

[J]
68
1,000—85-7-94.

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 50

DATED 11th Jan. 1895.

INDEXED.

[Despatch Abstract.]

CONVICTS

Declining to interfere with the sentence passed on convict Eluth-
-iyan confined in the Madras Penitentiary and directing the District
Magistrate of Trichinopoly to report if any of the villagers who appear
to have attacked and beaten off the dacoits concerned in calendar cases
Nos. 35 and 49 of 1893 on the file of the Sessions Court of Trichinopoly
were rewarded.

Ad

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2456		24-11-93				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C.	387		95				

From

Conrict No. 669/ Elu Huyain.

Confined in the Penitentiary

Moos

No. 6757.

Submitted for the orders of government.

To

His Excellency the Right Honorable

The Governor in Council.

Fort Saint George

obscured

15th December 1894

A. G. Cardew
Inspector General of Prisons

dated 10 December 94

Recd 17/12

Recd 18/12 No. 108 Encl 3.

The Petitioner prays for release from jail.

(1)
(Form No. 53)

Nominal Roll of Convict No. 6691 E. L. Higan

Crim.	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.
See 397 D. O. C.	7 years R. I.	25 August 1903.	Section Judge Lichfield.	53 years	Indifferent.	Good	Sentence of transportation for life reduced to one of 7 years Rigons Surplus earned.	No previous convictions

Must be sent to office
on or before 10 December 1894.

W. H. Beady
Superintendent of Prison Jail.

Duplicate

(2)

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednes day, the *fourteenth* day of *February*
One thousand eight hundred and ninety-*four*

PRESENT:—

The Honourable Justice Sir T. Muttusami Aiyar. K. C. J.

and

The Honourable Mr. Justice

Best

CRIMINAL APPEALS Nos 535 to 539 of 1893.

3782 - Vennamalai — Appellant in no. 535
(1st prisoner)
3783 - Lottayan — Appellant in no. 536
(2nd prisoner)
3784 - Eluttayan — Appellant in no. 537
(3rd prisoner)
3785 - Audi Ambalagan — Appellant in no. 538
(4th prisoner)
3786 - Kuppam — Appellant in no. 539
(5th prisoner)

Appeal against the Sentence of the Court of Session of the
Division in Case No. 3549 of the Calendar for 1893.

The Appeal coming on for hearing, and Counsel not appearing on
behalf of the Appellant: Upon perusing the Petitions of Appeal and the record
of the evidence and proceedings before the Court of Session, and upon hearing

the arguments of Mr. P. S. Sivadasam
Aiyar, Vakil for the Appellant
in all cases and of Mr. H. G. Wedder-
burn for the Ag. Public Prosecutor
in support of the Conviction,
the Court delivered the following

judgment:— The Verdict is
that of a jury and not open

speal.

The only ground urged before is as to the sentence. All the appellants have been transported for life; against none of them has any previous conviction been proved or was alleged. Nor was the dacoity attended with ~~the~~ requiring an exemplary sentence.

We reduce the sentence in the case of each of the appellants to rigorous imprisonment for seven years.

Ordered accordingly

At Fort...

Dy. Registrar,
Appellate Side.

6741

21-2-94

3/18

Court of Sessions of Trichinopoly Division.

30/9/93 C. C. Nos. 35 & 49 of 1893.

Heds of charge to the Jury:—

Names of accused:—

1. Vennamalai. 3782
2. Sottayan. 3783
3. Eluthiyan. 3784
4. Andi Ambalagaran. 3785
5. Kuppan. 3786
6. Kalkandu alias Arumuga Muthi-
riyan.
7. Thailan alias Thailamuthu Mala-
varan.
- & 8. Saminada Nadan.

Offence:—

Section 397 I. P. C.

Verdict of Jury:—

Defendants 1 to 5 guilty and Defendants
6 to 8 not guilty—Unanimous.

Sentence:—

Defendants 1 to 5 to transportation for
life and Defendants 6 to 8 acquitted
and set at liberty.

These eight Defendants are charged with having on the night of Saturday the 22nd April last (corresponding with 11th Chitrai), committed dacoity in the house of Parattaya Goundan (Prosecution 1st witness) in the village of Sekkanam, Kulitalai; in the course of which dacoity, grievous hurt was caused by one or more of the offenders.

