M.R.O. 1—89,000—16-10-39.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 460 Press Mis.

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Dated 23.3.1983 19 .

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Proceedings of the Madras Government, Judicial Department, 23rd March 1863.

No. 149. Read the following letter from R. R. COTTON, Esq., Session Judge of Madura; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Madras, dated Madura, 9th March 1863, No. 72.

1. With reference to Section 394 of the Code of Criminal Procedure, I have the honor to submit copy of my remarks in Calendar No. XX of 1863, and to solicit the orders of Government regarding the 1st prisoner Lutchmana Pillay.

2. The unfortunate man seems to have killed the deceased in a fit of temporary insanity; he is now apparently quite sane, I would respectfully suggest, that if it is not considered desirable, or convenient to send him to the Lunatic Asylum at Madras, that he be sent to some more healthy Jail, than the Madura one, Salem for instance, where he could be employed advantageously with accounts.

3. Although there are already two insane persons in the Madura Jail, there is no separate ward or employment for them, and from sheer necessity they are kept with the prisoners, a measure I consider unjust and improper, and which can only be justified by the fact that there is no other place for them.

Calendar No. XX of 1863.

The 1st prisoner pleads guilty, admitting that he inflicted the wounds on his sister (the deceased) from which she died.

The 2nd, 3rd, 4th, and 5th prisoners plead not guilty.

The facts of the case as elicited by the record are as follows:—the prosecutor, brother of the 1st prisoner, and deceased, was aroused at midnight hearing a gargling noise, and running out of his room, found 1st prisoner over deceased, having cut her throat; he gave an alarm, when 1st witness, another brother, and 3rd, 4th and 5th prisoners, relations, who were in the house at the time seized 1st prisoner and took his knife from him. They were all apparently much alarmed, and asking 1st prisoner what he meant by it, he replied "How did the Bear come to my house." They depose that for two months past they had noticed a change in him, and that he had been taking medicine; and 9th witness states that he came to him about two months back, when he found him suffering from great heat of body, and bilious fever, and gave him medicine. Prosecutor finding what had occurred, ran and brought 2nd prisoner, his uncle, who resided about 100 yards off, with two other uncles: (absconded) horrified apparently at what had occurred; 2nd prisoner proposed, that as 1st prisoner's wife had died two days before of cholera, and cholera was prevalent, that they should bury deceased at once, and say she died of cholera, and this was done by 2nd 3rd and 4th prisoners and the other uncles with 1st witness, prosecutor and 5th prisoner keeping watch over their brother, 1st prisoner; two days after, the prosecutor and 1st witness fearing the consequences, if the true facts came to light, went and reported the matter to the Sub-Magistrate, the body was exhumed in his, the Superintendent of Police, and Native Surgeon's presence, and it was found that the deceased had two wounds, one on each side of her neck, which the Native Surgeon, 4th witness, deposes was the cause of death. I was fortunate in having on the trial of this case two Assessors possessed of more than ordinary intelligence, and we freely discussed all the evidence, together with so much of Taylor's Medical jurisprudence as refers to Homicidal Mania. No motive can be discovered for the 1st prisoner's act; I twice in Jail, once in Dr. Wilson's presence interrogated him as to what induced him to commit the act: he was then, and is now I believe, perfectly sane, though apparently depressed from the painful situation he is in; and he stated, he could not account for it, that he got up at midnight when he appears to have committed the act and was seized by his brothers, and he avers he knows no more. This he repeated before the Court; also that he had for two months past been feeling unwell; the three brothers with their wives and deceased, a widow, lived in the same house, and I have failed to discover that any quarrel or motive for the act existed. 3rd, 4th and 5th prisoners, cousins of the 1st prisoner, were in the house at the time, having come to condole with him on the loss of his wife, the deceased was a well conducted woman of about 40 years, who since the death of her husband, and 4 or 5 children, some ten

years ago, had resided with her brothers; she appears to have been somewhat peculiar also at times. The knife with which the wounds were inflicted, was the usual Native stile knife; and which 1st prisoner as the Curnam always had about him, for preparing accounts on Cadjan; the Native Surgeon describes the wounds as two stabs on each side of the neck, severing the blood vessels and arteries, but leaving the front of the neck and windpipe intact, and deposes that death probably ensued within five minutes. The Assessors gave their verdict that the 1st prisoner killed deceased Caroopaye when laboring under Homicidal Mania, and unsound in mind. On a careful consideration of the case, I concur in this verdict, and have directed that the 1st prisoner be detained in custody pending the orders of the Government to whom, under Section 394 of the Code of Criminal Procedure, I shall report the case.

It is clearly proved by the evidence, that the 2nd, 3rd, 4th and 5th prisoners were concerned in burying the deceased, alleging she had died of cholera, and that their motive was to screen 1st prisoner from the legal punishment of murder, which they believed had been committed; they urge nothing in defence. 3rd, 4th and 5th denying all knowledge of the matter, *i. e.*, deceased's death and burial. 2nd prisoner, however, subsequently admitted to the Court, that they were all so appalled at the catastrophe that had befallen the family, they to save 1st prisoner, who they knew had committed the act when insane, from punishment, concealed the fact as deposed. Believing this to be the truth I have passed sentence accordingly.

SENTENCE.

The Court concurring with the Assessors finds that the 1st prisoner Lutchmana Pillay is guilty of the offence specified in the charge, namely, that he cut the throat of Caroopaye and caused her death; but that he committed the said act when unsound in mind. The Court therefore directs that the said Lutchmana Pillay be kept in custody pending the orders of Government.

The Court also concurring with the Assessors, finds that Rungasawmy Pillay, Iyemperoomal Pillay, Namasivayem Pillay, and Autheemoolom Pillay, are guilty of the offence specified in the 2nd count of the charge, namely, that they having reason to believe an offence had been committed caused the evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, and have thereby committed an offence punishable under Section 201, Penal Code, and the Court directs that the said prisoners be each imprisoned for three days, and that they do each pay a fine of 100 Rupees, or failing, to be rigorously imprisoned for six months under Sections 64 and 66, Penal Code.

(Signed) R. R. COTTON,
Session Judge.

(True Copy.)

(Signed) R. R. COTTON,
Session Judge.

5th March 1863.

No. 150. ORDER THEREON, 23rd March 1863, No. 430.

Under Section 394 of the Code of Criminal Procedure, His Excellency the Governor in Council directs that the prisoner, Lutchmana Pillay, be removed to the Zillah Jail at Salem, and there be kept in custody.

(Signed) A. J. ARBUTHNOT,
Chief Secretary

Ed. T. McMoctry.

No. 460 / 23 March 1863.

Under § 394 of the Code of Criminal Procedure, H. E. the Governor in Council directs that the prisoner, Lutchmana Pillay, be removed to the Zillah Jail at Salem & there be kept in custody.

The Sessions Judge of Madura.
" Salem.
" Inspector Genl. of Jails.

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