

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 853.

Dated 25th Apr 1895

INDEXED.

[Despatch Abstract.]

CRIMINAL APPEAL.

Directing the Government Pleader to present an appeal to the High Court against the acquittal of Gowanna and Virupanna in Bellary Session case No.74 of 1894.

encl.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
G.O.	1590		95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2338		95				

[G.]
75

NOTE FOR THE UNDER SECRETARY.

Det. Magter's letter is
a pretty long one. May it
be sent to the Govt. Pleader
in original please? Of course
he will return it together with
other enclosures when done
with. The y.o. is marked "urgent".

No. send a copy of the
90 as we then week
it will suffice

25.7

H. do.
Please issue
short from
Madras 12th
25th

Jude
CURRENT NO 1590

So. 449: 1.7.95-11.11.95
2589: 30.10.94
2768: 15.11.94
362/95

From

The District Magistrate
& Collector of

2768/94

80 2589/94

362/95

To

Belur.
The Chief Secretary
to Government.

Judicial Department,
Magl. Rept. No. 246
Sept 29. 3.95 Encl. 4
Recd. } 30-395 The back
Regd. }

Requesting to move Govt.
- sent to prefer an appeal
to High Court against the
acquittal of the 3rd and 4th
Prisoners in Sessim's case
No. 74 (Samarasapuram
1894
Murder Case).

R 2/4
R 52/4

met.

H. B.

For orders

CURRENT NO 1590 Bellary Collector's Office
Dated 26th March 1895.

From

H. Treuenhagen Esquire,
D^y Magistrate Collector of Bellary.

To The Chief Secretary to Government,
Judicial Department,
Madras.

Sir,

I have the honor to suggest to Government that an appeal may be preferred against the acquittal of the 3rd and the 4th prisoners in the Sanavisapuram Murder Case; Sessions Case No. 74 of 1894 - (See Copies of original and appeal judgments submitted herewith.)

2 In this brutal Murder, the Village Magistrate was set upon in his own village by day light and killed with 30 Stabs and Cuts.

3 His assailants were believed to be five brothers; one was convicted by Mr. Stuart, while the other four absconded (See G.O. $\frac{2589}{30.10.94}$) Before he was hanged, he made a statement exonerating his brothers; and subsequently after proclamation had been issued, they surrendered themselves. Mr. Moore convicted two of them and they have been hanged; and the other two (Goranna, 3rd prisoner and Virappauna 4th prisoner) he acquitted.

4 His reasons for doing so are set forth in para 21 of the Judgment and were as follows:—

(1) They are not mentioned in the first report ^{of the}

off when the whole Village was in a state of the greatest excitement.

(ii) The several witnesses who say that these prisoners were armed with sticks and that they struck the Village Magistrate with these weapons as he was lying on the ground, all give their evidence on this point in a vague and general way without giving any details or particulars as to the number of blows struck etc.

(iii) The medical evidence makes no mention of any blows struck with sticks or other blunt instruments.

(iv) There is a tendency in these cases to include unjustly all the members of the family of the guilty persons.

He consequently felt doubtful whether these prisoners joined in the murder.

5 It is clear that the non-acceptance of the testimony of these witnesses as to the 3rd and 4th prisoners might be argued to weaken their credit as to the 1st and 2nd. Accordingly, the point was taken in the appeal of the latter before the High Court. On this, their Lordships remarked "we do not understand that he (the Judge) discredited the evidence as to their presence on the occasion. It may be doubtful whether the acquittal was justified; but the Judge and Assessors were of course desirous that the case against the whole family should not be

(6) I take it therefore as proved that Prisoners 3 & 4 were present at the murder with their three brothers already convicted. As to the latter the High Court also observed "the murder was deliberately planned and carried out with every preparation to cause death in a cruel and brutal manner."

(7) I now return to the four reasons of the Sessions Judge noted above;

(i) As to the omission of Prisoners 3 & 4 in the first report, Mr. Stuart remarked (para: 12):

"It must be remembered that the Kammam's report was founded on information volunteered to him at his house and that the three men mentioned (therein) are said to have taken the principal part in the murder. After sending off this report, the Kammam went to the Reddy's house and then sent a report to the Police in which all the five brothers are mentioned."

