

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2138-39

Dated 15th Oct. 1895

INDEXED.

[Despatch Abstract.]

MEMORIAL FROM CONVICTS.

Transmitting, with remarks, to the Government of India,
memorial presented by R. Subramania Aiyar, Vakil, on behalf of
Arumuga Gounden and Shunmuga Gounden praying for the remission of the
sentences passed on them in Coimbatore Sessions Case No. 7 of 1895.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	998		13-5-95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
80	59.		18-1-96				

To

His Excellency the Right Honorable
The Governor in Council
Fort St. George

The humble petition of Aramorga
Gounden and Shunmorga Gounden
accused in Sessions Case No. 7 of 1895
on the file of the Sessions Court
Coimbatore and appellants in Criminal
appeal No. 55 of 1895 on the file of the
High Court of Judicature at Madras
and connected with Referred Trial No. 9
of 1895 on the file of the said High Court
the former now at the Madras Penitentiary
undergoing the sentence of Transportation
for life and the latter undergoing the
sentence of rigorous imprisonment for
seven years in the Central Jail at
Coimbatore.

Showeth,

That your Excellency's petitioners were
convicted by the Sessions Judge Coimbatore of

murder and sentenced to death.

2. That on appeal against the conviction and on a reference to the High Court by the Sessions Judge, the High Court commuted the sentence of death to one of transportation for life.

3. That on an application made to your Excellency in Council the sentence passed by the High Court on the 1st petitioner was confirmed but that passed on the 2^d petitioner was commuted to one of rigorous imprisonment for seven years.

4. That your Excellency's petitioners desire to apply to His Excellency the Right Honorable the Governor General of India in Council for the remission of the sentence either in whole or in part.

Your petitioners therefore humbly pray that your Excellency will be pleased to transmit to His Excellency the Governor General of India in Council the petition to His Excellency the Right Honorable the Governor General of India in Council together with the undermentioned papers:

1. Copy of the judgment of the Sessions Judge of

Cumlafore in Sessions case No 7 of 1895.

2. Copy of the judgment of the High Court in Criminal appeal No 55 of 1895 and Referred Trial No 9 of 1895.

3. Copy of the petition to His Excellency the Right Honorable the Governor in Council, Fort St George, Madras.

4. Copy of the order of His Excellency the Governor in Council Fort St George Madras, which have all been properly authenticated by the petitioner's Vakil.

5. One printed book in which the depositions of all the witnesses and all the documents have been printed for the purpose of Criminal appeal No 55 of 1895 and Referred Trial No 9 of 1895.

R. Subbramania aier

High Court Vakil

Madras

Madras

19th September 1895

Vakil for the petitioners

4485
Judicial Dept

2196/92, 21.9.94

449/95

From

Mr. R. R. R.

A. Subramania Aiyer,
High Court Vakil,
Madras.
Vakil for petitioners Arumuga
Gounder and another

Dated 19th }
Recd 21st } Sept/95.
Reg^d 23rd }

Encls: 8



Subject

Requests to forward the pety
to the G. D. I.

808390 24.7.95 R.
9980 13.5.95 his
8290 24.4.95
Proc Pt Rules.

[G]
[25]
600-23-7-95

Jud. DEPARTMENT.

C. No.

4485
~~4485~~

FOR ORDERS.

The foregoing paper is an
appeal to the Govt of India
for remission of sentence
presented by a pleader on
behalf of two convicts now
in jail. Rule 697 of the
jail code allows a second
appeal only in cases in
which the Supt of the jail
in which the prisoner is
confined considers that
sufficient ground exists
for such a commision. This
rule is based on para 39
of the Resolution of the Govt
of India recorded in G.O. of
18. Jan'y. 93. No 110. Note to Rule
(3) (6), Sec iii, of the Memorial
P.T.

