DISTRICT JAIL OFFICE
No.
14 MAR. 92
BERHAMPUR, GANJAM.

14-3-92

Ganjam Sessions Court.

Session Case No. 23 of 1891.

Committed by J. T. Lever, Esquire, General Deputy Magistrate of Ganjam Gumsur Division, in his Register Case No. 2 of 1891.

PRESENT.

H. G. Joseph, Esquire, Acting Sessions Judge.

Regina Indiæ Imperatrix. Vs. Purushottama Doss.

Offence:—Culpable Homicide not amounting to murder, Section 304 I. P. C. and Voluntarily causing grievous hurt, Section 325 I. P. C.

Opinion of Assessors:—Guilty under Section 325 I. P. C.

Finding of Judge:— Do.

Sentence:—5 years' Rigorous Imprisonment.

JUDGMENT.

The accused Purushottama Doss was committed to the Sessions on a charge under Section 304 I. P. C.; by the direction of the Court a charge under Section 325 I. P. C. was added.

2. The accused is the brother of the Karnam of the village of Kadapadah in which the deceased man lived. On August 10th there was a festival in his house and he, it is said, went to one of the herds in the village and demanded milk for the festival from the deceased. The deceased gave him a quantity of milk which he considered inadequate and he thereupon threw the milk over the deceased and then proceeded to give him a blow on the head with the brass *chembu* in his hand in which he had received the milk. The deceased went in to Russelkonda and presented a petition (Exhibit C) before the Taluq Magistrate who took a statement from him and sent him to the Apothecary for a certificate. He went to the Hospital and there his wound was dressed by the Apothecary and then returned to his village, where he arrived next day, Tuesday August 11th. On August 18th a week later he died: and on his body being taken to the Hospital for *Post mortem* examination it was ascertained that he died from inflammation of the brain consequent on a fracture of the scull caused with the wound seen by the medical witness at the time of his first examination of deceased on the 10th August.

3. This is the story for the prosecution and it is fully supported by the evidence. From the time of the arrival of the deceased before the Tahsildar in Russelkonda there is nothing in dispute.

The story of the defence as to how the wound was caused is that the accused was wearing, according to his own statement a red and white handkerchief on his head, according to his witnesses a coloured cloth on his body which was seen when a white cloth which was over it was dropped. That some of the cattle of the other herd, which was near the deceased's, took fright at this colour and one of them kicked the deceased on the head.

4. The only direct evidence for the prosecution story is that of the younger brother of the deceased, 2nd P. W., who was with him at the time. He says that accused came and asked for milk and because he was not satisfied with what was given him threw what he had received over deceased and then struck him with the brass *chembu* in his hand on the right side of his forehead: and that after receiving the blow his brother went off in the direction of Russelkonda. This evidence is confirmed, first by the appearance of the deceased the same day before the Magistrate and his examination by the medical witness: and secondly by the evi-

nce of 1st P. W., the father of the deceased. He says that hearing that his son d been injured and was at the Karnam's house he went there, that when he did ot find him there, thinking he would have gone to Russelkonda to make complaint to the Magistrate, he followed him there and found him waiting in the Tahsildar's cutcherry. He subsequently accompanied him to the Hospital and then returned home with him.

5. The fact that the injury was caused as stated by the prosecution and not as by the defence is further borne out by the medical evidence. At the first examination of the deceased only a note (Exhibit F) was made in the Register of Out Patients and from this it appears, as confirmed by the medical witness in his deposition, that the man stated that the wound was caused by the "rim of a brass or copper vessel" and that the witness from its appearance considered this was true. He says the wound which he found on the head of the corpse was the same as he had observed at his first examination of the deceased and he has put in a sketch shewing the shape of it, which can leave little doubt, if it is accurate, as to what was the nature of the implement by which the wound was caused; it could hardly have been caused by anything else than a circular "rim." It is quite certain no such wound could have been caused by the kick of a cow.

