

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1967

Dated 19th Sept. 1895

INDEXED.

[Despatch Abstract.]

SENTENCE OF DEATH.

Declining to forward to the Government of India, appeals for mercy from convicts No. 8775 Singapuram alias Abdul Rahiman and No. 8776 Ghulamsa Rowten under----in Tanjore Sessions Case No. 53 of 1894, 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.
	3497		1895				

CURRENT No. 3967

To His Excellency the Governor in Council
Madras -

The Humble Petition of
Mahomedkanni residing
in the village of Nachiar
Kovil, Kumbakonam
Taluk. Tanjore District.

Most respectfully sheweth,

- That his brother Singapuram
alias Abdulrahiman and another have
been sentenced to death by the Sessions
Court of Tanjore in C.C. 53 of 1894 (which
sentence has been confirmed by the
High Court in Referred trial No 62 of 1894
on its file) for the alleged murder of
one Emberrumal Naik.
- That on Application to your Excellency
the execution of the sentence has been
suspended pending the disposal of the
case against the men at whose instance
the murder was said to have been
committed.

3) That the alleged abettors have

G.O.	No.

G.O.	No.
	3

been acquitted by the High Court.

4) That the Petitioner has not yet obtained copy of the Judgement of the High Court which he intends to forward to your Excellency with such explanations as may be necessary to show the innocence of the men now under the sentence of death.

5) The Petitioner prays that your Excellency will be pleased to delay passing final orders till the petitioner is able to forward the copy of the Judgement with his Explanation.

This — mark of Mahomed Kauri.

Judicial Dept
CURRENT No. 3967

G.O.

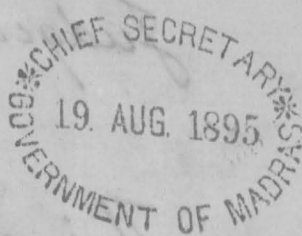
From: Mahomed Kausi
Nachiar Kovil
Kudabakomam Taluk
Tanjore D.

G.O.

Dated - } August 95
Recd 19th }
Recd 20 }
Encl: 1

Subject.

Requesting that the passing of
final orders in the case of his
brother Singapuram alias Abdulrah-
man & another sentenced to death
in Tanjore sessions court C.C. 53/94
may be deferred till he forwards a
copy of the High Court Judgment
acquitting the man at whose
instance the murder was said to
have been committed.



[G]
69
1,000-18-3-5.

Jud. DEPARTMENT.



Memorandum.

1927
17-8-95

Read the following

The Court Pleader will
be requested to obtain and
forward to Court at an early
date a copy of the judgment
of the High Court on appeal
preferred against the conviction
in Tanjore sessions cases
No. 11 & 21 of 1895

17-8-95

To The Court Pleader.



OOTACAMUND,

15. 8. 1895.

My dear Mr. Bliss

Cardew would like to see you about those timeadments in the jail Code on either Saturday, Sunday or Monday at 8.30 a.m. Will you let me know whether any of these times will suit you, so that I may send the file up in time

Yours sincerely
Lorne Cardew

* Regarding the various imprisonment of habituals (Code Rule 306)

CURRENT NO. 4365
Judicial Dept

From

THE GOVERNMENT PLEADER,

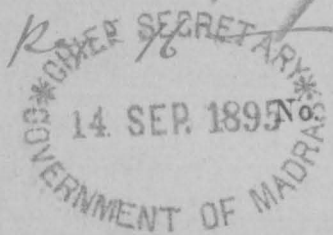
Madras.

Dated

12. 9. 95

Recd.

14. 9. 95



885

ENCLOSURE.

Page No 1927 d 17.8.95.
at no 3164/95
at no 2687/95
2042 d 24.5.95 Mis
20992 d 4.5.95
u 577 d 15.3.95
u 768 d 12.4.95
u 771 d 5.4.95
u 374 d 28.3.95 R.
u 336 d 15.2.95 Mis
u 303 d 18.2.95 R.
u 247 d 28.2.95 R.
u 150 d 6.2.95 R.

Forwarding copy of the
Jud. file in Rep. Trial No. 36
95
on the file of the High Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Monday, the twenty-ninth day of July,

One thousand eight hundred and ninety-five.

PRESENT :—

THE HONOURABLE SIR ARTHUR J. H. COLLINS, KT., *Chief Justice,*

AND

THE HONOURABLE MR. JUSTICE PARKER.

REFERRED TRIAL No. 36 of 1895.

