ally Kutty rendered that individual a pest to the people. Under his auspices, Ally Kutty has committed acts which in others would have been crimes, and that too with impunity. In my humble opinion as a public servant, he has along successfully sustained a disguised character. His conduct has not been consistent with his professions. I do not consider him to have behaved as a devoted and loyal servant of the Government, in the fanatical out-

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copies of all plaints and proceedings regarding alleged cases of Torture, incloses the record of two cases committed to the Criminal Court of Calicut by his Special Assistant Mr. Thomas.

2. The principal prisoner in both cases is the same, Kootoossa, Tahsildar of the Ernaud Talook. One of the indictments, that charging the Tahsildar with having applied torture to several persons, one of whom is alleged to have died under the ill-treatment, with a view to the discovery of a certain brass pot, contents unknown, but supposed to be gold coins, which had been secreted by them, on finding it, got no further than the Subordinate Court, where it was thrown out as altogether fabricated; (vide the decision) by the Judge, Mr. Holloway, enclosure No. 7.

3. The second, however, which charges the Tahsildar with a gross abuse of his authority, was committed by the Sub-Judge to the Session Court, Mr. Holloway mistrusted the direct evidence, but was of opinion that the circumstantial testimony was of such a nature as to warrant his sending up the case to the higher tribunal, the trial was held by the Session Judge sitting with assessors, one of whom was the Mohamedan Law Officer. The accused, five in number including the Tahsildar, were defended, or, at any rate, some of them, by Mr. Salmon, Barrister at Law, and at the close of the trial, a verdict, in which the Judge and the Moofy concurred, and to which there was one dissentient voice only, was given of "Not Guilty."

4. The charge against the prisoners was that they had conspired to defraud the Nellamboor Rajah, commonly called "the Teroopaud," that in pursuance of this conspiracy they had caused to be exhibited against him before the 1st prisoner the Tahsildar, a certain charge of stealing valuable documents, the property of the 3rd prisoner, and ultimately by threats of disgrace caused him to execute a document in favor of the 2nd prisoner, and to sell to him for 39,000 Rupees a quantity of teakwood timbers actually worth 70,000 Rupees.

5. On all these charges, the prisoners as above stated were acquitted by the Session Court, and the case has been carried before the Court of last resort where the sentence of acquittal has been upheld. There are several strong points which support this acquittal, and the Government deem it unnecessary to follow the Acting Magistrate through the remarks he makes in arriving at a decision contrary to that pronounced.

6. They observe however with much displeasure the conduct pursued by the Tahsildar towards the Rajah in the Police case in which his near relation was interested. The existence of such relationship ought to have made the Tahsildar particularly guarded in exerting his official authority, and yet his proceedings are open to grave exception, the extensive mercantile transactions which his relation Ally Kooty carries on in Ernaad, would under any circumstances have prevented the Tahsildar, being allowed to return to that Talook, but the Government must decline to give any apparent sanction to the proceedings above alluded to by vesting him with the powers of a Head of Police even in another part of the District. They will not however object in consideration of his long service, age and infirmities and the favorable character which he has previously borne, to allow him to retire on a superannuation pension. Mr. Robinson is therefore instructed to remove Kootoossa from his Tahsildarship and recommend him for a pension on the receipt of this order; up to that date from the time of his suspension, he is to be considered on leave, the salary of the office being divided between him and the servant who has officiated in his place.

7. The Acting Magistrate will point out to the Special Assistant the irregularity of his proceedings in examining the charge without the presence of the actual Prosecutor, the Teroopaud Rajah, and without apparently allowing the accused an opportunity of hearing the evidence against them or putting questions to the witnesses.

8. The present case shows the inexpediency of men being placed in situations of authority where their personal interests are likely to be concerned. Officers in charge of districts should be careful when making appointments to prevent the possibility of an official having his private interest brought into competition with his public duty.

(Signed) E. MALTBY,
Acting Chief Secretary.

Encl. F. Cartridge.

