M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1814 Press ~~Mis.~~

186-187.

Dated 16 · 12 · 1864 ~~18~~ .

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Not to be folded or roughly handled

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No. 186. Read the following letter from C. COLLETT, Esq., Session Judge, Vizagapatam, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Vizagapatam, 10th November 1864, No. 73.

I have the honor to recommend to the mercy of Government a prisoner sentenced by me, at the Session for this month, to transportation for life, for murder, but whose case appears to to me be one in which the power given both by Section 54, Criminal Procedure Code, and Section 55, Penal Code, to the Government, to remit a part of a sentence, may rightly be exercised.

2. The accompanying copy of the Calendar in the case will, I trust, show insufficient detail the nature of the evidence; but I may here very briefly state the facts of the case. On the morning of the 9th October last, the prisoner and her infant daughter were found in a well, in a garden outside the village; when drawn out, the prisoner was insensible, but after a time recovered; the child was still living, but died in half an hour. The evidence, to my mind, leaves no doubt that she secretly left her house before day-light, and deliberately threw herself with her child into the well, in consequence of a serious quarrel she had had the day before with her husband, whom she charged with having a criminal intrigue with his own sister-in-law. This jealousy had before that caused quarrels between them.

3. The Assessors, it will be seen, acquitted the prisoner, being probably I think influenced, though unwittingly so, by a feeling that the law was very harsh in declaring that the causing the death of the child, under such circumstances, amounted to murder. That, however, I conceive to be the law; and, on a review of the circumstances of the case, including the admission made on the same day by the prisoner to the Village Moonsiff, I have no doubt that she ought to be found guilty. The woman, moved by a strong feeling of jealousy, and after what was probably a very violent quarrel with her husband, attempted to destroy herself, and nearly succeeded; but quite succeeded unfortunately in destroying her child. Like cases, and in other countries also, show how constantly a mother seeking to destroy herself, under such circumstances, will seek to destroy her young child along with herself; but, when by a mere accident the mother is rescued, no one can really view the mother as an ordinary murderer.

4. As it may be expected that I should suggest a term of imprisonment, to be substituted for the sentence of transportation for life, I would beg to submit that all the ends of punishment will be sufficiently served by one year's imprisonment. As the prisoner is a poor woman used to labor, and the work which females in Jail perform is scarcely more than of the ordinary domestic kind, the imprisonment may very properly be rigorous.

5. I believe that I am in order in addressing the Government direct, and not through the High Court. On a former like occasion the late Sudder Court seemed to think that the proper course.

Extract from the Calendar of persons tried before Charles Collett, Esq., Judge of the Court of Session in the Zillah of Vizagapatam.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Number of the case.	Name and description of the accused.	Copy of the charge, or substance of the complaint.	Name of complainant.	Names of witnesses for the prosecution.	Names of witnesses for the defence.	Statement of the evidence and grounds of conviction.	Finding and Sentence.	Date of offence.	Date of apprehension.	Date of appearance.	Date of commencing trial.	Date of sentence.	Explanation of delay.
29 of 1864.	Seeram Laksmi *alias* Soorce, of the Weaver caste.	That the prisoner at A. M., on the 9th October 1864, did commit murder, by causing the death of her daughter Gaddamma, a girl of 15 months, by throwing her into a well, and that she has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of this Court of Session. 2nd Count.—That the said prisoner at the abovementioned time did attempt to commit suicide by throwing herself into the said well, and that she has thereby committed an offence punishable under Section 309 of the Indian Penal Code, and within the cognizance of this Court of Session.	Regina.	1st. S. Ramjoji. 2nd. K. Rajigadu. 3rd. S. Appayya. 4th. P. Baveona 5th. K. Kristna, Naiku 6th. S. Seetamma. 7th. R. Atchiyanu.	1st. P. Musalaya. 2nd. S. Ramasvami 3rd. J. Papa. 4th. Shaik Madar. 5th. T. Sunnyasama. 6th. P. Laupama.	1. The prisoner pleaded not guilty. 2. The prisoner had had a quarrel with her husband, the 3rd witness, in consequence of her charging him with being criminally intimate with his Sister-in-law, his elder brother's wife. The husband (naturally a most reluctant witness) admitted that this supposed intrigue had once before been the cause of quarrel between them. The last quarrel there can be no doubt occurred, as 3rd witness originally stated, on the day before the prisoner was found in the well; and the prisoner then received a good beating. At the trial he tried to put the quarrel back a couple of days, and to soften it down into one of words only. The 6th witness his mother, who lives with them, also spoke to the quarrel; but wished to ante-date it a week. Early in the morning, stated in the charge, before it was light, the prisoner was missed from the house. She had taken her child, an infant of 15 months' with her; the 6th witness, discovered her absence, seems to have been alarmed, and accused the 3rd witness. Shortly after, the 2nd witness, who with the	The Court differing from the Assessors, finds that Seeram Laksmi *alias* Soorce, is guilty of the offence specified in the 1st count of the charge, viz., that Seeram Laksmi *alias* Soorce committed murder, and has thereby committed an offence punishable under Section 302 of the Indian Penal Code; and the Court directs that the said Seeram Laksmi *alias* Soorce be sentenced to transportation for life, but be recommended to the mercy of the executive Government.	9th October 1864.	15th do.	15th do.	7th November 1864.	7th do.	