2. The facts alleged for the prosecution are as follows:—

Parattaya Goundan was lying on his street pyal when he heard stones being dropped in the street; he asked who it was and some one in the crowd of 20 or 25 men in the street, replied that it was "our man"; the men in the street then began to strike the walls &c. with sticks probably to intimidate the inmates and hearing that, Parattaya Goundan called his brother Rajalingam (4th witness) who lived close by; the latter answered and 1st witness cried out that thieves had come and ran away and hid behind a hedge.

3. Two or three of the thieves then entered the house and 1st witness's wife (2nd witness) being alarmed ran out but was seized and her cloth taken from her and used to make a torch; her daughter-in-law (3rd witness) also slipped out in the darkness with her elder child and hid in the same field as 2nd witness.

4. At this point, 1st witness's brother Rajalingam (4th witness) ran up closely followed by another brother Shempayal (5th witness), both being provided with bamboos strengthened by iron rings at intervals of two inches or so; and these two seeing 10 or 15 thieves standing before their brother's house while 4 or 5 more were going into the house and coming out, attacked the men with their staves giving and receiving severe wounds.

Duplicate forwarded to the Superintendent of the Jail Trichinopoly,
for his information and guidance and communication to the convict concerned.

Trichinopoly, Sessions Court,

1-3-1894

*By order
W. S. S. S. S.
Shrinidhar
Sessions Judge.*

5. 4th witness had his left arm fractured and his left eye damaged and his stick being also broken he was obliged to leave the spot and hide but 5th witness continued the fight and the robbers were at last obliged to give way and retreat by the south.

6. Meanwhile three other relations of 1st witness viz. witnesses 6 to 8 (of whom 6th witness is his cousin and 8th witness is son-in-law of 7th witness) ran up to the crowd which had already gone some distance from Parattaya Gounden's house; they joined in the fight, 6th witness getting his arm broken.

7. During the pursuit 1st Defendant while trying to beat off those who were following him, backed into a prickly pear bush and was secured by witnesses 5-7 who tied him to a margosa tree on the village common close by.

8. Witnesses 8 and 9 also seized one of those who were retreating viz 2nd Defendant and tied him up at the same spot.

9. These witnesses then went home to have their wounds attended to and 1st witness sent off about 5 A. M. for the village Munsif who lives one mile away and the latter arrived at 6-30 A. M. or so but before he arrived, 2nd Defendant had escaped; the village Munsif however being then and there told that 2nd Defendant who lives in the village, had so escaped, sent men to search for him.

10. The village Munsif then examined 1st witness and after him this 1st Defendant and the latter gave a detailed account of his connection with the dacoity in which he stated that 3rd Defendant had induced him to join and this statement is embodied in Exhibit B.

11. At 9 A. M. the Station House Officer and Inspector arrived and began their enquiry; about noon the village Munsif heard that there were two wounded men at Mahadanapuram 5 or 6 miles off and suspecting that these might be some of those who had been wounded in this dacoity he sent a yadast to the village Munsif of that place (13th witness) who with the help of a beat constable (14th witness) arrested 4th and 5th Defendants in his village and sent them to Lalapet Station.

12. At 5 P. M. or so 2nd Defendant was brought in by 12th witness the acting village Munsif of Krishnarayapuram who knew this Defendant and had seen some Sekkanam men searching for him in the morning.

13. On 26th April 3rd Defendant was arrested by 15th witness a constable and on the 5th June these five Defendants were committed.

14. On 18th June this 6th Defendant was arrested; on 27th June 7th Defendant and on 24th July 8th Defendant was arrested; on 21st July the District Magistrate ordered that a pardon should be tendered to this 21st witness who was then awaiting trial with these three; and on 28th July the enquiry into the case against the three was begun before the Committing Magistrate and they were committed on 31st July.

15. This is the case against these Defendants and the first question you have to decide is whether there was a dacoity at all.

16. The essentials of that offence so far as this case is concerned are

(1) That five or more persons should dishonestly take or attempt to take moveable property out of any person's possession without that person's consent.

and (2) One or more of the offenders must voluntarily cause bodily pain to any person in order to the taking or carrying off of the property.

