[J/53]
1,000—25-7-96

Judicial (1895.) Department.

ORDINARY MS.

G.O., No. 556.

DATED 12" Mar: 1895.

INDEXED.

[Despatch Abstract.]

APPEAL AGAINST AN ACQUITTAL.

Directing the Government Pleader, Madras, to prefer an appeal against the acquittal of the accused Nos.2 to 9 in Bellary Sessions Case No.81 of 1894 and the Bellary Public Prosecutor to assist the Government Pleader in the details of the case and that paragraph 2 of the Anantapur District Magistrate's letter in regard to the strengthening of the Gooty Police, be communicated to the Inspector-General.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	334		14-2-95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Go	614.		25-3-95				
GoR	418		4-4-95.				
C	2722		1895				

Form 1108

The Collector of

No. 334 : 14.2.95 [illegible]

Anantapur

2938 : 7.12.94

To Kist papers

The Chief Secretary

to Government,

Fort Saint George.

CHIEF SECRETARY'S OFFICE
-6 MAR 1895
GOVERNMENT OF MADRAS

Dated 13 Feb 1895.
Desd. 4 march
Received 6

ON Ref. on R.C No. 1195/94
13/2

Encl. C.M. 6174 [illegible]

Subject

Reporting on certain points with regard to the murder of Mahunandi of Latchanapalli, Gooty Taluk.

CURRENT 1108 Anantapur Collector's Office,

Dated 189 .

No.

Enclosure

From F. A. Nicholson Esquire

The Collector of & District Magistrate

Anantapur.

To

The Chief Secretary

to Government,

Fort Saint George.

Sir,

With reference to G. O. No. 2983/7.12.94, I have the honor to state that in the case of murder of Mahanandy, the 1st accused Hanumangadu (the late Reddugadu's brother) was sentenced by the Sessions Court in Sessions case No. 81 of 1894 to death, subject to the confirmation of the High Court, but accused nos. 2 to 9 were acquitted as the Sessions Judge did not hold positively that any one of these joined in the murder. It will probably be advisible to appeal against this acquittal –

2 – With regard to the 2d point on which report is called for viz. as to how far the villagers are generally implicated, I beg to state that the faction is confined only to the families of Reddugadu and Mal-nandy, and as such I think it unnecessary to establish a punitive Police Station – But the Gooty Police should

be

strengthened to allow of additional night patrols by the Police in couples, as a savage attack was made upon a solitary Gooty constable immediately after these men returned to their village. It cannot positively be said that this attack was made by Peddugadu's people, but it is so rumoured, and it is a fact that a dog kept by one of the Prosecution witnesses for his protection was also deliberately killed about that time.

x Vide also Dy's letter in G.O. 334 / 14-2-95

3. The enclosure received with the Government Order, & the Police Superintendent's Letter No. 26 dated 10th January 1895 are herewith submitted.

Stitched in G.O. 7-12-94 No. 2983 Jdl. Mis.

I have the honor to be
Sir
Your most obedient Servant
G. Subbul
District Magistrate

1174

Anantapur Collector's Office,

Dated March 1895.

No. Ref as in C. 1195 of 95 / 7-3-95

Enclosure 1

From
F. A. Nicholson Esquire,
~~The Collector of~~ District Magistrate of
Anantapur.

To
The Chief Secretary
to Government,
Fort Saint George.

Sir,

In continuation of my No. 1195 dated 6th March 1895 requesting an appeal to the High Court against the acquittal of certain accused in Bellary Sessions Case No. 81 of 1894, I have the honor to report as follows:-

No. 1178/95

2. I have this day obtained a copy of Exhibit B. which is the report sent by the Inspector of Police to the Deputy Magistrate at about 1 or 1-30 P.M. on the day of the crime and contains the information given to the Inspector at 1. P.M. by Rangadu see para (6) of my letter above mentioned. Government will see that it exactly corroborates the evidence as it states that "Peddugadd has sons, brother-in-law and

This has not [illegible] been forwarded to Govt;

over

others" ~~ate~~ surrounding an d attacking ~~attracting~~ the house.

3. I have also the honor to forward a copy of the High Court o rder, also received this day, confirm ing the sentence of death on the 1st accused i n the Case. Government will see tha t the High Court have been so stru ck with the acquittal of the other accus ed that they have, in an appeal regar ding the 1st ~~accused~~, Commented on the a cquittal of the other and observe that they fear that there has been "a failure of justice". Not only so, but they have in the several matters taken precisely the same ground as that adopted in my lette r written a fortnight before especially as regards the improbability that a false case could have been so speedily got up and the mistake of the judge as t o the arrival of the Police in the Village.

making almost verbatim the same remarks

4. I only receive d the judgment of the sessions Court early February

and have had to consult the Bellary Public Prosecutor: Hence a slight delay in moving Government for an appeal. I beg that Government will now be pleased to instruct the Public Prosecutor, Madras, to move the High Court wh the matter is still fresh in the memory of the Court: also that the result of the motion may be communicated to me by wire, so that I may have the men arrested.

