

## MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

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| G.O. No. | 702      | Press          |
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| Dated    | 14 — 5 — | 1864           |

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,*  
*14th May 1861.*

No. 128. Read the following letter from F. S. CHILD, Esq., Sessions Judge of Cuddapah;  
to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George,  
dated Cuddapah, 2nd May 1861, No. 272.

I have the honor to forward a copy of the Calendar in Sessions trial No. 50 of 1861, and

\* Proceedings of Sessions Court, dated April 29th.

also the result of further inquiry into the conduct of the Sub-Magistrate\* who committed the case, and to recommend that prisoners 3,

4 and 5, viz., Ankola Vamoogadoo, Pedda Gungooloogadoo, and Chinna Gungooloogadoo, who were convicted by the Jury, be pardoned and their sentence annulled. The reasons for this recommendation are recorded in the Proceedings of the Court, dated April 29th.

2. A copy of these Proceedings are forwarded to the High Court.

Proceedings of the Madras Government, Judicial Department,  
14th May 1864.

Calendar of persons tried before the Sessions Court of Cuddapah.

| 1                   | 2                                                                                                                                                                                                                                                                                                                                                                                                                | 3                                                                                                                                                                                                                                                                                                                                       | 4                              | 5                                                                                                                                                                                      | 6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 8                     | 9                | 10                                  | 11                        | 12                | 13                    | 14 |
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| Number of the Case. | Name and description of the accused.                                                                                                                                                                                                                                                                                                                                                                             | Copy of the charge or substance of the complaint.                                                                                                                                                                                                                                                                                       | Name of the complainant.       | Name of witnesses for the prosecution.                                                                                                                                                 | Name of witnesses for defence.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Statement of the evidence and grounds of conviction.                                                                                                                                                                                                                                                                                                                                                                                                                                           | Finding and sentence. | Date of offence. | Date of apprehension or appearance. | Date of commencing trial. | Date of sentence. | Explanation of delay. |    |
| 50 of 1864.         | 1. Guddum Chinna Chennogadoo, Boya caste, cooly, aged 35.<br>2. Peddogadoo, Putra caste, cultivator, aged 20.<br>3. Ankoola Vamoozadur, Bogum caste, lives by his profession as head of four dancing girls, aged 22.<br>4. Coommara Peddhar Gungooloozadur, pot maker, by selling pots, aged 25.<br>5. Chinna Gungooloozadur, pot maker, by selling pots, aged 22.<br>6. Boya Chinneezadur, Boya, Ryot, aged 35. | That they, on the 13th February 1864, at Chinnigareppally, within the limits of Kadree, committed dacoity, i. e., by committing robbery with more than four upon one Byannah, and that they have thereby committed an offence punishable under Section 397 of the Indian Penal Code, and within the cognizance of the Court of Session. | Coommara Byannah, 1st witness. | 2. Cudderaga-For 1st prisoner.<br>3. Coommara Nagy.<br>4. Coommara Sozbadur.<br>For 3rd prisoner.<br>1. Tooraka Bada Saib.<br>2. Hyder Saib.<br>For 6th prisoner.<br>Reddy Currywadur. | In this case the evidence of the 4th witness is to the effect that a terrible gang robbery was committed in the house of 1st witness by an armed gang, in which the 1st witness and his mother, an old infirm woman, were grievously ill-treated. The evidence against the prisoners is entirely of identification and is as follows:—The 1st, 2nd and 6th were immediately denounced to the Curium, and all swear to the presence of the 6th prisoner. The 2nd witness who, being a servant in the house was | The jury are unanimous in finding the prisoners guilty of the offence specified in the charges, viz., that they committed dacoity and that they have thereby committed an offence punishable under Section 395 of the Indian Penal Code: in committing such dacoity, one or some of them was armed with a deadly weapon and that they have thereby committed an offence punishable under Section 398 of the Indian Penal Code: and in committing such dacoity one of them caused grievous hurt | 15th February 1864.   | 16th do.         | 11th March 1864.                    | 13th April 1864.          | Do.               |                       |    |

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14th May 1864.

