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MADRAS RECORD OFFICE

Government of Madras

Public Works DEPARTMENT

G.O. No.	2483-	Press
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*Proceedings of the Madras Government, Public Works Department,
2nd September 1874.*

No. 38. Read the following letter from W. S. HARINGTON, Esq., District Engineer, Malabar, to Colonel G. W. WALKER, R.E., Chief Engineer, Public Works Department, dated Calicut, 13th August 1874, No. 106:—

In continuation of my No. 74, dated 8th ultimo, forwarding copies of the finding and sentence pronounced by the Magistrate, Mr. Logan, on ex-Maistry C. Karpagum, I have the honor to forward copy of an order passed by the Session Judge at Tellicherry dismissing an appeal made to him by the ex-Maistry against Mr. Logan's judgment.

No. 39. ORDER THEREON, 2nd September 1874, No. 2,485.

ESTABLISHMENT, No. 2.

ORDERED to be recorded.

(True Extract.)

(Signed) G. W. WALKER, Colonel, R.E.,

Secretary to Government.

To the District Engineer, Malabar.

Exd. T. O'Connor.

Spare Copies

Proceedings of the Court of Sessions of the
Sessions Division of North Malabar. Dated 30 July 1874.

1. Read Criminal Regular Appeal Petition,
No 7 of 1874, presented by Chittambakum Vajapuri
Kurpazum Moodeliar, - Prisoner in Calendar Case
No 15 of 1874 on file of the Joint Magistrate
of Malabar, appealing against the Decision of
that Officer, dated 13 June 1874, sentencing him
under Section 409 of the Indian Penal Code,
to (2) two years' rigorous imprisonment and
to pay a fine of (200) Two hundred Rupees
and in default of payment of fine, to (6) six
months' further rigorous imprisonment.

2. Read also supplemental Criminal
Petition put in by the same Prisoner.

3. Read also Records in the said Calendar
Case No 15 of 1874.

4. Heard also arguments of Mr J. L. Rosario
Vakil for above Appellant & of Lieut. A. C. Dobson,
an officer specially empowered by the Joint
Magistrate of Malabar under instructions from
the District Magistrate to defend on behalf
of Government.

Order

5. The fact of a bessemer bearing the mark
of D. P. W. and the broad arrow which it is
undoubted is the mark used by the D. P. W. to
Stamp

stamp wood as Government property being built into Prisoner's house stands as prima facie evidence against the prisoner. It was indeed said by 3rd Witness that if there is any wood in excess after a work is finished it is sold & the mark is not removed - but the defence in this case is that the prisoner bought the wood from the 1st Defence Witness a Contractor - and it is excessively improbable that wood after it was stamped would be in the possession of a Contractor - the stamp being the mark of the property belonging to Government. This however further is of the same breadth and depth as the sawn timber supplied by the 8th Witness for the Moorat bridge - and Mr. Dobson says that he found as much as 464 Cubic feet out of that supplied by 8th Witness deficient & prisoner is proved to have been in charge of the work of construction of the bridge.

6. In his defence now much stress is laid on the fact that 4 bays of the bridge were washed away and I find in his examination by the Magistrate that the prisoner accounts for the deficiency by saying that two bays of the bridge were entirely left out in the estimate (though that seems to have nothing to do with the matter) and that five bays fell down last year's monsoon - that the timber was not checked either by Captain Bailey or Mr. Dobson. and that

that there was collusive and fraudulent dealings between the Prisoner Mahoney & the Contractor.

7. Subsequently to that the prisoner's Defence Witnesses were examined and as he was defended by an Advocate of the High Court - it is to be presumed that if the evidence regarding these bays falling down would have helped him it would have been brought forward. Some bays certainly did fall down. Mahoney admitted in his deposition 4 had fallen down. Unless however the evidence were very complete and accounted for every bit of sawn timber which was in those bays it would not much affect the damning evidence afforded by the mark of the D. P. M. on the beam.

8. Further evidence against the Prisoner is that of the 5th & 6th Witnesses to the effect that on two occasions they saw Prisoner send away timber from the bridge in a Cart & boat on the occasions spoken to by 5th Prosecution Witness & in Carts on the occasion spoken to by 6th Prosecution Witness - and their way of giving evidence seems to have convinced the Magistrate that they spoke the truth. The effect of the evidence of these witnesses is not as urged by prisoner in the 4th para of appeal petition & neutralized by what he says - namely that it is admitted by 1st Prosecution Witness.

