Confidential

Judicial Department.

CURRENT No. 896

CONFIDENTIAL No 54

From
The Collector & Dt. Magte of Malabar.

To
The Chief Secretary to Government, Madras.

Dated 22d February 1893.
Despd.
Recd. 2d March 93.

CHIEF SECRETARY
02 MAR 93
GOVERNMENT OF MADRAS

Encl. 7.

Submits the report called for in para 2 of G.O. d/ 30 June 1891 No. 1286 Judicial regarding
b done by Mr.
s, Asst. Collector
labar.

43

For orders

If the apathie-cutting ca
on appeal in its present a
the appeal is certain to a

3 Mar

Mr Varada Row is clearly
not fit to be entrusted
first class powers & a
it is thought remain i
a subordinate position f
some time longer. Further
report might be called f
in six months time.

3 March

The Escape case seems to show
that Varada Row has entangled
any sense or judgment. He seems
to be as lacking in these qualities
as he was in Tinnevelly & I doubt
whether it will ever be possible to
give him first class powers. I
approve the Chief Secretary's
suggestion.

4 Mar

W
8 Mar.

10, 30

5/3/93

C.O.

Order: 11th March 1893 No. 539.
H.E. the G. in C. regrets to observe these further instances of Mr. Varada Rao's want of judgment. He must remain in his present position for six months longer after which period the D.M. of Malabar will submit a further report regarding him ~~[illegible]~~ to Govt.

(True order)

10 March

To the D.M. Malabar
" Pub. Dept.

Despd: 11/3

evidence of identification has been recorded in this case. At night in the midst of a crowd of people, the witnesses are said to have recognized the accused. There is no evidence that there was any moon (the calendar shows that there probably was not) or that the witnesses were previously acquainted with the accused and no reason is given why their bare statements should have been accepted. I believe however, that a few more questions would show that the parties were well acquainted with one another, and that there is nothing improbable in their recognizing the accused by their voices and figures, even if they could not see their faces. Mr. Varada Rao however, did not think it necessary to go into these points, and I fear that the conviction of the accused was a foregone conclusion. Five of them have appealed and before disposing of the appeal, I propose to recall the witnesses and take further evidence.

I have the honor to be,
Sir,
Your most obdt. servant,

Herbert G Bradley

Ag. Collector & Dt. Magte.

spoke of seeing him on the 3rd of December. Consequently the statement of the first witness as to the 6th accused as well as the 7th is not corroborated. Nor can this mistake be due to Mr Varada Rao's confusion between the 6th and the 9th accused, because the first witness gave no evidence against the 9th.

7. From the passage quoted in the last paragraph, Mr Varada Rao appears to have thought it necessary to reject the evidence of the first witness for the prosecution as to the 7th accused because it is uncorroborated. But he does not appear to have rejected it as to the 3rd and 4th accused where it is corroborated only by the "tissue of lies" of the second witness, nor did he reject the evidence of the third witness against the 9th accused which was also uncorroborated. From the judgment it appears to me that Mr Varada Rao imagined that the statement of the first witness as to the 6th accused was corroborated by that of the third witness as to the 9th, who in parts of the judgment appears to be called the 6th. In the depositions

in para 5 [illegible]

however, where the names are given in detail, it will be seen that the first witness was speaking of the 6th accused and the events of the 3rd December, while the evidence of the third witness relates to the 9th accused and the 27th of November.

8. In para 5 of the judgment the third witness is stated to have recognized the 6th accused. The person mentioned by him in his deposition is the 9th accused Kandu. In para 10 of the judgment the words "the accused 1st to 6th" mean the first five and the ninth accused.

9. I do not know how it will appear to Government, but it seems to me that there should not have been a conviction upon the evidence recorded by Mr Varada Rao. It may be because I have tried four of the appellants in another similar case and have bound them over to keep the peace upon evidence partly given by the present complainants and have the best of reason for believing that very much better evidence can be obtained. But it seems to me th[illegible] satisfact

judgment. I enclose copies of his judgment and that of Mr Knapp.

4. In another case, Calendar No 61, Mr Varada Rao's judgment is most carelessly written. I enclose a true copy of the original and the copy which was sent as usual to my office. It will be observed that Mr Varada Rao has made several alterations in the latter copy with his own hand under his initials. I cannot conceive why he did so, for it certainly is not usual to rea[d] through judgments after they are sign[e]d and dated, and it is in my opinion a most reprehensible and improper practice to make alterations in a copy of a judgment, varying it from the original, even if the latter, as in the present case, has been carelessly written. Mr Varada Rao says the correction was made on the 31st December, the date on which he returned the papers belonging to the Special Asst. Collector's Office to Mr Batten and that he meant to correct the original, but forgot to do so.

