

(1) கருத்தின் எண்ணிக்கை

18

(2) புதுக்கித் திருப்பிய நாள்

12/96

(3) ஆதாரக் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

மாநிலத் துறை

அரசாணை எண்.	630	அச்சகம்
மே. கோப்புத் தாள் எண்.		பலவகை
நாள் :	11-8-1893	199

[Despatch Abstract.]

Declining to accede
to the request of the
inhabitants of Vannana-
pudy & neighbouring villages
in Juddiala taluk that
we do not for the grant of
a narrow house to the
Anno David.

மாநிலத் துறை

11-8-1893

 செப்பவிடுபவர் பெயர்
 2. ஜெனாபு
 செப்பவிடுவதற்காக எடுத்த
 கொள்கைப்படி நாள்
 செப்பவிட்டு முடிந்த நாள்
 12/96
 சரிபார்க்கும் ஆராய்ச்சி
 உதவியாளர்
 ஆதரவாப்பம் 2/1/97
 ஆதரவாப்பம்

①
 1/1/1/1

Yennanapudy
 Gudivada Taluk
 Tristna District
 27th May 1897

May it please your Excellency,

Your Excellency
 humble memorialists are inhabitants of
 Yennanapudy ^{and neighbouring} villages in Gudivada Taluk
 of the Tristna District and were excommu-
 cated by the Church missionary Society
 before and about the end of the last March
 for refusing to pay the heavy tithes im-
 and other minor causes. No grave moral fault
 has or can ever be proved against us. We were
 Pariahs before Conversion. We worship our Lord
 yet, love our Common prayer, and have form-
 ed ourselves into an "Independent Church"
 Consisting of about 600 Souls.

There are a few marriages to be per-
 formed in the early future. The Registrar of the
 District is at Masulipatam, a distance of
 about 30 miles from our place. He refused
 to officiate, and even if he had no objection
 we are too poor to avail of his services.
 We applied to the collector for the grant of
 license to one of our chief men. He seems to
 have referred the matter to the Rev. J. B. P. J.
 who got the order of excommunication, and
 as might be expected the following endorse-
 ment {no. 336} was granted:-

"As the petitioners have been excommunicated
 from the Church of England community and

do not belong to any recognised sect of Christians
no license can be granted." How then are we to
celebrate our marriages? Can it be the law of
our beloved, noble, and Christian Empress that
we should relapse into heathenism? We hum-
bly believe that it cannot be so.

As we are living in the midst of our heath-
relatives who jeer at us, as our youngsters are
not such educated people to be able to resist
temptation long and as the pairs awaiting ma-
riage have already waited pretty long, we
humbly and earnestly beg of your excellency
by the love your excellency bears towards our
Lord and Saviour to grant a license at an
early date to one of our brethren Arava
David gam who was a catechist in the
C. M. S. and a servant of the mission for
about thirty years. He is a plain frank
man and a good believer and hence our sele-
tion. Your excellency will no doubt under-
stand how urgent the matter is.

We humbly hope that your excellency
will award this favour for the good of poor
Christians and thereby keep them from stum-
bling. Praying that our Lord may direct
your excellency to help us in our need and
grant your excellency long life and prosperity.

We beg to remain
your excellency's most humble servants,
and loyal subjects of Her Majesty
The poor excommunicated Christians of
Vennanapudi, Thamarisa, Dandiganipudi
* Irivada.

6

Petition from the inhabitants of
Munimangudi, & Village,
Guthivala Taluk, District.

DATED 27 May 1893.

TRANSFERRED to the Chief Secretary to
Government for disposal.

(By Order.)

GOVERNMENT HOUSE,

27 May 1893.

The District Magistrate, Kistna.
 { with C. No. 1529 - orgl to be
 returned with reply } dtd 15-VI-93

Quercus

The first of these is the fact that the
 Government has been unable to secure
 the necessary funds to carry out its
 policy of non-interference in the
 internal affairs of the country.
 The second is the fact that the
 Government has been unable to secure
 the necessary funds to carry out its
 policy of non-interference in the
 internal affairs of the country.

Further —

Johnston

149
15/VE

CALENDAR CASE No. 21 OF 1893.

Offence:—

Finding of the Court:—

Sentence :—

Arava David (Defended).
Solemnising a Christian marriage, not being authorized to
do it, under section 68 of the Indian Christian Marriage
Act No. 15 of 1872.

Guilty.

Guilty.

Guilty.
One day's simple imprisonment, and a fine of one hundred
rupees, or, in default of payment, six months' further
rigorous imprisonment.

