J / 53]
-7-95.

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2050

DATED 4th Oct: 1895

INDEXED.

[Despatch Abstract.]

1

COMMUTATION OF SENTENCE.

Commuting the sentence of transportation ~~of~~ for life passed on certain convicts in Madura Sessions case No. 34 of 1895 to one of imprisonment for the terms specified; declining to interfere with the sentence passed on certain other convicts; and directing the District Magistrate of Madura to report as to the desirability of regulating Jellicat meetings.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
G.O.	526		12-3-96				
G.O.	432		6-4-96				
	3047 3214 }	—	1896	G.O.	1283.4		12-8-96

Petition for pardon.

m.

Convict No. 5066 Vairava Nadan alias
Joseph Nadan.
" No. 5067. Saravanai Nadan
alias Samiadiyar
" No. 5068 Madasamy alias
Manikkavasaga Nadan
" No. 5070. Masilamany Nadan.

To

His Excellency The Right
Honourable The Governor-
-in-Council,
Fort Saint George.

Dated 29th }
Despd. 29th } August 1895.
Recd. }

No. 242.

Enclosure — 1.

Subject.

Praying that the petitioners
may be pardoned.

CHIEF SECRETARIAT
-7 SEP 1895
GOVERNMENT OF MADRAS

C.M. No. 4479/95

CURRENT No. 4276
Judl. Depto.

No. 5398

1. Submitted to Government for orders.

2. These prisoners were convicted in the same case as those whose petition was submitted to Government with this office Endorsement No. 5254, dated 30th August 1895.

C.M. No. 4479/95

3. With reference to para 3 of that Endorsement the Superintendent Central Jail, Trichinopoly explains that the three first accused in Madura Sessions Case No. 34 of 1895 were originally sentenced to death and detained in the Madura District Jail, not being transferred to the Trichinopoly Central Jail until 2 months later than accused 4 to 12. Hence it was impossible to number the whole twelve consecutively.

Ootacamund. }
5. Sept. 95 }

A. G. Cardew
Inspr. General of Prisons

Recd. 7 Sep. 95
Enclos. 8

taken part in

FORM No. 53.

Nominal Roll of Convict No. 5066 Vairana Nadan alias Joseph Nadan

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.
Murder Sections 302, 149, I.P.C.	Transportation for Life	3rd May 1895	Sessions Judge Madura	50	Good	Good	Sentence confirmed	No. of previous convictions = Nil: No. of penalties in the punishment book = nil

Trichinopoly
Central JAIL OFFICE,
29 August 1895.

W O'Hara
Ag. Superintendent of Central Jail.

6,000—9-94.

Rules 701 and 704.

6,000—9-94.

FORM No. 53.

Nominal Roll of Convict No. 5067 Saravanai Nadan alias Samadayar

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.
Murder Sections 302. 149. I. P. C	Transportation for Life	3rd May 1895	Sessions Judge Madura	45	Good	Fair	Sentence Confirmed	No. of previous convictions = Nil No. of entries in the punishment book = 1 (for possession of a packet of gunja)

~~Trichinopoly~~ Central JAIL OFFICE,
29th August 1895.

W O'Hara
Superintendent of Central Jail.

Rules 701 and 704.

6,000—2-94.

FORM No. 53.

Nominal Roll of Convict No. 5068 Madasami alias Manikkavasaga Nadan

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,
Murder Sections 302. 149. I. P. C.	Transportation for Life	3rd May 1895	Sessions Judge Madura	32	Good	Fair	Sentence Confirmed	No. of previous convictions = nil – No. of entries in the punishment book = 1. (For possessing packet of snuff)

Trichinopoly
Central JAIL OFFICE,
29th August 1895.

W O'Hara
Superintendent of Central Jail.

Rules 701 and 704.

5,000—9-94.

FORM No. 53.

Nominal Roll of Convict No. 5070 Masilamani Nadan

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.
Murder sections 302. 149 I P C	Transportation for Life	3rd May 1895	Sessions Judge Madura	40	Good	Good	Sentence confirmed	No previous convictions = Nil - No entries in the punishment book = Nil.

Trichinopoly Central Jail Office,
29th August 1895.

W. O'Hara
Ag. Superintendent of Central Jail.

Rules 701 and 704.

6,000—9—94.

Judicial Dept.

29/8/95

To

HIS EXCELLENCY THE GOVERNOR IN COUNCIL,
FORT ST. GEORGE.

The humble petition of VYRAVA NADAN, SARAVANAI NADAN, MADASAMI NADAN AND MASILAMANI NADAN, *under Section 401 of the Criminal Procedure Code,*

RESPECTFULLY SHEWETH :—

That Petitioners were the 7th, 8th, 9th and 11th prisoners before the Session Court of Madura in Session Case No. 34 of 1895, and, having been convicted under Sections 302 and 149 of the Indian Penal Code, were sentenced by that Court to transportation for life.

