

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 557	Press ~~Mis.~~
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Dated 8. 4. 1918	

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8th April 1865.

Read the following papers :—

No. 75.

To His EXCELLENCY SIR W. DENISON, K. C. B.,

Governor in Council of Fort Saint George.

The humble petition of KOLANDAVE-
LOO NADAN, TUNGAMUTTOO
NADAN, KOMARA NADAN, VY-
THIALINGA PALANDAN, VADI-
VALU PALANDAN, SHUNMOOGA
NADAN, MAROODAN SHOLAGAN,
SAMINADA NADAN, and KOOLA
NADAN, nine out of twenty-one
Prisoners in Session Case No. 31 of
1864, on the Calender of the Session
Court of Tanjore presented by their
duly constituted Vakeel V. RAJAGO-
PALA CHARLU, B. L.,

RESPECTFULLY SHEWETH,

That aggrieved by the Proceedings of the Session Court of Tanjore, under
date the 3rd August 1864, and the order of the High Court of Judicature at Madras
confirming it, your petitioners beg leave to submit herewith attested copies thereof,
and to appeal therefrom to Your Excellency in Council, on the following
other, grounds :—

1. That for some time past your petitioners' village was divided by two factions,
one composed chiefly of the prisoners in this case, and the other of the witnesses.
On the 17th March 1864, a dispute arose in connection with fishing in the river
which ended in a rioting. In this, however, the witnesses for the prosecution gave
a serious provocation; and the consequence was a number of men on both sides were
assaulted and wounded. Your petitioners preferred a complaint of it forthwith to
the Sub-Magistrate of Vallam. A day afterwards, however, the witnesses aforesaid,
influence of their men and money, preferred a counter charge of robbery to
the same Sub-Magistrate, antedating it.

2. That the Sub-Magistrate, while he was bound to have treated with greater
consideration your petitioners, who acted on the defensive, or at all events to have
treated both the cases alike, unwarrantedly dismissed the charge against the witness-
es, from motives which will be too plain, and consequently unnecessary to be dwelt
on here.

3. While the offence, was said to have been committed on the 17th March,
the complaint was not preferred for nearly a week, even assuming the date of the
complaint on the face of the Calender to be the correct one. This circumstance
alone is sufficient to throw light upon the character of the charge; and to show, beyond
a doubt, that a good deal of advice and conspiracy preceded the actual preferring of
the complaint. Another circumstance deserving the attention of your Excellency
in Council is the immense delay in commencing the trial, the interval between the
date of complaint and the date of commitment being no less than four months and
ten days. The evils likely to arise from such unwarrantable delay are too plain to
be enumerated. The annoyance that your petitioners were subjected to during

this long interval by an unrelenting Sub-Magistrate, actuated to cruelty by the irresistible influence of the witnesses, would have been a sufficient punishment to your petitioners, even if they were really guilty of the offence laid to their charge.

4. Your petitioners will now pass with the nature of the evidence in the case. Of the 14 witnesses for the prosecution, the 12th, 13th, and 14th deserve no attention, they having spoken purely from hearsay. With regard to the evidence of the remaining 11 witnesses, the most striking feature is that they all studied the lesson under the same master; for Your Excellency will observe not even the slightest variation in their evidence, either in respect to the style, or to the number or order of facts narrated by them. It surpasses all limits of probability that a number of people engaged, as they were, according to their own case, in an active contest in the dim moon-light, should be able not only to attend to the actual fighting but also to observe all the minutiae of the conflict; to wit, all the 11 witnesses concur in stating that the 1st, 2nd, 6th, 11th, and 14th prisoners broke the 2nd witness' head, and also the bone of the left arm, with repeated blows with bamboo sticks; that the 4th, 12th and 16th prisoners broke the 3rd witness' skull with similar blows, inflicted by clubs; that the 13th prisoner inflicted a severe wound on the 4th witness' elbow, which bled and caused great pain; that the 19th and 20th prisoners, by their blows on the 5th witness' right arm and hand, each broke a bone in the said arm and hand; that the 5th, 6th, 7th, 8th and 18th prisoners inflicted hurts and wounds on the 6th witness' left hand, which, though breaking no bones, causes him still to be in pain; that the 9th, 10th and 17th prisoners struck the 7th witness on the nose, the right arm, and fore-head, respectively, but did not appear to have broken any bones.

Looking into the evidence of such a number of witnesses who inflicted grievous hurts on your petitioners, and who were themselves subjected in their turn in the dead of the night, assisted perhaps by the glimmering light of the setting moon, intercepted by trees and the roofs of houses, one would naturally expect some slight degree of discrepancy at least. Nay, even, if the scuffle ensued in open day-light, in a large crowd composed of about 40 men, all of whom were actively engaged in the conflict, it will be hardly possible for any one so engaged in it to observe accurately, and relate after the lapse of nearly five months, without any variation to a syllable, every thing that was done and suffered, both before, behind, and around him.

