

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1404	Press ~~Mis~~
Dated	8. 9.	19. 1866

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
31st September 1866.

No. 80. Read the following letter from the Session Judge of Tinnevely, to the Chief Secretary to Government, Fort Saint George; dated Tinnevely, 31st August 1866, No. 438.

I have the honor to forward a copy of the sentence passed by me in Calendar No. 63 of 1866—*Regina versus Soodalymoctoo*, charged with murder.

2. I have found the prisoner guilty of murder, being of opinion, as stated in the decision, that the offence has been committed under circumstances which prevent Exception 4, Section 300, so applying as to reduce the offence to one of culpable homicide not amounting to murder; and such being the case, I had no alternative but to pronounce the sentence of transportation for life.

3. This is a punishment in my opinion greater than required in the present instance, and I most strongly recommend the prisoner to the mercy of the Right Honorable the Governor in Council, that his sentence may be mitigated to one of five years' rigorous imprisonment, under Section 54 of the Criminal Procedure Code.

4. The prisoner is an ignorant Pariah agricultural laborer, and the blow was given in a fight, and very possibly would not have proved fatal had the Police done their duty. The Sub-Magistrate, also, who was in Court, gave the Pariah of that large Hamlet a very good character, which is a strong point, as Pariahs are generally much given to fighting and acts of violence, so that in this instance a severe example is not required.

5. The whole circumstances of the case are fully gone into in the Calendar, and it is not necessary for me to add any thing further.

Proceedings of the Madras Government, Judicial Department,
8th September 1866.

CALENDAR of persons tried before F. S. CHILD, Esq., Session Judge of Tinnevely.

1	2	3	4	5	6	7	8	9	10	11	12	13
Number of the Case.	Name and description of the accused.	Copy of the charge, or substance of the complaint.	Name of complainant.	Names of witnesses for the prosecution.	Names of witnesses for the defence.	Statement of the evidence and grounds of conviction.	Finding and sentence.	Date of offence.	Date of complaint.	Date of apprehension or appearance.	Date of commencing trial.	Date of revised sentence.
No. 63 of 1866	Soodalmoottoo, Pariah, Laborer, age 35.	1st Count.—That he, Soodalmoottoo, on or about the 23rd day of May 1866, at the village of Oorkaud, committed murder, by causing the death of one Alagoomoottoo, and that he has thereby committed an offence punishable under Section 302 of the Indian Penal Code. 2nd Count.—That he, Soodalmoottoo, on or about the 23rd day of May 1866, at the village of Oorkaud, committed culpable homicide not amounting to murder, by causing the death of Alagoomoottoo, and that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code. Committed by Haviram, 2nd Class Sub-Magistrate of Ambasamoodrum Taluk.	Regina	1. Masamun. 2. Nullacunnoo. 3. Soodalmoottoo. 4. Soobben. 5. Pavanasom. 6. Sellaperumal Pillay. 7. Rengaraja. 8. Calyappen Chetty, and 9. Haviram.		1st Witness, father of deceased, deposes that, on the evening in question, he hearing a disturbance, he went to the house where prisoner and his brother, 5th witness, live, and found his son wounded in the forehead, and bleeding and fainting. They are all Pariahs living closely together. His son was taken to the Moonsiff. His son's account was that prisoner and his brother were fighting, and as he went to separate them, prisoner stabbed him on the forehead. Moonsiff, the following morning, after inquiry, sent them to the Police station at the Custal not a mile off, with a report; but the Inspector, without making any inquiry, took a report; that they never came; and in about 10 or 12 days his son died. This the Police would make inquiry; this is the weapon with which account is confirmed by the 2nd, 3rd, 4th, and 5th witnesses, the latter of whom is the Prisoner's brother. The last witness' evidence only goes so far as his being knocked down senseless by Prisoner himself.	The Court concurring with the Assessors, finds that Soodalmoottoo is guilty of the charge as specified in the 1st Count, viz., that he, on or about the 23rd day of May 1866, committed murder by causing the death of one Alagoomoottoo, and has thereby committed an offence punishable under Section 302 of the Indian Penal Code; and the Court sentences the said Soodalmoottoo to transportation for life. (Signed) F. S. CHILD, Session Judge.	23rd May 1866.	5th June 1866.	5th June 1866.	23rd July 1866.	24th August 1866.

2. It is also shown by this evidence that the deceased that the parties sent with the report a single question on the subject, and this notwithstanding that the report of the Moonsiff expressly stated that the wound was caused by a butcher's knife; this is the weapon with which witnesses 2 to 4 say it was inflicted. There are slight discrepancies in the statements of the witnesses 1 to 4, but none of such a nature as to affect their account of the matter, especially as the witnesses are ignorant agricultural Pariahs, describing what occurred in a fight.

Proceedings of the Madras Government, Judicial Department,
8th September 1866.

3. The Moonsiff proves the reports produced. He saw deceased on the night in question. There were two small wounds on the forehead of deceased. The prisoner and his brother, when sent for, were not to be found, but in the morning were brought, when prisoner stated he did not know whether intending to strike his brother he had struck deceased, and that he did not remember using a knife. He sent the whole parties and witnesses to station with report A, sending another B, to Sub-Magistrate; this, by some carelessness of the Sub-Magistrate's office, was not seen by the Sub-Magistrate for a week.

4. Moonsiff saw the parties on their return from the Police. They told him the Police had sent them away, saying they would come and make an inquiry. No Police came, though he made a similar entry in the Beat Constable's book the same day. Beat Constable observed—what could he do, as the Inspector had done nothing. On the night of 4th June, he heard deceased was dead, and reported it to Magistrate.

