M.R.O. 1—77,006—8-6-31.

(1) Number of pages 52.

(2) Date of repair 5-12-1940

(3) Initials of the Referencer CF

MADRAS RECORD OFFICE.

Government of Madras.

Pension DEPARTMENT.

G.O. No. 139 Press / Mis.

Dated 8-3-1873.

Not to be folded or roughly handled

KV
5

Thro: Accountt General.

No. 4219.

Chief Office of the Inspector General of Police,
Madras, 9th December 1872.

From

The Inspector General of Police,

To

The Chief Secretary
to Government
Fort Saint George.

Sir,

Enclosures. One.

With reference to para 4 of G. O. No. 571 dated 18th July 1872, Pension Department, I have the honor to submit for the orders of Government an application for the grant of pension to 3d grade Head Constable Hoossain Khan No. 294 of South Canara Police.

2. The constable has served for more than thirty nine years in the Police and Revenue Departments and has borne

a

a good character. He is now discharged being 60 years old and unfit for further service as his memory is impaired and as he is quite unequal to any unusual exertion.

3. I beg to recommend that a pension of Rupees 4 per mensem from 24th September 1872 may be Sanctioned.

4. I beg to inform you that the Superintendent of Police South Canara reports that he was engaged in taking the elections for pension in other Divisions and was therefore unable to record that of this Head Constable earlier.

I have the honor to be
Sir,
Your most Obedt. Servant
W L Drever Major
Ag Inspector General of Police

Accountant General's Office
Recd 1?
Ansd __ 12 1872

1872. Dept.

From
The Inspector General
of Police,

To
The Chief Secy
to Govt
Ft St Geo

Dated 9th Decr 1872
No. 4219.

Submits for orders
of Government an application
for the grant of Pension to a
3rd Grade Head Consr of
South Canara Distt.

13140

In the High Court of Judicature,
at Madras.

Friday, the fifth day of August,
One thousand eight hundred and Seventy

Present.

The Honorable Sir Colley Harman Scotland
Knight, Chief Justice.
The Honorable Mr. Justice Holloway.
The Honorable Mr. Justice Kindersley

Criminal Regular Appeal No. 160 of 1870
Nagappa Bandari & Appellants
Dangey Shetti & Munjoo 4th, 5th & 8th Prisoners.

Criminal Regular Appeal No. 168 of 1870
Hoossein Khan & Devu Appellants
2nd & 3rd Prisoners.

Appeals against the sentence of the Court of Session of Mangalore in Case No. 28 of the Calendar for 1870.

These Appeals coming on for re-hearing, the Court delivered judgment as follows—

The Chief Justice — In this case, five persons have been convicted — (1) the 2nd prisoner of having brought a false charge of murder — and the others of having abetted the preferring of the said false charge — (2) of abetting the giving of false evidence, knowing it to be likely that such evidence would lead to conviction of a capital offence, and (3) of wrongfully confining certain persons for the purpose of extorting a confession. The 2nd and 3rd prisoners are Police officers, the 4th and 5th prisoners influential Patels, and the 8th prisoner a village watchman.

These Appeals first came on for hearing before my Colleagues Mr Justice Holloway and Mr Justice Kindersley, and the records were called for on 1st June. Mr Justice Holloway having been one of the Judges before whom the capital sentence on the conviction for the murder came for confirmation, the appeals have at his request been heard before a full Court.

And I may state at once that in our opinion, the convictions cannot be sustained. The case is probably almost an unprecedented case in the administration of Criminal Justice. Looked at first as it stands upon the evidence of the witnesses who have been put forward to declare the falsity of their former evidence in support of the charge of murder, the case presents a rather startling subversion of one of the most

important

important of the general principles which ought to guide the Courts in dealing with evidence. The principle that persons who consistently adhere to an account of transaction are more worthy of belief than those who make contradictory statements about the same transaction, and especially so when the matters contradicted had been deposed to in a Court of Justice. For here we have persons who gave evidence against the 11th, 14th and 16th witnesses at the trial for murder and have throughout adhered to the statements then made, treated as perjurers and convicted mainly on the evidence of other persons who also gave evidence against the convicted murderers but have since retracted their statements and admitted that they committed deliberate perjury of the most serious kind on the former occasion. This view of the case presents in itself enough to destroy all confidence in the evidence given in the present case by the retracting witnesses, and nothing but the very strongest confirmatory testimony of untainted witnesses would have justified evidence of that nature, being used to found the charge of perjury against the Appellants, much less to support their Conviction. In the present case, there is no such testimony, whether I look at the probabilities or the other direct evidence, it appears to me that the case for the prosecution rests on no safe basis.