6 The evidence for the defence story consists of that of D. Ws. 1 and 2. D. W. 1 says he happened to be with the accused's herd at the time: that he saw "a Karanam's boy"– he afterwards explains that this was the accused-with a coloured cloth, pass: that some of the cattle took fright and broke loose: and afterwards he heard the deceased call out "that he was dead because a cow had kicked him." He did not even see the cow kick him. D. W. 2 says he saw the deceased going to his village from the place where he used to keep his flock and deceased told him he had been kicked by a cow, and that it kicked him because of accused's having come past.

7. I do not think there can be any question that the blow which finally resulted in the death of the deceased was given by accused. The only other plea set up for defence is that this charge has been brought against the accused on account of the enmity borne to him by one Gopinadha Patnaik, the Karnam of a neighbouring village, Chamanda. It is suggested that he induced the deceased and his father to set up this false charge.

It is true that the first information given to the police, at the Jagannadha Prasad Station which is only 5 miles off from Kadapadah was given by this man Gopinadha Patnaik. And this leads me to a further point which has to be discussed in this case viz. the conduct of the various officers concerned. But there is nothing to support any idea of his having got up a false case; he appears to have been a personal friend of the famliy of the deceased which accounts for his taking the matter up. and if he had not done so and the Inspector and Assistant Superintendent of Police had not come to Jagannadha Prasad just at the time, it is pretty clear that an attempt would have been made to hush the matter up.

8. The 1st P. W. on the 18th as soon as his son died went to tell the Karji, 5th P. W He says that on his telling his story at about 9 or 10 A.M. the Karji went over to the house of the Karnam and never came back and he then followed him to the Karnam's house, but did not find him there. The Karji admits that he sent no report to the Police Station till the 19th, and this report the Station House Officer 4th P. W. says he received when on his way to Kadapadah a few hundred yards away from the village. The only excuse the Karji gives for this before this Court is that there was rain and cloud on that day (the 18th) and so no report could be sent. Before the Magistrate he told a story about sending a report which the Police refused to receive. He also at first stated that he had no information even about the wound caused to deceased until the news of his death was brought to him on the 18th. But in answer to a question from the Court said that he had heard of it casually but did not think it his duty to make any enquiry since no specific information had been given him by any one. On this ground alone he might I think be considered unfit for the post of a Village Magistrate and also I think from the delay in sending the report that he at any rate was prepared to try and assist the Karnam in hushing the matter up.

9. Next as to the conduct of the Police. The Station House Officer 4th P.W. deposed that he had heard nothing even of the wound which had been caused to the deceased until the news of the death was brought to the Station at 9 A. M. on the 19th August by the son of Gopinadha Patnaik. There does not seem to have been any enquiry as to how it was possible for the police to remain in ignorance of what had occurred all this time especially as the village lies in one of the station beats. But at any rate it would seem that if it had not been for the intervention of Gopinadha Patnaik no police action would have been taken in the matter till the Karji thought fit to send in his delayed report. The presence of the Inspector and Assistant Superintendent next day was a guarantee for all that was necessary being done after that.

10. The only other matter requiring notice is how the deceased was allowed with a dangerous wound of this kind on his head to go back to his village and die there untended.

The Taluq Magistrate, as said above, sent him to the Apothecary for a certificate. The Apothecary 8th P. W. says the man came to him about 5-15 P. M. He dressed his wound outside the Hospital and did not give a certificate as he wanted to keep him under observation: that he left him thinking he would go round to the other side of the Hospital where the indoor patients live: and that, when he closed the Hospital about half an hour later, he found that the man had gone away.

He did nothing at all for 3 days and on the 13th sent a note (Exhibit G) to the Taluq Magistrate saying "The man you sent to me for a certificate has not turned up since the 10th." The Tahsildar says he sent no answer as it was only a private letter and "because he thought it required none since he had asked for a certificate," and that he sent no reminder for the certificate because he had no anxiety about the man's life. The Apothecary when examined by the Court said he did not think it was his duty to do anything more than send his note to the Magistrate on the 13th, and gave no reason for waiting till the 13th before doing even this. Subsequently he said that he considered he ought to have sent an official letter but he thought the private letter was sufficient.

