

MADRAS RECORD OFFICE.

Government of Madras.

Medical DEPARTMENT.

G.O. No. 255

Press
Mis.

Dated 15-2-1965

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
15th February 1865.

Read the following papers:—

No. 140. From H. D. COOK, Esq., Session Judge of Calicut, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Calicut, 9th January 1865, No. 5.

Under Section 394, Chapter XXVII, of the Code of Criminal Procedure, I have the honor to report, for the orders of His Excellency the Governor in Council, the case of a female named Thevarakalathil *alias* Pariengat Padinhárapatt Itti Madavi Amah, 1st prisoner in Case No. 159 of 1864 on the Session Calendar.

2. She was charged as follows:—

That she, on the 3rd December 1864, committed murder, by causing the death of her children Letshmi, Peragu, and Krishnen, and that she has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Sessions.

2ndly.—That she, on the 3rd December 1864, attempted to murder one Chirudavi, by throwing her into a well, and that she has thereby committed an offence punishable under Section 307 of the Indian Penal Code, and within the cognizance of the Court of Sessions.

3rdly.—That she, on the 3rd December 1864, attempted to commit suicide, and that she has thereby committed an offence punishable under Section 309 of the Indian Penal Code, and within the cognizance of the Court of Sessions.

3. The prisoner pleaded not guilty.

4. The uncle of the prisoner, one Peragu Paniker, was tried as 2nd prisoner, on a charge of having abetted the commission of suicide by 1st prisoner; but he was found not guilty, and accordingly acquitted.

5. The 1st witness deposed that one night (month, date, and day of the week uncertain), about midnight, he and the 2nd witness, were lying down outside the house; that they were not asleep; that they heard cries of a child proceeding from the northern side of the house; that both of them ran to the spot, and, finding the cries proceeding from the well, looked inside, and saw a child hanging in the well, holding by the hole on the side of the well; that they brought the child out, and while doing so felt the hair of another person in the well; that as they could not take the body out, they called the 3rd witness, and with his assistance brought out the person, whom they found to be the 1st prisoner; that the child was one of her daughters; that they took them to the house, and as the other children were not to be found, he (witness) and the 2nd witness went down into the well, and found the bodies of three children, who were also the children of the 1st prisoner; that they all the same night went to sleep with their mother in the northern room upstairs, from which room there are two doors to be opened to go out to the road to the well; that these doors were found to be open, when they brought the 1st prisoner and the child into the house; that the water of the well was about 7 feet deep, and 1½ kule from the surface of the ground; that no one else was in the house except the 1st, 2nd, and 3rd witnesses; that the 1st prisoner was senseless, when she was taken out of the well; that the 1st and 2nd prisoners were on good terms with each other, and nothing between the prisoners happened the previous day; that the 1st prisoner was in the habit of being seized with a kind of fits, and while so attacked is not in her right mind; that the 2nd prisoner was absent on the day in question.

6. The 2nd witness fully corroborates the 1st witness' evidence, as regards the finding of the bodies in the well, and other particulars.

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7. The 3rd witness was sleeping upstairs, in the eastern room, and about midnight he was called by the 1st and 2nd witnesses; on going up to the well he found the 1st and 2nd witnesses holding the 1st prisoner by the hair. He assisted them in bringing her out—corroborates the 1st and 2nd witnesses in other particulars.

8. The 4th witness deposes that on Friday, the 19th Vrischigom, about 2 P. M., he went to the prisoner's house to ask the 2nd prisoner for a document he had in his possession; that the 1st and 2nd prisoners were then quarrelling with each other, and the 2nd prisoner gave 1st prisoner 4 or 5 blows with a broom, saying that it was on her (1st prisoner's) account that his (2nd prisoner's) wife would not remain; that the 1st prisoner then went away towards the north, saying that she could not bear this treatment; that the 5th witness was present at the time (doubtful evidence this and *cui bono*? so far as the charge against the 2nd prisoner runs).

9. I considered it unnecessary to take the evidence of the 5th witness, for, supposing the testimony of both to be true, it goes no way to support a charge of abetment of suicide against the 2nd prisoner. The same remarks apply to the 6th witness' evidence. I, however, distrusted the evidence *in toto*, and was of opinion that it had been produced to try and make out a motive for the act of the 1st prisoner.

10. The 7th witness merely deposed to having heard some talking between the prisoners.

11. The 1st prisoner, in her defence, says that she awoke to give her youngest child a drink, when she heard a call, which she thought was from the 1st witness; that she looked out and saw what she thought was an animal; that she cannot recollect any thing after that.