2. That, on appeal to the High Court, the conviction and sentence passed on Petitioners have been confirmed, and Petitioners now appeal to Your Excellency in Council, for the exercise of that prerogative of mercy which is vested in the Government by Section 401 of the Criminal Procedure Code.

3. That, to enable Your Excellency in Council to determine how far the Government would be justified in exercising that prerogative, Petitioners beg respectfully to submit the following facts for consideration.

4. That the story of Petitioners having taken a prominent part in the Thevaram Jellicut is opposed to reason, may be seen from the fact that the Jellicut is a national pastime peculiar to the Hindus who do not profess the Christian religion, and Native Christians have nothing whatever to do with such a pastime, for the simple reason that the Jellicut is initiated by a short ceremonial before a Hindu temple in which no Native Christian could join.

I am bound to confess that I have been to a Jellikat myself! W

5. That, in little villages in the Mofussil, Native Christians are all along accustomed to observing the Sabbath more rigidly than in large towns, as their numbers are small and their conduct more subject to supervision by their Pastors.

6. That, in a little village like Kombai, the evidence of the Native Pastor (the 8th witness for the Defence) who presided at the usual service on the evening of the 24th March 1895, and who swore to the presence of Petitioners at that evening service, is deserving of some consideration, corroborated as it is by the testimony of the Defence 4th witness Gnanamuthu Vathyar.

7. That the fact that the names of these Petitioners were mentioned soon after the occurrence as having been present at the Jellicut and taken part in

the riot, is a circumstance which would have at once brought to the recollection of the Native Pastor and the Teacher, that these Petitioners were present at the Sabbath service on the evening of the 24th March 1895, and that they were being falsely implicated in the riot, and would have made a strong impression on their memory.

8. That a slight consideration of the circumstances connected with the first complaint A presented in this case will shew that that complaint was never written at the time it is alleged to have been written, and that it must have been a subsequent production after sufficient deliberation as to who should be included as accused.

9. That if, as it is admitted all round, the Jellicut was over at 5 P.M., that the riot occurred at 5-30 P. M. after the crowd had dispersed homewards, and got into the village of Thevaram, it is not possible for the complaint A to have been prepared and presented to the Village Munsif at 5-30, for the riot had just then come to an end, and the Police Inspector's report Exhibit Q dated 26th March 1895 states that the complainant Lakshmana Kudumban first went to a relative's house for paper to write a complaint on, and that he then went to the Chavady, and there found a man whose name has never yet been revealed, and who wrote the complaint A in all its detail.

So far as I can see, the W. was not asked who the man was HL

10. That, looking into the contents of complaint A, it is impossible to believe that Lakshmana Kudumban who calls himself an illiterate man, could, in all the distress and excitement of that moment, have given all the details therein set out, and have enumerated his witnesses and the accused so systematically, selecting chiefly Native Christians from Kombai and including a non-Christian, the 10th prisoner who had been arrested on the spot by a Policeman, whereas according to the complaint there was a crowd of 40 persons who came in a body and made the attack in a street in the village of Thevaram, when there must have been the utmost confusion imaginable, and identification impossible.

But A does not mention all the accused or all the W.s HL

11. That another circumstance which goes to shew that complaint A was a later production after considerable deliberation is, that in Exhibit Q the Police Inspector says he examined the mother of the deceased who stated that she went to see the Jellicut; that she saw her son being beaten; that when she went up to her son she found him dead; that she saw the corpse removed to the village Chavadi, but did not observe her son Lakshmanan or the Village Munsif at the place.

12. That a further curious circumstance is, that while in the complaint A a vague and general statement is made that about 40 persons including the accused beat the deceased, no attempt is made to assign any specific act against any of the accused, not even when the Police Inspector examined the complainant on the following night; and the fact that it was not till the case was inquired into by the Committing Magistrate on the 20th April or nearly a month after, was anything specific alleged against any one, warrants the inference that when the complaint was lodged it had not been arranged who should be selected as the ringleaders of this riot, and what part should be assigned to the rest.

13. That where a serious riot takes place and 40 people are said to have taken part in it, it has always been held a safe rule to insist on something definite being alleged against those whom it is sought to implicate; but in the present case nothing specific has been alleged against Petitioners from the complaint down to the close of the trial.

14. That admittedly a crowd was returning from the Jellicut, and to make that crowd criminally responsible by simply saying they all beat the deceased would amount to holding out a premium to aggrieved people to wreak their vengeance on the innocent, either from personal malice or secret instigation.