6. And yet this is the sort of evidence that produced conviction in the minds of the Jury. There is, however, another fact worthy of attention, as throwing light upon the character, conduct, and motives of the Jurors empannelled in this case. While the evidence of all the 11 witnesses were equally pointedly directed upon 8 out of 21 prisoners, how 12 out of them were acquitted, while the other 9 were convicted, is a problem yet to be solved. The evidence of these witnesses should be either believed or disbelieved. If it was believed in regard to some prisoners, there is no reason why it should be disbelieved with regard to the rest, unless there were circumstances made out to justify it. Your petitioners humbly submit that no such circumstances were made out in this case, as your Excellency will see in going through the accompanying papers. The only explanation then that your petitioners beg to offer is that the Jury already retained for the prosecu-

induced to acquit such of the prisoners as were able to purchase their favor, while the rest unable to scrape up any thing to gratify the Jury, or at all events to outbid the prosecution side, have fallen unfortunate victims to the unjust sentence. Your petitioners beg to add that this is not simply their own private opinion, but that the conduct of the Jury made a very strong impression upon the mind of the Judge, convinced as he was fully of the inequity of the verdict in the case, was yet powerless by the Act to acquit your petitioners, contrary to the verdict of the Jury. In a letter, however, addressed by him to the Magistrate, he passed a severe censure upon the conduct of the Jury, and requested the Magistrate to select a better and more respectable class of men for the Jury to be empannelled in future. Nor was it in the power of the High Court to grant redress to your petitioners in that, in cases like the present tried by Jury, they are not at liberty to go into evidence.

As the Jury were here determined to convict your petitioners, the most unexceptionable evidence for the defence could make no impression upon their minds, whereas, the most frail and improbable evidence for the prosecution, opposed on the one hand to strong circumstances, and on the other to the most conclusive evidence for the defence, was able to produce conviction in their minds. This your petitioners submit is the inseparable evil of empannelling a set of stupid, but hungry, Jurors, instead of assessors, and thereby reducing the Judge to a nonentity unnecessarily, and long before the District is prepared for such an institution. Your petitioners are afraid that, owing to their misfortune, these weak words will produce no impression in the minds of your Excellency in Council, but they humbly, but earnestly, submit that a reference to the Session Judge of Tanjore will assuredly verify every syllable of this petition, and convince your Excellency of the utter injustice to which your petitioners were subjected. The only boon then that they crave at your Excellency's hands is a reference to the Judge. This certainly will cost nothing to your Excellency, while they feel confident that it will secure their unconditional acquittal.

8. Under all these circumstances of the case, the only course left for your petitioners is to appeal to the mercy of your Excellency in Council, who alone has the power of granting relief in such hard and special cases.

9. Your petitioners, in conclusion, most humbly pray that your Excellency in Council would be graciously pleased to make a reference to the Session Judge of Tanjore, and on the receipt of a favorable reply, of which they do not entertain the least doubt, to release your petitioners, and grant such further or other relief as in the premises to your Excellency in Council may seem meet.

And your petitioners shall ever pray.

(Signed) V. RAJAGOPALA CHARLU, B. L.,
High Court Vakeel.

MADRAS, 5th December 1864.

No. 3219 of 1864.

The Petition contains no record of the finding of the Court, or of the sentence appealed against.

FORT SAINT GEORGE,
22nd December 1864.

(By Order).
(Signed) C. G. WALKER,
Under Secretary to Government.

No. 76. To HIS EXCELLENCY SIR W. DENISON, K. C. B.,

Governor in Council of Fort Saint George.

The humble Petition of KOLUNDA-
VELU NADAN, TUNGAMOOTTOO
NADAN, KOMARA NADAN, VYTHIA-
LINGA PALANDAN, VADIVALU
PALANDAN, SHUNMOOGA NADAN,
MAROODAN SHOLAGAN, SAMINA-
DA NADAN, and KOOLA NADAN,
nine out of twenty-one Prisoners in Ses-
sion Case No. 31 of 1864, on the Calendar
of the Session Court of Tanjore, presented
by their duly constituted Vakcel V. RA-
JAGOPALA CHARLU, B. L.,

RESPECTFULLY SHEWETH,

That, with reference to the Memorandum (herein enclosed), No. 3219, dated
22nd December 1864, returning the Petition to your petitioners, on the ground that
it contained no record of the sentence appealed against, your petitioners beg to
submit a copy of the same, herewith;

And your petitioners shall ever pray.

MADRAS, 13th January 1864.

(Signed) V. RAJAGOPALA CHARLU

High Court Vakcel.

No. 160 of 1865.

The Governor in Council directs that the Magistrate of Tanjore will submit the
record of the Case referred to in the foregoing Proceedings, together with any inform-
ation he may be able to obtain, as to the reason for the dismissal of the charge
first brought by the Prisoners' party, and for the great delay, extending over four
months, which occurred in the commitment of the prisoners for trial. Mr. Cadell
will also apply to the Session Judge for a copy of his notes of the evidence taken
on the trial, and submit it for the consideration of Government.

(By Order).

(Signed) C. G. WALKER,

Under Secretary to Government.

FORT SAINT GEORGE,
31st January 1865.

No. 77. From W. M. CADELL, Esq., Magistrate of Tanjore, to the Honorable
A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George;
dated Tanjore, 28th February 1865, No. 67.