See sec. 369 CCP on only set of alteration of judgments !

5. The Government will observe that according to the original judgment the first witness for the

O. No. 8960

prosecution spoke only of the 30th November and the 3rd of December, while the second and third witnesses spoke of the 27th of November, and the charge refers to that date. The record shows that the latter date was also the date given by the first witness. I enclose translations of the evidence for the prosecution.

6. The judgment in itself is very carelessly written. In the margin of the first paragraph Mr Varada Rao has renumbered the 9th accused as the 6th, because the 6th, 7th & 8th were discharged and the result is that there is throughout the judgment great confusion between the 6th and 9th accused. In the third paragraph the following passage occurs "and that he saw "accused Nos 6 & 7 only on the second "occasion. His statement regarding "the 7th accused is not corroborated." The depositions and the abstract of the evidence given in the judgment show that besides the first witness, only the second, whose evidence is characterized by Mr Varada Rao as a "tissue of lie[s]" mentioned the 6th accused, an[d] he only spoke of seeing him o[n] the 27th November. But the first witn[ess]

[illegible] complt [illegible] 6 & 7 were present [illegible] 27 Nov in the Ernád and Wallnvanád Taluks. One of the very first letters placed in Mr Varada Rao's hands, in fact one of the unopened letters handed over by Mr Batten, was the first report from the Tahsildar of Wallnvanád on the outbreak of spathe cutting in that Taluk. Mr Varada Rao failed to realize the importance of the matter, and did not report to me until the 5th December. In the meantime I had heard of the matter from other sources and not very much harm was done. He should however, have lost no time in bringing the facts to my notice either officially or demiofficially. This was more or less an error of judgment and, as Mr Varada Rao was suffering from severe ear-ache at the time, may be condoned.

5 days dela

3. Shortly afterwards a boy was charged with escaping from lawful custody before Mr Varada Rao. The boy was being taken to the Magistrate's Court, when the Constable in charge stopped for the night at the Koppam Police Station, and the boy was incarcerated in the Police lock-up. He escaped and the constable who escorted him and the constable who was in the station [illegible]t night were t[illegible] witnesses

O. No. 87a

for the prosecution. Each of these constables attempted to throw the blame on the other and there was a conflict of evidence as to whether the boy, who was placed in the cell, was locked up or not. One constable said that he was, the other said that there was no lock to the door of the cell. Mr Varada Rao found that the boy was not under restraint, apparently because he thought that he was not locked up, and discharged him. As there was nothing on the record to show that even if the door was not locked, the boy was not guarded during the night by one or both the constables, I directed the case to be retried by another magistrate and the boy has been convicted. I find fault with Mr Varada Rao because it is obvious from his judgment that he considered that the case turned upon the question whether the door was locked or not, and yet he did not take the trouble to examine another witness on the point whether there was a lock or not, ~~and~~ nor did he go to the place to see for himself. Mr Varada Rao has since informed me verbally that he went to the station to see. If he did so, it was his duty to have stated the fact in

CURRENT NO. 896

Confidential.

Ref on C. No. 665/E93

Malabar Collectors office
Camp Madilagam
22d February 1893.

From

H. Bradley Esq:
Ag. Collector & District Magte:
of Malabar

To

The Hon'ble C. A. Galton,
Ag. Chief Secretary to Govt.
Madras.

Sir,

I have the honor to furnish the report called for in para 2 of G.O. dated June 30, 1891, No. 1286, Judicial.

2. I regret that I cannot give an uniformly favourable account of Mr Varada Rao's work since I joined the District. I understand that he worked well up to July. From July last till November 30th Mr Varada Rao was employed almost entirely in Calicut doing general office work and trying such cases as were referred to him. During that time I had no fault to find with him. On the 30th November when Mr Batten started for the Laccadives, I placed Mr Varada Rao in charge of the Special Asst. Collector's Division so far as Revenue work was concerned and gave ed... magist

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from the P. ~~st~~ witness ship. This closes the evidence for the prosecution

7. The charge framed relates to the occurrence on the night of ~~the~~ 27th Nov. only. As in regard to the events ~~of~~ on the 2nd occassion no evidence is forthcoming to corroborate the statement of the Prosecution 1st witness

8- The 1st accused Sankaran pleads Alibi. His defence 1st witness Gopal nair says that the accused has been employed for one month in sawing & watching timber in the house of one Pappala Raugoom menon of Kunnummal 3 or 4 miles from Trikideri that on 12th or 13th Vrichigam he remembers having seen the accused up to 12 naligas after dark, but that he is not aware whether accused slept that night in Kunnummal or not. D. 2nd witness one Krishna menon says that he does not know if accused was in Pappala Kalam on 12th or 13th Vrichigam as he himself was not there