15. That the circumstance that not an inhabitant of a single house living in the street in which the riot took place has been examined as a witness, coupled with the fact that the name of the man who wrote the complaint A for Lakshmana Kudumban has never been revealed, indicates that that complaint was drawn up at a later period of night after mature deliberation, and passed on by the Village Munsif to the Police next morning.

16. That it is a singular circumstance that the Police Inspector who received the complaint A through the Village Munsif at 5 A.M., on the 25th March 1895, and who went to the village of Thevaram at 10 A.M., on that day, should not have been able to find the complainant Lakshmana Kudumban there, who, for reasons not known, is said to have gone to Kombai, and to have been produced before the Inspector of Police at 8 P.M.

17. That another circumstauce worthy of remark is, that the complainant who professed to have been so energetic in preparing and presenting his complaint A, for some unknown reason concealed himself when his case was called up, and had to be produced under a warrant, on representations made by Petitioner's Solicitor. (Vide Exhibit R1.)

18. That the conduct of the complainant was followed by the 10th, 11th and 12th witnesses; and it is difficult to explain this in any other way, except that these men were withheld by some one interested in shaping their evidence, and who believed he had not had sufficient time for his purpose.

19. That while in his sworn evidence the complainant declares he was being beaten by Petitioner Saravanai Nadan (8th prisoner), his first complaint A does not say a word about his having been beaten by any one at all at any time.

A does say 'he had been beaten,' tho' not by whom HL

20. That it is noteworthy that Petitioner Masilamany Nadan's name (11th prisoner) was never mentioned in the first complaint, and his subsequent implication in the matter by the 6th witness bears on it the impress of falsehood.

21. That the Assessors who presided at the trial in the Session Court of Madura, found Petitioners guilty of *rioting* only under Section 147 of the Indian Penal Code; that, assuming the evidence to be true, it would be a pure matter of inference to decide whether the case of Petitioners would fall under Sections 302 and 149 of the Indian Penal Code; and Petitioners would beg your Excellency in Council to determine whether the facts alleged against Petitioners in any way justify the inference that, as set out in the charge framed against them, they *must have known* that *murder was likely to be committed by the unlawful assembly in the prosecution* of the *common object to inflict bodily injury on the deceased.*

22. That the High Court have in the last sentence of their judgment given expression to their view of the punishment inflicted by stating that they have no *power* to reduce it.

23. That it is open to Your Excellency in the interests of justice to grant Your Petitioners an unconditional pardon if upon a dispassionate consideration of the evidence recorded Your Excellency in Council should be of opinion that the innocent have been mingled with the guilty in this case; and Petitioners accordingly pray that the prerogative of mercy which was exercised by Your Excellency in Council in the Kunnivailamputty case (Session Case No. 39 of 1894), may also be exercised in this case. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Trichinopoly
29 August 95

William O'Hara
Ag Supt Central Jail

The following papers are submitted herewith :—

(1) Copy of the Madura Sessions Judge's Judgment in Sessions Case No. 34 of 1895,

(2) Copy of Judgment of the High Court in Criminal Appeal No. 278 of 1895, and

(3) Printed Book containing the evidence and other Session record furnished by the High Court to the Petitioner's counsel there.

1895
Judl
1
4276

Judicial Dept.

J
4
1,000—5-2-94.

JUDICIAL DEPARTMENT.

CURRENT No. 4276 OF 1895.

Nos 5066, 5067, 5068 & 5070

Application for remission of sentence from convicts in the Central Jail, Trichinopoly

FOR ORDERS.

See note on C No 4179 which covers the petition of the other 8 convicts in the case

JG
11/9/95

W
17 Sep

J.G.
15/9

Name of the Convict

No 5066 Vaisana Nadan alias Joseph Nadan — (No 7)
" 5067 Saravanai Nadan alias Samadiyar — (No 8)
" 5068 Madasami alias Manukkamaya Nadan (No 9)
" 5070 Mailamani Nadan (No 11)

Offence committed.

Rioting & murder. Secs 147, 302 & 149, I.P.C.

Adjudicating Court.

Session Court, Madura

Sentence imposed.

Transportation for life

Result of appeal to High Conrt.

Dismissed

Previous Convictions.

Nil

10-9-95

10/9/95

PETITION FROM CONVICT

Abstract of Petitions [illegible]

in [illegible] Case

Judl

H. M. [illegible]

~~[illegible]~~

From

Convict no. 5266. Ayya Nadan
" no. 5267. Muthukaruppan
" no. 5268 Marimuthu Nadan
alias Peria Vellayan.
" no. 5063 Iyemperumal alias
Chinna Vellaya Nadan.
" no. 5064. Rakkappa Nadan
" no. 5065 Marimuthu Nadan alias
Mariappa Nadan.
" no. 5069 Velumuruga Nadan.
" no. 5071. Sinna Suppa Koundan.
Central Jail.
Trichinopoly.

