

MADRAS RECORD OFFICE.

Government of Madras.

Indirect DEPARTMENT.

G.O. No.	557	Press
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Dated	7-5	19

Not to be folded or roughly handled

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Fort St. George, Judicial Consultation, 11th May 1858.

No. 12. Read the following letter from Captain J. G. RUSSELL, Officiating Agent to the Governor of Fort Saint George at Kurnool; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Calwah, 9th April 1858, No. 5.

SIR,

I have the honor to forward copy of a report on a charge of murder lately submitted by me for the final orders of the Foujdaree Udalut.

2. The two first prisoners were sentenced to be hanged, and the same was carried out on the 23rd Ultimo, the rest were released on that charge.

3. There is no doubt that the 5th prisoner is a stranger in this part of the country, usurped the Enam lands now in his possession in the Cuddapah District, and that he is a dangerous character, surrounded with men of the same description.

4. Under these circumstances, I have deemed it my duty to detain him till I have ascertained how he may be dealt with.

From Captain J. G. RUSSELL, Officiating Agent to the Governor of Fort Saint George at Kurnool; to C. F. CHAMIER, Esq., Register to the Court of Foujdaree Udalut Fort Saint George, dated Calwah, 13th January 1858, No. 1.

SIR,

In accordance with the instructions contained in Clause VI of the first of the Rules for the administration of Criminal Justice in this Province, I have the honor to submit for the final decision of the Court of Foujdaree Udalut, a translation of the record in a trial before the Court, in which the prisoners are charged with "wilful murder and theft." In having during the night of the 10th September 1857, in the Temple of Mahanundy, in the Talook of Nundial, with malice aforethought, killed one Poolgherry Bawajee aged about 40 years, by assaulting and severely beating him with fists and squeezing his throat; and with having at the time and place aforementioned stolen four brass utensils, valued at Rupees 2-8, the property of the deceased.

Criminal file, No. 29 of 1857.
Agent to the Governor at
Kurnool.

Crime.
Wilful murder and theft.
Prosecutor.
Government.

Prisoners.
1st Hommoorgah.
2nd Waddiah Appigah.
3rd Tumbal Sambiah.
4th Chinna Nundy.
5th Narainsawmy.
6th Tumbal Veeranah.

2nd Count.

1st prisoner with having at 9 o'clock P. M., on the 1st October 1857, in the jungle of Nundy-pully, Nundial Talook, been also found in possession of the aforesaid property, knowing the same to have been stolen by murder.

2. The Calendar contains a full abstract of the evidence recorded in this trial, from which the following facts appear to be established.

3. It appears that on the morning following the date of the murder, the 3rd prisoner (a worshipper of the Pagoda in which the murder was perpetrated) gave information of the occurrence to the inhabitants of the villages adjoining the place, stating that on going to the Temple as usual, he found the deceased lying dead in the manner described by the 9th witness, before the Court, and 6th, 7th, 8th, 9th, 10th and 12th witnesses before the head of Police of Koil-goontlah, as well as the paper of Inquest held on the body, and that the head of Police of Nundial on the report of the Village Officers proceeded to the spot and inspected the body the second day after the event, but that in consequence of objections being raised by the inhabitants of the adjacent villages regarding the jurisdiction of the spot, he withheld proceeding any further into the matter and reported the same to me. On this, being myself aware *by practice* that the spot was within the limits of the Kurnool District, I issued an Istehar offering a reward to any person giving information and tracing the perpetrators of the crime, and in communication with the Magistrate of Cuddapah directed the head of Police of Nundial to use his best endeavours to discover the parties concerned.

4. In the mean time the Acting head of Police of Koilgoontlah in the Cuddapah District, who is supposed to have been much interested in the welfare of the 5th prisoner, a self styled Sunnassee, took up the case, and on a thorough investigation released the parties accused before him, as it will appear by the record of the proceedings held before him, the same having been since handed over to me by order of Mr. Murray.

5. The head of Police of Nundial then caused the 1st prisoner to be apprehended on suspicion, he having absconded from his usual place of residence immediately after the occurrence, 1st prisoner then confessed his own guilt and criminated the 2nd prisoner. Subsequently when giving up from the places of concealment the articles Nos. 1 to 4 before the Court, he criminated the 3rd prisoner also of having aided and abetted the crime.

6. The 2nd prisoner who was previously tried and released by the head of Police of Koilgoontlah, having then been reapprehended by the head of Police of Nundial, confessed the crime and stated in detail the manner in which it was perpetrated and that the 1st, 3rd, 4th and 5th prisoners and a stranger (name unknown) were also concerned in the affair. This prisoner further described the place where the stolen property had been buried; being the exact spot which had been pointed out by 1st prisoner and where the property was found.

7. Both of these prisoners when arraigned before the Court, again confessed their guilt of the crime laid to their charge.