2nd accused cited no witness

The 3rd accused pleads Alibi. He says he was in Koonatra for a lottery

D 3rd witness Krishnan says that the 3rd accused was in Amatra (18 miles from Trivandrum) on 12th Vrischigam, that he fell ill there & D 4th witness says he treated the accused. D 5 witness says accused left his home on 22nd Vrischigam

The plea of the 4th accused Parangodan is that he was sick

Two witnesses say he was sick of cholic from 1st to 24th Vrischigam

The 5th accused Raman examined two witnesses to prove character. One of the witness says that the accused has been suffering from fever from the month of Vrischigam

The 6th accused Kandu cites 3 witnesses to prove his character and to prove that he was engaged in watering his fields on the night in question. The latter part fails and in regards to character all the 3 witnesses say he is a respectable man.

9. I am not satisfied that the evidence adduced for the defence is reliable. The witnesses are

men of no character and their statements are vague. As regards the witnesses to character I may remark that the men who bear witness to it before the Court should be themselves men of worth and repute. None of the witnesses cited appear to be such men

10 I have no doubt that the accused 1 to 6 were members of an unlawful assembly and caused damage upwards of the value of Rs 50 to the prosecution 1st witness and I find them guilty of the offences with which they are charged. and sentence them to suffer rigorous imprisonment for 4 months each

D. T. Varada Row
[illegible]
31-12-52

No. $\frac{510}{D.M.}$

(True copy)

T. Varada Rao.
[illegible]

1893
Judl. Dept.
Enclos. No 1
To
O. No 896

Magtl.—No. 41.

IN THE COURT OF THE Spl Asstt MAGISTRATE OF Malabar
PRESENT.— T Varada Row Esqre Asstt Magte
CALENDAR No. 61 of 1892

COMPLAINT.
Ryots

DEFENDANTS.
1- K. Sankaran. 2- C Krishnan. 3 C Ramooni
4- C Parangodan. 5 K. Raman. 6. K Velu
7- P Kuttu. 8- A Velappa. 9- K Kandu

Offence and Law: Being members of an unlawful assembly & mischief. under Secs 143 & 427 I.P.C

Finding of the Magistrate: No offence proved against accused 6. 7 & 8. who are discharged.

Sentence and Order. Accused 1. 2. 3. 4. 5 & 9. each to undergo four months rigorous imprisonment

	Description of Accused.						Date of					
Serial Number.	Name.	Father's Name.	Caste or Race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Commencement of trial.	Close of trial.	Explanation of delay.
1	2						3					4
1	Sankaran	Velappan	Tiyyas	1. 6 & 9 Sawers. the rest Coolies	5 & 9 Cherpleseri. The others Trikideri	30	27—11—92	6—12—92	7—12—92	21—12—92	31—12—92	The case had to be adjourned twice as the 1st accused was sick.
2	Krishnan	Parangodan				30						
3.	Ramooni	Velappan.				25						
4.	Parangodan	Kunjan.				36						
5	Raman	Nottu				30						
6	K Velu	Raman				33						
7.	Kutta	Iyappan				30						
8	Velappa	Do				75						
9	Kandu	Koppa				36						

Judgment.

1- K. Sankaran
2. C Krishnan
3. C Ramooni
4 C Parangodan
5 K Raman
6 K Kandu

The marginally noted 6 men before the Court are charged of being members of an unlawful assembly, an offence punishable under Sec 143 I.P.C and also with having caused mischief thereby effecting damage to the value of upwards of Rs 50. an offence punishable under Sec 427 I.P.C.

2 Three others who were put up for trial by the Police in this case were discharged for want of evidence

3 P. 1st witness Kannappan, a toddy shop keeper deposes that he owns a shop in Trikideri amsam and pays a monthly rental of Rs 3-12-0. On 30th Nov. at about midnight 30 & odd persons came to his shop. P 1st witness asked the men why they came & 1st accused replied that they had been on a spathe cutting excursion and that they had come to destroy the spathes in P 1st witness' compound. P 1st witness objected and 1st accused again said that they had already cut the spathes of 12 trees belonging to P 1st witness ~~on a~~ Pallyal close by and that they would destroy the trees in his compound. P 1st witness again protested & threatened to cry out. It would seem that P 1st witness has a gun but it is doubtful from his evidence whether the men knew he had a gun on the 30th Nov 92. At any rate they retired saying that they would come back in sufficient force and prepared for any emergency. P 1st witness & one Pangoori went to Cherpulcherry after this occurrence to obtain police protection. The police maintained a guard for 3 or 4 days and on 3rd Decr 92, the accused and their party came to the prosecution 1st witness' shop and according to their word destroyed

O. No.

the spathes of 11 trees which were marked in his compound. On that day the police guard had been withdrawn. On the 2nd occassion P 1st witness says there were about 50 men and 1st accused said to him "Have you not a gun fire on"

P 1st witness say that he saw 1 to 5 accused on both the occassions in the crowd and that he saw accused No 6 & 7 only on the second occassion. His statement regarding the 7 accused is not corroborated.

