M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 626 Press
23-25 Mis.

Dated 5-8- 1859

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, from 4th to 10th May 1859.

No. 23. Read the following letter from J. D. ROBINSON, Esq., Special Commissioner, North Canara; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 15th April 1859, No. 185.

I have the honor to submit for the consideration and orders of Government, copy of a sentence passed by me under Act XIV of 1857, on 3 prisoners connected with the recent disturbances in these parts.

Prosecutor.		*Prisoners.*
Regina	versus	1 Baboo Desai.
		2 Goonoba Desai.
		3 Mahar Venko.

Witnesses.

1 Toladhary Sadashivappa.
2 Kolcar Yakhoob.
3 Chowkidar Krishnapa.
4 Puckrojee.
5 Pandoorunguppa.
6 Tatumbhutta.
7 Baloojee Row.
8 Goomasth Shantuppa.
9 Kalsaye Pandoorunguppa.
10 Venko.

1st Count. The prisoners are charged with having on the 17th February 1858 taken part in burning down the Sayer Chowky at Kooveshy in Soopa talook, when the 1st and 2nd witnesses, servants attached to the said Chowky were made prisoners.

2nd Count. With having on the 9th March 1859 been present and aided in setting fire to the Sayer Chowky at Diggi, when the 3rd and 4th witnesses belonging to the Customs Establishment were likewise carried off captive by the gang.

3rd Count. The prisoners are further charged with having on the 18th March at about 9 A. M. in company with 7 or 8 other armed men come to the village of Jhalavaly and then and there assisted in forcibly seizing the 5th, 6th and 7th witnesses and exacting Rupees 15 from the 1st witness.

4th Count. With having from the above dates and up to the termination of the disturbances, banded together for unlawful and rebellious purposes.

The prisoners deny the charge.

It is clear from the statements of the 1st and 2nd witnesses that all 3 prisoners did, on the date and at the time specified in the 1st Count, assist in setting fire to the Chowky at Kooveshy. It moreover appears from the evidence of all 3 witnesses that the 3rd prisoner carried on the occasion a musket; according to 1st witness, the 1st and 2nd prisoners had only clubs in their hands, and 2nd witness says that he cannot recollect how they were armed at this distance of time; 1st witness also deposes that all 3 prisoners helped with the others of the gang in carrying straw wherewith to fire the building, and 2nd witness states he distinctly saw them ignite the said combustibles.

3rd and 4th witnesses state that they recognised the prisoners among the gang on the occasion of the conflagration of the Diggi Custom House; that they were then under no restraint, but living as free agents and associates of the bund, 3rd witness cannot specify how they were armed on the occasion.

5th witness states that while he and the 6th and 7th witnesses were on their way to Goa, he saw some 7 or 8 men with muskets near the Jhalavaly river, when he and his companions were seized by them, the 3 prisoners mounted guard, whilst one Ghongoo Naik rifled his purse of the 17 Rupees that were in it. This statement is corroborated by the evidence of the 7th witness.

The 6th witness deposes that he cannot identify these prisoners nor positively swear they were among the gang on the occasion alluded to.

The 8th witness states that he observed the 3 prisoners with the gang for a long time; that these are the men who with others carried him off prisoner and produced him before Baba Sa-

he had decided to hand them over

wanth whose orders they received and carried out from time to time within his hearing and knowledge. 9th witness deposes that 2nd and 3rd prisoners were with the gang and in frequent communication with Depoo Rana and Hunmunth Sawanth. The 10th witness states that these prisoners aided the Sawanths in pillaging several houses and that he recollects seeing them 4 months ago with the bund.

The prisoners plead the old defence that they were forcibly carried away by the gang but allow that they remained under the protection of Depoo Rana for 7 months.

On review of the proceedings, the Commissioner is of opinion that the charge of aiding and abetting rebellion is satisfactorily proved against all 3 prisoners who are shewn to have been present at and taken active part in several of the gravest outrages committed by the late bund.

The prisoners' defence is in fact tantamount to a full confession, as they admit they were living under what they term the protection of Depoo Rana at a time when that Chief is known to have patronised and supported with all his influence the rebel Sirdars.

When making over these prisoners, the Governor General of Goa writes that having been convicted of grave excesses within his territory, they had been detained in custody for several months with a view to being finally deported with the Sawanths, but that having pleaded their rights in the Amnesty as British subjects, he had decided to hand them over to be disposed of in the Commissioner's Court. Convicted of and imprisoned prior to the promulgation of the said Act of grace, for grave offences on the other side of the frontier, these prisoners are not in the opinion of the Commissioner entitled to claim pardon for excesses proved to have been committed by them in British territory merely because circumstances have delayed their trial until this time.

