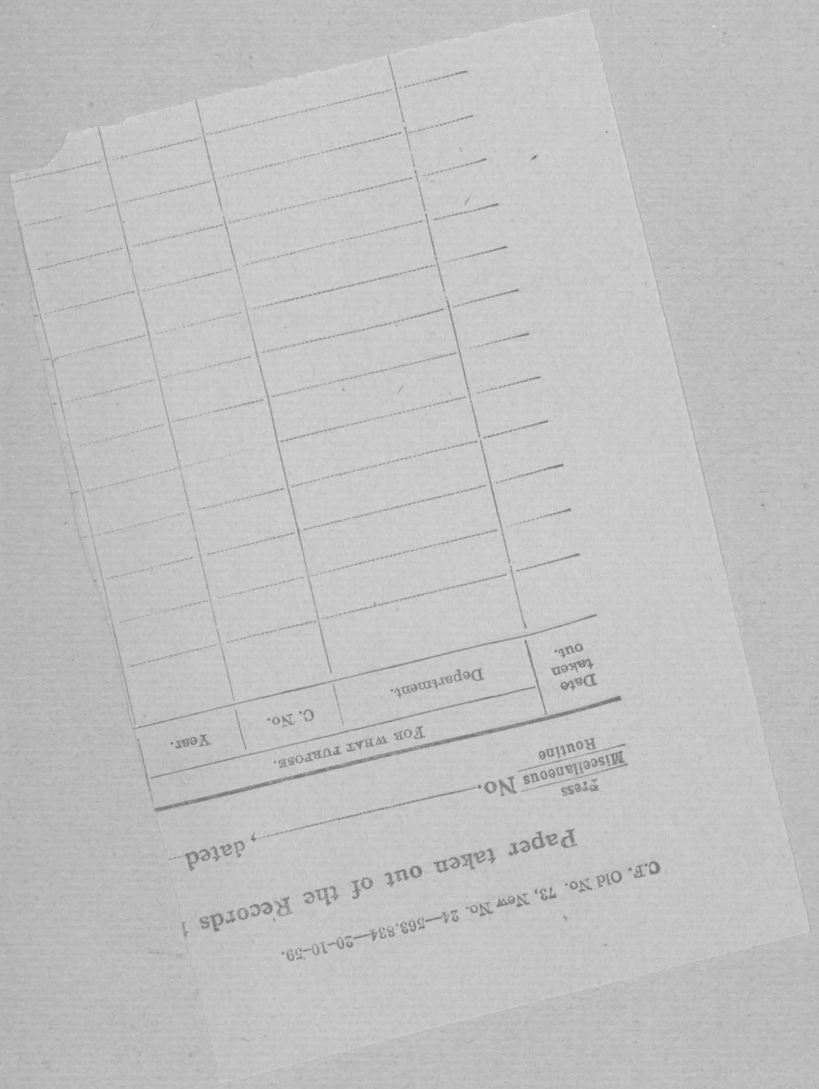


Judicial (1895) Department.

ORDINARY MS.

G.O., No. 356

Dated 16th Feb. 1895.

(No index or 'C' stamp on the original docket)

[Despatch Abstract.]

PETITION FOR MERCY

Declining to interfere with the sentence of death passed on con-
-vict No.9484 Alagiri Tevan in Madura Sessions case No.59 of 1894.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	882 883	1895					

245-2 5: 12-95 mfk

594

V. E

For orders

with Ref^ce to G.O. 245 J: 5: 7th: 95:

Ele 13/5/95

Judicial {189} Department.

No.

FROM

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

Dated 6 February

Received 8 } 189

Rep 9

8 FEB 1895

No. 280 Jud

Enc 4

Forwarding copy of High Court Judgment in R. S. 64/94 together with a copy of Judgment in Madura Sessions Case 59/94 + also a copy of the High Court's order in R. S. 56/94 with Original Sessions Judgment

Ele 12/2/95

Note This ought to have been treated as urgent: from the date it was received in the Office:

IN THE SESSIONS COURT OF MADURA.

SESSION CASE LIX OF 1894.

(OCTOBER SESSIONS).

Committed by the Stationary 2nd Class Magistrate of Periyakulam (R. C. 7 of 1894).

Prisoner :—Alagiri Tevan ... ... Defended by A. Visvanatha Aiyar.

Offence :—Murder under Section 302 I. P. C.

Opinion of assessors :— { 1st assessor: —Guilty of murder. / 2nd assessor :— Do.

Caste of :— { 1st assessor :—Brahmin. / 2nd :—Do. do.

Finding of the Judge :—Guilty.

Sentence subject to confirmation by the High Court :— That the prisoner Alagiri Tevan be hanged by the neck until he is dead.

JUDGMENT :—The prisoner is charged under Section 302 I. P. C. with having, on the 18th May 1894 at Vendinaickanputhupatti, murdered a young woman named Karuppayee.

