

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT

G.O. No.	227	Press
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Dated	25-2-1960	

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
for the month of February 1860.*

Read the following papers:—

No. 38. From V. H. LEVINGE, Esq., Commissioner of North Canara; to T. PYCROFT Esq., Chief Secretary to Government, Fort Saint George, dated Honore, 6th February 1860, No. 8.

I have the honor to submit for the decision of His Excellency the Governor, copy of a sentence passed by me in No. 2 of 1860, on the file of the Commissioner of North Canara, under Act XIV of 1857.

If a sentence of death is passed on the prisoners, I beg to recommend that they be hung in chains at Jagalbet in the Súpa Tálúq. Jagalbet is a large town in the midst of the lately disturbed country. I am informed that the country people of that part of the district are very ignorant, and that they never do become acquainted with the punishment inflicted on criminals such as the prisoners. I believe that the hanging of the prisoners at that place would have a good effect on the people and would ensure the widespread knowledge of the punishment inflicted on rebels and murderers.

Prosecutors.

Her Majesty's Government.

1. Chimni.
2. Póté Gáunkar.
3. Shankar.
4. Tamma.

No. 2 of 1860.

Prisoners.

1. Ráuba.
2. Shánta.

Witnesses.

5. Ládoba.
6. Kirayá.
7. Bisa.

CHARGE.

Murder and Arson.

That the 1st prisoner, in company with 2nd prisoner, and several others of the gang who have been in rebellion in North Canara Zillá, did on the night of 9th August 1859, feloniously kill one Appya with a sword, and afterwards set fire to the house of one Tayar Taker, in which the said Appya was residing, in the Village of Harnady, in Yellapur Tálúq.

That the 2nd prisoner was present, aiding and abetting at the said murder and arson, as a member of the bund or gang.

REMARKS.

The 1st prisoner denies having murdered the deceased Appya or set fire to the house, but admits that he was present, and asserts that one Nágo killed Appya, and one Gongolo set fire to the house.

2nd prisoner admits having been present, but denies having taken any active part in either the murder or arson.

Of the 7 witnesses the 1st witness is the wife of the owner of the burnt house, and niece of the murdered man. She deposed that, on the night in question, she, her husband, the murdered man, and her young children were sleeping in the house; the prisoners entered, pulled down some of the thatch, and lit it at the hearth, and that her husband immediately ran off, then the 2nd prisoner went to the door and guarded it to prevent any one else getting away. That 1st prisoner desired the cattle to be let go, whereupon deceased Appya let them go, and that Appya endeavoured to go off with them, which was prevented by 1st prisoner who took a sword from the hand of 2nd prisoner, and with 2 cuts on the neck killed Appya; that the 1st prisoner then came towards her, but she threw herself and children at his feet, whereupon 1st prisoner went out closing the door. That the house was set fire to on the outside; whilst it was burning, she got out and ran into the jungle with the children and hid. That she did not know or ever see the prisoners before, but by the light of the fire which was kindled in the house she saw the prisoners well, and now recognizes them as the parties who committed the murder in her house.

The 2nd, 3rd and 4th witnesses deposed to having been in the gang and with having gone on the night in question with the prisoner to the village mentioned in the charge, and with hav-

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ing seen the 1st prisoner enter the house, and by the light of the fire saw the 1st prisoner kill a man inside, and that the 2nd prisoner stood at the door, and that 2nd prisoner was the man who carried the sword with which 1st prisoner killed the man.

The 5th witness, a Sergeant of the Police force, deposed to having seen the burnt house and the half consumed remains of the murdered man lying in it with a wound in the back of the neck made by a knife or sword.

The 7th witness corroborated the statement of the 5th witness. The 5th and 7th witnesses further deposed that the house adjoining the one mentioned in the charge, the property of the 6th witness, had also been burnt.

The 6th witness deposed that the 1st prisoner dragged him out of his house on the night in question, that he struggled and got away, and that the gang afterwards set fire to his house.

