

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2368.

Dated 18th Nov: 1895.

INDEXED.

[Despatch Abstract.]

APPEAL AGAINST ACQUITTAL.

Considering that there is no sufficient ground to warrant an appeal to the High Court against the judgment of acquittal in Nellore Sessions case No.18 of 1895.

med.

BACK PAPERS.

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

FURTHER PAPERS.

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

Judicial Dept
From the Collector & Dist. Magistrate
of Nellore.

To the Chief Secretary
to Government, Judicial
Department, Botacammund.

Dated 9th October 1895

No. 1121

Recd
14/10/95

Requesting to direct the
Public Prosecutors to present
an appeal against the
acquittal of the prisoner
in Sessions case No 18 of 1895.

ME 3 16/10

For orders

As to whether an appeal may
be preferred?

16-4-95

There cannot be much of any doubt
that the charge is true but this
hardly looks like a case in which
the H.C. would order a retrial.
There is not enough evidence
1/2
23/10/95

I don't think there
can be a doubt that the
accused person was the
murderer but of course
it is exceedingly doubtful
what the H.C. would say -
However ask the for-pleader
what he thinks.

23/10/95

Cp.
over
Referred to the Dist. Magistrate
for his opinion as to the probable
result of an appeal to the
High Court.

25/10/95

Cover

For the District Magistrate
at Botacammund to the High Court
25/10/95

No. 1121

Mag. P. H. Manavudankar
From C. D. Maclean, Esq.,

DESP. TO OCT. 95

18 95

Collector and District Magistrate
of Nellore.

To the

Chief Secretary to Government,
Judicial Department
Sir,
Colacemund

I have the honor to forward herewith a copy of the Sessions Court Judgments in Case No. 18 of 1895, and to request that for the reasons given below, Government may be pleased to direct the Public Prosecutor to prefer an appeal in the High Court against the order of the Sessions Judge acquitting the prisoner.

2. The prisoner, Oidugue China Peddugadu, was charged with the offences of murder and attempt to murder (Sections 302 & 307 I.P.C.) of two persons Oidugue Papadu and Karsigadu, and Achi respectively.

3. The following is the summary of evidence: —

[Eng. 20-1-91.]

The Prosecution 1st witness by name Achi

had a husband named Papadu and a son. Varsigadu. Papadu and Varsigadu had disputes with the prisoner about some Vette Inam.

Varsigadu was keeping prisoner's sister and the prisoner had more than once threatened to kill. Varsigadu on this account. On the 13th July 1895, in the evening the prosecution witness Achi was preparing some Ragi Pudding when the 2^d witness Peddakondadu, a boy of about 11 years of age, came in and wanted to roast in the fire a piece of dry fish he had in his hand. Achi consented. A little while after she went to fetch water and while going she put a cover over the pot in which Ragi pudding was being prepared. On her return she noticed the 2^d witness Peddakondadu going away from the house and the cover remained from the pot containing Ragi Pudding. She suspected nothing. She stored the pudding made it into three balls - gave one each to

her husband and her son, and ate one herself. A little while after, all three began vomiting and purging. Medicine were administered but without avail. On the 14th morning, the 1st witness' son, Varsigadu died and Papadu 2 days later on the 16th.

4. The report of the Chemical Examiner shows that death was due to Arsenic poison and this poison was also found in the remains of the Ragi Pudding forwarded to him for analysis. The only question was who put the poison into the Pudding.

5. As soon as the news of Varsigadu's death reached the ears of the Village Magistrate he repaired to the house of the 1st witness and ascertained from her and her husband Papadu, who was then alive, that the only person who came into the house while the Ragi Pudding was being prepared was the 2^d witness, Peddakondadu. This boy was thereupon sent for, and

had not
he told the Munsiff at once that
he put some white ball into the
budding at the request of the Prisoner
who gave it to him that evening. He
repeated the same story before the
Punchayetdar who held the inquest
and before the Magistrate who conducted
the preliminary inquiry. Before the
Sessions Court, however, he retracted
this statement and said that he
had accused the prisoner falsely
owing to Police torture. This, however,
seems from the evidence to be absolutely
untrue and the Sessions Judge evidently
believes that his first statement
before the Magistrate and the Village
Munsiff is probably true.

b. The other witnesses were called to
speak to the fact of enmity and
the evidence on this point is absolutely
free from suspicion. Even here the
third witness retracted the state-
ment he made before the Magistrate.

