

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	882	Press
		~~Mis.~~
-69-		
Dated	1-7-	1968

Not to be folded or roughly handled

1E

Fort St. George, Judicial Consultation, 2nd July 1858.

Read the following letters.

No. 69. From J. J. COTTON, Esq., Commissioner of Masulipatam; to T. PYCROFT, Esq., Chief Secretary to Government, Judicial Department, Fort Saint George, dated 2nd June 1858, No. 33.

SIR,

1. With reference to an Extract from the Minutes of Consultation, dated 27th July 1857, para. 6, I have the honor to forward herewith the record of case No. 3, examined before me, for the consideration and orders of Government.

2. Twenty-nine prisoners were forwarded in the first instance from Hyderabad through the Acting Joint Magistrate, charged with the attack upon the town and talook Cutcherry of Juggiahpetta, during which 5 persons were killed and property to a large amount carried off, as detailed in the count under which these prisoners were arraigned, upon a review of the record held already, I determined on releasing the 15th, 16th, 17th and 18th prisoners (who were evidently employed as coolies with the gang who committed the attack,) and made them 9th, 10th, 11th and 12th witnesses in the case, (vide Extract from Proceedings Commissioner's Court, dated 8th April 1858.)

3. The examination was commenced on the 5th April. The 14th and 15th witnesses had been admitted as approvers at Hyderabad, and were sent for by the Acting Joint Magistrate on the 23d March, and in accordance with a request from me, on the 7th April, further evidence was sent for, that might be forthcoming through the Sepoy guard of the 9th Regiment M. N. I., who were on duty at Juggiahpetta at the time of the attack, one of whom received three sword-cuts across his shoulder and back of the neck; and who was understood to be able to give valuable evidence in the case under trial.

4. The 14th and 15th witnesses arrived only on the 10th of May and were examined on the same day; and 2 out of the 3 Sepoys directed to attend this Court in compliance with my application did not arrive till the 26th and 27th Idem. These were however unable to identify any of the prisoners before the Court after all. The 3rd Sepoy has been detained in hospital at Bezorah on his way down, but I have not thought it advisable to postpone the trial of this case any longer, already too long delayed.

5. The 3rd witness had been secured many months back as having formed one of the party who attacked Juggiahpetta, and had been admitted as an approver. His evidence will be noticed hereafter.

6. The 1st, 2nd, 4th, 5th and 6th witnesses were Talook peons, the 5th being the Duffadar on duty at the Cutcherry at the time alluded to. The evidence of these even though received with caution, particularly in respect of their own exploits, is admissible *quantum valeat*, and has been in a degree corroborated by the statements made by the 3rd and 6th witnesses as well as by the approvers. However I resolved to reject that of the 6th witness which was evidently false from the determined manner in which he professed to recognize not only every individual of the prisoners before the Court, but the whole gang of 600, in whose company he was forcibly detained for a day and half after the robbery; during which they travelled a great distance, and it may be presumed with even greater speed than usual with such free-booters.

7. That of the 3rd witness would be liable to rejection for almost the same reason, but for what follows, I am under the impression that this witness was not an unwilling follower of the gang, the whole of his evidence seems to indicate this, and I believe that he was employed by them systematically as a Shroff or as he is called by the witnesses a Bakal, or merchant, probably to appraise the property looted, should it be necessary to do so at any convenient time. He it will be seen travelled in company with the gang for 15 days, and had a bullock with him all the way. I determined to test his evidence as closely as possible, while examining other witnesses, in order to see if it could be supported and how far it might be credited in the summing up of the whole case.

8. The evidence of the 3rd witness and that of the 14th and 15th witnesses (approvers) is of a piece. The latter evidently conceal a great deal of which they must have, from their position, been cognisant; for it is not to be credited that two such characters, immense powerful Dukhanees would have submitted to the orders directing them to wait *outside* of the town while

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Hyderabad. On comparing these statements with those given before me in the trial of case No. 3, there are such palpable contradictions apparent on the face of them that I have resolved to put these persons also on their trial for being concerned in the offence charged against the others, and to cancel the offer of pardon made to them on certain conditions which they had deliberately violated.