1. Witness that timber was carried from one
2. work to another. Mahoney says he sent
3. for some firewood from Inayat Bridge but
4. is on a bandy for the lock at Pysally and
5. that timber was sent from Inayat to Inayat.
6. is 9.

7. The bessemer found in Prisoner's
8. house is of new oruppu timber and all
9. the hand-rail found on the bridge similar
10. as to the piece found in Prisoner's house are
11. of oruppu & marked with the D. P. W. Stamp.
12. of 10.

13. The prisoner's defence was that he
14. bought two pieces of timber from 1st Defence Witness.
15. Besides the evidence adduced by
16. the prisoner to prove that the bessemer was
17. sold him by the 1st Defence Witness being
18. discrepant from his own statement as pointed
19. out by the Magistrate in 13th paragraph. it is
20. also rebutted by evidence of the 7th Prosecution Witness.
21. of 12.

22. The circumstance that in the evidence
23. of the 3rd Prosecution Witness it appears that in
24. the Inayat bridge Police Station there was some
25. piece of wood $23 \times 6 \times 4$ - which is the exact di-
26. -mension of two pieces found near prisoner's house
27. viz the bessemer $15 \times 6 \times 4$ and a piece near
28. his well $8 \times 6 \times 4$ the two dimensions being $23 \times 6 \times 4$
29. and the coincidence shown thereby was a good
30. deal dwelt on but the 3rd Witness says none
31. of the wood at Inayat bridge Station was
32. oruppu.

33. oruppu - and that is not the station from
34. which prisoner says he got the wood left
35. lying there after the station was finished.
36. 13.

37. I think the Magistrate's estimate
38. of the defence evidence one with which there
39. is no reason to differ. and that it has not
40. cleared the fact of a beam stamped with the
41. Government D. P. W. stamp being found in
42. the prisoner's house of its damning character.
43. 14.

44. The statement of prisoner in the
45. 7th para of petition of appeal to the effect
46. that from the evidence of 8th witness it is
47. clear no timber measuring $23 \times 6 \times 4$ was supplied
48. for the bridge is not borne out by the record.
49. On three dates the 8th witness delivered timber
50. of which he gave the running feet only and
51. it is impossible to say what was the length
52. of any of the pieces making up those running
53. lengths.
54. 15.

55. The form of question put to the
56. prisoner by the Magistrate was "How much
57. timber did you get from the Contractor
58. Chackery Kanner?" Answer was "Two
59. pieces" so that the 11th para of the prisoner's
60. appeal petition is not borne out by the record.
61. 16.

62. Considering that the prisoner's
63. guilt is the one hypothesis reasonably
64. to be drawn from the evidence which
65. is

is circumstantial in its character I confirm
the Magistrate's judgment and dismiss
this appeal.

Wm J. W. Reid
Session Judge.

(True Copy)

Wm J. W. Reid
Session Judge.

(True Copy)

W. H. Harrington
District Engineer & Laborer

N^o 106 Malabar Distt. Engg's Office,
Calicut 13th August 1874
From The District Engineer,
Malabar.

To The Chief Engineer,
P. W. Department,
Madras.

Sir,

In continuation of
my N^o 74, dated 8th ultimo for-
warding copies of the finding
and sentence pronounced by the
Magistrate M^{rs} Logan on my
Ministry C. Karpagum, I have
the honor to forward copy of
an order passed by the Session
Judge at Tellicherry dismiss-
ing an appeal made to him
by the P. W. Ministry against
M^{rs} Logan's judgment.

I have the honor to be,

Sir,
Your most Obedient Servant,
W. S. Armstrong
District Engineer,
Malabar.

See letter from the
District Engineer
Malabar to the
Chief Engineer
P. W. D. Madras
N^o 106 of 13th August 1874

Ms. 272 Sept 17/74
Ser. 18 N^o 38.
Mr 5742/74

Malabar

Copy of the Proceedings
of the Court of Sessions
against R. V. Ministry
C. Karpagum.

