C.F. Old No. 73, New No. 24—563,834—20-10-59.

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ORDINARY MS.

G.O., No. 423

Dated 25th Feb. 1895

INDEXED.

[Despatch Abstract.]

PETITION FOP MERCY

Declining to interfere with the sentence of death passed on convict Dhikonda Subbaya in Kistna Sessions case No.33 of 1894, and drawing the attention of the Superintendent, Central Jail, Rajahmundry, to Rule 1019 of the Jail Code.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	1126 1127	J 1895					

Enclosure. 1

Introduce

Enclosure 2.

Superintendent Central Jail.

Petition for mercy

From

Dhirkonda Subbayya
Condemned prisoner No: 3171
Central Jail
Rajahmundry

To

His Excellency the Governor
in Council
Madras

Dated 18th
Received } February 1895

No 338

Prays for mercy on the ground that he is innocent of the crime as found — by the Assessors and that the case against him was made up by the Village Munsiff and the Police in order to save the real offender who is a wealthy villager

Post Tailor 3&3d

Enclosure 2.

To

His Excellency the Right Honorable
the Governor in Council.
Madras

The humble petition for mercy presented by Condemned Convict No: 3171 Dhirkonda Subbayya of the Central Jail, Rajahmundry.

Most Respectfully Sheweth:—

The petitioner was sentenced to death by the Sessions Court, Kistna Division in Calendar case No: 33 of 1894 and his sentence was confirmed by the High Court, Madras in Referred Trial No: 3 of 1895. He begs to state that he is quite innocent and that the offence was brought home to the petitioner in order to save a wealthy and influential man of the village who was the real murderer, — most of the villagers belong to the same caste as the real offender and are closely related to one another bearing the same house names.

The petitioner had been living at Guttikonda for about two years; and one day, about two months prior to this offence Bandla Veeramma (12th Prosecution witness) assaulted the deceased, in the day time, in the bazaar of Guttikonda, falsely accusing her of having robbed cucumbers and grass from his farm

ence

The deceased informed the petitioner on his return home from field work, in the evening, of all that had happened, stating that Bandla Verranna had been making proposals for criminal intimacy with her for about five or six months prior to that time and that her constant refusal had provoked him and resulted in his beating her on that day, under a false pretence. The reason she assigned for her long silence without informing the petitioner of this was, for fear that the petitioner would harbour hatred towards a wealthy and influential villager, which might result in the ruin of the petitioner and his family, who were mere day labourers in that village. Afterwards he spread a false report that the deceased had borrowed Rs 10 from him, which she did not return when demanded by him. His motive for this was to frighten the deceased who might fall a victim to his passions, owing to her poverty. In all this the petitioner is the only adviser to his faithful wife, against whose fidelity the petitioner had not the slightest cause to suspect, and he gave her strength of mind, telling her not to be afraid of Verranna. The report that the deceased was lent money by Verranna, caused alarm to Bandla Subbi (1st Prosecution witness) who was

a kept woman of Verranna, lest she would be forsaken by Verranna, to make room for her rival. Subbi, very often used bad words to the deceased whenever she met her, which caused her to keep away from all such women as Subbi, to avoid unpleasant talk. On the day the murder was committed by Verranna, the petitioner asked his wife to bring Chillies from the bazaar near Subbis house, for he disliked to ask the bazaar man in front of his house, as he already owed him some money, thinking that the request might be refused. The deceased declined to go, at first, to bring the chillies, stating that Subbi would attack her in her usual way; but the petitioner induced her to go, stating that he would follow her shortly. She accordingly went there, and when the petitioner approached the bazaar, he heard the death cry of the deceased and hastened to the spot, where he saw Verranna stabbing the deceased with a knife, while Subbi was engaged in removing silver bangles from her. When Verranna saw the petitioner he left the deceased and was going away. The petitioner, When he saw the deceased covered with blood

was

was stupified for a time, being unable to do anything. Then the petitioner plucked up Courage though shaking on account of the horrible scene he witnessed, yet he attempted to stop the miscreant from running away from the place and succeeded in catching his wrist, although trembling with fear, for Verranna had still, the knife, in his possession and he threatened to kill the petitioner. He however got away very easily from the petitioners feeble hold, and in doing so, he struck the petitioner with the weapon on the neck; and the blow would have proved fatal to the petitioner had he not partly warded it off with his hand, and in doing so, lost his balance and fell down prostrated, a few yards away from the deceased. Verranna ran away leaving the petitioner behind in an unconscious state and who was soon covered with blood. When the village munsiff came to the petitioner, who was not in a position to speak, he made signs that Verranna had committed the offence. In the same manner when the Police came and questioned the petitioner, he made them understand by his signs that Verranna did it. Verranna who went to the fields, was then sent for by the Police, and before he came they all had consulted it and brought home the charge to the petitioner.