2. In their depositions before the Superintendent of Police, they both acknowledged having taken an active part in the robbery of the town of Juggiahpetta, before me they both declared they and some others were halted outside the town and had no hand in the attack. In this they continued to persist though repeatedly cautioned that such a statement was utterly incredible (I had no former depositions of these men at that time to guide me in conducting their examination). Again and again I addressed these men as to the conditions on which alone they would receive pardon, and called upon them fearlessly to depose the truth and the whole truth.

3. It now further appears that the witness *Laul Khaun* (14th) before the Superintendent of Police at Hyderabad pointed out 10 out of the 29 prisoners originally arraigned for the commission of the crime charged, (viz., 5th or 21st, both have the same name, 20th, *22nd, 23rd, *24th, *Released *25th, *26th, 27th, 28th and 29th) while before the Court he pointed out only 4 prisoners (viz., 4th, 8th, *22nd and 27th) and only two of these were indicated by him in his former depositions. In explanation he states that certain Rohilla Jemadars, whom he names, in Hyderabad threatened him and his relatives with extermination should he implicate those he had named in the former deposition, I believe there is no truth in this plea, for the simple reason that only a portion of those he named were Rohillas at all, and as far as I can observe, only one (the 5th) of any consequence.

4. The witness *Abdoolla Khaun* (15th) equally denies that he was personally concerned in the robbery of Juggiahpetta, having remained outside the town, while the gang plundered the place, and that he failed to point out those identified by him at Hyderabad from fear of the consequences threatened against him by the Rohilla Jemadars in the city, (before the Superintendent of Police he pointed out the 5th or 21st and 29th prisoners. Before this Court he identified 4th, 8th, 10th, *22nd, *25th, *26th and 28th prisoners.

5. Under these circumstances their evidence already recorded must be viewed with caution and taken into account only with reference to any other evidence that may be on record against the same prisoners. Such as it is, it is the best available, and I see no reason to modify the sentences already based thereupon.

6. With reference to the two individuals now alluded to, some irregularities, in the way in which "copies" of their depositions before the Superintendent of Police at Hyderabad have been transmitted for reference, prevents their being rightly received as evidence. I have applied direct to the Resident to forward to me their "original" depositions to be placed on the record of trial against these parties. At the same time I have no reason to suppose that the unattested copies forwarded are otherwise than genuine, and have examined the accused upon this conclusion, to avoid delay. These two individuals, *Laul Khaun* and *Abdoolla Khaun* having forfeited their claim to the pardon of Government, by having violated the conditions under which alone they would have been entitled to receive it, I consider that an example should be made of them, and would therefore sentence them also to a (mitigated) term of imprisonment for (5) five years, with hard labor in irons, with the sanction of Government.

7. The whole of the records in all these 3, 4 and 6 cases are submitted at once for the consideration of Government, as all the prisoners are concerned in one and the same charge, and it is become necessary to forward one of them, No. 3, under para. 6 of the Extract from Minutes of Consultation alluded to, in the opening of the present communication.

No. 70. From J. J. COTTON, Esq., Commissioner of Masulipatam; to T. PYCROFT, Esq., Chief Secretary to Government, in the Judicial Department, Fort St. George, dated 2nd June 1858, No. 34.

SIR,

1. With reference to Extract from the Minutes of Consultation, dated 27th July 1857, para. 6, I have the honor to submit herewith the record in case No. 4, before me for the consideration of Government.

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2. The prisoners accused in this case (11 in number) were said to form part of the same gang, as those alluded to in case No. 3, and the witnesses are the same as have been examined in the latter case.

3. The remarks made in my letter forwarding the record in case No. 3, are equally applicable in the present one.

4. It is understood that of the gang of 30 originally despatched from Hyderabad, 18 made their escape at a village beyond the frontier from their guards, who appear to have been most culpably negligent in their duty. Four of the runaways (5th, 6th, 7th and 9th prisoners) were shortly after re-apprehended. The matter appears to have been brought to the notice of the Resident by the Acting Joint Magistrate.

5. The whole of the prisoners committed for trial before the Court denied the charge preferred against them.

6. The evidence against the 1st prisoner rests on the statements of the 3rd and 4th witnesses, the 3rd declares that he was one of those engaged in the attack on the talook Cutcherry, as were also the 2nd, 5th and 6th prisoners.

