M.R.O. 1—32,400—22-11-80.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	143	Press Mis.
198-199		
Dated	31—1—	1863

WP/43

Not to be folded or roughly handled

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Proceedings of the Madras Government, Judicial Department, 31st January 1863.

No. 198. Read again Proceedings of the High Court dated 28th November, and recorded in Proceedings of Government of 16th December 1862.

Read also the following letter from C. F. CHAMIER, Esq., Registrar of the High Court of Judicature at Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, dated Madras, 7th January 1863, No. 3.

I am directed to transmit, as requested in the Proceedings of Government, dated the 16th ultimo, a copy of the record in case No. 69 on the file of the Session Court of Coimbatore for 1862.

No. 199. ORDER THEREON, 31st January 1863, No. 143.

The High Court in their Proceedings of the 28th November last recommended that the sentence passed by the Session Judge of Coimbatore upon Annamalayandy, 1st prisoner in case No. 69 of 1862, on the Calendar of the Session Court, should be remitted under Section 54 of the Code of Criminal Procedure.

2. The prisoner in question, together with two other persons whose sentences have been reversed by the High Court on appeal, was convicted of the crime of having caused an obstruction on the line of Railway near the village of Coluttoopolliem by placing on the line 4 iron chairs, and was sentenced to rigorous imprisonment for seven years under the provisions of Section 25, Act XVIII of 1854.

3. On perusal of the record of the trial, His Excellency the Governor in Council sees no sufficient reason for remitting the sentence which has been passed upon the 1st prisoner in the case referred to. He is unable to concur with the High Court in discrediting the evidence of the principal witness, the 4th. This witness deposed that on the morning on which the obstruction occurred, he saw the prisoners in the act of carrying chairs and fixing them on the line of rail. The High Court discredit his evidence on the following grounds:—

1st. That before the Acting Head Assistant Magistrate he deposed that the 1st prisoner had one chair and the 3rd prisoner two, while before the Sessions Court he reversed the number of chairs he had seen in the hands of these prisoners respectively.

2nd. That while according to his deposition, 3 chairs were fixed on the rail and one left on the ground, the evidence of the Train guard shows that 4 chairs were fixed on the line and,

3rd. That the line watcher saw no one on the line of rail that morning.

4. The Governor in Council does not consider any of the discrepancies above noticed sufficient to invalidate the witness' statement. The difference between the two statements made by him before the Acting Head Assistant Magistrate and the Session Court is no more than constantly occurs in the evidence of Native witnesses, and is not in the opinion of His Excellency in Council a sufficient ground for rejecting the evidence of this witness. The second of the alleged discrepancies is really very immaterial, for according to the witness' evidence he was not present when the train passed, and the fourth chair may have been fixed during the interval. And as to the evidence of the line watcher, the Government cannot see that his denial that he saw any one on the line that morning at all disproves the assertion of the 4th witness. It is unquestionable that some person or persons put the chairs on the line, yet according to the statement of the line watcher he did not see them whoever they may have been, nor did he see the chairs. If he went over his beat at all, he must have seen the chairs, unless they were placed on the line after he had gone over his beat, and as he was returning to his post.

5. On the other hand, the evidence of the 4th witness was not challenged by the prisoners before the Session Court. They shook it by no cross questioning and assigned no motive for showing that the witness spoke against them falsely, out of enmity or self interest. A most dangerous crime was undoubtedly committed. The prisoner has been convicted of it by the Session Judge in concurrence with the assessors, and the Government do not think that sufficient grounds have been shown for over-ruling that conviction.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. McMootry.

Calendar Case N.o 69 of 1862.

Wilfully placing obstruction on a Line of Railway.

List shewing the names of Witnesses, Prisoners and their Witnesses, and the number of the Page or Pages in which their depositions are contained.

