[J/53]
1,000—25-7-94.

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1011

DATED 14th May 1895

INDEXED.

[Despatch Abstract.]

PETITION FOR MERCY.

Declining to interfere with the sentence of death passed on convict Dinda Aitha in South Canara Sessions Case No. 40 of 1894 and directing that the law shall take its course.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2563		95				

[illegible]

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ತಾ 8 [illegible] 1895

ಈ ದಿವಸ [illegible]

/// [illegible]

W Adee

Superintendent of Jail

Petition for mercy
from "Dinda aitha"
sentenced to death
in S.C. Ses: case
No 40/94

1895
Jud.
Enclos. No. 6
G. No 2392

To

The Right Hon'ble the Governor
in Council
Fort Saint George.

Humble petition of "Dinda aitha" prisoner sentenced to suffer Death in South Canara Session case No 40 of 1894 - Dated 8th May 1895.

On the day in question after my usual daily task I went at 5 P.M. to the toddy shop of "Teampa Baida", where I drank toddy, and I was quite intoxicated and returned to my hut in the evening and I slept in my hut and I was quite unconscious till day break. I am not aware of the murder of which I am accused. I am quite innocent. I therefore most humbly pray that the sentence of death may be remitted to me.

(A true translation)

W. A. Lee
Superintendent of Jail

True translation of
the petition for mercy

1895
Jud. Dept.
Madras 13-5
No.
G.O. No. 2352

Rule 1020 of the Jail code.

Certified that "Dinda Aitha" prisoner sentenced to suffer Death in South Canara Session case No. $\frac{40}{94}$ will not be executed until a definite reply is received from Government.

District Jail office }
Mangalore }
8th May 1895 }

W. A. Lee
Superintendent of Jail

Certificate prescribed in Rule 1020 Jail code

1895
Jud. Dept.
Enclos. No. 4
To
G.O. No. 2392

G. P. 1159

Recd. Saturday the 5 May 1895 2-30 P.M.

Copy to Prisoner.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Tuesday, the thirtieth — – day of April,
One thousand eight hundred and ninety- five.

PRESENT :—

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

Referred Trial No. 28 of 1895.

Dinda Aita — — — Prisoner.

Trial referred by the Court of Session of the South Canara Division for confirmation of the sentence of death passed upon the said Prisoner in Case No. 40 of the Calendar for 1894.

CRIMINAL APPEAL No. 181 of 1895.

Appeal by the Prisoner against the said Sentence.

This case coming on for hearing, the Court delivered the following

Judgment:- The only plea put in forward on behalf of prisoner in extenuation of his crime is that he was drunk at the time, - but we are unable to accept that explanation

It

FORM No. 53.

Nominal Roll of Convict No. 9954- Dinda Aitha

Crime.	Sentence.	Date of Sentence.	Adjudicating Court.	Present Age.	State of Health.	Conduct in Jail.	Result of the Appeal to Appellate Court	Number of previous convictions if any and remarks.
Murder	To suffer Death	25th March 1895	Session Court South Canara	50 years	good	Good	Sentence of Death confirmed in criminal appeal No. 181/95	Nil

Dt. Jail Office,
Mangalore
8th May 1895.

W. Adee

Superintendent of District Jail.

5,000—9-94.

Rules 701 and 704.

1895
Tel Dept.
Enclos. No. 3
To
C. No. 2292

G.R. 1159

Recd. Sunday the 5 May 1895. 2-30 P.M.

Copy to Prisoner.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Tuesday, the thirtieth — *- day of* April,

One thousand eight hundred and ninety- five.

PRESENT :—

The Honourable Sir Arthur J. H. Collins, Kt., Chief Justice,

and

The Honourable Mr. Justice Parker.

Referred Trial No. 28 *of 189*5.

Dinda Aita — — — *Prisoner.*

Trial referred by the Court of Session of the South Canara *Division for confirmation of the sentence of death passed upon the said Prisoner in Case No.* 40 *of the Calendar for 189*4.

CRIMINAL APPEAL No. 181 OF 189 5.

Appeal by the Prisoner against the said Sentence.

This case coming on for hearing, the Court delivered the following

Judgment:- The only plea put in forward on behalf of prisoner in extenuation of his crime is that he was drunk at the time, - but we are unable to accept that explanation

It

It is not Consistent with his own Statement on November 7th (Exhibit G) and the evidence shows that prisoner deliberately threatened murder because he Conceived himself to have been injured in not being allowed to plant the Plantain tree. He went to the hut of the first witness and deliberately Chased him and his wife. The first witness managed to escape but the woman was not able to do so and was hacked to death by prisoner with his bill-hook in a most brutal manner.

We Can see no Circumstance of extenuation and must Confirm the Conviction and Sentence of death and dismiss this Appeal.

By the Court.

Deputy Registrar
Appellate side.

1895
2
2392

V. C. S.
1-5-95

To
Superintendent of Jail, Mangalore, for early delivery to Convict Dinda Aita.

JUDGMENT.

