

Law (1933) Department.

General

1/1001

MS SERIES.

G.O. No. 1001

DATED 20-3-33

12 hours

~~12~~

[Despatch Abstract.]

Convicts - Classification - Coimbatore district - A.U. Nathan
and Rita Ammal - C.S. 19/32 on the file of the 1st class Asst.
Magistrate, Coimbatore - B class - Ordered.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Depart
60	2086	As	17-7-34			
			(Commission of Enquiry Nathan)			

புதுகாப்பு பிரிவு
செய்யுபவர் பெயர் : டா.வினாயகர்
செய்யுபவருக்காக எடுத்துக் கொள்ளப்பட்ட நாள். 4/09
செய்யுபவருக்கு முடிந்த நாள். 5/09
சரிபார்க்கும் முதல் குறிப்பாக கையொப்பம் 15/6/09
சரிபார்க்கும் 2ம் குறிப்பாக கையொப்பம் 18/6/09
சரிபார்க்கும் உதவியாளர் கையொப்பம் 18/6/09

Revenue DEPARTMENT.

2/1001
Lfnl: 1088A
14.3.33

Received 19 Registered 19 29

11 MAR 1933

Subject.

Convicts - Classification - B Class - Nathan, A.U and Rita Ammal - orders requested.

ENCLOSURES.
No.
Spate copies

Ref. No. 8983/32-D-3

Station Coimbatore, Dated the 12th March 1933. 19

From (Name) G. W. Wells, Esq., I.C.S.,
(Designation) District Magistrate.

To The Secretary to the Government of Madras,
Law (General) Department.
Madras.

Sir, A.U.Nathan and his wife Rita Ammal were convicted on 30-6-1932 under section 326 I.P.C in C.C.No. 19/32 on the file of the Assistant 1st Class Magistrate, Coimbatore (F. W. A. Morris, Esq., I.C.S) and sentenced, A.U.Nathan to rigorous imprisonment for two years and to pay a fine of Rs. 200 in default to rigorous imprisonment for 6 months and Rita Ammal to 18 months rigorous imprisonment. On appeal, the Sessions Judge, Coimbatore, confirmed the conviction of both and the ~~XXXXXX~~ sentence passed on Nathan but reduced the sentence on Rita Ammal to one year rigorous imprisonment. A revision petition was filed by the two accused to the High Court and the High Court has also declined to interfere in revision.

Serial number	DESCRIPTION OF THE ACCUSED					DATE OF						Explanation of delay.	
	Name.	Father's Name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence, Complaint.	Apprehension.	Release on bail.	Commencement of trial.	Close of trial.		
1	A-U. Nathan	Thiruvananthapuram				37	18-3-32	25-3-32	31-3-32	6-4-32	28-5-32	23-6-32	130 6.
2	Rita Ammal	A-U. Nathan				27							

In the Court of the First class Assistant Magistrate, Coimbatore

C.C.19 of 1932.

Accused.- (1) A. U. Nathan
(2) Rita Ammal, wife of above.

(1) The accused are charged with the offence that on or about the 18th March 1932 at Coimbatore they voluntarily caused grievous hurt to P.W.1 their servant Vollantha Ammal, by caning her and branding her with some red hot substances such as iron, heated chimney etc., an offence punishable under section 326 I.P.C.

(2). There were 8 witnesses called for the prosecution.

(3) P.W.1 who is a girl aged about ten years, stated that her father took her to the house of the accused on Depavali day last year and left her in the house of the accused on the understanding that he was to teach her to play the harmonium. Her father then returned to Ootacamund. She remained in the house of the two accused until she was taken to the hospital at the end of March. While she was there she was made to do work about the house. If she committed any faults in her work Al used to tie her hands and brand her. On one occasion he branded her on the cheek with a lighted cheroot and on another branded her right cheek with a heated iron rod. These injuries were done about three months after she went to their house. When the accused would beat her. About three days after this, Al tied her hands and branded her on the arm with a heated chimney. Later A2 branded her on the thighs and private parts with a blow pipe, Al was then in his office. On the several occasions that Al inflicted the injuries A2 was by his side. One day she told P.W.3 of this illtreatment when she went to get water from the nearby pipe. Soon after the police examined her but on the instigation of Al she said that

that the injuries were done by hot oil but when she went to the hospital she told P.W.2, the acting District Medical Officer, the whole truth.

(4) P.W.2 is the doctor who examined P.W.1 on 28-3-32 at the request of the police. He noted 23 injuries but No.22 is made up of innumerable injuries in the form of stripe marks of which there were 42 on the back alone. The burn scars among the injuries may have been caused by heated substances such as iron, a chimney, etc., while the stripe marks by a stick. He was quite certain that the ulcers and healing ulcers were caused by branding.

