Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2276.

Dated 7th Nov 1895.

INDEXED.

[Despatch Abstract.]

ARREST OF MARAVARS IN CAPE COMORIN TEMPLE BURGLARY.

Requesting the District Magistrate of Tinnevelly to state what action has been taken in regard to the Maravars said to have been arrested in connection with the Cape Comorin Temple Burglary case and the Inspector-General of Police to report fully upon the alleged irregularities committed by the British Police.

Precis

EARLIER PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	5537		95				
	5644		95				

FROM CIRCULATION
WITH REMARKS.

Sent for General
H.Q. Note — the reports
Called for are enclosed
Sen WP 16/XI.

1031 of 24.9.95
300 of 11.2.95
+ papers

Current No. 558

DEPARTMENT.

From C. F. Macbartin Esq

No.

Dated 12th October
Received 14th " 1895
Rec'd 18th "
Enclosures — 6

SUBJECT.

Stating that Messrs
Higgins & Hammick should
be called upon to furnish
reports re: Irinovally marauders
arrested in connection with
Simple
Samoin Dacoity Case.

2d 1345/26.6.95
Journal

Wo

No. 1617
J 417

Huzur Cutcherry
Trivandrum, 15th March 1895

To
The British Resident
in Travancore and Cochin

Sir,

Referring to my telegrams of the 11th and 12th instant regarding the arrest by the British Police, of certain Maravars who were examined as witnesses in the Cape theft-case, I have the honor to forward herewith for your information copy of a report from the District-Magistrate, Padmanabhapuram, giving particulars of what had occurred. It will be observed that the warrants under which the arrests were made were not duly endorsed by our magistrate, though I am not sure whether even such an endorsement would satisfy the requirements of extradition. The endorsing of a warrant by the local magistrate under the Criminal Procedure Code is what applies to cases within the limits of the same state. But as regards extradition warrants the medium of the British Resident cannot, I think, be dispensed with. Apart from this view, even the formality of the procedure enjoined by

the municipal law has been disregarded in the present case.

It is not the technical objection alone that calls for notice here. A rather awkward scene was produced by the Nanguneri Police in making the arrest as they did in Open Court. Mr. Prince who is engaged in the prosecution of the Cape case writes to say that when, on the 4th instant, after the examination of the Maravars was over, he was reading their depositions two Policemen made a rush into the Court, closed and barred the main entrance, placed a guard over the other entrance and all the 17 Maravars were surrounded in a corner by the Police. It is scarcely necessary to add that the behaviour of the British Police was anything but dignified and respectful either to the Court or to the authority of this Government. It is all the more to be regretted that this should have occurred at the trial of and in connection with the important Cape case in which the Madras Inspector General of Police had himself been taking such active interest for which His Highness' Government cannot be too thankful. There would have been nothing amiss if the Policemen charged with the warrants had held patience till the Court trial was over or at least till the Maravar witnesses had passed out of Court.

I submit these points for your consideration in the hope that if the matter strikes you in the same light you will kindly see proper notice taken of the conduct of the Policemen concerned. I would also request you to be good enough to move for an authoritative ruling being laid as to the procedure to be followed in the execution of warrants in Travancore for the extradition of British Offenders taking refuge here. It is nothing more than natural and reasonable that the principle of reciprocity should be recognised.

I have &c
(Sd) Shungrasubbier
Dewan

No. 200. District-Magistrate's Office
Padmanabhapuram 13th March 1895.

To The Dewan of Travancore

Sir, I have the honor to acknowledge receipt of your telegram of yesterday and to annex copy of one I sent you in reply regarding the arrest of certain Maravars who were examined as witnesses in the Cape case.

You are aware that the stolen property recovered at Nanguneri had been

surrendered by 17 Maravars. The Maravars from the outset stated that they had snatched the property from a few Cabulis. The other evidence produced by the prosecution in the Cape case corroborate the above statements of the Maravars.

According to the statements of the Maravars, they were retaining property which they knew or had reason to know was stolen property. This is an offence under Section 414 of the Penal Code. The District Superintendent of Police Tinnevelly seems to have obtained from the District Magistrate of that District, warrants for the arrest of the Maravars for the above offence. Such warrants should ordinarily be taken for endorsement to the local Magistrate or a Superior Police Officer before execution unless there is reason to believe that the delay occasioned by obtaining such endorsement will prevent execution. The Police Inspector of Nanguneri who was charged with the execution of the warrants went to the Session Court and arrested the Maravars who were then in attendance in the Court as witnesses without such endorsement. It may be that he was not aware that I was then at Nagercoil Nagercoil. The local Magistrate or the Superior Officers of Police could have been communicated with, before the arrest. Some time after the arrest, however, the Inspector came to me and informed me of what he had done and applied for remand warrants. As the arrests had already been made under warrants from a British District Magistrate for an ostensibly serious offence and as, if the men were released (which of course the British Police would be compelled to do if remand warrants were not given) they might abscond and that it might eventually lead to a possible failure of Justice, I allowed the 3rd Class Magistrate of Kottar to grant the necessary remand warrants.

The above is a short account of what actually took place and I await the orders of Government as to the further procedure in the matter.

Thanks
(Sgd) P. Thanu Pillai
District Magistrate

Ordinary

To Trivandrum
To The Diwan of Travancore

From Colachel
From The District Magistrate

Your Telegram. Nanguneri Maravars

who had surrendered property was arrested on
5 Coast after their examination as witnesses
under warrant from Tinnevelly District
Magistrate for detaining stolen property.
Section 414. Warrant not Countersigned
by me as required by law practice. But
arrests having been made remands granted
to avoid complications. Letter follows.
12-3-95.

(True copy)
(Sig[d]) P. Thanoo Pillai
District Magistrate

(True copies)
(Sig[d]) Shungrasubbier
Dewan

(True copies)

No. 325. Office of the Superintendent of Police
Tinnevelly Dt., 17th March 1895.

From,
The District-Superintendent of Police
Tinnevelly District

To
The District-Magistrate
Tinnevelly District

Sir,

With reference to your letter No. 309 dated 13-3-95 to the Resident of Travancore and Your footnote No. 305 dated 13-3-95, I have the honor to inform you that the British Police made no arrests.

2. The 17 marauders now detained by the Travancore authorities are the chief rogues of our hereditary dacoits and burglars of the Nanguneri Division.

3. They committed dacoity on the Cabulis accused in the Cape Comorin case (burglary).

4. They restored several thousand rupees worth of property, which they had dacoited, after great delay and hesitation.

5. The Travancore authorities took them as witnesses and had them summoned to appear to give evidence on different dates.

6. They should have been arrested at once and charged, there was ample evidence without theirs. The Public were astonished

at their non-arrest.

7- It was impossible for me to compound or overlook their conduct, and so I obtained warrants for their arrest, in order to have some authority to show to the Travancore authorities to enable them to detain the said marauders pending the formal usual course.

8. Several of my men appeared as witnesses in the said case (Cape Comorin case) at Nagercoil. They finding 16 of the 17 marauders together in the Sessions Court at Nagercoil after they had given their evidence, showed the Sessions Judge the warrants, and with his permission they were secured by the Travancore Police, and detained pending the formal application for their being sent to the Dt. Magistrate of Tinnevelly. The 17th man, who was not produced for some reason, was subsequently secured with the assistance of the Nagercoil Assistant Superintendent, and is being detained with the others.

9- The fear about Andy Teran's evidence (why required I do not understand) is a myth, his statement had already been recorded in the lower Court, and he could not retreat, for fear of I.P.C. 193. He has been since apprehended and has given his evidence -

10. If these men had not now been secured, when they were, it would have been almost impossible to have done so at any future date. Some 10 or 12 of them are known depradators, and their previous history as registered in Known Depradators' Register, which is very lengthy, speaks for itself. It must be remembered they are British Subjects and had not fled to Travancore. In the Resident's telegram quoting from Sirkar Vakil's telegram, I find this expression "this action prevents our getting Any Thevan as witness". Surely the Sirkar Vakil does not mean to say we are to let all these rogues go free, in order that he might get at some future time witnesses of the same stamp as these notorious 17 rogues.

11. I urgently request you will have these men sent to you as soon as possible.

I have &c
(Sigd) R. Stevenson
Dt. Supdt. of Police

No. 367. True Copy communicated to the Resident in Travancore and Cochin in continuation of this Office letter No. 309 dated 13th March 1895.

2- Special reference is solicited to para 2 of that letter.

Tinnevelly Dt. Magte's Office
Dated 20th March 1895

(Sigd) A.W.B. Higgins
Dt. Magistrate

(True Copy)

No. 66 Sessions Court

Hagerooil, 22nd July 1895.

To

The Registrar

High Court, Trivandrum

Sir,

With reference to your letter No. 220 dated 21st Instant and its enclosure, I have the honor to report that at about 5.30. P. M. on 27th March/6th March 1070/1895, I retired to my private room after the examination of the witnesses in the Cape Case for that day was over. When I was signing some departmental papers there, the Station House Officer, Nanguneri, came in there and in the presence of the local Sirkar Vakil told me that he had arrested the Nasara witnesses for the prosecution and that I should give him all the help I could. I said I could not help him in any way. Shortly after the Station House Officer came in, the Head Sirkar Vakil also came there and told me of the arrest. When I came out of the private room, I met the Nanguneri Police Inspector

who wanted me to pass a remand order for the detention of the Maravar witnesses. I said I had no power and referred him to the District-Magistrate. On coming out of my room, I found that the arrested Maravars (16 in number) were seated round the Naick's table, where they had collected for getting their batta. The 17th Maravar seems to have been arrested elsewhere. As I found the door of the Court-house closed, I at once ordered it to be reopened, had the order carried out in my presence and wanted the British Constables (of whom there were a good many) to take the Maravars away from the Court-house. The Srangam Police Inspector immediately went to the District-Magistrate and got from him authority (I was given to understand) that it was such) for the detention of the Maravars till the necessary steps were adopted to take the arrested persons to Srangam. The British Constables got some hand-cuffs from the Court Jail and Kottar Police Station and took the Maravars (I believe hand-cuffed) to the latter Station. This, I think, was all that occurred on the day of arrest. The Srangam Station House Officer had told me that morning that he was, on the strength of warrants issued by the District-Magistrate of Tinnevelly, to arrest the Maravars that evening, i.e after examinations of the latter in the Cape case were over. I was, however, not prepared to find the arrest taking place in the Court-house itself and with the principal doors thereof shut. As I knew or rather was given to understand within some minutes after the arrest that the local District-Magistrate had taken steps to have the Maravars locked up in the Kottar Police Station, I took no steps whatever in the matter. I never knew that the warrants of the Tinnevelly District

Magistrate were wanting in certain technicalities or forms of procedure. If I had known the same, I might perhaps have interfered as the arrest took place in the Court house, though only after the Court had risen.

Thermit
(Sigd) C. T. Ramaling a Iyer
Session Judge

(True Copy)

(Sigd) Thumgrasubbier
Dewan

(True Copy) Thomson
Asst.

1895
Number 4
Dd 558

In the High Court of Travancore

Criminal Appeals Nos. 33, 36, 37 and 38 of 1070
and Criminal Revision Petition No. 173a of 1070.

Sessions Case No. 6 of 1070 on the file of the
Nagercoil Sessions Court

In Criminal Appeal No. 33 of 1070.

Sirkar. Appellant. Prosecutor. By Head
Sirkar Vakil Mr. J. H. Prince.

Sathula Khan Kalendar Khan. 1st Respt. 5th Prisoner.
John Mahommed —— 2nd Respt. 7th — do
Syed Sultan Syed Surproz. 3rd do. 8th do.
Ameer John Miah John 4th do. 9th — do
Syed Mahommed Khan Biram Khan } 5th do. 10th do.
Syed Abdu shat Syed Abdu Rahiman } 6th do — 11th — do.

In Criminal Appeal No. 36 of 1070.

Hindujee Devaraj. Appellant. 4th Prisoner
By Vakil K. Padmanabhan Tampi.
Sircar. Respt. Prosecutor. By Head Sirkar
Vakil. Mr. J. H. Prince.

In Criminal Appeal No. 37 of 1070.

Ibrahim Masoom Khan. Appellant. 1st Prisoner.

Sirkar. Respondent. Prosecutor. By Head Sirkar Vakil Mr. J. H. Prince.

In Criminal Appeal No. 38 of 1070.

Gulam Jayalani. Appellant. 3rd Prisoner.

Sirkar. Respondent. Prosecutor. By Head Sirkar Vakil Mr. J. H. Prince.

In Criminal Revision Petition No. 173 of 1070.

Sirkar. Petitioner. By Head Sirkar Vakil Mr. J. H. Prince.

Convicted petitioners:-

1. Ibrahim Masoom Khan. 1st Prisoner.
2. Shik Hussain. . . . 2d Prisoner
3. Gulam Jayalani. . . . 3d Prisoner.
4. Hridujee Devaraj. . . 4" Prisoner.

Judgment.

These are appeals and a revision petition against the Judgment of the Sagar. Sessions Judge, Mr. Ramalingom Iyer, in Sessions Case No. 6 of 1070 on his file. Eleven prisoners were charged before the Sessions Court with the commission of offences punishable under Sections 380, 399, 402, 458, and 461 of the Penal Code. The Sessions Judge has convicted the Prisoners 1 to 4 under Sections 380 and 467 of the Penal Code and sentenced the 1st and 4" accused to 6 years rigorous imprisonment each and the 2d and 3d accused to 4 years rigorous imprisonment each and imposed on the 4" accused a fine of 1000 Rs. The rest of the prisoners have been acquitted. The Head Sirkar Vakil appeals in No. 33 on behalf of Government against the acquittal of prisoners 5 and 7 to 11. Appeals Nos. 36, 37 and 38 have been preferred respectively by the 4," 1st and 3rd prisoners against their conviction. In Revision petition No. 173 a the Head Sirkar Vakil prays for the enhancement of the Sentences passed on accused 1 to 4.

We have heard the Vakils on both sides and the prisoners at great length

and given the case our most careful consi-
deration. A document produced in appeal
by the 4 "Prisoner's Vakil has also been ad-
mitted in evidence and filed as Exhibit
XVII.

This case has arisen out of a theft
of properties worth approximately 89,961 Rs
belonging to the Cape Comorin temple which
took place on the 21st Chittray 1069.
2nd May 1894.

The facts of the case and the evidence
therein are fully set forth in the lower Court's
Judgment. Prisoners 1 to 3 and 7 to 11 are
wandering Kabulies and the 4 "Prisoner a
Marwari. The theft is said to have been
committed between 10 P.M and 4 A.M.
at night by a gang of wandering Kabulies
and Marwaries consisting of between 20
and 30 persons among whom were the accused.
The fact of the theft was admitted by the
prisoners' Vakil in the lower Court and is
not questioned in appeal by the prisoners.
That a theft as alleged by the prosecution
actually took place is also fully established

by the prosecution evidence. The properties stolen
consisted mostly of ornaments. They were
partly on the image of the goddess in the
temple and partly in the jewel room inside
the temple at the time of theft. The pagoda
is surrounded by an outer wall 24 feet
high and an inner wall 6 ft. 3 inches in
height both of granite. Over the inner wall
and covering the whole of the Pagoda is a
terraced stone roof. There are two gates
in the outer wall one of which the
Northern is guarded by Nair Sepoys and
temple watchmen while the other the
Eastern gate is kept closed except on
special occasions. Several doors have
to be passed before one could get into
the Sreecoil where the idol is placed and
into the jewel room. As usual all the
temple servants except the watchmen
left for their homes at 10 P.M. on the
night of the 21st Chittrai 1069 after
shutting and locking all the temple doors.
When they entered the temple before dawn
the next day they found the doors and

locks broke open and all the temple jewels both those that adorned the idol as well as those which were locked up in the treasury room missing. A minute exa: mination of the temple (Excts. 6 & K.K) revealed that the thieves first tried to enter the temple through the eastern gate by means of a crow-bar and by boring a hole, that then a few of them scaled over the outer and inner walls by means of a ridge-piece obtained from the Residency building near the temple, got into the temple through a hole in the roof where the flagstaff is placed, forced the locks of the eastern doors in the inner and outer walls and admitted their Comrades inside the temple and that after forcing open all the doors leading to where the image was placed ~~x x x~~ as well as the 3 doors of the jewel room ransacked the temple of all the ornaments that it contained. Immediate information of the theft was given to the local Police and Magistrate.

