

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1904

Dated 10th Sept. 1895.

INDEXED.

[Despatch Abstract.]

SENTENCE OF DEATH.

Declining to interfere with the-----passed on convict No.222,
Velandi Naik, in Madura Sessions Case No. 37 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.
	4452 4453		1895				

IN THE SESSIONS COURT OF MADURA.

SESSION CASE XXXVII OF 1895.

(JULY SESSIONS)

Committed by the 2nd Class Magistrate of Uttamapalayam (R. C. 11 of 1895).

Prisoner :—Velandi Naik—Defended by vakil Mr. M. Madhu Iyer, B. A. B. L.
appointed by the Court.

Charge :—Murder and attempt at murder, Sections 302 and 307 I. P. C.

Caste of :— $\left\{ \begin{array}{l} \text{1st Assessor—Weaver.} \\ \text{2nd Do. —Vellala.} \end{array} \right.$

Opinion of Assessors :—Guilty of both offences.

Finding of the Judge :— Do.

Sentence subject to confirmation by the High Court. } Prisoner Velandi Naik to be hanged by the neck until he is dead, under Section 302 I. P. C.

No sentence recorded under Section 307 I. P. C.

JUDGMENT :—The prisoner is charged under Section 302 I. P. C. with having murdered one Subba Naik at Seepalakottai on the 3rd May 1895 and, under Section 307 I. P. C., with having, at the same time and place, attempted to murder one Kumarasami Naik.

2. There is no doubt that Subba Naik died on the 3rd May 1895 and that his corpse was received at the Uttamapalayam hospital early on the morning of the 4th May. The evidence of the civil apothecary, who is the 12th witness, shows that besides a wound on the right side of the head and neck which divided the temporal bone, and another wound below the right collar bone, the neck had been cut through from the front and the head was almost completely severed from the trunk. Kumarasami Naik, the 1st witness, who is a boy about 15 years of age, was also admitted to the hospital early on the morning of the 4th May and the apothecary found eight wounds on his person. One, an inch deep, was on the nape of the neck, another exposing the joint was on the top of the right shoulder; the boy's right thumb had been cut off entirely, there were two wounds on the back of the left hand, one on the lower part of the right forearm, one on the left shoulder and one above the forehead

on the left side. All these wounds were incised wounds and Kumarasami Naik will never be able to use his right arm, as it is ankylosed at the shoulder.

3. Besides Kumarasami Naik himself, the 2nd witness Nalla Boyan or Nallan and the 3rd witness Ovan, who is 12 years old, depose that the prisoner killed Subba Naik and wounded Kumarasami Naik. According to the evidence given by these three witnesses, between whose statements there is no variation as to the occurrences in question, Kumarasami and Ovan, after grazing their cattle, took them for water to the Thambiran Oothu, which is about a mile and a half from Seepalakottai. They were followed by the deceased Subba Naik and Nalla Boyan, who brought their sheep to the spring and, after letting them drink, made them lie down in the tamarind tope. Subba Naik then sat down behind Kumarasami Naik and began picking the lice out of his head. Nalla Boyan and Ovan sat down at a short distance with their backs towards the others. The prisoner then came and, after watering a flock of sheep he was driving, sat down about 25 feet behind Subba Naik and Kumarasami Naik. Subba Naik suddenly screamed out "ayyo, appa" and the three witnesses sprang up from the ground. Nalla Boyan saw blood gushing from the right side of Subba Naik's neck and all the three witnesses saw the prisoner strike Subba Naik on the throat with a bill-hook which was in his hand when he came to the Thambiran Oothu. Subba Naik fell on his back and died. The prisoner then chased Nalla Boyan and Ovan, who fled before him towards the village. He then turned and rushed up to Kumarasami Naik, who remained standing beside Subba Naik's corpse, too terrified to run away. As the prisoner came near, with his bill-hook uplifted Kumarasami Naik joined his hands and, raising them in supplication, entreated the prisoner not to strike him. But the prisoner did strike him and the 1st blow fell on Kumarasami Naik's outstretched hands, cutting off the right thumb and wounding the back of the left hand. The prisoner then struck Kumarasami Naik on the right shoulder with his bill-hook. Kumarasami Naik fell on his face and the prisoner then dealt him a blow with the bill-hook on the back of the neck. Kumarasami Naik fainted and when he recovered consciousness, three or four hours later, he was still at the Thambiran Oothu, surrounded by villagers.

