

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1392

Dated 2^d July 1895

INDEXED.

[Despatch Abstract.]

SENTENCE OF DEATH.

Declining to interfere with the---passed on convict No. 5750
Modada Khond in Ganjam Sessions Case No. 4 of 1895, 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.
	3272		95				

FORM No. 53.

Nominal Roll of Convict No. 5750, Mododa

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.
See: 302 of the Indian Penal Code.	To suffer death.	17 th April 1895.	Court of Additional Sessions Judge of Ganjam.	23.	Good.	Good.	Sentence confirmed by the High Court of Judicature, Madras in Criminal Appeal No. 233 of 1895.	None.

Bombay Jail Office,

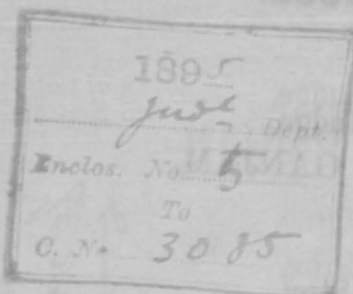
24th June 1895.

5,900-9-94.

Rules 701 and 704.

J. Pereira

Superintendent of Dist. Jail.



Appeals for Mercy
Assistant Jail
Berhampore
Nominal roll
of Convicts No 5750
Mododa Khond in
Case No 4 of 1895
on the file of the Court
of the Additional
Sessions Judge of
Ganjam
Written in 3 June 95
Rev.

C-20149/95
aj/95

Sessions Case No. 4 of 1895.

FROM

J. G. D. PARTRIDGE, ESQUIRE,

Additional Sessions Judge,

GANJAM.



THE REGISTRAR OF THE HIGH COURT,

APPELLATE SIDE,

MADRAS.

I have the honor to refer to the Honorable the Judges of the High Court, under section 374 C. P. C., my Proceedings in Sessions Case No. 1895 in which two persons Batte Khond and Mododa Khond have been sentenced to death for the murder of Jagabondhu, Hiradayi and Modoo on 22nd. and 23rd. September 1894.

2. This case has been transferred to my file by the Agent to the Governor in Ganjam.

3. The 1st. accused Batte pleaded not guilty and the 2nd. accused said that he alone killed all the three persons on one day under some provocation, which amounts to a plea of guilty of culpable homicide not amounting to murder.

4. Jagabondhu was the son of the 1st. P. Witness Kerondayi a woman living in Baracoma, and he was a worker in brass. He left his village in August or September 1894 with his wife Hiradayi, a lame woman and his brother Modoo a boy about 12 years old to go for some work in the hills. They were seen by the 2nd. P. W. Ballo in Baliguda for two days, and they left saying that they were going towards Daringabadi. They then went to the village of Montorobadi where the two accused, who are brothers, live, and worked there for three days.

This is clearly proved by the evidence of the 3rd., 4th. and 6th P. Ws.

5. On the third day Jagabondhu, while working near the village, was killed by the 2nd. accused Mododa with a heavy axe Ex. A by a blow on the back of his head. Two witnesses depose that they saw Mododa strike Jagabondhu.

They are Tatorah 3rd. P. W. and Sasera who was examined in the Lower Court as 3rd. P. W. and whose evidence had to be read as 11th. P. W. in this Court, as he was unable to attend owing to severe illness.

Tatorah and Sasera depose that Mododa quarrelled with Jagabondhu for not repairing a plate properly, and first struck Hiradayi with his fist, then caught hold of Jagabondhu's hair with his left hand and struck him with an axe on the back of this head. Jagabondhu died at once.

6. The 4th. and 6th. P. Ws. Lisuka and Nendi support this statement, by deposing that they heard the man killed and went at once to the spot and saw 2nd. accused standing near the body with the axe.

7. The woman and boy remained in the village that night, and on the following morning 1st. accused who is the head-man called Tatora, Lisuka and Sasera and asked them to go with him as he wanted the woman and child to leave the village. They went along the path leading to Patropadi by the Jorunda hill and 2nd. accused joined them.