After the men had gone away, P 1st witness says he saw stones lying on the ground which he shewed to the ~~Petty officer~~ Sub Inspector who came to inspect the scene of offence

The damage sustained is said to be upwards of Rs 50.

4. P 2nd witness Koman nair say that on the 27th Nov 92 night as he was watering his fields under Palakulam in Trikideri, he saw some men go into P 1st witness' Pallyal & cut trees spathes. Subsequently he saw the men go to complainant's house and have a conversation with him. He says he saw 1.2.3 & 4 accused alone. In a statement given to the Asst Supdt of Police witness says he saw 1.3.5.7 & 8 accused. In his deposition before the Court he implicates two more

men (2nd & 4th accused) and says he never mentioned the name of the 8th accused to the Assistant Supdt of Police. As regards No 7 witness says that the complainant mentioned his name to him (witness) and witness admits that although he saw accused No 5 he forgot to mention his name or identify him to the Court. I am constrained to remark that the deposition of this witness is a tissue of lies. There is little room for doubt that he has been tampered with since his first examination

5. P. 3rd witness Krishnan Nair say as he was lying down in his Verandah on the night of 27th Novr 92 he saw a number of men in complainant's Pallyal. On questioning the men they said they were men come to cut down Spathes and told witness to go away. He says that he recognized 1st, 2nd, 5th & 6th accused among the men.

6. P 4th witness Vencatta Ramier, the sub Inspector says that on the 30th Nov he inspected the P 1st witness's premises & found the Spathes of 12 of his marked trees cut. He also deposes that he saw a heap of stones 4 or 5 yards

1893
Jud Dept.
Enclos. No 2
To
O. No 896.

In the Court of the Special Assistant Magistrate
of Malabar

Calendar case No. 61 of 92

Prosecution 3rd witness, Kydakal Krishnan Nair

Solemnly affirmed

I know the complainant. I live close to the complainant. I remember 13th Vrischigam. The spathes of the palms were cut that day. I was lying in the front Verandah. I then heard something falling. Thinking it was cocoanuts that were falling, I stepped out. I saw many men in the complainant's Palliyal on the North side. There were only a few palms on the Southern side. There were not many people there. (They) said that they had come to cut the spathes of the palms. I told them to go away. Of these I identified 1 Kakkat Sankaran, Raman, Krishnan and Kandu. I don't know any others. I heard them ask whether this spathe and that spathe was cut. I saw Sankaran at a hedge's distance

x x nil.

Sd —

(True Translation)

Herbert Bradley
Ag Collector
& Dt. Magte.

According to that I have mentioned 5 names. They are accused 1 - 3 - 5, 7 and 8.

Accused - no questions

Ramunni Panikkar and Kamampatta Narayanan Nayar were with me. I didn't report to the Police.

Sd —

(True Translation)

Herbert Bradley
Ag Collector
& Dt. Magte.

1893
Judl. Dept.
Enclos. No. 3
To
O. No. 896.

In the Court of the Special Assistant Magistrate
of Malabar

Calendar case No. 61 of 1892

Prosecution 2nd witness, Punnasseri Koman nair

Solemnly affirmed

I know the complainant. I remember 13" Vrischigam. The day was a Sunday. I was that day irrigating (the fields) from the tank in Palakkuban. That is Trikkidiri. This was about 10-12 nalikas (10 or 11 O'clock) at night. I saw then 10-30 people coming from the north. I saw the spathes of the palms being cut down in Kuttatath padi-palliyal. It is complainants. I saw some going into Kannappan's house. They were talking. I don't know what they talked about. I know 3-4 of them. They are Sankaran Ramunni, Parangodan and Krishnan that I know. None of the other accused were there. Complainant said that Kutta and Velu were also there. He didn't mention any other names. I heard the spathes cut falling down. I don't know who climbed up the trees. I have given statement before the Assistant Superintendent. I don't remember if I mentioned Velappan's name to him. I don't know Velappa. I mentioned Raman's name. I dint mention Raman's name now, because I did not remember it. I think I have also mentioned to the Saheb the names of Krishnan and Parangodan. I heard the statement taken down by the Saheb

