

Law (General) (1930) Department.

23 SERIES. ✓

G.O. No. 5258

DATED 6-12-1930

(85/10)

[Despatch Abstract.]

Convict

Commutation of sentence - Unnamalai Annal - Transportation for life - North Arcot - S.C.No.23 of 1930 - Reduced to one year's Rigorous Imprisonment.

BACK PAPERS.

Department Date G.O. No. De

FURTHER PAPER

Department Date G.O. No.

பரதுகாப்பு பிரிவு-1
செய்யபெற்ற பெயர் : சி. ராஜகோபால்
செய்யபெற்றதற்கான எடுத்துக் கொள்ளப்பட்ட நாள். 25/12/30
செய்யபெற்ற முத்த நாள். 25/12/30
சரிபார்க்கும் 2ம் முதிபாள கையொப்பம்
சுராய்ச்சி உதவியாளர் கையொப்பம்

JUDICIAL DEPARTMENT.

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Received 192 Registered 192

Subject.



ENCLOSURES.

No. 2556 J
Station Madras. Dated the 2nd December 1930

From (Name) M.R.Ry., Rao Banadur S. Andisunderachari Avl.,
B.A., B.L.,
(Designation) AG. Deputy Registrar, Appellate Side,
High Court, Madras.

To The Secretary to the Government of Madras,

Law (General) Department.

Sir,

I am directed to forward for orders of Government letter Dis.No. 7705 of the Sessions Judge, North Arcot, Vellore dated 1st September 1930 recommending the reduction to one year rigorous imprisonment of the sentence of transportation for life passed on Unnamali Ammal, accused in Sessions Case No. 23 of 1930 on his file and to state that the accused has not preferred any appeal to the High Court against her conviction.

A copy of the judgment in the case is enclosed.

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

K. Viswanathan
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Ag. Deputy Registrar, A.S.

OFFICE OF THE Sessions Judge,
STATION North Arcot, Vellore.
Date 1st Sept. 1930.

From

L.C. Horwill Esq., I.C.S.,

Sessions Judge.

To

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

Through,

The Registrar,

High Court of Judicature,

M a d r a s.



SIR,

SUBJECT: Sections 401 Cr.P.C. and 55 I.P.C. - S.C.
23 of 1930 on the file of this Court -
Accused Unnamalai Ammal - Sentence of
Transportation for life on - reduction of
to 1 year R.I. - recommending.

I have the honour to recommend that the sentence of
transportation for life awarded under Section 302 I.P.C.
to the accused ^{by} reduced to 1 year Rigorous Imprisonment
for the following reasons:—

2. This poor woman has a mad husband and who wanders
about earning his living and she finds it impossible to
live with him for he cannot maintain her. She works hard
from sunrise to sunset to support herself and her two
sons by him. There is no evidence of any misconduct and
she earned her living honestly. ^{Unfortunately,} ~~Desperately,~~ she made
this solitary slip and thoughtlessly stooped to enjoy
this forbidden pleasure. Her punishment was social
ostracism which would not merely cut her off from the
companionship of respectable friends and relatives but
even threatened to take away her livelihood.

3. Apart from the evidence of guilt and ^{shame} ~~same~~ that
this child would prove ^{id} ~~its~~ care would prevent her from
feeding herself and her other children. It was not there-

fore surprising that in the weakness and despair of child birth she should yield to the temptation this disused well ~~should~~ offer her.

4. The life she took was unwanted either by the State or by any person. The child suffered no pain and nobody is any the worse off on account of its death. I would even recommend that the accused ~~she~~ ^{should} be released at once were it not necessary to impose some penalty to act as a ^{even} deterrent to other women.

I have the honour to be,

Sir,

Your obedient servant,

U. S. N.
SESSIONS JUDGE.

M.S.N.

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In the Court of Session, North Arcot Division

PRESENT:—L. C. HORWILL Esq., I. C. S.,
Sessions Judge.

Monday the 1st day of September 1930.

SESSIONS CASE No. 23 of 1930.

P. R. No. 9 of 1930 committed by M. R. Ry. S. Sivasamba Ayyar, B. A., Second Class Magistrate, Tiruppattur. 10

Name of Accused:— Unnamalai Ammal.

