

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	526	Press Mis.
Dated	4-4-	19/865

18/19

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,

4th April 1865.

No. 32. Read the following letter from H. E. SULLIVAN, Esq., Acting Session Judge of Salem, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Salem, 9th March 1865, No. 4.

With reference to the Proceedings of Government, dated the 7th instant, No. 359, I have the honor to forward, herewith, the whole of the original records therein called for.

No. 33. ORDER THEREON, 4th April 1865, No. 526.

The Governor in Council directs that the Acting Session Judge will submit the original notes of the Judge who presided at the trial of the foregoing case, and any paper which may show what was the opinion of the assessors, and what reasons, if any, they assigned in support of it.

(True Extract).

A. J. ARBUTHNOT,
Chief Secretary.

To the Acting Session Judge of Salem.

Exd. J. H. Burns.

Deposition given before the Taluk Magistrate
of Tripattur on oath on the 23rd at 18
by Ba^{...} of Chengalery of Varaya
case residing in Nainampatti

I am a watchman at the soonachi
gate in the railway. As usual at half
past 12 clock I of Wednesday

the morning, I was standing on the road
at the gate. On the northern of it at a dis-
tance of 4th of a mile the prisoner stooped
down & placed 2 stones on the Rail,
which I saw distinctly. I immediately
went over. Before I reached the place, the
prisoner left the road & descended on the
road.

When I saw the
place, there were two stones on the western
Rail. Seeing it I followed the
prisoner whom I overtook at the field
station of Saredar Obi Park.

When he came to arrest me
he said that I will not move
even if he attack me. While we both
were talking, Narayappa Nair the
owner of the field came there
from the adjacent Patti & asked "what
is the matter?" I told him that the prisoner
was on the field. In the

mean time I ran away. On the night of the same day at 7 o'clock Durappa, the man, came. I explained the circumstance not only to him but also to the Inspector on the following day. I did not remove immediately the stones which were placed by the prisoner, but upon the arrival of Maistry at 7 o'clock, I showed the same to him & according to his order removed them. Previous to the prisoner placing the stones on the Rail I went through the line at 5 P.M. on the very day & examined the line; but when there were no stones on the Rail. Between 5 P.M. & the time during which the prisoner placed the stones no persons went to that place.

Q Did you show to Maistry the stones while they were on the Rail?

A As soon as the prisoner placed the stones, I told the same to Narayappa Naik as above. & afterwards removed them from the place placed them near it. As soon as the Maistry came, I took him & showed to him the place where the stones were placed on the Rail & also showed to him the stones which I removed & kept near the Rail. As I had never been cited as a witness, I deposed

at first through confusion & forgetfulness, that I showed to Maistry the stones while they were on the Rail, which is incorrect. What I say now is correct.

Q You told to Maistry that Peddavaradan placed stones on the Rail. Who is that Peddavaradan?

A This very prisoner whom I call Peddavaradan as he is called by that name in the village. His name is Mooneyappa.

Examined on the 25th August 1862

Q In the case of theft of sleepers did you take Ramasamy on the said Wednesday to the village Moonsiff & did he try the case?

A Yes. The sleepers case was on the night of Wednesday taken to the Moonsiff & was tried by him. but when I did not tell him, the matter of the stones being placed on the Rail by the prisoner, and at that time the prisoner was not present.

/s/ signed Battan
" D. Sundar aigen
Taluk Magistrate.

eposee ... the ... magi
raie ... on solemn affirmation
on 23rd ... 1862 by ...
... Moonyappa ...
... residing in ... village attached
to the Tal.

On the evening of Wednesday last I
... to my cattle pound which is
situated close to the eastern side of the
Railway. I went there in order to shut
up sheep & asses in it. In the meantime
Moonyappa the prisoner who is now
before the court was running westward.
The watchman Buddadde ... sed him.
When the prisoner turned & prepared
to attack Buddadde. Then a guard
took place between them. I asked Buddadde
"what is that". He told me "that this prisoner
having placed stones on the Rail is running
away & is coming to attack me & I go to
seize him". I told him not to quarrel. When
Buddadde desired me to see the stones which
were placed on the Rail. I went short
when finding it is too dark I told him that
I cannot go further because the way is not
even & if the prisoner had placed stones
on the Rail, you report it to your superiors.
mean time the prisoner entered into
the ... away. As there was crops

in the field I could not see which side
the prisoners went. This circumstance
I revealed to the Railway Inspector
on the morning of the following day when
he came to my village & asked me about it,
not to any one else either on Wednesday
night or on Thursday morning.

