

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1038	Press Mis.
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Dated 1-7-1918	1867

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
1st July 1867.*

No. 1. Read the following letter from the Session Judge of Tinnevely, to the Chief Secretary to Government, Fort Saint George; dated Tinnevely, 15th May 1867, No. 305.

I have the honor to forward a copy of Calendar No. 77 of 1867, on the file of this Court, in order that the Right Honorable the Governor in Council may, should he so think fit, mitigate the sentence passed to one of five years' rigorous imprisonment, under Section 54 of the Criminal Procedure Code.

2. The circumstances connected with the case are fully shown in the Calendar, and I shall, therefore, add no more, beyond observing that the gross ignorance of the people is a ground for mitigation, and that, though I think that transportation for life would be too severe a punishment in such a case, yet a severe punishment is required to teach the people that such practices as the wanton giving of poison will entail severe penalties. Under all the circumstances of the case, five years will, I think, be sufficient.

Proceedings of the Madras Government, Judicial Department,
1st July 1867.

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.
77 of 1867.	1. Manacavalen, washerman and doctor, age 42; and 2. Valayoodom, washerman and doctor, age 37.	CHARGE. That they Manacavalen and Valayoodom, on or about the 26th March 1867, at the village of Coodis-salsary, in Calacaudoo, committed murder, by causing the death of one Suppany, and that they have thereby committed an offence punishable under Section 302 of the Indian Penal Code. 2nd Count.—That they Manacavalen and Valayoodom, on or about the 26th day of March 1867, having taken place dissalsary in Calacaudoo, committed murder, by causing the death of one Suppany, and that they have thereby committed an offence punishable under Section 302 of the Indian Penal Code. 3rd Count.—That they Manacavalen and Valayoodom acted so negligently, with regard to the death of one Suppany, and that they have thereby committed an offence punishable under Section 284 of the Indian Penal Code. Committed by Alagerry Naicker, 2nd Class Sub-Magistrate of Nangoonary Taluq.	Hegins.	1. Sbodalmoottoo. 2. Manacavalen. 3. Dr. Wilson. 4. Manuran. 5. Chinna Aravalai. 6. Coorookalanjee, and 7. Senthivaloo Pillay, Dresser.	1. Sembamasanom. 2. Peria Aravalay.	1. The 1st and 2nd witnesses, like the rest of the Pariahors, finds that Manacavalen and Valayoodom, in this case, are very ignorant, half civilized people. They are the brother and father of the deceased, viz., that they depose that a day of March 1867, theft of some jewels at the village of Coodis-salsary in Calacaudoo, committed murder, by causing the death of one Suppany, he and the 2nd prisoner, about ten days before the occurrence referred to in the charge, performed certain mechanical quasi	The Court, concurring with the Assessors, finds that Manacavalen and Valayoodom are guilty of the offence specified in the charge. They are the brother and father of the deceased, viz., that they depose that a day of March 1867, theft of some jewels at the village of Coodis-salsary in Calacaudoo, committed murder, by causing the death of one Suppany, he and the 2nd prisoner, about ten days before the occurrence referred to in the charge, performed certain mechanical quasi	26th March 1867.	27th Do. 1867.	28th Do. 1867.	11th May 1867.	11th Do. 1867.	

enchancements with a metal plate, which show that suspicion rested on the deceased. Ten days after this, one morning, before having their breakfast conjee, 1st and 2nd prisoners came again to the house, gave the witnesses some rice and ashes, which they were to take in their mouths, and then, after taking an oath of innocence of the theft, they were to spit out the mixture; this was done. The prisoners then went up to deceased; did not give him the same,

