

Judicial (1895) Department.

ORDINARY MS

G.O., No. 828.

Dated 23rd Apr 1895.

INDEXED.

[Despatch Abstract.]

PETITION FOR MERCY.

Declining to interfere with the sentence of death passed
on convict No.5909, Pattabhiraman in North Arcot Session case
No.11 of 1895.

encl.

BACK PAPERS.

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

FURTHER PAPERS.

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

FORM No. 53.

Nominal Roll of Convict No. 5709 *Pattabiraman*

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.
<i>Murder.</i>	<i>Death.</i>	<i>6th March 1895.</i>	<i>Session Judge, North Arcot.</i>	<i>55.</i>	<i>Good.</i>	<i>Good.</i>	<i>Appeal dismissed and sentence confirmed.</i>	<i>Nil.</i>

Central Jail Office,
17th April 1895.

5,000—9-94.

Rules 701 and 704.

Superintendent
Tailor

E. H. Henderson
Superintendent of *Central Jail.*

From, *the Superintendent,*
Central Jail, Vellore.

To *the Chief Secretary*
to Government
Sub Secy

Dated 17 } April 1895
 Read }

Subject
1942
Nominal Rolling Court
nos 909 Pattabhiraman

ASSESSOR CASE.

In the Court of Session of North Arcot.

PRESENT.

E. C. RAWSON Esq., Ag. Sessions Judge.

Sessions Case No. 11 of 1895.

JUDGMENT.

Name of accused ... Pattābhirāman. 5909.
 Offence ... Murder, Section 302 I. P. C.
 Plea ... Not guilty.
 Opinion of Assessors... } 1st Assessor. Guilty of murder.
 } 2nd Do. Guilty of culpable homicide not amounting
 to murder.
 Finding of Judge ... Guilty of murder.
 Sentence ... Death, subject to confirmation by the High Court.
 The case was committed by the Stationary Sub-Magistrate of Wallaja.

Serial Number.	DESCRIPTION OF ACCUSED.						DATE OF				
	Name.	Father's Name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Commencement of trial.	Close of trial.
1	2						3				
Sessions Case No. 11 of 1895.	Pattābhirāman.	Peria Veerayya Chetti.	Silk weaver.	Weaving.	Kumbakonam.	53.	18-2-95.	18-2-95.	18-2-95.	5-3-95.	6-3-95.
											Nil.

CLIFCAVENDISH
 11 MAR 95
 SUP I OF JAIL

ASSESSORS.

1. Hakim Moulana Sahib, Muhammadan, Native Doctor, Wallaja.
2. A. Subramania Iyer, Brahmin, Private Agent, Arcot.

Prosecution-Witnesses:—

1. Lutchmammal.
2. Vencatramanna.
3. Nannayya Chetti.
4. Kuppayya Chetti.
5. Vencatachellapathi.
6. Rajamannaru Chetti.
7. Chendroya Chetti.
8. Kannaya Naidu.
9. Lutchmayan.
10. Vydilinga Mudaliar.

Exhibits:—

- A. Plan.
- B. Village Munsiff's report to Magistrate dated 18—2—95.
- C. Do Do to Do „ 19—2—95.
- D. Inquest report.
- E. Deposition of the Hospital Assistant before the Magistrate.
- F. Post-mortem certificate.
- G. Statement of the accused before the Magistrate dated 21—2—95.
- H. Do of Do before Do „ 23—2—95.

The accused, Pattābhirāman, is charged with the murder of one Nāgamani Ammāl at Wallajahpet on the night of the 18th February last.

2. The case put by the prosecution against the accused is that the deceased Nagamani was a prostitute who had been kept by several persons in succession, the two last in order being one Venkatachalapathi (the 5th prosecution witness) and the accused. Venkatachalapathi left the deceased on his marriage, and she was subsequently kept by the accused. They lived together amicably until a few days before the murder when the accused complained that she had been speaking again to Venkatachalapathi, and there were quarrels in consequence. At about 9 o'clock on the evening of the 18th February, the accused came home and asked the deceased why she had been speaking to Venkatachalapathi. A quarrel resulted and accused fell on the deceased and stabbed her repeatedly with a knife, inflicting a large number of wounds. The woman died shortly afterwards, having told the Village Munsif that it was the accused who had stabbed her. The accused got away from the house and went straight to the Police Station where he told the constable on guard that he had stabbed Nagamani. And before the Committing Magistrate he gave a full account of the manner in which the quarrel arose, and confessed that it was he that had killed the woman.

3. The accused in this Court pleads not guilty.

4. Ten witnesses have been examined for the prosecution.

5. The 1st witness, who is a neighbour, describes the quarrel between the accused and the deceased and states that hearing the sound of a blow she looked in and saw the accused with a knife in his hand. The deceased was crying out that she had been stabbed. Afterwards when the crowd collected witness went into the house, and saw the deceased lying on the ground wounded. Witness gave her some water. The Village Munsif and the Police asked her who had stabbed her, and she said the accused had stabbed her because she had spoken to Venkatachalapathi. Shortly after she died.

