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

Paper taken out of the Records f

Press
Miscellaneous No.______, dated
Routine

Date taken out.	Department.	C. No.	Year.

FOR WHAT PURPOSE.

[J/63]
1,000—28-7-96.

Judicial (1895.) Department.

ORDINARY MS.

G.O., No. 625.

DATED 26th Mar 1895.

INDEXED.

[Despatch Abstract.]

PETITION FOR MERCY.

Declining to interfere with the sentence of death passed on convict No.1439, Krishnan, in Coimbatore Sessions Case No.14 of 1895.

md.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C	1616		1895				

1895

Jail Dept.

CURRENT No. 1455
Jud

From

The Supdt. C. Jail
Coimbatore

To

The Chief Secy to Govt.
Madras

Dated 20 } March 1895
Despd
Recd

CHIEF SECRETARIAT
23 MAR 1895
GOVERNMENT OF MADRAS

No 662
Enclosures 4

Subject

Forwarding a petition for mercy from a prisoner sentenced to suffer death

E. GADSDE
15 FEB 95

In the Sessions Court,

Coimbatore Division.

THE 9TH DAY OF FEBRUARY, 1895.

PRESENT:

THOMAS WEIR, Esq.,
Sessions Judge.

SESSIONS CASE NO. 14 OF 1895.

(REGISTER CASE NO. 3 OF 1895,
Committed by the Deputy Magistrate, Kollegal,
Coimbatore District).

QUEEN EMPRESS OF INDIA *Versus Krishnan*—Defended by Mr. M. G. Arogyasami Pillai, Pleader.

OFFENCE	Murder, §. 302, I. P. C.
OPINION OF ASSESSORS { 1 Chetti & 1 Brahmin. }	Guilty under §. 304, I. P. C.
FINDING OF JUDGE	Guilty under §. 302, I. P. C.
SENTENCE	Death—subject to the confirmation of the High Court.

JUDGMENT.

There is no doubt that the accused slew his wife. He himself does not dispute the fact.

2. The burden of proving that he acted under grave and sudden provocation rests on him (section 105 of the Evidence Act) and the Court must presume the absence of any such provocation.

3. There is absolutely no evidence of such grave and sudden provocation and such evidence as there is goes altogether to negative any grave and sudden provocation.

4. There may—on general grounds and having regard to the motives by which humanity is generally affected—be thought to be some presumption in favor of accused not having acted in the altogether unprovoked manner stated by the witnesses—(1st and 2nd witnesses). But it is not open to me to go outside the evidence

and to accept a defence which is not proved and which, the law holds, shall not avail an accused person—unless and until it is proved.

5. I feel it, therefore, to be my duty as the Court of original jurisdiction to find the accused guilty of murder and to pass upon him the extreme sentence of the law.

6. The opinion of the Assessors—and the general suggestion above made will, no doubt, receive consideration from the final tribunal, the High Court.

7. As the Judge of the Sessions Court—I feel myself unable, for the reasons already stated, to arrive at any other view than that the accused deliberately murdered his wife—and I find accordingly and sentence him, subject to the confirmation of the High Court, to be hanged by the neck until he is dead.

Pronounced in open Court, this 9th day of February, 1895.

(Signed) T. WEIR,
Sessions Judge.

To

The Registrar, High Court, Appellate side, Madras.
,, District Magistrate of Coimbatore, with ( ) spare copies.
,, Superintendent of Police, Coimbatore, with ( ) spare copies.
,, Prisoner.

(True Copy)
(By Order)
Venkatadasu 14.2.95.
Head Clerk

Copy applied for. 12-2-95
Do ready. 14-2-95

Forwarded to the Superintendent, Central Jail, Coimbatore, with reference to his letter of 12-2-95

Desp. 14.2.95

No.

Sessions Court, Coimbatore.
9th February, 1895.

From,

THOMAS WEIR, Esq.,
SESSIONS JUDGE,
COIMBATORE.

To,

15 FEB 95

H. W. FOSTER Esq.,
REGISTRAR,
HIGH COURT,
APPELLATE SIDE,
MADRAS.

SIR,

IN forwarding, under section 374 of the Code of Criminal Procedure, the proceedings in Sessions Case 14 of 1895—in which I have felt it to be my duty to sentence the accused, Krishnan, to death, subject to the confirmation of the High Court—I have the honor to submit the following remarks in supplement of those recorded in the Judgment:—

2. There are two eye-witnesses to the murder, *viz.*, 1st witness, Sidhi—and 2nd witness, Sidhan. A 3rd witness—Massana Servakaran—was also almost an eye-witness to the murder.

