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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1701 Press Misc.

3-8

Dated 21—12— 19 59

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, for the month of December 1859.

Read again Extract Minutes Consultation, Judicial Department, 17th February 1859, No. 220.

Read also the following papers :—

No. 3. From C. W. READE, Esq., Agent to the Governor, Vizagapatam ; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 18th June 1859, No. 309.

An application has been made to me on behalf of one of the prisoners in the Golcondah Rebellion trial and now in Jail under sentence of transportation, for copies of certain papers and of my final remarks and sentence.

2. In ordinary cases every prisoner is of course entitled to a copy of the sentence recorded against him but not to copies of the depositions of those who may have borne testimony to his prejudice, and this for obvious reasons. I am however doubtful whether from the nature of the case in the present instance, the offence charged being against the State and it having been tried under my particular powers as Commissioner, whether I am competent to grant a copy of even my sentence, without the Orders of Government. I can myself see no possible objection, and I think it is only the prisoner's right, but I desire to be favored with the views of the Government, and in the event of their permission to give the copy applied for, I request that the separate enclosure or accompaniment of my report of the 12th January last, superscribed " defence of Chinna Bhoopaty" may be returned to me.

3. I shall view any orders I may receive on this reference as my guide, in dealing with future similar applications.

No. 4. To His Excellency Sir CHARLES TREVELYAN, K. C. B.,
Governor in Council of Fort Saint George.

The humble Petition of CHINNA BOOPATTY, 44th Prisoner in Case No. 1 of 1858, tried by the Governor's Agent at Vizagapatam as Commissioner under Acts XI and XIV of 1857.

Sheweth,

That your Petitioner was convicted of instigating the 1st and other prisoners to rebellion, and was sentenced to transportation for life, and now appeals against the said sentence to your Excellency in Council on the following grounds.

1.—Because the Commissioner had no jurisdiction as such in the case. In paragraph 18 of Extract Minutes Consultation, 11th March 1858, it was resolved " to restrict the jurisdiction of all Commissioners under the Act XIV of 1857, solely to trials of offences against the State, and to direct that henceforth dacoity, gang robbery, and all other crimes except State crimes be dealt with under the ordinary law," your Petitioner humbly submits that these proceedings, commenced in September 1858, were wholly illegal. It is simply absurd to represent a plundering excursion from the hills, conducted by a party whenever it exceeds 100 men, as an attempt to overthrow the Government of India. The Agent ought to have dealt with the matter under his ordinary powers.

2.—Because upon the face of the sentence the conviction of your Petitioner appears to be against law and evidence. The finding of the Commissioner is full of idle declaration, but the only facts alleged disprove the charge.

3.—Your Petitioner pleaded that so far from instigating the 1st prisoner, he tried to dissuade him, and gave immediate information of the first active steps taken in the matter. All this is admitted by the Commissioner, and yet he finds your Petitioner guilty.

4.—The Commissioner states (paragraph 6) the very nature of this defence in the Court's judgment convicts itself. Chinna Boopatty has fallen into the error of proving too much, or rather of attempting to prove too much. The very negatives he offers to establish, betray his

knowledge of events antecedent to Fetoory, and of the consultations that on close to his own doors, and which are quite irreconcilable with the belief in his innocence, or that he was not a prime party to them. If this reasoning be correct, every one who gives information to prevent a crime must necessarily be convicted as an accomplice.

5.—In paragraph 11 the Commissioner says "Chinna Boopatty has been implicated as the prime mover and instigator of the whole by almost every one of the principal prisoners, as well as by some of the others, both from their own knowledge, and from what they had heard, while there is scarcely a witness for the prosecution hardly who has not deposed that it was for Chinna Boopatty's benefit and that of his family alone all had taken up arms and were engaged in the adventure." It will be observed that none of the witnesses are asserted to say that your Petitioner had *instigated* the crime, and nothing that may be said by the other prisoners, who would naturally try to shelve the guilt upon him, can legally be evidence against him.

6.—In paragraph 14 the Commissioner observes, "The 1st point in the defence, namely "that Chinna Boopatty endeavoured to dissuade Sunnasy Boopatty (1st prisoner and leader in "the affair) from entering into the Fetoory THE COURT WILL ADMIT, but as already stated, it "is a point to which entirely condemns itself." All comment on such a monstrous proposition is useless.