17. In this case you have a large amount of evidence that 20 or 30 men came to the house; beat the owner and those who came to his rescue and carried off certain jewels of which one, the neck ornament before the Court, was given up by the approver as having been obtained in the affair.

18. Beside the first nine witnesses who say they were present at the affair, you have the evidence of 10th witness the Village Munsif who came and found 1st Defendant tied up and wounded and took a statement from him describing the affair just as the eye witnesses do here; and the evidence of the Hospital Assistant 11th witness as to the injuries inflicted on some of the witnesses and Defendants.

19. Do you see any reason to doubt the evidence of all these witnesses? If not you will find that a dacoity did occur and that in the course of that dacoity, grievous hurt was caused by the offenders to some of the witnesses by breaking the latter's arms and the next question for you is whether these defendants or any of them took part.

20. The only Defendants who examine witnesses are Defendants 6-8 who set up a plea of alibi.

21. As to 1st Defendant, it is not denied that he was seized by the villagers and tied up as alleged by the witnesses and that he has been in custody ever since and no attempt is made by him to explain his presence there otherwise than by his having taken part in the offence.

22. Further witnesses 1 and 3-10 state that he was so tied up when the Village Munsif came and 5th witness Shempayal states that this Defendant was one of those whom he beat and was the man who fell into the prickly pear and was seized and tied up by himself and witnesses 6 and 7.

23. The two latter also depose to his being caught as described and tied to the tree; and the story of his capture is corroborated by the Hospital Assistant who states that he examined him on 24th April i. e. the day after the affair and found numerous thorns of prickly pear in his body.

24. Even with this evidence and in the absence of any attempt by this Defendant to explain his presence on the spot and at a distance from his own village, would not this be sufficient for you to find that this Defendant was present and taking part in the affair?

25. This is not all however for the approver deposes to this Defendant being one of those who went inside the house but in addition to all this we have the evidence of the Village Munsif who deposes that before 9 A. M. on 23rd April this Defendant had given him a full account of his taking part in the affair which he embodied in his report (Exhibit B) written that day but despatched next day.

26. It is no doubt an objection to this report that it was only despatched a day or less after the statement was given and this delay is not very satisfactorily

explained but that does not weaken, to any great extent, the case as against him for in the Lower Court when the witnesses for the Prosecution viz witnesses 1, 3—11 & 16—20 in this Court had been examined, he was asked by the Sub-Magistrate whether he had any explanation to make and he then gave a detailed account of how this 3rd Defendant had induced him to join and how he went with the rest to the village of Sekkanam; was there during the fight described by the witnesses and how he was caught in a prickly pear bush and was so severely beaten that his tooth was knocked out and was tied up till next morning when the Village Munsif came and took his statement.

27. Then again on 5th June, he was asked after the charge was read to him, whether he had anything to say and he said he had nothing to add and had no witnesses.

28. In this Court he alleges, however, that he gave no such statement but that the one read out to him here was concocted by the Inspector and Village Munsif; can you believe that the Sub-Magistrate took down such a statement as made by the Defendant and certified that it was so made by him whereas it was not so made? In the absence of evidence to the contrary, we are bound to assume that the Statement was given as recorded by the Sub-Magistrate.

29. But even if this statement were set aside 1st Defendant has made no attempt in this Court to explain his being tied up as described although as you have seen he has frequently interrupted the proceedings to make statements and has been allowed every opportunity of explaining his presence in the village.

30. It is suggested by his pleader that 1st Defendant was on his way to buy bullocks and happened to sleep in the village and went to see the affair as a spectator and was there treated as a dacoit but of this there is no evidence whatever and do you think it probable that if this were so, he would not have told the Village Munsif when he was found there next morning? or that he would not have told the Sub-Magistrate when he was given the opportunity in open Court 5 or 6 weeks later? or that he would have kept silence on this point even in this Court and if he had really been a passive spectator of the fray, how do you account for his being so severely beaten that his teeth were knocked out, and that his wounds were more serious, according to the Hospital Assistant, than even those of the witnesses whose arms were broken &c?

