

(1) Number of pages 28(2) Date of repair 21-2-44(3) Initials of the Referencer **MADRAS RECORD OFFICE.****Government of Madras.***Judicial* **DEPARTMENT.**G.O. No. 1278Press
Mis.Dated 15.5. 1886.**Not to be folded or roughly handled**

15TH MAY 1886, No. 1278, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again G.O., dated 5th April 1886, Mis. No. 866, Judicial.

READ—also the following paper:—

From Surgeon A. J. STURMER, Superintendent, Lunatic Asylum, Waltair, to the Chief Secretary to Government, dated Waltair, 11th April 1886, No. 44.

With reference to G.O., dated 5th April 1886, Mis. No. 866, I have the honor to inform that since I have been in charge of the asylum (August 1885), criminal inmate Tanauki Krishnamma has shown no sign of insanity. He is rational and sane on all subjects, and he is physically strong and in good health.

2. I gather from the records that ever since his admission he has been considered sane.

3. I am of opinion that if his wife will give a bond to the District Magistrate as required by the Act, and as she states in her petition "that in case of her husband's relapse she will deliver him to the authorities and give a respectable person as bail to that effect," that he may be discharged with safety to the community.

4. The original petition and translation are herewith returned.

ORDER—dated 15th May 1886, No. 1278, Judicial.

The Government have had under their consideration an application for the release of one T. Krishnamma, at present confined in the Lunatic Asylum at Waltair, who committed homicide in 1874 while insane, but is reported to have for some years past recovered his sanity.

2. In dealing with this case, occasion has been taken to review the general policy of Government regarding the release of recovered lunatics who have committed homicide. It is observed that the practice followed in England and in other parts of India is not absolutely to prohibit the release of such recovered lunatics, but to consider each case as it arises on its merits.

3. In the case now under consideration it appears that when T. Krishnamma was put on his trial in January 1875 for the homicide which he had committed while insane in 1874, he was already sane. He was stated to be sane when received in the asylum in the following February, and he has been reported from time to time by the official visitors to have remained sane ever since. In a special report on his

present mental and bodily health submitted by the Superintendent of the asylum, T. Krishnamma is stated to have exhibited no symptom of insanity since the Superintendent has had him under his care. In the opinion of the Superintendent he may be discharged with safety to the community. The Government, in view of this opinion and of repeated recommendations from various official visitors, resolve to direct, under section 475, Criminal Procedure Code, that T. Krishnamma be delivered over to his wife, on her giving security that her husband shall be taken care of and shall be prevented from doing injury to himself or to others, and that he be produced from time to time for the inspection of the medical officer.

(True Extract.)

Chief Secretary,

To the Superintendent, Lunatic Asylum, Waltair.
" Surgeon-General with the Government of Madras,
" District Magistrate, Vizagapatam.
" Inspector-General of Police.
" Petitioner,

Govt. of (1886) Madras.

JUDICIAL.

Issued

Recd.

Encl.

G.O., 15th May 1886, No. 1278.

MAY.

Criminal Lunatics.

Directing, under section 475, Criminal Procedure Code, that one T. Krishnamma, at present confined in the Lunatic Asylum at Waltair, who committed homicide in 1874 while insane, be delivered over to his wife on her giving the required security.

No 44 ²¹ Lunatic Asylum
Waltair. 11 April 1886

From The Superintendent
Lunatic Asylum
Waltair.

To The Chief Secy. to Govt.
Judicial Department.

Sir

With reference to G. O. dated 5th April 1886 No 866 Mis. I have the honor to inform that since I have been in charge of the Asylum (August 1885) Criminal inmate Jananki Krishnamma has shewn no sign of insanity. He is rational and sane on all subjects, and he is physically strong and in good health.

2. I gather from the records that ever since his admission he has been considered sane.

3. I am of opinion that if his wife will give a bond to the District Magistrate as required by the Act, and as she states in her petition "that in case of her husband's relapse she will deliver him to the authorities and give a respectable person as bail to that effect" that he may be discharged with safety to the community.

4. The original petition & translation are herewith returned.

I have the honor to be

Sir

Your most Obedt. Servant

By Apthorpe. Surgeon
Superintendent Lunatic Asylum
Waltham.

No

Current 906/85. Public

F O R O R D E R S.

The question is whether the ruling of this 1857 No 1520 is the rule generally followed or whether there is any other a more merciful method of dealing with the case of a man who was insane when the crime was committed but has been perfectly sane ever since for the last ten years & whose case has been repeatedly recommended for consideration.

tion for orders is whether one
is Krustamma, a criminal lunatic
the Asylum at Waltaiz, shall be
or not.