With reference to the Orders of Government, dated the 31st January 1865,
No. 160, passed on a petition* presented

* Herewith returned.

by Kolundavelu Nadan and others,
I have the honor to forward herewith
the records of the case, filed by the petitioner in the Court of the Vallam Sub-Magis-
trate, as also Mr. Bird's notes of the evidence taken on the trial held before the Ses-
sion Court.

2. The reasons for the dismissal of the first case are stated at length in the
decision passed by the Vallam Sub-Magistrate. From this, it would appear that in
addition to the great and glaring discrepancies in the depositions taken from the
witnesses of the complainant, the said Kolundavelu Nadan, there is one circum-
stance deserving of particular notice. The petitioner's story is that a riot took place
on the 18th March 1864, while his opponent states that a Dacoity took place on
the night of the 17th idem. But the Deputy Constable of the Police station at
Sendalai, some three miles away from the scene, goes to the place, and, after personal
inquiry, reports to the Inspector of the Range, on the evening of the 18th, that, in a
quarrel which took place on the night of the 17th March 1864, many of the peti-
tioner's opponents were seriously wounded. If the story of the petitioner be also
true, it is by no means probable that he would have failed to bring the circum-
stances before the Police Officer who had proceeded to the spot.

3. I beg further to observe that if the circumstance that the petitioner's opponents
had been seriously beaten and wounded on the 17th be admitted, it is physically
impossible that they should have again collected together on the 18th to commit
mischief on the person of the petitioner.

4. On the other hand the petitioner's opponents have been successful in prov-
ing an *alibi*. The petitioner attempted to meet this by producing a "beat ticket,"
purporting to have been granted by one of the opponents from the village in which
the conflict is stated to have taken place. This attempt, however, has been completely
over-thrown by the evidence of three Government officials, one of whom is the Village
Moonsiff, and who confesses having given himself the ticket in question, and the other
two are the Constables that carried the same to the Police Station. The beat ticket
there fore produced by the petitioner, there can be very little doubt, has been forged

5. Further, it may be observed that the Deputy Constable who reported the
dacoity on the 17th, and who has failed to state in it any thing whatever regarding
the alleged rioting on the 18th, is a friend of the petitioner, and one who is strongly
suspected of having been the author of this forgery, in favor of the petitioner.

6. It was under these circumstances that the charge brought by the petitioner
was dismissed by the Vallam Sub-Magistrate.

7. With regard to the delay which took place in the commitment of the case,
I have the honor to submit the following explanation.

8. Cases Nos. 30 and 31 on the Sub-Magistrate's file consisted of a charge and
counter charge brought by Kolundavelu Nadan and his opponent respectively; and
which are stated to have taken place at one and the same time. Several of the
parties concerned in the case in which Kolundavelu Nadan was the aggressor were
so severely injured, that on the 22nd March they had to be sent to the Civil Hospital
at Tanjore, and whence they were not discharged till the 15th May. The examina-
tion was commenced on the 2nd and 3rd April; but, owing to the fact above-mention-
ed, the inquiry had to be postponed until the 20th May, when these parties were in
attendance. The investigation of the case for the prosecution lasted till the 7th
June, when Kolundavelu Nadan having requested permission to produce in his
defence a beat ticket then in the Police Station at *Sendalai*, a period of six days was
spent in procuring the same. On being produced, the party who is said to have
given the ticket denied having done so, and hence a further investigation had to be
made into this matter, and which occasioned a still further delay.

The papers connected with this case have been carefully considered by the Governor in Council, and the conclusion to which he has come is that the prisoners charged with Dacoity, in Calendar Case No. 31 of 1864, on the file of the Session Court of Tanjore, were falsely charged, and that the finding of the Jury on which the Session Judge convicted, as bound by law to do, was erroneous, and that the prisoners were not guilty, and should have been acquitted.

2. The Sub-Magistrate, into whose hands the case came, allowed it to lie over on very insufficient grounds from the 22nd March, on which day, four days after the occurrence, the complaint was formally preferred, until the 18th June, a period of three months. He eventually committed the case to the Session Court as one of riot, and causing grievous hurt. The Session Judge altered the charge, and put the prisoners on their trial on an indictment of Dacoity, attended with grievous hurt. The Jury, without stating their reasons, acquitted twelve of the prisoners, while convicting the remaining nine.

3. The Government consider that there can be no doubt that a serious disturbance took place, and that severe blows were given and exchanged; but they regard as a matter of no small moment the fact that, although information of the affray was communicated to the Police immediately after the event, no mention was then made of robbery, nor until a considerable period had elapsed, during which every opportunity was allowed for concocting a conspiracy; and the evidence bears, in the opinion of the Government, very strong marks of having been so concocted.

5. The Governor in Council is always most reluctant to disturb a sentence passed on a verdict given by a jury, but considering that in the present case grave doubts exist as to the truth of the charge of robbery, and that, for the part of the indictment which charged the prisoners with having inflicted grievous hurt, the imprisonment already undergone by them is sufficient, he resolves to remit the remaining portion of the sentences passed upon the 1st, 2nd, 6th, 9th, 11th, 13th, 17th, and 18th, and to direct that the fines imposed on the 1st, 2nd, 6th, and 11th prisoners, if not already levied and paid in compensation, be also remitted.

(True Extract).

Chief Secretary.

To the Session Judge of Tanjore.

Ed. J. H. Burns.

