1085

Of the
Proceedings
for the Year
1816

330

3/ 7.11.

8th February 1819.-

before the Criminal Judge, stated in answer to the second interrogatory "that he did not "know any thing respecting the murder "of Kristos Karras"; on which the Criminal Judge proposed a third interrogatory couched in the following terms- "When you were examined "here before on this case, you said, that you "stood near and saw the murder committed "on Karras and stated their particulars; if you "will now without fear declare the truth, "you will be pardoned for your offence, "do therefore state it?-"

The Court of Enquiries Adelaut are satisfied that it is necessary only to notice this interrogatory in order to shew its manifest tendency to induce the examinant, from motives of self-preservation, to repeat, under the solemn sanction of an oath, a statement of facts which he had only an instant before virtually retracted.-

The deposition of the other person, Vellaes, differs in a somewhat different light, inasmuch as this person rejected his former

former statement before the Criminal Judge without any previous hesitation. The witness, Maratary however, distinctly stated that he, as well as Kanchan, experienced ill treatment from the village police officers; and when the Court adverted to the representations to the same effect made by both these persons before the Judge of Circuit and to the injurious impressions which such treatment was calculated to produce on their minds, they deem themselves bound to consider the several depositions of those persons before the Criminal Judge, in which the perjury is supposed to have been committed, as having been given under the influence of fear, and as not meaning, therefore, that deliberate act of the mind which alone could render the deponents properly objects of punishment under the provisions of the regulations.

The Court of Foujdaree Adalut direct, therefore, that the two persons, Kanchan and Vellaen, be forthwith released from confinement.

Ordered that extract of these

proceedings be sent to the Second Judge of the Court of Circuit in the Western Division, by precept desiring him to make the necessary communications to the Criminal Judge in the Zillas of North Malabar and the Magistrate of Malabar for their information and guidance respectively.

Sent following Precept D.

Sub 12th

Read letter, dated the 25th ultimo, from the Second Judge on Circuit in the Southern Division, with copy of Commissioners Calendar for Sessions A.D. 1819.

Here enter No. 94.

Read letter, dated the 30th ultimo, from the Second Judge of Circuit in the Southern Division, reporting the arrival of the Court of Circuit at Verdachellum.

Here enter No. 95.

RA.

No. 4950

Read letter, dated the 29th ultimo, from the Provincial Court of Circuit in the Southern Division, to the Court's precepts of the 21st ultimo, ordering the transmission

8th February 1819.

J. C.

At a Court of the Foujdaree Adalut

Present,

Thursday
11th February 1819. Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre
} Judges.

Read letter, dated the 29th ultimo, from the 2d Judge on Circuit in the Western Division, requesting instructions as to the Competency of the Court of Circuit to try a particular Case.

/Here entered No. 102./

The doubt entertained by the Second Judge of the Court of Circuit in the Western Division related to case No. 23 of the Canara Calendar wherein the first prisoner Timapaia, late Acting Peshcar of the Behut talook, is charged with having compromised a case of serious affray and murder in consideration of the sum of eight hundred rupees alleged to have been paid to him on the part of one Peddel Amanate; and the Second Prisoner Kristnaia, Shanbog, is charged with having received the said sum of eight hundred rupees from the aforesaid Peddel Amanate and paid

misconduct of Jurors in case No. 1 Triable at the 1st Quarterly Sessions A.D. 1819.

/Here entered No. 103./

It is stated in the Superintendant's Law Officer that an offence of the substantial kind against the first second, fifth sixth and tenth Jurymen, and it is therefore, that unless there be proof of intent but otherwise, these seven persons who have ordered to give Security for good behaviour and appearance, are entitled to be discharged from their liberty.

Ordered that a Copy of this Letter be sent to the Judges of the Court of Circuit in the Southern Division for their information.

Ordered that a Copy of the following Letter be sent to the Judges of the Court of Circuit in the Southern Division for their information.

R. A. Short following letter to

paid it to the first prisoner, Timaha
purpose above mentioned.

The Second Judge next
provisions of Section XLIV Regulation
1816 as defining the extent of punishment
which the Native Officers of police m
for an criminal abuse of trust and should
Section aforesaid does not reserve to
"an option of referring any case to the
"Judge, even though the act of extortion
"or other abuse of authority complained
"be of such enormity as to require
"the most exemplary punishment
Second Judge expresses a doubt
to his competency to take cognizance
which he has submitted for the consi
of the Court of Foujdaree Adaulut

The question which the Sec
has taken of the extent and meaning
ment here referred to is perfectly
It is declared in the Section of the Regu
aforesaid that Native Officers if
to prosecuted, either criminally before
Magistrate

and the Second Clause of the Section further declares that, in the event of such criminal prosecution before a Magistrate, the punishment is to be limited to a fine not exceeding fifty Arcot Rupees or to imprisonment for a term not exceeding one month. It follows, therefore, that under the existing law, the persons referred to by the Second Judge are not amenable to the Court of Circuit for the acts laid to their charge.

This charge, however, contains averments such as, if substantiated, ought to subject the parties accused to a measure of punishment far exceeding the penalties so prescribed in the subsisting regulations. The like observation applies to a large proportion of the cases mentioned in the letter dated the 31st December last from the Third Judge of the Court of Circuit in the Western Division which was submitted to Government with an extract from the proceedings of the Foujdaree Adaulut dated the 20th ultimo, and the Court deem it their duty, therefore, to prepare and submit for the consideration

of

11th February 1819.

of the Right Honorable the Governor in Council the draft of a Regulation, rendering Native officers of police amenable, for extortion, oppression or other abuse of authority, to the several Courts of Criminal Judicature according to the degree of aggravation with which the offence may be attended.-

In the accompanying draft the Court have not considered it to be necessary to specify any particular period within which the charge is to be preferred, as it seems proper that the Magistrate should be permitted to exercise his discretion according to the circumstances of each case. It has appeared unnecessary, also, to substitute any rule in the place of Section XLV, Regulation XI of 1816, as the powers therein specified are vested in the Magistrates and the Judges of the Zillah Courts under the provisions of the general Regulations.-

Ordered that the letter from the second Judge with the Regulation and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor

F. C.

11th February 1819.

Governor in Council.-

Sent following letter A / No 6 /

Ordered also that extract from these proceedings be sent to the second Judge on Circuit in the Western Division for his information and guidance.-

Sent following letter B /

Read letter, dated the 17th December from the 1st Judge of the Court of Circuit in the Southern Division, submitting calendar No. 8 Salem Calendar 2d Sessions A.D. 1818.-

(Here enter No. 684 /

Read letter, dated the 3d instant from the Criminal Judge in the Zilla of Salem, Reporting the death of prisoners in case No 8 Salem Calendar 2d Sessions A.D. 1818.-

(Here enter No. 109 /

Read letter, dated the 29th ultimo, from the 1st Judge on Circuit in the Northern Division, - with copy of Nellore Calendar 1st Sessions A.D. 1819.-

Here enter No. 98

Read

11th February 1819.

Read letter, dated the 3d instant, from the 2d Judge on Circuit in the Southern Division,- with copies of Veroachellum Cs Jinka 1st Sessions A.D. 1819.-

(Here enter No 107.)

Read return, dated the 29th ultimo from the 3d Judge of the Court of Circuit in the Western Division,- to precept dated 21st December ordering communication to the Assistant Criminal Judge of Seringapatam of the Court's observations on a correspondence between him and the Assistant Criminal Judge of Chittoor.-

(Here enter No. 103.)

Read return, dated the 29th ultimo, from the 3d Judge of the Court of Circuit in the Western Division,- to precept dated 20th December ordering communication to the Magistrate of Malabar of the Court's observations upon a correspondence between him and the 3d Judge of Circuit relative to certain petitions complaining of acts done by the Revenue and police officers.-

(Here enter No. 106.)

11th February 1819.

Read return, dated the 3d instant from the Provincial Court of Circuit in the Southern Division,- to precept dated 28th December ordering communication to the Magistrate within their jurisdiction of the Court's observations on Cause No. 11. Rajahmundry Calendar 1st Sessions A.D. 1818.-

(Here enter No 112.)

Read letter, dated the 6th instant, from the 3d Judge on Circuit in the Centre Division,- reporting his intention of leaving Cuddapa for Bellary on the 9th instant.-

(Here enter No 114.)

N

Read letter, dated the 3d inst
from the 2d Judge on Circuit in the
Division, with copies of Proceedings
1st Sessions A.D. 1819.

(Here enter No 107)

Read return, dated the
from the 3d Judge of the Court of Cir
Western Division, to precept dated
ordering communication to the Magis
Criminal Judge of Seringapatam
observations on a correspondence
and the Assistant Criminal Judge of

(Here enter No 113)

Read return, dated the
from the 3d Judge of the Court of Cir
the Western Division, to precept dated
ordering communication to the Magis
Madras of the Court's observations
correspondence between him and the
of Circuit relative to certain petitions
complaining of acts done by the Europe
police officers.—

(Here enter No 110)

Read return, dated the 3d instant
from the Provincial Court of Circuit in the
Southern Division, to precept dated 28th
December ordering communication to the Magistrate
within their jurisdiction of the Court's observations
on Case No 11. Rajahmundry Calendar 1st Sessions
A.D. 1818.—

(Here enter No 112)

Read letter, dated the 6th instant, from
the 3d Judge on Circuit in the Centre Division,
reporting his intention of leaving Cuddapa for
Bellary on the 9th instant.—

(Here enter No 114)

11

At a Court of the Foujdaree Adalut—

Present.

Saturday
13th. February 1819 } Andrew Scott Esqre.
Edward Croft Greenway Esqre.
J. H. D Agilvie Esqre. } Judges.

Read letter, dated the 22d. December
from the first Judge of Circuit in the Southern
Division,— Submitting trial No 11 of the Sinnoudy
Calendar 2d. Sessions A.D. 1818.—
(Here enter No. 700 of 1818)

The Court having maturely considered the proceedings held before the Judge of Circuit the futwas of the Provincial Law Officer and the futwas of the Cazee ool Cozat and Mooftees of the Foujdaree Adalut confirm the said futwas of the Cazee ool Cozat and Mooftees aforesaid and, in commutation of the sentence of Deeyut declared in the Futwa, adjudge the Prisoner
"Mootoo Sawmy"
to be imprisoned and kept to hard labor
in

in irons on the public roads or other public
works for and during the period of twelve
Calendar months and then released.-

detached on the 19th

(Sent following letter.-A)

In the examination of the prisoner
before the Criminal Judge in the Zillah of
Tinnevelly the several questions put with
a view to ascertain the particulars specified
in Clause Third Section XVIII Regulation VII
of 1802. are inserted at length, instead of being
placed at the head of the examination as required
in the Circular orders of the Foujdaree Adalut
dated the 17th January 1815.- As the attention
of the Criminal Judge was directed to those
orders in the Court's proceedings dated the 28th
ultimo, it is necessary only, on the present
occasion, to bring the above circumstance to
the notice of that Officer.-

It appears also that before the
Prisoner was committed to take his trial
before the Court of Circuit, the Criminal Judge
asked him whether he had any thing to

represent regarding the witnesses for the
prosecution whose evidence he had just
heard.- The interrogatory so proposed to
the accused was obviously irregular; it
being only in cases wherein the prisoners may
be punishable by the Criminal Judge that
he should be permitted to cross-examine
the witnesses for the prosecution or to
bring forward any objections to their evidence.