Nalla Boyan, who had stopped running away when the prisoner turned back, and Ovan, who had hidden himself among some bushes, saw the prisoner attacking Kumarasami Naik. Ovan remained in hiding, but Nalla Boyan ran to Seepalakottai and told the village munsif's gumastah Chinna Tambi Naik, who is the 5th witness, what had happened. The 5th witness at once went and informed the Revenue Nattamgar Chinna Lakshumana Naik, who is the 6th witness. The 6th witness went and informed the acting village munsif Harihara Iyer, who is the 4th witness. These three witnesses and a number of villagers started for the Thambiran Oothu and were going along an odai about half a furlong from the village when they met the prisoner coming along the odai towards the village and carrying a blood-stained bill-hook in his hand. He was seized by the 4th and 6th witnesses, disarmed and bound. The acting village munsif then sent a report (exhibit B) to the police station at Chinnamanoor about the information he had received and the arrest of the prisoner and

proceeded with the others to the Thambiran Oothu. There he wrote a second report (exhibit C) which was received by the constable who was in charge of the station after he had left Chinnamanoor on receipt of the first report. The constable, who is the 11th witness, reached the Thambiran Oothu about 7 P. M. and recorded a statement (exhibit A) made by Kumarasami Naik which corresponds in all material particulars with the evidence now given. After preparing an inquest report exhibit D, the constable sent Subba Naik's corpse and Kumarasami Naik to the hospital at Uttamapalayam in charge of the 10th witness, the village tandalgar. He then took the prisoner with the bill-hook to Seepalakottai. The Station House Officer came to Seepalakottai next day and examined Nalla Boyan and Ovan, whose names had been mentioned by Kumarasami Naik.

4. The rest of the evidence for the prosecution is intended to show that the prisoner and Subba Naik were at enmity with each other. The allegation that this enmity was due to the prisoner's familiarity with Subba Naik's wife is based on mere rumour and cannot be taken into consideration. The 7th witness, who is Subba Naik's widow, and the 8th witness have no personal knowledge of any quarrel between Subba Naik and the prisoner but the 9th witness says that he saw them quarrelling 2 or 3 days before Subba Naik's death and separated them. The 5th and 6th witnesses, that is to say, the village munsif's gumastah and the Revenue Nattamgar further depose that a stack belonging to the prisoner's master had been burned on the 2nd May, that a panchayet was held on the morning of the 3rd May, the day Subba Naik was killed, and that the prisoner then told the panchayatdars that Subba Naik had threatened to charge him with sheep stealing.

5. The prisoner, who has not cited any witnesses, admitted before the committing Magistrate (exhibit F) that he had cut Subba Naik and Kumarasami Naik and said that he had done so on account of factious enmity. But in this Court he says that, while grazing sheep about 2 miles from the village he was sent for by the village munsif, that he went to the village munsif's house, that he was carrying a leaf cutter in his hand, that the Revenue Nattamgar took away his leaf cutter, that Chinna Tambi Naik, the village munsif's gumastah, gave a bill-hook to Harihara Iyer the acting village munsif, who put it into his hands and seized him, that the nattamgar also seized him and that the three men charged him with murdering Subba Naik, beat him and bound him. He denies that he killed Subba Naik and wounded Kumarasami Naik. He says the witnesses have deposed against him at the instigation of the nattamgar but can give no reason why the nattamgar should have instigated them.

6. The only point in the evidence on which there is an apparent discrepancy relates to a chuckler boy named Velandi, who was mentioned by Kumarasami Naik in his earliest statement, exhibit A, as having accompanied him to the Thambiran Oothu. Nallan, the 2nd witness, says he did not see chuckler Velandi at the place at all, but Ovan the 3rd witness, and Kumarasami Naik, the 1st witness, show that chuckler Velandi went and lay down under a milk hedge as he had sore eyes before the prisoner attacked Subba Naik. Hence it is quite possible that Nallan did not notice chuckler Velandi and I do not think the fact that he did not see him detracts from the value of the statements made against the prisoner.

