M.R.O. 1—50,000—15-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 101 Press ~~Mis.~~

173-174

Dated 26 - 1 — ~~19~~ 1866

5/6

Not to be folded or roughly handled

Jud

No. 173. Read the following letter from the Session Judge of Madura, to the Chief Secretary to Government, Fort Saint George; dated Madura, 20th December 1865, No. 368.

I have the honor to acknowledge the receipt of petition No. 2496 of 1865, forwarded to me for such notice as I may deem fit, and, in reply, to inform you that I received a similar petition, and having referred it to the Magistrate to inquire into the authenticity of the signatures therein, found them to be genuine.

2. The individual Ramasawmy Naick, referred to, was convicted by the late Session Judge Mr. Baynes, in Calendar No. 32 of 1854, of having wounded nine persons, four of whom died in consequence, and though his conduct seems admitted by the Judge to have been provoked, yet it did not in his opinion form sufficient ground for recommending a mitigation of the extreme penalty of the law.

3. The Court of Foujdaree Udalut, however, acquitted him, on the ground of insanity, and directed his imprisonment in the Zillah Jail, "until the pleasure of Government regarding him be made known."

4. He has, consequently, been a prisoner in the Jail ever since, has always conducted himself well, and been willing to assist with his services (a bricklayer) when any work was to be done, and on no occasion has he shown any signs of insanity.

5. It remains with the Government, on consideration of the Judge's letter, the Order of the Foujdaree Udalut, his long incarceration, his good conduct, and the prayer of the petitioners, to determine whether he is a fit person to be permitted again to be at large, or for modifying its Order, passed 26th February 1859, Judicial Department, No. 200.

6. Should the Government be pleased to adhere to its Order last quoted, I would respectfully submit, for its consideration, whether a more fitting place of confinement could not be found for the petitioner than the unhealthy Jail of Madura, where he is kept among convicted felons.

From the Session Judge of Madura, to the Acting Register to the Court of Foujdaree Udalut, Fort Saint George; dated Madura, 6th September 1854, No. 264.

I have the honor to submit, for the consideration and final judgment of the Court of Foujdaree Udalut, an English translation of the Record of the trial of case No. XXXII of 1854, on the file of the Session Court at Madura.

2. That, at the time and place, and in the manner charged, the prisoner wounded nine individuals, of whom the four mentioned in the indictment died in consequence* there is no doubt, nor does he pretend to deny. He has set forth certain circumstances which he intends as extenuating, if not exculpating, but the Mahomedan Law Officer has convicted him, and I fully concur in so doing.

* Another child since died.

3. The real facts of this appalling case may, I think, be best ascertained by perusing, in the first place, the declaration originally made by the prisoner to the Police Officer p. p. 6 to 14. Though the Prisoner has been unable to support it by evidence, I have little doubt that it contains the exact truth; it is so stamped in my opinion with that character, that no subsequent retractation or alteration can deprive it of it. It is the best and only defence the unfortunate man can adduce, and I would give him the full benefit of it. It discloses a man of superstitious mind, susceptible of those terrors which influence his ignorant and credulous countrymen generally; but it betrays no other symptom of weakness, while his conduct, since his apprehension

and on the trial, his appreciation of the evidence, his questioning of the witnesses, &c., betoken far more intelligence than usual in one of his condition. Insanity, in the ordinary acceptation of the term, the prisoner does not pretend; on the contrary, he depicts himself as suffering under insults, to the meaning and extent of which he was painfully alive, and which, it must be admitted, were of such nature as would palliate in most minds any revenge, however dreadful. So that taking his own story as true, we have an adequate motive for his desperate conduct, or, at least, one sufficient to account for it.

4. That the prisoner was highly exasperated by the cruel and wanton treatment of his villagers, who are now necessarily the witnesses against him, I have no doubt, though from that very cause he is unable regularly to prove it. The question is, was he at the time of committing the act in such state as not to be responsible? By convicting him of murder, I have recorded my opinion that he was of sound mind at the time. There is no reason for supposing him to have been acting under any delusion or false supposition that he had been insulted; or even allowing that he was, such notion would not justify such acts. He was evidently conscious that he was acting wrong and unjustifiably. Had he, while smarting under the present insult avenged himself in some such fearful manner on the actors in the infamous drama which he describes, it would have been impossible not to feel that some allowance must be made for human infirmity under such provocation, but, according to his own showing, it was not till three days after the receipt of that gross insult that he committed the murders. It may be said that passion had exasperated him beyond control, but that is the cause of all murders perpetrated from revenge.

5. Though feeling much for the unhappy man, goaded, as I believe him to have been, to fury by his tormentors, I cannot discover in his case any sufficient ground on which, as a judge, to recommend a mitigation of the extreme penalty prescribed for murder. The law, in its doctrine with respect to manslaughter, is as indulgent as it can with any safety be; it distinguishes between deliberate slaying and that under sudden and extreme provocation, but it requires to be well satisfied that the act of killing be the immediate result of the provocation. Deliberation, however short, changes its character. I feel, therefore, bound by my duty to recommend that the prisoner be sentenced to suffer death.