The above is the evidence. The house in which the murder occurred is said to be situated close to jungle, and to have been in a very dilapidated state, having two doors and large gaps in the 4 walls through which by means of the strong light raised inside by the 1st prisoner, the persons outside distinctly saw what was going on within. It is to be remarked that the prisoners only deny having taken an active part which they put upon others; they admit their presence and that of the 2nd, 3rd, and 4th witnesses, and they were unable to shake in any way the statements of the witnesses. The only contradiction in the evidence is that the 2nd, 3rd, and 4th witnesses who formed part of the gang deposed that the 2nd prisoner dragged the 6th witness out of his house, whereas the 6th witness deposed the 1st prisoner dragged him out, considering that he did not know the man and the circumstances under which the outrage occurred, it is possible that he may be mistaken, and indeed it is to be doubted whether he could have recognized him at all. That he was dragged out there is not the slightest doubt, and the question put to the 3rd witness by the 1st prisoner on this subject, to my mind most conclusively confirms the evidence against the prisoners as to the part they are charged with having taken. The 2nd and 3rd witnesses in their depositions made no mention of the 6th witness having been dragged out of his house, or of his house having been burnt. The 1st prisoner asked the 3rd witness, did Rauba (1st prisoner) kill Appya before Shanta, 2nd prisoner, dragged Kiraya (6th witness) out of his house, or after? The answer was Shanta dragged Kiraya out, he struggled and got away, then Rauba (1st prisoner) killed deceased. On my recalling 2nd witness, and interrogating him, he stated, 2nd prisoner had dragged the 6th witness out of his house, the 3rd witness deposed the same. The 6th witness was thereupon summoned and he corroborated the statement of his having been dragged out, but mistakes the man. This to me is most conclusive against the prisoners and leaves no doubt on my mind of their guilt, none but a person who had been present could have put such a question, for there was no allusion to the circumstance in the depositions.

The 1st and 2nd prisoners deny having dragged 6th witness out of his house.

The cause assigned for the murder and arson was that the house-owner was suspected of having given information against the gang, the actual owner having managed to escape, the only other male inmate was murdered, and the house burnt in order to strike terror into the villagers to prevent their giving any further information.

I consider the 2nd prisoner to be as guilty as the 1st, and sentence both prisoners to be hung, under the powers of the Commission issued to me under Section VII, Act XIV of 1857.

The sentence is referred for the orders and decision of His Excellency the Governor of Fort Saint George.

COMMISSIONER'S COURT, HONORE,
28th January 1860.

(Signed) V. H. LEVINGE,
Commissioner.

N. B.—The prisoners were apprehended on the night of the 5th December 1859, as detailed in Lieutenant Drever's letter to the address of Mr. Pochin, dated 6th December, and forwarded

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to Jail by me with a letter No. 16, dated 9th instant. A reward of Rupees 1,000 for the capture of the 1st prisoner, and Rupees 1,000 for 2nd prisoner, was sanctioned by Government on the 25th August 1859, in Order No. 1141.

(Signed) V. H. LEVINGE,
Commissioner.

No. 39. From V. H. LEVINGE, Esq., Commissioner of North Canara; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated Honore, 6th February 1860, No. 9.

I have the honor to forward for the information and Orders of His Excellency the Governor of Fort Saint George, a copy of a sentence passed by me in No. 3 on the file of the Commissioner of North Canara for 1860.

No. 3 of 1860.

Prosecutor.
Her Majesty's Government.

Prisoners.
1. Shanta.
2. Rauba.

Witnesses.
1. Gongo.
2. Darma.
3. Dippu.
4. Babli.

5. Tama.
6. Potegaunkar.
7. Sanker.
8. Ladoba.

MURDER.

Charge.—That the 1st prisoner, on the 9th August 1859, in the village of Kulghi, Yellapur Taluq, in the Zilla of North Canara, killed one Gouli Húva and another Hondekar Sómama with a sword.

That the 2nd prisoner was present aiding and abetting both murders.

REMARKS.