7.—In paragraph 4 the Commissioner refers to a letter written by your Petitioner "to the "Head of Police on the night of the 22nd April, the very night the Fetoorydars set out from his "village, which was received in the Talook Cutcherry the following day at 1 P. M." From paragraph 14 it appears that the receipt of this letter enabled Captain Owen to follow the criminals up with a party of Sibbundies, allusion is also made in paragraph 4 to "repeated proffers of aid "and information tendered to the authorities during the progress of the disturbance, in view to "its repression." All of these facts are admitted by the Commissioner who nevertheless persists in considering them as evidence of guilt.

Your Petitioner therefore prays that the whole proceedings in the case may be quashed or that he may be declared innocent and he may be released from gaol and reinstated in his possessions, and your Petitioner will ever pray.

MADRAS, *9th December* 1859.

(Signed) JOHN D. MAYNE,
Counsel for the 44th prisoner.

No. 5. MINUTE by the Honorable W. A. MOREHEAD.

The sentence passed by Mr. Reade as Commissioner under Act XI of 1857 was duly reported to Government and in their Proceedings, dated the 17th February 1859, the following was recorded, paragraph 8.

"For the rest, it is observed that the Agent on the trial of the rebels has displayed great care and patience, and appears to have weighed his sentences in each case with much deliberation, and with a general tendency to mercy. These sentences are final, under the Act by which the prisoners were tried, and the Governor in Council sees no reason in any of these cases to exercise the general powers of remission, (whether in whole or in part) which are vested in him by Law."

Of the ten prisoners thus sentenced, one Chinna Boopathy, sentenced to be transported beyond seas for life, has now petitioned Government, urging that his sentence is unjust, and that he had not merely taken no part in the rebellion, but that he had done all he could to assist Government in repressing it. The Agent's report of the trial, in some degree, supports this statement of the prisoner. The prisoner was nevertheless convicted by the Agent as the prime mover and instigator of the rebellion, and all his acts pronounced to be deceitful and false.

The conclusion thus arrived at by the Agent in his report must necessarily be open more or less to doubt, and I will not say that the grounds on which he has based it appear to me satisfactorily to establish the guilt of the Petitioner. But as there is no record of the trial before

Proceedings of the Madras Government, Judicial Department, for the month of December 1859.

Government, and as the prisoner urges nothing new in his petition, I do not consider that the Government will interfere with the Commissioner's sentence on the plea, that it is not borne out by evidence. No defect in the report would in my opinion justify such a step. The trial was regularly conducted and the proceedings of the Commissioner have received the approval of Government. The Act under which the prisoner was tried, is however a peculiar one. The causes which led to its enactment have passed away and the Government may perhaps now feel that the prisoner's sentence should be modified. In thus dealing with the prisoner it must be remembered that he is well known as a mischievous and turbulent character; care should therefore be taken to guard against the possibility of his hereafter embroiling Government in future difficulties.

The present sentence of the prisoner I would change to this extent: He should be sent to reside as a State prisoner in some Zillah at a distance from Golcondah. He need not be placed under any personal restraint. The proceeds of the village formerly transferred to him should be paid to him for his support and continued to his family, if the original grant so provided. The present Agent might also be asked if in his opinion the sentences passed on the other prisoners might not also be reduced. I would at once exempt their property from confiscation.

(Signed) W. A. MOREHEAD.

No. 6. MINUTE by the Honorable the PRESIDENT, dated 17th December 1859.

We are much indebted to Mr. Morehead for the pains he has taken with this case.

It is certain that China Bhúpati did not appear in arms against us and that he gave information to the Governor's Agent of the designs of those who did. He was nevertheless condemned as the instigator of the plot. The grounds of this conclusion do not appear, but it is also certain that the persons who were irritated and foiled by China Bhúpati's exposure of them, had no defence left except to turn upon him and say that he was the Arch Traitor.

I entirely concur in the course proposed by Mr. Morehead, that is that China Bhúpati should be released and that his land should be restored to him, but that he should be required to reside at a distance from the country where he is possessed of local influence. The Krishna District would, I think, be a suitable place for his residence.

As regards the other prisoners, the altered circumstances of the time demand a merciful policy, and it would be undesirable to make men permanently disaffected by the confiscation of their property. The Agent should be called upon to report, as proposed by Mr. Morehead.

(Signed) C. E. TREVELYAN.

No. 7. MINUTE by the Honorable E. MALTBY, dated 17th December 1859.

I concur in the course proposed.

(Signed) E. MALTBY.

No. 8. ORDER THEREON, 21st December 1859, No. 1701.

