| Date taken out. | For what purpose. | | | Initials of Referencer. | Date returned. | Initials of attender. |
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Old No. 73, New No. 24—563,834—20-10-39.

Paper taken out of the Records

Press / Miscellaneous / Routine No. _____, dated

| Date taken out. | For what purpose. | | |
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# Judicial (1895) Department.

ORDINARY MS.

**G.O., No.** 2448.

**Dated** 26th Nov 1895.

INDEXED.

## [Despatch Abstract.]

REMISSION OF SENTENCE.

Remitting the sentence passed on convict No.8262 Gengamutu Tevan, now confined in Her Majesty's Penitentiary, Madras, and directing that he be set at liberty and that the fine imposed upon him, if levied, be refunded.

Ind.

## BACK PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
|---|---|---|---|---|---|---|---|
| | | | | | | | |

## FURTHER PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
|---|---|---|---|---|---|---|---|
| | | | | | | | |

[5/14]

1,000—5-9

T. 5491

(Form No. 53

## Nominal Roll of Convict No. 8262 Gengamuthoo Veeran

| 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. |
|---|---|---|---|---|---|---|---|---|
| House breaking by night and theft of cattle 453 & 395 I.P.C. | 4 years R.I. each u/s 453 & 395 I.P.C. & fine 100 Rs. or 12 months R.I. each in default | 11 April 1895 | Sessions Judge Tinnevelly | 30 years | Good | Good | Dismissed. | Two previous convictions. |

Mr. Penitentiary Office
Madras 6 November 1895.

Superintendent of Trichinopoly Jail.

5,000—2-94.

Rules 701 and 704.

To

His Excellency the Governor in Council
Madras

The humble petition of Connet-
no 8282 Gengamuthu Thevan
Confined in the Madras Penitentiary
Madras

Sheweth, that he was convicted by the Sessions
Judge of Tinnevelly of the offences under Sec
457 & 395 of I.P.C in C. Chos. 17 & 17A of 1895.
and Sentenced to 4 years Rig: Impt: and
fined 100 Rs or 1 year additional Rig: Impt:
This on appeal the High Court Confirmed

2- It is said in the judgment that
the petitioner was identified by the 5th prosecution
witness Kasamadan alone. This same witness
said he identified the 3rd 4th prisoners in the
case who were acquitted by the Sessions judge
and that the 6th prisoner assaulted this witness.
The petitioner prays that the Governor in Council
may Kindly take into consideration the doubtful
of the verdict given by the jury who were of
opinion that the evidence of the 5th prosecution
witness against the 3rd 4th prisoners was doubtful
but who unanimously being of the same opinion in
Regard to the evidence of the said 4

same

11 Palayari

against the petitioner have given a verdict of guilty against the Petitioner -

3- On appeal the Hon: the judges of the High Court explained in their judgment the doubtfulness of the verdict of the jury and the existance of Reasonable doubts to convict the petitioner on the evidence of the 5 witness alone- They also stated that it is just & order the release of the petitioner giving him the benefit of the doubt -

4- The Petitioner therefore prays that His Excellency in Council may be graciously pleased to examine the High Courts judgment and other important Records of the case and order the release of the petitioner from jail.

× mark of Gengamma Thevan.

Witness to mark
Jailor

Supdg Prisons
Madras
6-11-95

[illegible]

[illegible]

[illegible]

[5/14]
1,000—5-2-94.

JUDICIAL DEPARTMI

CURRENT No. 5421 OF 1895.

No 8262 Sengiamuthu

Application for remission of sentence from convict ( in ~~the~~ H. M. Penite
~~Jail~~, Madras.

FOR ORDERS.

In deference to the opinion of the Judges of the H.C. the petn should certainly be heard.

Hereby serves with which to circulate the papers in such an obvious case

JS 22/11/95

HH 24/11/95

*Name of the C[illegible]et*

Se[illegible]iamuthu Tevan. No 8262 (

*Offence committed.*

Housebreaking by night & Ca
Secs 457 & 395 I.P.C.

*Adjudicating Court.*

Sessions Court. Tinnevelly

*Sentence imposed.*

4 years R.I. & while 3 months
the solitary confinemen
& fine Rs 100

*Result of appeal to High Conrt.*

appeal dismissed

*Previous Convictions.* Nil

HS.
20/11/95.

Wrongs

custody unless the Talayari
was entitled under [illegible]

(4)

PETITION FROM CONVICT

Direct

Remit sent. (with reference to the remarks of the High Court in the judgment)

X Handy worth White

Wednesday

It is painful to act, but this case is very clear

W.F. 25-11-95

[G. / 24.]
200—5-10-95.