The cause assigned for the murders is that the bund suspected the murdered individuals of having given information to the Government Officers which led to the apprehension of one of the bund, named Mádu. The bodies of the murdered men were seen next day by the 1st and 8th witnesses. The 8th witness is a Sergeant in the Police force, who deposed that he saw sword cut on the bodies.

The 1st prisoner denies and asserts the men were killed by one Nágo. The 2nd prisoner says Nágo killed the men.

Both prisoners admit having been present, and say that the witnesses were present also.

The 1st witness deposed that the deceased Hondekar Sómama, day and date unknown, 4 or 5 months ago, was eating rice in his house. 1st prisoner Shanta entered and made deceased follow him, he, witness, ran away to Pansóli, next day saw the dead bodies of Hondekar Sómama and Gouli Húva lying in the road, that he did not see the murder.

The 2nd witness, that he, deceased Gouli Húva, 3rd witness Dippo and a woman were working in a field, the bund came and carried them all off, Shanta 1st prisoner took Gouli Húva by his hand, all were taken to Kulghi. The woman ran away, Sómama (deceased) was brought, then Bablo told Gouli Húva and Hondekar Sómama to sit aside. The 1st prisoner with a sword cut Húva, witness being frightened, immediately ran away with 3rd witness, and did not see Sómama cut, knows Húva well. This witness did not tell this to the Peshkar, when he saw him the day after the murder, and in his (2nd witness') deposition before the Head of Police, he said he had seen Sómama killed, this he denies before the Commissioner's Court.

3rd witness deposed as above as to their being brought to the place where the murder was committed and the murdered men being told to sit aside, deposed he knew Húva well, saw Shanta cut Sómama, then he (witness) and 2nd witness immediately ran off, did not see Húva cut. These two depositions are directly contradictory, if what 2nd witness says is true, the 3rd witness could not have seen Sómama killed and vice versa. Each witness is positive as to who was first killed.

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4th witness deposed the bund took him and deceased Hondekar Sômana to a jungle path in Bulghi, saw the 2nd and 3rd witnesses there, saw Hûva there, did not see him killed, saw Shanta, 1st prisoner, kill Sômana, 2nd prisoner stood near 1st prisoner, Sômana was killed by a cut with a sword on the neck. When the murder was committed all the bund were standing round looking on, then he (witness) escaped by running off, did not see the 2nd and 3rd witnesses run off.

This witness was examined by the Pêshkar 5 days after the murder, and did not mention having seen the murder. He deposed to having been carried off prisoner with the others by the bund, and to having escaped when travelling along with them.

The depositions of the 2nd, 3rd and 4th witnesses are contradictory, and it was not possible to reconcile them.

The 5th, 6th and 7th witnesses were members of the gang, they say by force, they escaped and gave themselves up, the 5th and 6th, to the Portuguese authorities, and the 7th to Lieutenant Drury, Commanding detachment of the 51st N. I. There being no charge against them, they were not put on their trial.

The 5th witness deposed he was with the gang, saw the deceased Hûva, 2nd and 3rd witnesses and a woman brought to Pansoli wood, the woman managed to escape. 4th witness and Hondekar Sômana were also brought. The intention was to kill all 5, the two deceased and the 2nd, 3rd and 4th witnesses. One of the gang, Beno, told the 2nd, 3rd and 4th witnesses to run away, Shanta killed the other two. Doesn't remember exactly which was killed first, Hûva or Hondekar Sômana, saw the bloody sword with which Shanta killed the men, after the murder the gang went away into the jungle, all had guns except Shanta, who had sword.

6th and 7th witnesses like the 5th; but said Sômana was killed first, then 4th witness caught Beno's feet and begged his life, then the 2nd, 3rd and 4th witnesses were told to run off, after they were gone, Hûva was killed.

The 4th witness being re-examined, deposed he caught Beno's feet, who excused his murder and let him and 2nd and 3rd witnesses run off, this was after Sômana had been killed.

The 2nd and 3rd witnesses being re-examined deposed that after a man had been killed, Beno one of the gang told them to run off. The 3rd witness added that he begged Beno to let him go, which he did shortly after, by telling him to go, whereupon he ran off.

