EXAMINER P. W. ACC
6 SEP 81

B.P. 20734/79 20 Augt 81

Con: 15/8/81

Ø. 13.8.81 Ch. 14.8.81 Sept 17/8

No. 2073 W PUBLIC WORKS DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the 20th August 1881

Read the following :—

From the Supdtg Engr 3 Circle No 731 T.J dy 3 August 1881.
Memo: by Chief Engr P.W.D. No 1864 dy 10 — " —
From the Supdtg Engr 3 Circle No 757 T.J dy 10 August — "

The disbursement of the pay of Head Clerk Ramachendra Row of the Tanjore Division from the date of his arrest to that on which he joins for duty at Negapatam is sanctioned —

Cy

S 13/8

The Supdtg Engr 3 Circle
Lt-Col R. H. Keetch
Dewd
20-8-81

15/8/81.

SUPERINTENDING ENGINEER'S OFFICE, 3RD CIRCLE,
Trichinopoly 10th August 1881.

No. 757 T.J

From

Lt-Col J. Beatty R.E.

Superintending Engineer, 3rd Circle,

To

Col R. H. Lawley Co. B.R.E.
Chief Engineer P.W.D.
Madras

Encl: 1.

Sir,

In continuation of my letter No 731 T.J of 3d instant, I have the honor to forward the Judgment of the District Session Judge of Tanjore on appeal by Ramachendra Row Head Clerk of the Division Office.

2. The Judge is of opinion that Ramachendra Row was the victim of a conspiracy; and I think, under the circumstances, the best course will be to transfer him from Tanjore to Negapatam; and to

move Mr. A. J. Rodrigues now
Head Clerk of Negapatam to Lau-
=jore.

3. I have also to request your
sanction for the disbursement of
his pay from the date of his arrest
until he joins for duty at Nega-
=patam.

× Ramchendra Row's

I have the honor to be
Sir
Your Most obdt. Servt
J. Beatty- 2d Col. RE.
Supg Engineer 3d Circle

P. W. C. No. 4554

P. W. D. 3rd Circle.

ENCLOSURE
6 SEP 81
EXAMINER P.W. ACCOUNTS

From

The Superintending Engineer,

3rd Circle.

To

The Chief Engineer
P W D.

No. 757 T.J

Dated 10th } August 1881
Received 12 }

Enclosures. 1-

Case of Ramachendra Row -

Forwards Judgment of Sessions Judge &c -

Entd in Receipt Regr.

6-13-8-81-2-19-8-81

other coolly with the simple remark that his seeing and identifying this log was a "most curious chance." So indeed it would have been, had the story been true, but I am incredulous enough to believe that the witness went there knowing perfectly well what he was likely to find and that he found what he expected and intended to find. Having found it, it never occurred to him to give information to his employers, viz, the Palace authorities, but he immediately confides the discovery he has just made to a Police Constable who happens to come up just at the very moment - another curious coincidence and then rushes off to make a complaint at the Police Station, without giving any information at the Palace at all. It will be observed that in Cross-examination he stated that Nyanaprakasam from whom his original information was derived, was hovering

hovering about the Prisoner's house just before he saw the wood but mysteriously disappeared just before he made his discovery.

10. The more consideration I have given to this case, the stronger is my conviction that there was no guilty knowledge on the part of the Prisoner in receiving this wood into his house. All the circumstances seem to negative that presumption and it is primâ facie improbable that a man in his position would have Palace timber removed to his house in the full light of day without taking the smallest precautions against the discovery and identification of the timber. Moreover he had actually advanced money for the purchase of timber to another man. I do not believe that the wood was ever removed from the Palace with the intention of causing wrongful gain to the Prisoner or wrongful loss to the Palace, but was merely taken in order to be found again as part of a scheme for bringing a false charge of which the Prisoner was to be the victim.

11. The conviction and sentence are reversed, and the Prisoner must be set at liberty.

Date of			
Presentation	Filing	Hearing	Order
18th July 1881	19th July 1881	29th July 1881	30th July 1881

30th July 1881.

(Signed) G. A. Parker
Ag Session Judge

End: 54.