To

His Excellency The Right
Honourable The Governor-
-in-Council
Fort Saint George.

Dated 21st
Despd 22
Recd
August 1895.

No. 241.

Enclosures — 13

Subject.

Praying that the petitioners
may be pardoned.

CURRENT No. 4179
Judl. Dept.

CHIEF SECRETARY
31 AUG. 1895
GOVERNMENT OF MADRAS

No. 5254.

Submitted for the orders of Government.

2. 11 Enclosures as per list dated 21st August 1895 are also submitted.

3. The Superintendent has been called upon to explain why the prisoners convicted in Sessions Case No. 34 of 1895 have not as required by standing orders received Register Numbers in accordance with the order in which they stood as accused in the Sessions trial

A G Cardew
Inspr. Genl. of Prisons.

Ootacamund
30th Augt. 1895.

Recd. 31/8
[illegible]
Reg. 2/9
Enclos: 11

FORM No. 53.

Nominal Roll of Convict No. 5266 Ayya Nadan

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.
Murder Section 302, I.P.C.	Transportation for Life	3rd May 1895	Sessions Judge Madura	24	Good	Good	Sentence of death commuted to one of transportation for life.	No previous convictions — Nil

Trichinopoly
Central Jail Office
21st August 1895.

W.O. Hara
Ag. Superintendent of Central Jail.

C Sm
20/8/

Rules 701 and 704.

-94.

FORM No. 53.

Nominal Roll of Convict No. 5267 Muthukaruppa

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.
Murder Sections 302 I. P. C.	Transportation for Life	3rd May 1895	Sessions Judge Madura	22	Good	Good	Sentence of death commuted to one of transportation for life	No previous convictions — Nil

Trichinopoly
Central Jail Office
21st August 1895.

W. O'Hara
Ag. Superintendent of Central Jail.

Rules 701 and 704.

6,000—9—94.

477

FORM No. 53.

Nominal Roll of Convict No. 5268 Marumuthu Nadan alias Peria Vellayan.

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.
Murder Section 302 I.P.C.	Transportation for Life	3rd May 1895	Sessions Judge Madura	24	Good	Good	Sentence of Death commuted to me of transportation for life	No. of previous convictions—Nil

Trichinopoly Central JAIL OFFICE,
27th August 1895.

Rules 701 and 704.

W O'Hara
Ag. Superintendent of Central Jail.

6,000—9-94.

FORM No. 53.

Nominal Roll of Convict No. 5063 Aiyamperumal alias China Vellayanadan

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.
Murder Section 302. I. P. C	Transportation for Life	3rd May 1895	Sessions Judge Madura	20	Good	Good	Sentence confirmed	No. of previous convictions = Nil.

~~Trichinopoly~~
Central JAIL OFFICE,
21st August 1895.

W O Hara
Superintendent of Central Jail.

C Seil
Jailor

Rules 701 and 704.

5,000—9-94.

FORM No. 53.

Nominal Roll of Convict No. 5064 Rakkapopa Nadan

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.
Murder Sec 302, 149, I.P.C	Transportation for Life.	3rd May 1895	Sessions Judge Madura	30	Good	Good	Sentence confirmed	No previous convictions — Nil

Trichinopoly Central JAIL OFFICE,
21st August 1895.

W O'Hara
Superintendent of Central Jail.

Rules 701 and 704.

6,000—9-94.

FORM No. 53.

Nominal Roll of Convict No. 5065 Marimuthu Nadan alias Mariappa Nadan

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.
Murder Sections 302. 149. I.P.C.	Transportation for Life	3rd May 1895	Session Judge Madura	30	Good	Good	Sentence confirmed	No previous convictions — Nil

Trichinopoly
Central JAIL OFFICE,
21st August 1895.

W O Hara
Ag. Superintendent of Central Jail.

Rules 701 and 704.

5,000—9-94.

Clerk
Jailor

FORM No. 53.

Nominal Roll of Convict No. 5069. Velumuruga Nadan

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.
Murder Sections 302, 149, I.P.C	Transportation for Life	3rd May 1895	Sessions Judge Madura	22	Good	Good	Sentence Confirmed	No previous convictions — Nil —

Trichinopoly Central Jail Office,
21st August 1895.

W O'Hara
Ag. Superintendent of Central Jail.

Rules 701 and 704.

1,000—9-94.

FORM No. 53.

