

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2844		95-501317 20/6/95				
	4032		95-962280 7/11/95				
	432		25.3.03				

CURRENT NO. 2002

Judicial Department

So. 984. 25. 4. 94 mis (sh)
Criminal loose file

FROM

COLLECTOR
THE DISTRICT MAGISTRATE OF MALABAR.

To

THE

CHIEF SECRETARY
22 APR. 1895
GOVERNMENT

Secretary to

Government

Judicial Department

Dated

Despatched

Received

17
18
22

April

1895

Ref No. 1478
m

Enclosure. H

Subject.

Lunatic Aru Ua Kumbi

Submitting for orders of Government

the case of ——— concerned in C.C N^o.

939 of 1894 on the file of the Sub m. of the

Calicut Town

to await return of 954 mis
25. 4. 94
as 30/4 half yearly return of criminal list

Lunatic Asylum
Machra 20th February 1905

2/2/05
I do hereby certify that, in my judgment
Native male Criminal Pillakalakath Abdul
Kunhi is now capable of making his defence,
having recovered from his late attack of insanity.

Official Visitors

H. J. Hazlett
Supt. Govt. Lunatic Asylum
Machra

D. Elcum.

Surgeon-Major,
Supt. Govt. Lunatic Asylum

In the Court of the Second Class Sub magistrate Calicut

Present :- Mr. A. Gopalakrishna Iyer

Cal. Case no. 939 of 1894

The Queen Empress of India

By
Kathurshi Hannan Nayyar

O.S.

Pola Kalakath Iyulla Kunhi

offence & law: Voluntarily causing hurt by an
instrument for cutting, to wit a knife
an offence punishable under section 324 P.C.

Finding of the magistrate. The accused is guilty.

Sentence & order. The accused is acquitted,
under section 258 C.P.; but the accused
is ordered to be kept in safe custody
in the Subjail Calicut pending the
orders of the local Govt. under
section 471 C.P.

Judgment

The charge in this case was laid by the
officer in charge of the Calicut Town Police
Station and he charges the accused under section
324 P.C.

2 The scene of the crime in this case is
in Talli at Kasaba Ambam of the Calicut
Taluk. The Complainant Hannan Nayyar

(10)

1st witness) who was then the Head Constable of the Kuthipuram Police Station and who is now only a Constable had been in Calicut on the 6th March 1884. As he was going to Talli from the office of the Superintendent of Police he saw the accused standing in the paramba situated on the south of the hotel of the 2nd witness pelting the wayfarers with stones and collecting bamboo branches and kindling fire. The pro: 1st and 3rd witnesses tried to arrest the accused but the latter bolted away towards the Talli temple closely followed by them. The accused ran eastward through the lane on the southern side of the temple followed by the 1st witness while the 3rd witness running along the road on the northern side of the temple reached the eastern extremity of the lane above said and ~~diverted~~ ^{diverted} his course westward through the lane towards the accused when the latter turned back and ran westward. As the accused turned his course westward ~~he~~ he met Complainant whom he ~~stabbed~~ ^{stabbed} with the knife now before the Court in two places in his chest inflicting two wounds one of which was punctured wound an inch long and an inch deep while the other which was a superficial incised wound

wound was $\frac{1}{2}$ an inch long. The 3rd witness arrested the accused and was handed over to the custody of the 4th witness a Constable. The 1st witness underwent treatment in the Civil Dispensary at Calicut for about 10 or 12 days. The above facts are deposed to by the 1st witness and the 3rd witness Velakkathra Krishnan.

3 The 2nd witness Govindan nayar says that he saw the accused in the paramba on the south of his (2nd witness) hotel pelting wayfarers with stones and also kindling fire out of bamboo branches that the 1st and 3rd witnesses tried to arrest him and that when the accused ran away the two witnesses named above pursued him.

4 The 4th witness Constable n^o 755 says that he took charge of the accused from the lane referred to, that the accused had then the knife in his hand, that Kannan Nayar (1st witness) told him that the accused stabbed him with that knife in his chest, that Kannan Nayar had then wounds in his chest and that he (witness) took the accused to the Town Police Station and delivered him

him to the custody of the Town Police.

5. The accused denied the charge and said that he did not know whether he stabbed the Complainant with the knife now before the Court, that the knife did not belong to him, that once before this he had an attack of insanity from Cannanore of which he says he is a native and that he knew he had been in Calicut at the time he is said to have stabbed Kannan Nayar only after he was taken down to that place from the Madras Lunatic Asylum.