[illegible]

Friends and Members of the Jury,
 The twenty one Prisoners at the Bar were
 committed for Trial by the Sub Judge at the Charge
 of merely rioting and causing grievous hurt, but
 I have ordered them to be indicted also on a Charge
 of Robbery. I am aware of the risk of committing
 a mistake, because the Record seems to justify me
 in so doing, and what you will have me to do



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 1864-1865

[illegible]

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 the 18th prisoner the 4th witness
 Prisoner 6th witness
 and the 1st witness

2013

10th Feb 2021

4. The witnesses for the prosecution are to the effect that, at the Sugar factory, where they had accepted the working floor class, and there saw a Gang of Robbers 20 or 30 in number carrying off one of the 10 or 12 heaps of rice most badly stored there and that, and also with news of a circulating, the witnesses were below inflicted the injuries described, on the witnesses specified namely that
 The 1st, 6th, 11th & 14th Prisoners broke. 2 witnesses read and also some of the 1st witness with repeated blows of Dambora that the 4th, 12th and 16th Prisoners broke with similar blows inflicted by Clubs. that the 13th prisoner inflicted a severe wound on the 4th witness's elbow, which bled. Caused great pain. that the 1st, 6th, 11th & 14th Prisoners broke right hand, each broke with said arm and hand 3rd witness.

1844 to June 1844
 6/3/44 to 10/3/44
 10/3/44 to 12/3/44
 12/3/44 to 1/3/45

that the 9th, 10th, & 11th witnesses on the
 line, the right arm and fore head received
 every shot did appear to have broken
 any bones.
 To Corroborate that such injuries
 were suffered about the day have been
 12th, 13th & 14th witnesses, tell you that,
 on the 18th March, they went to the 1st witness's house
 on inquiry regarding the
 and there saw the 3rd to the 7th witnesses
 suffering from head wounds, the head, arm,
 and so you have your own
 of their identities now, and must give the
 the evidence support.
 regarding. But you have more
 There are the statements of 8th to the 11th witnesses
 which
 four, and
 men of a

MP DEPT

I say, then, now have the testimony of no
 the 4th witnesses who positively declare
 to you that as 3rd & 15th Prisoners were
 actively engaged in beating the 1st to the 7th witnesses,
 causing that "previous hurt" to the 2nd, 3rd & 4th.
 I say, then, now have the testimony of no
 such injuries being caused to the 1st & 2nd.
 You have heard them declare that
 of the Prisoners including the 3rd, 15th & 21st were
 actively engaged at that hour, & the night
 carrying off, with the violence accompanying
 one of the 12th witnesses of the 1st only
 about 35. I say, then, now have the testimony of no
 and the 1st & 2nd witnesses.

Light Moon then, they
say
E. H. B.

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Due
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At St. L.

10. But before you arrive at any decision as to the Prisoners' guilt, you must carefully consider their defences and the evidence to prove them up each of the Prisoners, as have cited witnesses.

11. before an general table on each
of each Prisoner, and a special table
2^d Prisoner that the 2^d Prisoner had an
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 think
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121-
Song Book

18th January 1864 to 1864 to 1864
3/23/64 to 3/23/64 to 3/23/64
2nd of 1864 to 1864 to 1864
3rd of 1864 to 1864 to 1864

