M. R. O. 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 85 Press ~~Mis.~~

134-135

Dated 21.1.1864. ~~19~~ .

32/33

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, *21st January* 1864.

No. 134. Read the following letter from C. A. ROBERTS, Esq., Sessions Judge of Chittoor; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Chittoor, 7th January 1864, No. 1.

With reference to the Orders of Government, dated 23rd ultimo, No. 2011, I have the honor to submit copies of the Notes of evidence in Calendar Nos. 45, 81 and 83 of 1863.

No. 135. ORDER THEREON, 21st January 1864, No. 85.

With the foregoing letter the Sessions Judge of Chittoor submits the Notes of evidence in Calendar Nos. 45, 81 and 83 of 1863 of that Court, called for in the Order of Government on his previous letters of the 18th and 19th of December last; the cases being submitted for the consideration of Government, with a strong recommendation that the sentences passed upon all the prisoners convicted in Nos. 81 and 83, and on one prisoner in No. 45, may be remitted under Section 54 of the Criminal Procedure Code.

2. The Governor in Council is of opinion after a perusal of these records and a full consideration of the statements of the cases contained in the Sessions Judge's letters, that the cases are not such as call for the exercise of the extraordinary power vested in the Government by the Section in question, to the extent proposed by the Sessions Judge.

3. The prisoners in all these cases were convicted by the verdicts of Juries, verdicts which are final on all matters of fact, and are not subject to the appeal to the superior Court which lies from the decision of the Sessions Judge himself. The Governor in Council would be averse therefore to setting aside a verdict to which the law has advisedly attached so much weight on any but the strongest grounds, such as the proof of some new facts which might show the prisoners to have been erroneously convicted.

4. In the present case the only ground for the recommendation for the remission of the sentences, made by the Sessions Judge, is his own dissent from the opinion arrived at by the Juries appointed to try these cases of gang-robbery by night, as to the sufficiency and credibility of the evidence adduced against the accused, a matter of *fact* regarding which, from the nature of the evidence in these cases, it but rarely happens that there is not some room for doubt or difference of opinion, and on which the award made by the Juries is expressly declared by the law to be final.

5. The Governor in Council sees nothing in these records which would, in his opinion, justify him in setting aside the verdicts pronounced by the Juries; if the sufficiency of the evidence is doubtful, it is for the Jury to judge of such doubts, and if they are satisfied with it, the Governor in Council has nothing now before him which shows that they were wrong in being so.

6. In Calendar No. 83, however, the Governor in Council is of opinion that without in any way impugning the justice of the verdict given by the Jury on the facts proved against the prisoners, the sentence passed by the Sessions Judge may be properly modified. The prisoners laid themselves open by their proceedings to a charge of dacoity, but the previous attacks on prosecutor's house, the existence of a quarrel, and the fact that no property was carried off, while mischief was done to the house and its inmates, show that the prisoners' object was to carry out some grudge and not to rob. The Governor in Council is of opinion that the prisoners in this case will be adequately punished, and a sufficient general warning given by rigorous imprisonment for six months, and resolves therefore to reduce the sentence passed by the Sessions Judge accordingly, under the authority vested in him by Section 54 of the Criminal Procedure Code.

7. The original sentences passed upon the prisoners in Calendar Nos. 45 and 81 will be carried out in full.

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

Exd. J. Tulloch.

Calendar No 45 of 1863

Prisoners. "not guilty".

1st Witness. On 18th March last dacoity was committed in my house. I & the females of my house, also Narasimma Charry 8th witness & Shishadriengar 2d witness were there that night. About 40 persons armed with guns, spears, swords, & sticks & with torches came. it was then about 10 gaddis of the night (10 P.M.). They entered the house with about 12 lighted torches, & by the said light I recognized them. I was surrounded & hit on the head & all over the body. & I was stabbed on the head (shows the mark) & told to show my property. All the ornaments which the females had on

were taken from them - Next day I gave
in a list of the property taken at the
robbery - This is No 2 now shown to me.
The property in Court numbered 1 - 10 .
mine : Nos 8 & 10 pieces of gold & silver
I think are mine. I cannot say for
certain as they are broken pieces. The
other property I am positive are mine.
ie Nos 1-7 & 9 - These were lost at the
coity - I saw the 1st Prisoner clearly
He stabbed me on the head with a spear
I also saw well the other Prisoners Nos
2 to 8 - as there was plenty of torch light.
I saw them. I have no doubt about it.
I don't remember to have seen the
other Prisoners Nos 9 & 11.
The pots I have had in my possession
5 or 6 years - the Shawl 2 years & the
ths 5 or 6 months & having had them

in use I am able to identify them as
my own - No 7 is half of a Puttu corry -
By the Court - I do not recollect having
seen the Prisoners 1 to 8 prior to the robbery.
All those Prisoners had cumblies fastened
over the shoulder & the property was put
therein - The Prisoners' faces were not
smeared with any thing - The property has
no particular mark - I know it from
having had the enjoyment - I was in
the hall of the house when I was stabbed.
I saw the 4th Prisoner tear the earring
from my wife - The other Prisoners
joined together in the robbery. The 4th
Prisoner dragged my wife also the 2nd
Prisoner & 5th Prisoner. In the list
above mentioned are entered No 2 brass
pot under the head

1 Brass pot weight 11 seers value Rs. 4.

No 5 Copper pot as

1 Copper pot value Rs 4.

No 9 gold wire is a part of the gold ear-ornament entered in list.