3. The evidence of these witnesses, the admission of the accused himself and the evidence of the medical witness (Exhibit C) establish, beyond a doubt, that the accused killed his wife, Malli, by cutting her on the neck with a hatchet and severing the spinal column.

4. As regards grave and sudden provocation, the accused, in his brief statement before the Committing Magistrate, (Exhibit D), made no suggestion of sudden, or grave provocation, but referred to the provocation as arising out of an incident which took place some 15 days before the occurrence, *viz.*, the deceased breaking her *tali*—and going to her father's house.

5. In this Court, he finally stated that he saw his wife and a man whom he named in the act of cohabiting in a ruined back-yard.

6. The 1st witness—the only witness acquainted with all the facts—emphatically repudiated the accused's statements on this and other points.

7. Both this 1st witness and her brother, Veerabadran—5th witness—although pressed on the point—also emphatically asserted they could give no explanation of the murder.

8. The account given of the murder by the prosecution witnesses—may appear inadequate in point of motive, but the evidence on the point is as it is—and the accused called no witnesses in support of his version of what occurred and only alleged the grave provocation, above described, at the last moment.

9. Although anxious to take a merciful view of an apparently inexplicable crime—I could find on the evidence before me no opening for doing so.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) T. WEIR,

Sessions Judge.

Copy for the Prisoner

18 MAR

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednes. day, the thirteenth *day of* March,
*One thousand eight hundred and ninety-*five.

PRESENT:—

The Honourable Sir Arthur J. H. Collins, Knight, Chief Justice
and
The Honourable Mr. Justice Parker.

Referred Trial No. 13 *of* 1895.

Krishnan *Prisoner.*

Trial referred by the Court of Session of the Coimbatore *Division for confirmation of the sentence of death passed upon the said Prisoner in Case No.* 14 *of the Calendar for* 1895.

CRIMINAL APPEAL No. 81 of 1895.

Appeal by the Prisoner against the said Sentence.

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

Judgment.— The accused admits that he killed his wife by striking her on the neck with an axe, — but pleads in —

500—6-2-95.

extenuation that he found her in the act of having connection with another man. There is no evidence in support of this plea, and it was only put forward at the very last moment at the Sessions trial.

Before the Magistrate the prisoner did not allege this provocation, but stated that his wife had taken off her tali and repudiated him 15 days before, — then going off to her mother's house. The evidence shows that the wife had been in her

brothers

brothers house for some three or four days before the prisoner murdered her, having been asked to go there to cook for her brother as his wife and mother were ill. There is nothing to show that prisoner had ~~[illegible]~~ resented her absence.

There is no doubt that prisoner went off to Kollegal immediately after killing his wife and gave himself up at the police station.

This act does tend to show that he believed he had some provocation which would mitigate his offence. It is possible that he believed she had been or would be unfaithful to him, but there is nothing to shew that that suspicion was well-founded or operated as a sudden provocation.

The prisoner is a young man of 22, and we should have been glad if we could have seen any mitigating circumstances, but we do not see any ground on which a Court of Justice could commute the sentence.

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

By the Court

Dy: Registrar
App. Side

Despd. 18-3-95

100 5
Jud
3
1455

21/3

Nominal Roll of Convict No. 1439 Name Krishnan

Crime.	Sentence.	Date of Sentence.	Adjudicating Court.	Age.	State of Health.	Conduct in Jail.	Remarks and previous conduct.
Murder Sec 302 I.P.C.	Death	9-2-95	Sessions Court Coimbatore	24 yrs	Good	Good	

Coimbatore Central Jail,
21st March 1895.

Superintendent Central Jail.

500 Copies 15-12-93.

1895
Judl. Dept
No. 2
To 1455

மகாகனம் பொருந்திய சென்னபட்
ணம் கவர்னர் பெண்டார் அவர்கள்
சமுகத்துக்கு,

கோயம்புத்தூர் செஷன் கோர்ட்
டார் அவர்களால் மரணா தண்ட
னை அடைந்து கோயம்புத்தூர்
சென்றல் ஜெயிலில் இருக்கிற
1439 நம்பர் கைதி கிருஷ்ணன்
வணக்கமாய எழுதிக் கொண்ட
மனு.