Jud. DEPARTMENT.

Papers to be read in proceedings:—

Again G.O, dated 189 , No.

Again G.O., dated 189 , No.

Current No. 5421 of 1895, dated 13 Nov. from The Dy. Govt

" " " 189 , " , "

" " " 189 , " , "

ORDER. Dy 26 Nov '95 No 2448

This Reference to opinion inferable from the remarks of the High Court in its judgment on Criminal appeal No 267 of 1895. H.E. the G. in C is pleased, in exercise of the powers conferred upon him by sec 401 C.C.P, to remit the sentences passed on Convict As 2262 Sengamatha Tevan now confined in H.M. Prison Cuddalore and to direct that he be set at liberty and that the fine imposed upon him, if levied, be refunded.

WF 25-11-95 (From orders).
LD 25/11/95

WF 26/11/95
To The Dy. Govt of Madras
" D. Jr. Trichy.
" Dy. Govt of Madras (L.)
with papers
Copies 26/11

In appeal.

H. Jr. directs that the pet. should be released, but it is not clear whether the fine should be refunded to him. The one follows from the other.

WF 25-11-95

Re release of a prisoner

FROM ORDERS.

C. S.

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When signed 8 ____

READ AGAIN G.O., 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.

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Ind[l] Department.

No. 6616 1894

I.G. Police

Dated 12 Dec 1894,

FOR ORDERS.

This paper had to be returned in order to obtain certain old records & some delay has consequently occurred. The modern history of the village police is, briefly, as follows.

2. Until 1831, the Talayári was subordinate to the Magisterial authorities; but, by Reg: VII of 1831, he was placed in subordination to the Collr. In Sept. 1856 the Court of Directors issued a Despatch, which it directed that the whole system of Police administration should be reorganized; in this Despatch no mention is made of the Village Police. The then members of Govt noticed the omission & when addressing the G. of I. on the whole subject (Ind[l] letter dy 24 Jan. 1857) the Govt took occasion to observe that the reorganization of the Village Police ought [illegible] it should be raised; [illegible] a condition of

2

subject & that it replied a confidential despatch of the 9th June 1857 with instructions that the Village Police as well as the regular force should be placed under the authority of the Chief Commissioner of Police & his Deputies. This despatch cannot be traced in the records.

On receipt of the said despatch Mr. Robinson seems to have been deputed to draw up a scheme of re-organization. He submitted his report in Dec. 1858; it will be found in Ft. G. G. & C. 4 Jan 1859, No 9, Ind. Mr. Robinson's remarks, so far as they relate to the Village Police, may be summarized as follows:—

"(1) By law & immemorial usage the Village Watch are police officers;

(2) But, practically, they have been employed indiscriminately in police work, watching crops & collecting revenue;

(3) In each Village (or group of Villages) there should be a Village Police Inspector to control the Village police who would thereafter be subordinate to him instead of to the Village Headman;

(4) No [illegible] is a separate village revenue establishment

(5) There should be a regular system of patrol by Village policemen;

(6) The average emoluments of the Village Police Inspector should be R.24 p. annum, of the Talayáris R.30 p. a.;

(7) the Village police should wear no uniform, but they should carry a Staff of Office;

(8) Villages where there are no village police should be supplied at once with a suitable force;

(9) The Village police must absolutely confine themselves to police work;

(10) The reform of the Village police should extend to Zamíndárí as well as ryotwárí villages;

(11) The whole time of the Village police must be devoted to their public duties;

(12) There must be one talayari in each village & two in the larger ones;

(13) Where the pay of Talayaris is inadequate, it should be raised;

[illegible] a common of

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be made as to sources
available whence to
meet it & the resumed
Kavali fres, which now
constitute a fund charge-
able with the cost of
improvements in the
Village Police administration
should be made available
for the purpose."

In the Orders passed upon
Mr Robinson's report, Govt
remarked, after intimating
its acceptance of the general
outlines of Mr R's scheme,
"one of the first steps to be
"taken will be to determine
"what proportion of the
"existing establishment ....
"is to be ... transferred to
"the Police Dept & what
"will have to be maintained
"for purely Revenue ... duties.
"At present all servants, both
"Taluk & Village, perform
"both Fiscal & Police
"service & although, as a
"matter of account, a
"certain proportion of their
"salaries is debited to
"Revenue & Police, respectively,
"the apportionment is quite
"arbitrary".