6. The 2nd witness was passing the house when he heard the deceased cry out. He pushed open the door which was closed but not fastened. The accused told him that if he came into the house he would stab him. Witness turned to go away, and accused struck him with something which was in his hand. He shows the mark of the wound. He did not see the deceased as he did not go into the house.

7. The 3rd witness went to the house on hearing the deceased's cries. A crowd gathered and he and the 4th witness went into the house. The accused was seated near the deceased who was lying on the floor and was striking at her. On seeing them he made his escape through the back door. The deceased was covered with wounds and there was a great deal of blood about.

8. The 4th witness gives similar evidence.

9. The 5th witness is the Venkatachalapathi already referred to. He states that he used to keep the deceased but left her when he got married, and since then the accused has been keeping her. He denies that he has had any intercourse with her since he left her, but admits that deceased used to come to his house "to get cow dung".

10. The 6th and 7th witnesses depose that on the afternoon of the day on which she was killed, the deceased came to them and said that she and the accused were quarrelling, and asked them to settle matters. They went to the house but no settlement was come to and they went away. That night the deceased was killed.

11. The 8th witness is a constable attached to the Wallajahpet Town Station. About 10 p. m. on the night of the 18th February the accused came running to the Station and said he had cut his concubine. Witness asked him why he had done it, and he said it was because she was unfaithful and did not obey his orders. His body was covered with blood. He said he had escaped by the back door as some people had entered the house, and he was afraid they would beat him.

12. The 9th witness, Station House Officer of the Town Station, saw the accused at the Station and then went to the house. Deceased was lying on the ground covered with wounds. He asked her who had stabbed her and she said it was the accused. A few minutes after she died. The floor of the room and the woman's cloth were drenched with blood. The accused showed them a knife which he said he had thrown down near the wall. There was blood on it. He said

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he had thrown away a chisel near the Taluq Cutchery and this was found, in the place indicated, by witness and the Village Magistrate.

13. The 10th witness is the Village Munsif. He gives similar evidence. He sent a report (Exhibit B) to the Sub-Magistrate directly he received information and before he went to the house; and another report (Exhibit C) afterwards in which all the details above given appear.

14. The medical evidence shows that there were no less than 49 wounds on the woman's body. The wounds were on the face, head, neck, back, thorax, abdomen, right leg and on both hands. Death was due to syncope, the result of loss of blood.

15. The above is the evidence for the prosecution. No reason at all appears why it should not be believed. It is corroborated by the Munsif's reports, and the witnesses told the same story that they tell now, before the Sub-Magistrate at the local Enquiry the day after the occurrence.

16. The accused made a full and detailed statement before the Committing Magistrate in which he described how he had quarrelled with the deceased about Venkatachalapathi, and stated that he cut her on various parts of the body. She fell down and he thought she was dead, and as people came in and he was afraid they would injure him he ran away to the Police Station. If no body had come into the house, he would have committed suicide. He stated that he made this statement freely and voluntarily, and that he was guilty "fifty times over".

17. He now withdraws this statement, and says that the Station House Officer got him to make it. He admits that he was keeping deceased but denies that he quarrelled with her about Venkatachalapathi or that he killed her. His present story is that he returned home and found the deceased lying wounded and speechless on the ground, and that he went therefore and gave information at the Police Station. He does not know of any reason why any one should have murdered the deceased, but says that Venkatachalapathi was at enmity with her. Finally he says that the prosecution witnesses have been bribed by Venkatachalapathi to give evidence against him.

18. The accused calls no witnesses.

19. That the accused killed the deceased Nāgamani does not admit of doubt, on the above evidence.

20. The pleader who defended the accused did not attempt to dispute that deceased was killed by the accused. His argument was directed solely to the question whether the offence committed amounted to murder. He relies on exception I to section 300 I. P. C., and argues that the accused was deprived of the power of self-control by grave and sudden provocation. I am unable to see however that any such grave or sudden provocation was proved as would reduce the offence to culpable homicide not amounting to murder. It is true that the woman was killed in consequence of a quarrel, but the quarrel itself appears to have been provoked by the accused himself. There is no evidence that the deceased provoked the accused beyond denying that she had spoken to Venkatachalapathi when the accused said she had. Moreover the deceased was not his wife but his concubine, and she had of course a perfect right to speak to any one

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she chose. If accused had come home and found deceased actually in intercourse with Venkatachalapathi, it is possible that that might be sufficient ground for reducing the offence. But this is not so. Under Section 105 of the Evidence Act the burden of proving the existence of circumstances bringing the case within the exceptions to Section 300 of the I. P. C., is on the accused; and it is also provided in that section that the Court is to presume the absence of such circumstances. The accused has entirely failed to discharge the burden of proof which lies on him. I am clearly of opinion therefore that the accused is guilty of murder.