31. Further would he have given a detailed account of how he joined, both before the Village Munsif and the Lower Court if it were all false, and further even if for some reason he gave such an account either his story is all made up by himself and the witnesses have learnt his story so as to be able to give it in Court without being at all shaken in cross examination; or he has in some way learnt the story of the witnesses so that his story and theirs correspond in detail.

32. Further if he had really come to the village on an innocent errand, why is it that he cannot produce a single witness to speak to his being in the village that evening before the robbers came or to his speaking of the purpose for which he had come?

33. Moreover is it likely that if he were merely a spectator, he would get mixed up at all in the fighting crowd? Is it not more likely that he would keep aloof as many of the villagers did?

34. There is moreover clear evidence that this Defendant was actually among the robbers and fighting on their side for the 5th witness Shempayal states positively that this Defendant was in the light before the house and fought with him and you must remember the way in which this witness, who was according to the evidence the most prominent man in beating off the robbers, gave his evidence; he seemed to me a particularly straight forward witness and not an unlikely man to fight as he says he did and this witness states that even before the village Munsif came, this Defendant had told them that the 2nd and 3rd Defendants had induced him to come to their house alleging that it was a Vellala's, instead of its being as it was, the house of an Ambalagaran i. e. a man of Defendant's own caste. Lastly what reason is there to suppose that the witnesses would wilfully perjure themselves to convict this man who came from a distant village and had never been seen by them before? And what reason is there to doubt the statements that they saw him in the light?

35. Do you see any reason to disbelieve Shempayal's evidence or to believe that this Defendant's statement to the village Munsif and to the Sub-Magistrate was all a concoction or that if he had really come to the spot as an innocent spectator, he would never have said so even in this Court?

36. This is the case as against 1st Defendant; as to 2nd Defendant the witnesses depose that he was one of the two who were tied up in the village immediately after the affair and he admits that he was so tied up but states that when he was asleep in his house, 1st witness and others dragged him out and tied him up as if he were one of those concerned in the robbery and threatened "to cut him" if he did not disclose the names of the robbers.

37. Then if he were not in some way connected with the robbery why should the villagers ask him to disclose the names of those concerned?

38. Moreover why should these witnesses depose falsely against this Defendant? The cause of enmity alleged in the Lower Court was that the 8th witness had a grain measure belonging to him which the latter asked for and so that witness and all his relatives became hostile to him.

39. Is this a sufficient cause for such a false charge against this Defendant? Even if it were, there is no proof of it and in this Court the cause is changed and he says the enmity arises out of a dispute about land.

40. There is no proof of any quarrel about the land except that 4th witness states that this Defendant quarrelled with them about the land 10 days before the dacoity but it is proved by the village Munsif's evidence that Defendant lost the land years ago by not paying his rent and that he never had any title to the land but only held it at the will of the villagers and that since then he has led a wandering life.

41. Further the witnesses depose that they feel no enmity towards this Defendant and there does not appear any reason why they should be hostile to him.

42. If however he really felt aggrieved at losing his land that might be a reason for his inducing the robbers to turn their attention to 1st witness's house.

43. To prove that this Defendant took an active part in the dacoity we have the evidence of 4th witness who saw him near the light with a stick; 5th witness saw him first in the light near the house and then in the crowd; 8th witness struck this Defendant in the crowd and seized him and took him to the tree with the help of 9th witness and both then recognized him as Sottayan of their village.

44. Then 10th witness, the village Munsif, states, that when 8th witness Shadangan came to him at 6 or 6-30 A. M. he mentioned this Defendant as one of the robbers then tied up and his name appears in exhibit A, the earliest report; which according to the village Munsif was sent before he came to Sekkanam.

45. If this Defendant had really been dragged away from his bed after the affair was over and threatened as he says, why did he not go as soon as he escaped to the village Munsif or to the Police Station and claim the protection of the authorities? and why when he was found by the other village Munsif (12th witness) in the field that day did he not tell that village Munsif of his seizure and the threats &c? Or why did he not tell the Inspector or Station House Officer before whom he was brought that day? and finally how is it that he has not a single witness from his house or elsewhere to prove that he was so taken by the villagers?

