

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1031	Press
29-30	~~Mis.~~
Dated 30-7-1948	

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Fort St. George, Judicial Consultation, 3rd August 1858.

No. 29. Read the following letter from J. J. COTTON, Esq., Commissioner of Masulipatam ; to T. PYCROFT, Esq., Chief Secretary to Government, Judicial Department, Fort St. George, dated 9th July 1858, No. 41.

SIR,

1. With reference to para. 11 of the Extract from Minutes of Consultation, dated 1st July 1858, No. 882, calling upon me to state in detail the grounds on which I have proposed the penalty of death against certain individuals concerned in the attack upon the town and Government Treasury of Juggiapett, I have the honor to state that in the first place the charge under which the prisoners were all convicted, viz., that of gang robbery and murder, is one for which the penalty of death is the legal sentence against all principals whether in the first or second degree.

2. The prisoners against whom capital sentence was recorded, viz., the 4th, 5th, 8th, 10th and 14th in case No. 3, were convicted fully upon their own confessions, and the evidence of witnesses which corroborated such.

3. The 4th prisoner admitted before all the tribunals who went through the case, that he joined in the attack and robbery of the town ; and was identified by the 1st, 9th and 10th witnesses in addition to the 3rd, he was also identified by the two Hyderabad approvers, (the 9th and 10th witnesses had been originally sent up as 15th and 16th prisoners.)

4. The 5th prisoner although when placed on his defence here denied the crime charged, acknowledged before Captain Thornhill, the Superintendent of Police at Hyderabad, his complicity in the offence, and has been identified by the 4th and 5th witnesses, to say nothing of the 3rd.

5. The 8th prisoner confessed to having been concerned in the plunder of a shop immediately in front of the Talook Cutcherry. He was recognised by the 1st and 2nd witnesses, as well as by the 3rd and the two Hyderabad approvers.

6. The 10th prisoner only confessed the offence charged when originally apprehended at Hyderabad, adding that he had been concerned in another attack of a similar kind on the town of Tandoor ; but he has been recognised by the 1st, 4th and 11th witnesses, besides one of the Hyderabad approvers and the 3rd witness.

7. The 14th prisoner acknowledged before the Superintendent of Police at Hyderabad, that he had been concerned in the robbery of Tandoor as well as Juggiapett, and was a Jemadar, and although before the Court he simply confessed to being a principal in a second degree, he was fully identified by the 1st, 2nd, 4th, 5th and 11th witnesses, as well as by the 3rd.

8th. The 5th prisoner in No. 4, though he with the rest denied the crime with which he was charged, stood fully convicted by the evidence of 1st, 2nd, 5th, 7th and 9th witnesses, and also was pointed out before the Court by the 3rd witness as forming one of the gang in question.

9. All the above particulars are exhibited in the correspondence and records already submitted to Government, and afforded the grounds on which I was induced to select the above for particular punishment from among the whole number who had become amenable thereto ; and especially, as the evidence was more full in regard to them than the others.

10. I am not sure that they were *more* guilty than the rest, but the *guilt* of the whole has been established, so as to render the whole or any of them liable to the penalties of the law ; and the heinousness of the offence, as well as the peculiar circumstances that attach to its commission, as alluded to in para. 39 of my letter dated 2nd Ultimo, No. 33, called for signal punishment in my opinion, and one calculated to impress terror into the minds of those of the large gang ringleaders and others still at large who would hear of it.

11. I will not for a moment suppose that such an act of retributive justice as proposed by me would endanger the safety of the town of Juggiapetta by firing the revengeful feelings of the gang alluded to, as of course the authority of Government and its power to protect its subjects from such wanton attacks is admitted on all sides ; but whatever the sentence may ultimately be, it would be of the highest importance to publish it far and wide throughout those Districts in the Nizam's country which continue to harbour similar parties of vagabonds, whose occupation seems to consist in an open defiance of the laws of the land, as the means of subsistence and wealth.

which

Fort St. George, Judicial Consultation, 3rd August 1858.

No. 30.

ORDER THEREON, No. 1031; dated 30th July 1858.

In Extract Minutes Consultation, No. 882, dated 1st July 1858, the Government passed orders on three cases of Dacoitee and murder, connected with the late attack by *Rohillas* on the town of *Juggiapet*, which were laid before them, with his sentences in each instance, by the Commissioner *Mr. J. J. Cotton*.