Mr. Moore remarked (para: 10)

"The Kammam xxx states xx he received information of the Reddy's death from ^{one} Anagonda Appa. He at once wrote a report to the Stationary Sub Magistrate of Siruguppa, in which he stated that Prisoners 1 and 2 and Chinna Anandappa had stabbed the Reddy, all over the body and killed him. He then went to the Reddy's house and saw his body white in that house and fifteen minutes after he had

had written Exhibit L. he wrote another report which he sent to the Station House Officer of Sirigeri. The information in that report was given to him by one Tirabhadrapa, the father-in-law of the Reddi and the brother of — 1st witness. It is to the effect that the Reddi was stabbed by the four prisoners and Chinnappa Anandappa and killed."

I beg to draw the particular attention of Government to the words I have underlined.

In para 21 also the Judge admits as to this first report "it is not alleged that the man, Anegondi Irappa, on whose information, this report was sent in, was an eye witness of the attack on the Reddi."

I submit therefore with confidence that the first report cannot with justice be taken to be exhaustive; and that as the second report, written within 15 minutes after the 1st mentioned the 3rd and 4th Prisoners no presumption adverse to the Prosecution ought to have been drawn.

ii That the witnesses gave no particulars as to the number of blows struck etc was in their favour. It is only fake or tutored witnesses who are able to give minute details of a sharp and sudden struggle. If the witnesses had said "This man gave 3 blows one on the back, one on the legs and the 3rd on the shoulder," or "he gave one blow while facing north

north, one while facing south" I should have regarded their evidence with suspicion. The spectators saw a horrible tragedy carried out in a minute; in its course, they saw two men beating a dying man with sticks; and they said so simply.

iii It is true the Medical examination brought out only the existence of the 30 stabs or cuts and took no note of any Contusions that may have existed. But this was surely very natural. Most young Medical Officers and this Hospital Assistant was only 23, would not have extended their examination beyond 30 serious wounds. And I wish to draw attention to the fact that he was not cross-examined before the Committing Magistrate and not examined before the Sessions Court.

iv The tendency to include innocent relations of a guilty person does in fact exist. The question in each case is whether there is clear and creditable evidence amounting to proof. If so, this tendency may be neglected.

8 It only remains that I should bring to the notice of Government, the evidence as to the subsequent conduct of the 3rd and 4th Prisoners, which has been overlooked in its effect by the Judge though partly noticed by him in para 9. Immediately after the murder, all five brothers associated with the

the roof of their house and boarded of the Murder,
during the partisans of the Village Magistrate
to attack them. That night, also, the 3rd and the
4th Prisoners absconded with two of their brothers.

9. Taking all these facts together, it seems
impossible, on a proper view of the case to share
in the doubt felt by the Judge as to the guilt
of the 3rd and 4th Prisoners.

I have the honor to be,

Sir,

Your Most Obedient Servant.

Valuer Chetty
For District Magistrate

G.
25.
190-8-3-95.

Just. DEPARTMENT.

C. No. 1590.

FOR ORDERS.

What I meant when I stated
in the case before was that
I was inclined to initiate
an appeal against the acquittal
of these two men. But now that
the D.M. formally recommended
me, I have good reason first,
I doubt how we can refuse
to order it. We need not
have the men hanged, if con-
victed - In fact, I would not
do so. They did not take
the leading part in the death
weapons as the other three
did.

RS

8/4/95

I agree. We cannot agree to
appeal.

RS

19/4

Certainly not

W

23 apr

A.M. has already expressed the
opinion that an appeal should not
be preferred against the acquittal of
these men - vide notes in orders in
P.O. of 18-2-95 No 362. Shall the
Dist. Mag. be informed of the reason
why his recommendation is not
accepted

RS 3-4-95
6/4/95

RS

Order 25 April 1895. No 853.

The Hon. Pleader will accept
He instructed to present an appeal
under Cr.P.C. 2417 against the
acquittal of Gouranne & Vinpenn
3rd & 4th accused in Bellary Session
Case No. 74 of 1894.

Collected from orders
21/4-24-95
The D.M. Bellary (P.O.)
The Hon. Pleader (with enclosure)
DESPATCHED
1 MAY 95
IN M.S.

Appeal against acquittal

FOR ORDERS.

E

A. J. & Co.

C. (for order)

Note: Appeal time requires a few weeks.

2. 11. 95

17/4 22/4

24/4

When given for copying _____
When copied _____
When examined _____
When signed _____

189

READ AGAIN G.O., No. 189

DATED

CURRENT No.

ENCLOSURES TO O. 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.
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