7. The evidence against the 2nd prisoner is recorded in the statements of the 3rd, 4th and 5th witnesses.

8. That against the 3rd prisoner is confined to the 2nd witness.

9. Against the 4th there is the evidence of the 1st, 2nd and 4th witnesses. The 5th witness named him also before the Court, in lieu of the 6th whom he pointed out before the Acting Joint Magistrate, while the 3rd witness pointed the same prisoner out before the Acting Joint Magistrate, but passed him over before the Court.

10. Against the 5th prisoner there is the evidence of the 1st, 2nd and 3rd (before the Court) 4th, 5th, 7th and 9th witnesses, the 7th and 9th witnesses were talook officials, a Peon and Duffadar on duty at the Treasury at the time of the attack. This prisoner was one of those who made their escape on their way from Hyderabad, but was re-apprehended.

11. Against the 6th prisoner is the evidence of 1st, 3rd, 4th and 9th witnesses. He also made his escape as above and was re-apprehended.

12. Against the 7th prisoner the evidence of the 2nd and 5th witnesses. He also escaped and was re-apprehended.

13. Against the 8th the evidence only of the 2nd witness.

14. Against the 9th there was no evidence, but he was one of those who escaped on the road and was re-apprehended.

15. Against the 10th prisoner the evidence of the 1st and 5th witnesses.

16. Against the 11th prisoner only that of the 3rd witness.

17. The two Hyderabad approvers were examined as 10th and 11th witnesses, but failed to identify any of the prisoners before the Court, though professing to give evidence against six. However it is possible that the six prisoners in question formed a part of the runaways alluded to.

18. The 2 Sepoys of the IXth Regiment N. I., were also unable to identify any of the prisoners before the Court.

19. It appeared to me evident that the 7th, 8th, 9th, 10th and 11th prisoners were at the worst simply present among the gang as coolies, (one of them was a cripple,) and I directed the release of those at once who had not been implicated in the "escape." They would not or could not give any information regarding the attack, declaring only that they were not present and know nothing of the affair beyond hearsay.

20. Of the remainder, the only one about whom there might exist any legal doubt, as having been concerned in the offence charged, is the 3rd prisoner; against whom, as stated above, there is only the evidence of the 2nd witness. This witness however distinctly alludes to the prisoner, as having seen him both before the attack, armed with a carbine, sword and shield (as indeed it is probable most of the gang were armed) and also after it in possession of a sword-stick and a bundle of loot on his back. It is to be regretted this particular link in the evidence, viz., the sword-stick, is not before the Court. It is an article of such easy identification by its

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owner that this fact is the more to be deplored, from the failure of any further evidence against this individual. His evidence however such as it is seems to me credible, it was given by one of those released by me in case No. 3, who to the last remained so fearful of consequences should he implicate any of that gang, (with whom he had been originally committed for trial) that he could or would only point out *one* of that party as belonging to the gang who attacked Juggiahpettah.

21. I am of opinion upon a consideration of the evidence against these prisoners that the whole of them are guilty of the charge preferred against them, and would therefore sentence the 5th prisoner to death, by being hanged in the neighbourhood of Juggiahpettah, and his body to be afterwards gibbeted along with those similarly sentenced in case No. 3. I would transport beyond sea, the 1st, 2nd, and 6th prisoners, and sentence the 3rd and 4th to imprisonment with hard labor in irons for 14 years, in some distant part of the country.

22. In the event of these sentences of transportation and imprisonment meeting with the sanction and approval of the Government, I venture to suggest that the prisoners so sentenced be removed from this Jail with as little delay as may be, by a sea opportunity.

23. The "escape" charge is otherwise summarily disposed of.

No. 71. From J. J. COTTON, Esq., Commissioner of Masulipatam; to T. PYCROFT, Esq., Chief Secretary to Government, Judicial Department, Fort St. George, dated 2nd June 1858, No. 35.

SIR,

I have the honor to forward herewith record of case No. 5, for the information of Government, under the instructions contained in Extract Minutes of Consultation, dated 27th July 1857, para. 6.

No. 72. ORDER THEREON, No. 882; dated 1st July 1858.

1. With the first of these letters *Mr. Cotton* submits his proceedings in Case No. 3 and Case No. 6 on his file, as Commissioner. Connected with Case No. 3 are the following papers he encloses.

* In original and translate.