The first of these, I do not think will appear
 to you to be a very strong case. The evidence to
 cross is that you are the 1st and 4th, 11th
 14th 15th 16th 17th 18th 19th 20th 21st 22nd 23rd 24th 25th 26th 27th 28th 29th 30th 31st 32nd 33rd 34th 35th 36th 37th 38th 39th 40th 41st 42nd 43rd 44th 45th 46th 47th 48th 49th 50th 51st 52nd 53rd 54th 55th 56th 57th 58th 59th 60th 61st 62nd 63rd 64th 65th 66th 67th 68th 69th 70th 71st 72nd 73rd 74th 75th 76th 77th 78th 79th 80th 81st 82nd 83rd 84th 85th 86th 87th 88th 89th 90th 91st 92nd 93rd 94th 95th 96th 97th 98th 99th 100th 101st 102nd 103rd 104th 105th 106th 107th 108th 109th 110th 111th 112th 113th 114th 115th 116th 117th 118th 119th 120th 121st 122nd 123rd 124th 125th 126th 127th 128th 129th 130th 131st 132nd 133rd 134th 135th 136th 137th 138th 139th 140th 141st 142nd 143rd 144th 145th 146th 147th 148th 149th 150th 151st 152nd 153rd 154th 155th 156th 157th 158th 159th 160th 161st 162nd 163rd 164th 165th 166th 167th 168th 169th 170th 171st 172nd 173rd 174th 175th 176th 177th 178th 179th 180th 181st 182nd 183rd 184th 185th 186th 187th 188th 189th 190th 191st 192nd 193rd 194th 195th 196th 197th 198th 199th 200th 201st 202nd 203rd 204th 205th 206th 207th 208th 209th 210th 211th 212th 213th 214th 215th 216th 217th 218th 219th 220th 221st 222nd 223rd 224th 225th 226th 227th 228th 229th 230th 231st 232nd 233rd 234th 235th 236th 237th 238th 239th 240th 241st 242nd 243rd 244th 245th 246th 247th 248th 249th 250th 251st 252nd 253rd 254th 255th 256th 257th 258th 259th 260th 261st 262nd 263rd 264th 265th 266th 267th 268th 269th 270th 271st 272nd 273rd 274th 275th 276th 277th 278th 279th 280th 281st 282nd 283rd 284th 285th 286th 287th 288th 289th 290th 291st 292nd 293rd 294th 295th 296th 297th 298th 299th 300th 301st 302nd 303rd 304th 305th 306th 307th 308th 309th 310th 311th 312th 313th 314th 315th 316th 317th 318th 319th 320th 321st 322nd 323rd 324th 325th 326th 327th 328th 329th 330th 331st 332nd 333rd 334th 335th 336th 337th 338th 339th 340th 341st 342nd 343rd 344th 345th 346th 347th 348th 349th 350th 351st 352nd 353rd 354th 355th 356th 357th 358th 359th 360th 361st 362nd 363rd 364th 365th 366th 367th 368th 369th 370th 371st 372nd 373rd 374th 375th 376th 377th 378th 379th 380th 381st 382nd 383rd 384th 385th 386th 387th 388th 389th 390th 391st 392nd 393rd 394th 395th 396th 397th 398th 399th 400th 401st 402nd 403rd 404th 405th 406th 407th 408th 409th 410th 411th 412th 413th 414th 415th 416th 417th 418th 419th 420th 421st 422nd 423rd 424th 425th 426th 427th 428th 429th 430th 431st 432nd 433rd 434th 435th 436th 437th 438th 439th 440th 441st 442nd 443rd 444th 445th 446th 447th 448th 449th 450th 451st 452nd 453rd 454th 455th 456th 457th 458th 459th 460th 461st 462nd 463rd 464th 465th 466th 467th 468th 469th 470th 471st 472nd 473rd 474th 475th 476th 477th 478th 479th 480th 481st 482nd 483rd 484th 485th 486th 487th 488th 489th 490th 491st 492nd 493rd 494th 495th 496th 497th 498th 499th 500th 501st 502nd 503rd 504th 505th 506th 507th 508th 509th 510th 511th 512th 513th 514th 515th 516th 517th 518th 519th 520th 521st 522nd 523rd 524th 525th 526th 527th 528th 529th 530th 531st 532nd 533rd 534th 535th 536th 537th 538th 539th 540th 541st 542nd 543rd 544th 545th 546th 547th 548th 549th 550th 551st 552nd 553rd 554th 555th 556th 557th 558th 559th 560th 561st 562nd 563rd 564th 565th 566th 567th 568th 569th 570th 571st 572nd 573rd 574th 575th 576th 577th 578th 579th 580th 581st 582nd 583rd 584th 585th 586th 587th 588th 589th 590th 591st 592nd 593rd 594th 595th 596th 597th 598th 599th 600th 601st 602nd 603rd 604th 605th 606th 607th 608th 609th 610th 611th 612th 613th 614th 615th 616th 617th 618th 619th 620th 621st 622nd 623rd 624th 625th 626th 627th 628th 629th 630th 631st 632nd 633rd 634th 635th 636th 637th 638th 639th 640th 641st 642nd 643rd 644th 645th 646th 647th 648th 649th 650th 651st 652nd 653rd 654th 655th 656th 657th 658th 659th 660th 661st 662nd 663rd 664th 665th 666th 667th 668th 669th 670th 671st 672nd 673rd 674th 675th 676th 677th 678th 679th 680th 681st 682nd 683rd 684th 685th 686th 687th 688th 689th 690th 691st 692nd 693rd 694th 695th 696th 697th 698th 699th 700th 701st 702nd 703rd 704th 705th 706th 707th 708th 709th 710th 711th 712th 713th 714th 715th 716th 717th 718th 719th 720th 721st 722nd 723rd 724th 725th 726th 727th 728th 729th 730th 731st 732nd 733rd 734th 735th 736th 737th 738th 739th 740th 741st 742nd 743rd 744th 745th 746th 747th 748th 749th 750th 751st 752nd 753rd 754th 755th 756th 757th 758th 759th 760th 761st 762nd 763rd 764th 765th 766th 767th 768th 769th 770th 771st 772nd 773rd 774th 775th 776th 777th 778th 779th 780th 781st 782nd 783rd 784th 785th 786th 787th 788th 789th 790th 791st 792nd 793rd 794th 795th 796th 797th 798th 799th 800th 801st 802nd 803rd 804th 805th 806th 807th 808th 809th 810th 811th 812th 813th 814th 815th 816th 817th 818th 819th 820th 821st 822nd 823rd 824th 825th 826th 827th 828th 829th 830th 831st 832nd 833rd 834th 835th 836th 837th 838th

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of his witnesses and then...
 14 The 3^d and 4th witnesses of the 2^d Prisoner being
 William Watchman say "went Rounds" the
 witness (Prosecutors) say "went Rounds" the
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 what

value can be attached to such negative evidence, and
 whether the riot may not have occurred at the time
 these witnesses had passed on, on their rounds?
 The 2^d Prisoner's 3^d & 4th witnesses declare they slept
 with the 2^d Prisoner on his trial on the night
 of the alleged offence and that he did not stir there
 from. These witnesses' evidence you must weigh,
 and, in doing so, must recollect the spot where
 the offence is said to have occurred is close to the
 2^d Prisoner's trial.

