M.R.O. 1—58,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 223 Press ~~Mis.~~

141-142

Dated 15—2—1866 ~~19~~ .

9/8

Not to be folded or roughly handled

No. 141. Read the following letter from the Session Judge of Chittoor, to the Chief Secretary to Government, Fort Saint George; dated Chittoor, 23rd January 1866, No. 1.

I have the honor, at the suggestion of the Magistrate of the District, copy of whose letter is enclosed, to submit, for the favorable consideration of His Excellency the Governor in Council, a recommendation, that part of the sentence, three years' rigorous imprisonment, passed on Gurumurti Ayen, second prisoner in Calendar* No. 37 of 1865, on the file of my Court, should be remitted, under Section 54 of the Criminal Procedure Code.

* Copy enclosed.

2. The prisoner, on whose behalf I am addressing Government, was convicted of forgery and perjury. Before the conclusion of the trial, he and two others of his fellow prisoners acknowledged their guilt, the remaining prisoner also confessing after his conviction.

3. The result of the trial was the arrest and conviction of one Poligar, Chengama Nayudu, an Ex-Tahsildar of the Zemindaries, of abetting the forgery and perjury aforesaid, for which he was sentenced to seven years' transportation, and the sentence confirmed by the High Court on Appeal.

4. Gurumurti Ayen gave evidence in this latter trial, as did the other prisoners in Calendar No. 37. But Gurumurti Ayen's evidence† differed remarkably from that of his fellow prisoners, inasmuch as, while they sought, apparently by various misrepresentations, to palliate or conceal their own share in the transaction, he seemingly spoke the whole truth without reticence. To this fact, the conviction of the chief and only really interested party in the crime, the aforementioned Poligar, Chengama Nayudu, was doubtless mainly due.

† Vide accompanying Extract from Calendar No. 97 of 1865.

5. I cannot concur entirely with the Magistrate, in the opinion he has expressed. Gurumurti Ayen stated his age to be 32, and he must, I think, have been perfectly aware of what he was doing. On the other hand, his appearance and conduct betoken inexperience in falsehood and crime, which cannot be said of his comrades. At the trial in which he appeared as witness, he looked quite broken and prematurely aged with suffering. There can be no doubt that he acted under very strong pressure, in obedience to the direct orders of his employer, whom he served as Goomastah; and, as before stated, he was mainly instrumental in the conviction of the chief offender. For the above reasons, I am glad of the opportunity, unexpectedly afforded me by Mr. Robinson's letter, to lay the matter before Government, and would strongly support his recommendation that the remainder of Gurumurti Ayen's sentence should be wholly remitted, or, at least, that the term of the sentence should be shortened to one year, instead of three, in which case it would expire on the 8th April next.

From the Magistrate of North Arcot, to the Session Judge of Chittoor; dated Chittoor, 30th December 1865, No. 219.

Among the four convicts examined as witnesses in Session Calendar No. 97 of 1865, (Chengama Nayudu) was one Gurumurti Ayen. During the preliminary inquiry before me, I was struck with the favorable contrast which the lad's deportment under trial presented to that of his follow convicts, likewise examined as witnesses for the prosecution. His testimony was given in a simple straight forward manner, which indicated that he was rather the victim of youthful indiscretion than a practised adept and conscious agent in the fraudulent transactions which had brought him and the others into trouble.

2. If your impressions of the lad's connection with the crime, for which so many have suffered, corresponds with mine, it would, I think, be a well timed act of grace to recommend that in his case the term of imprisonment should either be shortened, or (as I would rather suggest) that the remainder of his sentence should be wholly remitted.

3. With these observations, I have the honor to leave the matter in your hands for such further action as the nature of the case may render desirable.