A. "Record of Trial" containing the depositions* of the prisoners, besides three appendices:

- (1) Shewing what witnesses identified what prisoners;
- (2) The various accounts given by the prisoners before the several authorities when called upon to plead, and
- (3) A plan of the scene of the outrage.

B. & C. *Mr. Cotton's* Notes.

D. Translate of the proceedings of the lower tribunals.

2. In this Case No. 3, there are 29 prisoners charged with Dacoitee and murder at Juggiahpettah on the occasion of the plunder of that town, and the Government Treasury therein by a band of *Rohillas*, last summer. The murdered men were Sepoys and servants of Government.

3. The 15th, 16th, 17th and 18th were released at once and made witnesses,† it appearing that they were Coolies merely, who had been coerced into joining the plunderers to carry their burthens.

4. There were also examined *two Sepoys*, who however could not identify any of the prisoners; *five Talook Peons* to whose evidence the Commissioner does not attach much importance; and *three approvers*, viz., witnesses Nos. 3, 14 and 15.

5. Fourteen of the prisoners admitted (at one or other of their examinations as appears from the appendices to the "Record of Trial" before referred to) a degree of complicity such as renders them amenable to the penalties of being, in some cases, "*accessory after the fact*," and in others "*principals in the second degree*."

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6. In paras. 15 and C., *Mr. Cotton* gives the proofs against each separate prisoner and concludes by proposing to hang in chains, Nos. 4, 5, 8, 10, and 14, at the town of Juggiahpettah; to transport for life Nos. 1, 2, 3, 6, 7, 9, 11, 12, 13; and to sentence to 14 years penal servitude in banishment‡ to distant parts of the country Nos. 20, 21, 23, 27, 28 and 29. He releases Nos. 19, 22, 24, 25 & 26, which, adding the four released at an earlier stage (para. 3, supra) completes the number.

7. In the Postscript to his letter, *Mr. Cotton* reports that on the receipt of copies of the approvers' (witnesses Nos. 14 and 15) testimony as given at Hyderabad, and a comparison of these papers with their evidence before the Court, he considers that the two men have broken faith with Government in keeping back from the Court, a full and particular account of all within their knowledge. He therefore quashes the conditional pardon promised to them, and putting them on their trial as accomplices sentences them to five years' imprisonment with hard labor in irons. Their Case is No. 6.

8. The second of the foregoing letters, gives cover to Case No. 4. This Case is connected with Case No. 3, the charge and the evidence is the same.

9. There are 11 prisoners. *Mr. Cotton* acquits Nos. 7, 8, 9, 10 and 11, on the finding that they joined the band from fear, and with no design of sharing in the proceedings that ensued. The rest he convicts. No. 5 he would hang in chains at Juggiahpettah. Nos. 1, 2 and 6, he would transport for life, and would sentence Nos. 3 and 4 to imprisonment in irons for 14 years, banishing them as early as possible, by sea, to some distant Zillah.

10. With the third and last letter the Commissioner transmits the Record of Case No. 5. Charge—"Escape from custody with wounding." Having discovered, at the conclusion of the trial, that the offence was not committed in "British Territory" nor by "British Subjects," the Commissioner released the prisoners on this charge.

N. B.—The prisoners are included either among the 29 charged with the Juggiahpettah outrage in Case No. 3, or among the 11 charged with the same offence in Case No. 4.

11. Before sanctioning the (several sentences involving) capital punishment recommended, the Government resolve to call upon the Commissioner to state in detail the grounds on which he has proposed that penalty in these particular instances.

12. As respects other parties convicted, the Government see no reason (with the exception presently to be noticed) to interfere with the sentences proposed, and the Commissioner will accordingly carry them out. The Convicts sentenced to transportation for life or penal servitude in distant Zillahs will be sent down by *Mr. Cotton* to Madras by sea. He will advise the Commissioner of Police and the Marine Board of their transit. Those included in the first class will be lodged in Jail here till they can be shipped to the settlement at the Andamans. Those included in the second class will be similarly detained until drafted off to such Jails as the Inspector of Prisons (with whom *Mr. Cotton* will at once communicate) may select for the purpose.

13. The exception alluded to in the previous para. is that of the two approvers (Case No. 6). Having made use of their evidence for the conviction of others, the Commissioner was not warranted in putting them on their trial. The Government therefore resolve to remit their sentences under Act No. XVIII of 1855.