2. The facts that Karuppayee's throat was cut and that she was thereby killed on Friday the 18th May 1894 are beyond dispute and the case for the prosecution is as follows:—

Veera Tevan alias Kongapattiyan of Vendinaickanputhupatti married two sisters ; by the elder he had two sons named Veeran and Andi and two daughters, the deceased Karuppayee and Veerammal ; by the younger he had a son named Karuthaveeran ; the family lived together and its affairs were managed by the eldest son Veeran and his brother. Karuppayee had been married to one Kaliani Tevan of Ariapatti but being divorced in Margali last (December-January), returned to her relations and lived with them. In Tai last (January-February 1894) the prisoner, who belongs to Kuruviyappanpatti, entered Veera Tevan's service as pannaigar and in Vykasi (May-June) asked for Karuppayee in marriage. Karuppayee refused to marry him and the prisoner seemed to be content with a promise that he should marry Veerammal. But a few days later, Karuppayee complained to her elder brother Veeran (1st prosecution witness) that the prisoner had threatened to stab her if she persisted in refusing him. Veera Tevan at once ordered the prisoner to leave his service ; this was early in the morning and the prisoner went out of the house shortly afterwards. Then about 7 or 8 A. M. Thangammal (6th prosecution witness) went to the fields with some conjee

for Andi (7th prosecution witness) who had gone to watch the crops and a little later on was followed by Karuppayee carrying conjee for Karutha Veeran (2nd prosecution witness), a little boy 7 years old, who was grazing goats near a bed of cholam plants. After giving Karutha Veeran his conjee, Karuppayee began collecting firewood and while she was thus engaged, the prisoner came to the place. Thangammal asked him why he had not gone to his own village and he replied that he had not started because he had had a bad omen. Soon afterwards Thangammal started homewards and the prisoner accompanied her a short distance, saying he would fetch bullocks for baling water. But he complained of the heat after he had walked a little way and asked Thangammal to take Andi with her to bring the bullocks. She did so and went home with Andi, the prisoner remaining in the field. After Thangammal and Andi Tevan were gone, the prisoner approached Karuppayee who was still gathering firewood. Karuppayee dropped her fagot and ran away but the prisoner overtook her, dragged her to a channel which irrigated the field, threw her down on her back among the cholam plants and, kneeling on her, cut her throat. Her little brother Karutha Veeran screamed out "Don't cut, don't cut" and the prisoner threatened to stab him. Karutha Veeran then retreated to a mound near the well in the field and shouted to Sannasi, Vellayan and Suppammal (3rd, 4th and 5th prosecution witnesses) who were in the adjoining field. Sannasi and Vellayan after baling water were playing near the well while Suppammal, Sannasi's wife, was collecting grass. The distance from the mound on which Karutha Veeran stood to the place where the other witnesses were is 79 yards (Vide plan exhibit B) and Sannasi and his companions, running to the mound, saw the prisoner kneeling on Karuppayee and cutting her throat among the cholam plants at a distance of 19 yards. (Vide plan exhibit B). Sannasi called out to the prisoner, asking why he was murdering Karuppayee, and the prisoner, brandishing his knife, threatened to murder him also if he came near. Sannasi and Vellayan who are lads 18 and 14 years old respectively, the former being remarkably weak and sickly in appearance, and Suppammal were terrified and left the place at once. The little boy Karutha Veeran then saw his brother Andi driving cattle at a short distance, ran to him and told him what had happened. Then Andi and Karutha Veeran hurried towards their house and meeting their elder brother Veera Tevan on the way, told him that Alagiri Tevan, the prisoner, had cut Karuppayee's throat in the cholam garden. Veera Tevan ran and fetched his mother and then, with some other villagers who had heard his cries, went to the cholam garden and found Karuppayee lying there, with her throat cut, dead.

3. The same afternoon Veera Tevan went to the police station at Andipatti, 2 miles from Vendinaickanputhupatti and lodged a complaint (Exhibit A). The Head Constable (9th prosecution witness) with the village munsif (12th prosecution witness) came to the village, reached the place where the corpse lay about 7-30 or 8 P. M., examined Karutha Veeran at the spot and examined Sannasi, Vellayan, Suppammal and Thangammal during the night. Karuppayee's corpse was sent at midnight in charge of Constable No. 643 (10th prosecution witness) to the dispensary at Andipatti and thence to the hospital at Periacolam where a *post mortem* examination was made by the Hospital Assistant (11th prosecution witness).