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but a rolled up betel leaf, which he was told to chew and swallow. He did so, but he found something disagreeable in it, which made him give a sort of reach. First prisoner said "never mind swallow it;" he did so, and they, prisoners, then left. About a nara (25 minutes) afterwards, deceased began to vomit and purge blood, and did not come for his conjee when it was ready. It was harvest time, and the witnesses then left with the women to reap, deceased saying he would follow them; no one was left in the house with him. On these witnesses' return home after dark, deceased was found lying dead in the house, his clothes and mat showing he had continued ill as before. This is confirmed by 4th and 5th witnesses, who were in deceased's house when 1st and 2nd prisoners came there, 4th and 5th witnesses having gone to take 1st witness to work; and they further depose that the prisoners had that morning been to their houses, and given them rice and ashes, and made them also take the oath. To no one of these witnesses was betel given, but to deceased alone. Sixth witness accompanied the body of deceased, Suppany, to the Palamcottah Dispensary. The Dresser produces the entries in the letter book, and deposes that he took out the stomach of deceased Suppany, sealed it up, and despatched it; and that A and B are the letters from the Chemical Examiner in reply. These, A and B, show that arsenic was found in the stomach. The Surgeon deposes that the description of the mode in which deceased was attacked, as described by 1st and 2nd witnesses, undoubtedly shows that he had taken an irritant poison, such as arsenic, and that the mode of the attack described agrees with the hypothesis that arsenic was given in the betel leaf. The deceased not having eaten that morning, the poison would act more rapidly. Both the prisoners allow that they are native doctors, and 1st prisoner allows that among the drugs found in his house there was arsenic; but they deny having given deceased arsenic, or a different form of test to what they gave others, and called 4 witnesses, including the man who was examined as 6th witness for the prosecution. These four, however, all assert that to not one of them was any betel given, only rice and ashes.

2. The Assessors gave the following as their opinion as to the facts proved:—
1st.—That deceased died of poisoning by arsenic.
2nd.—That the arsenic was administered by the 1st and 2nd prisoners.
3rd.—That the prisoners knew that there was arsenic, but did not intend to kill the deceased, but only to give him enough to frighten him into confession.

3. With this opinion I entirely agree.
4. It will be thus seen that the case is a peculiar one, and I doubted as to which section of the Penal Code applies to the charge.
5. After much consideration, I consider that the crime is murder. The prisoners killed the deceased when they were doing that which they knew or must legally be supposed to have known was likely to cause death. Every one who gives a virulent poison to another, except *bona fide* as a medicine, must come within this rule. Had death not ensued, Sections 330 and 331 might have met the case, but not when death was the consequence of the act. I do not consider 284 will meet the case, inasmuch as that is intended to meet simple cases of carelessness, and there was no carelessness in this case. The poison was intentionally given, to make deceased so sick as to frighten him into confession.

6. I have, under these circumstances, passed the sentence required by the law, but shall apply to the Governor in Council to mitigate the sentence to one of imprisonment for five years, which I think, considering all the circumstances of the case, will be sufficient.

TINNEVELLY SESSION COURT,
15th May 1867.

(Signed) F. S. CHILD,
Session Judge.

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1st July 1867.

No. 2. ORDER THEREON, 1st July 1867, No. 1038.

Under Section 54 of the Code of Criminal Procedure, the Governor in Council resolves to mitigate the sentence of transportation passed by the Session Judge of Tinnevely upon Manacavalen and Valayoodom, respectively, to one of rigorous imprisonment for five years.

(True Extract).

Acting Chief Secretary.

To the Session Judge of Tinnevely.

Exd. J. H. Burns.

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Jud. DEPARTMENT.

No. 1139.

From

The Session Judge of Tinnevely

Dated 15th May 1867.

FOR ORDERS.

The recommendation of the Session Judge may be accepted, and the sentence of transportation reduced as he proposes. The offence of which the Prisoners are properly convicted is not an uncommon one - and it seems quite clear that they had no intention of taking life

11 June 67 WDH

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Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
letter from the Sessin Judge
of Tinnevely.
Here, under 15th May/67 N^o 305.

Order 1st July 1867 N^o 1038.

Under Section 54
of the Code of Criminal
Procedure the Governor
in Council resolves to
mitigate the sentence of
transportation passed by
the Sessin Judge of
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valem and Valayooden res-
pectively to one of rig-
orous imprisonment for
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To the Sessin Judge of Tinnevely des^{pt} 3/

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Indicates 1867 Department.

No. 1030.

PROCEEDINGS OF GOVERNMENT.

Dated. 1 July 1887.

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