

L & M
Revenue (1899). Department.

MISCELLANEOUS SERIES.

G.O., No. 667 P

DATED 4/5/99

[Despatch Abstract.]

Conjeveram Riot Case

Record of letter from the Plague Commr.
Submitting ^{with certain criticisms} a copy of a letter from the Colr. of
Chingleput forwarding copy of the judg-
ment of the Sessions Judge Chingleput
in the appeal preferred in the
and offering certain criticisms thereon.

BACK PAPERS.

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

FURTHER PAPERS.

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

Local & Munl. (1897) Department.

CURRENT No. 5727

From

The Hague Commissioner.

Order No. 667 21st 07. 4. 5. 99

Recorded.

4. 5. 99

Ref. No. 4336

Dated 24. }
 Received 26. } April '99
 Registered 27.
 Enclosures /
 Spare copies

SUBJECT.

Sub 9 in Continuation of his Proceedings
 No. 78 dated 11-1-99 Copy of letter from
 the Colls of Chingleput forwarding copy
 of the Judgment of the Sessions Judge, Chingleput,
 in the appeal preferred in the
 Conjeeveram riot case, and offering
 certain criticisms thereon.

4/5

BACK

BACK PAPERS.

G.O.	No.	Department.	Date.
-	1048	mins	20/1/99
-	1458	Phuis	16/11/98
-	1438	Phuis	10/11/98
-	1363	Phuis	25/10/98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

IN THE SESSION COURT OF CHINGLEPUT.

Monday, the 27th day of February 1899.

PRESENT :— H. H. O' FARRELL, Esquire, Sessions Judge.

Criminal Appeals Nos. 1, 2 & 4 to 10 of 1899.

From what Court the appeal is preferred.	No. of the case in that Court.	Name and description of the Appellant.	The sentence and Law under which it was imposed in the Lower Court.	Whether confirmed modified or reversed.	If modified, the modification.
Joint Magistrate, Chingleput.	C. C. No. 70 of 1898.	1. Jamna Sa. } Appellants in No. 1. 2. Nana Sa. } (accused Nos. 1 to 4 and 7). 3. Nalla Sa. 4. Kuppa Sa. 5. Venkoba Sa.	1st accused to 13 months' rigorous imprisonment and a fine of Rs. 200; in default, to further rigorous imprisonment of 3 months; 2nd, 3rd, 4th, 7th and 10th accused to 9 months' rigorous imprisonment and Rs. 100 fine each; in default, to further rigorous imprisonment and Rs. 20 of 3 months each; 5th, 14th and 15th accused to 15 months' rigorous imprisonment and Rs. 20 fine each; in default, to further rigorous imprisonment of 3 months; 8th, 11th, 12th and 13th accused to 9 months' rigorous imprisonment and Rs. 10 fine each; in default, to further rigorous imprisonment of 3 months each. Sections 143, 147, 149, 152, & 341 I. P. C.		
		Natesa Mudaly—Appellant in No. 2 (accused No. 10)			
		Govindaraju Naicken—Do. „ 4 (Do. „ 11).			
		Kandappa Chetty— Do. „ 5 (Do. „ 5).			
		Veerasawmy Naicken—Do. „ 6 (Do. „ 15).			
		Kandasawmy Pillai— Do. „ 7 (Do. „ 14).			
		Chikappa Chetty— Do. „ 8 (Do. „ 13).			
		Varadappa Chetty— Do. „ 9 (Do. „ 8).			
		Murugappa Naiken— Do. „ 10 (Do. „ 12).			
			In the case of 1st, 3rd, 5th, 7th and 8th accused sentence reversed and in the case of 2nd, 4th and 10 to 15th modified, but conviction affirmed.		
			In the case of the 10th accused the sentence was reduced to 3 months' rigorous impt. and the fine remitted and in the case of 2nd, 4th and 11th to 15th the sentences were reduced to 6 months' rigorous imprisonment each and the fines remitted.		