6. The accused did not wish to examine any witness.

7. This offence is alleged to have been committed by the accused on the 6th March 1894. The same day the Town Police produced him in Court for seven days remand and stated in their application for remand that the accused was insane. I at once placed myself in communication with the District Medical & Sanitary Officer. Vide my letters dated the 6th & 13th March. Letters dated 12th, 14th & 27th idem are replies to my communication. In his letter of the 14th March the Assistant Surgeon Mr. Lafrenais in

in Charge of the District Medical and Sanitary Officer stated that "Soulla Kumbi therein referred to is insane and consequently incapable of making his defence". The Civil Surgeon furnished me with A.C. forms and the medical history sheet. I stayed proceedings against the accused and a report was submitted by me to the District Magistrate under Sec. 466 C.P. on the 15th March 1894 recording a finding as to the unsound ^{of mind} of the accused and to his incapability of making his defence. I also recorded the evidence of the medical officer on the 15th March 1894 who deposed that the accused had been under his observation since the 8th idem, that for the reasons given by him the accused was insane and consequently incapable of making his defence and that he was suffering from acute mania. The accused was forwarded to the Lunatic Asylum at Madras under L.O. dated the 2nd April 1894 No 271 Jndl. The Superintendent of Lunatic Asylum sent back the accused to the District Magistrate with his letter dated the 26th February

N^o 203 and with medical History sheet certificate of recovery and with Medical statement of case - all recorded in the case - with the remark that Aoulla Kumbi is in a fit state of mind to stand his trial. The trial of the accused was therefore resumed. The above is the previous history of the accused.

8 I resubmitted Mr. Lafrenais who was the Asst. Surgeon at Tellicherry, but the summons was returned unserved as he left the place for Ootacamund. His attendance cannot be procured without an amount of delay and expense as he is reported to be now employed in

Ootacamund. The only point I summoned him to prove is whether the accused had been suffering from insanity at the time he committed the act complained of. Mr. Lafrenais stated when he was examined on 15th March 1884 that he was unable to say how long the accused had been an insane. I therefore thought fit not to examine him to prove this point again.

9 I have now to decide the question whether the accused was insane at the time the alleged act was committed. The evidence of the 3rd and 4th witnesses is material

material to the settlement of this question. They said that the accused was at the time the alleged act was committed, talking incoherently and showing all such signs as an insane person would show and further stated that he was an insane. The report of the Police dated the 6th March also supports the testimony of the 3rd and 4th witness. The Civil Surgeon said that the accused was suffering from acute mania and that since the 8th March viz two days after the commission of the alleged offence the accused had been under his observation, he observed him to be insane. The 2nd witness expressed his inability to offer his opinion on the question of the insanity of the accused. The 1st witness said that the accused must have wounded him either because he was a wicked person or because he was devoid of a sound mind. I believe the 2nd witness was reluctant to speak the truth. The evidence of the 1st witness tends to show that although he had reason to believe that the accused was an insane person he shaped his evidence in such a way that it could be interpreted in both ways either to prove or disprove the insanity of the accused. But the first witness

witness is an interested party and he would not frankly admit that the accused was an insane person at the time the act was committed. But the evidence of the 3rd and 4th witnesses established the insanity of the accused. For the reasons above stated I have no doubt but that the accused was insane at the time at which he is alleged to have committed the offence in question.

10 I have no reason why I should disbelieve the prosecution — evidence as to the fact of the accused having stabbed the 1st witness with the knife in question. I therefore find that the accused Polakkala Kath Avulla Kunhi did inflict wounds in the chest of the 1st witness Hannan Nayar by stabbing him with the knife now before the Court; but that by reason of unsoundness of mind he was incapable of knowing that he was doing an act which was wrong or contrary to law, and that ~~the~~ he is not therefore, guilty of the offence specified

specified in the charge viz that he has voluntarily caused hurt to the 1st witness Hannan Nayar by wounding him with the knife before the Court and has thereby committed an offence punishable under Section 324 I.P.C and the Court Directs that the said Polakkala Kath Avulla Kunhi be acquitted, and that under the provision of Section 471 of the Code of Criminal Procedure the said Polakkala Kath Avulla Kunhi be kept in safe custody in the Sub jail lockup pending orders of the Local Government.