The first and most important question for consideration in appeal is whether any and which of the prisoners 1 to 4 and 7 to 11 were concerned in this theft. There is no direct evidence of the theft. Accused 1 to 3 were arrested in Tanjore on the 13th June 1894 by the British Police. The statements of the prosecution 77 and 79 witnesses prove that those prisoners were then found travelling together in one and the same Com: partment of a Railway Carriage, that they had with them at the time in a travelling bag carried by 2d prisoner the Mondy articles Exhibits D to D_{30} worth 47 5 4½ rupees, that they had all started from Gengakondan, that two of the prisoners 1 & 2 were on their way to the same station (Villipuram) and that the railway tickets of all the 3 (Excts CC_7 CC_1, and CC_2,) were with 1st accused. The 2d prisoner claims Exct: D_{20} (one emerald, 21 rubies and a hand= kerchief) as his. The rest of the articles

and the bag are not claimed by the prisoners. Their plea is that they were not travelling together and that the articles Exts D to D29 and the bag were foisted by the British Police among their bundles. We do not for a moment believe the plea of foisting advanced by the prisoners 1 to 3. The 79" witness the platform constable who arrested the prisoners could have had no motive in placing the articles among their bundles and he and the 77" witness, the Station master, could have had no motive whatever in giving false evidence against the prisoners who are utter strangers to them as regards the case of theft in the Cape temple. Unless we give credence to the utterly improbable theory of the prisoners of a huge conspiracy against them by the Travancore and British Police and other British officers, the plea of foisting wholly falls to the ground. Most of the articles marked Exhibits D to D30 have been identified by prosecution witnesses 1, 3, 4 & 9 to be property belonging to the Cape Comorin

temple. It appears from the deposition of the 79" witness that pt prisoner when arrested asked him to take as a bride the contents of the bag which, he said, was worth 10,000 Rupees and let him and his companions off. The statements of the witnesses above referred to clearly prove that the prisoners 1 to 3 were found in possession of 4764½ rupees worth of ornaments stolen from the Cape Comorin temple within 42 days of the theft. The next item of evidence relied on by the prosecution against the prisoners 1 to 3 which evidence also implicates prisoners 4 and 11 is that furnished by the Maravar group of witnesses referred to in para 18 of the lower court's judgment. The prosecution case is that when the prisoners and their Kabuli and Maravar comrades were travelling with their plunder through Vellimalai on the 23rd Chittrai, they were met at early dawn at Pulavakal about 35 miles from the Cape by the Maravars who had gone there on a hunting expedition, that the Maravars at first took the gang to be way farers, that afterwards two of their number

finding some of the gang engayed in excamin:
ing gold and silver gave information to their
party and that the Maravas thereupon rushed
up and despoiled the Prisoners 4 and 11 and
another of their portion of the booty. The evidence
of the Maravar witnesses is disbelieved by
the Sessions Judge. The Maravars have been
examined as prosecution witnesses 56 to 61,
63 to 66, 68 to 72, 74 and 78. Their story of
their first meeting the prisoners and their
comrades on the pond, of two of their number
the 56" and 57" witnesses who were sent to fetch
rice seeing some of the prisoners and others
sitting in a ravine and excamining their
stolen ornaments and of the subsequent
fight between 18 of their party and the 4"
and 11" accused and one Karoollakhan
and the plunder and division of booty
that followed, cannot be considered
as improbable. It is urged by the 4"
Prisoners' Vakil that the Maravars and
certain other Labulies were the real
thieves and that on promise of pardon

the Maravars gave up a portion of the temple
property and related a false story. Before the
lower court the prisoners contention was that
the Maravars alone were the thieves. It is
altogether unlikely that the Maravars to save
themselves from a charge of theft, would have
confessed as they have done to the commission
of a more heinous offence viz: dacoity. There
is nothing on record to show that any promise
of pardon or inducement was held out to the
Maravars before they delivered up the property
in their possession. The Police were on the
track of the Maravars who were hiding them-
selves and as not unfrequently happens
one of their number first handed over his
share of the booty and the rest thought that
further concealment was useless. The
value of the properties recovered from the
Maravars and from Potalaputhur where
one of their number had concealed his
share amounts to to 11,259 1/4 Rs, and all these
properties have been identified to be
temple property. The discovery of the properties

is evidenced by the yadhasts Exhibits E 23- F 10- A 7- I 9- J 9- K 1- L 8- M 10- N 9- O 11- P 18- Q 3- R 1- S 1- T 10- W 2 & V 30 by the Reports E 24- I 10- L 9- C 12- P 19- Q 4 and W 31 and the statements of the village Moonsiffs of Nanguneri and Manakkal Kurunchi ex-amined as the prosecution 52nd, 54, "55" and 62nd witnesses. It is also significant that some of the articles delivered by the Maravas and some of the articles found in the possession of prisoners 1 to 3 were found on examination to be portions of the same temple ornaments. It is unlikely that the Maravas would have delivered up all the booty that they obtained especially as a portion of it consisted of money. Moreover the division made by them was a rough one and the Sessions Judge has not in the table of properties produced by the Maravas given by him in his Judgment, included the money obtained by the Maravas. The differences in the value of the articles produced by the Maravas as their respective shares do not,

therefore, affect the credibility of their evidence. It was pointed out by the 4 "Prisoner's Vakil that the statements of the Maravars as recorded in the yadhats drawn up by the British Police do not correspond fully with their present depositions and that the Maravars have made discrepant statements in regard to the number of babulies whom they met. But what the yadhasts contain are only summaries and a full tallying cannot be expected between them and the detailed statements of the witnesses on oath. The discrepancy in numbers is not material. The Maravars did not actually count the babulies and with witnesses of their status inaccuracy in mentioning numbers is the rule. The inaction of the British Police in regard to the Maravars and the procedure adopted by the British Police and Magistracy towards them cannot be considered as in any way affecting the credibility of their statements. The Maravars were after all arrested by the British Police as soon as they gave their evidence in the Sessions Court and thereby fully committed themselves. The Maravars

have made self-crimniating statements. They have delivered up the major portion of the temple property recovered in the case. These two circumstances go a great way to show that the Maravars are speaking the truth. The Marava evidence does not moreover stand uncorroborated. Besides temple property, the 4" and 11" Prisoners left behind them in their encounter with the Maravars, properties marked A A to A A 53. These articles were discovered at Vellimalai Odayon the 11" June (A A 54 and 61st witness' statement) and it was 2 days after that prisoners 1 to 3 were arrested at Tanjore. One of these properties Exhibit A A 52, a silver watch is proved to belong to 4" Prisoner by the statements of the prosecution 13" and 82d witnesses. No reasons have been shewn in appeal for our discrediting these witnesses. Exhibit A A 30, turban the 4" Prisoner admits to be his own and his allegation that the handkerchief was forced out of him by the Police at Kolly is unsupported by evidence. The turban is a torne one and torn pieces of the same material were found with the Maravars long before the 4" Prisoner was arrested.

The wound found on the leg of 11 accused, the 89" witness' Apothecary's evidence in regard thereto and the 11" Prisoner's great reluctance in allowing the examination of the wound by a medical officer also furnish us with corroborative evidence of the fight at Vellimalai described by the Maravars. There are other circumstances brought to light in the case which further corroborate the Marava witnesses. We do not, however, think it necessary to go into them. We have mentioned sufficient reasons to show that the Sessions Judge has erred in rejecting the Marava evidence in toto and that portions of their evidence may be relied on. But in estimating the

probative force of the statements of the Maravar witnesses, we do not think it safe to act upon the identification of the Prisoners 1 to 4 and 7 to 11 by the Maravars when they first met them at Pulavakal in Vellimalai It was then an early hour of the day and it was from their concealment in the bush that the Maravars saw the prisoners pass by. This portion of the Maravar evidence is rather weak. Now is the 57" witness' identification of Prisoners 5, 9 and 10 in the ravine at Vellimalai satisfactory evidence on which we can act. The 4" and 11" Prisoners are spoken to by both the 56" and 57" witnesses as having been seen in the ravine examining their share of temple property. These prisoners were subsequently seen by these witnesses and their comrades soon after in the encounter in which they were plundered. The 11" Prisoner was also wounded in the fight. The faces of the 4" & 11" Prisoners would, therefore,

have been well impressed in the minds of the Maravars. The Marava evidence thus proves that a gang of Labadies and Maravars were found travelling along Vellimalai with bundles and packages on the 23rd Chittrai 1069 and that two members of that gang the 4" and 11" Prisoners were found in possession of temple property the same day that is 2 days after the theft. There is besides a mass of evidence in the case to show that the prisoners 1 to 4 and 11 were seen at and near the Kapa before and after and about the time of the theft. A portion of this evidence (12," 21st", 22nd and 46" witnesses) is either discredited or rejected as unsatisfactory by the Judge. But excluding it there is reliable evidence on record to show that the 1st and 11" Prisoners were seen at Thackalai about the 10" Chittrai 1069 (witnesses 46 and 47), the 1st, 2nd, 3rd and 11" Prisoners at Thykapulli mosque about the 10" or 12" Chittrai (21" & 29" witnesses), the 1st, 2nd and 3rd prisoners at Kottar between the 10" and 15" Chittrai (32nd witness),

the 1st Prisoner at the Cape Residency about the 10" and 19" Chittrai (17" and 20" witnesses) the 1st Prisoner at Navamipuram and Manavalakurunchi not far from the Cape about 15" Chittrai (31st", 41st" and 42nd witnesses), the 1st" and 3rd prisoners at Colachel about the 16" Chittrai (36" witness), the 1st" prisoner at Thamarambam about the 17" or 18" Chittrai (16" witness), the 1st", 2nd" and 11" Prisoners at Alagappapuram 3 miles from the Cape about the 20" and 21st" Chittrai (38" and 39" witnesses) and the 11" Prisoner at Vanyoor and Kammalam 3 and 6 miles respectively from the Cape about the 22nd Chittrai (12" and 50" witnesses) The evidence of the temple servants and of the dubash 5" witness shows that 4" Prisoner visited the temple in Kartigai and Thye 1069. The 4" Prisoner has a defective index finger and this seems to have attracted the attention of the witnesses. We do not think that the temple servants have given false evidence against the 4" Prisoner in order to avert suspicion from themselves. This inference is almost negatived by the circumstance that the temple servants only speak to the 4" Prisoners visiting the temple some months before the theft. The 28" and 29" witnesses such a land lords speak to having entertained the 4" Prisoner at Attankaray on the 18" Chittrai and we can see no motive for these people giving false evidence against an utter stranger. No valid reasons have been urged in appeal for our discrediting the above mass of evidence. The probabilities are that the 4" prisoner visited the temple to reconnoitre the premises with a view to the theft. The defence evidence as pointed out by the Sessions Judge in para 24 of his judgment does not help the accused. The document produced in appeal is not of any use. In connection with the defence, the Sessions Judge observes "Another argument put forward by the accused's Vakil is that it was quite illegal on the part

of the Assistant Superintendant of Police and the Committing Magistrate to have taken upon themselves the power of deciding about the innocence of Maravars in this case. There is, I think, some force in the argument. In grave cases like this Police officers, and Committing Magistrates should not, I think, assume the functions of a Sessions Judge and adjudicate on the innocence of parties who have produced more than 2/3 of the recovered properties, who have tried their best to escape being arrested, who have put the Police on the wrong track and against whom there are some apparent suspicions (well or ill-founded)". In the view we have taken of the Marava evidence these remarks do not appear to us called for. Recent possession of stolen property after the occurrence of a theft is in general, when unexplained, sufficient evidence of the theft itself by the party concerned. In the present case we have as against prisoners 1 to 4 and 11 proof of their having been found

in possession of valuable property belonging to the Kapaleeswarer temple soon after the theft which took place therein - a possession which they deny and which they do not attempt to explain and there is in addition circumstantial evidence of their having been connected with the theft. The theft was in respect of property which was kept inside the temple. Prisoners 1 to 4 and 11 are, therefore, guilty of theft in a building under Section 380 of the Penal Code. It follows from this and from the fact established in evidence that the Kapaleeswarer temple was broken into at night for the commission of the theft, that the prisoners are also guilty of house-breaking by night under Section 457. Even supposing that the doors and locks were forced open by the prisoner's comrades and that the prisoners simply followed them to take part in the theft they are guilty of house-breaking by night. We, therefore, Confirm the conviction of the Prisoners

1 to 4 under sections 380 and 457 of the Penal Code, set aside the Sessions Judge's acquittal of the 11" Prisoner and convict the 11" Prisoner of offences under sections 380 and 457 as charged. The Prisoners have committed a most daring theft of valuable temple property. They went to the temple in a large gang after having provided themselves with implements for breaking open massive doors and strong locks. The thieves appear to have been experts in their profession. The probabilities are that if Prisoners had been surprised in their burglary by the temple servants, violence and blood shed would have followed. There is nothing to warrant the lower Courts' inference that the prisoners 1 to 4 are not the principal offenders. In these circumstances, we think that the sentences imposed by the Sessions Judge are inadequate. In the exercise of our revisionary powers, we enhance the sentences passed on Prisoners 1 to 4 to seven years' rigorous imprisonment each.

The sentence of fine and alternative rigorous imprisonment imposed on 4" Prisoner is left undisturbed. We sentence the 11" Prisoner for the offences of which we have found him guilty to seven years' rigorous imprisonment.

The evidence against the 5", 7", 8" 9" and 10" Prisoners is weak and insufficient to support a conviction. No stolen property has been recovered from them. As already observed, it is unsafe to act upon the identification of these prisoners by the Maravas witnesses at Pulavakal. The only other evidence against these accused is that they were seen about the Cape and with some of the convicted prisoners shortly before the date of the offence and that the 5" Prisoner was found, when arrested, in possession of 1800 Rs for which

he is unable to give a satisfactory explanation.
The possession of 1800 Rs by 5" accused does
not connect him with the base theft and the
other evidence as pointed out by the lower
court is either doubtful or insufficient to
base a conviction. We, therefore, confirm the
acquittal of the 6", 7", 8", 9" and 10" accused
and dismiss the Government appeal as
against them.

6" Edawom 1070.

(signed) W. T. A. Looby Judge.
(") S. Padmanabha Iyer. Judge
(True copy)



Registrar

Comp. R.

IN THE SESSIONS COURT OF NAGERCOIL.

PRESENT—*C. S. RAMALINGAIYER*, SESSIONS JUDGE.

Sessions Calendar Case No. 5 of 1070.

TRAVANCORE GOVERNMENT

VERSUS

1. Ibrahim Masoom Khan.
2. Sheik Hussain.
3. Gulam Jaylani.
4. Hindujee Devaraj.
5. Sathula Khan Kalendar Khan.
6. Adom Khan Hyder Khan.
7. John Mahammed.
8. Syed Sultan Syed Surfroz.
9. Ameer John Meah John.
10. Syed Mahommed Khan Biram Khan.
11. Syed Abder Shah Syed Abder Rahiman.

The Prosecution was conducted by the Head Sirkar Vakil, Mr. I. H. Prince and Sirkar Vakil Mr. O. Marthanda Pillay.

Vakil Mr. M. Sivasubramania Pillay appeared for all the accused.

EXHIBITS FOR THE PROSECUTION.

A. Report dated 22nd Chittray 1069 sent by Pros. 1st witness to the Station House Officer, Kottarum, about the occurrence of the Cape Temple theft on the night of the 21st Idem.
B. A dark hand lantern.
B1. A piece of pabha plank.
B2. Pieces of wax.
B3. A ridge plate.
B4. The iron cylinder lock (of the wicket door of the big eastern gate of the Cape Temple.
B5. A red handkerchief.
B6. Rope pieces.
B7. The iron cylinder lock of the Manimundapum eastern door of the Cape Temple.
B8. Four laterite stones.
B9. Wood dust.
B10. The southern half door of the Cape Temple treasury 3rd room which is forced out of its socket.
B11. The lower pivot of the door Ext. B10.
B12. A crowbar.
B13. (2) Salmon colored cloths with three knots, one containing (2) four anna pieces, another a charcoal and the third, opium and a piece of cadjan.
B14. A copper Chellum box.
B15. A broken wooden box.
B16. A Chub's lock.
B17. A laterite stone and a brick.
B18. Burnt match sticks.
B19. A piece of plank split off from the wicket door of the eastern gate of the Cape Temple.
B20. A piece of cloth.
B21. Do.
B22. A cloth soaked in oil.

B23. An iron circular piece with a boring in the middle.
B24. A match stick.
B25. Do.
B26. Bored Thattimandapum western door.
B27. The northern half of Ext. B10 door and these two halves form the door of the Cape Temple Treasury third room.
B28. The bored door of the said treasury first room.
B29. The door of the said treasury second room.
B30. Two keys for the door of the said treasury first room.
B31. Two keys for the door of the said treasury 2nd room.
B32. Three keys for the door of the said Treasury 3rd room.
B33. The four keys of the four Chellum (boxes) of the Cape Temple.
B34. The key of a brass box.
B35. The key of the Chub's lock of the iron safe.
B36. The key of the wooden box Ext. B15.
B37. The lock of the treasury 2nd room.
B38. The key of the cylinder lock of the eastern big gate of the Cape Temple.

C. Yadhast dated 22nd Chittray 1069, written out by Pros. 87th witness on inspection of the scene of the theft which was committed in the Cape Temple on the night of the 21st Idem.

D. A portion of the Gold Yallimukham on the Oolsava Vigraham Prabhay.
D1. (3) pieces of gold Nilayanki of the chief Deity.
D2. Portions of gold ornaments consisting of Vilvamala (garland) bits, images of human figures, hangings of Ekapadamala, Kanmaler (eyelids), Thirumulathalam (breast-plate), Kachapuram bits, Chandrapura bits, finger plate pieces, Vangikara Mony, Erukkulamala Mony, Chenkalaneer Mala bits, a piece of Thunkulal koottam (ear ornaments), a bit of gold parrot and bits of other garlands and hangings.
D3. Four pieces of gold Kothusarapali.
D4. Three bits of gold Vilvakothu Sarapali and one bit of gold Vilvamala (garlands).
D5. Gold Pathasarum (leg ornament) of procession deity.
D6. Bits of gold Chavadi front of Akuthikara with thread. (Total, four).
D7. Six gold Edamanies (joining beads) of Rudrakshamala.
D8. Thirteen gold bits of Ekapadamala.
D9. Gold bits consisting of (384) Edamonies, that is, beads of different gold garlands Ekapadamala Thavadam, Chenkalaneer Mala, Erukalamala, Pavalamala, Kasumala, Ponmani Thavadam &c. Seven bits of Thirukulal Koottom and Eight Kuvalays of Ruthrakshamala.
D10. Fifteen full sovereigns with settings (ഉടുപ്പുകൾ) of a Pavanmala (garland).
D11. Eight Venetian Sequins (coins) with settings (ഉടുപ്പുചാന്താൻകാശു).
D12. Seven Arab coins with settings forming (2) sets of (3) coins each and one set of one coin.
D13. Five Franc piece garlands, four parts, each with five Franc pieces set with Rubies.
D14. (37) full and (11) eleven half Anantarayan fanams and three Kali fanams.
D15. Rubi Sarappali garland with Pathakkom (pendant)

D16. Parrot nose Pathakkom set with gems and Sarappali bit.
D17. Parts of Ruby Crown (രത്നകിരീടത്തുണ്ടുകൾ).
D18. Pathakkom set with gems.
D19. One Dasavathara Lekshmi Coin Thali (ലക്ഷ്മിരൂപം കൊത്തിയകല്ലുവച്ചതാലി).
D20. A Pathakom (pendant) set with gems.
D21. Dasavathara Thali, three figures or coins with settings.
D22. Lekshmi figure Thali with engravings.
D23. Six Edamoni for Dasavatharam and one Njathoo (ഞാത്തു).
D24. Part of a Pathakkom.
D25. Gold bits.
D26. Nine Manis of a Spadikamala.
D27. (17) seventeen emeralds, forty diamonds, 220 rubies and 4 Thakattu *vairam* (diamonds) with settings.
D28. (234) silver chuckrams (old and unused), five half chuckrams and one Anantharayan fanam.
D29. Dust with very small gold pieces.
D30. One emerald, (21) twenty one rubies and a handkerchief.
D31. Yadhast dated 13th June 1894, written out by the British Police at Tanjore as to the discovery of the articles Exhibits D to D30 & D33 to 49 from the 1st, 2nd & 3rd accused while the latter were in the train at Tanjore Railway station.
D32. Occurrence Report dated 13th June 1894, sent by the Station House Officer of Tanjore to the Town Magistrate of Tanjore about the arrest of the 1st, 2nd & 3rd accused and discovery of the articles described in Exhibit D31.
D33. A small scale.
D34. (3) red blankets, a trousers, an old white shirt, two caps, a piece of cloth with a knot, a turban (oorumal), a new Mal shirt & a new Mal cloth.
D35. Rupees 2—6—4, a new knife, a penknife (old), a silver (കാതുതോണ്ടി) ear cleaner and a silver tooth cleaner.
D36. A railbag with brass lock.
D37. A bundle of different coloured cloths.
D38. A silk cloth.
D39. A new knife; a paper case containing a looking glass and a small Koran; (2) snuff packets; a match box, a bead; a money bag; a leather old belt; a chouckaram (soap) piece; an old hankerchief and a Jamackalum cloth.
D40. A double Madras handkerchief; an iron pincers; a lead wire; a long coat; a black half form; a small cloth with a knot; a tin case with pills; and a red Chowkom (towel).
D41. Rupees 13—4.
D42. A waist-coat and two Malabar copper cash.
D43. A new red handkerchief; (3) long coats; (3) old shirts; a new shirt; an old trousers; (2) old upper cloths; a new Mal upper cloth; a Jamackalum; an old silk towel; a porva (covering) cloth; an old leather belt; a new belt; a silver Thayith; a vial containing chemicals; a tin case with opium and a towel.
D44. (2) match boxes, a knife, an iron silaka, an iron key, four colored caps and Rupees 90—2—10.
D45. A new railbag.
D46. (2) slippers, a rod and a cloth umbrella.
D47. Four shoes (Chada).
D48. Two Tholasimani (beads) and two silver rings.