In his examination in chief the 1st P. W., the father of the deceased stated that what had happened at the Hospital was this. They told the Apothecary they could not stop because they had no "batta" and asked when they should come again and he said in two days. And that they did not come back because the son was too sick.

In his cross examinatton this witness, on the suggestion of the Defence Vakil, said that the Apothecary asked Rs. 5 to give a certificate, which he did

No834

not give. There is nothing to support this latter allegation but the former story suggests a cause for the delay of 2 days in writing to the Magistrate, and also for the letter then sent containing no reference to anything more than "the man has not turned up again;" which looks as though the writer had not expected to *retain* him but only that he would *return*.

11. It being proved that the accused was the man who caused the wound which resulted in the death of the deceased the other question remained, what was the offence committed by that act.

I asked the assessors 3 questions in order to get their finding:—

1st. Do you believe that accused caused the wound from which deceased died?

2nd. Do you consider that accused, either intended to cause, or knew he was likely to cause such injury as might cause *death*?

3rd. Do you consider that he intended to cause or ought as a reasonable man to have known that he would cause, *grievous hurt*?

To questions 1 and 3 they answered Yes, to question 2 No, and I agree with their findings. There is absolutely nothing to shew any intention to cause death, nor do I think there is anything in the nature of the blow or the instrument used to cause a presumption that accused must have, or ought to have, known that he would cause death: on the other hand I consider it is equally clear that he must have, or at least ought to have, known that such a blow would be likely to cause grievous hurt. The *chembu* is not produced but it is said to have been one holding 2 or 3 *Addas* and it is clear that it must have been dashed down on the head of the deceased-it is said he was "sitting" at the time (more probably squatting)- with great violence to have broken the skull; and no reasonable man would have expected to deal such a blow as that without great risk at least (though perhaps without intention) of causing grievous hurt.

12. For the accused it is urged that there are no aggravating circumstances, it was a single blow struck under momentary irritation. With regard to this plea I think there is another thing to be taken into consideration whether there was justification for the irritation. In this case it is not pretended that accused went to *purchase* milk; he went to demand it as a *"mamul,"* he being the Karnam's brother, because there was a festival in his house, and it was by way of enforcing this supposed right to collect dues, or rather as a punishment for not at once complying with the whole of his demand, that the injury was caused. I am not therefore disposed to pass at all a light sentence.

13. I find the accused guilty of an offence under Section 325 I. P. C. and sentence him to 5 years' Rigorous Imprisonment.

The 9th day of September 1891.

(Signed) H. G. Joseph

Ag. Sessions Judge.

(True Copy)

H. G. Joseph

Ag Sessions Judge

J 2293/92
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No. 171
14.3.92

To
Purushottamadaas Prisoner in S.C 23/91 Thro'
the Keeper of the District Jail Berhampore
[illegible] application dated 8th March 1892

In the High Court of Judicature at Madras:
Thursday, the twenty eighth day of January, One
thousand, eight hundred and ninety two.

Present:-

The Honourable Sir Arthur J. H. Collins, Knight
Chief Justice
and The Honourable Mr. Justice Parker

Criminal Appeal No. 402 of 1891.

Purushottama Dass—Appellant (Prisoner).

Appeal against the Sentence of the Court of Session of the Ganjam Division in Case No 23 of the Calendar for 1891.

This Appeal coming on for hearing: Upon perusing the Petition of Appeal, and the record of the evidence and proceedings before the Court of Session and upon hearing the arguments of Mr. M. Parthasarathy Iyengar, Counsel for Mr. C. R. Pattabhirama Aiyar, Vakil for the Appellant, and of the Government Pleader and Public Pleader in support of the Conviction the Court delivered the following Judgment — We see no reason to distrust the evidence for the prosecution. The Complaint C was undoubtedly made on August 10th and the Deluy Magistrate deposes that the wound was then bleeding. The wound was dressed by the Apothecary that same day, and his evidence shews that the appearance of the wound was inconsistent with the account given by the defence.

