

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2282.

Dated 7th Nov 1895.

INDEXED.

[Despatch Abstract.]

PETITION.

Rejecting---from Ambalam Narayanan Chetty and others, prisoners in Calendar Case No.601 of 1894, on the file of the Second -class Magistrate of Paramakudi, Madura district, praying for the issue of orders directing that the sentence the prisoners have undergone is sufficient, and that the District Magistrate be requested to depute a special officer with a view to make an inquiry of the matter.

Mud

YKN

BACK PAPERS.

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

FURTHER PAPERS.

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

[G
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2,000-15-8-95.

Current No. 5070

Just

DEPARTMENT.

From

*Amudam Narayana Chetty
& others
prisoners in C.C. No. 601/24
on the file of the 2nd class magist.
Paramakudi
No.*

Dated 23 10. 95

Received 28 10. 95

Rep 29 10. 95
Enclosures of C. No. 3687 dated 10/11/95

SUBJECT.

*Praying that Govt might
please to direct that the
sentence the prisoners have
the reason is sufficient
& that the St. Magt
be requested to depute a Special
Officer with a view to make
an enquiry & prevent in
similar recurrence*

1887: 12-8-95.

C.

recd 7 Mar 1885 No 2282

*The Petition will be informed
that the Govt declines
to accede to their request.*

W. 29/11/95.

Nd.

The requests are two:-

1. That the sentence may be reduced.

*2. That an officer may be deputed to
enquire into the dispute about the
sentence & settle it once for all.*

*11/11/95 (Rev)
To the Petition with enclosure note*

*as to 1. The H.A. Agt. & the High Court
have declined to interfere.*

*as to 2. Pet's can go to the Courts.
It's no business of Govt's.*

W. 29/11/95

His Excellency the Right Honorable
 Brethley Baron Wenlock G.C.I.E.
 Governor and President in Council
 Fort St. George.

The humble petition presented by
 1. Ambalam Karayanam Chetty, 2. Rama-
 linga Chetty, 3. Kuppayan, 4. Ketty Raman
 5. Ketty Rengaswamy, 6. Sabala Krishnan
 7. Janakkalam Karayanam Chetty, 8. Janakkalam
 Sawmy Chetty, 9. Manikka Marudan Chetty,
 10. Saranapani Chetty, 11. Alagarappan,
 12. Ketty Seetharaman, 13. Vala Krishna-
 Sawmy, 14. Pethu Raja Ramaswami, who
 were prisoners in Calendar case No 601/94
 on the file of the 2^d class Magistrate of
 Paramahudi, Madras District,
 Most humbly sheweth,

1. That the prisoners 1 and 2
 are the sons of Lyavoo Chetty, a Trustee of
 the Sunderaraja perumal Temple at Parama-
 hudi, Madras District.

2. That this temple was erected
 at the cost of the above mentioned Lyavoo Chetty's
 forefathers more than a century ago,
 and

and the office of Trustees
of the said Temple held by them heri-
ditarily during the past 7 generations and
as such they exercised all the powers with
reference to the nomination and dismissal
of the servants of the said Temple inclusive
of Shamjars or Archakas now performing
the daily Poojas to the Deity.

3. Along with the said Syavoo
Chetty there were two other Trustees (Giri
Chetty and Narayanan Chetty) the latter
of whom was dismissed by the High
Court of Judicature for reasons well
founded by the honorable judges of the
said Court; hence a faction arose
between Syavoo Chetty and the dismissed
Trustees.

4. The Temple jewels and utensils
were in possession of the Shamjars of
the said Temple and as usual Syavoo
Chetty and the Co-Trustee examined the
said jewels and utensils during the
tenure of Shamjar Strinivasa Sanyar
and found that certain properties were
missing and on enquiry the Shamjar
did not account for the missing pro-
perties satisfactorily; thereupon the said
Syavoo

Iyavoo Chetty and the Co-Trustee directed the Shanigar not to enter the Temple unless and until the lost properties are forthcoming. The Shanigar in the absence of other alternatives, deemed fit to join the faction of the dismissed Trustee, locked the Temple door and instituted a declaratory suit against all the Trustees inclusive of the dismissed Trustee and the Court thereupon held that the Shanigar had no other right but that of performing Pooja to the Deity and that in virtue of the said decree and its confirmation by the High Court the said Iyavoo Chetty and the Co-Trustee issued 3 notices to the said Shanigar to come and perform the daily Poojas, to no purpose.

5 That prior and up to 10 December 1894 Shanigar Srinivasanagar slighting the decree of the said Court and at the instigation of the members of the other faction filed from time to time several criminal Complaints against Iyavoo Chetty, his sons, relatives and friends, and all of them were thrown out as will be

Seen

seen from the enclosed judgments (the
kindly returned) and that on 10. De-
cember 1894 the Stanigar taking ad-
vantage of the absence of the said Syavoo
Chetty at Paramasudi, created a dis-
turbance with a view to criminate his
sons and others, apparently all the
prominent members of Syavoo Chetty's
faction.

6. That on 9. December 1894
the very same Stanigar presented a
complaint to the very Magistrate re-
lative to a similar occurrence and
that was thrown out and just at this
crisis fortunately for him the Head
Assistant Magistrate of the Madras
District sent a circular to the 2^d
class Magistrate at Paramasudi
to award deterrent punishment
should he find any breach of the
peace amongst the Paramasudi people
with reference to the Temple affairs. This
circular the Stanigar came to know
and availed himself of the opportunity

and

and presented a complaint on 10th December 1894 against the 15 accused in Calendar Case No 601 of 94 before the 2^d class Magistrate at Paramaribo for Rioting, wrongful restraint and Harassment under Sections 147, 341, and 325 I.C.