DATE OF

	Presentation.	Filing.	Notice issued by Court to appear.	On which appellant ordered to appear.	Hearing.	Order.
No. 1 on	3—1—99.	4—1—99.	5—1—99.			
„ 2 „	4—1—99.	6—1—99.	6—1—99.	16—1—99.	16—1—99.	19—1—99.
4 to 9 „	9—1—99.	11—1—99.	11—1—99.		20—2—99.	27—2—99.
„ 10 „	12—1—99.	12—1—99.	12—1—99.			

These appeals coming on for hearing in the presence of Mr. Adam Counsel for the 1st appellant in No. 1 and for the appellant in No. 2 and of Mr. P. Ramanuja Chariar High Court Vakil for the 2nd to 5th appellants in No. 1, and of Mr. C. S. Venkataramiah Vakil for the appellant in No. 10; upon perusing the petitions of appeal and the copy of the Judgment presented therewith and also the record of the evidence and proceedings, and upon hearing the arguments of the said Counsel and vakils for the appellants and the Public Prosecutor in support of the conviction, the Court delivered the following judgment on the 19th day of January 1899:

"These are appeals preferred by thirteen persons who have been convicted at one trial of rioting and kindred offences and sentenced by the Joint Magistrate of Chingleput to various terms of imprisonment and to fine.

2. The acts in respect of which the appellants have been convicted are alleged to have taken place at Conjeeveram on the 21st October 1898 during the disturbances which occurred in connection with the visit of Major Marsden, the District Medical Officer, for the purpose of carrying out inoculation against plague.

3. The facts which appear to be undisputed are these. Major Marsden about 8 A. M. on the day in question inoculated some policemen and others at the police station of Little Conjeeveram before a crowd of onlookers. They seem to have been quite peaceful, except that the 5th accused was going about grumbling and saying they did not want the doctor there at all. None of the crowd, however, seem to have paid much attention to him; in fact two persons came forward voluntarily and asked to be inoculated. Major Marsden was unfortunately unable to comply with this request as his syringe had got out of order and he then started with the Apothecary in the latter's carriage to go to the hospital. The Inspector of Police, Mr. Hartnett, and the Head Constable followed for some distance on foot and then in a jukka which the 5th prosecution witness—a constable—procured for them.

4. At the corner of the market street, where it joins what is known as the Hudsonpett road, the Apothecary's carriage was stopped by a crowd who unharnessed the horse. The 10th prosecution witness Ellan appeared to be the spokesman of the crowd and expostulated with the doctor about inoculating the people. He was told that no one would be inoculated against his will and the carriage was then allowed to proceed. The doctor was hit by a stone but suffered no other injury. So far as I can gather from the evidence of the Apothecary and other witnesses, there was no general stone-throwing at that time. I mention this because the Joint Magistrate appears to be of a different opinion.

5. Just about the time of this incident the Inspector and the Head Constable came up. When they were about 20 or 30 yards from the corner of the two streets, where there is a bridge, they noticed the 1st accused run up in the direction of the crowd crying out "Vádá" meaning "come on" or words to that effect, and waving his hand or a cloth—it is not certain which. The police officers arrested him, ascertained his name and let him go. There is no evidence that he did anything further.

6. From that point the mob appears to have gone for the Inspector of police continually throwing stones at him. He stationed the Head Constable at the bridge telling him to endeavour to identify the rioters, and himself stood there sometime and then went on (the jukka and 9th prosecution witness its driver preceding him) followed by the Head Constable and the 5th prosecution witness. The two latter left him at another bridge called the Manjaneer bridge near a channel where a pensioned Head Constable vainly attempted to stem the progress of the crowd.

7. Having gone to the hospital and ascertained that the doctor had got off safely the Inspector then made his way to his house. The crowd, which had got round by a short cut, again followed him and he was hit on the shoulder by a large stone. He managed, however, to get to his house and procure a revolver and the assistance of two constables. He directed the latter to arrest any members of the mob that they saw throwing stones and the 10th, 11th, 12th and 13th accused were arrested by them. The mob appears then to have left the

Inspector's house and made for the Taluq Kacheri where the then Sub Collector, Mr. Robertson, was. Two persons—the 14th and 15th accused—who were alleged to have thrown stones at the police officials were then and there arrested.