The arraignment of the prisoner
at the bar of the Court of Circuit does not
specify either the time when or the place
where the crime with which he was charged
was alleged to have been committed; and the
Court observe, also, that the statement
prepared by the Criminal Judge which,
under their circular orders dated the 31st
January 1814 should have been adopted as
the arraignment, specifies only the time
when the act was alleged to have been
committed.- The omissions are brought to
the Notice of the First Judge of the Court

of

of Circuit and the Criminal Judge respectively
in order that they may see how requisite to
that each stage of their proceedings should be
conducted with care, accuracy and precision.

Three witnesses were named
by the prisoner to depose on his behalf before
the Court of Circuit, but the Judge presiding
at the trial did not consider it necessary
to examine them as the prisoner had not
"any dates to affix to his
proposed by the prisoner are not
entered in the record of the trial, the Court
are not acquainted with the nature of the
facts to which the prisoners were desirous
that they should depose; but the Court
deem it proper to observe that the inability
of the prisoner to particularize dates was
not a sufficient ground for depriving him
of the benefit of their testimony. It was
the duty of the Judge to explain to the witnesses
the substance of the questions proposed by
the prisoner and to desire them to state

13th February 1819.

all the circumstances within their knowledge
concerning the matters to which they were
required to depose.

Ordered that extract of these
proceedings be sent to the first Judge of the
Court of Circuit in the Southern Division
by precept desiring him to communicate
to the Criminal Judge in the Zilla of
Jinnevelly such part of the same as concerns
the evidence for his information and guidance.

(Sent following Precept A)

A

RB

The Report prescribed by Section
XXXVII Regulation VII of 1802 not having been received
from the 3d Judge late on Circuit in the Western Division

The Court direct that the 3d Judge late
on Circuit in the Western Division be by precept
commanded to send up the prescribed report containing
his observations made during the Circuit, within three
weeks from the date of the receipt of the precept.

(Sent following Precept B)

J. C.

At a Court of the Foujdaree Udalut

Present,

Wednesday
7th February 1819.

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges.
J. H. D. Ogilvie Esqre.

Read letter, dated the 4th ultimo, from
the 3d Judge on Circuit in the Western Division—
submitting cases Nos. IV and V Additional Calendar
of South Malabar 2d Sessions A.D. 1818—

(Here enter No 20)

Read also letter dated the 16th ultimo from the 3d Judge on Circuit in the Western Division—reporting the death of Pattaloyil Moidoo prisoner in cases 4 & 5 additional South Malabar Calendar referred to the Foujdaree Udalut—

(Here enter No 57)

The Court having maturely considered in Case No 5 the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Cozat and Mooftees of the Foujdaree Udalut are of opinion that the proof against the prisoner, Sangaiavathil Cherryvah, is sufficient to convict him of the offence of gang robbery for which a penalty is specially denounced in Clause Third Section IV. Regulation XV of 1803.

The Court, under the authority vested in them by Clause First Section II. Regulation I of

17th February 1819.

It will be proper that these parts of the police proceedings should be brought to the notice of the Magistrate of Malabar, in order that he may explain to the Sheristadar of the Cartnaad talook, as well as to the district police officers generally under his authority, that it is the duty of a District Police Officer, on receiving information of the discovery of a dead body, as prescribed in Clause Second Section XIII Regulation XI of 816, to proceed in person to the spot, if possible, to enquire into the circumstances under which the body may have been discovered, and that it is only where the District police officer may be unable to attend himself that the Head of a village is authorized to conduct the enquiry.-

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Western Division by precept desiring him to communicate the same to the Magistrate of Malabar for his information and guidance.-

(Sent following Precept D.)

Read return, dated the 20th ultimo from the Judges of the Court of Circuit in the Northern Division,- to precept dated 28th December ordering communication to the Magistrates within their Jurisdiction of the Court's observations on case No 11 Rajahmundry Calendar 1st Sessions A.D. 1818.

(Here enter No 75.)

Read return, dated the 18th ultimo, from the Judges of the Court of Circuit in the Centre Division,- to precept dated 28th December ordering communication to the Magistrates in their Jurisdiction of the Court's observations on case No 11 Rajahmundry Calendar 1st Sessions A.D. 1818.-

(Here enter No 80.)

Read letter dated the 23d ultimo, from the 2d Judge on Circuit in the Western Division,- reporting the arrival of the Court of Circuit at Mangalore.-

(Here enter No 82.)

Read letter, dated the 25th ultimo, from the 1st Judge of the Court of Circuit in

17th February 1819

district by whom the prisoner was forwarded to the Zillah station.—

Ordered that extract of these proceedings be sent to the Hon.ble Judge Cuttack Circuit in the Western Division for his information and that he be by precept enjoined to communicate to the Magistrate of Malabar such part as concerns that Officer for his information and guidance.—

Sent 22d

(Sent following Precept &)

Read letter, Dated the 16th December from the Hon.ble Judge of the Court of Circuit in the Western Division— submitting case No. 6. North Malabar Calendar 4th Quarterly Sessions 1818.

(Here enter No. 693 of 1818.)

The Court having maturely considered the proceedings held before the Judge of Circuit the futwas of the Provincial Law Officer and the futwas of the Cazee ool Cozat and Mooftees of the Fouzdaree Udalut confirm the said futwas of the Cazee ool Cozat and Mooftees aforesaid and acquitting the prisoner

"Kottaharen Nottah"

direct that he be released accordingly.—

Sent following Letter &

Among

17th February 1819

among the papers forwarded by the police officer in this case is a report dated the 2d August to the Cartmaad tahsil Cutcherry wherein it is stated that the body of the deceased was kept at the Cottiaddy Hobelly until the orders of the Sheristadar should be received respecting it.— There is also another report dated the 5th of August from the Head of the village to the Talook Cutcherry which commences as follows; viz.t "Your order reached here at "amjery Hobelly on the 2d.d of this Month at "2 Oclock, It is therein directed to forward "the witnesses Sanakandy Kungoo Kanotakavegal "oderan, Kolareyoilil Choy mentioned in the co "complaint of Kanotookavel Saty Chiochy, and "to inform what marks there are on the Body "of the deceased Chanun, on what parts of his "Body, and to forward also the writing of the "Warthur and of the Persons who first saw the "Body, as also the aforesaid Warthur and those "persons that had seen before the Body and "the aforesaid Witnesses and them to bury the "Body."—

of 1818 accordingly adjudge the said prisoner
"Sangaragatil Cheeyanah"
to be imprisoned and kept to hard labor in irons on the
road or other public works for and during the
period of fourteen years and then released.—
dated 22d.

(Sent following letter A.)

It appears from the record of the
proceedings held in this case, that Pykatodil Mam-
=mooa, who appeared before the Court of Circuit
as the Vakeel of the prosecutor was examined
upon oath.— The impropriety of putting Vakeels
on their oaths has been repeatedly noticed by
the Foujdaree Adalut, and the observations which
were recorded by the Court in their Circular order
dated the 27th December 1815 respecting Vakeels,
Vakeels, are obviously applicable to all persons
who deliver Statements on the authority and by
the direction of another.—

The circumstances in evidence in
the present case are not sufficient to establish,
in the opinion of this Court, the fact of an attack
in addition to the robbery; but the Court deem it
proper to remark that

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have been taken to procure the best evidence
of which the case was susceptible. It is
stated by Kompolem, the first witness for the
prosecution, on his examination before the Court
of Circuit, that on his reaching the house of
the prosecutor the thieves had taken to flight,
"that he the witness was informed by some of
"the village people, who were standing in the
"gateway, that Cony Ally had been seized and bound
"and the property plundered and carried away
"and that as he the witness entered the house,
"Cony Ally also told him that thieves had seized
"and bound and ill treated him and plundered
"the property." And yet it does not appear that
any of the persons so stated to have been upon
the spot before the arrival of this witness
and to have afforded him the above information
were examined touching their knowledge
of the facts of the case. The Court direct that
these observations be communicated to the
Magistrate of Malabar in order that the
omission here noticed may be pointed out
to the Serishtadar of the Wallooovanaad
district

It will be proper that these parts of the police proceedings should be brought to the notice of the Magistrate of Malabar, in order that he may explain to the Sheristadar of the Cartnad talooks, as well as to the district police officers generally under his authority, that it is the duty of a District Police Officer, on receiving information of the discovery of a dead body, as prescribed in Clause Second Section XIII Regulation XI of 816, to proceed in person to the spot, if possible, to enquire into the circumstances under which the body may have been discovered, and that it is only where the District police officer may be unable to attend himself that the Head of a village is authorized to conduct the enquiry.-

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Western Division by precept desiring him to communicate the same to the Magistrate of Malabar for his information and guidance.-

Sent 22d

(Sent following Precept D)

Read return, dated the 20th ultimo from the Judges of the Court of Circuit in the Northern Division,- to precept dated 28th December ordering communication to the Magistrates within their Jurisdiction of the Courts observations on Case No 11 Rajahmundry Calendar 1st Sessions A.D. 1818.

(Here enter No 75.)

Read return, dated the 18th ultimo, from the Judges of the Court of Circuit in the Centre Division,- to precept dated 28th December ordering communication to the Magistrates in their Jurisdiction of the Courts observations on case No 11 Rajahmundry Calendar 1st Sessions A.D. 1818.-

(Here enter No 80.)

Read letter dated the 23d ultimo, from the 2d Judge on Circuit in the Western Division,- reporting the arrival of the Court of Circuit at Mangalore.-

(Here enter No 82.)

Read letter, dated the 25th ultimo, from the 1st Judge of the Court of Circuit in

17th February 1819.

in the Centre Division,- forwarding copy of Chittoor Calendar 1st Quarterly Sessions A.D. 1819.-

(Here enter No. 86.)

Read return, dated the 27th ultimo from the Provincial Court of Circuit in the Centre Division,- to precept dated 21st ultimo ordering communication to the Criminal Judge and Magistrate of Chittoor of the Court's observations in a correspondence between the Assistant Criminal Judge of Seringapatam the Assistant Criminal Judge of Chittoor and the Assistant Magistrate of Chittoor relative to the attendance of certain witnesses.-

(Here enter No. 90.)

Read return, dated the 11th instant, from the 1st Judge of the Court of Circuit in the Southern Division,- to precept dated 28th ultimo ordering communication to the Criminal Judge and Magistrate of Tinnevelly of the Court's observations on case No. 8 Tinnevelly Calendar 2d Sessions A.D. 1818.-

(Here enter No. 121.)

P.A.

11

J. H.

At a Court of the Foujdaree Udalut

Present

Saturday 20th February 1819

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre
} Judges

Read again letter, dated the 12th Ultimo, from the acting 3d Judge of Circuit in the Southern Division,- submitting Case No. 3 Trichinopoly Calendar 1st Quarterly Sessions A.D. 1819.-

(Here enter No. 34.)