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
No. 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.
37 of 1865.	1. Raja Naik, Poligar, a cultivator. 2. Gurumurti Ayen, Brahmin do. 3. Athirala Ragavadu Balija, do. 4. Subbaramayya, Brahmin, do.	Clause 1st, Section 3, Regulation VI of 1811. *Forgery.* 1. That they, Raja Naik, 1st, Gurumurti Ayen, 2nd, and Athirala Ragavadu, 3rd, at Virakovil, in the Division of Chirtani and Zillah of Chittoor, the exact date unknown, forged a certain bond, purporting to be a valuable security, with intent to defraud, and that they have thereby committed an offence punishable under Clause 1st, Section 3, Regulation VI of 1811, or Section 467 of the Indian Penal Code, and within the cognizance of this Court of Session.	The Queen.	1. Parasaramau. 2. Mahadivaya. 3. Namasivay Mudali. 4. Ponappa Mudali. 5. Narasimmacharlu. 6. Chinna Venkataramaya. 7. Subramanya Mudali. 8. Kannaya.	Venkatachellum.	The Prisoners in the first instance pleaded not guilty, and were defended by Court Vakeel Naranayengar and their Agent Venkatrangachari. An Agent R. B. Jaganada Row appeared for the prosecution. In the course of the trial, the prisoners' Vakeels declined to proceed with the case, which was subsequently explained by the 4th prisoner fully confessing his guilt upon the 4th and 5th Counts of the charge. The 1st and 2nd prisoners, who had till then maintained the genuineness of the forged documents, and called witnesses to establish the same, also acknowledged the forgeries, and their complicity in the same, as did the 3rd prisoner after his conviction. The bond referred to in the 1st Count of the charge purports to have been executed by the 1st witness to the prisoners, and to have been transferred by another forged document, referred to in the 4th Count, by the 1st Prisoner to the 4th Prisoner. The original bond was written by the 2nd Prisoner, and attested by the 3rd Prisoner. Both bonds were filed by the 4th Prisoner in the Small Cause Court, Vellore, and the 1st and 2nd Prisoners deposed as witnesses before the said Court, to the genuineness of the original bond. The certificate and notes of the Judge of the Small Cause Court were put in. The 1st witness, who swore to the original bond being a forgery, denied ever having had any dealings with the 1st Prisoner. He attributed the forgery to the malice of one Poligar Chengama Nayudu, late a Tahsildar in the Cauvetnaggur Zemindary, who had dispossessed him of certain lands, and between whom and himself there had been various Civil Suits. The said lands, entered in the original bond, were not in his possession on the date of the bond. One Kondaraz, a witness to the bond, has absconded; he was employed under the orders of Chengama Nayudu. The 1st and 2nd Prisoners deposed at the Small Cause Court in support of the bond filed by the 4th Prisoner. The 2nd witness swore to the 2nd Prisoner not having come to the village till after the date of the bond, which is in 2nd Prisoner's writing. The 6th witness did not succeed in corroborating this point. The 2nd witness also corroborated the statements as to the ill-will between the 1st witness and Chengama Nayudu. The 2nd prisoner is Chengama Nayudu's Goomastah. Another Goomastah is the 4th prisoner's son-in-law. The 3rd witness deposed to the relationship between 1st prisoner and Chengama Nayudu, and to the 3rd prisoner being employed by him. The 3rd witness is a near neighbour, and an avowed enemy, of Chengama Nayudu. He and the 4th witness also swore that the signature to the bond was not in the 1st witness' writing, and that the land was not, at the date of the bond, in his possession. The 5th witness, an old enemy of the 4th prisoner, swore to the latter not being in the position to purchase a bond of Rupees 300. The 7th and 8th witnesses, the attesting witnesses to the transfer bond, acknowledged their signatures, but swore that no money passed between the parties (as alleged in the document itself).	The Court, concurring with the Assessors, finds the 1st Prisoner, Raja Naik, guilty of the offence specified in the 1st, 2nd, and 3rd counts of the charge, namely, that Raja Naik, at Virakovil, in the Division of Chirtani and Zillah of Chittoor, the exact date unknown, forged a certain bond, purporting to be a valuable security, with intent to defraud, and has thereby committed an offence punishable under Clause 1st, Section 3, Regulation VI of 1811, or Section 467 of the Indian Penal Code; that he, on or about the 23rd December 1863, fraudulently used the said forged bond as genuine, knowing it to be forged, and has thereby committed an offence punishable under Section 471 of the Indian Penal Code; and that he, on or about the 3rd March 1864, gave false evidence in a judicial proceeding before the Court of Small Causes at Vellore, and has thereby committed an offence punishable under Section 193 of the said Code;—and the Court directs that the said Raja Naick be subjected to three years' rigorous imprisonment. The Court, also, concurring with the Assessors, finds the 2nd Prisoner Gurumurti Ayen guilty of the offences specified in the 1st and 3rd Counts of the charge, namely, that Gurumurti Ayen, at Virakovil, in the Division of Chirtani and Zillah of Chittoor, the exact date unknown, forged a certain bond, purporting to be a valuable security, with intent to defraud, and has thereby committed an offence punishable under Clause 1st, Section 3, Regulation VI of 1811, or Section 467 of the Indian Penal Code; and that he, on or about the 3rd March 1864, gave false evidence in a judicial proceeding before the Court of Small Causes at Vellore, and has thereby committed an offence punishable under Section 193 of the Indian Penal Code;—and the Court directs that the said Gurumurti Ayen be subjected to three years' rigorous imprisonment. The Court, also, concurring with the Assessors, finds the 3rd Prisoner Athirala Ragavudu guilty of the offence specified in the 1st Count of the charge, namely, that Athirala Ragavudu, at Virakovil, in the Division of Chirtani and Zillah of Chittoor, the exact date unknown, forged a certain bond, purporting to be a valuable security, with intent to defraud, and has thereby committed an offence punishable under Clause 1st, Section 3, Regulation VI of 1811, or Section 467 of the Indian Penal Code;—and the Court directs that the said Athirala Ragavudu be subjected to three years' rigorous imprisonment. The Court, also, concurring with the Assessors, finds the 4th Prisoner, Subbaramayya, guilty of the offences specified in the 4th and 5th Counts of the charge, namely, that Subbaramayya, on or about the 8th February 1864, fraudulently used a certain forged bond as genuine, knowing it to be forged, and has thereby committed an offence punishable under Section 471 of the Indian Penal Code; and that he, at the aforesaid time, corruptly used the said bond as genuine evidence, knowing it to be fabricated, and has thereby committed an offence punishable under Section 196 of the said Code;—and the Court, in consideration of his old age and infirmity, directs that	The first on the 6th, second on the 20th, and third on the 5th September 1864.	16th May 1864.	13th March 1865.	8th April 1865.		