Nominal Roll of Convict No. 5071 Sinnasuppa Koundan

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.
Murder Sections 302, 149 I.P.C.	Transportation for Life	3rd May 1895	Sessions Judge Madura	28	Good	Good	Sentence confirmed	No. of previous convictions — Nil

~~Trichinopoly~~ Central JAIL OFFICE,
21st August 1895.

W O'Hara
Ag Superintendent of Central Jail.

Rules 701 and 704.

5,000—9-94.

To

His Excellency the Right Honorable

the Governor of Fort St. George

in Council.

The Humble Petition of:—

No 5066 1. AYYA NADAN.
No 5067 2. MUTHUKARUPPAN.
No 5068 3. MARIMUTHU NADAN *alias* PERIA VELLIAN.
No 5063 4. IYEMPERUMAL *alias* SINNA VELLAYA NADAN.
No 5064 5. RAKKAPPA NADAN.
No 5065 6. MARIMUTHU NADAN *alias* MARIAPPA NADAN.
~~7. VYRAVA NADAN *alias* JOSEPH NADAN.~~
~~8. SARAVANAI *alias* SAMI ADIYAR.~~
~~9. MADASAMI *alias* MANIKKAVASAGA NADAN.~~
No 5069 10. VELUMURUGA NADAN.
~~11. MASILAMANI NADAN.~~
No 5071 12. SINNA SUPPU GOUNDAN.

Sheweth:—

1. Petitioners have all been convicted of murder and rioting with murder and are now under sentence of transportation for life.

2. They were so convicted and sentenced by the Sessions Court of Madura in S. C. No. 34 of 1895, and the conviction has been upheld by the High Court in Criminal Appeal No. 278 of 1895 and Referred Trial No. 42 of 1895 (copies of judgment of both Courts are herewith sent marked A and B).

3. Petitioners submit that they have been unjustly convicted and beg to present this petition for a remission of the whole or any part of the sentence as to the Government may seem fit under the following circumstances.

4. Petitioners are all except ~~the last~~ five Christians; and they are all said to have taken part in a murderous riot on Sunday the 24th March last, at Tevaram, in Madura.

5. There was, it is said, a Jellicut on that day at Tevaram and in that Jellicut it is also said that the 3rd prisoner let loose his bull which the deceased succeeded in catching and in consequenee of a quarrel that ensued on it, it is said prisoners with 30 or 40 more attacked that single individual with sticks and beat him to death in the presence of a lot of people, who were going back to their villages after the Jellicut was over.

6. The following are some of the very gross improbabilities attaching to such a story.

(*a*) Granting that there was a Jellicut, it is grossly improbable that Christians would have taken part in it on a Sunday.

(*b*) It is not shown that any of the prisoners had any bull in that Jellicut beyond the hearsay evidence of the first witness, brother of the deceased (see page 57, printed records).

(*c*) The motive alleged (the abuse by the Palla of the owner of the bull) is so very week and it is not likely that the Nadars as a whole would have risen *enmasse* to punish the deceased. Moreover it does not find a place in the very first complaint, see Exhibit A, page 39.

(*d*) It is not said there was any general commotion between the two classes of Pallas and Nadars and so it is impossible to understand why 50 or more Nadars should unite to attack a single individual.

(*e*) In a Jellicut, bulls are let in to be caught. and why should the owner of the bull prevent its being caught.

7. Petitioners do not deny that the deceased was beaten to death by some persons or other but they do deny that petitioners had any hand in that affair and the story for the prosecution as to how the affray arose is entirely untrue.

If there was a general fight, it is curious that accused No 10 was the only man on the other side who was hurt WB

8. From the number of injuries found on the deceased and considering also that prosecution witnesses 1 and 2 and accused No. 10 show marks of wounds on their persons, it is probable that there was a general fight between several people in that Jellicut on account af some dispute as to who was entitled to a prize as is usual in Jellicuts, and in that scuffle deceased must have been killed and the Zemindars of Tevaram and Kombai taking advantage of this unfortunate event availed themselves of the opportunity to charge their longstanding enemies the Nadars of Tevaram and Kombai. The fact remains that accused 1 to 6 are from Tevaram and the remaining 6 are from Kombai.

The two places are close together WB

This cuts both ways WB

9. In para. 12 of his judgment the Sessions Judge observes that there is no satisfactory proof of the enmity between the Nadars and other people, headed by the Zemindars. That there has been and is such an enmity is proved by the admission of the first witness himself (see his statement to Police Inspector, page 58; see also Exhibit IV, page 66, para. 2.) Besides these, numerous jndgments of courts showing the general enmity between the 2 classes were given to the solicitor who defended the accused, which he has failed to file. A reference to the following public documents will show how bitter is the feud between the Nadars on the one hand and the other people of the village. It is evident there are some persons working behind the scenes as the first witness admits he has engaged a seperate Vakil. Who pays for the Vakil? Not the Pulla of course.