1. Kanthasami Pillai,
2. Ramasami Reddy and
3. Ramasami Iyer.

} *Prisoners.*

Trial referred by the Court of Sessions of the Tanjore Division for confirmation of the sentence of death passed upon the said Prisoners in Cases Nos. 11 and 21 of the Calendar for 1895.

Criminal Appeals Nos. 211 to 213 of 1895.

Appeals by the Prisoners against the said sentence.

These cases coming on for hearing on Thursday and Friday, the 25th and 26th July 1895 and also this day, the Court delivered the following

JUDGMENT.

The three Prisoners in the present case have been convicted by the Sessions Court of Tanjore of abetment of the murder of one Emperumal Naik. The Prosecution alleges that the three accused being for different reasons at enmity with the deceased hired two Mussalmans to murder him, that a youth named Kuppusami Pillai, a bandyman in the employ of the 1st Prisoner was also sent to assist in the crime. Emperumal Naik was murdered on the evening of October 1st, and the three men who actually committed the murder were convicted in Sessions Case 53 of 1894 on the file of the Tanjore Sessions Court and sentenced to death. These convictions were confirmed by the High Court in Referred Trial No. 62 of 1894, the sentence upon the 3rd Prisoner Kuppusami Pillai being commuted to transportation for life.

In that case as in the present the case for the Prosecution depended greatly upon the evidence of the approver Ramiah. With regard to the actual perpetration of the murder the evidence was amply corroborated by the witness Pakkirisami and by other testimony. It was shown that he treacherously induced Pakkirisami to persuade the deceased to meet him after dark under pretence of effecting a reconciliation and that deceased was then waylaid and killed by the assassins who had been hired to perpetrate the crime.

The present charge is against those who are alleged to have hired the two men now under sentence of death. The Prosecution has to depend much more than in the first case upon the evidence of the approver for there is no direct corroboration (as in the former case) of the definite acts which would bring home the guilt to the accused. It is not denied that the approver had ample motive on his own account to desire the removal of Emperumal Naik. His allegations therefore which tend to shift the blame of the origination of the crime upon the shoulders of others require to be scrutinized with special care.

At the hearing of the appeals before us it has not been seriously contended that Emperumal Naik was not murdered or that the murder was not carried out in the manner described in the earlier trial. The efforts of the Pleaders have been directed to shew that there is no real

corroboration in support of the tainted testimony of the approver, and that Ramiah's evidence as against these three Prisoners is open to a great deal of suspicion. This question of corroboration (strange to say) has not been specially noticed by the Sessions Judge, whose judgment—full as it is in many respects—does not deal with it; yet in our opinion it is the most important question which arises in the case.

The evidence on which it is sought to bring home the guilt to the accused consists of Ramiah's account of certain meetings and conversations at which (it is said) the murder of Emperumal Naick was agreed on. According to Ramiah it had been previously determined to give him a good beating,—partly on account of the assistance he had furnished to Ramasami Alwar in his complaint against the approver, and partly because he had procured Ramiah's removal from office in the temple by sending petitions to the Trustees. Jealousy with regard to certain women is also alleged as a cause of enmity. According to Ramiah the suggestion that he should be killed instead of being beaten came from Singapuram (Convict No. 1 in the former case) at a meeting on September 20th or 21st. This was agreed to, and Rupees 200 advance was actually paid by 1st Prisoner to Singapuram at a second meeting on September 29th. At this second meeting it is not alleged that the 2nd Prisoner was present. Finally Ramiah gives evidence to the events of October 1st when Kuppusami was sent to help the two men who had been previously hired, and Pakkirisami was induced to ask Emperumal Naik for a reconciliation.

This story in its main outlines was told first by approver Ramiah on October 26th before the Sub-Magistrate. He was then a Prisoner in custody and himself charged with this murder. He had been suspected from the first when the dead body was discovered, and was arrested the day after the murder, viz, on October 2nd. There being no evidence then against him he was released on bail,—but re-arrested on Pakkirisami's information on October 5th,—so that he had been three weeks in custody before this confession was made to the Magistrate. He was tendered a pardon on November 5th and on that day examined as a witness.

We have now to consider how far Ramiah is corroborated as to these meetings and conversations on September 20th or 21st,—on September 29th and as to the occurrences of October 1st. All these Prisoners are alleged to have been present at the first meeting, Prisoners 1 and 3 on September 29th, while the events of October 1st touch 1st Prisoner only. There is a great mass of evidence tending to show reasons for enmity between the Prisoners and the deceased, but we do not think this can avail the Prosecution unless there be also corroborative evidence tending to shew that accused were privy to the intention to murder.