No 4 Shawl is entered ~ in list as a red shawl, spotted, of 4½ cubits square worth Rs. 50.

No 1 upper garment is one of a pair entered in the list.

No 3 White woman's cloth.

No 6 waist cloth.

2d witness. I was in the house next to 1st witness's on the night of the robbery. I heard the firing of guns & on opening the door, stones were thrown & there was a cry from 1st witness's house. I went & llected people by the backyard & I ~ concealed myself behind a palankin which was on the pyal of 1st witness's ~ house. About 40 robbers came to the house & others were in the street throwing stones. some 15 entered the house & ~ brought out bundles. They had lighted torches. I saw the Prisoners 1 to 6 & the 8th Prisoner that night taking part in the robbery. I cannot swear to the 7th Prisoner. I saw the 1st Prisoner wear No 1 when he was seized & brought. No 2 brass pot was found buried in Virabom Chengama's backyard. The 2d Prisoner had stated that it was there & so it was found. No 3 waist cloth was found in 3d Prisoner's bag. No 4 Shawl was found through the 4th witness. No 5 ~ Copper pot was found in the well in

Prisoner's garden - Nos 6, 7, 8 & 10 were delivered up by the 6th Prisoner from a ruined temple where they had been buried - No 9 gold earring was stated by the 4th Prisoner to have been given by him to one Nagacharry & there it was found - Except Nos 8 & 10 I am sure that all the rest of the property belongs to the 1st witness - I say so because I have seen it long in use by him, but by no other mark - All the property was taken at the dacoity - I often went to the 1st witness's
2 house therefore I know well - None of the Prisoners had their faces disguised at the Robbery -

I had not seen the above mentioned Prisoners before - The small articles were put by the robbers in their cumblies, the large articles were tied in the cloths taken at the 1st witness's house & brought out - The Prisoners were about 2 fathoms from me during the robbery & I recognized them. The 1st witness's wife's ear was torn - The 1st witness's head was stabbed with a spear - I saw the wound that night - I did not see the 1st witness's head struck - I saw the 1st Prisoner with a spear & a bill hook & a torch - I did not see the 1st witness's wife's ear torn - I was outside then - All those Prisoners took part in the robbery - I was not inside therefore dont know what particular acts they committed - The 1st witness was stabbed in the head when he was in the hall -

3d Witness (the Kurnum) - I know the 1st, 2d, 3d & 4th Prisoners - they reside in my village. They were absent from the village 5 or 6 days preceeding the 20th March. They ought not to leave the village without my permission. Some of them returned on new years day (20th March) & some the following day. No 1 cloth the 1st Prisoner had on when he was produced. I saw it then. No 2 brass pot was found buried in Chenganas backyard. No 3 waist cloth was found in 3d Prisoner's bag when he was apprehended. No 5 copper pot was found in 7th Prisoner's well. The 1st Prisoner escaped on the night of his apprehension & was reapprehended 4 or 5 days after. The cloth No 1 I saw on him on the 1st occasion. The 2d witness was then present.

4th Witness - No 1 cloth was being worn by the 1st Prisoner at the time of his apprehension. That night the Prisoner escaped & he was reapprehended. No 2 brass pot was found in Chenganas' front yard. the 2d Prisoner having told Chengana that he had put it in the earth & to get it, so it was found there. He said so after his apprehension. In the 7th P well No 5 copper pot was found. the 7th Prisoner was present. Kattoobady Chengadu went down & found it. The well was in 7th Prisoner's vegetable garden. No 9 gold earring was found with Naga-Charry. the 4th Prisoner said he had given it to him. He said so the 2d day after his apprehension. It was found with Naga Charry in consequence of his

Prisoner's representation. The 7th Prisoner's garden had a hedge & gate. The well is situated about 70 or 80 fathoms from the 7th Prisoner's house. That well is only used by the 7th Prisoner. There are no houses near the well. Before Chengadu went down to search the well he stripped when the pot No 5 was found the 7th Prisoner said he had not put it there & knew nothing about it. He did not say that any one else had put it there.

5th witness. The 6th Prisoner produced Nos 6, 8 & 10 which were tied in No 7 cloth from a ruined temple outside the village of Gunikanda. I & some others stood outside. The 6th Prisoner only entered & brought out the bundle. He said it had been got at the robbery at Mungapatta. The 2d witness was present then. I don't know how the bundle was kept inside. The 6th Prisoner delivered up that property 2 gaddis after his apprehension.

