Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2405.

Dated 21st Nov 1895.

INDEXED.

[Despatch Abstract.]

SENTENCE OF DEATH.

Declining to interfere with the -- passed on Annamalai Padayachi in Trichinopoly Sessions Case No.1595, and calling for certain report from the District Magistrate of Trichinopoly regarding Periayan, the —— , referred to in the High Court's Judgment Criminal Appeal No.470 of 1895.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C	5595		95				
	1131		96				

FORM No. 53.

Nominal Roll of Convict No. 5304 Annamalai Padyo

Crime.	Sentence.	Date of Sentence.	Adjudicating Court.	Present Age.	State of Health.	Conduct in Jail.	Result of the Appeal to Appellate Court.	Number of previous convictions if any and remarks.
Murder. Section 302. I.P.C.	Death.	13 August 1895	Sessions Judge Trichinopoly	55.	Good.	Good.	Sentence confirmed by the High Court Madras 22nd October 1895 in Criminal Appeal No. 470 of 1895	N.C.

Trichinopoly Central JAIL OFFICE, 23 October 1895.

R. Shubuck
Superintendent of Central Jail.

Rules 701 and 704.

1,000—8-94.

IN THE COURT OF SESSIONS OF

Trichinopoly Division.

The 13th day of August, 1895.

Present:—R. D. Broadfoot Esq., Barrister-at-law.

AG. SESSIONS JUDGE.

C. C. NO. 15 OF 1895.

(Committed by Stationary 2nd Class Magistrate, Udayarpoliam (P. R. No. $\frac{2}{1895}$.)

QUEEN EMPRESS. VERSUS.

Names of accused.

1. Annamalai Padayachi.
2. Para Ganapathi.
3. Veeramuthu Padayachi.
4. Doraisami Padayachi.
5. Chinnappan.

and 6. Anthoni.

1 to 5, Defended by Mr. G.A. Salisbury.

6 „ by T. Desikachari, B. A. B. L.

Offence: S.S. 302 and307 I. P. C.

Opinion of Assessors: Both Brahmins. 1st, 2nd, and 5th Prisoners Guilty. 3rd and 4th Not guilty. (6th Prisoner pleaded guilty.)

Finding of Judge: 1st, 2nd and 6th Guilty.

Sentence: 1st Prisoner to be hanged by the neck till he be dead, subject to the approval of the High Court. 2nd and 6th Prisoners to transportation for life. 3rd, 4th and 5th Prisoners acquitted and set at liberty.

Judgment.

1. Six prisoners are charged (*a*) with the murder of Dorasami and six others (*b*) with attempt to murder Rangan and three others.

2. 1, 2, 3, 4, 5 Prisoners plead not guilty. 6th Prisoner pleads guilty.

3. I did not at first accept the plea of 6th Prisoner, but at the close of the case for the Prosecution, he persisted in the plea, and I then saw no reason why the plea should not be accepted. I therefore convicted him on his plea and taking into consideration the fact that he had confessed, and that he was an extremely ignorant man who was apparently under the influence of 1st Prisoner, who was formerly Village Munsif, I sentenced him to transportation for life.

4. Next day he was examined as 19th Prosecution witness, after being spec cautioned by me, that he had nothing to hope or fear, and that he should speak only to w he had really seen.

5. It is not disputed that on the night of 26—2—95 the house of Rangan was enter and all the inmates, eleven in number, were savagely attacked and left for dead. Ne morning five were dead, six were alive, but of these only two were capable of speech. Of th six, two died in Hospital. Four recovered and are Prosecution witnesses 2, 3, 4 and 5.

6. Of the eleven inmates three were full grown males, the rest women and children.

7. The three males had their throats cut and were practically otherwise unwounded. The injuries on the others were almost entirely blows on the head, where fracture of the skull had been effected the patient died, the others recovered. One of the men (2nd Prosecution witness) whose throat was cut recovered, but his injury was so severe that he was unable to move. His hands are cut. Probably he grasped at the knife on his throat. The Medical Officer is of opinion that the first set of injuries were inflicted by a sharp edged knife or knives and the second set by cuts or blows with a heavy, moderately sharp, instrument. The bill hook and hoe (material objects I and II) produced might have caused the second set of injuries. The sharp knives produced, of which material objects VI and VII are two, might have caused the first set of injuries.

8. 1st prisoner is distantly related to Rangan and deceased Dorasami, and he and they and their families have been on bad terms for 20 or 30 years. They also belong to opposite factions in the village. Matters have been lately more embittered by a land dispute in the course of which 1st Prisoner charged Dorasami, Rangan, the Village Munsiff and others with theft of trees. The case was thrown out on 7—2—95. Directly after the result was known, 1st Prisoner came up to Rangan (2nd Prosecution witness) and said "Are you glad you have won the case, I will not taste water till I exterminate your family." No notice was taken of this at the time. It was considered to be merely the vapourings of an angry and defeated litigant. The threat is spoken to by 12th Prosecution witness, the Vakil who defended Rangan, and I see no reason to doubt it.

9. The house of Rangan stands at a corner of the village. Opposite it is the house of deceased Dorasami and to the west of it is the house of one Kunjati Padiachi. There three houses form a small detached group some 40 or 50 yards from the next houses of the village. There are no houses to the east or south of Rangan's.