I have the honor to be
Sir
Your most obedient Servant

V. Lakshmi

For DG Magistrate ~~Collector~~

also that

accused communic

others they

Form 1174

The Collector of

Anantapur Jud

To

The Chief Secretary

to Government,

Fort Saint George.

Dated 7 }
Received 10 } March 1895.

Regd 11

No. Ref on M.C. 1195 of 94 / 7-3-95

Encl - 1

Subject

Requesting to move the Public Prosecutor, Madras, to present an appeal against the acquittal of prisoners in the murder case of Mahanandi, Gooty Taluk

11/3/95

Jud

CURRENT No. 1178

Jud

~~From~~

~~The~~ J. A. Nicholson Esqr

Dt Magistrate of Anantapur

Cur: 1174 & 1178/95.

To

The Chief Secretary

to Government

Fort Saint George.

For orders.

Dated 6 March }
Desp 7 March }
Recd 9 } 1895

Regd 11

No. Ref on M.C. 1195 of 94 / 6-3-95

Enclosures 10

CHIEF SECRETARY'S OFFICE -9 MAR 1895 GOVERNMENT OF MADRAS

Subject

Requesting to instruct the Public Prosecutor, Madras, to present an appeal against the acquittal of prisoners 2 to 9 in Sessions Case No. 81 of 1894 (Murder case of Mahanandi, Gooty Taluk)

11/3/95.

For orders

CURRENT No. 1178

Anantapur Collector's Office,

Dated 6th March 1895.

No.

Enclosure

From

H. A. Nicholson Esquire
~~The Collector of~~ Dist Magistrate
of Anantapur.

To

The Chief Secretary
to Government,
Fort Saint George.

Sir,

I have the honor to forward herewith the judgment of the Sessions Court of Bellary in case No. 81 of 1894, with certain connected records.× and to request that Government will be pleased to appeal to the High Court under s. 417 C.C.P. against the acquittal of prisoners 2 to 9.

×
1. Police Inspector's diary for 28.10.94.
2. Do for 29.10.94 with translation
3. Court Inspector's diary for 13.12.94. with the statements of 1+2 P.W's
4. Court Inspector's diary for 14.12.94 with statements of 3.4.5.6 7.8.9+10 P.W's
5. Court Inspector's diary for 15.12.94
6. Do for 17.12.94.
7. Do 22.12.94
8. Judgment of the session Court in Case No 81 of 94
9+10. Police Inspector's letters (2) dated 3.3.95.

2. The case is one of much importance, since the murder has been committed by a violent and dangerous gang (Peddugadus) of the worst reputation and in consequence of what must be called a vendetta

The matter has been reported upon to Government in this Office Letter No. 1195 of 1894 -

G.O. 1179/95

3. The murdered man, Mahanandi, whose family is at deadly enmity with the family of the Sessions Court defendants was a weaver by caste: there are no other houses of his faction in the village; on the defendants' side, there is also only one family including about 20 adults: these are Boyas. It is important to remember this in weighing the independence of several of the witnesses (Kapu, Muhamadan, Kurumba, &c).

4. On the 28th October 1894, between noon + 2 P.M., Peddugadu's gang suddenly attacked Mahanandi's

house

house, murdered Mahanandi inside it, and then retreated to their own house, taking the corpse with them: all needful particulars will be found in the Court's judgment. That the attack was sudden and unpremeditated may be judged by the admitted facts that it was made without concealment, at high noon and that the accused made only imperfect and clumsy attempts to remove the traces of the murder, and that they were utterly unprepared with a defence, that put forward being so absurd that the Court has brushed it aside as hardly worth notice; it is in fact utterly useless and false as a defence -

5. The 1st accused, an old life convict recently returned from the Andamans, took the sole guilt

upon himself, admitted the slaying, but pleaded self-defence. He was only convicted and sentenced to death, the Court disbelieving the defence theory and evidence.