(Signed) T. PYCROFT,
Chief Secretary.

order
apposite

of the first 14. And with re-
-ference to the above remarks,
I would respectfully recom-
-mend that the Sentence of
death should be passed against
the 4th 5th 8th 10th and 14th Prisoners,
to be carried into execution in
the neighbourhood of Juggiah-
-petta, and that their bodies
should afterwards be gibbeted
there, in chains. Of the re-
-mainder I would sentence the
1st 2^d 3^d 6th 7th 9th 11th 12th & 13th to be
transported beyond seas for the
term of their natural lives.
And the 20th 21st 23^d 27th 28th & 29th
to be imprisoned with hard
labor in irons for (14) fourteen
Years, in some distant part
of the country.

41. Should the above
sentences of transportation
and imprisonment meet with
the approval and sanction of
Government, I beg to suggest
that

that those Prisoners so sentenced
be removed from this jail
by a sea opportunity, as
speedily as may be practicable.

Masulipatam } I have the honor to be,
Commissioner of }
2nd June 1858. } Your most obed^t Servant.

H. Cotton
Commissioner

P.S. Since the foregoing
was written I have received
copies of the Statements given
by the two approvers (Saul
Kham and Shasolla Kham)
before the Superintendent
of Police at Hyderabad. On
comparing these Statements
with those given before me
in the trial of Case No 3 there
are

Judicial Dept
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The most satisfactory evidence
against the prisoners
in Case 3 & 6 is their
own confession. This
appears little or no doubt
that they were most of
them implicated in
the attack on the capital
& it is a known duty
imposing that some copies

} These enter Nos 33, 34 & 35
} being Mr Cotton's sub-
} is proceedings in Case No 3
} No 6 on his file at Comptrol.
} with Case No 3 are
} being papers he encloses.
} is called "Record of
} but it is merely the

670 ions of the Prisoners,
besides two appendices: (1)
showing what witnesses identi-
fied what prisoners: (2) the
various accounts given by the
Prisoners before several authori-
ties, when called upon to plead:
and (3) a plan of the scene of
the outrage.

B. & C. Mr Cotton's notes.

D. Transcript of the proceedings
of the lower tribunals.

Should be.

I am ready therefore to
support Mr Cotton's views.
in all respects. except - that
I support the Imperial French
Government - on which point I
had with you decided to
have the opinions of my
colleagues. as I cannot see
supremely clearly ^{in the evidence} the grounds
on which the Government ^{is} wrong.

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the distinction. which we
maintain with regard
to the same.

Stagnation in France. is al-
most out of date. Most
likely the practice of the
Government is to be
seen attended with success
and results. particularly
concerning half-civilized
people.

I imagine the committee

Should not take action
to suit the Addams
guilt and innocence

H.

June 19/58

I am quite persuaded that
it is absolutely necessary
to make severe examples
of these lawless robbers
whose only hope is reprieve
& leniency.

The Court appears to have
recommended for death
those agitators whom ^{considered to be} ~~the~~ obtain
the most exact evidence
all the

but
after on looking over
the depositions I am unable
to perceive that the
sentences to capital punishment
are worse than several
others. The case is sent up
in a very rough form. It
summing up, no judge
ment recorded.

I think the form should
be asked to state the
grounds on which he awarded
the different degrees of punishment.
21/6/58

Judicial Dept
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See entries Nos 33, 34 & 35

leaving Mr Cobden sub-
is proceedings in Case No 3
No 6 on his file at (Criminal)
with case No 3 are
being papers he encloses.

is called "Record of
but it is merely the
ions of the Prisoners,
besides three appendices: (1)
showing what witnesses identi-
fied what prisoners: (2) the
various accounts given by the
Prisoners before the several autho-
-ties, were called upon to plead:
and (3) a plan of the scene of
the outrage.

