

Law (G.O.) (19 ~~20~~) Department.

U.S. SERIES.

G.O. No. 204

DATED

17. 1. 1911

(12 sheets)

[Despatch Abstract.]

Convict -

Commutation of sentence - Sollemaal - Transportation for life -

Salem S.C. No. 46 of 30 - Reduced to 3 years' Rigorous Imprisonment.

BACK PAPER

Department.	Date.	G.O.

FURTHER PA

Department.	Date.	G.O.

பாதுகாப்பு பிரிவு -1
 செப்பனிருப்பவர் பெயர் : ச. சண்முகம், கி. 5020
 செப்பனிருவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள். 05/01/2009
 செப்பனிடகு முடித்த நாள். 08/01/2009
 25/1/09.
 சரிபார்க்கும்
 முதல் முதிபாள
 கையொப்பம்
 சரிபார்க்கும்
 2ம் முதிபாள
 கையொப்பம்
 குரங்கி
 உதவியாளர்
 கையொப்பம்

DEPARTMENT L 5112A C.F. 30.

7-1-31

Received 192 Registered 192



Subject.

ENCLOSURES.

No.

No. 278

Spare copies.

Station Madras, Dated the 5th January 1931.

From (Name) M.B. Py. Rao Bahadur S. Andisunderachari Avl,
 B.A.B.L.,
 (Designation) Ag. Deputy Registrar, App. Side,
 High Court.

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

Sir,

I am directed to forward letter from the
 Sessions Judge, Salem, forwarding a petition for mercy on
 behalf of the accused in S.C.No.46 of 1930 on his file and
 to state that the Honourable the Judges recommend that
 under Section 401 of the Code of Criminal Procedure the
 sentence may be reduced to rigorous imprisonment for a
 period of 3 years.

I have the honour to be,
 Sir,
 Your most obedient servant,

S. Andisunderachari
 Ag. Deputy Registrar, App. Side. 67

V.S.

sr

Received 192 Registered 192



Subject.

Forwarding a petition for the exercise of clemency
by the Government-- presented on behalf of Sellammal
accused in S.C.46 of 30 on the file of this court and
sentenced to transportation for life and three months'
Simple imprisonment--

ENCLOSURES.

No. 2.

(Petn + Copy 2 J. J. J. J.)

Spare copies

No. 2312

9.10.30

Station Salem. Dated the 9th October 1930

From (Name) F.G. Butler Esquire M.A., I.C.S., Bar at
Law
(Designation) Sessions Judge

To The Secretary to the Government of Madras

Through Law (General) Department.
The Registrar, High Court of Judicature, Madras.
Sir,

I have the honour to forward herewith a petition
received from the Vakil of the accused convicted by me
in S.C.46 of 30 under Sections 302 and 309 I.P.C. and
sentenced to transportation for life and three months'
simple imprisonment on the two counts. The facts of
the case are clear. Obviously, the woman was in a
very distressed condition. She had left her husband,
and her parents were too poor to maintain her. She
therefore made up her mind to do away with herself and
her infant child, and one night threw herself with
her child into a well. The instinct of self-preser-
vation however proved too strong and she saved herself
and also brought the child out of the well. The child

was dead. The case was defended on the line that it was an accident--a plea which I rejected. I also rejected the defence, which might have been raised, viz. the defence of insanity: Vide my judgment, a copy of which accompanies the petition. Taking the view I did of the case, I was by law bound to sentence the accused to transportation for life. But as observed in my judgment the case appears one for the exercise of clemency for the Government, as the degree of ~~his~~ criminality is not large. I therefore forward the petition for such orders the Government may be pleased to pass. I understand that no appeal is in contemplation.

I have the honour to be,

Sir,

Your most obedient servant,


Sessions Judge.

From,

K.S.Varadarajan, Pleader, Salem

(On behalf of Sellammal Accused in S.C.46 of 193C on the file of the Sessions Judge, Salem Division)

To,

His Excellency,

The Governor of Fort Saint George, *in Council*
M a d r a s.

Through

The District & Sessions Judge, Salem.

The humble petition (under Section 4C1 of the Code of Criminal Procedure and Section 252 of the Criminal Rules of Practice), for merciful remission of the sentence on Sellammal, Accused, in Sessions Case 46 of 193C, on the file of the Sessions Judge of Salem Division, dated 24-9-193C, of transportation for life and three months under Sections 3C2 & 3C9 I.P.C, respectively showeth as follows:--

1. Your petitioner, Sellammal, the accused in S.C.46 of 193C on the file of the Sessions Judge, Salem was charged with (i) murdering her infant child by throwing herself into a deep well with her child and (ii) an attempt to commit suicide ~~xxxxxxxxxxxx~~ under Sections 3C2 and 3C9 of the I.P.C, convicted on 24-9-193C by the Sessions Judge of Salem and sentenced by him to transportation for life under Section 3C2 I.P.C and

and 3 months Simple Imprisonment under Section 309 I.P.C.

