

29.5

ORDINARY MS.

Dated 28th Feb. 1895.

[Despatch Abstract.]

Judicial (1895) DEPARTMENT.

FROM

M. Hammick Esq. M.C.

INSPECTOR-GENERAL

OF POLICE,

TO



No. 896

Dated

18th

Received

19th

Submarine 1895.

No.

Ends 8

SUBJECT.

Forwarding for orders of Government the enclosed appeal & petition of Muthuswami Pillai late Head Constable No. 720 of Madura District.

15-20/1/95.

No 276/95
+ papers

No. 276 + 817/95

Order 28-2-95
The Govt. declines to interfere on behalf of the peto.

21-2-95

Note. Submitted to H.M. as this is also a petition for remission of a sentence already undergone.

To

The Secy. of India. 8th with 7 ends. 4/3/95.

11/2/95

(over)

CURRENT NO. 276
Duplicate

CHIEF SECRETARY
23 JUL 1895
MADRAS

To

HIS EXCELLENCY THE RIGHT HONORABLE
THE GOVERNOR IN COUNCIL,

Fort St. George, Madras.

THE HUMBLE PETITION OF MUTHUSAMI PILLAI,
AN Ex. HEAD CONSTABLE OF THE TOWN OF
MADURA, AND THIRD ACCUSED IN ORIGNAL
APPEAL No. 649 of 1893 ON THE FILE OF THE
HIGH COURT OF JUDICATURE AT MADRAS
PREFERRED AGAINST THE SENTENCE PASSED
BY THE SESSIONS JUDGE OF MADURA IN
SESSION CASE No. 65 of 1893 ON THE FILE OF
THE SAID COURT.

SHEWETH:

1. That the Petitioner and two other constables were charged before the Sessions Court of Madura on charges under S.S. 220, 323 and 342 of the Indian Penal Code in Session Case No. 68 of 1893 on the file of the said Court, and the former sentenced by the said court to Three years' Rigorous Imprisonment.
2. That Petitioner appealed against the said sentence to their Lordships the Chief Justice and the Honorable the other Judges of the High Court who thereupon altered the sentence and reduced it to one year's rigorous imprisonment as against the Petitioner.
3. That Petitioner hoped that their Lordships the Judges of the High Court would acquit the Petitioner, on a careful consideration of the evidence of the Prosecution and Defence Witnesses, the former of which clearly indicated that the charges preferred against the Petitioner were the outcome of previous malice and long-cherished ill-feeling existing between the family of the complainant and the Petitioner, as well as between the Petitioner and some of the Prosecution witnesses, and the latter of which consisting of oral evidence of witnesses as well as of Public documents kept in the regular course of business clearly established the physical impossibility of the Petitioner's having been present at the scene of occurrence at the hour mentioned in the complaint: (vide the depositions of Defence Witnesses 3, 4, 5 and 6 and Exhibits II, III, and V filed on behalf of the Defence submitted herewith); but their Lordships some how only came to this conclusion, viz., "That the evidence as to the alibi of the 3rd accused is unsatisfactory." (vide copy of the Judgment of the High Court submitted herewith); that this circumstance clearly indicates that the charge against your Excellency's Petitioner has been in a great measure if not completely shewn to be false.

Duplicate

enclosure has 25/10/95
has 25/10/95 25/10/95

Return no 91/95

0/82

276

Genl Dept

From

Muthusami Pillai

3rd accused in appeal
No 649 of 1893 on the file of
the High Court

Date 21-1-95

Recd 23-1-95

Regd 24-1-95

Subject

Praying to exercise the
prerogative of mercy and
set aside the sentence of
conviction passed against
the Pet. & order him to be
reinstated in his office of
3rd Constable

To await receipt of the original
petition.

25.1

To

HIS EXCELLENCY THE RIGHT HONORABLE
THE GOVERNOR IN COUNCIL,

Fort St. George, Madras.

THE HUMBLE PETITION OF MUTHUSAMI PILLAI,
AN Ex. HEAD CONSTABLE OF THE TOWN OF
MADURA, AND THIRD ACCUSED IN CRIMINAL
APPEAL No. 649 of 1893 ON THE FILE OF THE
HIGH COURT OF JUDICATURE AT MADRAS
PREFERRED AGAINST THE SENTENCE PASSED
BY THE SESSIONS JUDGE OF MADURA IN
SESSION CASE No. 68 of 1893 ON THE FILE OF
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SHEWETH :

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2. That Petitioner appealed against the said sentence to their Lordships the Chief Justice and the Honorable the other Judges of the High Court who thereupon altered the sentence and reduced it to one year's rigorous imprisonment as against the Petitioner.

