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# MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

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| G.O. No. 1620                      | Press<br><del>Mis.</del> |
| Dated 13 <sup>th</sup> Mo. 19 1866 |                          |

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*Proceedings of the Madras Government, Judicial Department,  
13th October 1866.*

No. 163. Read the following letter from G. ELLIS, Esq., Session Judge of Cuddalore, to the Chief Secretary to Government, Fort Saint George; dated Cuddalore, 12th September 1866. No. 7.

I have the honor to forward, for the consideration of the Right Honorable the Governor in Council, the record of a trial for murder, held at the Special Sessions for August, in this Zillah.

2. The grounds for the conviction of the prisoner are sufficiently set forth in the Calendar, which is herewith submitted.

3. The sentence passed being that prescribed by law, I had no authority to inflict a mitigated penalty.

4. I was, however, of opinion that the case was one which I should be justified submitting to the Right Honorable the Governor in Council, in view to his exercising, should he think fit, his prerogative of mercy.

5. Actual destitution was not proved in the prisoner's case; but the approach of famine was at the time—though now such fear has happily passed away—to be dreaded, and this prospect, together with the illness of her child, resulting possibly from insufficient food, may be offered on the prisoner's behalf as extenuating circumstances, and pleaded in mitigation of the sentence I felt it my duty to pass.

6. If His Lordship is able to concur in this view, I beg respectfully to recommend that the sentence of transportation for life may be remitted, and that the prisoner be condemned to imprisonment for a period of seven years.

Register of preliminary inquiries held before Mr. Hall, the Assistant Magistrate of South Arcot.

| 1                   | 2                         | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 4                    | 5                                                                                                                    | 6                                   | 7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 8                                                                               | 9                | 10                 | 11                                  | 12                           | 13                    |
|---------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|------------------|--------------------|-------------------------------------|------------------------------|-----------------------|
| Number of the case. | Name of the accused.      | Substance of the complaint.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Name of complainant. | Names of witnesses for prosecution.                                                                                  | Names of witnesses for the defence. | Summary of the facts proved or confessed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Result of the inquiry.                                                          | Date of offence. | Date of complaint. | Date of apprehension or appearance. | Date of closing the inquiry. | Explanation of delay. |
| 2                   | Seethoyee, Pundara caste. | That she, on or about the 26th July 1866, did commit culpable homicide amounting to murder, by causing the death of her child Bungarummam, by doing an act with the intention of causing the death of a human being, and that she has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Session.<br>2. That she, on or about the 26th day of July 1866, did attempt to commit suicide, and did an act towards the commission of such offence, and that she has thereby committed an offence punishable under Section 309 of the Indian Penal Code, and within the cognizance of the Court of Session. |                      | 1. Tylummam.<br>2. Ackummam.<br>3. Vaydelingam Pundaram.<br>4. Paraday, Constable No. 426.<br>5. Rajendrum, Surgeon. |                                     | It is proved, by the evidence of the 1st and 2nd witnesses, that the child Bungarummam was alive on the evening of the 25th, though in an ailing condition. The 3rd and 4th witnesses attest the taking of the child dead from a well on the morning of 26th.<br>The prisoner admitted to 3rd witness that she had thrown herself down the well with her child, intending to destroy the lives of both. The prisoner has also confessed the same in her statement.<br>The 5th witness, though unable to swear that the child did not die by drowning, gives it as his opinion that the child, according to appearances, died from other causes. | The prisoner Seethoyee is committed to take her trial before the Session Court. | 26th July 1866.  | 26th July 1866.    | 28th July 1866.                     | 30th July 1866.              |                       |

(Signed) F. E. HALL,  
Assistant Magistrate.

# CHARGE SHEET.

I, Francis E. Hall, Assistant Magistrate, declare that there are hereby made against Seethoyee the following charges:—

*First.*—That she, on or about the 26th July 1866, did commit culpable homicide amounting to murder, by causing the death of her child Bungarummam, by doing an act with the intention of causing the death of a human being, and that she has thereby committed an offence punishable under Section 302 of the Penal Code, and within the cognizance of the Court of Session.

*Secondly.*—That she, on or about the 26th day of July 1866, did attempt to commit suicide, and did an act towards the commission of such offence, and that she has thereby committed an offence punishable under Section 309 of the Penal Code, and within the cognizance of the Court of Session.

and I hereby direct that the said Seethoyee be tried by the said Court on the said charges.

(Signed) F. E. HALL,  
Assistant Magistrate.

*First Prisoner* }  
*Seethoyee.* } 28th July 1866.

*Prisoner Seethoyee, daughter of Vencatachellum Pundaram, of Vadooga, Pundara caste, a cooly by profession, aged 30, and a resident of Cuddalore, is examined before Mr. Hall, Assistant Magistrate of South Arcot, as follows:—*

*Question.* You have heard the charges made against you, viz., 1st, of having caused the death of the child by jumping down the well with it in your arms, intending to cause its death and your own, and, secondly, of attempting to commit suicide. What have you to say in answer to them?

