Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2199

Dated 30th Oct. 1895

INDEXED.

[Despatch Abstract.]

SENTENCE OF DEATH.

Declining to interfere with the-----passed on convict No. 9216 Narayana Aiyangar in Tanjore Sessions Case No. 35 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.
C	5216.		1895				

To

His Excellency The Governor
in Council
Fort St. George.

The humble petition of Narayana Iyengar who was sentenced to death by the Court of Sessions Tanjore in Calendar Case No 35 of 95 which Sentence was confirmed by the High Court in Criminal appeal No 350 of and now a prisoner No 9216 in the District Jail Tanjore.

Most humbly & respectfully sheweth.

1. That your petitioner did not commit the offence, and it is utterly impossible for a delicate youth of 22 years to murder a boy of 15 years old in the day time.

2. Nothing was said about the front teeth in the list prepared at the time of search of the skeleton. There were 3 witnesses to prove that the skeleton was that of Rangiengar. Of these only one spoke of the front teeth in the Sessions Court and not in the Lower Court. The said 3 witnesses also deposed that cloth could be had like the cloth and bunch of keys that were near the skeleton. Your Petitioner therefore prays His Excellency to consider whether it is possible to conclude that the skeleton

was Rangiengar's.

3. The Confessional Statement marked F was made at the instigation of the Police on 3d day before the committing Magistrate. The Police tortured petitioner to give the above Statement. Subsequently Kachi Muarakayan was released from the Sub-Jail. This Kachi Muarakayan admitted as having committed the offence and produced the knife used in severing the feet of the deceased. Kachi Muarakayan is a butcher by profession He bribed the Police and got himself off on 5th day i.e 3 days after F Statement was taken from the petitioner. The Apothecary who gave deposition in the case also deposed that the cut was given by a professional man. Your petitioner not being able to undergo the cruel treatment of the Police appeared before the committing Magistrate and gave a written Statement on 17 June/95 that Statement F was wholly given at the instigation of the Police. The Sub-Magistrate when committing him to the Sessions asked him whether he has any defence. Your petitioner said as the case is a fabricated one no defence is needed and if at all required he would reserve his defence before the Sessions and that Statement F was

was given by him at the cruel treatment of the Police. Your petitioner knows nothing of the case. Petitioner brought to the notice of the Sessions Judge that Statement F was made under pressure from the Police. The committing Magistrate remarked that Statement F was partly true and partly false. Your petitioner told the committing Magistrate on two occasions that Statement F was not at all to be believed as it was given under torture of the Police. Your petitioner therefore humbly prays Your Excellency not to give any credit to Statement F.

4. The 14th Prosecution witness of Poudicherry said that your petitioner took him a piece of gold bangle for sale. Is it possible for a thief to dispose of the gold bangle in its original shape without melting it. By this it is clear that the Police has been concocting this case.

5. On 21st April/95 the Police took charge of all petitioners things, had them sealed and kept them with the Magistrate till your petitioner was committed to the Sessions. To prove that your petitioner had no property with him when searched by the Police he asked the Sessions Judge to send for his things from the Jail. The Judge accordingly got it from the Jail authorities and opened the seals and found out a bit of paper which your petitioner wrote on 20 April at 8 P.M at the Railway Station of Tirupathy. In that it is written that your petetioner was taken to the Police Station at Tirupathy with all

No-vide para 18 of judgment pp

his things, searched thoroughly, and petitioner was released from custody as no property was found on him. Even after producing this slip of paper the Judge sentenced him to be hanged saying that your petitioner could not get ink bottle, pen, and light at the station at that hour. If a reference is made to the Jail authorities it will be proved that petitioner owns an ink bottle, pen, shade and fire box with other things. Your petitioner can assure that he has no beard. If a reference is made to the District Surgeon it will plainly show whether petitioner had any beard or not and by this Your Excellency can easily see that the whole is Police concoction.

The judge would not have made this remark if he had seen the list of petitioner's property

6. There is no direct evidence to prove that the murder was committed by your petitioner. The Police to get their case off their file have originated this case, & Concocted witnesses and brought your petitioner to trouble.

7. Your petitioner therefore humbly prays that His Excellency will send for all the records of the case, peruse them and order his release

Narayanaryangary

25. 10. 1895

Trippatur Jail
25 Octo/95.

Superintendent
Supdt of Jail

To

His Excellency
the Governer in Council
Fort St George

Date 25 October/95
Despd. 25 do
Recd.

Petition of convict
No 9216 Narayana Iyengar
Sentenced to death by
the Court of Sessions Tanjore
praying to peruse the
records of his case
and to order his release
from the Jail.

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FORM No. 53.

Nominal Roll of Convict No. 9216 Narayana Iyengar

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	Death.	12. 9. 95	Sessions Judge Tanjore	22 years	good	good	Sentence confirmed by the High Court.	Previous Convictions Nil. Remarks Nil.

Tanjore 26 October 1895. JAIL OFFICE,

Superintendent of District Jail.
Tanjore.

6,000—9-94. Rules 701 and 704.

SESSIONS COURT, TANJORE.

Judgment in Case No. 35 of 1895.

(Case committed by the Stationary 2nd Class Magistrate of Mannargudi).

PRESENT:—T. M. HORSFALL ESQUIRE, I. C. S., BARRISTER-AT-LAW,
Sessions Judge.

REGINA Versus Narayana Iyengar.