We must therefore confirm the Conviction. The Sentence is no doubt some what severe but the act was high handed, and we

are

not think there is sufficient reason to interfere.

The appeal is dismissed.

(Ordered accordingly)

(Signed) W. Morgan

Dy Registrar

Appellate Side

No. 116

(True Copy)

Superintendent,
District Jail,
Berhampore

J. 2293/92
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Nominal Roll of Convict No. 45/3, Purushottama Dao.

Crime.	325 I. P. C. – Voluntarily causing grievous hurt.
Sentence.	Five years Rigorous Imprisonment
Date of Sentence.	9th September 1891.
Adjudicating Court.	Ganjam Sessions Court.
Age.	22
State of health.	Good
Conduct in Jail.	Good
Result of Appeal to the High Court.	Dismissed.
Remarks and Previous Convictions.	

Berhampore Jail Office,
Dated 17 May 1892.

Superintendent, District Jail.

J 2293/92
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To,

His Excellency
The Governor in Council,
Fort Saint George.

The humble petition of Purushottama Doss, Convict no. 4513, in the District Jail, Berhampore, most humbly and respectfully showeth:-

1 That your Excellency's humble petitioner was unjustly and severely sentenced to 5 years Rigorous imprisonment under Sec: 325 I.P.C. in S.C. no. 23 of 1891, by the Court of Sessions, Ganjam, and that on appeal, the High Court confirmed the conviction and dismissed the Appeal.

2. That your Excellency's petitioner was unjustly punished will be known by the facts that he did not commit the offence imputed against him. It is true that on the 10 August 1891, your Excellency's humble petitioner went for milk to his own cow-herd and that he went to ~~his~~ Govindu Gowdu's P.W. 9, the keeper of his herds and not to the deceased. The deceased was kicked by a cow with its hoof, and went away from the spot raising his cloth to his head and abusing your petitioner (because through your humble petitioner's red cloth, the cow got frightened and gave the kick) is corroborated by all the witnesses for the Defence, and also P.W. 9, while the statements deposed by the other witnesses for the Prosecution do not at all touch upon the point of the injury to the deceased as having been caused by your Excellency's petitioner. The only evidence that is in favor of Prosecution side is that of the 2nd P.W. Joddu Gowdu, the brother of the deceased.

3. That the evidence given by the 2nd P.W. is false, and that it was taught to him

is

quite evident from the fact that the deceased and his father went to the house of Gopinadha Patnaik (on the day on which the deceased recieved the kick from his cow) who is a bitter enemy to your patitioner's family. The fact that there is evident enmity between Gopinadha Patnaik and the family of your Excellency's patitioner can be very easily conjectured from the mere fact that Gopinadha Patnaik unconcernedly took upon himself the matter and exerted himself in going here and there, inducing the deceased's father & brother and frightening them and giving information to the Karji and the Police.

4 That it will appear from the above that through the instrumentality of this Gopinadha Patnaik that a false charge against your Excellency's patitioner was set up. The argument that Gopinadha Patnaik would not have wished to wreak vengeance upon your humble patitioner as he did no personal injury to him and as your patitioner had just then come out of School, is absurd, in as much as among natives it is usual to make anyone of the family, the victim of ones' vengeance.

5. The Medical Officer's deposition & Certificate are quite 'after thoughts'. Because, on the 8th Sept: he deposed to the effect that the wound might have been caused by a kick of an animal — "not by its head nor by a Stick" —. He did not at all then establish that it was caused by the rim of a Chamboo. The neglect of duty on his part brought on death to the deceased, and in order to get himself off from the responsibility that hung over him, he subsequently deposed that the wound appeared as having been caused by the bottom rim of a Chamboo. But

that

that the wound was not serious at the time, as that it was an ordinary accidental one is op for reflection from the fact that the patient was not detained in Hospital by the Medical Officer, and that he got rid of his patient with only one dressing. And when it was too late to amend himself of his indifference in not having afforded the patient timely & continued treatment as he ought to have done, the Med. Officer had no other alternative but to make himself a tool in the hands of Gopinadha Patnaik and the Police and thus not to be entangled in the matter; the note in the Journal against the name of the deceased being undoubtedly subsequent entries.