D49. An old cap, a snuff box; old cloths; a small brush and another brush with a handle.
E. One hundred and sixty one (161) rubies.
E1. (55) small rubies.
E2. Fourteen emeralds.
E3. Thirteen diamonds (including 11 *channum*).
E4. Sixteen diamonds (കട്ടവൈരം).
E5. A blue stone.
E6. A pushparagom (topaz).
E7. Seven pearls.
F8. Two ഗോമെതകം (Gomethakom=~~Cenomen~~ Cinnamon stones).
E9. Two rubies (ഇംവൈ).
E10. Twenty one Anantarayen fanams.
E11. Three rose-colored stones (one large & two small).
E12. Seven pieces of gold, that is, (2) parts of breast plate, one part of tortoise front of seven wire Sarappali garland, (2) hangings of Ekapadamala, one finger of the procession Goddess and one foot of a rose water sprinkler.
E13. One diamond set in gold; various gold bits (parts of a crown) &c. and Vilva Sarappali bits; Edamonies of (3) garlands; part of a gold thread; Spadikamala bits; Edamoni of Rudrakshamala; Desavathara Edamoni and (4) hangings; parts of Erukkalamala, Vilvayethalmala and of gold Kachapuram front.
E14. Silver foot of Dhoopakutty (ധൂപക്കാൽ); one silver Kammel; (3) silver thread bits; one silver Edamoni and four silver bits (one of which contains an inscription "ദീവക കഴഞ്ചു കുരുഇ")
E15. Eighty chuckrums (silver coins).
E16. Small gold bits; crown bits, that is fourteen diamonds, four rubies and (3) emeralds &c. and one Kamonom with two emeralds.
E17. (5) Stones (പുഷ്പരാഗംഎന്ന എറവകളു).
E18. (3) Blue stones.
E19. (3) Blue stones.
E20. One bored ruby (ചുവപ്പുമണി).
E21. Three bored rubies (3 കട്ടമണി).
E22. One blue stone.
E23. Yadhast dated 10th June 1894, written out by Pros. 62nd witness for the production of the articles Exhts. E1 to E22 before him and the Police, by Pros. 58th witness.
E24. Report dated 11th June 1894, submitted by Pros. 62nd witness to the sub-magistrate of Nanganery as to the handing over of the yadhasts Exhibits E23., F10., & H7. and the articles mentioned therein, to the Police.
F. Eight gold pieces (that is, one hand of procession Deity, two pieces of a Nilayangi, two pieces of Prabha, two parts of ordinary crown and one parrot with two rubies of ruby crown.
F1. Gold ornaments, viz (29) small Edamanies, ear ornament, Kumalas of Spadicamala and Rudrakshamala, gold Kachapuram bits, (2) bits (mani) of Chengalaneermala, Vangikara Mani, one piece of Chavadi, one piece of a gold thread, (3) Kumalas of Rudrakshamala and Mohunmala, (5) Pathakom bits, parts of Sarappali mala, (3) Kumalas of Spadicamala, (43) Erukkalamala monies and Thumala and Edamonies of various garlands.
F2. Twelve diamonds.
F3. Thirty six diamonds.

F4. Twelve emeralds (5 large and 7 small).
F5. One hundred and eighty three rubies (Of these three are large and the rest small).
F6. Fifteen pearls (with wire).
F7. Small ruby bits.
F8. Twenty six full and 17 half Anantarayan fanams and 2 Kali fanams. Total 45 coins.
F9. Small diamond bits (14) and gold dust.
F10. Yadhast dated 10th June 1894 written out by Pros. 62nd witness for the production of the articles Exts. F, F1, to F9, F11, G & G1 before him and the Police by Pros. 59th witness.
F11. A piece of cloth.
G. Seven bits of a stone (രത്നം) crown, some bits containing diamonds and rubies, (4) bits of Chavady and bits of gold thread.
G1. The covering cloth for Exhibit G articles.
H. (2) finger pieces of Procession Deity, (2) bits of Ekapadamala, one ordinary crown bit, one gold eye-lid and another gold bit.
H1. One Edamani of Rudrakshamala, (3) Vilvamala, and Sarapali Mala bits, two parts of ear ornaments, Pathakom Kemanom &c., Kachapuram bits, gold bits with diamonds, rubies and emeralds, two bits of Mohana Mala, one Edamani of Desavatharam, part of Kalpavanmala, Chenkalaneer Mala bit, Kuvalas of Rudraksha and Vilva and Spadica Malas, Pathakom and crown sockets (കൊളം), one bit of Spadicamala, sixteen Erukulamala Manies, bits of gold Chavady and gold thread and Edamanies of Ekapadamala and Pavalamala.
H2. Twenty seven rubies (ചുമപ്പുചന്നം).
H3. (2) diamonds (വൈരചന്നം).
H4. Twelve Anantarayen fanams (of these 7 are full and 5, half coins).
H5. One hundred and thirteen silver Chuckrums and one silver half chuckrum.
H6. One silver Nager (serpent), one silver ring and two silver pieces.
H7. Yadhast dated 10th June 1894, written out by Pros. 62nd witness for the production of the articles Exts. H and H1 to 6 before him and the Police by Pros. 63rd witness.
I. Six gold bits being parts of Procession Deity and of gold crown (one of these bits contains (3) rubies).
I1. One hundred and two silver old full chuckrums inclusive of one half chuckrum.
I2. One five franc piece, crown bits with rubies and diamonds, bits of gold ornaments, that is, Kanmaler (eyelid), (5) Sarappali pieces, half of Dasavathara Mala, (2) Chenkalaneer Manies, one gold Kammel, one gold Pottu, Vilvamala Yethal, (2) Kubalas and Edamanies of Rudrakshamala, (2) Spadicamala Kuvalas, (2) Manies of Chenkalaneermala, (46) Manies of Erukkalamala, (38) Edamanies of Ekapadamala, bits of gold Pathakom and gold dust.
I3. Four Thalis (parts of Dasavatharam set with gems).
I4. (55) rubies (large and small).
I5. (9) diamonds (വൈര ചന്നങ്ങൾ.)
I6. Twelve Anantarayen fanams (eight full and four half).
I7. (4) pearls (നൽമുത്തു).

I8. Silver ornaments (offerings) consisting of Kappoo, girdle (അരഞ്ഞാണം) Thudal, (2) silver legs, Kanmaler, melted silver lump, (2) silver pieces, silver wire and one Chalanka piece.

I9. Yadhast dated 11th June 1894, written out by Pros. 62nd witness for the production of the articles Exts. I and I1 to 8 before him and the Police by Pros. 68th witness.

I10. Report dated 12th June 1894 submitted by Pros. 62nd witness to the Nanganery Sub-magistrate as to the handing over of the Yadhasts and Exts I9—J9, K1, S1, & R1, and the articles described therein, to the Police.

J. Three gold pieces (of Nelayanki, leg and hand).

J1. Gold bits and dust, one Karai Pottu, Arab-cash with setting, (5) Kuvalas, Chavadi and thread bits, one Kanni of Kachapuram, one Yethal of Vilvayethel Mala, one Franc piece (കാൽ ചവൻ മലയുടെ കാശു), Kachapuram and other bits, crown bits with diamonds, (39) Edamanies of various garlands and (33) Manies of Erukkalamala.

J2. (6) silver bits (leg, eyelids &c.)

J3. (42) rubies of different sizes.

J4. (4) diamonds (വൈരക്കല്ലു).

J5. (2) emeralds.

J6. (2) pearls (മൽപ്പുത്തു).

J7. One Spadikom (crystal).

J8. One silver chuckrum.

J9. Yadhast dated 11th June 1894, written out by Pros. 62nd witness for the production of the articles Exts. J and J1 to 8 before him and the Police by Pros. 74th witness.

K. Four gold pieces (one of ordinary crown and (3) of Prabha).

K1. Yadhast dated 11th June 1894, written out by Pros. 62nd witness for the production of the articles Ext. K before him and the Police by Pros. 78th witness.

L. (3) gold pieces (being part of a gold crown with nine rubies, gold hand and gold Prabha).

L1. (8) bits of Sarappalimala, (6) Kuvalas of Spadicamala, (3) bits of gold Kachapuram, (43) Yerukalamala Manies, one Arab cash with settings, (22) Edamanies, (2) Karai Pottus, one Sarappali bit of (37) Yethels and gold bits with (2) small diamonds.

L2. Seven silver bits (being parts of rose-water sprinkler, Dhoopakal and Kodi (girdle) &c.

L3. (39) Rubies of different sorts (two large and 37 small).

L4. Two emerald pieces (പച്ച).

L5. Seventeen diamonds and one Gomethakom stone.

L6. Six full and (4) half Anantarayen fanams and two Kali fanams.

L7. Five pearls (മൽപ്പുത്തു).

L8. Yadhast dated 11th June 1894, written out by Pros. 55th witness for the production of the articles Exhibits L and L1 to 7 before him and the Police by Pros. 66th witness.

L9. Report dated 11th June 1894, submitted by Pros. 55th witness to the Sub-Magistrate of Nanganery as to the handing over of the Yadhasts Exhibits L8, M10, and N9 and the articles mentioned therein, to the Police.

M. (4) bits being parts of gold crown, foot, hand and garland-hanging.

M1. Bits of Erukkalamala, Sarapallimala, half coin of a Dasavathara garland, half bracelet, Edamanies of Rudrakshamala and Ekapadamala, one gold eye-lid, bit of gold thread, gold human figure, gold bits of garlands, gold dust and bits of a stone (രത്നകിരീടം) crown.

M2. One silver human figure, one silver eye-lid, (2) silver bits, one bit of silver thread and 2 silver leg bits.

M3. Eighteen full and 7 half Anantarayen fanams and (2) Kali fanams.

M4. Sixty-four old silver chukrams.

M5. Eighty-two rubies (ചുമപ്പുചന്നം പൊടിഉൾപ്പടെ).

M6. (4) Emeralds (പച്ചചന്നം).

M7. (6) diamonds (വൈരചന്നം).

M8. (2) blue stones.

M9. Two pearls and one coral.

M10. Yadhast dated 11th June 1894, written out by Pros. 55th witness for production of the articles Exhibits M and M1 to 9, before him and the Police by prosecution 65th witness.

N. Parts of gold Prabha, hand and Pathakom; one gold human figure, a gold bit and a part of gold Thunda containing an inscription. Total, (six) bits.

N1. Kachapuram bits; Sarappali and thread bits; another gold bit; gold dust; bits of a stone (രത്നം) crown with one ruby; Vilvamala bit; (4) Spadikamala Kuvalas; Edamanies of (3) kinds of garlands and bits of Vilva Sarappali Mala.

N2. (3) Edamanies of Desavathara Thali set with 12 rubies in each.

N3. (42) rubies (ചുമപ്പുചന്നം) (of these three are large).

N4. (5) Emeralds (പച്ചചന്നം).

N5. (9) diamonds (വൈരചന്നം).

N6. (5) full and one half Anantarayen fanams and one Kali fanam.

N7. Part of silver Padakom; silver eye-lids [(2) single ones and one pair]; (2) waist-ring bits; one silver wire and one silver bit with an inscription. (Total, eight).

N8. One silver half chuckrum.

N9. Yadhast dated 11th June 1894, written out by prosecution 55th witness for the production of the articles Exhibits N & N1 to 8 before him and the police by prosecution 69th witness.

O. Three hundred Rupees.

O1. (3) rubies (including one Eravai (ഇരവൈ).

O2. (67) rubies.

O3. One pearl and half of another pearl.

O4. One പുഷ്പരാഗത്തരിപ്പു (Pushparaga Tharippoo) Topaz.

O5. (3) diamonds (കട്ടവൈരം) and one blue stone (ഇരുമി എന്നനിലക്കല്ലു).

O6. (2) blue stones.

O7. One Gomethakom.

O8. One emerald (പച്ചചെറിയചന്നം).

O9. One silver three Chuckrum; seventy one whole and two half silver Chuckrums.

O10. One silver wire.

O11. Yadhast dated 12 June 1894, written out by Pros. 54th witness for the production of the articles

Exhibits O & O1 to 10, before him and the Police by Prosecution 71st witness.

O12. Report dated 12th June 1894, submitted by Pros. 54th witness to the Sub-magistrate of Nanganery as to the handing over of the Yadhast Exhibit O11 and the articles described therein, to the Police.

P. Ninety Rupees.

P1. One hundred and eighty rubies (ചുരപ്പുചന്നം)

P2. (29) large rubies.

P3. One large ruby.

P4. One large ruby.

P5. One ruby (തകട്ടുചുരപ്പ)

P6. (2) ruby-like stones.

P7. One (കരപ്പോക്ക) Karapoku stone.

P8. One (കാച്ചിക്കല്ല) Kachikalloo, that is blue stone.

P9. (2) Blue stones.

P10. (2) Pushparagom or Spadica stones.

P11. One emerald.

P12. Nineteen stones (പച്ചചന്നംപൊടിഉൾപ്പടെ).

P13. (26) Diamonds (തകട്ടവൈരം & വൈരചന്നം).

P14. Twelve diamonds (വൈരക്കട്ട).

P15. Four pearls.

P16. Gold dust and (2) diamond bits.

P17. One Vangikarai Mani.

P18. Yadhast dated 8th June 1894, written out by Pros: 62nd witness for the production of the articles Exhibits P and P1 to 17 before him and the Police by Pros: 61st witness.

P19. Report dated 9th June 1894 submitted by Pros: 62nd witness to the Sub-Magistrate of Nanganery as to the handing over of the Yadhast Exhibit P18 and the articles described therein, to the Police.

Q. Four melted gold pieces.

Q1. Nine melted gold pieces.

Q2. Two silver wires.

Q3. Yadhast dated 8th June 1894, drawn up by Pros: 52nd witnesss and others for the production of the articles Exhibits Q, Q1 and Q2 before them and the Police by Pros: 53rd witness.

Q4. Report dated 10 June 1894, submitted by Pros: 52nd witness to the Sub-Magistrate of Nanganery for the handing over of the Yadhast Q3 and the articles described therein, to the Police.

R. (256)Two hundred and fifty six Rupees.

R1. Yadhast dated 11th June 1894, written out by Pros: 62nd witness for the production of Exhibit R Rupees before him and the Police by Pros: 60th witness.

S. Two melted gold bits.

S1. Yadhast dated 11th June 1894, written out by Pros: 62nd witness for the production of Exhibit S articles before him and the Police by Pros: 57th witness.

T. A melted gold piece and small bits of gold &c.

T1. One melted silver piece.

T2. (5) rubies (large) ചുരപ്പുവലിയചന്നം.

T3. (39) Small rubies ചുരപ്പുചെറിയചന്നം.

T4. (8) Diamonds (വൈരചന്നം).

T5. Two green stones.

T6. Three blue stones.

T7. One small emerald.

T8. One blue stone.

T9. One hundred and seven Rupees.

T10. Yadhast dated 11th June 1894, written out by Pros: 62nd Wit:, for the production of the articles Exhibits T and T1 to 9 before him and the Police by Pros. 64th Wit.

U. Three hundred and seventy-four full Rupees; (9) half-rupee pieces; (8) four-anna pieces; and four two-anna pieces. Total value, 381 Rupees.

U1. Nineteen rubies; two emeralds; two diamonds (വൈരചന്നം) and one *Eravay*.

U2. Yadhast dated 17th June 1894, drawn out by Pros. 52nd Wit., for the production of the articles Exhibits U and U1., before him and the Police by Pros. 53rd Wit.

U3. Report dated 17th June 1894, submitted by Pros. 52nd Wit. to the Sub-magistrate of Nanganery for the handing over of the Yadhast Exhibit U2. and the articles described therein, to the Police.

V. Fourteen gold Sarapalli and Vilvamala bits.

V1. One bit of gold hand of Procession Goddess.

V2. A portion of ordinary crown.

V3. A portion of Pathakkom Kemanom, without gems.

V4. A part of gold Prabha.

V5. Two parts of a gold parrot.

V6. Stone (രത്ന) crown bits.

V7. Part of a gold Prabha with tying cotton thread.

V8. Gold Pottoo (dots).

V9. (24) gold Erukalamani and bits.

V10. Idamanies and Kuvalas of Rudrakshamala and Ponmanithavadom and Spadicamala.

V11. One piece of gold Chavadi (girdle).

V12. A gold Chavadi (girdle) bit.

V13. A gold human figure.

V14. Six Edamanies of Rudrakshamala &c.

V15 Two links of Five Franc garland piece.

V16. Three Desavathara Edamanies with twelve rubies in each.

V17. A stone crown bit with four stones removed therefrom.

V18. A gold Thandai bit.

V19. Gold dust.

V20. Gold bit.

V21. Four gold Manies of different garlands.

V22. Bits of gold Kemanoms and dust.

V23. A gold Kachapuram wire bit.