The Court having maturely considered the proceedings held before the Judge of Circuit, the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and, under the sentence of Fiyaas declared in the Futwa, adjudge the Prisoner,

"Athenas Law Cadery"

to suffer death by being hanged at the usual time

11130

17th February 1810

21st February 1819.

time and place of execution.—

Sent following letter A/

Ent. 22d

It appears from the papers submitted by the Acting Criminal Judge in the Zillah of Trichinopoly to the Court of Quarterly Sessions that the prisoner was forwarded by the Police Officer of the Conand talook to the Magistrate instead of the Criminal Judge of the Zillah.— It will be the duty of the Magistrate, therefore, to call the attention of the District police officer to — Clause fourth — Section XXVIII Regulation XI of 1816 which declares that persons apprehended under the provisions of that Section are to be forwarded to the Criminal Judge of the Zillah.—

From a perusal of the report made to the District police Officer by the Head of the Village of Navalore, as also from a consideration of the evidence taken before the — Acting Criminal Judge, the Court conclude that the District police Officer did not proceed to the Village of Navalore to enquire into the circumstances under which the body of the deceased had been discovered.— It is not stated any where that

20th February 1819.

that he was prevented by other avocations from repairing to the spot, and it will be incumbent upon the Magistrate, therefore, to explain to this Officer, as also to the district police Officers generally under his authority, that when ever a report of the nature described in Clause Second Section XIII Regulation XI of 1816 may be forwarded to the Police Officer of a District, it is his duty to — proceed to the spot in person, if possible, to institute the enquiry and frame the report prescribed in the Section of the Regulation aforesaid.—

The interrogatory proposed by the Magistrate to the prisoner in this case is worded as follows.— viz. "As it appears from the charge preferred by Catheyah Bulice that you have on the 18th December 1818 about 12 Oclock at Noon murdered the deceased Shaick Meeran by stabbing him with a Dagger, now produced, on several parts of his Body and his Bowels protruded out — why did you murder him?"—

The Court deem it necessary only to recite the above words in order to shew the impropriety of this interrogatory which directly assumes the truth of the allegations contained in the charge.— It was —

20th February 1819.

the duty of the Magistrate simply to explain to the accused the substance of the accusation preferred against him and to desire him to state whatever he might have to represent respecting the matters contained in the charge; and it is to be expected that, in explaining to a prisoner the nature of a charge preferred against him, a Magistrate will be the more careful to frame his interrogatory with tenderness and circumspection in that he is enjoined by the Regulations invariably to satisfy himself that all confessions made by prisoners are free and voluntary. It is obvious that the Statement made in answer to the interrogatory proposed in this case by the Magistrate of Trichinopoly could not be regarded by the Court of Zoujdaree Udalut as a free and voluntary declaration or as entitled to any weight in determining the guilt or innocence of the accused.—

Ordered that extract of these proceedings be sent to the Acting Third Judge of the Court of Circuit in the Southern Division by precept desiring him to communicate the same to the Magistrate of Trichinopoly for his information and guidance.—

R.A. (Sent following Precept (B))

Wednesday 24th February 1819.

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre
} Judges

Read letter dated the 10th instant, from the Provincial Court for the Centre Division, referring by desire of the Criminal Judge of Chittoor Copies of certain precepts issued to that Officer and of his returns thereto regarding the case of a person committed to the Zilla Jail by warrant of the Magistrate.—

(Here enter No 127)

The circumstances which led to the present reference are briefly as follows.— A petition was presented to the Judges of the Court of Circuit on the 3d Instant on the part of one Iyacooty Iyengar, guardian to the Renter of Allipaukum in the Zilla of Chittoor stating that on a representation being made to the Magistrate of the Zilla by the Tahsildar of the Cauveary paukum district to the prejudice of the petitioner, he (the petitioner) had been summoned by

by the Magistrate and had been sentenced, without any previous examination of witnesses, to fifteen days imprisonment.— The petitioner prayed, therefore, that a precept might be issued to the Magistrate directing him to take the depositions of witnesses and send them to the Court and that another precept might be issued to the Criminal Judge commanding him to suspend the execution of the order passed by the Magistrate until a final order should be passed by the Court.— Orders to this effect were accordingly issued by the Judges of the Court of Circuit to the Magistrate and the Criminal Judge respectively and it is at the request of the latter Officer, who states that he does not consider himself authorized to release a person committed to jail by the Magistrate, that the matter has been referred for the consideration of the Judges of the Foujdaree Adawlut.—

The Criminal Judge in the Zillah of Chittoor has taken a correct view of the line of duty which, in all cases of the nature referred to in his letter, he considers himself bound to pursue under the provisions of the general Regulations.— Whenever a prisoner may be forwarded by a Magistrate to the Jail

Jail of a Zillah it is prescribed that together with such prisoner shall be sent a Warrant "addressed "to the Keeper of the jail," to the tenor of which warrant the jailor is bound to conform.— It is prescribed, also, that a paper shall accompany the warrant for the information of the Criminal Judge, who, although he may unquestionably communicate to the Magistrate such observations as he may deem necessary on the subject of the commitment, is not permitted to exercise any discretion as to the disposal of the prisoner.—

The Court of Foujdaree Adawlut having recorded these observations on the point immediately at issue between the Judges of the Court of Circuit and the Criminal Judge in the Zillah of Chittoor, proceed to remark that the order issued to the Magistrate commanding him to make the enquiry prayed for by the petitioner and to transmit to the Court attested copies of the proceedings held in the case is not authorized by the Regulations.— Clause Second Section XL Regulation IX of 1816, to which the Judges of the Court of Circuit have referred in their proceedings

dated the 8th Instant, relates exclusively to the authority vested in a Judge of Circuit presiding at a Sessions of jail Delivery with respect to the Calendars referred to in the preceding Clause of that Section, and the power which is possessed by the Judges of a Court of Circuit collectively under the provisions of Section XXIV Regulation X of 1816 to call for proceedings relative to any matters brought to their notice in petitions, is expressly limited to the proceeding of Criminal Judges and their Assistants.-

It is plain, therefore, that in the present instance, the Judges of the Court of Circuit in the Centre Division have assumed a power which, under the subsisting Regulations, it was not competent to them to exercise, although the particular case which occasioned the issue of the precept was of a nature such as, on the face of the petition, certainly appeared to call for the interposition of superior authority.-

An opinion as to the expediency of vesting in the Judges of the Courts of Circuit the same controlling power over the Magistrates as they possess with regard to Criminal Judges was

submitted to the Court of Foujdaree Adalut by the Third Judge of the Court of Circuit in the Western Division in a letter dated the 19th March 1818 and the Third Judge observed in the concluding para-graph of his letter that, in his opinion, "the original intention of the constitution of the Courts of "Circuit was to exercise that efficient control over "the executive body, as to put it out of the power "of a Magistrate or Judge to deny or to delay justice."

Note.-
Foujdaree Adalut Proceedings 1st April 1818

In their remarks upon the letter abovementioned the Court observed that the suggestion therein contained afforded matter for consideration, and the propriety of the measure here referred to has been brought on other occasions to the attention of the Court, particularly in the letter from the same officer dated the 31st December 1818 which was submitted to Government with the proceedings of the Foujdaree Adalut dated the 20th Ultimo.-

The Court of Foujdaree Adalut consider it to be their duty, therefore, to take this opportunity of submitting to the consideration of the Right Honourable the Governor in Council the expediency of rendering the provisions of Sec-

Sections XXIV and XXV Regulation X of 1816 applicable to the proceedings of the Magistrates and their Assistants as a measure necessary for the better Regulation of the office of Magistrate and essential to the ends of public justice.-

Ordered that the foregoing letter and Extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

sent 3d March (Sent following letter A) 208

Ordered also that Extract from these proceedings be sent to the Judges of the Court of Circuit in the Centre Division for their information and guidance, and that they be by precept enjoined to communicate to the Criminal Judge in the Zillah of Chittoor such part as concerns that officer for his information.-

sent 4th March (Sent following Precept B)

Read letter, dated the 11th instant, from the 1st Judge of the Court of Circuit in the Centre Division referring by desire of the Criminal Judge of Chittoor Copies of certain precepts to that Officer and of his returns regarding the mode of obtaining evidence to the confession of persons apprehended.-

(Here enter No 134)

The reference in this case arose out of a precept issued by the First Judge of the Court of Circuit presiding at the first Quarterly Sessions of 1819 desiring the Criminal Judge in the Zillah of Chittoor to state why a recognizance had not been taken from a certain Witness who had not appeared before the Court of Quarterly Sessions.- The Criminal Judge stated, in return to the precept, that it had not been usual to take recognizances from witnesses who had attested confessions made by accused persons before the Police, the Magistrate or the Criminal Judge.- The Criminal Judge proceeds to express his doubts as to his possessing authority either to compel individuals to attest confessions or to take recognizances from persons who may have attested confessions to appear before the Court of Circuit, and the matter at issue has been submitted for the consideration of the Court under Section II Regulation XXII of 1802

The opinion of the Criminal Judge

of the Zilla of Chittoor that he does not possess any authority to compel individuals to attest confessions is strictly just, inasmuch as the Regulations no where provide penalties for a refusal on the part of individuals to attest confessions or confirmations of former confessions made before the Courts of Criminal Judicature. - With regard, however, to taking recognizances from persons who may have attested such confessions to appear before the Court of Circuit, it is to be observed that although not imperative upon, it is certainly competent to the Criminal Judge, under the discretion allowed in this respect by the provisions of the general Regulations, to bind over such witnesses, whenever (as in the case more particularly of witnesses to confessions before a Magistrate or Native Officer of police) this measure may appear to be requisite, in order to ensure their attendance at the Sessions of the Court of Circuit. -

Towards the conclusion of the return to the first precept of the Judge of Circuit the Criminal Judge observes that "it has been "owing to the inability of the late Criminal Judge and

"and of the present Criminal Judge (when formerly "acting as Criminal Judge) to get any other creditable "persons to attest the confessions of accused persons, "that they have been under the necessity of having "almost every confession attested by servants of the "Government, and not from inadvertency to the "prohibition contained in Section X Regulation X "of 1816."

This observation adds weight to the remarks which were recorded by the Foujdaree Adalut on their proceedings dated the 31st ult. and the 15th October last respectively, on the subject of the Clause introduced into the Regulations of 1816 declaring Servants of the Government incompetent to attest confessions; and the Court consider it to be incumbent upon them, therefore, respectfully to solicit the attention of the Right Honourable the Governor in Council to the draft of a Regulation which accompanies their proceedings dated the 15th October last for rescinding a Clause which has in its operation, been productive of such serious inconvenience. -

Ordered that the foregoing Letter and Extract

of these proceedings be sent to the Secretary to the Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

Ent. 3d March

(Sent following letter C/ No 9.

Ordered also that Extract from these proceedings be sent to the First Judge of the Court of Circuit in the Centre Division for his information and that he be by precept enjoined to communicate the same to the Criminal Judge in the Zillah of Chittoor for his information and future guidance.-

Ent. 4 March

(Sent following Precept D/

Read letter, dated the 15th instant, from the 2d Judge of the Court of Circuit in the Northern Division,- submitting his report on the 1st Quarterly Sessions A.D 1819.-

(Here enter No 137)

The suggestion of the Second Judge in the fourth paragraph of his report, that each of the Convicts should be supplied with one Bible annually is submitted to the consideration of the Right Honourable the Governor in Council.- The

The circumstances which are detailed from by the Second Judge, in the twelfth to the nine-teenth paragraph of his report, both inclusive, in order to shew the necessity of an immediate repair of the banks therein described, appear also to merit the particular attention of the Right Honorable the Governor in Council.-

The Court of Foujdaree Adalut, having attentively considered the petition refer-red to in the twentieth paragraph of the Report, deem it necessary to observe, for the information and future guidance of the Magistrate of Guntoor, that he is not authorized by the Regulations to compel any persons to attest confessions which may be made before him.- The Second Judge states it to be his opinion, however, that the difficulty of obtaining respectable persons to attest confessions and the wish of the Magistrate to forward to the Criminal Judge "as few persons "as possible on account of the inconvenience and "distress it occasions" must have induced that Officer to detain the petitioner during the whole period of the investigation in question, and

F. 16
24th February 1819.

Read return, dated the 6th instant, from the 2d Judge of the Court of Circuit in the Northern Division, to the precept dated 27th ultimo ordering communication to the Magistrate of Guntoor of the Court's observations on certain precepts and returns submitted at that officer's request for the orders of the Court.—

(Here enter No 116)

Read letter dated the 15th instant, from the 3d Judge of the Court of Circuit in the Northern Division, forwarding the execution of Mapraimeth Kristnen and 9 others with endorsement of the acting Criminal Judge of Cabcut certifying execution thereof.—

(Here enter No 131).