Offence:— Murder. Section 302 I. P. C. or in the alternative concealing the birth of a child-Section 318 I. P. C.

The accused was defended by Mr. P. Ramasami Ayyar, Pleader engaged by the Crown.

Names and castes of Assessors:—
1. Kuppuswami Ayyar (Brahman).
2. Periaswami Pillai (Karnam).
3. Narasimha Mudaliar (Vellala). 20
4. Kavi Reddiar (Vellala).

Opinion of the Assessors:—1st Assessor. Not Guilty of any offence
Other Assessors. Guilty under section 318 I. P. C.

Finding of the Court:— Guilty-Section 302 I. P. C.

Sentence or order:— Transportation for life but recommended to Government that the sentence be reduced to R. I. for 1 year.

This case coming on for trial on the 28th and 29th days of August, 1930 and having stood over for consideration till this day the Court delivered the following 30

JUDGEMENT:—

The accused is charged with causing the death of her child by throwing it into a dry well or, in the alternative, with secretly disposing of the body of the child with the intention of concealing its birth-offences punishable under Sections 302 and 318 I. P. C. respectively.

2. At about 10 A. M. on the 6th June, while P. W. 3, Rama Goundan was ploughing his field near a disused well, he saw the accused pass him with a basket under her arm. She lingered for 40

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some time at the well and when he looked round again he saw her walking towards the east. Soon afterwards, P. W. 4, Munisami, met the accused with a basket and a bloodstained cloth which she asked him to wash for her as she was feeling too weak to do so. He asked her why the cloth was so bloody and she replied that she had been suffering from some menstrual disorder and had not had any menses for several months; so that there was now severe haemorrhage. At 3. P. M. on the same day P. W. 2, Arunagiri Mudali, and a friend passed this same well and saw the body of a child in it. They went back to the village to report the matter to the Village Magistrate, P. W. 6. As he was absent from his village at the time, they were unable to tell him until he returned at 7. P. M.

3. By that time it was too dark for P. W. 6 to look into the well and so he waited until the morning when, after satisfying himself that there was a corpse of a child in this well, he reported the matter to the police and the Sub Magistrate. P. W. 9, the Sub Inspector, came soon afterwards and the thotti was lowered into the well by a rope, the body placed in a basket, and the basket hauled up by a rope. An inquest was then held, and after the inquest P. W. 8 was sent with the corpse to the hospital for post-mortem examination. P. W. 7, Umayan, was examined to prove that the son of the accused gave him a basket with some bloodstains on it. P. W. 5, Chinna-kannu Ammal, deposes that the accused was living in her house at the time of her arrest and had come to her about 8 days before; and that she then appeared to be pregnant. When questioned, she explained her size by saying that she was suffering from a menstrual disorder.

4. P. W. 1 is the Medical Officer in charge of the Tiruppattur hospital. He examined the accused and found that she had given birth to a child about a day and a half prior to his examination. He also examined the corpse and came to the conclusion that it had died about a day and a half before and that death was the result of shock resulting from a fracture of the skull. He found the lungs fully dilated and for that reason, and also because the injuries appeared to have been *ante-mortem*, he concluded that the child was born alive.

5. The accused states that she was walking home when she gave birth to a dead child, which she threw into the well because she was too weak to bury it.

6. The fact that the child examined was born about the same time that the accused gave birth to one, and the fact that the accused was seen near the well soon after the time when the child must have been born and before the body was found, prove beyond all reasonable doubt that the child recovered from the well was the child of the accused. She also admits that she threw her child into the well.

7. The only question of importance that needs any discussion is whether or not the child was born alive. It may be stated here that if the child was born alive there was apparently a motive for the destruction of the child's life. The accused seemed anxious to conceal the fact of her pregnancy and the child's birth, and represented to P. Ws. 4 and 5 that she was suffering from a menstrual disorder. She had left her husband several years before because of his madness. It is possible, of course, that the child is legitimate but, under the circumstances, hardly probable.