7. The only conclusion which can, in my opinion, be drawn from the evidence is that the prisoner murdered Subba Naik and attempted to murder Kumarasami Naik and, in concurrence with the assessors I convict him of those offences. The medical evidence shows that, so far from there being any exaggeration in the statements of the eye-witnesses, the attack made on Subba Naik and Kumarasami Naik was even more furious and bloodthirsty than it is described to have been. There was absolutely no reason for the brutal onslaught the prisoner made on the helpless boy Kumarasami Naik and neither was the quarrel which is said to have taken place between the prisoner and Subba Naik some days before Subba Naik was killed nor was the disagreement which is said to have occurred on the day of Subba Naik's death any justification or excuse for the prisoner's act. The only sentence which I can pass upon the prisoner is the sentence of death and I accordingly direct, under Section 302 I. P. C., that he be hanged by the neck until he is dead. This sentence is subject to confirmation by the High Court and the prisoner is informed that if he intends to appeal he must do so in seven days. In consequence of this sentence, no sentence is recorded against the prisoner under Section 307 I. P. C., but I would observe that if any sentence were necessary I would order the prisoner to be transported for life.

Madura,
29th July 1895.

W. DUMERGUE,
Sessions Judge.

Serial No.	DESCRIPTION OF THE ACCUSED.						DATE OF.					Explanation of delay.
	Name.	Father's name.	Caste.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Commencement of trial.	Close of trial.	
1	2						3					4
S. C. 37 of 1895.	Velandi Naik.	Appi Naik.	Thottia Naik.	Cooly.	Thamminaikentpatty.	27.	3-5-95.	3-5-95.	3-5-95.	26-7-95.	26-7-95.	

(True copy)

Shangarajee
for head clerk.

Madura Sessions Court
6th August 1895.

7/8/95
[Signature]

To the Superintendent of Jail
Madura
(True copy) for delivery to the prisoner
with reference to his application dated
29th July 1895.

Enclosure 2 (Duplicate)

CONFIRMATION OF SENTENCE OF DEATH.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday day, the twenty-eighth day of August,

One thousand eight hundred and ninety-five.

PRESENT:—



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

Referred Trial No. 52 of 1895.

Velandi Naik — Prisoner.

Trial referred by the Court of Session of the Madura Division
for confirmation of the sentence of death passed upon the said Prisoner in Case
No. 37 of the Calendar for 1895.

Criminal Appeal No. 398 of 1895.

Appeal by the Prisoner against the said sentence.

Order:—This case coming on for hearing: Upon perusing the Petition of Appeal, and the record of the evidence and proceedings of the said Court of Session, and upon hearing the arguments of Mr. B. Ranga Chariar Vakil — engaged for the defence under G. O., dated 17th December 1884, No. 3273, Judicial, and of the Public Prosecutor in support of the conviction; **it is ordered** that the sentence of death passed upon the said Prisoner Velandi Naik — be, and the same hereby is, confirmed, and his Appeal dismissed.

By the Court.

(Sir) Arthur Collins,
Chief Justice.
G. A. Parker,
Judge.

Godhumbur.
Dy. Registrar,
30.8. Appellate Side.
(True Copy)

To
The Sessions Judge of the

Division
(in duplicate.)

Madura
Sessions Court
2nd September 1895.
Sessions Judge

N. B.—This order is to be communicated to the Superintendent of Jail within 24 hours of its receipt in the Sessions Court.

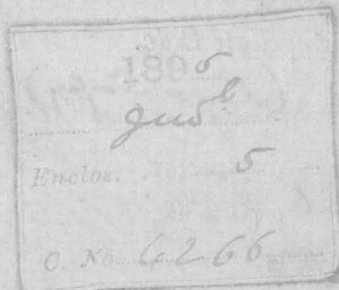
CONFIRMATION OF SENTENCE
OF DEATH.

Order of the High Court.

Referred Trial No. of 189 .

Confirming the sentence of death
passed on the prisoner in
Session

Case No. of 189 .



Enclosure 3

Duplicate

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Where day, the twenty-eighth day of August,
One thousand eight hundred and ninety five

PRESENT:—

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

The Honourable Mr. Justice Parker.

Referred Trial No. 52 of 1895.

Vilandi Naik Prisoner.

Trial referred by the Court of Session of the Madura Division
for confirmation of the sentence of death passed upon the said Prisoner in Case
No. 37 of the Calendar for 1895.

CRIMINAL APPEAL No. 398 of 1895.

Appeal by the Prisoner against the said Sentence.

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

Judgment:— Though the accused when
examined at the Sessions retracted his
admission of guilt made before the
Magistrate he admits in his appeal
petition that he killed Subba Naik
and wounded Kumarasami. There
is no evidence of any provocation
offered

offered by these two persons, and the evidence shows that the attack upon Subba Rao was deliberate and treacherous. Prisoner came behind him when he was not looking and made a furious onslaught on him with a bill hook almost completely severing the head from the body. He then turned and attacked the youth Kumarasami who was too stupefied and frightened to run away.

