

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	2045	Press
	153-154	~~115.~~
Dated	16.12.1862	#

6/7

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Dep
16th December 1862.*

No. Read the following Proceedings of
20th November 1862, No. 35.

Read again Criminal Petition presented on the 2nd September 1862, by Alexander M. Ritchie, Esq., Vakeel on behalf of Caroppa Gounden and another. 2nd and 3rd prisoners in 1862, Zillah Coimbatore.

Heener dated the 17th instant, from the Session Judge of ... submitting
translation of the Proceedings in the above case called ...
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son

1. The three prisoners brought to trial in t
Act 18 of 1854, and being convicted by the Session Judge, with whom the Assessors concu
nt for a period of seven years.

2. The proceedings of the trial have come under review by the High Court on an appeal from the 2nd and 3rd prisoners who were heard on the 4th ultimo by their Counsel, Mr. A. M. Ritchie.

3. Their consideration of the complete record of the proceedings taken before the Acting Head Assistant Magistrate and the Session Judge of Coimbatore, does not enable the High Court to arrive at the conclusion of the prisoners' guilt which has been formed by the Session Judge. The evidence against the accused is mainly that of the 3rd and 4th witnesses, the first of whom in the Session Court deposes to having one Saturday evening, the day preceding the date of the offence with which the prisoners are charged, overheard the 2nd and 3rd prisoners observed the one to the other, that it was useless to carry chairs thence, as they could "get them there and see about it to-morrow morning." Assuming that this deponent spoke the truth and that the prisoners' observation had reference to an accident from some iron chairs being placed on the line, which nearly occurred on the morning following the conversation so overheard; and throwing entirely out of consideration the improbability of two men bent on an evil act of the kind imputed to them, being so incautious as to speak loudly of what their intentions were, the High Court observe that this witness' testimony is materially affected by the variance found in it when compared with that given by him before the Acting Head Assistant Magistrate where he declared that the conversation which passed about the chairs was between the 2nd and 3rd prisoners and also the 1st prisoner. In regard to this discrepancy, the Session Judge has put no question to the witness, so that it stands in the record in no wise reconciled by any explanation the witness may have had to offer, and under such circumstances the High Court consider that the prisoners are entitled to the benefit of the doubt arising from it.

4. The testimony of the 4th witness is to the effect that on the morning of the accident he saw the three prisoners carrying four iron chairs towards the line of rail on which he observed that they fixed three, leaving one of the four lying on the ground unfixed. Doubt arises in respect of this witness also, from the difference observable in the two statements he has made relative to the number of chairs the 1st and 3rd prisoners were carrying. But this doubt is increased on a consideration of the evidence given by the train guard, W. Reid, (1st witness) who has declared that two iron chairs were cut through by the Engine wheels, and that further on he found *two* others on the rail a yard apart from each other, thus disproving the assertion of the 4th witness that three had been fixed and one left on the ground. The little credit due under these circumstances to the deposition of the 4th witness is still further diminished by the statement of the 2nd witness, the line watcher, who has deposed that on the morning of the occurrence in question, he had not seen any people on the line of rail.

5. Under this view of the testimony on which alone the prisoners have been punished by the Session Judge, the High Court are of opinion that their conviction cannot be sustained. Accordingly they resolve to annul the sentences passed on the 2nd and 3rd prisoners and to direct that they be released from Jail.

6. In the absence of an appeal, the High Court are unable similarly to deal with the sentence passed on the 1st prisoner. Being, however, of opinion that the evidence brought against him is as insufficient for his conviction as that affecting the 2nd and 3rd prisoners is for theirs,

they further resolve to recommend Government, under Section 54 of the Code of Criminal Procedure that the sentence passed against the 1st prisoner be also remitted.
(True Extract.)

(Signe:

AMIER,

Registrar.

To the

ORIGINAL, 16th Dec 1944
by the Governor in Council
to be transmitted to

Exd. T. McMootry.

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C. L. Chamier

Register

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Edits an Order

The Chief Justice &
Judges of the High
Court.
Solicitors General,
Attorneys General.

According to the
 section 54 of the
 Act of Criminal Law
 Code, that the law
 requires that the
 power in the relation

2023
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Received of the
 Treasurer of the
 Board of Directors
 the sum of \$100.00
 for the year 1862.



No
 of the ^{ages} West Coast. } dist. 17
 B. M. Marsh

No. 1
 Chapter § 54 of the Code
 of Criminal Prac-
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 ernor in Council re-
 miles the sentence
 passed against the
 1st Prisoner in Case
 No. 29 of '62, Willard
 Coimbatore.

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Received 1862. Department.

No. 20405

PROCEEDINGS OF GOVERNMENT

Dated 16 Decr/62