In the Court of Sessions, South Canara.

Session Case No. 40 of 1894.

Present: M. D. Bell Esq.

Queen-Empress *Vs.* DINDA AITA.

(Committed by Mr. M. Venkata Rau, 3rd Class Magistrate of Bantwal).

Charge: Murder—Sec. 302 I. P. C.

Assessors: Messrs. Trasi Parmeshraya and K. Mahalingaya (Saraswath Brahmins).

Opinion of the Assessors: Guilty.

Finding of the Judge: Concurred with the Assessors.

Sentence: Death, subject to the confirmation of the sentence by the High Court.

Judgment: The accused in this case is charged with having murdered a woman named Koragu.

2. Six witnesses have been examined for the prosecution.

3. The 1st witness is the husband of the deceased woman. He states that on the day of the murder, he and Aita (for the murder of whom the accused was tried and convicted in S. C. 35 of 1894) planted a plantain tree in a certain field under the orders of the cultivators. The ceremony of planting the tree had hitherto been performed by the accused, who resented very strongly being deprived of the right to do so on this occasion. He threatened to kill both the 1st witness and ~~Kuruda~~ Aita when they were in the act of planting the tree. They went and informed the Potail (5th prosecution witness) of this threat. That same evening, the accused came to the 1st prosecution witness's hut, armed with a cudgel and bill-hook and carrying a lamp. He dragged the 1st witness out of the hut and struck him with the cudgel. He then went into the hut where Koragu was, and the witness heard the sound of blows and heard Koragu entreating the accused not to kill her. Koragu then came out and she and the witness went towards the Potail's house together. The accused came after them and struck the 1st witness a blow with his bill-hook. He crawled behind a bush and hid himself. Koragu went on and the accused ran after her. The witness heard her cry out three times. He remained under the bush until day-light. He looked for Koragu and found her dead body in a ditch. He went and informed the Potail. The Potail and Police went and inspected the body and an inquest was held.

4. The 2nd and 3rd prosecution witnesses are respectively the nephew and niece of the 1st witness. They were in the inner room of the hut when the accused came there—the 1st prosecution witness and Koragu being in the outer room. They heard the sound of blows, and the 2nd witness speaks to having heard the

voice of Koragu protesting. They went away to another house and do not know what happened subsequently.

5. The 4th witness is the cultivator of the field in which the plantain tree was planted. He states that it was customary to perform the ceremony of planting the tree before the field was sown and that it was usually performed by the accused. He had however quarrelled with the accused and on this occasion the tree was planted by the 1st prosecution witness and ~~Kuruda~~ Aita. He was present and heard the accused threaten to take their lives.

6. The 5th witness is the Potail. He corroborates the 1st witness as to the complaint made by him and ~~Kuruda~~ Aita regarding the threat uttered by the accused. He sent for the accused and warned him. This witness also speaks to the finding of Koragu's dead body and the arrest of the accused. The accused was found lying down in a shed in front of his house with a wound in his throat. A razor stained with blood was found under the mat on which he was lying. The accused on being questioned about the bill-hook himself took them to where he had hidden it and produced it from under a bush.

7. The 6th witness is the Police Constable who took Koragu's dead body to the hospital and witnessed the post mortem examination.

8. The medical evidence is to the effect that Koragu's death probably resulted from wounds inflicted by some sharp instrument such as a bill-hook.

9. In his statement before the committing Magistrate, the accused admitted that he struck Koragu with the bill-hook which he afterwards threw away. He now denies having made any such statement in the lower Court and says that he does not know how Koragu came by her death. His Vakil declined to call any witnesses.

10. It is urged for the defence that there was a fight between the parties in the course of which Koragu received the injuries from which she died. There is however nothing in evidence to support this theory and it is entirely opposed to all the probabilities of the case. The accused was smarting under the indignity which he conceived had been put upon him by ~~Kuruda~~ Aita and the 1st prosecution witness. He was the aggrieved party. The others had no grievance against him and if there was any quarrel it must have been of the accused's seeking.

11. The wound in the accused's throat was, I think, in all probability self-inflicted. It is not the kind of wound which could have been inflicted during a struggle. The accused himself does not say that it was so inflicted and makes no attempt to account for it.

12. The accused's statement before the committing Magistrate practically amounts to a confession of guilt and is strongly corroborative of the prosecution evidence.

13. I have no doubt whatever that the accused is guilty of the murder of Koragu.

14. I am unable to find any extenuating circumstances in the case. It seems to me perfectly clear that the accused set out with the deliberate intention of taking the lives of Koragu and the two Aitas. He succeeded in killing Koragu and one of the Aitas and severely injured the other Aita. He now says that he was very drunk at the time. There is no evidence that he was. On the other hand it is in evidence that he had threatened to take their lives some six hours beforehand. The Potail says that he was sober when he sent for and warned him. If the accused was drunk it is not improbable that he had purposely made himself so, in order to give himself the necessary nerve to carry out his intention.