After the murder trial in which four persons were convicted and sentenced to death, a former rumour was again revived and it was circulated that those persons were convicted on false evidence, and in consequence of this rumour, the approver seems to have been waylaid on his way to his village, and after considerable pressure was induced to represent to the Subordinate Magistrate that his statements at the trial were false. The Head Assistant Magistrate followed up this clue. Other witnesses at the murder trial were led to retract their statements and finally 12 persons were committed for trial on the present charges. How the rumour originated we do not know but that it should afterwards be supported by the retractation of — statements solemnly made, is but the likely consequence of an over-

-zealous

over-zealous Magistrate prosecuting enquiries with a view to establish its authenticity, and the witnesses being assured, as they appear to have been that they might by doing so, save the lives of the convicted prisoners against whom they had no enmity and obtain the favor for themselves of security from any risk, on account of their former evidence. Persons in the class of life of those witnesses were almost certain to be induced by this kind of influence to retract their former testimony whether true or false. And what are the motives assigned for this conspiracy to convict four persons of a capital offence now sought to be made out? It is said that suspicion was directed against a nephew of one of the Potails who is now convicted, and that in order to avert it, evidence was concocted against the 11th, 14th, and 16th witnesses and another. In the case of the Police, professional zeal is assumed to be a sufficient motive. I can only say that the evidence affords no support for either of these allegations. Next as to the means employed by the Police to support the alleged conspiracy by inducing some persons to give detailed information regarding, and others to confess to, the murder

We hear of threats of detentions and of promises of being made approvers, and some slight violence is also spoken to. One bribe of Rupees 10 is stated to have been given, and that, strange to say, to one of the Prisoners convicted of the murder. It seems to me almost incredible that so extensive a conspiracy could have been so organized. That so many persons would have been by such means alone constrained to make and repeat the same false statements before the trial of the charge of murder, and adhere to those statements at the trial. It strikes me as more probable that all would not in the circumstances have so adhered to their statements, if false. The other probabilities, I observed upon at the close of the arguments, and will only now add that all are, in my opinion opposed to the hypothesis of the prosecution. Then as to the confirmatory evidence, it is I think, wholly unreliable. I may put aside the evidence of the persons convicted of murder, and who are still under sentences of death. They spoke under an influence of self interest which the most perfect moral nature, and the most resolute mental faculties would find it almost impossible

to

to resist; and they are men of little, if any, moral sense, who would be guided by object of self interest of even a trifling kind to commit deliberate perjury, and we cannot regard as of any worth, the evidence of their wives and daughters, or of the 19th witness the brother of one of them. The case then rests on the testimony of the most tainted witnesses and is not supported by probabilities, nor by confirmatory evidence of any worth. In my judgment, the prisoners ought not to have been put on their trial upon the evidence of such a character, and their conviction has been a most unhappy miscarriage in the administration of the Criminal Law. The convictions will be reversed and the prisoners set at liberty.

Mr Justice Holloway — I am entirely of the same opinion.

Mr Justice Kindersley — I concur in the Judgment of the Chief Justice.

(A True Copy)
Signed J. T. Weir
Deputy Registrar
Appellate Side.

To
The Session Judge of
Mangalore

(True Copy)
A. Burne
Ag. Session Judge.

History of the service of Sheik Hussein lately a Duffedar in the Revenue Establishment of the South Canara District and at present a Police Head Constable.

Establishment.	Appointment.	Pay	Acting allowance	Date of beginning	Date of end	Period reckoned as service	Period not reckoned as service	Remarks	How verified	Remarks by Accountant General
		Rs a p	Rs			y. m d	y. m d			
Police -	Peon in the Mangalore Katwal's Choultry	4 " "		16th August 1833	21st March 1839	5 7 6		The applicant was fined on four occasions for neglect of duty		
	Ditto — ditto —	4 8 "		22d March 1839	31st May 1839	" 2 10				
Revenue -	Peon in the Revenue Establishment of Mangalore Taluk	4 8 "		1st June 1839	31st August 1850	11 3 "				
	Duffedar in the Mangalore Talug.	7 " "		1st September 1850	30th April 1852	1 8 "				
Tobacco.	Duffedar in the Tobacco Depôt at Mangalore	7 8 "		1st May 1852	31st January 1853	" 9 "				
Salt	Duffedar in the Salt Kottar at Bantwal	7 8 "		1st February 1853	24th April 1854	1 2 24				
Police	Duffedar in the Katwal's Choultry at Mangalore	8 " "		25th April 1854	24th May 1859	5 1 "				
	Ag. Katwal at do	17 8 "		25th May 1859	24th June 1859	" 1 "				
	Duffedar in the Kotwal's Choultry	8 " "		25th June 1859	15th June 1860	" 11 21				
Revenue	Duffedar in the Mangalore Taluk Kacheri	8 " "		16th June 1860	14th September 1860	" 2 29				
						27 1 "				

Collector's Office
Mangalore
31st October 1872.

for Collector.

