M.R.O. 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 45 Press ~~Mis~~

24-25

Dated 11-1- ~~19~~ 1878

Not to be folded or roughly handled

No. 24. Read the following letter from A. W. PHILLIPS, Esq., Commissioner at Madura; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated 17th December 1857, No. 501.

SIR,

I have the honor to forward herewith the records of case No. XXI of 1857, disposed of by me as Commissioner under Act XIV of 1857, and trust they will meet with the approval of Government.

(Signed) A. W. PHILLIPS, *Commissioner.*

Calendar of persons committed by the Acting Magistrate of Madura, to take their trial before A. W. PHILLIPS, Esq., Commissioner for the trial of heinous offences, under Act XIV of 1857.

No.	Names of the parties.	Charges and dates on which they were originally preferred.	Date of Apprehension.	Date of Leaving the Talook.	Date of Arrival.	Names of the prosecutor's witnesses.	Abstract of the examination and dates of commitment for trial.	Names of the witnesses on the part of the defence.
XI	Cundasamy, prosecutor. *Versus* Chinna Chinnan, prisoner.	*Robbery with wounding.* With having at about 1 A. M. of the 20th November 1857, in company with some 20 others (two of whom subsequently severely wounded the prosecutor with sticks) entered the house of the prosecutor, situated in the village of Putoor, Talook Meyloor, and robbed therefrom property to the value of Rs. 497, of which, property valued at Rs. 15-12 Annas was in prisoner's possession when apprehended. The charge was originally preferred on the 20th November 1857.	20th November.	2nd December.	Do.	1 Tunga Moottoo. 2 Palaney. 3 Caroopanen, and 4 Toonaraputhy.	The prosecutor details the robbery, adding that in his pursuit of the robbers, who decamped on hearing the approach of the villagers, he seized and held fast the prisoner till the arrival of the witnesses. Prisoner was carrying on his head a bag containing property valued as above, which he claims as his own. 1st witness, who slept in the verandah of the prosecutor's house, confirms the above. 2nd and 3rd witnesses, hearing the noise, came to the prosecutor's house and saw him at a little distance seizing the prisoner, in whose possession was some of the stolen property. They as well as 1st witness, identify the recovered property as belonging to the prosecutor. 4th witness arriving later, found the prisoner with the stolen property in custody of the 2nd witness. The prisoner confessed before the Sub Officer, but pleads not guilty before the Head of Police and Acting Magistrate. The prisoner named no witnesses in defence. On the above grounds, the prisoner was committed to take his trial before the Commissioner's Court, under Act XIV of 1857, on the 5th December 1857. Despatched 7th December.	None.

N. B.—It having been brought to the notice of the Acting Magistrate by the Acting Sub Judge, that this case has been improperly sent up to him by the Head of Police, the Acting Magistrate took up the case himself.

(Signed) A. HATHAWAY, *Acting Magistrate.*

Commissioner's Court No. XXI.—Magistrate No. XI.

Robbery with wounding, taken up at 11 A. M. 11th December 1857.

Prisoner, Chinna Chinnan, pleads not guilty.

Prosecutor Cundasamy affirmed.—On night of 6th Kartiki one Thursday night I was sleeping in my house, about 1 P. M. I was awoke by dogs barking, and came out to see what it was, I came out into my open yard, I saw 7 or 8 persons there, 2 of them whose *features* I recognized seized me, 4 or 5 others then entered room out of which I came, torches were lighted inside, I don't know how but 2 came out with torches. I then saw 20 persons on the west side throwing stones to prevent people coming, among them I identified one Mootien a goldsmith of my village. Village people came up and began shouting for arms, but I was inside yard and could not see, fearing the people the robbers who had gone into my room came out bringing 2 large bundles and a small box of jewels, the prisoner was one, the 2 men who had held me also frightened let me go and fled, prisoner was last, and I heard the outside people saying "don't let go, don't let go," summoning courage I rushed forward and seized prisoner when we both fell, prisoner undermost, prisoner cried out and 2 of the robbers coming back beat me with sticks and laid my head a very severe cut open, while so 2nd and 3rd witnesses came and said don't let him go, the 2 robbers then ran off, prisoner however seized my throat and I was obliged to let him go, 2nd and 3rd witnesses then seized prisoner. I got as far as the entrance and there fainted. Curnom, Natumgar and others were among the crowd and they asked prisoner who he was and examined the bundle, and in it found the brass utensils before the Court, they are mine, the sticks and torches before the Court are some left by the robbers.