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In the Court of the Special Assistant
Magistrate of Malabar

Calendar case No. 61 of 1892

Prosecution 1st witness Kannappan

Solemnly affirmed

My shop is in Trikkidiri. I have to pay Rs 3¾ per mensem. I remember Sunday the 13" of Vrischigam. 30 ~~and~~ odd people including Sankaran, and Raman came to my house about 10-12 nalikas (Indian hours) at night. I was lying on the pyal (verandah). The dogs barked. They got down to the yard. I asked Sankaran why (they) came. "We had gone to cut spathes. we came here to cut spathes" I said "no - not by any means". They said they had come after cutting the spathes of 12 palms in the garden at the other end of mine. They said they wanted to cut the spathes of 11 palms in my garden. Sankaran told all to climb and cut. (I) asked them not to do it. These were the palms which Pankunni, Cherpulacherry shop keeper had marked. I asked them not to cut the spathes. I told them that if they cut I would cry out and that then people would come. They then said something among themselves and went away saying that they would come prepared for this. They also said they would set fire to my house. I told all this to Pankunni. I and Pankunni petitioned Cherpulacherry Sub magistrate on Monday the 14" to prevent breach of the peace.

apparently 3rd [illegible]

The Police kept watch for four days - on Saturday the 19th the spathes of 11 palms and 8 spathes of Pankunni's palms were cut - Those who came on the 1st occasion came on the 19th. They came about 10-12 nalikas in the night. There were no Police that day. 50 odd people came that day. Sankaran said "Have not you a gun with you. fire". I have told many persons that I have a gun on 13th Vrischigam. I did not mention any thing about the gun. I simply said that I would raise a cry. I didn't fire. They went away saying that if you had fired, your house would have been set on fire. Those who came were 1 Kakkat Sankaran 2 Chorathil Krishnan 3 Ramunni 4 Parangodan 5 ××Kappalathil Raman ×6 Vappala Kutta 7 Ullathil Velu. I have identified them. I identified all these on both the occasions. I have identified 6th and 7th only on the 2nd occasion. I identified 5 persons on the 1st occasion. On the 2nd occasion I identified 6th and 7th accused. There were none else with me in my shop. On these two occasions some of the accused had sticks and some had knives and some had the climbing-ring with them. When they left they left the climbing-rings and stones behind. The stones were left in the paddy fields. There were about 10-50 stones collected in 3-4 parts - 5-10 were heaped together. This was 20 yards from my house.

× is numbered 7 in Judgment & called P. Kutta
×× is numbered 6 in judgment
but contrast the judgment

Cross Examined. Velu had a climbing-ring in his possession. I was lying outside when the accused came. 1st accused came first. The accused came by the northern gate and went by the eastern one. I mentioned the affair about the gun on the 2nd occasion. Nobody was in my garden when the accused came afterwards

Sd/ —

Immediately

I have suffered to the extent of Rs 50.

Sd/ —

(True Translation)

Herbert Bradley

Ag. Collector
& Dt. Magte.

[illegible]

1893
Judl. Dept.
Enclos. No. 4
To
C. No. 896

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accused said to him "Have you not a gun. Fire on."

c.s. 30 Nov 30 P.1.w. says that he saw 1 to 5 accused on both the occasions in the crowd, & that he saw accused nos 6 & 7 only on the second occasion. His statement regarding the 7 accused is not corroborated.

After the men had gone away P.1.w. says he saw stones lying on the ground wh: he shewed to the Potty officer who came to inspect the scene of offence.

The damage sustained is said to be upwards of Rs 50.

P.1.W. 30 Nov 4. P.2.w. Koman Nair says that on the 27 Nov 92 night as he was watering his fields under Palakulam in Srikaderi he saw some men go into P.1.w's Pallyal & cut trees spathes. Subsequently he saw the men go to Compt: house & have a conversation with him. He says he saw 1. 2. 3 & 4 accused alone. In a statement given to the Asst. Supdt. of Police wit: says he saw 1. 3. 5. 7 & 8 accused. In his deposition before the Ct: he implicates two more men (2 & 4 accused) and says he never mentioned the name of the 8 accd: to the Asst. Supt of Police. As regards No. 7 wit: says that the Compt mentioned his name to him (wit:) and wit: admits that altho' he saw accused No. 5 he forgot to mention his name or identify him to the Court. I am constrained to remark that the deposition of this wit: is a tissue of lies. There is little room for doubt that he has been tampered with since his first examination.