6th witness. About 20 days after New years day 20th March the 2d Prisoner brought No 2 brass pot to me for sale. I made him bury it in my backyard. I did so as I had been directed to secure any property taken at this robbery which might be brought for sale & to inform. I accordingly went then & gave informatio to 3d witness. Next day the property was taken by the authorities. I heard the 2d Prisoner say to the Peshkar that he had got it as his share of a robbery in Gudiyatum Talug. The 3d & 4th wit were present when the property was found.

7th witness - The shawl was given to me by the 9th Prisoner to ascertain its value. He did not say how he had got it. On being requested by the Tahsildar I produced it. The 9th Prisoner brought it to me about a fortnight after new years day.
20th March
When the 9th Prisoner brought it to me no was present. He brought it at midday, covered with his waist cloth. I showed it to several & to Ramiagowdu. he priced it at Rs. 35 which I told to 9th Prisoner. Ramiagowdu got Rangapa to be security for the money & on my going to him for the money he gave me back the shawl saying he did not want it, that the Gowndan had sent it to him & as I was returning it, I was apprehended. The 9th Prisoner did not fix any price upon it when he gave it to me. He agreed to the price (35).

8th witness. I was in 1st witness's house on the night of the dacoity. By the light I recognized Prisoners 1 to 8. Of the property before the Court save 8 & 10 all the rest belongs to 1st witness. I know the property having been often to the house & seen it. The 1st witness is my aunt's husband. I had not seen the Prisoners 1 to 8 before the dacoity. I saw them by the torch light. When the robbers first entered they brought one lighted torch & afterwards lighted some 10 or 15 torches. I was lying in the verandah when the robbers came & the 2d Prisoner raised me up, took my cloths & told me to sit there & not to move, that if he would cut me with a sword. He had a sword then. None of the Prisoners had their faces smeared. While the robbery was going on I staid there in the verandah. I saw the 1st Prisoner stab the 1st witness on the head with a spear. The 3d & 4th Prisoners pulled my aunt & stripped her of her ornaments. her ear was torn. The remaining 4 were taking part in the robbery with the other robbers. The 1st witness has had the shawl since 2 years. It was given to him. The 1st witness was stabbed in the hall which was 4 or 5 yards from the verandah. but open to it.

9th witness. The 4th Prisoner 2 or 3 days before new years day brought No 9 to me in order to get a murugu made. I dont remember day & week. 4 or 5 days after he said he wanted money to pay Kist, [illegible] gave him 2 Rs. no value.

The 6th, 9th & 11th Prisoners' Confessions before the Sub Magistrate read in evidence for the Prosecution.

6th Prisoner says he went with others to the robbery & received as his share the property which he afterwards delivered up from ruined temple.

9th Prisoner says he found the shawl in his house but does not know who brought it there. He (9th Prisoner) gave it to 7 witness to have it valued.

11th Prisoner. The shawl was given to me by one Gunibunda Kristnadu in payment of balance, about 2½ months since. For 6 months I had been dunning him & he said he had a rumal which he would give in payment. I kept it in the house. The balance due to me was Rs. 8.

Defence - 1st Prisoner. I did not go to the robbery - I dont know whose no 1 - I was not wearing it when I was first apprehended - I did not run off after I was apprehended. I was taken to Bungalow & beaten & then they all left & I was left there - So I went away intending to go before the Tahsildar & in the interim I was seized a second time.

2d Prisoner. I did not go to the robbery - I dont know to whom no 2 brass pot belongs - I did not give it to Chengana. if any witness deposes that I sold it to Chengana. Chengana says so unjustly. The Kurnum & others took me to Chengana's house & showing me this, asked me whose it was & I said I did not know -

3d Prisoner. I did not go to the robbery. I dont know whose no 3 cloth is. Hussain [illegible] & Kattoohady Chengan put it into my bag when I was going to the sheep fold & then seized me & the cloth was found in the bag on being questioned by the Peshcar I said I knew nothing -

4th Prisoner. I did not go to the robbery - I did not sell no 9 to the 9th witness - I dont know whose it is -

5th Prisoner. I did not go to this robbery The 1st witness & Ramiah Goundan beat me at the sheep fold & brought me f thence -

6th Prisoner. I did not go to the robbery - I dont know to whom nos 6, 7, 8 & 10 belong Ramiah Goundan (& Duffadar) beat me & took me to the temple & told me to take them up saying they were his - I dont know who put them there - I did not state at Taluk as recorded -

7th Prisoner. I did not go to the robber

I-S

I dont know whose No5 Copper pot. I dont know where it was found. I wish my witnesses to be examined. On first search of my house & well nothing was found. 6 days afterwards, on second search, it was taken out. The well is open to all.

7th Prisoner's 1st witness. I was present when No5 found at 5 P.M. in well in 7th Prisoner's garden. Kattukady Chengadu found it. The same well had not been searched before as there was much water in it. The well is not open to all. There is a hedge round the garden with a tatty door. Any one could open the door & go in. Chengadu on this occasion dived & brought it up. The 7th Prisoner was present when it was found. He said he knew nothing about it. The house was searched first or 3 days after this well. The well was not then searched as it was late. The well is outside the Village & about 200 fathoms from Prisoner's house. The house was searched about 5 P.M.