21. The first Assessor is of opinion that the accused is guilty of murder. The 2nd Assessor thinks that the accused is guilty of culpable homicide not amounting to murder.

22. Concurring with the first Assessor, I convict the accused under Section 302 of the I. P. C.

23. I consider that this is a case in which sentence of death should be passed. If accused, losing his temper in a quarrel, had struck at the woman once or even twice and so killed her, there would have been some ground for passing the lesser punishment of transportation for life. But in this case the accused stabbed the woman *no less than 49 times*. Such an exhibition of brutal and inhuman ferocity cannot be excused by the fact that accused may have lost his temper.

23. I therefore, subject to confirmation by the High Court, sentence the accused to be hanged by the neck until he is dead.

E. C. RAWSON
Ag. Sessions Judge.

N. B:—The prisoner was asked if he wished to appeal to the High Court. He said that he did. He was informed that he must appeal within 7 days.

P. DORASAMI NAIDU,
Ag. Head Clerk.

E. C. RAWSON,
Ag. Sessions Judge.

/ True copy /
C. Balasubramaniam
Ag. Shrivastadar.

Chittoor:—Printed by M. Ramanujacharyulu at the Victoria Jubilee Press.

Copy applied 8.3.95-

Do furnished 9.3.95-

To The Superintendent, Central Jail for delivery to the prisoner

From The Superintendent
Central Jail, Vellore.

To, The Chief Secretary
to Government
Fort St. George.

Dated 17th April 1895.
Received }

No.

Subject:

Copy of North Arcot Session
Court Judgment in Case No.
11 of 1895.

5
Feb.

2

1942

10-4-95

Duplicate for communication to the Prisoner

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Now day, the eightth day of April,
One thousand eight hundred and ninety-five.

PRESENT:—

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

Referred Trial No. 20 of 1895.

Pattabhiraman Prisoner.

Trial referred by the Court of Session of the North Arcot Division
for confirmation of the sentence of death passed upon the said Prisoner in Case
No. 11 of the Calendar for 1895.

CRIMINAL APPEAL No. 127 of 1895.

Appeal by the Prisoner against the said Sentence.

This case coming on for hearing, the Court delivered the follow-

ing
Judgment:— The case is clearly proved
by the evidence of eye witnesses and
also by the Prisoner's own confession

before the Magistrate—in fact it was
on his giving himself up to the Police
immediately after the occurrence that
he was arrested.

The murder was a brutal one—47
wounds being inflicted on all parts of
the deceased woman's body.

We confirm the conviction and
sentence and dismiss this appeal
By the Court

A. J. Fisher.

Sy. Registrar,
App. Side.

22
9/4

W. A. H.

The Superintendent
Central Jail, Vellore

To,
The Chief Secretary
to Government
Fort St. George.

Dated 17th April 1895.
Received

Enclosures.

No.-

Subject.

Copy of High Court's Judgment
in Criminal appeal no. 127
of 1895.

"Petition for Mercy" "Urgent."

To,

His Excellency

The Governor in Council,

Fort Saint George.

The humble petition of *Pattabiraman*

who was sentenced to *death*

in case No. // of 1895 on the file of the court

of Session, *North Amherst* - which

sentence was confirmed by the High Court of Judicature at Madras in Criminal appeal No. 127 of 1895. and now Convict No. 5909 in the Central Jail, Vellore.

I was peaceably living in Kumbakonam. The deceased ^{Wijaya S. S. S.} ^{to her S. M.} Nagamani, with a view to restore the property ~~the~~ assumed after leaving me while residing at Wallaja, sent me a letter by post requesting me to come and settle with her to which I responded and went. - Venkatachellapathi one of the keepers of the deceased was frequently quarrelling with her for inviting me over and persisted that I should be sent away. She did not however yield to his repeated requests and persuasions. Bearing a grudge he with the help of his men got into her house and caused on her person so many wounds that she died from the effects thereof. He then searched for me also but as I was at the Bazaar at the time I then escaped and went up to the Police Station whither he pursued me. He did these things in order to deprive the deceased and myself of the property. I being a stranger to the place the people there gave false evidence against me on his offering bribes to the witnesses concerned.

I pray therefore that your Excellency will be
graciously pleased to go through the records of this Case
and order my release.

(An English Translation)

Vellor Central Jail.

17th April 1895.

Taylor.

J. H. Lawrence
Superintendent,
Central Jail

of his petition praying for release

W. H. Cassendish
Superintendent,
Central Jail.

"Petition for Mercy"
"Urgent."