5. P.3.w. Krishna Nair says as he was lying down in his verandah on the night of 27 Nov: 92 he saw a number of men in complts. Pallyal. On questioning the men they said they were men come to cut down spathes and told wit: to go away. He says that he recognized 1st, 2nd, 5th & 6th accused among the men.

P 1 W No 6 or 30 [illegible] only [illegible] be 9th

6. P.4.w. Vencatarama Ayar the Sub Inspr says that on the 30 Nov. 92 he inspected the P.1.w's premises & fd: 12 of his marked trees cut. He also deposes that he saw a heap of stones 4 or 5 yds. from the P.1.w's shop. This closes the evidence for the prosecution.

7. The charge framed relates to the occurrence on the night of 27 Nov: only. As in regard to the events on the 2nd occasion no evidence is forthcoming to corroborate the statement of the P.1.w.

P 1 W. [illegible] of 30 N

8. The 1st accused Sankaran pleads alibi. His D1w. Gopal Nair says that the accused has been employed for one month in sawing & watching

timber in the house of one Vappalla Pangunni Menon of Kunnummal, 3 or 4 miles from Trikadri; that on 12 or 13 Vrischigom he remembers having seen the accused up to 12 naligas after dark but that he is not aware whether accused slept that night in Kunnummal or not.

D.2.w. One Krishna Menon says that he does not know if accused was in Vappala Kalam on 12 or 13 Vrischigom as he himself was not there.

2nd accd cited no wits.

The 3rd accd pleads alibi. He says he was in Kunatra for a lottery.

D.3.w. Kristnan says that 3 accused was in Kunatra (8 miles from Trikadri) on 12 Vrischigom, that he fell ill there. D.4.w. says he treated the accused. D.3.w says accused left his house on 22 Vrichigom. The plea of the 4. accd Parangodan is that he was sick. Two wits: say he was sick of cholic from 1 to 24 Vrischigom. The 5. accused Raman examined 2 wits: to prove character. One of the wits says that the accd. has been suffering from fever from the month of Vrischigom.

The 6 accused Kandu cites 3 wits. to prove his character and to prove that he was engaged in watering his fields on the night in question. The latter part fails and in regard to character all the 3 wits: say he is a respectable man.

9. I am not satisfied that the evidence adduced for the defence is reliable. The wits: are men of no character & their statements are vague. As regards the wits: to character, I may remark that the men who bear witness to it before the Ct: shd: be themselves men of worth & repute. None of the wits: cited appear to be such men.

10. I have no doubt that the accused 1 to 6 were members of an unlawful assembly & caused damage upwards of the value of Rs 50 to the P.W. and I find them guilty of the offence with wh: they are charged & sentence them to suffer rigorous imprisonment for 4 months each.

Sd/. T. Varada Rao.
31-12-92.

(True copy)

Herbert Bradley
ag: Dt: magistrate.

3
Judl. Dept.
No. 6
No. 896

upwards of Rs 50 - an offence punishable under sec: 427. I.P.C.

2. Three others who were put up for trial by the police in this case were discharged for want of evidence.

3. P.1.W. Kanappan a toddy shop keeper deposes that he owns a shop in Trikederi amsam & pays a monthly rental of Rs 3.12-0. On 30 Novr: at about midnight 30 & odd persons came to his shop. P.1.W. asked the men why they came & 1st accused replied that they had been on a spathe cutting excursion and that they had come to destroy the spathes in P.1.W's compound. P.1.W. objected & 1st accused again said that they had already cut the spathes of 12 trees belonging to P.W. a Pallyal close by and that they wd: destroy the trees in his compound. P.1.W. again protested & threatened to cry out. It wd: seem that P.1.W. has a gun but it is doubtful from his evidence whether the men knew he had a gun on the 30 Nov: 92. at any rate they retired saying that they wd: come back in suff. force and prepared for any emergency. P.1.W. & one Pangunni went to Cherplacherry after this occurrence to obtain police protection. The police maintained a guard for 3 or 4 days and on 30 Decbr 92 the accused and their party came to the P.1.W's shop and according to their word destroyed the spathes of 11 trees which were marked in his compound. On that day the police guard had been withdrawn. On the second occasion P.1.W. says there were about 50 men & 1st

Magtl.—No. 41.

IN THE COURT OF THE Special Asst MAGISTRATE OF Malabar

PRESENT.— T. Varada Rao, Asst Magte

CALENDAR No. 61 of 1892.

COMPLAINT. Regina.

DEFENDANTS. 1 K. Sankaran 2. C. Krishnan 3. C. Ramunni 4. C. Parangodan 5. K. Raman 6. U. Velu 7. P. Kutta 8. A. Velappa and 9 K. Kandan.