With his letter of the 12th January last, Mr. Reade, Government Agent at Vizagapatam submitted his Calendar in case No. 1 of 1858 of his file as Commissioner under Act XIV of 1857. The crime charged was that of rebellion in having levied war against the State. Forty-five men were tried, of whom thirteen were convicted and sentenced, two to transportation for life, four to transportation for 14 years, four to transportation for 10 years, and three to minor terms of imprisonment. Of the two sentenced to transportation for life, one has recently appealed to Government.

2. The Government have again had under their consideration Mr. Reade's report of the 12th January last and its accompaniments. They observe that in their proceedings of 17th February on review of it, the following was recorded: "For the rest, it is observed that the Agent in the trial of the rebels has displayed great care and patience, and appears to have weighed his sentences in each case with much deliberation, and with a general tendency to mercy. These sentences are final under the Act by which the prisoners were tried, and the

Governor in Council sees no reason in any of their cases to exercise the general powers of remission (whether in whole or part) which are vested in him by law."

3. The prisoner, China Bhúpati, who has now petitioned Government, urges that his sentence is unjust, and that he had not merely taken no part in the rebellion, but that he had done all he could to assist Government in repressing it. The Agent's report of the trial, in some degree supports this statement of the prisoner. The prisoner was nevertheless convicted by the Agent as the prime mover and instigator of the rebellion, and all his acts pronounced to be deceitful and false.

4. The conclusion thus arrived at by the Agent in his report must necessarily be open more or less to doubt. But as there is no record of the trial before Government, and as the prisoner urges nothing new in his petition, the Government would not be warranted in interfering with the Commissioner's sentence on the plea that it is not borne out by evidence. The trial was regularly conducted and the proceedings of the Commissioner have received the approval of Government.

5. It is, however, certain that China Bhúpati did not appear in arms against Government, and that he gave information to the Governor's Agent of the designs of those who did. He was nevertheless condemned as the instigator of the plot. The grounds of this conclusion do not appear, but it is certain that the persons who were irritated and foiled by China Bhúpati's exposure of them, had no defence left except to turn upon him and say that he was the arch-traitor.

6. Further the Act under which the prisoner was tried is a peculiar one. The causes which led to its enactment have passed away as regards this Presidency, and the Government may therefore under all the circumstances allow a modification of the prisioner's sentence. In thus dealing with him it must be remembered that he is well known as a mischievous and turbulent character, and care should therefore be taken to guard against the possibility of his hereafter embroiling Government in future difficulties.

7. On the whole the Honorable the Governor in Council has resolved under Act XVIII of 1855, to remit the punishment of transportation passed on China Bhúpati, and to direct that he be forwarded to the Magistrate of the Krishna Division and that he be required to reside as a State prisoner at or in the neighbourhood of Masulipatam. The proceeds of the villages transferred to him will be paid to him for his support. He will not be placed under any personal restraint but will be under the general surveillance of the Police, and he will be distinctly informed that, in the event of his leaving the limits of the Krishna Division without the permission of Government, he will be committed to close confinement in Jail. The Magistrate of the Division in such case will apply to Government for the prescribed warrant under Regulation 11, 1819.

8. The present Agent at Vizagapatam will also be requested to review the proceedings held in respect to the other prisoners and to give his opinion whether the sentences passed on them might not also be reduced. Their property will at once be exempted from confiscation.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. S. T. Augustin.

The sentence passed by the Madras Commissioner under Act XI of 57 was duly reported to Government and in their proceedings dated the 17 July 1859 the following was recorded — Para 8 —

"For the rest, it is observed that the Agent on the trial of the rebels has displayed great care & patience, & appears to have weighed his sentences in each case with much deliberation, & with a leaning to mercy — These sentences are final, under the act by which the Prisoners were tried, & the Governor in Council sees no reason in any of their cases

ers of Jamaica (whether included or not part) which can be tried in Jamaica by Law"—

Of the two Persons that sentenced to Death in the Court below, one Thomas Bogle alias Paul, pretended to appeal from the Court below and pray for life, has now petitioned Queen in Council praying that his sentence is unjust—and that he had not merely taken no part in the rebellion but that he had done all he could to assist Govt in repressing it—

The Appeal to Court of the Trial, in case of Queen against Gordon Petitioner—The Tribunal was therefore constituted by the Appeal as the Jamaica Courts & the Deputation

pronounced to be illegal & false—

The conclusion then arrived at by the Court in this behalf must necessarily be open more or less to doubt, and should any fact in the grounds on which he has based it appear to the satisfaction to Petitioner—But as there is no record of the Trial before Govt, and as the Petitioners pray in his petition to be put in consideration that the Court take into the consideration the circumstances on the Plea, that it is not borne out by evidence—No defect in the Court could in any Justify such a step—The Trial was regular by constituted and the [illegible] of the Court

Minute by the Honorable W. Morehead.