(5) P.W.3 is a woman who saw the P.W.1 getting water from the pipe and seeing some injuries on her face and arms asked her how they were caused. P.W.1 said that A1 used to brand her for small faults. P.W.3 then told P.W.2 to take her pot home and then to come with her to the convent for treatment; but when P.W.1 came back, she said that A2 wanted to see P.W.3 and the latter, being busy with her own affairs, did not bother to go.

(6) P.W.4 and 5 say that they heard P.W.1 crying and that they questioned her. That same night they again heard her crying and they immediately went to the Circle Inspector who was attending a function in the High School and he told them to complain the next day which they did in Ex.B. P.W.6 says that ten days before the police examined him, he went to the house of P.W.7 who lives next door to A1 (P.W.4 and 5 live next door on the other side of A1). As P.W.7 was having his meals, he asked P.W.6 to wait outside for a minute. Whilst standing there, he heard P.W.1 cry out from the house of A1; but when he went up the steps of A1 house, A1 came out and told him to mind his own business. P.W.7 then came out of his house and P.W.6 told him what had happened. They then talked for a little and after 1 hour P.W.1 came out and said that A1 and A2 had branded her. P.W.8 lives with P.W.4 & 5 and states that he used to hear P.W.1 crying in A1 house and that ten or twenty days before the police examined him (which was ten

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days after they took up the case) she said that A1 and 2 had branded her. He noted injuries on the wrists which P.W.1 said A1 had done. He also noted an injury on her Right cheek.

(7) All the witnesses were cross examined and the two accused filed written statements. The two accused were charged as stated above and pleaded not guilty. All the prosecution witnesses were further cross examined. The accused had nothing further to say when asked.

(8) P.W.1 was the first witness called for the defence. Her further examination was as to the time of the injuries, their nature and that she was taken by the Sub Magistrate, D.W.6 from the hospital to the court where she gave a statement under Section 164. Only her mother was present then.

(9) D.W.2 and 3 are the official superiors of A1 in the Telegraph Office where he was head clerk until charged. They bear testimony to his excellent character and capacity in his work in the office. D.W.3 adds that two other clerks who complained against him were told that it was a private matter. One of these was also punished on the recommendation of A1. D.W.4 and 5 are two Anglo Indians. D.W.4 lives opposite to A1 and says that there used to be some disturbance when A1 used to chase away children who collected outside his house to hear his gramophone. One night early in January, A1 complained that people had thrown stones and broken into his house. The witness saw him quarrelling with P.W.4 and others about this. D.W.5 is the father of D.W.4 and merely mentions the gramophone episode and the trouble in January but did not know with whom A1 was quarrelling. D.W.6 is the Sub Magistrate who took down the statement of P.W.1 under Section 164 and who files it. Ex.C.

(10) In the cross examination of the prosecution witnesses there were various discrepancies revealed. P.W.1 is responsible for a great number. The time the injuries were supposed to have been

inflicted varies in the statement made to the Sub Magistrate and to the Court. Also in the former she said that she cooked and, to the latter, that she did not. Also, she says that P.W.4, 5, 6, 7 and 8 called her the night that P.W.4 complained to the police and that she would not go over to them whilst these witnesses deny that they did. P.W.4 and 5 are very inconsistent with their first statements and with what P.W.1 says. They contradict each other and themselves as to when P.W.4 returned to Coimbatore and the time when they questioned P.W.1. Finally P.W.5 admitted that he could not remember the exact dates. The defence also pointed out that at the time P.W.8 is supposed to have seen the one injury on P.W.8 face she also had one on the other side. The night that P.W.4 and 5 say that they heard P.W.1 cry out was the night she says she was in Podanur and that when she returned she did not see the witness. She does not know when Depavali day is.

(11) The Defence rely to a great extent on these discrepancies in the evidence of the prosecution witnesses and also to the fact that some of the dates when the injuries were supposed to have been inflicted according to P.W.1 do not agree with the age fixed by the doctor. There is a further fact, that, when the father of P.W.1 left her, he said that if she ever wanted help to go to the Royal Press which is some little distance from Al house but which P.W.1 admitted that she knew. She never went. Also P.W.4 and 5 say in their complaint that P.W.1 said to them that it was A2 who used to brand her. The defence finally say that the whole case has been brought against Al because of previous enmity due to disputes over the common well between Al and P.W.4 house and that P.W.4 is friendly with the two clerks who had complained in the Telegraph Office against Al. One of these now occupies his place as Head Clerk. The Defence adds that the neighbours are not on friendly terms with Al because he used to chase away children, who collected outside his house.