10. Lutchmanan (1st Prosecution witness) a Pariah servant of 1st Prisoner, was taken as an approver by the District Magistrate. He says that on the way home, after the theft case of 7—2—95, 1st Prisoner said to him and to 2nd Prisoner, also a Pariah servant of 1st Prisoner, "The Magistrate has dismissed the complaint. I shall not be able to keep the land unless we exterminate Rangan and Dorasami." Some days later 2nd Prisoner being questioned by witness as to his frequent absence said he had been trying to collect men to effect the extermination. On Sunday 24—2—95 witness, 1st Prisoner and 2nd Prisoner were cutting reeds in a field belonging to 1st Prisoner. Then Antoni (6th Prisoner), and one Kora Raman—not arrested, came there. It was then settled that they should bring men and weapons and make the attack on Tuesday night.

11. On Tuesday morning 1st Prisoner ordered witness to come to that same field at 10 P. M. Witness did so. Under a tamarind tree in the field he found collected Kora Raman and three other Koravars whose names he does not know, two chucklers (5th Prisoner and 6th Prisoner), 1, 2, 3, 4 Prisoners and another Padiachi whose name he does not know, thus making, with himself, twelve persons. When witness arrived the Koravars and Chucklers were eating food. After the meal, an oath was taken to exterminate the family and keep silence about the deed.

12. Then 1st Prisoner asked the Chucklers "What weapons have you brought?", each produced a leather worker's knife. On a similar question being put to Kora Raman, he replied "We have brought no weapons". Then from an adjacent hay stack 1st Prisoner

IN

aced a bill hook and a hoe, and gave them to Kora Raman. Witness identifies material ct I as that bill hook, but is not certain that Material object II is the hoe.

13. 1st Prisoner then directed witness to go and see if all was quiet in the village. He, tness, found that all was quiet, and was returning to inform 1st Prisoner when he met all e other men coming to meet him. All went to the backyard of Rangan. The house was spected. All was silent. 1st Prisoner detailed witness to watch the front and 3rd Prisoner watch the back and instructed them to call out "Ku" if any villager approached. Then 2nd Prisoner opened the back door by slipping his hand in and drawing the bolt and all except the two watchers entered the house. As they were entering, witness left to take up his position in front. After one naligai he saw Kunjati Padiachi. Immediately he gave the signal 'Ku' and bolted home.

14. Before me he said he heard no noise during the watch. In the Lower court he seems to have said he heard a noise as of killing sheep. About a week later he was arrested. He admits that he never saw bill hook No. I before that night, and that there is ill-feeling between him and 2nd Prisoner about a field boundary.

15. Rengan (2nd Prosecution witness) details various causes of enmity between him and deceased Dorasawmi, whose cause he was supporting, on the one hand; and 1st Prisoner, on the other. His account of the occurrence is that he and his family retired to rest as usual, Dorasawmi happening to sleep there as he not infrequently did. Nine of the inmates slept in a row in the main hall and two elderly females at a little distance. The light was put out and the house shut up as usual. Hearing a noise he woke, and saw a light and a number of men in the hall. Among them he recognised only 1st Prisoner and 2nd Prisoner. Before he could move 1st Prisoner got on his chest and forced his chin back, his legs were seized and some one covered his eyes, his throat was cut and he fainted and recovered consciousness only in Hospital. He can give no other details of the attack.

16. He gave a deposition in the hospital and in it, he gave the names of 1st Prisoner and 2nd Prisoner and five other people as having been identified by him that night. Before me he says he really identified only 1st Prisoner and 2nd Prisoner, and that he added the rest because they were his enemies, and he thought it likely they had helped 1st Prisoner. Also he pleads that he was weak and confused in hospital. The statement seems to have been taken directly he recovered the power of speech.

17. Ammal (3rd Prosecution witnsss) is the wife of Rangan. Her account is that she was awoke by a blow on the head. She remained lying motionless. She saw a light, and some 5 or 6 men, of whom she can identify only 1st Prisoner. She saw Ammakutti dragged away, heard the sound of blows and Ammakutti crying out 'I will not live'. She did not notice 1st Prisoner do any thing particular. After about ten minutes she crawled to the street door, opened it and raised an alarm. Villagers came and she was carried to the pial of the opposite house in a fainting state.

18. Chithambaram (4th Prosecution witness) a boy of not more than 15, states that he was awakened by a blow on the head and saw a light and some two or three men standing. He recognised 1st Prisoner standing within two yards of him. He lost consciousness and did not see the departure of the assailants.

19. Ammakutti (5th Prosecution witness) received severe injuries, but failed to identify any of the assailants.

20. Saminathan (6th Prosecution witness) is a neighbour, he was aroused along with other villagers by the alarm raised by Kannu—10th Prosecution witness. On hearing from Kannu that something was wrong in Rangan's house, witness ran thither, crossing the field of Murugatambi. There he saw 1st and 2nd Prisoners running, with some others whom he could not identify, from the direction of Rangan's backyard. There was bright star light. He knew 1st Prisoner and 2nd Prisoner well before. He went round Rangan's house to the street door. There he found Tayilei (8th Prosecution witness) and saw Ammal lyiug wounded. He sent word to the Munsif. Then he looked into the house, but became faint at the sight therein

and did nothing further. Next day he told what he had seen to the Sub-Magistrate. He was one of the accused in the theft case of 7—2—95.

21. Tayilai (8th Prosecution witness) whose house is immediately opposite to that of Rangan, states that one Kattei came and aroused her, saying there was some disturbance in Rangan's house and he wanted a light. She told him where to get the light and ran out into the street. She saw Ammal (3rd Prosecutio n witness) come out of the house and fall down. Then 1st Prisoner and 2nd Prisoner ran out of the street door, turning to the east and then to the north. This path would lead them round the side of Rangan's house, past his backyard. Immediately after this 6th Prosecution witness arrived. Then others came,among them Kattei with the light. Witness is the mother of decased Dorasawmi.