8. The case of the prosecution rests entirely upon the evidence of the doctor who conducted the *post-mortem* examination. In the nature of things, there could not be any other evidence that the child was born alive, for very little time intervened between birth and

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death and both events took place in the open country. As noted above, the evidence supporting the doctor's opinion is two-fold; one that the lungs were fully dilated, and the other that the nature of the injuries shows that the child was alive at the time it sustained those injuries.

9. The only test applied to determine whether the lungs were dilated or not was that known as the hydrostatic test. The lungs and the heart were placed together in a bowl of water. If the lungs had not been dilated at all, the mass would have sunk; if slightly dilated it would have floated almost entirely submerged. As it was, 50% of the whole mass was out of the water and this fact led the doctor to conclude that the lungs were fully dilated. 'Taylor' and 'Hehir and Gribble', in their books on Medical Jurisprudence, state that if the heart and lungs float there can be scarcely any doubt that the child was born alive. In this case, not merely did they float but half of the whole mass was above water. This showed a very high degree of dilation. The only precaution that has to be taken in this test is to safeguard against the possibility of the cells being distended with gases liberated by putrefaction. Putrefaction of the lungs and heart, however, is almost inconsiderable until the rest of the body attains a very high state of putrefaction. In this case the doctor noted discoloration of the skin and slight puffiness of the flesh but no evidence of extensive putrefaction. He deposes that putrefaction of the lungs usually commences about 24 hours after death but when he examined the corpse about 30 hours after death he was surprised to find no signs of decomposition at all in the lungs. He deposes that the lungs were elastic and spongy. Undilated lungs, even if distended by air emphysema, would be close-grained and inelastic. The witness conducted his test further by cutting each lung into half a dozen pieces and pressing each firmly under water. Putrefactive gases would thereby be squeezed out and the piece of lung would sink unless dilated by respiration. No bubbles of gases escaped at all and half of the volume of the piece of lung in each case floated above the surface of the water. The witness, it is true, did not use pure water at 60° F. as would be necessary in a delicate quantitative test but the density or buoyancy of the water used by him could not have differed materially from that of standard water. He used soft water but if its density was slightly raised by the presence of salts in solution, this was compensated for by the fact that the temperature was about 75° F., instead of 60° F. In any case, slight differences in the densities of different kinds of water would make no appreciable difference in a test which gave so positive a result as this did.

10. The other indication that the child was born alive is that the injuries appear to have been *ante-mortem*. An experienced practitioner can at once recognise an *ante-mortem* injury by the presence of ecchymosis, the effusion of blood, and the retraction and eversion of the edges of the wounds. The Assessors are naturally unable to appreciate the technical evidence of the medical witness and are all of opinion that the child was dead when thrown into the well.

11. For the reasons given above it seems impossible to resist the conclusion that the child was born alive. I therefore find the accused guilty of murder. I sentence her to 'Transportation for Life' but in view of the very unfortunate circumstances under which this poor woman lived, I am recommending to the Government that they may be pleased to reduce her sentence to that of one year's Rigid Imprisonment.

(Sd.) L. C. HORWILL,
Sessions Judge.

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Note:—The prisoner is committed to the Central Jail, Vellore.

PROSECUTION WITNESSES.

1. Mr. V. P. Narayana Menon.
2. Arunagiri Mudali.
3. Rama Goundan.
4. Munuswami.
5. Chinnakannu Ammal.
6. Balakrishna Naidu.
7. Umayyan.
8. Damodara Pillai.
9. Mr. R. Jaganayakulu.

PROSECUTION EXHIBITS.

- | | | | |
|-----|-----------|--|----|
| A | 7-6-1930 | Post-mortem certificate regarding the body of a newly-born male child. | 10 |
| B | 8-6-1930 | Certificate granted by P. W. 1 to the accused. | |
| C | 7-6-1930 | Village Munsif's (P. W. 6) report to the Police. | |
| C-1 | 7-6-1930 | Village Munsif's (P. W. 6) report to the Sub-Magistrate. | |
| D | 7-6-1930 | Inquest report (admissible portion). | |
| E | 7-6-1930 | Mahazar for the recovery of M. O. 1. | |
| F | | Plan of the scene of offence. | |
| G | 10-7-1930 | Statement of accused in the Committing Magistrate's Court. | |

DEFENCE WITNESSES.