(12) As regards the discrepancies in the evidence of P.W.1, I do not attach very much importance to them. Throughout the examination

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this small girl had to be prompted to give any answer. She is very young and, even for her age, does not appear to possess much intelligence. The most simple questions explained in various forms and often after listening for a long time an answer might be obtained or also one was forced to proceed with another question. I continually tried to stop the prosecution and defence from putting a second question because she would always tend to give the desired answer even though she did not understand the question. For this reason that the discrepancies in the time and circumstances when the injuries were inflicted, by whom, and of what nature they were, can be explained by the fact that she only naturally mixed up the dates of such frequently repeated torture but also after an examination which lasted altogether over 2 1/2 hours, contradicted herself frequently. She was a small practically orphan girl and I can understand that she never went to the Royal Press on her own authority; still less, to the Police Station. She must have been baffled and numbed by such wanton cruelty: for the medical evidence leaves no doubt that she was frequently branded and lashed. That she was cowed is clear from the fact that when the police first questioned her she said that the injuries were due to hot oil. This must have been suggested to her, as the doctor says that most of them could never have been due to such a cause. It is equally certain to my mind that Al instigated her to say this.

(13) The really important evidence is that of the doctor and that leaves no doubt that he wilfully inflicted and definitely confirmed the injuries. The Defence have tried to make P.W.4 go so far as to suggest that he intended to bring a false case against Al. The fact that P.W.4 and 5 do not agree on this point in favour of the prosecution is a strong indication that they would have been

the Defence suggestion that the clerks of the B Telegraph
as at the bottom of the case as fantastic and a red
It may be perfectly true that P.W.4 and others loathe
would gladly see him punished but it must be remembered
they are not eye witnesses to the occurrences. It is
possible to see into part of Al house from P.W.4's house and if
he wanted to force home a case against Al he could quite
convincingly have said he actually witnesses one of these disgusting
scenes of wilful and barbaric ~~xxx~~ cruelty. That all these
witnesses never complained earlier must be laid down to the
inertia of the ordinary man to human suffering. It was only when
the child was terribly disfigured - permanently on the face - that
anything was done. The child could have no conceivable motive
in falsely accusing the accused. I agree with the Prosecution that
the evidence of her father was unnecessary since he was away the
whole time.

It might be said that it is the prosecution who have to prove
up to the hilt the guilt of the accused; and this is true. But
the child has given evidence of such a nature that if the defence
could possibly have rebutted it they would have. Al was admittedly
the actual guardian of the child during the time the injuries were
inflicted but if he was innocent it was more than strange that he
should never have tried to find out the culprit and never, until
the police were on his track, take her to a doctor. This alone
amounts to criminal negligence. The Defence have established the
fact that Al used to beat her occasionally but so do
his relatives.

The evidence of the child and the doctor alone
proved. The youth and unintelligence
of Al is such that she did not tell the
police but only the latest atrocity. Even
if the injuries, the mere fact that
Al is morally guilty. But I
think one is rarely passively

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cruel. The Defence themselves suggested that the fact that
the accused used to throw water over children who annoyed him
shows the type of man he was.

(13) I cannot adequately express my horror of such a repellant
vice. It is only people with a sadistic turn of mind who
could indulge in such refinements of cruelty. The doctor's
certificate makes interesting reading for the student of
psychology and I append it as part of the judgment.

(16) I find both the accused guilty as charged and sentence
Al being a responsible and educated man to two(2) years
rigorous imprisonment and to a fine of Rs.200 (two hundred
rupees) and in default to a further period of 6 months
rigorous imprisonment. If the fine is realised the money is
to be paid into the Imperial Bank in fixed deposit in the
name of P.W.1 and the amount is not to be touched until after
the expiry of eight (8) years when I assume she will have
reached years of discretion. A2 is sentenced to eighteen
months rigorous imprisonment.

(sd) F.W.A. Morris,
30-6-1932.

First Class Assistant Magistrate.

(True copy)

W. Ramachandran
Clerk
First Class Assistant
Magistrate. *office*

To

by 24/8
The District Magistrate, Coimbatore.

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Criminal Revision Case No. 611 of 1932.

The Petitioners were directed to be released on bail
by Orders of the High Court dated 22-8-1932 and 13-9-1932 on
Criminal Miscellaneous Petition No. 789 of 1932.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS.
Thursday, the twenty third day of February.
One thousand nine hundred and thirty three.