22. Kannu, 10th Prosecution witness, was sleeping in the verandah of Tayilai's house. He was awakened by a noise. He went into the street and found that the noise proceeded from Rangan's house. He knocked at Rangan's door and called out. Getting no reply he ran to the adjacent street raising an alarm. Villagers collected and came to Rangan's house.

23. 7th Prosecution witness is the Sub-Magistrate. He got news about 6-30 A. M. of 27—2—95 and got to the village about 8 A. M. He found the Police had arrived a few minutes before. He and the Station House Officer inspected the place and made enquiry. He took statements from 3rd, 4th, 6th, 8th, 9th Prosecution witnesses and others. These statements tally with the evidence given by the witnesses before me. The bill book and hoe, material objects I and II, were found in the house of Rangan, both were blood stained and the bill hook had hair adhering to it. He also speaks to the preparation of inquest reports on the corpses, the treatment of the injured and similar points of routine. He experimented on the back door, and found that a man could insert his hand from outside and draw the bolt. He also proves the confession of 6th Prisoner (Exhibit A.A.).

24. When the Sub-Magistrate found the bill hook he applied to the crowd to identify it. The village blacksmith (9th Prosecution witness) informed him that the instrument had been, about a month before, tempered and sharpened by him for the son of 1st Prisoner.

25. The Sub-Magistrate adds that when he examined 3 and 4 Prosecution witnesses both were in a very feeble state. They were in different houses, and the one could not have heard what the other said. On the deposition of 4th Prosecution witness the Sub-Magistrate ordered the arrest of 1st Prisoner, who was one of the by-standers.

26. 11th Prosecution witness is the peon of the Sub-Magistrate. He says that as 1st Prisoner stood near witness after his arrest he said to him "Why did they call '(arrest) me. I was in the pial inside my house. A loud noise was heard. This must have been an act done among themselves. Tell them (Sub-Magistrate) to go inside and see, *weapons may be found.*" Witness at once reported this speech to the Sub-Magistrate, and the search resulted in the finding of the bill book and hoe. I do not see much point in this incident as the house would have been carefully searched in due course.

27. Arumugam, (12th Prosecution witness) is the private Vakil and speaks to the threat previously noticed. (para 8).

28. 13th Prosecution witness, clerk to the zemindar, proves that 1st Prisoner and deceased Dorasami were each trying to get the same land.

29. The Village Munsif (14th Prosecntion witness) got news of the murder about 2 A. M. and went to the spot. He found 3rd and 4th Prosecution witnesses speechless,and so could not examine them. He sent Reports E. and S. to the Magistrate and Police and again a later Report F. to the Magistrate. He admits that 1st Prisoner and he are on bad terms, as he got the office of Munsif after 1st Prisoner was dismissed. He was also one of the accused in the theft case of 7—2—95.

30. 15th Prosecution witness is Munsif of Kangianur, the village of 5th Prisoner and 6th Prisoner. He says that on the request of the Head Constable he paraded the Pariahs and Chakliars of his village and 1st Prosecution witness then pointed out 5th Prisoner and 6th Prisoner. Their houses were searched and five knives found, two of which are pointed out by 6th Prisoner as those with which the victims' throats were cut. Of course there is

nothing remarkable in the discovery of sharp knives in the house of a leather dresser. 5th Prisoner and 6th Prisoner are leather dressers by trade.

31. Prosecution witnesses 16 and 17 simply prove the removal of the corpses to the Hospital and the holding of post-mortem on them.

32. The evidence of the Station House Officer has been covered by that of the Sub-Magistrate and Village Munsiffs.

33. The medical evidence describes the wounds on the corpses and on the survivors, and leaves no doubt that they were the result of a violent attack. The wounds on the survivors were so severe that the intent of the assailant must be taken to have been to cause death. Material objects I, II, VI, VII, might have caused the wounds. (Para 7).

34. The convict Antoni (19th Prosecution witness), confirms the story of the approver in all material points. Much was made by the Defence of the mention by Antoni that arrack was served out, while Letchumanan says he saw no arrack or bottles. Careful comparison of the stories shows that 1st Prosecution witness arrived after the arrack was drunk; and when the light was that of only one torch it is quite possible that bottles were there, though Letchumanan did not happen to notice them.

35. Antoni says that,after Letchumanan had gone to reconnoitre,1st Prisoner took the knives from him and from 5th Prisoner, and gave them to the Koravans. Thus each Koravan had a weapon, while the rest of the party had none. Then after 2nd Prisoner had drawn the bolt and the watch had been set, the others, ten in number, quietly entered the house. One of the Padayachis struck a match and lit a small cloth wick. As soon as the faces of the sleepers had been distinguished the light was put out. Then the three full grown males were simultaneously attacked and their throats cut by the Koravars. Witness held the legs of one victim. The children began to scream. As witness and 5th Prisoner had no weapons they ran outside, while "those that had the weapons finished off the rest of the family."

36. After about one naligai, say quarter of an hour, the Koravans came to the spot where 5th and 6th Prisoners were lurking and returned them their knives, saying "We have hacked each and all, as if they were vegetables; not one is left." 5th and 6th Prisoners ran home, stopping to wash themselves and their knives on the way, and arriving about dawn. Witness cannot identify 3rd Prisoner or 4th Prisoner as having been among the murderers.

37. 1st Prisoner says the whole case is the result of conspiracy, and that he suffers from night blindness. He calls 3 witnesses who speak vaguely about some defect in the sight of 1st Prisoner. I attach no weight to their evidence.

38. 2nd Prisoner makes a rambling statement the gist of which is, that he is falsely charged because he offended the village officers. No witnesses were examined on his behalf.

39. 3rd Prisoner and 4th Prisoner simply deny all knowledge of the matter and examine no witnesses.