V24. Nine full and three half Anantarayen fanams and two Kali fanams.

V25. Forty-one rubies; three diamonds; one (ൈവഡൂര്യം) (catseye); one pearl; one broken pearl and two emeralds.

V26. One gold wire bit.

V27. Silver toe, eyelid, thread and two silver bits. Total, five bits.

V28. Silver dust.

V29. (98) full and one half silver chukkrams.

V30. Yadhast dated 13th Vycasi 1069, written out by Pros. 88th Wit. and the Police for the discovery of the articles Exbts. V and V1 to 29 from Pothalaputhoor and the handing over of the same to the Police.

W. Report dated 22nd Chittray 1069 submitted by Pros. 1st Wit. to Pros. 87th Wit., about the occurrence of theft in the Cape Temple on the night of the 21st Idem.

X. A ground plan of the Cape Temple, drawn up by the Pros. 18th Wit.
X1. A plan showing the sectional view of the eastern gate of the Cape Temple, drawn up by the Pros. 18th Wit.
X2. Another ground plan of the Cape Temple drawn up by the Pros. 18th Wit.
X3. The elevation plan of the flag-staff and the scaffolding in the Cape Temple.
X4. A sketch plan of the roads of the country in the vicinity of the Cape.
Y. An account book kept in the Kalloor Mosque at Colachel by Pros. 36th Wit. showing payments made to Mahomedan travellers.
Z. A list dated 22nd Chittray 1069, of the Cape Temple ornaments prepared from the Devaswom accounts by Pros. 37th Wit. together with their valuation.
AA. A red old Kusoomba cloth.
AA1. Red lined drill coat.
AA2. Black coat.
AA3. A white trousers.
AA4. A pair of stockings.
AA5. A piece of an old torn coat.
AA6. Half of a Jamakalum cloth (white and black).
AA7. Two Benares cloths (yellow colored).
AA8. A white cap.
AA9. A black silk cap.
AA10. A green cap.
AA11. A bag.
AA12. A bag made of Koranad cloth.
AA13. A white shirt.
AA14. A small and partly white bag.
AA15. Various cloth pieces put one above the other and stitched together for retaining needle.
AA16. A Banath cloth bag.
AA17. A torn rail-bag.
AA18. A long torn turban.
AA19. A tin case.
AA20. A turban with white and purple spots, together with two pieces of the same.
AA21. A piece of white cloth.
AA22. (8) torn rags of cloth.
AA23. A red large bag.
AA24. A small bag.
AA25. An iron key with a string.
AA26. A silk hanging of a cap.
AA27. Two copper plate pieces.
AA28. 29 cowries (black colored).
AA29. A tin Boakani (vessel).
AA30. Broken socket pieces for melting gold.
AA31. Two Rudrakshoms.
AA32. A red salmon colored cloth piece.
AA33. A small Chilimbhi used for smoking ganja (bhang).
AA34. A tin piece.
AA35. A glass case.
AA36. Two white cloth pieces with ganja (bhang).
AA37. Two black colored turban pieces.
AA38. A white bag.
AA39. A (ചെരുപ്പ്) shoe.
AA40. A steel or iron mould for melting gold.
AA41. A deer skin rail-bag
AA42. Two pencil pieces.
AA43. Palmyra coir.
AA44. A coir.

AA45. An iron (ഉമ്പാടി) pincers.
AA46. A piece of paper with printed Mahratta characters.
AA47. A bit of newspaper.
AA48. A piece of paper with circular drawings containing certain letters.
AA49. Two pieces of paper written in Mahratta characters.
AA50. Pieces of unwritten paper.
AA51. A Doria white shirt with silver button.
AA52. A silver watch with a chain.
AA53. Some cloths.
AA54. Report dated 11th June 1894 sent by Pros. 73rd and 75th Wits. to the Special Police Inspector, Pros. 51st Wit. as to the discovery of the articles Exbts. AA and AA1 to 53 from near Vellimalai Oday as pointed by Pros. 61st Wit.
AA55. The Jamakalum or cloth (forming part of the cloths Exbt. AA22) on which the stolen ornaments had been spread out at the Vellimalai Oday by some of the accused &c.
BB. Yadhast (memo of crimes) dated 5th August 1894 sent by Pros. 51st Wit. to Defence 1st Wit. as to the production of Exbt. BB1 articles and forwarding the same to the latter.
BB1. A hammer and (3) keys.
CC. A Railway 3rd class ticket from Gengacondan station dated 12th June 1894.
CC1. Do. do. do.
CC2. Do. do. do.
} One of these three tickets is for Vellore station and the other two are for Villapuram station.
DD. A circular order written in Tamil dated 12th May 1894 Tanjore, sent by the Head Quarter Inspector to all the Railway Orderlies requiring them to carefully watch railway passengers as a theft has been committed in the Cape Temple.
EE. The Registry of out-patients for May 1894 in the Ambasamoodram Hospital, kept by Pros. 67th Wit.
FF. Letter dated 13th May 1894—Satur, written by the District Superintendent of Police, Tinnevelly, to the Superintendent of Police of Travancore.
GG. Letter dated 5th May 1894 No. 548, sent by the Superintendent of Police, Tinnevelly District, to the Superintendent of Police, Travancore.
HH. A Telegram dated 22nd May 1894 No. 85, sent to the 4th accused at Hoobly by Pros. 14th Wit. through the Nagercoil Telegraph Office.
II. The eye-sketch plan of Vellimala &c. drawn up by the Pros. 18th Wit.
JJ. Report dated 18th Alpasi 1070, sent by Pros. 18th Wit., to the committing Magistrate on inspection of Vellimala &c.
JJ1. A piece of white and black colored cloth.
JJ2. Two earthern moulds or sockets.
JJ3. Two copper-plate pieces.
JJ4. A thread string and a നാര് (fibre) string.
JJ5. A crystal bead.
JJ6. Three match sticks.
JJ7. A piece of handkerchief.
JJ8. A torn cloth red lined at the sides.
JJ9. A torn white cloth.
JJ10. A piece of cloth and (2) other cloth pieces.
JJ11. Thirteen rubies (മുത്ത്), 8 small bits of gold and (3) bits of silver.

JJ 12. (33) broken pieces of crystal beads.
KK. Yadhast dated 25th Chittray 1069, written out by the Police on inspection of the boring on the eastern big gate of the Cape Temple. J
LL. Extract dated 9th November 1894 No. 1202 from the Descriptive Roll of convicts in the District Jail at Tanjore showing that the present 2nd accused had undergone (3) months' rigorous imprisonment for a conviction on 17th November 1891 against him in Calendar case No. 699 of 1891 of the Thiroovadamaruthoor 2nd class Magistracy.
MM. Copy of a list prepared as to the arrest of the present 1st and 2nd accused by the British Police (Pros. 76th Wit. and others) on 29th October 1888, their identification marks and the articles discovered from them.
NN. A belt taken from the 6th accused.
OO. Letter dated 10th July 1894 sent by Pros. 80th Wit. (R. Bappoo Rao Naidoo) to the Inspector of Police, Trichinopoly on special duty of the Cape Theft Case.
OO1. Letter dated 17th July 1894, Trichinopoly, sent by Mr. V. Soobraya Mudaliyar, Inspector of Police, Trichinopoly on special duty of the Cape Theft Case, to the Superintendent of Police. Travancore.
PP. Statement dated 5th November 1894, taken from Piraj Dhonctiba before the Hoobly Magistrate in connection with the present Cape Theft Case.
PP1. A hollow iron rod.
PP2. Do. do.
PP3. An iron rod with screw-like lines on the outside.
PP4. Do. do. do.
PP5. A piece of bent iron.
PP6. Do. do.
QQ. Petition dated 8th Edavom 1069, No. 484 addressed by Pros. 49th Wit. to the Superintendent of Police, Travancore, together with letter No. 687 dated 23rd November 1894 from the Superintendent of Police to the Defence 1st Wit.
QQ1. Circular order dated 15th May 1894, Cape Comorin, No. $\frac{5}{599}$ issued from the Travancore Police Superintendent's Office to all the Inspectors of Police to report about the movements of any gangs of strangers from outside Travancore.
RR. A piece of paper discovered by Pros. 80th Wit. from the house of one Kaja Mahomed at Mysore containing the list of Nos. &c. of 3000 Rs. worth of Currency Notes said to have been got by him (Kaja Mahomed) through Samear Nanjundappa.
RR1. A Benares silk cloth for females.
RR2. A piece of silk cloth.
RR3. Do. do.
RR4. A new Mackad silk cloth.
RR5. A piece of silk cloth
RR6. A Benares cloth.
SS. A white trousers.
SS1. Do. do.
SS2. A blue cloth.
SS3. A bag of different colors.
SS4. Fifty Rupees and one two-anna piece.
TT. Extract (dated 28th July 1894, Trichinopoly Central Jail) from the Convict Register of the said

Jail showing that the present 1st accused had undergone rigorous imprisonment for convictions against him in Cases Nos. 115 of 1885 and 20 of 1885 on the file of the Town Magistrate and the Sessions Courts of Trichinopoly.

UU. Report dated 19th December 1894, submitted to the Assistant Superintendent of Police (Defence 1st Wit.) by Mr. Thomas, Coimbatore District Railway Police, 4th Grade Hd. Constable No. 195.

VV. Statement given by Pros. 13th Wit. before the Hoobly Magistrate. This is written in Canarese.

WW. Statement of Pros. 19th Wit., given before the committing Magistrate on 23rd Thulam 1070.

XX. Statement of Pros. 83rd Wit., given before the committing Magistrate on 16th Thulam 1070.

YY. Certificate dated 13th March 1895 No. 32, granted by Pros. 89th Wit. on examination of the legs of the 11th accused.

ZZ. List (prepared and signed by the Cashkeeper of this Court and others) of all the abovementioned ornaments together with their valuation, weight &c., taken charge of by the said Cashkeeper from the custody of the Police and the Magistracy. This list has been countersigned by the Court on 7th Thie 1070.

AAA. Statements given before the committing Magistrate by the 1st accused on 16th Thulam and 12th Dhanoo 1070.

BBB. Do. do. by the 2nd accused on 16th Kanni, 16th Thulam, 16th Vrischigom and 12th Dhanoo 1070.

CCC. Do. do. by the 3rd accused on 16th Thulam and 12th Dhanoo 1070.

DDD. Do. do. by the 4th accused on 19th Thulam, 28th Vrischigom and 12th Dhanoo 1070.

EEE. Do. do. by the 5th accused on 17th Thulam and 11th and 12th Dhanoo 1070.

FFF. Do. do. by the 6th accused on 14th Vrischigom and 12th Dhanoo 1070.

GGG. Do. do. by the 7th accused on 12th Dhanoo 1070.

HHH. Do. do. by the 8th accused on 23rd Thulam and 12th Dhanoo 1070.

III. Do. do. by the 9th accused on 27th Kanni and 12th Dhanoo 1070.

JJJ. Do. do. by the 10th accused on 18th Thulam and 12th Dhanoo 1070.

KKK. Do. do. by the 11th accused on 18th Thulam and 12th Dhanoo 1070.

LLL. Order of dismissal of one Vadivelu Thevan (watchman of Theroor) from service, passed by Defence 1st Wit. on 2nd December 1893, together with the records connected therewith.

LLL_1. Memo from the Superintendent of Police, Travancore, to Defence 1st Wit., dated 22nd October 1894, No. 603, calling for report about the withholding of the said Vadivelu Thevan's pay for four months.

LLL_2. Reminder to Exhibit LLL_1, Memo, dated 9th November 1894, No. 654 sent by Do. to Do.

MMM. Deposition taken from Mudar Beck Hussen Beck (Chief Constable, Hoobly) on 25th Margali 1070, as Pros. 97th Wit., before the committing Magistrate.

EXHIBITS FOR THE DEFENCE.

I. Bail bond dated 9th June 1894, executed by Pros. 61st Wit. binding himself to appear before the Nanganery Magistracy whenever called for.

II. A similar bail-bond dated 10th June 1894, executed by Pros. 58th Wit. together with a bail security bond dated 10th Idem executed by P. Pichakkannoo Thevan, binding himself to produce the said 58th Wit. before the said Magistracy whenever called for.

III. A similar bail-bond executed by Pros. 59th Wit. on 10th June 1894.

IV. Do. executed by Pro. 63rd Wit. on 10th June 1894, together with a similar bail security-bond executed by P. Pichakkannoo Thevan on 10th Idem for the production of Pros. 63rd Wit.

V. A similar bail-bond executed by Pros. 56th Wit. on 11th June 1894 together with a similar bail security bond executed by S. Arunachala Thevan.

VI. A similar bail-bond executed by Pros. 57th Wit. on 11th June 1894, together with a bail security-bond executed by S. Arunachala Thevan on 11th Idem for the production of Pros. 57th Wit.

VII. A similar bail-bond executed by Pros. 60th Wit. on 11th June 1894, together with a similar bail security-bond executed by S. Arunachala Thevan for the production of Pros. 60th Wit.

VIII. A similar bail-bond executed by Pros. 64th Wit. on 11th June 1894, together with a similar bail security-bond executed by O. Palavesa Thevan for the production of Pros. 64th Wit.

IX. A similar bail-bond executed by Pros. 65th Wit. on 11th June 1894, together with a similar bail security-bond executed by V. Vanuvamala Thevan on 11th Idem for the production of Pros. 65th Wit.

X. A similar bail-bond executed by Pros. 66th Wit. on 11th June 1894, together with a similar bail security-bond executed by V. Vanuvamala Thevan on 11th Idem for the production of Pros. 66th Wit.

XI. A similar bail-bond executed by Pros. 68th Wit. on 11th June 1894, together with a similar bail security-bond executed by Palavesa Thevan on 11th June 1894, for the production of Pros. 68th Wit.

XII. A similar bail-bond executed by Pros. 69th Wit. on 11th June 1894, together with a similar bail security-bond executed by V. Vanuvamala Thevan on the 11th Idem for the production of Pros. 69th Wit.

XIII. A similar bail-bond executed by Pros. 70th Wit. on 11th June 1894, together with a bail security-bond executed by S. Arunachala Thevan for the production of Pros. 70th Wit.

XIV. A similar bail-bond executed by Pros. 74th Wit. on 11th June 1894, together with a bail security-bond executed by O. Palavesa Thevan for the production of Pros. 74th Wit.

XV. A similar bail-bond executed by Pros. 78th Wit. on 11th June 1894, together with a similar bail security-bond executed by P. Veerapandy Thevan on 11th Idem for the production of Pros. 78th Witness.

XVI. A similar bail-bond executed by Pros. 71st Wit. on 12th June 1894, together with a bail security-bond executed by P. Veerapandy Thevan on 12th Idem for the production of Pros. 71st Witness.

WITNESSES FOR THE PROSECUTION.

1. Vengadasubben Thanoo Iyen, late Sreekariakaren of the Cape Pagoda.
2. Sheik Ismal Sahab–Moideen in Ambasamoodram Mosque.
3. Narayanan Rama Iyen. Kyvistharam (adorning the Procession deity) in the Cape Temple.
4. Navidan Parameswaren Vasudevan Potti, Melchanthi of the Cape Pagoda.
5. Venkadathiri Nellayappan, Dubash in the Cape Temple.
6. Narayanan Mashanam, a Palavelakaren (servant) of the Cape Temple.
7. Venkadasubben Lekshmana Iyen, Thirunaday watchman(തിരുനടകാവൽ) in the Cape Temple.
8. Oothiramadan Bhagavathikannu, Massalgi in the Cape Temple.
9. Chithambaram Subramani Iyen, the agent of the Cape Temple Thanthri.
10. Arasamuthoo Maharajen (നടകാവൽ) watchman in in the Cape Temple.
11. Ramaswami Pandarakutty.
12. Polimuthoo Maden Subramanian.
13. Vittoba Krishnajee of Hoobly.
14. Vajinkjee Raichund.
15. T. P. Rangayyengar, Post and Telegraph Master of Nagercoil.
16. Chempacaramen Ramalingom.
17. Yegneswaren Ramasubu Iyen, a Time-keeper D. P. W.
18. Kupooswami Naidoo Meenakshi Naidoo, an Overseer in the Irrigation Department.
19. Thiruvengada Naidoo Alakiriswami Naidoo.
20. Palavasom Soobien, a Mason.
21. Siven Sivananjaperumal.
22. Vedanayagom Devakutty.
23. Raman Bhagavathi, Havildar in the Nair Brigade.
24. Fakeer Mahommed Pillay.
25. Sulyaman Bavakasin.
26. Peither Ammanayakam.
27. Valli Lekshmi.
28. Cumaram Keshavan.
29. Eravi Sivathanuvan.
30. Paradesi Meethian Pichameeran.
31. Abdalkader Seykoo Mahommed.
32. Malica Pillay Ravutha Pillai.
33. Soobramanian Velayuthan, a Blacksmith.
34. Saravana Swaminathen.
35. Anthiramudayan Aruthakutty.
36. Mahomed Sheik Moideen Lubbay.
37. Tirchithumbalam Bhagavathi Sreepandaram Kanaku (accountant) in the Cape temple.
38. Anthoni Visuvasam.
39. Pinamala Isakimuthoo.
40. Sheikoo Mahommed Alyar.
41. Cumaran Madevan.
42. Mytheen Pakeer Nagore Adima.
43. Sheikoo Meera Sah.