Offence:—Murder, Section 302 I. P. C.

Opinion of Assessors (Sudras):—Guilty.

Finding of Judge:—Ditto.

Sentence:—The prisoner is sentenced to death.

JUDGMENT:—

The prosecution evidence discloses the following history of a somewhat remarkable case of murder.

2. In Mannargudi, Tanjore District, there was a Vaishnavite (Iyengar) Bramin family consisting of father (Krishniengar), his son of 13 (Renga Iyengar), his wife, and his two nephews (1st and 3rd Prosecution witnesses). The family was undivided and all lived together and had considerable means. Krishniengar had had another son, who died. Rengiengar thus became his only son. This boy went to school, and his master (5th Prosecution witness) was also his private tutor. The boy was his father's pet and wore valuable gold bangles, worth some Rs. 400; gold and pearl earrings; and solid silver anklets.

3. In the same town there used also to live a Bramin Iyengar Vakil who died a year or more ago, leaving a son, namely prisoner, who is a man of about 22. This young man seems to have been left badly off by his father. At any rate he leads a restless life, travelling about the country preaching in favor of the Hindoo religion and, for the rest, living largely on the charity of friends, such as the above family, with which he was very well acquainted, particularly with the boy Rengiengar.

4. On the evening of the 7th February the boy consulted his tutor (5th Prosecution witness) whether he could buy a watch from prisoner. The tutor advised him to consult his (the boy's) father, latter being just then away in another village. Later on that night the boy was at home and was seen there by his relative (1st Prosecution witness), and early next morning he was seen by latter's brother (3rd Prosecution witness) in front of their house. He was then wearing his usual jewels, a Malayalam cloth, and a Conjivaram veshti. The family was just then building a new house not far off; and when one of the workmen in that house (6th Prosecution witness) came to his work at 8 A. M. as usual, the boy let him in. And at about 10 A. M. that day (8th February) a potterwoman (4th Prosecution witness, whose son is a sawyer working in the new house), saw prisoner and the boy walking along Muttukrishna Chetty's agraharam in Mannargudi.

5. The boy did not return home to breakfast. He was searched for by Prosecution witnesses 1 and 3 in various likely places in the town, without success, all that day. In the afternoon at 3 P. M. 1st witness met prisoner and asked him if he had seen the boy and prisoner said he had last seen the boy at 7 A. M. But later

on that afternoon 1st Prosecution witness heared from 4th Prosecution witness that she had seen prisoner and the boy together at 10 A. M. 1st Prosecution witness then began to look for prisoner again; but prisoner had disappeared. All the rest of that day and through the night men were searching for both prisoner and the boy, without success, and next day 1st Prosecution witness went further afield along the Railway line for many days. Meantime on the 10th February his brother 3rd Prosecution witness at last gave information to the Police (complaint B), the father of the boy being too sickly and feeble to do this himself. Exibit B accurately described the cloths and jewels worn by the missing boy, stated further that he had a bunch of keys, and mentioned explicitly that he was a friend of prisoner, who was a man wandering about and giving lectures. A constable of Mannargudi Station (15th Prosecution witness) was then put on special duty to look for both prisoner and the boy, and for many days this man searched all along the line and in other places unsuccessfully. It is now certain that prisoner in this time visited both Karikal and Pondichery, and later on went to Tirupathi (North Arcot). In Karikal he came with some relations to the house of a Bramin (13th Prosecution witness) and asked for leave to cook in the house and perform a certain ceremony; and gave out that he was avoiding a civil warrant. In Pondicherry he appeared before a jewel dealer (14th Prosecution witness) and offered for sale a piece of one of the gold bangles of the boy, and afterwards delivered a lecture on the Hindoo religion. And in Tirupathi where he stayed several days lecturing etc., he went to a shopkeeper (23rd Prosecution witness), and bought things from him and consulted this man about a pledge to pay for these things. This man took prisoner to a money dealer (24th Prosecution witness) who consented to give prisoner Rs. 5 on a pair of gold earrings, set with pearls and rubies. This was on the 16th April. These earrings were last worn by the boy Rengiengar. With this money prisoner paid his debt to 23rd Prosecution witness. But he did not redeem the pledge in the time specified (10 days) and as presently the 24th witness heard that prisoner was wanted on a charge of murder he (witness) grew anxious and took the earrings to the village munsiff (25th Prosecution witness) and told him his fears. This was on the 11th May. The village Munsiff reported to the Police and the Magistrate (E and E_1) and handed the earrings to the Tirupathi Station House Officer (26th Prosecution witness), who sent them to the Magistrate.

6. I must now go back to events in Mannargudi. In Muthukrishna Chetty agraharam in Mannargudi there is a large house belonging to the family of a certain vakil, who died 2 years ago. His widow lived in it for some months and then went to live with one of her sons in Saidapet. During her absence the house was tenanted at irregular intervals. The last tenant left on the 16th January, and there was no regular tenant afterwards. But from the 18th February to the 28th February the Assistant Inspector of Schools held his office in the front part of the building. His Head clerk (9th Prosecution witness) went once or twice to the 2nd or back part to make water and on these occasions noticed a bad smell, which he put down to a dead rat, knowing that the house had not been regularly inhabited. About the 10th March the Vakil's widow returned to Mannargudi to look after her own affairs, and resolved to have the house swept and cleaned. For this purpose she employed a sudra woman (7th Prosecution witness) who in the course of her cleaning up opened the door of a cook room in the back part of the house and was

met by a stench and the sight of a corpse lying on the floor of the room. She told the widow, and her son (8th Prosecution witness) was sent for. He informed the Magistrate and the Police.