2d witness. I was present when No5 found in 7th Prisoner's well. The well had not been searched before. There is a hedge round the garden where well is situated capable of access. The 7th Prisoner was present when No 5 found he s: he did not know whose it was. That it was not his. The 1st witness's people claimed it as his. The 7th Prisoner's house had been searched the day before, it was late, therefore well not searched. It was about 5 P.M. when house searched also well.

8th Prisoner. My name is Gopigadu not Yellugadu which should be examined

I did not go to the robbery. I wish my witnesses to be examined to prove that I was at Kandukur on night of the robbery. I went there with them 4 days before new years day.

8th Prisoner's 1st witness. I know the Prisoner from $1\frac{1}{2}$ year. His name is Gopigadu He has no other name. He has worked for me & he also accompanied me to a marriage. Only on this occasion I hired him. I had previous acquaintance with him. We both live in same village. The marriage was at Kundukúr. Last year Palguni Shud went there. Marriage took place Palguna Bhol. Staid at Kandukúr 10 or 15 days. I dont remember date of marriage. On new years day rejoined our village. Previous night staid at undugallu. My people were with me. soner also. not Mullamma. He was not at Kandukúr. When we returned to village Prisoner was with me. On night before new moon we were at Sambakam. We had only one Cooly. The date of Muhurtham I dont rember. 23 days after Muhurtham we started & reached home in 4 days. I dont remember how many days after Muhurtham we reached village.

2d witness. I know the Prisoner. He came to our village a year ago. Since then I know him. I never went to the Prisoner's house. As we live in same village I know him. Once I employed him as Cooly 1 month & 15 days ago. His name is Gopigadu only. He was in the village on new year's day. I dont know where Prisoner was 2 days before that. The 1st witness took Prisoner with him. I did not see on return. I saw him

G. 8

as I was cultivating.

9th Prisoner. I gave No 4 shawl to 7th witness to be valued. It was in my rumala bundle & seeing it as 7th witness was present at the time I gave it to him to be valued. I saw it 10 days after in the Katcherri. I heard my brother say at the Katcherri that he had received it in payment of a debt. I did not know before. I did not know it was ~ stolen property. My brother said that Krishnadu (brother of 6th Prisoner) had given the shawl to him & instead of sending up Krishnadu they have sent his brother. My brother had gone to Penmari Guntah when I gave the shawl to 7th witness. I did not know he had put it in the bundle. I did not know that he d got it in pledge for balance of Sircar dues. I dont know who put it in the bundle. My brother returned day after I was in custody. I did not give it to the 7th witness, he took it. I asked him what it was worth. I did so for want of sense. Being a friend of mine I thought he would return it & allowed him to take it.

10th Prisoner. Shawl No 4 was pledged to me by one Krishnadu of Gundapali 10 or 12 days after new years day 20th March. he owed me Rs 8 & pledged it to me for it. My witnesses will prove this. They were present then. I dont know how Krishnadu acquired it.

Here you say balance due to you, at Taluk "Swanta Báki", your witnesses say Sirkar Báki? What explanation do you give?

In a letter No 1 from the Session Judge of Chittoor dated 2nd January 1864.
Copy of the notes of Evidence in Calendar No 45 of 1863.

[illegible]
No 10

15

Calendar No 81 of 1863.

Prisoners Not guilty

1st Witness, Hanamikala Ramana, about 22d June my house was robbed 25 or 30 thieves came, at night, armed with bill hooks, swords, spears, & torch 12 midnight about – broke door with large stone. and threw small stones – Did not well recognize their faces. Before I complained about some (other) people. I complained next day – some in house were wounded. 2; over 700 Rs of goods taken. gold, silver, pearls, rubies &c. – & wrote list of these next day – some things were omitted in that list. I identify Nos 1, 2, 3, 4 ((very small) pieces (of fine gold) broken), 5 piece of pagoda, which 1st Prisoner said was part & his share of plunder, 6 piece of silver, also as stated in my presence by 1st Prisoner to be his plunder, 7 (3 (pieces of) new silver ornaments) as mine. I was present when all Prisoners' houses were searched.

No 9 broken earthenware piece was found in 1st Prisoner's house in a pot. it is mine.

No 10. 8 golden pieces broken - were foun in 2d Prisoner's house - above in thatch: he took down & gave to us. it was in bamboo No 21. it is mine.

No 11. 3 silver ornaments. were in some bushes in 3d Prisoner's field - buried in bank of a channel - He took out & gave them. They are mine - new - 3d Prisoner said they came to his share. They were in this small bag.

No 12. old half Rupee. was found in 3d Prisoner's house. it is mine.

No 13. piece of flattened, broken gold. w found in 4th Prisoner's house. Prisoner said it came to his share. It is mine.

No 15. a yellow cloth. No 16 a silk cloth, No 14 a white cloth were in bottom pot of some pots in 5th Prisoner's house. they are mine.