6. But on analysing the evidence against the other eight accused, both the Judge and the Assessors have felt such doubts as to the identification of the accused with the attacking party, that they have found them not guilty. The prosecution story as to the attack is believed and acted upon: it is believed that several persons must have been engaged (para 18), that such persons were most likely to have been the prisoners as relations of the accused (same para), but the evidence

has

has been doubted as regards the guilt of the particular persons charged, chiefly by reason of certain minor discrepancies as to their individual share in the transaction.

7. The objections raised by the Court are as follows:

(a) that the story of the origin of the sudden attack is not very probable

(b) that discrepancies exist between the evidence as recorded at the inquest immediately after the occurrence and the evidence as given at the Court:

(c) that the action of the Police between the arrival of the Station House officers and the arrival of the Inspector & Magistrate is unexplained and suspicious:

(d) that the prosecution witnesses are all interested, and (c) that the 9th & 10th witnesses cannot be believed –

8 (a) There is nothing improbable in the statement of the origin of the attack – Peddagadu, father of several of the prisoners, had, after many years' enmity, been murdered, and Mahanandi's sons were supposed to be the culprits: hence bitter enmity – Peddagadu was murdered exactly a year previous and enmity was at boiling point: in such cases the least circumstance would suffice to cause an outbreak. On this day (28th October), several of the prisoners were suspected of being engaged in selling stolen property to a Komati, and the

village

village Magistrate and Venkatasami (1st Pro: witness) one of Mahanandi's sons with others, went to spy upon them: enraged at this, they threatened the village Magistrate and Venkatasami, their anger boiled over and they rushed off to the attack. As stated above, the attack could not have been premeditated: it was in broad daylight, in the middle of the village and no defence had been prepared. There is no reason then to regard the origin of the outbreak as improbable. There must have been some very sudden cause, and it could not have been any attack or premeditated action by Mahanandi's people, for Mahanandi and his sons were evidently – by the facts – taken at unawares, and were all separated, only the old man being at house. Moreover there is strong corroboration even from the side of the defence; for the Komati who was examined for the defence in the Sessions Court, states that while he was going from one village to another on that morning, the reddi and another man stopped him and examined the ~~his~~ bag. This exactly corroborates the prosecution story as to the origin of the disturbance. I can see nothing impossible in the story.

9(b) As to the presence of all the nine prisoners either in front of the house or on the roof; the statements of the witnesses at the inquest and as given at the inquest and
as

as given before the Sessions Court, do not materially differ. They spoke as follows:-

1	2	3	4
1st Pro: witness -	Venkatasami -	1, 2, 4, 6, 7, 8 & 9 -	1 to 6
2nd P.W.	Nagi reddi -	1, 2, 3, 6 & 9 -	1 to 6.
6th P.W.	Papanma -	1, 2, 3 & 4 -	1 to 6
7th P.W.	~~Anaga~~ Anjanaiya -	1, 2, 3, 4, 5, 6 & 9 -	1 to 6
8th P.W.	Rangadu -	1, 2, 3, 4, 5 & 9 -	1 to 6
Not Exd. -	Narayana -	1, 2, 3, 4, 6 & 9 -	Not Exd.

In this table col. 3 shows the accused stated by the witnesses at the inquest to have climbed upon, and got into, the house; col. 4 shows the persons stated by them at the Court to have done so.

The 1st thing to be noted is that accused 1, 2, 3 & 4 are mentioned by every witness on both occasions except that 1st witness

omitted the 3rd and the 2nd witness
omitted the 4th at the inquest.
No 5 is mentioned by two witnesses
and no. 6 by 4 witnesses including
one Narayana who was not
Examined by the Magistrate or
at the Sessions Court. The
Second point is that in the evidence
Of the 7th witness Ariyanaga,
there is no discrepancy except
that he included No 9 at the
inquest: this he admitted at the
Court to have been a mistake.
Now this witness is really the
chief close-at-hand eye witness:
he and he alone was in the
house, while the murder was
going on: he is a son of the
deceased, and is a boy of 12 or

13 years old: he saw from
within the house, the six
defendants climb over and come
down into the house and "surround"
his father, and then fled in fear
into an inside room. His evidence
is absolutely unimpeachable -
I beg that Government will notice
how the nature of the wounds
corroborates his story: his father
"stood" in the courtyard with
a spear: the accused came in,
and "surrounded" and struck at
him, and accordingly we find
11 wounds on the deceased, of
which six were on the head,
two on the shoulder blades,
and three on the two hands:
moreover five wounds were on
the

the back (head and shoulder blades) and six in front (forehead, eye, and hands): these wounds were caused by axes and sickles and show (1) that the deceased was standing & (2) that he was "surrounded" and hacked at.