B. & C. Mr Cobden's notes.

D. Transcript of the proceedings
of the lower tribunals.

The four witnesses
were called upon to
give some grounds for
his former conduct
sentence of capital
punish death - as the
respects - the facts
passed by the four witnesses
are great & no grounds
appear to exist from
which any will be
drawn out from us
Now - it is seen that

now -

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Judicial Sept
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In respect to the affidavits
it is impossible to take
their evidence as has been
done by Mr. Potter & them
to turn round on them
& refuse to satisfy the law
of honor on which they
give it - I would have
upon the ground of
gross irregularity - set
aside the sentences passed
upon them - Well

over
I have entered Nos 33, 34 & 35
of the
Mr. Cotton sub-
is proceedings in Case No 3
No 6 on his file at Court
with case No 3 are
ring papers he encloses.
is called "Record of
" but it is merely the
ions of the Prisoners,

besides three appendices: (1)
showing what witnesses identi-
fied what prisoners: (2) the
various accounts given by the
Prisoners before the several authori-
ties, were called upon to plead:
and (3) a plan of the scene of
the outrage.

B. & C. Mr. Coburn's notes.

D. Transcript of the proceedings
of the lower tribunals.

Memo.

Judicial Dept
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Masulipatam Commissioner
under Act XIV of 1857.

Letter from J. F. Cotton Esq. } These enter Nos 33, 34 & 35
~~Left to the file (1857)~~ }

With his letter Mr Cotton sub-
mits his proceedings in Case No 3
and Case No 6 on his file as Comptroller.

Connected with case No 3 are
the following papers he encloses.

A. What is called "Record of
Trial" but it is merely the
depositions of the Prisoners,
besides three appendices: (1)
showing what witnesses identi-
fied what prisoners: (2) the
various accounts given by the
Prisoners before the several autho-
rities, were called upon to plead:
and (3) a plan of the scene of
the outrage.

B. & C. Mr Cotton's notes.

D. Translate of the proceedings
of the lower tribunals.

2. In his case (No 3) there are
29 Prisoners, charged with ^{Barotel &} murder
& robbing at Jaggiapet on
the occasion of the plunder
of that town & the Fort treasure
herein by a Band of Robbers
last summer. The murdered
men were sepoy & servants of
Govt.

3. The 15th & 16th & 17th & 18th were
released at once & turned into
witnesses, it appearing that
they were coolies merely, who
had been coerced into joining the
plunderers, as porters.
+ Nos 9, 10, 11 & 12.

4 There were also examined two
sepoys, who however did not identify
any of the prisoners; five Ca-
-look persons, who the Commis-
-sioner brands as waddy bag-
-gates; and three approvers,
viz, Witnesses No 3, 14 & 15.

5. Fourteen of the prisoners admit-
ted (at one or other of their ex-
-aminations - vide ^{as appears from the} appendices
to Record of Trial before referred

to) a degree of complicity
such as renders them amenable
to the penalties of being, in some
cases, "accepting a fine for the fact",
and in others "principals in the
"second degree".

6. In Paras 15 & C, Mr Colman
gives the proofs against each
separate prisoner, and ends
by proposing to hang in chains
Nos 4, 5, 8, 10 and 14 at the
town of Jaggiapet; to trans-
-port for life Nos 1, 2, 3, 6, 7,
9, 11, 12, 13; and to sentence
to 14 years penal servitude in
^{to} banishment to distant parts of
the country Nos 20, 21, 23, 27,
28 and 29.

He releases Nos 19, 22, 24, 25
and 26, which, adding the
four released at an earlier
stage (Para 3 supra) completes
the tale.

7. In the Postscript to his letter,
Mr Colman reports that, on the
receipt of copies of the approvers'
(Nos No 14 & 15) testimony as
given at Hyderabad, and a

+ to be conveyed to see
as early as possible.

Judicial Sept 19th

Memo
Masulipatam Commission
Case No 4.

Comparison of these papers with
their evidence before the Court,
he considers that the two men
have broken faith with Govt., in
keeping back from the Court, a
full & particular account of
all within their knowledge.

He therefore quashes the conditions
pardon promised to them, &
putting them on their trial as
accomplices [his brings us to
Case No 6, put up in his bundle,
but the 'second' appears to contain
nothing but the prisoners' defence]
and sentences them to five
years imprisonment with hard labor in
prison. Their Case is No 6.

8. Being now in the same dock
with the rest, the testimony of these
men cannot be received against
their fellow prisoners - but Mr
Cromwell weighs it "quantum valeat."

D.H.C.
17-6/58

9. The second of the foregoing
papers given over to Case No 4.

This

This case is connected with
Case No 3 - the charge is the same.

9. 2 - Here there are 11 Prisoners, & the
evidence offered is the same.