Read return, dated the 15th instant, from the Court of Circuit in the Northern Division, to the precept dated 3d. Instant ordering communication to the Criminal Judge of Rajahmundry of the Court's observation on Case No 6 Rajahmundry Calendar 2d Sessions A.D 1818.—

(Here enter No 135)

Read return, dated 16th instant, from the

24th February 1819.

the Court consider it to be their duty, therefore to bring the circumstances set forth in the letter of the to the Right Honourable the Governor in Council as affording another instance both of the difficulties operation of the Clause introduced into the Regulations of 1816, prohibiting the Servants of the Government from attesting confessions, and the inconvenience which has been found to result from the abolition of the Zillah Courts.—

Ordered that the foregoing extract of these proceedings be sent to the Secretary to the Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.

(Sent 13th March. following letter E/ No 10.

Ordered also that extract from these proceedings be sent to the second Judge of the Court of Circuit in the Northern Division for his information, and that he be by precept enjoined to communicate to the Magistrate of Guntoor such part as concerns that Officer for his information and future guidance.—

(Sent 13th March. R.A.

24th February 1819.

the 2d Judge of the Court of Circuit in the Northern Divn.
to the precept of the 3d instant, desiring him to make
the necessary communications to the Magistrates in the
Zillas of Masulipatam and Guntoor respectively.-

(Here enter No. 143)

Read letter, dated the 19th instant, from
the 2d Judge on Circuit in the Southern Division,-
with a copy of the Salem Calendar 1st Sessions of 1819.-

(Here enter No. 145)

Read letter, dated the 19th instant, from
the First Judge of the Court of Circuit in the Southern
Division,- forwarding Warrant for the execution of
prisoner in Case 328 Tinnevelly Calendar 2d Sessions
A.D. 1818.- due execution of which is certified by the
Criminal Judge.-

(Here enter No. 147)

F. 16.

At a Court of the Foujdaree Adalut.

Present

Thursday
25th February 1819.- Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
J. H. D. Ogilvie Esqr - -

Read letter, dated the
24th December last, from the 1st Judge
of Circuit in the Southern Division -
submitting Trial No. 1. Salem Calendar
2d Sessions A. D. 1818.

(Register No. 710 of 1818)

The Court having maturely
considered the proceedings held before the
Judge of Circuit the futwa of the Provin-
cial Law Officer and the futwa of the
Cazee ool-Coozat and Mooftees of the
Foujdaree Adalut, confirm the said futwa
of the Cazee ool Coozat and Mooftees
aforesaid direct that the prisoners
1st "Chinna Aggy Timmia Naiken"
2d "Narsima Nay[illegible]"

25th February 1819.

3d " Mylapore Naiken
4th " Monapoor Naiken
be released accordingly.

And under the sentence
allowed by the Sentences of Cokoobut
direct that the 5th prisoner
" Bandayee Pow
be also set at liberty.

Sent following letter
Here Enter No 1

J. U.

Thursday 4th March 1819.

At a Court of the Foujdaree Udalut
Present
Andrew Scott Esqre
Edward Crott Greenway Esqre } Judges
J. H. D. Cuthbert Esqre

Read letter dated the 29th January last from the 1st Judge on Circuit in the Northern Division submitting Case No 8 Nellore Calendar 1st Sessions A. D. 1819.

Here Enter No 101

considered the proceedings held before the Judge on Circuit the Futwa of the Provincial Law Officers and the Futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Udalut confirm the said Futwa of the Cazee ool Coozat & Mooftees aforesaid and under the Sentence of Tazeer declared in the Futwa adjudge the prisoner

"Footha Imaum"

to be imprisoned and kept to hard labour in irons on the public roads or other public Works for and during the period

25th February 1819.

4th March 1819.

2d "

Sent 11th

of three years and then released.

I sent following letter A/

The Court of Foujdaree

Observes that the several questions which were put on the examination of the prisoners and witnesses before the Assistant Criminal Judge, with the view of ascertaining the particulars specified in Clause third Section XVIII Regulation VII of 1802 have been inserted in the Record, contrary to the Orders issued by the Court on the 17th June 1815.- As the attention of the Assistant Criminal Judge was directed to these Orders in the Court's proceedings dated 25th January last. It is necessary only on the present occasion to bring the above circumstance to the notice of the Officer.

Ordered that extract of these proceedings be sent to the 1st Judge in Circuit in the Northern Division by precept desiring him to communicate to the Criminal Judge in the Zillah of Tellicherry for his information & guidance.

Sent 11th

I sent following Precept D. D.

Read letter dated the 11th January last from the 1st Judge of the Court of Circuit in the Northern Division

4th March 1819. Submitting Case No. 17. North Malabar Calendar 4th Quarterly Sessions A. D. 1818.-

I Here Enter No. 115. I

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coogat and Mooftees of the Foujdaree Adalut, confirm the said futwa of the Cazee ool Coogat and Mooftees aforesaid and under the sentence of Coguoobut declared against the first prisoner

"Malayen Chandoo"

adjudge him to suffer death by being hanged at the usual time and place of execution-

And under the provisions of Section XVII Regulation VII of 1802 adjudge the Second prisoner

"Vanan Kary"

to suffer death by being hanged at the usual time and place of execution

I Sent following letter C/

Read letter dated the 11th January last, from the 1st Judge on Circuit in the Northern Division submitting

24.

4th March 1819.

Case No" 3. Rajahmundry Calendar
2d Sessions A. D. 1818.-

/Here enter No" 38./

Read also remarks of the
Cazee ul Coozat and Mooftee of the
Foujdaree Udalut.

/Here enter A

The Court having maturely
considered the proceedings held before
the Judge on Circuit, the futwa of the
Provincial Law Officer and the futwa
of the Cazee ul Coozat and Mooftee of the
Foujdaree Udalut confirm the said futwa
=s and acquitting the prisoners,
1st "Yarchala Ummeegaudoo"
2d "Dulee Ummeegaudoo,
3d "D° Venkadoo"
4th "Royaloo Yelladoo"
5th "Mungala Naraidoo"
6th "Mootaraugie Mootiah"
7th "Coommara Poalliah" and
8th "Yarchala Addunky."
direct that they be released accordingly -

/Sent following Letter. D/

To Law Officers of the
Foujdaree Adalut observe in their Futwa,
that "there is no evidence in these pro=
=ceedings

Sent 11th

F 16

11 August 1819 Foujdaree Udalut.

2/ F 16"
4th March 1819 - =ceedings that the circumstances, on
"which the charge was founded actually
"took place - The case is founded merely
"on hearsay evidence: - Vizt one Appiah
"being informed of what had happened
"by Dulee Vencadoo, told the 5th witness
"Mauresetty, who communicated it to
"Chantranty Persiah, the Curnum, and
"he wrote a letter giving an account of it
"to the Police Daroga, who immediately
"on receiving the said letter, without in=
="vestigating the real state of the case
"apprehended the aforesaid prisoners."
The Court of Foujdaree
Udalut regret to observe that the truth
of the above remarks is borne out by the
Record, which does not contain a tittle
of evidence as to the most material
point in the case, - the death of the
person, for the murder of whom the
prisoners have been brought to trial,
The late 3d Judge on Circuit, in his letter,
which accompanies the proceedings, -
remarks that "it is to be regretted that
"the Criminal Judge or the Magistrate
"on the prisoners being first apprehended
"did not send to Nagalagoodrum to ascertain
"if there was any truth in the story of the

Murder of Cunnigaudoo;" - and here it is obvious to remark, that it was absolutely incumbent on the Criminal Judge to take evidence to the fact, before he committed the prisoners for trial before the Court of Circuit.

During the examination of the Witnesses before the Criminal Judge it appear that the parties were permitted to cross question them ad libitum - The Court direct, that this irregularity be brought to the notice of the Criminal Judge, and that he be particularly enjoined, in cases not punishable by him under Section VII Regulation X of 1816, not to permit any cross interrogatories either on the part of the accuser or the accused.

It was the Duty of the Police Daroga of Pauthanagarum, on receiving the report of the Murder, to proceed in person to the spot, as prescribed by Section LXXXVI Regulation XI of 1816, or if unable so to do, to order the Head of the Village to enquire into the circumstances of the case; and the Court direct that the impropriety of that Officer's proceeding to cause the apprehension of the persons accused

accused, without any such previous

Moulavee Meer Basharut Alla,

Mooftee of the Court of Circuit in the Northern Division, has in the Sentence delivered in case No. 3 Rajahmundry Calendar Proceedings 1818, committed the following errors. In the abovementioned Fatwa the Mooftee has stated, that Kisas by Bud lies against all the prisoners; and in proof of his exposition of the law he has given the following quotation from the Rewayet. i. e. "Highway robbery is proved fully by one confession, and the retractation thereof by the robber, as in cases of Surraee-to-grass bars. "Bud, the evidence also of two eye witnesses "of the robbery, or the confession, is sufficient "proof." In the Mohummudan Law, Bud and Kisas are altogether distinct, and unconnected, and the Mooftee by confounding them together shewed his inability to discriminate between them.

that the Police re not Sewile be t Officer refuel signature which remarks the Court Division dictation s; and ed. ication ing opin mmendry nce cate. egat and er

Read

4th March 1819.

Murder of Cusenigaudoo;- and here it is
to the [illegible] substituted

The citation, which the Mo
has made, from the Kenjayet-i-alumgeery
as confirmitary of the Sentence of Hud,
is so far from being consistent with the
view of the case, that it directly opposed
it, for he holds, that all the prisoners are
liable to Hud, and in proof thereof has
stated, that after retractation of a confession
by a robber, Hud is barred.

The present is a case of confes
subsequently retracted, the prisoners having
as set forth by the Mooftee, made a
confession of Highway Robbery before the
Daroga in the first instance which they
subsequently denied before the Court of
Circuit.

The citation from Kenjayet
alumgeery is no doubt perfectly correct
but the Mooftee from [illegible]
which is surprizing that the Mooftee did
not [illegible] comprehend its meaning; it would
behove him carefully to avoid a repetition

accused

At a Court of the Nizamut

4th March 1819. accused, without any such previous
enquiry be pointed out to him-
of such conduct, as has called for these
remarks.-

Signed and Sealed by the Cazee and
Cazzat and Mooftees of the
Sudder Adalut.-

To the

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Moor

4th March 1819

Murder of Cusmegaudoo;" - and here it is

accused

4th March 1819

accused, without any such previous enquiry be pointed out to him -

The Court remark, that the declarations forwarded by the Police Daroga of Cautchanagarum are not attested by his signature - It is to be proper that this omission be brought to the notice of that Officer in order that he may be careful hereafter to attest with his signature all declarations or depositions which may be taken before him -

Ordered that the Remarks be accompanied by an English translation and extract of these proceedings, and that they be by precept enjoined to make the necessary communication to the Criminal Judge and Acting Magistrate in the Zilla of Rajahmundry for their information and guidance respectively, as also to communicate the Remarks of the Cazee and Mooftee for the information and future guidance of the Mooftee of Baokarut alli -

Sent the following Precept to

4th March 1819.