Thirdly it is to be noted that the affair in its full terror only took place about 1 P.m. and that several of the important witnesses are the near relations of the deceased: No. 1 was his son: No. 6 his wife (or concubine), Nos. 7+8 his sons. It is hardly to be wondered at if, at an inquest held on the spot at 4 P.m. they were a little confused and discrepant. Moreover the

the magistrate seems to have admitted at the Court that he first listened to the first witness' evidence and then wrote down an abstract: this goes far to explain any slight discrepancy as regards that witness—

Fourthly, when the

Police and Magistrate arrived by 3. P. M, Peddigadu's house was locked by the people inside: on the door being opened defendants 1.2, 3 & 4 were inside with the Corpse: this is strong Corroborative Evidence as to these defendants. It is also to be noticed that it was defendants 1, 2, 4, & 7 who were said in the 1st report to have been engaged with the Ranah immediately before the real Crime.

Fifthly, the discrepancies ought not to count for much, since it is clear that if the Police and others had really wished ~~[illegible]~~ to destroy defendants by concocting the case, they would not have allowed these small discrepancies w have occurred ~~[illegible]~~. That they exist is a strong proof that the Evidence & the case are genuine.

Sixthly, it must have been the accused who were surrounding the house, and who killed the deceased: there were no other persons likely to do so: it is wholly im-probable that any but Peddigadu's sons & near relatives would wantonly in open day kill Peddigadu's supposed murderer; moreover, in the report made by Veencatasamy (1st Pros: witness) and Rangadu (8th Pro: witness) to the Station House Officer and the Inspector respectively they expressly stated that Peddugadu's Sons were surrounding the house etc. On this point the report written by the Police Inspector to the Sub Magistrate at 1. P.M immediately on receipt of information from 8th witness (Rangadu), is important, as it is said to contain a statement that it was reported by Rangadu that "Peddugadu's Sons" were surrounding and attacking the house.

I have sent for a copy of this report and will forward it on receipt: At present I am dependent on the Inspector's diary.

Seventhly; after all the only discrepancy is as to the exact part played by the defendants: of this, there is little doubt as to accused Nos 1, 2, 3 & 4 having actually entered the house and murdered Mahanand: the rest were actually present abetting their action. I fail to see why the Judge should have discarded the whole evidence against all defendants because of a discrepancy made at that excited and confused time by some witnesses as regards some defendants and their exact ... as is probable

the inquest report gave the evidence as then remembered by the witnesses, it is perfectly possible that careful recollect subsequently may have brought matters to their memory which they had forgotten: it is also probable enough that they may have wished in the Sessions Court to make the evidence cohere and they may have slightly exaggerated what they had seen but surely this is just what the Court should discount. Given several certain facts (1) a murder, (2) that it was in broad day in the middle of the village (3) that it was by a number of people, (4) that the only people likely to commit it were certain persons, (5) that these very persons are unanimously testified to as being the culprits, it is surely possible for a Court to discount discrepancies, after allowing for the confusion, terror, & grief of the time, and the anxiety subsequently to make the evidence consistent.

10 (c) The Court here appears to have fallen into error.

In the first place, I should say at once that in this particular case the Subordinate Police are of no account; the Inspector is the man who has really worked the case, knowing as he does the whole history of the gang and the enmity of the parties: he was also on the spot at once. The Court however seems to think that the Station House Officer got to the spot about 1. P.M, and that something happened before the arrival of the Inspector and Magistrate at 3. P.M which has caused a misrepresentation ~~fate~~ of the actual condition of affairs.

This is, I contend, a misapprehension. In the first place, the Station House Officer did not get to the spot till 2.30. The first report (not regarding the disturbance but regarding the supposed dealings with the Komati) reached the Inspector at 12.30 according to his diary: he then sent word to the Station House Officer to go to the village: the Station House Officer got this message about 1. P.M: he then had to get his men & start by which time it would be at least 1.30: he then had to go about 3 miles and simply could not have got there before 2.30 P.M. There is a slight discrepancy as to his reaching the village "together with" the Inspector & Sub Magistrate: the fact is that he got there just before

before the Inspector and was looking at the house of the murdered man when the Inspector rode up. But even if he were there a little in front of the Inspector he could have done nothing even had he so wished, in that scene of confusion with terrified women and men, to arrange in a few minutes a false case; in cases in which I have been on the spot within an hour after murder or accident, I know well that even cool persons, unconcerned with the affair, find it difficult to think of all the facts collectedly, let alone arrange a false statement and impress it on shrieking women and angry, terrified men & boys. If between 1 & 4 p.m the defendants could not even arrange a defence which should have even the semblance of probability – e.g. should declare that the deceased twice shot at them with a gun in their house, but forgot that the gun though in their possession was perfectly clean & that there were no shot marks in the house – is it likely that the Police could in an hour or less have arranged a totally false set of Prosecution evidence?