As to the alleged meeting of September 20th-21st we can find no corroborative evidence whatever. The 9th Prosecution witness does indeed depose that 8 or 9 days before the murder he was sent by 1st Prisoner to summon 2nd Prisoner and brought him to Nachiarkovil. They got down at the cartstand and he told 2nd Prisoner to go to 1st Prisoner's shop. Then they separated. This testimony does not show that a meeting actually occurred and still less what took place at any possible meeting. Moreover, in cross-examination this witness admitted he had been tutored to tell this story, so that it is impossible to rely on him. This is the only meeting at which 2nd Prisoner is alleged to have been present so that corroboration with respect to him wholly fails. The case against 2nd Prisoner was hardly pressed by the learned Advocate General.

As to the meeting of September 29th, on which occasion Rupees 200 is said to have been paid to Singapuram, the only corroboration is that of Santhana Alwan who states he took milk to the house while Prisoners 1 and 3 were there. With regard to this evidence it is pointed out that Ramiah made no mention of Santhana Alwan's presence on September 29th until his fourth statement (Exhibit IV). No mention is made of it in the earlier statements I, II and III. But even if this omission be satisfactorily explained Santhana Alwan does not profess to have heard a word of any conversation.

The 1st and 3rd Prisoners called evidence to prove that they were not at Nachiarkovil on September 29th—the first Prisoner alleging he was absent at Budalur for purposes of trade and the 3rd that he was ill at home. We agree with the Sessions Judge that they failed to establish

these alibis,—but it was for the Prosecution to establish that they met at Nachiarkovil and arranged the details of the murder. This still depends upon Ramiah's testimony only, for the Judge characterizes Santhana Alwan's evidence as to the Saturday meeting as of doubtful value. Even if it were true, it would corroborate the approver only as to the meeting, but not as to the plot. At this point the case against the 3rd Prisoner must also fail, for his absconding, though a suspicious circumstance, is not an act which can be pressed too much against him or supply the place of evidence directly implicating him in the crime.

Passing now to the events of October 1st—Santhana Alwan deposes that on that day he again took milk to 1st Prisoner's house and saw there the approver Ramiah, and the three men since convicted. On that occasion he overheard the words addressed by 1st Prisoner to Singapuram "Have you no confidence in me?" This evidence so far as it goes does corroborate the approver, though the words overheard bear no necessary reference to any intended crime. This witness further deposes that on the evening of the same day he saw the approver, 1st Prisoner and Kuppusami come together to the temple. Here again he corroborates Ramiah. We can see no sufficient reason to disbelieve the truth of their testimony but it is open to the same objection that as corroboration it fails to connect the accused with the crime. The fact that 1st Prisoner's servant—with no possible motive of his own—took part in the murder is one which must raise the strongest suspicion, for 1st Prisoner had motives for wishing to get rid of Emperumal though his servant had none that we know of. That suspicion should fall upon 1st Prisoner from the very first is not surprising. Moreover he was a person of larger means than Ramiah and had before employed Singapuram and Goolamsa to commit offences against the public peace. But we cannot shut our eyes to the fact that though there are against him grounds for strong suspicion the evidence to connect him with the crime is that of Ramiah only and we have to ask ourselves the question whether we can safely act upon it. It goes without saying that Ramiah is a man of the worst character,—guilty on his own shewing of a coldblooded and treacherous murder—for which he has purchased his own immunity by accusations against others. Not until he had been three weeks in custody were those accusations made, not against his enemies but against his own friends, and with regard to two of them at all events the motives assigned by him for their joining in such a crime appear most inadequate. Then after having told this story the Judge believes him to have been tampered with. Seeing how strong has been his temptation to minimise his own crime by laying the principal blame upon others we cannot confirm the conviction when we have found no corroborative evidence which directly tends to connect the accused with the crime.

For these reasons we set aside the conviction and direct that the three accused be discharged.

By the Court.

(Signed) C. G. Jodhankar,

Dy. Registrar,

Appellate Side.

Exd. A. Ramaswami Aiyar.

(True Copy)

PRINTED BY G. C. AND CO., SCOTTISH PRESS, MADRAS.

C. G. Jodhankar
Deputy Registrar,

12-9- Appellate Side.

Government Pleader's Office,

High Court,

MADRAS, 12th Sept 1895.

No.