(True Copy)
G. A. Parker
Ag Session Judge

CL. SUB.
6 SEP 81
EXAMINER P. W. AOCC

Mr Knell
4554/81

Rupees 40 to procure it. The Contractor was examined and denied having sent the wood though he admitted having received an advance to purchase it. It appears however from the evidence of the two workmen (whom the Magistrate does not discredit) that the handyman who delivered the wood stated it had been sent by Krishnaiengar, that Prisoner was then absent at his office as was natural, it being 1 P.M. and that they gave him the message when he returned in the evening. It is not shown that Prisoner ever actually saw the wood himself and if he did, there was nothing to indicate it as Palace property and when the Police called him from his office the next day, he gave the same account as the workmen had given to him. As against the theory of the Prisoner's guilt it may be noted that he is not shown to have purchased the wood

for

for a low or inadequate price, that he had actually made an advance of more than the value of the wood to the Contractor for the purchase of timber, and finally that the marks on the wood (which might have been obliterated in five minutes so as to make identification almost impossible) were left untouched.

9. If however the Prisoner is not guilty, he must clearly be the victim of a Conspiracy on the part of persons who wished to get up a case against him by putting Palace property in his house during his absence. And this theory is strongly supported by the most extraordinary way in which this wood is alleged to have been discovered in the Prisoner's house. The wood it will be remembered was delivered at the Prisoner's house on the afternoon of June 15th. On the following day one Muthu Asari a wooly carpenter who was only entertained at the Palace on June 14th, happened to be passing along the street, and stood looking into the Prisoner's house without any particular object, and without as he says knowing in the least to whom the house belonged. While he was thus gratifying his curiosity by staring at nothing in particular, by an extraordinary coincidence, a woman happened to come and unlock the inner door so that witness though standing well out into the street 10 feet below the basement was able to see inside the house. His eyes were immediately attracted by a log of wood, which he instantaneously identified as Palace property. The witness had never seen the wood in his life before, but he states he had been informed by Andi and some others of the removal of a log on the 13th June, the day before he was taken on. Curiously enough these people though they confided this

this suspicious circumstance to the 1st witness, omitted to mention it to any of the officers at the Palace. And this witness whose attention was so absorbed by this particular log that he failed to notice whether there were any other logs in the house tells us that he identified the log as Palace property — not by the marks, for he had never seen them — but "the wood was not clean cut, but ragged and I knew by that". This is the extraordinary characteristic of Palace property by which it can be identified by a cooly who has never seen it in his life before. And the Head Assistant Magistrate who sets aside the evidence of such on the ground that he is such a cooly that he cannot even be trusted to identify a log of wood which he himself has helped to cut, accepts this outrageously improbable story from this other

such evidence on the record. It is urged that the expenditure account (Book C) produced by the overseer is not written or kept by him, that he is unable therefore to testify to its accuracy and moreover it does not even profess to be an exhaustive account of the expenditure of the timber, since the overseer admits that some of the Palace timbers have been sent since the purchase of this wood to Mayaveram, and he has no record of what was sent to Mayaveram. He admits that during his time no expenditure account was kept and in cross-examination expressly admits "I cannot say positively whether this log marked in the book "9 x 28. 23 10. 10¼ has been used or not". Hence it is argued that even granting the wood to have belonged to the Palace, it may have been sent to Mayaveram or otherwise expended, and come innocently into the hands of the Prisoner so that it is not safe to

to allow the prosecution to abstain from giving evidence of the theft of this particular piece, and that it is for the prosecution to prove the Prisoner guilty, not for him to prove himself innocent.

6. The objection is a technical one, but of course the Prisoner's Counsel has a right to take advantage of any breach among the links in the chain of evidence. Were this Court bound by the finding of the Head Assistant Magistrate as to the evidence of — Audi, I am inclined to think the objection would have been fatal. But the Court is not so bound, and as the prosecution evidence was given against both the Prisoners in the Lower Court, the findings upon all the facts are open to review on this appeal. I feel bound to state therefore that I do not agree with the Magistrate that the evidence for the prosecution is insufficient to show that the log which Audi helped to cut is the same as that found in Prisoner's house. The Magistrate observes that the identification rests upon the evidence of Audi alone, that this man is the veriest Coolie and the Magistrate evidently does not consider him possessed of sufficient intelligence to identify a piece of wood, even though he helped to cut it himself. This however is not quite accurate. The 3rd Witness, — the horsekeeper also professes to identify the wood, and there is further the evidence of the overseer which seems to show conclusively that the wood found is or was — Palace property. There is further the evidence of the 3rd and 4th Witnesses for the Prisoner (whose testimony the Magistrate does not apparently discredit) to show that shortly after the piece of wood which Audi and the horsekeeper identify was removed from the Palace, this piece was brought and left at Prisoner's house. Taking all these circumstances together, I do not think there can be much reasonable doubt that the

RECEIVED
6 SEP 81
MINER P. W. ACCOUNT

the wood before the Court is the same which Andi helped to cut and saw removed.