Signed Karayappa Narayana

Deposition given before the Taluk Magistrate
of Tripalloor on oath on the 23rd August 1882
by Karayappa Narayana Railway Ministry son of
M. ... the Gounder of Palli cast residing
in Tripalloor

On Wednesday last the 20th Instant at
about 7 o'clock P.M. I came to Coonachi
gate, when watchman Battan who was
then at the gate ... me that Peddaraden
has placed stones on the rail. On my asking
him to show them, he took me to the place
about 23 chains north of the gate & told
me (pointing out) that he has placed these
2 stones on the western rail, but no stones
were found on the eastern rail. He said that the 2 stones
on the adjacent cutting are the stones that
were placed on the rail. Whereupon I told
him to ... report it to the Inspector
& await his orders & that the stones must
be at the same spot. Accordingly
on the next morning I reported the matter
to the Inspector.

Q Is the road, then, the cutting or on the
embankment?

A It is in the cutting. From the road lying
near the gate where the watchman was standing
the rail can be distinctly viewed as the
line there is neither crooked nor is on the
low ground.

Examined on the 25th August 1862

Q. On Wednesday night last, did you take Ranasamy to the village mooniff & Coolamy concerning the commission of theft of sleepers & did the mooniff try him?

A. Yes. I took him to the mooniff who tried him; but the prisoner who is now present before the court was absent at that time.

Q. Did you report to the village mooniff during the trial of the sleeper case that this prisoner placed stones on the Rail?

A. No. I did not do so, as I was under trial of the said case.

Signed Dravapper

Deposition given before the Magistrate of Tripattor on oath on the 1st Sept 1862 by Thollan son of Latchmana washerman residing in Coonachi

Q. When did you last see the prisoner Droneyapper who is now before the court?

A. It is about 12 days ago, on Thursday morning at about the time of taking curfew. I saw the prisoner while he was at the tamarind tree near Potta chetty's house. After that I saw him here in the entchery

Q. Any thing strange in your village on that Thursday?

A. The gentleman who is now present came to the village on that day. After his return one Maistry asked me: did you see the prisoner Droneyapper? I told him that just now he was at the tamarind tree & I saw him. I don't know the name of the Maistry who asked me

Mark of Coolan

Signed P. Poondaraya
Sub Magistrate

Deposition given before the Taluk Magistrate
of Trappattoor on oath on the 1st Sept 1862
by Chinni son of Vengattappen washerman
residing in Coonachi

Q When did you last see the prisoner
Mooneyappen who is now present in the
cutchery?

A It is about 10 or 12 days ago, I remember
on Thursday morning at about the time of
when the sun was at 4 fathoms in height, the
prisoner came to Laman the barber who
is living near my house & took him.
Then I saw him. After that I saw him
to-day only. On that day, the gentleman
who is now in the cutchery came to Coonachi.
After his return Devappen the darsay
asked me "did you see the prisoner?"
I told him that I saw him near the
barber's house

In witness whereof
Signed / T. Poudarayan
Sub Magistrate

4.

Deposition given before the Sader Magistrate
of Tripplattur on oath on the 1st September 1862
by Potty Chetty, son of Cooppoo Chetty, of Sader Castle,
Sion Religion, Weaver by Profession, about 40 years
old, residing in Coonachi.

2. When did you last see the prisoner
Mooneappan, now present before the Court?

A. It is now 12 days since I saw him on
Thursday about 6 A.M. at the Samarindree near
my house, and now I see the prisoner in the
Cutchery.

2. Any thing strange in your Village on
Thursday?

A. On Thursday morning I and Mooneasamy
were planting chilly plants at the Top near the
Pail, when a certain Paria, alleging that the said
Mooneappan and another Panasawmy are the
persons that had stolen away the Keepers, seized
Mooneasamy - when the Gentleman who is now
before the Cutchery was trying the Case at the
Railway Gate. The Gentleman afterwards went to
Coonachi, and I returned to my house. It was
only then that I saw the said Prisoner Mooneappan.

Wm. David Esq. before J. W. Esquire
 before Judge. W. Esq.

[illegible]

The Prisoner was told by the Homicide Judge that he was about to be placed in the Prison for the placing of stones like those placed in the case of the Prisoner who was arrested on the 1st of October 1882.