6. That your humble patitioner is innocent is also plain from the fact that no report of any kind was made by the Karji. Had it been true that your patitioner did strike the deceased with the Chamboo, the village Gossip would have undoubtedly done its active course in carrying the news to the Karji as well as to the Police Station which is only a few miles off. It was only when Gopinadha Patnaik came to know the State of the deceased that a false case against your patitioner, in order that his long cherished spite for your patitioner's family might be avenged, was set up and evidence by some foul means fabricated. If the alleged hurt was actually caused by your humble patitioner, serious as it was, it would not have escaped the notice of the Police, especially as the Beat Constable visits the place daily. It was a mere accident, and there was none to be blamed for. Hence, it needed no interference either from the village Head or from the Police. It is not with a view to hush up the case that the Karji & the Police, did not work at the case, as neither of them was related or had anything to do with your humble patitioner.

7. That as to the Judge's remark that your Excellency's atitioner might have struck the deceased under momentary irritation, there is not the least justification to be excited to such an extent as to strike a death blow for the sake of a little milk and in fact, your petitioner had no occasion to go to the deceased's herd at all for milk, as he had his own Closaly wherefrom he could have had as much milk as he required.

8. That again the Judge's remark on "mamul" is quite as groundless as anything else. Neither your Excellency's petitioner, nor any one of his brothers or relatives, were at the time of the alleged offence, Kurnam of the village to which the deceased belonged, and thus had no concern or hold on the poor deceased or anyone in the village to demand milk or "mamuls".

9. That as all the prosecution evidence did not touch on the point of blow, but differed in their statements, and thus failed to establish a proper charge, save the statement of the P.W.2 who was well instructed by Gopinadha Patnaik and the Police, that as the Defence evidence did not shake to the last, and that as the neglect or indifference on the part of the Officers concerned brought on Death to the deceased, your Excellency's humble petitioner humbly prays that your Excellency will be pleased to take all the above facts into your benign consideration and mercifully order his release from the Jail and thus save him from the pangs of Captivity. Even admitting that the injury was caused by your Excellency's petitioner, the sentence passed on him is very severe, which the High Court also admit, and your Excellency's humble petitioner therefore most humbly prays your Excellency will be pleased to have compassion on him at least to

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to permit even a part of the sentence severely inflicted upon him.

17 May 1892. /Signed/ Purushottama Doss.

True translation,

Dist. Jail Office, Berhampore
17th May 1892 } J. Meakin-Williams
Ag. Superintendent.

2293

[illegible]

[illegible] గవర్నరు [illegible]

[illegible]

[illegible]

1. [illegible] 1891 [illegible]

2. [illegible] 1891 [illegible]

3. [illegible]

4.

J 2293/92
1

1. [illegible]

5. [illegible]

[illegible] (Book) [illegible]

6. [illegible]

[illegible]

7. [illegible]

8. [illegible]

9. [illegible]

[illegible]

1892 [illegible] 17 [illegible].

Purushottama Dass

J. [illegible]

Berhampore
17 May 1892.

Ag Superintendent,
District Jail

Judicial

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Judicial

From,

Purushottama Doss
Convict No. 4513.
District Jail,
Berhampore.

Dated Berhampore 17th May 1892.
Recd. 30. May 92

CHIEF SECRETARY
29 MAY 92

Enclosures 4

~~Petition~~, praying for ~~mercy, against the~~ a mitigation of the sentence passed by the District & Sessions Court, Ganjam in Case No: 23 of 1891.