Read return dated the 22d Ultimo from the 2d Judge of Court of Circuit in the Western Division to Precept dated 8th Ultimo ordering release of two prisoners in Case No. 9. North Malabar Calendar 3d Quarterly Sessions A. D. 1818. and communication to the Criminal Judge of South Malabar and the Magistrate of Malabar of the Court's observations on that case.—

/Here enter No. 162./

Read return dated the 26th Ultimo from the 1st Judge of the Court of Circuit in the Southern Division to precept dated 13th Ultimo, ordering communication to the Criminal Judge of Tinnevelly of the Court's observations on case No. 11. Tinnevelly Calendar 2d Sessions A. D. 1818.

/Here enter No. 164/

E.S.

F 16

At a Court of the Tongidarer Adalut

Thursday 11th March 1819

Present

Andrew Scott Esqr.
Edward Croft Greenway Esqr. } Judges
J. H. D. Ogilvie Esqr.

Read letter dated the 9th Instt. from the Acting third Judge on Circuit in the Northern Division with copy of Tanjore Calendar 2d Sessions A. D. 1818.

/Here enter No. 130/

E.S.

The Court are desirous to have before them a copy of the Futwa passed in case No. 1 of the foregoing Calendar, wherein it is stated that the prisoner who was charged with having committed the offence of house breaking on one occasion, and with having been concerned in Going robberies at two different times, was found guilty, and sentenced under Cokoobut to 6 years' imprisonment and hard labour.

Ordered that extract of these proceedings be sent to the Provincial Court of Circuit on

4: Co

11th March 1819.

in the Northern Division and that they be by
precept commanded to send us copy of the Letters
passed in case No. 1 of the Calendar aforesaid within
ten days from the date of the receipt of the precept.

Sent 12th

Sent following Precept No.

Co. M.

Read letter, dated the 25th ultimo,
from the Third Judge of the Court of Circuit on the
Western Division, - forwarding returned warrant for exe-
cution of prisoners in case No. 1 South Malabar Calendar
2d Sessions A.D. 1818.

/Here enter No. 169./

Read letter, dated the 27th ultimo,
from the Second Judge on Circuit in the Southern Divi-
sion, - reporting the arrival of the Court of Circuit at
Coimbatore.

/Here enter No. 169./

Read return, dated the 27th ultimo,
from the Third Judge Acting on Circuit in the Western
Division, to the Court's precept of the 17th ultimo, - ordering
communications to the Magistrate of Malabar of the
Court's observations on Cases No. 4 and 5. South Malabar
Additional Calendar. - 2d Sessions A.D. 1818.

/Here enter No. 170./

Read

11th March 1819.

Read return, dated the 1st instant,
from the First Judge of the Court of Circuit on the
Western Division, to the Court's precept of the 17th ultimo -
ordering communications to the Magistrate of Malabar
of the Court's observations on case No. 6. North Malabar
Calendar - 4th Quarterly Sessions A.D. 1818.

/Here enter No. 171./

Read return, dated the 28th ultimo
from the Third Judge Acting on Circuit on the Western
Division, to the Court's precept of the 13th ultimo - calling
for report prescribed by Section XXXVII. Regulation VII.
of 1802.

/Here enter No. 174./

Read letter, dated the 4th instant,
from the Third Judge on Circuit on the Central Division,
stating his intention of leaving Bellary on the 5th
instant.

/Here enter No. 178./ 20

Copy of the Canara Calendar for the 1st Sessions
of 1819. not having been received.

It is ordered that the Second Judge on
Circuit on the Western Division be by precept commanded to
send us copy of the aforesaid Calendar with as little
delay

March 1819.

delay as possible.

Sent following Precept 8/

Z U

At a Court of the Zeydaree Udalut

Present

Thursday
18 March 1819

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre
} Judges

Read letter, dated the 26th ultimo, from

the 2d Judge of the Court of Circuit in the Centre Division,

submitting Case No 11 Cuddapa Calendar 1st Sessions

1819.

(Here enter No 167)

The Court having maturely considered

the proceedings held before the Judge on Circuit, the

futwa of the Provincial Law Officer, and the futwa

of the Cazee-ool-Cozat and Mooftees of the Zey-

-daree Udalut, confirm the said futwa of the Cazee

-ool Cozat and Mooftees aforesaid, and adverting to

the opinion declared in the futwa regarding the insanity

of the prisoner,

"Chinneegaudoo"

the Court direct, that the Criminal Judge in the Zillah

of Cuddapa be commanded to ascertain whether the

friends of the prisoner are able and willing to under-

-take

undertake such care of him as may prevent the possibility
of his doing any mischief, and in such case, to deliver him
into their charge, and that in the event of any unwillingness
or inability on their part to resume charge of the Prisoner,
the Criminal Judge be required to confine him in such
place and manner, as consistently with a regard to the
public safety shall to him appear expedient, until the
arrangements now in progress relative to the establish-
ment of a Lunatic Hospital at Chittoor shall be finally
carried into effect, when it will be the duty of the Criminal
Judge to forward the Prisoner to the Criminal Judge
in the Zillah of Chittoor, in order to his being confined
in the general hospital ordered to be established at
the Sudr station for the reception of Lunatic &
prisoners within the Division.-

(Sent following letter. 4/5

It appears, that the prisoner in this
case on his examination before the Magistrate, and before
the Criminal Judge stated, that he was out of his senses,
at the time when he committed the act charged against
him; and the witness Malloogadoo, describing the &
circumstances of the Affrayt, made by the prisoner
upon the prosecutor, of which he was an eye-

deposed before the Criminal Judge, that on being
informed by Cudreegadoo another witness, that "the
"Prisoner Chinneegadoo had taken a sword in his
"hand, and was going round the Grain field like a
"madman," he accompanied Cudreegadoo to the place
where the prisoner was, saw him wound the prosecutor,
and seized him, and that the prisoner, on being asked
by them, "what he was doing," said," that he did not know
"whether a God or Goddess possessed him, and that he was
"out of his senses."-

With reference to the foregoing cir-
-cumstances, the Court of Foujdaree Adalut deem it
proper to call the attention of the 3d Judge on Circuit
in the Centre Division to their circular orders, under
date 29th October 1807, in which the course to be pursued
"in all cases, wherein it shall appear to the Judge on
"Circuit either from the Magistrate's proceedings, or otherwise,
"that there are grounds for supposing a Prisoner committed
"for trial to be deprived of reason, - is distinctly pointed
out.- had the investigation enjoined in those orders been
entered upon in the first instance by the Judge on
Circuit, he would have seen the impropriety of putting
the prisoner on his Trial.-

The

The Court of Foujdaree Udalut
that the several questions, which were put in the
-mination of the prisoner and the witnesses before
Criminal Judge, with the view of ascertaining the
particulars specified in Clause 3rd Section XV
Regulation VII of 1802, have been inserted in the
contrary to the orders issued by the Court on 17th Oct
1815. - As the attention of the Criminal Judge was
directed to those orders in the Court's proceedings
7th October last, it is necessary only on the present
occasion to bring the above circumstance to the notice
of that officer. -

Ordered, that extract of these pro-
ceedings be sent to the 3d Judge on Circuit in the
Centre Division for his information and future guide
and that he be by precept enjoined to communicate
the latter part for the information and future guide
of the Criminal Judge in the Zillah of Cuddapah. -

(Vide following Precept B)

Read letter dated the 15th January from
the 3d Judge late on Circuit in the Northern Division
submitting Case No 11 Rajahmundry Calendar 2d Sessions

AD 1818. -

(Here enter No 48)

The Court having maturely considered
the proceedings held before the Judge of Circuit the
futwa of the Provincial Law Officer and the futwa
of the Cazee-ool Coozat and Mooftees of the Foujdaree
Udalut, confirm the said futwa of the Cazee ool
Coozat and Mooftees aforesaid, and accordingly direct,
that the prisoners,

1st "Diggey Venkanah"
2d "Ramana"
3d "Vencatroydoo"
4th "Woodendoo" and
5th Chelmiah

be set at liberty. -

(Vide following letter C)

In the letter from the late 3d Judge
on Circuit, which accompanied the proceedings in this case,
that officer remarks, that "the proceedings sent up by the
"Magistrate are extremely irregular, & that the prisoners,
"especially the 5th, appear to have experienced very unfair
"treatment previous to being sent to the Criminal Judge."
and the Law Officers of the Foujdaree Udalut in their
futwa advert to the charge of ill treatment, brought
by

by the prisoners against the officers of Police, (which charg
they have supported by evidence,) as rendering the declara
of the said prisoners, taken before those officers, "not ad
"missible, as legal evidence" against them.-

An examination of the Record the C
observe, with much concern, abundant ground for the forg
observations.-

The first document, connected with
proceedings of the Police in this Case, is an Arzee ad
to the Magistrate by Sulsder Sahib, Police Cutwal of
Rajahmundry, in which that officer, after reciting the
substance of a declaration, alleged to have been made b
Venkatroydoo, the 3d prisoner goes on to state, that "hav
"examined Venkatroydoo three days, he deposed two days
"in different ways, and on the third day deposed as stated
"above," - and in conclusion he mentions, that having exam
the remaining prisoners, he forwards them together with
the depositions.-

With reference to the above representa
as also to the examination of the 4th prisoner before
Doorgah Dos, Police Cutwal at Cocanada, the Court
desire, that the Acting Magistrate in the Zillah of
Rajahmundry will call the attention of those officers to

18th March 1819 to Clause Second Section V Regulation XI of 1816.-

and that he will cause it to be understood generally
by the subordinate officers of Police under his authority,
that it is competent only to Head Police officers of Districts
to receive confessions of persons apprehended.-

The 1st 2d 4th and 5th prisoners, when
examined by the Criminal Judge, and when put on
their defence before the Court of Circuit, set forth v
various acts of violence and outrage, exercised towards
them by Doorgah Dos, the Police Cutwal abovemen-
tioned, and their statement is distinctly corroborated
by the testimony of Yenah Veerashaw, 2d witness
on their behalf before the Court of Circuit, who speaks
also to two other persons, named Chulla-Pullaloo and
Cotekella Venkatramdoo, as having been present at the
time.- Condacah Parvaty Lingum, the 1st witness for the
prisoners, deposes likewise, that the fact of their being
"tied up" was a matter of public notoriety.-

It will be the duty of the Acting
Magistrate to institute an enquiry into the conduct of
Doorgah Dos, Police Cutwal at Cocanada towards the
prisoners, and to proceed with respect to him, as directed
by Section XXX Regulation XI of 1816.- When

18th March 1819.

When the prisoners were
the Police Officers to the Assistant Magis-
Officer caused their declarations before the
to be read aloud to them in the first instance
stented himself with receiving their confes-
This mode of proceeding is irregular & objec-
in all such cases an inquiry should be instituted
known into the circumstances of the charge, and
only on the completion of the examination of the
prisoners touching the charge, that they should be
-rogated, as to the declarations, which they may have
made before the Officers of Police.

Before the Criminal Judge, and
the Court of Circuit it appears, that the Prosecutor
Vukeel was put upon his Oath. The impropriety of
this proceeding was pointed out by the Court of
Foujdaree Adalut in their circular orders of 27th
December 1815, to which they deem it proper to call the
attention of the Criminal Judge.

With respect to the examination of
the prisoners before the Criminal Judge, the Court
have to observe, that it is in the nature of a Cross
examination. The Court trust, that it is only necessary to

18th March 1819

to point out this circumstance to the Criminal
Judge, in order to prevent the repetition of a practice, which
is manifestly improper, as evincing an anxiety to make
the accused persons criminate themselves, and as in-
consistent with the provision of the Regulations,
which enjoins Criminal Judges to be careful, that all
confessions, made by prisoners, are free & voluntary.