There is reason to suspect that the 2^d
and 3^d witnesses are acting in concert
to save their near relative, the prisoner.
7. Though the 2^d witness has retracted
the statement he made before the
Magistrate, his deposition before
the Magistrate may if true, be acted
upon (Section 28 Criminal Proce-
-dure Code). There is also ample
circumstantial evidence to
corroborate the story of the 2^d witness,
and it seems to me it is a fit case
for conviction. The murder was a
most horrible one.

I have the honor to be

Sir,

Yours most obedient servant,

Respect Magistrate

OK

Instrument No 2600/95

CURRENT 5263

Case 4833 & 5263.

From

THE GOVERNMENT PLEADER,

Madras.

In order

Perhaps the following order
may come?

Order

Am

The Govt Pleader's letter will
be sent to the S. Magistrate of
Pudukottai with the intimation
that for the reasons therein stated,
the Govt considers that an
appeal should not be
proposed in this case.

Dated

5-11-95

Recd.

6-11-95

Repd

7-11-95

No. 1156

ENCLOSURE. C/No 4833 sub

Stating that there are no
grounds for preferring an
appeal against the order
in Bellour case: case No 18
95

CHIEF SECRETARY
GOVERNMENT OF MADRAS
6 NOV 1895

TO BE RETURNED
WITH REPLY.

5263
Government Pleader's Office,

HIGH COURT,

Madras, 5th November 1895.

No. 1156.

From

E. B. POWELL, Esq.,

GOVERNMENT PLEADER,

Madras,

To

THE Chief Secretary to Govt.,
Fort St. George.

SIR,

With reference to your Office Memorandum dated 21st October 1895, No 2600 Dubl., I have the honor to submit the following:—

— Opinion. —

1. The evidence shows that Narigadu and Papadu died of arsenical poisoning, and it seems most probable that the poison was contained in the Ragi balls.
2. The first statements of the boy Pidugu Kondadu are to the effect that he put some white substance in the shape of ^a balls into the Ragi at the request of the Prisoner who gave it to him.
3. Those statements he retracted before the Sessions Court.
4. There can scarcely be any doubt that his first statements are probably true.

+ Enclosure returned.

5. When however a witness has made two contradictory statements it would be extremely dangerous to act upon either of them unless corroborated. Enmity on the part of the prisoner towards the deceased is no corroboration of the boy's statement. The fact that the boy was allowed to be present whilst the ragi was being prepared and had the opportunity of putting the arsenic into the pot is so far corroborative of the boy's statement against himself, that he did so, but it is in no way corroborative of that part of his statement which declares that the Prisoner gave it to him to put in.

6. It is pretty clear that the boy put the arsenic into the Ragi pot; but is there any evidence beyond his first statement—that he did so, at the request of the Prisoner? There is none. There is nothing to connect the Prisoner with the crime except the statements referred to which are absolutely uncorroborated as regards the Prisoner's share in the transaction.

7. I have no hesitation in saying that the High Court would reject any appeal against the order of acquittal.

I have the honor to be,
Sir,
Yours most obedt. Servt.,

W. V. V.

Government Pleader.

[G.
24.]

200-5-10-05.

DEPARTMENT.

Papers to be read in proceedings:—

Again G.O., dated

189 , No.

Again G.O., dated

189 , No.

Current No. 4833

of 1896, dated 9.11.95, from

The D. P. Pleader, D. P.

" " 5263

" 1895, " 5.11.95, " — Govt. Pleader.

" "

" 189 , " , "

ORDER. 18 Nov 1895 No 2368

~~This~~
~~The Govt. Pleader's letter might~~
~~he come to the D. P. Pleader~~
~~of D. P. Pleader with the intimation~~
~~that for the reasons therein~~
~~stated, the Govt. Pleader~~
~~that it might be inexpedient~~
~~to prepare an appeal in this~~
~~case.~~

The Govt. does not
11/11/95 consider that there is
sufficient ground to warrant an
appeal to the H. C. against the
acquittal referred to.

15/11/95
To the D. P. Pleader (Chs 4833-8 & 5263)
Govt. Pleader (210)
It would be well to appeal

1/11/95
20/11

22/11/95

Appeal against acquittal

FROM ORDERS.

(Draft order for
appeal)

C. S.

c 14/11
R 15/11

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

READ AGAIN G.O., No.
189 ,

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B. -

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.