The evidence of the 2nd, 3rd and 4th witnesses is thus very contradictory, but they are very poor and ignorant people, and the 2nd and 3rd witnesses seemed very nervous and much terrified when giving their evidence; in the horrible situation in which they were placed, it is scarcely to be expected that their statements would be without contradictions. That they were brought to the place where the murders were committed there can be no doubt, and it would appear from the evidence of the 5th, 6th and 7th witnesses that they were allowed to escape after Sômana had been killed, as to the gang not allowing witnesses to the murders to go at large, the records of the Commissioner's Office shew that the prisoners and their gang marched openly about the country, levying taxes, burning and plundering, and acting without the slightest intention of concealing themselves, or thought of their ever being brought to justice. The evidence of the 1st witness is not disputed, he saw 1st prisoner take off deceased Hondekar Sômana, the next time he is seen, he is lying a corpse on the path in a wood, killed by sword-wounds. 1st prisoner admits having been present at the murder, but lays it to another, not present, one of his own gang. Putting aside the evidence of the 2nd, 3rd and 4th witnesses, that of the 5th, 6th and 7th witnesses is undisputed and clear as to the fact that the murdered men were killed by the 1st prisoner, and that the 2nd prisoner was present. The prisoners are unable to clear themselves. I find them guilty of the murder, and would recommend a sentence of death being passed against them, but that they have been already sentenced in No. 2 of 1860, of the Commissioner's file.

COMMISSIONER'S COURT, HONORE, }
28th January 1860.

(Signed) V. H. LEVINGE,
Commissioner.

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No. 40. MINUTE by His Excellency the COMMANDER-IN-CHIEF.

I consider that the prisoners have been justly convicted and sentenced to death, and I think they ought to be hung in chains, as recommended by the Commissioner.

(Signed) P. GRANT.

No. 41. MINUTE by the Honorable W. MOREHEAD.

I agree.

(Signed) W. MOREHEAD.

No. 42. MINUTE by the Honorable E. MALTBY.

I concur.

(Signed) E. MALTBY.

No. 43. ORDER THEREON, 25th February 1860, No. 228.

The Government consider that the prisoners Shanta and Raubah, have been justly convicted and sentenced to death, and direct that the sentence be carried out and that they be hung in chains at Jagalbet in the Soopa Talook as recommended by the Commissioner.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

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Judicial Department

No 258 & 259.

From

The Commissioners of North Canada.

Dated 6th February 1860.

For Orders.

I consider that the Prisoners
have been justly convicted and
sentenced to Death - and I think
they ought to be hung in Chains, as
recommended by the Commission.

Wm. J. P. J. P.

I concur - Wm.

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Extensive handwritten notes on the left page, including a large section starting with 'I consider that the prisoners...' and a signature 'W. J. ...' at the bottom.

Proceedings of the Madras Govt.
Read letters from the Com-
missioner, North Canara - Inter 5 Feb '60 No 889
" Minutes by the Members of
Govt.

Order - 25 February 1860. No 228.

The Govt. consider that the Prisoners
Shanta & Raubah, have been justly
convicted and sentenced to Death,
and direct that they be hung in
chains, as recommended by the
Commissioner. J.P. & the sentence be
carried out &
The Commissioner, North Canara, that

With an Order

Administrative notes and signatures in the middle right section, including '29 Feb/60', 'Commissioner North Canara', and 'J. P. 882'.

Handwritten notes at the bottom of the right page, including '39 x 40' and '39 x 40'.

North Canara, Commissioners Office

Mangalore, 6th February 1860

From

W. H. Levinge, Esq.

Commissioner, North Canara

To

T. Pycroft, Esq.

Chief Secretary to Government

Fort St. George

Sir,

I have the honor to forward for

the information and orders of His Excellency,
the Governor of Fort St. George, a copy of a sentence
passed by me in 1853 on the file of the Com-
missioner of North Canara for 1860.

I have the honor to be

Sir,

Your most obedient Servant

W. H. Levinge

Commissioner

Dec 1860