Subbi

Subbi (1st Prosecution witness) being woman of Verranna is the only eyewitness in the case, and she is interested, as Verranna is her paramour. Bandla Chenchrayyagari Kolayya (13th Prosecution witness) who professes to be an eyewitness is a relative of Verranna. It was after the Police appeared on the scene, that the Munsiff and the Police joined together to concoct evidence against the petitioner, who was repeatedly told by them that justice would be meted out to him, and he was made to ~~understand~~ believe that the case would be justly settled. The petitioner trusted in them only; being unable to move about on account of loss of blood and as there was no one else to look after him. The petitioner did not live sufficient time in that village to make himself acquainted with any one of the villagers, and the few who knew him, as their day labourer, forsook the petitioner when they found the Police and other authorities side with Verranna. The Police and the other Officials released Verranna from custody, as soon as their wishes were fulfilled, and threw the whole burden upon the petitioner. It was Verranna's wealth which was freely distributed, not only to collect evidence

collect evidence but to bribe the authorities that really saved his life and dragged the injured and innocent petitioner to the gibbet. Verranna had wronged the petitioner more than once prior to the commission of this offence, by assaulting the deceased and by poisoning and killing the petitioner's she-buffalo and a bull, and also by spreading such reports as would rouse the villagers to drive the petitioner and his wife out of the village. The Hospital Assistant, when he first examined the petitioner's wound, in the presence of several people, said that it did not seem to him as self inflicted, but strange to say, he changed his opinion, when he found the real offender, a wealthy man. The prosecution failed to prove the motive that actuated the petitioner to commit this offence; and there are several discrepancies in the evidence of several witnesses. If the petitioner had intended to kill his wife, or if he had suspected of her infidility, he would, surely, have perpetrated the crime, at home and that during the night, without being seen by any one; and certainly, would not have allowed her to go so far as the bazaar and there murder her in broad day light in the presence of several and

and near a house belonging to another person. The petitioner being a stranger to the village, every opportunity was afforded to Verranna who is a wealthy and influential villager, to make reparation of his iniquities by a free distribution of money. Verranna considered, that the deceased, a poor labouring woman, would fall an easy victim to his vicious habits, but disappointed at all the trials he had made to ruin her chastity and enraged at her constant refusal, he determined to murder her and was no doubt instigated by his concubine, and seeing her alone, his evil passions were aroused and he committed the crime.

Your humble petitioner begs to point out that the assessors said that he was not guilty, which they would not have done if they had believed the story of the prosecution; and therefore prays your Excellency in Council to do justice to your poor petitioner who was unjustly wronged and show mercy and order his release from the Jail.

Rajahmundry Central Jail
18th February 1875

+ Mark of Dhikkonda Subbayya

Attested

Superintendent
Central Jail

Assistant Jailor 3rd Grade

Petition for Mercy

From

Dhikonda Subbayya

Condemned prisoner No 3171

Central Jail, Rajahmundry.

To

His Excellency the Right

Honorable the Governor in

Council

Madras.

Dated 18th February 1895.

Received

No 338

Prays for mercy on the ground that he is innocent of the crime as found by the Assessors, and that the case against him was made up by the village Munsiff and the Police in order to save the real offender who is a wealthy villager

Enclosure 3.

FORM No. 53.

Nominal Roll of Convict No. 3171 Dhikonda Subbayya

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	14th December 1894	Sessions Judge, Kistna	33	Good	Good	Confirmed	Previous Convictions Nil.

Rajahmundry Central JAIL OFFICE, February 1895.

Rules 701 and 704.

Superintendent of Central Jail.

10. Gopu Ramaswami.
11. Sheik Mohideen
12. Bandla Viranna.
13. Bandla Chendrayyagari Kotayya.
14. Trichinopoly Venkatachelam Rangaswamichetti.

JUDGMENT.

For the reasons given in my letter of reference to the High Court I convict the accused under section 302 I. P. C. and sentence him, subject to confirmation by the High Court, to be hanged by the neck till he is dead.