46. He does not even allege that he ever made any such statement to any of these Officers, nor does he adduce any evidence that any one of the witnesses is hostile to him as he might have done if such enmity had really existed for years, 1st witness's relations having according to the evidence had the land alluded to for 2 or 3 years at least.

47. Do you see any reason to disbelieve the witnesses who depose to this Defendant's taking part in the fight or any reason to accept his improbable account of what really took place?

48. Further you may consider as against this 2nd Defendant the confession of 1st Defendant before the Lower Court in which he states that it was 2nd and 3rd Defendants who induced him to join and as to this I must say something as to the approver's evidence as that has been used to discredit this confessional statement; you must remember that the case against these 5 Defendants does not at all rest on the statement of the approver and that the case against these five was committed before the approver was even arrested.

48a. Then of course the position of the two is quite different; for 1st Defendant gave his statement as a Defendant under fear of punishment and after all the witnesses against him had given their depositions, and knowing that a confession was almost certain to seal his fate. The approver however is in quite a different position for he has already been granted a pardon and unless he can be convicted of perjury which we all know is not in the least likely to occur, he is perfectly safe whatever he may say and as shown elsewhere it is not proved that he really took part in the affair. Thus the evidence of the approver cannot be fairly used to disprove the confession of 1st Defendant and you can therefore safely consider that confession as against himself and the Defendants 2 to 5.

49. As to 3rd Defendant, the 4th witness deposes that he saw him with a stick near the light in front of the house and mentioned his name to the Village Munsif that morning; and that he and Defendant visit one another's houses; 5th

witness says he saw 3rd Defendant in the light with a stick; that his family and Defendants are friendly and that 3rd Defendant and 2nd Defendant are friends.

50. There is evidence also that 3rd Defendant was mentioned on the night in question as having taken part for both the 1st and 5th witnesses state that even before the Village Munsif came to the village, 1st Defendant had told them that this Defendant was one of those who induced him to join; his name appears in 1st Defendant's statement before the Village Munsif; 8th witness states that his name was given as one of the dacoits, that night but the Village Munsif's first report does not mention him and he apparently did not hear this Defendant's name as being concerned until he had reached Sekkanam and taken the detailed statement from 1st Defendant which is embodied in Exhibit B which was despatched only on 24th April.

51. You have however the evidence of the approver that this Defendant took the leading part in getting the dacoits together and was one of those who entered the house and you have also the evidence of witnesses 18-20.

52. The 19th and 20th witnesses depose that they saw this Defendant with the 1st and 5th at 20th witness's toddy shop, at 4 P. M. a few hours before the dacoity, 8 miles from Sekkanam; they never saw this Defendant before and they differ as to which Defendant it was who was asked where the party was going.

53. Then there is the evidence of the station orderly at Kulitalai (18th witness) who says he saw this Defendant alight at his station at 8. A. M. on Saturday, with Defendants 1 and 5 and that he knew this Defendant 7 years ago when he was at Katalai station and that he remembers the fact of these Defendants coming on Saturday because on the Monday following he saw 1st Defendant brought in custody by train and was told that he was arrested for being concerned in the Sekkanam dacoity.

54. The evidence of these three witnesses is not much use in determining whether or no this Defendant took part and the case as against him rests on the evidence of 4th and 5th witnesses supported by the evidence of the approver and the mention of this Defendant's name on the night of the dacoity and in 1st Defendant's confessional statements before the Village Munsif and before the Committing Magistrate.

55. As to 4th and 5th Defendants who are father and son, you have the admitted fact that within 12 or 15 hours of the affair, they were found in a village 5 or 6 miles from the spot suffering from wounds and the 5th unable to move owing to his injuries.

56. 13th witness the acting Village Munsif states that he found them in his village at 2 or 3 P. M. in the condition described and that 4th Defendant then said they had come to buy bullocks at Uppidamangalam and had been robbed of the money 2 or 3 miles west of the village.

57. There is no evidence at all that these Defendants had Rs. 50 in hand when they left their village though that would be an important fact in their defence and one which would probably be known in their village.

58. Here again the only independent evidence against these Defendants is that of witnesses 4 and 5; and of these 4th witness, states that he fought with these two, near the light and that these two were the ones who broke his left wrist and damaged his left eye and that he picked them out of a crowd of 10 or 15 men at the cutcherry 4 or 5 days after the dacoity.