SECTION 471 OF THE INDIAN PENAL CODE.
Using as genuine forged Bond.

2. That he, Raja Naik 1st, on or about the 23rd December 1863, fraudulently used the said forged bond as genuine, knowing it to be forged, and that he has thereby committed an offence punishable under Section 471 of the Indian Penal Code, and within the cognizance of this Court of Session.

SECTION 193 OF THE INDIAN PENAL CODE.
Giving false evidence in a Judicial Proceeding.

3. That they, Raja Naik, 1st, and Gurumurti Ayen, 2nd, on or about the 3rd March 1864, gave false evidence in a judicial proceeding before the Court of Small Causes at Vellore, and that they have thereby committed an offence punishable under Section 193 of the Indian Penal Code, and within the cognizance of this Court of Session.

SECTION 471 OF THE INDIAN PENAL CODE.
Using as genuine forged bond.

4. That he, Subbaramayya, 4th, on or about the 8th February 1864, fraudulently used a certain forged bond as genuine, knowing it to be forged, and that he has thereby committed an offence punishable under Section 471 of the Indian Penal Code, and within the cognizance of this Court of Session.

SECTION 196 OF THE INDIAN PENAL CODE.
Using evidence known to be false.

5. That he, Subbaramayya, 4th, at the aforesaid time, corruptly used the said bond as genuine evidence, knowing it to be fabricated, and that he has thereby committed an offence punishable under Section 196 of the Indian Penal Code, and within the cognizance of this Court of Session.

Committed by V. Srinivasa Chari, Sub-Magistrate of Narayanavanam.

Calendar of Persons tried before C. A. ROBERTS, Esq., Session Judge of Chittoor.—*(Concluded.)*

Statement of the evidence and grounds of conviction.—*(Concluded.)*	Finding and Sentence.—*(Concluded.)*
They also stated that the 1st prisoner was not in a position to lend money, and directly contradicted certain statements of the prisoners before the Sub-Magistrate, explaining the presence, at so great a distance from their homes, of the parties who executed, as alleged, the original bond. The only defence witness examined contradicted the important part of his deposition before the Sub-Magistrate, and denied all knowledge of the execution of the original bond. The prisoners then declined examining other witnesses. The 1st, 2nd, and 3rd prisoners agreed in throwing the blame of the forgeries on the 4th prisoner, the 1st prisoner stating that all he knew about it was his being told to purchase a stamp paper (that used for the transfer deed), and his subsequently being persuaded, when under the influence of drink, to sign it, he thinking that it was some other document. The 2nd prisoner accused the 4th prisoner of forging the 1st witness' name to the original bond written by himself (2nd prisoner). The 4th prisoner stated that he was driven by the repeated requests of his superior Tahsildar Chengama Nayudu, to fabricate the transfer bond. The Court summed up the evidence, and, agreeing with the Assessors, found the prisoners guilty on the several counts of the charge.	the said Subbaramayya be subjected to three years' simple imprisonment. (Signed) C. A. ROBERTS, *Session Judge.*

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

(True Copy).

EXTRACT from Calendar No. 97 of 1865 on the file of the Session Court of Chittoor.