*Answer.* I, with an intent that I might die with my child, fell into a well situated at Sarangoo Street at Cuddalore; for, I was kept by one Appavoo Chetty of Cuddalore for 10 years, and he left me six months ago. I frequently asked him to give me support, but he refused, saying "the times are bad, I have no means to support you, go elsewhere and earn your livelihood." As I have none to support me, and am unable to work, I, with my child, in order to lose our lives, jumped into the well. On the previous night, I gave ½th Rupee to the 2nd witness Ackummam, ate rice, and slept in the porch of her house till 4 A. M., which was unknown to Ackummam. I then got up and went direct from thence to the well, sat down upon the parapet, and jumped from it into the well, holding the child upon my shoulder. As the child had been sick since three days, and did not take food on the preceding day, and as I was going up and down the water with the child after I fell into the well, it died. After I fell into the well, the child was once dropped down in water, but I immediately picked it up. The child, when I attempted to jump into the well, called out "Ammah." It was dead when taken out. It was five years old. Its name was Bungarummam. When I picked it up on its dropping, it was alive. Even after I took up the child, I dived into the water thrice.

I have nothing to say more than this. I have heard the deposition read. It is correct.

(Signed) F. E. HALL,  
Assistant Magistrate.

*1st Witness* }  
*Tylummam.* } 28th July 1866.

*First Witness Tylummam, daughter of Vencatachellum Pundaram, of Pundara caste, a cooly by profession, aged about 40, and a resident of Cuddalore, is examined on solemn affirmation before Mr. Hall, Assistant Magistrate, as follows:—*

I live in Sada street, at Cuddalore. The Prisoner Seethoyee, now before the Court, is my younger sister. On Wednesday last, the 25th July, the aforesaid Prisoner came to my house, at about 3 P. M., with her female child on her shoulder; the child was about five years of age. When she came in, she said the child was not well, but that it was suffering from fever. The Prisoner also said "I have been starving for five day; better will be if any thing is given." I answered, "I am unable to do so." Shethen told me she should pawn some gold beads she had round her

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neck for four Annas. I pawned them to one Sadapasa Palavaudoo for four Annas, and having given the money to the Prisoner, told her to go. I did not see her from that time until next day. At about 6 A. M., I heard people talk that a woman had fallen into a well, situated in Serong Street, and died. I went to the well and saw the prisoner sitting in a bandy, and the child lying in it. The prisoner is the person who was sitting in the bandy. The child on the bandy was the child which the prisoner had brought when I returned to my house the previous day. The child was dead when I saw it in the bandy. When the prisoner came to my house the previous day, I told her to go away, and she then went out without telling anything. I don't know where she slept that night. As she told me, when she came to my house, that her child was sick, I felt the child to see if it was so, and it appeared to be feverish.

The prisoner said she had no question to ask.

I have heard the deposition read. It is correct.

Taken in my presence and hearing, and under my personal superintendence, and, being read over in Tamil, found correct.

(Signed) F. E. HALL,  
Assistant Magistrate.

2nd witness }  
Ackummal. }

28th July 1866.

Second witness Ackummal, daughter of Puttunoo Pundaram, a cooly by profession, aged about 50, and a resident of Cuddalore, is examined before Mr. Hall, Assistant Magistrate, on solemn affirmation, as follows:—

I live in Sada Street at Cuddalore. About four days ago, at about 6 P. M., I returned to my house, when I saw the prisoner sitting upon my street pial with a female child on her shoulder. She said she had fasted for three days, and gave me two Annas to prepare her some Conjee or rice. I did so. It was then half past 7 P. M. She only took the Conjee, but not her child; she said it had got fever. I did not feel the body of the child. The prisoner then went out. It was then about 8 P. M. I shut the door and lay down. A few minutes afterwards some one came and knocked at the door. I did not open it, but remained quiet. I did not see the prisoner from the time she left my house until I saw her, at 4 o'clock the next evening, at the Police station. I was taken by the Police Head Constable to the station-house, for the purpose of giving evidence. My house is 90 yards distant from the well, close to the house of 3rd witness, Vyddelinga Pundaram. I knew nothing about the prisoner's fall into the well.

The prisoner said she had no question to ask.

I have heard the deposition read. It is correct.

Taken in my presence and hearing, and under my personal superintendence, and, being read over in Tamil, found correct.

(Signed) F. E. HALL,  
Assistant Magistrate.

3rd Witness }  
Vyddelinga Pundaram }

28th July 1866.