4. The prisoner disappeared after the occurrence, but about a fortnight later Thungan Chetti (8th prosecution witness) was sleeping in his cattle shed when he was roused about midnight by some one tapping the calf of his leg. He found the visitor to be Alagiri Tevan, the prisoner, who said "I cut the neck of Kongapattian's daughter. Do they say they mean to protect me or take away my life ?". Thungan Chetti replied that he did not know, but that search was being made for the prisoner, and a warrant had been issued for his arrest. Thereupon the prisoner asked him to fetch Thangammal and Andi Tevan, saying he must speak to them. Thungan Chetti went and, sending Thangammal and Andi Tevan to the place were the prisoner was waiting, told them to beguile him with conversation while he himself collected men to seize him. Thangammal and Andi went to the prisoner and the former asked him why he had murdered Karuppayee after telling her deceitfully to go away. The prisoner answered "It was my bad time and I did it." Then Thungan Chetti and some other men approached the spot and the prisoner ran away, in spite of efforts made by Thangammal and Andi Tevan to detain him. A proclamation was subsequently issued for the capture of the prisoner and in the end he surrendered himself to the Inspector of Police on the 6th August.

5. Beyond asserting innocence and stating that he was employed as a pannaigar by one Tavasi Tevan at Chinnakattalai, the prisoner made no attempt at defence. Tavasi Tevan examined as a witness on behalf of the prisoner deposed that he had never seen him or heard of him.

6. There is absolutely no reason for discrediting the evidence for the prosecution, and the testimony of the eye-witnesses as well as the testimony of Thungan Chetti and Thangammal (8th and 6th prosecution witnesses) as to the admissions made by the prisoner furnish, in my opinion, conclusive proof that he deliberately and barbarously murdered Karuppayee. Hence concurring with the assessors, I convict him of murder. There is not a single extenuating circumstance in the case and the only punishment I can inflict is the punishment of death. I must therefore sentence the prisoner Alagiri Tevan to be hanged by the neck until he is dead.

This sentence is subject to confirmation by the High Court and the prisoner is informed that if he wishes to appeal he must do so in seven days.

W. DUMERGUE,
Sessions Judge.

Madura,
9th October 1894.

S. C. 59 of 1894.	1	Serial Number	
Alagiri Tevan.	2	Name.	Description of the accused.
Solamuthu Tevan.		Father's name.	
Kallan.		Caste.	
Cooly.		Occupation.	
Kannia mpatty.		Residence.	
About 35.		Age.	
18th May 1894.	3	Occurrence.	Date.
18th May 1894.		Complaint.	
6—8—94.		Apprehension.	
3—10—94.		Commencement of trial.	
3—10—94.		Close of trial.	
	4	Explanation of delay.	

ENCLOSURE ~~I~~ VII

In a letter from the Sessions Judge of Madura,

dated ~~6th October 18 94~~ No. ~~682~~
10 December 1894 No 806.

High Court Criminal Appeal No. 527 of 1894.

High Court Referred Trial 56 of 1894.

Copy of Session Judgment in Session Case 59 of 1894.

R. C. 7 of 1895 on the file of the 2nd Class Magistrate of Periakulam

Enclosure IV to the High Court's letter dated 6th February/95 No. 280.

Judicial.

Filed 4
No. 594

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday, the fourteenth day of November,
One thousand eight hundred and ninety-~~three~~ four.

PRESENT :—

The Honourable Justice Sir T. Muttusami Ayyar K.C.I.E.
and
The Honourable Mr. Justice Best

Referred Trial No. 56 *of* 1894

Alagiri Tevan ——————— *Prisoner.*

Trial referred by the Court of Session of the Madura *Division for confirmation of the sentence of death passed upon the said Prisoner in Case No.* 59 *of the Calendar for* 1894.

CRIMINAL APPEAL No. 527 OF 1894.

Appeal by the Prisoner against the said Sentence.

This case coming on for hearing, 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 D. S. De Rozario Counsel, engaged for the defence under G.O. dated 17th December 1894,

500—9-5-92.

1884, No 3273, Judicial, and of the Public Prosecutor in support of the conviction; the Court made the following

Order:— We are of opinion that there are several matters in the evidence for the prosecution which are not cleared up. 2nd witness for the prosecution has not been cross-examined as to his omission to mention to his brother (the 1st witness) the presence of witnesses 3, 4 and 5 at the scene of the offence. Again, of these three witnesses, the two who were examined for the prosecution were not cross-examined by the Vakil appointed to defend the accused as to whom they first gave information of

What

what they knew and the cause of delay in doing so, if any. Considering the gravity of the case and the nature of the evidence given by them before the Magistrate, we are of opinion that both Suppammal and Judi Devan should have been examined as witnesses for the prosecution instead of being merely tendered for cross-examination.

It is also unintelligible that Thangammal should leave her daughter in the field when the man whom she had refused to marry, and who was being sent away in consequence of his threatening to stab her, was in that neighbourhood.

We also observe that the Police Constable was not cross-examined.

Some

4

Some explanation ought to have been required of him as to the non-mention of the names of Prosecution witnesses 3, 4 and 5 in the Inquest paper.

We are constrained to observe that the Vakil employed for defending the Prisoner does not appear to have done his duty as he ought to have done.

We therefore set aside the conviction and sentence and direct the accused to be re-tried - a more competent Vakil being appointed to defend him.

By the Court

(Signed) A. J. Forbes
Dy: Registrar,
Appellate Side.