11 The knife in question will be disposed of under Section 523 C.C.

Calicut
10 April 95

Du, M.A. Gopalakrishna
2nd Class mag^{tr} Calicut
Town

(True Copy)

J Paradasa

Assistant for a Dist mag^{tr}

MALABAR District Magistrate's Office
Calicut, 17th April 1895

CURRENT No. 2002

H. Mooberry Esqre

Ag District Magistrate MALABAR.

To Calicut

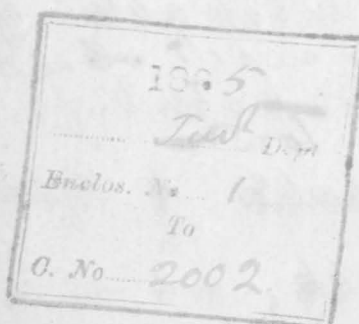
The Chief Secretary to Government
Judicial Department

Sir

Under C.P.C Section 471, I have the honor to report the following case for the orders of Government. In Calendar Case n^o 939 of 1894 on the file of the Sub magistrate, Calicut Town, Hakuzi Kanner Nayar charged Palakalagath Amulla Kunhi with having voluntarily caused hurt to him - an offence punishable under I.P.C sec: 324. In the course of the trial, the accused was found to be insane and incapable of making his defence. Further proceedings were stayed and the case was reported to Government under C.P.C Section 466, and on receipt of orders from Government the man was sent to the Lunatic Asylum Madras for safe custody and treatment. The Superintendent of

Ref No. 1478
m. 95
From

* 984 Jidl
25th April 1894



of the Asylum sent him back to stand his trial as he was found by the visitors to be sane and capable of making his defence. The Sub Magistrate proceeded with the trial and found the accused Guilty, but acquitted him on the ground that by reason of unsoundness of mind he was incapable of knowing that he was doing an act which was wrong or contrary to law. A copy of the Sub Magistrate's judgment is enclosed.

2 The Sub Magistrate has detained him in the Sub jail at Calicut, pending orders of Government and has reported that he cannot find any man to whom the accused can be entrusted for safe custody.

3. The following documents forwarded by the Superintendent of the Madras Lunatic Asylum are enclosed for reference and return.

I have the honor to be

Sir

Your most obedient Servant

Quincy

District Magistrate

* medical History Sheet
Certificate of Recovery
Medical Statement of
Case
Certificate of fitness
to trial.

NOTE FOR THE CHIEF SECRETARY.

The recovered lunatic assaulted a constable with a knife in March 1894. His type of insanity is mania not caused by use of drugs. He is 21.

He therefore falls under Item III (a) of Appendix III to G.O. 726 24.4.89. I should

send "at least four years of complete freedom from insanity in an asylum" followed by four years probation in jail.

He has only 3 years since last September. Should therefore go back to the asylum for 4 years + five months. Under C.P.C. 471 Govt. he power to pass order of confinement in an asylum, irrespective of the fact that he is now sane.

3-5-95

Judicial Department



Q.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following letter from the District Magistrate,

ORDER—dated 7th May 1895, No. 937.

UNDER the provisions of Section 471, Criminal P. C., it is directed that criminal lunatic *P. Abulla Kunhi* be sent to the Lunatic Asylum at Madras for safe custody and treatment; the usual periodical reports being made of the state of his mind.

2. The ^{officer in charge} Superintendent of the ^{Subsidiary} Jail at *Calicut* will forward criminal lunatic *P. Abulla Kunhi* at once to his destination and intimate the despatch to the Superintendent of the Asylum by letter accompanied by all necessary papers.

(True Extract)
The man is a lunatic
who put up with him
I don't see how it can
be kept him up
in a lunatic asylum
High Section 471 C
may be taken to Court
His name is
2/5/95
Under Secretary.

To the District Magistrate, *Malabar*. 840
" Superintendent, Lunatic Asylum, Madras, with papers.
" Surgeon-General.
" Inspector-General of Police.
" Inspector-General of Prisons.

Note. *Abulla Kunhi* is a lunatic & 10 years in the half yearly return in the linked file. He was accused of voluntarily causing hurt & a dangerous weapon & confined in the L.A. under a charge of 471 C. 4. 94 mis. His type of insanity is "mania", owing to false belief. He is not addicted to intoxicants.

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

189 .

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO G. 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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