

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	18249	Press ~~Mis~~
Dated	4 — 10	19 1866

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
4th October 1866.

No. 30. Read the following letter from the Session Judge of Chittoor, to the Chief Secretary to Government, Fort Saint George; dated Chittoor, 22nd September 1866, No. 11.

I have the honor to submit, for the favorable consideration of the Right Honorable the Governor in Council, the cases of the prisoners in Calendar Nos. 149 of 1866 and 110 of 1863, on the file of this Court, in order that part of the sentences it was my duty to pass may be remitted, under Section 54 of the Criminal Procedure Code.

2. From the accompanying copies of the above Calendars, it will be observed that they are both cases of infanticide, and the prisoner, in each case, the mother of the newly born child; the only difference being that the prisoner in No. 149 of 1866 killed her child with her own hands, whereas the prisoner in No. 110 of 1863 left her child to die from exposure.

3. Of the justice of the convictions in the above cases, there can, in my opinion, be no reasonable doubt, nor, to my knowledge, has any appeal been made to the High Court in either case; but the sentence, I have by law been compelled to pass, is, in my opinion, greatly in excess of that required to meet the ends of justice in cases of this nature, with reference to public opinion both in England and in this country.

4. I would, therefore, recommend that, in Calendar No. 149 of 1866, the sentence of transportation for life be commuted to rigorous imprisonment for four years.

5. With reference to the former case, No. 110 of 1863 my attention has been especially called to it by a letter from the Superintendent at Port Blair, requesting me to inquire if the prisoner's husband propose re-joining her, or if he be willing to give her up. I should mention that this is the only other similar case disposed of by me as Session Judge, and, when putting forward the recommendation for a commutation of sentence in the later case, it appears to me only just that I should bring the former case before Government, at the same time, for their favorable consideration.

6. The sentence on the prisoner in No. 110 of 1863 was passed on the 13th December 1863, and I would suggest, in her case, in consideration of the greater punishment already undergone by her, that the term of her punishment should expire on the 13th December 1866. This would also obviate the necessity of bringing her back at once for further imprisonment in the Jail at this station, which would be entailed by a more exact assimilation to the reduced sentence recommended for the prisoner in No. 149 of 1866.

7. I purpose taking no action on the letter of the Superintendent of Port Blair above referred to, until I receive the orders of Government on the present reference.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
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 apprehension or appearance.	Date of commencing trial.	Date of sentence.	Explanation of delay.	
149 of 1866.	Vengu. Kamma caste.—Cultivator.	Section 302 of the Indian Penal Code. Murder. 1st. That she, Vengu, on or about the 9th July 1866, at Ayyavarpallei, in the Taluq of Chendragiri and Zillah of Chittoor, committed murder, by causing the death of her own female child, just then born; and that she has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of this Court of Session. Section 318 of the Indian Penal Code.— <i>Concealment of Birth.</i> 2nd. That she, Vengu, on or about the 10th July 1866, at the place aforesaid, intentionally concealed, or endeavoured to conceal, the birth of her female child, by secretly disposing of the dead body; and that she has thereby committed an offence punishable under Section 318 of the Indian Penal Code, and within the cognizance of this Court of Session. <i>Committed by V. Srinivasa Chary, Sub-Magistrate of Chendragiri.</i>	The Queen.	1. Vengamma. 2. Manga. 3. Subbu. 4. Bachanna. 5. Police Inspector Ahmed Khan.		The prisoner, a woman of about 25 years of age, pleaded not guilty. The 1st witness, a respectable looking woman, a distant relative of the prisoner, and who deposed like the witness of truth, stated that she had gone to the prisoner's house one day, about 3 p.m., for a cotton spinning instrument, which she had lent the prisoner. As witness approached the house, the door of which was open, she heard the cry of a child, and on looking into the house saw that the prisoner had just been delivered of a female child, which was lying between her legs, but detached from the mother. Prisoner was quite naked, her cloth being by her side. There was much blood on the ground. Directly prisoner saw witness, she (prisoner) took up the child and twisted its neck. Witness heard a low cry from the child. Witness had gone into the house and was standing some three yards from the prisoner. Witness said to prisoner "you wicked woman, why have you done this?" Prisoner did not say a word. Witness left the house immediately. Though cross examined to a considerable length, nothing was elicited to discredit this witness' statements, and no reason appeared for her deposing falsely. The prisoner previously. Her husband, a Nayudu, had died some 5 or 6 years ago. The 2nd witness, a near neighbour of the prisoner, deposed to receiving information from 1st witness, about	The Court concurring with the 2nd, and differing from the 1st and 3rd Assessors, finds the prisoner Vengu guilty of the offence specified in the 1st Count, and, concurring with all the Assessors, finds the said prisoner Vengu guilty also of the offence specified in the 2nd Count of the charge—namely, that Vengu, on or about the 9th July 1866 at Ayyavarpallei, in the Taluq of Chendragiri and Zillah of Chittoor, committed murder, by causing the death of her own female child just then born; and that she, Vengu, on or about the 10th July 1866, at the place aforesaid, intentionally concealed, or endeavoured to conceal, the birth of her female child, by secretly disposing of the dead body, and has thereby committed offences punishable under Sections 302 and 318 of the Indian Penal Code—and the Court directs that the said prisoner Vengu be subjected to transportation for life.	9th July 1866.	21st July 1866.	21st July 1866.	13th August 1866.	14th August 1866.	