(True Copy)

Registrar,
Appellate Side.

Enclosure III to the High Court's letter dated 6th February/95 No. 280.

Judicial.

IN THE SESSIONS COURT OF MADURA.

SESSION (RETRIAL) CASE LIX OF 1894.

(DECEMBER SESSIONS).

Prisoner :— Alagiri Tevan (defended by Mr. M. Mathu Aiyer, B. A. B. L. appointed by the Court.)

Offence :—Murder, Section 302 I. P. C.

Caste of:— 1st Assessor—Konan. 2nd Do—Silk-weaver.

Opinion of:— 1st Assessor—I believe the prisoner cut Karuppayee's throat. 2nd Do—I am of the same opinion.

Finding of the Judge :—Guilty.

Sentence subject to confirmation by the High Court :— That the prisoner Alagiri Tevan be hanged by the neck until he is dead.

JUDGMENT :—This case has been retried as directed by the High Court in its judgment in Criminal Appeal No. 527 of 1894.

2. The prisoner is charged under Section 302 I. P. C. with having, on the 18th May 1894, at Vendinaikenputhupatti, murdered a young woman named Karuppayee.

3. The facts that Karuppayee's throat was cut and that she was thereby killed on Friday the 18th May 1894 are beyond dispute and the case for the prosecution is as follows:—

Veera Thevan, *alias* Kongapattiyan, of Vendinaikenputhupatti married two sisters; by the elder, Kathammal, he had two sons named Veeran and Andi besides a third named Mayandi, who does not appear in the case, and a daughter, the deceased Karuppayee; by the younger, Thangammal, he had a son named Karuthaveeran, a child now seven years of age; and a daughter named Veerammal, 9 or 10 years old. The family lived together and its affairs were managed by the eldest son Veeran and his brother Andi. Karuppayee had been married to one Kaliani Thevan of Ariapatti, but being divorced from him in Margali last (December–January) returned to her relations and lived with them. In Thai last (January–February) the prisoner, who belongs to Kuruviappanpatti, entered Veera Thevan's service as pannaigar, lived in the house and in Chitrai (April–May) asked for Karuppayee in marri-

age. Karuppayee refused to marry him and the prisoner seemed to be content with a promise that he should hereafter marry Veerammal. But a few days later, Karuppayee complained to her elder brother Veeran (1st Prosecution Witness) that the prisoner had threatened to stab her if she persisted in refusing him. Veeran at once ordered the prisoner to leave his service; this was early in the morning and the prisoner went out of the house shortly afterwards, saying he would go to his village. Then about 8 A. M. Thangammal (6th Prosecution Witness) went to the garden belonging to the family, carrying some conjee for Andi (7th Prosecution Witness), who had gone to watch the crops, and a little later on was followed by Karuppayee carrying conjee for her step-brother Karutha Veeran, who was grazing sheep near a bed of cholum plants in the garden. After giving Karutha Veeran his conjee, Karuppayee began collecting firewood and while she was thus engaged, the prisoner came to the place from the direction of her father's house. Thangammal who had been sitting on the mound near the well, asked him why he had not gone to his own village as he intended and he replied that he had not had a good omen. Soon afterwards Thangammal started homewards and the prisoner accompanied her a short distance and then said he would fetch bullocks for baling water. But after he had walked a little further, he complained that the heat scorched his feet and asked Thangammal to take Andi with her to bring the bullocks. She did so and went home with Andi, leaving the prisoner in the field. After Thangammal and Andi Thevan were gone, the prisoner approached Karuppayee, who was carrying her bundle of firewood homewards. Karuppayee dropped the fagot and ran away, but the prisoner overtook her, dragged her to a channel which irrigated the field, threw her down on her back among the cholum plants with her head on the ridge of the channel and kneeling on her, cut her throat with a knife. Her little brother Karutha Veeran screamed out "Don't cut, don't cut" and the prisoner threatened to stab him. Karutha Veeran then retreated to the mound near the well and shouted to Sannasi, Vellayan and Suppammal (3rd, 4th and 5th witnesses for the prosecution) who were in the adjoining garden. Sannasi and Vellayan, who had been baling water, were seated on the mound near their well while Suppammal, Sannasi's wife, was collecting grass among the cholum plants. The distance from the mound on which Karutha Veeran stood to the place where the other witnesses were is 79 yards (vide plan exhibit C) and Sannasi and his companions, running to that mound, saw the prisoner kneeling on Karuppayee and cutting her throat among the cholum plants at a distance of 19 yards. Sannasi called out to the prisoner, asking why he was murdering Karuppayee and the prisoner threatened to murder him also if he came near. Sannasi and Vellayan, who are lads 18 and 14 years old respectively, the former being weak and sickly in appearance, and Suppammal were terrified, ran to the mound in their garden, bundled up the grass Suppammal had collected and went home. The little boy Karutha Veeran had already started for the village and seeing his step-brother Andi bringing the bullocks he had gone to fetch, ran to him and told him what had happened. Andi went and looked at Karuppayee's corpse and then, with Karutha Veeran, hurried towards their house. Meeting Veeran, their eldest brother, on the road near a chuckler's house, as he was on his way to the garden, they told him that Alagiri Thevan, that is to say the prisoner, had cut Karuppayee's throat in the cholum garden. Veeran ran home, fetched his mother and step-mother and, with a crowd

of villagers who had heard his cries, went to the cholum garden and found Karuppayee lying there, with her throat cut, dead.