Under this view of the case, supported by the fact that these prisoners have always been known as turbulent and dangerous characters, the Commissioner resolves to sentence them, subject to the confirmation of Government, to imprisonment, with hard labor in irons for 3 years in the Jail at Sircy under Section VII of Act XIV of 1857.

No. 24. MINUTE by the HONORABLE the PRESIDENT, dated 22nd April 1859.

As these persons had been convicted by the Goa authorities of offences committed within the Goa territory previously to their being delivered up to us *at their own request*, I propose that they should be sent back to the Governor General of Goa to be dealt with according to the Portuguese Law.

(Signed) C. E. TREVELYAN.

No. 25. ORDER THEREON, 5th May 1859, No. 626.

It was represented by the Governor General of Goa, when he made over to the Special Commissioner for North Canara, the three prisoners referred to in the above letter, that they had been convicted of grave excesses within his territory, and had been detained in custody for several months with a view to being finally deported with the Sawanths, but that having pleaded their rights in the Amnesty as British subjects, he had decided to hand them over to be disposed of in the Commissioner's Court.

2. It must be evident that the Amnesty held out in Her Britannic Majesty's Proclamation, cannot extend to offences committed by any of Her subjects in a foreign territory. The Special Commissioner should, therefore, have returned these men to the Governor General of Goa, and have explained to him that their plea under the Amnesty was wholly untenable, and that it would, therefore, rest with His Excellency to inflict upon them such punishment, as the laws of Portugal award to the grave offences of which they had been convicted.

3. Mr. Robinson will now adopt this course. It does not appear that the prisoners can be punished for the crimes committed by them in British territory and for which they have been tried by the Commissioner, inasmuch as these crimes are not among those excepted from the benefit of the Amnesty, and the prisoners were prevented from coming in under that Act of Grace by their detention by the Goa authorities.

See letter from Government of India, to Chief Commissioner, Punjaub, 13th December 1858, No. 5208, para. 17.
Circulated in Extract Minutes Cons., 7th Jany. 1859, No. 19.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial Department

No. 669.

From J. D. Robinson Esqre

Special Commissioner North Canara

Dated 15th April 1859

For Orders.

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22 April 59

I should mean that extension of the Persons to the Cora Authorities cannot have the effect - I cannot therefore confirm the sentence but desire it to be carried out.

Lt

Part of Correia leaves this for Goa to effect that the Portuguese Govt will act with firmness in punishing such offenders. The Convicts are sent out because we furnished a vessel to send them away. The amnesty of Her Majesty has no force in the Portuguese territory and as the G.G. has already suspended proceedings against them on such a plea & they will be very well received by Natives were they for trial on charges of crime committed in Portl territory for which they are fully convicted but let the law take its course

Lt

The Prisoners had been tried & convicted by the Goa Authorities they were handed over to the Govt & Treasure but for that cause they pleaded clemency as British subjects - The letters of the Amnesty by the effect, I cannot therefore say whether or not they are entitled to its benefits - if they are of course the Govt will release them & I cannot plead - but to discuss this point at this unnecessary - The Amnesty

3rd

Judicial Department.

Proceedings of the Madras Government.

Read the following

Papers.

From the Special Commissioner North Canara } (Here enter 15th April 59 No 185)

Minute by the Honble the President } (Here enter 22nd April 1859)

Order thereon 5th May 1859. No 626.

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3 Mr. Robinson will now adopt this course. It does not appear that the Prisoners can be punished for the Crimes committed by them in British Territory and for which they have been tried by the Commissioner, inasmuch as these Crimes are not among those excepted from the benefit of the Amnesty. and the Prisoners were prevented from coming in under that Act of Grace, by their detention by the Goa authorities.

J.P.

See letter from Govt of India to Chief Commissioner Punjaub 13th Dec. 1858 No. 5208 - para 17. circulated in Exc. Mins: Cons. 7th January 1859 No. 19.

To J.D. Robinson Esq
Actg Secy to Govt & Comrs } Dispd 10th

Pros. of Govt. 10 May

Judicial 1859 Depart.

No. 628.

Pros: of Govern.t

25 May 1859.

J.R. No. 1093

Directing Mr. Robinson Special Comm.r N. Canara to return the several Prisoners connected with the recent disturbances referred to in his letter of the 15th Ultimo to the Govt. Gen.l of India explaining to them that the plea under the Amnesty is wholly untenable and that it rests therefore with his Excellency to inflict upon them such punishment, as the laws of Portugal award to the grave offences of which they had been convicted.

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