By Court.—1st witness slept in the house and my females in the eastern rooms, 1st witness frightened hid himself and so escaped beating, there was not time for the ill-treatment of the females, so they escaped, about 490 Rs. of property was lost, only 15 Rs. worth found, I don't know how it was none of the village people seized the robbers as they fled, I can't say positively whether there were any weapons beside sticks.

1st witness Tunga Mootho.—I am a smith, I was sleeping in prosecutor's house, I always do so, at mid-night heard alarm, got up and saw lighted torches and robbers and prosecutor held by 2. I was frightened and hid myself in verandah behind some grain pots, people of the village were by this time shouting for arms, I then saw 7 or 8 running out from the north side of the yard with bags and a box, prisoner was last with a bag, prosecutor ran up to him (he had before then been liberated,) and seizing him both fell down, 2 robbers who had been before returned and began beating prosecutor to make him let prisoner go. Prosecutor's cries brought 2nd, 3rd and 4th witnesses, 2nd and 3rd first, and seized prisoner. prosecutor then got up and staggered to the entrance passage close to where I was. Village Officers came up, asked the prisoner who he was, he said his name was "Carooppen," I am almost certain one Moottien was among the robbers, the property before the Court was found in a bag where prisoner was seized, and Natumgar and Curnom examined bundle, the property is prosecutor's, the sticks and torches were also found there and were left by the robbers.

2nd witness Palany affirmed.—I was on the night in question sleeping in my house about 200 yards from prosecutor's, was roused at mid-night by alarms, came out and listened and found it proceeded from prosecutor's house, I went there but found people and torches and stones being thrown, frightened I kept at a distance, I cried out and other villagers came, we shouted for any fire arms, among them 3rd and 4th witnesses, I heard cries that a robber was seized, we rushed forward and said don't let him go, and we drew close to house, some 8 or 9 robbers rushed out, inside yard I saw prosecutor and prisoner struggling on the ground and a bag close to them, prosecutor let go, and we seized him (prisoner,) I seized him first, village Officers came directly afterwards, the property before the Court is prosecutor's, and was found in the bag, the sticks &c. were also found in the yard and left by robbers.

I cannot say who the other robbers were.

3rd witness Caroopanen affirmed.—I was sleeping in my house, a neighbouring one to prosecutor's, roused at mid-night by cries, I found on looking out that stones were being pelted and people collected calling for fire arms, 2nd and 4th witnesses also came up, the people throwing stones ran away, we went towards the house and saw 7 or 8 people run out, don't know who, we found inside yard prosecutor and prisoner on the ground struggling, prosecutor cried out that he

was beaten, at the same time he let go, and we seized the prisoner, close by a bag and a stick was found also the sticks and torches before the Court, the property found in the bag is prosecutor's, I know it is his, as I have often seen, Natumgar then and there took prisoner into custody.

4th witness Toonaraputhy affirmed.—I live 200 yards from prosecutor, I was sleeping and at mid-night was roused by cries, found cries to issue in direction of prosecutor's house and I heard his cries, I came out and raised alarm. I saw 2nd and 3rd witnesses running before me, stones were being pelted we heard prosecutor crying abah, abah, we found prosecutor and prisoner down on the ground, and we captured him (prisoner,) we saw 7 or 8 robbers running out, can't say who they were, torches and sticks were found left by the robbers.