Masulipatam,
17th December 1894.

E. A. ELWIN,
Ag. Sessions Judge.

Enclosure 4

P. 21-1-95

IN THE COURT OF SESSIONS OF THE KISTNA DIVISION.

CALENDAR CASE No. 53 OF 1894.

Accused's Name:— Dhikonda Subbayya (*Defended*).

Offence :— Murder punishable under section 302 of the Indian Penal Code.

Opinion of Assessors :— Not guilty.

Finding of the Court :— Guilty.

Sentence :— Death subject to confirmation by the High Court.

Prosecution Witnesses :—

1. Bandla Subbi.
2. Peddinti Kotamma
3. Vadlamudi Punnamma.
4. Bandla Naramma.
5. Guttikonda Adigadu.
6. Tondapu Venkatanarsu.
7. Tondapu Venkayya.
8. Talluri Guravayya.
9. Bandla Perantalu.
10. Gopu Ramaswami.
11. Sheik Mohideen
12. Bandla Viranna.
13. Bandla Chendrayyagari Kotayya.
14. Trichinopoly Venkatachelam Rangaswamichetti.

Assessors :—

1. Vistnubhotla Vallabhasomayazulu, (Brahmin).
2. Ghantasala Veerabhadraswami (Baniyan).

Defence Witnesses :— Nil.

JUDGMENT.

For the reasons given in my letter of reference to the High Court I convict the accused under section 302 I. P. C. and sentence him, subject to confirmation by the High Court, to be hanged by the neck till he is dead.

Masulipatam,
17th December 1894.

E. A. ELWIN,
Ag. Sessions Judge.

Dated 18th February 1895
Received

No. 338

Prays for mercy on the ground that he is innocent of the crime as found by the Assessors, and that the case against him was made up by the village Munsiff and the Police in order to save the real offender who is a wealthy villager

SESSIONS COURT OF THE KISTNA DIVISION,
MASULIPATAM, 17TH DECEMBLR 1894.

From

E. A. ELWIN ESQUIRE,
Acting Sessions Judge.

To

The Registrar
of the High Court of Judicature,
APPELLATE SIDE,
MADRAS.

SIR,

I have the honor to forward the record in Sessions Case No. 33 of 1894, in which sentence of death has been passed.

2. The accused, who appears to be about 35 years of age and lives by petty cultivation, is charged with murdering his wife Kotamma at Guttikonda on 10th October last. He pleads not guilty.

3. The story of the prosecution is as follows:—The accused and his wife had been living at Guttikonda for about 2 years. For some time previous to the date of the offence they had been in the habit of quarrelling for some reason or other, and their neighbours had heard them quarrelling in their house on the night of the Dasara festival. The accused was then reproaching his wife for lingering when she went to get grass. The quarrel was renewed early the next morning, that is, on 10th October, and Kotamma threatening the accused that she would leave him and go to her parents' house at Piduguralla, a village about 10 miles off, started from their house down the street. The accused followed her at a little distance Kotamma ran into the compound of a woman named Subbi, who was outside her house washing her hands and feet, and told her that her husband had been beating her and was pursuing her. The accused came up, and on his wife's refusing to return home dragged her by the hair to the other side of Subbi's house, where there was a pandal, and began to attack her. Subbi heard the sound of a blow, and followed them to the pandal, where she saw Kotamma being stabbed by the accused with a knife. She ran back and cried out in front of her house. Her cries attracted several persons to the spot, one of whom arrived just in time to see Kotamma fall down after receiving 2 stabs and the accused inflict wounds on his own neck and then fall down too. Other persons saw the accused lying on top of his wife and blood flowing from both bodies. A large number of the villagers soon came up, and the village munsif who found Kotamma dead sent a report of the occurrence to the police. The accused soon recovered, but when questioned only replied by meaningless signs. After the police came, he took them to the house of one Pakirayya and ultimately showed by signs that Pakirayya's son Viranna had inflicted the wounds on himself and his deceased wife. The corpse, the accused, the knife found by his side, and the cloths worn by him and his wife were then sent to the hospital at Karempudi.

