

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 9

DATED 7th Jan. 1895.

INDEXED.

[Despatch Abstract.]

APPEAL AGAINST ACQUITTAL

Declining to accede to the request of one V. Subbiah of Tadpatri taluk Anantapur district, that an appeal may be preferred to the High Court against the order of acquittal passed in Bellary Sessions Case No 19 of 1894.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

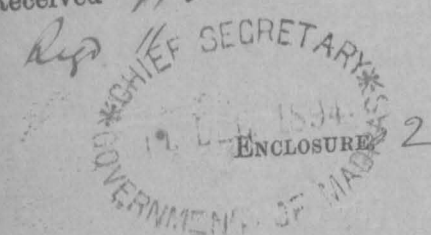
G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

(1894) DEPARTMENT.

From *C. F. Mac Carthe Esq. J.C.*
THE PRIVATE SECRETARY TO THE
RIGHT HONORABLE THE GOVERNOR,

To
THE CHIEF SECRETARY
TO GOVERNMENT,
DEPARTMENT.

Dated 8th } December 1894
Received 11 }



Subject.

TRANSFERS a petition from *y. Subbiah*
praying that the criminal
case in which ~~one~~ certain
accused were acquitted
may be ordered to be retried

Petition from *G. Subbiah,*
Tadpatri Taluk, Ananthapur District.

DATED *6th* December 1894.

TRANSFERRED to the Chief Secretary to
Government for disposal.

(By Order.)

Unicastu

Private Secretary.

GOVERNMENT HOUSE,
G. Subbiah
8th December 1894.

To

HIS EXCELLENCY THE RIGHT HONORABLE
BEILBY BARN WENLOCK, G. C. S. I.
Governor of Madras.

*The humble petition of Yerraguntla SUBBIAH
of Yennapusapalli of Tadpatri Taluk of
the ANANTHAPUR DISTRICT.*

HUMBLY SHEWETH,

That your petitioner is a ryotsiding in Yennapoosapalli of the Tadpatri Taluk of the Ananthapur District.

That for some years your petitioner and one Mooly Pedda Kondiah of Yennapoosapalli have been deadly enemies.

That on the morning of the 11th January 1894, the said Mooly Pedda Kondiah with the assistance of his friends and servants broke into the house of one Vencatasu, in which your petitioner kept 35 maunds of indigo and carried away the same.

That your petitioner on learning of the outrage committed by the said Mooly Pedda Kondiah and others immediately complained to the Police who after careful investigation arrested the said Mooly Pedda Kondiah and several others.

That the said Mooly Pedda Kondiah and several others were placed before the 2nd Class Magistrate of Tadpatri charged by the Police with dacoity.

That the said accused were defended by an English Barrister and two 1st grade pleaders during the investigation conducted by the 2nd Class Magistrate of Tadpatri and after a lengthy inquiry persons were committed to the Sessions Court of Bellary on a charge of dacoity and grievous hurt, offences punishable under Sections 395 and 397 of the Indian Penal Code.

That the said 8 accused were tried in Sessions Case No. 19 of 1894 before the Sessions Judge of Bellary on the said charges of dacoity and grievous hurt and a unanimous verdict of guilty was returned by the jury against all the prisoners.

That when the verdict of guilty was first given the Sessions Judge was of opinion that they were not unanimous though they thought their foreman had stated that they were unanimous; the Sessions Judge therefore directed them to retire for further consideration and after such further consideration which lasted for some time the jury returned a unanimous verdict of guilty against all the prisoners.

That though the Judge in his charge to the jury admitted that all the prisoners were identified by numerous witnesses as having taken part in the proceed-

things and that if the Jury believed the evidence on behalf of the prosecution it was amply sufficient to support a conviction against all the prisoners for dacoity he still thought it necessary to submit the case to the High Court for their orders because he disagreed with the verdict of the jury who your petitioner would respectfully point out acted in accordance with the Judge's charge—they were told that if they believed the evidence they would be justified in convicting the accused of dacoity and as they believed that evidence they found the prisoners guilty.

That your petitioner would respectfully submit that under the circumstances stated above the case was not one which ought to have been referred by the Judge under the provisions of section 37 of Criminal Procedure Code.

That it is evident from the action taken by the Honorable the Judges of the High Court on the reference made by the Sessions Judge that they did not share his opinion as regards the worthlessness of the evidence for the prosecution, for they did not acquit the accused on that evidence as they could have done if they so chose, but ordered a retrial.

That the retrial though before another Judge was held by the same Court (Sessions Court Bellary) which your petitioner humbly begs to state was obviously prejudicial to his case.

That the result of the 2nd trial was that the prisoners were acquitted by a majority of the Jury.

That a perusal of the charge to the Jury at the first trial will show beyond all doubt that the judge (Mr. L. Moore) considered the story for the prosecution highly improbable. But your petitioner would respectfully beg to draw your attention to para 23 of Mr. Stuart's charge to the Jury which satisfactorily meets the objection of the improbability of the story for the prosecution.

That your petitioner prays that your Excellency may be pleased to direct an appeal against the acquittal of the said accused under the provisions of Section 417 of the Criminal Procedure Code.

6th December 1894.

W. S. Subrah
Petitioner

C. No. 6368 of 94

FOR ORDERS.

The petitioner accused
One Mooli Pedda Moondiah
And 7 others of having
On the morning of the 14th Aug 1894,
broken into the house of
One Venkatasu, and carried
away 33 maunds of indigo
belonging to him (the petitioner).

The case was first tried
by Mr Moore the Sessions Judge,
Bellary, who disagreed with
the verdict of guilty pronounced
by the jurors, and referred
the case to High Court for
orders (under Sec. 307 Cr.P.C.).

The High Court ordered
a retrial of the case. The
Case was accordingly tried
a second time before
Mr Stuart the ag. Judge Bellary.

The jury this time being
unable to agree, Mr Stuart
accepted the verdict of the majority
acquitted the prisoners.
The

FOR ORDERS.

The petitioner begs
to direct an appeal
against this order of acquittal
~~of the deceased~~, under the
provisions of sec. 417 C.P.C.

The petitioner admits
that he and the first
accused, Mooly Sudda
Kondiah have been for
some years deadly enemies.

It is submitted that there is
no case whatever for an
appeal. Mr. Moore had
a most decided opinion that the
verdict of guilty was wrong & he
stated ~~who accept~~ the verdict of
not guilty found by the majority of the
second jury. The verdict of a jury
on a matter of fact cannot be touched
by the High Court. & it is not alleged
that there was any error in law.

D
18/12

The case is one in which it would
be utterly useless to appeal even
if an appeal in regard to fact was
allowable in any case

20/12/94

Order 7 Jan 1895
The Petitioner informed that
the Court has acceded to his request
to be released (from prison)
MS
TO P.C. 1/1/95

Petⁿ of one Subbiah
against the order of
acquittal in a
Sessions Case

H.M.

(For order)

When given for copying _____
When copied _____
When examined _____
When signed _____

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.
B = Not to be copied
P = Copy abstract only.
Q = Copy heading only