Nothing found in 6th Prisoner's house.

Spear before Court was found against wall in my house. It is not mine. It came that night to my house.

No 20. a sling was found in 3d Prisoner's house.

No 8 - : a torn part of woman's cloth is mine -

To Court - : First complained against 6 persons - : they were released - Then 5 were taken up & examined, I could not give evidence against them - They were released - Then 6 prisoners & 6 others were apprehended: others released -

(List given by 1st witness to Sub Magistrate on 23rd June - put in -) This is the list I gave. In it are entered Nos 1, bit - (of an ornament) 2, bit - 3 - bit, part of 1 - 4, bit - 5, bit of pagoda - 6 a piece of silver - 7, silver ornaments, part - 10 bits of 1 - 11, part of 7 - (12, ½ Rupee not entered) 13, a small flattened bit - 9, bit of earthenware, part of 4 - None of the cloths 14, 15, & 16 entered in this list - but they are entered in list given in on 5th September - which was made out after Prisoners were apprehended & the cloths found -

I was about 20 yards from place where Nos 1 to 7 were found - in a ragy field -

I swear that all these little pieces of gold are mine.

No 9 - in 1st Prisoner's house - turned out from a pot - I was outside house & saw - do not know names of those with me.

No 10 - Peon Aphat Khan - (?) was present don't know names of others - 2 head ryots.

No 11 - Same Peon, " 2 " "

(no names)

No 12. from pot - taken out by another pers

(..)

No 13 - in pot - 4th Prisoner took it out -
Nos 14 to 16 Venkatrámana & Yerappa
& Peon took out these clothes: 15 & 16
were in one pot & 14 in another -

I know 5th Prisoner from 10 years - not
the others -

Cross examined.

By 5th Prisoners' Vakil - In one of Prisoners -
(in 1st inquiry) - houses two ear ornaments
were found - he had run away - No Prisoners
confessed - 2 of them did confess - & implicated others. We searched houses of
"others" - 10 in number - 5 of these absconded -
Mausin Sahib, Adiyappa - Guni Venkatrámana - Nallaya - Venkatreddy - None of
present Prisoners then mentioned -
I presented a petition in this case to
this Court before. These Prisoners were
arrested afterwards. Adiyappa was
coming & going when these Prisoner's house
were examined: only to 5th Prisoners' house

N.B. witness gave his evidence in very -
unsatisfactory way. Pápadu, in Taluk,
first said this spear belonged to Adiyapp

Read over to the witness in the Telugu
language which he understood & acknowledg
to be correct 7th October 1863 -

(Signed) C. A. Roberts

Session Judge -

2d witness Munigádu -

I know nothing of this robbery -

Denies his deposition before Magistrate

Read over to the witness in the Telugu
language which he understood & acknowledged to
be correct. 7th October 1863.

(Signed) C. A. Roberts

Session Judge

3d witness Venkatrama Razu - I searched houses of Prisoners except of 5th -

No 1 to 7 was found in well in field of 1st Prisoner's house - 1st Prisoner produced them in a roll of cloth -

No 9 was in his house -

No 10 in 2d Prisoners' - in bamboo -

Nos 11 & 12 in 3d - No 11 in bag - found in a field - Prisoner pointed it out -

No 13 in 4th -

Inspector Muttu Karuppa Pillei & Head Constable Habet Khan apprehended Prisoners -

To Court - I seized 1st Prisoner on statement of 2d witness. There was no other suspicion - nor against any of other prisoners -

To Jury - Has been 10 years Munsiff - The Prisoners belong to hamlet of his village - never heard any thing against them - They have all of them houses & cultivation

Crossexamined

By Prisoners' Vakil - Directly Prisoners were apprehended they pointed out things they had hidden - other ryots were there -

Read over to the witness in the Telugu language which he understood & acknowleged to be correct - 7th october 1863 -

(Signed) C. A. Roberts

Session Judge -

4th witness - Hamed Khan - Police Peon - was present at searching of all Prisoners' houses -

Nos 14, 15 & 16 were in 5th Prisoners', in pot, all in one -

No 9 in 1st Prisoner's house - in small pot -
in well - in hole in his field Nos 1 to 7 - in
a rag No 8 -
No 10 in 2d Prisoner's - in bamboo -
Nos 11 & 12 in 3d Prisoner's - 11 in a field, in
bag, pointed out by 3d Prisoner -
No 13 in 4th Prisoner's -
Examined house of 1st witness July 7th -
To Court - Prisoners' houses were examined -
directly they were seized - & they at once
pointed out hidden things -

Read over to the witness in the Tamil
language which he understood & acknowledged
to be correct. 7th October 1863 -

(Signed) C. A. Roberts
Session Judge -

5th Witness Pandella Sippu Reddy
I gave 2d Prisoner's father a spear-head
it was broken on one side - I do not see
mark on spear before Court -
I gave the top blade, not the metal -
handle that is fixed - He bought it of
me -

Read over to the witness in the Telugu
language which he understood & acknowledged to be correct - 7th October 1863 -

(Signed) C. A. Roberts
Session Judge

6th witness - Karamala Venkatramudu -
I made shank in iron of this spear
for 2d Prisoner's father Sanjivaya -
I made it 5 years ago - he & his father
live in same house -
I did not say before Sub Magistrate
I had seen it often since -
To Jury - This kind of shank is -
common -

Read over to the witness in the Telugu language which he understood and acknowledged to be correct. 7th October 1863.