40. 5th Prisoner denies all connection with the matter, and says 6th Prisoner implicates him because of enmity. He calls two witnesses who speak to the existence of a dispute between 5th Prisoner and 6th Prisoner about a family house.

41. For the defence it is urged (*a*) that the motive alleged by the Prosecution is insufficient to account for so heinous a crime.

(*b*.) That the case is concocted against 1st Prisoner owing to enmity. The second of these arguments practically destroys the first, for if there was strong enmity there was motive.

(c) That it is improbable that people so severely wounded as Prosecution wisnesses 2nd, 3rd 4th were, could have identified any assailant. In reply it may be remarked that if the witnesses had concocted the case, they would have said that each identified more than one person.

(*d*) That as 6th Prisoner is on bad terms with 5th Prisoner, it is not likely he would have brought him to assist in a crime.

(*e*) That the Police murdered Periyapayal,brother of 1st Prosecution witness,and that therefore the evidence of the latter is untrustworthy. Now except for the fact that Periyapayal did die between the date of the murder and that of the arrest of 1st Prosecution witness, there is nothing to support the above allegation. The Police deny the arrest of Periyapayal and the Sub-Magistrate knows nothing on the subject.

(*f*) That the Munsif is an enemy of 1st Prisoner. But the evidence of the Munsiff does not specially implicate 1st Prisoner.

42. I carefully charged the Assessors to receive with caution the evidence of the approver 1st Prosecution witness and the convict 19th Prosecution witness. I explained that there should be corroboration not only of the fact that the offence took place, but also as to whether each Prisoner took part in the offence. The Assessors were men of intelligence one a B. A., the other a 2nd Grade Vakil. Both are Brahmins. They unanimously convict 1st Prisoner and 2nd Prisoner, acquit 3rd Prisoner and 4th Prisoner, and convict 5th Prisoner saying that they fully believe the evidence of 1st Prosecution witness and 19th Prosecution witness against him, though there is little or no corroboration.

43. On the merits I concur with the Assessors throughout. I see no reason to disbelieve 1st Prosecution witness, and the impression left on my mind by the evidence of 19th Prosecution witness was, that he was telling substantially the truth. Of course both may have minimised the part they themselves took, accomplices always do. As for the fact that the crime took place, there is ample corroboration. We need go no further than the medical evidence to see that the crime took place as detailed by Antoni.

44. Against 1st Prisoner, besides the accomplice's evidence we have:—

(*a*) His identification by 2nd, 3rd, 4th Prosecution witnesses in the house of Rangan at the time the murder took place.

(*b*) That he was seen leaving the house by 8th Prosecution witness, and in its vicinity immediately afterwards by 6th Prosecution witness.

(*c*) That the bill hook found in the house of Rangan, blood stained and with hair adhering to it, belongs to his family (9th Prosecution witness).

(*d*) That he has for long been at enmity with Rangan and the deceased Dorasawmi, and that he uttered a special threat against them about 20 days before the occurrence.

45. Against 2nd Prisoner we have as corroboration,

(*a*) His identification by 2nd Prosecution witness in the house at the time the crime took place.

(*b*) His identification by 6th Prosecution witness and 8th Prosecution witness as above.

46. Against 3rd prisoner and 4th prisoner there is only the evidence of one witness and that an approver. The Public Prosecutor did not press the case against these two men. They are acquitted and set free.

47. Against 5th prisoner we have the evidence of the accomplices, which the assessors believe and which I believe, but there is absolutely no corroboration. His identification is useless, for Letchumanan knew him before; and the finding of the knife is useless, for the connection of the knife with the crime depends merely on the word of 19th Prosecution witness. There are many cases showing that it is held unsafe to convict in such a state of mat-

ters. I therefore acquit 5th prisoner, on the ground that the evidence against him is insufficient, and order him to be set free.

48. I consider that there is sufficient corroboration against 2nd Prisoner. I convict him of murder. He is a very ignorant man, apparently much under the influence of 1st Prisoner. I therefore sentence him to transportation for life.

49. As to 1st Prisoner, there seems to me to be ample corroboration. I convict him of murder. He was the ringleader. The case is one of great brutality, with clear evidence of premeditation. I sentence 1st prisoner to be hanged by the neck till he is dead, subject to the approval of the High Court.

50. 1st prisoner is informed that if he wishes to appeal to the High Court he must do so within seven days.

TRICHINOPOLY,
SESSIONS COURT,
13th August, 1895.

(Signed) R. D. BROADFOOT,
Ag. Sessions Judge.

(True copy)
By order
[illegible]
H.D. clerk for
Sherastadar.

~~Ag. Sessions Judge.~~

No 2196/ Duplicate

CONFIRMATION OF SENTENCE OF DEATH.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Tues. day, the twenty-second day of October,

One thousand eight hundred and ninety-five.

PRESENT:—

The Honourable Sir Arthur J. H. Collins, Knight, Chief Justice

and

The Honourable Mr. Justice Parker.

Referred Trial No. 57 of 1895.

Annamalai Padayachi 1st Prisoner.

Trial referred by the Court of Session of the Trichinopoly Division for confirmation of the sentence of death passed upon the said Prisoner in Case No. 15 of the Calendar for 1895.

Criminal Appeal No. 470 of 1895.

Appeal by the 1st Prisoner against the said sentence.

Order:—This case coming on for hearing on Wednesday the 16 instant: Upon perusing the Petition of Appeal, and the record of the evidence and proceedings of the said Court of Session, and upon hearing the arguments of Mr. B. Mahadeva Aiyar engaged for the defence under Vakil G. O., dated 17th December 1884, No. 3273, Judicial, and of the Public Prosecutor in support of the conviction; and the case having stood over for consideration till this day **it is ordered** that the sentence of death passed upon the said Prisoner Annamalai Padayachi 1st be, and the same hereby is, confirmed, and his Appeal dismissed.