To The Ag Superintendent of Police South Canara.
With reference to his letter dated 12th October 1872, No 260.

C. No 13.

Accountant General's Office
Recd 8 1 1873
Ansd

Memo

Forwarded to the Dy Accountant General with reference to his memo dated 17th December 1872.

Captain
Ag Asst Inspr Genl
of Police
7th January 1873

14266 √

Audit DEPARTMENT. (Please Reply on reverse)

~~No.~~

Fort Saint George,
Accountant General's Office,
Dy 17th December 1872.

FROM THE ACCOUNTANT GENERAL
TO THE GOVERNMENT OF MADRAS,

TO THE Superintendent of Police South Canara
Thro the Inspr. Genl of Police
Madras

~~Sir,~~

Vide your office Application for inferior pension on behalf of 3rd Grade Hd Constable Hoosaini Khan D/ 24 September/72

1 The undersigned has the honor to request that the Superintt. of Police will be good enough to state whether the Applicant ~~[illegible]~~ received any pay for the period ~~during~~ after ~~which~~ he was suspended & dismissed as stated in item 2 on the 3rd page of the Application.

2 If there are any orders regarding suspension, dismissal & reinstatement and allowing pay for the said period, they should be furnished at an early date

W. Donald
Offg Dy Accountt Genl

South Canara Police Supdt. Office
Mangalore 26th December
1872

Para 1 The H Constable received no pay for these periods—

2 There are no orders allowing pay for these periods

R. G. [illegible] Capt
Supdt. of Police

South Canara District.

Duplicate [illegible] ಜಿಲ್ಲಾ

Declaration of conditions under which the undermentioned Police Officer elects to serve for Pension and Gratuity.

ಈ ಕೆಳಗೆ ಕಾಣಿಸಲಾಗಿದ್ದ ಪೋಲಿಸ್ ಉದ್ಯೋಗಸ್ತನು ಯಾವ ಶರ್ತಗಳ ಪ್ರಕಾರ ಪೆನ್‌ಶನ್ ಮತ್ತು ಗ್ರಾಟ್ಯುಟಿ ಯೆಂಬ ಇನಾಮು ಪಡ ಕೊಳ್ಳುವರೆ ಒಪ್ಪುತ್ತಾನೆಂದು ತೋರಿಸುವ ಕಬೂಲಿನಾಮೆ.

General No. ಜನ್ರಾಲ್ ನಂಬ್ರ.	Rank. ಉದ್ಯೋಗದ ಹೆಸರು.	Name in full. ಪೂರಾ ಹೆಸರು	Date of enlistment. ಮೊಕರ್ರರಿ ತಾರೀಕು	Date of election. ಕಬೂಲಿ ತಾರೀಕು.	Signature of Officer taking declaration. ಕಬೂಲು ಪಡ ಕೊಳ್ಳುವ ಉದ್ಯೋಗಸ್ತನ ದಸ್ಕತು.
294	[illegible]	[illegible]	1. 10. 60.	14. 6. 72	[illegible] Supdt. Supdt. of Police

I Husein Khan described above now serving as 3rd Class Head Constable Madras Police do hereby elect to serve for Pension and Gratuity under Superannuation Fund Rules

Here enter conditions of Superannuation Fund Rules or under conditions laid down in G. O. G. I. dated 19th July 1871.

ಮೇಲೆ ವಿವರಿಸುವಲ್ಲಾಗಿ ಈಗ ಮದ್ರಾಸ್ ಪೋಲಿಸ್ [illegible] ನಾದ [illegible] ನು ಕೆಳಗೆ ಕಾಣಿಸಿದ ಶರ್ತಗಳ ಪ್ರಕಾರ ಪೆನಶನ್ ಯಾ ಗ್ರಾಟ್ಯುಟಿ ಎಂಬ ಇನಾಂ ಪಡ ಕೊಳ್ಳುವಂತೆ ಇದರಿಂದ ಒಪ್ಪುತ್ತೇನೆ.