	Magist.tes Proceedings Pages.	Sessions Court Pro: Pages.
1st Witness Mr W. Reid	1 to 2	3 to 5
2d Do Moss	3—6	6—9
3d Do Sreerungyaunden	7—9	10—12
4th Do Nallayaunden	10—12	13—14
5th Do Ramayaunden	13—14	15
6th Do Mr J. W. Goodsir	15—16	16—17
7th Do Veerasawmy		18—19
1st Prisoner Armamalayandy	17—19	20—
2d Do Carroppayaunden	20—24	—
3d Do Chennymalayyaunden	25—27	21—22
1st Prisoner's Witness Sengoda Andy	28—	23—
2d 1st Do Nallanayaunden	29—30	24—
— Do 2d Do Mootterayaunden	31—32	25—
3d Do 1st Do Thondivira pillay	33—34	26—
3d Do 2d Do Lutchma Pillay	37—38	27—29

Zilla Coimbatore

1862

Session Court No 69 on the Calendar

Present.

S. N. Ward Esquire ---- Judge.

Nadamoony Goundan }
Lingapy Goundan ---- } ---- Assessors.

Trial for the crime of Wilfully placing obstruction on a Line of Railway.

Government Vakil Vrs: 1. Annamalayandy
2. Carooppagoundan
3. Chinnymalaygoundan

Proceedings of the Court.

Trial commenced 3rd and closed 5th July 1862.

The Court of Session having attentively perused and considered the Documents received

received from the Head Assistant Magistrate of Coimbatore, Nos 1 to 23 in this case, proceeds with the trial of the Prisoners.

Prisoners are brought into Court by the Court Inspector.

The Government Vakil also attends.

Arraignment.

1st Prisoner Annamalayandy
2d Prisoner Carooppagounden.
3rd Prisoner Chinnymalaygounden.

You stand charged with having, on or about the 14th day of May 1862, wilfully caused an obstruction on the line of Railway near Coimbatore Station Village, by placing on the line 4 iron chairs, intending or knowing that they were thereby likely to cause danger to human life, and that you have thereby committed an offence punishable under Section 25 of Act XVIII of 1854 (an act relating to Railways in India). How say you 1st Pris. Annamalayandy? 2d Pris. Caroopppagounden? and 3d Pris. Chinnymalaygounden?

Are you guilty or do you claim to

1st Witness Sworn
Wm. H. Reid

to be tried?

1st Prisoner. Annamalayandy. Not guilty.
2d Prisoner. Caroopppagounden. Not guilty.
3d Prisoner. Chinnymalagounden. Not guilty.

(Signed) S. N. Ward.

Session Judge.

As provided in Section 362 of the Code of Criminal Procedure, the Government Vakil read over the charge to the Prisoners.

/Signed/ S. N. Ward

Session Judge.

Deposition of William Reid on oath given before the Session Court 3d July 1862.

My name is William Reid. I am a train guard in the Railway Department.

On the morning of the 14th May last,

4.

1st Witness
Mr. W. Reid.

I was in charge of a Special train from Lanter-
-gerry droog to Avanashy. The time the train left
Errode was about 10 minutes to 9 o'Clock. When
we reached the 250th Mile near a cutting, about
half past 9 the Engine Driver whistled to me to
put the break on and stop the train; which I did,
and on my going to the Engine Driver, he showed
me the chairs which the Engine ran over. They
were two. I do not know at what distance they were
placed from each other. They were divided into two
halves by the Engine passing over. There were also two
other chairs placed on the rail a yard apart from
each other. The aboversaid 4 chairs were placed on one
side of the rail. I then looked around to see if
any body was there. I discovered a man stand-
-ing on the bank of the cutting where this acci-
dent took place at a distance of about 300
yards behind. I called to the man but he
did not come. I then went

1st Witness
Mr. W. Reid

5.

5

went to him and identified in him the
1st Prisoner now before the Court. I
asked him who he was and he said
that he is in charge of the stores. I
again asked him where was the
watchman, he said that the watch-
-man was at his post in front. The
chairs were then removed and the train
went on. No accident occurred to the
train but the centre chain of one of
the wagons gave up. I saw the watch
-man at his post, but I did not
speak to him as the train was in
motion. The probable consequence of
iron chairs being placed on the line
as these were will be to throw the
Engine off the line and upset the train
I did not tell to the 1st Prisoner, when
I met him, any thing about the accident
which took place.—

I heard the deposition
read over to me, and it is correct, as
I dictated it.

