

(1) பக்கங்களின் எண்ணிக்கை

18

(2) புதுக்கித் திருப்பிய நாள்

1920-12-20

(3) ஆதாரங்குறிப்பவர் கருக்கொப்பம்

18/12/20

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

Judicial . துறை

அரசாணை எண்.

மு. கோப்புகள் தான் எண்.

3151

அச்சகம்

மலையாள

நாள் :

20-12-18-90

190/

மடிக்கவேண்டிய கண்டபடி கையாளவேண்டிய கட்டாது

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

*Tuesday, the sixth day of November,
One thousand eight hundred and ninety-four.*

PRESENT :—

THE HONOURABLE SIR ARTHUR J. H. COLLINS, KNIGHT, *Chief Justice,*

AND

THE HONOURABLE MR. JUSTICE PARKER.

CRIMINAL APPEAL NO. 402 OF 1894.

1. Ramasami Goundan,
2. Vembuli Mooppan,
3. Otta Sundara Mooppan,
4. Navitha Sundaram,
5. Karuppanan,
6. Sozar Mooppan,
7. Naga Mooppan,
8. K. Muthu Mooppan,
9. Periakaruppa Mooppan,
10. S. Matha Mooppan, and
11. Vembuli.

Appellants (Prisoners).

Appeal against the Sentence of the Court of Session of the Madras Division in Case No. 39 of the Calendar for 1894.

This Appeal coming on for hearing, on Wednesday and Tuesday, the 17th and 23rd October 1894: Upon perusing the Petition of Appeal and the record of the evidence and proceedings before the Court of Session, and upon hearing the arguments of Mr. R. F. Grant, Counsel for the Appellants and of the Public Prosecutor in support of the conviction and the case having stood over for consideration till this day, the Court delivered the following

JUDGMENT.

We have no doubt that Mathukaruppa Teyan was killed at a riot which occurred on the occasion of a "Jellicut" at Kottanipatti on the afternoon of April 2nd and that prosecution witnesses 3, 4 and 5 were badly hurt in the same riot. The conflict of evidence is as to the exact place and circumstances under which the riot occurred, and as to the reliability of the testimony against the individual prisoners.

It is clear that persistent efforts were made to hush up the case—both by the Police and by the Village Munsiffs, and the fact that Kottanipatti is situated on the border of the two Districts of Madras and Tinnevely was made use of for this purpose. Lakshimpuram Kottanipatti is in Tinnevely and is separated from Nallamaram Kottanipatti in Madras only by a street. Lakshimpuram is within the limits of the Amathur Police Station in Tinnevely and Exhibit K shows that on March 31st the Police were warned of the intention of the ryots to hold a Jellicut on April 2nd. From the evidence of the Station House Officer (14th witness) it would appear to have been his duty to have prohibited the Jellicut since the Magistrate had ordered him to stop it if a riot was likely to occur. He allowed himself to be over-persuaded by the Village Munsifs of Lakshimpuram and Nallamaram who represented that the ryots had assembled in large numbers for the sport, and that the Jellicut was to be held in honour of the God. When, therefore, the Jellicut ended in a riot in which one man was killed and several injured, it is intelligible that the Police and Village Munsifs were afraid of getting into trouble and desired to hush up the occurrence. The same reasons did not operate however with the Villur Village Munsif (15th witness) and the

two Constables (20th and 21st witnesses). They had no responsibility for preventing the Jellicut and they reported the fact of the riot [Exhibits J and K] the former report being received at 3 A. M. on April 3rd and the latter on the evening of the 2nd. The Police Inspector arrived on the 3rd and his report L shows that the substantial outline of the prosecution story had been at once reported to him. Subsequently reports were received [1] from the Station House Officer of Amathur [Exhibit G] [2] from the Lakshimpuram Village Munsif [F] and [3] from the Nallamaram Village Munsif [D]. Of these, F was not received till 8 P. M. on April 4th, G till April 7th and D till April 16th and it is noticeable that while the Tinnevely officials [F and G] reported that the riot had taken place near Nallamaram in the Madura District and that they were not present, the Nallamaram Village Munsif reported that the riot had occurred at Lakshimpuram in Tinnevely and that he only knew it from information received. As a matter of fact we have no doubt that the bulls were released within the limits of Nallamaram and that the Station House Officer of Amathur and the two Village Munsiffs were all present. See Exhibit H.

The Village Munsiff's first report [J] was sent off before he had seen deceased's brother Annamalai [1st prosecution witness] and it is clear from his evidence that on the night of April 2nd and on the 3rd when the Mahazar III was written Annamalai was most anxious to hush up the case and have his brother's body burnt without any medical examination. He would give no information whatever, but after information had been elsewhere obtained by the Police Inspector he at last spoke out. Whether this reticence was due to Police influence or to that of 1st prisoner who appears to be a wealthy man, does not appear, but it is certain that for some reason or other he at first refused to speak. But some of the other persons who were hurt did give information [Vide Exhibit XVII] and evidence was collected.