There is reason to believe for

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breaks which of late years have so frequently and so materially disturbed the peace of the country, and well nigh rendered it uninhabitable to the Hindu portion of the population. If he has had no direct or indirect hand in fomenting and creating these disturbances, although it is the general conviction among the Hindoos, that he has, I think, connived at and secretly signified his approval of them. I am aware that I am expressing an opinion directly at variance with that generally entertained of him by his superiors, but with due deference to the opinion of superior understanding, I would submit one ground, among others on which I rest the assertion, grave though it be, I believe them to be undeniable facts that in the far-famed outbreak which occurred in 1849, the rebels numbered only 12 at the time they took possession of the temple on the summit of the Munjerry hill, and that 64 fell before the troops at Augadipooram. The question which materially enough immediately suggests itself is, when and how that number increased to 64? I think it pretty obvious that it must have been during the time they held the hill, and through the designed neglect of the talook Police under the direction of their head. If the head of Police had taken advantage of the facilities which the nature of the locality afforded to arrest any increase, if he had immediately adopted the precaution to have the base of the hill environed by his Mopla peons and others of that class from among the loyal subjects of the Government, was it possible, unless the men descended in a balloon, that the rebels could have received any accession to their numbers? Moreover it is generally reported that he allowed the rebels to bury in his own mosque the bodies of those of their number who fell in the first encounter, was not this just feeding the spirit they were fired at the time? If the rebels had been made to see that their bodies after death would be denied the religious rites of sepulchre, and as the bodies of rebels would be treated with ignominy, one half of the fancied glory and honor attaching to a fanatical death, would have been shewn from it. Not only this, did Kootoossa use his influence to dissuade the rebels from their resolve? If he did, I am sure that those among them, at least who had not yet imbrued their hands in the blood of their fellow-creatures would have desisted from their purpose, for he is looked upon nearly with the same degree of sanctity and reverence by his own class as they regard their Tunguls, and the ring-leader Athen Goprikul, was his personal friend and much esteemed by him. Again how came it that the rebels forsook the hill and decamping, took up their position at Augadipooram the very night of the day on which the European troops arrived at Munjerry. Was it because they shunned an encounter with the troops? The sequel of the affair shewed that rather than shun, they caused an engagement, for they marched out to meet them ere they had arrived at Augadipooram. Was it then because in their belief, there was any sacredness attached to the spot they had selected? There seems not, for it was near a Hindoo temple that they fell. The only way in which I can satisfactorily find a solution to the question is, by supposing that Kootoossa, in order to avert any suspicion which may attach to him, persuaded the rebels to close the scene out of his talook. From these facts I conclude there was connivance, and secret approval in his part, and I need not here expatiate in the mischievous effect which the prevalence of the belief that the chief officer of the peace in the talook approved of these fanatical disturbances, must have produced in the fanatically disposed.

Having, I think, now met the requisition of the Magistrate, I will here close this paper.

(Signed) W. STEWART,
Moonsiff of Ernaad.

(True Copy.)

(Signed) E. G. THOMAS,
Special Assistant Magistrate.

(True Copy.)

(Signed) W. ROBINSO,N
Acting Magistrate.

No. 30.

ORDER THEREON, No. 837; dated 16th July 1857.

1. With the foregoing letter, the Acting Magistrate, with reference to the Circular Order of Government, dated 10th June 1856, requiring Provincial authorities to submit to Government

In orders.

I presume that Govt will not wish to discuss the question of the Subildar's guilt or innocence but shade on this point by the sentence of acquittal which has been passed by the Sepsim Court & confirmed by the Judge.

Advised -

In fact though there are some grounds of suspicion as stated in the Act & Chapter letter - there are circumstances equally strong on the other side to disprove the charge - these are detailed in the judgment passed by the Sepsim Judge.

In reference the document said to have been extorted from the Prosecutor is dated the 7th July 1856. - But the Prosecutor avers that it was really executed on the 29th Idem & that the date has been altered to a day previous to the time when the Police kept him in custody, & from 25 July to 6 August. - But there is reason to believe for

and today, the witness of Mr. Andrews
respectable testimony that on the 28th
& 29th July, the Tahsildar replied (the
2nd prisoner who obtained the bond
from the prosecutor) was in Calicut.

- Other circumstances also dis-
- led the charge of the Permeator's
signature to the document having
been extorted.

- But the question remains what
is to be done with the Tahsildar
even though acquitted of the charges
- then prepared against him.

his proceedings as head of Police
against the Permeator (the Kellanton
Rajah) are highly objectionable
- There was ^{sufficient} complaint ~~not~~

- ~~first~~ ground for instituting
police proceedings against the
Rajah & summoning him to his Court
Cherry & detaining him there some
days - The Tahsildar's misconduct

on this point is the greater on
account of the ^{large} money transactions
between the Rajah & his nephew
(Cotton ally) - transactions in which
Mr. Robinson thinks the Tahsildar
had an interest.

- After such misconduct his
holding office again in the
Munaw taluk would be out-

of the question, & I think
that Govt ought to show to the
people their disapproval of
it, by refusing from giving
the Tahsildar police power
again even in another taluk.

- But the Tahsildar's length of
^{35 years} service & infirmities may
induce the Govt to allow him
to retire on a superannuation
pension as recommended
by the Act Comr.

- The next point for decision
relates to the Tahsildar's pay
since his suspension on the
present charge.

- Mr. Robinson (in P 25) who
authorizes to give the whole
pay to the substitute employed
& yet in P 23 talks of the
Tahsildar being legally enti-
- tled to restoration to office
on his acquittal - before he
is obliged to retire on a
pension.

The correct course seems to be
for Mr. Robinson to remove
the Tahsildar finally from the

Office, & recommend him for
a pension, on receiving the
Govt order to that effect. - but
to regard him as if on leave
up to that date, & paying the
pay between him & the
officer who succeeded in his
place.

Is this course approved?

The impulsivity of the Special
Rpt when examining the
case, in not summoning
the Regist. to state his complaint,
& in not allowing the
Tahsildar to hear & put
questions to the witnesses
wht him seem proper to
be pointed out.