The 2nd witness,* also a Brahmin, an intelligent young man, apparently prematurely aged, gave his evidence in a manner which carried conviction with it, his statement being all tested by a severe and purposely perplexing cross examination. He had been, he deposed, employed by 1st prisoner† as Goomastah since March 1862.—2nd prisoner‡ had repeatedly urged him to prepare a draft bond in the Potter's name; witness had refused till requested by the 1st prisoner himself to do so.—1st prisoner told witness then of his enmity with the Potter; previous to this there had been a talk about the matter for months. Witness first wrote a bond in 2nd prisoner's favor, to 2nd prisoner's dictation, and at 2nd prisoner's house.—1st witness, on being sent for by 1st prisoner, declined, in the presence of witness and 2nd prisoner, to have this bond transferred to him. Witness, by 1st prisoner's order, 15 days after the first draft, wrote A§, again, at 2nd prisoner's house and to his dictation. A was four months subsequently shown again to witness at 2nd prisoner's by 1st witness; it was then attested.—1st witness proceeded to write the Potter's name below it; witness added his own name as the writer of the bond. Witness deposed to having received instructions from 1st prisoner as to his evidence before the Small Cause Court; so had the witnesses 5 and 9, both in 1st prisoner's employ. They had all travelled to Vellore together, halting at a Brahmin's house at Catpady, to which they had been taken by the 2nd prisoner. The main point in which witness differed from the 1st witness was in the 2nd prisoner's share in the crime. Witness was fully corroborated by the 4th, 5th, and 9th witnesses, in stating that the 2nd prisoner was the 1st prisoner's agent in their journeys to the Small Cause Court, Sub-Magistrate's Court, and Session Court.—2nd prisoner paid all expenses, and instructed witnesses how to depose before the Small Cause Court. Witness had deposed falsely there, under the 1st prisoner's instructions. The Vakalat filed before the Sub-Magistrate was executed at the 1st prisoner's, the 1st prisoner giving instructions to the Vakeel. This last point was also spoken to by the witnesses 4, 5, and 9, who had signed it jointly with witness.—2nd prisoner was sent by 1st prisoner, and stood security for witness before the Sub-Magistrate.—10th witness, a man of 1st prisoner's caste, was security for 4th witness. Witness went away to Madras by 1st prisoner's order, but on information received from the 1st prisoner's Goomastah, 12th witness, came to the Session Court. It was urged in cross examination, but not established, that witness had been dismissed by 1st prisoner in 1862-63. The 1st prisoner, however, in his defence, stated that he had dismissed the witness subsequent to the Small Cause Suit against the Potter;—this suit was dismissed in March 1864.

* Gurumurti Ayen.

† Poligar Chengama Nayudu.

‡ Goomastah of 1st Prisoner.

§ The forged document.

(True Extract).

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

No. 142. ORDER THEREON, 15th February 1866, No. 223.

The Session Judge and Magistrate concur in recommending the mitigation of the sentence passed upon Gurumurti Ayen, for the offences of perjury and forgery, on the ground that, after his conviction, he gave evidence of a clear and straightforward nature, tending to the conviction of the principal offender.

2. As it appears that the prisoner has done what he could to repair his fault, by pleading guilty at his own trial, and giving satisfactory evidence at the trial of Poligar Chengama Nayudu, and as, moreover, the imprisonment he has already

undergone seems to have told severely upon him, the Governor in Council resolves to mitigate the sentence passed on him, by remitting two years of it and directing his release on the 8th April next. For this release, these orders will be sufficient warrant.

(True Extract).

Chief Secretary.

To the Session Judge of Chittoor.
„ Magistrate of North Arcot.

Ed. J. H. Burns.

Judicial

No. 162.

From The Session Judge of Chittoor.
Dated 23rd January 1866.

Read Orders.

Seven months Ago he, it is clear, has guilty both of forging and fabricating the writing produced under pretence that it was his employer -

At Court he has done what he could to explain his fault by pleading guilty at his own trial and giving his evidence and he might have saved the trial of Sotipen Chenpana Naicken and thereby conducing to the conviction of the principal villain the party, as the Sessions Judge has interceded in his behalf

and his punishment would seem already to have taken place upon him in Jail. I therefore do not propose to shorten his term of imprisonment to one year & release him on the 8th April next.

26-1-66 JPP

I perused the well worded, & humble, but true reasons have been given of the Petitioner which had originally dictated a sentence commensurate with the real crime of the 2nd Prisoner, offence, explaining to him all the time why element punishment was awarded to him.

29.1.66.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read letter from the Sessions Judge of Chittoor dated 23d January 1866 No 1

Order thereon 15th February 1866 No 223.

The Sessions Judge and Magistrate concur in recommending the mitigation of the sentence passed upon Gurumurti Ayen for the offences of perjury and forgery, on the ground that after his conviction he gave evidence of a clear and straightforward nature tending to the conviction of the principal offender.

2. As it appears that the prisoner has done what he

he could to repair his fault by pleading guilty at his own trial and giving satisfactory evidence at the trial of Poligar Chengama Naicker, and as, moreover, the imprisonment he has already undergone seems to have told severely upon him; the Governor in Council resolves to mitigate the sentence passed on him by remitting two years of it and directing his release on the 2nd April next. For this release these orders will be sufficient warrant.

To Sessions Judge Chittoor
Acting Collector &c

Judicial 1866. *Department.*

No. 223.

PROCEEDINGS OF GOVERNMENT.

Dated 15th February 1867.

Press No. 2755, G. M.—14-11-65—500.

121.42.