We have no doubt the story told by the prosecution is substantially true. The Vannivelampatti Villagers took great pride in their bull, which they regarded as invincible. The bull had, however, been captured at a previous Jellicut by a Villar man, the deceased, and when he appeared again on the scene and seemed likely to repeat his victory they grew angry and 1st prisoner who was the headman of Vannivelampatti gave the signal to beat him for his impudence and to beat off all the Villar people who came to his assistance. It is probable that no deliberate intention to kill Mathukaruppan had been formed, but the 1st and 2nd prisoners knew that the person invoked by them to administer the beating were armed with formidable weapons which might be dangerous to life, and they called into action a force which they could not control. Not only that but they continued to encourage their men to beat the Villar people who came to Mathukaruppan's assistance after he had been knocked down and was insensible from the injuries received. The medical evidence set out by the Judge in paragraph 4 discloses terrible injuries, and we have no doubt that those who inflicted them, as well as prisoners 1 and 2 who gave the signal for inflicting them—must, in law, be held guilty of murder.

There is a concurrence of evidence that the principal injuries were inflicted upon the deceased by prisoners 3 and 4, the 3rd prisoner having struck him on the head and on the side with a thick stick, and the 4th prisoner smiting him on the neck with a boomerang tipped with iron. The 7th witness also speaks to the beating of deceased by prisoners 6 to 10.

The rest of the evidence refers to injuries inflicted on witnesses 3 to 5, and is to the effect that prisoners 6 to 11 took part in beating them or in shooting stones at them. Some discrepancies in the evidence of witnesses 4 and 5 are pointed out to us, but we do not think they are very material. The 5th witness gave his first statement when he was severely injured, and the omission of names therein is not fatal to his testimony when there is corroborative evidence in the testimony of independent witnesses from another village (witnesses 8 to 10).

The question that has been pressed upon us is whether all these prisoners should be convicted of the murder of Mathukaruppan. As regards prisoners 3 and 4 we have no doubt, but the action of the rest seems to have been mainly directed to prevent assistance being rendered him by the Villar people. Some of them no doubt took part in the attack upon deceased. Not only is there direct evidence to that effect, but the injuries inflicted upon him could not have been inflicted by prisoners 3 and 4 alone.

After full consideration we have come to the conclusion that under Section 149 of the Indian Penal Code the conviction was right. The prisoners went to the Jellicut armed with dangerous weapons, i. e. thick sticks and boomerangs &c, and at the instance of 1st and 2nd accused united with the common object to beat deceased off their bull, to punish his audacity for trying to capture it, and to prevent his friends of his own village from rescuing and assisting him. Being the members of an unlawful assembly an offence was committed by some of the members thereof such as the accused must have known to be likely to be committed under such circumstances of excitement, and the accused must all be held guilty of that offence.

The attack upon a man engaged in what was regarded as a sportsmanlike trial of skill was brutal and cowardly, and is deserving of severe punishment, but at the same time we think that transportation for life—especially in the case of prisoners 5 to 11 is too severe a penalty. We shall therefore direct that the records be submitted for the consideration of the Governor in Council.

The appeal is dismissed.

Ordered accordingly.

(Sd) A. J. Horley,

Jy. Registrar,
Appellate Side.

Exd. R. Vencata Row.

(A true Copy)

[Signature]
Registrar,
Appellate Side.

HIGH COURT OF JUDICATURE
AT
MADRAS.

JUDGMENT

IN
CRIMINAL APPEAL No. 402 of 1894.
(From Session Case No. 89 of 1894,
Madura).

Dated 6th November 1894.

Sent

High Court of Judicature at Madras.
19th November 1894.

No 3120 Judl.

A

From,

H. W. Foster Esquire.

Registrar, High Court,
Appellate Side.

To,

The Honorable Mr. J. T. Price, C.S.I.,
Chief Secretary to Government,
Fort St. George.

Honorable Sir,

I am directed to forward
the records in Session Case No. 39 of 1894
on the file of the Court of Session of the
Madura Division, together with a copy
of the judgment of this Court, in Cri-
minal Appeal No. 402 of 1894, confirm-
ing the sentence of transportation
for life passed on the prisoner, as the
Judges who heard the appeal are of
opinion

opinion that the case is one in which
His Excellency the Governor - in Council
may see fit to reduce the sentences
on some of the prisoners.

I have the honor to be,
Honorable Sir,
Your most obedient servant,

Wm. Miller
Registrar.