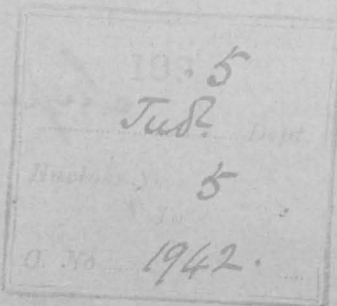
From Pattabiraman
Convict No, 5909.
Central Jail, Vellore.

To, His Excellency
The Governor in Council,
Fort St, George.

Dated /
Received } April 1895.

Subject.

Prays that his release
may be ordered as he did
not kill Nagammanni but
one Venkatachellapathi
who was her paramour
during his (petitioner's) stay
in Tambacorum.



Certificate.

I hereby certify that Convict
No. 5909 Pattabiraman will not be
executed until a definite reply
is received from Government.

Vellore Central Jail }
17 April 1895.

J. H. Lawrence
Superintendent,

Prisons Central Jail.
Tamil.

From

The Superintendent
Central Jail, Vellore

To,

The Chief Secretary
to Government
Fort St. George.

Dated

Received

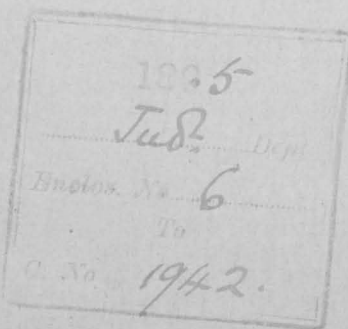
April 1895.

Enclosures.

No. 3

Subject.

Certificate that No. 5909
Pattabiraman will not be
executed until definite
reply is received from
Government.



N. 9
474

From,

Vellore Central Jail,
17th April 1895.
CURRENT NO. 1942.
A. L. J. Cavendish Esquire,
Superintendent, Central Jail,
Vellore

To,

The Chief Secretary
to Government,
Fort St. George.

Sir,

I have the honor to submit a petition
for mercy from Court No. 5909 Pattabiraman
confined in this Jail under sentence of Death
in Case No. 11 of 1895 on the file of the Court
of Session, North Arcot.

2

The nominal roll of the Court
and an English translation of the petition
together with copies of Sessions Court and
High Court Judgments and the usual
certificate are also forwarded.

I have the honor to be,
Sir,

Your most obedient servant,

Sir

A. L. J. Cavendish
Superintendent,
Central Jail.

Judicial Dept.
Petition for Mercy
"Urgent"

SP 1259/94 Sc

From CURRENT NO. 1942

The Superintendent

Central Jail, Vellore

To,
The Chief Secretary
to Government
Fort St. George.

Dated 19 April 1895.

Received 19

Regd 20

Enclosures 6



No. 474

Subject,

Forwards petition for
Mercy from convict no 5909
Pattabhiraman under sentence
of death in this Jail
with necessary papers.
18/20/94
us 20/4

For orders

G.
25.
600-8-3-05.

Judicial DEPARTMENT.

C. No. 1942/95.

FOR ORDERS.

The petitioner now reports says
that the 5th W., Venkatasubba-
patti, who had formerly been
keeping the deceased woman,
was the murderer. But there is
not an atom of evidence to support
this story. On the contrary, there
is ample evidence, independently
of the petitioner's confession to the
committing the crime, that he him-
self was the murderer. I can see
no ground for interference & would
dismiss the petition.

21/4/95

The case is clearly proved.
The law must take its course.

21/4

a very clear case - a very brutal
murder.

22 apr

Appeal for mercy from convict no.
5909 Pattabhiraman under sentence of
death in North Arcot Sess. case no. 11 of '95,
which sentence has been confirmed by the
High Court.

The Supt. of Vellore Central Jail
certifies that the convict will not be executed
until a definite reply is received from Govt.

20-4-95

20/4/95

20-4-95



VE

FOR ORDERS.

VE

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Ca. 1942/95

READ the following letter, dated 17th April 1895, from the Superintendent of the Central Jail at Vellore, forwarding petition from Convict no. 5909 Pattabhiraman, under sentence of death in North Arcot Session Case No. 11 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.

ORDER THEREON, 23 April 1895, No. 828.

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. 5909 Pattabhiraman.

2. The law will take its course.

(From orders)
(True Extract.)

22.4.95
22/4/95
Chief Secretary.

sent to C.S. with fair please.

To the Superintendent of the Central Jail, Vellore.
for communication to the Prisoner.

„ Inspector-General of Jails - Prisons.
„ Hon'ble the Judges of the High Court, with papers returned.

with C.D.

22.4.95

Copied 22/4

22/4

22/4

22/4

22/4

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.—
 A = Copy in full.
 B = Not to be copied.
 P = Copy abstract only.
 Q = Copy heading only.