was elicited to discredit this witness' statements, and no reason appeared for her deposing falsely. The prisoner previously. Her husband, a Nayudu, had died some 5 or 6 years ago.

The 2nd witness, a near neighbour of the prisoner, deposed to receiving information from 1st witness, about

(Signed) C. A. ROBERTS,
Session Judge.

was elicited to discredit this witness' statements, and no reason appeared for her deposing falsely. The prisoner previously. Her husband, a Narulu, had died some 5 or 6 years ago. The 2nd witness, a near neighbour of the prisoner, deposed to receiving information from 1st witness, about

(Signed) C. A. ROBERTS,
Session Judge.

3 P.M., upon which she at once went to the prisoner's house, and found her with a newly born child lying dead on the floor before her. Witness said to prisoner "what is this wickedness?" Prisoner replied "this nasty child has come to take my life away."

The 3rd witness, prisoner's sister-in-law, and who lives in the same house, deposed to having left the house that day, owing to the prisoner being in labor, and the disgrace attaching to it. She had seen 1st witness go into the house and come out again, and go to the 2nd witness. On witness' return to the house, she found a basket in the corner where she had left the prisoner. The place had been swept, and in the basket was the body of a fair child, together with ashes and husk. An inquiry was held by the Police and Village authorities, and a search made the next day, but the matter was hushed up. The 2nd morning after the birth of the child, about cockcrow, witness saw prisoner get up and take the basket out of the house, make a hole in the rubbish-heap standing in their back-yard, and empty the contents of the basket into it. About mid-day, witness saw two dogs dragging the body out of the rubbish-heap, and eating it. About 15 days subsequently, the Police Inspector, 5th witness, came and made a further inquiry. Witness pointed out the rubbish-heap. Some bloody rags before the Court were found in it.

The 4th witness, a Kattubadi, deposed to having taken part in the original search, which occurred one Tuesday, more than a month ago, and admitted having put his mark to a Mahazarnamah then written, of the contents of which witness professed to be ignorant. (In this it is stated that no child had been born, nor any crime committed). Witness deposed to having seen the body of a child in a basket in prisoner's house, and declared he had reported this openly; but this latter statement appeared to be false. He doubtless connived in the false report originally made by the villagers and the Police.