8. The main occurrences being practically admitted, and obviously amounting to a riot by a large mob whose common object was to intimidate or assault the officers of Government the only questions which arise are (i) Whether the persons who were arrested on the spot were participating in the acts of the crowd or were mere spectators and (ii) Whether the persons subsequently arrested were properly identified as present in the crowd at all?

9. I will deal first with the persons actually arrested on the day of the riot. Leaving for the present the case of the 1st accused which is somewhat peculiar, they were the 10th, 11th, 12th, 13th, 14th and 15th accused. The first four were arrested among the crowd at the Inspector's house by the two Constables who were specially deputed to watch the crowd and arrest any one they saw throwing stones. Each of these Constables arrested two out of the four, and they are positive that the men they arrested were actually throwing stones. Nothing is elicited in cross-examination to shake the testimony of these Constables. In the case of the 11th, 12th and 13th accused there is the further corroboration that the bandyman, the 9th prosecution witness, recognises them as men whom he saw in the crowd at the corner of the market street. If this is true—and no reason is apparent why the man should be disbelieved—it makes out a strong case against them, since they must have been with the crowd during the whole time that it followed the Inspector. The mere fact of their being arrested at the spot, also, unless they can distinctly show that they were quite aloof from the crowd or had some legitimate object for being in its immediate vicinity, raises a considerable presumption against them, since peaceable and law-abiding citizens if they do not attempt to suppress a riot would naturally give the rioters a very wide berth indeed.

10. In the case of the 10th accused a strenuous attempt was made to show that he had a legitimate reason for being on the spot and if it had succeeded I should have been strongly inclined to doubt whether the constable who arrested him had not been mistaken. He is a man who recently arrived from a visit to Mysore with a plague pass-port and undoubtedly was bound on that day to present himself at the Hospital to get his pass-port signed. He is marked in the register as having attended and his story is that he went to the hospital in the morning, was told the apothecary was absent and directed to find him at the Taluq Kacheri. On his way, he says, he encountered the mob and was pitched upon by the Police. He cited two witnesses from the hospital the evidence of one of whom, a compounder, he appears to have dispensed with, and the other the hospital assistant does not support him. He says that to the best of his recollection the accused came to the hospital in the afternoon not in the morning. It is quite true that he cannot be positive, but that his recollection is right seems to me to be morally certain. It is clearly proved that in the absence of the apothecary the Hospital Assistant is empowered to sign passports. There was therefore no reason why, if the man came in the morning, he should have been told to go and find the apothecary. Further, that the man did go in the afternoon appears clear because his attendance is marked in the register and his passport is admitted to have been signed. It was not signed before his arrest and release on bail. It must therefore have been signed afterwards and if his story is true he must have paid two visits to the Hospital on that day—a circumstance which the Hospital people would hardly have failed to remember. Why did he not remind them at the time or on the two subsequent days when he went to the hospital? If it was a fact I think he would have done so.

11. The two other witnesses called by him (18th and 19th defence witnesses) do not help him much. They simply say they did not notice the accused throwing stones at or about the time of his arrest. They do not say that at the time of the arrest he was at a distance from the crowd. If he were a peaceable man it is likely he would have tried to get past a disorderly mob like that blocking the street before the Inspector's house? I think not. It is quite true that he seems to have given his present version at once. But it does not appear to me to be a difficult story to invent on the spur of the moment. Possibly he may have set out with the passport, heard the Apothecary had gone to the Kacheri and been on his way to find him when he came across the mob and joined them. I do not think there are sufficient reasons to interfere with the conviction in the case of this accused.

12. As to the 11th, 12th and 13th there is still less reason to interfere. The same thing applies to the 14th and 15th accused. I have already noticed the evidence against them, and the Joint Magistrate has analysed the evidence for the defence and has clearly shown that it is unreliable.