Offence and Law Being members of an unlawful assembly and mischief under secs 143 & 427. I. P. C.

Finding of the Magistrate No. offence proved against accused 6, 7 & 8 who are discharged. Accused 1, 2, 3, 4, 5 & 9 guilty under secs: 143 & 427 I. P. C.

Sentence and Order. Accused 1, 2, 3, 4, 5 & 9 each sentenced to undergo four months' rig: impnt.

DESCRIPTION OF ACCUSED.								DATE OF					
Serial Number.	Name.	Father's Name.	Caste or Race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension	Commencement of trial.	Close of trial.	Explanation of delay.
1	2						3					4
1	Sankaran	Velapan		Sawyer	Erupy: Trikkadori	30	29-11-92	6-12-92	7-12-92	21-12-92	31-12-92	The case had to be adjourned twice, as the 5th accused was sick.
	Krishnan	Parangodan		Cooly		30						
	Ramunni	Velapan		Cooly		25						
	Parangodan	Kunjan		do		36						
	Raman	Nottu		cultivator	Indla desu	30						
	Velu	Raman		Sawyer		33						
	Kutta	Iyappan		Cooly	do	30						
	Velappan.	Do		Sawyer	do	75						
	Kandan -	Koppa -		Cultivator		35						

Judgment.

1. K. Sankaran
2. C. Krishnan
3. C. Ramunni
4. C. Parangodan
5. V. Raman
6. V. Kandan

The marginally noted 6 men before the Ct. are charged of being members of an unlawful assembly, an offence punishable under sec. 143 I. P. C. and also with having caused mischief thereby effecting damage to the value of

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the room when the accused opened the door, the accused might certainly have been charged with an attempt to escape. The presence or absence of the constables is a circumstance which cannot affect the liability of the accused to be charged with escaping from the closed room. The accused could only see a very small part of the station from the holes in the lock-up room, and he must have opened the door without being certain whether there was a constable near or not. I therefore charge the accused with escaping from lawful custody, and so committing an offence punishable under Section 224 I. P. C.

The accused pleads guilty to the charge and says that he acted in ignorance of the probable results of his escaping. He is quite a boy and has already been in confinement for three weeks in connection with this charge. Considering these facts, and the invitation to escape held out to him by the action of the constables, I am of opinion that a light punishment is sufficient. I accordingly sentence the accused to be rigorously imprisoned for ten (10) days.

Pattambi
10th February 1893.

Sd/ A. R. Knapp
Assistant Magistrate

(True copy)

a/ District Magte.

1893
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Enclos. No. 6
To
C. No. 896.

from lawful custody. He was discharged but is now brought before this Court on the same charge.

The facts are these:- The accused was being taken to Angadipuram in custody by Govinda Kurup, constable No 1326 on the 19th November. They stopped for the night at Koppam police station and the accused was there placed in the lock-up. At some time during the night, he escaped from the station.

There are two witnesses for the prosecution. The 1st, the constable who arrested the accused on a charge of theft and took him to Koppam, states that he placed the accused in the lock-up and pushed home the bolt which was on the outer side of the door. He found however that there was no key. He went away, but came back at 8 o'clock, when the accused was still there. He fell asleep about 3. A. M. and when he woke up, found that the accused had escaped.

The 2d witness Kouthan Nair was on duty at Koppam Police Station on the night in question. He states that there was a key to the lock-up and that he gave it to the 1st witness who locked the door of the lock-up. This witness says that he was left alone in the station by the other witness till midnight when the latter returned and took charge. This does not agree with the statement of the 1st witness, but both declare that they did not leave the station unguarded.

The accused Raman gives what is probably

the

the true account of the occurrence. He says that he heard both the constables go away and that he called out to them to let him go out for purposes of nature. Finding that no one answered, he pulled at the door and moved the bolt and so got out.

In the door of the lock-up are two holes for ventilation. Through these, it would be possible for a person confined in the lock-up to put his hand and eventually, after a certain amount of effort, to pull back the bolt, provided that it was not locked. This I ascertained by personal inspection.

From the evidence it is clear that the accused did escape from the lock-up in which he was lawfully confined, charged with an offence; the only question to be decided is whether or no such confinement was custody. It is obvious that when the accused escaped there was no one watching him, but it appears to me that this does not affect the question. The accused was shut up in a room from which he could only escape by opening a door which was closed against his exit, and opening it by a means by which it was not meant to be opened. The accused had reason to believe that the constables had gone away, but if by chance any one of them had been outside the

Magtl.—No. 41.

IN THE COURT OF THE Assistant MAGISTRATE OF Malabar

PRESENT.— A. R. Knapp Esquire

CALENDAR No. 1 of 1893.