(Signed) W. Reid
Guard

The

The above evidence was read over to the witness in the English Language which he understood, and he acknowledged it to be correct. The evidence was taken down in my presence and hearing, and under my personal direction and superintendence this 3d July 1862.

[Signed] S.N. Ward

Sessions Judge

2nd Witness, Moses, son of Coothy, Paroomal, residing at Poongunpuddy, caste Pickolen, profession, watchman, Religion Christianity, and aged about 30 years, having, on the 3d July 1862, before the Session Court of Coimbatore, been caused to take the solemn affirmation required by Act V of 1840, the following examination takes place. —

On Sunday morning in the month of Chittarey, at 4 o'clock

4 o'clock, I left Poongunpuddy to the Railway Line which is one field off, taking a spade and Key hammer with me. I went along the line on inspection for the length of a mile. It was 7 o'clock in the morning. The store watchman (Annamalay dy) [illegible] Pillai (Annamalay dy) now at the bar, whose name I did not know, was then standing on the bank of the cutting at the distance of a fathom. I repaired the Line from East to West to the length of a mile and returned to my post at 9 A.M. Having then observed at a distance steam rising up, I stood holding up the white flag. The train stopt in the cutting. I did not take notice of it but stood where I was with the white flag. The train stopt there for a while and then proceeded to the West when the

2d Witness
Moses.

the people in the train called out to me and said that some iron chairs had been placed on the rails within my beat. I do not know who they were who called out. I went to see the iron chairs but was told that they had been removed by the people in the train. I then went and woke Annamalay-andy who was sleeping in the store house and asked him whether he had seen any body placing iron chairs on the rails. He said that no one had placed iron chairs but that the train had stopt in consequence of a coupling chain of one of the waggons having given way. The distance between the place where I stood holding up the flag and that where the train is said to have stopt.

2d Witness
Moses.

stopt owing to the iron chairs having been placed on the rails is 3/4 of a mile. The distance between the store house where Annamalayandy 1st Prisoner was sleeping and that part of the line where the train stopt is about that between 2 Telegraph posts or 15 fathoms. On that day I did not see any other people frequenting the line. It is my duty to hold up the flag when the train comes and to go along the line on inspection to see that it is clear, I as usual, went on the line. When I returned from my inspection, I did not see any iron chairs on the rails. After the train had passed to the West I first went towards the East to the place where the iron chairs had been placed and then proceeded to the store house hard by where Annamalayandy 1st Prisoner had been sleeping and asked him about it. It was 7 o'Clock when I saw Anna-malayandy 1st Prisoner on the bank of the cutting. Neither iron chairs nor nails were scattered

scattered about the line within my beat, which is to the extent of a mile.

The Prisoners have no questions to ask.

(Signed) Brodeo.

This evidence was read over to the witness in the Tamil language which he understood and acknowledged it to be correct. This evidence was taken down in my presence and hearing and under my personal direction and superintendence this 3d July 1862.

(Signed) S. H. Ward
Sessions Judge

3d Witness, Cheerunga gounden, son of Chinnymalay gounden, raising at Carattoopollium, Coote Vellala, profession Cultivation, sect Siva, and aged about 28 years, having on the 1st July 1862 before the Sessions Court of Coimbatore, been caused to take the solemn affirmation required

required by act V of 1840, the following examination takes place.

I do not recollect the month and date. About 2 months ago, one saturday evening, at about 1/2 an Indian hour (5.48 P.M.) before sunset, Caroopp[illegible] 2d Prisoner gounden and Chinnymalay gounden 3d Prisoner and Cheeny 1st Prisoner gounden were standing on a bridge over the Railway line. They were saying one to another, "Why should we take the cheese from here. We may get them there. We can see about it tomorrow morning." I heard this and they went home. On the following sunday morning, in the forenoon, when I was mending the hedge of my field near the railway line, I saw Caroopp[illegible] 2d Prisoner gounden and Chinnymalay 3d Prisoner gounden pass from West to East. I do not know where they went to. I did not see Annamalay 1st Prisoner gounden. The train proceeded from East to West about one Indian hour before Caroopp[illegible] 2d Prisoner gounden and Chinnymalay 3d Prisoner gounden passed by me. The distance between the store house in charge of the 1st Prisoner and my field is 5 or 6 fields. I did not speak with

4th Witness
Kullagounden.

with the 2d and 3d Prisoners. The distance between the Railway line and my field is 5 or 6 fathoms.