List of documents abovementioned failed to be filed in lower courts by the prisonors' Vakil

(1) Complaint by the servant of Kombai Zemindar on 21-5-94 against the 9th accused's brother Komarady Nadan, 7th accused, 8th accused and 11th accused.

(2) Village Munsiff's report.

(3) Police referred charge sheet.

(4) Judgment in Calender Case No. 156/94 by the 11th accused's brother against the Zemindar of Kombai and others.

(5) 579/94. Complainant Perumal Servai, servant of the Kombai Zemindar brought a complaint against 11th accused and 4 others in which 8th defendant Saravanai *alias* Sami Adiyan supported the defence.

(6) Judgment in Calender Register No. 15/92 in which 8th accused Saravana brought complaint against the Zemindar of Kombai, deceased and some others in which Madasami *alias* Manikkavasaga Nadan, 9th accused, supported the prosecution.

(7) Judgment 148/92 by the *Zemindar* of Kombai against the 11th accused.

(8) Deposition of Apothecary in C. C. No. 20/93 that Masilamani's the 11th accused's left hand is useless to do any work.

(9) Judgment in C. C. No. 185/94. Mahomed Ghose complained against the servants of Kombai Zemindar in which 7th accused Joseph *alias* Vyrava Nadan and 8th accused Saravanai *alias* Sami Adiyan deposed against the defence and supported the prosecution.

(10) Judgment C. C. No. 584/94 against the Zemindar of Kombai, deceased and some others by one Dorai Pandiyar in which 12th accused and his daughter deposed against the said Zemindar and this complaint just previous to the present case; and hence the present case has been concocted.

10. It is said there were 13 eye-witnesses to the occurrences including the constable but it is a fact worthy of note that although there were houses on all sides yet not a single neighbour gives evidence in the case. The only neighbour the 7th witness was tendered for cross-examination.

11. The so-called eye witnesses 1 to 13 are not entitled to any credit for the following reasons.

(*a*) There is a strong feeling among other classes against the Nadars of the place.

(*b*) They give an extraordinary story as to how the accused and others, not before the court, beat the man with sticks even after he had fallen down dead.

(*c*) If they were really present at the rioting they would bear marks of injuries on their persons as it is impossible to believe that 40 men could be attacking only a single individual.

Why not?

(*d*) All of them when asked to identify in a court the prisoners on the 20th April before the Magistrate, pointed out persons totally unconnected with the transaction, see Exhibit II *a*.

We don't know this — See in what the judge says para 13 (blue pencil mark) WS

(*e*) Of these the 6th, 7th and 8th witnesses were not even named in the first complaint, see Exhibit A, page 40, and some witnesses named in the complaint have not been examined.

12. The 1st witness is the most important witness. He is the brother of the deceased and he says he was with the deceased all through the day. The 8th witness is also said to have been with the deceased right through. The 1st witness did not mention the name of 8th witness in his first complaint. The 8th witness says that accused 1 to 3 rescued the bull, while the 1st witness to whom it is admitted all the accused were known by name previously, says he does not know the names of the Nadars who rescued the bull. This is a very material point as it is said to be the cause of this outbreak; again the first witness admits enmity between the Nadars and his people.

The 2nd and 8th witnesses, curiously enough, profess to have been present on both occasions, the seizure of the bull and the attack on the deceased with an interval of some hours. Why were they not attending to their own business.

13. Moreover the witnesses with some variation now say that the first three accused dealt the first three blows (the fatal ones) but this fact was not mentioned in the complaint and in his evidence before the Police Inspector the first witness only mentioned the 1st and 2nd accused as having dealt the fatal blows (see page 57) whereas now he includes 3rd also. It is rather remarkable that the witnesses in that crowd of 40 or more, should have noted who dealt the fatal blows.

14. The Occurence Report, Exhibit Q, page 54, shows that the mother of the deceased was an eye-witness to the occurrence and in her statement she does not mention the first 3 accused as having taken part in the beating, nor does she mention the other accused except the 8th, 11th and 10th (10th arrested on the spot). She on the other hand mentions other people as having killed her son and they have not been arrested nor was she examined at the trial.

15. The 11th and 12th petitioners further say that their names were not mentioned in the first complaint (Exhibit A, page 40) nor were they mentioned by the first witness to the Village Munsiff. See Village Munsiff's evidence, page 21; and the 9th witness says (page 15) that he did not see them there. The case against them is therefore considerably weakened by these facts. The first witness admits there has been bitter ill-feeling between the 2 families of the 11th prisoner and his own on account of his having got the deceased convicted (see Exhibit IV) and it is therefore unlikely that the first witness could have overlooked his name if really he was concerned. Moreover the 11th is a man with only one arm.* This portion of the case has been entirely ignored by the High Court.