4. Fourteen witnesses have been examined for the prosecution.

5. 1st witness, Bandla Subbi, is a kamma woman 40 years of age, who lives alone. She was washing her hands and feet early on the morning after the Dasara festival in the open space outside her house when the deceased Kotamma came running up to her and said, "My husband will not allow me to go to my parents' house. He beat me last night. He is pursu-

ing me." The accused then appeared and told his wife to come home. He was wearing a sheet cloth up to his neck, and his wife a dark blue cloth and a variegated bodice, similar to those now before the Court. On his wife's refusing to return home the accused dragged her to the lane where there is a pandal. Witness heard the sound of a blow and followed them to the pandal. She saw the accused pull out the knife now before the Court from between his wife's shoulders at the back and stab her below the left armpit, and ran out in front of her house and raised an alarm. A washerman, named Adigadu, came up and went to the pandal with witness. The accused and his wife were both lying bleeding on the ground, the accused on his wife's breast. The accused was holding the knife near a wound in his neck. Three women named Punnamma, Kotamma and Naramma were then looking on from the other side of the wall in front of the spot where the bodies were. Witness is not related to Bandla Viranna, and he does not come to her house.

6. 2nd witness, Peddinti Kotamma, is a jangam woman, who lives near Subbi. She was pounding millet in her house when she heard Subbi cry out, "Subbanna and his wife are dead," and at once ran over to Subbi's low wall. As she was leaving her house she met one Bandla Kotayya coming towards her; he said that he was returning from calling coolies. Witness, Punnamma, and Naramma looked over the wall. The deceased woman was on the ground and the accused was lying on her breast holding a knife pointing to a wound in his neck. Blood was flowing from both bodies. The deceased was wearing a cloth like the one before the Court. The washerman Adigadu and Subbi were then standing near the bodies on the other side of the wall.

7. 3rd witness Vadlamudi Punnamma, a kamma woman, gives very similar evidence. She is not related to Bandla Viranna, but her father bears the same house name as Viranna.

8. 4th witness, Bandla Naramma, also a kamma woman, deposes much to the same effect. She is not related to Bandla Viranna.

9. Of the 2nd, 3rd, and 4th witnesses, the 2nd witness alone saw Bandla Kotayya. All three women remained a very short time at the wall, as they were terrified by what they saw on the other side.

10. 5th witness, Guttikonda Adigadu, is an old washerman. He was attracted to Subbi's compound by her cries. He and she stood near the pandal. The deceased Kotamma was lying there on the ground and the accused was lying on top of her. They appeared to be dead, and there was a pool of blood by their bodies. Witness grew afraid and came away without noticing much, except that the bodies were there stained with blood. He had not left his house at dawn that morning with the other washermen, as he was suffering from head ache.

11. 6th witness, a komati, is a neighbour of the accused. The accused and his wife came to the village 2 years ago. For one year past they used now and then to quarrel. On the night of the Dasara festival witness heard them quarrelling. The accused said to his wife, "You make much delay when you go to get grass, you linger in other people's houses," and beat her. The quarrel was renewed early the next morning, and Kotamma said "I shall go away to my parents' house at Piduguralla. I cannot live here. You are always beating me". The accused forbade his wife to go, but she started out and went down the street. The accused went inside and coming out with a sheet cloth wrapped round him followed her. A little later, witness heard that the accused had killed his wife, and when the police came to the village he went to the scene of offence and saw Kotamma lying dead.

12. This witness at first denied that the accused took his child with him when he left the house, but on hearing the deposition, marked for the defence as Exhibit 1, given by him before the magistrate read out admits that the accused did take the child but not under his arm.

13. 7th witness, also a komati and a neighbour of the accused, gives a very similar

account, though he did not hear what the accused said to his wife on the night of the festival. He does not remember whether the accused had his child with him when he was following his wife.

14. 8th witness, a potter, is the accused's next door neighbour. He gives much the same story as 6th and 7th witnesses. He heard the accused say to his wife, "If you want to go to Piduguralla, I shall follow you". He did not see their child that morning. He identifies the knife that he sees in Court as the accused's; he had borrowed it from the accused now and then to cut flesh.