Third Witness Vyddelinga Pundaram, son of Soobroya Pundaram of Jungama sect, a weaver by profession, aged about 40, and a resident of Cuddalore, is examined before Mr. Hall, Assistant Magistrate, on solemn affirmation, as follows:—

I live in Sada street at Cuddalore. At about half past 6 A. M., of 26th July instant, there was a great crowd near the well in front of my house. Hearing the noise of the crowd, I awoke and went out. The people who were about said there was a woman in the well, and I went there. On my looking down the well, I saw this very Prisoner who is now before the Court. She was standing with her child on her shoulder. I asked her, "how came you to fall into this well?" She said "I had no way of getting food, and I, therefore, fell into the well, that I and my child might die." I asked "you are alive, is the child also alive?" She said "the child is dead." I immediately report-

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ed the matter to the Police station. I then returned and got a rope and a board, with which we first got the child, and then the woman, out of the well. The child was dead. The woman was shivering. The Police Officers immediately came up and assisted in taking the prisoner out. She was immediately carried away to the Hospital. I also accompanied her. I have frequently seen her before in Taroomooty and Bazaar streets. Between the well and the opposite lane a bandy could go. Bandy is passing accordingly. I have looked at the plan now before the Court. I was present when the plan (produced) was made by Dooraswamy Naick. I believe the measurements, &c., in this plan are correct. The distance between the house where this prisoner slept on the preceding night and the well situated in front of my house is about 75 feet.

The prisoner said she had no question to ask.

I have heard the deposition read. It is correct.

(Signed) VYDDELINGA,

Pundaram.

Taken in my presence and hearing, and under my personal superintendence, and, being read over in Tamil, found correct.

(Signed) F. E. HALL,  
Assistant Magistrate.

4th Witness }  
Paraday. }

28th July 1866.

Fourth Witness Paraday, Constable No. 426, is examined before Mr. Hall, Assistant Magistrate, on solemn affirmation, as follows:—

At 6 o'clock A. M., of Thursday the 26th July instant, while I was lying in the Station-house at Cuddalore, the 3rd witness Vyddelinga Pundaram came to me, and said that a woman and child had fallen down a well in Serong Street opposite to his house, and that the child only had died. I reported the matter to the Head Constable and went to the spot, and, looking into the well, I saw the prisoner standing in the water, with the child on her shoulder. At the sight of me, she threw the child down into the water, and fell down herself. I then called out to the prisoner, and asked whether she will get up or not; she got up, and tied her cloth on, and afterwards picked up the child on my telling her to do so. We then received from Vyddelinga (3rd witness) rope and planks, put them into the well, and then drew out, first the child, and then the prisoner. The child was dead. The prisoner, on being asked, told me she had thrown herself into the well because she had no means of subsistence. Soon after, the Head Constable came up, and he ordered me to bring a bandy and take the woman and the body of the child to the Hospital, which I did. The body was examined by the Native Surgeon.

The Prisoner said she had no questions to ask.

I have heard the deposition read. It is correct.

Taken in my presence and hearing, and under my personal superintendence, and, being read over in Tamil, found correct.

(Signed) F. E. HALL,  
Assistant Magistrate.

(True translation.)

(Signed) G. ELLIS,  
Session Judge.

5th Witness }  
Rajendrum. }

5th Witness Rajendrum, Native Surgeon, Cuddalore.

On the morning of the 26th instant, the woman Seethoyee, now before the Court, was brought to the Hospital, in a bandy, by the Police, with a body of a dead female child, aged about 6 years. On examination, the woman appeared much depressed in mind, and looked as if she had starved for some days past. She did not answer any questions directly, but talked incoherently, and was shivering, as if from the effects of cold. I gathered from her statement that she voluntarily fell into a well in Serong Street Old Town. On making a post mortem examination of the child, there was nothing to show that the child has died from drowning. I found the stomach of the child quite

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empty and shrunk up unnaturally. The lungs were healthy, and contained much air. The liver was much enlarged and congested, from which I infer that the child had been ailing for some time past. There were no marks of violence on the body of the child. The child must have been suffering from fever and starvation. It is my opinion that the child may have died before immersion in the well, as there was no water in the stomach. It is possible that the child may have died by drowning. When I made the examination, the child might have been dead 6 hours. It was between 7 and 8 A. M. when I made the examination.

(Signed) J. RAJENDRUM,  
Native Surgeon.

(Signed) F. E. HALL,  
Assistant Magistrate.

(True Copies.)

(Signed) G. ELLIS,  
Session Judge.

*Report of the Village Magistrate.*

From IYASAMY NYNAN, Village Magistrate of Cuddalore, to the Second Class Sub-Magistrate of Cuddalore; dated 26th July 1866.

On my being informed by a batta Peon, Samy Pillay, at 8 o'clock on the morning of 26th instant, that a woman with her child fell into a well situated in 3rd witness Vyddelinga Pundaram's Street at Cuddalore, and that the child only died, I immediately proceeded to the spot, where I heard that the woman with the child had been taken by the Head Constable and others to the Hospital. I asked the woman who was there, she said she is a resident of Cuddalore, and that her name was Seethoyee; that she was kept by one Appavoo Chetty, of Cuddalore, for 10 years, and gained her livelihood as a laborer; that she has none to give her support, neither is she able to work; that she, in consequence, threw herself into the said well, with her female child, five years old, named Bungarummam, at 4 o'clock on the night of 25th instant, with an intent that she might die with her child; that the water of the well was to the height of a man's neck; that, as she often immersed into and came upon the water with her child on her shoulder, the child died while she remained in the well; that at 6 o'clock this morning, two or three women looked in and cried out, when some men came there and took her out of the well with the child; and that she does not know who were the said women and men that took her out.

