

# Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1376

Dated 28<sup>th</sup> June 1895

INDEXED.

---

[Despatch Abstract.]

SENTENCE OF DEATH.

Declining to interfere with ----passed on convict No. 5747  
Muthuri Khond in Ganjam Sessions case No. 3 of 1895, and directing that  
the law shall take its course.

# BACK PAPERS.

| G.O. | No. | Department. | Date.   | G.O. | No. | Department. | Date. |
|------|-----|-------------|---------|------|-----|-------------|-------|
|      | 706 | R           | 18/6/95 |      |     |             |       |

# FURTHER PAPERS.

| G.O. | No.  | Department. | Date. | G.O. | No. | Department. | Date. |
|------|------|-------------|-------|------|-----|-------------|-------|
|      | 3255 |             | 2/    |      |     |             |       |

Judicial Dept  
CURRENT NO. 2815

10.8.95

1259/94

Chin Rules

R.

From, Mr. Venkata Ramiah  
Pethon's Vakil.  
Madras.

90909/94

Refer to

The following telegram will  
be despd to the Supd, N. J. in  
Berhampur: -

" No. 325. Has Muthuri  
Khond, prisoner in Gangam  
Sessions case three of 1895  
appealed against sentence  
of death or is he going to  
appeal."

11.6.95

S 8"  
Recd 10"  
Recd 11"  
Enc. "

June 1895  
VE

Subreid

Submitting a petition for mercy  
on behalf of Muthuri Khond  
under sentence of death in Sessions  
case No. 3 of 1895 on the file of the  
Additional Sessions Judge of Gangam

11/6/95

To His Excellency the Governor in Council  
 Fort-Saint-George Madras

The humble petition of Mutturiah Khond  
 under sentence of death in Sessions Case  
 No. 3 of 1895 in the Court of the  
 Additional Sessions Judge of  
 Ganjam and Referred Trial No. 30  
 of 1895 and Criminal Appeal  
 No. 200 of 1895 in the High Court.

Humbly Sheweth

That the petitioner was convicted of  
 murder by the Additional Sessions Judge of  
 Ganjam in the Sessions case No. 3 of 1895  
 and sentenced to be hanged.

2. That the same came on for confirmation  
 before the High Court of Madras in Referred  
 Trial No. 30 of 1895 and Criminal Appeal  
 No. 200 of 1895

That.

deposed that the deceased had admitted to them  
that he <sup>was</sup> murdered the accused

10. That your petitioner begs to represent that  
he was perfectly innocent of the crime that the  
accused and he were always very friendly  
and affectionate and that there could have  
been no motive at all much less any criminal  
intention to murder his own brother.

Of your Excellency's petitioner therefore  
prays that this execution may at once be stopped  
by wire pending disposal of this petition and  
his sentence may be remitted or commuted for  
which act of kindness the petitioner shall as  
in duty bound ever pray.

Note. The prisoner is in jail under sentence  
of death.

Madras  
8<sup>th</sup> June 1895

Vi. Virkata Ramiah

Petitioner's Vakil.

Section 302 of the  
Indian Penal Code

To suffer death.

9<sup>th</sup> April 1895.

Additional Sessions  
Judge of Ganjam.

21 Years.

Good.

Good.

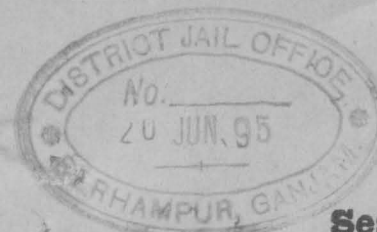
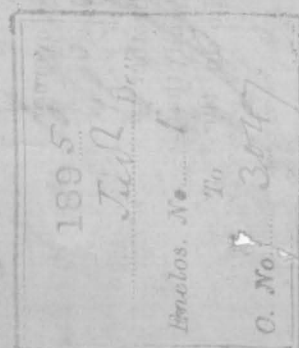
Sentence confirmed  
by the High Court of  
Judicature, Madras  
in Criminal Appeal No 200  
of 1895.

None.