The 2nd. accused walked in front with the Tanghi (axe) Ex. B, Hiradayi and Modoo followed and then 1st. accused with the axe Ex. C. After going some distance the witnesses all state that 2nd. accused turned round and struck Hiradayi a blow with his Tanghi and killed her, and immediately 1st. accused struck Modoo with his Tanghi, also killing him. The witnesses ran away and nothing was heard by the Police of the event for nearly two months.

8. The 5th. P. W. Tippidora said that 1st. accused came to him and asked why one Nendi 6th. P. W., who knew of the murders had been taken by the Police. On being told, Batte asked witness what he should do with the bodies, and witness asked to see them. Batte then showed the place on the Jorunda hill where the bodies of the woman and child were buried and both accused showed another place near the village where the man was buried. The axe and two Tanghis were shown to witness as well as the plate which was the origin of the quarrel.

(2)
The Police came and were shown the bones of the three murdered persons which were removed.

9. The 7th. P. W. Orju, a boy, said he saw 2nd. accused hiding his Tanghi in a field and pointed it out to the Police.

10. The 8th. P. W. Londopodra said that the axe Ex. A was given up by 1st. accused and he saw the accused point out the places of burial.

11. The 9th. P. W. a constable of Daringabadi said he went to the village and found the bones of three persons pointed out by the accused, and he removed them in 3 baskets to the Baliguda Hospital.

12. The Head Constable Saradhi Bhuyya said he heard about the murders on 20th. November and made enquiries which resulted in the arrest of the accused on 26th.

13. The Apothecary Mr. Jacobs was examined as 11th. P. W. in the Lower Court. He states that the skeletons brought to him are not complete so that he cannot give any opinion as to the cause of death or the sex of the deceased. One of the skulls was smaller than the other two. The three skulls appear to be fractured and some of the ribs are broken.

14. The 1st. accused Batte said that his brother 2nd. accused killed the three persons when he was absent, that the Tanghi marked C. belongs to him, and that his enemies have brought this charge in order to get possession of their fields.

15. The 2nd. accused Mododa said he went one day to his house and saw a man, woman and child coming out of it. The man was holding his cloths and he seized him. He then struck the man on the back of the head with his axe.

The man fell down and died.

The woman then took up his Tangi to strike him. He snatched it away and killed her with a blow. The boy came and was killed by him also. There was no one in the village then. He got Sasera, Lisuka and Tatorah to help him bury the bodies in the places where they were found.

16. The evidence is, I think, quite conclusive that the three persons were killed and the question is whether both the accused killed them or only the 2nd. accused.

17. There are three eye-witnesses of the second murder and their evidence is given in a straightforward manner without any discrepancies. It is quite possible that both the accused killed the woman and boy in order to destroy all traces of crime after the first murder.

The bodies were found in different places as stated by the witnesses and if the three had been killed in the village there is no reason why all the bodies should not have been buried near the village, instead of two being taken to a hill at some distance and the third left near the village.

18. I thoroughly believe the Prosecution evidence and I therefore find both accused guilty of very cowardly murders, under Sec. 302 I. P. C.

19. The Assessors are of opinion that 2nd. accused is guilty and 1st. accused not guilty.

20. I sentence both the accused, Batte and Mododa to death subject to the confirmation of the High Court. The accused are told that they can present an appeal within seven days. The axe and two Tanghis will be confiscated under Sec. 517 C. P. C.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) J. G. D. PARTRIDGE,
Additional Sessions Judge.

(True copy.)

f. Additional Sessions Judge.

To the Hon. Secy. to Govt. of India

Recd 22/6/95
True copy forwarded to the prisoner Mododa Khond with reference to his Application dated 18th June 1895 No 275, through the Superintendent of the Dh. Jail Berhampore.

Copy of the High Courts judgment has not been received and will be sent to the prisoner soon after its receipt.

Chatrapur

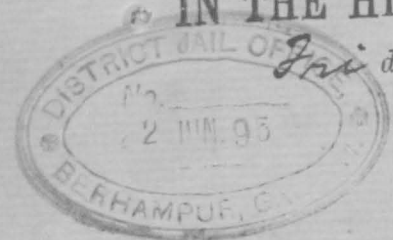
19th June 1895

J. Thompson
For Agent

Zad.
24.6.95
19.6.95

(Copy to the Prisoner)

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 Shephard.

and

The Honourable Mr. Justice Subramania Aiyar, C. J. E.