The Govt then proceeded to say
that the scheme of re-organisation
would be introduced tentatively
into three districts & Mr Parker
of the Board of Revenue was
ordered to report regarding

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Mr Parker's proposals, which
were approved in G.M.C. 29
29 Ap. 1859, No 590, Rev, will
be found in his report under
cover of G.O. 3 May 1859, No
609, Ind. Mr Parker observed
"I have considered the
"question [of the Village
"establishment] in com-
"munication with Mr
"Robinson & we agreed
"that it would be unsafe
"to separate any portion
"~~of the~~ from the Revenue
"Dept. Except the Talars
"& Kavilgars. In some
"cases these servants aid
"in Revenue duties, & when
"they are assigned exclusively
"to the Police, the money gain
"& Curnums may be at a
"loss for servants to
"measure crops & perform
"the duties of a Village
"Peon, as all Villages
"are not provided with
"Tottis & Vettis. Without
"a ~~close~~ searching enquiry
"however it is impossible
"to ascertain this, as
"there are no detailed
"statements of Village
"inams .... & as the
"Talars & Cavilgars are
"undoubtedly Police
"servants, I would re-
"commend that they
"may be at once trans-
"ferred to the Chief Co
"missioner, leaving
"to the Collectors
"is a condition of

"Board of Revenue the
"case of any villages
"which require to have
"Revenue Village peons
"provided for them".

From the correspondence* referred to above it would appear that the original intention was to make the Talayáris a body of full-time policemen paid from a separate fund consisting in part of resumed Kával fees & to supply, where necessary, additional village servants to perform the Revenue duties which previously had, in some villages at all events, been executed by the talayári. The papers put up do not show whether there was any general addition to the Revenue village establishment when the Talayaris were declared by Act XXIV of 1859 to form a portion of the general police force, but information on the subject can doubtless be obtained, if Govt thinks it necessary.

Anyhow, whether the village establishments were or were not increased in or about 1859 in order to render feasible the divestment of talayáris of all Revenue duties, it is unquestionable that talayaris have continued up to the present day to do Revenue work & have remained under the control of Revenue authorities

cost been the original intention &c.
be as regards the payment of as
in talayaris, they have, since
the the enactment of Madras Act
op IV of 1864, been paid from
pr the Village Service Fund.

(2) 3. But there is another class of village watcher distinct from the talayári proper; this class is the Ghât talayári.

(1) From time to time during the last 35 years Ghât talayáris have been appointed by Govt., but they have not been appointed on any consistent plan.

(a) In the early '60s a number of these men were appointed in Ganjam, Seypore, the Nellore Rampa Country & Kimedy. In the three first cases their pay was declared to be debitable to the police budget; the establishments in Ganjam, Seypore & Rampa were disbanded in 1881.

+ In Nellore (GO of 28 June 1860, No 807, Mad.) the appt of 67 "Supplementary village Watchers" was sanctioned; but, as a fact, only 100 were entertained. The pay of the Nellore men was to be charged to Polegar kéttu-Kával fees, quit-rents of Kattubadi & Amáram ináms & a payment by the Venkatagiri Zamindar in commutation of certain Kával fees. At present the pay of these is a contribution of

(b) In Kistna, Govt has from time to time sanctioned by Ind. Dept. Gos the entertainment of Shât talayâris; they now number 36 & their pay is debited to Police.

(c) In 1869 Govt sanctioned the entertainment of 15 Shât talayâris for Coimbatore, the cost being debited to Police.

(d) In North Arcot 50 Shât talayâris were sanctioned in 1883 (G.O. of 9 May 1883, No 1251, Ind.), but the arrangement as to pay was peculiar. It appears that some time previously a number of additional Village tolies had been appointed to be paid out of revenues accruing from resumed Rattubadi inams; but the Collector found the new establishment to be unnecessary & disbanded it, thus securing a saving of R. 1300 per annum. Govt ordered that the cost of 27 of the new Shât talayâris should be met from this saving, while the cost of the remaining 23 was debited to Police. This anomalous arrangement still continues, or did so three years ago.

All the Orders* referred to in clauses (a), (b), (c) & (d) above were Ind. Dept. ones & it was clearly the intention that

cost of Shât talayâris should be charged to Police; for, ex. gr. in the Nellore & N. Arcot cases the cost was debited to a special fund properly applicable to police purposes.

(2) In G.O. of 22 June 1868, No 998, Ind., Govt issued orders that, whenever the Village Police are paid by the Revenue authorities, they shall be under their control & whenever they are paid by the Police Dept, they shall be under the control of the Police authorities.