The 5th witness, apparently the witness of truth, corroborated the finding of the rags: there was a stench, as if of a corpse, from the rubbish-heap when opened. Prisoner at first said the Police had previously searched the house, and nothing had been found; she afterwards admitted having buried the child in the Dung-hill, and declared that the villagers had taken 55 Rupees from her father to hush up the matter. She had acknowledged giving birth to a child. 1st witness was "pushing" it. Prisoner became insensible, and afterwards found the child dead. Three days later, the prisoner made a second statement, to the effect that she had not been insensible; she had meant by "pushing" that, directly the child was born, 1st witness turned it up and down and so killed it. The child was born alive. Prisoner had even asked 1st witness not to kill the child. She had thrown the body into her back-yard out of ignorance. Had done so secretly, when no one saw her.

Before the Court, the Prisoner declared all the witnesses had combined to give false evidence against her. They had given her medicine, by which she had lost the use of her legs. (Prisoner's legs are swollen, and she was unable, owing to ill-health, to stand her trial sooner). 1st witness had received 45 Rupees from her, and had made witchcraft, and for a year past she (prisoner) had been subjected to annoyance and false evidence.

The Court summed up the evidence, and directed the Assessors that their judgment must be guided, not by the magnitude of the offence charged, but by the value of the evidence before them; that the evidence to establish the theft of a sheep should be no less clear and decisive than that which would justify a conviction of murder; and that, if they fully credited the statements of the 1st witness, taking also into consideration the prisoner's accusatory and otherwise unsupported statements relative to the 1st witness before the Sub-Magistrate, they would be justified in convicting the prisoner on the 1st Count of the charge. The prisoner was entitled to the benefit of any reasonable doubt as to her guilt.

The Court has been constrained to find the prisoner guilty on the graver charge; but, in consideration of the circumstances of the case and the state of public opinion on this point in this country, has had no hesitation in passing the mitigated sentence permitted by law. A less severe sentence than that passed would, in the Session Judge's opinion, meet the requirements of Justice.

(True Copy).

(Signed) C. A. ROBERTS,
Session Judge.

CALENDAR of persons tried before C. A. Roberts, Esq., Session Judge of Chittoor.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
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 sentence.	Explanation of delay.
110 of 1863.	Vannara Muttiyalu	Section 302 of the Indian Penal Code. <i>Murder.</i> That she, Vannara Muttiyalu, on or about the 29th November 1863, committed murder, by causing the death of her (prisoner's) infant daughter, in the limits of Kunnattur, in the Division of Arnee and Zillah of Chittoor; and that she has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of this Court of Session. <i>Committed by C. Bujanga Row, Sub-Magistrate of Arnee.</i>	The Queen.	1. Rungasawmy. 2. Amatha. 3. Aranachellam.	...	The Prisoner pleaded not guilty. The first witness stated that, while grazing his cattle, about noon, on the morning of the 29th November, near the bank of the river Kunnattur, he was attracted by the cries of a child, which he found among some prickly-pear bushes. The second witness, who stated herself to have been the mother of 8 children, and found a newly born child still attached to the spot, and that she had gone to the spot, and found a newly born child still attached to the spot; that she had extracted the largest; that she cut off the navel cord, which she had found his evidence it appeared that, owing to the exposure and injury from thorns, his efforts to rear the child were unsuccessful, and that it died the following morning. The second witness also stated that, at the request of the Sub-Magistrate, she had examined the prisoner's person, and that it was evident that the prisoner had been delivered of a child two days previously to her examination. The prisoner's detailed confession, given to the Sub-Magistrate of Arnee, and fully confirming the above evidence, was here put in and read. Before the Court, the prisoner acknowledged to having been delivered of a child in the place described, but said that she had fainted and did not know who had taken the child away. She acknowledged to having given the deposition before the Sub-Magistrate. The Court, in summing up the evidence, directed the Assessors that, by the evidence for the prosecution, and the acknowledgment of the prisoner, it was	The Court, differing from the Assessors, finds the prisoner Vannara Muttiyalu guilty of the offence specified in the charge, namely, that Vannara Muttiyalu, on or about the 29th November 1863, committed murder, by causing the death of her (prisoner's) infant daughter in the limits of Kunnattur in the Division of Arnee and Zillah of Chittoor, and has thereby committed an offence punishable under Section 302 of the Indian Penal Code; and the Court directs that the said prisoner, Vannara Muttiyalu, be subjected to transportation for life. (Signed) C. A. ROBERTS, Session Judge.	30th November 1863.	1st December 1863.	14th December 1863.	15th December 1863.		

