

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1597

Dated 30th July 1895

INDEXED.

[Despatch Abstract.]

APPEALS AGAINST ACQUITTALS.

Informing the District Magistrate, Karnool, that the Government does not consider it desirable to present----in Sessions Cases Nos. 25 and 28 on the file of the Sessions Court, Karnool.

BACK PAPERS.

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

FURTHER PAPERS.

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

CURRENT No. 3428

Ref on bur No. 788

Magistrate's
Kurnool Collector's Office.

ENCLOSURES.

KURNOOL, DATED 12 July 1895.

From

C. M. Mulla Esq. I.C.S.
At Magistrate
COLLECTOR OF KURNOOL.

To

Chief
THE SECRETARY TO Government,
Judicial Department.

Sir,

I have the honor to submit for the
orders of Government a letter from the
Public Prosecutor and the two judgments
of the Court of Session referred to therein.
He considers that the two cases, were
wrongly acquitted and I agree with him.

2. In the first case the accused killed
his wife by a blow with a stick. This
he admits, but he says that he intended
to strike a man lying beside her. There
is no evidence in support of this plea
and the Judge says in para 5 "There is
no direct evidence of any intrigue between

"The deceased and any man". On the other hand the mother denies that any man was near and says the defendant ^{merely} was angry because his wife did not get up instantly when he called her.

The accused struck her on the ribs a little below the armpit and she died within half an hour. I do not consider that death was due to mere accident as has been found, and accordingly recommenced an appeal against the acquittal.

2. In the second case the question at issue is whether the accused exceeded the right of private defence.

The Sub-Magistrate originally discharged the accused, but Mr. Tate considering that this was wrong, made further enquiry and committed the accused to Sessions.

The facts are given at length in the Sub-Magistrate's

Magistrate's Preliminary Register, the Proceedings of the District Magistrate dated 8th June 95 and the judgment of the Court of Session. Copies of which are herewith submitted and to which reference is requested. The evidence shows that the deceased let go the sheep as soon as he saw he was pursued and was felled to the ground by the very first blow; there was therefore no justification for the very many other wounds inflicted with a hatchet when he was lying helpless on the ground. The deceased had 5 wounds on the head and 7 other confused wounds and swellings on the back.

I agree with Mr. Tate and the Public Prosecutor that the accused exceeded his right of self defence, and accordingly submit the case for the orders of Government.

I have the honor to be,
Sir,
your most obedient servant

J. H. Tate

Judicial Dept.
CURRENT NO. 3428
1895.

Correspondence Department.

FROM B. M. Mulla Esq.

At Magistrate Collector of
KURNOOL.

To Chief
THE SECRETARY TO Government

CHIEF SECRETARY
18 JUL 1895
GOVERNMENT OF MADRAS

DATED 12 } July 1895.
RECEIVED 18 }

No. 768

ENCLOSURES.

Subject.

Requesting to instruct the Govt
to appeal against the
acquittal of the accused
in the 2 Sessions
cases Nos 25 & 28 of 1895.

G.
25.
500-21-543

Jud. DEPARTMENT.

C. No. 3428.

FOR ORDERS.

I don't think I'd appeal
in either case - we have
put in a great many appeals
of late agst acquittals &
that better not put in more
except in very clear cases
or where we want points
clear decided - how in
Case No 25 the accused's
story is as likely to be true
as not, while in No 28, though
it is probable that the right
of private defence was exceeded,
I am not very solicitous for people
who suffer by such excesses, and it
is to be remarked that the actual
cause of death is somewhat
obscure. After all, if the H.C.
is not satisfied with these
acquittals, it can deal
with the cases in revision.

JWS
26/7/95

as to whether an appeal may
be preferred against the acquittal
in the cases referred to.
There appears little doubt as to the
desirability of appealing in Session
Case No. 25 of 1895, the accused having
clearly exceeded his right of private defence;
the number of injured wounds - presumably
caused with the hatchet - was no less than
seven, & the evidence goes to show that many
of these were inflicted when the accused
was prostrate on the ground.
In the other case (No. 28) there is an
element of doubt; the only eye witnesses
of what took place were the accused & his
wife's mother; the former has consistently
stated from the first that he killed his
wife by accident, aiming the blow at a
man whom he found lying with her.
Her mother, however, says that the

accused struck ^{her} because she refused to
cohabit with him. It is probable that
his witness would desire to shield
her daughter's reputation & that she would
be actuated by ill-feeling against the
accused if because of her having killed
her - whether by accident or design.

If the accused's story is correct
the case falls under Exception 1 to
J.P.C. s 300 & is not a murder
culpable homicide though not
to murder; ~~it appears that~~
~~the accused is not~~
~~the victim of the crime~~

22/7/95

if the blow struck was intended
to cause death, or bodily injury
likely to result in death. It appears
however that there is nothing to
show how violent the blow was, &
that the woman's death was probably
due to a ruptured spleen. - If the
blow was not a dangerous one, the case
seems to fall under s 334 (causing
harm on grave & sudden provocation)

22/7/95

I have read what papers there are.

I consider that in Culender No 25
there is but little if any chance of
success in appeal - there is no one to help

Appeal against
acquittal

FOR ORDERS.

HON'BLE MEMBER.

No.

From

Dated

189

FOR ORDERS.

having been commencing at an intrigue
by her daughter. However the man
consistently adhered to the same story all
through. That the blow was the cause
of death is not shown. I do not think that
the H.C. would allow anything to say to
an appeal in this instance. Cal: No. 26
is also doubtful. There is no direct evidence
as to what occurred. If the accused
was attacked & he alleges that several
persons who were attempting to carry
off his sheep he was certainly entitled to
protect himself and it seems impossible
to say how far he exceeded if he did
at all exceed the right of self defence.
I am inclined to think that he would be
of no use to appeal in this case.

24/7/95.

Order of 30th July 1895 No. 1597
The Govt. does not consider it desirable
to present an appeal against the
acquittal in either of the cases
reported by the Dist. Magistrate

(from order)

24/7/95

5 AUG 95

The D.M., Rangoon

Note

If appears necessary to assign reasons
based on the papers before Govt. as the D.M. may do
to prevent the appeal.

Appurajamish acquittal

Am

ms

*Note for G.B.
What about the eyes please?*

*120
30/7*

May an the return be

30/7

25/7

When given for copying _____
When copied _____
When examined 9 _____ } 189.
When signed _____

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.

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IN ORIGINAL.

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