8. The 3rd, 4th and 5th prisoners having been apprehended denied the crime. The 6th prisoner who was apprehended on the description given by the 2nd prisoner as being concerned also denied the crime.

9. This case has presented unusual difficulties arising from the isolated position of the Pagoda in which the murder was committed, situated in a dense jungle, removed far from any habitation of man and from the influence of the 5th prisoner.

10. The deceased Byraghee had resided in the Pagoda of Mahanundy 10 years quite alone, he was much respected by all those who knew him, the only enemy he had being the 5th prisoner, a self styled Sunnassee, also a stranger in this part of the country, having come, it is said, originally from the Nizam's country some 17 years ago, by intrigue, he managed to get charge of a charity Enam and by various devices money sufficient to keep a sort of Court in the village he selected for his head quarters, the race he protected and fed was composed of the very worst characters, he is so much feared that it is impossible to get witnesses to speak against him, but I am fully aware of his notorious character and of the enmity he entertained towards deceased.

11. The day after the murder of the deceased Byraghee, suspicion fell universally on this individual (5th prisoner), his enmity towards deceased being well known, and his endeavours to get rid of him.

12. Subsequently on the apprehension of 2nd prisoner, it was discovered that 5th prisoner was present, had instigated the murder, and himself struck deceased on the mouth so violently as to break the front teeth, which were found lying on the ground near the corpse.

13. Again the 3rd prisoner who was charged at the same time by 1st and 2nd prisoners of assisting, though living in a different village, had been residing with 5th prisoner during the month preceding the murder, and the 3rd prisoner was recognized by 1st witness as being one of a party (1st prisoner also was recognized at the same time by the same witness) of 5 or 6 people returning through the jungle late on the night of the murder and from the direction of the Pagoda. Besides a cloth was found afterwards in his possession bearing such evident marks of blood that the Tahsildar of Koilgoontla in the Cuddapah District thought it not necessary to retain this important evidence as long as the murderers were at large but yet necessary to cause Mahazurnamah to be written declaring the marks were not blood, and the cloth disappeared.

14. It is the more strange that the 2nd prisoner who confessed freely when apprehended, before the head of Police of Nundial and before me, besides, describing the place where the stolen property (proved to be that of deceased) had been buried, denied before the head of Police at Koilgoontla who, without jurisdiction, had taken up the case and dismissed it. The questions put to the accused and the whole of the proceedings deserve to be read.

15. The 6th prisoner was not apprehended till the 10th October 1857, he is an inhabitant of Jillala in the Baugaupilly Talook and was seen in the village where 5th prisoner resides at present on the day of the murder up to the hour of 5 p. m. and took his meal that day in his house, he was arrested on a description given, he was confronted with the other prisoners they denied having ever seen him; but from their manner and the fact of this stranger having been tracked from village to village for so many days, by the description given by 2nd prisoner, his having been seen the day of the murder when it was said he was living with 5th prisoner, leaves no doubt of his having been the stranger both the 1st and 2nd prisoners declared had besides those originally arrested been of the party who murdered deceased.

16. The sacred character of deceased, the universal respect entertained for him with one exception, the bad character of the parties concerned in his murder, there can be no doubt but that a very influential party indeed and a most bitter enemy only could have instigated such a foul murder of an inoffensive religious man living in solitude and on occasional charity, the animus which actuated one at least of the murderers is fully shown by the cowardly act of knocking to pieces the mouth and teeth of deceased, when if simple robbery had been their object, taking his life with such barbarity would not have been resorted to.

17. From all these circumstances as detailed above, I have no doubt who was the real instigator and abettor of the murder, but unfortunately evidence is wanting legally to establish the guilt of the 3rd, 4th, 5th and 6th prisoners. But what has been elicited during the trial is sufficient to prove that these men are dangerous characters and that it is necessary the community and Government should be protected from their acts and crimes. The 5th prisoner attempted and failed to establish an alibi.

18. I have tried to trace the history of the 5th prisoner but on enquiry being made through the Resident at Hyderabad, on the information given himself of his former place of residence, nothing whatever is known with regard to him in that part of the country, and there is no such village as the one he stated had been that of his residence. As however he acknowledges having come originally from the Hyderabad country, I would (although I am aware that it is not in accordance with the strict Rules of the ordinary Courts of Justice) beg to recommend, this being yet an Agency, that the 5th prisoner be sent back to that country to the care of the Minister of Hyderabad and that the 3rd, 4th and 6th prisoners should be sentenced respectively to find 2 sureties each in a sum of Rupees 100 for and during the period of 3 years under Clause 1st, Section IV, Regulation II of 1822.