Judicial

CURRENT No. 2293

No. 2364 dy 27th May 1892.

Submitted to Government for orders.

Ootacamund
25th May 1892 } A. G. Cardew
ag Inspector General of Jails.

TO BE RETURNED WITH REPLY

JUDICIAL DEPARTMENT.

CURRENT No. 2293 OF 1892

Application for remission of sentence from convict in the District Jail

Jail, Berhampore

FOR ORDERS.

Name of the Convict

No. 4513 Purushottama Dass

Offence committed.

Voluntarily causing grievous hurt Sec. 325. I.P.C.

Adjudicating Court.

Ganjam Sessions Court

Sentence imposed.

Five years' rigorous imprisonment

Result of appeal to High Court.

Appeal dismissed

Previous Convictions.

Not stated

I think there is no doubt that the death was caused by the prisoner in the manner alleged for the prosecution. The sentence is I think very severe but the question of reducing it was considered by the High Court, though they had power to reduce it & they let it stand. I am averse to interfering with sentences thus deliberately imposed by the High Court.

Wo
6 June

It was a monstrously severe sentence & I don't see that the crime was enhanced in any way because the ~~accused~~ accused asked the deceased for milk in accordance with a custom, if he did so, which [illegible] the [illegible]. I w. reduce the sentence to one of 12 months.

J. A. G.
5/6/92

I think the sentence is excessively severe - for ~~it seems pretty evident~~ I cannot help thinking that if the Apothecary had looked after the deceased properly, it is possible that no fatal results would have occurred, and the prisoner if summoned would have received a sentence of a light character for common assault.

I am myself much averse to interfering with the decisions of the High Court, but as on this occasion they themselves admit that the sentence is a severe one, I would not object to reducing the sentence as proposed by the hon. Mr. Garstin - which is the sentence which I myself would have passed, if I had been judge.

30 May

31 May

The conduct of the apothecary requires investigation. In the case of a head wound he had no business to have allowed 3 days to pass without making any enquiry or report, and especially as he shows himself that he expected the deceased ~~that~~ to become an in-patient - though the papers put up do not show what induced him to expect this - either whether he told him to go to the in-patient ward, or whether the deceased himself said he was going there. From the length of time between the date of the blow & the death, it is almost certain that death ensued from secondary changes in the wound which could probably have been averted by proper medical supervision - and was not the direct result of the original blow.

W
14 June

There is too the fact to be considered that the natives make comparisons between sentences passed on Europeans and natives in these cases - and there is no doubt there is much similarity between this case & the Wellington toll-bar case - and my attention has been particularly drawn to ~~these~~ this class of cases by the Viceroy, who wishes them to be treated with ~~pe~~ especial care and discrimination.

W

C 31/5

R 6/6

Petition from Convict

H.M. + Hon. Mr. Garstin
C.I.

(For orders)

Subm.d to H.E. the Governor the Hon. Members disagreeing.

The skull was fractured. It is quite possible & even probable that this could not have been detected at the time the apothecary saw the man. I should think no treatment would have averted the consequences to the brain which caused the death. If he had died of erysipelas* for instance, the inference would have been different.

W
6 June

9 June

H.G.
22 June

* He did die from blood poisoning - much the same as erysipelas.

W
17 July

R 16/6

~~RAP~~ Judl. Dept.

W
13 July

Draft reference subm.d for approval with reference to the notes of the Hon. Sir H. E. Stokes & the Hon. Mr. Garstin on the draft G.O.

RNo. 5510 / 19th Jul 92
To the Hon. the C. J.

9/7/92

Honorable Sir,

I am directed to forward to you a petition (with its enclosures) addressed to the Govr. in Council by Convict No. 4513, Parushottama Dás, whose sentence of 5 years' rigorous imprisonment passed by the Sessions Court, Ganjam, was confirmed by the High Court in Criminal Appeal No. 402 of 1891 &, with reference to Sec. 401 of the Code of Criminal Proc., to ask you whether you see any objection to the reduction of the sentence ~~from~~ to one year's rigorous imprisonment.