*Stiff Elbow left. WH

16. Petitioners also beg to bring to the notice of Government, the conduct of the Head Constable, in showing the prisoners before the trial began to the Prosecution witnesses, see Exhibit II and evidence of the 9th and 10th witnesses for the defence.

17. Petitioners had the misfortune to be defended by a solicitor who did not understand Tamil, before the Sessions Court and petitioners consider their case has been prejudiced thereby.

18. From the circumstances mentioned above, it will appear that there is considerable doubt as to the presence of the accused at the riot, if any; and Petitioners who are law-abiding Chirstians have been injustly punished.

19. Petitioners therefore pray they may be pardoned.

P. S.—Petitioners pray that the enclosures to this petition and the order thereon, may be sent to their agent, Revd. S. Nullathambi, Kombai, Periakulam, Madura District. The judgment of the High Court will be sent to Government by their Vakil at Madras, as the copy applied for has not yet been obtained.

நெ. 5266

„ 5267

„ 5268

„ 5063

„ 5064

„ 5065

5069

5011

Trichinopol

[J/14]
1,000—5-2-94.

JUDICIAL DEPARTMENT.

CURRENT No. 479 OF 1895.

Nos 5266, 5267, 5268, 5063, 5064, 5065, 5069 & 5071

Application for remission of sentence from convicts in the Central Jail, ~~Jail,~~ Trichinopoly.

FOR ORDERS.

A Jellikat case very similar to this came up some time ago from Madura, in which we reduced all or most of the sentences. — Please put up the papers

H.S.
6/9/95

7

Please see G.O. 57 20-12-94 No. 3157

D
10/5/91

Another petition (in C No 4276) has now been recd from the other 4 convicts in this case, so the petitions of all of them are now for decision.

The Rev. Messrs Chandler & Tracy of the American Madura Mission came up here a fortnight or 3 weeks ago & saw Mr. Macartie (& possibly H.E. — but that I don't know) & then me about this case, & about what they said was the improper conviction of the petrs in C. No 4276, who are convicts Nos 7, 8, 9 & 11. I told them ~~that~~ all that could be done was ~~that~~ these 4 persons, if their case was in any way different from that of the other eight, should put in a separate petition. — This they have done & a rather ingenious petn it is; but after examining it I do not find anything to lead me to think that the conviction was wrong. Both the petitions dwell on the improbability of Christians going to a Jellikat at all, & especially of their doing so on a Sunday, instead of going to Church, arguments which do not impress me; and on the fact that certain things & persons are not mentioned in the original complaint A which was prepared immediately after the murder & reached the Head of Police Inspr. at 5.15 the next working Magte the same day: It is rather [illegible]

Name of the Convict

Ayya Nadan No 5266 — (1)
Muthu Karuppan No 5267 — (2)
Marimuthu Nadan No 5268 — (3)
Iyemperumal Nadan No 5063 — (4)
Pakkappa Nadan No 5064 — (5)
Marimuthu Nadan No 5065 — (6)
Vellamurugu Nadan No 5069 — (11)
Sinna Suppan Servandan No 5071 — (12)

~~*Offence committed.*~~

Offence committed

Rioting & murder u/ secs. 147 & 302 I.P.C.

Adjudicating Court.

Sessions Court, Madura

Sentence imposed.

Prisoners 1, 2 & 3 sentenced to death & the rest to transportation for life.

Result of appeal to High Conrt.

Sentence of death passed on prisoners 1, 2 & 3 reduced to transportation for life & the sentence passed on the other prisoners confirmed

Previous Convictions.

Nil

D

H.S.
4/9/95

case (& there is no reason at all for thinking so), this doct. must be accepted as being what it professes to be. It is also curious that the name of the writer of A has not been disclosed. But the reason for this seems to be that everyone who had to deal with A, on the spot & at the time, accepted it as genuine, so that no one troubled to enquire, or at least to record, the name of the person who wrote it —

The Sess. J. seems to me completely to dispose of the evidence for the alibi set up by Ps 7, 8, 9 & 11 — On the whole, I do not see any reason to suppose that any of the convicts have been improperly convicted — The case has been very carefully gone into by a competent Sess. J., & the H.C. has had no difficulty in accepting his conclusions. As regards the punishments, however, I think they are too severe, except in the case of Ps 1, 2 & 3, who actually killed the man. I think that with regard to the rest we should follow the same course that we did in the case disposed of in the G.O. of Dec 20, 1894 (in the file). The 10th P. was evidently prominent in the attack, for he was wounded & admitted to the Police Inspr. that he was wounded by the deceased (see p. 55 of the printed papers, red pencil mark) = so was 8th P., who struck the first W. — I would reduce the sentences of transpn for life in the case of these two men to 10 (ten) years r. i., & in the case of all the others to seven years r. i. —

HS
11/9/95

Circ:

PETITION FROM CONVICT

Appeal of Prisoners 1239.06
10 12 in Jellicut case

Direct

H. M.

Resubd

brought forward in the appeals to Govt. have been fully considered by the S. Judge & the High court. They have evidently given great attention to the case & their reasoning is sound.