13. I will now deal with the case of the 1st accused Jamna Sa. He was the man arrested by the Inspector on his way to the market bridge, who was calling out "Vádá". His story was that he was looking for his child, a boy of 9 years of age, who had joined the crowd. The Joint Magistrate has disbelieved this story and has given the accused a very severe punishment as he considers him to have been a ring-leader (in one place he uses the curious expression 'a probable ring-leader') and to have incited persons to join the rioters. I may at once say that the learned Counsel who appeared for the 1st accused entirely failed to convince me that the accused's story about seeking his child is true. It appears to me an absolute myth, which has been exploded by the over-zealous witnesses who were called to support it and add embellishing details which the accused himself does not venture to give. But I do agree that the Joint Magistrate has taken not merely an exaggerated but an erroneous view of the facts as they affect this accused. He could not be said to have taken part in the riot because there is no evidence that after his arrest and release he joined the rioters and before that not only, as I understand it, was there no riot, but the accused was prevented from joining the persons who afterwards rioted. As I have before noted though one or two stones may have been thrown there was no general stone throwing till after the doctor had driven away and the crowd began to turn on the Inspector. The crowd surrounding the doctor's carriage seems to have been, as a whole, disorderly but not actively riotous. There is no evidence that the accused who at the time of his arrest was some 20 or 30 yards from the crowd, could see any stones being thrown or knew that the crowd had any sinister motive. The Inspector, who was about the same distance off, evidently did not see any stones thrown or knew what had happened. The accused might, like him, have been running up to see what was the matter, or even to render assistance. That there were people in the crowd who assisted the authorities is plain. The 10th prosecution witness Ellan was one of them. The expression "Vádá" "come along" which (or its equivalent in Hindustani) seems to be what the accused really said, is ambiguous and even if addressed to any one in particular—the prosecution do not attempt to show that it was so addressed—and not a mere ejaculation, does not necessarily lead to any inference of criminal intent. If one could believe the Head Constable who says the accused also cried out "beat, kill" the case would be very different. But the Joint Magistrate who has very properly discredited the Head Constable on another point—he was clearly guilty of very deliberate perjury in a collateral matter—has not apparently placed any reliance on this statement of the Head Constable, which was also given in a shuffling and inconsistent manner that goes far to show it to be untrue. Neither of the other witnesses who had equal opportunities of hearing such expressions did actually hear them. In fact they contradict the witness on the point.

14. On the whole, though the conduct of the accused was doubtless suspicious, I do not think he is clearly shown to have committed any offence. At the most he may have been endeavouring to join persons who were at the time ripe for riot with the intention of participating in any riotous acts they might afterwards commit. Luckily for himself, his purpose was frustrated before he had time to make it manifest by clear and unequivocal acts. The conviction and sentence must in his case be reversed.

15. As regards the 5th accused the Public Prosecutor does not press the charge against him. He has been convicted on the uncorroborated testimony of the Head Constable, whom the Magistrate has himself discredited. What the Magistrate erroneously supposes to be a corroboration of the Head Constable's testimony is really no corroboration at all, but the very circumstance that in all probability suggested to the Head Constable the desirability of charging this accused viz. his outspoken remarks at the Police Station. The Joint Magistrate's opinion is based on the tacit assumption that the Head Constable is, in the main, an honest and truthful witness—a view in which I cannot agree with him, and on which he has not himself acted in the case of other accused persons whom he has discharged. The conviction and sentence in the case of the 5th accused must also be reversed.