The Court also remark, that during
the examinations of the witnesses before the Criminal
Judge, the parties were permitted to cross question them
ad libitum. As this irregularity in the proceedings
of the Criminal Judge was brought to that officer's
notice by the Court's orders under date 4th Instant,
it is sufficient on the present occasion to point out
the circumstance to him.

Ordered, that extract of these proceedings
be sent to the Judges of the Court of Circuit in the
Northern Division by precept, desiring them to make
the necessary communications to the Criminal Judge
and to the Acting Magistrate in the Zillah of
Rajahmundry, for their information and guidance
respectively.

(Sent following Precept D)r Read

18th March 1819.

Read letter, dated the 16th January, from the 1st Judge of the Court of Circuit in the Centre Division, - submitting Case Nº 5 Chittoor Calendar 1st Quarterly Sessions AD 1819. -

(Here enter Nº 119)

The Court having maturely weighed the proceedings held before the Judge of Circuit the futwa of the Provincial Law officer & the futwa of the Cazee ool Coozat and Mooftees of the Zoy dauree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and under the discretion allowed by the Sentence of Hy Circuit adjudge the prisoners, -

1st "Mooltoo," and

2d "Ramasawmy"

to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of twelve Calendar months, and then released. -

Sent 21st

(Sent following letter E) ✓

Read letter, dated the 15th December from the 3d Judge on Circuit in the Western Division submitting Case Nº 8 South Malabar Calendar 2d Sessions AD 1818. -

(Here enter Nº 690 of 1818)

The

18th March 1819.

The Court having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer, and the futwa of the Cazee ool Coozat and Mooftees of the Zoy dauree Adalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and under the sentence of Hyder Saas declared against the 1st prisoner,

"Madatil Anander Parbutty,"

adjudge him to suffer death by being hanged at the usual time and place of execution, -

And acquitting the prisoners

2d "Jahoo Kolkar," and

3d Cherry Aken Kolkar,"

direct that they be set at liberty. -

Sent 22d

(Sent following letter F) ✓

Read Return, dated the 9th instant, from the Provincial Court of Circuit in the Centre Division, - to the precept dated 24th Ultimo ordering communication to the Criminal Judge of Chittoor of the Court's observations on a reference made regarding the case of a person committed to the Zilla Jail by warrant of the Magistrate. -

(Here enter Nº 182)

Read

18. March 1819.

Read return, dated the 9th. instant,
from the 1st. Judge of the Court of Circuit in the Centre
Division, - to the precept dated 24th. Ultimo, ordering com-
munication to the Criminal Judge of Chittoor of the
Courts observations on a reference regarding the
mode of obtaining witnesses to the confession of persons
apprehended. -

(Here enter N° 183)

Read letter, dated the 10th instant, from
the acting 3d Judge of Circuit in the Southern Division, -
with returned warrant for the execution of prisoner in
Case N° 3 Trechinopoly Calendar 1st Sessions A.D 1819. -

(Here enter N° 184).

Read letter, dated the 7th instant,
from the 2d Judge on Circuit in the Southern
Division, - With copy of Darapooram Calendar
1st Sessions A.D 1819. -

(Here enter N° 180)

Read letter dated the 6th Ultimo, from
the 3d Judge on Circuit in the Centre Division, - with
copy of Cuddapa Calendar 1st Sessions A.D 1819. -

(Here enter N° 149)

F. 16.

At a Court of Tongdarre Adalut.

Monday
22d March, 1819. Present

Andrew Scott, Esqr.
Edward Croft Greenway, Esqr. } Judges
J. H. D. Ogilvie, Esqr.

Read letter, dated the 9th instant,
from the 2d Judge presiding at the First Court of
Quarterly Sessions for 1819 at Masulipatam,
submitting for the orders of the Court a
precept issued by him to the Magistrate of
Guntoor, together with the return of that
officer. (Here enter N° 189)

The Court of Tongdarre Adalut proceed
to record their sentiments on such parts of
the papers before them, as appear to require
observation.

In case N° 9 of the Calendar
of persons discharged by the Magistrate, it
appears, that the complaint was preferred
in the first instance to the Head of Police,

22d March 1819.

and by him referred to the Magistrate; who dismissed the complaint, and fined the complainants.

The propriety, or otherwise of the Police Officers' proceeding in this case depends entirely on the nature of the charge with respect to which there is no information before the Court.

The only cases regularly referrible to a Magistrate by a Police Officer are those, which the Magistrate is competent to hear and determine under the provisions of Sections XXXII and XXXIII Regulation IX of 1816. If the case here referred to was not one of the descriptions specified in the Sections above cited, the reference by the Police Officer to the Magistrate, and the imposition of a fine on the complainants by the latter officer were alike unwarranted by the regulations.

In case No 16 of the Calendar of persons committed by the Criminal Judge to take their trial before the Court of Quarterly Sessions

22d March 1819.

Sessions, it would appear that a period of fifty four days intervened between the apprehension of the prisoner and his transmission to the Zilla station. The reason assigned by the Police officer for this delay was the indisposition of the prosecutor and witnesses.

With reference to the irregularity brought to his notice in this instance the Court of Foujdaree Adalat deem it proper to direct, that the Magistrate in the Zilla of Gunjam will inform the District Police officers under his control, that in all cases where difficulty may be experienced in causing the attendance of witnesses, together with a prisoner at the Zilla station, it will nevertheless be their duty to forward the prisoner to the Criminal Judge without delay, noting the circumstance here mentioned at the foot of the report, which they are directed to transmit by clause fourth Section XXVII Regulation XI of 1816, and reporting to the Magistrate the difficulties which they may have experienced in each particular instance, in the performance of the duties of their office.

In

22d March 1819.

In the remarks recorded by the Second Judge upon case N. 27 of the Calendar of persons discharged by the Criminal Judge, the Court of Toujdaree Adaulut do not entirely concur.-

The offence not being punishable by the Magistrate, it was certainly the duty of the Darogah of Doolehpoody to forward his proceedings direct to the Criminal Judge, but the parties being once, however irregularly brought before the Magistrate, it was undoubtedly incumbent upon that officer to go into an investigation of the case, and to satisfy his mind that there was ground to believe the prisoners guilty of the crime charged against them, before he sent them to the Criminal Judge.-

The observations of the 2d Judge upon case N. 28 of the Calendar last mentioned appear to the Court to have been fully called for by the circumstances, and they trust that the Magistrate will carefully avoid a repetition of the irregularities therein brought to his notice.-

Ordered, that extract of these proceedings

7. 16.

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sent 26th

be duly transmitted to the 2d Judge of the Court of Circuit proceedings, for the Northern Division, to be by him communicated to the Magistrate for the guidance of Darogahs for his information and future guidance.-

(Sent following letter N.)

Read letter, dated the 29th January last, from the First Judge on Circuit for the Northern Division, submitting case N. 4 Nellore Calendar 1st Session A. D. 1819.-

(Here order N. 1001)

The Judges of the Court of Toujdaree Adaulut, on a deliberate consideration of the circumstances of the case as exhibited before them, are unanimously of opinion, that the proof against the prisoner,

"Reddy Sooddoolee Vurnadagaudoo,"

is sufficient to convict him of having put to Death the deceased Thimmy, Desie, under clause Second Section II. Regulation I. of 1811, that the Cazee and Mooftee of the Toujdaree Adaulut will declare by a Second futwa, to what sentence the prisoner would

22d March 1819.

would have been liable under the Mohummedan Law if he had been convicted, by full legal evidence, of the crime laid to his charge.-

Ordered, that extract of these proceedings be translated and delivered to the Cazee ul Coozat and Mooftee for their information and guidance.-

Read letter dated the 15th January last from the First Judge of the Court of Circuit in the Western Division,- submitting case No. 13. North Malabar Calendar - 4th Quarterly Sessions A. D. 1818.

/Here enter No. 58./

The Judges of the Court of Foujdaree Adaulut on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion, that the proof against the prisoners,

1st "Kurrimbalen Changeen," and

3d "Aticodero Kungeen."

is sufficient to convict them of having conspired with the deceased Nalee Kungeen, decide, under Laws Second Sections II Regulations I of 1818 that the Cazee ul Coozat and Mooftee of the Foujdaree Adaulut with

declare

22d March 1819.

declare by a second futwa to what sentence the prisoners would have been liable under the Mohummedan Law if they had been convicted, by full legal evidence, of the crime laid to their charge.-

Ordered, that extract of these proceedings be translated and delivered to the Cazee ul Coozat and Mooftee, for their information and guidance.-

Read letter, dated the 8th instant, from the Second Judge presidency at the 1st Court of Quarterly Sessions of 1819 at Masulipatam, forwarding with observations a letter from the Magistrate of Masulipatam, and wherein that officer requests information on certain points, connected with the construction of Regulations IX and XI of 1816.-

/Here enter No 188/

The Magistrate of Masulipatam solicits the instructions of the Court, on the first place, as to the authority vested in him with reference to the prevention of the circulation of base coin:- and he proceeds to state, that he has hitherto been accustomed to detain and destroy such coin, thinking it his duty to prevent as far as possible the circulation of base coin, and conceiving that they must be disposed of this

their former owner after discovery of their quality, he could no longer plead ignorance of their being and therefore could not acquire any to keep them without subjecting himself to punishment.

Upon this point the Court of Sudder Adawlut have only to observe, that the construction of the Magistrate meets with their entire concurrence, and that the course which he has hitherto pursued, does not appear open to any

The second question submitted by the Magistrate respects the authority of a Tahsildar to release a person, apprehended by the Police and "charged of having committed any of those offences pointed out in clause first Section XXVII. Regulation "XI. of 1816."

By the clause here quoted it is provided that "upon a complaint being made to a Tahsildar "any of the offences therein specified, he shall make "such enquiries as may be necessary to ascertain whether any credit be due to the accusation, and "if only in the event of its appearing to the same "of credit, that the Tahsildar is directed to make "every exertion to apprehend the person or persons "who may be accused, or to whom suspicion may "attach of having committed the offence."

The

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object of this provision was to guard against the vexatious apprehension of any persons, of whose guilt there might not be at least good grounds for suspicion, and this point is left to the discretion of the Tahsildar; but the words of Clause fourth Section XXVII, Regulation XI. of 1816 positively enjoin, that "as soon as the Tahsildar "shall have finished the investigations, he shall forward "his proceedings with the prisoner and witnesses "to the Criminal Judge:" nothing in this stage of the proceedings is left to his discretion.

Upon the next point in which the Magistrate desires information, it may be sufficient to state, that the power to punish frivolous or vexatious complaints has always been limited to the cases of the description specified in Sections XXXII, and XXXIII, Regulation IX. of 1816, and that on general principles it does not appear to be expedient, that the power should be extended to cases of a more serious nature, in which the measure of punishment here prescribed would be obviously inadequate to the deep malignancy of the offence.

The Magistrate desires to be informed in the last place, whether it is legal for him to undertake the investigation of a heinous offence

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offence, the perpetrators of which are apprehended by the Tahsildar's peons, and brought by them to the Cutcherry, where the Magistrate and the Tahsildar are engaged at the same village in the transaction of revenue affairs.-

The Court of Foujdaree Adalut are decidedly of opinion, that nothing in the existing Regulations can be construed to restrict a Magistrate from going into an investigation of a case of this particular nature, under the circumstances here detailed, and that it is fully competent to that officer, wherever he may be so situated, to direct all charges for offences of a heinous description to be preferred to himself in the first instance, although his interference in such cases, subsequently to the prescribed investigation by a District Police officer, is virtually prohibited.-

Ordered, that a Extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Northern Division, to be by him communicated to the Magistrate in the Letter of Instruction, for his information and future guidance.-

Sent following Letter. B.