Stones having been placed on the ground on the 1st of October 1882, the Prisoner was actually put in the Prison on a certain evening on the 1st of October 1882. The Prisoner and his wife were with him in the Prison and he was kept in the Prison for the purpose of the trial.

The Prisoner was being punished by the 1st witness who on deposition asked him for the cause said that the Prisoner had put placed some stones on the ground as a struggle between the Prisoner and the 1st witness which happened on the 1st of October 1882. The Prisoner made a statement to the 1st witness on the evening of the 1st of October 1882.

3rd witness Theron says deposes to the 1st witness on the evening of the 1st of October 1882.

in question at 7 O'clock, shortly after the occurrence, having shown him the spot where Prisoner placed the stones and the stones themselves. He went accompanied the Complainant to the Prisoner's Village.

The Prisoner, pleaded not guilty. He stated to the 1st witness on the evening of the 1st of October 1882 that they saw the Prisoner on Wednesday evening about the village himself of Concho.

Remarks

The Court has no doubt of the truth of the statement of the Principal witnesses in this case. He distinctly saw to the Prisoner putting on the stones, and the struggle he had with him, is also confirmed by the 2nd witness who positive to shown this charge was trumped up against the Prisoner.

The circumstance of the stones not having been reported to the Homicide Judge at the time the theft of the sheep was reported by the 1st and 3rd witnesses, is accounted for by the great interest the Homicide Judge has proved to have taken in the Prisoner. - saying he was absent from the village when he was not present - the Homicide Judge's relations as the witnesses for the Prisoner give very satisfactory evidence as to his alibi - The Homicide Judge's conduct though harsh is suspicious and deserving of the Magistrate's serious notice.

Looking to the frequency of such occurrences as this, and to the awful consequences likely to follow from the train running off the line, by stones being placed on it, the Court is determined to make an example in this case by awarding a severe punishment.

W. G. G. G.

1882

stones on the rails. It is probable that the stones were placed on the rails by the Prisoner who was arrested on the 1st of October 1882.

Salem }
Session Court }
16th October 1882 }
Session Judge

I feel can be done in the office,
I should like to see transcripts of
the depositions from before the Judge
made by the three witnesses for
the prosecution - as also of any
part of the Journal record which
is to ~~show~~ ^{show} that the village meeting
is "proved", to use the words of the
Judge, to have falsely declared
that the Prisoner was absent from
the village when Mr. Michael Lavette
came to complain against the Prisoner.

23. 3. 65

W.D.

Calcutta - No 612 of 1864. 17

These papers came before Lord's court
in following order:-

After perusing certain printed notices
to a court in the Railway department
circulated in the usual course, from
the office of the Ch. Secy, I came upon
letter from Captain C. S. Neame to
the ⁺Supersede Secy of Police. When

May 64.

reading it 10 and 11, I was struck by
the order of the case mentioned by
Captain Neame, resembling those of
a trial of fact. The calendar had
come before me as clerk in the High
Court, about two ago, and at the
time of my revising the calendar, had
learned some, from the S. Under son
statement of the evidence & facts, to be
a remarkably suspicious case.

I begged the Regt of the H Court to
let me see the calendar, & on referring
to it, I observe that my private note-
(three points of interrelation on the
dashed) - shows clearly that what

2)

very considerable doubts as to the truth & genuineness of the charge. This mark we have assisted me in our appreciation of the entire record, had an appeal been refused. The notes in pencil inside the folder also indicate the new state of the trial.

No appeal was refused; so here the case has rested.

But, of my impression be correct, and if the information on Dr. Captain Kearns' remarks are correct, be truthful, it is quite clear that our Sepoy Court at Salem, then presided over by Mr. Perry, has been made the victim of an act of the most flagrant injustice, & that an innocent man is now in exile at the Andamans, from which, though the Calendar passed through the House in October 1862, it is not too late to withdraw, if the Govt. should be of opinion that the S. Judge was not justified in passing a sentence on a Person who did not deserve it. This, then, we have led to the entire

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whole record of this trial being called up & a revision from the Chief, and it now remains for determination whether the Person Pedda-bader alias Mooneappa was properly declared guilty of placing two small stones on the line of rail & whether he is not the victim of a foul conspiracy.