7. The room in which the corpse lay has no windows. It is a small room and has only a door, 4 walls and a tiled roof. It is used only on rare occasions as a cook room for travellers, and when the door is shut the room is quite dark and nearly airtight. In fact, though the corpse was discovered in broad daylight a lamp was lit to allow it to be properly inspected. It is thus intelligible how little a decomposing corpse made itself perceptible to the neighbourhood and this was further facilitated by the fact that the room is in a somewhat isolated situation. For on the north is the uninhabited part of a Mattam or Chattrum, on the west are the backyard of the house itself, and further on a garden; and on the south is again a large backyard of a house uninhabited at the time; and finally as already stated the house itself had no tenant after the 16th January. The backyard walls are easily scaled and the house and this room were very familiar to prisoner.

8. The corpse lay face down. The feet severed from the legs lay close by on the ground. On the corpse were the cloths last worn by the deceased boy and are indentified as his by his close relatives 1st and 3rd Prosecution witnesses and by the family dhoby (10th Prosecutson witness). His bunch of keys lay on the floor. They are identified by the 1st and 3rd witnesses. A rope lay on the floor, with one end attached to the lower hinge of the door. This rope was the well-rope of that house (vide 8th Prosecution witness). A smaller rope was also there. As regards the corpse itself, decomposition was nearly at an end, and it consisted of little but the skin and the skeleton. Witnesses 1, 3 and 8 are however positive that it was that of the boy from its length, general shape, the hair (which was intact), the sacred thread, shape of skull, and especially by the front teeth 2 of which were peculiarly set in the boy's mouth. The keys and cloths also facilitated identification. None of these witnesses have any doubt that the corpse was that of the missing boy and their belief seems thoroughly well founded.

9. This discovery was on the 13th March. On the 12th March the boy's father had died from illness and grief combined. The prisoner was now vigorously searched for; and on the 11th April a Head Constable (16th Prosecution witness) was put on special duty to arrest him. This man traced prisoner in Pondicherry (where he heard of prisoner from 14th witness the jewel dealer). Eventually, on the 19th April he heard of prisoner being at Tirupathi. This Head Constable had known prisoner as wearing a short beard, so when he saw a beardless man in Tirupathi who he thought was prisoner he was not quite certain. He spoke to prisoner (himself being in plain clothes) and prisoner said he was a man from Vellore. Afterwards however this Head Constable noticed that prisoner went to a chattram, got a tin box from it and a carpet and went to the Railway station. The Head Constable and another Constable (also in plain clothes) followed. It was then 9 p. m. and dark. They got into the same compartment in the train as prisoner, who took a ticket to Kumbakonam. In the middle of the night a North Arcot Chetty (17th Prosecution witness) got into the same compartment. In the next compartment was a Masulipatam sepoy (18th Prosecution witness) going to his Regiment in Trichinopoly. There was no partition between the 2 compartments. And at about 8-45 next morning a Tiruvannamalai musalman trader (19th Prosecution witness) got into the sepoy's compartment.

10. All night long the Head Constable (16th Prosecution witness) lay on his bench covered up. Next morning at about 9. 30, when the train was nearing Tirukoilur the prisoner opened his tin box, got food out of it, covered himself up with his blanket, and ate. He also gave food to some of his fellow travellers. He thus attracted a little attention, and just before the train reached Tirukoilur all these witnesses (16 to 19 Prosecution witnesses) noticed that prisoner, still partially covered by his blanket, transferred a small paper parcel from his box to the left side of his waist. The Head Constable (16th Prosecution witness) asked what it was. Prisoner said it was medicine and was unwilling to show it. But presently he showed it, and it was seen by all to contain 3 pieces of a solid gold bangle and 2 small bits of gold. Then the Head Constable felt his suspicions verified and pulled the end of the carpet off prisoner's box and disclosed a quilted cover over it bearing the name stitched in, of "Narayana Yogiswar". The Head Constable called the 17th, 18th and 19th Prosecution witnesses to witness and proclaimed that prisoner was the murderer of a bramin boy in Mannargudi. The train reached Tirukoilur and the Head Constable got out and wanted the train detained whilst prisoner's box was opened and searched. The guard (20th Prosecution witness) and station master (21st Prosecution witness) were called to the spot and heard the accusation; but they said that the train could not be detained on that account and the search might be made at Villupuram where there was more time. So the 5 bits of jewel were put in prisoner's box; the box was locked up, and prisoner took it, whilst the Head Constable kept the key.

11. At Villupuram the Head Constable again wanted the box to be publicly examined and called the guard (20 Prosecution witness) and the sepoy (18th Prosecution witness) to witness the search. The guard was now willing; but prisoner protested and said he was giddy, and he had taken ticket to Kumbakonam and search should not be made till there: By this time, it may be noted, both Police officers had put on their uniforms in the train. There was of course a crowd at the junction, and time pressed. So the Head Constable asked prisoner to write his "protest" and a narrative of the facts. Prisoner did so, and this paper was signed by prisoner, the guard, the sepoy, and the 2 Constables. The Prosecution wanted to put in this written narrative, or protest, as containing corroboration of the events in the train, but on the objection of prisoner's Vakil I disallowed it as being possibly in the nature of a confession whilst in Police custody.