எனக்கு கொடுத்திருக்கிற அநியாய
மர~~ண~~ணா தண்டனை
ஐகோர்ட்டுக்கு அப்பீல்
மனு
செய்து கொண்டேன். அப்பீலில்
அநியாயமென்று தீர்மானித்து
இருக்கிறார்கள். தர்மகவர்னர்
அவர்கள் என்னுடைய பிராணப்பி
க்ஷையாயிட்டு என்னை விடுதலை
செய்யும்படி கேட்டுக் கொள்ளு
கிறேன். அப்படி செய்யாதவரா
யில் மரணா தண்டனையை ரத்து செய்
யும்படியாய் கேட்டுக் கொள்ளுகிறே
ன்.

కృష్ణగౌడు

Coimbatore C. Jail
20 March 95

Warden
Supt. Central Jail

A petition for Mercy
to H. E. the Governor
-in-Council.

Dated 20 } March 1896
Desp
Recd

Subject

A Condemned prisoner Krishnan petitions for Mercy in Case No 14 of 1895 of the Sessions Court Coimbatore

---

To

His Excellency the Governor-
-in-Council
Fort St. George
Madras

The humble petition of Krishnan Convict No 1439, now confined in the Central Jail Coimbatore sentenced to suffer Death by the Sessions Judge Coimbatore respectfully Sheweth,

I appealed to the High Court, Madras, thinking that the punishment of Death passed on me by the Sessions Judge Coimbatore was unjust.

The High Court confirmed the sentence.

I beg

Your Excellency will kindly go through the records in my case and release me from this Jail or cancel the sentence of murder.

(Signed) Krishnan

(True Translation)

Gadsden
Supdt. Central Jail

Coimbatore C. Jail
20th March 95

True Translation
of a petition
addressed to His
Excellency the
Governor-in-Council
for Mercy by
Convict Krishnan
sentenced to Death.

1895
Jud Dep.
No 1
To 1455

No 662 Urgent

CURRENT No. 1455

Coimbatore Central Jail
20th March 1895

From

E. H. Gadsden Esq.
Supdt. Central Jail
Coimbatore

To

The Chief Secretary to Govt.
Fort St. George
Madras

Sir,

I have the honor to forward for submission to His Excellency the Governor-in-Council, a petition of mercy from condemned prisoner No 1439 Krishnan sentenced by the Sessions Court Coimbatore in case No 14 of 1895.

2. The prisoner will not be executed until a definite order has been received from Government on this petition.

I have the honor to be,
Sir,
Your Most Obedt. Servt.,

E Garden
Supt. Central Jail

CURRENT No. 1436

Judl

V. E

From.

Krishnan
through his vakil
M.R.Ry. P. R. Sundara Aiyr

For orders

No petition from the Convict has been received: Perhaps the vakil may be referred to rule IV. C. of the Prison rules:.

EG
23. 3. 95

Dated 20. 3. 95
Recd 22. 3. 95
Regd 23. 3. 95

Subject

Submg. a petn. for mercy

CURRENT No. 1436

To,

CHIEF SECRETARY
22 MAR. 1895
GOVERNMENT OF MADRAS

His Excellency
The Right Honourable
Beilby Baron Wenlock
G.C.I.E. The Governor
in Council, Fort
St. George, Madras.

The humble petition of Krishnan accused in Sessions Case No. 14 of 1895 Coimbatore — Division Referred Trial No 13 of 1895 in the High Court through his Vakil P.R. Sundaram Iyer of the High Court

Respectfully Sheweth:

That the petitioner has been convicted by the Sessions Court of Coimbatore of the offence of Murder and sentenced to death

That Your Excellency will see from the records of the case submitted to the Government that according to the evidence of the prosecution the petitioner committed the act of killing his wife without any

motive

malice and without any provocation whatever

That as pointed out by the Sessions Court in para 4 of its judgment this is very improbable, and the petitioner submits that in fact this was not the case.

That the account given by the petitioner before the Sessions Court as to the Cause of his killing the deceased is true, that the Sessions Court and the High Court are not correct in Stating that the story he then told was told for the first time and that in fact he stated the same to the Station house officer just after the Commission of the act

That though the petitioner did not make the said Statement to the Committing Magistrate this was because the petitioner was confused and did not know that all the facts should be mentioned; that his statement to the Magistrate is also true; that if his statement to the Station house officer was concocted for a defence, petitioner would have repeated it before the Magistrate.