ಇಲ್ಲಿ ಸುಪರ್ರ್ಯಾನುಯೇಶನ್ ಫಂಡ್ ಯಾ ಇಂಡ್ಯಾ ಗವರ್ನ್‌ಮೆಂಟ್ ತಾ. 19 ನೇ ಜೂಲೈ 1871 ನೇ ಇಸ್ವಿ ಹುಕುಮಿನ ರೂಲ್ ಶರ್ತಗಳು ಇಲ್ಲಿ ಕಾಣಿಸು. [illegible]

1872 Dep 66

Enclosure

In a letter from the Ag.
Inspr Genl of Police
dated Madras 9th
Decr 1872 No. 4219.

Application for
Pension &c

Audit DEPARTMENT. (Please reply on reverse)

No.

Fort Saint George,
Accountant General's Office,
11th January 1873.

Offg Dy
FROM THE ACCOUNTANT GENERAL
TO THE GOVERNMENT OF MADRAS,

TO THE Superintendent of Police, South Canara
Thro the Inspr Genl of Police

SIR,

Vide your office reply dated 26th Ultimo touching pension application on behalf of Hoossain Khan

The undersigned has the honor to enquire 1 to what date the Applicant's suspension and dismissal [redacted] extended and 2 on what date he was re-instated. 1 As he appears to have received no pay for the interval the above period must be shown as a break in the service.

Copies of the orders of the Session Court Adjudging the Applicant's Conviction and those of the High Court quashing the decision of the lower Court and allowing the re-instatement should be furnished.

Mowald
Offg Dy Acctt Genl

Office of the Supdt of Police
South Canara 29th Jany 1873

(1) Suspended from 29th January 1870 & reinstated
(2) on the 28th November 1870

3 Copies of the sentences of the Sessions & High Court & of order of reinstatement herein enclosed

R. C. [illegible] Capt
Supdt of Police

E. No. 379

Forwarded to the Dy Acctt Genl Fort Saint George with reference to his memo of 11 Jany /73

Chief Office } [illegible] Captn
4th Feby 1873 } Ag Asst Inspr Genl of Police

Accountant General's Office
Recd 5 } 2 1873
Ansd ___ }

No. 7092.

Memo.

The Petitioners may be reinstated in their former ranks.

2. The Acting Superintendent of Police should have passed on the Petition instead of returning it to the Petitioners to be forwarded direct.

3. The reason given by the Petitioners for not appealing sooner is obviously false. They waited until Captain Jenkins should have left the District, and they must be warned that by not appealing at once they imperilled their chances of success.

Chief office of
the Inspector
General of Police
Madras 14th Novr 1870

(Signed)
W. S. Hearn
Inspector Genl
of Police

True copy

R. C. Jenkins Capt
Supdt of Police

Seſsion Case No. 28 of 1870.

Statement of evidence and grounds of Conviction.

Regina
Versus

1. Gangapa Upadya
2. Hoossein Khan
3. Devu
4. Nagappa Bhandari
5. Dongay Shetti
6. Annapaya
7. Antaya Hegade
8. Manjah
9. Krishna Naire
10. Puttojee
11. Shaik Husain
12. Shek Immamu

1. This case has arisen from Seſsion Case No. 43 of 1869 in which 4 Prisoners were charged with the murder of one Venkappa Shetti, convicted on trial, and sentenced to death. Whilst their case was pending on reference before the High Court, circumstances arose which threw grave doubt upon the evidence on which they had been convicted. Enquiries were accordingly set on foot, and when the High Court confirmed the sentence, there appeared sufficient reason

to

postpone execution and forward an appeal made by the Prisoners to the Governor in Council with an opinion that the evidence against them had been too seriously shaken for the sentence to be carried out: in fact the evidence on which they had been convicted was retracted and declared to have been obtained by force and unlawful means.

2. The 4 convicted men were reprieved by order of Government and the Prisoners in the present case are charged the 2d Prisoner with having falsely charged these 4 men, and the others with having abetted the preferring of the false charge, abetted the giving of false evidence and wrongfully confined persons for the purpose of extorting a confession.