Penal Code and within, &c.  
3rd Count.—In committing sub-dacoity, one of them caused grievous hurt, and that they have thereby committed an offence punishable under Section 397 of the Indian Penal Code.  
Committed by Vencarachelappay Naidoo, 2nd Class Sub-Magistrate of Kadree Taluq.

kept there all the time of the robbery, and had better opportunities of seeing the people than any one else, swears to the 2nd; and the 2nd, 3rd and 4th witnesses to the 1st prisoner. The names of the other prisoners were given immediately to the Sub-Magistrate, the Sheristadar, on his arrival, and the 2nd, 3rd, and 4th witnesses swear to the 3rd prisoner and distinctly to the part he took; the 2nd to the 4th and 5th. This was distinctly pointed out to the Jury. On cross examination there were discrepancies regarding the dress of the prisoners. A peculiar feature in this trial has been the extraordinary conduct of the Sub-Magistrate, the Tahsildar, and that will form the subject of a further communication to the High Court. He had released the prisoners, and when ordered by the Joint Magistrate to commit them, committed the 4th witness for perjury, in swearing he was present at the robbery when he was not; when called as a witness he was evidently under great terror, and at first stated he was not, but after a few questions put to him, he allowed he was, and that his deposition to the Sub-Magistrate was true—and that it was so and his deposition before the Court also—the Court and Jury were most fully convinced, by the rest of the evidence and the circumstances which the evidence showed to have taken place. The prisoner's defence was in each case an *alibi*; the witnesses for the 1st and 3rd prisoners contradicted the original statements of the prisoners and themselves, and the evidence for the 6th prisoner proved nothing.

and that they have thereby committed an offence punishable under Section 397 of the Indian Penal Code. The Court sentences the 1st, 2nd, 3rd and 6th prisoners to 14 years' transportation, the 4th and 5th to 5 years' rigorous imprisonment.

(Signed) F. S. CHILD,  
Sessions Judge.  
(Signed) F. S. CHILD,  
Sessions Judge.

(True Copy.)

*Proceedings of the Madras Government, Judicial Department,*

14th May 1864.

*Proceedings of the Sessions Court of Cuddapah, under date the 29th April 1864.*

The consequence of the evidence produced in, and the result of trial in Calendar No. 50 of 1864.

Prosecutor.  
Regina.

versus

Prisoners.

1. G. Chinna Chennogadoo.
2. Peddoogadoo.
3. A. Vamogadoo.
4. C. Pedda Gungooloogadoo.
5. Chinna Gungooloogadoo, and
6. Boya Chinnegadoo.

Charged with gang robbery with torture. The Sessions Judge determined to call for the Sub-Magistrate, the Tahsildar of the Taluq, and also for the Sheristadar and the Village Moonsiff, and Head Serjeant. The evidence as given in Court threw grave suspicion of mal-practice on the part of the Sub-Magistrate, of which had he been guilty he was clearly not fit to hold his position any longer. The result of the inquiry has satisfied the Sessions Judge that the Sub-Magistrate was right throughout in his conduct, though not altogether in his judgment; and that he (the Sessions Judge) was deceived by the false evidence given in Court. The Sheristadar went immediately to the place where the gang robbery had occurred on the night of the 15th February, arriving there on the morning of the 17th. The whole question at issue depended upon whether one Commatumpully Soobadoo was sleeping in the house when the gang robbery took place or not. The three inmates of the house swore before the Sub-Magistrate on the 23rd February he was, and so did he himself and the evidence that he was not there taken several days afterwards, and after the Sub-Magistrate had released the prisoners without committing them for trial, on what appeared to the Joint Magistrate and the Sessions Judge inadequate reasons was very much weaker than that he was. His mother's evidence which first raised the doubt being to this effect that he was not at home on the night in question, having been absent some days, and said on his return on Tuesday he had been to Cadery, and two doubtful witnesses who said he had seen him in Cadery. It appeared impossible to account for four persons voluntarily telling a most useless lie, for whether this Soobadoo was or was not at the house was of the very smallest consequence in the case, he deposed that he recognized but two of the gang, the 1st and 3rd prisoners, against both of whom, especially the 1st, there was very strong evidence without him.

2. It appears, however, on a more careful examination of the record before the Sub-Magistrate and Sheristadar, that no one mentioned him as being in the house on the night in question to the Sheristadar on the 17th, though they did to the Sub-Magistrate on the 23rd. These two depositions being on one paper and read out in continuation as one deposition, caused the Sessions Judge to confound what was said before the Sheristadar with what was said before the Sub-Magistrate. The Sheristadar deposes on oath that no mention was made of this Soobanah before him, the Judge believes him, for otherwise he must have falsified four depositions apparently without object; every other particular was taken down, but this name does not appear, and as Soobadoo was in the village at the time, it is to be supposed he would have examined him as the others were, and as he was by the Sub-Magistrate before whom his name is first mentioned on the 23rd.