16. There now remain the more difficult cases of the accused 2, 3, 4, 7 and 8. There is nothing on the record to show when these persons were arrested, except that the 7th accused does appear to say in his statement before the Magistrate that he was arrested and released on bail on the 21st—the day of the riot. Possibly others may have been arrested also on the same day, but there is nothing on the record. The first mention of these accused is in an occurrence report dated the 21st, but as the Joint Magistrate finds not despatched on that day. This is the report regarding which the Head Constable so deliberately lied. It was very possibly not written before the 23rd. There is no indication in the report, which the Joint Magistrate calls a 'full', but which I should describe as a very meagre report, how the Head Constable was in a position to give such exact details of the name, age, profession and residence of the accused persons several of whom he admitted in the witness-box he did not know previously. Nor does he say even in the case of those accused persons whom he did know—the 3rd and 7th were apparently such—that he had himself seen them at the riot. This is a very significant omission since he was specially ordered to observe the crowd with a view to noticing any of its members whom he could recognise, and he would naturally have recorded the results if there were any. He is supported as to the acts of the 2nd and 4th accused, by the 5th prosecution witness, who is his subordinate and by the 9th prosecution witness the bandyman as to the presence at the spot of the accused 2, 3, 4, 7 and 8. The 5th prosecution witness, however, had not previously known the 2nd and 4th accused, so he could not have been able to give such particulars as would lead to their arrest. The 9th prosecution witness seems to say that he knew the first seven accused previously, but even if that be so how was the 8th accused traced? The only possible way of testing evidence of this description is to see whether the witnesses made the same statements at the earliest possible moment and that has not been done in the present case.

17. I think before I can dispose of the appeals of these persons I must call upon the Joint Magistrate to take further evidence and submit a finding. I want to know whether the witnesses who identify these accused persons made the same statements regarding them before the case came into the Magistrate's Court; whether these statements were recorded at once, and such record is extant; by what means the particulars of the accused recorded in the occurrence report A were ascertained; whether any and what attempt was made shortly after the occurrence to arrest any of these persons (2, 3, 4, 7 and 8 accused) and with what result; whether the Head Constable made any report to his superiors as to the persons he had personally identified when standing for that purpose at the bridge; and generally all such matters of like nature as will throw light on the earlier stages of the case. The Joint Magistrate should take and forward it with his finding at the earliest possible date consistent with making a thorough enquiry. The accused pending this enquiry will be released on such bail as the Joint Magistrate may consider sufficient.

18. I reverse the finding and sentence in the case of the 1st and 5th accused who will be forthwith released and the fines in their cases, if levied, to be refunded. I confirm the convictions in the case of the 10th, 11th, 12th, 13th, 14th, and 15th accused. As regards the sentences passed I will consider whether any mitigation is necessary on receiving the further evidence and finding called for in the case of the other accused. The Joint Magistrate in forwarding the finding will report whether any of the fines have been levied."

Final Judgment :

The Joint Magistrate has now submitted the additional evidence he has been able to obtain in regard to the matters referred to in my order of the 19th January. It consists of the further statement of the 4th prosecution witness and another report (Exhibit F) of the occurrences of the 21st October, which appears, like the reports previously filed, to have been antedated and adds nothing to the case. The Head Constable (4th prosecution witness) now says that he knew the names of all the accused persons on the 21st October whereas in his former deposition he said he only knew the names of some. His present statement only serves to deepen the distrust with which his former statement inspired me. I do not believe that he was able to identify any one at the time of the rioting. He must have spent a couple of days in making enquiries, the nature of which is not disclosed, and then despatched his reports, probably on the 23rd, antedating them so as to make it appear that they were

written on the very day of the occurrence. The Joint Magistrate misses the point when he says the delay in sending in the reports is of no consequence. I do not agree with him even there: but the point against the Head Constable is not the delay but the antedating of the reports and the deliberately false statements—as the Magistrate himself finds—with which he endeavoured to cover the antedating.

2. I think it a matter for regret that the Inspector having directed his subordinate to endeavour to identify the persons concerned in the riot did not afterwards make any effort to ascertain how far he had been successful. The Head Constable says he made no written report to the Inspector, but spoke to him as to what he had seen. It is evident that he could not have told the Inspector the names of any of the rioters or even said that he was able to recognise any of them; because, if he had, the Inspector would have been called to prove his making such a statement. This circumstance must be taken in connection with the significant fact to which I alluded on the previous occasion, that even in the reports on the record the Head Constable avoids saying distinctly (as he naturally would have done) that he was able to identify any of the accused, at the time of the occurrence.