2. Your petitioner's unfortunate case, is the sequel to a most heart-rending instance of the agonising misery inflicted on quite a young and unhappy mother, through enforced starvation, consequent on the bitterest marital cruelty suffered by her for quite a long time.

3. Your petitioner and her child being heartlessly driven out of his house by ^{her} ~~the~~ husband some eight months back, she had to take refuge in the house of her indigent father, who was already finding it difficult to feed his family consisting of himself his wife and a number of other children. Even here it was not seldom that your petitioner had to starve for days together without a single meal.

4. Discarded by the husband, neglected by the parents, utterly helpless and suffering the terrible pangs of starvation, the acute misery of your petitioner and her child, must have unbalanced her mind and must have unfortunately led her on to the sad leave-taking of life by her along with her child, ^{by} drowning herself with her child in her arms, as the only means of ending her misery, not knowing that in doing so, she was committing a criminal offence.

6/204

5. Your petitioner once more, most solemnly reiterates, that but for the extreme misery that she suffered along with her child there would have been no cause of complaint against her. She never intended, never even knew, that she was committing an offence and her already miserable and unhappy life will be rendered much more miserable and unhappy by having to undergo the sentence imposed upon her even though the exciting cause of the harrowing tragedy viz., the cruel heartlessness of your petitioner's husband goes unpunished.

6. Your petitioner therefore most humbly craves leave to beg Your Excellency in the specially pathetic circumstances of her case for a gracious and merciful remission of -- the entirety of the sentence imposed on her. Your petitioner further submits most humbly that should she be favoured with remission of the sentences imposed on her, she will lead a most exemplary, honest and blameless life ever afterwards .

For which act of kindness as in duty bound your humble petitioner will for ever pray.

Salem)
Dated 6-10-1930)

K. S. Varadachari

Vakil for Petitioner.

7/204

7

^{7/204}
Petition for remission under
4C1 Cr.P.C.

By Sellammal, Accused in
S.C.NC.46 of 193C on the
file of Sessions Court, Salem

Through
The District & Sessions
Judge, Salem.

Submitted along with Copy of
Judgment in S.C.46/30 (Sessions Court, Salem)

Salem }
8/10/30

As per order of an
Magistrate, Salem

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204

SESSIONS OF THE

In the Court of Sessions, Salem Division.

Wednesday, the 24th day of September, one thousand nine hundred and thirty.

Present :—F. G. BUTLER ESQUIRE, M. A., I. C. S., BAR-AT-LAW,
Sessions Judge.

Sessions Case No. 46 of 1930.

(P. R. C. No. 12 of 1930, committed by M. R. Ry. S. Ramaswami Pillai,
Stationary Sub-Magistrate, Tiruchengode).

ASSESSOR CASE.

The King Emperor of India *versus* ... Sellammal.

(The accused was defended by Mr. K. S.
Varadarajan, Pleader, appointed by
Court under G. O. No. 3273, Judicial,
dated 17-12-1884).

Charge Murder and attempt to commit suicide—
Sections 302 and 309, I. P. C.

Names of Assessors :—

1. Sundararaja Chetty.
2. Mahadeva Aiyar.
3. Periaswami Mudali.
4. Kandaswami Mudaliar.

Opinion of Assessors Guilty on both counts.

Finding of Judge Do.

Sentence Transportation for life under Section
302, I. P. C.

Simple imprisonment for three months
under Section 309, I. P. C.

JUDGMENT.

The accused is charged with the murder of her child, a boy of 18 months and with having attempted to commit suicide by throwing herself with her child into a well on the night of the 27th July. The accused has pleaded 'not guilty' and the defence raised is accident.

2. The case is a perfectly clear one. The accused had been married 4 years and did not get on well with her husband. She left him about 8 months ago and was living with her parents. They were poor and earned their living by cooly. They had 5 other daughters and naturally found it difficult to feed an extra mouth. The woman often had to go without food. On the night in question, she appears to have taken her bed on the pial of her parent's house, while her mother and sisters were sleeping inside. Sometime after, the mother came out to ease herself. Finding her daughter and child gone and the bed alone lying there, she became anxious; she roused her neighbours and made

enquiries for her daughter and not being able to know of her, sent for her husband who was sleeping at his master's pen. Her husband came and borrowed a lantern from his neighbour, and went in search of his daughter. He first enquired at the houses in the village and then went to his neighbour's well. Not finding her there, he looked about in the fields. In the meantime, the accused came home naked, wet, and her body smeared with mud; the child was on her shoulder, dead. She was in a distressed condition when she arrived home. She was unable to speak and vomited a good deal of water; but later she was able to tell her parents what had happened. In the morning the accused's father-in-law hearing of the death of his grandson informed the Village Munsif who sent off his report to the police and the Magistrate. The Police Head Constable came to the village in the afternoon, and sent the body of the child for post-mortem. The doctor found that the child died of drowning. The Head Constable also recovered from a well 200 yards from the village, the woman's cloth. It was a field well with a bund round it two or three feet high and on one side there were steps going to the water.