I, therefore, report this matter to you, and await your further instructions on the subject.

(True translation).

(Signed) G. ELLIS,  
Session Judge.

CALENDAR of persons tried before GEORGE ELLIS, Esq., Session Judge of Cuddalore.

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| 1                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 2                                    | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 4                        | 5                                                                                                             | 6                            | 7                                                    | 8                                                                                                                                                                                                                                                                                                                                                                                                                                             | 9                | 10                 | 11                                  | 12                        | 13                | 14                    |
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| Number of the Case.                                                                                                                                                                                                                                                                                                                                                                                                                                  | Name and description of the accused. | Copy of the charge or substance of the complaint.                                                                                                                                                                                                                                                                                                                                                                                                                                              | Name of the complainant. | Names of witnesses for prosecution.                                                                           | Name of witness for 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. |
| 49 - 1866.                                                                                                                                                                                                                                                                                                                                                                                                                                           | Seethoyee, Pundarra caste.           | Section 302 of the Indian Penal Code. Culpable homicide amounting to murder. That she, Seethoyee, did, on or about the 26th July 1866, in Old Town Cuddalore, commit culpable homicide amounting to murder, by causing the death of her child Bungarummam, by doing an act with the intention of causing the death of a human being, 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 Sessions. | Regina.                  | 1. Tylummal.<br>2. Aekummal.<br>3. Vyddelinga Pundaram.<br>4 and 5 dispensed with by Counsel for prosecution. | Dr. Rajendrum.               | Vide Session Proceedings.                            | The Court, concurring with the Assessors, finds that Seethoyee is guilty of the offences specified in the charge, namely, that she committed culpable homicide amounting to murder, by causing the death of her child, and attempted to commit suicide, and has thereby committed offences punishable under Sections 302 and 309 of the Penal Code; and the Court directs that the said Seethoyee be transported for life, under Section 302. | 26th July 1866.  | 26th July 1866.    | 28th July 1866.                     | 23rd August 1866.         | 23rd August 1866. |                       |
| <p>Section 309 of the Indian Penal Code.</p> <p><i>Attempt to commit suicide.</i></p> <p>That she, on or about the 26th July 1866, did attempt to commit suicide, by throwing herself into a well at Cuddalore, and has thereby committed an offence punishable under Section 309 of the Indian Penal Code, and within the cognizance of this Court of Sessions.</p> <p>The case was committed by Mr. Hall, Assistant Magistrate of South Arcot.</p> |                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                          |                                                                                                               |                              |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                               |                  |                    |                                     |                           |                   |                       |

(Signed) G. ELLIS,  
Session Judge.

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ZILLAH CUDDALORE.

SESSION CASE No. 49 OF 1866.

*Present.*

George Ellis, Esq. .... Session Judge.

Jagunnada Naidoo, }  
Rajoo Iyer, }  
Kistna Pillay, } ... Assessors.

*CHARGE.*

*1st Count.—Culpable Homicide amounting to murder.*

Q.—You, prisoner Seethoyee, are charged with having, on or about the 26th July 1866, in Old Town, Cuddalore, committed Culpable Homicide amounting to murder, by causing the death of your child Bungarummal, by doing an act with the intention of causing the death of a human being, and that you have thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of this Court of Sessions. Are you guilty or not guilty?

A.—I am not guilty.

*Second Count.—Attempt at suicide.*

Q.—You, prisoner Seethoyee, are charged with having, on or about the 26th July 1866, attempted to commit suicide, by throwing yourself into a well at Cuddalore, and have thereby committed an offence punishable under Section 309 of the Indian Penal Code, and within the cognizance of the Court of Sessions. Are you guilty or not guilty?

A.—I am not guilty.

*1st witness } 1st Witness.—I live at Old Town, Cuddalore. Pundara Caste. Am about 40*  
*Tylummal. } years old, a laborer. The prisoner is my sister. On a Wednesday, the day preceding*  
her falling into a well about 30 days ago, my sister, the prisoner, came to me, saying she had been without food for five days, and asked for something. I told her I could not help her. She gave me a string of beads, asking me to get four Annas for them on mortgage. I obtained for her four Annas, which I gave her; these were gold beads, some 18 in number. I can't say what they were worth, a Rupee or half a Rupee. I raised four Annas on them, with which she went away. She seemed to be much in want of food. She had a child with her, about five years old, which appeared to be ill with fever. It was about 3 p. m., that she came to me. Next day I heard, very early, that some one had fallen into a well in Sallan Street, no great distance from my house. I saw my sister lying in a bandy, and the corpse of the child she had with her the previous evening. I did not speak to her; she lives in the Chetty Street. She is an out-caste, and I do not speak to her. I had seen her about 30 days before. She was put out of her caste, because she went away with some one. Whenever I am in the habit of meeting her, I have given small trifles such as one or two Pies. I felt the body of the child when my sister said it was ill, and I felt it had fever. When I saw my sister on Wednesday, and on the previous occasion, she appeared very sad, but there was no appearance of any change in her mind. When I saw my sister in the bandy, there were many Constables near. When I spoke to her on Wednesday, she appeared much fatigued.