The sentence passed by Wm Keade as Commissioner under Act XI of 57 was duly reported to Government and in their proceedings dated the 17th February 1859 the following was recorded - para 8.

"For the rest, it is observed that the Agent on the trial of the rebels has displayed great care and patience, and appears to have weighed his sentences in each case with much deliberation, & with a general tendency to mercy. These sentences are final under the act by which the Prisoners were tried, and the Governor in Council sees no reason in any of these cases to exercise the general powers of remission, (whether in whole

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or in part) which are vested in him by Law."

Of the ten prisoners thus sentenced - one Chinna Koopathy, sentenced to be transported beyond Seas for life, has now petitioned Government urging that his sentence is unjust - & that he had not merely taken no part in the rebellion, but that he had done all he could to assist Government in repressing it. The Agent's report of the trial, in some degree, supports this statement of the Prisoner - The Prisoner was nevertheless convicted by the Agent as the prime mover and instigator of the rebellion - and all his acts pronounced to be deceitful and false -

The conclusion thus arrived at by the Agent in his report must necessarily be open more or less to doubt, and I will not say that the grounds on which he has based it appear to me satisfactorily

satisfactorily to establish the guilt of the Petitioner - But as there is no record of the trial before Government, and as the Prisoner urges nothing new in his petition, I do not consider that the Government will interfere with the Commissioner's sentence on the plea, that it is not borne out by evidence - No defect in the report would in my opinion justify such a step. The trial was regularly conducted and the proceedings of the Commissioner have received the approval of Government. The act under which the Prisoner was tried, is however a peculiar one. The causes which led to its enactment have passed away and the Government may perhaps now feel that the Prisoner's sentence should be modified - In thus dealing with the Prisoner it must be remembered

remembered that he is well known as a mischievous and turbulent character and should therefore be taken to guard against the possibility of his hereafter embroiling Government in future difficulties.

The present sentence of the Prisoner I would change to this extent. He should be sent to reside as a State Prisoner in some Zillah at a distance from Golconda - He need not be placed under any personal restraint - The proceeds of the Village formerly transferred to him should be paid to him for his support and continued to his family if the original grant so provided. The present agent might also be asked if in his opinion the sentence passed on the other Prisoners might not also be reduced. I would at once exempt their property from confiscation.

(Signed) W. Morehead.

We are much indebted to Mr Morehead for the pains he has taken with this case -

It is certain that China Bhupatie did not appear in arms against us and that he gave information to the Governments Agent of the designs of those who did. He was nevertheless condemned as the instigator of the plot. The grounds of this conclusion do not appear. But it is also certain that the Persons who were irritated and foiled by China Bhupatis exposure of them, had no defence left except to turn upon him and say that he was the Arch Traitor -

I entirely concur in the course proposed by Mr Morehead - that is that China Bhupatie should be released and that his Land should be restored to him - but that he should be required to reside at a distance from the Country where he is possessed of local influence - The Krishna District would, I think, be a suitable place for his residence -

As regards the other Prisoners, the altered circumstances of the time demand a merciful policy, and it would be undesirable to make men permanently discontented by the confiscation of their property. The Agent should be called upon to report as proposed by Mr Morehead - let him urge

Vizianagram 17 Dec 1859

I concur in the course proposed

17th Dec./59 E Hackley

List of 73 Papers &c.

Proc. of Govt. 31st Dec. 1859

Judicial 1859 Departmt.

Minute by the Honorable
W. A. Morehead
Dated December 1859.
No. 2075.

Records his views on the papers connected with the trial by the Agent at Vizagapatam, against C. Bhoopaty for rebellion.

Minute by the Honorable
the President
Dated 17th Decr. 1859.
No. 2076.

Concurs in the course proposed by Mr. Morehead.

Minute by the Honorable
E. Maltby.
Dated 17th Decr. 1859.
No. 2077.

Concurs in the course proposed.

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List

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Judicial Department

Proceedings of the Madras Government.