(Signed) C. A. Roberts

Session Judge.

7th witness. Dawuru Lakshmi garu.

I went to 1st witness's house after robbery next day. this spear was there. It was about 8 A.M. there were several people. I did not notice other traces of a robbery. I cannot recognize his property as stolen.

Read over to the witness in the Telugu language which he understood & acknowledged to be correct. 7th October 1863.

(Signed) C. A. Roberts.

Session Judge.

8th witness Battebatti Subana.

I recognize bits Nos 1 & 2 as like portions of jewels worn by 1st witness's wife. such are commonly worn. I do not know other jewels. Cloth No 16 he had one like which I put on when eating in his house. the other 2 cloths I do not know.

Read over to the witness in the Telugu language which he understood & acknowledged to be correct. 7th October 1863.

(Signed) C. A. Roberts

Session Judge.

Public Prosecutor puts in confession (before Dist Magte.) of 1st Prisoner stating he was engaged in robbery. though he did not go into house. He shared in robbery. plunder & pointed it out.

Do. of 2nd Prisoner do. do. & ~

acknowledges spear as his-

Do of 3d Prisoner do do & picked up stones-

Do- 4th Prisoner do do-

Vakil speaks for defence-

(Signed) C. A. Roberts

Session Judge-

(True Copy)

C. A. Roberts

Session Judge.

A few additional words in my own hand-writing are added to make the record more clear

C.A.

In a letter No 1 from the Session Judge of Chittoor dated 7th January 1864. / Copy of the notes of Evidence in Calendar No 81 of 1863-

Pro. 9th Feby

No 40

Calendar No 83 of 1863-

Prisoners not guilty- Vakeel for 1-3 Prisoners

1st Witness- Subbana- 4 months ago. one Monday night-robbery took place in my house. 2 robberies took place. this was last, 20 days ago- at mid-night, one Friday, about 20 robbers- they were disguised with hair loose about faces & faces smeared with chunam. they came to door when I was gone out for necessary purposes I had gone & sat down on some high-ground in tope within my back-yard: they were beating cattle in front-yard of house- inside house= 2 robbers were behind hedge of back-yard & called out "hushar"- as I was lifting some straw to hide they 2 ran off into village. I got over hedge went to open space there & called for help- 6 of my villagers came- 2d 3d & 4th Witnesses among them- only 6 people live in my village, 4 houses- I returned to back-yard- they remained out-side calling out- I stayed by orange-tree. I observed robbers- some were breaking doors & some digging at granary- I went over hedge again. They had 4 swords- 4 slings- others had clubs- 4 torches I recognized them & pursued them at a distance calling out their names. I identify 4 Prisoners- & 4 others I know by name absconded- I can swear to them. They live in adjacent villages. 1st Prisoner is my cousin. have known him from child-hood. have known 2d Prisoner 10 years, the 3d for 15 or 20, & the 4th for 2 years. Nothing lost on this occasion. on previous about Rupees 800. Robbers remained in house 2 gadeas. That night I complained to Monegars & Police who came at once. they themselves came hearing noise. I specified names to Monegar. No quarrel with 1st Prisoner.

To Court. Prisoners got in by tatty-door in front. could not see it from back-yard. I knew it by smell of torches. I saw them in house through back-yard door. I saw them again after they left. Prisoners were not the 2 who called out. They ran away because we surrounded house. they ran out of front-door. I was with witness & other villagers in front at the time.

Cross Examined. The tree I mentioned was by wall of house. & they ran off 40 or 50 yards from me. 2d Prisoner had hair over his face; as to 3d cannot say. 4th hair tied over his face & leather cap. dark night. 2d Prisoner had hoe in hand. 3d dont know. 4th torch & something else. 1st nothing. No enmity to 2d or 3d Prisoners.

To Court. Prisoners ran off 1 gadea after I left that tree.

Read over to the Witness in the Teluga language which he understood & acknowledged to be correct 8th October 1863.

(Signed) C. A. Roberts
Session Judge.

2d Witness. Ramudu. 2 Fridays 20 days ago. robbery at 1st Witness's house. was in front of my house asleep. There is a wall between my house & 1st Witness. I went to it & could see front of his house but not inside. thieves were beating cattle with sticks. I recognized 6. among them 4 Prisoners. 1st was driving away cattle with stick in his hand. 2d with hair let down, driving them away also. 3d driving away. 4th with torch, hair tied round face, moving to & fro. I stayed there ½ gadea. Villagers came & cried out & I joined them, by hedge behind 1st Witness's house. as far as large tree from Court. (80 yards) 1st witness was there. also 3d & 4th Witnesses. Then we went to entrance of village. & called out. about 30 or 40 yards from house of 1st Witness. & thieves ran off to west of village. we pursued them. none then taken. 1st Witness remained with us all the time.