Samund was charged in January
as the Sessions Judge of Godavari
culpable homicide of one Karaturu
x. It appeared in evidence that the
had apparently been seized with a
enmity a few days before the fatal assault
& had struck his mother brother: he
enmity with the man he killed & received
ation: he attacked him with a rice
& killed him by a blow on the head with
iron. The Judge found that he had
deceased & was insane when he did

ner appeared same at his ~~residence~~^{trial} but
on a reference by the Sessions Judge,
ordered by G.O. 18th Feb 1875. no. 373 to

ordered by J. C. 1879. 1879. 1879.
be detained in the Asylum at Waltham, till he
should be discharged according to law. It appears
that the prisoner has been sane ever since
his admission, for in July 1879 the official
visitors reported him "quite sane", & "strongly
recommended that he be taken out, as he
has now been perfectly sane for four years".
The Govt. declined to adopt this recommendation
"with reference to the associations committee
to person named".
1880 - the official visitors - thought it

From

From

The Superintendent
Lunatic Asylum
Waltham

To
The Chief Secy. to Govt.,
Judicial Deptt.

No 44

Dated 11th } April 1886
Recd }

Enclosures, Two-

— Subject —

Report on the present mental and bodily condition of Tanuki Kristnamma and an expression of opinion as to the advisability of the Uman's release.

Q.O. 25th July 187
no. 175

From
The Super
Luna

for better off if con-
victed & transported
to the Penitentiary
Please have a note
of the ^{2nd suggestion} case carefully
prepared & sent out
before next Council
of the

Kristnamma and
of opinion as to the
of the Ueai's rel

From

Judicial DEPARTMENT.

No

Current 906/85. Public.

FOR ORDERS.

The question for orders is whether one Thonauki Krustamma, a criminal lunatic now in the Asylum at Waltair, shall be released or not.

T. Krustanina was charged in January 1875 before the Sessions Judge of Godavari with the culpable homicide of one Karaturu Achenna. It appeared in evidence that the prisoner had apparently been seized with a fit of insanity a few days before the fatal assault occurred, & had struck his mother's brother: he had no enmity with the man he killed & received no provocation; he attacked him with a rice pounder & killed him by a blow on the head with that weapon. The Judge found that he had killed the deceased & was insane when he did so.

So.
The prisoner appeared sane at his ~~trial~~ ^{hearing} but
defected. On a reference by the Sessions Judge,
he was ordered by G.O. 18 Feb. 1875. no. 373 to
be detained in the Asylum at Wallar, till he
should be discharged according to law. It appears
that the prisoner has been sane ever since
his admission. For in July 1879 the official
visitors reported him "quite sane" & "strongly
recommended that he be taken out, as he
has now been perfectly sane for four years."
The Govt. declined to adopt this recommendation
"with reference to the aboriginal committee
by the person named" & thought it
- 1880 - the official visitors -

Q.O. 25th July 1870
no. 175

right to bring the case to the Special notice of Government," as the man had been sane for the past 5 years. The Surgeon General however expressed doubt whether it was expedient to release a ~~man~~ man, whose insanity had resulted in such a crime as his, & the Government agreed. & declined to release him. Again in July 1881, the official Visitors submitted a Special report regarding T. Kristnamma, recommending his release: but the Govt. were "not prepared to depart from the principle deliberately adopted" of not releasing such recovered lunatics: this, says the order, "has been the long established practice and follows the English procedure". The visitors have continued to return the man sane, but made no further recommendation for his release. In 1884, a petition was received from his brother, who offered to stand surety for him "for whatever amount of money or property that lies in me". The Govt. refused to release T. Kristnamma. In 1885, another petition for the man's release was received from his brother but rejected. The present petition is from the man's wife, who prays for his release, & adds that in case of his relapse she will deliver him to the authorities & give a respectable person as bail to that effect.

The above is the history of the case. The prisoner has now been sane for 11 years. The question therefore arises whether the Govt. will continue, ^{under} any circumstances, to refuse to release a man who has committed ~~crime~~ while insane, and has since recovered his sanity.

G.O. 10th Aug. 80. no. 1915.

G.O. 1st Aug. 1881. no. 1529.

G.O. 7 April 84. no. 895.

G.O. 27th Nov. 85. no. 3232.

* that of one Ramudu convicted of homicide in 1869,

G.O. 1st May 1877, no. 1090

Flag B

In 1876-77 this question was raised and considered with considerable care in connection with a not dissimilar but different case: information was obtained as to the practice obtaining in England, and in the Presidencies of Bombay & Bengal, & in the N.W. Provinces. The decision then arrived at was that "the continued detention of Ramudu (the man ^{then} in question) "in custody would not apparently be opposed to the general practice observed both in England and in this country," and he was therefore not released.