The Prisoners have no questions to ask.

(Marked) Veerarungagounden.

This evidence was read over to the witness in the Tamil language which he understood, and he acknowledged it to be correct. This evidence was taken down in my presence and hearing and under my personal direction and superintendence on the 4th July 1862.

(Signed) S. R. Ward
Sessions Judge.

4th Witness, Kullagounden Palany gounden, residing at Kampollium, Caste Vellala, Profession Cultivation, each sworn, and about 35 years, having on the 4th July 1862, before the Sessions Court been cautioned to take a true affirmation required by Act V of 1840, the following

Examination

4th Witness
Kullagounden.

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examination taken place.

About 2½ months ago, one Sunday morning, a little before six o'Clock, I went to Poongumpathy on business, and on my return to my Village at 7 o'Clock A.M., I saw Annamalay gounden 2d Prisoner, Caroopa gounden 2d Prisoner and Chennymalay gounden 3d Prisoner coming from the store house, which is in charge of the 1st Prisoner, and go down the Railway cutting carrying (iron) Chairs in their hands, the first had two and the second and third each one. I stood on the bank of the cutting at about 2 fathoms distance and looked down to see why they were taking the iron chairs there. I then saw the 1st, 2nd and 3d Prisoners each fix an iron chair on the rail. The other chair was lying by the Prisoners on the ground unfixed. The chairs were fixed as above on the Northern rail. As I afterwards went to Caroomuttan Patty, I did not see the train pass on that day.

The Prisoners have no questions to

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4" July

5th Witness
Ramagounden-

(Marked) Kullagounden-

I heard of the Railway accident
night of Sunday, the day on
I saw the iron Chairs fixed
rails-

The Prisoners have no questions

(Marked) Kullagounden-

This evidence was read over
witness in the Tamil language
he understood, and he acknowledged
correct- This evidence was
down in my presence and hearing
or my personal direction and
ntendence on the 4" July 1862-

(Signed) L. R. Ward
Session Judge-

5th Witness, Ramagounden,
Carooppa gounden, receiving
daily pillam, Caste Vellala,
~~Cultivation, last town, and~~
about 30 years, having, on the
1862, before the Session Court

5th Witness
Ramagounden-

of Coimbatore, been caused to
solemn affirmation required
of 1840, the following examine
place-

About 2 months ag
Sunday, forenoon, while I wa
field, which is at the distanc
from the Railway cutting to
I saw Caroopa gounden
the pathway to his field. I d
whence he came. I heard tha
morning of the Sunday on w
saw Caroopa gounden the
2d Prisoner
had come in contact with cer
Chairs fixed on the rails a
them. It was on that Sunday
2d Prisoner
I saw Caroopa gounden-

The Prisoners have n
to ask-

(Marked) Ramag

This evidence was
to the witness in the Tami
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Solemn

7th Witness
Veerasamy.

The above evidence was read
to witness in the English language
he understood, and he acknowledged
correct. The evidence was taken
in my presence and hearing and
my personal direction and Super-
dence this 3d July 1862.

(Signed) A. R. Hard.
Sessions Judge.

7th Witness, Veerasamy, son of
Karasan, residing at Salem,
Vedoga, profession Head fireman,
tan and aged about 35 years having
July 1862, before the Sessions Court
ators, been caused to take the
affirmation required by Act V
of 1840, the following examination takes
place.