Assessor: —

Prosecution Witnesses :—

1. Betavolu Noah
2. Boyireddi Punni.
3. Boyireddi Chintanna.
4. „ Tirupati.
5. Govada Joseph.
6. Guda Moses.
7. Runjala Venkadu.
8. Gurram Subbadu.
9. Tummalapalli Sitaramayya.
10. Jeysing.
11. Rev. Arthur Ernest Goodman.

1. Kambhamati Vudayappa.
(Banian.)
2. Dasari Venkataratnam
Naidu (Sudra.)
3. Boragaddi Lakshminarasimhan (Banian).

Defence Witnesses :—

1. Gudipati Boyadu.
2. Taggillamudi Subbaya.
3. Ida Ramayya.
4. Kali John.
5. Pallesi Lewis.

Court Witness.

1. Rev. Joseph Edwin Padfield.

JUDGMENT.

JUDGMENT.

The accused in this case has been committed for trial by the Stationary Magistrate of Gudivada charged with solemnizing a marriage between Christians when he had no authority to do so, an offence punishable under section 83 of the Indian Christian Marriage Act.

He is a member of the

2. The accused is a member of the Church of England. He is a member of the Christian community in this District which is under the care of the Missionaries of the Church Mission Society. For some reason the accused and many others were excommunicated in March 1898 by the Bishop of Madras. The sentence of excommunication was publicly promulgated in the Anglican Church at Masulipatam. The accused applied to the Government of Madras for a license to empower him to solemnise marriages under the Indian Christian Marriage Act, but this license was refused. Meanwhile it is alleged that on April 20th 1898 the accused solemnised a marriage between two Christians. Thereupon the committee of the Church Mission Society instructed the Rev. A. E. Goodman to prosecute accused. Mr. Goodman set the law in motion by a letter to the Superintendent of Police. Accused was arrested and has been committed for trial.

3. The couple who are said to have been married by accused are Metavore, Noah and Inupudi Puni. Noah is a Christian by birth but was excommunicated along with accused.

Puni is the daughter of Hindu parents but was baptised by accused before the alleged marriage took place.

4. The first witness is the alleged bridegroom Betavolu Noah. He admits that Puni came from Inampudi to Vennanapudi and was baptised by accused but there was no marriage. There may have been a betrothal ceremony but witness was not present at it.

5. The second witness is the alleged bride. She admits that she was taken to Vennanapudi and was there baptised by accused. After that a necklace was placed on her neck by accused as a sign of betrothal but witness does not know to whom she was then betrothed. The tali before the Court was not tied on her neck. Afterwards when the police threatened witness she obtained this tali from her uncle and gave it up to the police to pacify them.

6. The third witness is the uncle of second witness. He accompanied her to Vennanapudi. The accused asked witness to withdraw at the baptism. She was baptised in order that she might afterwards marry Noah when accused received a licence. The baptism was followed by a betrothal ceremony.

7. The fourth witness is the mother of second witness. She admits that her daughter went to Vennanapudi to be baptised but she denies that there was a marriage or that Noah returned with her daughter to Inampudi and consummated the marriage that night.

8. The fifth and sixth witnesses are two youths who went to look on at the ceremony and they say that it was not a betrothal but a marriage. The first and second witnesses stood together and accused joined their hands. He read from a book and they spoke the words of marriage at his dictation. These two youths belong to the party in this village which was not excommunicated and so they ought not to have been spectators at a marriage among the excommunicated party.

9. The seventh and eighth witnesses are men of Inampudi. They say that first witness returned with second witness to Inampudi that evening, that there was a dinner given to the neighbours and that then the first and second witnesses retired for the night into the house and that first witness remained there for ten days.

10. The ninth witness is the Currier of Gudivada. He saw second witness give up to the police the Tali before the Court, saying that it had been tied round her neck by first witness.

11. The tenth witness is the Police Inspector. He proves the deposition which first witness gave before the committing Magistrate.

12. The eleventh witness is the Rev. A. E. Goodman. He states that accused and first witness were both excommunicated by name by the Bishop of Madras on March 26th, 1893. 142 persons were excommunicated of whom 74 were of Vennanapudi village. Excommunicated persons are Christians, although they are for the time deprived of Church privileges.

13. Accused in his statement admit that he baptised Puni and that there was a betrothal but denies that there was a marriage.

14. The first and second witnesses on the defence say that they were present at the ceremony and that it was only a betrothal and not a marriage. The third and fourth witnesses say that they saw first witness in Vennanapudi that evening after the girl had returned to Inampudi. The fifth witness proves certain rules of the local Church Council which teach how excommunicated persons are to be avoided.