4. The same afternoon Veeran went to the Police Station at Andipatti, two miles from Vendinaikenputhupatti and lodged a complaint (exhibit A). The Head Constable (9th Prosecution Witness) with the Nattamgar (12th Prosecution Witness) came to the village and reached the place where the corpse lay about 7-30 or 8 P. M. Having examined Veeran and prepared the inquest report (exhibit B) the Head Constable sent Karuppayee's corpse at midnight in charge of Constable No. 643 (10th Prosecution Witness) to the dispensary at Andipatti, whence it was taken to the hospital at Periakulam and examined by the Hospital Assistant (11th Prosecution Witness). After despatching the corpse from the village, the Head Constable, in the presence of the Nattamgar, examined Karutha Veeran who was brought to the garden under his orders as he had been mentioned by Veeran as an eye-witness both in the complaint and at the time the inquest report was prepared. The Head Constable then proceeded to the village and, in the presence of the Nattamgar at the 'Bajanaikudam', examined Sannasi, Vellayan and Suppammal, whose names he had ascertained from Karutha Veeran. He examined Thangammal also at the same place and the examination of these witnesses lasted until day-break. Andi was not examined then because he had left the village in search of the prisoner, who had last been seen by Karutha Veeran, Sannasi, Vellayan and Suppammal running towards the north after cutting Karuppayee's throat.

5 The prisoner could not be found, though search was made for him in various villages but on the 29th May, eleven days after the occurrence, Thungan Chetti (8th Prosecution Witness) who is the father of Sannasi, was sleeping in his cattle-shed adjoining his house in the western part of the village, when he was roused at midnight by some one tapping his leg. He found his visitor to be Alagiri Thevan, the prisoner, who on being questioned as to why he had come said "I cut the neck of Kongapattiyan's daughter. What do they say? Do they say they will protect me or take away my life?" Thungan Chetty replied that he did not know what was "in their minds" and the prisoner then asked if Kongapattiyan and his son were at home. On being told that they had gone to Kamakapatti in search of him, he said "My elder brother came here. Do you know what became of the matter about which he came?" Thungan Chetti answered that the prisoner's elder brother had come but he himself did not know what had been said. Then the prisoner said "Go and bring my elder sister and Andi. I will talk to them about what my elder brother came here for and then go". By the term 'Elder sister' the prisoner meant Thangammal, Kongapattiyan's junior wife, and Thungan Chetty went and called her and Andi, saying "Alagiri Thevan who cut Karuppayee has come. He wants you both. He is near the western house; you go and talk to him; they have been searching for him; he has now come; we may seize him now; I will go and bring men". By the words "western house" Thungan Chetty indicated the house in which Kongapattiyan's family had once lived and which was about 12 yards south of his own house and cattle-shed in the western end of the village. Then Thungan Chetty, accompanied by Kathammal, Karuppayee's mother, went to collect

men in the village for the purpose of arresting the prisoner, while Thangammal and Andi went and found the prisoner near Thungan Chetty's cattle-shed. Thangammal caught hold of the prisoner's hand and asking him why he had murdered Karuppayee, went on talking to him in the hope of detaining him until the villagers came to the spot and arrested him. When Thungan Chetty and some men from the village approached, Andi also caught hold of the prisoner's hand and tried to detain him, but the prisoner extricated himself and evaded pursuit by running into the standing cholam crops. Warrants for the prisoner's arrest and for the attachment of his property were issued and, in the end, he surrendered himself to the Inspector of Police on the 6th August.

6. Beyond asserting innocence and stating that he was employed as a pannaigar by one Thavasi Thevan of Chinna Kattalai, the prisoner has made no attempt at defence. Tavasi Thevan, examined as a witness on his behalf, deposes that he never saw him or heard of him.

7. In obedience to the injunction given by the High Court, each of the witnesses for the prosecution, some of whom were tendered for cross-examination at the previous trial, has now been examined in chief at length and all of them, except the Constable who took Karuppayee's corpse to the hospital at Periakulam and the Medical Officer who held the *post mortem*, have also been cross-examined at length in order that matters appearing to require explanation might be cleared up.