1st witness had gone out for a certain purpose returned for a rope, and raised an alarm that some body was in the well, in a garden belonging to the 7th witness; it was the 1st witness who first fancied that he heard noises from the well. On descending into the well the prisoner was first drawn out, and afterwards her child; the prisoner was insensible and did not recover herself for some time, apparently 2 or 3 hours; the child was still living, but died in half an hour. The well was covered with a bamboo tatty which had been pushed in one side a little, there was not much water in the well, but there is also mud, and the well was from 15 to 20 feet deep. The 7th witness, a respectable ryot, was positive that the evening before he had quite covered up his well with the tatty, and there was the evidence of this witness, and of several others, that the milk-plant hedge round the garden is a thick one and without any gaps; this was probable as the garden was cultivated. The 5th witness, the Village Moonsiff, stated that on the same day, after the prisoner had recovered herself, he visited her, and she then admitted to him that she had thrown herself with her child into the well, and the reason she assigned was her poverty. It was natural that she should not state to him the real motive for her act, especially as the 3rd witness her husband was present at the time.

3. The defence was that the prisoner was subject to fits, and had gone out for a certain purpose, and going into the garden had fallen in a fit into the well. But it appeared that the place used by the Villagers, including the women, is on one side of the garden, and not on the side of the garden in which the only entrance is situated: the place too is described as covered with bushes, and it was still quite dark so that she had no motive for going into the garden. Had she gone out for such a purpose, she would naturally have aroused her mother-in-law, and left the young child in her charge; no chembu or chatty was found in or near the well, and none it was admitted was missing from the house; and water could not have been drawn without a rope, or without first moving a tatty. On the other hand, there really seems no reason to doubt the truth of the Village Moonsiff's evidence.

4. As to the liability of the prisoner to fits, the evidence of those who knew her was most unsatisfactory, even the 6th witness, who was anxious to say all she could in her favor, stated that she had had none since her child was born and other witnesses called for the same purpose were still less favorable. As to fits subsequent to the prisoner's arrest, the Jail Dresser spoke to one; he thought it was a fit, but beyond throwing water on her face he does not seem to have used any remedy to test the reality of the fit; and its occurrence, just as she was brought to the Jail, was a great deal too dramatic not to be suspicious. Some convict women spoke to another fit one night after they were locked up, but their account was anything but satisfactory.

5. The Court is quite unable to concur with the Assessors in acquitting the prisoner. Experience shows that such a quarrel with her husband, as prisoner undoubtedly had had, would be quite motive enough for most women in this country to be guilty of the rash act with which the prisoner is charged, and the evidence above set forth seems to the Court to leave no reasonable doubt that the prisoner did throw herself and her infant into the well. The so causing the death of the child is technically murder; but in no country in the world would a mother in such circumstances be regarded as deserving the punishment of an ordinary murderer, and though sentence of transportation for life, the lowest sentence the law allows, has been recorded, the prisoner will be recommended to the mercy of Government, in order that, if it seems fit to Government, the authority given by Section 54, Criminal Procedure Code, or Section 55, Penal Code, may be exercised in the prisoner's favor.

6. No verdict or sentence was recorded upon the 2nd charge, as it was unnecessary.

VIZAGAPATAM, SESSION COURT,
10*th November* 1864.

(Signed) C. COLLETT,
Session Judge.

(True Copy.)
(Signed) C. COLLETT,
Session Judge.

Proceedings of the Madras Government, Judicial Department,
16th December 1864.

No. 187. ORDER THEREON, 16th December 1864, No. 1814.

In the case referred to in the foregoing letter, in which the prisoner, a female, has been sentenced to transportation for life, on conviction of the crime of child-murder, the Session Judge recommends that the sentence should be reduced to rigorous imprisonment for one year.

2. The prisoner, it appears in a fit of jealousy, threw herself into a well, with her child in her arms. The mother was rescued; but the child was drowned.

3. The Governor in Council concurs in the opinion of the Session Judge, that, under the circumstances, the sentence of transportation for life may with propriety be reduced; but he considers that the punishment, proposed by Mr. Collett, would be too slight, and resolves to reduce the sentence to rigorous imprisonment for five years.

(True Extract).

Chief Secretary.

To the Session Judge, Vizagapatam.

Exd. J. H. Burns.

Judicial Department.

No. 2387.

From The Sessions Judge. Vizagapatam.
Dated 10th November 1864.

For Orders.

I regret that I cannot consider that there are grounds for mitigating the sentence in this case. and I fear that it might form a bad precedent. Such acts are contagious - and unless rigorously dealt with by exemplary punishment - I should have been sorry had the woman been capitally condemned but would not interfere with the sentence as it stands JPS 23/11/64.

Judicial Department

Proceedings of the Madras Government.

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Order thereon 16th December 1864, No. 1814.

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Exd. J. H. Burns.

Lists to Dec.

Judicial. 1864. Department

№ 1874.

Proceedings of Government.

Dated 16 December 64

To Supreme Court, Washington dated 19th

Transmitting the proceedings of a military commission held at Fort Monroe, Va. on the trial of Dr. Samuel A. Mudd, charged with conspiracy to murder the President, Andrew Johnson, Secretary of State William H. Seward, Lieutenant General Ulysses S. Grant, and others, and with the murder of the President, and sentencing him to imprisonment at hard labor for life.

Andrew Johnson to render the sentence of imprisonment for five years.—

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