3. The prosecution case is that the accused threw herself with the child into the well. The defence is that she was going that night to her cousin's house in Dasanayakanpalayam in quest of food and that accidentally, in the dark, she slipped and fell into the well. She had been to that village on similar quests before. Therefore she must have known the path well. The police deny that there is any path running near the well between the two villages. It seems improbable that anyone well acquainted with the path should have accidentally fallen into the well. On the other hand the woman was admittedly fond of the child, though she appears to have been miserable, separated from her husband and ill-fed by her parents.

4. In this case, one has to depend on the surrounding circumstances and on the woman's own statements. On the one hand it is said she never threatened suicide. On the other hand it is clear that her parents were apprehensive when they found her missing. Her mother roused the neighbours and sent for her husband. He came and one of the first things he did was to go to his neighbour's well. It is clear that they apprehended she might have committed suicide. When she first got home she was not in a fit condition to speak. Later on she told them what had happened and her statements as given by the witnesses are conflicting. Her mother P. W. 1 says that in the morning the accused said, "How long am I to suffer like this? The child was crying for food. I went to get some food in the neighbouring shed and accidentally fell into the well with the child." When confronted with what she said in the lower court, she admits having said there, that her daughter said "How long am I to suffer like this? My husband does not want me; you too do not want me. I threw myself into the well with the child to put an end to our lives and then I took out the child thinking that the child was alive." When this contradictory statement was put to the witness, she explained that the second statement was made to the witness Pachayammal P. W. 3 and not to her. Kuppai P. W. 4 is the accused's aunt and she gives much the same evidence as P. W. 1. Angamuthu alias Angammal P. W. 5 daughter-in-law of Kuppai was also present when the accused came home. She states that the accused said, "Thinking how long I was to suffer like this, I got into the

well with the child. But finding that I could swim I got out again. I thought the child was alive." Even leaving these out, there is the very important evidence of the accused's father. In chief-examination he said that she told him, "Being unable to support this misery I fell into the well." In cross-examination he said, his daughter told him "My husband has ill-treated me. I had no food at your house. In spite of a panchayat of ten Goundans, my husband would not take me back. I am anxious to live with him and do not want to marry another. I went to Kaikalan's well and threw myself in with the child to put an end to our lives." It is to be noted, that many of these witnesses are related to the accused and naturally wish to make statements as favourable as possible to the accused. It is perfectly clear on the evidence, and the assessors are agreed that this woman fell into the well to put an end to herself and her child; being unable to support her misery the woman seems to have thought it better to die and it may be that seemed good reason for her action.

5. *Prima facie*, the woman is guilty of attempted suicide and murder of her child. The defence of insanity was not raised. Nevertheless I thought it proper to put to the assessors the state of the accused's mind and they are of opinion that she may not have known that what she was doing was wrong. In order to get some idea of what was the condition of the woman's mind I put questions to the doctor who saw her two or three days after the occurrence. He says that he talked to her about the occurrence and found her able to recollect what she had done. It has been suggested by the defence that it was improper for the doctor to have questioned the accused. I may say that I thoroughly approve of his action, as it was highly desirable to ascertain the state of the accused's mind. The woman told him that she had been ill-treated by her husband and she did not get proper food in her house and so wanted to commit suicide. She had learned to swim when young. Thinking she had forgotten how to swim, she got into the well. But she found she could swim and so saved herself. She was sorry she had saved herself. She appeared to recollect the whole thing quite well. She ought to have died with the child. It would have been better if she had died too. There are no signs of insanity. She and her child were well nourished. The case appears to me a very sad one. Being unable to obtain food for herself and her child and otherwise unhappy she decided to put an end to herself and her child. It may be said that she did not know what she was doing was wrong. Obviously she thought it was the best thing to do under the circumstances. But it would be difficult to say that owing to unsoundness of mind she did not know that she was doing wrong. The assessors have held that she did not know she was doing wrong. But I do not think that this is correct in law and I find myself unable to give her the benefit of Section 84, I. P. C. This is certainly a very pitiable case and one must sympathise with the accused; but it is not for the court to strain the law in favour of the accused. I have no doubt that if the matter is taken to Government, it will take a merciful view of the accused's case. In law I am bound to convict the accused of both the offences, the murder of her child and attempt to commit suicide under Sections 302 and 309, I. P. C. The least sentence that I can impose under Section 302, I. P. C., is transportation for life and under Section 309, I. P. C., I impose three months.

simple imprisonment. I propose to draw the attention of the Government to this case in order that the case may be suitably dealt with. The accused's cloth and her child's waist chord may be returned to her.