(True Copy).

(Signed) R. R. COTTON,
Session Judge.

Extract from the Proceedings of the Foujdaree Udalut, under date the 19th September 1854.

Read letter, dated 6th September 1854, from the Session Judge of Madura, submitting for the final judgment of the Foujdaree Udalut, the record of Case No. 32 of 1854, of the Calendar of the Session Court.

1. It is clearly proved that the acts charged against the prisoner were committed by him, but it appears to the Court of Foujdaree Udalut that there is reason to conclude that he perpetrated them in a fit of insanity.

2. No medical opinion has been taken on the prisoner's state of mind, but the facts of the case are such as to leave the Court no room to doubt but that the prisoner was insane when he killed the parties mentioned in the charge.

3. These are four in number, and besides them he attacked and wounded five others, of whom one, an infant, is since dead. Six of the nine persons so attacked by the prisoner were females. One of these was his own mother, and another a cousin. These appear to have been first assailed, and there is no conceivable cause for the prisoner having attacked these individuals but frenzy. Four of the parties are related to the 4th witness, and there is, in like manner, no apparent cause for the prisoner having assailed them.

4. None of the witnesses, in fact, can adduce any motive whatever for the prisoner's violence, which broke out suddenly and without provocation. The only account the Court have of the impelling cause is that given by the prisoner, especially before the Police. This might embrace

the cases of three of the parties attacked, namely, Gopaul Iyengar, Caroopayee (mother of the first witness), and the infant; but it affords no reason for the assault upon the other six, upon two of whom, as before observed, the attack began, one of these being the prisoner's mother.

5. The prisoner's statements are moreover throughout most wild and incoherent, and appear to be descriptive of madness. The Court of Foujdaree Udalut, therefore, acquit the prisoner on this ground, but direct that he be kept in safe custody in the Jail, until the pleasure of Government regarding him be made known.

Ordered that Extract from these Proceedings be sent to the Session Judge of Madura, for his information.

(True Extract).

(Signed) D. F. CARMICHAEL,
Ag. Head Asst. to the Register.

(True Copy).

(Signed) R. R. COTTON,
Session Judge.

No. 174. ORDER THEREON, 26th January 1866, No. 101.

The Government observe that the person to whom the above letter relates was charged with having killed four persons and attacked and wounded five others. He was convicted by the Session Judge, who recommended that he should be sentenced to death. The Court of Foujdaree Udalut, however, acquitted him on the ground of insanity.

2. On a similar reference to the present, Government, in 1859, directed that he should be imprisoned for life.

3. His conduct in Jail appears to have been, from the beginning, that of a rational being, that is to say, there is, in the opinion of the Jail authorities, no ground for supposing that he ever was insane. This argument, however, would certainly not lead to the conclusion that his release is called for, but rather would show that he ought to have suffered death.

4. The Government see no reason to depart from their former order, which declared that Ramasawmy Naick must remain in confinement until his death.

5. The preceding paragraph of this Order will be communicated to the petitioners in No. 2496 of 1865.

(True Extract).

Chief Secretary.

To the Session Judge of Madura, with Enclosures, Nos. 2, 3, 4, and 7.
„ Petition Department, with original Petition.

Exd. J. H. Burns.

8

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Sessions Judge of Madura.
(Rec'd 20th Dec/65 No 3881)

Order thereon 26th January 1866 No 101.

The Government observe that the person to whom the above letter relates was charged with having killed 4 persons and attacked and wounded 5 others. He was convicted by the Sessions Judge, who recommended him to be sentenced to death. The Court of Foujdari adalat, however, acquitted him on the ground of insanity.

On

2. On a similar reference to the present Government in 1859 directed that he should be imprisoned for life.

3. His conduct in Jail appears to have been, from the beginning, that of a rational being, that is to say, there is, in the opinion of the Jail authorities, no ground for supposing that he ever was insane. This argument, however, would certainly not lead to the conclusion that his release is called for, but rather would show that he ought to have suffered death.

4. The Government see no reason to depart from their former order which declared that Ramasawmy Kaick must remain in confinement until his death.

The

5 The preceding paragraph of this order will be communicated to the petitioners in Wp. 2496 of 1865.

J.W.

4

To the Secr. Judge Madras.
With Enclosures Nos 2, 3, 4, 7
Petition Department with
only Petitions.
} desp 30/

C.A.T.

Judl. Cons. 1st March 1859.
No. 13—14.

Judicial 1866. Department.

No. 101.

PROCEEDINGS OF GOVERNMENT.

Ft. W. 130/59.

Dated 26 January 1866.

Press No. 2755, G. M.—14-11-65—500.

Judy. Cons. No. 13-14
1/3/59

173-174.