As to the omission on the part of the boy Kurutha Veeran to mention to his elder step-brother Veeran the presence of Sannasi, Vellayan and Suppammal at the scene of offence, the explanation given appears to me most reasonable. Karutha Veeran, weeping, and terrified by what he had seen, merely told his step-brother of the fact of Karuppayee's murder and his step-brother, horror-stricken at the news, at once called his mother and step-mother and the villagers and ran to the place where Karuppayee's corpse lay. If, at the moment of consternation, he had paused to enquire calmly and deliberately who the witnesses of the occurrence were, and if Karutha Veeran, a child seven years old, whose attention was rivetted on the fact of his step-sister's death, had mentioned in detail the evidence available for the prosecution, such conduct would, in my opinion, have been wholly unnatural and any statements made to prove it would have been incredible.

Similarly with regard to the witnesses Sannasi, Vellayan and Suppammal, the reasons they assign for delay in giving information themselves seem to me perfectly credible. They ran to their houses from the scene of the murder, but before they left the place they saw Karutha Veeran running in the direction of his house from which Andi was approaching; they naturally concluded that Karutha Veeran would at once tell his relations of the occurrence and they knew that a crowd of villagers immediately went to the garden where Karuppayee had been murdered. Their names were mentioned by Karutha Veeran as soon as he was examined by the Head Constable and they themselves were examined the same night in the presence of the Nattamgar. Their names were not mentioned in the inquest paper for two reasons. The first is that they had not been

examined when the inquest paper was prepared, as the Head Constable was anxious to send the corpse for medical inspection as soon as possible, and the second is that in the form of inquest paper then prescribed and in use, the names of witnesses other than relatives of the deceased were not required to be entered. In the new form, which is now used, a sub-head—"abstract of evidence of other persons examined"—has been introduced and is numbered 8½, but there is no such head in the old form and no other head under which the names of these witnesses could have been recorded. The translation of the inquest report was made on one of the new forms for submission to the High Court, but the head numbered 8½ was struck out so that the form on which the translation was written might correspond with the form on which the original was prepared. Under all these circumstances I can see no ground for suspecting that the statements made by the three witnesses Sannasi, Vellayan and Suppammal are not true in every detail.

Lastly with regard to Thangammal's conduct in leaving her step-daughter Karuppayee in the field with the man whom Karuppayee had refused to marry and who was being sent away in consequence of his threatening to stab her, Thangammal swears that she did not know the reason why the prisoner was leaving. She was busy in the kitchen while Veeran, his mother and his father were talking to the prisoner at the entrance of the house and all she understood was that the prisoner was going to his own village. That the reason for the prisoner's departure was not generally known is shown by the fact that Andi states that the prisoner was the pannaigar of his family at the time of the murder and he himself was not aware of the prisoner's threat. Moreover, though Thangammal did not notice Sannasi, Vellayan and Suppammal in the adjoining garden when she went home, she had seen them working there when she went to the field carrying conjee for Andi. In addition to this circumstance, her evidence and that of other witnesses shows that the owners of other gardens surrounding the field had been working in their gardens during the morning and that some were still there, while others had gone home for the midday meal. Considering these facts, it appears to me that the idea of the prisoner murdering Karuppayee in a public place at midday is not one which could have reasonably suggested itself to Thangammal when she left the prisoner in the field where Karuppayee was collecting fuel while Karutha Veeran was grazing sheep close-by.

8. In the evidence for the prosecution there is only one contradiction. This is between a statement made by the boy Karutha Veeran that he told his step-brother Andi that Sannasi, Vellayan and Suppammal were present and a statement made by Andi that Karutha Veeran did not do so. Considering what the feelings of these two witnesses must have been at the time, Karutha Veeran having seen the murder and Andi having, immediately after the murder, seen Karuppayee's corpse, I do not think that any importance can be attached to this contradiction and in connection with this point it may be observed that Andi himself saw Sannasi and Vellayan baling water in their garden in the morning and saw them sitting on the mound near their well when he went home with Thangammal to fetch bullocks, though he did not perceive Suppammal who was gathering grass among the cholum plants. In one respect, there is a slight difference between the statements made by Vellayan (4th Prosecu-

tion Witness) and those made by Veeran and Thangammal. Vellayan says he went when Veeran was starting for the Police Station from his house and told him that on hearing Karutha Veeran's cries, he and his companions ran to the garden and saw the prisoner cutting Karuppayee's throat. Veeran however does not recollect whether Vellayan did, or did not speak to him and Thangammal says Vellayan did not come to her house so far as she knows. But Thangammal did not even notice Veeran starting for the Police Station, as she was weeping and I do not consider that there is anything suspicious in Veeran and Thangammal not remembering, in their agitation and distress, every one who spoke to them or came to their house. One other point which demands notice is that Thungan Chetty was cross-examined with regard to the deposition he gave before the committing Magistrate and his deposition has been filed as exhibit I in order to show that the statements he has made in this Court differ from his previous statements. Here he has said that the prisoner, on the night of the 29th May, asked him if Karuppayee's relations meant to protect him or to take away his life, but the following is the passage in his former deposition to which his attention was drawn and which has now been made evidence in this Court.— "The accused Alagiri Thevan embraced me saying "O brother", and I said to him 'why did you come, you sinner? you committed that atrocity?'. He said he had committed the act through ignorance and stupidity and I asked him and he said 'my elder sister and my elder brother came here to settle the matter amicably. You should help and compromise the matter and protect me". So far from there being any contradiction in substance, it appears to me that the previous statement made by the witness confirms his present testimony which receives further corroboration from the fact that the prisoner's visit to Thungan Chetty was reported to the Police on the 30th May.