By the Court.

(Signed) Arthur Collins
Chief Justice

(") G. A. Parker,
Judge.

C. Srinivasa Iyengar
Dy. Registrar,
24-10- Appellate Side.

To

The Sessions Judge of the Trichinopoly Division.

Forwarded to the Superintendent of the Central Jail Trichinopoly, for his information and guidance and communication to the convict concerned.

Trichinopoly, Sessions Court,
26-10-1895.

D. Thomas Ford
Sessions Judge.

CONFIRMATION OF SENTENCE OF DEATH.

Order of the High Court.

Referred Trial No. 57 of 1895.

Confirming the sentence of death passed on the 1st prisoner in the Trichinopoly Division Session Case No. 15 of 1895.

5
Just
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5103

To,

His Excellency
The Governor in Council
Fort Saint George,
Madras.

The humble petition of
1. Annamalai Padayachi.

Sheweth:—

That the petitioner was accused of murder in Session Case No. 15 of 1895 on the file of the Session Court of Trichinopoly and now convict No. 5304 in the Central Jail at Trichinopoly. The sentence of death having been confirmed by the High Court in Criminal Appeal No. 470 of 1895.

That the petitioner is quite ignorant of any of the facts in the said murder case solemnly affirming that he never committed any such crime.

That he most humbly prays that the decision of the High Court, the connected papers, and the facts therein stated by the petitioner in his appeal petition may be considered once more by His Excellency so that he will arrive at a conclusion that the petitioner never did any such action as he was adjudged to have done by the High Court.

That, instead of sending for and examining the copy of Judgement of the Session Court, the depositions and the petitioner's appeal petition the High Court simply went on through the Police records and the notes put on by them on his appeal petition and decided without examining the defence witnesses.

That the petitioner begs that His Excellency the Governor in Council may be graciously pleased to consider the sentence of death confirmed on him by the High Court and protect him from the punishment.

That he is an old man of 65 years and a short-sighted man even in day time for which he is still under medical treatment.

That he is now a widower having his 4 young daughters and 2 young sons all minors who are depending solely upon him for their protection. and that he begs for pardon.

Translation.

R. Shubnell

Supt. of Jail

29.10.95.

Appeal for mercy

From,

Annamalai Padayachi
Condemned Prisoner
No. 5304 Central Jail
Trichinopoly.

To,

His Excellency
the Governor in Council
Fort Saint George
Madras.

Dated 29 October 1895.
Recd.

No. 244.

Subject.

Praying that the Memorialist may be pardoned.

Trichinopoly Central Jail
29th October 1895

No. 2202

CURRENT No. 5103

From,

R. Shubrick Esqr.,
Superintendent, Central Jail,
Trichinopoly.

To,

The Chief Secretary to the
Government of Madras.

Sir,

I have the honor to submit herewith Memorial of Condemned prisoner No. 5304 Annamalai Padayachi, addressed to His Excellency the Governor in Council Fort Saint George Madras, with the copy of the judgement of the Sessions Court, the High Court Order and nominal roll.

I have the honor to be
Sir
Your most Obedt Servant.
Richard Shubrick
Superintendent

1259 : 24 & 54.

Urgent

From,

R. Shubrick Esqr
Superintendent Central Jail
Trichinopoly.

To,

The Chief Secretary
to Government
Fort St. Saint George.

Dated 29th October 1895

Recd 30 / 1162 / Date 30-Oct-1895

Enclosures. From.

Subject.

Submitting the memorial of condemned Prisoner No 5304 Annamalai Padayachi.

Lett 30 Octr 95 R No 1162

To The Hon'ble Mr. Justice Muthusami Iyer, B.C.L. Judge of the High Court of Judicature, Madras

Dated 30/10/95

Hon'ble Sir,

I am directed to request that the Hon'ble the Judges will be good enough to cause the transmission to Govt of a copy of judgment in criminal appeal No 470 of 95 on the file of the High Court.

30/10/95

30/10/95

CURRENT No 5423

Judl

R 1162 : 30 : 10 - 95

Judicial { 189 } Department.

No.

From

THE Ag. REGISTRAR OF THE HIGH COURT OF JUDICATURE AT MADRAS, APPELLATE SIDE.

Dated 13th November 1895
Received 16 " 189 5.

No. 2316 Judl
Enc one.

Forwarding a printed copy of Judgment in R. S. No. 57/95

R 4/55 dtd 18/11/95 DS.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Tuesday, the twenty-second day of October,
One thousand eight hundred and ninety-five.

PRESENT :—

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

AND

THE HONOURABLE MR. JUSTICE PARKER.

REFERRED TRIAL No. 57 OF 1895.

Annamalai Padayachi ... ... *1st Prisoner.*

Trial referred by the Court of Session of the Trichinopoly Division for confirmation of the sentence of death passed upon the said Prisoner in Case No. 15 of the Calendar for 1895.

Criminal Appeal No. 470 of 1895.

Appeal by the said Prisoner against the said sentence.

Criminal Appeals Nos. 471 and 472 of 1895.

Para Ganapathi ... ... *Appt. in No. 471 (2nd Prisoner).*

Anthoni ... ... *Appt. in No. 472 (6th Prisoner).*

Appeals by the said Prisoners against the sentence of transportation for life passed upon them by the Court of Session of the Trichinopoly Division in Case No. 15 of the Calendar for 1895.