Thursday
25th March 1819

At a Court of the Foujdaree Adalut.

Present,

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Eglvie Esqre
} Judges.

Read again letter, dated the 29th January last, from the 1st Judge on Circuit in the Northern Division,- submitting case No. 4 Nellore Calendar 1st Sessions A.D. 1819.-

(Here enter No. 101)

The Court, having maturely considered the proceedings held before the Judge on Circuit, the futwas of the Provincial Law Officer and the futwas of the Cazee ool Coozat and Mooftees of the Foujdaree Adalut, confirm the said futwas of the Cazee ool Coozat and Mooftees aforesaid, and under the sentence of Kissâs declared in the futwas, adjudge the prisoner,

Reddy Soodoolos Vencolagandoo

to suffer death by being hanged at the usual time and place of execution.-

Sent following letter A.

The Court of Foujdaree Adalut

observe,

observe, that the several questions, which were put in the examination of the prisoner and witnesses before the Assistant Criminal Judge, with the view of ascertaining the particulars specified in Clause third Section XVIII Regulation VII of 1802, have been inserted in the Record, contrary to the orders issued by the Court under date 17th January 1815. The attention of the Assistant Criminal Judge having been directed to those orders in the Court's proceedings of the 4th instant, it is necessary only on the present occasion to bring the above circumstance to the notice of that officer.-

With respect to the examination of the prisoner, held before the Assistant Criminal Judge, the Court have also to observe, that it is to a great degree in the nature of a cross examination.- The Court are satisfied, that it is sufficient to point out this circumstance to the Assistant Criminal Judge, in order to prevent the repetition of a practice, which is manifestly improper, as evincing an anxiety to make the accused criminate himself, and as inconsistent with the provision of the Regulations, which

which enjoins the Criminal Judges to be carefully that all confessions, made by prisoners, are free and voluntary.-

Ordered, that extract of these proceedings be sent to the first Judge on Circuit in the Northern Division by precept, desiring him to communicate the same to the Criminal Judge in the Zilla of Nellore for his information and guidance.-

(Sent following Precept B.)

Read again letter, dated the 15th January last, from the first Judge of the Court of Circuit in the Western Division,- submitting case No 13 North Malabar Calendar 4th Quarterly Sessions AD 1818.-

(Here enter No. 58.)

The Court, having maturely considered the proceedings held before the Judge of the Court of Circuit the futwas of the Provincial Law Officer, and the futwas of the Cazeeools Cozzat and Mooftees of the Fouzdaree Adalut, confirm the said futwas of the Cazeeools Cozzat and Mooftees aforesaid, and under the sentence of Cohorbut declared in the futwas, adjudge the prisoners,

2d "Thurimbalen Changren" and
3d "Aticoden Kungren"

to suffer death by being hanged at the usual time

observe, that the several questions, which were put in the examination of the prisoner and witnesses before the Assistant Criminal Judge, with the view of ascertaining the particulars specified in Clause third Section XVIII Regulation VII of 1802, have been inserted in the Record, contrary to the orders issued by the Court under date 17th January 1815. The attention of the Assistant Criminal Judge having been directed to those orders in the Court's proceedings of the 4th instant, it is necessary only on the present occasion to bring the above circumstance to the notice of that officer.-

With respect to the examination of the prisoner, held before the Assistant Criminal Judge, the Court have also to observe, that it is to a great degree in the nature of a cross examination.- The Court are satisfied, that it is sufficient to point out this circumstance to the Assistant Criminal Judge, in order to prevent the repetition of a practice, which is manifestly improper, as evincing an anxiety to make the accused criminate himself, and as inconsistent with the provision of the Regulations, which

which enjoins the Criminal Judges to be careful that all confessions, made by prisoners, are free and voluntary.-

Ordered, that extract of these proceedings be sent to the first Judge on Circuit in the Northern Division by precept, desiring him to communicate the same to the Criminal Judge in the Zilla of Nellore for his information and guidance.-

(Sent following Precept B.)

Read again letter, dated the 15th January last, from the first Judge of the Court of Circuit in the Western Division,- submitting case No. 13 North Malabar Calendar 4th Quarterly Sessions A.D. 1818.-

(Here enter No. 58.-)

The Court, having maturely considered the proceedings held before the Judge of the Court of Circuit the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool-Cozat and Mooftees of the Foujdaree Adalut, confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid, and under the sentence of Ashroofut declared in the futwa, adjudge the prisoners,

2d "Kurimbalen Changren" and
3d "Aticoden Kungren"

to suffer death by being hanged at the usual time

time and place of execution.-

And acquitting the 1st prisoner,
"Chatapen"
direct that he be let at liberty.-

Sent 31st

(Sent following letter C/
The Court of Foujdaree Adalut
observe, that the female witness Chiriday, who
is described at the head of her examination before
the Criminal Judge, as being about eleven years
of age, and who stated before the Court of
Quarterly Sessions, that she was twelve years
old,- was not put upon her Oath by
either of the abovementioned Officers; and
the reason assigned for this omission is her
being under age.-

The youth of the witness did not
of itself constitute sufficient ground for withholding
from her testimony that solemn sanction, which
was requisite to give it legal validity.- When-
=ever a person of tender age be brought before
a Judicial Officer to give evidence, it is proper
that he should satisfy himself by personal
examination, whether or not the party be
sensible of the nature of an Oath, and
capable

2/

Z 11

25th March 1819.

capable of feeling a reverence for its solemn
and the result of such examination should
determine the mode of receiving the testimony
of the witness.-

The omission to put this most
important witness on her Oath,- ~~which evidence~~
~~her own declaration was not given according~~
~~to that Regulation~~ - is greatly to be
regretted, inasmuch as it has led to the
escape of the 1st prisoner Kalpally Chatapen,
the proof against whom rested mainly on the
evidence of Chiriday, to which the Court have
been precluded from attaching any validity.-

Ordered, that extract of these
proceedings be sent to the first Judge of the
Court of Circuit in the Western Division by
precept, desiring him to communicate the
same to the Criminal Judge in the Zilla of
North Malabar for his information and
guidance.-

(Sent following Precept D/

Read return, dated the 15th instant,
from the 2d Judge of the Court of Circuit in
the Northern Division,- to precept dated
26th

26th ultimo, ordering communication to the Magistrate of Guntoor of the Court's observations on the 2d Judge's report upon the 1st Quarterly Sessions A.D. 1819.-

(Here enter No. 191.)

Read return, dated the 16th instant, from the acting Third Judge of the Court of Circuit in the Southern Division,- to precept dated 20th ultimo ordering communication to the Magistrate of Trichinopoly of the Court's observations on Case No. 3 Trichinopoly Calendar 1st Quarterly Sessions A.D. 1819.-

(Here enter No. 195.)

W.M.

No.

Ordered,

At a Court of the Foujdaree Adalut.
Present,

Monday 29th March 1819 — Andrew Scott Esqre. / Edward Croft Greenway Esqre. / J.H.D. Ogilvie Esqre. } Judges.

Read letter, dated the 6th ultimo, from the acting Third Judge on Circuit in the Northern Division,- submitting case No. 15 Berhampore Calendar 2d Sessions A.D. 1818.-

(Here enter No. 132.)

E.C.
M

The Cazee ool Cozat and Mooftees of the Foujdaree Adalut declare in the foregoing futwa that the prisoner is convicted, on strong presumption of the crime of murder laid to his charge- The Court, therefore, concurring in the opinion declared in the futwa, resolve under the provisions of clause third Section II Regulation XV of 1810, to call upon their Law Officers to declare by a second futwa to what specific punishment the Prisoner would have been liable under the Mohummudan law if he had been convicted by full legal evidence.-

Ordered, that extract of these proceedings

proceedings be translated and delivered to the Cazee ool Coozat and Mooftees of the Court.—

Read letter, dated the 3d instant, from the Third Judge on Circuit in the Centre Division, submitting case No. 13 Cuddapa Calendar 1st Sessions A.D. 1819.—

(Here enter No. 172)

The Court having maturely weighed the proceedings held before the Judge on Circuit, the futwas of the Provincial Law Officer, and the futwaj of the Cazee ool Coozat and Mooftees of the Fouzdaree Adalut, confirm the said futwas of the Cazee ool Coozat and Mooftees aforesaid, — and adverting to the opinion declared in the futwaj regarding the insanity of the prisoner, viz "Veeradem,"

The Court direct that the Criminal Judge in the Zillah of Cuddapa be commanded to ascertain, whether the friends of the prisoner are able and willing to undertake such care of him, as may prevent the possibility of his doing any mischief, and, in such case, to deliver him into their charge, and that in the event of any unwillingness or inability on their part to receive charge of the Prisoner,

29 March 1819.

Prisoner, the Criminal Judge be required to confine him in such places and manner, as consistently with regard to the public safety, shall to him appear expedient, until the arrangements now in progress, relative to the establishment of a Lunatic Hospital at Chittoor, shall be finally carried into effect; when it will be the duty of the Criminal Judge to forward the prisoner to the Criminal Judge in the Zillah of Chittoor, in order to his being confined in the general hospital, ordered to be established at the Sudr station for the reception of Lunatic prisoners of within the Division.—

(Sent following letter A)

The circumstances, under which the prisoner in this Case was put upon his trial before the Court of Circuit, are substantially the same as those, which called for the observations of the Court of Fouzdaree Adalut in their proceedings under date 10th instant upon Case No. 11 of the Cuddapa Calendar 1st Sessions A.D. 1819.— to the instructions therein contained in those proceedings it is sufficient on the present occasion

occasion to point the attention of the 3d Judge on Circuit.-

Among the papers, delivered to the Court of Circuit by the Criminal Judge is a declaration of the prisoner, which would appear to have been taken before the District Police Officer, but which is not attested by the signature of the officer, before whom it may have been taken.- The Court direct, that this circumstance be brought to the notice of the Magistrate of the Zillah, in order that he may enjoin the several District Police Officers under his authority invariably to attest with their signatures the several documents, which they may from time to time forward to the Criminal Judge under the provisions of Section XXVIII Regulation XI of 1816.-

The Court of Foujdaree Udalut observe, that the several questions, which were put in the examination of the prisoner and the witnesses before the Criminal Judge, with the view of ascertaining the particulars specified in Clause Third Section XVIII Regulation VII of 1802, have been inserted in the

the record, contrary to the orders issued by the Court on the 17th January 1815.- As the attention of the Criminal Judge was directed to those orders in the Court's proceedings of 18th Instant, it is necessary only on the present occasion to bring the above circumstance to the notice of that Officer.-

Ordered, that extract of these proceedings be sent to the Third Judge or 2d Judge on Circuit in the Centre Division, and that he be by precept enjoined to make the necessary communications to the Criminal Judge and the Magistrate in the Zillah of Cuddapah.-

(Sent following Precept B.)

Sent 5th

Read letter, dated the 15th ultimo, from the Second Judge on Circuit in the Western Division, submitting case No. 20 Canara Calendar 1st Sessions of 1819.-

(Here enter No. 140.-)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas of the Provincial Law Officers and the futwa of the Cazeerool-Cozat and Mooftees of the Foujdaree Udalut confirm the said futwas of the Cazeerool-Cozat and Mooftees aforesaid and

and under the sentence of Ashoshut declared
in the fortwas adjudge the prisoner,
"Bundarey"
to suffer death by being hanged at the usual
time and place of execution.-

Sent 5th

(Sent following letter 6.)