15. These were all the witnesses called by the defence. Others who had been summoned at the request of accused were in attendance and amongst them the Rev. J. E. Pad-

field B. D. The defence pleaders declined to call Mr. Padfield. He was then called as a Court witness and deposed that an excommunicated person is still a Christian and has any civil rights the law of the land gives him. He resumes his Church privileges whenever he is reconciled to the Church. Baptism by a layman, even though excommunicated, is valid baptism although it may be highly irregular.

16. The accused was defended by Mr. C. Rangachari, B. L., High Court Vakil, and by Mr. Venkataraddi Naidu. The first point made for the defence was that this Act cannot apply to excommunicated persons who are no longer Christians. Stress was laid upon the words of the thirty-third article of religion in the Anglican prayer book which directs that such persons are to be taken as heathen and publicans and it was contended that if a man is to be taken as a heathen he cannot at the same time be taken as a Christian.

17. I see no force in this objection. The question is whether Noah and Puni are Christians. Noah is a Christian by birth. He is still a Christian. An excommunicated person is nevertheless a Christian. There is a vast difference between excommunication and apostasy. The phrase Heathen and Publican in the thirty-third Anglican article is rhetorical emphasis rather than an exact definition of status. Also, the Indian Christian Marriage Act does not require enrolment or membership in any Church but applies to all who profess the Christian religion. As for Puni, she was baptised, and baptism, even by an excommunicated layman, is valid baptism. If authority for this proposition is required by the High Court, beyond the oral evidence of Mr. Padfield on this record, I can cite the following. In the rubric of the *Rituale Romanum*. Quoties infans aut adultus versatur in vitae periculo, potest a quocunque baptizari in qualibet lingua, sive clerico, sive laico, etiam excommunicato, sive fideli, sive infideli, sive catholico, sive haeretico, sive viro, sive foemina, servata tamen forma et intentione Ecclesiae. In Schouppe's *Religious Instruction*: "In case of necessity any layman or woman may baptise, even though a heretic or an infidel". In Bishop Hvy's *Sincere Christian*: "In cases of necessity any lay person, man or woman, is authorised to administer baptism".

In the present case there was no necessity, as Puni was not in danger of death, but that does not invalidate the baptism and at least, the baptism shows that she professed the Christian religion, which is all that is required to bring her within the words of the Act. I must, therefore, hold that both Noah and Puni were Christians.

18. It was then contended, upon the facts of this case, that the ceremony was a betrothal and not a marriage. Only her uncle came with her. Had it been a marriage all her relatives would have attended. The two chief persons, the bride and bridegroom, deny that there was a marriage. So do the uncle and mother of the bride. What better evidence can there be? The evidence in favour of the marriage is the worthless narrative of the two lads who say that they looked on and the equally worthless story of the two men who speak to the wedding feast and the consummation of the marriage at Inampudi. The evidence of these four witnesses is more than counterbalanced by the mass of evidence that the ceremony was only a betrothal, also, the tali said to have been tied on the bride's neck seems to be an old tali and no one ever heard of an old tali used at a wedding.

19. In reply the public prosecutor pointed out that a betrothal is a ceremony unknown amongst native Christians. It is admitted that there was a ceremony and this ceremony must have been a marriage. The evidence of the two lads who were spectators and of the two witnesses who say that the marriage was consummated that night may be accepted as truthful. The tali seems to be a new tali. If it was not used at a marriage how else did it find its way into the hands of the bride? Upon the law of this case the public prosecutor cites the cases reported at 6 M. H. C. R. app. XX. and I. L. R. 14 Madras 342.

COLLECTOR & MAGISTRATE

MASSULIPATAM.

KISTNA DISTRICT.

24th July 1893.

FROM,

J. N. Atkinson, Capt.

Acting Collector, Kistna District.

To,

The *Chief* Secretary to Government.

Department

Fort St. George.

SIR

I have the honour to return the petition of the inhabitants of Vinnayapuri which was forwarded to you with a memo dated 15th June 1893 of the Public Department.

2. The enclosed copy of the decision of the judgment in column has been noted. It gives almost as much information as has been able to collect with regard to the said and the name of the said, as a result of their solicitor's marriage. Since then it will be seen has been known of the issue of an unauthorized columnizing a Christian marriage under Section 1 of the Marriage Act.

3. The Revd. J. B. Pasquale B. D. of the C. M. of Mission India as follows with regard to the said David:

Some two years ago on account of circumstances under which he borrowed some money, the Committee of the C. M. of India...