The above Deposition, given on solemn affirmation before me, was read over to the witness in Tamil, her vernacular, and admitted to be correct.

(Signed) G. ELLIS,

*Session Judge.*

*Re-called and re-examined.—*

None of my family have ever been attacked with insanity.

*2nd Witness } I live in Old Town Cuddalore. Don't know my age. I am married. Pundara*  
*Ackummal. } caste. I know the prisoner. About 30 days ago, I gave her some conjee. I don't*  
recollect the day. She gave me two Annas, saying she had been without food for three days. I had been out, and found the woman seated on the pial. She had a child with her, about a 1½ year old. It was about 9 when I gave her the conjee, and she ate it. She did not give any food to the child, as she said it was ill. I saw her next day at the Police Station. I gave her enough for one meal.

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She did not take it all, but left some. Prisoner told me she was unable to talk, and could not hear well. She appeared to be in possession of her senses. I knew the prisoner when she was young. I don't know whether she slept on my pial or not. After giving her her meal of conjee I told her to go away.

The above Deposition, given on solemn affirmation before me, was read over to the witness in Tamil, her vernacular, and admitted to be correct.

(Signed) G. ELLIS,

*Session Judge.*

*3rd Witness, Vydde-linga Pundaram. } 3rd Witness. I live in Old Town Cuddalore. Pundara caste. Aged*  
*40. Merchant. About 29 days ago, one Thursday, at about 6 or 6½ a. m.,*  
I heard a great noise near a well opposite my house. I was then sleeping. Got up, and came out. Many people were round the well. I went and looked. I saw a woman in the well, it is the prisoner. She had a child on her shoulder, which, after it was taken out, I judged it to be 4 or 5 years old. The water in the well was breast high. There is a parapet about 3 feet high round the well. I asked the prisoner how she had got there. She said that, as she had been without food for three or four days, she had fallen with her child into the well, as she thought it better to die. She spoke to me correctly, and understood the questions I put to her. I asked her if the child she had on her shoulder was alive, she said it was dead. I went and informed this to the Police Station. After this I returned, and got the woman out of the well. The child was dead. I have seen the woman in the bazaar occasionally, she has never begged of me. I did not ask the woman how the child died. The child was a girl. The prisoner answered readily when I asked her how she fell into the well. A plank was lowered into the well, on which the woman put the child, which was first taken out.

The above Deposition, given on solemn affirmation before me, was read over to the witness in Tamil, his vernacular, and admitted to be correct.

The 4th and 5th Witnesses dispensed with by Counsel for prosecution.

The statement of prisoner before Assistant Magistrate Mr. Hall put in, under Section 306 of the Code of Criminal Procedure.

(Signed) G. ELLIS,

*Session Judge.*

*Prisoner's Witness }  
Rajendrum.*

*Prisoner's Witness.*

*First Witness.—I am the Native Surgeon in charge of Dispensary in Old Town. I am aged 31.*  
On the 26th July, the prisoner at the bar was brought to the Dispensary, together with the dead body of a female child. I was told that the child was taken out of a well. I then made a post mortem examination. I am unable to say exactly the cause of death, but from the appearance it presented, and from the absence of any marks of injury on the body of the child, and the emaciated state in which the body appeared at the time, I was of opinion that the child must have died either from fever, or from syncope from immersion in water. There were none of the ordinary indications of death from drowning, such as water in the stomach, collapsed state of the lungs, mucus discharge from the mouth and nostrils. On examination of the woman, she appeared to be very weak, emaciated, and in a depressed state of mind. She did not answer my questions directly, but talked incoherently. However, I gathered from what she said that she had been starving. She was shivering, as if from cold; the cloth she had on was wet. There was no appearance of food in the stomach of the child, it was completely and unusually contracted; the bowels and bladder were empty. I should think the child had been without food for two or three days; its liver was enlarged and congested, and the gall bladder distended with bile. I should say the child must have been dead six or eight hours. I have heard the statement made by the prisoner before the Assistant Magistrate Mr. Hall. The appearance of the body of the child is inconsistent with the facts stated therein by the prisoner. It is possible that the child might have been dead before it fell into the well. It might have died from fright before immersion, or it might have died after falling into the water, but before it rose to the surface; but if it had risen from the water, as described by the witness, and had breathed, there must

be water in the stomach. I made notes of the case when I made the post mortem examination. I have the original notes at the office in Old Town, the copy I produce is in the hand-writing of an Assistant in the Office, not signed by me. I have a Case Book. This case is entered in it, but does not contain the notes of post mortem examination; they are separate. It is my practice to enter such notes in Case Book at leisure. I have not had leisure to enter the notes of this case, my Assistant having been taken away. I don't quite recollect when he was taken away. A child of the age of the one I refer to, at the utmost, might live a week without food. I asked the woman why she fell into the well, and she said the man who had kept her had deserted her and child, and that she had been starving for some days without food; this was not answered readily, but I gathered this from her statement generally. I did not ask her the cause of the child's death.