7 That the very same Magistrate who on the previous day refused to accord sanction to prosecute the very same accused has on 10th December 1894 sanctioned the prosecution of these unfortunate men and the Sub-Magistrate commenced his enquiries, here your Petitioners beg to urge that the Magistrate in disposing of the case was evidently biased both by the circular above referred to and the constant complaints he had been receiving from time to time from the very same complainant and that the Stanizar is really an aggrieved party and moreover the Magistrate naturally took to his head that a
Severe

Severe punishment would set matter
right and that an endless trouble and
anxiety of both the parties for nearly
a decade would come to a close.

Further the Magistrate
prejudiced as he is as may be seen
from the enclosed judgment relied
on the depositions of the 4 witnesses
for the prosecution of whom the Com-
plainant was one and the Station
house officer the other, the remaining
2 witnesses being interested while he
discredited the evidence of the 10 wit-
nesses for the defence in its entirety.

The Station house Officer
one of the 4 witnesses for the prosecution
was no eye-witness but deposed to
what he had heard and seen after
the occurrence and even from that
hearsay evidence neither he nor his
informants could speak to the identi-
fication of the several accused but
as a matter of fact these 15 accused were
supposed to be the prominent members of
the

the petitioners' faction and the bitter
foes of the complainant for otherwise, if
his complaint was held to be true the
petitioners see no reason why the 13th
accused should have been acquitted
by the Sub Magistrate on the plea of
alibi. There were also other alibi evi-
dences with reference to certain others
of the accused which the Sub-Magistrate
distrusted.

9 The Sub-Magistrate in para
21 of his judgment clearly says thus: "It
is evident from the records that there is
faction at Paramakudi between the
Sunters and Shanigals about the per-
forming of Pooja in the Temple and
that there has been several criminal com-
plaints and civil suits and the like-
lihood of breach of peace in conse-
quence. Hence I have given deterrent
punishment." From the foregoing word-
ings it is clear that there was a likeli-
hood of breach of peace and it is there-
fore obvious for one to look at that
there

there will never be a breach one sided
certainly there will be no breach unless
parties of both the faction interfere
and in such cases the procedure should
have been altogether different. It was
for the Police to charge agreeably to their
Regulations both sides and ^{for} the Magis-
trate to award punishment on the
merits and demerits of the case. Here
the Petitioners beg to call your excellency
benign attention to the fact that the
several accused were not identified
by any save the Complainant yet
the Magistrate convicted and sentenced
accuseds 1, 2, 5, 6, 9, 10 and 11 to 6 months
rigorous imprisonment, and accuseds 3,
4, 7, 8, 9, 12, 14 and 15 to 4 months ri-
gorous imprisonment, the 13 accused
being set at liberty.

10 That the accused thereon pre-
ferred an appeal to the very same
Assistant Magistrate that issued a
circular to award a severe punish-
ment and he upheld the conviction
and sentence of the 2^d Class Magistrate
on the ground that the appellants failed
to

to show sufficient cause for an acquittal and that they have not established their alibi evidence nor have they shown any reason as to why the evidence of the prosecution witnesses should not be believed as laid down in para 17 of the Sub-Magistrate's judgment. The Petitioners here beg to point out that it is beyond the power of mortals to convince the Magistrate impossibilities as possibilities unless and until one chooses to purchase and manufacture evidence to suit the occasion.

11 The accused thereon presented a Revision Petition to the Highest Tribunal and the Honorable Judges declined to interfere with the discretion of the local Authorities as the Magistrate awarded a deterrent punishment apprehending a breach of the peace.

12 That admitting all the accused were guilty yet the Petitioners beg to point out that the punishment awarded for a simple offence is in the humble opinion of the Petitioners unusually severe and unprecedented and that the Petitioners

in their dotage have seen many an instance where Magistrates had the common kindness to let such men on bail for a specific period or fine the guilty leniently.

13. The Petitioners therefore most humbly pray, that in the exercise of the "Prerogative Mercy" vested in your Excellency, your Excellency will be graciously pleased to direct that the sentence the Prisoners have undergone during their imprisonment of 6 months is sufficient and that the District Magistrate be requested to depute a Special officer to enquire and prevent future similar recurrence which will put a stop to all kinds of expensive litigations, and to declare that the Petitioners are honorably acquitted on the bonafide facts he may gather with reference to

to the alleged rioting, wrongful restraint
and hurt on the said day.

11. That the petitioners belong to
a very respectable silkweaving commu-
nity of Sarama Kudi and that they are
law-abiding people and not religious
fanatics and that they never for once
in their life time were criminally
convicted.

The Prisoners beg to enclose
3 enclosures to be kindly returned.

The petitioners further beg to add
that this petition was presented on behalf of the prison-
ers 1, 2, 5, 6, 9, 10 & 11 to the jailor-in charge of the Central
jail, Secly, on or about the 28th Aug^r last, that he had not for-
warded it to your Excellency as required, but simply handed
over the petition to the petitioners 5 & 10, when they were released
from the said jail.

Because the
petitioners
complaint
had not yet
been received
from
2/23/10/95

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READ AGAIN G.O., No.
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CHIEF SECRETARY
 28 OCT. 1895
 GOVERNMENT OF MADRAS