

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1220

Press
~~Mis.~~

Dated

1-9-1918

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department
1st September 1865.

No. 3. Read the following letter from F. S. CHILD, Esq., Session Judge of Cuddapah, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Cuddapah, 24th July 1865, No. 334.

I have the honor to forward, for the favorable consideration of His Excellency the Governor in Council, a translation of a petition for pardon from prisoner Hyder Khan sentenced by the Joint Magistrate of this District to two years' rigorous imprisonment, on the charge of assault with intent to outrage the modesty of a woman.

The grounds on which I recommend the petition of the prisoner are as follows:—

The prisoner was apprehended in November on the charge on which he was found guilty; but, while in custody, he gave such information to the Police regarding a certain torch light gang robbery, that on the 21st February the then Acting Joint Magistrate offered the prisoner a pardon, under Section 209 of the Code of Criminal Procedure, and he was admitted an approver, and from his information so given, evidence was procured that five gang robbers were convicted by a Jury at the March Sessions. During the inquiry, and till the decision regarding the torch light gang robbery case was given, the original and minor charge against the prisoner was not proceeded with. Meanwhile a new Joint Magistrate was appointed, and he tried the original charge and sentenced the prisoner as above stated.

From the fact of the prisoner turning approver after his apprehension on the minor charge, and his eventually being offered a pardon by the then Joint Magistrate, I have very little doubt that the prisoner's idea was that the pardon extended to the offence on which he was originally apprehended; of course, the pardon strictly and legally only extended to the crime of dacoity, but I am of opinion that it would be politic in the present case to extend the pardon to the present conviction, and to remit the remainder of the sentence. The prisoner has already been in custody since November, and in Jail since April. Had he not come forward as he did as an approver, eight months of his imprisonment would now have elapsed, as the original case would have been decided without delay in November.

The Magistrate's proceedings will show that the case on which the prisoner was convicted was not attended with any aggravating circumstances, beyond the fact of the prisoner being a very bad character.

TO THE SESSION JUDGE OF THE ZILLAH OF CUDDAPAH.

The humble Petition of Hyder Khan, a Prisoner sentenced by the Joint Magistrate.

About 4 or 5 months back I was apprehended on a charge of outraging the modesty of a woman. Of my own accord, I mentioned at that time the names of the individuals who were concerned in cases of dacoity committed at Gungapoorum and Bableejapully. Some of them were punished by this Court. It was with the idea of getting a pardon that I used my best exertions, and rendered my assistance to the Sirkar; but the Joint Magistrate, without taking my said exertions into consideration, sentenced me to undergo two years' rigorous imprisonment. I therefore request the Court will be pleased to consider my case well, and tender me pardon.

X Mark of Prisoner Hyder Khan.

(True translation).

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

29th April 1865.

Proceedings of the Madras Government, Judicial Department,
1st September 1865.

CALENDAR of persons tried before W. D. Horsley, Esq., Joint Magistrate of Cuddapah.													
Number of the case.	Name and description of the accused.	Copy of the charge or substance of the complaint.	Name of the Complainant.	Names of witnesses for the prosecution.	Names 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.	
1		3	4	5	6	7	8	9	10	11	12	13	14
12	HyderKhan Patan, cooly, aged 25 years, an inhabitant of Mahal.	That he on or about the 17th day of November 1864, at Mahal, Kalkadataluq, assaulted or used criminal force to a woman, intending to outrage, or knowing it to be likely that he would thereby outrage her modesty, and that he has thereby committed an offence punishable under Section 354 of the Indian Penal Code, and within my cognizance.	Krishna Roy.	1st. R. Ramasawny. 2nd. Dawojec Row. 3rd. M. Ramanna. 4th. Venkatasugador.	1st. Gangli. 2nd. Madari. 3rd. Sabib.	Complainant states that defendant, one evening after throwing stones at her water-pot, prevented her moving on by standing in her road. She got frightened and calling out, he ran away. When she got home she told 1st and 2nd witnesses, her husband and brother-in-law, what had occurred. Next morning, when turning with water from the channel, and while it was a little dark, defendant again came in front of her, and, taking hold of her hand, said "are you coming with me, if not I will cut off your throat." She dropped her pot, and screaming out, the four witnesses came up to her and defendant ran away. The 1st and 2nd witnesses state that from what they heard from complainant as to defendant's conduct, they hid themselves near the channel the next morning, when they saw defendant take hold of complainant's hand. They saw distinctly it was defendant. The 2nd and 3rd witnesses heard complainant's scream, and 2nd witness saw defendant. The defendant pleads not guilty. Says he was unjustly seized and assaulted by the witnesses, a Village Magistrate, says defendant charged the witnesses with beating him. Whatever may have been the treatment of defendant by the witnesses, there is no doubt he acted towards the woman as stated by the witnesses. Defendant is a very bad character indeed.	The Court finds that Hyder Khan is guilty of the offence specified in the charge, viz., that he assaulted or used criminal force to a woman, intending to outrage, or knowing it to be likely that he would thereby outrage her modesty, and that he has thereby committed an offence punishable under Section 354 of the Indian Penal Code; and the Court directs that Hyder Khan be rigorously imprisoned for the space of (2) two years in the Cuddapah Jail.	18th do. do. 17th November 1864.	Apprehension, 18th November 1864. Appearance, 11th April 1865.	11th April 1865.	12th do. do.	This prisoner was sent to Session Court as an approver in Gangapuran and Navabpett Do. only cases, and returned to this Court on the 11th April, and the case has been settled on 12th.	
KALAKADA, 12th April 1865. (True Copy). (Signed) W. D. HORSLEY, Joint Magistrate. (Signed) F. S. CHILD, Session Judge.													

