

MADRAS RECORD OFFICE.

Government of Madras.

Internal DEPARTMENT.

G.O. No.	/	Press Mis.
Dated	4-1-	19-1868

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
4th January 1868.*

Read again letter from the Reverend J. T. NOYES, M. A., American Missionary, Pulney Hills, dated 28th October, and recorded in the Proceedings dated 13th November 1867, No. 1826.

No. 1. Read also the following letter from the Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, Fort Saint George; dated Madras, 6th December 1867, No. 64.

With reference to your letter dated 13th ultimo, No. 1826, I am directed to forward the Calendar and Record in Case No. 24 of 1865 on the Calendar of the Session Court at Madura, together with a copy of the Order of the High Court thereon on appeal, dated 22nd April 1865.

No. 2. ORDER THEREON, 4th January 1868, No. 1.

Under the provisions of Section 54 of the Code of Criminal Procedure, the Governor in Council is pleased to remit two years of the unexpired portion of the sentence passed by the Session Court of Madura on Manuvelupadesi and Savarimuttupadesi in Case No. 24 on the Calendar for 1865.

(True Extract).

Chief Secretary.

To the Reverend J. T. Noyes, M. A., Pulney Hills.

- „ Honorable the Judges of the High Court, with records returned.
- „ Session Judge of Madura.
- „ Inspector General of Jails.
- „ Magistrate of Madura.

Exd. J. H. Burns.

187-88.
13-11-67

Memo for orders

A perusal of the record shows that on clear evidence, the two Catechists, for whom the Revd J. T. Noyes the American Missionary of Kamtram & Palney intercedes, were convicted of deliberately perjured, ~~themselves~~, in endeavouring to establish a case of assault against a Zemindar and his agent.

The only grounds for ~~recommending~~ remitting the remainder of the somewhat severe sentence of five years rigorous imprisonment, is that they have been sufficiently punished by 34 months imprisonment during which

his conduct has been
exemplary.

Will

If Mr. Phelps on the
basis of the record
is satisfied that the
case was clearly made out
and was of an aggravated
character I would not be
disposed to dissent to
the sentence tho' I cannot
but think that three
years imprisonment
to men of that class
is a severe punishment
and I cannot divest
my mind of some
impression caused by
the conversation entertained
by Mr. Rogers & his
other superiors that

the accused were
the victims of a terrible conspiracy

Judicial Rep: No 2708 of 1867.

45

The two Prisoners were charged with having made false statements in a judicial proceeding & have been punished { a sentence of 5 years rigorous imprisonment, under Section 193 of the Penal Code -

The sentence was passed by Mr. Goldingham, Off. Session Judge, with whom the appeal concerned as to the guilt of the accused. The maximum period of imprisonment admissible under S 193 is seven years, or 2 years ^{more than} ~~what~~ what was imposed.

The weight of testimony has been held by the Off. Session Judge, the appeal, & the High Court in appeal, to warrant a conviction, and I am unable to say that, had I been sitting in appeal with Mr. Wallman & Kane, I could have arrived at a different conclusion. There is the usual amount of solemn declarations on both sides, but the depositions for the prosecution were regarded as the more credible of the two bodies and the three Prisoners have suffered accordingly. - I doubt however, like the evidence of a Mr. Brown, the collector's depositions, to whom, as bearing an English name & using an English dress, it is likely that more than ordinary credit has been given. - There were three

he is sure of his memory about dates because he kept a private prescription book in which he made entries of what he gave his own patients. But Soborne said he kept only one book of the kind, and it is rather odd he should have commenced to keep in addition or a couple of months before the date of 1st of 1875 alleged alibi which the book supports.

Two persons, the Zemindar Shri Narayan, were originally accused of applying ashes to Kattian's forehead, & it seems that the case fell through as one of the two asserted the alibi which the record tried to establish. I do not find that the complaint may not have been, as usual, exaggerated & magnified by the inclusion of an innocent with the really guilty party; in fact, I cannot trace how the charge of Narayan was settled in respect of the person who did not plead an alibi. - and unless proof were forthcoming to the contrary, it may be that the ashes rubbing charge, though false as regards the Narayan, was true as regards the Narayan's master. -

Be that as it may, we seem to have before us for determination, the simple point, whether, in the circumstances represented by the Rev. Mr. Hayes, it will be proper to diminish the sentence of 5 years imprisonment to two years or three months and order the release of the two prisoners. -

True

Five years is certainly a severe
sentence in a case it does not present
any features of aggravation & probably
in any desert other than murder
(Sincerely & Sincerely trusted) Up ^{prudent}
would have been held to suffice
for the ends of justice. Had the original
complaint of other Eubank been proved,
the result to the grand jury the Master
would have been no more than the
usual penalty for an assault - and
I feel satisfied that had I been in
the Aldersham place as before
said, I could not have brought myself
to inflict upon our ^{prisoners} ^{prisoners} ^{prisoners}
on two individuals who had ^{prisoners} ^{prisoners} ^{prisoners}
such a charge. Had the case been
tried by either of their own juries in
the High Court, there can be no doubt
that the Prisoners would have escaped with
a much lighter sentence than that they
got. Mr. Rogers' appeal has something
truthful wit, and there is, after all
that can be said in respect of the necessity
of upholding the formal sentences of our
Courts, - a possibility of error, where, as
a well known violent animosity exists
between the parties & the Bench. I am
therefore disposed to believe that
as an act of mercy, the mitigation of
prisoners may in this instance be
fully exercised & something the remaining
part of the unexpired sentence is
11 Dec 67 W.D. —

I agree with Mr Phillips in thinking
the sentence extremely severe. I
would remit two thirds of it
which is in words of 3 years.

By A.

27. 2. 1868

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

^{again}
Read the following letter from the

Rev. J. P. Noyes. M. A.

American Missionary.

Calcutta, dated 28 Decr (received 10 Jan)

(H. S. No. 18. Nov. 67)

h. 57. 1866.

Read letter from the
Ag. Registrars of the High
Court of Judicature.

(H. S. 6. Decr 67.)

h. 64.

Order - 4. January 1868 (No. 1)

Under the provision
of Section 54 of the
Code of Criminal Pro.
and the Governor
in Council is pleased
to remit two years
of the unexpired ^{portion of the} term
imposed by the Session
Court of Madras in
Mamveludesi
and

and Tavarimatta
= padesi in case no
XXIV on the Calendar

11/11

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Pulney Hills.
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High Court of the
dispute 7/188 - " - in finger of the
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Remington
Sept 1868

Miss M. J. J.

Sept 1868

1868 Department.

No. 1

PROCEEDINGS OF GOVERNMENT.

Dated 4th January 1865.

1.2.