3 Venkappa Shetti was murdered at Heggunje on the 8th October last and the 2d Prisoner, Head Constable, who had been sent to the spot to make enquiries arrived there on the 11th, the 3d Prisoner, Deputy Constable, was also

there; 4th and 5th Prisoners, both Patels, the former a very influential man, had been called to the Taluq Cutcherry at Udipi, to clear the ground for the enquiries of the Police as there was some reason to suspect a relation of the 4th Prisoner was implicated in the death of Venkappa Shetti, whilst 5th prisoner in his report of the murder omitted to mention the existence of extensive wounds on the body, it was therefore thought their presence might impede enquiries. but 4th prisoner once returned to Heggunje without permission, and shortly after both were allowed to return, on what date is uncertain, but they were both there on the 28th October, and it was between that time and the 5th November when the Sub Magistrate arrived for enquiry, that the offences charged were principally committed.

4 No clue to the murder had been discovered by the Police. A relation of 4th Prisoner had been suspected, and whether from professional pique or as urged by 4th Prisoner, it appears to have been determined to get up a

Case

case and operations seem to have been begun with 2d Witness. This man was admitted as Approver in the murder case; he now states that all he then deposed was a false story taught him by 2d, 3d and 4th Prisoners: that about 15 days after the murder the 8th Prisoner, village Ugrani or watchman, came and pretended to find a scrap of mat with blood specks on it near his house, at the spot where the murder was afterwards said to have been committed; that he took it to the deceased's house in the village close by, and presently returned with the Head Constable (2d Prisoner) and several people, more blood marks were pretended to be found, the finding of these blood marks which, if true would have been an important circumstance, were never, it may be observed, reported by 2d prisoner, and 2d Witness was told he must have been cognisant of the murder. He and the inmates of his house, 3, 4th and 5th Witnesses were taken to the deceased's house (where prisoners 2 and 3, the Head and Deputy Constables, appear to have put up) and were terrified and threatened by the Head Constable 2d Prisoner and Ugrani 8th Pr., the Deputy 3d Pr. Constable being also present, and urged to say that they heard cries near their house on the night of the murder: they refused, saying they had heard nothing, and were kept in separate spot till evening, then allowed to go home under charge of 8th and 10th Prisoners, Police privates, who slept at their house. The next day they were brought back, again threatened and urged to admit they had heard cries, and kept till evening; the 4th and 5th Witnesses the mother and wife of 2d Witness also swear that the Head Constable 2d Pr. took them apart behind some bushes and kicked and struck them to force an admission. 2d Witness speaks of 4th Prisoner having been also present and asked him if the cries he heard were not like "Ayo yo" Witness in terror said "Yes" and was let go. The hearing of these cries was deposed to in the trial for murder, but were never

Court: being woman of a timid subservient caste they were more easily won over. The 8th Witness also deposes that he was ordered by the Head 2d Prisoner Constable to make the required statement, and threatened and kicked by him on refusing. This witness was not sent up at the former trial.

6. The 15th Witness deposed at the trial for murder that on the night the murder was committed the 1st Convicted Prisoner came and called out the 2d Convicted Prisoner in whose house witness was sleeping and that the latter Prisoner returned later in the night. He now states this was all false, and that Prisoners 2, 3, 4, 5 and 8th had called him to the deceased's shop and forced him by threats to consent to say so, 5th prisoner and some of the others striking him on his refusing, and that he was

was then taken before the 1st prisoner, the Inspector, who was in another house and repeated to him the story he had been taught, not telling him it was extorted, and being threatened by the others if he waivered, repeated it also before the Sub Magistrate and the Sessions Court. This witness spoke in a very truthful seeming manner, and it is to be remembered that nearly all the witnesses who were prevailed upon to give false evidence in the other trial are people of humble degree, living in a secluded village, accustomed to submission and were pressed by men in authority and of high local influence. I do not think their present evidence given as it is against interest, deserves distrust.

7. The 8th, 14th and 16th Witnesses are respectively the 1st, 2d and 3d of the Prisoners sentenced in the trial for murder, and now sent as witnesses, because apparently

rently, it may be supposed they knew most of the offences now charged. I think however their evidence should be regarded with extreme caution and discrimination because there is reason for thinking that they are impressed with the belief that their escape from the sentence hanging over them depends upon the conviction of the prisoners in the present case