3/ From the Agent to the Governor at Vizagapatam - 18th June/59 (3) No. 39.
4/ Minute by the Hon. W. A. Morehead.
5/ — do. by the Hon. the President 17 Decr. /59.
6/ — do. by the Hon. E. Maltby, 17 — do. — do.

Read Petition from Chinna Bhoopathy, 44th Prisoner in case No. 1 of 1858, tried by the Government Agent at Vizagapatam under Act XIV of 1857.

(1) Read again Z. M. C. Judicial Department - 17th February 1859 No. 220.

Order thereon 21 December 1859 No. 1701.

With his letter of the 12th January last, Mr. Reade, Govt. Agent at Vizagapatam, submitted his Calendar in case No. 1 of 1858 of his file as Commissioner under Act XIV of 1857. The crime charged was that of rebellion in having levied war against the State. Forty five men were tried, of whom thirteen were convicted and sentenced — two to transportation for life — four to transportation for 14 years — four to transportation for

for 10 years & three to minor terms of imprisonment. Of the two sentenced to transportation for life, one has recently appealed to Government.

2. The Government have again had under their consideration Mr. Reade's Report of the 12th January last and its accompaniments. They observe that in their proceedings of 17th February on review of it the following was recorded: — "For the rest it is observed that the Agent in the trial of the rebels has displayed great care and patience, and appears to have weighed his sentences in each case with much deliberation, and with a general tendency to mercy. Those sentences are final under the Act by which the Prisoners were tried, and the Governor in Council sees no reason in any of their cases to exercise the general powers of remission (whether in whole

whole or part) which are vested in him by law."

3. The Prisoner, Chinna Khán Pathán who has now petitioned Government, urges that his sentence is unjust - & that he had not merely taken no part in the rebellion, but that he had done all he could to assist Government in repressing it. The Agent's report of the trial, in some degree supports this statement of the Prisoner. The Prisoner was never the less convicted by the Agent as the prime mover and instigator of the rebellion - and all his acts pronounced to be deceitful and false. Para 2 The conclusion thus arrived at by the Agent in his report must necessarily be open more or less to doubt. But as there is no record of the trial before Government, and as the Prisoner urges nothing new in his petition, the Government would not be warranted in interfering

with

with the Commissioner's sentence on the plea, that it is not borne out by evidence. The trial was regularly conducted and the proceedings of the Commissioner have received the approval of Govt.

4. It is however certain that Chinna Bhúpathi did not appear in arms against Government, & that he gave information to the Governor's Agent of the designs of those who did. He was nevertheless condemned as the instigator of the plot. The grounds of this conclusion do not appear but it is certain that the persons who were irritated and foiled by Chinna Bhúpathi's exposure of them, had no defence left except to turn upon him and say that he was the Arch-traitor.

5. Further the act under which the Prisoner was tried is a peculiar one. The causes which led to its enactment have passed away as regards this

Presidency

Presidency, and the Government may therefore under all the circumstances allow a modification of the Prisoner's sentence. In thus dealing with him it must be remembered that he is well known as a mischievous and turbulent character, and care should therefore be taken to guard against the possibility of his hereafter embroiling Government in future difficulties.

6 On the whole the Hon'ble the Governor in Council has resolved under Act XVIII of 1855, to remit the punishment of transportation passed on Chinna Bhúpathi - and to direct that he be forwarded to the Magistrate of the Kistna Division and that he be required to reside as a State Prisoner at or in the neighbourhood of Masulipatam. The proceeds of the villages transferred to him will be paid to him for his support

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the Police, and he will be dis-
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event of his leaving the limits
of the ~~Kistna~~ Krishna Division with-
out the permission of Government,
he will be committed to close
confinement in Jail. The
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apply to Government for the
prescribed warrant under
Regulation II - 1819.

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zagapatam will also be requested
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and to give his opinion whether
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Their property will at once be
exempted from confiscation.

H. C. Agent Vizagapatam
Magistrate Kistna Division
Dist. 24th.

H. C. Agent Vizagapatam
Magistrate Krishna Division
Dist. 24th.

H. C. Agent Vizagapatam
Magistrate Kistna Division
Dist. 24th.

J. Pitchers
Asst Secy

L. Maxwell

Undersigned

Ent 12/3 Jan 86
12-3-86
21-9-07

Pres of Ent 31 Dec 1

Judicial 1859 Dept

No 1701

Proceedings of Govt

D/ 21 Dec 1859

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" 370 "-
" 525 "-

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