Present:-

The Honourable Mr. Justice Burn.

Criminal Revision Case No. 611 of 1932.

(Criminal Revision Petition No. 567 of 1932.)

1. A. U. Nathan, } Petitioners. (Accused.)
2. High Annal. }

24 FEB 1933

Petition under Sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the judgment of the Court of Session of Coimbatore in Criminal Appeal No. 37 of 1932 (C.C. No. 19 of 1932, Assistant 1st Class Magistrate's Court, Coimbatore.)

This case coming on for hearing on Tuesday the 21st day of February 1933, upon perusing the petition and the judgment of the lower courts, and the record in the case and upon hearing the arguments of Mr. V. L. Ethiraj, Counsel and Mr. E. Somasundaram, Advocate for the Accused, and of the Public Prosecutor on behalf of the Crown, and the case having stood over for consideration till this day, the Court made the following

ORDER:- The only point of law that Mr. V. L. Ethiraj for the Petitioners has been able to establish is that the learned Assistant Magistrate violated the provisions of the first proviso ~~sixth proviso~~ to section 162 Cr.P.C. That Section, as the learned Counsel contends, is imperative. If during the investigation a statement has been taken down in writing from a witness who is called at the trial, the Court is obliged to the request of the Accused to refer to such writing and to direct that the Accused be furnished with a copy thereof. This ^{obligation} ~~provision~~ is subject only to the restrictions set out in the second proviso. The learned Sessions Judge is in error in supposing that the Court has to be satisfied

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that the ends of justice require extracts to be given.

Mr. V. L. Vithalraj however is not contending that there should be a new trial on this account.

For the rest, there was in my opinion evidence on which the trial court could properly rely, that the injuries inflicted on the child were caused partly by accused 1 and partly by accused 2, in pursuance of the common intention of both. There was therefore no misjoinder and there is no flaw in the conviction of both for an offence under Section 326 I.P.C.

The sentence imposed on accused 1 is not excessive. Accused 2 deserved the same; she has been leniently dealt with by the learned Sessions Judge.

I find no ground for interference in revision. The Petitioners surrender themselves now to this court's custody. They must be committed to jail to serve out the unexpired portion of their sentence.

There is a child aged 8 (eight) months. This may be left in its mother's (and accused's) charge since she wishes to take it with her.

(Signed) S. Andisunderashari,
Deputy Registrar, App. Side.
(True Copy)

[Signature]

Sub Assistant Registrar,
Appellate Side.

- To the Sessions Judge of Coimbatore. (with records.)
- Superintendent, Central Jail, Coimbatore.
- Sty. Sub Magistrate, Saidpet.
- Sty. Sub Magistrate, Coimbatore.
- 1st Class Assistant Magistrate, Coimbatore. (in duplicate)
- No. 3 through the District Magistrate of Chingleput.
- Nos. 4 and 5 through the District Magistrate of Chingleput.
- Inspector General of Police, Madras.
- Public Prosecutor, Madras.
- District Magistrate of Coimbatore.
- Superintendent of Prisons, Madras.
- The Commissioner of Police, Madras.

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Dated 23rd February 1933.

ORDER.

Crl. R. C. No. 611 of 1932.
(Crl. R. P. No. 567 of 1932.)

Declining to interfere in revision with the judgment of the Court of Session of Coimbatore in Crl. Appeal No. 37 of 1932 (C.C. No. 19 of 1932 on the file of the Court of the Assistant 1st Class Magistrate, Coimbatore.)

Received.....1932.

Government of Madras.

Registered.....1932.

Abstract.

Convicts - Classification -

Coimbatore

District -

A. U. Nathan and Rifa Annal - G.C. 19/32 on the file of the I class Magt. Coimbatore - B' class - ordered.
recommendation of District Magistrate accepted:

Law (General) Department.

G.O.No. MS. 100 dated the 20. 3 1932.

Read the following:-

By C. 1082 A. Thone the D.M. Coimbatore M. No. 8982/32 A.B. Dated 12.3.32.

ORDER:-

The Government accept the recommendation of the District Magistrate, direct *in C.C. 19/32* that *A. U. Nathan and Rifa Annal* convicted on 30.6.32 *on the file of the I class Magt. Coimbatore* may be classified as B' class prisoners.

(By Order of the Governor in Council)

16.3.33
17/3
Secretary to Government.

To the District Magistrate, *Coimbatore*.

" Inspector-General of Prisons.

The Supl. G.-D. Coimbatore. 19/3.



By	<i>19/3</i>
Post	<i>19/3</i>