(Signed) F. G. BUTLER,
Sessions Judge.

NOTE:—The accused, who is a casual offender, has been committed to the Central Jail, Vellore.

(Signed) F. G. BUTLER,
Sessions Judge.

Prosecution witnesses.

1. Semboyi.
2. Mr. B. V. V. Krishnan, Sub-Assistant Surgeon.
3. Pachayammal.
4. Kuppai.
5. Angammal alias Angamuthu.
6. Pachamuthu.
7. Kappa Goundan.
8. Subbanna Goundan, Village Munsif.
9. Parameswara Ayyar, Police Head Constable.
10. Rangasami, Police Constable.
11. Narasimmalu Naidu, Police Sub-Inspector.

Prosecution exhibits.

- A.—Deposition of P. W. 1 before the Committing Magistrate (portion marked)
B.—Post-mortem certificate.
C.—Deposition of P. W. 4 before the Committing Magistrate (portion marked)
D.—Village Munsif's report to the Police.
D1.— Do. to the Magistrate.
E.—Rough sketch of the scene of offence.
E1.— Do. of the well.
F.—Statement of the accused before the Committing Magistrate.

Defence witness:—Nil.

Defence exhibit.

- I.—Deposition of P. W. 5 before the Committing Magistrate (portion marked)

Material objects.

- I. Accused's sari. II. Silver waist chord.

(Signed) F. G. BUTLER,
Sessions Judge.

Compared by:—

L. A. Venkatarama Aiyar,
Head Clerk.

(True copy)

Court Press, Salem. Words 1842. Charge Re 2-10-0.

(True copy)

By and

Shanis H.

Sellammal - Commutation

of sentences.

10/20/12
Law General Dept.
From the Dy. Reg. High Court No. 278.
Dated 5.1.31.

A.S.

In S. C. No. 46 of 30 on his file, the Sessions Judge, Salem, convicted the accused of offences under sections 302 and 309 I.P.C. (murder of her child (aged 18 months) and attempt to commit suicide) and sentenced her to transportation

for life and 3 months simple imprisonment, respectively under the above counts.

The Sessions Judge, Salem, while forwarding a petition for mercy from a vakil on behalf of the convict, has observed that "the case appears one for the

"exercise of clemency as the degree of criminality is not large".

The Hon'ble the judges of the High Court recommend that the sentence may be reduced to one of rigorous imprisonment for a period of 3 years. vide p.1. of.

2) In similar cases which have

come up for consideration, the Govt.
has committed the sentence to one
of 3 years rigorous imprisonment.

3) Seels. for orders.

The High Court's recommendation appears

Se
10.1.31. cur
16/1

10/1

The sentence may be reduced to
three years rigorous imprisonment.

10/1

C2 ma 10.1.31

H.E. CH 13.1.31

A.S.

A draft order is seels. for
approval.

Se
16.1.31. cur
16/1

16/1



Seckt. 11-5 (a)-50,006-5-11-29.

When received for Fair-copying.
When copied ..
When examined ..
When signed ..
When despatched ..

Date.

Initials.

19.1

Convict.

Commutation of Sentence

Sellammal - Transportation for
life ~~and commuted~~ - Salem
S.C. No. 46 of 30 - Reduced to
3 years R. I.

READ AGAIN G.O. No., dated 19 ..

READ ALSO:-

C. No. 117 A From the Ag. Reg. High Court, No. 278, dated 5.1.1931.

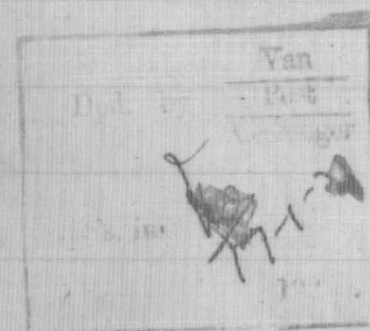
19 ..

19 ..

ORDER.

ms.

No. 204, dated 17-1-1931



The Hon'ble the C.J. (with C.L.)

Sessions judge, Salem (in
duplicate for comm. to the
prisoner and the Dist.
Central Jail, Bellare).

D.M. Salem thro' the Sessions
Judge, Salem (in duplicate)

S. G. of Police (with a spare
copy)

See exercise of the power
conferred by Sec. 55 S.P.C. and
Sec. 402 of the Code of
Criminal Procedure, 1898, the
Governor-in-Council is
pleased hereby to commute
the sentence of transportation
for life ~~and three months~~
~~simple imprisonment~~ passed
on Sellammal by the
Sessions judge, Salem in S.C.
No. 46 of 1930, to one of
rigorous imprisonment for
three years. R

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