Cross Examined. I recognized Prisoners when at wall.

To Court. I mentioned their names at once. when thieves left all pots broken. granaries opened & doors broken & injured. They appeared to have come to do mischief. they took nothing away.

To Jury. When thieves ran off I was within 4 yards of them. other witnesses near me. Thieves had torches still alight then.

To Court. Have long known Prisoners.

Read over to the Witness in Telugu language which he understood & acknowledged to be correct. 8th October 1863

(Signed) C. A. Roberts
Session Judge.

3d Witness— Chengamma Nayudu— My house is opposite to his house— door to door— on this 2d robbery— thieves were standing opposite my house with one torch & mass of stones— I was in entrance pial of my own house— One robber throwing stones— Dont know who— I went off with females by back-yard to North of village & called for help— Poligadu and Guruppa came— We came round to entry of village Then we found 1st Witness & some others— We 6 shouted— thieves came upon us with 4 lighted torches— about 20 in number— we separated & they ran off between us— pursued for short distance— they threw stones— I doubtfully recognized some 5 or 6— I know 4 Prisoners well & have no enmity against them— "I may have seen them with the thieves that night" "tsuchi-nattugá unte"—

Cross Examined— Prisoners were disguised with clothes— 1st, 2d & 3d witnesses are related—

Read over to the witness in Telugu language which he understood & acknowledged to be correct— 8th Octr 1863

(Signed) C. A. Roberts
Session Judge—

4th Witness— Soli Nayudu— I call 1st & 3d Witnesses my brother & my uncle— 2 weeks ago hearing noise of thieves I went through back-yard to North of village— then to West to a hillock— then to South— our people were crowded there— we called out 1st 2d & 3d witnesses &ca— Thieves and our party threw stones— & they ran away— I was 10 yards off as they passed— I recognized 6 out of 20— I recognized 2d Prisoner, throwing stones by torch light— 1st too, he had stones in waist & hand— 3d also throwing stones & so 4th— they were disguised— 1st with hair let down— 2d hair round face— 3d cannot say if his hair was let down— 4th with hair tied round face— No enmity to Prisoners—

Read over to the witness in the Telugu language which he understood & acknowledged to be correct— 8th October 1863—

(Signed) C. A. Roberts
Session Judge—

5th Witness — Kalappa Reddy — Night of this robbery I saw 1st Witness's house — granary wall was broken — granaries broken into — pots broken — 1st witness then named 4 Prisoners among thieves who had just robbed him — I did not make ^{2}other ^{3}witnesses ^{1}inquiries of — Prisoners were apprehended on 22d Monday — Robbery took place on previous Friday — I do not know Prisoners' houses — Delay in apprehension was in getting Warrant —

To Court — I cannot say I know 1st Prisoner — 2d I do: he bears a good character — 3d & 4th I do not know —

Read over to the Witness in the Telugu language which he understood & acknowledged to be correct. 8th October 1863 —

(signed) C. A. Roberts
Session Judge —

Vakeel of 1st, 2d & 3d Prisoners states that there is enmity against 1st Prisoner on part of 1st Witness on account of a land dispute — that Prisoners are good characters — & there are 5 or 6 witnesses to prove that on that night they were elsewhere.

4th Prisoner says he was in his village that night — 10 gadeas off & always woke up by Toties on rounds — Had nothing to do with robbery —

Prisoners' 1st Witness — Sangadu — On Friday 3 weeks ago, I was watching field — 1st, 2d & 3d Prisoners were with me — From previous night till 7 next morning —

Cross Examined — We all kept awake that night watching for jackals — we were 4 days together, so watching without sleeping — This was about ½ mile from 1st Witness's house — in gram-field — the gram was planted that Friday at noon — Field belongs to Varda Reddy — gram belongs to 3 Prisoners & 7 others — all 10 were watching

To Court — After 3 nights no one watched: it was not necessary —

Read over to the Witness in the Telugu

language which he understood & acknowledged to be correct – 8th October 1863

(Signed) C. A. Roberts
Session Judge –

(True Copy)

C. A. Roberts
Session Judge –

In a letter No 1 from the Session Judge of Chittoor dated 7th January 1864

Copy of the notes of evidence in Calendar No 83 of 1863.