21. The maximum punishment for this offence is ten years' imprisonment, but it appears to me that this very heavy penalty is intended to meet the case of men who pretend to have authority under the Act or who personate a clergyman and thereby deceive the bride and bridegroom, and in the present case there seems to have been no deception.

22. The pleader for the defence said that accused has fallen into these troubles because he has incurred the displeasure of Mr. Padfield and the pleader pointed out the hardships to which this numerous body of persons is exposed in being practically deprived of marriage, because the only legal methods left open to them are to attend before the Marriage Registrar at Masulipatam, which costs more than ten rupees or to go before a Baptist or Lutheran holder of a license under the Act, which would be a severance of their connection with the Church of England.

23. I know nothing about the history of this dissension in the Anglican Mission in this District. I do not know the reasons why the Bishop of Madras excommunicated the accused and the first witness. With these reasons in the present case I have no concern. This Sessions Court is not a tribunal which can criticize the Bishop's action. If the persons who have been excommunicated feel themselves to be aggrieved they have their remedies. I presume that an appeal lies to the Bishop of Calcutta as Metropolitan. Possibly a further appeal might lie to the Archbishop of Canterbury. If their civil rights have been impaired the question might be raised by a civil suit. *In re De Cruz* I. L. R. VIII Madras 140. *Brown v. Cure de Montreal* 6 P. C. 157 *Langhton v. Bishop of Sodor and Man* 4 P. C. 495. *Jenkins v. Cook* 1 P. D. 80. If the accused does not intend to seek reconciliation with the Church of England and intends to be the Wesley of a new sect, possibly in time Government may give him a license to solemnise marriages under the Act. But, meanwhile, he is bound to obey the law of the land and he has clearly committed an offence under section 68 of the Act.

24. However, in this case it may not be necessary to pass a severe sentence. Accused was arrested and was for some time in custody. He has, doubtless been put to expense in conducting his defence. It is possible that he believed that he would shortly receive a licence from Government empowering him to solemnise marriages under the Act. This prosecution will have served its purpose if it warns accused and others that illicit celebration of a Christian marriage is an offence which may be punished with a very long term of imprisonment. I sentence Arava David to one day's simple imprisonment and to a fine of one hundred rupees or in default of payment, to six months' further rigorous imprisonment.

July 14th. 1893

G. T. MACKENZIE,
Sessions Judge.

а тебе сразу.

J. T. MacKenzie.
Sessions Judge

Committee consisting of the members of the Telugu Mission Conference (all of whom are European missionaries) to enquire into the matter; their report was such that the Committee (of which the Lord Bishop of Madras is the chairman) dismissed the man from his post as catechist."

4. Apart from the facts set out in paras 2 and 3 above, Arava David seems to be a man of respectable character, but unwilling to submit to clerical authority. He is not a minister of religion, as the term is ordinarily understood.

5. My reasons for declining to recommend the grant of a license to Arava David were chiefly based on what the Sessions Court's judgment shows to be a mistaken idea of the meaning of "excommunication". I understood that such a sentence meant expulsion from the Christian community. Blackstone says "Excommunication is described to be twofold, the less and the greater. The less excommunication is an ecclesiastical censure excluding the party from the participation of the sacraments; the greater proceeds farther and excludes him not only from these, but also from the company of all Christians." Arava David and the petitioners are apparently subjected only to the less excommunication.

6. In addition to this

anxious to

the civil and the ecclesiastical arms, and I have come to me that to recommend the grant of a license would virtually more than half annul the sentence of excommunication which previously was not passed for insufficient reason.

I have the honor to be
Sir,

your most obedient servant

Acting Collector

1893.

Put for no 67626-793

From, Acting THE COLLECTOR, KISTNA DISTRICT.

To, THE CHIEF SECRETARY TO GOVERNMENT, PUBLIC DEPARTMENT, FORT ST. GEORGE.

Dated 24-7-93

Despd: 25

Read:

Dis No. English 783

Enclosures. 2

Ind. no. 5296

Subject.

Submitting remarks with reference to the memorandum no 1061 forwarded with the petition from the inhabitants of Nannana pudi for grant of a marriage license to one Arava Davis

submitted for the reasons adduced in the enclosing paper... to Collector's letter. The application for the license may be refused. It is found that petitioners to join any of the other missionary societies working in the district if they would take them.

3/8 The license should be refused, but for the reasons stated by the Collector.

ORDER 11 Aug 1893, No. 630. Petitioners will be informed that the Govt declines to accede to their request.

(From Order) 17/8/93. DEPT. SECRETARY (1827) Q. 2069-2. Copy to Col. Krishna (201)

x2-16/8

Memo. office 1/8