12. Prisoner and the 2 Police officers then went on to Kumbakonam which they reached at 7. 15. or 7. 30. p. m. There was a crowd there and it was getting dark and the Head Constable thought it not safe to make a search there, so he got a fresh ticket for prisoner and they went on to Nidamangalam which, they reached at 10 p. m. There prisoner was handed to the local Station House Officer (22nd Prosecution witness) and prisoner and his box were at last searched. In the box were found 2 solid silver anklets, and of course the 5 gold pieces, and due entry was made in search book C of the result, the 5 pieces not being entered because prisoner had already entered them in his written protest or list at Villupuram. Prisoner signed book C, and next morning was sent on to Mannargudi. There it was ascertained beyond all doubt that the 2 solid silver anklets and the 3 gold pieces of bangle found with prisoner had belonged to the deceased boy. They

are identified not only by the boy's close relations Prosecution witnesses (1 and 3) but also by the gold smiths who made them (Prosecution witnesses 11 and 12). The same persons also speak to the earrings subsequently forwarded from Tirupathi. Thus, the jewels the deceased boy had last worn were all recovered except some pieces of his solid gold bracelets.

13. I now come to a confessional statement made by the prisoner and the circumstances under which it was made. From a statement prefaced to it, which the Magistrate claims to be the statement required by G. O. Judicial Department 2883 dated 17th December 1887, it would appear that from the day (22nd April) the prisoner was produced before the Mannargudi Magistrate he was anxious to make a confidential statement to the Magistrate. The Magistrate refused to listen to him. 3 or 4 days afterwards the prisoner urged him to stay and listen, and the Magistrate listened to him but did not record his statement. Again 3 or 4 days after that the prisoner offered to confess, and the Magistrate warned him that if he did his confession would be used against him and he need not make it etc. No confession was however recorded. It was not till yet 3 or 4 more days had elapsed (3rd May) that the Magistrate recorded prisoner's confession, the police being removed. It will thus be seen that the Magistrate in anxiety to secure an absolutely voluntary confession stretched the safeguards prescribed by the Executive Government over and above the requirements of the Legislature to the utmost extent. At any rate, it is obvious that the prisoner made his confession under the strongest inducements from a Magistrate to hold his tongue altogether unless he was prepared to abide by the full consequences of a confession of murder.

This is the 2nd case I have seen in the last 2 or 3 days of the same Magistrate

14. The confession is very elaborate and I shall here summarise it very briefly. It is to this effect. One Gopaliengar bore the boy's father a grudge, and besides, the boy one day insulted Gopaliengar; and latter threatened vengeance. And for several days Gopaliengar urged upon prisoner that the boy should be killed. At last prisoner consented and the boy was beguiled to the room in question on pretence of his there getting the key for a watch the boy had got from prisoner. The three got in by the back way at about 11 or 11-30 A. M., and went into the room. There Gopaliengar strangled the boy, prisoner holding the legs. Then Gopaliengar wanted the gold bangles removed. Prisoner got the rope from the well, tied it to the lower hinge of the room door and passed it through the bangles and dragged them off. These and the earrings Gopalaiengar gave to prisoner and with an aruval chopped deceased's feet off and got the anklets. Prisoner received all these things "foolishly" but Gopaliengar took back 1 gold bangle and the earrings and prisoner buried the rest in the backyard. Prisoner then left for Kumbakonum and Negapatam and other places. Then he returned and dug up his share of the booty and went to Tirupathi and lectured. There 2 constables accosted him and searched his box but found nothing. In the train next day he showed pieces of gold bangle to them and in Villupuram wrote a paper to the effect that he had done so. Then he also gave them the 2 silver anklets. The Police had missed finding these things in their search because they were "in a corner" of the box.

15. A few days after (6th May) prisoner cited certain witnesses against Gopaliengar. The Magistrate records this statement of the 6th May as made to him "in confidence".

16. On the 17th June however, when examined before committal, prisoner almost wholly retracted his statement made six weeks before and said it had been made under Police "influence." At the same time he referred back to his confession as to the events in the train, and refused to name any defence witnesses and reserved his further statement for this Court.

17. In this Court he said his confession has been made under Police "influence." He said he was a lecturer, a physician, and had a house and other means of livelihood. He said the constable and Head Constable found him in Tirupathi on the 20th April and questioned him about the murder and searched him, but found nothing on him or in his box. Then they told him to come with them to Kumbakonam. On the Tirupathy station Platform the constable "gave" prisoner a small packet and "wanted him to keep it, unknown to the Head Constable." The prisoner "suspected" and wrote on a small piece of paper a memo of what had happened at Tirupathi and put that paper in his cloth. Next morning, when the train had passed Tirukoilur, prisoner ate breakfast, and then took some peppermint out of his box and ate it. The others asked what it was. He said it was medicine. But they persisted it was concerned in the murder case, and "compelled him to give a list to say he was giddy and should be searched in Kumbakonam; and thus made him write "secretly." Then they went on to Nidamangalam. There the Inspector "asked if I knew anything of the case. I said I knew nothing. He said: 'constables say articles were found on you; you have written and given, what do you say'? "Then the Police troubled me in many ways. They thus troubled me in order to make me confess the articles were taken from my box. Then I confessed that the 2 bangles were found in the box." Afterwards, he says, the Police troubled him in Mannargudi in many ways and he had to confess to the Magistrate.

