

~~Judicial~~ (1895) Department.

ORDINARY MS.

G.O., No. 1329

Dated 22 June 1895

INDEXED.

[Despatch Abstract.]

APPEAL AGAINST ACQUITTAL.

Directing the Government Pleader to present an appeal to the High Court against the acquittal of Gomahavassu Gopal Singh, accused in Godavari Sessions case No. 4 of 1895.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	3426		95				
	4069		95				
	4118		95				

Godavari District Magistrate's Office
 No 304
 Mag 295 Coacuada
 CURRENT NO 2522
 From V. A. Brodie Esquire,
 District Magistrate
 Godavari

To
 The Chief Secretary to Government
 Judicial Department

Sir,

In Submitting herewith the judgment
 of acquittal in Session Case No 4 of 1895,
 I have the honor to request that Government
 will be pleased to direct the public
 prosecutor, under Sec 417 C. C. P. to prefer
 an appeal to the High Court against
 it

2 The Sessions judge assigns no
 good reasons either for disbelieving
 the evidence of the principal witnesses,
 the confession or admission made by
 the accused or the dying declaration of
 the murdered man; nor has the mass
 of evidence forthcoming in the case
 been correctly appreciated

3 The clear admission of the

the Crime in the presence of the Committing
Magistrate at the time; the existence of
a strong motive in the fact of the
seduction of his (accused's) wife by
the murdered man and the absurdity
of the accused's allegation that Constable
Balaji caused deceased's death by firing
his Carbine to see if it was all right
an allegation not admitted and disproved
by the fact that Balaji's Cartridges
were all right added to the accused
handing over a Musket which appeared
to have been recently discharged with
shot from over his hedge, furnish
no small proof to connect the
accused with the murder

This had been
compromised
D

An ignorant man
likely to shoot that
to fire the fatal
shot, if it was
an accident and
not intended.
D

I do not understand para 5
of the Sessions judge's judgment as the
Stationary Sub Magistrate appears
to have held no enquiry into the
circumstances before the inquest.
As to para 10 I have also to remark
that there is no evidence that accused
was ever surrounded by an angry
crowd against which he had armed
himself in self defence but ample

evidence that after committing his offence
he stalked about the street with his sword
none of the crowd venturing to approach
him but flying at his approach before
he withdrew to his yard and unimpeachable
evidence that he retained his weapons
and threatened death to any one who attempted
to arrest him even after the arrival of
the police and Sub Magistrate.

A memo. Criticising in detail
the judge's finding prepared by the local
public prosecutor who conducted the
Case, is enclosed, as also a copy
of the Committed Statement together
with authenticated copies of depositions
of the witnesses examined for prosecution.

I have the honour to be,
Sir,

Your most obedient servant

(sd) V. A. Brodie

District Magistrate

Monasund
For District Magistrate

15
14-5

CURRENT NO 2522
Judicial Dept
Magisterial (1895) department

From
The District Magistrate
Godavari

To
The Chief Secretary to
Government, Judicial
Department

No 304
magl 8/95

Dated 13th }
Despatched 14th } May 1895.

Received
Encs: 4



Subject

Requesting Government
to prefer an appeal
against Session Case
No 4 of 1895 on the
file of the Godavari
judge.

6/21/95
20/5

sent to R: 1142
27-5-95

Referred to the Soot Plead
for favour of his opinion as
to the probable result of an
appeal

(By order)

David Davidson
Asst. Secy.

27-5-95



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

Jud. DEPARTMENT.

C. No. 2522.

FOR ORDERS.

as to whether an appeal
should be presented to the High
Court in this case. A perusal
of the evidence leads to the conclusion
that the accused was guilty, but it is
not absolutely clear that there is
legal proof of his guilt. The Dist.
Judge does not make out a very strong
case & I submit, that before sanctioning
an appeal, Govt should consult the
Soot Plead, as the whole question
hinges on the appreciation of the evidence.

28.5.95

This certainly looks like a case for appeal
but it is one of appreciation of
evidence and it seems therefore desirable
that the opinion of the Soot
Judge should be taken.

24/5/95

25/5/95

Appeal against acquittal

FOR ORDERS.

Send No. 1142 of 20.5.95

Referred to the Government Pleader for favour of his opinion as to the probability result of an appeal.

(By order)

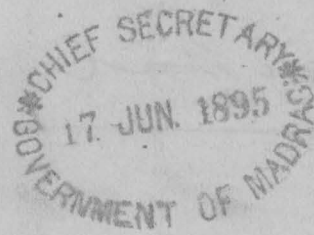
(ad) Lionel Davidson
ag: Under Secretary

A.M.