44. Kanakoo Thumby Bhoothalingam Krishnan.
45. Kader Shah Nadir Shah.
46. Nabykhan Davoodkhan.
47. Alima Hasseen Oommal.
48. Peeroo Mahammed Assanar Moideen.
49. Kanakoo Thumby Kanden Raman, Head Constable No. 521 and Acting Police Inspector of Kalcoolam.
50. Irulamada Thevan Sivananjaperumal.
51. Vengadachala Moodaliar Kallianarama Moodaliar, Police Inspector of Nanganery.
52. Kuruva Reddyar Padmanabha Reddyar, Village Munsif of Panancolem, Nanganery Taluq.
53. Kuppamuthoo Muthooswamy Asari, a goldsmith.
54. Nallayappa Pillay's son Thiravium Pillay, Village Munsif of Nanganary Cusbah.
55. Vengadachalam Thather's son Alwar Thather, Village Munsif of Nanganery south.
56. Mnthya Theven's son Madaswami Theven.
57. Alakia Numby Theven Vanuvamala Theven.
58. Perumal Theven Soobiah Theven.
59. Palavasa Theven's son Oodia Theven alias Velliah Theven.
60. Perumal Thevan Oodia Theven.
61. Muthudaya Theven Vanuvamala Theven.
62. Vanuvamala Ananthapadmanabhan, Village Munsif of Marukalkurichi.
63. Palavasa Theven's son Vanuvamala Theven.
64. Palavasakanoo Theven Kethrapula Theven.
65. Vanuvamala Theven Kathakutty Theven.
66. Shudalamuthoo Theven Vanuvamala Theven.
67. C. Parthasarthi Naidoo, Civil Apothecary, Nanganery.
68. Veerapandi Audi Theven's son Madaswamy Theven.
69. Shudalamuthoo Theven Palavasa Kannoo Theven.
70. Arunachala Theven Shudamuthoo Theven.
71. Palavasa Kannoo Theven Sivasubramania Theven.
72. Maruthappa Theven Maruthappa Theven.
73. Swaminatha Pillay Jaganatha Pillay, Palamcotta Reserve Head Constable No. 336.
74. Iyemperumal Theven Eenamuthoo Theven.
75. Krishnappa Naidu Muniswamy Naidu, Head Constable No. 871 (Station House Officer at Mela Palayam). He was Kalcaud Station House Officer before.
76. Nallakannoo Pillay's son Subramania Pillay, Head Constable No. 316, Station House Officer, Nanganery Cusbah.
77. S. Kandaswamy Pillay, the present Railway Station Master of Cholavanthan. (He was formerly Assistant Railway Station Master at Tanjore).
78. Picha Theven Andi Theven.
79. Mariyappa Pillay Arunachalam Pillay, Tanjore Railway Platform Head Constable No. 603.
80. Ramaswamy Naidu Bappoo Row Naidu, Police Inspector of Gooty.
81. Mallappa Narasappa.
82. Mr. A. J. Wilson.
83. Periya Musulkhan Musulkhan, Head Constable No. 411, now Station House Officer of Pappenpully in Palany Taluq.
84. Sheik Ahmed Sheik Ismaul, British Constable No. 590.
85. Mahommed Sah Mahommed Yacob, Constable No. 236, Bangalore Cantonment.

86. Sheik Ismal Sheik Ahmed.
87. Ramaswamy Iyen Mahadeva Iyen, 2nd Class Magistrate of Agasteeswarem.
88. Nellayappa Iyen Arunachalam Iyen, 3rd Class Magistrate of Thiruvattar.
89. Mr. F. P. Fernandez, Apothecary in charge of the District Hospital, Nagercoil.
90. Syed Ibrahim Syed Ali, Police Inspector of Shencottah.
91. Mahommed Hussen Sheik Adom, Moideen in the Bangalore Butchers' Mosque.
92. Anantha Palpoo Nagalingam, a goldsmith.

WITNESS FOR THE DEFENCE.

1. Mr. T. Ponnambalam Pillay, Assistant Police Superintendent, Southern Division, Nagercoil.

This case coming on for hearing on the 9th, 10th & 11th days of Pangoony 1070 and having stood over for consideration till the 16th Idem, the Court delivered the following

JUDGMENT.

JUDGMENT.

1. This is a case of theft of temple properties worth about a lakh of Rupees. The offence is said to have been committed on the night of $\frac{\text{21st Chitray last}}{\text{2nd May 1894}}$ by a wandering gang of Cabulies and by some Marwaries of Hoobly.

2. A description of the temple, of where its valuables are stored and of how its safety is sought to be secured, would, I believe, greatly facilitate the understanding of how a midnight forcible entry thereinto and a wholesale looting thereof were effected. The southern extremity of India is, as is well known, a low sandy promontory called Cape Comorin or more shortly "The Cape." At its extreme point is a square-built and granite terraced Pagoda dedicated to the virgin goddess "Bhagavathi." The Pagoda proper consists of (1) a Sreekovil (2) a *Mani* or Bell Mandap in front or east of it and (3) a Prathakshana Mandap on the other sides thereof. The Moola Vigraham or chief idol of the Pagoda is located in the first, in the entrance room or Edanazhy of which is placed an iron safe in which the recent offerings and the ornaments and clothes of daily use are kept. The ornaments however are always on the person of the goddess during night. In the south-eastern corner of the Sreekovil or Bell Mandap is the Karuvelum or treasury containing all the valuable jewels of the Devaswom except those needed for the daily ornamentation of the goddess. This treasury consists of three (3) rooms, each having a strong door with two or three locks attached thereto. The first and second doors are single ones formed of two thick planks fastened together by cross-bars at each end thereof. The third which leads into the jewel room consists of two half-doors fixed to the door-frame by means of some thing like pivots and sockets. These buildings are surrounded on all sides by strong granite walls reaching up to the terrace. This outer wall forms also the eastern and southern walls of the treasury.

3. Adjoining the Pagoda proper and immediately to the east of it with but a wall and a door between, is the Thatty Mandap or chancel where the Devaswom Dasees sing and dance in the presence of the Goddess. This Mandap also has walls on all sides of it extending up to the terrace. The northern, eastern and southern doors of this building open into the next adjacent Seevaly Mandap or terraced Procession Passage which encircles the Pagoda proper and the chancel. This Procession Passage with its parlours and verandahs is walled off from the open Tirumittam or court-yard which surrounds it and through which Pagoda watchmen are expected to go their rounds four or five times during the night. This wall also rises up to the terrace. The Pagoda proper, the chancel and the Seevaly Mandap have all one continuous unbroken terrace save where the leaning Dhwajastambhom or flagstaff rises over it through a hole therein and is supported above it by a bamboo scaffolding. There are also some small holes in the terrace to let in light and air. There are four entrances to the Seevaly Mandap. Two of these are always kept closed, the other two being opened during the day time.

Of the latter are the door which is next last of the flag-staff and the Vyrava Nadai which passes you through the Aunentha Mandap and the Tirumittam to the main massive gate of the Pagoda viz. the northern or Vadakai Nadai. There is a third entrance of the Seevaly Mandap which needs a description. It is the southern one. It separates the Namaskara Mandapom from the Tirumittam or open court-yard. It has in front of and adjoining it a terraced portico with verandahs.

4. I have already said that an open court-yard surrounds the procession passage. All round this court-yard is the huge masonry or granite outer wall of the Pagoda 24 feet high. There are only two entrances on this outer wall. These have huge massive doors with locks and bolts. One of these is the northern entrance above spoken of. It is through this that people enter into the Pagoda. The other gate is the eastern one which is never opened except on the Aurat or other special days. This gate has, as the Namaskara Mandapom, an outer and an adjoining terraced portico with verandahs. The height of the portico, however, is only 18 feet. This portico extends to the inside also, but not to such an extent as the outside one. It should be noted here that the Thirunadai or the Sreekovil door, the Bell Mandap door, the chancel and the flagstaff eastern doors and the Mani eastern gate lie more or less in a straight line with each other. The flagstaff also is in the same line.

5. The daily ornaments of the Pagoda are kept by the Melchanthi or priest (Prosecution 4th witness) in the Sreekovil iron safe. The other ornaments and the old offerings and coins are secured in the treasury the keys of which are with prosecution 9th witness who is the hereditary agent of the Thanthri in charge of the Devaswom jewels. These jewels are taken out only on special occasions or festivals in the presence of Prosecution witnesses 1 (Devaswom Sreekariam,) 3 (Devaswom Kyvistharem), 4 (Devaswom Melchanthi) and 37 (Devaswom accountant). The required ornaments are taken from their boxes by the Prosecution 9th witness in the presence of the above persons, brought to the Bell Mandap and are there handed over to Prosecution witnesses 3 and 4 who pass and get a receipt for the same. This receipt from Prosecution witnesses 3 and 4 is kept in the treasury boxes in proof of the ornaments having been given out. The treasury is then locked in the presence of the same individuals, and Prosecution 3rd witness places his seal on the inner door thereof. When after the festivals are over the ornaments are returned, the same procedure is followed. Prosecution 9th witness opens the treasury, keeps the ornaments in the safe there and returns the receipt to Prosecution 3rd and 4th witnesses who tear it away. These 3rd and 4th witnesses also return the counter receipt to 9th witness who also tears the same. The treasury is again locked in the presence of the Devaswom officials and with the seal on the inner door by Prosecution 3rd witness. The last occasion on which the treasury was opened and closed was on the day after the New Moon in Thye 1069. February 1894.

6. The Pooja in the Pagoda lasts till about 10 P. M. Then Prosecution 7th witness who keeps the keys of the Sreekovil and the Bell Mandap doors and Prosecution 4th

witness who is the last to leave the Sreekovil safely lock the above mentioned doors. One of the locks of the Bell Mandap door has become useless and has not been used for the past few years. Prosecution 3rd and 8th witnesses then go round the Thatti and Seevaly Mandaps locking such of the doors as had locks on them and bolting those that had no locks thereon. The eastern and southern doors of the Thatty Mandap are simply bolted inside. The lock of its northern door has been out of order for the past 20 years and has not been repaired in spite of urgent requests therefor by the Devaswom subordinates. This northern door is therefore neither locked nor bolted, but simply shut. The lock of the door to the east of the flagstaff is also out of order for the past decade or so. It is however bolted inside. After Prosecution witnesses 3 and 8 lock or bolt or shut their doors, Prosecution 10th witness who keeps the keys of the two main entrances on the outerwall goes round the court-yard and sees that the inside lock and bolt of the eastern gate are safe and sound, locks and bolts the northern gate on the inside and then with one or two other Devaswom servants (the Palavelakaren and Vandikaren) sleeps and snores on the inside verandah of the latter gate. A habitual and perhaps unquestioned disregard of the rule of 4 or 5 times going round the Pagoda through the Tirumittam during the nights, has made the Devaswom subordinates doubt the very existence of such a duty in them. It is thus clear that when the Pagoda watchmen retire to rest, there is not a single soul within the temple. The Brigade sentinel mounts guard only outside the northern gate. At about 4—30 A. M. the Palavelakaren or miscellaneous servant of the Pagoda rouses the gate-keeper (Prosecution 10th witness) who opens the wicket door of the northern gate (the two outer massive doors have each a small door in the lower part thereof). The miscellaneous servant then goes out to the Brahmin street which is very near and wakes up Pros. 3rd witness. These two individuals then return to the Pagoda. 3rd witness opens the Vyrava Nadai or the northern door of the Seevaly Mandap. The miscellaneous servant then lights a lamp in the Kottayammen parlour which immediately adjoins the door opened by Pros. 3rd witness and then returns to the village to fetch the Melchanthi and the Thirunada gate-keeper. All these three (3) persons come up to the temple and while the Melchanthi is changing his cloths in the Kottayammen parlour, the miscellaneous servant goes into the Thatty Mandap to light some lamps. The gate-keeper and Melchanthi then come in and open the Bell Mandap and Sreekovil doors. The regular business of the Pagoda is then started and continues up to 10 in the night.

7. On the night of the 21st Chitray last, the Pagoda was as usual closed at about 10 P. M. with the same formalities and caution as above described. Pros. witnesses 10 and 8 and another (a boy) slept on the inner verandah of the northern gate. The morning routine followed. Pros. witnesses 3 and 4 were by Pros. 8th witness brought into the temple and while 4th witness changed his cloths in the Kottayammen parlour, the lamp-lighter or miscellaneous servant (8th witness) proceeded to the Thatty Mandap for lighting lamps. The northern door of this Mandap is, as above stated, simply shut as its lock is out of order. When 8th witness approached this door, he found it not shut as he left it the previous night but a

little ajar. He seems perplexed, and suspicion is aroused in his mind. He goes in and to his surprise finds all the doors in front of the Goddess from the Sreekovil Thirunada up to the main eastern gate open. There were also some lamps lit in the Sreekovil and Bell Mandap. Usually only one lamp is left lit near the Goddess. The amazed 8th witness then hurriedly calls out for 4th and 7th witnesses. They rush in and behold the same with similar surprise and wonder. They then send for the Devaswom Sreekariam (Pros. 1st witness) and come out of the Pagoda crying out "Temple plundered" "Temple plundered." Fortunately, the Valia Meleloothu Pillay or the Accountant General of the state was close by in the Palace. He was roused up. He and the Devaswom servants then went into the Pagoda and found that all the eastern doors and the Treasury doors had been forced open, that locks had been broken and that the Treasury boxes and the Sreekovil iron safe had been emptied of their contents. The Goddess also was despoiled of all her ornaments. At the Accountant General's advice, Reports (Exhibits W and A) were sent to the Sub-Magistrate of the District and to the nearest Police Station and what was then found in the Pagoda was left uninterfered with till the Sub-Magistrate arrived a few hours afterwards. The Police and the Sub-Magistrate soon arrived at the spot and the Yadast Exhibit C was drawn out as to the appearance presented by the forced-open-temple. Who broke into and plundered the Pagoda is what we have now to find out.

8. Various local arrests were made and various investigations and enquiries were held to discover the thieves. But all this was in vain. The assistance of the British Indian Police was sought by this Government and was cordially and willingly granted. Our officers were sent out to British India for the purpose of detection and both the Travancore and British Indian Police, I am glad to be able to bear witness, did on the whole conjointly, unanimously and most willingly put forth their best efforts to get at the daring thieves. The result of all these enquiries and united efforts is that a Marwari of Hoobly and a wandering gang of Cabulies are now placed in the dock as the daring burglars of the Cape Pagoda. The charges against these persons are: (1) Theft in a building punishable under section 380 I. P. C., (2) House-breaking by night after making preparations for causing hurt (Sec. 458 I. P. C.), (3) Breaking open a closed receptacle (Sec. 461 I. P. C.), (4) Making preparations to commit Dacoity (Sec. 399 I. P. C.) and (5) Being a member of a gang of thieves (Sec. 402 I. P. C.).

9. The accused plead not guilty. 4th accused is a native of Hoobly. He is a Hindu, Marwari by caste. The other accused are all Mahomedans or wandering Cabulies mostly without ostensible means of livelihood and without settled places of residence. 1st accused was born in Cashmere, 2nd accused in Multan, 3rd, 7th, 10th and 11th in Peshwar, 5th and 6th in Afghanistan, 8th in Bagdad and 9th in Korassan.

10. That the theft in question did really take place, I have not the slightest doubt. I cannot for a moment imagine that all the marks of the forcing of doors and boxes and smashing of locks were for the purpose of mere simulation. No body seems to have an interest

therefor. Exhibit C is a carefully prepared document of what was found in the pagoda shortly after it was looted. From this and Exhibit K K, it appears that the thieves first tried to effect an entrance into the pagoda by boring through near what they deemed to be the inside lock of the eastern wicket door. The boring however stuck on an inside iron plate of door. They then shut up the bored hole and fetching a ridge plate (Exhibit B3.) from the Residency which is near the Pagoda and which was then undergoing repairs, used it for scaling over the Pagoda outerwall. This ridge plate was on the morning after the offence found lying near the eastern gate. A few feet to the south of this eastern gate, there are on each side of the outer wall two small parallel water cisterns. These and the ridge plate formed the basis of operations. Within the outer cistern, a small pit was dug to plant the ladder or ridge plate. The other end of the ladder rested on the terrace of the outer portico of the eastern gate. Any body could then very easily climb up to the terrace by means of the ridges or steps in Exhibit B3. Once on this terrace, the thief could without any difficulty whatever scale up the outer wall above it as it is only six feet high and as there is a corresponding terrace inside the eastern gate, or he might drag after him the ridge plate that took him up to the outer terrace and thereby scale the six feet wall. From the inner terrace, the ridge plate seems to have been lowered in such a manner as to have its lower end supported by the inner cistern. The upper end was of course placed on the southern part of the inner terrace. This done, a descent into the Thirumittam is easily effected. The Pagoda terrace is not so high as that of the eastern portico. On the southern Thirumittam or court-yard and at the Namaskara Mandapa gate there is a portico and there is a cistern similar to the ones which assisted the thief in getting into the court-yard. Here also the ridge plate was used with effect. Having got over the Pagoda terrace there is no hindrance whatever to proceed to the flagstaff scaffolding. The coir yarn that tied the bamboos together is easily cut and bamboos sufficient to pass a man through are as easily removed or pushed aside. One could then comfortably descend by the flagstaff and through the flagstaff hole into the eastern Seevaly Mandap. The thief has of course noticed the want of a lock on the northern door of the Thatty Mandap or chancel. He knows that it is simply shut and that it could easily be pushed open. He therefore gets into the chancel through its northern entrance. He then removes the bolt of the eastern door of the chancel and then that of the door to the east of the flagstaff. To admit his comrades into the temple and to avoid the ridge-plate being seen by any watchmen who might go their rounds through the court-yard, he has to open the eastern-wicket-door. This door has only one old rusty cylinder lock. With a crowbar he forces out the top of the iron piece that is let into the cylinder and that then locks it by expanding. It is of course easy to remove the inside wooden bolts of this wicket-door. This door is then opened and all the thieves let in into the court-yard and Seevaly and Thatty Mandaps. The next business is to open the Bell Mandap door. Its cylinder lock is forced out as above. Then there is the door lock with a wooden bolt inside. Near this lock a boring is effected. This boring would enable one to pass his finger through it and to push aside with this finger the wooden bolt

through its teeth (for teeth this bolt unfortunately has). The other lock of this door is, as above observed, wanting repair. With the breaking of the cylinder and door locks an entrance is easily made into the Mani Mandap.

11. The first door of the treasury has two locks. The strong one is the door lock and the other is a drag or a door framed lock. Four round borings and a middle boring joining all the other four were in vain made on this door for breaking open the door-lock. A strong crowbar was then applied below the lower cross-bar and the door itself was thereby forcibly raised. The iron bolt of the door lock was bent by this force and therefore got out of its socket in the door-frame. The frame-lock was forced out of the latter and was found hanging on the door. A similar experiment opened the second door also. The third door was more easily managed. It consists of two half doors with three (3) locks, viz. a cylinder, a chub and a chain one. The iron-covered lower pivot of the southern half door was forced out of the socket by a heavy crowbar with the result that the southern door was found hanging on its northern companion. Within the jewel room, the boxes (one with a chub lock on it) were found broken open and their contents taken away. A crowbar and some Kavy or Salmon cloths and some silver ornaments and vessels were alone found in this third room of the treasury and some broken trifling pieces of jewels were also found in the second room.