"to Government"

Rules B. on the other hand,
 requires the transmission
 of all petitions for pardon
 addressed to the Govt. of
 India. From these rules it
 would appear that, where
 the Supt. considers that a
 second appeal is advisable,
 the local Govt. has no
 power to withhold the petition.
 It is not however clear
 what the effect of these
 rules is in a case where
 a second appeal to the
 Govt. of India has been
 presented, as in the present
 instance, by a pleader
 on behalf of the prisoner.
 The transmission of all
 these appeals to the Supreme
 Govt. will, more or less,
 have the effect of nullify-
 ing Rule 697 of the Jail Code,
 orders are therefore requested
 as to what should be done
 in these cases, whether the
 memorials should be for-
 warded or withheld. There is no rule

FOR ORDERS.

[G]
 25
 600-23-7-95

DEPARTMENT.

C. No.

FOR ORDERS.

I don't think it possible
 that, by para 39 of the Res. referred
 to India can possibly have intended
 to bar appeals to themselves, for the
 clemency of the Govt. - "Govt." in that
 para must mean the local Govt. -
 There can be no harm however,
 in drawing attention to the point in
 sending this petition on, in doing
 which the reasons of this Govt. for
 reducing the sentence on the 2nd
 prisoner should be given
 MS
 8/10/95

in B Memorial rules corres-
 ponding to Rule IV of Petition
 rules. C. which states that no
 notice will be taken of petitions presented
 by agents.
 Perhaps the Govt. of India shd.
 be addressed on the subject, attention
 being drawn to para. 39 of the Res. &
 quoted above & to the discrepancy which
 exists between it and the note in the
 Memorial Rules, if "Government"
 means the Govt. of India as well as the
 local Govt.

8
 570.75
 20
 7/10/95

4/10/95

Petition from a court

FOR ORDERS.

A M

C. 8/10
R. 9/10

[G.]
[24.]
500-23-7-95.

Judicial DEPARTMENT.
Papers to be read in proceedings:—

Again G.O., dated

189 , No.

Again G.O., dated

189 , No.

Current No. 4485 of 1895, dated 19-9-95 from R. Subramania Aiyar,

" " " 189 " " "

" " " 189 " " "

ORDER. dated 15-10-95 No 2138

The memorial will be trans-
mitted to the Govt. of India
(Imm order)

Recd dated 30/10/95
Letter No 2139.
11-10-95
14/10/95

To

The Secy. to the Govt. of India

Home Dept.
with Memo and
including 8 Enclos Dated 25/10/95
lit.

I am directed to transmit
the accompanying memorial presented
by R. Subramania Aiyar, Vakil on
behalf of Arumuga Gounder and
Shanmuga Gounder praying that
H.E. the Governor-General in Council
may be moved to remit the sentences
passed on them in Coimbatore Sessions
Case No 7 of 1895

2. From the judgment in that case which forms an enclosure to the memorial, it will be seen that the two ^{memorialists} ~~accused~~ Arumuga Gounden and Shanmuga Gounden were convicted of murder under sec 302, I.P.C., and sentenced to death. The High Court however on appeal commuted the sentence ~~upon each prisoner~~ to transportation for life. They then petitioned the Local Govt. and after a careful consideration of their representations, H.E. the Governor in Council saw no reason to modify the sentence passed upon Arumuga Gounden. The punishment inflicted upon Shanmuga Gounden was however reduced to seven years rigorous imprisonment. In thus modifying the sentence, the Govt. was guided by the consideration that the fatal blow was inflicted by the first prisoner by means of a crow bar, an act which Shanmuga Gounden has ^{probably} no reason to anticipate when he took part in the assault. ~~He~~ was however the individual who commenced the attack which was no doubt concerted, and it is true the

he took an active part in committing a violent assault upon the deceased man. For the termination of that assault, however, it was the first prisoner and not Shanmuga Gounden who was responsible.

3. I am to observe that para 39 of Home Dept. Resolution dated 9th November 1892, No 10, 610-623, contemplates the issue of rules prohibiting the transmission, except in special cases, of ~~the~~ ^{for mercy} second petitions from convicts ^{whose} ~~when~~ ^{first} ~~once~~ petition has been rejected by Govt. It is presumed that the prohibition was not intended to bar memorials to the Govt. of India in cases where petitions have been rejected by the Local Govt.

(From orders)

14/10/95 11-10-95

Memorial from Convicts

C.S.

(Form Orders)

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

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO G. 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.
P = Copy abstract only.
Q = Copy heading only.