Referred Trial No. 31 of 1895.

HP
22/6

Madoda Khond — ^{2^d} Prisoner.

^{sod.}
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. 4 of the Calendar for 1895.

CRIMINAL APPEAL No. 233 of 1895.

^{said 2^d}
Appeal by the Prisoner against the said Sentence.

This case coming on for hearing, on Wednesday the 5th June
and having stood over for con-
sideration till this day, the Court
delivered the following
Judgment:— The Prisoner Madoda
has all along confessed and even
in the petition of appeal confessed

1895
Judg. Dept.
Enclos. No. 4
To
3089

to all the three murders. He has made the same statement from the beginning and there is no reason to doubt the truth of it. We must dismiss the appeal and confirm the conviction and sentence.

(By the court.)

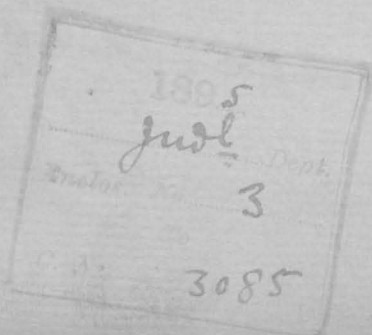
M. Ramaswamy
Manager for
Mr. Registrar.
Opp: Side.

Forwarded to the Prisoner, in continuation of this Office O.C. No. 226/19-6-95 with reference to his application dated 18 June 1895 through the District Superintendent of the District Jail Berhampore.

Chatterjee
20-6-95

A. Thompson
for Agent

226
C.P. 6



Appeal for mercy. మనస్థిరముగా తిప్పింపుచున్నదిగా
వదిలించుటకు నవ్వలయుననుభవములు
విరివిడిగా నున్నవి.

అందుచేతను ముందు 5-7-50 లుగా నున్నవిగా
గంపాదులు గతమునందును వాడుక అభిప్రాయములు
కేసును 2-3-95 కు సంబంధించినదిగా నున్నదిగా
వారు 20-23-95 కు సంబంధించినదిగా నున్నదిగా
వచ్చుచున్నదిగా నున్నదిగా నున్నదిగా
నచ్చుచున్నదిగా నున్నదిగా నున్నదిగా
నచ్చుచున్నదిగా నున్నదిగా నున్నదిగా

1. దీని ముఖ్య న్యాయవాదిగ నున్నదిగా నున్నదిగా
అందుచేతను ముందు 5-7-50 లుగా నున్నవిగా
గంపాదులు గతమునందును వాడుక అభిప్రాయములు
కేసును 2-3-95 కు సంబంధించినదిగా నున్నదిగా
వారు 20-23-95 కు సంబంధించినదిగా నున్నదిగా
వచ్చుచున్నదిగా నున్నదిగా నున్నదిగా
నచ్చుచున్నదిగా నున్నదిగా నున్నదిగా
నచ్చుచున్నదిగా నున్నదిగా నున్నదిగా

2. గతమునందును ముందు 5-7-50 లుగా నున్నవిగా
గంపాదులు గతమునందును వాడుక అభిప్రాయములు
కేసును 2-3-95 కు సంబంధించినదిగా నున్నదిగా
వారు 20-23-95 కు సంబంధించినదిగా నున్నదిగా
వచ్చుచున్నదిగా నున్నదిగా నున్నదిగా
నచ్చుచున్నదిగా నున్నదిగా నున్నదిగా
నచ్చుచున్నదిగా నున్నదిగా నున్నదిగా

మరియు 1895 మే 24 నుండి 24 నుండి
1895 మే 24 నుండి 24 నుండి

Berhampore
24 June 1895
Superintendent of Jail
J. Perera

as in duty bound, ever pray.

Wark x of Madoda Whond.

(A true translation)

J. C. Perera

Surgeon Capt.