This decision, it is clear, was a perfectly reasonable one, for it was based on the facts of the particular case, & merely stated that - to retain that particular prisoner would not be opposed to the general practice in England and elsewhere. But this decision applied only to the particular case, & the statement - in G.O. 1st Aug. 81 - no. 1529 - that the refusal to release recovered ~~man~~ lunatics who had committed homicide - "follows the English procedure" - was a much less guarded & correct ^{form of} expression.

The true principle to be followed in deciding this question is to judge each case on its merits. This is the principle expressly laid down in England. The M.S. Memo. headed "Criminal Lunatics" & furnished by the Home Office - says -

"The usual course is to defer any action until a patient is certified by the Medical Officer of the Asylum either to be sane and fit to be discharged, or to be harmless & capable

vide in G.O. 1090-81-5-1877
Flag B

of being discharged without danger to himself or others. When this is done or when the attention of the Secy of State is otherwise specially drawn to a case, he proceeds to consider it entirely on its own merits. He refers to the depositions or other evidence showing the facts of the crime charged, and he carefully considers all the attendant circumstances. In arriving at a decision as to the course to be taken he is guided mainly by -

1. the nature of the crime.
2. the mental & bodily condition & the age.
3. the length of the period of confinement already undergone - and
4. the friends of provision wth relatives or others are able to make for the purpose of guarding as far as possible against future untoward occurrences in the event of discharge.

"Should he be of opinion that the patient may be released consistently with the interests of justice, with his own safety, & that of others, he grants an order of discharge either absolute or conditional."

The above course of action is, it is submitted, exactly that which prudence & mercy would dictate. Every case is separately considered. There is no invincible objection to release a patient, nor is there any fixed rule denoting such release. The main difference existing in India is that it would be very doubtful whether a condition - to the effect that the patient should be returned if unfavorable symptoms occurred, would be worth anything.

FOR ORDERS.

From

DEPARTMENT.

No.

FOR ORDERS.

As regards the practice in other Presidencies, the papers do not contain much information of value.

- (1) in Bengal: there is no general rule against release, where the patient has been ^{some} for a considerable period: a Commission is issued to report on all the facts of each case, in which release is contemplated, & the Govt. act ~~the~~ after receiving its report.
- (2) in Bombay: no general rule exists: 5 cases of release of recovered lunatics who had committed homicide - had occurred in 8 years prior of 1876.
- (3) in the N.W. Provinces: in rare cases the Govt. release such lunatics to their friends: ^{such} 5 cases had occurred in 4 years.

There is therefore no general refusal among Indian local Govts. to release such a patient under any circumstances. Submitted that there is no sufficient reason why, under certain circumstances, a recovered lunatic who ~~once~~ ^{once} committed homicide, should not be released in this Presidency also. Any fixed rule to release such a patient as soon as he is certified to be sane, would be objectionable, but any fixed rule to ^{the} ~~the~~ ^{contrary} is equally to be deprecated. Assuming that the Govt. resolve, and

certain circumstances, to release a recovered lunatic who once committed murder, the further question arises whether the circumstances of T. Krist-namma's case are such as to warrant his release. This man has now been sane for 11 years. The official visitors have repeatedly recommended his release: presumably, therefore, they have not anticipated any return of the dementia. His age at the time of the homicide was 21: he is, now therefore 32: his youth would doubtless be in his favour. ^{on the other hand} He is described as a "cooly", & his people would therefore not be wealthy, or in a position to keep him under any special protection.

On the above facts, submitted that there are grounds for making an enquiry whether the man may not be released: but that it would be advisable to call for a special report on ^{present} his mental & bodily health from the Sept of the Walters Asylum first; with an expression of opinion as to the advisability of releasing him.

If the report be favorable, he might be ~~conditionally released~~ made over to the care of his friends in accordance with the provisions of Comis. P.C. sec.

⁴⁷⁵ clause 2 of sec. 31 of act V of 1871 w^d also apply.

slp
17/3

I recommend that this course be followed

OK
22/3

I agree H.S. 24. 3. 86

a very good note

So do I!

The note does an
Anderson very great credit.

MSP
26th

If the man is to
be released he must be
better - no more but no
time and he lost

Release of
Lunatic who has
committed homicide

FOR ORDERS.

C. 20

C. 17/3. C. 23/3.
R. 23/3. R. 27/3.

Judicial DEPARTMENT.

No.

From

Superintendent, Lunatic Asylum,
Waltair, no. 44, dated 11 April
86.

FOR ORDERS.