12. The cylinder and chain locks of the Thirunada or Sreekovil door were easily removed. It was enough to force out a ring of the chain to render the chain-lock useless. By the time they came up to the Sreekovil, the thieves had become adepts in the breaking of cylinder locks. That of the Sreekovil was also therefore easily got rid of. The key of the iron safe the Melchanthi had kindly left in a niche in the Edanazhy walls. The safe contained only the recent offerings. All the ornaments were on the night of offence on the person of the Goddess. These ornaments and offerings also were taken away by the thieves without any fresh exertions.

13. The above shows how dexterously the whole affair was managed. That the thieves knew much about the temple they plundered could not be doubted and that they took an incredibly short time for forcing so many doors and breaking open so many boxes and locks and for gathering all their plunder safely bundled up for easy carrying, is evident from the fact that Pros. 12th witness saw the thieves 3 miles off from the Cape at about 4—30 A. M. and Pros. 50th witness saw the same persons 6 miles off just at day-break. Pros. 4th, 7th and 8th witnesses might perhaps have surprised the thieves in their nefarious work in the Pagoda if the locks on the Bell Mandap door, the chancel northern door and the flagstaff eastern door had been in order and in use. The offenders must have taken some time at least for breaking open these three (3) locks also. If the Devaswom watchmen had regularly gone their night rounds, they might have perhaps come across the burglars. These reflections, however, would not do us any good now.

14. The accused's Vakil admits the fact of the theft and of the Devaswom ownership of the properties recovered. The Marava witnesses from whom the major part of the stolen properties has been recovered swear

that those properties belong to the Cape Pagoda. 1st to 3rd accused from whom part of those properties were taken in Tanjore deny that these properties belong to them. The godsend at Pottalaputhoor (Exhibts V to V29) was was not owned by any body till it pleased one (Prosecution 78th Witness) of the Marava witnesses to depose in this court that he had buried the same there. This is perhaps to account for the smallness of the gold he produced before the Police. He had a need for such an explanation, as he was, when deposing here, under arrest for retention of stolen property. Pros. witnesses 1, 3, 4 and 9 (Devaswom employees) who have often seen and handled the Devaswom ornaments swear that the properties recovered in this case belong to the Cape Pagoda. Two of these properties (Exhibits E14 and N7) contain engravings or writings on them to prove that they are of the Cape Pagoda. Some (Exhibits D16, D22 and N) contain the names of the persons who made offerings of the same to the Pagoda in question. As the accused's Vakil admits that these are the Cape properties and as I have to analyse these ornaments in another connection, I would not dilate upon this subject at present. It must however be noted here that Exhibits D19, D21, D23, E13, H1, I2 & 3, M1, N2 and V16 are parts of one and the same garland called the "Ten (10) Incarnations garland." This is a very ancient ornament. When the Travancore Rajah conquered the Ampalapulay Rajah, this ornament was taken from the latter and was presented by the former to the Cape Pagoda. Exhibits D13, H1, I2, J and V15 are parts of a Five Franc garland which Her lamented Highness the Junior Ranee wore and which His Highness The Maha Rajah graciously presented to the Pagoda in question. Exhibits D16, E13, F1, G1, H1, J1, M1, N1, and V11 & 12 are parts of a Chavady which His Holiness Sankaracharier presented to this Pagoda in 1049. D2, D13, H1, I2, J1, M1 and N1 are parts of an ornament presented by the Oothoomala Zemindar. Exhibit D15 is the Panamala presented by Vadaseri Amma Veedoo. Exhibits D11, D12, D22, J1 and L1 are parts of a garland of Arab coins presented in Kartigay 1064 by K. Bagavathy Pillay of Pallom. D23 was found in Tanjore. It is a Nair woman's Njathoo (a peculiar Malabar ornament). There are among the properties found many old Chuckrums (both full and half) and Anantarayan fanams (also full and half). I am therefore perfectly satisfied that what Pros: witnesses 1, 3, 4 and 9 have sworn to is correct and that all the properties or rather parts of ornaments recovered by the Police and exhibited in this case belong to the Cape Comorin Pagoda. The recovered articles have been marked by the Lower Court as Exhibits, and to avoid confusion I have left the same uninterfered with.

15. Properties worth 16,023¾ Rupees have been recovered in this case. Of these, properties valued at 4,754½ Rupees were taken in the Tanjore Railway Station from 1st to 3rd accused. In some miraculous manner 552½ Rupees worth of ornaments and precious stones were dug out from Pottalaputhoor (within Travancore territories) by the Sub-Magistrate (Pros 88th witness) and the Inspector (Pros 90th witness). Vide Exhibit V30. Though this was the first instalment of properties recovered, it seems very strange that no attempt whatever was ever made to act upon the clue afforded by this discovery. It was only before this court that some reason was assigned by the Inspector as to how he came to dis-

cover such properties. No explanation however is forthcoming as to why he or the authorities concerned did not follow up the information alleged to have been obtained from the father-in-law of Pros: 78th witness. The rest of the recovered properties which are valued at 10,706¾ Rupees consists of the voluntary donations of the Marava witnesses towards the fund of "Recovered stolen properties." It will thus be seen that only about ⅙ of the properties lost have been found out.

16. The prosecution theory is, as above mentioned, that a wandering gang of Cabulies assisted by some Hindu Marwaries plundered the temple and carried the whole booty, though the Marava witnesses 56 to 61, 63 to 66, 68 to 72, 74 & 78 for the Prosecution robbed some of them of part of the illgotten treasure. The defence is that the Maravas alone plundered the temple and that the few properties alleged to have been recovered from some of the accused have been foisted into their bags or bundles in order that the Maravas may for the sake of their voluntary donation escape conviction and punishment. To maintain its theory, the Prosecution has examined so many as 92 witnesses and has filed the deposition in the lower court of the Hoobly Chief Constable as Exhibit M M M, as his evidence could not be procured in this court without an amount of delay and expense which under the circumstances of this case is not deemed desirable. Including the properties recovered, Exhibits A to L L L have also been filed. The Defence has examined one witness and has filed Exhibits 1 to 16. Many of the Defence witnesses have been dispensed with on the ground of their having changed sides and turned hostile.

17. Prosecution 27th witness has been given up as she failed to correctly identify some of the accused. Prosecution witnesses Nos. 2, 26, 30, 34, 35, 40, 43, 48, 86 and 91 were simply tendered for cross-examination by the opposite party. 2nd witness alone has been cross-examined and his evidence is neither favourable nor unfavourable for either party. Prosecution witnesses 52, 54, 55 and 62 are Village Munsiffs of Nangunery and Marukalkurichy who have drawn up and attested the *yadasts* or *attacshies* (Exhibits E23, F10, H7, I9, J9, K1, L8, M10, N9, O11, P18, Q3, R1, S1, T10, & U2) for the recovery of properties from the Marava witnesses and who have reported upon the same to the Submagistrate (Exhibits E24, I10, L9, O12, P19, Q4, & U3,). Prosecution 18th witness drew the plans (Exhibits X to X4, & I I.) of the scene of offence. He and his nephew Pros. 19th witness, are examined for the identification of 9th accused. But they are not only not positive on the subject but are alse very doubtful on that head. 12th witness also is not sure of his having seen 10th and 11th accused. 92nd witness simply valued the recovered properties (Exhibit Z Z). Prosecution 44th & 49th Wits. are mere hearsay ones. Prosecuion 45th witness is not above suspicion. A gang of Cabuly thieves once consulted him for committing theft in Hindu Pagodas and he then gave no information about it to the authorities. His having told an Inspector who is now dead of this fact, I do not believe. Thieves would not, I think, make themselves bold enough to consult an honest man on the subject of committing theft. Prosecutiou 87th witness is the local Sub-magistrate who drew out Exhibit C, the

yadast about the place of offence. These witnesses may therefore be hereafter left out of consideration.

18. The next batch of witnesses deserving notice is the Marava group—Pros. witnesses 56 to 61, 63 to 66, 68 to 72, 74 and 78. It must be remembered here that these witnesses are the persons that voluntarily contributed more than 2/3 of the stolen properties towards our recovered properties. They relate a very strange story. They carry us to the robbers' hunts or dens (the Palmyra spring, the Ravine and the Round Rock) in the Vellimalai hills near their native villages Marukalkurichy, Manchankulam and Kannymarpotha. They go there on a shooting party on the morning of 23rd Chitray. At early dawn, they meet the accused passing through the Ambasamudram Road with loads and bundles. Two of these see some of the accused in the Vellimalai Ravine examining their booty and at once give information of it to their comrades at the Palmyra spring. 13 of the Maravers immediately rush up to the Ravine and find there 4th and 11th accused and one Karoolakhan. The last two persons were sleeping while 4th accused was on the watch. Seeing these Maravas approach, 4th accused rouses up his sleeping comrades but runs away when the Maravas and his companions begin to fight. Karoolakhan is wounded on the head and 11th accused, on the right shin below the knee. Both are struck down senseless by two Maravas (Pros. 56th and 58th witnesses). The 13 Maravas that first entered into the Ravine and the 4 that subsequently came in, take up the bundles and rail-bag that 11th accused and his comrade had, proceed to the Round Rock half a mile away, examine the contents of the bag and bundle and, finding the same to be bits of Pagoda properties, return to the Ravine in search of the Pagoda thieves to hand them and their booty over to the village Munsiff to be dealt with as criminals. But the wounded and unconscious persons had already decamped. Our Marava friends then thought it best to divide the spoils among themselves for fear to be taken as thieves or robbers if they gave up the recovered properties to the Police, and narrated what had really occurred. The gold and silver properties found in the Ravine were then divided on the Round Rock into 17 *equal* shares for the members of the shooting party and a half share for the village Thalayari or head watchman as a sort of hush money (Pros. witnesses 51 & 56). The precious stones were not divided. But each took as many as he wanted. The other properties [cloths, watch (Ext. AA52) and other things] were put into a deer skin Rail-bag (AA41) and were concealed beneath a bush in the hills. They then return home for the night. Most of them, however, conceal their shares in straw or dungheaps as I believe as Pros. 57th witness would have it they felt a supernatural dread of taking the Goddess' things into their houses. These Maravas then began to play "hide and seek." They hid themselves in Vellimalai during the days but came home during the nights. "For days and days together, they defied the utmost efforts of the Police to obtain any clue from them. At first they professed absolute ignorance, then they absconded and concealed themselves, and once they attempted to throw the Police on the wrong scent (this is probably the explanation of the first instalment of property discovered at Pottalaputhoor. (Exts. V and V_1 to V_{29}). They might in all probability have succeeded in keeping the property, but

Weight and Value of Recovered Properties.

From whom recovered.	Weight of gold produced or accounted for.	Actual value or alleged sale proceeds.	Value of silver.	Value of pearls, diamonds and other precious stones.	Total.
	Kazhangus.	Rs.	Rs.	Rs.	Rs.
Pros. 59 Wit.	91¾	1008¾	„	715	1723¾
„ 58 „	58	533¾	9⅜	252	795½
56 & 72	84	1344⅜	3¼	„	1348
68	71½	731⅜	15½	42¾	790
65	56¾	610½	8⅜	79¼	698¼
74	52¾	568¼	3½	58½	630¼
61	43	99	„	522½	621½
64	39¾	564¼	4	32½	600¾
69	52⅜	540⅜	5¼	38½	584½
66	52⅛	543½	4¼	28	576
63	48⅜	505	7½	27	539½
71	„	305¼	3	136¾	445
70	40	387¾	„	3½	391¼
57	38⅛	288¼	„	„	288¼
60	44	260½	„	„	260½
78	17⅜	203½	„	„	203½
Thalayari.	17 15/16	220	„	„	220
Total...	808 1/16	8715½	64¾	1936¼	10716½
The Pottalaputhoor Godsend.	47⅞	511	7½	34¼	552¾
1 to 3 accused.	420	4447½	8	299	4754½
Grand total...	1275 1/16	13674	80¼	2269½	16023¾

for the division in their own camp." (Commitment Report). As the British Indian Police strenuously hunted after these Maravas, one by one came forward and gave up a portion of his share on condition of his being absolved in the matter. This was not at all an honest giving up of properties. A casual running over the schedule in the margin would plainly show that in gold alone there is considerable variance in the quantity produced by each. Pros. 59th witness produces 91¾ Kazhanjus of gold while Pros. 78th witness gives up only 17⅜ Kazhanus. I have already said that the latter witness' now owning the godsend at Pottalaputhoor is only to prepare his defence for the charge under section 414 I. P. C. for which he now stands arrested. I admit that the Maravas had no scales or weights for the division on the Round Rock. But I cannot make up my mind to admit that any amount of "rough measurement" would make 91¾ Kazhanjus equal to 17⅜ or 30⅛ or 39¾ or 40 or 43 or 44 or 47⅞ or 48⅜ or even 52 and odd Kazhanjus. Nor would 45⅞ Kazhanjus of the Thalayari's portion in any way equal the 17 15/16 Kahanjus now produced for the same. Judging from the value of gold produced by the Maravas it is found that they ought to account for 17½×1008¾ or 17,653⅛ Rs. Instead of this sum they have accounted for only 8,715½ Rs. They thus owe us 8,937⅝ Rs more for gold alone. That is, according to their own story, they have not produced even a half of the gold they obtained from the Vellimalai hills. The question then arises how did this act of the Maravas satisfy the British Indian Inspectors and the Travancore Assistant Superintendent of Police and induce the latter officer to believe the Marava story to such an extent as not to include them in the list of accused persons in this case. The Defence asserts a desire for a nominal connection and a nominal recovery of properties and the promise of free pardon to any Marava that produces any part of the stolen properties. The Prosecution, of course, denies this. Be this what it

may, we are not in this case concerned with whether the Maravas are the Pagoda thieves or the joint thieves with others. It is, however, a strange coincidence that the number (28) of the shares which spontaneously escaped from the lips of Pros. 66th witness is the same as that made up of the number (17) of the Maravas and the number (11) of the accused concerned in this case. It is true that the witness afterwards restricted the shares to $17\frac{1}{2}$, but the strangeness of the coincidence is, nevertheless, striking. Another strange and unaccountable fact is that while the Inspectors and the Assistant Superintendent of Police above mentioned knew or ought to have known of the inequality of the gold produced before them, they did not ask the Maravas of what had become of the remainder of the booty (Pros. 78th witness). Why were not their houses or Vellimalai haunts or other likely places searched for the missing properties? The Assistant Superintendent of Police suggested this search, but the British Indian Inspectors, it seems, would not have it as the Maravas were not, it was then said, likely to have concealed the stolen properties in their houses. A reading of the depositions of Pros. 56th and 59th witnesses would show that the Maravas do sometimes conceal their booty in their houses. Granting that the Marava houses are not likely to contain stolen articles, why were not other likely places and the Vellimalai Ravine and Round Rock searched? It is noteworthy that no Police Officer or constable ever paid a visit to the Vellimalai Ravine. If they had, they would have found out the precious stones (Exhibits JJ 5 to 11 and 12) which Prosecution 18th witness found there a long while afterwards. There is thus no explanation whatever why the Police did not search the Marava haunts in Vellimalai or other likely places in the low lands for the remaining stolen properties. Even the Marava houses ought to have been searched. A Police man ought surely to search a thief's house even though it is not likely to contain any part of the stolen property. Why the Police Inspectors and the Assistant Superintendent of Police remained satisfied with what the Maravas fetched before them, why they did not proceed to the places where the Maravas had concealed their treasure and then prepare the Yadasts or attacshies for recovery of properties, why in the case of Pros: 78th witness at least, not even a constable was sent after him when he went back to take the stolen property from its place of concealment, why none of the Maravas with their booty were taken before a Sub-magistrate and statements taken from them regarding the story they put forward, why the British Indian Inspectors (especially Pros: 51st Witness) declined to follow up the suggestions of the Travancore Assistant Superintendent of Police for a search for the remaining stolen properties and why the Assistant Superintendent himself afterwards fell in with the views of the Inspectors and did not press for a search for the remaining stolen properties are questions which I cannot sufficiently answer from the records of this case. In spite of all these, the Police (British Indian as well as Travancore) do, I think, deserve credit for what they have done. It is easy enough to find fault after the event, but not so easy to do the right thing at the right moment. And besides it is not on records what all difficulties the Police had to contend with in discovering this much at least of the stolen properties. On the whole, I should I think agree with the District Magistrate in saying that the Police (both British Indian and

Travancore) deserve praise for their "steady, earnest and unremitting" exertions in this case. The question of whether the prosecution of the Maravas should be here ordered or not, need not now be considered as they are already under arrest by a British Indian warrant for retention of the stolen properties produced in this case. The subject however should be taken into consideration after the British Indian case against them is over. It is of course necessary to decide here whether their evidence is or is not trustworthy. In spite of the arguments and citations of the committing Magistrate, I am not at all disposed to lay any faith in their evidence unless *very strongly corroborated* by the other facts of the case. I do not say that they should be disbelieved because they are professional thieves, but because by their own admissions and with regard to the very stolen properties we are now dealing with, they are either dacoits or robbers or retainers of stolen properties. They have indeed made self-criminating statements. But a close reading of their depositions would show that they have tried their best to lessen the heinousness of their offence. They thought or they were advised that there would be no complaint against them for Dacoity. The Tinnevelly District Magistrate has therefore issued his warrants for the arrests of these persons only under section 414 I. P. C.