12. The evidence for the prosecution proves that the 1st prisoner was found in the well, with the three children—the latter all drowned; and the 4th was saved as it clung to the side of the well. It is shewn that the two doors of the house were open, and there was no one else in the house except the 1st prisoner, and the 1st to 3rd witnesses. They say, they saw no one about the house, and only knew what had happened on going to the well, on hearing the cry of the child. From these facts, the only reasonable inference that can be drawn is that the 1st prisoner, from some unknown impulse, took the children and threw them into the well, and then jumped in herself. There is no direct evidence that she did so, but we can come to no other conclusion. It must have been some violent impelling motive, which led her to set aside a mother's natural affection, or to have so deranged it as to lead her thus to consign them to death. As for the evidence to show that the act was the result of a quarrel between her and her uncle, the 2nd prisoner, I put no faith in it; she says she knows nothing, beyond seeing what she thought was an animal. That she committed the offence there can be no doubt; but that she did so while in a sane state, I do not believe. She was under a delusion, and her mind was for the time utterly unhinged.

13. In finding, therefore, that 1st prisoner committed the offence specified in the charges, I acquitted her of the penal consequence, being of opinion with the assessors that, when she committed the act, she was laboring under temporary derangement, and not legally answerable for her acts. She is not insane at present; but during the trial, she had a wild and excited look, and was evidently under great emotion. Considering, however, the nature of the act she has committed, and the danger of a similar delusion at any future period, I scarcely think it would be expe-

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dient ever to set her at liberty. In the mean time, I have directed her to be kept in safe custody, and await the orders of His Excellency the Governor in Council.

No. 141. From H. D. COOK, Esq., Session Judge of Calicut, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated 28th January 1865, No. 25.

The Session Judge has the honor to state, with reference to the Chief Secretary's Memorandum of the 19th instant, in the case of the female Thevarakalathil alias Pariengat Padinhárapett Itti Madavi Amah, 1st prisoner in Case No. 159 of 1864 on the Session Calendar, that he deemed it unnecessary to take any medical evidence; because, as stated in the Session Judge's letter of the 9th instant, the facts elicited from the evidence; the peculiar circumstances attending the act; the nature of the act itself; the absence of all motive to perpetrate the act,—all combined to lead the Session Judge to concur with the Assessors that, although the circumstantial evidence proved that the prisoner had committed the act, yet she had done so from some unknown or unnatural temporary impulse, or delusion, such as rendered her not legally responsible for her act. The Session Judge, in reporting her case for the orders of Government, did so from an apprehension that her release might not be safe, if at any future period a similar delusion returns.

2. The Session Judge begs to forward the Medical Officer's opinion of the woman, since she has been placed under his observation, after the close of the trial.

Given under my hand and the seal of the Court, this 28th day of January 1865.

(Signed) H. D. COOK,

Session Judge.

Seal

From R. E. PEARSE, Esq., Civil Surgeon of Malabar, to the Civil and Session Judge of Calicut; dated 27th January 1865, No. 68.

Adverting to your letter, No. 21, of the 25th instant, I have the honor to state that, so far as I have been able to judge, during the period she has been under observation, I do not consider the female, as per margin, whom I am therein

Thevarakalathil alias Pariengat Padinhárapett Itti Madavi Amah, prisoner in No. 159 of 1864 on the Session Calendar.

requested to report upon, to be of sound mind; her general conduct, and bearing, is vacant and

meaningless, and she is moreover subject to fits of temporary excitement, especially at night, which is evidently not the period one, simulating insanity to avoid criminal responsibility, would select for such conduct.

(True Copy).

(Signed) H. D. COOK,

Civil and Session Judge.

No. 142. ORDER THEREON, 15th February 1865, No. 255.

Under Section 394 of the Code of Criminal Procedure, the Governor in Council directs that the Lunatic, Thevarakalathil alias Pariengat Padinhárapett Itti Madavi Amah, be kept in safe custody in the Zillah Jail of Calicut, pending the construction of the proposed Lunatic Asylum at that station.

(True Extract).

Chief Secretary.

To the Session Judge of Calicut.

„ Inspector General of Jails.

Ed. J. H. Burns.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read Letter and Memo. from the Sepsim
Judge of Calicut.
(New letter of 28th Jan^y 1865. Nos 5 & 25)

Order thereon 13th February 1865. No 255.

Under Section 39th of the
Code of Criminal Proc.^r.
The Governor in Council
directs that the Lunatic,
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Pariengat Padinhapett
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Asylum at that Station.

For
The Sepsim Judge of Calicut }
The Inspector General of Jails } dep^d 18/2

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