15. The alibis of the 3^d and 4th, the 11th, the 15th,
 of the 18th Prisoners are supported by two witnesses
 each in the instance of the first three, and
 by one in the instance of the 18th Prisoner. These
 witnesses, for the most part, you see, have not
 been able to tell you what is the date and
 name of the month today, and therefore you
 will be bad
 meant, that... saw the said Prisoners each
 & sheet

EMK

Adams of 1851
For
Waggon
1867
measures

of 1867
in 1867

1867
24th 1864
on 3rd 1864
on 12th 1864
on 12th 1864
on 12th 1864

at the places named by them on the 6th Pangung
(the meat fence) as declared by them.
16. The 14th Prisoners also supported by 4
witnesses and documents No. 384. If
documents (Radaries for cattle
dated 6th Pangung and 18th March 1864 respectively)
genuine and the statements of the 14th Prisoners
four witnesses true you have clear evidence
before you he was not on the night of
the 17th March at the scene of the offence, for the
Village named is stated to be near 20 miles there
from in the Trichinopoly District. In the event
of your believing the said evidence you are
bound to acquit the 14th Prisoners.

17. The case is now before you, and I
direct you to give a true and honest verdict
according to the evidence. If you credit
the prosecution, then, the Prisoners are cer-
tainly guilty, and you must then decide
whether they are so on the 1st Head only, or
on the 2nd and 3rd Heads of the Charge. If you
find that they are guilty on one or the other
of these, then discriminate if all the Prisoners
are guilty, or if certain are not
fully proved to be concerned. If you entertain
doubts or suspicions of the evidence as it bears
9th sheet

EWB

73/26

at 74.00
for 74.00
106.00
100.00

of 74.00
of 74.00
of 74.00

of 74.00
of 74.00
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of 74.00
of 74.00
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of 74.00
of 74.00
of 74.00

on any of the Prisoners, the benefit of such
doubt must go to these Prisoners in coming
to all com. to an unanimous M. P. D.

Extract
J. M. Bird
Session Judge



1

[Handwritten notes and signatures]

[Illegible handwritten text]

STAMPED
26 OCT
1864
TOWN OF MADRAS

In the High Court of Judicature at Madras.
Thursday, the tenth day of
November, One thousand
eight hundred and sixty-four.

Present:
The Honorable Mr Justice Phillips
and
The Honorable Mr Justice Freer.

Criminal Petition No 84 of 1864.
Colandanelu Naidan } Appellants
and 8 others - - - { 1st, 2nd, 6th, 9th, 10th, 11th, 13th,
17th and 18th Prisoners

Appeal against the sentence of the Court of
Session of Tanjore in Case No 31 of the Calendar for
1864.

Order: This Appeal coming on this present day before
this Honorable Court, for hearing in the presence of
Mr Mayne, Counsel and Rajagopal Chelvar, Vakil
for the Appellants: Upon perusing the petition of
and the Calendar and sentence of the Court of Session;
and upon hearing the arguments of the Counsel for
the said Appellants. It is ordered that the sentence
of the said Court of Session be, and the same here
is confirmed, and this Appeal dismissed this Honorable
Court.

By the Court.
(Signed) P.P. Rutledge,
Acting Registrar

(True Copy)
Dated
10/11/64

[Signature]

[Handwritten notes and signatures]

No 31 of 1864

10/11/64

Handwritten note on the left margin.

Handwritten text at the top left, including a date: 2/11/1886.

Handwritten text in the middle left margin.

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Stamp: JULY 1886

Handwritten text above the main body of the document.

aforsaid, in the date of the 1st year of the
a further that the said 1st and 2nd witnesses do pay
a fine of Rs. 100 each for the said 1st and 2nd
witnesses for the said 1st and 2nd
and they, the said 1st and 2nd
11th year, and the Court directs that
fine, if collected, shall be paid as compensation
for injury done to the said 1st and 2nd
to wit, Rupees
100 to the said 1st witness, the 2nd witness
for the said 1st and 2nd witnesses
3rd witness, Rs. 100 to the said 3rd witness
Rs. 50 to the said 4th witness, and Rupees to the
said 5th witness, the 6th witness, and 25 Rupees to
the said 7th witness for the prosecution.

Handwritten text below the main body of the document.

Extract

Handwritten signature or name.

50542

425 507 600
200 900 1860
200 500 520
200 500 520

It is a fine day
in the city - I am A.

W. L. G. 500 520 1860 310
to the city of New York
on the 10th of June 1860
at New York

W. L. G.

June 10/60 of 1860

July 12th 1860

My dear Phil Wain

Mass. look
at this. I fancy you
in the end & where
this person.

Yours very sincerely

G. J. Hawthorne

12 April

My dear Hawthorne
yes.

71

GOVERNMENT TELEGRAPH

DEPARTMENT

OFFICE MONTHLY NO.

Recd. No.

hrs. Words charged

cost Rs. As.