2. They observed on that occasion, after disposing of the rest of the proceedings, that, in regard to certain prisoners (Nos. 4, 5, 8, 10 and 14 in case No. 3 and No. 5 in case No. 4) whom it was proposed to hang in chains at the scene of the outrage, before sanctioning the infliction of the punishment suggested, they desired to have before them in detail the grounds on which the Commissioner recommended that penalty in those particular instances.

3. The present letter is a reply to this reference. The Government observe that every man concerned in the lawless and murderous outrage perpetrated at *Juggiapet* has incurred the penalty of death. If any were to be spared, it should have been those only who were proved to have taken a subordinate part in the attack. *Mr. Cotton* however does not appear to have been guided in the selection he made (and which the Government have no power to disturb) for this purpose by any such principle. Those whom he has sentenced to transportation for life appear to be equally guilty with those he sets aside for capital punishment, and had he recommended the extreme sentence of the law in the case of many more than he has, the Government, being persuaded that a terrible example is necessary, would not have exercised the powers vested in them for the granting of reprieves.

4. It only remains now to deal with those under sentence of death. These sentences will be carried out, as proposed by *Mr. Cotton*, at the town of *Juggiapet*, if possible—that is if there be no very strong and decided objection; if there is, the execution will take place at *Masulipatam*, but the Government will expect good cause to be shown for its taking place there. The men are not to be hung in chains. The Commissioner will himself superintend the executions, and will take care that, both on the journey from *Masulipatam* to *Juggiapet*, if they take place there, and at the latter place, he surrounds the prisoners with such a guard, Military or otherwise, as may be judged proper, as shall ensure the futility of any attempts at a rescue, should any such be made by that portion of the gang still, unfortunately, at large.

5. It will be the duty of the Commissioner during his absence from his station, to make arrangements in communication with the Magistrate, for the proper custody of the prisoners in the Jail there, and when the sentence shall have been carried out, he will give to it the widest possible publicity.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

No. 41

Masulipatam Commissioner's Court

9 July 1858

From, J. J. Cotton, Esquire,

Commissioner of

Masulipatam.

To, J. Pycroft, Esquire,

Chief Secretary to Government,
Judicial Department
Fort Saint George.

Sir,

1. With reference to para 11 of the Extract from Minutes of Consultation dated 1st July 1858, No. 882, calling upon me to state in detail the grounds on which I have proposed the penalty of death against certain individuals concerned in the attack upon the Tower and Government Treasury of *Juggiapet*, I have the honor to state that in the first place the charge under which the Prisoners were all convicted, viz that of Gang Robbery and Murder, is one for which

MS.
5 persons
were murdered
at the time of the
robbery.

which the penalty of death is the legal sentence against all principals whether in the first or second degree.

2. The prisoners against whom capital sentence was recorded, viz the 4th 5th 8th 10th & 14th, in Case No 3, were convicted fully upon their own confessions, & the evidence of witnesses which corroborated such

3. The 4th Prisoner admitted before all the tribunals who went through the case, that he joined in the attack and robbery of the Tower; and was identified by the 1st 9th & 10th wit-
nesses in addition to the 3rd he was also identified by the two Hyderabad Approvers (the 9th and 10th ^{witnesses} had been originally sent up as 15th & 16th Prisoners)

4. The 5th Prisoner although when placed on his defence here

seems to consist in an open^{3^d} defiance of the laws of the Land, as the means of sub-
sistence and wealth.

Masulipatam } I have the honor to be
Commissioner's Court } Sir,
July 1858. } Your most Obedt Servt

Sept 10th 1858
Mr Cotton more than
some days ago in a
letter to his suggestion
that there should be a
change in the
his hope that
if before
to his action
- might not be
he might not be
to be out
execution but that
it might be carried
out by a person to
as he has so
much work on hand
JP
Cotton Esq.
Commissioner of
Masulipatam
To
Percott Esq
Chief Secretary to Govt
Judicial Department
Port St George

Edw Fraser F.W.

Judicial Dept

No 1253

From

The Commissioners of the District of Columbia
Dated 9 July 1858

To order

I have no doubt these men are as
much as suggest all equally guilty
and ~~therefore~~ it is for this reason
I am unable to concur in the propriety
of hanging out four for a more severe
sentence than their companions.

Had any of them been convicted
of being leaders of the band of men
who fired the shot that caused the death
of any of the ~~officers~~ ^{officers} I should have considered
it my duty to conform to the Capital Statute
and in the absence of such proof I am
of opinion that a sentence of death should be commuted
to transportation for life.