The Superintendent, L.A. Waltair
replies to the reference made in
G.O. 5 April 86, no. 866, mis. regis.
concerning the present mental & bodily
health of the patient T. Krishnam
ma, whose case was stated in
the Note for orders, attached to orig-
inal of above-mentioned G.O.

The Supt. states that since he has
been in charge of the Asylum (Aug
1885), the patient has shown no
sign of insanity, but is rational
and sane on all subjects, and
is physically strong and in good
health.

The murder of Mr. Krishnamma com-
mitted was in 1874. When he was
tried in 1875, he was sane, &
he was sane when, in the same year,
he was sent to the Asylum. He
has been sane ever since.

The Supt. considers that if
his wife will give a bond to the Dist.
Magt. as required by the Act, he may

be discharged with safety to the community.

In view of the Supt's opinion, and of the repeated recommendations of release made by the official visitors from time to time, ~~wherefore~~ it is submitted

that the Government may now sanction his release.

He was committed to the Lunatic Asylum by G.O. 18: Febr 1875 - no. 373 under section 430 - para. 2. of

Act X of 1872. The corresponding section of the present Code of Criminal

Procedure is sec 471. The release of the patient would be under the

provisions of sec. 474 - 5. In the present case, as the patient's wife

has expressed a desire to take charge of him, it is submitted

that the Govt may sanction his release to the wife, on her giving

security (1) that the husband shall be taken proper care of (2) that

he shall be prevented from doing injury to himself or others (3) that

he shall be produced from time to time for the inspection of the Dist. Medical

Officer. These are the requirements of sec. 475 Cr. P.C.

Agreed
W 5/5
6/5

W 5/5
3/5

Release of a patient in the
Walter L. L. who was
of homicide.

FOR ORDERS.

111.

3 P.
Judl. Department.
v

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following

again 2.0.5. April 86. no. 866.
From the Supt. Lunatic Asylum -
Waltair. dated 11 April 86 - no. 44.

Order, 15 May 1866. 1278.

The Government have had
under their consideration an applica-
tion for the release of one T. Krishnamo-
ma, at present confined in the Lunatic
Asylum at Waltair, who committed
homicide in 1874 while insane - but
is reported to have for some years past
recovered his sanity.

2. In dealing with this
case, occasion has been taken to
review the general policy of Government
regarding the release of recovered
lunatics who had committed homicide.

It is observed that the practice followed in England
in other countries has been

5/5
6/5

and the government have resolved
so far to modify their former orders
on the subject, so to lay down that ^{is not absolutely to prohibit}
there shall be no absolute prohibition
of the release of such recovered ^{to consider}
lunatics, but that each case ^{as it arises}
shall be considered on its own merits.
In the case now under consideration
As regards the case

~~pending order~~, it appears that
when T. Krishnamma was put on
his trial ^{in Jan 1875} for the homicide which he
had committed while insane in 1874,
he was already sane. He ~~was~~ ^{was} sane
when recd in the Asylum in the follow-
ing February; and he has been repor-
ted from time to time by the official
visitors to have ~~remained~~ ^{remained} sane ever

since. In a special report on his
present mental and bodily health
submitted by
~~has been received from the Super-~~

of the Asylum, who states that
since he has been in charge of the Asylum
T. Krishnamma has shown no
sign of insanity - ~~but is~~

is stated to have exhibited
no symptoms of unsoundness
since the Supt. has had him
under his care; and

and ~~sane~~ on all subjects, and is
physically strong and in good health.
In the opinion of the Supt. he may
be discharged with safety to the
Community. The Govt., in
view of this opinion ^{and} of repeated
recommendations ~~received from~~
various ~~the~~ official visitors, resolve to
under sec. 475 of P.C.
direct that T. Krishnamma be
delivered over to his wife - ~~over~~
whose application ~~this reference has~~
been made, on her giving security
that her husband shall be taken
care of and shall be prevented from
doing injury to himself or to others,
and that he be produced from
time to time for the inspection of
the medical officers.

J.W. 12/5

12/5

Supt. L. A. Waltair 3
Surgeon General 6
D. U. Vizag. 6
D. G. of Police 1
Petr.

Dec 28/5

Release of prisoners
from America

From London

11
12/12/12
20
PRESS.

Judicial DEPARTMENT.
G.O. DATED 15 May 1915
No. 1278

First copy sent to Press. 18/5

Returned for signature. 29/5

Despatched in print. 28/5

[Despatch Abstract.]

Criminal lunatics - Quoting
under Section 475 CPC that
one J. Krishnamma at
present confined in the Lunatic
Asylum at Walther who com-
mitted homicide in 1894, &
while insane, he delivered
over to his wife on her giving
the resp. security -

✓