These cases coming on for hearing on Wednesday, the 16th Instant, and having stood over for consideration till this day ; the Court delivered the following

JUDGMENT :—

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The 1st Prisoner had been for years on hostile terms with Ranga Padayachi and Doraisami. A charge of theft which he had brought against them had been dismissed on February 7th, and it is proved that on leaving the Court he had threatened Rangan, telling him he would not taste water till he had exterminated his family. These threats were at the moment regarded as the angry ravings of a man who had lost his case. But on February 24th Rangan had been taking counsel with his vakil about getting sanction to prosecute 1st Prisoner, and their conversation had been overheard by a young boy, the son of 1st Prisoner. Thus the parties were on terms of the most bitter enmity.

There can of course be no doubt that this terrible work of destruction was not done by one person alone, and to shew how it was done the prosecution has called an approver Lakshmanan (1st witness), whose evidence has been accepted by the Sessions Judge and Assessors as substantially true. This man is a young Pariah of the village in poor circumstances. That the murder must have been committed in some such way as he describes is evident from the circumstances of the case, but the question is whether his narrative is true as regards his own participation and that of others in the crime. We can by no means give his evidence the same amount of credit which it seems to have obtained from the Sessions Judge and the Assessors.

It is in the first place not shewn why this man was arrested at all or why suspicion fell upon him. As he says he did not enter the house, he could not have been recognized by any of the four survivors. He says he is the farm servant of 1st Prisoner, though 1st Prisoner denies this. It *does* appear however that his elder brother Periyapayal, who was not a servant of 1st Prisoner, was arrested by the Police on the day after the murder, and was detained in custody for three or four days. Periyapayal was never placed before a Magistrate and returned home —only to die. His brother Lakshmanan was arrested after his death,—the Police say on March 9th—but from the man's own evidence it would seem as if he must have been arrested before that. At all events he was not produced before the Magistrate till March 11th, when he was represented as desirous of making a confession. Bearing in mind the coincidence of his brother's arrest and subsequent death, we entertain great misgivings as to the voluntary character of the statement which Lakshmanan then volunteered to make. The diary shows that no statement was then taken from him, nor was any statement taken till after the receipt on March 31st of the District Magistrate's order making him an approver. In the meantime 6th Prisoner Anthoni, who had been produced with Lakshmanan on March 11th, also volunteered a confession—which was only recorded on March 26th. As regards Lakshmanan's presence at the scene of the murder it may be noted that he is corroborated only by Anthoni. As he says he did not enter the house, corroboration by the survivors could not be looked for; but he says he gave the alarm when Kunjati Padayachi came out of his house and then ran home. As to this, where corroboration was possible, he is not corroborated.

In his examination-in-chief this witness deposed that he hid himself for seven or eight days after the murder and was then caught by the Police. But in cross-examination he admitted that he had remained at home doing his ordinary work. He described his brother's arrest and subsequent death before he was himself arrested, and said that he went with others to see Rangan's house the day after the murders, saw the Police and Magistrate there and remained all day watching the enquiry. It seems to us most improbable, if Lakshmanan had really taken part in the crime, he would have himself gone to this enquiry and run the chance of possible identification by persons who came up to the house after the alarm was given.

In other respects Lakshmanan's statement does not differ from the ordinary run of confessions. As usual, his participation in the crime was of the slightest possible description consistent with his actual presence on the scene. His consent was not willing,—nor did he expect or obtain any reward for his assistance. It appears to us that evidence such as this—brought forward under circumstances of so much suspicion—is absolutely without value in support of the prosecution—though it must cause most uncomfortable misgivings as to the methods of detection employed by the Police. In disposing of these appeals we feel that we cannot allow any weight to the evidence of the approver.

As regards the first Prisoner, however, it is not necessary to rely upon his testimony. His presence in the house at this scene of butchery is spoken to by three out of the four survivors. Of these, Ammal and Chidambaram gave their evidence to the Sub-Magistrate the very next morning (February 27th) (Exhibits B and C),—while Ranga Padayachi gave his when he recovered consciousness in the hospital some days afterwards (Exhibit A). 1st Prisoner is thus shewn to have held Ranga Padayachi down while another man cut his throat. He was also identified by Saminada Padayachi and Tyalai running away from the house and this evidence was forthcoming on the morning of February 27th (Exhibits D and H). The bill-hook found in the house is proved to have belonged to his son, and the evidence as to the motive and previous threats is ample. We have no hesitation in confirming his conviction and the sentence of death which has been passed upon him.

As regards the 2nd Prisoner Ganapathi, we also think the evidence is sufficient. He is identified by Ranga Padayachi as having been within the house, and was seen by Saminadan and Tyalai running away. He is the servant of the 1st Prisoner and under his orders. His appeal must likewise be dismissed.

The 6th Prisoner pleaded guilty at the Sessions and was convicted on his own plea. Had he not done so it is doubtful whether he could have been convicted, but under Section 412 Cr. P. C. it is not open to him to appeal. His appeal is therefore dismissed.

In conclusion we feel we ought to say that we think the circumstances attending the death of Periyapayal should be investigated by the District Magistrate.

By the Court.

/signed/ C. G. Todhunter

Dy. Registrar,
Appellate Side.

Exd. A. Ramaswami Aiyar.

/ True copy /

Dy. Registrar,
Ag: Registrar,
Appellate Side.

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

HIGH COURT OF JUDICATURE

AT

MADRAS.

JUDGMENT

IN

REFERRED TRIAL No. 57 *of* 1895

and

Criminal Appeals Nos. 470, 471 *and* 472 *of* 1895.

(*From Session Case No.* 15 *of* 1895, *Trichinopoly Division*).

Dated 22*nd October* 1895.

Sent

Enclosure I to the High Court's letter dated 13th November/95 No. 2316

Judicial.