I have &c.

W
17 July

30 June.

1 July

The Honorable the Chief Justice
High Court, Madras
(with C. No. 2293 in original
to be returned).

Despd
19/7/92

Jud

R. No. 851. of 19 7 92

No. 901 Judl.

CURRENT NO 3217

High Court of Judicature,
Madras, 25th July 1892.

From

H. W. Foster Esquire,
Registrar, High Court,
Appellate Side, Madra.

To

The Honourable J. H. Price,
Chief Secretary to
Government.

Sir,

In reply to your letter Judicial R No. 851 to the Chief Justice regarding the petition of Purushottama Das, appellaint in High Court Criminal Appeal No. 402 of 1891 praying for remission of the sentence confirmed in the said appeal, I am directed to say that the Honourable the Chief Justi i that d Mr. Justice Parker, the pre ing Judges in the Court by ence the appeal was heard, one years' rigorous im isonm would be a very light sent for the offence of which the petitioner stands convicted, but do not desire to offer any objection if His Excellency the Governor in Council sees fit to commute the sentence to such a term.

The enclosures to the Proceedings of Government Judicial R. N. 851 are herewith returned.

I have the honor to be,

Sir,

Your most obedient Servant,

Registrar,
Appellate Side.

for the offence of which the petitioner stands convicted, but do not desire to offer any objection if His Excellency the Governor in Council sees fit to commute the sentence to such a term.

The enclosures to the Proceedings of Government Judicial R. N. 851 are herewith returned.

I have the honor to be,

Sir,

Your most obedient Servant,

Registrar,
Appellate Side.

M CURRENT NO. 3217

92: 851 R

Judicial {189} Department.

No.

FROM

THE REGISTRAR OF THE HIGH COURT OF JUDICATURE AT MADRAS, APPELLATE SIDE.

Dated 23rd July } 1892.
Received

Enclo. Cus 2293 retd

CHIEF SECRETARIAT 31 JUL 92 GOVERNMENT OF MADRAS

No. 901 Judl.
Enc 1.

Informing that the Hon: the Judges are of opinion that a sentence of 1 year's Rigorous Imprisonment is a very light punishment for the offence of the prisoner in Criminal appeal 402/91 & stating that they offer no objection if H. E. the Governor in Council sees fit to commute the sentence.

2448

I also pass the drafts

as to the apothecary's conduct, I am so convinced in my own mind that proper medical care might have saved the man's life, that I think we ought to have it clearly established by proper enquiry, that the apothecary was in no way to blame. He may not have been able to keep the man in hospital – but he certainly took no trouble after he had gone to observe the rules laid down in cases of head injuries – with the result that the man died.

H. M. Olive

11 Aug.

Submitted with reference to the remarks in G.O. of 19.7.92 R. No. 851. Judl.

If it is decided that the sentence shall be reduced to one year's rigorous imprisonment the order originally drafted ~~will~~ may issue. * The Hon. Sir H. E. Stokes seems to object to para. 2 of the draft.

C.S. 1/8

3 Aug.

* I do not read H.E.'s note of the 22nd June as objection to the call for Enquiry into the conduct of the apothecary

4 Aug.

C 4/8
R 12/8

I consider one year's imprisonment as too little, & think 3 years the minimum which should be given, and ~~C 4/8~~ as before averse to interfering at all. I shall however, be overruled in this matter.

I do not object to a reference for enquiry into the apothecary's conduct but I anticipate that he will come out blameless, because he had no power to keep the man in hospital or prevent his running away, or ~~to treat him constantly~~ &c. Because when a man does run away, the medical officer has no means of finding out his condition, & his responsibility for ~~him~~ fact ceases.

H.S.
5 Aug.

I pass the draft G.O.

10/8/92

Judl. Department.

CHIEF SECRETARIAT MADRAS

PROCEEDINGS OF THE MADRAS GOVERNMENT.

