

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1294	Press
	4-5	~~Miss~~
Dated	22-7-1918	

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 28th September 1858.

Read again letter from the Sheriff of Madras, dated 18th August 1858, No. 68, and recorded in Diary to Consultation, 31st August 1858.

No. 4. Read also the following letter from J. R. BOYSON, Esq., Honorable Company's Solicitor; to the Chief Secretary to Government, dated 3rd September 1858, No. 468.

SIR,

E. M. C., dated 28th August 1858, No. 1194, Judicial Department.

1. I have the honor to acknowledge the Extract from Minutes of Consultation noted in the margin, and John Hankin's Original Petition which accompanied it.

2. I submitted same together with the Brief held by the Advocate General on behalf of the late prosecution against Hankin for the Advocate General's further consideration, and have since conferred with him thereon, and

3. I now forward for the information of Government, a copy of his observations.

4. I return Hankin's petition above referred to.

COPY—OPINION.

I remember this case perfectly, what the prisoner means by saying that he had *not* proper legal advice during "the trial," I know not, the fact was the very reverse; he had Mr. Branson as his Counsel, who defended him, gratuitously, having offered to do so when he (as did every one else) believed that the prisoner would be tried for murder, or at least manslaughter, as he ought to have been, and would have been but for some extraordinary observations addressed by Mr. Justice Davison, to the Grand Jury, amounting almost to a direction to them *not* to return a True Bill for *manslaughter*; whereas, I have no hesitation in saying that the evidence in the depositions would have fully supported a conviction for *murder*; and I have seldom met with a more aggravated case of manslaughter. In passing sentence, Mr Justice Davison, however, dwelt strongly on the brutal, cowardly and unprovoked nature of the assault, *so* strongly, as almost to increase the surprise I felt at his having urged the Grand Jury to throw out the charge of manslaughter, I therefore must add that, I never knew a case less deserving of favorable consideration by the Right Honorable His Lordship the Governor in Council.

Nevertheless, the prisoner is entitled to have all the circumstances of his case fully considered, and I know that Mr. Justice Davison inflicted on him what he considered the utmost limit of punishment, and it certainly was not brought to the notice of the Court, that the sentence, of two years' imprisonment in Her Majesty's Jail, brought with it a fine of Rupees 700, in the shape of forfeiture of pension during that time, and it may well be, that the Judge would have passed a lighter sentence had he been aware of this fact.

It is certainly much to be regretted that this consequence of the sentence should entail so much privation upon innocent persons as the prisoner states it does upon his widowed daughter and her three children; but I conceive that *this is not* a ground which could properly enter into the consideration of Government in mitigating the prisoner's sentence. All Criminals bring misery and many privation also, on innocent persons connected with them when their career of crime is arrested by the law, but no Court yet ever allowed such matters to weigh in mitigating the punishment of their offences.

The fact however of the sentence actually passed carrying with it another punishment not brought to the notice of the Court, may, I conceive, be properly considered as a ground of mitigation, to such extent as Government, under the circumstances, shall think just and proper under Act XVIII of 1855.

(Signed) THOS. SYDNEY SMITH,
Advocate General.

September 2nd, 1858.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

Sept. 2nd 1858. (Diary 25)

JR

Fort St. George, Judicial Consultation, 23th September 1858.

No. 5. ORDER THEREON, No. 1294; dated 22nd September 1858.

The Government see no reason for mitigating the sentence passed by Her Majesty's Supreme Court on John Hankins for the assault committed by him on Elizabeth Martyn: but, in consideration of the distressed circumstances of his family, they authorize the disbursement to his widowed daughter, from the 1st of September Instant, and during his imprisonment, of a moiety of his pension for the support of herself and her children.

(Signed) T. PYCROFT,
Chief Secretary.

Ed. F. Cartledge

*Judicial Department
F. 1858.*

*From the Honble Comptroller's Solicitor
Dated 3rd September 1858
For order*

*I do grant mitigation to the
extent of allowing the
Prisoners family to draw his
pension during the term of
his sentence.*

*Can we do this - is it not
one of the Pension by a local - if
it can be done I would allow
his widowed daughter to draw
a portion of the pension - say half
that is 15 - half*

umber 18

858.

Majesty
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Judicial Department

No 1294

Extract from the Minutes of Consultation
dated 22nd September 1858.

Read again Letter from the
Sheriff of Madras dated 18th Aug 1858
68 and recorded in No 6000. 37. 1858.

Read also the following Letter
from the Hon'ble Comptroller
(Here enter 22 Sept 1858 No 468)

The Court see no reason for
mitigating the sentence passed
by the Supreme Court on
John Hankins for the assault
committed by him on Elizabeth
Martyne; but, in consideration
of the distressed circumstances
of his family, they authorize
the disbursement to his widow
and daughter, from the 1st of
Sept instant and during his
imprisonment, of a sum
of his pension for the support
of herself & her children.

Sheriff of Madras Disf. 24th
Military Dept. with Inc No 468 - Disf. 25th

And Sept. 27-13. 28000.
at 11558
P. 34835

And Sept. 28. 28. 28000.
P. 34835

21/57 57

28/10/94

28/10/94
28/10/94
28/10/94

There are no reasons for making
the sentence properly by
the Supreme Court and
I am standing for the
court committed by him on
the 1st of April 1894 and
during his imprisonment of a
month of his pension for the
purpose of himself and her
children.