We can do nothing but confirm the conviction and sentence of death and dismiss the appeal.

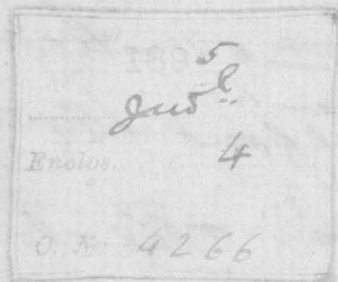
By the Court.

G. S. S. S. S.
Deputy Registrar,
Appellate Side

(True Copy)

Madara
Sessions Court
2nd September 1895

W. W. S. S. S.
Sessions Judge



W. S. S. S.

K. S. S. S.

Enclosure I

உள்ளே புகுந்து கொடுத்த புகாரை
பற்றி உத்தரவு செய்து

1895ல் செப்டம்பர் மாதம் 27^{ம்}
தேதி கொடுத்த புகாரை பற்றி உத்தரவு செய்து
தேதி 22^{ம்} 1895ல் கொடுத்த புகாரை பற்றி
உத்தரவு செய்து.

அது போல உத்தரவு செய்து கொடுத்த புகாரை
பற்றி உத்தரவு செய்து. அது போல உத்தரவு செய்து
பற்றி உத்தரவு செய்து. அது போல உத்தரவு செய்து.

பற்றி உத்தரவு செய்து. அது போல உத்தரவு செய்து
பற்றி உத்தரவு செய்து. அது போல உத்தரவு செய்து.

அது போல உத்தரவு செய்து. அது போல உத்தரவு செய்து
பற்றி உத்தரவு செய்து. அது போல உத்தரவு செய்து.

அது போல உத்தரவு செய்து. அது போல உத்தரவு செய்து
பற்றி உத்தரவு செய்து. அது போல உத்தரவு செய்து.
அது போல உத்தரவு செய்து. அது போல உத்தரவு செய்து.
பற்றி உத்தரவு செய்து. அது போல உத்தரவு செய்து.

செப்டம்பர்

Hy Bn? En n'ong 4
Bukang.

6th September 1895

Febru

Dr. J. C. Knapton

Superintendent file



Inclosure I

His Excellency the Governor in Council
Fort Saint George

The humble person petition of
convict No. 222, Velamasi Naik, con-
fined in the District Jail at Madras
under the sentence of death passed
upon him by the Sessions Judge of
Madras in Calendar Case No. 37 of 1895.

Sheweth,

That a long standing en-
mity existed between Subba Saikar
and the petitioner and so the for-
mer was spreading the news of
getting the latter stabbed by some
body in addition to his trying to
beat the petitioner whenever he saw
him.

That the petitioner went and re-
-ported the matter to the Village
Munsiff, who is the brother-in-law
of the said Subba Saheb, & he (the said
village Munsiff) did not at all
pay attention to his report.

That afterwards the said Libba
Kaiken set fire to the straw heap
of the petitioner's master and de-
nied of having done as before

The

The meeting commenced for the purpose
of enquiring into this matter.

That, after this, the petitioners had
been to the jungle for grazing sheep
and Subba Naikew joined thither
with some others beat him (the petitioner)
saying "It is I that set fire to
your master's straw heap, who
is to ask one." The blows he got from
Subba Naikew and others being un-
bearable, the petitioners cut Subba
Naikew with the sickle intended for
chopping small branches for the use
of his sheep and killed him. He then
flew to the second man a cut
(which was only a slight one), the
rest having run away.

That the petitioners under the
above mentioned circumstances
beseeches the Noble Government
to pay kind attention to the
aforesaid statements as well as
to the records connected with his
case and to grant him pardon.

- mark of Velandy Naikew
(True translation)

Madras }
6th September 1895 }
Supt of Jail

Witness
Surgeon Major

Appeal from Murey from
 condemned prisoner No. 222,
 Velandi Naik, stating
 that, thro' long standing
 animosity, Subba Naikew
 attempted many a time
 to strike the petitioner &
 spread news of getting
 him stabbed; that the pe-
 titioner made a report
 on the matter to the Village
 Munsif, the brother-in-law
 of the deceased, who took
 no notice of it; that ^{the} there-
 after the deceased, set
 fire to the straw heap of
 the petitioner's master
 came to the jungle in
 company with some others
 and beat him unmercifully
 and that, consequently,
 the petitioner killed the
 deceased and wounded
 another; and beseeching
 the noble Government
 to grant him, under
 the circumstances ab-
 solute, pardon.