FORM No. 53.  
Nominal Roll of Convict No. 5747, Southern Division

Barkaspet Jail Office,  
22<sup>nd</sup> June 1895.  
Rules 701 and 714.  
Superintendent of Prisons, Jail.

*Appeal for Mercy.  
District Jail  
Berhampore  
Nominal roll  
of condemned  
convict Muttira  
Khond No 5767 in  
Case No 3 of 1895  
on the file of the  
Additional Sessions  
Judge of Ganjam*



A

**Sessions Case No. 3 of 1895.**

FROM  
**J. G. D. PARTRIDGE, ESQUIRE,**  
Additional Sessions Judge,  
**GANJAM.**

TO  
**THE REGISTRAR OF THE HIGH COURT,**  
APPELLATE SIDE,  
**MADRAS.**

SIR,

I have the honor to refer for the orders of the Honorable the Judges of the High Court under section 374 of the C. P. C., my Proceedings in Sessions Case 3 of 1895 in which the accused Muttiri Khond has been found guilty of murder and sentenced to death.

2. This case has been transferred to my file from that of the Agent to the Governor in Ganjam by his order.

3. The evidence for the Prosecution is to the effect that one Lokhera, the brother of the accused, had a slight quarrel with him on the morning of 24th. February 1895, and that in the evening of the same day Lokhera was returning to his village Ballipongho in the Agency accompanied by 1st. P. W. Gammuda.

Lokhera was carrying a musical instrument and the accused suddenly came by the side of the path, and without saying a word fired an arrow which entered the upper part of his left arm and penetrated the lower part of the same arm. This wound was not fatal, but the accused fired a second arrow which entered Lokhera's abdomen. The witness Gammuda ran away and the accused returned to his village.

4. The 3rd. P. W. Mogoda, brother of accused, found the dead body of Muttiri a few yards from his house the next morning with the arrow still embedded in it and parts of a broken arrow lying near. Information was given to the Patro, 2nd. P. W., who came at once and saw the body and asked the accused about it. The accused admitted to him that he killed his brother with the arrow because they had quarrelled.

5. The Police held the Panchayat on the next day and found that death was caused by the accused.

The body was sent for post mortem to the Udayagiri Hospital and the Hospital Assistant certified that death was caused by the arrow in the abdomen.

The Hospital Assistant was not examined as a witness by the Magistrate or by this court, as he did not attend the Sessions when summoned, but as there was ample evidence besides of the cause of death I consider his evidence would be unnecessary.

6. The accused denied killing the deceased, and made a statement that deceased was drunk and was wounded by his own arrows; and cited no witnesses.

7. The 3rd. witness Mogoda said he could identify the arrows, as he often handled them, and said they belonged to the accused. This was corroborated by 1st. P. W.

8. The 4th. and 5th. P. W., Tibbu and Kutti are Khonds who helped to carry the body to the deceased's house.

They say that they heard the accused tell the Patro (2nd. P. W.) that he fired the arrows. None of the witnesses are on bad terms with the accused.

9. The 6th. P. W. is the Head Constable who held the Panchayat and sent the body for examination: and the 7th. P. W. is the Constable who accompanied the body.

*Lokhera*

(2)

10. The wound in the abdomen was of such a nature that it caused speedy death. There had been a trivial quarrel on the day of the occurrence, about threshing some ragi and that is all the motive that appears in the evidence for the commission of the crime. As the accused fired two arrows I think it is clear that his intention was not merely to wound the deceased, and it is evident the shots were not fired by accident.

The deceased could not have sustained such wounds by falling on his own arrows.

11. Under these circumstances, agreeing with both the assessors, I find the accused, Muttiri, guilty of murder under section 302 I. P. C. and I sentence him to death subject to the confirmation of the High Court.

The accused was told that he could present an appeal within seven days.

Chatrapur,  
9th. April 1895.

I have the honor to be,

Sir,

Your most obedient servant,

J. G. D. PARTRIDGE,

Additional Sessions Judge.

L.C. No 225/95

True Copy forwarded to the Prisoner with reference to his application dated 18<sup>th</sup> June 1895 No. 576; through the Superintendent of the District Jail Berhampore.