15. 9th witness Bandla Perantalu is the village munsif. He received information early on the morning of 10th October that the accused had stabbed his wife by Subbi's house and went there at once. He found the deceased Kotamma lying by the pandal dead. She was wearing the cloth and bodice now before the Court, and was covered with blood so that witness could not make out how many wounds she had. The accused was lying on her breast with a wound in his neck. The knife now before the Court was on the ground near the bodies and within the accused's reach. The accused was wearing the red cloth, and had by his side the sheet cloth, both of which are in Court. He only made meaningless signs, when spoken to Subbi, 1st witness, was questioned, and the reports marked E and E$_1$ were submitted to the police and magistrate about 7 A. M. Witness remained at Subbi's house until the police came and the police to the house of one Bandla Pakirayya. It was at length elicited that he wanted about 10 or 11 A. M. In answer to questions the accused, who still did not speak, took witness Pakirayya's son Viranna, who was accordingly sent for from his field. On Viranna's arrival the accused made signs that he accused Viranna of inflicting the wounds on himself and his deceased wife. Viranna denied having done anything. An inquest was then held. Witness was not a panchayatdar, but signed the inquest report, Exhibit H. Subbi 1st witness, was the only witness examined at the inquest. Most of the other witnesses had gone to their fields and were examined in the evening. Eight wounds were found on the deceased's body and the accused had one wound on the neck. After the inquest the corpse was sent to the hospital at Karempudi along with the accused. Witness is not related to Bandla Viranna, though they belong to the same caste Pakirayya, Viranna's father, is a wealthy man. Witness does not know that the deceased Kotamma was of immoral character. There is a rumour to that effect.

16. 10th witness is the head constable in charge of the police station at Piduguralla. He corroborates the last witness' account of what occurred after the arrival of the police. He went to Guttikonda on 10th October after receiving the village report, Exhibit E, arriving there at 11 A. M. He prepared the plan, Exhibit G, showing the relative positions of the houses of the accused and the witnesses. He sent a copy of the original inquest report to the Magistrate on 15th October, and attached the original Exhibit H, to the charge sheet submitted on 24th October. None of the panchayatdars is a witness in the case. Witness was absent from his station investigating the case until 14th October, and the Magistrate was at Guttikonda on 13th October. Witness submitted a copy of the inquest report as soon as he returned to his station.

17. 11th witness is the constable who took the corpse, the accused, the kinfe, and the cloths to the hospital assistant at Karempudi. The accused's wound was dressed the same night, and the postmortem examination of the corpse was held the next morning.

18. 12th witness, Bandla Viranna, is a young kamma aged 18. He had gone to his field before dawn on the day when the murder was committed. He returned to the village about noon on being told by the mohatad and vettis that the village munsif and police had sent for him. The accused in answer to questions showed by signs that witness was the person whom he wanted. There was no criminal intimacy between witness and the deceased Kotamma. Neither

Kotamma nor the accused owed him money. He never went to 1st witness' house, nor stabbed the deceased Kotamma or the accused.

19. 13th witness, Bandla Chendrayyagari Kotayya, is a kamma. Early in the morning of the day after the Dasara festival as he was going to the chuckler hamlet for coolies to work in his field he heard cries in Subbi's voice of, "Dying, dying". He was then in the bazar near Subbi's house He went up to the low wall by the side of her house. He saw Subbi disappearing round the corner towards the front of her "midde" building just as he got up to the wall. On looking over he saw the accused stab the deceased Kotamma twice with a knife like the one before the Court. Kotamma fell down and the accused after stabbing himself on the neck also fell down. Blood was flowing from both bodies, and witness got confused, and went home He gave up going to fetch the chuckler coolies, and worked in his field that day with some sudra coolies whom he had already engaged. As he was leaving the wall he met 2nd witness coming up to the wall, but did not tell her that he was returning from getting coolies. He is not related to Bandla Viranna, and there is no pollution of cousinship between them.

20. This witness says that Viranna and he call each other merely by their names, but not by any term of relationship. In his deposition marked for the defence as Exhibit 2, before the magistrate, while stating that there was no relationship or pollution of cousinship between them, he admitted that he called Viranna 'Chinnayya', that is, uncle.