From

To

Signature
Chit. P. S. S. S.

in view

*eighty eight hundred
five hundred & fifty seven. Para
five units tenths. Primer is to
be placed in note. Please
telegraph fifty-*

11-6-11. 10

(Sd/-)
Address

*Greedy
in office*

in charge

1065

N: 564

From the Magistrate of Tanjore.

Dated 28th February 1865.

For Orders.

The Magistrate of Tanjore has
been supplied with the requisition
addressed to him of the 10th on the
3rd January last. The Magistrate
was thereby called on to submit
"the report of the case referred to".
He has, however, contented himself
with simply sending up a bundle
of the S. S. notes, & certain other
papers of little importance. But no
part of the proceedings taken before
the Sub-Magistrate prior to the

commitment of the Surames for
trial in the Supreme Court ...
his Supreme Court ...
matter of the ...
materially on more evidence - and
Tanjore evidence - we cannot expect
to arrive at a safe conclusion, as
to the truth of the original charge
without contrasting the statements
made by the witnesses in the
first and second examinations.

The Jury who sat with the ...
E. Kirk, of course heard and what
was declared before him, and cannot
have had an opportunity of looking
over the magistral work of the ...
which, being much, will serve as
a key to the whole affair.
I would then for now request

The Magistrate Mr. J. J. ...
without delay a translation of any
communications that may have passed
between the Sub-Magistrate and the Police,
or between the Sub-Magistrate and
Superior Magistrate, as well as a translation
of the formal magistral proceedings
in the Sub-Magistrate's own Court
previous to the commitment made
and forwarding to the Supreme Court.
9.3.65

Wd
JP

Febro 3219 of 1804 and 180 of 1805.

Very unprejudice of this case referred
to in these Returns and the papers of
which they are accompanied, is, that
the Prisoners charged with Robbery in No
31 Calendar on the Title of the Law on
Hepini Court, were falsely charged, and
I believe that the finding of the Jury on
which the S. Judge convicted, as by law he
was bound to do, was an erroneous finding,
and that the Prisoners were not guilty
and should have been acquitted.

What are the facts? In a village near
Tanjore inhabited by Kullers connected
with Christians, we find some of the Tharons
of the village charging the other Tharons
with having, by night, forcibly carried off
grain heaped on the threshing floor, and
when opposed whilst so doing, committed
several severe assaults.

The charge originally laid before the S. Judge
of the culpability of the Tharons was one of
mere riot & causing grievous hurt. The
S. J. under the former indictment in turn

a few men on patrol on a

7
This testimony has been accepted as
good and sufficient by a large
body of fair persons; but these gentlemen,
while convicting on it nine persons,
acquitted twelve, on a single reason
being any where a sign of explanation
why what they thought was false
against the nine should not be so
in respect of the twelve.

I have carefully considered the Stages
notes of the evidence and my strong
conviction is that the whole of it from
beginning to end, so far as relates to the
alleged to being of the 'P' frame, is
the result of tutoring & concoction.
To specify in detail all the points
which seem to prove this testimony
to be worthless would amply amply
fill a writing. A clear & concise
abstract of many of them is given
in Relation No 3219 and I would
draw attention.

There was ample leisure allowed
to the Submarine for the concoction
of what was necessary to prove de-
monstrated to the persons and up
to the Supreme Court. For, though the
accusations accused him ~~about~~ ^{near} to
the

The Submarine States Attorney ^{and}
the complaint now under notice was
formally prepared on the 22 March, as
evidence seems to have been held by the
Submarine up to the following 18th June,
the apprehension of the persons having
been effected on the 20th May, 17, 21 and
22 June. - In a comⁿ from the Magis-
trates dated the 28 Feb last which
was the packet, an extremely lame &
unsatisfactory explanation of this
surprising delay has been submitted.

My belief, as I have already stated,
is that the evidence for the prosecution
is the result of conspiring, and it is
in a case like this, proceeding from
Kilham, that experience has taught me
to expect a conspiracy. The first
two parties charging each other -
the case best supported & ~~by~~ ^{by} giving
testimony carries the day - one is
necessarily thrown out & the other
unopposed - the other is committed
for trial in the Supreme Court, and
then the Submarine has worked
in hands of two complaints each
evidence difficult from the fact

into a similar pattern on a

that under it lies a substratum of truth.

Now, here the substratum was the real affray which should have taken place between the parties about the right of fishing. For, from the testimony of the 12, 14 & 13 Wps, who are Police Constables, and the official Report submitted by the last of these men on the 18th March, I am quite satisfied that an affray did take place between the party of the prosecution and that of the Fishermen in which several of the Prosecution party were wounded. The above mentioned three Wps who visited the Prosecution residence on the 18th found several of the Wps lying wounded and at the time when there had been no leisure for tampering with them, a Police report is sent in notifying the case, but in that, nothing was said of the robbery which was subsequently charged. It is obvious from that, for the night of the 17th or early in the morning of the 18th a robbery with severe

wounding had taken place, info 502 of it would have been known at once to the Constables who had come to the village on hearing that there had been some disturbance there -

The absence of such info strengthens me in the belief that the present charge is without support is the result of an after thought and that no credit whatever is due to it.