8 The 11th Witness 1st Convicted Prisoner is a tenant and dependent of 4th Prisoner, he and the 16th Witness 3rd Convicted 12 relate at length how the 4th Prisoner used every means of persuasion, entreaty and bribery to induce them to confess that they had taken part in the murder of Venkappa Shetti, promising that care should be taken they should escape punishment by being admitted as Approvers. Prisoners 2, 3, 5, 6 & 8 joining in the attempt at various times. The object of 4th Prisoner who is a wealthy and very influential Patel, being to avert suspicion from his nephew and himself with reference to the murder, as some rumours were pointing that way. As 11th Witness 1st Convicted 12 had been keeping the sister of the deceased Venkappa Shetti it was thought that it would give a motive and verisimilitude for the deed he was to confess. He was at last prevailed upon to consent but the 16th Witness steadfastly refused, and pleaded not guilty through all stages of the former trial. Their general statements now are strengthened in the case of 11th Witness, by his wife and sister, 12th and 13th Witnesses, who depose to his having been sent for by the 4th prisoner and on his return telling them it had been endeavoured to induce him to make a false confession with respect to Venkappa Shetti's recent murder, and shewing them 10 rupees

which 11th Witness now affirms the 4th Prisoner forced upon him as part of the bribe. With respect to 16th Witness, his brother 17th Witness swears that the 4th Prisoner, more than once besought him to persuade his brother to make the required confession, promising no harm should come of it. The 14th 3d convicted Prisoner Witness states that he was practised upon by the 1st Inspector prisoner and 6th Prisoner to make the confession he did, but his account is unsupported.

9 As already observed I think the present accounts of these Witnesses (11th, 14th and 16th) should be viewed with much discrimination. They alone directly implicate the Inspector (1st Prisoner) in a guilty knowledge of the falsity of the charges and evidence, for they state that when brought before him they told him the confessions they were going to make were entire fabrications but they also declare that they told the same to the Head Assistant Magistrate, the Police Superintendent, and the committing Sub Magistrate, which is incredible. It seems certain they were urged to make false confessions and their accounts of the means employed may be generally received when supported by other evidence and the facts of the case.

10. The Prisoners were all defended. Much was said in argument that the "false charges" they are indicted for preferring and abetting have not yet been proved false by the pardon of the Prisoners on whom they were made, and that the evidence of several of the Witnesses now examined, being in retractation of, and contrary to, their former sworn evidence, is inadmissible or at least highly suspicious. It appears to me there is no bar to trying charges of preferring, abetting, and

instigating

instigating false charges and evidence, knowing them to be false, when there seems reason to believe the offenses actually took place. From the very nature of the case the present evidence of many of the witnesses in the former trial must contradict what they then averred. They are called for the very purpose of contradicting their previous evidence and to say why they gave it, their present evidence it may be remarked, is against interest and supported by other fresh proof.

11 For the 1st Prisoner, the Inspector, it was chiefly urged that there is nothing to shew he was aware of the irregularities and violences used, it is certain that none of the witnesses speak to his having seen any, or that they told him of them. Most of the case had been concocted before his arrival. Still as the Head Assistant Magistrate observes in committing the case "the fact remains that he was

3 or 4 days in the village with gross irregularities going on within a few yards of his lodging" and though he subsequently did report the rumours that the men were innocent he did no more and made no more enquiries. It is difficult to believe that he was not aware of what it was very likely understood he was to have no open cognizance. If not guilty he must have been very inefficient or culpably hoodwinked by his subordinates. Beyond the statement of the convicted Prisoners which for reasons given are not entirely relied on, the evidence against him appears insufficient for conviction.

12. There is a large amount of evidence against the Head Constable and Deputy Constable, the 2 and 3 Prisoners particularly against the former who appears to have been the most active, the most unscrupulous, and the most guilty in this matter, and who in presenting the charge sheet to the

Sub Magistrate must have known well it was all founded upon falsehood. Nothing worth noticing was offered in their defence; much was said against the evidence of the convicted Prisoners, and as little as possible about the other evidence. The Head Constable reported to the Sub Magistrate that the 4 convicted Prisoners and present 2d and 7th Witnesses were arrested upon the evening of the 4th November though from all the evidence in the case from the statements of 3d, 10th, 12th, 13th, 17th, 18th and 20th Witnesses as well as from letters and diaries sent up it is clear they or some of them had been in Custody long before.

13 The 4th and 5th Prisoners are Potels of the village, influential men, especially the first. There appears enough evidence to convict them of instigating and abetting the giving of false evidence and preferring of false charges as also of wrongful confinement. The 4th Prisoner was probably the prime mover throughout,

45

his nephew was the first suspected of Venkappa Shetti's murder and that suspicion though not carried further, has not been cleared away. It is also difficult to imagine what could have induced so many Police Officers of higher grade to implicate themselves so seriously unless some strong local influence was at work. In defence of these Prisoners there was little urged beyond objections to the evidence of the convicted Prisoners and of the Witnesses who deposed contradictorily in the formal trial. The 8th Prisoner, the Begaree or village watcher, was continually employed in calling Witnesses from their houses, abetted some of the ill treatment and may be fairly considered to have taken part in the offences charged though in a subordinate degree. Nothing of moment was stated for him in defence.