(Signed) RAJENDRUM,

Native Surgeon.

Sworn to before me this 23rd August 1866.

(Signed) G. ELLIS,

Session Judge.

Prisoner's Defence.

By Pleader Ramalingier.

*Prisoner's Defence.*—Prisoner is not guilty of culpable homicide amounting to murder, or of attempting to commit suicide. She was without food for four or five days. Her child was ill. She went to the 2nd witness for prosecution with money to get conjee; she asked food for the four Annas she had with her, and said she would give more if the woman would give her sufficient food. The woman only gave her one olock of rice water; she ate a portion of it, and the remainder kept apart for the child. 2nd witness for prosecution told prisoner to go away, as the child was unwell. Being unable to walk, she went and laid down on the pial. She was awake all night, troubled with the child and her own hunger. At about 4 in the morning, the child was in the agony of death; being afraid that 2nd witness would abuse her if the child died on the pial, she took it on her shoulder and went into the street. She was afraid the child would die, and suffering from cold and hunger, she walked along feebly and near the house of the 1st witness for the prosecution. There she stopped a little, and finding herself unable to stand, she became giddy, and was unable to see where she was going. As the well was in the middle of the street, the parapet wall appeared like an ordinary wall; she leaned against it, turning her back to it. The child made a sudden convulsive motion; she turned to take hold of the child and put the child over the wall over the water, and she herself was weeping and giddy; the child slipped from her hands, and fell into the well, and in endeavouring to save it, she herself fell into the well, head foremost. As there was not much water, she was able to make a noise. People came and got her out with the child, which was then dead. She was not sensible at the time; nor has she since been able to understand what questions were put to her, or what answers she gave. As her child died, she thinks she may as well die also. She remembers to have told people that she threw her child into the well and herself afterwards; this was said through utter weariness of life, and in this spirit she gave her statement to the Magistrate. No direct evidence save her own admission. (Refers to evidence of Dr. Rajendrum in favor of prisoner).

The Assessors unanimously convict the prisoner in this verdict. I concur, and, under Section 302, sentence the prisoner to transportation for life.

Cuddalore,

24th August 1866.

(Signed) G. ELLIS,

Session Judge.

The Assessors convict the prisoner on both Counts of the charge, and in this verdict I concur. This case may be taken as in some measure illustrating the consequences of the distress prevailing in this and other districts.

*Grounds of Conviction.*—The prisoner, though not actually destitute at the time of committing the crimes with which she is charged, had been, according to her own statement,

without food for three or four days. Her child, too, was suffering from fever; and, according to the description given by her sister, the 1st witness, her appearance denoted great destitution and prostration. On the afternoon preceding the date specified in the charge, she called at the 1st witness' house, asking for food, and saying she had been without it for four or five days, and that the man with whom she had been living had turned her and her child out of doors. 1st witness said she had nothing to give her, upon which prisoner gave 1st witness a necklace of beads, worth about a Rupee, and asked her to get something lent upon it. 1st witness got her four Annas. Prisoner had her child, a girl aged about 5 years, with her, and witness noticed that the child was suffering from fever. The prisoner then left the house, and witness did not see her till the following morning, when, hearing a great noise and people saying that a woman had been found in a well, she went out and saw her sister, the prisoner, in a bandy, with the dead body of her child.

The 2nd witness says that, on coming home about 7 p. m. one evening, she found the prisoner with her child sitting on the pial of her house; that the prisoner asked her for food, giving her two Annas; that she, witness, supplied her with a full meal of conjee for 1-9 pice; that the prisoner drank some, and left a little, giving none to her child, saying it was sick; and that she left witness' house at about 8. The witness says the prisoner looked very weak and ill, but both this and the preceding witness depose to her being in the full possession of her senses.

The 3rd witness describes himself as having been disturbed about 6 in the morning by a great noise in the street where he lives. On getting up and going out, he found a great crowd round a well near the house, and on going up and looking into it, he saw the prisoner standing in the water, which was about breast high, with a child upon her shoulders. A plank was lowered, on which the prisoner placed the child, which, on being drawn up, was found to be dead. The prisoner was next taken out of the well, and on the 3rd witness asking her how she had got there, she said that, having been without food for some days and being oppressed with hunger, she thought it best to die with her child, and had thrown herself and it into the well.

Before the Assistant Magistrate, Mr. Hall, the prisoner made a full confession of having thrown herself into the well with her child, and stated that she was impelled so to do by pressure of hunger and fear of starvation.

On behalf of the prisoner, one witness, the Native Surgeon, was examined. He stated that, after a post mortem examination of the child's body, he found that there was no appearance of food in the stomach, it was completely and unusually contracted; the bowels and bladder were empty; and, in his opinion, the child had been without food for two days; that it was possible the child might have died of fever before being thrown into the well, or it might have died from syncope induced by sudden immersion, but that, if, as stated by the prisoner in her confession, the child had risen to the surface two or three times, then the lungs would have been collapsed, and water found in the stomach.