3. Mr Cromwell acquits Nos 7, 8, 9,
10 and 11, on the finding that
they joined the hands from fear, &
with no design of sharing in the
achievements that ensued.

The rest he convicts - No 5 he will
hang in chains at Juggiapet.

Nos 1, 2, and 6 he will transport
for life; and will sentence Nos
3 and 4 to imprisonment in prison for
14 years - having him as early
as possible, by sea, to some
distant galleys.

D.H.C.

17-6-58

10 - The third of the foregoing
papers handed in to the Court
of Case No 5.

Charge

Memo:

Judicial Dept

18

Case No 5

Manulipatam Commission.

Charge - "Escape from custody
with wounding"

It is discovered, at the conclusion
of the trial, that the offence
was not committed in "Pri-
-vate territory" nor by "British
subjects", the Commission
released the Prisoners on this
charge -

No. 13 - The Prisoners are un-
-der among the 29 charged
with the Jaffa post outrage
in Case No 3 - or among the
11 charged with the same of-
-fence in Case No 4.

D.S.F.
17-6/58

11- Before sanctioning the several
sentences involving capital
punishment, the Govt resolve to call
upon the Commissioner to
state in detail the grounds
on which he has recom.

partially in
these particular
instances

-mended that extreme
measures in the cases in ques-
-tion. whether these prisoners
appear to have taken a leading
part ^{in the attack,} to have committed un-
-derstandable acts of murderous outrage.
or otherwise.

12. In other respects, the Govt see
no reason (with the exception
presently to be noticed) to inter-
-fere with the sentences proposed,
& the Commr will accordingly
carry them out. The convicts
sentenced to transportation for
life or ~~in~~ penal servitude
in distant galleys will be sent
~~down~~ by Irrobbam to Madras by
sea. He will advise the Commr
of Police & the Marine Bd of their
transit. Those ~~included in the~~ first
class will be lodged in jail here
till they can be shipped to the
settlement at the Andamans.
Those included in the second
class will be similarly detained
until drafted off to such jails
as the Inspector of Prisons (with
whom Mr Cotton will abso-
-lute) may select for the
purpose.

13. The exception alluded to in the

+ remaining Prison is that Mr
Cotton's proposals (Case No 3) - and
that the Commr will not be bound to
carry out the sentences unless he is
satisfied that the prisoners are
guilty of the crimes charged against
them. - 25/6/58

Judicial Department
No 882

Extract from the Minutes of Consultation
Dated the 1st July 1858.

Read the follow-
ing letter from J. I. Cotton Esq.
Commissioner for Masulipatam
under Act XII of 1857.

(Here enter 2nd June 1858
Nos 33-34-435.)

With the first
of these letters Mr Cotton
submits his proceedings in
Case No 3 and Case No 6 on
his file, as Commissioner.
Connected with Case No 3
are the following papers
he encloses.

A "Record of Trial" con-
-taining the Depositions
of the Prisoners, besides
three appendices
showing what Witnesses
identified

* in original and translate

identified what prisoners.

/2/ the various accounts given by the prisoners before the special authorities when called upon to plead and

/3/ a plan of the scene of the outrage.

B.V.C. Mr. Cotton's Notes

D. Translate of the proceedings of the lower tribunals

2 In this case N^o. 3 there are 29 prisoners charged with Dacoitee and murder at Saggaipettah on the occasion of the plunder of that town and the Govt. Treasury therein by a band of Rohillas, last Summer. The murdered men were Sepoys and servants of Government.

3 The 15th 16th 17th and 18th were released at once and ^{made} ~~turned into~~ witnesses, it appearing that they were Coolies merely, who had been coerced into

* Nos 9-10-11- & 12-

15
into joining the plunderers to carry their burthens.

4 There were also examined two Sepoys, who however could not identify any of the prisoners; five Talook ^{to} Peons, whose evidence the Commissioner does not attach much importance to; and three approvers viz. witnesses N^{os} 3-14- and 15.

5 Fourteen of the prisoners admitted (at one or other of their examinations as appears from the appendices to the "Record of Trial" before referred to) a degree of complicity such as renders them amenable to the penalties of being, in some cases, "accessory after the fact," and in others "principals in the second degree."

