

Judicial (1895) Department.

ORDINARY MS.

G.O., No. *422*

Dated *25th Feb. 1895*

INDEXED.

[Despatch Abstract.]

APPEAL AGAINST ACQUITTAL

Directing the Government Pleader, Madras, to present an appeal to the High Court against the order of acquittal passed by the Session Judge, Kurnool, in Sessions case No. 25 of 1894 on his file.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	250		6-2-95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C	1122		1895				

ms

829

ms

From

THE GOVERNMENT PLEADER,

Madras.

CHIEF SECRETARY
20 FEB. 1895
GOVERNMENT
MADRAS

Dated 19. 2. 95
Recd. 20. 2. 95

No. 157

ENCLOSURE.

pc 328
xt2

Recommending an appeal
against acq. in *Thunrool*
Sess. Case No 25 of 1894

250 - 6 - 2 - 95 *ms*
3171 - 22 - 12 - 94
2594 - 31 - 10 - 94

Y
Accepted

H.M.

Order 25-2-95
No 422

The Govt Pleader will be
instructed to present an appeal
under sec. 417 C.P.C.
Against the Order of acquittal
passed by the Sessions Judge
Thunrool in Sessions Case 25 of 94
on his file.

J
11. 2. 95 *ms* 22/2/95

To the Govt Pleader (recom)
The Dist. Commr. Bellary
(1000) *Despd*
25/2/95
File
21. 2. 95

28/2

CURRENT NO. 829

Government Pleader's Office,

High Court,

No. 157.

MADRAS, 19th February 1895.

From

E. B. POWELL, Esq.,

GOVERNMENT PLEADER,

Madras.

To

THE Chief Secretary to Government
Fort St George.

SIR,

x enclosed
returned }

With reference to the Proceedings
of Government No 250 just dated the
6th instant, I have the honor to
submit the following
opinion:-

1. I observe that there are numerous
contradictions in the evidence of the
Madiga witnesses, though the Sessions
Judge has been somewhat unfortunate
in those he has chosen, as has been
pointed out in the memorandum of
the

the District Magistrate.

2. The first two witnesses say they carried Basappa's Corpse some part of the way. The 3rd witness says the first 2 and another carried it to the sand hills. The 4th witness says the 1st witness and 3 others not mentioned by 3rd witness carried it. 5th witness says it was carried by 1st and 2nd.

3. There are other points also on which the witnesses contradict not only each other but their own statements on former occasions. No doubt this is in a great measure owing to lapse of time. The Judge does not seem to have apprehended the fact that in dealing with witnesses of the type before him speaking to events which occurred nearly a year previously it was necessary to make some

some allowance. If in doubt as to which of the statements was the most reliable he might have safely chosen the earliest.

4. In my own mind I have no doubt at all that the present accused was present in the village and directed the burying of the Corpse. There was no possible reason for those Madiga witnesses making such a statement if it were not true. They are directly under the influence and orders of the Reddi and he could make matters very unpleasant for them. Their interest lies in propitiating the Reddi. At the time they gave their first statements before the Court in Bellary there was no intention to prosecute the accused so it cannot be said that they were tutored by the Police to obtain

1. obtain a conviction against him. It
2. was the remark made by the sessions judge
of Bellary in his judgment which led
to this prosecution.

5. I agree with the District Magistrate
that the evidence of alibi is by no means
conclusive. Assuming the accused's
own statement to be true viz that
he was in Bairadevanhalli on Sunday

the 24th there was no physical impossibility
in his being present on the same day
in Changanur which according to him
is only 2 miles from Bairadevanhalli.

No mention is made by him of his
absence from the village either in conversation
with the Police Officers or in his report.
In fact we hear nothing of it till
he is examined by the Magistrate.

6. As pointed out by the District Magistrate
the

the Sessions Judge has not taken into
consideration the fact that the 8th prosecution
witness who was 10th prosecution witness
in the former case, and whose evidence
was believed by the High Court, incident-
ally mentioned in his evidence in that
case, that he and the then other murdered
men went to the village Magistrate who
was seated in the Chavadi. He had no motive
whatever for mentioning the village Magis-
trate and unless it was a true account of
what occurred on that day before the
murder took place, he ran the risk of
having the whole of his evidence discredited
by reason of a statement which was
quite immaterial and unnecessary.

7. I consider that in the event of an
appeal being preferred against the acquittal
in Idnur session Case No. 25 of 1894
the High Court will most probably order
a retrial before another Court.

I have the honor
to be
Your most obedient
servant
W. V. V.
Esq. Pleader

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

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READ AGAIN G.O., No.
 189

DATED

CURRENT No.

ENCLOSURE TO O. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DITTO.

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

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N.B.

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