12th April 1865.

(True Copy). (Signed) W. D. HORSLEY, Joint Magistrate.
(Signed) F. S. CHILD, Session Judge.

To the Civil and Session Judge of Cuddapah.
" Magistrate of Cuddapah.

Exd J. H. Burns.

Proceedings of the Madras Government, Judicial Department,
1st September 1865.

No. 4. ORDER THEREON, 1st September 1865, No. 1220.

The Session Judge in charge of the Zillah Jail of Cuddapah forwards, for the orders of Government, a petition from Hyder Khan, a convict in his charge, for pardon. It appears that the prisoner was convicted of assault on a female; that while in custody before trial, he gave information which led to the conviction of a gang of dacoits; that the Joint Magistrate admitted him as an approver, and that a pardon was promised him.

2. Subsequently, a new Joint Magistrate found the prisoner awaiting trial, and convicted him of the offence before referred to. The prisoner now says that he understood that he was to receive a pardon on both charges, and this the Session Judge states he has no doubt was the belief of the prisoner at the time when he turned approver.

3. The Government resolve, in accordance with the Session Judge's recommendation, to remit the remainder of the sentence passed upon Hyder Khan.

4. It appears to the Government that the sentence passed upon the prisoner by Mr. Horsley was unduly severe.

5. Mr. Child's attention will be called to the rules regarding public correspondence. The paragraphs of his letter are not numbered, as they should have been.

(True Extract).

Chief Secretary.

Judicial Department 3

A. 1598

From the Session Judge of Cuddapah
Dated 21st July 1865.

Dated 25th July 1865.

For Orders.

On the point a promise of Mr. Seppin
made in para 3 of his letter; it is desirable
to pardon the Prisoner. But,
apart from the S. J. Index account,
the punishment awarded to the
Prisoner, now Felton, by the Court
Martial at Mosley, seems to me
by no means severe, even if
the 4 wps against him do state
the truth &c I doubt. - I think that
it is all probable there was an
aggravation between the prisoner

Complainant & Prisoner, that
they were watched, & that when in court
she, to save herself, turned round as accused
of the prisoner (to save her own repu-
tation). - I say this with confidence
as the highest degree impeachable
that the complainant's story can
be true -

1220

W.D.

The attention of the
S. Judge P.D. collected
to the Rules of public
composure & as I have
drawn in another place
be habitually rep. &c.

The person of the letter
has been mentioned

W.D.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter
from the Session Judge of Buddapah
Here, under 24th July 1865. No 334.

1220.

Order thereon 1st September 1865. No 1

The Session Judge in
charge of the Bellah gao of Bud-
dah forward for the orders of
Government a petition from Hyder
Khan, a convict in his charge, for
pardon. It appears that the
prisoner was convicted of a fault
on a female - that while in
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information which led to the
conviction of a gang of dacoits.
that the Joint Magistrate ad-
mitted him as an approver
and that a pardon was promised
him.

Subsequently

paragraphs of his letter are not
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AM

2 Subsequently, a new Joint
Magistrate found the prisoner awaiting
trial, and convicted him of the offence
before referred to. The prisoner now
says that he understood that he
was to receive a pardon on both
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states he has no doubt was the
belief of the prisoner at the
time when he turned approver.

3 The Government resolve
in accordance with the Session Judge's
recommendation to remit the
remainder of the sentence
passed upon Hyder Khan.

4 ~~The Government direct~~
~~the Session Judge to bring it~~
~~to the Honble's notice that~~
the sentence passed upon the
prisoner ^{is in brief} ~~is in brief~~ ^{is in brief} ~~is in brief~~
severe.

5 Mr. Child's attention
will be called to the rules regard-
ing Public correspondence. The
paragraphs

To the Civil and Sepim - Juddapah.
Magistrate of Coorah. } dated 5/9

22-87

Historical

1/20: 2-26/12
1865. Department.

No. 1220.

PROCEEDINGS OF GOVERNMENT.

Dated 1st September 1875.