The evidence allowed to tell against the Person in the Sepoy Court is thus:—

A Mr. Michael Lavelle, who is connected with the Railway Works, was quasi-Prosecutor. Those parts of his evidence which affect the Person, are given on mere hearsay. That is, in his statements of the 1st & 3rd the telegraphman and the 3rd the man, who according to Captain Kearns is now in the enjoyment of the share of land held by the convicted Person.

These parts of Lavelle's testimony are therefore a nullity. Lavelle endeavors to make out that

4)

When he went to secure the Prisoner on the morning of the day after the stone was said to have been placed on the rail, the moonlight of the Prisoner's village made several contradictory statements as to the Prisoner's whereabouts; and observe that in her Sub mag's deposition Lavette has had the face to swear that he considered that these statements went to show that the moonlight was implicated in the act charged against the Prisoner and in other "cases" of late occurrence.

Whether or not such statements as to where the Prisoner was when Lavette went for him, be true or false, they cannot ~~have any effect~~ affect the Prisoner in any way, and I think the S. Judge in having her previously ^{to} allowing himself to be prejudiced against the Prisoner by assuming that the village moonlight was interested in ~~the~~ him, there being positively nothing on the record to show that at the time of Lavette's exposure for the Prisoner, the vill: moonlight knew where he was, or that he ~~was~~ stated that the Prisoner was not in the village.

It

2^d Session
Court

It is true that before the Sub mag's, three wps have said that the Prisoner was in his village on the day when "the Gentleman," meaning I suppose Mr. Lavette, came there; but observe that these men were examined on the 7th September, or a week later than the three wps who, on the hypothesis that the case is a conspiracy, supported that conspiracy & the dep. in the case on the 23rd Augst.

The interval of a week & the then bringing forward three other men with evidence as to the Prisoner's whereabouts; looks very much like an attempt to bolster up the case.

But whether or not, it does not appear, and it is no where alleged that Prisoner made any attempt to make justice; he was on trial on the 23rd August and the vill: mps' declarations abt: him whether right or wrong cannot in the least degree affect him.

Referring to Lavette's evidence in the S. Court that two small stones about 4 inches high would be more dangerous on a rail than larger ones, I must say, I

6/

doubt whether an ignorant cultivated
 a man like the Farmer, not in England
 in the Road way State: would have been
 conscious of the fact. Naturally he wd.
 have supposed that the bigger & heavier
 the stones the greater the danger the stones
 would be likely to create.

Now, as regards the evidence of the
 1 Wfs. Budden. He is the only person
 said to have seen the Prin: placing the 2
 stones on the Rail. All that follows
 as to Prin: comes out of what Budden
 declares he witnessed, and what he
 is said to have told (this being reduced
 as to Prin) others -

I don't doubt that at 6 p.m. on the 20 Aug.
 1864, when the moon rose at 8-35, a man
 at $\frac{1}{4}$ mile distance could have seen as the
 man put 2 small stones on the Rail.
 Now, however, is what Budden declares he
 was able to see.

No train was at that time expected.
 Budden, though he admits he pursued
 & caught the Prin: who succeeded by
 the least of ways from him; nevertheless
 "never thought of saying" & complaining to

to the full M^{rs} ⁱⁿ Shore employ the Prin: 27
 was, but contented himself with telling
 what Prin: had done, to the 2 Wfs, Karappa
Kardas who accidentally comes up whilst
Budden & Prin: are struggling & bids
 them desist!!!!

And then on the 21st of Budden to the
 Call in aid at once the Vill left, that is,
 the nearest Magistrate; & the same extraordinary
 & suspicious that he had been receiving
 special orders carefully to look out for
 stones, chains, pots &c placed as impediments
 on the Rail line.

word

But it is still more extraordinary when
 as shown by the S. of M^{rs}: he had gone to
 to the village left to complain of a far
 less important matter; - the tramping
 theft of a sleeper.

I cannot under circumstances such as the above
 stated, but feel that Budden's testimony
 as affecting the Prin: ought to have
 been received with the strictest caution -
 and tempered - and had I been trying
 the case I should have demanded the
 most satisfactory corroborative evidence
 before letting his statements work in
 the accused man; - for after all

the charge rests on the 1 Wps, Budden
evidence & nothing else whatever.