59. 5th witness also deposes that these were two of those with whom he fought before the thieves left the house and that 2 or 3 days after the dacoity, he picked these two out of a crowd of 20 men before the Tahsildar.

60. Witnesses 16—18 depose that they know 5th Defendant well as a card sharper and that they saw him with other Defendants at the railway stations at which they (witnesses) work on the way towards Sekkanam but their evidence does not help us much; and the same may be said of that of 20th witness the toddy shop keeper who is also discredited as above.

61. Against Defendants 6—8, you have the statement of 4th witness that he saw these Defendants in the house; and in the crowd; that he never saw them before but identified 6th Defendant in a crowd at the enquiry 2 months after the dacoity; and 6th Defendant has not accounted for the scars which are deposed to by 11th witness the Hospital Assistant, whom I see no reason to disbelieve, as having been caused about the time of this dacoity and his (Defendant's) attempt to prove that these scars were caused 19 months ago has lamentably failed. None of the wounds referred to in the defence witness, Srirangam Hospital Assistant's statement being found to correspond with those described in 11th witness's medical certificate.

62. 5th witness also says he saw Defendants 6—8 in the crowd and picked 6th Defendant out of a crowd of 20 men, 2 months later.

63. The 16th and 17th witnesses also state that this 6th Defendant was among those at the station with Defendants 4 and 5 on the day of the dacoity but such evidence is not of much value; thus the case against these three rests almost entirely on the evidence of 4th and 5th witnesses and of the approver and the confessions of 1st Defendant may be considered as against them.

64. As to the approver, if you believe him implicitly all these Defendants took part in the dacoity but you must receive his evidence with caution for if he really took part, he is giving evidence on condition of being pardoned himself.

65. The first question is whether he really was present for if he was not, his story is false; and as to his presence the only other witnesses who say anything are 4th and 5th witnesses who say they saw the approver in the crowd; they do not seem to have known him before and it seems doubtful if they could have noticed him so well in the confusion as to identify him several months later.

66. There is nothing else to connect the approver with the offence but the jewel before the Court and there is nothing but his own statement to prove that he actually gave up this jewel and the evidence as to his having taken part seems decidedly weak.

67. Then as to the defence evidence, all these three plead alibi and 6th Defendant calls the Srirangam Hospital Assistant to prove that the wounds found on

him at his arrest were treated in January 92 but his evidence was not satisfactory and in any case the wounds mentioned in his certificate do not correspond with those certified to by Prosecution 11th witness.

68. 6th Defendant's 2nd and 3rd witnesses are related to one another and his 2nd witness is his land lord and was a Defendant with him in a riot case; and this Defendant gave evidence for him a year ago in a claim petition case; and his 4th witness is his casteman.

69. 7th Defendant's 1st witness is a distant relation of his and is related to his 2nd witness and they contradict one another.

70. 8th Defendant's 1st witness is closely connected with him by marriage but no reason is shown for not believing his 2nd witness who deposes that he was too ill to move about at the time of the offence and for some days before and after.

71. Thus the defence evidence fails except in case of the 8th Defendant, but that does not prove that these Defendants are guilty for the case against them must rest on the prosecution evidence.

72. To sum up against Defendants 6 to 8 you have a general statement by 4th and 5th witnesses that they saw these three in the crowd and the statement of the approver which has to be received with caution even if he really took part.

73. Against 4th and 5th Defendants you have the evidence of 4th and 5th witnesses that these two took an active part and fought with these two witnesses; and the admitted fact that the Defendants were found in a few hours 5 or 6 miles off with serious wounds for which they have not properly accounted.

74. As to 3rd Defendant, the 4th and 5th witnesses are the only ones who say they saw this Defendant at the scene, but both 1st and 5th witnesses say 1st Defendant told them before the village Munsif came that 3rd Defendant got him to join in the offence.

75. As to 2nd Defendant he admits having been one of the two who were tied up by the villagers but he gives an improbable story about his being taken there from his house and attributes the depositions against him to enmity on account of a grain measure detained by Shadangan or to the 1st witness's people having taken his land.