18. I shall at once, before commenting on the prosecution evidence, deal with the little bit of paper (Exhibit I) which prisoner says he wrote in Tirupathy on the Railway station platform, while already under arrest. This scrap purports to be dated "Tirupathi Station, 8 P. M., 20—4—95." It says the 2 constables arrested him in Tirupathi, and that the Police said he was concerned in the murder case, a Musalman (in Mannargudi) having said so; and that (apparently) nothing was found on prisoner on search. This scrap having been mentioned by prisoner in the course of the trial in this Court, the prisoner's bundle of cloths was, at his request, sent for from the District Jail and in Court prisoner took the scrap from a certain purple bordered cloth, in the presence of the Court Duffadar (28th Prosecution witness). It was shown by the evidence of the Mannargudi Head Constable (27th Prosecution witness) that prisoner whilst in the Sub Jail constantly wore this purple bordered cloth and was allowed pen, ink and paper by the Magistrate but had on another cloth when finally committed for trial. This evidence, taken together with the absurdity of the supposition that the constables, once having arrested prisoner, would on a dark Railway Station Platform allow him to sit down and write in ink, a statement quite at variance with their own story, goes to show that this paper is a subsequent fabrication, made no doubt late in May or in June in the Mannargudi Sub Jail. The prisoner made no attempt to show that he wrote it in Tirupathi and the Head Constable was not examined on the subject; and in his address prisoner's Vakil scarcely alluded to it. In my belief Exhibit I is a subsequent fabrication and of no value whatever.

19. As regards the oral evidence for the defence the prisoner called a young Iyengar (1st defence witness) who was originally a Prosecution witness but whom the prosecution refused to examine as being hostile. He began by saying he had not seen deceased on the Tei pusham day after 7 A. M.; but on being pressed by the defence Vakil said he had seen deceased at noon, alone. In cross-examination he admitted the boy at 7 had inquired after prisoner and that the 2nd time might have been 10 or 10-30 A. M. As prisoner confesses the boy was murdered at 11, this evidence does not seem appreciably to vary the prosecution story. The 2nd defence witness gave no evidence in favor of prisoner. The 3rd and last defence witness is the Mannargudi Head Constable who had, with others, charge of the case. He admitted that at one time the Police arrested a Musulman in the case, before prisoner was found, and that this Musulman admitted he had "cut off the boy's feet and taken the silver anklets." It does not appear that the Musulman admitted more than this much, which would not show he admitted murder. The Police did not believe him and by order of the Magistrate he was released. The prosecution theory is that this man was put up by some who favor prisoner in order to put the Police off the scent, and was tutored to make a very vague, bald and partial admission which would eventually go for nothing against the man making it and would not endanger him, but might help prisoner. This theory seems to me probable. This 3rd Defence witness was also examined by the defence also to show that many prosecution witnesses were not available until after prisoner had confessed and the 3rd Defence witness at first admitted in a confused way that it was not until after the prisoner had confessed that 4th, 5th, 6th, 7th, 8th, 10th, 11th and others were examined. In cross-examination however by the Public Prosecutor it was shown (the Police reports on record being referred to) that the above account by this witness was the result of confusion and incorrect; that the fact that several officers had worked at the case had caused the confusion and that possibly only 4th Prosecution witness Palaniayee of the above witnesses had been examined after prisoner's confession. Her evidence is of very little value. In re-examination the prisoner's Vakil did not attempt to refute this evidence based on police records. And it is shown that not only was nearly all the Mannargudi evidence available before prisoner was even arrested, but also the Pondicherry and Karikal evidence.

20. So much for the written and oral defence evidence. As regards the present version of the prisoner I will only point out that in several very important points it is on its face incredible. For instance, it is absurd to suppose that a man of the world like prisoner — a man who at 22 by his own account lectures on Hindoo religion and doctors other folks and travels far afield to do so — would, when charged with a horrible murder "take" a packet from a constable and keep it on him simply to oblige the Police. Infinitely more probable is it that had the Police attempted any such thing not only that but other Railway Stations would have resounded with his outcries. Again, it is very curious that the list or statement written by prisoner at Villupuram, which the prosecution wished to use, but which I disallowed, (*vide* Para 11 supra) is admitted by prisoner even now, but put down to Police pressure. I may remark that 2 independant witnesses (a Railway guard and a Telugu Sepoy, 18 and 20th Prosecution witnesses) speak to the fact of prisoner making and signing this list at Villupuram, but were not even asked by the defence as to whether there was any compulsion on the part of the Police, or protest on the part of prisoner when he did so. It will be further observed that

prisoner does not now attempt to show whence came the gold pieces and the bangles. He leaves it to be inferred (though his statement is very vague) that the gold pieces were in the packet he took so obligingly at Tirupathi from the Police, and that the silver bangles were somehow produced at Nidamangalam, though he says, he "had to" confess the latter were found in his box. As for the alleged "influence" and divers "troubles" which the Police inflicted on him he has not even attempted to specify what they were, much less to prove that they had any existence.