21. 14th witness is the hospital assistant at Karempudi. The corpse, the accused, and some earth, as well as the knife and cloths now before the Court, were brought to him at about 10 P. M. on 10th October. The earth and cloths were stained with fresh blood. Witness examined the accused that night. He found a punctured wound half an inch deep in the middle of the right side of his neck with an incised superficial wound on either side of the punctured wound. His idea is that the accused began to cut himself with the knife, and finding the process painful stabbed himself somewhere in the middle of the incised wound, thus making the latter wound to appear as 2 wounds, one on either side of the punctured wound caused by the stab. The wounds might have been caused by the knife now before the Court. They were in all probability self inflicted, for had they been caused by any other person they would have been deeper. There were no wounds on the accused's hands or on any other part of his body but the neck. The postmortem examination of the corpse was held the next morning. Witness found 7 punctured wounds and 1 incised wound. The former were (1) on the left side of the neck below the ear, (2) below the right side of the chin, (3) on the left shoulder 1½ inches below the joint, (4) on the middle of the left arm leading to the inner side (5) below the left arm pit, (6) on the left arm pit below the blade bone, (7) on the back near the right blade bone. Wound (2) cut the trachoea, wound (5) punctured the liver and passed through the left lung and diaphragm, and wound (6) punctured the heart and passed through the lung. Wound (5) was 4½ inches deep, and wound (6) 5 inches deep, the other wounds being from one to 2 inches deep. The incised wound was on the right middle finger. All the wounds were caused by a narrow pointed sharp instrument like the knife before the Court. The deceased must have died from the effects of the punctured wounds (5) and (6), and death must have been instantaneous. Witness gave the certificate marked J in the accused's case and that marked K in the deceased's case.

22. Such is the evidence for the prosecution. The 13th and 14th witnesses were examined 10 days later than the other witnesses, 13th witness has only just recovered from serious illness. The committing magistrate did not sufficiently question 14th witness, and failed to make it appear that his deposition was taken in the accused's presence, and the witness had therefore to be examined in this Court. The accused was at the adjourned hearing given an opportunity of recalling witness previously examined.

23. On the conclusion of the evidence for the prosecution the accused's pleader claimed that the public prosecutor should sum up at once and that the last speech should be for the accused. The public prosecutor pointed out that certain documents had been marked for the defence and that under the decision at I. L. R. 11 Madras 339 the prosecution had therefore the right to reply. Certain Calcutta decisions to the contrary, viz I. L R. 10 Calcutta 1024, 14 Calcutta 247, and 17 Calcutta 933 were cited by the defence, but being unable to distinguish this case from the Madras case I allowed the public prosecutor's objection

24 The defence is that Bandla Viranna, 12th witness, used to have illicit intercourse with the deceased and gave her a present of Rs. 10, that as the deceased had ceased to lead an immoral life for 4 months previous to her death Viranna got angry and tried to recover the Rs. 10, that on the morning after the Dasara festival the accused saw Viranna stabbing the deceased on the other side of Subbi's low wall and interfered, that Viranna thereupon stabbed the accused in the neck causing him to fall down senseless, that the accused subsequently pointed out Viranna to the police by making signs, and that as Viranna is a rich man no one will speak against him The accused got the Committing Magistrate to bind over 4 witnesses to appear here to give evidence on his behalf, but he refuses to examine them on the ground that they will not speak in his favor.

25. It is argued for the defence that no motive for the accused to kill his wife has been shown, that from the evidence of 6th, 7th, and 8th witnesses it is highly probable that he took up his child when he left the house and that he would not in that case have had his arms free to commit the murder, that there are discrepancies in the evidence of 2nd and 13th witnesses, that if the unsatisfactory evidence of 1st and 13th witnesses, the only eye witnesses, be put on one side, there is really nothing against the accused, that nearly all the witnesses bear the house name of 'Bandla,' that of 12th witness, Viranna, who is said by the accused to be the offender, that the village report does not show that the munsif examined all the witnesses and the case was probably concocted after its despatch, and that the inquest report, which was not submitted in original for many days, is not proved by any of the panchayatdars and should not be relied upon.

26. There certainly does not appear to have been any particular motive for the accused's act. There is not a particle of evidence to show that the deceased was ever of immoral character or that the accused suspected her of being so. The 6th, 7th and 8th witnesses say that the husband and wife used to quarrel, but it does not appear whose fault it was. Holding, as I do, that there is clear proof that the accused killed his wife, I do not consider that proof of particular motive is essential. They were angry with one another, the deceased with some cause as she seems to have been beaten, and when she threatened to leave her husband and started from the house, his anger towards her seems to have developed into fury, and he killed her.

27. It is not certain that the accused had his child with him when he left the house, but even if he had, there is no reason why he should not have put it down soon afterwards.