Dated 6th September 1895.

No. 8

Enclosures 3.

5
 gud

2

4266

10. 11

Enclosure II

Nominal Roll of convict No. 222, Velandi Naik.

Crime.	Sentence.	Date of Sentence.	Adjudicating Court.	Present Age.	State of Health.	Conduct in Jail.	Result of the Appeal to High Court.	Number of - Remarks and previous convictions, if any, and remarks.
See him 302 x 307 i.e.	Death	29 th July 1895	Deccan High Court, Madras.	25 years, 1 month, and 8 days.	Good	Good	Deccan confirmed.	Nil

Modura Jail office,
 6th September 1895.

W. S. S. S. S.
 Superintendent of Jail.

CURRENT No. 4266

No. 1650

OFFICE OF SUPERINTENDENT OF JAIL

MADURA 6th September 1895.

From

Sir John Major J. C. Reener
SUPERINTENDENT OF JAIL,
MADURA.

To

THE CHIEF SECRETARY TO GOVERNMENT,
FORT SAINT GEORGE.

Sir,

With reference to Rule ¹⁰¹⁹ of Jail Code, I have the honor to forward the enclosed petition from condemned prisoner No. ²²², *Volandi Aike*, in calendar case No. ^{27 of 1895} on the file of Sessions Court Madura whose sentence has been confirmed by the High Court.

2. The nominal Roll as required by Rule ⁷⁰¹ of the Jail Code is herewith forwarded.
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.

J. Reener *Sir John Major*
Superintendent of District Jail.

jud
1
C. No. 4266

Appeal for mercy.
CURRENT No. 4266
1895. Jud. Dept.
MADURA DISTRICT JAIL.

FROM
THE SUPERINTENDENT OF JAIL,
MADURA.

TO
THE CHIEF SECRETARY
TO GOVERNMENT,
FORT SAINT GEORGE.

Dated 6 September 1895
Received 7 September 1895
Regd. 7/9/95
enclos 6

No. 1650
Enclosures 2
Subject.

Submits a petition from condemned prisoner
No. 222, Valandi Naik
in calendar case No. 37 of 1895 on the file of
Sessions Court Madura together with the usual
Nominal Roll.

J. 200-21-5-95.
43.

JUDICIAL DEPARTMENT.

Current Number. 4266.

FOR ORDERS.

APPEAL for mercy from Convict No. 222
Valandi Naik under sentence
of death in Madura Sessions Case
No. 37 of 1895, which sentence has been
confirmed by the High Court.

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

The petitioner tells a totally
new story, viz. that he killed
Labba Naik & wounded the
boy (slightly, he says) in self defence
in consequence of an attack
which they & others made upon
him - But he has twice admitted
the murder, once to the Commg.
Magistrate & once in his petition
to the H.C. - Moreover the
evidence against him
seems quite trustworthy. The
petition should be dismissed.

9/9/95

Yes, there can be no doubt of
the convict's guilt. I understand now
the deed and there are no
discrepancies in his evidence. The
prisoner has told 3 separate stories,
one that he struck the blow out
of passion & revenge, one that he struck
him because he was attacked, &
one that he did not strike him at
all.

25/9/95
The case seems to me
very clear against
him, and he deserves
the extreme penalty
of the law. W
10 Sep

9/9/95
9/9/95

PETITION FOR MERCY.

VERY EMERGENT.

Hon'ble Member and Circulation.

(FOR ORDERS.)

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

Judicial Department.



PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following letter, dated *6. Sept. 95. No 1650*, from the Superintendent of the *S.P. Jail at Madras*, forwarding petition from Convict *No 212 Velandi Naik* under sentence of death in *Madras* Session Case No. *37* 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, *10th September 1895*, No. *1904*.

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 212 Velandi Naik*.

2. The law will take its course.

(True Extract.) (*From census*)

Chief Secretary.

10/9/95 *10/9/95*

To the Superintendent of the *S.P. Jail, Madras*
for communication to the Prisoner.
„ Inspector-General of *Jails, Madras*
„ Hon'ble the Judges of the High Court, with papers returned.

W.C. J. sent to Ck

9/9/95
10/9/95

recd

Ab. sent to m. b.
10/9/95

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

189

BRAD AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO O. 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.
- B = Not to be copied.
- F = Copy abstract only.
- Q = Copy heading only.