Recd ...
No 40

Judicial Department

No 40

From C. A. Roberts Esqre
Session Judge of Chittoor
Dated 7th January 1864

For Orders

– I have read the papers sent up by the Session Judge of Chittoor in Criminal Cases Nos 45 81 and 83. – in which he wishes the sentences passed on some prisoners to be remitted on the ground that in his opinion the evidence against them was insufficient –

These cases were tried by a Jury & no appeal lies therefore to the High Court because the question raised is a matter of fact & not of law – (Crim. Pro. Code Sect 408)

– I do not feel disposed to set aside

these sentences on the Session Judge's present application.—

— The prisoners were all charged with Gang robbery at night — an offence which almost invariably leads to trials of much doubt & difficulty.— Judging by the notes taken by the Judge the evidence might not be considered altogether conclusive & satisfactory, but the Jury who tried the prisoners had many circumstances to aid their right judgment of the case, while the Govt. at this distance & without the parties before them do not enjoy the benefit of — To set aside the sentences because the Session Judge viewed the evidence differently from the Jury, and without any new facts to shew that the prisoners were victims of a conspiracy, or were mistakenly, though unintentionally, convicted without due cause would be, in my opinion, an erroneous course

In case #3 however it seems to me that Govt. may modify the sentence under Sect 54 of the ~~Penal~~ Crim Pro. Code — The prisoners laid themselves open by their proceedings to a charge of dacoity, but the previous attacks on Prosecutor's house the existence of a quarrel & the fact that no property was carried off, while mischief was done inside the house & the prosecutor's cattle were harried outside show that the prisoners' object was to execute some grudge & not to rob — If the sentence is reduced to 6 months imprisonment the prisoners will be adequately punished & a sufficient general warning given in my opinion. —

In disposing of these cases it must be remembered that the Govt. have to suppose that due care was taken in the selection of jurors, especially when the law attaches such grave weight to a conviction by them —

13 Jany. The verdict of a Jury should never I think be set aside except under very strong grounds and such do not exist in the present cases — The evidence is such that a Session Judge might have hesitated to convict had the case been tried without a Jury — its sufficiency is doubtful, but the Jury are the judges of such doubts. As they have been satisfied I do not think that we have sufficient cause to overrule their finding. — I would remit the punishment in case No 83 as proposed by Mr Maltby J.D.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Session Judge of Chittoor.

(Here enter 7th January 1864 No. 1.)

Order thereon, 21st January 1864 No. 85.

With the foregoing letter the Sessions Judge of Chittoor submits the notes of evidence in Calendar Nos. 58, and 83 of 1863 of that Court, called for in the order of Government on his previous letters of the 18th and 19th of December last; the cases being submitted for the consideration of Government, with a strong recommendation that the sentences passed upon all the prisoners convicted in No. 81, and 83 and on one prisoner in No. 45, may be remitted under Section 54 of the Criminal Procedure Code.

2 The Governor in Council is of opinion after a perusal of these records and a full consideration of the Statement of the cases contained in the Sessions Judges' letters, that the cases are not such as call for the exercise of the extraordinary powers vested in the Government by the section in question, to the extent proposed by the Sessions Judge.

3 The prisoners in all these cases were convicted by the verdicts of juries, verdicts which are final on all matters of fact, and are not subject to the appeal to the ~~sessions~~ superior Court which lies from the decision of the Sessions Judge himself.

Their

~~Their verdicts the are the result of the deliberate opinion of men who it is presumed are fitted for the office of trust and responsibility for which they have been selected, and who have necessarily had the advantage of many circumstances to aid them in forming a right judgment which no report~~ could supply. The Governor in Council would be averse therefore to setting aside a verdict to which the law has advisedly attached so much weight on any but the strongest grounds, such as the proof of some new facts which might show the prisoners to have been erroneously convicted.

4 In the present case the only ground for the

recommendation for the remission of the sentences, made by the Sessions Judge is his own dissent from the opinion arrived at by the juries appointed to try these cases of Gang robbery by night, as to the sufficiency and credibility of the evidence adduced against the accused - a matter of fact regarding which, from the nature of the evidence in these cases, it but rarely happens that there is not some room for doubt or difference of opinion, and on which the award made by the juries is expressly declared by the law to be final -

5 The Governor in Council sees nothing in these records which would in his opinion justify him in setting aside the verdicts pronounced by the juries; of the sufficiency

of

of the evidence is doubtful, it is for the jury to judge of such doubts, and if they are satisfied with it, the Governor in Council has nothing now before him which shows that they were wrong in being so.

6 In calendar No. 83 however the Governor in Council is of opinion that without in any way impugning the justice of the verdict given by the jury on the facts proved against the Prisoners, the sentence passed by the Sessions Judge may be properly modified. The prisoners laid themselves open by their proceedings, to a charge of dacoity, but the previous attacks

on rosecutors' house, the existence of a quarrel and the fact that no property was carried off, while mischief was done to the house and its inmates, show that the prisoners' object was to carry out some grudge and not to rob. The Governor in Council is of opinion that the risoners in this case will be adequately punished and a sufficient general warning given by rigorous imprisonment for six months, and resolves therefore to reduce the sentence passed by the Sessions Judge, accordingly, under the authority vested in him by Section 54 of the Criminal Procedure Code.

The

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7. The original sentences passed upon the prisoners in Calendar Nos. 45 and 81 will be carried out in full.

To The Session Judge of Chittoor } Despd 25th ,,

Copy to the Commissioner of Police } 26/1/64 riit-of 2d. Feby

186 . *Department.*

No. 85

PROCEEDINGS *of* GOVERNMENT.

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Com.

Dated