19. With regard to the 1st and 2nd prisoners evidence will be insufficient to prove against them by any eye-witness, the actual commission of the crime, but adverting to the voluntary confessions given by them before head of Police of Nundial and Court; to the discovery by ^{* By 4th and 5th witnesses before the Court.} their means of property proved* to belong to deceased, although there is no evidence to prove the theft itself and to the fact of 1st prisoner having been identified by voice by 1st witness late on the night of the murder in company with 3rd prisoner and some others from the direction of the Temple, I consider the charge has been fully established against them (1st and 2nd prisoners.)

20. Hence it remains for consideration whether the murder was deliberate or otherwise.

21. In his statement before the Police, 1st prisoner admits having gone to the deceased as desired by 2nd prisoner with the idea of his possessing money and by assaulting and beating him committed the murder. The 2nd prisoner states before the Police that in hope of the reward alleged to have been offered by 5th prisoner he committed the crime. Although there are considerable variations between the 1st and 2nd prisoners in their statements before the Police, yet it may be presumed that no resistance having been used by deceased to escape his being robbed if robbery only had been the object, there was no actual cause to kill the deceased except by a hope of reward, which being the cause of the cold blooded murder, it becomes a deliberate one. However evidence having failed to bring the guilt home to the principal and the 1st and 2nd prisoners being only agents and having had no malice towards the deceased, I am of opinion, if the Judges concur with me, respectfully to recommend that the extreme penalty of the law may be commuted to transportation for life in the case of 1st and 2nd prisoners under Section X, Regulation VIII of 1802, and Clause II, Section VI, Regulation I of 1825.

Fort St. George, Judicial Consultation, 11th May 1858.

22. In conclusion, I beg to bring to the notice of the Court that this being a very intricate case, the record of proceedings could not possibly be made according to the Rules prescribed by the Court of Foujdaree Udalut in the Circular Order No. 211, and the Talook proceedings also are likewise unnecessarily long, due notice will be taken in future cases.

(A true Copy.)

(Signed) J. G. RUSSELL, Captain,
Offg. Agent to the Govr.

No. 13. ORDER THEREON, No. 597; dated 7th May 1858.

The Government can see no necessity for this reference to them.

2. The Court of Foujdaree Adawlut it would seem have not adopted the Agent's suggestion regarding the 5th prisoner and the Government have no orders to give respecting him.

3. If the Agent has reason to believe him to be a dangerous character and unfit to go at large without security, it is open to him to hold the prisoner to security under the ordinary regulations. There is nothing to show him to be formidable in a political point of view.

4. The Collector of Cuddapah will be directed through the Revenue Department, to inquire into the tenure of the Enam in his District said to be held by the prisoner.

(Signed) T. PYCROFT,
Chief Secretary.

Handwritten notes in a different script, likely Telugu, covering the right side of the page. The text is written in cursive and appears to be a continuation or related document.

The report he had
had in view - urging
his wife the trouble of
writing his hardly well
letter to the 1st
& in expecting us to read
it - Well -

15

He had been writing
it when he was ill
and was very weak

4E

Judicial Department

M

Extract from the Minutes of Consultation

Dated

Read the following letter from
the Off. Agent at Kurnool
(Here enter 9th April 1884 5)

16

1. The Govt. would wish to be in-
formed of the orders, if any, passed
by the Jaydara Magistrate on the
case referred to in the above letter,
and of what notice they took
of the counsel of the Head of Police
of the Kailasbottah Talook.

See

Well

2. The 5th prisoner in this
case Govt. consider might be
detained in custody for the
present, and enquiry made of
the Magistrate of Gaddah,
but not thro' the Head of Police
whether he is regarded as a
dangerous character there.

Under what
case the Govt. were
the order
Well

Not as a prisoner
water - simply as a

D.F. 1. 16/4/84

Copy to Agent at Kurnool

A handwritten signature, possibly reading "L. H.", written in dark ink at the bottom left of the page.

11/11/11

C17.4/4.
R2627 "
C28-"
R. 6 May 129113.

JS

Feb 28

With an order

17. April
22 "

at 5
Honr, Captain J. G. Russell,
off. Agent to the Governor of
Fort Saint George
at Kurnool
Lt. J. Dyeroff Esquire
Chief Secretary to Government.
Fort Saint George.

Sir, I have the honor to forward
copy of a report on a charge of murder
lately submitted by me for the final
order of the Honorable Madarut.

2. The two first Prisoners were
sentenced to be hanged, and the same
was carried out on the 28th Ultimo,
the rest were released on that charge.

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5th Prisoner is a stranger in this part of
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District, and that he is a dangerous
character surrounded with men of
the same description.

4. Under these circumstances
I have deemed it my duty to detain
him till I have ascertained how he
may be dealt with.

I have the honor to be,
Sir,
Your most obedient servant,

Kurnool District
Agent's office on
Circuit at Calcutta
9th April 1858.

J. G. Russell Captain
off. Agent to the Gov.