3. The Village Moonsiff and Head Constable deposed on oath that he was examined by Sheristadar, but the Judge does not believe them, for in that case not only must the Sheristadar have falsified the depositions he did take, and in which his name does not appear, but have also subsequently made away with the deposition. Unfortunately the Sub-Magistrate when his name was mentioned in the depositions before him on the 23rd, and when he examined him himself, did not question any of the parties as to the cause of his name not appearing before. The Tahsildar, the Sub-Magistrate has most fully accounted for every point that appeared doubtful in the case as regards himself. The Sessions Judge remains of opinion that the prisoners should have been committed for trial, and that it was an error of judgment on the part of the Sub-Magistrate to release them, at all events the 1st, 2nd, and 6th prisoners; but in all other points the Sub-Magistrate was right, and the opinion formed by the Judge wrong. With the evidence before the Court, however, as given in the Court, it was impossible to have come to any other conclusion

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14th May 1864.

regarding the charge of perjury against Soobadoo than that which was come to at the time, viz, that there was no foundation to go upon. That the Village Moonsiff and Head Serjeant have now given a false deposition regarding the Sheristadar taking a deposition from Soobadoo at Chinnabgirepully, the Sessions judge has no doubt and the Joint Magistrate will inquire whether there is sufficient evidence on the subject besides the deposition of the Sheristadar to warrant committal; and if so, he will commit them for trial.

4. The question then remains what effect ought these to have on the conviction of the prisoners tried and convicted by the Jury for the gang robbery. The evidence being entirely that of identity and the witnesses against them being thus shown to be persons who for very little are willing to perjure themselves. In England their whole evidence would properly be discredited; if that rule applied here, no evidence would be believed. By the evidence as laid at the time before the Jury as appears in the Calendar, it will be seen that three prisoners the 1st, 2nd and 6th only were immediately denounced to the village authorities as being identified, the other three afterwards, and of these three but one witness spoke to the 4th and 5th being present; as observed to the Jury, the witness who deposed to them had better opportunities of seeing the robbers than any one else, but still the Sessions Judge would not have convicted them himself, and though the Jury did convict them passed a very different sentence upon them from what was passed on the others, and the Judge is of opinion that the Jury would never have convicted any one of the three who were not at once named had they not believed the evidence of Soobanah, and therefore that the other witnesses were thoroughly trustworthy witnesses in every particular. It is very certain as a general rule that if a robber is truly identified at night his name will be mentioned at once and not left omitted for two days. Under these circumstances the Sessions Judge decides to forward a copy of the Calendar to Government with a recommendation that the prisoners 3rd, 4th and 5th be pardoned, and the sentence against them annulled.

(True Extract.)

(Signed) F. S. CHILD,  
Sessions Judge.

2nd May 1864.

No. 129. To the Honorable Sir C. H. SCOTLAND, Knight, Chief Justice of the High Court of Judicature at Madras, dated Fort Saint George, 14th May 1864, No. 702.

I am directed to transmit to you the accompanying letter from the Sessions Judge of Cuddapah and its enclosures, and to request that you will favor His Excellency the Governor in Council with the opinion of the Judges of the High Court as to the propriety of remitting the sentences passed upon the three prisoners referred to by the Sessions Judge.

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

Exd. J. Talloch

des/22/20/5  
SDB

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Provincial Department.

No 702.

To

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

Worthy Sir,

I am directed to trans-  
mit to you the accompanying  
letter from the Sessions Judge  
of Cuddapah and its enclosure,  
and to request that you will  
favor His Excellency the Governor  
in Council with the opinion  
of the Judges of the High Court  
as to the propriety of remitting  
the sentences passed upon the  
three prisoners referred to by  
the Sessions Judge.

AM

JP

For S. J. J. J.  
14 May 1864

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13 C. S. J. J. J.

JP

Judicial Robt. Sargent

o. Sargent

To  
the Honorable  
Judges of the  
High Court of Justice

London May 10th 1771  
No. 11/179-