Further, it strikes me as being
~~absolutely impossible~~ beyond
the bounds of belief that the Prisoner
would have been fool enough, when the
1 Wp, the watchman of the time, was in front,
and of course as visible to Per^r as Per^r
was to 1 Wp, - to stoop down & place
the stone on the rail. Had he intended
this, he could hardly have found time
to do it when the watchman was not
looking towards him. But it seems
superfluous also to suppose that at
the time in question, 1 Wp could have
seen what he proposes, because the
2 Wps on cross examination, state that
when he came up to where the alleged
struggle was being on, it was light enough
to enable him to see only the palms
of her hands. That is a couple of yards
away in front of him. This approaching
darkness effectually upsets 1 Wp's story
of her seeing Per^r place the stone
on the rail at $\frac{1}{2}$ mile distance: -

Now as to the 2 Wps: I do not believe
he was ever telling this truth & I think

I have a bad feeling as to part of it. I
the Per^r, otherwise they should be say
he does not know whether Per^r is in the
'room of the bill staff whom 2 Wps admit
'ole a relation of her own? how, being
a relation, it stands to reason, looking
that 2 Wps would have been aware of
2 mi of the Rail. But her painting
the fact of a fight & 2 Wps we have
been somewhat in favor of the Per^r
improbability.

It is odd also that during the alleged
struggle the 1 Wps should have heard
nothing in the way of an accusation of
1 Wp as to what Per^r had been doing.
It is only on 1 Wp's letters him, that he
learns that Per^r had put the stone on
the rail.

As to the 3 Wps Perovappen, the Rail
mantry. What he says is more hearsay
from the 1 Wp and not receivable
as evidence against the Prisoner.

But I find it quite impossible to
believe that if 1 Wp had really struck
last time on the evening of the 20th Aug.
what he proposes to have heard

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regard to the Pres^r alleged act, the
Wps would have failed to report the
case to the bill. However when, on the
same morning, he brought before the
Office two men who had been stealing
a sheep.

It is only by important hints of the
Pres that we discover means of
testing the value of the direct, lying
testimony of tutored deponents when
a wholly false charge is brought forward
to ruin another - or to act against
him that he shall be forced to leave
his village.

After very anxious consideration
I am free to confess that the case
under which seems to me to be false
throughout, and I think it is
undoubtedly a terrible case, that
he should have been willing to commit
on the - were a question of a single
Wp, wholly uncorroborated and is, and
has so severe a sentence as that
under which the Person of false
now he suffering.

As to the fact of the alleged struggle
between the 1 Wp and the Pres^r being

x seven years
transposition

as was used
the 5-7

^{truth of the}
Corroboration of the 1 Wp's statement of
what he says he saw, I am inclined
hardly to doubt whether any struggle
ever took place at all; but if it did & if
2 Wps did then - accidentally come up,
as I doubt, to seem quite obvious
that - the cause of the contest must
have come out - whilst the two men
strapping -

But - in the Pres^r defence, that the
Case has been got up by the 2 Wps and
done it looks very like it -
As to the S. Judge's ^{observation} ~~statement~~ about -
the frequency of "such occurrences as this,"
I would remark that the fact of the
attention of the local authorities being
specially drawn to this reprimand
wd. of does create the best possible
opportunity for concocting & successfully
carrying through a false charge of
the Pres. In fact; with a case
such as this seems to be, the likelihood
of no man would be induced for
even a few hours. Any casual playing
the game of ^{another} man's money, or
be sufficient for sending across the

12/ Ray of Bengal the student faculty
not in Salem.

Very unpurposed in that the character of
the case and of the person in
character that the person is equally
called on at the 11 hour to enter plea
and to the best of their power miti-
gate the loss of the person
has been a victim. In many trials
I have had under review, I have
observed the reckless, indiscreet
manner in which the person has entered
plea (!!) and I regard this as
one in addition to the many.

30. 3. 65

W.D.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
letter from the Acting Sessions
Judge of Salem.

(Here enter date March 1865
No. 1)

Cide. thereon 4th April 1865 No. 526

now in
you direct that the
Acting Sessions Judge
will submit the original
notes. Judge who
presided at the trial of
the foregoing case, and any
paper which may show
what was the opinion
the juries and what
reasons, if any, they assigned
in support of it.

W.D.

To the Hon. Secy. Judge of Salem. dated 4/4

Lib. 100. 186. Department.

No. 526

PROCEEDINGS OF GOVERNMENT.

1809.

Dated 4 April 1809.

Feb 27/73.

During the sitting upon
Judge at ~~the~~ to submit
the original, notes of the
Judge who provided
at the trial of the case
referred to in the 1809
Journal of the Court.