Chatrapur } J. Thompson  
19<sup>th</sup> June 1895 } for Report  
Jad  
A. B.



Copy to the Prisoner.  
B

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

*Fri* day, the *Seventh* — day of *June*,  
One thousand eight hundred and ninety-*five*.

PRESENT:—

The Honourable *Mr Justice Shepherd*,  
and

The Honourable *Mr. Justice Subramania Aiyar C-JC*.

Referred Trial No. *30* of 189*5*.

*Muttiri Rhond* — Prisoner.

*Additional*  
Trial referred by the Court of Session of the *Ganjam* - Division  
for confirmation of the sentence of death passed upon the said Prisoner in Case  
No. *3* of the Calendar for 189*5*.

CRIMINAL APPEAL No. *200* of 189*5*.

Appeal by the Prisoner against the said Sentence.

This case coming on for hearing, on the 5<sup>th</sup> Instant and having  
stood over till this day for information  
as to jurisdiction, the Court delivered  
the following  
judgment:— In our opinion there can  
be no doubt about this Case. There is

*direct*

direct evidence of the shooting of two arrows by the Prisoner at a short distance and there are the admissions made by the Prisoner the next morning.

The fact that two arrows were shot at such a short distance renders it clear, that death of the deceased was intended. It is said that there was no sufficient motive to account for the act of the Prisoner. Greenig however that he clearly intended the death of his brother we cannot give any weight to this circumstance. We have no alternative but to confirm the sentence and dismiss the appeal.

By the Court,

Forwarded to the Prisoner through the Superintendent of St. Jail, with reference to his application No 576 dated 18<sup>th</sup> June 1895.

*Indramanyam*  
Manager  
for Deputy Registrar  
Appellate side

*W. C. Thompson*  
J. C. J. C. J. C.  
J. C. J. C. J. C.

Appeal for mercy

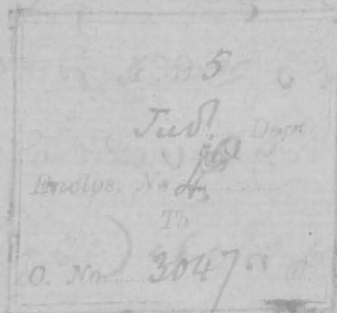
అంతా నాకు తెలుసుకుంటున్నాను  
దానిని అంతా నాకు తెలుసుకుంటున్నాను  
అంతా నాకు తెలుసుకుంటున్నాను

- అంతా నాకు తెలుసుకుంటున్నాను  
దానిని అంతా నాకు తెలుసుకుంటున్నాను  
అంతా నాకు తెలుసుకుంటున్నాను
1. ఆయన నాకు తెలుసుకుంటున్నాను  
దానిని అంతా నాకు తెలుసుకుంటున్నాను  
అంతా నాకు తెలుసుకుంటున్నాను
  2. ఆయన నాకు తెలుసుకుంటున్నాను  
దానిని అంతా నాకు తెలుసుకుంటున్నాను  
అంతా నాకు తెలుసుకుంటున్నాను
  3. ఆయన నాకు తెలుసుకుంటున్నాను  
దానిని అంతా నాకు తెలుసుకుంటున్నాను  
అంతా నాకు తెలుసుకుంటున్నాను
  4. ఆయన నాకు తెలుసుకుంటున్నాను  
దానిని అంతా నాకు తెలుసుకుంటున్నాను  
అంతా నాకు తెలుసుకుంటున్నాను
  5. ఆయన నాకు తెలుసుకుంటున్నాను  
దానిని అంతా నాకు తెలుసుకుంటున్నాను  
అంతా నాకు తెలుసుకుంటున్నాను
  6. ఆయన నాకు తెలుసుకుంటున్నాను  
దానిని అంతా నాకు తెలుసుకుంటున్నాను  
అంతా నాకు తెలుసుకుంటున్నాను

Appeal for mercy

Memorial in Telugu  
presented by prisoner.

No 5747 Matura Khond  
under sentence of death.



Appeal for Mercy.

To,

His Excellency the Right Honorable  
the Governor in Council,  
Fort Saint George.