19. We now come to the important question in the case. It is whether the accused or any of them is guilty of any of the offences imputed to them. There is, it is admitted, no direct evidence to connect any of the accused with the theft at the Cape. But it cannot for a moment be doubted that there is circumstantial evidence enough to prove that some of the accused at least are concerned in the affair. I shall first deal with 1st to 3rd accused. They seem to be and to move almost always together (Pros: wits: 24, 32, 84 & 85) and were when arrested in Tanjore on $\frac{\text{2nd Auni 1069}}{\text{13th June 1894}}$ in the same compartment of the Railway carriage and had started from one and the same insignificant station Gengakondan. Two (1 & 2) of them were bound to the same station (Vilipuram). The Railway tickets Exhibits (CC, CC_1 & CC_2) of all the three, were found with 1st accused who even in court acted the master's part over 2nd and 3rd accused. When arrested, they had all the properties in Exhibits D to D_{30} in a railbag which 2nd accused carried and the contents of which, as worth 10000 Rs., were offered by 1st accused as a bribe to the platform Constable (Pros. 79th witness) that arrested him and his companions. The fact of the arrest is admitted. But it is said that the stolen properties (Exhibits D to D_{30}) were foisted into their railbag by the Police under the order of the Railway Inspector who and the rest of the British Indian Police were and are on a keen look-out for a hunt after the so-called wandering gang of Cabulies. I admit that the Cabulies are very sharply looked after by the British Indian Police. But I do not think that in a case like this, their interest would have so carried them away as to foist properties stolen by others into the railway bag carried by 1st to 3rd accused while travelling in a railway carriage from Gengakondan to Vilipuram. It is very unlikely that the Police of Travancore, Nanganery, Tanjore and the Railway Trains would all conspire together and take the Marava stolen properties from Nanganery to the Tanjore Railway Station and there

wait for 1 to 3 accused and then calendestinely put those properties into the railway bag carried by these accused persons. Granting for argument's sake that the Police of every country are against 1 to 3 accused, I do not see why the Assistant Station Master (Prosecution 77th witness) of the Tanjore Railway Station should join in the conspiracy against the said accused. A careful comparison of the parts of the ornaments taken from 1 to 3 accused with those found with Maravers and at Pottalaputhoor most incontestably shows that there is some connection between 1 to 3 accused and some persons in Nanganery and Pottalaputhoor (vide schedule in the margin). I was therefore at first doubtful whether 1 to 3 accused's story had not some truth in it. But when I heard the Tanjore Railway Assistant Station Master (Pro 77th Wit.) also swear before me that the properties in Exhibits D to D30, were actually found in the railway bag of 1 to 3 accused who were travelling together from Gengakondan in the same compartment and with all the three (3) tickets with 1st accused, when I read 2nd accused's statement, Exhibit B B B, before the Lower Court that the bags and bundles taken by the Platform Constable (Pros. 79th witness) were actually in the same compartment in which he was, when 2nd accused admitted before this Court that Exht. D30 is his and when I considered the improbability, not to speak of the impossibility of the Police of every country having unnecessarily joined together to ruin the wandering Cabulies, I felt convinced that Exhibits D to D30 were actually found in the railbag of 1 to 3 accused and that the latter knowingly and wilfully carried properties stolen from the Cape Pagoda. 1 to 3 accused ought therefore to prove how they came by these properties. For this they have no evidence whatever. Those that cannot account for their possession of stolen property shortly after the theft, should be presumed to be the thieves.

COMPARISON SCHEDULE.

Number.	Names of parts of the ornaments found in Tanjore.	With what Nanganery Maravas parts of the same ornaments were found.	Whether parts of the same ornaments were found in Pottalputhoor.
		Prosecution Witnesses	
1	Ruby crown.	58, 59, 61, 63, 65, 66, 68, 69 & 74.	Yes.
2	Gold armour.	58, 59 & 74.	No.
3	Gold Parrot.	None.	Yes.
4	Gold ornament for the ear.	59 & 63.	No.
5	Sarapali Malai.	58, 59, 63, 65, 66, 68, 69 & 74.	Yes.
6	Five Franc garland.	63, 68 & 74.	Yes.
7	Garland of Venetian sequins.	66 & 74.	No.
8	Yerukala Mala.	58, 59, 63, 65, 66, 68, 69 & 74.	Yes.
9	Chenkalaneer Mala.	59, 63, 65, 68 & 74.	Yes.
10	Crystal Garland.	58, 59, 63, 66, 68 & 69.	Yes.
11	Vilva Yethal Mala.	58, 63, 65, 68, 69 & 74.	No.
12	Vankikara.	59 & 61.	No.
13	Chavady String (Gold).	58, 59, 63, 65, 69, & 74.	Yes.
14	The Ten Incarnation garland.	58, 63, 65, 68 & 69.	Yes.
15	Ruby Pathakom.	59 & 63.	Yes.
16	Gold Belt.	58, 59, 63, 65, 66, 68, 69 & 74.	Yes.
17	Gold Thandai (leg ornament).	65, 68 & 69.	Yes.

20. In addition to the foregoing, there is ample evidence in this case that these accused persons were found together about the Cape on and about the date of offence. Between 10th and 15th Chitray 1069, these 3 accused persons were found together by prosecution 24th and 32nd witnesses in Thaikkapally and Alikootheroo at Kottar 10 miles from the Cape. I leave out of consideration what the Marava witnesses have stated. 21st and 22nd witnesses also I do not trust, as their identification is a very general one. I do not see why 24th witness should not be believed. His being a moideen of a mosque on $22\frac{1}{2}$ Fanams pay and his having to collect this pay at the rate of 2 Chuckrams a house, are not, I believe, against his credibility. Besides this occupation he has trade in cloth. 32nd witness identifies the top of the dark lantern found on the morning after the offence on the eastern gate verandah of the Cape Pagoda as the one that these accused persons carried about with them. There is nothing at all why these two witnesses should bear false evidence against their co-religionists (1st to 3rd accused). Pros. 25th witness sees 1st and 2nd accused at Thaikapally Mosque (Kottar) about 12th Chittray 1069. 38th witness sees these same persons at Alagappapuram (3 miles from the Cape) on 21st Chittray 1069 (the date of offence). These I see no sufficient reason to disbelieve. 38th witness is a butcher from whom first accused purchased meat. 36th witness is the Lubbay or priest of the Colachel Mosque. He swears that 1 and 3 accused were in the Colachel Mosque on the 16th Chittray 1069. He seemed to me to be a respectable person. His deposition is in a manner corroborated by Exhibit Y which he keeps for the money given to travellers arriving in his mosque. It may be that all that are entered in Exht. Y are not of his own personal knowledge. It is enough that this particular item in question he knew himself. He is a paralytic patient and this perhaps accounts for the apparent difference of handwriting in Exhibit Y. About 10th Chittray 1069, 1st accused was in the Thakkalay Mosque (Pros. 46th witness). There is no reason why this witness should speak an untruth. 17th Wit. (a D. P. W. Time-keeper that was in charge of the Cape Residency repairs in Chitray) saw 1st accused in the Residency about the beginning of Chitray. On 15th Chitray 1069, 31st witness sees 1st accused in Navamiapuram very near the Cape. 1st accused was at Manavalakurichy about the middle of Chitray 1069. On 17th & 18th, he was at the salt store at Thamarakulam (Pros. 16th witness). On 19th he was in the Cape Residency again (Pros. 20th witness). On the 20th he was at Alagappapuram. A host of people have therefore identified 1st accused as having been near or about the Cape about the date of offence. Why so many people should be mistaken in their identity and why all these witnesses should swear falsely against him and his comrades, I do not at at all see. Being found near the place of offence shortly before the time of offence, is of course not a sufficient basis for a conviction. But this when coupled with the finding of properties in them, leaves no doubt in my mind that 1st to 3rd accused are some of the thieves of the Cape Pagoda. I do not see why I should free 3rd accused from a convicton. He is an associate of the other two and almost always moves with them. These were seen together about the Cape in Chittray 1069. 3rd accused was found in 1st and 2nd accuseds' company when arrested. He and 1st accused were then on their

way from Gengakondan and in the same direction. His ticket was with 1st accused when the arrest was made. One railbag could not be carried by many persons. Second accused carried it for all of them. First to third accused were the only occupants of their compartment. Wandering Cabulies without any ostensible means of livelihood and with no settled places of residence travelling together with about 5000 Rs worth of property and from an unimportant and secluded station and denying that their bundles contained anything but cloths, should, I think, be taken to be the thieves unless the contrary is proved. 1 to 3 accused have not at all attempted to adduce any evidence as to how they came in possession of broken parts of the ornaments of the Cape Pagoda. I therefore find that 1 to 3 accused are guilty of the offences punishable under sections 380 and 457 I. P. C.

21. For the other offences they are charged with, there is I think no evidence. It is not in evidence that they are members of a wandering gang of *thieves* for the purpose of *habitually* committing theft or robbery. Mere wandering together and now and then being unsuccessfully charged with certain offences and their having been without effect once hauled up to give security for good behaviour, would not, I believe make them habitual offenders. There is no robbery at all in this case. Hence there could not be against any of the accused any offence punishable under section 399 I. P. C. Who broke the Pagoda boxes is not clear. 1 to 3 accused could not therefore be presumed to have broken the boxes in the Treasury of the Cape Pagoda and besides the breaking open of any closed receptacle at the time of theft is not I think a distinct offence from theft in a building. It is not shown in this case that the thieves had made any preparations for causing hurt. It is not clear whether the stones (Exts. B8 & 17) were for the smashing of locks or for hurting those that dared to resist the thieves. Secs. 399, 401, 458 and 461 I. P. C. do not, therefore, I think apply to the facts of this case.

22. It is true that no property whatever has been recovered from 4th accused. But there is I think in this case sufficient evidence to bring home to him the offences punishable under sections 380 and 457 I. P. C. He is one of the reconnoitring party that was sent out to view the Pagoda, to take note of the defences and to ascertain if possible the ornaments in store. In accordance with his mission, he made several excursions to the Cape and its surroundings. He has, like 1 to 3 accused, acquired a sufficient knowledge of Tamil to speak and understand that language. They now feign not to know Tamil, but now and then unconsciously, they are out with Tamil expressions to correct the Interpreter whenever he went wrong or whenever they thought that what the witnesses said was not correctly taken down by the Court. Their pronunciation, their expressions and how they understand what the witnesses say in Tamil, leave me no doubt that 1 to 4 accused know Tamil well. 4th accused is a native of Hoobly. What business is it that now and then brings him to the Cape and its adjacent locality? I see none. He denies ever having entered Travancore territories before this. The first time we see him in the Cape vicinity is Kartigay 1069, that is some 5 months before the date of offence. He then goes into the Cape Pagoda as a Gossavy. He has a companion (probably Vencat). The Pagoda Dubash (Pros. 5th witness) accompanies and

takes him to near the Sreekovil for worship. Nothing important occurs at this visit. The next visit is on the day before the New Moon in Thye. For the Thye New Moon, it is usual to adorn the Goddess with special ornaments. For this purpose, ornaments are taken the previous evening from the Treasury and are brought into the Bell Mandap for being handed over to the Melchanthi (Pros. 4th witness) and Kyvistharam, the person (Pros. 3rd witness) in charge of the festival idol. Just at the time the ornaments were taken out of the Treasury and were being handed over to the persons concerned, 4th accused steps in with his Dubash for worship. That he may have some time for reconnoitring, he takes a flower garland to be placed on the Goddess. The Melchanthi alone could place a garland on the person of the Goddess. As that person would be engaged in accepting the required jewels and would take some time to attend to 4th accused, the latter would have ample leisure to make a comprehensive survey of his whereabouts and to devise his plans for his future compaign. All this the wily Marwari calculated upon before entering the Pagoda. Till the ornaments were handed over and the receipts exchanged, 4th accused stayed in the Bell Mandap and carefully watched all the proceedings and all the ornaments. The next day also he stayed at the Cape and worshipped at the Pagoda and saw all the ornaments on the person of the Goddess. When giving Prasadoms to 4th accused on the New Moon day and the evening previous, the Melchanthi (Pros. 4th witness) noticed 4th accused's pointing or index finger to be considerably shorter than usual. The Pagoda servants (Dubash—5th witness included) swear to the above facts. The objection raised to their credibility is that they want to avert suspicion from their shoulders to those of the accused and that one of them gives a wrong description of 4th accused's companion. There is no suspicion at all against the Pagoda servants to be averted. It is true that they were immediately after the theft kept in custody for the purpose of mere departmental enquiry or preliminary investigation, and when it was found that they were innocent, they were at once liberated and gradually re-entertained in the Pagoda. The plea of averting suspicion is therefore of no avail. (It is however a matter for much regret that immediately after the theft, our Police or other authorities indiscreetly and hurriedly rushed into almost wholesale arrests of the Pagoda servants and others of the locality. They ought to have, before making any arrests, allowed themselves sufficient time for calmly thinking over the matter and for carefully watching the suspected persons). The misdescription of 4th accused's companion is not, I think, an important fact. 4th accused has been sufficiently identified by the shortness of his finger, I therefore believe the Pagoda servants and thereby find that 4th accused did come to the Cape Pagoda in Karthigai and Thye 1069. 13th witness is a native of Hoobly. He was for some 18 months in 4th accused's employ for the collection of debts. 4th accused is a money-lender and cloth merchant. 13th witness has now left his master's employ as his (witness') parents did not want him to continue in the service of a man arrested for burglary. He swears that about the middle of January-'94, the accused No. 4 absented himself from Hoobly for a month and then again left the place with others a month and a half after his return. It was about the end of April that 4th accused's visit was paid to South Travancore.

I am required to discredit 13th witness as it is said that 4th accused dismissed him for divers misappropriations. What these misappropriations were and why criminal actions were not taken against 13th witness for such breaches of trust, are not very clear to me. He seemed to me to be a straightforward young man. I believe him. On 18th Chittray 1069, that is 3 days before the date of this offence, we find that 4thr accused and his companions were entertained as guests by Pros. 28th and 29th witnesses in their Madom at Attankarai 20 miles off from the Cape. These witnesses are rich Sudra landlords who have erected a Madom for travellers and who supply travellers with whatever is needed. There is not the slightest reason whatever why these charitably disposed persons should swear against such a foreigner as 4th accused. The latter and his companions stayed in their Madom and accepted their hospitalities. One little incident that occurred when 29th witness was cross-examined completely unveiled 4th accused. I think it was almost providential. While cross-examining 29th witness, something or other put out 4th accused who immediately turned round and asked the witness "Why did you not receive the chuckrams I offered you for vegetables?" The witness coolly replied "Because we are not in the habit of receiving chuckrams for vegetables we supply to travellers." This question by 4th accused is I think amply sufficient to show that he was at Attankaray as 28th and 29th witnesses swear he was. Why then was he here? He does not explain. Immediately after this, Pros. 7th witness sees him in the Cape Pagoda. I am not much impressed with the general identification of the accused by Pros. 21st and 22nd witnesses at the place of rendezvous (Chavary Kothalom-old rampart) on the evening of the date of offence. It may or may not be true. I therefore do not depend much upon their evidence. This is all the evidence against 4th accused before 21st Chittray 1069.

23. The scene then changes and opens in the Vellimalai Ravine. Our Marava friends of course swear to having seen our Marwari hero there taking to his heels when his comrades were struck down. But this evidence I have already discredited as suspicious in the extreme and not worthy of much credit. But the other facts in this case show that 4th accused was in Vellimalai and left his watch (Exhibit AA32) and his turban (Exhibit AA20) there. Pros: 32nd witness (Mr. Wilson, Head Watch-maker or repairer in the service of the Maharatta Railway Company) pledged his deceased wife's silver semi-hunting engraved watch with 4th accused for Rs 3. Long before this watch was sent to him from Vellimalai for identification, he gave out to the Hoobly Chief Constable the number and nature of the watch he had pledged with 4th accused (Exhibit MMM). 13th witness Krishnajee has very often seen this watch 'AA32' with his master (4th accused). He swears also that 4th accused took it and Exhibit AA20 with him when he left Hoobly. Mr. Wilson also identifies this watch as his and assigns the brass winding knob and its half screw as the identifying marks. These undoubtedly exist in this watch. His not having redeemed it would not, I think, vitiate his evidence. Want of money or a disinclination to again see his deceased wife's watch or 4th accused's inordinate interest might have left Exhibit AA32 with 4th accused. I have therefore no hesitation

in saying that Exhibit AA52 is 4th accused's and was worn by him when he came on his expedition to the Cape. Granting that this watch is not his, there could not be the slightest doubt that the headkerchief Exhibit AA20 is his. He himself admits it. When 13th witness was examined, 4th accused admitted it to be his and said that the Police forced it out of him at Hoobly at the time of arrest. There is no evidence at all for this forcing out. It was found in Vellimalai as the watch was. These with the other things in Exhibit AA were found in Vellimalai by Pros: witnesses 73 & 75 and were shown to those witnesses by Pros: 61st witness. It is true that these were taken to Hoobly for indentification. I do not think that that circumstance would prove that the watch and headkerchief in question were imported into the 'AA's' long after the date of Exhibit AA51. Long before arrest of 4th accused at Hoobly, pieces of the headkerchief in question were found with the Maravas who had tied their shares in the same and who gave up those pieces (Exhibits F11 and G1) to the Police before 4th accused was arrested. I am therefore certain that Exhibits AA52 & 20 are 4th accused's and were by him left in Vellimalai either wilfully or forgetfully, or by fright as the Maravas allege. The latter is I think the right one, as we find 4th accused's own uncle informing the Post and Telegraph Master (Pros: 15th witness) here that Karoolakan died in fight. This leads us to another question. "Why did 4th accused's uncle (Pros: 14th witness) come down here so far from Hoobly and shortly after the offence under trial was committed?" The answer is, in search of Karoolakhan and Venkat, his alleged debtors. The Prosecution avers that these are his nephew's comrades in the theft and that the uncle came here to watch the proceedings concerning the Cape theft. The uncle's statement in this court is a tissue of false and inconsistent statements. He and 4th accused are partners in trade. They have, it seems, many debtors all over the country and it was in search of such debtors that he, it is alleged, came up to this town. If so, why telegraph about Karoolakhan and Vencat alone? Because, says he, his nephew was anxiously waiting to execute the decree against Venkat. 4th accused sent him expressly to know Venkat's whereabouts. He (the uncle) admits that at Madura he heard that Venkat was in Madras. Why then did not the uncle telegraph about it from the Madura or Tinnevelly Railway station to his anxious nephew? Why did he defer it till he came to Nagercoil? Somebody in Tinnevelly told him that Karoolakhan died in Poona some 8 months previous. The telegram, Exhibit HH could and would therefore have been sent from Tinnevelly rather than from Nagercoil. The trip to Nagercoil was ultimately for Swamy Naidoo. Why then was not Swamy Naidoo's name also included in Exhibit HH? This could have been done without additional cost. Again this Raichund (Pros: 14th witness and 4th accused's uncle) stayed in Bangalore for 3 days, visited Erode, Madura and Tinnevelly and made enquiries in all those stations for Venkat and Karoolakhan, and yet he could not give us the name or description of any body that supplied him with the required information. The alleged decree against Venkat is only for about 200 Rs and for this sum security has been given when once Venkat was arrested. What then was the necessity for Raichund's being sent down so far to Nagercoil when the decree amount could have

been easily realized from the surety? 4th accused and Raichand do not know what caste Vencat is of. It is surely very unusual for a man not to know the caste of his debtor. Krishnaji (Pros: 13th witness) gives us the caste of Vencat, viz. goldsmith. A goldsmith was necessary for 4th accused to know the approximate value of the ornaments on the Goddess at the Cape. Poor Raichand seemed to be perplexed and bewildered while in the box and quite impressed me with the insincerity or falsehood of his answers. I am therefore perfectly certain that Venkat and Karoolakan were 4th accused's confederates in the theft and that fearing to come here again and fearing also that his absent comrades might, if arrested, give out something which he may not like, 4th accused sent down his uncle here to reconnoitre as he himself reconnoitred for this theft. Exhibit HH from Nagercoil by Raichand of Hoobly to 4th accused admits of no other explanation. In the Lower Court, 4th accused did not admit Exhibit HH or offer any explanation for it. It is therefore quite clear that 4th accused is one of the reconnoitring party and one of the thieves that broke into the Cape Pagoda and that carried away all the valuables therefrom. He is therefore convicted under sections 380 and 457 I. P. C.