That the Assessors were of opinion that the offence committed by petitioner was not murder, but culpable homicide not amounting to murder, as the petitioner did the act under grave and sudden provocation

That the Sessions Judge while being of opinion that as the Court of original jurisdiction he was ~~found~~ bound to pass sentence of death upon the petitioner observed that as the opinion of the Assessors, and the general suggestion above made will no doubt receive consideration from the final tribunal the High Court.

That ~~the~~ petitioner has not received a copy of the judgment of the High Court, but though the High Court observed that as a Court of Justice it was ~~found~~ bound to confirm the Sentence of death, it was of opinion apparently that the case was a fit one for the exercise of the clemency of His Excellency the Governor in Council

That petitioner would never have committed the act if he had not lost self control owing to the misconduct of his wife.

That petitioner has always been a well behaved Citizen and has never had the misfortune to be accused of any crime before

Petitioner fervently prays that your Excellency in Council may be pleased to give the petitioner a chance of repentance and reformation by remitting the sentence of death and sparing his life.

For which act of clemency the petitioner will as in duty bound

Ever pray

R. Sundara Aiyar

Vakil for accused.

20th March 1895

[G./25.]
500—26-6-94.

Judicial DEPARTMENT.

C. No. ~~X~~/1455 of 95
14364

FOR ORDERS.

Appeal for mercy from Convict No. 1439, Krishnan under sentence of death in C.C. No. 14 of 95, on the file of the Sessions Court Coimbatore, which sentence has been confirmed by the H.C.

The supdt. of the Jail certifies that the execution will not take place until a definite reply from Govt. is received.

Do
23.3.95

C. 1436 is a petition submitted on behalf of the same man by his vakil

D
23.3.95

JR
23/3/95

There is no doubt the Petr. killed his wife. The only question is as to his motive, as to which nothing has been ascertained. The petr. pleaded that he saw his wife in the act of adultery with another man, but this plea was not advanced until the very last moment, and is quite unsupported by evidence; & the H.C., which had the power to take the plea into account & to reduce the finding to one of culp: homicide & the sentence to one of transportation for life, & which is rather prone, than the reverse, to find an excuse for remitting the death penalty, has found itself driven to confirm the sentence. The petr. now says he told the Station House officer when he gave himself up, but of this there is no proof; & it is unlikely to the last degree that this statement is true. If it were, surely the petr. wd. have told the Magte., even if the Police failed to report what he had said.

I cannot see any ground for interference & wd. reject the petition

HS
23/3/95

If petr. had found his wife committing adultery it is impossible to believe that any confusion of mind would have prevented his telling the Sub-Mag. that he had done so. The law must take its course.

JG 23/3

I concur with my hon. colleagues. The petr. had plenty of time in wh. to put forward his plea of grave & sudden provocation, & he let it pass. I can only infer that ~~none~~ no such plea existed. & when he put one in at last, it was evidently an afterthought.

W
25 Mar

Cn° 1455

Petn for mercy

Run & see

VE

R
See
Cn° 1436
linked

Sent copies at 5 pm
Eg

[J./16.]
1,000—5-2-94.

Judicial Department.

VE

CHIEF SECRETARIAT
MADRAS.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following letter, dated 20th March 1895, from the Superintendent of the Central Jail at Coimbatore, forwarding petition from Convict No 1439 Krishnan under sentence of death in Coimbatore Session Case No. 14 of 1895, 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.~~

Read also: Cn° 1436 of 95

ORDER THEREON, 26 March 1895, No. 625

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 1439 Krishnan:

2. The law will take its course.

(from notes)

D
20.3.95

(~~True Extract.~~)

26/3/95
~~Chief Secretary~~

submit with the fair
to C.S.
26/3

To the Superintendent of the C. J. Coimbatore
for communication to the Prisoner.
" Inspector-General of Jails.
" Hon'ble the Judges of the High Court, ~~with papers returned.~~

ATCHED
26 MAR 95
IN M.O.

(C. 18.96)

Eg
25/3/95

When given for copying ______
When copied ______
When examined ______
When signed ______
} 189 .

READ AGAIN G.O., No. DATED
189 ,

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT .. .. .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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

N.B.—
A = Copy in full.
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