21. The defence further complained that the Prosecution had not examined the Police Constble who went with the Head Constable to Tirupathi. The answer given is that the facts which this man could depose to were fully given by a Police officer of higher rank and several independent witnesses. The answer is reasonable. It was always open to the defence to examine this witness, but they preferred not to do so. There is finally no evidence for certain other statements of the prisoner. The Prosecution says he has a most precarious livelihood and has adduced proof (witnesses 1 and 3). Prisoner says he has means; but has adduced no proof. The prosecution says and proves that prisoner disappeared almost simultaneously with the boy and never returned. Prisoner says he returned to Mannargudy, but has adduced no evidence at all to that effect. The Prosecution says and proves that the silver anklets could only have been removed from the boy's ankles in one of two ways, viz. either by cutting off his feet or by opening the anklets with tools. It is clear the anklets have never been opened with tools. The other is therefore the only alternative. That being so how could the Police have got them at all except from prisoner's box? Prisoner suggests (I infer) that they got them from the real murderer and cooked up a false case against him. The answer to this suggestion will be found partly in what I have already stated, and partly in the notable fact that there is no attempt to shew that any one of the prosecution witnesses has the smallest grudge against prisoner. The evidence on the contrary is that prisoner was a frequent and not unwelcome guest in the boy's family and a friend of the boy. The remainder of the answer will be found in the positive prosecution testimony as to prisoner's movements and in his confession which I shall now discuss. But before doing so I will dwell briefly on two points on which the defence has laid some stress.

22. First as to the identity of the body I have discussed this point in para 8 supra. I do not think there can be any doubt about it. The boy's relations have given good reasons and the prisoner confesses it was the body of the boy.

23. Secondly as to the cause of death. On this there is no direct testimony beyond the confession of the prisoner. But the circumstances are a very strong corroboration of the confession. The boy when last seen was free from all illness beyond some anæmia. He had a happy home and was the pet of his father. His dead body was found shut up in a dark and isolated room, with the feet chopped off and all his jewels gone. It is to the last degree improbable that the boy would have died in such a place of any cause other than wilful violence. Suppose even for the sake of argument he had got cholera or had been bitten by a cobra, it would have been quite easy for him in broad day light in the middle of a town where his people were well known to get help and be carried home long before he would have died, and there was no reason for him to prefer to lie down and die alone like a rat in a hole.

24. I have no doubt therefore that the corpse was that of the deceased boy and that the boy was murdered. The evidence against prisoner is, first that he disappeared from the time when he was first asked about the missing boy. And it is probable that he never returned to Mannargudi at all, at any rate not after suspicion had strengthend against him. That he went to Karikal and Pondicherry is proved by Prosecution witnesses 13 and 14. In Karikal prisoner perpetrated the monstrosity of celebrating the first aniversary of his father's death, a fact which struck 13th Prosecution witness as astonishing; and prisoner had the excuse ready that he was avoiding a civil warrant. Prisoner has made no attempt to show how he came to perform this ceremony in Karikal, and the evidence of this witness and of 14th Prosecution witness, to whom prisoner offered a bit of the boy's gold bangle for sale, remains quite unshaken. They are both strangers to prisoner, one of them is a man of considerable means, and they are french subjects. It is inconceivable that such men should perjure themselves against a stranger simply to please a foreign Police.

25. Similarly, the evidence that prisoner pledged the boy's earrings in Tirupathi on 16th April is absolutely unshaken (witnesses 23, 24, 25, 26). All these witnesses are complete strangers to prisoner and 3 of them are perfectly independent (26th being a North Arcot Police officer). Again it has been proved by a number of independent witnesses that prisoner when in the train was discovered to have in his possession 3 bits of the boy's gold bangles and a box; that prisoner refused to have his box searched, was given temporarily back the box, the Head Constable keeping the key. These facts are spoken to by so heterogeneous a collection of witnesses as a Telugu chetty from North Arcot, a Railway guard, a station master, a sepoy and a Musalman trader from Thiruvannamalai as well as by the Head Constable (Prosecution witnesses 16 to 21). And of these, the sepoy, the chetty, and the Musalman all actually saw prisoner secreting that parcel in his waist in which the bits of gold bangle were found. It is noteworthy that the only real discrepancy in the evidence of these witnesses, viz. as to the way in which prisoner was sitting (the 18th witness saying prisoner sat with his back to the engine, whereas the others say prisoner sat facing the engine) is of no moment because prisoner in effect admits their presence and the finding of the parcel. The discrepancy therefore counts for nothing, except as showing that a discrepancy even on a matter in which one would scarcely expect a divergence from true witnesses does not at all always point to false testimony. It is clear the 18th Prosecution witness is simply mistaken. The point of course is why should all these witnesses, complete strangers to prisoner, combine against him to say that the discovery on him by the disguised police of 3 gold bangles in the train was a perfectly genuine affair, and that prisoner did not in the least by his conduct pretend it was other? To this question I can see no answer; nor can I see how the Police got the two silver anklets in Nidamangalam except from prisoner's box which even the prisoner does not say was tampered with between Tirukovilur and Nidamangalam.

26. I have no doubt therefore on the evidence, that that stupidity on the part of the criminal which is at the bottom of the detection of nearly all such crimes as are detected, led to the detection of the prisoner. Months after the murder he had still only just got rid of part of the jewels of his victim (the earrings) and had the remainder still actually on his person, mutilated only in part and quite

readily identifiable. And I have no doubt that his detection with the jewels on him (which he would think was clear proof of his being the murderer) led to his confession. That this confession is literally true in every point I do not think. For instance the allegation that his supposed accomplice took the earrings seems false, for prisoner himself pledged them. But prisoner's very graphic description of the manner in which the murder was effected and in which the jewels were got off the corpse tallies fully with facts otherwise fully proved and his mention of the watch as a means of decoying the boy also tallies with other evidence. The Assessors think that prisoner was not singlehanded, and apparently, that his confession may be almost wholly true and I gather that the committing Magistrate prima facie held the same view. I am not disposed to agree with them, and I can see nothing in the case which would go to show that prisoner necessarily had an accomplice. And there is no evidence that deceased had a single enemy. I think prisoner killed him from sheer cupidity. Even if I am wrong on this point (which is possible) the circumstantial evidence and prisoner's confession leave no doubt in my mind that prisoner was present at the murder and was one of the murderers, even if not the sole murderer; and got all the jewels for his share.