Col. J. M. Smith 1858-1859 172

Judicial Letter to Eng.
17 Sept 1853 of 1858
Paw 13.

In D. S. Town: 3. 2. August
Judicial 1858 1714.

1858 No 1031

J. J. Cotton Esq
Commissioner of
Prison Dept.

St. Charles County

to Government

West 1858

1858

1858

1858

No 41

Enclosure from

1858

1858

1858

1858

1858

1858

1858

1858
1858
1858

24

all of the Prisoners having assumed the
penalty of death. The point for considera-
tion is - does the State of matters require
the infliction of such a punishment
on all of these or will it suffice to
some of them suffice in the opinion of
Government to meet the ends of justice -

It seems to me that such an example
is called for - to restrain the lawless
acts of this class of people -

The gang was a large one, many of them
were set at liberty & will now be
made to feel -

The difficulty in this case appears
to me to have consisted in the selection
of those who were to have undergone

sentences passed upon them - This^{5x}
the Court has done & it is at
- present without being able to show
any very good reason for so doing - and
as the trial does not exhibit any grounds
why the clemency thus accorded
should be further extended - Should
sentences the 4 - 5, 8, 10, & 14, Prisoners
to suffer death
The case here to take place at
New York -
It will be the duty of the Court to attend
the necessary steps that are fully
given to the result of this trial
14th h. d.

Judicial Dept. 6X

No 1031

C. M. C. Dated 30 July 1858.

Read the following letter from the Commissioners under Act XIV of 1857 in Manipalatom. } here enter No 41 D/9th July/58.

In E.M.C. No 882, d/1st July/58, he got paper orders on three cases of dacoity & murder, connected with the late attacks by Robbells on the town of Juffiapet, which were laid before him, with his sentences in each instance, by the Commis- sioner Mr. J. J. Cotton.

2. They observed on that occasion, after dis- posing of the rest of the proceedings, that, in regard to certain Prisoners (Nos 4, 5, 8, 10 and 14 in Case No 3 and No 5 in Case No 4) whom it was proposed to hang in chains at the scene of the outrage, before sanctioning the infliction of the punishment suggested, they desired to have before them in detail the grounds on which the Commis. recommended that penalty in those particular instances.

3. The present letter is a reply to his refe- rence. He has shown that every man concerned in the lawless & murderous outrage perpetrated at Juffiapet has incurred the penalty of death. If any were to be spared, it sh^d have been those only who were proved to have taken a subordinate part in the attack. Mr. Cotton however does not appear to have been guided in the selection he made for as he has no power to dis- bush/ for his purpose by any such principle. Those whom he has sentenced to transpor- tation for life appear to be equally guilty

I agree with Mr. Inverhead. Except that if possible - it wd I think be better to write at Juffiapet but there are objections, difficult to overcome

A

I refer this draught in deference to the opinions of my colleagues & con- sidering fully in the sentiments expressed in para 3

J. J.

W M

with those he sets aside for capital punishment, and had he recommended the extreme sentence of the law in the case of many more than he has, he got, being persuaded that a terrible example is necessary, and not have exercised the power vested in him for the granting of reprieves.

4. It only remains now to deal with those under sentence of death. These sentences will be carried out, as proposed by Mr. Colson, at the town of Juggiapet, but it does not appear to have been intended that the men are not to be hung in chains. The Commissioners will himself superintend the executions, and will take care that, both at the journey from Maulepatam to Juggiapet, ^{if they take place there} and at the latter place, he surrounds the prisoners with such a guard, Military or otherwise, as may be judged proper, and shall ensure the futility of any attempts at a rescue, and any such be made by the portion of the gang still, unfortunately, at large.

5. It will be the duty of the Commissioners during his absence from his station, to make arrangements in communication with the Magistrate, for the proper custody of the Prisoners in the Jail here; and when the sentence shall have been carried out, he will give to it the widest possible publicity.

J.P. D.H. 28/7/58.

+ if possible - that is if there be no very strong and decided objection - If there is the execution will take place at Maulepatam, but the for with expect some cause to be shown for its taking place there -

To J. L. Cotton Esq. Secy. of the Government of Madras
The Magistrate of the District of Madras

C 28 July

Copy to Lou. 3. August

Judicial 1000 Sept.

No. 1031.

Extract from Lou.

Sept 1000.

St. No. 1662.

29th 30.

Judicial Letter to Cong.
7th Sept. 13 of 1858
Para 13.