14. No direct or sufficient criminatory

evidence appears against the 6th and 7th Prisoners there may have been some officious movements on their part but not, I think, enough to constitute a participation in the offences, and, in the circumstances, the mere fact of their presence on particular occasions should not be pushed too far. The 9th, 10th, 11th and 12th Prisoners were Police privates acting under the orders of their superiors. They were employed to watch some of the Witneſses, but it is not stated that they took part in or were present at, any maltreatment. Probably they were aware that irregularities were going on, but it is not distinctly shown that they did anything which it was obviously unlawful for them to do.

15 Though the trial was long and complicated the Aſsessors without taking time for consideration and

apparently

apparently by a foregone determination acquitted the Prisoners. If my conclusion be right they failed in their duty to the public. Aſsuming the Prisoners to be guilty it is superfluous to enlarge upon the heinousneſs of the offences, aggravated by the circumstances of the case and the position of the Prisoners.

16. I may add that the result of this trial has not, I think, established conclusively the innocence of the Prisoners convicted in case No. 43 of 1869. The Head Aſsistant Magistrate who collected the evidence and conducted the preliminary enquiries with great pains and aſsiduity in the present case, when examined as a witneſs by the defence, declined on being asked to deliver an opinion that they are innocent, but believed that the evidence on

which

which they were convicted was false. In this view I concur. The true circumstances of the murder of Venkappa Shetti are yet unrevealed.

Dated 11th April 1871 (Signed) M. J. Walhouse
Session Judge

(True Copy)

Acting Session Judge

Pens 106/73.
G. O. No 139.

APPLICATION FOR {PENSION / GRATUITY.

1. Name of Applicant. Husain Khan
2. Father's name. Esoof Khan
3. Sect or Caste. Musselmen.
4. Residence. Mangalore
5. Present or last employment. 3rd Grade Head Constable
6. Date of beginning of service 16th August 1833
7. Date of end of service 23rd September 1872

	Y.	M.	D.
8. Length of service including breaks … … …	39	1	7
of which superior … … … …	12	0	7
inferior … … … …	27	1	"
non-qualifying and breaks … … …	None		

9. Class of {pension / ~~gratuity~~} applied for, and cause of application.* Unfit for further service. Compassionate allowance under Rule 5, Order of Government of India No 2091 of 19 July Financial Department 1871.
10. [Average] emoluments or pay. 13-2-4
11. Proposed pension.
12. Proposed ~~gratuity~~. Compassionate allowance Rs 4-- per mensem
13. Date from which to commence. 24 September 1872
14. Place of payment. Mangalore
15. Age of applicant on this date. 60 Years
16. Height. 5 feet 5 inches
17. Marks. One scar over right eyebrow, ditto on inside of left knee cap. First joint of second toe of right foot crooked from a dislocation in childhood.
18. Date. 24th Sept 1872

Geo. Chrystie Capt.
Ag. Supt: Police S. Canara
SIGNATURE OF THE HEAD OF OFFICE.

* If the application is for a compensation pension or gratuity, the nature of the change of establishment which has given rise to the claim should be fully stated.