clear that she had deserted her newly born child, and that it had died in consequence; that she must have been aware that her leaving her child in the manner described imminently endangered its life, and (in the words of J. Coltman) "if a party so conduct himself with regard to a human being, which is helpless and unable to provide for itself, as must necessarily lead to its death, the crime amounts to murder."
The Assessors proposed to return a verdict of guilty of abandoning the child, but the Court refusing to accept such verdict, they pronounced the prisoner guilty of culpable homicide not amounting to murder.

(True Copy.)
(Signed) C. A. ROBERTS,
Session Judge.

Proceedings of the Madras Government, Judicial Department,
4th October 1866.

No. 31. ORDER THEREON, 4th October 1866, No. 1549.

The Government are unable to see any sufficient grounds, in either of these cases, for the mitigation of punishment proposed by the Session Judge.

(True Extract).

Secretary to Government.

To the Session Judge of Chittoor.
" Inspector General of Jails.

N:2126.

Judicial

Session Judge of Chittoor, 4/22 Sept 1866.

For Orders.

I must confess that I am wholly
unable to perceive any ground for
mitigation of punishment in either
of the cases.

Dishonesty is not pleaded - indeed
the first case occurred three years
ago. I am not aware that public
opinion is displayed regarding child
murder in comparison of usual
offences - and unless in an prepared
to establish the principle that every
case in this country is wide as the
abandonment of the first new born in

in a prickly pear bush - or wrap
it neck, & then to be sure of death
with I do not think that we can
have a severe punishment awarded
in the two present instances.

I fear that the murder of husband
children by their mothers (especially
by widows) ~~is~~ ^{is} more common in this country
than is generally supposed, and that
any mitigation of punishment
- must as is recommended by
a Session Judge would have
a mischievous effect.

26/9/86

J.P.

Case 149 of 1886. Prisoner Veega Kamma - 57

I am unable to agree with the Sessions Judge
in believing the wife to be the "instigator of death".
Looking at the circumstances &c. surrounding the
case, I think it more likely the wife murdered
the infant than that the mother should have
done the deed in the way described by the wife.

The facts, however, cannot now weigh the
propriety of the S. Judge's conviction. We must
accept what that functionary has put before
us, as a case of child murder properly made
out against the woman Veega Kamma -
believing it as such, there is no reason
why she should not be transported for life.

If the doubts which arise in my mind
would justify an intervention with the S. Judge's
sentence, I would meet her proposals and
mitigate the severity of the punishment.
- Vamara Mootialos.

Case 110 of 1883 - Vamara Mootialos.
In this case the prisoner repudiated before the
Sessions Judge, the confession of guilt &c. She had
made before the Sub Judge of Arnee. In the
absence of that confession she must have been
convicted of only abandoning her infant - and
to the extent the appeal on the trial was held
to be a verdict. The Sessions Judge however

appears to have noted to them a
dictum - and a very proper dictum too, -
of Judge Collman & them too a conviction
of murder. - accepting this offence as
proved against the woman, I consider her
deserving of the punishment - at least years
ago, the S. Judge awarded, and would not
have mitigated it.

27.9.66

W.D.

I adhere to the opinion enunciated by
Mr L. Pycroft and Mr Phillips. I
do not see any sufficient ground for the
commutation of sentence advocated
by the Superior Judges.

4 October 1866 N^o 1549.

The facts are unable to see any
sufficient grounds for them in either
of these cases for the mitigation of
punishment proposed by the Sessions
Judge

L.D.

To the Sir Judge of Chittory
his seal of office - } 11/10