I consider that the sentence should not be reduced in this way without a reference under sec 401 to the High Court.

H.S.
22 June

The High Ct. sd. of course be treated with all respect ~~if~~ [illegible] and as usually ask them that reduction of sentence they recommend, when they bring a case to our notice, I see nothing improper in our writing to the Ct. now & asking the Judges who heard the appeal whether the sentence might not be reduced to one year.

29/6/92

READ the following paper :—

C. No. 2293 Judl. of 1892 dy 27.5.92 from the Regr. Trils.

Order 22nd August 1892, No. 1527

In exercise of the power conferred upon him by sec. 401 of the Code of Crim. Proc. the Governor in Council is pleased to reduce the ~~sentence~~ period of five years' rigorous imprisonment ~~passed upon~~ to which Convict No. 4013 Purushottama Das was sentenced in Ganjam Sessions Case No. 23 of 1891 to a period of one year's rigorous imprisonment.

2 A copy of the Sessions Court judgment will be comd. to the Surg: Genl: who will enquire into the conduct of the Apothecary & report on the same to Govt. ~~which appears in a manner~~ ~~[illegible]~~. It appears that the deceased died of inflammation of the brain resulting from fracture of the skull a week after his wound had been dressed by the Apothecary. The wound was thus of a serious nature from the

beginning ~~to the Apothecary himself says that he expected that the man would have proceeded to the in-patient ward, though why he should have so anticipated has not been explained.~~

& it appears to Gov.t that the Apothecary acted with culpable negligence in permitting a man to leave the hospital in such a condition. The Apothecary has explained that he expected that the man would proceed to the in-patient wards but he has not (apparently) ~~explained~~ stated why he anticipated this & the father of the deceased tells a different story.

Further, after allowing the deceased to leave the hospital in this way, the Apothecary took no steps to ascertain his condition (or report on the facts) until three days had elapsed & his neglect has not been explained.

~~[illegible]~~

(From orders)

20 June.

To the I.G. of Jails. 2067 (para 1 & 8 Desp 22/8
" " Surg: Genl: Despd. 24/8/92
" " Dt. Mag. Ganjam. (para 1 & 8
" " Supdt. Dt. Jail Berhampore } Do Despd 22/8/92
" " I.G. Police Do
" " High Ct. Crim. Ch. Do

Release of a convict

H.E. & Hon'ble Garstin CSI

(From orders)

R31/6

Seen
H.C.S.
19 Aug.t

Subm.d to the Hon. Sir H. E. Stokes K.C.S.I.

H.E. the Gov.r & the Hon. Mr. Garstin have passed the G.O. drafted on the 20th June. ~~[illegible]~~

12 Aug.

18 Aug.t

E

NOTE FOR THE CHIEF SECRETARY.

(thro' the U.S.)

Submitted that the draft may now issue.

As the man was sentenced on the 9th Septr 1891, the one year will be very nearly over now. Fairs of para 1 of the G.O. are submitted for signature.

The copy of the G.O. for the Surgeon Genl will issue after despatch of the copies sent herewith.

C.S.
20/8.

The High Court has been entered as one of the addresses to which para 1 of the G.O. is to go. This seems necessary as they were consulted

W.A.B. 20.8.92.

C.S.
20/8.

Read again Order of Government, dated
189 , No.

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Further Paper, No. of 189

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[7.]

Confidential No. 127/1892.

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Judicial
~~Political~~ DEPARTMENT.

G.O., DATED 22. 8-92

No. 1527.

Series. Mis.

~~First copy~~ sent ~~to Press.~~

~~Returned~~ for signature. 22.8 , 22.8

Despatched 24 8 92

[Despatch Abstract.]

Convict Purshottama Das (No. 4513)

Reducing the sentence of five years rigorous imprisonment passed upon — in Ganjam Sessions Case 28 of 1891 to one year's rigorous imprisonment and directing the Surgeon General to Enquire into & report on the conduct of the Apothecary connected with the case.