9. No suggestion has been made that any of the witnesses are actuated by hostility against the prisoner, while on the contrary the evidence of Thangammal shows that all the members of Karuppayee's family were in favour of her marriage with him. The additional investigation which has now been made and the cross-examination to which the witnesses have been subjected have, in my opinion, completely removed any doubts which rested on the case for the prosecution and there is absolutely no reason for discrediting the evidence adduced against the prisoner. The testimony of the eye-witnesses, as well as the testimony regarding the admissions made by the prisoner furnish, in my opinion, conclusive proof that he deliberately and barbarously murdered Karuppayee. Hence concurring with the assessors I convict him of murder. There is not a single extenuating circumstance in the case and the only punishment I can inflict is the punishment of death. I must therefore sentence the prisoner Alagiri Thevan to be hanged by the neck until he is dead. This sentence is subject to confirmation by the High Court and the prisoner is informed that if he wishes to appeal he must do so in seven days.

Madura,
10—12—94.

W. DUMERGUE,
Sessions Judge.

Serial Number.	Description of the accused.						Date of.					Explanation of delay.
	Name.	Father's name.	Caste.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Commencement of trial.	Close of trial.	
1	2						3					4
S. C. 59 of 1894.	Alagiri Thevan.	Solamuthu Thevan.	Kallan.	Cooly.	Kanniamputty.	About 35.	18th May 1894.	18th May 1894.	6—8—94.	4—12—94.	5—12—94.	

Jud Cf 10113/94

ENCLOSURE I (a).

In a letter from the Sessions Judge of Madura,
dated 10 December 1894 No. 806

High Court Criminal Appeal No. 527 of 1894
High Court Referred Trial 56 of 1894

Copy of Session Judgment in Session (Retrial)
Case 59 of 1894

R. C. 7 of 1894 on
the file of the 2 Class
Magistrate of Perakolam

Enclosure II to the High Court's letter dated 6th February/95 No. 250.

Judicial.

CHIEF SECRETARY
5 FEB 1895
GOVERNMENT OF MADRAS

5
Jud
2
5th

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday, the twenty-third — day of January,

One thousand eight hundred and ninety-~~three~~ five.

PRESENT :—

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

and

The Honourable Mr. Justice Parker.

Referred Trial No. 64 *of* 1894.

Alagiri Tevan ——— *Prisoner.*

Trial referred by the Court of Session of the Madura *Division for confirmation of the sentence of death passed upon the said Prisoner in Case No.* 59 *of the Calendar for* 1894.

CRIMINAL APPEAL No. 631 OF 1894.

Appeal by the Prisoner against the said Sentence.

This case coming on for hearing, the court delivered the following

Judgment:- It is urged that there are some discrepancies in the evidence ~~of~~ for the prosecution and that the conduct of the witnesses is in some respects unprobable. First of all it is said to be strange

Strange and inaccounted for that witnesses 3, 4 and 5 did not go back with the Villagers to the place where Karupayi's corpse was lying and tell them what they had Seen. But all these witnesses are young and it was natural that they should have been frightened at what they had seen. That they were really present and might have seen what occurred appears from Andi's evidence, and the Head constable got their names from Karuthaveeran in the course of the night while he was making enquiries. The inquest report had been despatched before enquiries were made of them by the police. With reference

reference to the objection that Thangammal would not have left her Step-daughter in the field with the man who had threatened to cut her, we observe that Thangammal States She did not know the reason why prisoner was about to leave and return to his Village. From Veeran's evidence it would appear that Kathammal was present when the prisoner was ordered to go away and that Thangammal was moving about the house and might not have heard what passed. This does not appear unnatural when it is remembered that Karupayi was Kathammal's own daughter, and would naturally have complained first of all

all to her own mother of the threat used to her rather than to her Step-mother. There seems no reason whatever to doubt the direct evidence for the prosecution that prisoner committed the murder, and the evidence leaves no doubt either as to the crime or the motive for it.

We cannot but confirm the conviction and Sentence and dismiss the appeal.

By the court

(Signed) A. J. Forbes.

Deputy Registrar,
appellate Side.

A true copy

[signature]

~~Deputy~~ Registrar,
appellate Side.

SR 8-2-95 Kol 6/2

Enclosure I to the High Court's letter dated 6 February/95 No. 280.
Judicial.

CHIEF SECRETARIAT
8 FEB 1895
GOVERNMENT OF MADRAS

Jud
594

No 280 Jud. 594

High Court of Judicature,
Madras, 6th February 1895.