5. 7th witness, the Head Constable, who gave his evidence very unsatisfactorily and unwillingly, does not deny that the wound was not looked at, at the station, and that no inquiry was made of those sent by the Moonsiff. He throws the responsibility on the Inspector, who was at the station before him; allows that deceased stated he was stabbed with a knife, and cannot account for no mention of the charge "being stabbed with a knife" being entered in his station report book; and states that the Inspector told the parties to go to the Sub-Magistrate. The Inspector allows he did not look at the wound or make inquiry, but simply told the parties to go to the Sub-Magistrate. He stated he did not think it a serious case, and tells a lie by saying that the deceased said he was not in pain, when it is proved he could not walk, and that the wound was a deep one in the forehead, though externally small. The Sub-Magistrate not having sent the body for a *post mortem* was summoned; he deposes to going to the body on hearing of the death, found a sloughing wound in the forehead, into which a stick entered the depth of the width of four fingers (rather small fingers) in a slanting direction, did not send the body in for *post mortem*, as he considered the cause of death perfectly obvious, and feared decomposition, the distance being 24 miles. When he saw the report B, he understood that the Police considered the matter a trifling one, and he did not make further inquiry.

6. All evidence concurs in showing deceased to have been a young, healthy, strong man, about 20. There is no evidence of ill-will between prisoner and deceased, rather the contrary. The Assessors found that deceased died of the wound; that the wound was inflicted by prisoner and with a knife; and that it was inflicted by prisoner when he was fighting with his brother and deceased tried to separate them.

7. I agree with them in this finding, which amounts to murder, seeing a butcher's knife is a weapon that the prisoner must have known was likely to cause death. Whether the knife was in prisoner's cloth at the time or not there is nothing to show. I do not think that in the present case, though the wound causing death was given without premeditation and in a sudden fight, the offence will come under Exception 4, because I consider that the prisoner took undue advantage, and also acted in a cruel and unusual manner. He not only knocked his brother down senseless with a stick, but stabbed the deceased, who tried to separate them, with a butcher's knife. Had death not ensued, I should have found him guilty of attempt at murder; and as death has ensued, I find him guilty of murder.

8. The Vakeel for the defence merely observed on the discrepancies in the evidence of the 1st to 5th witnesses.

9. Taking the whole circumstances into consideration, and that the Sub-Magistrate, in reply to the Court, stated that, in this large Pariah Hamlet, there had not been cases of violence before, I think the present a fit case to recommend to the Governor in Council, for a mitigation of the punishment inflicted to five years' rigorous imprisonment, which appears to me sufficient to meet the case and to be a warning to the rest of the village. I think, moreover, that, had the Police done their duty, and deceased had medical attendance, which in that case he would have had, he might very possibly have recovered. The conduct of the Police will be brought to the notice of the Superintendent, with directions for him to inform the Court what steps he takes in the matter.

TINNEVELLY SESSION COURT,

31st August 1866.

(Signed) F. S. CHILD,

Session Judge.

Proceedings of the Madras Government, Judicial Department,
8th September 1866.

No. 81. ORDER THEREON, 8th September 1866, No. 1404.

From a perusal of the Calender submitted with the foregoing letter, the death of Alagoomoottoo seems to have resulted from his interference, with a good motive, in a drunken quarrel between two Pariahs of his village. No animosity existed between deceased and the prisoner, and it may be doubted whether the latter had any intention of seriously wounding the deceased; otherwise, he would have struck lower down in the body, instead of in the forehead.

2. For these reasons, the Government consider the case to be one which calls for the exercise of the prerogative vested in them by Section 54 of the Code of Criminal Procedure, and they resolve, accordingly, to mitigate the sentence passed by the Session Judge to one of rigorous imprisonment for five years, as proposed by him.

(True Extract).

J. D. SIM,
Secretary to Government.

To the Session Judge of Tinnevely.

Exd. J. H. Parns.

Judicial

N^o 1951

From
The Session Judge of Tinnevely
9/31st August 1866.

For Orders -

The death of the 1st W^o son seems to have resulted from his interference, with a good motive, in a drunken quarrel between the Pariah of his village - no animosity existed between ^{deceased and} this person was struck ~~deceased~~ ^{him} - and it may be fairly doubted, I consider, whether the convicted Prisoner had any intention of seriously wounding the deceased - otherwise he would have struck lower down in the body and not with the point in the forehead. As represented by the Session Judge the case appears to be one in which the Court may wisely

a good motive, in a drunken quarrel between two Pariahs of his village. No animosity existed between deceased and the Prisoner, and it may be doubted whether the latter had any intention

Examine the purafalun under
Section 54, I would then for mitigation
the sentence passed to the extent
proposed & upheld -
October 1886 WDH

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Judicial Department.
PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
letter from the Session Judge of Tinnevely.
(Recd letter 31st August 1886 No. 438)

Order thereon 8th Sept. 1886 No. 1401.

From a perusal
of the Calendar submitted
with the foregoing letter,
the death of Nagromootie
seems to have resulted
from his interference, with
a good motive, in a drunken
quarrel between two Variaks
of his village. No animosity
existed between deceased
and the Prisoner, and it
may be doubted whether
the latter had any
intention

intention of seriously
wounding the deceased;
otherwise, he would
have struck lower down
in the body instead of
in the forehead.

2. For these reasons
the Government consider
the case to be one which
calls for the exercise of
the prerogative vested in
them by Section 51, of the
Code of Criminal Pro-
cedure, and they resolve
accordingly to mitigate
the sentence passed by
the Session Judge to one
of rigorous imprisonment
for five years as pro-
posed by him.

JAM

To the Session Judge of Minessota
St. Paul

20th July

1864.

1864. Department.

No. 1111.

PROCEEDINGS OF GOVERNMENT.

Dated, 22 December 1864.

Shank