I think, however, the sentences may be modified as proposed by my Hon: Colleague.

JG
15/9

As the chief actors in this brutal outrage have had their original sentences reduced by the H.C. I suppose that the modification in the case of the others should follow.

But it appears to me that any clemency in these cases is a mistake, and that we shall continue to have repetitions of these crimes of violence, until somebody is hung — or the Jellikats put down by order. It seems to me that this latter plan should

[G / 25]
600—23-7-95.

DEPARTMENT.

C. No.

FOR ORDERS.

If the H.C. had maintained the sentence of death in the case of the first three prisoners, I should not have been inclined to interfere in their favour — "Who breaks, pays" is a good maxim — But the H.C. has exercised the option allowed it by law of substituting for sentences of death sentences of transpn for life; and we cannot undo its acts in this respect.

As for putting down Jellikats by order, I should not desire to do so. No doubt quarrels occur from time to time at Jellikats as at other public gatherings, in the objects of which people are deeply interested — But the game is about the only manly one the people have, (and bar these occasional quarrels) does no harm to any living being — I would prefer to let it alone.

HS
20/9/95

I do not think the facts before

Resubmitted to H.M. & Hon. Mr. Grose with refce to H.E.'s note regarding the advisability of 'putting down Jellikats by order'.

D
19-9-95

We might ask the Collr to report whether any regulation is necessary.

JG
22/9

Very well. Let us ask the Collector. It seems to me that some special police arrangements are necessary to protect the victors in these sports. It seems to me also a pity that those whose bulls are beaten in these manly sports cannot take their licking in a manly way. If they did, I should be the last to suggest any interference. And if they only resulted in what the hon. Mr. Stokes euphemistically describes as "occasional quarrels" ending in black eyes all round — it wd. not much signify — but now that we find them ending in brutal murders — in rather frequent succession too — it

Petn. from convict

FOR ORDERS.

~~H. M. & Hon. W. Grose~~ D

Resubmitted to H.E. the Governor

D
24-9-95

Judicial Dept.

Read again G.O. dated 20th Decr. 1894
No. 3151.

C. Nos. 4179 & 4276

ORDER Dt 4-10-95 No 2050
Mis.

HD
31/10/95

Under sec. 55 of the I.P.C. the Govt. is pleased to commute the sentence of transportation for life passed upon the undermentioned convicts in Madura Sessions Case No. 34 of 1895 and confirmed by the High Court in Criminal Appeal No. 278 of 1895 for the terms of imprisonment specified below.-

No assigned in Madura Sessions Case	Name of Convict	Trichy Jail No.	Period for which original sentence is commuted.
4	Iyemperumal alias Sinna Vellaya Nadan	5063	Rig. imprisonment for seven years
5	Rakkappa Nadan	5064	- do ---
6.	Marimuthu Nadan alias Mariappa Nadan	5065	- do - -
7	Vyrava Nadan alias Joseph Nadan	5066	- do - -
8.	Saravanai alias Samiadiyar	5067	Ten years
9	Madasami alias Manikkavasaga Nadan	5068	Seven years
10	Velumuruga Nadan	5069	Ten years
11	Masilamani Nadan	5070	Seven years
12	Sinna Suppu Goundan	5071	- do - -

3. The remaining three convicts who have petitioned Govt. viz. 1st accused Ayya Nadan No.5366, 2nd accused Muthukaruppan No.5367 and 3rd accused Marimuthu Nadan alias Peria Vellian No.5368 should be informed that the Govt. sees no reason to interfere in their behalf.

8. The Govt. observes that this is the second case which has recently come to its notice in which a jellicut has brought about a fight terminating in murder. The Dt. Magte. of Madura should report whether in his opinion it is desirable to regulate meetings of this description in order to prevent the occurrence of similar disturbances in the future.

(From Orders)

30.9.95

1/10/95

To

The I.G. of Prisons with records

,, Hon. the Chief Justice with C.L.

,, I.G. of Police

,, Dt. Magte., Madura.

Kept here

Please send fair for despatch

Despatched

10/10

C. 2/10

A 3/10

PETITION from CONVICTS.

H.M

(FROM ORDERS)

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 FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

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