The facts as regards the times are these:

	By Inspector.	By S.H.O	Sub Magte.
Receipt of 1st report (about stolen property)	12.30 noon.	1. P.M	"
Receipt of 2d. report (about the surrounding of the house)	1. P.M	"	1.30. P.M
Arrival at the village	3 or 3.15 P.M	about 2.30 P.M	3 or 3.15 P.M.

If it took the Sub Magte who was riding, 1½ hours to reach the village, it is unlikely that the Station House Officer who was walking would have taken less time: Even the Inspector took 1½ hours and he has a good horse. The Deputy Magistrate himself arrived by 4.30 P.M by which time the evidence was being recorded: it is impossible to suppose that the Police, even if they had wished, could ~~by~~ by 3 or even 4 P.M have got up a false case and have so successfully got at the witnesses that they would instead of testifying against the real Culprits testify against a whole series of persons wholly innocent.

11 (d) & (e). It is said that the witnesses are all interested. This may well be, considering that the attack was on their own father and relative. But it is not denied that they were really present: they were under examination within three hours, and two of them had, at the time

seen on to Gooty (1st & 8th Prosn. witnesses) and told the Station House Officer & the Inspector respectively by 1. P. M. But there are also several disinterested witnesses & more are available: The village Magistrate is called a partisan that is not sufficiently proved, while there is absolutely no reason assigned for disbelieving 9th & 10th witnesses who are respectively a Kapu and a Mohamedan and wholly unconnected with the faction. Moreover the evidence of the witness Kesamma before the Court was most important: She is a Kuruba woman wholly unconnected with the parties & swears that she saw the first six accused bringing out the corpse and carrying it to Peddagadu's house: this is strong corroborative evidence, and was not impeached that I am aware of. There is also important evidence as to the ~~Evidu~~ accused gun by 12th & 13th witnesses Nagadu and Hanumanthappa. I think that there is ample independent evidence to show the connection of the accused with the crime. It must be repeated that the faction is between Peddagadu's family (Baya) and Mahanandy's (Weaver), and that the other villagers have no connection with it, though they may fear the Boyas.

12. Even if it is considered impossible to say with certainty whether any of the defendants 2 to 9 took part in the actual murder, I think it is quite clear that they can be convicted of being accessory to it. I strongly recommend that the Government will be pleased to instruct the Public Prosecutor to appeal to the High Court against this acquittal. In that case the Bellary Public Prosecutor should assist the Public Prosecutor in the details of the case.

I have the honor to be
Sir
Your most obedient Servant.

Russell
For Dt. Magistrate

7/3

[G./24]
200—8-2-95.

Judicial DEPARTMENT.

Papers to be read in proceedings:—

Again G.O., dated 189 , No.
Again G.O., dated 189 , No.
Current No. 1108 of 1895, dated 13 Feby. from } the D. M. of Anantapur.
" 1174 " " 7 March }
Current No. 1178 of 1895, dated 6 March from }

ORDER. 12th March /95 No 556
Mis

The Govt. Pleader will ~~accordingly~~ be directed to prefer an appeal in the High Court against the acquittal of the accused nos. 2 to 9 in ~~the~~ Bellary Sess. Case no. 81 of 1894. The Bellary Public Prosecutor should assist the Govt. Pleader in the details of the case.

2. Para. 2 of the D. M's first letter will be comd. to the I. G. of Police who has ~~apparently~~ under his consideration the proposals for strengthening the Gooty Police force.

3. ~~The following telegram will be despd. to the D. M. of Anantapur:—~~

~~" No.~~ With reference to the last sentence of the D. M's letter of 7th March 95, ~~the~~ Govt. Pleader will ~~report~~ telegraph the result of the motion direct to the Dt. Mag. ~~by wire~~.

D
11-3-95

12/3/95

C. 1174

Note.
The case is clearly one for appeal the High Court having itself remarked that "a failure of justice" has probably occurred.

To
The Govt. Pleader. Ext paras 1 & 3 }
" Dm of Anantapur. in original with enclosures. Ext R.to. } desp. 12/3/95
" I. G. of Police. P, A 4 no. 1174 R.o. }

11/3/95

Appeal against acquittal
in
Godty Murder case

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HM
Issued
12/3

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189 .

AIN G.O., No.
189 ,
DATED

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LOSURES TO C. No.

RDER 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.
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