But these rules, as well as the principle that Shât talayâris shall be paid from Ind. (or naval) funds, have not been departed from. There are now 1013 Shât talayâris in the districts of Cuddapah, Kurnool, Bellary, N. Arcot, S. Arcot & Madura who are paid from the Village Service Fund & who are yet under the immediate control of the Police authorities. The G.O.s sanctioning the entertainment of these persons are not available in every case, but it appears that all of them were passed by the Revenue Dept. Certain of them were — viz. G.O. of 25 July 1890, No 587, & G.O. of 20 Jan. 1891, No 43, Rev. The question of the Shât talayâris is a condition of

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(b) In if any reorganization of
the Village Police is to
be attempted, the first
point to settle is the
the source from which they
are to be paid.

(c) So far as regards the Village
Talayari proper who is
now in fact, & will soon
be in law, under the control
of the Revenue Dept; there
can be no question; he is
paid, in ryotwari tracts,
from the Village Service
Fund & will, in Zamindari
tracts, be paid from the
Proprietary Estates' V.S. Fund.
But the Ghât Talayâris
who are of more recent
creation, are ... under
the complete control of
the Police & who number
1187 in all are paid as
follows —

1013 from Village Service Fund
174 from Police funds.

It is open to doubt whether,
strictly speaking, the Village
Service Fund can be legally
applied to the payment of
Ghât Talayâris. The Village
Cess was imposed by Act
the of 1864 in lieu of customary
dues etc. leviable by the
village servants from the
ryots & long prior to 1864,
the Villagers had ceased to
pay fees for the support of
the Mêl-Râvalgârs & other
representatives & the intention of
was clearly the Legislature
in one direction



(para 109 of his report) "the Act, as
"institution of the Village" in
Police should continue, as "a force,
zone, thoroughly localized;
& the duties of its members
be confined to their respective
villages & charges .... the
Village Watchers must be
members of the Village
Watchers' class of their
respective Villages".

The early action of Govt in
charging Ghât talayâris to
the Police budget (even after
Act IV of 1864 was passed)
or to revenue derived from
resumed Kattubadi, amáram
& Râval inams (all of which
formed the remuneration
of the Dróa Râval) points
in the same direction.

There seems little doubt
that "the watchman or talayâri"
of Act IV of 1864 & "the talayâri"
of Act IV of 1895 denote
the Village talayâri proper,
& not the Ghât talayâri
who does not form
a member of the Village
establishment & is not subject
in any way to the Head of
the Village.

Whatever decision is arrived
at, one principle should,
at all events, be adopted
& the present system of debiting
some Ghât talayâris to Police
& some to the Village Service
Fund should be abandoned.
It may be mentioned, in this

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1890, No 557, Rev, Gov.t ordered
(b) that the revenue (in Kurg.) derived from
Kattubadi inâms should
be merged in the
Village Service Fund. I do not
know whether the Kával &
similar inams were thrown
(c) generally into this Fund, but,
if they were, it would form
some reason for debiting
the cost of shât talayâris
to that Fund.
(d) 5. To turn now to the current.
In the scheme for the re-
organization of the Police
proposed in Col. Portéous'
letter* of the 20th Oct. 1891,
it was suggested that
the pay of the shât talayâris
who are now charged to
the Police budget should be
raised from R3 & R4 to R5
& that their number should
be increased from 174 to
186.
In a reference of 28 Jan 1892, the
Gov.t asked Col. Portéous
to give the history, & detail
the duties, of these 174 men &
he did so in a letter* of 29
Ap. 1892 wherein he remarked
"If Gov.t is prepared now
to take this subject [i.e.
the reorganization of the
Village Police] in hand,
I would obtain & submit
full information as to
the strength & exact con-
dition at present of the
establishment in each
District".

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G.O. of 6 July 1892, No 1241, it was
that it would be glad to
receive Col. P.'s views on the
the subject of the reorganiza-
tion of the Village Police,
although it could not
promise to take active
steps in the matter
immediately.
The scheme for the reorganization
of the Police was then
sent on to the G. of I. Tit
was sanctioned, except so
far as it related to the
shât talayâris,
[illegible] in regard to
[illegible] the G. of I. remarked
that they should be dealt
with as part of the general
scheme for the re-organization
of the Village Police which
the D.G. was understood to
have in hand (see p. 3 of
G.O. of 15 Nov 1893, No 1159, Fin.).
Subsequently, in Rev. G.O. of 20
Aug. 1894, No 3265, (under cover
of G.O. of 31 Aug. 1894, No
2126, Ind.) the D.G. was
requested to expedite
submission of this scheme
& this reply forms the
present current.
Col. P. proposes
(1) that the Village Police
should get a uniform
pay of R 5 p.m.;
(2) that, as a general
rule, there should be
one talayari per house
of the population to be
employed on police
duties only & to be