CHIEF SECRETARIAT
16 NOV 1895
GOVERNMENT OF

1895
Judicial
Enclos. No. 1
To 5423

No. 2316 Jud.

5423

High Court of Judicature,
Madras, 13th November 1895.

From

D. W. G. Cowie Esquire,
ag: Registrar, High Court,
Appellate Side, Madras.

To

The Honourable Mr. T. F. Price, C.S.I.,
Chief Secretary to Government,
Fort St. George.

Honourable Sir,

With reference to your letter dated the 30th ultimo, Judicial Department R. No. 1162, I am directed to forward a printed copy of Judgment in Referred Trial No. 57 of 1895 (Criminal appeal 470 of 1895.)

I have the honor to be,
Honourable Sir,
Your most obedient Servant,

D W G Cowie

ag: Registrar,
Appellate Side.

15/11

Copy to 1st Prisoner

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Tuesday, the twenty-second day of October,
One thousand eight hundred and ninety-five.

PRESENT :—

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

AND

THE HONOURABLE MR. JUSTICE PARKER.

18.11.95 R.T. copies

REFERRED TRIAL No. 57 OF 1895.

Annamalai Padayachi ... ... *1st Prisoner.*

Trial referred by the Court of Session of the Trichinopoly Division for confirmation of the sentence of death passed upon the said Prisoner in Case No. 15 of the Calendar for 1895.

Criminal Appeal No. 470 *of* 1895.

Appeal by the said Prisoner against the said sentence.

Criminal Appeals Nos. 471 *and* 472 *of* 1895.

Para Ganapathi ... ... *Appt. in No.* 471 (*2nd Prisoner*).

Anthoni ... ... *Appt. in No.* 472 (*6th Prisoner*).

Appeals by the said Prisoners against the sentence of transportation for life passed upon them by the Court of Session of the Trichinopoly Division in Case No. 15 of the Calendar for 1895.

These cases coming on for hearing on Wednesday, the 16th Instant, and having stood over for consideration till this day ; the Court delivered the following

JUDGMENT :—

There is no doubt that the house of Ranga Padayachi was broken into on the night of February 26th, and that of the eleven inmates therein seven were murdered, and the remaining four were more or less injured. The three males had their throats cut, and so also had Ranga Padayachi who eventually recovered. The rest were women and children, who appear to have been killed by cuts and blows upon the head. Not a single article of property was taken from the house, so that it may be safely inferred that revenge and not robbery was the motive for the crime.

The 1st Prisoner had been for years on hostile terms with Ranga Padayachi and Doraisami. A charge of theft which he had brought against them had been dismissed on February 7th, and it is proved that on leaving the Court he had threatened Rangan, telling him he would not taste water till he had exterminated his family. These threats were at the moment regarded as the angry ravings of a man who had lost his case. But on February 24th Rangan had been taking counsel with his vakil about getting sanction to prosecute 1st Prisoner, and their conversation had been overheard by a young boy, the son of 1st Prisoner. Thus the parties were on terms of the most bitter enmity.

There can of course be no doubt that this terrible work of destruction was not done by one person alone, and to shew how it was done the prosecution has called an approver Lakshmanan (1st witness), whose evidence has been accepted by the Sessions Judge and Assessors as substantially true. This man is a young Pariah of the village in poor circumstances. That the murder must have been committed in some such way as he describes is evident from the circumstances of the case, but the question is whether his narrative is true as regards his own participation and that of others in the crime. We can by no means give his evidence the same amount of credit which it seems to have obtained from the Sessions Judge and the Assessors.

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In his examination-in-chief this witness deposed that he hid himself for seven or eight days after the murder and was then caught by the Police. But in cross-examination he admitted that he had remained at home doing his ordinary work. He described his brother's arrest and subsequent death before he was himself arrested, and said that he went with others to see Rangan's house the day after the murders, saw the Police and Magistrate there and remained all day watching the enquiry. It seems to us most improbable, if Lakshmanan had really taken part in the crime, he would have himself gone to this enquiry and run the chance of possible identification by persons who came up to the house after the alarm was given.

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In conclusion we feel we ought to say that we think the circumstances attending the death of Periyapayal should be investigated by the District Magistrate.

By the Court.

Dy. Registrar,
Appellate Side.
13-11-

Exd. A. Ramaswami Aiyar.

Forwarded to the Superintendent of the Central Jail, Trichinopoly, for delivery to Annamalai Padayachi, 1st Prisoner in C. C. No. 15 of 95 on the file of this Court

Trichinopoly Sessions Court
16-11-95.

(By order)

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

HIGH COURT OF JUDICATURE

AT

MADRAS.

JUDGMENT

IN

REFERRED TRIAL No. 57 *of* 1895

and

Criminal Appeals Nos. 470, 471 *and* 472 *of* 1895.

(*From Session Case No.* 15 *of* 1895, *Trichinopoly Division*).

Dated 22*nd October* 1895.

Sent

CURRENT NO 5464

No 1342

Trichinopoly Cantonment Sub
18th November 1895.

From

R. Shubrick Esq.
Superintendent Cantonment Sub
Trichinopoly

To

The Chief Secretary to the
Government of Madras

Sir,

I have the honor to submit a copy of High Court Judgment in Referred Trial No 57 of 1895, received today, as one of the Enclosures to the Petition of Convict No 5304 Annamalai Padayachi submitted to your address on the 29th October 1895. with letter No 2202.

I have the honor to be
Sir
Your most obedient Servant.