The humble Memorial of Matura  
Khond prisoner No 5747 of the District  
Jails at Berhampore under sentence  
of death in case No 3 of 1895 on the file  
of the Court of the Additional Sessions  
Judge of Ganjam most humbly and  
respectfully sheweth:—

1. That your petitioner most res-  
pectfully submits herewith copies of  
judgments in the above case both of the  
Lower Court and the High Court  
marked A and B. respectively for your  
Excellency's gracious perusal.

2. That your petitioner most humbly  
begs to bring to your Excellency's  
notice the following facts for benign  
consideration.

3. That your petitioner and the  
deceased were twins.

4. That your petitioner and the  
deceased were, up to the last moment  
of the deceased's death, in the habit  
of eating in the same dish and lying  
on the same cot—both being bachelors.

5. That your petitioner and the de-  
ceased being brothers used to behave  
with the utmost brotherly affection to-  
wards each other and had on no account  
any occasion to pick up a quarrel.

6. That the deceased on the day  
of his death went to the jungle armed

as usual with arrows the spears of which  
resting on his shoulders (the manner in  
which all the Khonds generally carry their  
arrows with them), and climbed a sap  
tree to bring down the body. While descend-  
ing from the tree with the body pot in one  
hand and catching the trunk with the other  
he (the deceased) suddenly slipped from the  
tree and fell down. Thereupon the arrows  
borne by him pierced into his body which  
resulted in his death.

7. That your petitioner while en-  
gaged in ploughing his fields was  
informed of the death of his brother and  
immediately ran to the place where  
he (the deceased) was lying.

8. That your petitioner and several  
other Khonds including the witnesses  
in this case had a long discussion  
as to the cause of death and were  
informed by the neighbouring Khonds  
who were working in their fields of the  
whole story.

9. That your petitioner and others  
immediately reported the matter to the  
Police who came to the spot on the  
next day and terrified the petitioner  
and the other Khonds that the burden  
of proof as to the cause of death of the  
deceased would fall on all if no one  
is forthcoming for confessing the guilt,  
promising that such confessions will  
be followed by pardon.

10. That the Police after holding some  
investigation into the matter said to  
the petitioner "You are the brother of the  
deceased. There is no one else to kill  
him. You had better admit the offence

and ask for pardon." So saying they took the  
petitioner away from his village and con-  
-ceded the case against him with the assist-  
-ance of the Patis (P.W. 2) who is in bad  
terms with the petitioner regarding the possession  
of a piece of land.

11. That your petitioner made no confession  
before any individual or any Court, of the  
commission of the offence.

12. That your petitioner related the  
facts of the case before the Lower Court  
which were not properly interpreted by the  
interpreter who was influenced by the  
Patis and the Police which ended in the  
petitioner being sentenced to death.

13. That the case rested on the mere identi-  
-fication of the arrows as to whom they  
belonged while it is possible that others  
may possess similar arrows.

14. That the relationship and the  
fraternal affection between the deceased  
and the petitioner have not been given  
their due weight.

15. That your petitioner has no  
other alternative than to trust in  
your Excellency's mercy and to pray that  
justice be given to him after perusal  
of records in the case. For this act of grace,  
the petitioner, shall, as in duty bound  
ever pray.

Mark 2 of Mutira Khond.  
(A true translation)

J. Perera

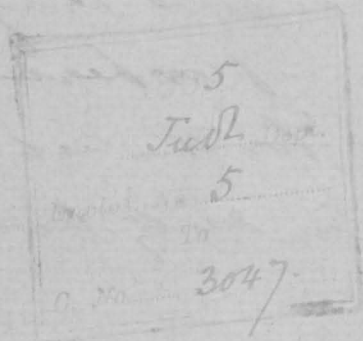
Berhampore {Superintendent, dt. June  
22<sup>nd</sup> June 1895

Appeal for Mercy.

District Jail at  
Berkhamptore

English translation  
of the appeal for mercy  
presented by prisoner  
Muttira Khond No 5747  
in Case No 3 of 1895 on  
the file of the Court of  
the Additional Sessions  
Judge of Gunjam.

