

dated 13th instant on Judge of Chittoor.

In reference to my letter of the 24th July 1862, I have the honor
to acknowledge with pleasure the order of the Sudder Court conveyed in their Proceedings
of the 20th July 1862, passing sentence of transportation for life on the two prisoners
and to submit the reasons for which I
recommend that the punishment may be commuted to imprisonment for a term of years."

"My chief reason is that by Natives generally, and particularly by Natives
of the society to which the prisoners belong, the offence of which they have been
viewed in the same light as ordinary murder. The punishment for
it seems needed either for example or for prevention; a much less punishment
would, I conceive, be fully viewed as amply sufficient to deter from the commission of the
crime of justice would operate more effectively as a preventive than a severe one
which would be regarded as unjust and oppressive."

The reasons peculiar to the case are—firstly, the old man to whom a sentence of 5 years' rigorous imprisonment
would probably be a mere waste of money and of the machinery of
punishment for life—secondly, there are differences in the
guilt of the prisoners considered in allotting punishment:
the 2nd prisoner is the more guilty as having been the more active, and
that the 1st prisoner was in law rightly found guilty, her part was a passive and
passive one. I think therefore imprisonment for 5 years would be sufficient punishment.

I beg therefore to submit that the case is a fit one for the exercise
of mercy, and that it should be recommended to Government to commute the
transportation for rigorous imprisonment for 5 years. I observe that both
Penal Code and Section 54 of the Criminal Code contain provisions
which I conceive that the Government in this case more properly

Session

1st prisoner. Being the daughter
nature was excited at the birth of the child
his act, and he is subject for mercy
grounds of

sheltering

CALENDAR of persons tried before Charl

1	2	4	5	6
No. of the	Name of the accused.	Copy of the charge, or substance of the complaint.	Name of complainant.	Names of witnesses for the prosecution.

60 of 1862.	1. Chennu. 2. Hanumantugadu.	Section 302 of the Indian Penal Code. Murder.	The Queen.	1. Mangala Muthi. 2. Munigadu. 3. Narrainappadu. 4. Ramadu. 5. To. 6. Cha.
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That on or about the 4th May 1862,

the prisoners did commit murder causing the death of 1st male child in a clump of prickly-pear just out of the limits of Kolamasana pally in the Taluq of Palam, and that they have thereby committed an offence under Section 302 of the Indian Penal Code, and within the cognizance of this Court of Session.

It was then alive, but died about noon. The 2nd, 5th and 6th witnesses also deposed that it was a newly born one, and was full of the thorns of the prickly-pear, and that the child must have died from the injuries received by the thorns. The 1st prisoner in her defence admitted that she had been delivered of the child on the 4th May she had been delivered of the child that she was insensible, and that when she learnt from her father (the 2nd prisoner) that she had taken away the child of the 1st prisoner was delivered, but said that he did it supposing the child was dead, and that he had endeavoured to cover up the body. The 4th witness had deposed that the place where the child was found was never used for the purposes of a different side of the village from the place where the child, it is clear, was not buried, but had been thrown into the prickly-pear, and the 4th witness was not moved by its cries. It appears quite incredible that the 1st prisoner could have fancied that the child was dead. A female neighbour, had heard the 1st prisoner during the night. She also stated that she had abused her and quarrelled with her for so long. The 3rd witness was the father of the child, and it appeared known to be keeping the 1st prisoner. He saw the child early on Monday morning—this was just outside the prisoners then made similar statements to the others.

The Court in summing up directed the jury to consider the words of Parke, J. in Culkins case (Rosc. C. 1861). It was not necessary that the 1st prisoner should have killed the child with her own hands, for that if it was done in her presence, she being privy to it and so near as to assist, she might be properly convicted on this point. The Court further told them that if it appeared credible that the 2nd prisoner could have supposed the child to be dead when he took it out of the house, then as the commission of the crime could only reasonably be supposed to have been for the purpose of dealing with it as a nuisance, it was the first act towards the commission of the crime. That if they believed that the 1st prisoner was privy to the commission of the crime, then she might be rightly convicted of murder; that as to the defence set up by the 1st prisoner, they would rightly take into consideration the fact that though the 1st prisoner must have known that she was near her time, she had made no preparation for her confinement, and even when her labor pains began, did not procure the assistance of her female neighbours as she might readily have done, but, as she admitted, was delivered alone in the house with only her old father with her; and, that it was for them to say whether it was not reasonable to suppose that had she intended to act fairly towards her child, her conduct would have been different; that further there was the evidence that the 1st prisoner was not so overcome by her delivery, but that she was moving about within a very few hours after it; and that lastly, having seen both prisoners, it was for them to say whether it was credible to them that such a man as the 2nd prisoner, would have conveyed away the child except with the privy and assent of the 1st prisoner; and that consequently if upon a view of all the circumstances of the case they entertained no fair or reasonable doubt of the 1st prisoner's guilt, it would be sufficient, though the evidence was not so complete, as to exclude every possibility of her innocence.

Date

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(Signed) CHARLES COLLETT,
Acting Session Judge.

(True Copy.)

(Signed) C. F. CHAMIER,
Registrar.

Proceedings of the Madras Government, Judicial Department,
10th September 1862.

No. 75. ORDER THEREON, 10th September 1862, No. 1,474.

Under Section 55 of the Penal Code, the Governor in Council commutes the sentence of transportation for life passed against Chennai (female) 1st prisoner in case No. 60 of 1862, of the Chittoor Sessions Court, into imprisonment for five years.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

N^o 1474. - 10 September 1862

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JF

" Chief Justice and Judges
of the High Court.
" Sessions Judge of Chittoor.
" Inspector Genl. of
Sails. —

Dec^r 12th