885

From

E. B. POWELL, Esq.,

GOVERNMENT PLEADER,

Madras,

To

THE *Chief Secretary to Government*
Adlacamund

SIR,

With reference to your official
Memorandum No. 1927 just dated
the 17th ultimo, I have the honor to
forward herewith the judgment
in Rep Trial No. 36 of 1895 on the
file of the High Court.

I have the honor to be
Yours most obedt Servt
E. B. Powell

Govt Pleader

The right hon. member set
P.T.D.

HIGH COURT OF JUDICATURE

AT

MADRAS.

JUDGMENT

IN

REFERRED TRIAL No. 36 of 1895.

Criminal Appeals Nos. 211 to 213 of 1895.

Dated 29th July 1895.

Sent

HIGH COURT, APPELLATE SIDE.

O. D. No. 2022/95

Application made.....19-8-1895

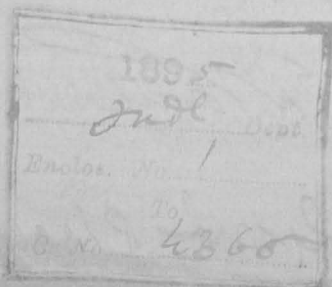
Stamp papers called for.....189

Do. deposited.....189

Copy ready.....12-9-1895

Do. delivered.....12-9-1895

Superintendent.



induce India to take a different

Ind. DEPARTMENT

C. No. 4365-3967.

2 premium papers.

There is a stand in FOR ORDERS.

the judgment ~~is~~ ^{second} of the H.C.
in the ^{second} referred trial, in which the
three persons said to have instigated
the murder were concerned, & show
that the judges were in the least
shaken in their conviction that the
three actual murderers were
properly found guilty. On the contrary,
this last judgment shows that the
H.C. after going over the whole case
again, were still firm in their opinion
as to the guilt of the persons accused
of having actually committed the mur.
Dr. Laguer with the H.C. & would leave
the two men under sentence of death
to be executed. The G.O. ordering the
stay of prosecution should at once be
withdrawn.

17/9/95

The evidence must now be carried into effect. The evidence of Ransick as to the actual murders was amply corroborated

25
7/3

119
I agree. Nothing has come out in the second trial, which tends to weaken the case against the hired assassins. I see that their recantation was stayed pending receipt of orders on their petitions to India. I agree with my hon. colleagues in thinking that those petitions do not contain any matter wh. is likely to induce India to take a disjunct

A petition is submitted to the
correspondence ending with
S.O of 24. May '95, No 1131, in
regard to petition for mercy
from Lingapuram alias Abdul
Rahiman and Sulam Sa-
Rouster (condemned prisoners
in Tanjore Sessions case
No 53 of 1894) whose execution
has been ordered to be postponed
(vide S.O of 28. Feb. '95, No 247).
Pending the result of the trial
of the abettors concerned in
the case. The Sessions Judge
of Tanjore found the abettors
guilty and sentenced them
to death subject to confirma-
tion by the High Court.
The High Court however set

P.T. 8

aside the commission and
discharged the prisoners.
A copy of the judgment has
just been recd & is subd
(in C no 4365).

2. (No 3967) is a petition from
the brother of Singapuram
praying that final orders
may be deferred pending
the receipt of the High Court's
judgment together with
an explanation from him.

3. Please see also notes
& orders in (No 3497) in the
linked file. <sup>relating to disposal
of fees only</sup>

view from us. They should therefore
now be formally rejected, & the
law should take its course.

W
18 Sep

Petition for mercy
Ra Chiamail murder case

FOR ORDERS.

V.E.

H. M. & Co.

[17]
1,000-5-2-94.

JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ again G.O., dated 15th Feb 95, No 336
28th Feb 95, No 247

Read also the following

(Nos 3967 & 4365)

ORDER—dated 19th September 1895, No. 1967.

Under the discretion vested in the local Government by the Government of India,
His Excellency the Governor in Council declines to forward to that Government the
appeal from Convicts No 8775 Singapuram alias Abdulrahman and
under sentence of death, and directs that the law shall take its course.

(True orders)

(True Extract.)

19-9-95

19/9/95 Chief Secretary.

To
The Petitioner through Superintendent of the

Jail,

S.P.

Jail, Tanjore Dec 6/95

Copy to Pet in C 3967

Please make
copy of this
19/9/95

C 179 C 179
17/9 19/9

16/9/95

given for copying _____
 copied _____
 examined _____
 signed _____

189

AGAIN G.O., No.
 189

DATED

SENT No.

ENCLOSURES 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.

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