It is also obvious that the Wps for the prosecution are some of them related to the 1st, the prime mover in the matter; - that two are his slaves; - that many others are persons & Wps is acknowledged some of the latter to be Irish. Finally all are Rotten and Rotten of the worst class. I do not then hesitate to arrive at the conclusion that instead of admitting the testimony of such men as Cook & Coled the Jury ought to have uprated it as worthless and on it to have found all the Prisoners innocent instead of only twelve of them -

into a den in a path on a

But, assuming ~~the case~~ that (8)
as respects the affair we don't help to the
plan, punishment is necessary, and
that the kind of justice required
punishment to be awarded to some
one or the other; and that the prisoners
alone are the guilty persons, it seems
to me that the S. J. J.'s ^{sentence} ~~punishment~~ of
several years transportation has done far
towards the wants of the case.

I think, taking this case at its worst -
that the imprisonment already undergone
- more than six months - is enough,
and I would in this instance excuse
the perpetration of the punishment
and annul the remaining undepended
part of the sentence & cancel the
fine. Feeling however as I do
that the whole case is surrounded
by the most grave doubt as to its truth
& am satisfied that the kind of
justice required that the best should
be done.

The relations affirm that the
laron were bought off by those of
the

Prisoners who have been acquitted. (9)
It will be seen that the trial lasted
four days and I very much doubt
whether composed as the jury was of
a very few of coolies, it was possible
at a place like Langoon, to prevent
them having communication with outsiders
unless it can be supposed by the Sepoys
and that such communication under the
present circumstances was an impossibility,
it seems doubtful whether the
sentence on that single point ought
to stand -

Thus, however, is one of the strong
objections I do raise against our
now permitting the continuance of
the jury system - It is held S. J. of
Cuddapa brought the weak point
known and the present case
is a practical specimen of the
little dependence to be placed on
an uneducated & uneducated
with natural mind & character
25-3-65 - W.D.

into a further pattern on a

I have gone through the proceedings of the Sessions Court of San Jose in Case No 31 of 1864 and I have arrived at the same conclusion as my honorable colleague - It is I think to be regretted that the Judge in this should have altered the indictment. There was doubtless a serious affair accompanied by great bodily injuries to some of the witnesses for the prosecution but for the reasons given by Mr Phillips I feel satisfied that there was no deceit.

I am always most reluctant to disturb a sentence passed on a

on did-jin a ya long been
the present instance I do not
think that the sentence should
stand. The parties convicted
will have been sufficiently punish-
ed for the riot and assault -
supposing that they were all really
guilty of it - by the imprison-
ment which they have under-
gone. The amount of the
imprisonment and the fines
might in my opinion be
remitted -

28-3-65

J.P.

Judicial Department. 2.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following papers

*Petition from Colundavalor Radan
and others*

From Magistrate of Tanjore

Entered 3 Decr 1872 & 15 Jan 1873
pp 321 & 160.

(New entries 28 February 1863)

Order 8th April 1865 No 557.

The papers connected with this case have been carefully considered by the Governor in Council, and the conclusion to which he has come is that the prisoners charged with Dacoity in Calendar Case No 31 of 1864 on the file of the Session Court of Tanjore were falsely charged, and that the finding of the jury on which the Session Court convicted, as bound by law to do, was erroneous, and that the prisoners were not guilty and should have been acquitted.

2 The Subaquatone, with
whose

2000

whose hands the case came,
allowed it to lie over on very
insufficient grounds from
the 22nd March which
day, found it

occurrence, the complaint
was formally preferred, until
the 18th June, a period of
three months. He eventually
committed the ^{Prisoner} ~~case~~ ^{Prisoner} ~~case~~ ^{Prisoner} ~~case~~
of riot, and causing grievous
hurt ~~to the prisoners~~

The session judge altered the
charge, and put the prison-
ers on their trial on an

indictment of rioting,
attended with grievous hurt.
The jury without stating their
reasons, and without any
joint grounds, acquitted
12 of the prisoners, while
directing the remaining
three to be kept in
prison.

The Governor has
considered

30
Consider that there can
be no doubt that a serious
disturbance took place,
and that severe blows
were given and exchanged
but they regard as a
matter of no small mo-
ment the fact that altho
information of the affray
was communicated to
the Police immediately
after the event, no
mention was then made
of robbery, nor until a
considerable period had
elapsed during which
every opportunity was
allowed for concocting
a conspiracy,
and the evidence bears
in

for the Government is
not reluctant
to take a sentence
based on credit

By accident
in the present year
double note

in the part of the
statement ~~also~~ ⁱⁿ ~~being~~
in prison with some infirm
grievous hurt, the em-
-prisonment already
under me & then
found sufficient for
it.

The Governor in Council
accordingly resolves to
remit the remaining por-
-tion of the sentences imposed
upon the 1st, 2^d, 6th, 9th, 11th, 13th,
14th & 18th, and to direct that
the fines imposed on
the 1st, 2^d, 6th & 11th prisoners
if not already levied and
paid in compensation,
be also remitted. —

The Secy Genl of Transport depd 8/4/68
 " Honble the Secy of the High Court - Depd 10/11/68
 Revised copy sent 15/4/68.

1865 Department.

No. 557.

PROCEEDINGS OF GOVERNMENT.

Off. 901.

Dated 8 April 1865.

75098.

21 April
1865