None.

DEFENCE EXHIBIT.

- | | | |
|---|-----------|---|
| I | 10-7-1930 | Portion marked in the deposition of P. W. 5 in the Committing Magistrate's Court. |
|---|-----------|---|

MATERIAL OBJECTS.

1. A saree.
 2. A basket.
- (Sd.) L. C. HORWILL,
Sessions Judge.

To

The Registrar, High Court of Judicature, Madras.
The District Magistrate, North Arcot, (3 copies).
The District Superintendent of Police, North Arcot (copies).
The Inspector General of Police through the District Superintendent of Police, North Arcot.
The Superintendent, Central Jail, Vellore.
The Prisoner through the Superintendent, Central Jail, Vellore.
The Public Prosecutor, Vellore.

Record Press, Vellore.]

[No. of words 1694.]

Commutation of Sentence.

Pr [5627A.] From the Deputy Regr. High Court no. 2556J
Dated 2-12-30

A.S.

pp 4-7 cf

pp 6 cf
at "A"

-ds-

In S.C. no. 23 of 1930 the
Sessions judge, N. Arcot, convicted the
accused of the offence of murdering her
newborn child and sentenced her to
transportation for life. While passing the
sentence, the Sessions judge has recommended
to govt. that the sentence may be
reduced to rigorous imprisonment for one
year, for the reasons stated by him at
pp 2-3 cf.

2) The High Court, while forwarding
the letter from the Sessions judge, N. Arcot,
say that the accused has not preferred
any appeal against her conviction.

3) Attention is invited in this
connection to the marginally noted
egs. where the govt. have commuted
the sentence of transportation for life
to rigorous imprisonment for three years
on the recommendation of the Sessions
judges.

4) Subd. for orders.

6-12-30. cur
T/12

The Dy. Judge recommends may

Law 12

he accepted

6/12

The sentence may be reduced to one year's rigorous imprisonment as recommended by the Sessions Judge.

It may be noted that in para 4 of his letter at p 3 of, the Hon'ble has again given expression to views similar to those which were remarked at A on p 2 n.p. of A as rather queer.

21.6.12

C₂ Reduced to one year's imprisonment. 12.12.30

H.E. 12.12.30

A.S.

Draft order rec'd. for approval.



15.12.30. 15/12

15/12

Issue 15/12

Sect. II-5 (e)-50,406-5-11-29.

	Date.	Initials
When received for Fair-copying.	16.12	✓
When copied	✓	✓
When examined	✓	✓
When signed	✓	✓
When despatched	✓	✓

1/5/30 Law (Genl) DEPARTMENT.

convict

commutation of sentence - Unnamalai Annamal - Transportation for life - N. Arcot S.C. no. 23 of 1930 - Reduced to one year's R.I.

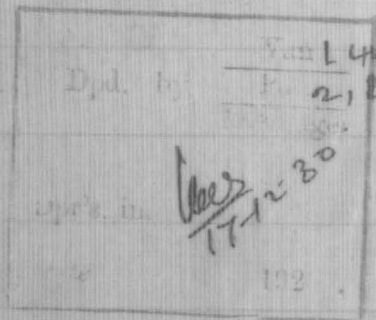
READ AGAIN G.O. No. _____, dated _____ 19

READ ALSO:-

C. No. 5627A from the Ag. Rego. High Court No. 2556J, dated 2.12.1930.

ORDER.

No. 5258, dated 16.12.1930



- The Hon'ble the C.J. (with C.L.)
- Sessions Judge, N. Arcot (in duplicate for comm. to the prisoner and the Dist. central jail, Bellary).
- D.M. N. Arcot thro the Sessions Judge, N. Arcot (in duplicate).
- D.G. of police (with a spare copy)

In exercise of the powers conferred by Sec. 553.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 passed on Unnamalai Annamal, by the Sessions Judge, N. Arcot in S.C. no. 23 of 1930, to one of rigorous imprisonment for one year.

15.12.30. 15/12