Judicial Dep.

CURRENT NO.

Subject



From

The Govt. Pleader

Madras

Dated 14th

Recd. 17th

Refd 17th

June 1895

No. 501.

Encls: 2522 with Encl: 2522

C. No. 2522 of 1895

In order

Perhaps the following order might issue?

order of 22nd June 1895 No. 1329

In the circumstances stated the Govt. Pleader will be requested to present an appeal under section 417 of the C.C. against the acquittal of Govdhanaswami Sopalasing, accused in Godavari Sessions case No. 4 of 1895.

17.6.95
18/6/95

To the S. P. Magistrate, Godavari
Govt. Pleader must send the returned.

Stating that there are good grounds for preferring an appeal against acquittal in Godavari Sess: Case No. 4 of 1895.

17/6/95
H.B.
Please send up for issue
19/6/95

17/6

19/6

CURRENT NO. 2902

Government Pleader's Office,

High Court,

MADRAS, 14 June 1895.

No. 501.

From

E. B. POWELL, Esq.,

GOVERNMENT PLEADER,

Madras.

To

THE Chief Secretary to Govt.

Fort St. George.

SIR,

Adverting to your Office Memorandum dated 28th May 1895, No 1142 Judicial, I have the honor to submit the following:-

Opinion.

1. Moturi Narasimulu was undoubtedly killed by a gunshot wound, which was inflicted on him on the morning of the 15th January.
2. The evidence of the first four witnesses if believed conclusively fixes the guilt on the accused. Nothing in the cross-examination of the witnesses tends to throw any discredit on their evidence. Their evidence is so far corroborated by the 5th witness, the mother, who says they were present at the spot at the time the shot was fired. She herself did not see the shot fired.

+ returned herewith.

3. The Sub Magistrate and the Suspect's evidence show that the only person accused and universally accused at the time was the prisoner. No one ever suggested the name of the constable Balaji or that the deceased was shot by accident.

4. The Judge's reasons for refusing to believe the first five witnesses seem to me altogether unreasonable.

5. Assuming that the medical testimony is correct that the shot entered from behind and passed out in front of the body, there is nothing in the evidence of the eyewitness so absolutely inconsistent with it as to make that evidence so incredible. No question is asked of the witnesses in cross-examination or by the Court to ascertain whether the shot was fired behind the deceased or otherwise. The 2nd witness does not profess to have actually seen the shot fired. The Judge's remark cannot apply to him.

6. It is true the 3rd and 4th witnesses say that the deceased looked up when the accused said stop. This may or may not be strictly accurate. The deceased may have looked at the accused and seeing him with a gun turned with the intention of running away. Or the witnesses may have been mistaken in saying he looked up.

7. If their evidence stood alone there might be some ground for refusing to act upon it, but it is strongly

corroborated

corroborative by the ~~fact that~~ ^{fact that} ~~the~~ ^{the} ~~prisoner~~ ^{prisoner} ~~was~~ ^{was} ~~once~~ ^{once} named as the murderer to the Sub Magistrate and Suspect of Police. It is further corroborated by the accused's statement in the presence of the Magistrate and the Suspect that he had killed Varasimulu and accomplished his vow ~~and~~ ^{and} signs a motive for the act by saying that ~~the~~ ^{the} ~~house~~ ^{house} had driven him to do this. Moreover the evidence of the Magistrate that the barrel of the gun showed that it had been recently discharged then in addition to all this mass of evidence there is the dying man's declaration that Gopalsing did it.

8. The Sessions Judge's reasons for putting aside the deliberate and unsolicited statements of the Prisoner because he was in an intense state of excitement seem to me absurd.

9. In paragraph 10 the Judge says the motive is not clear. But the Magistrate, as I pointed out above, gives the accused's own explanation of the motive. The fact that the criminal case was compromised would not prevent the fact of the result rattling in the accused's mind.

10. The Judge concludes his judgment by saying that the killing of the deceased was an accident. By whom he does not say. If by Balaji the evidence is altogether against such a theory, because Balaji denies that his

carbine

Carbine was ever discharged and declares that he has
 five cartridges and no attempt has been made to contradict
 him in these particulars.

Under these circumstances, I am of opinion, that
 there are good grounds for an appeal.

I have the honor to be,
 Sir,

Your most obedient servant,

W. W. W.

Government Pleader.

in given for copying _____
 in copied _____
 in examined _____
 in signed _____ } 189 .

AGAIN G.O., No.
 189 .

DATED

No.

GOVERNMENT 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.

N.B.—

A = Copy in full.
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that the Prisoners were at