Berhampton } Superintendent, St. John

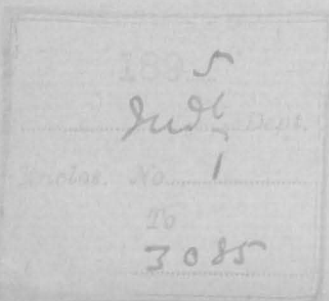
24th June
1895.

Appeal for Mercy.

District Jail at
Berhampore.

English translation
of the Telugu petition
presented by condemned
Convict Mododa Khond
No 5750 in case No 4
of 1895 on the file
of the Court of the
Additional Sessions
Judge of Ganjam

Dated 24th June 1895.
Recd.



Appeal for Mercy.
No. 590.

From,

Surgeon Captain F. B. Pereira M.B.
Superintendent, District Jail,
Berhampore.

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 5750 Mododa Khond
whose sentence of death in case No 4 of
1895 on the file of the Court of the Addi-
-tional Sessions Judge of Ganjam was
Confirmed by the High Court in Crimi-
-nal appeals No 233 of 1895 with
copies of judgments attached.

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

3. The prisoners will not be exe-
-cuted until a definite reply is
received to the enclosed Memorial
from Government.

I have the honor to be,
Sir,

Yours Most Obedient Servant,
F. Pereira

Surgeon Capt.
Superintendent, District Jail

CURRENT No. 3085

Berhampore
24th June 1895.

CURRENT No. 3085
2981 2nd 1895

Appeal for Mercy.

From,
Surgeon Captain
F.C. Pereira M.B.
Superintendent, Dist. Jail,
Berhampore.

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

Dated 24th June 1895
Recd 29-6-95

UNDER SECRETARY
20 JUN 95
Encls. 5

Forwarding an appeal
for mercy presented by
condemned convict No. 5750
Mododa Rhond in case
No. 4 of 1895 on the file of
the Court of the Additional
Sessions Judge of Ganjam,
with copies of judgments,
nominal roll and English
translation of the Telugu
petition enclosed.

JUDICIAL DEPARTMENT.

Current Number. 3085.

FOR ORDERS.

APPEAL for mercy from Convict No. 5750.
Mododa Rhond under sentence
of death in Ganjam Sessions Case
No. 4 of 1895, which sentence has been
confirmed by the High Court.

The Superintendent of the Berhampore
District Jail certifies that the sentence
will not be carried out until a definite reply from
Government has been received.

29-6-95

The pet. ~~presenting~~ repeats the
story which he told before the
Sess. Ct, namely, that he
found the three deceased
coming out of his house & so
attacked them & killed them -
He pleads that is, that he was
acting in the right of defence of
property. Now, as the Judge says,
if this were so, how came the
bodies to be buried in different
places? Moreover, the evidence
seems to have been quite clear.
I can see no reason to interfere -
It is curious that no mention
is anywhere made of the 1st accused.
He doesn't seem even to have appealed
to the H.C.

BN
30/6/95

I also can see no reason
to interfere

25
30/6 1995
1 July

PETITION FOR MERIT

VERY EMERGENT.

Hon'ble Member and Circulation.

(FOR ORDERS.)

[J.]
[16.]
1,000-5-2-94.

Judicial Department.



VE

PROCEEDINGS OF THE MADRAS GOVERNMENT.

W. 3085/95

Read the following letter, dated 24th June 1895, from the Superintendent of the District Jail at Berhampore, forwarding petition from Convict N^o. 5750 Mododa Khond under sentence of death in Gaujam Session Case No. 4 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, 2nd July — 1895, No. 1592.

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 N^o. 5750 Mododa Khond.

2. The law will take its course.

(From order)
(True Extract.)

1.7.95

2/7/95
Chief Secretary

To the Superintendent of the H^l. Jail, Berhampore.
for communication to the Prisoner.
„ Inspector-General of Jails. Prisons. with C. S.
„ Hon'ble the Judges of the High Court, with papers returned.

Despd
2/7/95

1/7.95

Recd A-15
1/7/95

4/7

2750 Nichols Street
Boston
Mass
A

2750 Nichols Street

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

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

CLOSURES TO C. No.

DEE OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

MENT WITH DITTO.

APERS 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.