For the defence, it was urged that the statement of the prisoner to the Assistant Magistrate, Mr. Hall, was made in sheer weariness of life; that, worn out by illness, privation, and grief, she did not know what she was saying, and was reckless of the damnable nature of her admission; that when she left the 2nd witness' house, her child was at the point of death; that she hardly knew what she was about when she got to the well; and that, while leaning against the parapet, the child, in the last convulsive agony of death, slipped from her grasp, and that, in trying to save it from falling, she, leaning and extending herself over the parapet, fell in also.

I am unable, after giving this case my best attention, to come to any other conclusion than that the woman did as charged, and, as she has admitted to the Assistant Magistrate, caused the death of her child, by throwing herself with it into a well. That she was prompted so to do by the fear of approaching destitution is very probable, but, at the time she committed the crime, she was not utterly destitute, for of the 4 Annas the 1st witness had procured for her, she had still 2 Annas and 3 Pice remaining. That she was perfectly cognizant of what she was about is also clear from the evidence of the 1st and 2nd witness; nor can I accept the hypothesis of the Native Surgeon that the child may have died from fever. This, of course, is not impossible, but he had no means of judging

*Proceedings of the Madras Government, Judicial Department*  
13th October 1866.

of the intensity of the fever, and in his evidence he has stated that a child of that age might survive nearly a week without food. Moreover, it does not follow that the post mortem appearance of a body of a person who has met death by drowning should be such as he describes it would be, (vide Taylor's Medical Jurisprudence, pages 663, 664); but I think that this hypothesis is set aside by the statement of the woman herself, which, as I have said before, I have no reason to distrust. For the foregoing reasons, I have convicted the prisoner of both counts of the charge, and have sentenced her to transportation for life.

The case, however, being one presenting some extenuating circumstances, I have resolved to lay it before His Excellency the Governor, in view to a mitigation of the penalty awarded.

(True Copy.)

(Signed) G. ELLIS,

Session Judge.

No. 164.

ORDER THEREON, 13th October 1866, No. 1620.

The Governor in Council concurs with the Session Judge in thinking that the circumstances of the case are such as to call for a mitigation of the sentence passed upon the prisoner.

2. Although actual destitution may not have been proved, still, considering that the crime was certainly prompted by misery and despair, brought on by desertion and want, the Government are of opinion that a smaller measure of punishment than that recommended by Mr. Ellis will be sufficient; and, in the exercise of the power vested in them by Section 54 of the Code of Criminal Procedure, they resolve to commute the sentence passed by the Session Judge to one of three years' rigorous imprisonment in the Zillah Jail.

(True Extract).

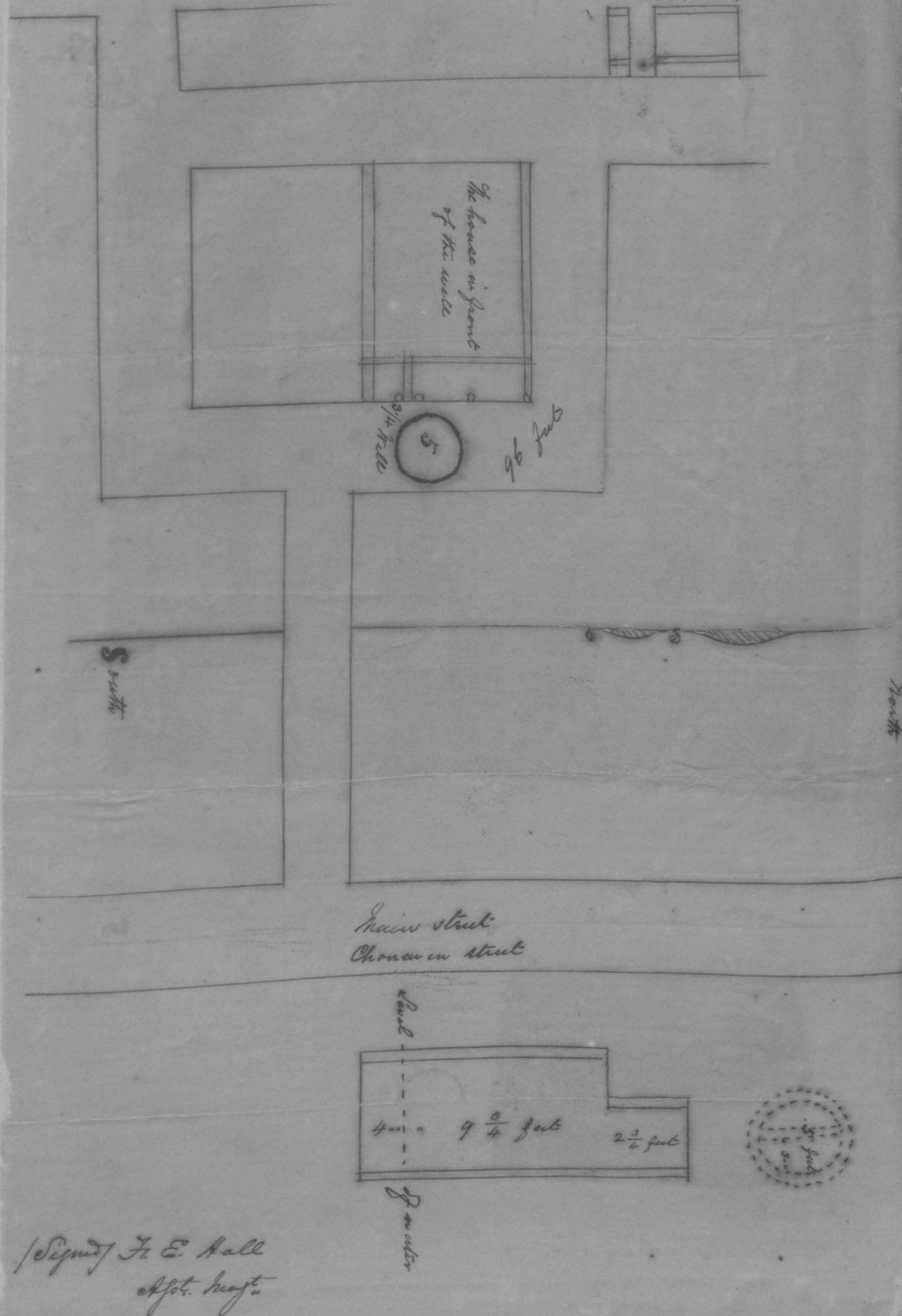
Ag. Under Secy. to Govt.