I do not recollect the particular
day, but one day, about 2 months ago,
when I was going in the train which
was proceeding from Salem to Ave-
= nasby, an accident happened to the train.
I do not know near which Village it was,
but two iron chairs had been placed on
the rail in a cutting and the Engine ran over
and

7th Witness
Veerasamy.

and broke them. At about 6 yards
from them two iron chairs had
been tightly fixed to the rails. The
Engine was thereupon stopped. I took
them up and gave them to the Sessions
as also the chairs which had been broke
As the train was in motion I did not
observe whether any iron chairs had been
placed on that part of the Rail where
they were found broken. I did not see
the Prisoners near the place where the
iron chairs had been placed. The chairs
in question must have been purposely
placed there by some one.

The Prisoners have no
questions to ask.

Marked / Veerasamy.

This evidence was read over
to the witness in the Tamil language
which he understood, and he acknowledged
it to be correct. This evidence was
taken down in my presence and hearing
and under my personal direction and
superintendence on the 4th July 1862.

(Signed) S. W. W. Judge.
Sessions

1st Prisoner
Annamaley
Andy.

Memo.

The undersigned for the prosecution being duly sworn, the Witnesses are addressed as follows:

1st Prisoner Annamaley Andy.
2d Prisoner Carruppa Gounden

You have heard in what the indictment for the prosecution have deposed against you. If you have any thing to urge on behalf of your defence, this is the time for so urging it.

The 1st Prisoner Annamaley Andy stated as follows.

I did not command this vessel on Saturday the day preceding that on which the vessel is said to have been seized, I went to my house and returned to the vessel the following Sunday morning at 8 O'clock. I beg that the Surgeon may be examined as a witness to prove the fact. He is nominally my brother in law.

Memo. Nothing heard to say.

Granted Annamaley Andy.

2d Prisoner Carruppa Gounden stated as follows.

I did not command this vessel

2d Prisoner
Carruppa Gounden.

On the morn of Saturday preceding the Sunday on which it is said to have been committed, I certificate, and remained there Nungucherry's house that night following Sunday returned to on the succeeding Monday. I slept via Gundan and Tooloo Gundan examined to prove the fact I have to say

Granted Caruppa Gou

These depositions were read over to the Prisoners in the Tamil language which they understood, and they were asked if they had any thing to say, or wished any witnesses to be called. These depositions were taken and duly signed and sworn to in my presence and hearing by my personal direction and superintendence on the 4th July 1852.

Signed S. Le Grand
Sessions Judge.

3d Prisoner
Cherry Pooley Goundan

The 3d Prisoner, Cherry Pooley Goundan. You have heard what the witnesses for the prosecution have deposed against you. If you have any thing to urge in your defence, this is the time for so doing.

The 3d Prisoner Cherry Pooley Goundan

stated as follows.

3rd Prisoner Cheeniyatchy Soundan

I did not commit this deed. On Sunday morn preceding the Sunday on which the offence is said to have been committed, I went to a feast at Erode and about noon returned on that day proceeded to Carungal Pallium to purchase straw. I remained there that night and the whole of the following Saturday and Sunday. I returned to my village on the succeeding Monday, the 30th when I saw that one Chandra Pillai and Subbiamma of Sundan may be examined. I have nothing more to say.

/marked/ Cheeniyatchy Soundan.

This deposition was read over to the Prisoner in the Tamil language which he understood, and he acknowledged it to be correct. This deposition was taken down in my presence and hearing and under my personal direction and superintendence on the 5th July 1862.

/Signed/ S. Du. Ford

Sessions Judge.

1st Prisoners witness Songoda Andy

1st Prisoners witness, Songoda Andy, son of Poothy Andy, residing at Sattiamungalam, Caste Andy, profession Cultivation, Sect Siva, and aged about 26 years, having on the 4th July 1862, before the Sessions Court of Coimbatore, been called to take the solemn affirmation required by Act V of 1840, the following examination takes place.

I do not know the year 1862 and date on which 1st Prisoner Annamalay Andy is said to have fixed iron chains on the packs. I cannot refer to any fact in proof that he could not have fixed them.

I know that he remained at home from one Saturday noon (I do not know how many months ago) till 7 o'clock on the following morning. I live opposite to his house. I know nothing else. I do not know which Saturday it was.