By Court.—The people pelting stones and others finding us all coming fled, property is that of prosecutor, and I know it well.

Defence.—I did not go to commit robbery, but I was tired and went to sleep in corner of prosecutor's house, at mid-night prosecutor and others came up and asked who I was, I had been reaping at Palaymedoo, 10 miles from prosecutor's house and 20 from my own village, I have no witnesses to prove this.

By Prosecutor.—Yes, I was punished once before, but I was very young.

Upon the above evidence I convict the prisoner of the crime with which he is charged and under Regulation XV, Section IV, Clause 3, 1803 and the powers vested in me as Commissioner by Act 14, 1857, sentence him to 7 years' imprisonment with hard labor and irons and to receive 100 lashes with a cat-o'-nine-tails. I also under Act 16, 1850 impose a fine on him of 100 Rs. the same to be levied by distress and the proceeds paid to prosecutor.

Closed 2 P. M., 11th December 1857.

(Signed) A. W. PHILLIPS,
Commissioner.

No. 25. ORDER THEREON, No. 45; dated 11th January 1858.

* Cundasamy, Prosecutor. *Versus* Chinna Chinnan, Prisoner.

This is a case* of "Gang robbery with wounding." The Government observe that, on its being committed to his Court in the usual way by the Head of Police, the Acting Subordinate Judge, in lieu of filing it on his Calendar and committing it—if the evidence are sufficient—for trial by the Session Judge as he was bound to have done, remitted it to the Magistrate, by whom it was finally sent up to the Commissioner.

2. The course taken by the Acting Sub Judge was altogether irregular. The Foujdaree Udalut will bring these remarks to that Officer's notice.

(Signed) T. PYCROFT,
Chief Secretary.

Rnd. F. Cartedge,

(5.

Jurisdiction —

which is deemed to destroy all
an Appeal — that it is absurd
to suspend Justice — that in
this instance we have the Appe-
al this Court will not entertain
Issued of delay —

The case was first submitted
by the Plaintiff, & the Subject
by that authority to the decision
of this Court — upon the
question of Jurisdiction & eventually this Appeal
of the Case submitted to the Sub-
ject — Wdl

Just Dd to the Augt 30th June No 9
of 1858 - Rec 8.

The case was
originally sent
up by the Court
to the Full Court
when the
Subject of Appeal
to have declared
to decide it —
This should be
decided by it
Appeal — the
Appeal of the Sub-
Salaries & Allowances
C 22 Dec
R 4 Jany 58
2 Bonds was 24

By Dy to 1857 Cons 12th Sept
Judicial Department

No 115

From
The Commissioners of
Customs.
To
The Chief Secretary
to Government
Fort St George.

Dated 17th December 1857
Rec 21

No 501

Enclosures Jud Dept
No 2122

Forwarding, After Records
in Cause No 21 of
1857. under date 14th of
1857.

70

Judicial Dept

No. 15

Ent. 11th January 1858

Record the following Cases from the Commissioners under Act XIV of 1859 in Madura } Recd. entered No. 501 11th Decr 57.

× Chinnasawmy Pros. versus Chinna Chinnan Prisoner.

This is a case of "Gang Robbery with Wounding". The Govt observe that, on its being committed to his Court in the usual way by the Head of Police, the acting Subordinate Judge, instead of filing it on his Calendar† as he was bound to have done, re-mitted it to the Magistrate, by whom it was finally sent up to the Commissioner.

2. The course taken by the Acting Judge was altogether irregular. The Foujdaree Adalut will bring these remarks to that Officer's notice.

J.G. 5/1-58.

† and committing it if the evidence was sufficient for trial by the Sessions Judge.

To the Hon: Madras Court of Madura with 2 Encls:- } Disp. 23d

In Dy to Cons. 12th Sessions
Judicial 1857. Defendt

Jud Letter to Engd 30th June
1859. Dna 8.

No. 15

Extract Minutes of Cons.

8/11 January 1858

24 – 25