To the Session Judge of Cuddalore.

Exd. J. H. Burns.

Sarany Street

The house where  
the Prisoner slept



proved in the prisoner's case but the approach of  
 famine was at the time, the now such fear has  
 happily passed away, to be dreaded and this prospect  
 together with the illness of her child resulting possibly  
 from insufficient food. may be offered on the prisoner's  
 behalf as extenuating circumstances; and pleaded in  
 mitigation of the sentence. I felt it my duty to propose

If His Lordship is able to concur in this  
 view I beg respectfully to recommend that the sentence  
 of transportation for life may be remitted and that the  
 prisoner be condemned to imprisonment for a period of  
 seven years.

I have the honor to be

Sir,

Your most obedient servant

Adelaide  
 Session Court  
 22 September 1866  
 19 January 1867  
 N. 24.9.66

Edmund  
 Session Judge

Actual destitution may at harbor beneath  
 found as the woman was in possession of 2 pence at the  
 time the crime was committed but the crime was certainly  
 prompted by misery and despair brought on by desertion and  
 want. Accede to the recommendation of the Judge  
 committed to the sentence of 7 years imprisonment and  
 hard labor. I have suggested a shorter period. I have  
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 suggested 1/11307821215252748349333104004754673308999069534056

4-7.  
Cuddalore Sesion Court  
12<sup>th</sup> September 1866

From,

George Ellis Esquire  
Sesion Judge  
Cuddalore

To,

The Honorable A. L. Subathram  
Chief Secretary to Gov<sup>t</sup>  
Fort Saint George

Sir,

I have the honor to forward for the consideration of the Right Honorable the Governor in Council the record of a trial for murder held at the Special Sessions for August in this Zillah.

The grounds for the conviction of the prisoners are sufficiently set forth in the Calendar which is herewith submitted.

The sentence passed being that prescribed by law I had no authority to inflict a mitigated penalty.

I was however of opinion that the case was one which I should be justified submitting to the Right Honorable the Governor in Council in view to his exercising should he think fit his prerogative of mercy.

Actual destitution was not  
proved

9.  
26  
Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter  
from the Sesion Judge of Cuddalore  
Here enter 12<sup>th</sup> Sept 1866 No 7.  
Order 13<sup>th</sup> October 1866 No 1620.

The Governor in Council  
concurs with the Sesion Judge  
in thinking that the circum-  
stances of the case are such  
as to call for a mitigation of  
the sentence <sup>passed</sup> upon the Prisoners.

2 Although actual desti-  
-tution may not have been  
proved, still considering that  
the crime was certainly prompt-  
ed by misery and despair  
brought on by desertion and  
want, the Government are  
of opinion that a smaller  
measure of punishment than  
that recommended by Mr  
Ellis will be sufficient,  
and in the exercise of the  
power

JP  
WOL

power vested in them by Section  
4 of the Code of Criminal  
Procedure they accordingly  
resolve to commute the  
sentence passed by the  
Session Judge to one of  
3 years rigorous imprisonment  
in the Zillah Jail.

987

13 28/10

To the Session Judge of Cuddalore despois

*Indevid 1866. Department.*

*No. 1020.*

PROCEEDINGS OF GOVERNMENT.

*Dated 13<sup>th</sup> October 1866.*

*103. 104.*