28. 2nd witness says that 13th witness told her that he was returning from calling coolies. He denies that he fetched coolies that day and that he told her that he had fetched them. As regards this discrepancy, it has to be borne in mind that the events spoken of by witnesses 1 to 5 and 13 must have occurred within a very short space of time, that what they saw must have been a sickening sight and one likely to confuse their minds at the time, that these witnesses are simple, country folk especially the females and that it would be strange, if not suspicious, were there not a few unimportant discrepancies in their evidence.

29. The evidence of 1st and 13th witnesses appears to me to be far from unsatisfactory, and what they say fits in remarkably well with the story of each of them, with the accounts given by witnesses 2 to 5, and with the plan Exhibit G.

30. It is a fact that several of the witnesses bear the house name of 'Bandla,' but none of them is shown to be related to Bandla Viranna

31. The village report was as full as could be expected, and the munsif was quite right to send off at once to the police and magistrate such information as he had without waiting to collect any more As to the inquest report, I do not see that there is any ground to suspect its not being as originally drawn up. The village munsif who signed it is a witness' and he has sufficiently explained what took place at the inquest.

32. The accused's story about Viranna strikes me as utterly unworthy of credit Viranna, a rough country lad, gave his evidence unflinchingly. His demeanour in the witness box was very much in his favour, and I cannot believe that he was in any way mixed up in the affair. Moreover, the medical evidence shows that it is improbable that the accused's injuries were other than self inflicted.

33. The only conclusion I can come to in this case is that it was the accused who killed his wife. There was no such provocation as would convert his act into culpable homicide not amounting to murder. And he acted in a brutal and determined manner.

34. Differing from the assessors, I have convicted the accused of murder and sentenced him to death subject to confirmation by the High Court. The accused has been informed that if he wishes to appeal he must do so within seven days. He has announced his intention of appealing.

I have the honor to be
SIR,
Your most obedient servant,
E. A. ELWIN,
Acting Sessions Judge.

MASULIPATAM,
17th December 1894.

Compd.
V. K. R.
Clerk.

D No 132
18/1/95

To
The Superintendent of the Central Jail at Rajahmundry
additional copy; one was already sent on 28-12-94

Jud 2
847

634
12-2-95 Enclosure 5

Triplicate

In the High Court of Judicature at Madras.
Wednesday, the sixth day of February,
One thousand eight hundred and
ninety-five.

Present:-
The Honorable Sir Arthur J. H. Collins, Kt.,
Chief Justice.
and
The Honorable Mr. Justice Parker.

Referred Trial No. 3 of 1895.
Dhikonda Lubbayya — Prisoner.

Trial referred by the Sessions Judge of the Kistna Division for Confirmation of the Sentence of death passed upon the said Prisoner in Case No. 33 of the Calendar for 1894.

Criminal appeal No. 20 of 1895.
Appeal by the Prisoner against the said Sentence.

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

Judgment:- It is urged that the case.

case for the prosecution mainly depends upon the testimony of wit-nesses 1 and 13 who profess to be eye-witnesses of the Prisoner stab-bing his wife. It is pointed out that the 13th witness did not give information till some two days after the occurrence. This is ex-plained, however, by the Village Magistrate and it is clear that it was the information given by 2nd witness Kotaumma that caused him to be questioned.

No such objection can be urged against the testimony of Dubbi who gave her infor-mation to the Village Magistrate within half an hour of the occurrence and in the presence of the prisoner himself.

That

that information was embodied in the reports E and E1, which were despatched at 7. a.m. The Police arrived from Pidugu-ralla (6 miles off) about 11 a.m. and Dubbi gave her testimony at the inquest. The Prisoner's accusation of murder against Bundla Viranna was evidently disbelieved at the inquest though there was some idea he might have had an intrigue with the murdered woman and that this might have been pri-soner's motive for committing the murder.

No evidence of witnesses 2-8 furnished material corroboration of

of Lubbi's story and shows that
the prisoner's real grievance
against his wife was that she
wanted to go away to her parents'
house in consequence of quarrels
with him and of his beating her.

The medical evidence also
supports the case for the prosecu-
-tion that the wounds on pri-
-soner were in all probability
self inflicted.

So far as the evidence goes
there is nothing to support the sug-
-gestion that prisoner had any
real ground to suspect his wife
of infidelity with Viranna or
any one else.

We must confirm the conviction and sentence
and dismiss this appeal.

By the Court.

R. Forbes.
Deputy Registrar,
Appellate Side.

No. 228
J

Rajahmundry Central Jail
18th February 1895.