76. 1st Defendant also admits that he was tied up by the villagers immediately after the affair but his pleader puts forward a theory which is not supported by any evidence or even by any statement of the accused that Defendant accidentally got among the crowd and so was mistaken for one of the robbers but this account is as I showed you before very improbable and if he really brought money to the village to buy bullocks, there should be some evidence of that.

77. Then you have the fact that this Defendant gave a detailed account of the whole affair both before the village Munsif on the morning of the affair and before the Lower Court 5 weeks later and there is not a particle of evidence that any inducement was held out to him to confess.

TRICHINOPOLY,
SESSIONS COURT
25th August 1893.

(Signed) J. P. FIDDIAN,

(True copy)

Ag. Sessions Judge.

Ag. Sessions Judge.

The Superintendent, Central Jail,
Trichinopoly
with reference to his memo dated 7th September 93
1. 11/11/93 2. 11/11/93 (Criminal Cr. 3784 in Jail)

copy application made on 7-9-93

received on 10-9-93

copy despatched 10-9-93

Shrinath

12
 In Cr Appeals 5356
 53963

2- *Handwritten text in Tamil script, likely a continuation of the previous page. It begins with a large initial '2' and contains several lines of text, including the word 'பெரிய' (Peyariy) and 'பெரு' (Peyru).*

3- If the statement that the Petitioner was seen by the 4th & 5th witnesses when the offence was committed is true, there would then have had no difficulty for the Petitioner's name finding its way in the Village Magistrate's first report of the case. but 5 days after the Commission of the alleged offence the Police arrested the Petitioner having

fabricated false evidence. While it is clear that the Petitioner's name is not to be found in the Exhibit B the Session Judge believing the oral evidence of the witnesses convicted the Petitioner.

4. Krishna Eyer and Ranganatha Eyer were appointed as the foremen of the jury in this case. The people were close relatives of the Petitioner's enemy Seethapathi Eyer; being thus subject Seethapathi Eyer's influence the jury gave a partial verdict. This should not have been accepted.

5. The Petitioner in the end prays that the Governor may be pleased to call for all the records of the case and after thoroughly examining the case, order the Petitioner's discharge from jail.

G. K. M. S. M. S.

(S. S. S. S. S.)

Jailor.

10-12-94

[J]
[14]
1,000-5-2-94.

JUDICIAL DEPARTMENT.

CURRENT No. 6741 of 1894.

Application for remission of sentence from convict in the *M. S. Penitentiary Jail, at Madras.*

FOR ORDERS.

Name of the Convict No. 6691: *Eluthy an*
Accused No. 5

Jury case - Petition dismissed -
Agood many of the villagers seem to have behaved very well in attacking shooting off the accusers. Ask the D.M. if any of them were rewarded.
21/12/94

Offence committed. Sec. 371: I.P.C.
Dacoity

Adjudicating Court. Session Judge
Trichinopoly

Sentence imposed. Transportation for Life
Reduced to 7 years R.P.
by the High Court on appeal

Result of appeal to High Court. Sentence Reduced to 7 years R.P.

Previous Convictions. Nil

19/12

U.S.
H. M. (For aches)

This goes direct
to H.M.

1000-25-1-94

Judicial Department.



READ the following endorsement:—

From the Inspector-General of Jails, dated

Ск-6741 294

ORDER *11 January* 189*5*, No. *50*

THE Inspector-General of Jails will cause convict No. 6691: *Eluthiyan*
 confined in the *Male Penitentiary* Jail at *Maoro* to
 be informed that the Government declines to interfere with the sentence passed
 upon *him*.

2. It appears from the judgment in C.C. v.
 35 & 49 of 1892 on the file of the Sessions Court of Muzaffargarh
 that a good many of the villagers behaved
 very well in attacking & ^{concerned in these cases}
 beating off ^{the} Hacoib of the
 W.M. of Muzaffargarh will
 report if any of them were
 rewarded.

(From memo)
 8
 7.1
 Under Secretary.

~~Under Secretary.~~

The Wm. Trichinopol (1120) DESPATCHED
To the Inspector-General of Jails. 17 JAN 95
M.S

with prof. G. - in 1860

2/12
 * property retained pending
 reply of the B.M.
 2/12

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.--

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