Judicial {189 } Department.

No.

From

THE REGISTRAR OF THE HIGH COURT
OF JUDICATURE AT MADRAS,
APPELLATE SIDE.

Dated

19th November

Received

29/11

Reg 29/11

No. 3120 Judl.

Enc. Three

Forwarding records in
Madras Sessions Case No.
39/94 together with the High
Court Judgment in Criminal
Appeal No 402/94 as the
Hon. the Judges are of opinion
that the case is a fit one
for reduction of sentences
passed on some of the
prisoners.

For press

The prisoners have been
sentenced to transportation for
life or the High Court thinks the
case is one in which the chances
of Govt. might be increased

By

Enclosure I to the High
Court's letter dated 17th
November/94 No. 3128
Judicial.

12
26

DEPARTMENT.

C. N.

Prisoners 5-11 joined in
after the row began - Their
conduct is ~~at~~ bad. Should
say 7 years r. i. as they would
be enough for them.

Prisoners 3 & 4 were no doubt
instrumental in the hands of this.
was 1 & 2 - Should think that
they might receive 10 yrs r. i.
apiece.

I don't see why the sentences
in No 1 & 2, who instigated
the brutal attack, which
led to the death of a man
who must have been a fine
blucky fellow - who was
playing the fiddle in a fine
proper manner, should be
reduced.

W
6/12/94

ORDERS.

Please see ^{note on} Case at No 3506
8
30/11
3/12/94

I agree with the view taken
by the hon. Mr. Justice.
Prisoners 1 & 2 were persons of
authority in the village, and their
action directly caused the attack
on a death of the man who had
seized the bull, & they continued
to incite the crowd to still further
violence, even after the man had
been struck down.

I think the conduct of the police
was inadequate on the occasion
& the High Court should be brought
to the notice of the J. & of Police -
& the Revenue authorities should
look into that of the village
Magistrate implicated.

Yes - I intended to
write on this point of Dec
but forgot -
W
6/12/94

100
 100
 100

2

From

Now from the High Court

18/12

Under S.S. 5 of the Indian Penal Code

~~Am. 2. 5. 7~~

~~of the C. P. S.~~

Elder, 20 June 1900 No 3157
 11. Just second accused Ramasami
 under & Vembali Mooppan.
 persons of authority in the village
 it was their action which directly
 caused the attack upon the deceased
 in the Govt therefore considers it
 inadvisable to remit any portion of
 sentence passed upon them. The
 12. & fourth persons Otta Sandara
 Mooppan & Narithe Sandaram inflicted
 principal injuries but were so
 all extraneous to the hands of the
 13. Just & second accused. The Govt therefore
 resolves to commute the sentence
 & transportation for life passed
 upon them for one of ten years
 rigorous imprisonment. The
 remaining prisoners only: - 5. Ramappa
 6. Jagan Mooppan, 7. Papa Mooppan,
 8. K. Mathu Mooppan, 9. Peria Ramappa
 Mooppan, 10. P. Mathu Mooppan &
 11. Vembali - who still live to the
 12. sentence in their case will
 be commuted for one of
 ten years rigorous imprisonment.

2. from the judgment of the
 Securus Co. + the High
 Court it appears that the law
 of the police & the village unity
 has by no means what it
 should have been. The S.P.
 Police & the Dist. Magistrate
 directed to take due notice of
 the short comings of the
 have not already done so
 from or during

10.12.94
 17/11/94

The Hon. Sec. to the Cg. with Ch.
 The S.P. Prison
 The S.P. Police
 The Dist. Magistrate
 Copy for the Sec. to the Cg.

Remission of a deal

+ Securus Co. 12.34 of 1894
 # Criminal Appeal No. 1602 of 1894

Hon. Mr. Justice
 (the President, Securus Co.)

Draft order

21/11/94

9

Page, No. 9

HEAD AGAIN ORDER OF GOVERNMENT, DATED
 189, No. , MISCELLANEOUS.

ON PAPER, No. 8-10-180-19-17

ENCLOSURE

CURRENT NO.

STATEMENT WITH DITTO

ORDER OF GOVERNMENT

A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

SAVING NOT FILED UP, BEING MEANT FOR CONTAIN
 IN ORIGINAL (NOT PARED)

- A - Copy in full
- B - Not to be copied
- C - Copy abstract only
- D - Copy reading only

[6]
[11]
100-20-2-44

ORDINARY, MS.

Journal DEPARTMENT.

G.O. DATE 20-12-74

No. 3187

INDEXED

When given for copying 20/12/74

[Dispatch Abstract]

Remains portions of the
the times had been
persons concerned in
with of our British
for them at a distance
occurred on the occasion
of a patient's death
with in the hospital

21-12-74

26/12/74

U-95