3. That Petitioner hoped that their Lordships the Judges of the High Court would acquit the Petitioner, on a careful consideration of the evidence of the Prosecution and Defence Witnesses, the former of which clearly indicated that the charges preferred against the Petitioner were the outcome of previous malice and long-cherished ill-feeling existing between the family of the complainant and the Petitioner, as well as between the Petitioner and some of the Prosecution witnesses, and the latter of which consisting of oral evidence of witnesses as well as of Public documents kept in the regular course of business clearly established the physical impossibility of the Petitioner's having been present at the scene of occurrence at the hour mentioned in the complaint: (vide the depositions of Defence Witnesses 3, 4, 5 and 6 and Exhibits II, III, and V filed on behalf of the Defence submitted herewith); but their Lordships some how only came to this conclusion, viz., "That the evidence as to the alibi of the 3rd accused is unsatisfactory." (vide copy of the Judgment of the High Court submitted herewith); that this circumstance clearly indicates that the charge against your Excellency's Petitioner has been in a great measure if not completely shewn to be false.

4. Further, the evidence for the Prosecution besides being mostly those of complainant's relations and castemen who were from enmity and ill-feeling interested in bringing about the ruin of the Petitioner, is supported by the evidence of the committing Sub-Magistrate who had already arrived at a conclusion in his mind as to the supposed guilt of the Petitioner along with the other two prisoners; that besides, the committing Magistrate had for sometime previously been in inimical terms with the Petitioner.

5. That both the Sessions Court and the High Court have acted under the impression that the nuisance case alleged by the complainant was inquired into and found to be false; but this is not so as will appear from the evidence for the Prosecution itself.

6. That although the sentence passed on appeal by the High Court on Petitioner has now expired, and he has been set again at liberty, Petitioner feels bitterly for the stigma that has thus been attached to his reputation and character, and for the consequent damage which has ensued both to himself and his family, notwithstanding his long and faithful service to Her Majesty as shewn in the following paragraph.

7. That Petitioner served the Government loyally, diligently and faithfully for over a term of nearly 26 years in the Police Department, and during all that time has borne a character unimpeachable in every respect and has won the satisfaction of his superiors as your Excellency may satisfy yourself, if considered necessary, by making a reference to the Departmental authorities concerned, and would but for this unforeseen calamity which happened to him have been entitled to half pension under the Government Rules for Pensioners in Her Majesty's Service.

8. That Petitioner obtained the following rewards from Government for his extraordinary ability and diligence in Police duties:—

1. A reward of 50 Rs. from Government for having arrested the absconded Dharmakartha of Ramnad, Sethuramanada Pandaram.
2. A reward of 25 Rs. in a Dacoity case in Aingaliyoor, Dindigal Taluk Madura District.
3. A reward of a gold ring for having detected the thief concerned in the theft in Rangasami Iyengar's house at Trichinopoly.
4. A reward of 5 Rs. for having detected a thief who had removed a currency note belonging to the Engineering Department, Madura.

9. That about a month before this case Petitioner applied for permission to retire from the service on half pension to which he was entitled, and the same would have been granted in his favour but for this unfortunate occurrence.

10. That Petitioner has a large family consisting of 8 members consisting of his wife and children and an old and infirm father aged more than 80 years solely dependent on him whose prospects and well-being have all been blighted owing to the aforesaid calamity which befell the Petitioner.

That under all these circumstances your Excellency's Petitioner humbly prays that your Excellency will be pleased to exercise the prerogative of mercy conferred upon your Excellency under S. 401 of the Criminal Procedure Code (Act X of 1882) and set aside the sentence of conviction passed against the Petitioner, and remove the stigma attached to his character, and order him to be reinstated in his office of Head Constable in the Police Department either in the said District of Madura or elsewhere and declare him entitled to the half-pension to which Petitioner was justly and lawfully entitled at the date of the aforesaid calamity, and which he would have earned but for the aforesaid occurrence.

Copy with original documents has been submitted to Government through the Superintendent of Police, Madura, as ordered in Government Proceedings, No 2598, dated 31st October 1894

*Madura
21st January 1895*

J. A. G. G. G. G. G.

4. Further, the evidence for the Prosecution besides being mostly those of complainant's relations and castemen who were from enmity and ill-feeling interested in bringing about the ruin of the Petitioner, is supported by the evidence of the committing Sub-Magistrate who had already arrived at a conclusion in his mind as to the supposed guilt of the Petitioner along with the other two prisoners; that besides, the committing Magistrate had for sometime previously been in inimical terms with the Petitioner.

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21-1-95

For Dy. Magistrate

DEPARTMENT.

No. 896

CHIEF OFFICE OF THE INSPECTOR-GENERAL OF POLICE,
Madras, 18th February 1895.

FROM

M. Hammick Esq. I.C.S.,

INSPECTOR-GENERAL OF POLICE,

TO

THE Chief Secretary
to Government
Fort Saint George.

SIR,

Enclosures.

8.

I have the honor to forward for the orders of Government the accompanying appeal petitions of Muthuswami Pillai, late Head Constable No. 720 of the Madras District Police, with its enclosures.

2. The appellant was found guilty by the Session Court Madras of having with two other Constables illegally arrested and beaten the Complainant in the case, to gratify a private spite. The High Court on appeal confirmed the finding of the Session Court but reduced the sentence.

3. I cannot recommend that the Appellant be given any pension. The offence he was found guilty of is one of the gravest that a Constable can commit and though his service in the Police Department, previous to this case was good, the only suitable course after conviction for a misuse of his police power appears to be dismissal.

I have the honor to be,

Sir,

Your most Obedt. Servant.

M. Hammick

Inspector General of Police