27. I feel it my duty to sentence him to death, subject to confirmation by the High Court. He has been informed that if he wishes to appeal he must do so in 7 days.

TANJORE.
12TH JULY 1895.

T. M. HORSFALL,
Sessions Judge.

(True Copy)

Copy applied for 13-7-95
Do received 16-Do
Do sent 25-Do

R. Pakiam
Shirastadar

245

To,
The Superintendent of the District Jail Tanjore
for delivery to Prisoner Concerned

PRINTED AT "THE POORNACHANDRODAYA PRESS" TANJORE.

5
Judicial
3
5030

Serial No.	Description of Accused.					Date of					
	Name.	Father's name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Commencement of trial.	Close of trial.	Explanation of delay.
1	2				3							
C.C. No 35/1895	Saravanaiyan	Sivaiya Sadayan	Brahman	Physician and Surgeon or Murderer	Kandiyur	22	8-2-95	10-2-95	21-4-95	5-7-95	12-7-95	

Sessions Court, Tanjore,
12 July 1895.

(A true Copy)
R. Pakiam
Sheristadar

T. M. Horsfall
Sessions Judge.

300-11-94.

(Copy to the Prisoner)

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Thursday, the twenty-sixth day of September,

One thousand eight hundred and ninety-five.

PRESENT :—

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

AND

THE HONOURABLE MR. JUSTICE PARKER.

H. E. UPSHON.
21 OCT.

REFERRED TRIAL No. 50 OF 1895.

Narayana Iyengar ... ... *Prisoner.*

Trial referred by the Court of Session of the Tanjore Division for confirmation of the sentence of death passed upon the said Prisoner in Case No. 35 of the Calendar for 1895.

CRIMINAL APPEAL No. 351 OF 1895.

Appeal by the Prisoner against the said Sentence.

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

JUDGMENT.

The first point taken by the learned Counsel is that is not proved that the skeleton found on March 13th is that of the missing boy Rangiengar. In this we are not able to agree. It is true that decomposition was nearly at an end, and that the corpse consisted of little but the skin and skeleton. But the Judge points out that the peculiar setting of the front teeth aided the identification ;—the cloths found on the corpse were all those of the missing boy and his bunch of keys were lying near the corpse.

It is then urged that had the confession of the Prisoner been a true one the stench of decomposition would have revealed the presence of the corpse long before it was actually found. It is shown however that the room in the second compartment in which the skeleton was found was well away at the back and that the neighbouring house was unoccupied. The room when closed was almost airtight, having no windows, and the only mode in which air had any access seems to have been through chinks in the tiles of the roof. The stench would therefore escape at any elevation above a man's height. And if the boy was not murdered in the manner and in the place as alleged by Prisoner he must have been murdered in some other place and the body subsequently removed to the place in which it was found. If in a place of effectual concealment there would be no object, but great risk of discovery in such removal. Moreover the presence of the severed feet near the corpse and the well rope attached to the lower hinge of the door would seem to show that Prisoner's account is true, and that the murder was committed where the body was found. Why else should the severed feet have been so placed and the rope attached to the hinge ? If there had been a removal of the body after death these circumstances would be quite inexplicable.

That robbery was the object of the crime may be fairly inferred from the fact that all the jewels worn by the boy had disappeared and that the feet had been cut off in order to get off the anklets. These jewels were all described in the first report B, and it is noteworthy that *all* of them, earrings, gold bangles and silver anklets,—are all traced to the Prisoner. He is shown to have endeavoured to dispose of the broken portion of the gold bangles at Pondicherry, and it is to be noted that this information was obtained *before* his arrest at Tripati. It is objected that if the evidence of the 14th witness be true Prisoner would not have refused to close with the offer on account of the difference of four annas in the price demanded and offered.

But the 14th witness was evidently (and naturally) suspicious and refused to purchase unless Prisoner had the permission of the Police to sell. We have no doubt that it was this which led to the bargain falling through.

From the nature of the confession F as also from the preliminary observation of the Committing Magistrate we do not think that the confession can be regarded as wholly true. The Prisoner himself had been caught and we have no doubt his first idea was to purchase immunity for himself by accusing another. His statement makes out that Gopaliengar was the principal offender and that he himself only took a subordinate part in the murder. And it is silent as to the earrings of the deceased. These had not been found with him and he said that Gopalaiengar had got them and one of the gold bangles. This statement as regards the earrings has been shown to be untrue for Prisoner had himself pledged them at Tripati though that fact was not known on May 3rd. The gold pieces found with him were not enough for a single bangle. But Prisoner was careful to give an explanation only as to the actual property found with him and the possession of which he could not deny.