3. I do not think, therefore, for the reasons I have given, that it would be safe to act on the uncorroborated testimony of this witness. He is the only witness who can speak to distinct acts of participation done by the accused Nos. 3, 7, 8 and the appeals in respect of these persons (Appeals Nos. 1 and 9 respectively) must be allowed, the convictions reversed and the fines, if levied, ordered to be refunded.

4. As regards the accused 2 and 4, however, there is the evidence of the 5th prosecution witness, a constable, who was admittedly on the spot, that they pushed him off the heap of stones on which he was standing and picked up stones, which they afterwards threw. Except the fact that the man is a subordinate of the 4th prosecution witness, which is not a sufficient ground for discrediting him, I do not see any reasons to doubt his testimony. His evidence has an appearance of truth and was evidently not given in concert with the Head Constable whom he contradicts on a collateral point. The defences of *alibi* set up by these accused persons appear to me of very suspicious nature and were rightly discredited by the Magistrate. Taken at the very highest they do not do more than show that the accused were at places in the town of Conjeeveram itself on the morning in question—how far from the scene of the rioting is not apparent. Every thing in such a case depends upon an exact comparison of times which the witnesses are not in a position to make.

5. I therefore on a careful consideration of the evidence on both sides consider the Magistrate was justified in acting on the testimony of the 5th prosecution witness as regards these two accused (whose appeal is No. 1) and in their case I confirm the convictions.

6. In regard to the sentences I think they are unnecessarily severe in the case of a disturbance of this kind which appears to have quickly subsided and in which no injury of a serious nature was inflicted on person or property. I think also that there really was an impression prevailing—of course quite unfounded—that persons would be forced to submit to inoculation against their will. The somewhat ill-advised action of the medical officer in commencing inoculation at the police station, and apparently without sufficiently preparing the minds of the populace, would not tend to allay the unfortunate impression that got abroad. I think these are good grounds for some mitigation of the heavy sentences imposed. I reduce the term of imprisonment in the case of the accused Nos. 2, 4 and 11 to 15 inclusive, to a period of six months' rigorous imprisonment each, and remit the fines. In the case of the 10th accused, who as I said on the previous occasion, probably joined the rioters at a late stage and on the spur of the moment, I reduce the term of imprisonment to one of three months' rigorous imprisonment and remit the fine.

H. H. O' FARRELL,
Sessions Judge.

(True copy).

"Indian Press"—Chingleput.

Kudhumi Kalu
Sheristad or

Civil No. 212 High
Chingleput
The District Magistrate
of Chingleput.

(with reference to his letter Refon No. 212
of 1899 Dated 7th April 1899)

Proceedings of the Plague Commissioner.

Cus 872P

READ—

The following letter from the Collector of Chingleput, dated 16th April 1899, Dis. No. 127/P. of 99:—

In continuation of my letter No. 2805/D dated 31st December 1898, I have the honour to forward a copy of the Judgment of the Sessions Judge, Chingleput, in the Conjeeveram riot case appeal.

Ref. on C. No. 4336 dated 24th April 1899.

Submitted to Government in continuation of Proceedings No. 78 / 11-1-99.

2. The case originally came before me as Joint Magistrate of Chingleput. I trust I may be acquitted of want of respect in criticising the judgment of the appellate court presided over by one who is now a High Court Judge. I disagree with the Sessions Judge when he says in para 13 "the crowd - surrounding the doctor's carriage seems to have been, as a whole disorderly, but not actively riotous." He seems to consider that the crowd was not riotous because there was no general stone-throwing. But the carriage was stopped, a jutka's wheels interlocked with the wheels of the carriage and the horse unharnessed from the carriage. One stone was thrown. If this does not constitute rioting, I don't know what does. The Judge's opinion on this point may, I consider, have led him to form an erroneous decision in paragraph 4, whereby he acquits the 1st accused.

M. S. S. S. S.
25/4/99
for Plague Commissioner.

To

The Secretary to Government, Local & Municipal Dept:
with judgment in original.

R.C.

H.S.
25/4/99



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
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