M.E. O. 1—20,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1732	Press ~~Mis.~~
28-29 Dated	5-12- ~~19~~ 1864	

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Not to be folded or roughly handled

No. 28. Read the following letter from F. S. CHILD, Esq., Session Judge of Cuddapah; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Madras, dated Cuddapah, 24th November 1864, No. 605.

I have the honor to forward copy of the Calendar No. 66 in which two prisoners Annoomoola Sashegadoo, and Lutchigadoo were tried and convicted on a charge of gang robbery and murder by me, with the aid of Assessors, and also of the Calendar No. 159 in which prisoner Wudda Buttoola Chinna Yerikalawadoo was tried by a Jury, and convicted of being one of a gang of robbers under Section 400 of the Penal Code, together with the copies of evidence in each case.

2. If the evidence in this latter case be true, the conviction in the former case was wrong.

3. The first case was a peculiar one, the evidence rested entirely on the statements made by the murdered man when fully aware of his danger, and yet most fully in his senses and calm. The reasons why I attached such great weight to his evidence is given in the Calendar, and therefore it is unnecessary to repeat it. The fact that some of the neighbours had put up the robbers to attack the house they did, is confirmed by the evidence in the present case; but it appears that the deceased was misled by a remark made by the robbers into supposing the parties he accused were present.

4. The witnesses in the present case are approvers, an objectionable species of witnesses, but almost the only obtainable evidence in gang robberies, and when carefully sifted the most reliable. These two men were very closely questioned by the Jury on minute points of which some of the Jury were themselves aware, and they were by that convinced that the men were really speaking the truth. They positively swear that the men formerly convicted by me were not present. The reason given by the first witness for the mistake of the deceased is this, that just at the time of the fight the third witness, also of the gang called out, Mama (మామ) has fallen, an expression, he says, the villagers used to apply to the deceased, but which was in this case applied by third witness to a robber who was cut down by the deceased; very possibly this may have been the reason why the deceased convinced himself that some of his neighbours were present, and that he had seen the two he named; but any way these men positively swear it was Mohudeengadoo, the notorious leader of the gang, who stabbed and killed the deceased, and not those I convicted. When the Jury, and they were a remarkably intelligent Jury, had convicted the prisoner in No. 159, I asked them what was their opinion regarding the prisoners before convicted, and they gave it as their decided opinion that their conviction was wrong.

5. Nothing, I think, shows more the great difficulties attending the trial of prisoners accused of gang robbery, but I take no blame to myself for convicting the men I did, and under the same circumstances should do so again. If a Judge were to allow every prisoner to escape in cases of gang robbery, in which there was a possibility of erring, considering of what nature evidence is, no one would be punished at all, for gang robbery is such a peculiar crime that there is invariably less evidence in those cases than in any other; and in an utterly lawless District like this, one is compelled to be satisfied with less perfect evidence than in a more civilized community.

6. Under the above circumstances, I have the honor to recommend that a pardon should be granted to the above-mentioned prisoners by His Excellency the Governor in Council.

No. 29. To the Honorable Sir C. H. SCOTLAND, Knight, Chief Justice of the High Court of Judicature at Madras, dated Fort Saint George, 5th December 1864, No. 1732.

I am directed by His Excellency the Governor in Council to request that the Honorable the Judges of the High Court will favor him with their opinion in the case referred to in the enclosed letter from the Session Judge of Cuddapah.

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

Judicial Depart

Judicial

No. 2471.

From The Session Judge of Cuddapah
Dated 24th Nov. 1864.

For Orders.

I do not know whether the High Court would be willing to give any opinion in this case. If so, it would be well to refer them in the first instance. I do not go in this case at present until it is ascertained whether we can learn the opinion of the High Court. My impression now is that the finding and sentence in Case No. 66 was wrong. If convicted, I should remark on the case that happened not long

Dec 5 64

Judicial Depart.

No 1732.

To The Honorable Sir J. H. Scotland. Kt
Chief Justice of the High Court of Judicature

Hon'ble Sir,

I am directed by His Excellency the Governor in Council to request that the Honorable the Judges of the High Court will favor him with their opinion in the case referred to in the enclosed letter from the Sessions Judge of Cuddapah.

I have &c
T. H. George
5. Dec. 64.

Proceedings of the Madras Government, Judicial Department,
5th December 1864.

[illegible] appears to be that a man who had been mortally wounded by a [illegible] dying declaration on his murder, a trial relation of his own, and all the declaration was doubtless made in good faith. It was erroneous — the real murderer having been convicted on his own confession & executed.

J.P.

— Govt. may, I think, ask the Judges of the High Court to aid them with their opinion in a case of this kind

E.C.

Writ of Error

Judicial 1864 Defendt

No 1732.

To
The Hon.ble
The Chief Justice &c &c
High Court of Judicature
Madras.

Dated 25th Decr 1865.

Jno.

28-29