24. The accused have examined the Travancore Assistant Superintendent of Police and filed 16 bail bonds. The Assistant Superintendent swears that one Nallakannu Thevan's son-in-law, Muthia Thevan (village Marava watchman at the Cape) was a year ago transferred against his will to another place, that the said Muthia Thevan did not take charge at the transferred place and that he was therefore dismissed. The Superintendent has known that on the night of offence, 6 Maravas had assembled in Nallakannu Thevan's house near the Cape. In his enquiries, the said Superintendent has heard that some Maravas worked in the Cape Residency some time previous to this theft and that Contractor Rama Iyen might have employed some Maravas in repairing the treasury within the Cape Pagoda. The Nangunery Police took security from all the Marava witnesses for the prosecution when they were arrested (Exhibits 1 to 16). These bail bonds show that the arrests were for the Cape theft. It seems to be a fact that Nallakannu Thevan's house is near the place where the Pottalaputhoor deodand was dug out. It is admitted that Nallakannu Thevan's house was searched by the Police for this theft. From all these facts, the accused's Vakil argues that the Maravas are the thieves and that to shield these Maravas, his clients have been put into the dock. It is in a manner hinted or suggested that what was found at Pottalaputhoor is Nallakannu Thevan's share. Mr. Prince very warmly asserts that this is a base calumny and that though the Maravas assembled in Nallakannu Thevan's house, did commit theft on the night of 21st Chittray, it was not in Travancore. There is not, I think, at present any necessity for deciding as to which of these assertions are correct. Another argument put forward by the accused's Vakil is that it was quite illegal on the part of the Assistant Superintendent of Police and the committing Magistrate to have taken upon themselves the power of deciding about the innocence of the Maravas in this case. There is, I think, some force in this argument. In grave cases like this, Police Officers and Committing Magistrates should not, I think, assume the

functions of a Sessions Judge and adjudicate on the innocence of parties who have produced more than ¾ of the recovered properties, who have tried their best to escape being arrested, who have put the Police on the wrong track and against whom there are some apparent suspicions (well or ill founded). But this plea avails the accused nothing. For, as previously stated, what we have now to find is whether the accused are or are not the Cape thieves and, so far as 1 to 4 accused are concerned, it is, as above shown, abundantly clear that they are. It is true that they do not seem to be the principal offenders in this case and that 2 & 3 accused have played only a very subordinate part in the matter. They should nevertheless be given, I think, somewhat severe punishments for their daring act. I, therefore, sentence 1 and 4 accused each to 5 (five) years' and 2 and 3 accused each to 4 (four) years' rigorous imprisonment. If I had been satisfied that these were the principal offenders, I would have sentenced them to longer terms of imprisonment for the ingenuity shown in the theft and for the large amount of property stolen. But I am not so satisfied. As however 4th accused is a rich trader and has not given up any portion of his booty, I impose on him a fine of 1000 (one thousand) Rupees also. In default of payment of the fine, he would undergo a further rigorous imprisonment for one (1) year. There is no evidence to prove that 2nd accused has been previously convicted.

25. The only evidence against the other accused is that they have been seen about the Cape and with some of the convicted persons shortly before the date of offence. This I believe is not sufficient evidence for a conviction. The Prosecution admits that these are poor wandering Cabulies. They go from place to place depending on the charity of the Mosques and perhaps, as such, they came to Thakkalay, Kottar and other places near the Cape. 1 to 3 accused perhaps had preceded them here, and, being friends or acquaintances, 5 to 11 accused might have joined them in their wanderings. This companionship in wandering would not necessarily burden 5th to 11th accused with 1 to 3 accused's criminal intentions. I would however analyse the evidence against each of the other accused before acquitting them on the benefit of doubt. In this analysis, I shall not dwell upon the Marava and other witnesses already discredited.

26. About the 10th of Chitray, 5th accused was seen at Thakkalay by Pros. 47th witness, at the Cape Residency by Pros. 17th witness and at Manavalakurichy by Pros. 41st and 42nd witnesses. On the 19th Chitray he was again at the Cape Residency (Pros. 20th witness). He was at Allagappapuram on the 20th and 21st Chitray (Pros. 39th and 38th witnesses). Pros. 50th witness swears to having seen 5th accused a little before dawn passing through the road with about 24 persons or more. It was just about dawn. There was just sufficient light, says he, as to be able to see persons passing. Much faith could not therefore be placed on this identification. 5th accused's not having accounted for the 1800 Rupees he suddenly became possessed of, would not necessarily show that he was a thief of the Cape Pagoda. About the time of the Cape theft, there was another theft in the Kolur Pagoda. Could not these 1800 Rupees be the sale proceeds of the Kolur booty? I am at any rate not positive about 5th accused's having stolen the Cape

properties. The only evidence against him is that he was found near the Cape and that he suddenly became possessed of 1800 Rupees. On this evidence alone and especially when there is a Kolur theft in which he might have taken part, I do not feel inclined to convict him of this Cape Theft.

27. Mr. Prince admits that there is not sufficient evidence against 6th accused. Pros. witnesses 22 and 50 alone swear to having seen him near the Cape about the time of offence. 22nd witness is the person of the general identification of all the accused at Chavari Kothalam about dusk. 50th witness saw 6th accused and 24 others passing through the road at early dawn. I have before this expressed my doubt about basing a conviction on the evidence of these witnesses.

28. Pros. 22nd, 24th and 50th witnesses speak about 7th accused. I have already doubted the evidence of 22nd and 50th witnesses. The addition of 24th witness. does not, I believe, add any strength to their evidence For he says simply that he saw 7th accused in the Thakkalay Mosque at Kottar about the 10th or 12th of Chitray 1069. I doubt whether his and 1st accused's joint arrest on a previous occasion would secure a joint conviction in this case. The previous arrest ended in their favour.

29. Pros. witnesses 16, 22, 25, 36 and 39 swear about 8th accused. 36th witness is doubtful about the identity of 8th accused. 22nd witness is the general witness. 8th accused was seen at Thaikkapally about 12th Chitray (Pros. 25th witness), at Thamarakulam Salt store on 17th or 18th Chitray (Pros. 16th witness), and at Alagappapuram on 20th Chitray (Pros. 39th witness). 8th accused is a wandering beggar that would frequent wherever he could get alms.

30. Eight witnesses are arrayed against 9th accused. These are Pros. witnesses 11, 18, 19, 21, 22, 36, 38 and 50. Of these, 18th and 19th witnesses are doubtful of 9th accused's identity. 21st, 22nd & 50th witnesses have been already doubted. 11th witness the Lower Court itself discredited regarding another accused person discharged by that Court. 36th witness saw 9th accused at Colachel about 16th Chitray and 38th witness saw him at Alagappapuram on 21st Chitray. This I think is not sufficient evidence for a conviction.

31. Pros. witnesses 12, 21, 22, 41, 42, 47 and 50 speak about 10th accused. Of these, 12, 21, 22 and 50 have been found to be not satisfactory. 41st and 42nd witnesses see 10th accused at Manavalakurichy about 15th Chitray and 47th witness sees him at Thakkalay about 10th Chitray. Ext. AA41 is a deer-skin railbag which Pros. 81st witness made for 10th accused. The latter of course denies it. But the prosecution gains nothing by this as it was found with the 11th and not with the 10th accused. Being wandering associates, one might have obliged the other by the loan of the bag. This certainly is no offence. This 10th accused is an old man of 90 years of age not likely to engage in plundering expeditions like the present. His having gone to Cochin and returned before he got a money order there, would by no means prove his complicity in this offence. 11th accused

is sworn against by Pros. witnesses 21, 22, 24, 39, 46 & 50. 21st, 22nd and 50th witnesses have already been accounted for. 46th witness saw 11th accused at Thakalay about 10th Chitray. 24th witness saw him at Thaikapally about 12th Chitray and 39th witness saw him at Alagappapuram on 20th Chitray. I have my greatest doubts about this accused. But still they are only doubts. There is a wound on the 11th accused's right shin below the knee. Taking together the Apothecary's (Pros: 89th witness') evidence, Exhibit YY and 11th accused's statement before this Court, it is evident that that wound was caused by a thick round timber piece. This, say the Maravas, is the Marava stick or Thady. They swear that in the Vellimalai fight 11th accused was struck and felled by one of the Maravas. For this there is only the Marava evidence. Even that evidence I could have acted upon if, before seeing 11th accused in Hyderabad, they had mentioned the marks on his leg. For their having done so, there is no reliable evidence. If the Maravas were soon after their arrest taken before a Magistrate and statements of what had actually occurred had been taken by him and this wound had found a mention in such statements, there would have been some trustworthiness in the matter. But there is no such thing in this case. I do not wish to act on the Police records or Police evidence alone. The Magisterial record in which this wound of 11th accused is mentioned, is dated long after Pros: 56th witness saw it on 11th accused's leg in Hyderabad. I would not, therefore, on the Marava evidence alone convict 11th accused. It is very probable that 11th accused's wound was caused as asserted by the Maravas. But on this probability alone I would not act in a criminal case.

32. 5th to 11th accused are therefore acquitted. This acquittal is not because they are not the thieves but because there is not sufficient reliable evidence to prove for a certainty that they are the thieves. They would be given back all the things that were taken from them.

33. I must, I think, in conclusion record with satisfaction the patient, careful and able manner in which Mr. Prince has conducted the prosecution in this case. I am much indebted to him for his thorough sifting and orderly arrangement of the facts of this case. It is but due to Mr Subramonia Pillai, B. A. (Vakeel for the accused) to say that had it not been for him, this case would not have had so early a terminition. He knew when to cross-examine and when not. He has done his best for his clients. My thanks are also due to the District Magistrate for the trouble he has taken in himself enquiring into and committing this case. Much confusion in marking and identifying the stolen properties has been thereby avoided and much irrelevant and unnecessary matter carefully kept out.

34. After the final disposal of this case, properties marked Exhibits B_1 to 4, 6 & 7, 10 & 11, 14 to 16, 19, 20, 23 & 26 to 38, Exhibits D to D_{30}, Exhibits E to E_{23}, Exhibits F to F_9, Exhibit G, Exhibits H to H_6, Exhibits I to I_8, Exhibits J to J_8, Exhibit K, Exhibits L to L_7, Exhibits M to M_9, Exhibits N to N_8, Exhibits O to O_{10}, Exhibits P to P_{17}, Exhibits Q to Q_2, Exhibit R, Exhibit S, Exhibits T to T_9, Exhibits U and U_1, Exhibits V to V_{29}

and Exhibits JJ5, 11 & 12 would be given to the Sirkar. Exhibits B, B12, BB1 and JJ2 would be broken and sold for the benefit of Government. The matches (B18 & 24), Oil-cloth (B22) and stones (B3 & 17) would be destroyed. The rest of the recovered things would be sold for the benefit of Government.

Declared in open Court this 16th day of Pangoony 1070.

(Signed) C. S. RAMALINGAM IYER,

Sessions Judge.

Cur. 2267.

Recorded
26/7/95.

Cape convoy theft
case

1895
Depm.
Enclos. No. 6
To
S. No. 253

Judic

D.O. 558/95.

order
mio

The Govt has rec
received information t
that certain members of the
Police force illegally & irregu
assisted in warrant in the Nagercoil Taluk
newly Maravars who had c
border under safe conduct b
against certain Kalians
who were being tried in
Court of Sessions for c
Cape Comorin temple
has been represent
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from British
Cases.

2- The Govt. w
Whole matter

31/10/95

in full.
to be copied.
abstract only.
only.

THE RESIDENCY
TRAVANCORE & COCHIN

Camp Warriur 3. 10 95

My dear MacCarthy You
wrote to Rees on 19th June
last asking the true history of
a matter Lord Aberdeen had
retailed to His Excellency - in-
-formed apparently by Bruce
Ferguson.

Ten Cabulis and one Nearware
were tried by the Sessions Judge
of Nagercoil in Cal. No 3 of
1070 for breaking into and
stealing from the Cape Comorin
temple. The S.J. convicted
the Nearware & 3 Cabulis. The
Sirkar appealed for an enhance-

of the Lest & for inadequate sentences on the convicted: the convicts appealed against conviction: the High Court upheld the convictions, convicted another, and enhanced the sentences.

Lord Aberdeen reports that certain witnesses from Jimmerly (Maravaras) had attended to give evidence in the case for the (Maravaras) Government under a safe conduct or promise of immunity; had secured conviction by their testimony & were nevertheless arrested on British warrants by British police: and that (according to Ferguson) this breach of faith would have an extremely bad effect

I will send my notes at great length and give you a proper understanding of the matter if I now enclose the judgments of the Sessions & of the High Court Paras 15. 16. 17. 18, & places I have marked in other paras

of the Sessions Courts judgments to show you the Courts opinion of the Maravara evidence and their connection with the case generally. The opinion is not favourable to them - the High Court considered their evidence credible to a certain extent - vide portions marked.

The Sachem Vakil (Pomei) & Hon. Bentley informed the Dewan, & the Resident of the arrest * made 16 & 17 of the Maravaras, on the Jimmerly D. Magis warrant, without the usual & proper formalities under the Kimberley Act. The Dewan complained to the Resident who communicated with the King. D. Magt. & finally sanctioned the transaction. I enclose copy of the Dewans letter of 15th March objecting to the conduct of the British police. I obtained & send a copy

* in the Nagercoil Court

of the Sessions Judge's report of the transaction.

The action of the British police in the actual arrest was worth inquiring Hyffler, on the Resident's complaint, directed Stevenson to release them if still in Travancore" & called on Sir. Moon to explain the police procedure, at the same time asking the Resident for their surrender. The Diwan ordered extradition.

Stevenson denied to Hyffler that the British police made any arrest says "he had obtained the warrants for their arrest in order to have some authority to show to the Travancore authorities to enable them to detain the marauders pending the usual formal course" I shall best send you copy of his letter 325 of 17th March. Stevenson is evidently not correct: his subordinates may have exceeded their instructions.

The Resident on 16th April agreed with the Diwan as to the regular



unauthorized action of the Travancore police

The marauders or 16 of them were first before Hyffler on 28th March. Since then there has been a deal of correspondence by way of calling for and Exhibits depositions &c. I don't know if the Travancore Sessions Court has yet dealt with the case or not.

So much for the actual fact of arrest. Personally I think these marauders will be in their proper place inside a jail but they might easily have been conveyed thither under Travancore with due regard to the proprieties.

As for the complaint of breach of safe conduct: Beasley says on the short

his (native) assistant that
the guarantee given
the Marawars
was "that we (i.e. Marawars)
would not proceed in any way
against them in connection with the
Cuttacore provided they spoke the
truth & gave up all the property in
their possession. The guarantee was
instructed by the British police officers
who were heartily working in co-operation
with us"

These British officers were Inspectors
Subraya Mundaliar & Kuligiana Ram
Mundr. The Devakottai police claimed as
that the Marawars peopled their
portion of the pack. That may well
be doubted.

On Sunday, statement by Cam
communicated to Stiffens for the British

Police by Questioned, Stiffens letter
forwards copy of Stevenson
1032 of 16th Apl. 1858 - which runs
that the two Inspectors named have
he believes been questioned by the
Inspector General: that they were
not with him at the time of writing
the first not by under him and
the second by one perhaps by "
by further to state that I am not
bound by the illegal acts done or
promises made by any one."

So, apparently, Hamnick
knows all about it & will be
able to tell you what his
Inspectors have said and done.
I fancy the Marawars were
pocketed somehow or other into
giving some sort of evidence & not

delivery some property. Police
ethics are best left to the police; if
Stevenson was ignorant, as would
appear, his action is quite cor-
rect whatever the effect may be
on detection & his subordinates. I
have no doubt he considered that; &
therefore this convey is too valuable to be
let go. Travancore got a conviction &
so much of its lost property; and
may be thankful. It is easy to be
magnanimous towards the black-
guards of British territory — so long as
they remain there. But it may
be doubted whether Mr Maravas
did play at home.

John Sherry

Chairman

Please send back to me the
two judgments.

D. C. No 556

GOVERNMENT HOUSE,
MADRAS

12 Oct 1895

CHIEF SECRETARY
14 OCT. 1895
GOVERNMENT OF MADRAS

My dear Price

Oldfield's release from Travancore
in June last. Lord Abingdon brought
back a story, which he had picked up
from Ferguson, that the Tinnevelly
Police had illegally or irregularly arrested
on warrant a number of Tinnevelly
Maravas, who had come over to
give evidence against certain Kallers
& Marawars who were being tried
in a Travancore Court of Session
for complicity in the Conspiracy

Temple Robbery or Dacoity Case

Notwithstanding that the apprehended Mahratta had come with Travancore Peniters on a Safe conduct given by the Travancore Police Authorities, stated the Prisoners had been mainly convicted on their confession. It was further stated that the Travancore Police were much incensed at the breach of faith committed & were of opinion that the course followed would render it almost impossible to get evidence from the British Subjects in future cases. I was instructed to ask the Resident (Russ) for an explanation of the occurrence. As the robbery which reached the Travancore was of necessity and after passing from near the Travancore mouth a very tangled skein. I now enclose a D.O. from Travancore dated 31st ult with enclosures, which reached me here yesterday only. A perusal of which shows that it is necessary to call on Higgins to report what has become of the Marauders who were arrested in the Travancore limits of Sherthalai and on Hammerick the 19 for a full report.

on the part played by the British Peaceably
Police. This course seems so obvious
that I send you the papers direct without
delaying them for H.E.'s return. At present
they are incomplete and trial orders cannot
be passed, until Higgins & Hammond
have sent in their reports. It seems
to me that the warrants ought to have
been countersigned by the Resident
& that the case is partly Political &
partly Judicial. So that the papers
must have to be sent to Brussels
when they are ready for trial orders

Yours truly
C Macarthy

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...hen examined _____ } 189.
...hen signed _____

...AGAIN G.O., No. 189, DATED

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