HISTORY OF THE SERVICE (SHOWING BREAKS) OF 3rd Grade Head Constable Hussain Khan

Establishment.	Appointment.	Pay. RS.	A.	P.	Acting allowance. RS.	Date of beginning.	Date of end.	Period reckoned as service. Y.	M.	D.	Period not reckoned as service. Y.	M.	D.	Remarks.	How verified.	Remarks by Accountant-General.
Police	Peon	4	-	-	-	16 August 1833	21 March 1839	5	7	6	-	-	-		By Copy of Service Register from the Office of the Collector of South Canara	Verified partly from the records of the Collector & partly from those of the Supt. of Police South Canara. The applicants service after deducting 10 months + 1 day during which he was dismissed & was re-instated on appeal by the Inspt. General of Police is years 38—3—10.
"	"	4	8	-	"	22 March 1839	31 May 1839	-	2	10	-	-	-			
Revenue	"	4	8	-	"	1st June 1839	31 August 1850	11	3	-	-	-	-			
"	Dafedar	7	-	-	"	1 September 1850	30th April 1852	1	8	-	-	-	-			
Tabacco	"	7	8	-	-	1st May 1852	31 January 1853	-	9	-	-	-	-			
Toll	"	7	8	-	-	1 February 1853	24 April 1854	1	2	24	-	-	-			
Police		8	-	-	"	25 April 1854	22 May 1859	5	1	-	-	-	-			
"	Kotwal	17	8	-	"	25 May 1859	24 June 1859	-	1	-	-	-	-			
"	Dafedar	8	-	-	"	25 June 1859	15 June 1860	-	11	21	-	-	-			
Revenue	"	8	-	-	"	16 June 1860	14 September 1860	-	2	29	-	-	-			
Police	Class Constable	7	-	-	"	15 September 1860	30 September 1860	-	-	16	-	-	-			
"	Deputy Constable	10	8	-	-	1st October 1860	30 April 1861	-	7	-	-	-	-		By service Register in the Office of the Superintendent of Police South Canara	
"	Head Constable	14	-	-	"	1st May 1861	30 September 1868	7	5	-	-	-	-			
"	Deputy Constable	10	8	-	-	1st October 1868	4th September 1869	-	11	4	-	-	-			
"	Head Constable	14	-	-	"	5 September 1869	14 April 1871	1	7	9	-	-	-			
"	Deputy Constable	10	8	-	.	15 April 1871	30 June 1871	-	2	15	-	-	-			
"	3 Grade Head do	15	-	-	"	1 July 1871	23 September 1872	[illegible]	2	23	-	-	-			
	Total period of {superior / inferior} service...						....	37	1	7						

REMARKS BY HEAD OF OFFICE.

1. As to character and past conduct of Applicant. Good except that he was accused of illegally confining certain persons in a Case of Culpable Homicide, but on trial, acquitted of the Charge by the Session Court the conviction being quashed on appeal

2. Explanation of any suspension or degradation. Suspended from 29th January 1870 & dismissed from date of suspension for illegal conduct in a case of Homicide but subsequently acquitted of the Charge by the Session Court & reinstated in his post. Reduced from Head Constable to Deputy Constable in October 1868 for failing to make thorough enquiries in a case of Theft. Reduced from Head Constable to Deputy Constable for not reporting the arrest of a man to the Magistrate.

3. Regarding any gratuity or pension already received by Applicant. See Chapter XX. None

4. Explanation under Section 47, Rule 1, so far as the Head of the Office can give it. None

5. Any other remarks. He is about 60 years old and is unfit for further service. his memory is impaired and he is quite unequal to any unusual exertion.

Geo. Chrystie Capt.
Ag. Supt. of Police S. Canara
SIGNATURE.

No 100

CERTIFICATE AND REPORT OF ACCOUNTANT-GENERAL.

CERTIFIED that ~~(subject to the remarks below recorded)~~ qualifying service in {inferior / ~~superior~~} grades has been duly proved for 38 years 3 months & 10 days; and that an inferior {pension / ~~gratuity~~} not exceeding Rs. 4 per mensem, is admissible under Section 63 (c) of the Civil Pension Code. The calculations have been duly verified.

The Inspector General of Police in his letter No 4219 dated 9 December 1872 explains the cause of delay in taking election in his case.

Fort Saint George
Acctt. Genl's Office
11th February 1873

To The Chief Secretary to Government
Civil Pension Deptt.

W. Donald
Offg. Accountant-General.

~~Pension 1873 Depart~~

No. 106.

E. No. 208

Application for {Pension or Gratuity— Compassionate allowance

Date of application. 22 September 1872

Name of applicant. Hussain Khan

Last appointment. 3rd Grade Head Constable Madras Police, South Canara District.

Class of {pension or gratuity. Compassionate allowance.

Amount of pension sanctioned.

Amount of gratuity sanctioned.

Date of commencement.

Date of sanction.

Order thereon 8th March 1873 No. 139.

Under section 63(c) of the Civil Pension Code His Excellency the Governor in Council is pleased to grant to Hussain Khan late 3rd Grade Head Constable No. 294 of the South Canara Police Force an inferior Pension of Rs 4 – " per mensem for his combined inferior and superior service of yrs ms ds 38 - 3 - 14 payable from the 24th September 1872

With an order No. 139.

C: 18 Feby

To the Inspector General of Police
" " Collector of South Canara
" " Accountant General with ... } Des. 8/3/73
T.M.G.