R. Shubrick.
Superintendent Cantonment Sub

1895

R1162 - 30-10-95

CURRENT 5464

5423

Jud

18/11

From

The Superintendent
Central Sub
Trichinopoly

To The Chief Secretary
to the Government
of Madras

Dated 18th November 1895

Rec'd 19th

No 1382 19 NOV. 1895

Enclosure

Submitting a
copy of the Madras High
Court Judgment in Regd
Trial No 57 of 1895, as one
of the Enclosures to the
Petition of Convict No 5304
Annamalai Padayachi—

J
43. 200—21-5-95

JUDICIAL DEPARTMENT.

Current Number 5103 & 5423.

FOR ORDERS.

APPEAL for mercy from Convict No. 5304 Annamalai Padayachi under sentence of death in Trichinopoly Sessions Case No. 15 of 1895, which sentence has been confirmed by the High Court.

The Superintendent of the Trichy. C.J. has not appended the ~~usual certificate stating~~ ~~Jail certifies~~ that the sentence will not be carried out until a definite reply from Government has been received, nor did he forward a copy of the Judgment of the High Court. The omission will be pointed out.

DH.
18/11/95.

18.11.95

The case seems to me fully proved against the petr. There were reasons for enmity & he was identified & his name mentioned to the Sub Magte much to soon for it to have been possible for a case to have been concocted against him by the Police or any one else. There is nothing in his petition which should be discussed.

The S.M. should be asked what has been done in the case of the accused man Periyakaral, as to whose death the H.C. takes quite a diffte view from that arrived at by the Sessions Judge and as to the man Kora Kaiken (vide para 10 of the judgment of the Sessions J.

DS
19/11/95

I agree. The petition should be rejected & the Dist asked about Periyapyal and Kora Kaiman

DS
19/11/95

I agree

W
20 Nov

a petition of Kora Kaiman &c.

PETITION FOR MERCY.

VERY EMERGENT.

Hon'ble Member and Circulation.

(FOR ORDERS.)

[J. 16.]
1,000—5-2-94.

Judicial Department.

CHIEF SECRETARIAT, MADRAS.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following letter, dated 29. 8bt. 95, No 2202, from the Superintendent of the Central Jail at Trichinopoly, forwarding petition from Convict No 5304 Annamalai Padayachi under sentence of death in Trichy. Session Case No. 15 of 1895, confirmed by the High Court of Judicature.

Read also letter, dated 13. Nov. 95, No 2216 from the Registrar of the High Court, Appellate Side, forwarding ~~the record of the case.~~ certain records. & C No 5464 of 95

ORDER THEREON, dated 21th November 1895, No. 2405

Having considered the circumstances of the case as set forth in the foregoing papers, the Right Hon'ble the Governor in Council sees no reason to interfere with the sentence of death passed on Convict No 5304 Annamalai Padayachi

2. The law will take its course.

3. It is observed that the Supt. has not appended the ~~Supt.~~ certificate regarding Rule 1020 of the Jail Code, nor did he obtain & send with to Govt a copy of the High Court's judgment in the case in the first instance. The Supt. will be requested to give his ~~(True Extract.)~~ personal attention to the matter & see that such mistake Chief Secretary. do not occur in future.

4. The D. G. of Trichinopoly will be requested to ~~The letter omitting causes great delay in the disposal of these petitions.~~ report what has been done in the case of the deceased man. Periyapalpal resp. to in the concluding portion of the High Court's judgment in C. & No 490 of 95. He will also state what steps have been taken to ascertain & prosecute the whereabouts of Kora Raman resp. to in para 10 of the judgment

To the Superintendent of the Central J. Trichy. } Pers. 163
for communication to the Prisoner.
Inspector-General of ~~Jails.~~ Prisons
" Hon'ble the ~~Judges of the High Court, with papers returned.~~ H.C.J. Madras (para 1, 244)
" D. G. Trichy. (para 1, 244)

Disp'd 21/11/95

N.B.—
A
B
P
Q

18/11 c 19/11
R 19/11

Tricky. dressing case Rs15 of 1895.

Wrongs (From Mrs)

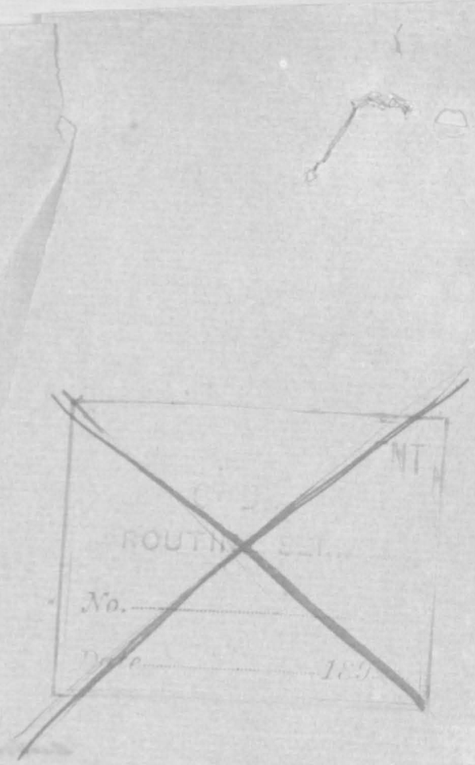
Rs 21/11/95

Dft 20/11/95

Note

Please see Crs 5464 in which the Supt. says that he received the copy of the High Court's Judgment only on the 16. inst. But, under Rules 1018 & 1019 of the Jail Code, he ought to have taken the necessary steps to obtain a copy from the High Court ~~earlier~~ before submitting the convict's petn. to Govt. ~~It appears that the Supt. was not made aware of the Madras Govt. case.~~

Dft 20/11/95



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

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

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A	
LETTER OF GOVERNMENT.								
STATEMENT WITH DITTO.								
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.								

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