6 In Paras 15 and C, Mr. Cotton gives the proofs against each separate prisoner and concludes by proposing to hang

* to be conveyed by sea as early
as possible.

hang in chains, N^{os} 4, 5, 8, 10, & 14 -
at the town of Aggiapett; to
transport for life, N^{os} 1, 2, 3, 6, 7, 9,
11, 12, 13; and to sentence to 14 years
penal servitude in banishment
to distant parts of the Country
N^{os} 20, 21, 23, 27, 28, and 29. He
released N^{os} 19, 22, 24, 25, and 26 -
which, adding the four released
at an earlier stage (Para 3
^{number} ~~supra~~) completes the list.

7 In the Postscript to
his letter, Mr Cotton reports
that on the receipt of Copies of
the approvers' / Witnesses N^{os} 14 & 15
testimony as given at Hyderabad,
And a comparison of these
papers with their evidence
before the Court, he considers
that the two men have broken
faith with Govt. in keeping
back from the Court, a full
and particular account of all
within their knowledge. He
therefore quashes the conditional
pardon promised to them, and
putting

108
putting them on their trial
as accomplices sentences
them to five years im-
prisonment with hard labor
in irons. Their case is N^{os} 6-
8. The second of the
foregoing letters gives cover to
Case N^o 4. This case is
connected with Case N^o 3 -
the Charge and the Evidence
is the same.

9 There are 11 Prisoners.
Mr Cotton acquits N^{os} 7, 8, 9, 10,
and 11, on the finding that
they joined the band from
fear, and with no design of
sharing in the ^{proceedings} ~~achievements~~
that ensued. The rest he
convicts. N^o 5 he would hang
in chains at Aggiapett. N^{os} 1,
2 and 6. he would transport
for life; and would sentence
N^{os} 3 and 4 to imprisonment
in irons for 14 years, banish-
ing them as early as possible, by
sea, to some distant Zillah.

With

10. With the third or
and last letter the Commissioner
transmits the Record of Case
N^o 5.

Charge: "Escape from
custody with wounding."

Having discovered, at
the conclusion of the trial,
that the offence was not
committed in "British
territory" nor by "British
subjects," the Commissioner
released the Prisoners on
this charge.

N. P. The Prisoners are
^{either} included among the 29
charged with the Jaggid-
pett outrage, in Case N^o 3,
or among the 11 charged with
the same offence in Case
N^o 4.

11. Before sanctioning
the several sentences involv-
ing Capital punishment the
Govt. resolve to call upon the
Commissioner to state in detail
the

proposed that penalty
in their particular
circumstances

the grounds on which he has
~~recommended that extreme~~
~~measure in the cases in ques-~~
~~tion, whether these prisoners~~
~~appear to have taken a~~
~~leading part in the attack,~~
~~to have committed individual~~
~~acts of murderous outrage, or~~
~~otherwise.~~

12. As respects parties
other ~~respects~~
convicted the Govt. see no person
(with the exception pre-
sently to be noticed) to
interfere with the sentences
proposed, and the Comptroller
will accordingly carry
them out. The convicts
sentenced to transpor-
tation for life or penal serv-
itude in distant gillahs
will be sent down by
Mr. Cotton to Calcutta by
sea. He will advise the
Commissioner of Police and
the Marine Board of their
transit. Those included in
the

the first Clasp will be lodged
in Jail here till they can
be shipped to the settlement
at the Andamans. Those
included in the second Clasp
will be similarly detained
until drafted off to such
Jails as the Inspector of Prisons
(with whom Mr Cotton will
at once communicate) may
select for the purpose.

13 The Exception alluded
to in the previous Para
is that of the two approvers
(Case No 6). Having made use
of their evidence the Commr
was not warranted in
putting them on their
trial. The Court therefore
resolved to remit their
sentences under Act No.

for the correction of
others,

To J. J. Cotton Esq. Commr under Act XIV
of 1857. Masulpatam - with
& orig. Enclor. }
Comr of Police
Marine Board
Inspector of Prisons } Dispt 5th

of 1855.

Dispt 3/7

D. J. F.

26-6-58

P10-17 C14

St. & Cons: 23 July
Judicial 1858. Department.

No. 882

Extract Mins. Cons.

Dated 1st July 1858.

Feb 1253.
- 1338 -
- 1662 -

Handwritten letter to
1st of 1858 of 1858
Para 13.