COMPLAINT.
Empress-

DEFENDANT.
Vilakkathale Raman

Offence and Law. Escape from lawful custody. Section 224. I.P.C

Finding of the Magistrate. Guilty

Sentence and Order. To undergo ten days' rigorous imprisonment.

	Description of Accused.						Date of					
Serial Number.	Name.	Father's Name.	Caste or Race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension	Commencement of trial.	Close of trial.	Explanation of delay.
1	2						3					4
	V. Raman	Raman	Vilakkathalavan	Barber	Mannur - Palghat	13.	19 — 11 — 1892	22 — 1 — 1893	8 — 2 — 1893.	9 — 2 — 1893	10 — 2 — 1893.	

Judgment.

This is a case sent up for further enquiry by the District Magistrate (Proceedings dated 12th January 1893) The accused Raman was tried by the Assistant Magistrate for committing an offence under Section 224 I.P.C escaping

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A shut door, which offers no obstruction to egress or ingress, cannot be said to be such restraint. Escape from a room, the doors of which are merely shut, is no offence under the penal code.

9. Under these circumstances, I see no alternative but to discharge the prisoner under Section 253 C.P.C

(Signed) T. Varada Rao
Assistant Magistrate

(True copy)

Collector
& Dt. Magte.

1893
Judl. Dept.
Enclos. No. 7

18th November in the Pattambi Railway Station and was taken by prosecution 1st witness Gourunda Kurup, a Constable, to Angadipuram via Koppam. In the evening at 5 O'clock, the prisoner was lodged in the lock-up in the Koppam Police Station. The next morning before sunrise he is said to have effected his escape.

3. The evidence offered in support of the Prosecution is the testimony of two witnesses, both constables. They differ on a great many points in a startling manner. It will explain their motive if it is pointed out that they are both under suspension in regard to this matter of escape and that each one of them is anxious to escape punishment, departmental or otherwise.

4. The prosecution 1st witness swears that he found prosecution 2nd witness, Kondan Nair, in charge of the Koppam Station and was informed that the lock-up room had no key. The prisoner was put into the room and the bolt was drawn into the socket outside. The door itself has 2 ventilator holes and through these holes, it is quite possible for any body in the room to draw back the bolt. The prosecution 1st witness swears that he kept vigilant watch until late in the morning when he was overcome with sleep and taking advantage of

this circumstance, the prisoner made his escape.

5. Prosecution 2nd witness says that when the prosecution 1st witness arrived with the prisoner, he was lying in the station suffering from fever and head-ache, that prosecution 1st witness left the prisoner in the station and did not come back till midnight, that at midnight, on the prosecution 1st witness's return, witness went away for his food and when he came back at 4 or 5 A. M, he found the prosecution 1st witness searching for the prisoner who had gone away.

6. The prosecution 2nd witness says the lock-up had a key and that it was handed to prosecution 1st witness and that at midnight when the prosecution 1st witness returned, the prisoner was duly locked up in the room.

7. If this man's statement is to be believed, it leads to the conclusion that prosecution 1st witness unlocked the door of the cell and virtually helped the prisoner to effect his escape; on the other hand, if the cell door had no lock or key as the prosecution 1st witness says and the prosecution 1st witness himself was so overcome by weariness and sleep as to be unable to watch the prisoner, there was no real custody.

8. Custody involves the idea of physical rest

5

Magtl.—No. 41.

IN THE COURT OF THE *Special Assistant* MAGISTRATE OF *Malabar*

PRESENT.— *T. Varada Rao Esquire, Assistant Magistrate in charge*

CALENDAR No. *58* of 18*92*

COMPLAINT. DEFENDANTS.

Empress. *Vilakkathala Raman.*

Offence and Law *Escape from lawful custody, Section 224 I. P. C.*

Finding of the Magistrate - *No offence proved.*

Sentence and Order. *Discharged under Section 253 C.P.C.*

Serial Number.	Description of Accused.						Date of					Explanation of delay.
	Name.	Father's Name.	Caste or Race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Commencement of trial.	Close of trial.	
1	2						3					4
	V. Raman	*Raman*	*Vilakkathalavan*	*Barber*	*Kalappalli.*	*13*	*19 — 11 — 1892*	*19 — 11 — 1892*	*25 — 11 — 1892*	*10 — 12 — 1892*	*13 — 12 — 1892.*	

Judgment.

The prisoner, a boy aged 13 is charged under Section 224 I. P. C with the offence of escaping from the custody of Police in connection with a Criminal offence.

2- He was arrested on a complaint of theft on the

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