(12) & to be appointed & punished by, the Police authorities;

(13) That, where the population of a village is not sufficient for the entertainment of an additional talayâri & the existing servant continues to do consequently both Police & Revenue duties, the power to appoint & dismiss should rest with the Police authorities;

(14) That all talayaris, whether employed for police purposes solely or not, should be subordinate to the Village Headman, unless Village Inspectors are appointed;

(15) That the necessary funds for increasing the staff of talayâris should be provided from the Village Service Fund.

On receipt of general orders on these points, the I.G. will call for detailed statements working out the exact cost & effect of the scheme from Dt. Supts. in communication with Dt. Mags.

6. (1) It will be seen that the general outline of Col. P's scheme is very similar (down even to the suggestion that Village Police Inspectors should be appointed) to [illegible] proposed by Mr

to his letter read in L. Mr. C. of 4 Jan 1859, No. 9. But, as some one has noted in the margin of para. 25, the appt. of such an officer would be likely to give rise to discord in the village &, though Govt. seems to have accepted the proposal at the time, the appt. seems never to have been made; perhaps Mr. Robinson subsequently modified his views.

It seems advisable to say now that Govt. is not in favour of appointing Village Police Inspectors.

(14) The revised Bill to repeal Reg: III of 1831 gives Govt. power to place all talayaris or any class or number of them, under the control of the Police authorities; but, under that Bill, as at present, the appt. of talayâris will always rest with the Revenue authorities. This has been found necessary; partly because questions of succession may arise which Revenue officers are more competent to decide than Police officers; & partly because, in non-ryotwâri tracts, the appt. is made, under Act II of 1894, by the Proprietor, subject to the approval of the Revenue authorities.

[illegible] Act XVII of 1862.

[illegible] is a condition of

ago.

(2) It will be seen also that the scheme deals with the Village police generally, not with ghât talayâris only.

Ghât talayâris can be set on one side; if the regular Village establishment is increased, probably some of the ghât talayâris can be discharged.

To the payment of additional regular talayâris from the Village Service Fund there is no objection & it is subm.d that, with regard to this point, it may be laid down

(1) that ghât talayâris shall in future be charged to the police budget; but

(2) that additions to the regular staff of talayaris shall be charged to the Village Service Fund.

(3) The appointment of Village Police Inspectors is not pressed by Col. P.; he merely throws out a suggestion on the subject. Mr. Robinson on the other hand, was strongly in favour of this appt. [illegible] 4-vem page[illegible] proposed by Mr.



the appt. of talayâris (other than ghât talayâris & non-hereditary talayâris) by the Police authorities must be negatived.

(5) It is subm.d that Govt may express general agreement with Col. P.'s proposal to more distinctly define the Police duties of talayâris & to raise their numbers where necessary & that the I.G. may be told to collect the detailed information referred to in his letter. Until that information is received, it is impossible to say whether the proportion of 1 talayâri to every 1000 of population can be adopted, and whether Rs 5 per man can be afforded.

7. There is one more point to be noticed.

By sec. XXI of Reg. XI of 1816 Village Watchers were given the power to apprehend all persons discovered committing any criminal act or breach of the peace & all persons charged with committing crimes acts or breaches of the peace.

This provision became unnecessary when, in 1859, the talayari became a member of the general police force it was therefore repealed by the general repealing Act XVII of 1862.

There is a condition of

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Police force shall be formally enrolled & given (sec. 11) a certificate of appointment.

Now talayâris are never formally enrolled not even, it is understood, that talayâris & therefore they have no legal powers under Act XXIV of 1859 while they have lost those which they enjoyed under Reg. XI of 1816. Consequently the High Court has ruled (vide pp 118 & 121 of Weir — 3rd Edition) that the custody of the talayâri is not legal custody for the purposes of the Penal Code. Consequently the talayâri has just the same powers in regard to arrest as a private person has, i.e. (sec. 59 Cr.P.) he may arrest a person who, in his view, commits a non-bailable & cognizable offence or who has been proclaimed as an offender.

Sec. 10 of Reg. XI of 1816 gives the Village Mag. power to confine a person for not more than 12 hours in the Village choultry but it is doubtful if the talayâri could legally mount guard over a person who had been so confined & it is certain that a person cannot be punished for escaping from a talayâri's custody unless the talayâri was entitled under [illegible]

(3) The Police are then on duty in