Dated 22<sup>nd</sup> June 1895.  
Recd:



Appeal for Mercy.

No. 586.

From,

Surgeon Captain F. B. Pereira M.B.

Superintendent District Jail

Berkhamptore.

To,

The Chief Secretary to Government,  
Fort Saint George.

Sir,

I have the honor to forward  
herewith an appeal for mercy addressed  
to His Excellency the Right Honorable the  
Governor in Council presented by Convict  
No 5747, Muttira Khond whose sentence of  
death in Case No 3 of 1895 on the file of the  
Court of the Additional Sessions Judge  
of Gunjam was confirmed by the High Court  
in Criminal Appeal No 200 of 1895  
with copies of judgments attached.

2. The nominal roll of the Convict  
is also enclosed.

3. The prisoner will not be executed  
until a definite reply is received to  
the enclosed memorial from Government.

I have the honor to be,

Sir,

Your Most Obedient Servant,

F. B. Pereira

Surgeon Capt.

Superintendent, District Jail.

Berkhamptore  
22<sup>nd</sup> June 1895.

CURRENT NO. 3047

Judicial Deptt.  
CURRENT NO. 3047  
Appeal for Mercy.

From,  
Surgeon Capt. F. C. Pereira  
Superintendent, Dist. Jail,  
Berhampore.

To,  
The Chief Secretary  
to Government,  
Fort Saint George.

Dated 22<sup>nd</sup> June 1895  
Recd: 27<sup>th</sup> June  
No 586.  
Encls. 5.

Forwarding an appeal  
for mercy presented by  
condemned prisoner  
Muthira Khond No 5747  
in case No 3 of 1895  
in the file of the Court  
of the Additional Sessions  
Judge of Ganjam  
with the English transla-  
tion of the Telugu Petition  
and copies of judgments.

P.O. R No 706 of 18 June 95  
Telugu Refce No 325/95 onct  
No 2815/95  
No 1259/94

J 200-21-5-05.  
43.

JUDICIAL DEPARTMENT.

Current Number. 3047  
2815

FOR ORDERS.

APPEAL for mercy from Convict No. 5747

Muthira Khond under sentence

of death in Ganjam Sessions Case

No. 3 of 1895, which sentence has been

confirmed by the High Court.

2. The Superintendent of the Berhampore

Jail certifies that the sentence

will not be carried out until a definite reply from

Government has been received.

3. C No 2815 is a petition from  
Mr. R. Ray, Mr. Venkata Ramiah Chetty  
in behalf of the condemned  
prisoner

27-6-95

27/6/95

The petn says that the death  
of the deceased was due  
to accident & that the  
Police got up the case against  
him. But I can't see any  
reason why the Police should  
do so, nor do I see any  
reason to distrust that  
evidence as to the fact of  
the murder or as to the Petn's  
Confession. I may mention  
that the story as to the  
deceased falling from a tree  
seems to be true.

The Petn shd. be dismissed

27/6/95

I can see no reason to doubt.  
The case must take its course

27/6

Yapra to  
28 June

27/6/95

PETITION FOR MERCY.



VERY EMERGENT.

Hon'ble Member and Circulation.

(FOR ORDERS.)

[ J. ]  
[ 18. ]  
1000-5-2-94.



Judicial Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read C ho 2815

READ the following letter, dated 22. June 95, No 586, from the Superintendent of the D. Jail at Berhampore, forwarding petition from Convict No 574) Muthiri Khund under sentence of death in Saugam Session Case No. 3 of 1895, 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, 28<sup>th</sup> June 1895, No. 1376.

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 574) Muthiri Khund

2. The law will take its course.

(True Extract.) (From order)

28. vi. 95  
28/6/95  
Chief Secretary.

28/6/95

To the Superintendent of the D. Jail, Berhampore  
for communication to the Prisoner.

" Inspector-General of Jails, Prison  
" Hon'ble the Judges of the High Court, with papers returned.

" M. R. R. M. Venkataswami Chetty Esq.

Dec 10/95  
28/6  
28/6

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 .. ..

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILLED 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.