From

A. W. Foster Esquire,
Registrar, High Court, appellate side,
Madras.

To

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

Honourable Sir,

I have the honor to forward a copy of the High Court's judgment in Referred Trial No. 64 of 1894 (Criminal appeal No. 631 of 1894) and a copy of the Sessions Court's judgment dated 10th December 1894 in Madura Session case No. 59 of 1894 as requested in the Proceedings of the Madras Government, dated the 5th instant, No. 245. The case first

first came before the High Court in Referred Trial 56 of 1894 (Criminal appeal 527 of 1894) when a retrial was ordered. The Sessions Judge's original Judgment as well as the High Court's order directing a new trial are also forwarded for reference.

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

Registrar,
Appellate Side.

SB
6/12.

CM 6/12

[G. 25.]
100—21-12-94.

DEPARTMENT.

Current No. 594 of 6 February

From

Registrar. G.O. 245
Dated 5. 2. 95. 189 .

FOR ORDERS.

This is an appeal for mercy from Aligiri Servai.
He was first tried & sentenced to Death in Madura Sessions Case 59 of '94; but the High Court (in Criminal Appeal 527 of '94 and Referred Trial 66 of '94) ordered a retrial (Muttusami Aiyar. J. & Best. J.)
2. The retrial before the same judge, Mr. Dumergue, resulted in the same sentence which was confirmed by the High Court (Collins C.J. & Parker. J.) in Criminal Appeal 631 of 1894 & Referred trial 64 of 1894.
3. The crime was committed on the 18th May 1894; the man was apprehended on the 4th August; the first trial took place on the 5th October, the retrial on the 4th & 5th December, the sentence being finally confirmed on 23rd January.
4. There has been a delay of between five & six days in submitting the petition for orders; the paper called for on 2nd 245 5.2.95 having been received from the High Court on the 3rd inst-pro

There is nothing in the petition which is inside the S.C. of 5/2/95.
I do not think there is the least doubt either of the fact of the murder or of the deliberate nature. The petn should be left to his fate.

WS
14/2/95

It is a very clear case. The law must take its course

JG 14/2

I agree
W
16 Feb

only this
day is attributable to
the fact that the letter from the High
Court was not marked urgent, (as it
should have been in view of the language
used in G.O. 245, and contained nothing
to show that 5-2-95 the subject matter
was of an urgent description.- In
future cases of this description, the High
Court will be expressly requested
to mark the reply as "very urgent".
I cannot say that any blame attaches
to the office; it was not unnatural that
the High Court should take several days
to supply Govt with a copy of a Sessions
Judgment & there was thus not such delay
in the reply as should have attracted the
attention of the clerk. He submitted the
papers & was not aware of any delay after it had
reached him from the references.

D
14.2.95

As to this delay, there was a case
the other day of serious delay in the Rev.
Dept in which about 6 days were
taken to reference a paper which needed no
reference & in sending it home. This has
led to ask what the system is. It seems
true that letters should only be opened by
some responsible person who should be sure
before by a mere glance at the docket &
subject whether a prima facie urgent or no, &
in cases in which it is to take immediate
steps to dispose of it. In this case I think
no great opening was needed. If seems
papers don't go into the record until disposed
of. It may be said that the petition was
copied & went into the record & had
to be sent again by the reference, because
the G.O. was passed on it. But the reply to that
is that in a case of murder
the record before the disposal of the
case should not have issued at all
until after the interlocutory O.M. or some
such order in the matter had actually
been passed. The petition had actually
been before the G. of I. 2/95 since
the 14/2/95

Petition for Mercy

V.E

A.M. & Cire.

Submitted direct in the absence
of C.S.
D
14.2.95

V.E

Local Prisoner
from Madura
for reference
from Madras

D
16.2

[J. 16.]
1,000—5-2-94.

Judicial Department.

V.E

CHIEF SECRETARIAT MADRAS.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following letter, dated 2d February 1895 No 202, from the Superintendent of the District Jail at Madura, forwarding petition from Convict No 9484 Magiri Tevan under sentence of death in Madura Session Case No. 59 of of 1894, confirmed by the High Court of Judicature.

Read also letter, dated 6th February 1895 No. 250 from the Registrar of the High Court, Appellate Side, forwarding ~~the record of~~ the case. papers connected with

ORDER THEREON, 16 February 1895, No. 356

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 9484, Magiri Tevan

2. The law will take its course.

(From orders)

(True Extract.)

D
16.2.95

Chief Secretary.

To the Superintendent of the Madura Dt Jail } desp 16/2/95
for communication to the Prisoner.
" Inspector-General of ~~Jails~~. Prisons
" Hon'ble the Judges of the High Court, ~~with papers returned.~~

Police

[G/75]

Chief

NOTE FOR THE ~~UNDER~~-SECRETARY.

Submitted for signature.
The copy for the Supt-
was despatched on
Saturday.
With reference to the
remarks regarding
delay, a note will be
submitted through the
Under Secy.

1892

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

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.