15. I consider the murder a deliberate and brutal one.

Subject to the confirmation of the High Court the accused is sentenced to be hanged by the neck until he is dead under Section 302 I. P. C.

Mangalore,
25th March 1895.

(*Signed*) **M. D. Bell,**
Ag. Sessions Judge.

Prisoner informed that if he wishes to appeal he must do so within seven days. He notifies his intention of appealing.

Exd. J. S. Saldanha,
Sheristedar.

(*Signed*) **M. D. Bell,**
Ag. Sessions Judge.

(True copy).

J. S. Saldanha
Sheristedar Sessions Court.

Copy applied for by
Prisoner Kindo Aita
through Superintendent
of Jail on — 28. 3. 95.
Copy ready — 1. 4. 95.
Copy sent to Supdt.
of Jail for delivery
to Applicant on 1. 4. 95.

J. S. Saldanha
Sheristedar.

IN THE COURT OF SESSIONS, SOUTH CANARA.

SESSION CASE NO. 40 OF 1894.

QUEEN-EMPRESS *Vs.* Dinda Aita.

1895
Jud Dept
Enclos. No. 1
To
C. No. 2392

Copy of Judgment.

CURRENT NO. 2392

№ 164

District Jail Office,
Mangalore, 8th May 1895.

From

Surg: Major W. A. Lee
~~The~~ Superintendent of Jail,
MANGALORE.

To

The Chief Secretary to Government
Fort Saint George.

Sir,

ENCLOSURES 6

With reference to Rule 1018-C of the Jail code, I have the honor to forward herewith a petition for mercy in Tulu language with its translation from one "Dinda Aitha" prisoner sentenced to suffer Death in South Canara Session case No. 40/94.

The sentence has been confirmed by the High court in criminal appeal No. 181 of 1895.

I have the honor to be,
Sir,
Your most obedient servant,
W. A. Lee
Superintendent of Jail.

Urgent

1259 - 24-11-94

Judicial depts

CURRENT No. 2392

Appeal for mercy

From

The Superintendent of the
District Jail,
Mangalore.

CHIEF SECRETARY
11. MAY. 1895
GOVERNMENT OF MADRAS

To

The Chief Secretary to
Govt. Fort St George

Dated 8th
Despatched 8th
Received 11th
May 1895.

No. 164

Enclosure 6

Reference:
Jail code Rule 1018-C

This office letter / Your office docket dated

Forwards petition for mercy from condemned prisoner Dinda Aitha in Sess Case No. 40/94

[G. 25.]
600.-8-3-95.

Jud. DEPARTMENT.

C. No. 2392

FOR ORDERS.

Appeal for mercy from convict No 9954 Dinda Aitha under sentence of death in S. Canara Sessions Case No 40 of '94, which sentence has been confirmed by the High Court.

The Supt. of the Mangalore Dt. Jail states that the sentence will not be carried out until a definite from Govt. is received.

JB
11/5/95

I can see no reason to doubt the propriety of the conviction - The convict says he was drunk at the time & knows nothing. But there is no evidence of this. On the contrary, there is reason to think otherwise & the plea seems to have been an afterthought, for the first time put forward in the Sess. Ct. - I would leave the law to take its course.

The petr. seems to have been convicted of another murder in a previous Sessions Case. Why he has not been hanged for that, does not appear. But I do not know that it matters. There seems to be no doubt about this murder.

JB
12/5/95.

This case seems to me very clear: the plea of drunkenness is conclusively dealt with by the Judge & the H.Ct. The law must take its course

J.G. 12/5

I concur.

W
13 May

Petition for mercy

FOR ORDERS.

C 11/5
R 13/5

[J. / 16.]
1,000—5-2-94.

Judicial Department.

VE

CHIEF SECRETARIAT, MADRAS.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Cuo 2392/95
"No. 164"

Read the following letter, dated 8th May 1895, from the Superintendent of the District Jail at Mangalore, forwarding petition from Convict No. 9954 Diuda Aitha under sentence of death in S. Canara Session Case No. 40 of 1894, confirmed by the High Court of Judicature.

~~Read also letter, dated~~ ~~from the Registrar of the High Court, Appellate Side, forwarding the record of the case.~~

Order thereon, 14 May 1895, No. 1011.

Having considered the circumstances of the case as set forth in the foregoing papers, the Right Hon'ble the Governor in Council sees no reason to interfere with the sentence of death passed on Convict No. 9954 Diuda Aitha

2. The law will take its course.

(For orders)
~~True Extract.~~

D
13 5 95

~~Chief Secretary.~~

Please send to C. S. with fair copies
13/5

To the Superintendent of the Dt. Jail, Mangalore.
for communication to the Prisoner.
" Inspector-General of ~~Jails.~~ Prisons.
" Hon'ble the Judges of the High Court, with C. L. ~~with papers returned.~~

despd
14/5

hen given for copying
hen copied
hen examined
hen signed
189 .

EAD AGAIN G.O., No. DATED
189 ,

URRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT .. .. .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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

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