The Prisoners have no questions to ask.

/marked/ Songoda Andy

This evidence was read over to the witness in the Tamil language which he understood, and he acknowledged

to be sworn. This evidence was taken down in my presence and hearing and under my personal direction and superintendence on the 4th July 1862.

/Signed/ S de Ward
Sessions Judge.

2d Prisoner's 1st witness, Nullana Goundan, son of Valuppa Goundan, residing at Tirupollium, Caste Vellala, profession cultivation, Sect Siva, and aged about 38 years, having on the 4th July 1862, before the Sessions Court of Coimbatore, been caused to take his solemn affirmation required by Act V of 1840, the following examination takes place.

2d Prisoner

I do not know the year, month, and date on which Carruppa Goundan is said to have placed iron chains on the pails. How can I prefer to any fact to show that he could not have done so. One Saturday in the month of Chittirai last Carruppa Goundan had come to his younger sister's house at Tirupollium and remained there the whole of that night and the following Sunday. He returned to his village on the succeeding

2d Prisoner's 1st witness Nullana Goundan.

2d Prisoner's 2d witness Mootoo Goundan.

succeeding Monday. Since then it was that he came to ascertain as to when the assessment is collected in that month.

The Prisoner has no questions to ask.-

/Signed/ Nullana Goundan

This evidence was read over to the witness in the Tamil language which he understood, and he acknowledged it to be correct.

This evidence was taken down in my presence and hearing and under my personal direction and superintendence on the 4th July 1862.

/Signed/ S de Ward.
Sessions Judge.

2d Prisoner's 2d Witness, son of Palanyvaluppa Goundan, Tirupollium, Caste Vellala, profession Cultivation, Sect Siva, and aged about 38 years, having on the 4th July 1862, before the Sessions Court of Coimbatore, been caused to take the solemn affirmation required by Act V of 1840, the following examination taken place.

I do not know the year, month, and date on which Carruppa Goundan fixed iron chains on the pails. How can I prefer to any fact in proof that he could not have done

2d Prisoner to take the
by Act V of 1840,
place.
month, and
to said witness
prefer to any
fact to show that he
in

2 26.

In the matter of 3d Prisoner's 1st witness Sd Thandava Pillai

/Signed/ Modoo Goundan.

This evidence was read over to the witness in the Tamil language which he understood and he acknowledged it to be correct. This evidence was taken down in my presence and hearing and under my personal direction and superintendence on the 1st July 1862.

/Signed/ S. H. Ford

Sessions Judge.

3d Prisoner's 1st witness Sd Thandava Pillai, son of Veera Pillai, residing at Caroongal Pollium, Caste Vellala, profession, Cultivation, Sect Siva, and aged about 40 years, having on the 5th July 1862, before the Session Court of Combatoor, been sworn to take the solemn affirmation required by Act V of 1840, the following examination was taken.

I do not know the year, date and month but I do know that 3d Prisoner Chenni Iruvalay Goundan in company with certain others, to the number of [illegible] placed iron chains and the Pairs.

One Saturday and Sunday I know the months of [illegible] Saw

3d Prisoner's which he understood

3d Prisoner's 2d witness Lutchmi Pillai

3d Prisoner Saw Chenni Iruvalay Goundan in my village employed in making bundles of straw. I do not know whether the above mentioned days, Saturday and Sunday, occurred in the beginning, middle, or end of the month. I knew only that those days were Saturday and Sunday.

The Prisoners had no questions to ask.

/Marked/ Thandava Pillai.

This evidence was read over to the witness in the Tamil language which he understood, and he acknowledged it to be correct. This evidence was taken down in my presence and hearing and under my personal direction and Superintendence on the 5th July 1862.

/Signed/ S. H. Ford

Sessions Judge

3d Prisoners 2d witness Lutchmi Pillai, son of Cootya Pillai, residing at Caroongal Pollium, Caste Vallala [illegible] Cultivation, Sect Siva, and aged about 60 years, sworn on the 5th July 1862, before the Session Court