Uhr

3 July

There is another point deserving of
notice in this case & that is the undesirability
of placing men in situations of authority where
their personal interests are likely to be concerned.
I think this point shd be noticed. Govt &
not officers vested with patronage shd be removed
is because it is to prevent the possibility of
an official having his private interests brought
into competition with his public duty. Such cases
are especially necessary in Malabar & Canara
because there all public offices are filled
by natives. Not only that but Govt shd
act. of the particular provinces. Govt. shd
belong to the

Judicial Department.

N^o. 837

Extract from the Minutes of Consultation

Dated 16th July, 1857.

Read the following letter from
the Acting Magistrate of
Malabar.

Here enter 11th June 1857/
N^o. 82.

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With the foregoing
letter the Acting Magistrate
with reference to the Circular
order of Government dated
10th June 1856 requiring
Provincial authorities to
submit to Government Copies
of

of all plaints and Proceedings regarding alleged cases of Torture, enclosed the record of two cases committed to the Criminal Court of Calicut by his Special Assistant Mr. Thomas -

2. The principal Prisoner in both cases is the same, Koolooja, Tahildar of the Ernad Taluk. One of the indictments, charging the Tahildar with having applied torture to several persons, one of whom is alleged to have died under the ill-treatment, with a view to the discovery of a certain

brasspot

brasspot, contents unknown but supposed to be gold coins, which had been secreted by them, on finding it, got no further than the Subordinate Court, where it was thrown out as altogether fabricated, ~~make the decision~~ by the Judge Mr. Holloway - ~~and his decision~~

Enclosure N^o 7

3 The second, however, - which charges the Tahildar with a gross abuse of his authority, was committed by the Sub Judge to the Sessions Court. Mr. Holloway mistrusted the direct evidence, but was of opinion that

the

the circumstantial testimony was of such a nature as to warrant his sending up the case to the higher Tribunal. The trial was held by the Session Judge sitting with assessors, one of whom was the Moa, learned Law Officer. The accused, five in number including the Tahsildar, were defended, or, at any rate some of them, by Mr. Salmon, Barrister at Law, and at the close of the trial, a verdict in which the Judge and the Moofly concurred, and to which there was one dissentient voice only, was given

24
given of Not Guilty:

4 The charge against the Prisoners was that they had conspired to defraud the Killamboor Rajah, commonly called "the Troopand," that in pursuance of this conspiracy they had caused to be exhibited against him before the 1st Prisoner the Tahsildar, a certain charge of stealing valuable documents, the property of the 3^d Prisoner and ultimately by threats of disgrace caused him to execute a document in favor of the 2^d Prisoner, and to sell to him for 39000

Rupies

Rupess a quantity of leather
wood timbers actually
worth 70000 Rupess.

5 On all these charges
the Prisoners as above
stated were acquitted by
the Session Court, and
the case has been car-
ried before the Court of
last resort where the sen-
tence of acquittal has been
upheld. There are several
strong points which support
this acquittal, and the
Government ^{deem it unnecessary} ~~must decline~~
to follow ~~the~~ the Acting
Magistrate through the
remarks he makes in
arriving at a decision -
Contrary to what pronounced

they

6 They observe however with
much displeasure the conduct
pursued by the Tahsildar
towards the Rajah in the
Police case in which his
near relation was interested.
The existence of such re-
lationship ought to have
made the Tahsildar parti-
cularly guarded in exerting
his official authority, and
yet his proceedings are
open to grave exception -
The extensive mercantile
transactions which his
relation ally wholly carries
on in Ennaad, would under
any circumstances have
prevented the Tahsildar
being allowed to return
to

to that extent, but the Government must decline to give any apparent sanction to the proceedings above alluded to by vesting him with the powers of a Head of Police even in another part of the District.

They will not however object in consideration of his long service, age and infirmities and the favorable Character which he has previously borne, to allow him to retire on a Superannuation pension. Mr. Robinson is therefore instructed to remove Roshore from his Tahsil-darship and recommend him

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him for a pension on the receipt of this order - up to that date from the time of his suspension, he is to be considered on leave, the salary of the office being divided between him and the servant who has officiated in his place.

7 The Acting Magistrate will point out to the Special Agent the irregularity of his proceedings in examining the Charge without the presence of the actual Prosecutor, the Troop and Rajah, and without apparently allowing the accused an opportunity of hearing the

the evidence against them
or putting questions to the
witnesses.

§ 9 The present case
shows the expediency of
men being placed in situations
of authority where their
personal interests are likely
to be concerned. Officers
in charge of districts
should be careful when
making appointments to pre-
vent the possibility of an
official having his private
interest brought into com-
petition with his public duty.

To the Mag. of Malabar
Civil Auditor
Pension Depart.

Sept 27th

U

C. J. March

In By Arms: 21st July

29+30

Department
185

No. 837

Extract Mus. Cons.

Dated 10th July 1857