That the three gold pieces were really discovered on the Prisoner in the Railway carriage while he was endeavouring to conceal them we see no reason to doubt. As pointed out by the Sessions Judge there is a concurrence of testimony on this point coming from a heterogeneous collection of witnesses unconnected with each other,—which it is impossible to doubt. And in his confession F, though Prisoner maintained he had given them up voluntarily—he distinctly denied that they had been foisted upon him by the Police. That allegation was not made until the Sessions trial.

As regards the silver anklets the Prisoner in his appeal petition stated that they had not been found upon him, but had really been delivered up to the Police before his arrest by one Kachi Marakayan who had confessed to the commission of the murder. It was admitted that a Mussalman of that name had been arrested and had made a confession on the 8th April. In order to see whether there was any truth in the Prisoner's allegation we sent for the record of the case against that Mussalman and we find from it that so far from his having produced the stolen anklets he gave a totally different account of their disposition and one which does not coincide with proved facts. Indeed his whole confession [so-called] is totally irreconcileable with that of Prisoner, both as to time and the actors in the murder. What induced the Mussalman to come forward with such a confession it is impossible for us to tell, for there was apparently no evidence against the man and the story told by him is inconsistent with the facts proved by the prosecution. We have no doubt therefore that the silver anklets were really found with the Prisoner, and therefore all the jewels worn by the murdered boy have been traced to him.

We confirm the conviction and sentence and dismiss the appeal.

By the Court.

Exd. T. Ramakrishna Pillai.

Dy. Registrar,
Appellate Side.

18.10.

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

To,
The Superintendent of the District Jail, Tanjore, with duplicate for delivery to the Prisoner Concerned.

Sessions Court
Tanjore
21st October 1895

Sessions Judge

HIGH COURT OF JUDICATURE

AT

MADRAS.

JUDGMENT

IN

REFERRED TRIAL No. 50 *of* 1895.

Criminal Appeal No. 351 *of* 1895.

(From Sessions Case No. 35 *of* 1895, *Tanjore Division).*

Dated 26*th September* 1895.

Sent

DISTRICT & SESSIONS COURT
21 OCT 95
TANJORE

CURRENT No. 5030

No. J
859

Tanjore District Jail Office,
25 October 189.

FROM

H. E. Upshon Esqr
Superintendent of Jail, Tanjore.

To

The Chief Secretary
to Government
Fort St George.

SIR,

Encls. 4.

I have the honor to submit an appeal for mercy from convict No 9216 Narayana Iyengar, confined in this Jail under Sentence of Death together with the following papers.

1. Nominal Roll
1 Copy of Judgment in Cal Case No 35 of 1895.
1. Copy of Judgment in Criminal appeal No 351 of 95.

2. I beg to state that the prisoner Narayana Iyengar will not be executed until a definite reply is received from Government to the appeal now submitted.

I have the honor to be
Sir
Your Most Obedt Servt

H Upshon
Supdt of Jail

ENT NO. 5030

1259 : 24 - 5 = 94
2883/44 = 17 - 12 - 87.

T. C. P. 250—8-6-95.

From

The Superintendent,
District Jail,
TANJORE.

To

The Chief Secretary
to Govt
Fort St George

Dated 25 October 1895.
Received 27

No. J 859

Enclosures. 5

Subject.

Urgent.

Appeal for mercy

CHIEF SECRETARY
27 OCT. 1895
GOVERNMENT OF MADRAS

Submits an appeal for
mercy from prisoner
Narayana Iyengar
at present confined
in Tanjore Dt Jail
under sentence of
death.

J/43. 200—21-5-95

JUDICIAL DEPARTMENT

Current Number. 5030

FOR ORDERS.

APPEAL for mercy from Convict No. ~~5030~~ 2216 Narayana Aiyangar under sentence of death in Tanjore Sessions Case No. 35 of 1895, which sentence has been confirmed by the High Court.

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

The petr. tries to make out that the corpse was at Ramgarayan's — but I think it is clear that it was.

He also repeats his story of his confession having been extorted from torture by the Police. But of this there is no evidence at all.

He does not make any attempt to account for all the property being found in his possession. The circumstances are clearly proved. I would dismiss the petition

28/10/95

The evidence is conclusive. The law must take its course

28/10/95

I agree
W
30 Oct

28/10/95.

28.X.95

PETITION FOR MERCY.

VERY EMERGENT.

Hon'ble Member and Circulation.

(FOR ORDERS.)

C 28/10 | C 29/10
R 29/10 | R 30/10

[J. 16.]
1,000—5-2-94.

Judicial Department.

CHIEF SECRETARIAT MADRAS.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following letter, dated 25. Oct. 95. No 859 J. from the Superintendent of the C. Jail at Tanjore, forwarding petition from Convict No 9216 Narayana Aiyangar under sentence of death in Tanjore Session Case No. 35 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, 30 October 1895, No. 2199

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 9216 Narayana Aiyangar.

2. The law will take its course.

~~(True Extract.)~~ (True order)

30/10/95 *Chief Secretary.*

30/10/95

To the Superintendent of the C. Jail, Tanjore for communication to the Prisoner.
" Inspector-General of ~~Jails~~ Prisons.
" Hon'ble the ~~Judges of the High Court, with papers returned~~ the C. J. and C. J. dispd 30/10/95

…en given for copying _____
…en copied _____
When examined _____ } 189.
When signed _____

…AD AGAIN G.O., No. DATED
189 ,

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…NCLOSURES TO C. No.

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A = Copy in full.
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