7. On the second point I can see no reason to doubt that the wood was delivered by a handyman at the Prisoner's house on the afternoon of June 15th in the manner described by the 3d and 4th Witnesses for the defence.

8. I now come to the third point, which is really the crucial point in the case, viz whether this wood was received in his house by the Prisoner dishonestly and with the knowledge that it was Palace property. The Prisoner is erecting a new building for himself, and the point for the prosecution is that Prisoner, when asked to explain his possession, gave an account which was afterwards shown to be untrue. He stated that the wood had been sent to him by a Contractor Krishnaiengar, to whom he had given an advance

Rs

Court of Session of South Tanjore

Judgment in Criminal appeal No 7 of 1881.

From what court the appeal is preferred	From the Court of the Head assistant Magistrate of Tanjore.
Number of the case in that Court	Calendar Case No 216 of 1881.
Number of the appeal	7 of 1881.
Name and description of the appellant	V. Ramachandra Row Brahmin. Government Servant 2nd P.
The sentence and law under which it was imposed in the Lower Court	Section — 411 I. P. Code Three months' rigorous imprisonment
Whether confirmed modified or reversed	Reversed.

The Prisoner is the Head Clerk in the office of the Executive Engineer of the Tanjore Division, and a Graduate of the Madras University, and he has been convicted by the acting Head assistant Magistrate under section 411 I. P. Code for having dishonestly received a log of timber, the property of the Tanjore Palace, knowing the same to be stolen property.

2. A Ministry of the Public Works

Department employed on the repairs of the Palace was tried conjointly with the Prisoner on a charge of stealing the timber, but was acquitted by the magistrate on the ground that the identity of the log said to have been removed by him with that found in the house of the appellant was not satisfactorily shown, and that there was no evidence that the log found in Prisoner's house was the only log missing.

3. In order to sustain the conviction it is necessary to show

1st That the timber was stolen property; i.e. that the possession of it had been transferred from the palace by theft.

2dly That the Prisoner received it.

3dly That he did so dishonestly knowing or having reason to believe it to be stolen property.

4. That the timber found in Prisoner's house was the property of the Palace is, I think, satisfactorily shown. At the request of the Prisoner's pleader, the timber has been brought before the Court. The figures marked on the wood at the end, are 28, 23 10, 10 and on the side of the wood is the bar mark No 9. The evidence of the overseer shows that the first set of figures are usually cut in the wood by the seller in Burmah, and that this wood was purchased by him for the Palace at Negapatam in November last. The bar mark 9 was put on at Negapatam. The overseer has produced the book A kept by him in which this log is entered thus: 9 × 28 23 10 10¼. Contents 2357½. There is no mark specially distinguishing the wood as the property of the palace, but if the log found is not the same as that purchased for the Palace, one has to suppose not only that Prisoner has come into possession of a similar piece of wood of the same size and dimensions and bearing the same figures, but also that the same bar mark 9 was put on that piece of wood at Negapatam. Such a coincidence would be very extraordinary.

5. Holding therefore that the wood

wood found in Prisoner's house
is the property of the Palace. I
have next to consider whether
the possession of it has been trans=
ferred by theft. Now the Head
assistant magistrate finds as a
fact that it is not proved that
this timber is the same piece as
that which Audi (2nd witness) helped
to cut and was removed by or
under the orders of the Palace Mais[illegible]
hence that there is no actual
proof that this timber was stolen
then or at any other time. But the
Head assistant magistrate infers
that as it was Palace property
it must have been stolen, and
appears to consider that evidence
of the theft having occurred can
safely be dispensed with. The Prisoners'
Counsel objects to this and argues
that since the identification of
Audi is rejected it was at least
incumbent upon the prosecution
to show that this particular
log had been missed from the
Palace, and that there is no

such