CURRENT NO. 847

From

J. Tyrrell Esqre
Superintendent. Central Jail
Rajahmundry.

To

The Chief Secretary
to the Government of
Madras.

Enclosures 5.

Sir,

I have the honor to forward a petition for mercy presented by prisoner No 3171 Dhirkonda Subbayya of the Central Jail Rajahmundry, sentenced to Death by the Sessions Judge. Kistna in Calendar case No 33 of 1894, and confirmed by the High Court in Referred trial No 3 of 1895.

2. Copies of Judgments of the Sentencing Court and High Court are herewith forwarded.

3. The prisoner will not be executed until a definite reply is received from Government.

I have the honor to be,
Sir,
Your most Obedient Servant
[illegible]
Superintendent Central Jail.

CURRENT NO. 847

From J. Tyrrell Esqr.
Superintendent Central Jail
Rajahmundry.

To
The Chief Secretary
to the Government of
Madras.

See enclosure

Dated 18th February 1895.
Received 21 FEB 1895 SECRETARIAT GOVERNMENT OF MADRAS No. 528

Enclosures 5

Forwarding a petition for mercy in vernacular, presented by a Condemned prisoner, together with its translation into English, and Copies of Judgments of sentencing Court and High Court and a nominal roll

This must have been delivered at the Sorl. Office before office hours. It was not at each house until after 5.15 P.M. — how long after I can't say, because I went out at that hour. I can see no reason why it should not have been sent up by the cart, which must have left the Sorl. Office about 12.30 —
The five copies of G.O. 1259 24.5.94 had have been sent herewith. I can't imagine
BS

Judicial DEPARTMENT.

C. No. 847 of 95

FOR ORDERS.

The story now told by the Petr is materially different from that which was advanced in his defence before the Sess: Ct. (vide para 24 of the letter of reference). For neither story is there any evidence at all — The reason given for this is that the real murderer (the 12th W.) is a wealthy influential man — This might be a matter to be taken into consideration if the Petr had told the same story all along. But he has not — He varies the statements from time to time and about this point seems to be quite reckless — I can see no reason to interfere
BS
21/2/95

I agree. The evidence that Petr committed the murder is complete & I see no reason to believe that it was false & concocted. The Petr's endeavour to implicate Viranna fails because (1) his story as to the relations between Viranna & Deva and has entirely changed, (2) the Sub Jge's opinion in favour of Viranna whom he had seen is practically strong (vide 32) & (3) the wounds of accused were in all probability self inflicted not inflicted by Viranna.
I would reject the petition. JG 22/2
W 23 Feb

Petition for mercy from prisoner No 3171 Dhekonda Subbayya, under sentence of death in the Kistna Sessions Case No 33 of 94 and now Confined in the Rajahmundry Central Jail — The sentence has been Confirmed by the High Court :—

The Supt of the Jail certifies that the prisoner is not to be executed till the reply of Govt is received by him —
E
21.2.95

Ea
21.2.95

Office note that Supt's attention is drawn to the failure to mark this letter urgent
D
Hon

Mercy-
Petn for —

FOR ORDERS

VE

[J. 16.]
1,000—5-2-94.

Judicial Department.

CHIEF SECRETARIAT MADRAS.

N

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following letter, dated 18th Feby: 95 No 228, from the Superintendent of the Central Jail at Rajahmundry, forwarding petition from Convict No 3171: Bhikonda Subbayya under sentence of death in Kistna Session Case No. 33 of 1894, confirmed by the High Court of Judicature.

~~Read also letter, dated~~ ~~from the Registrar of the High Court, Appellate Side, forwarding the record of the case.~~

ORDER THEREON, 25 February 1895, No. 423

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 3171: Bhikonda Subbayya

2. The law will take its course.

3. The attention of the Superintendent is drawn to Rule 1019 of the Jail Code: his letter has not marked as required by that Rule.

(~~True Extract.~~)

(From orders)

25/2/95 25.2.95
Chief Secretary.

To the Superintendent of the Central Prison Rajahmundry: for communication to the Prisoner.
" Inspector-General of Jails.
" Hon'ble the Judges of the High Court, ~~with papers returned~~. dis-pd 25/2/95

Copd 25/2

25.2.95

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

DATED

IN G.O., No.
189 ,

TO G. No.

ORDER OF GOVERNMENT	A A A A A A A
LETTER OF GOVERNMENT.	
ETTO.	
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.