It appears in evidence before the
Court of Circuit, that Comiana, Potail of Pajar
Billar in the Behut talook, received a declaration
from the prisoner, Bundarey.-

The Court of "Boydaree Adalut deem,
therefore, that the Magistrate in the Zilla of
Canara will call the attention of the said
Potail, Comiana, to clause second Section V.
Regulation XI of 1816, which expressly declares
that Heads of Villages shall not receive from
any person, whom they may apprehend, any confession
either verbally or in writing, except in trivial cases.-

It was stated by the witness Barlay
Venkana before the Criminal Judge, that he
was not present when the prisoner Venkoo
was examined, that that he was present when
a hypocent was read out in the Tahsildars
Cutcherry, which was said to have been dictated
by

29th March 1819 by Venkoo.-

This witness is one of the two
persons, who attested the declaration in question,
and the Court therefore direct, that the circumstance
be brought to the notice of the Tahsildar of
Behut by the Magistrate of Canara, and that
the attention of the said Police Officer be
particularly directed to the words of Clause
third Section XXVII Regulation XI of 1816,
which declare that in all cases of confession
the District Police Officer "shall cause the
"same to be reduced to writing, and signed or
"marked by the prisoner in the presence of two
"or more respectable persons not being servants
"of the Government."-

On examining the proceedings
held by the Judge on Circuit in this Case the
Court observe, that the prisoner Bundary, although
not distinctly put on his defence was questioned
as to the correctness of his declarations before
the Tahsildar and the Criminal Judge, before
the close of the evidence for the prosecution.-

This mode of proceeding was
obviously

29th March 1819.

obviously irregular and improper, it being the duty of the Judge first to hear all the evidence on the part of the prosecution, whether to the actual commission of the offence, with which the prisoner was charged, or to any previous confession thereof, and then to call upon the accused to state what he might have to offer in his defence.—

Ordered, that extract of these proceedings be sent to the Second Judge on Circuit in the Western Division by precept, directing him to communicate the former part thereof to the Magistrate in the Zilla of Canara, for his information and future guidance.—

Sent 5th

(Sent following Precept D)

E.C.S. W.H.

S.D.

M

W.H.

J U

At a Court of the Sooydaree Udalut

Present

Thursday 1st April 1819

Andrew Scott Esqre.
Edward Croft Greenway Esqre.
J. H. D Egilvie Esqre.
} Judges

618

Read again letter, dated 6th. February, from the Acting Third Judge on Circuit in the Northern Division,— Submitting Case No 15 Berhampore Calendar 2d. Sessions AD 1818.—

(Here enter No. 132)

The Court, having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool-Cozat and Mooftees of the Sooydaree Udalut, confirm the said futwa of the Cazee-ool Cozat and Mooftees aforesaid, and under the sentence of Hyssaad declared in the futwa adjudge the prisoner,

"Burteyah"

to suffer death by being hanged at the usual time and place of execution.—

Sent 5th

(Sent following letter A)

In

In the examination of the prisoner a
witnesses before the Criminal Judge and the Head Assista
Magistrate in the Zilla of Gunjam, the several questions pr
with the view of ascertaining the particulars, specified in
Clause Third Section XVIII Regulation VII of 1802, are inserte
at length - The Court direct therefore, that the attention
the Criminal Judge be called to their circular orders date
17th January 1815, wherein it was directed that the several
particulars here referred to should be specified in the re
of the examination.-

The Court having in their circular or
of 23d December last particularly directed the attention
of the several Magistrates to the foregoing instructions
it is necessary only on the present occasion to bring t
above circumstance to the notice of the Magistrate of
Gunjam.-

The Court of Foujdaree Udalut have
also to observe, with respect to the examination of the
prisoner before the Criminal Judge, that it is in the
nature of a cross-examination.- The Court trust that
it is sufficient to point out this circumstance to the
Criminal Judge, in order to prevent the repetition
of a practice, which is manifestly improper, as evincing an

an anxiety to make the accused criminate himself, and as
inconsistent with the provision of the Regulations, which
enjoins Criminal Judges to be careful, that all confessions
made by prisoners, are free and voluntary.-

The Court of Foujdaree Udalut remark
that the witnesses Bauny, and Hunnoomah, who are both
stated to be about twelve years of age, were not put upon
oath, when examined before the Criminal Judge.-

The youth of these witnesses did not of
itself constitute sufficient ground for withholding from their
testimony that solemn sanction, which was requisite under any
circumstances to intitle it to credence
~~Judge Circuit Judge~~.- Whenever a person of tender age be
brought before a Judicial officer to give evidence, it is
proper that he should satisfy himself by personal exa-
mination, whether or not the party be sensible of the
nature of an Oath, and capable of feeling a reverence for
its solemnity, and the result of such examination should
determine the mode of receiving the testimony of the
witness.-

Ordered, that extract of these pro-
ceedings be sent to the Provincial Court of Circuit
in the Northern Division by precept directing them
to make the necessary communications to the Criminal

Judge

1st April 1819.

29.

Ord 5th

Judge and the Magistrate in the Zilla of Ganjam

(sent following Precept B)

W.M.

Read letter, dated the 5th ultimo, from

2d Judge of the Court of Circuit in the Northern Division,

submitting certain precepts issued by him to the Magistrate of Guntoor with that Officer's Returns.—

(Here enter No 186)

It appears, that one Meer Moortuza Khan, styling himself Kiladar of Punkaguddah, presented to the 2d Judge of the Court of Circuit, holding the first Quarterly Sessions of Gaol Delivery for 1819 at Masulipatam, a petition setting forth, that having been summoned by the Magistrate of Guntoor to give evidence in a criminal Case, he attended the Magistrate on the 20th September 1818, and requested that he might be allowed a chair, conformably to the respect usually shewn to his ancestors, as well as to himself; that the Magistrate without listening to his request ordered a fine of 70 Rupees to be levied from him, and on the 1st October placed him in confinement, and having kept him in

1st April 1819.

in the Choultry till the 8th October, sent him under arrest to the Criminal Court at Masulipatam, where he arrived on the 13th; that on the 15th he presented a petition to the Criminal Judge, who on the 17th referred him for redress to the Court of Circuit, and that on the 21st October he was released from confinement. The petitioner farther set forth, that the Magistrate on the 30th December issued an order to the Police Darogah of the Bauputla Division, directing the release of his (the petitioner's) property and the recovery of the amount of the fine, in default of payment of which he (the petitioner) was to be sent to the Magistrate, under charge of a peon, for the purpose of being placed in confinement. The prayer of the petition was, that the fine in question might be remitted.—

The 2d Judge, by precept dated the 8th February, forwarded the petition to the Magistrate, requiring him to afford such explanation, as he might deem necessary, and to state under what Section and Regulation the fine in this case was imposed.— The Magistrate's return was as follows.—

"This said Moortuza Khan would neither attend, or give

"gave his evidence: he was therefore fined under Section VII
"Regulation III of 1802. He was formerly fined in the sum of
"50 Rupees, and he then made his complaint to Judge Watts
"which was dismissed." Dated the 12th February.- It must
be observed that in this return the Magistrate offers no
explanation respecting the imprisonment of the petitioner
in the Village Choultry from the 1st to the 8 October,
and his being subsequently sent under a guard to
Masulipatam.-

Upon receipt of this return the 2d
Judge issued another precept to the Magistrate, dated
the 17th February, pointing out that the Section
quoted was inapplicable to the office of Magistrate,
referring to Clause First, Section XVIII Regulation IX
of 1816 as containing the rules of procedure in cases
where the Magistrates process may be resisted, and
ordering the remission of the fine, together with the
transmission of an authenticated copy of the order,
which the Magistrate might issue on that occasion.-
The 2d Judge farther noticed the mode, in which the
1st Judge of the Court of Circuit was designated in
the Magistrates return, and desired that it might
not be repeated. To this precept the Magistrate

made

made the following return. "As it appears to the
"Magistrate, that the 2d Judge has misunderstood
"the Regulation he has quoted, (that Regulation
"not referring to the process to be observed to obtain
"evidence from a witness) he begs that the case in
"question may be referred for the decision of superior
"authority. The Magistrate regrets, that he has no
"law reports with him, or he would shew authority
"for the term, which appears to have given offence
"to the 2d Judge." - Dated 20th February.-

The 2d Judge by precept dated the
25th February repeated his order, that the fine
should be remitted, to which the Magistrate made
the following return.- "By the following order
"it will be seen, that the Magistrate has obeyed
"the precept of the 17th Ultimo. He therefore trusts
"that the proceedings may be referred to the
"Foujdaree Court, as he is still of his former opinion."
To this return a copy of his order remitting the
fine was subjoined.-

There can be no doubt, that Section
VII Regulation III of 1802, quoted by the Magistrate
as

1st April 1819.

as his authority for imposing the fine in question, is not misapplicable to his office. That Regulation has exclusive reference to the administration of Civil, and not of Criminal justice. But even if it were applicable, it would not justify the Magistrate in the mode in which the fine in this case was imposed. In the paper termed "the opinion of the Magistrate," translation of which appears among the papers submitted by the 2d Judge, it is stated, that "Out of the witnesses who were sent "on the part of the prosecutors, one named Chuma "Khan Sail, alias Meer Moortuza Khan, on a "message being sent to him, that he should make his "appearance before me, for the purpose of giving his "deposition, refused to comply therewith contrary to "the order of the Magistrate; consequently I have laid "on him a fine of ₹ 70 Rupees, and after which as he "still refuses to appear before me for the purpose "of giving his evidence, I now therefore send Lieut. Collier "Moortuza Khan, together with the prisoners &c &c "concluding that his deposition will be taken by the "Criminal Court." The Section, to which the Magistrate refers as the authority by which he acted, requires it to

F. U.
1st April 1819.

to be proved on oath that the evidence of the witness is material to the cause, but it does not appear, that he took any measures whatever to satisfy himself on this point.—

The Course to be pursued by a Magistrate to obtain the evidence of a Witness in a criminal case before him is sufficiently clear. Having satisfied himself that the evidence is material, he should issue his summons to the Witness, and on his omission or refusal to obey the summons, the Magistrate should issue a warrant for his arrest. In cases of resistance to this process the duty of the Magistrate is defined in Section XVIII Regulation IX of 1816, to which the 2d Judge of the Court of Circuit referred in his precept of the 17th February. But if the Witness attends in obedience to the summons, or is brought before the Magistrate under the warrant of arrest, and refuses to give his evidence, such refusal is obviously a contempt of the Magistrates authority, and is punishable as such.—

The proceedings of the Magistrate in regard to Meer Moortuza Khan were therefore irregular and unwarrantable, and the 2d Judge of the Court of Circuit acted correctly in ordering the remission

remission of the fine which the Magistrate has illegally imposed.-

Upon the flippant and disrespectful tone of the Magistrate's several returns to the precepts of the 2d. Judge, the Court will not make any observations With reference to the letter from the Secretary to Government in the Judicial Department dated the 27th July last, it is their duty to submit the foregoing papers for the consideration and orders of the Right Honorable the Governor in Council.-

Ordered therefore, that the foregoing letter from the 2d. Judge of the Court of Circuit in the Northern Division with its enclosures and extract from these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

Sent E.

(Sent following letter C) (No 11)

Read letter, dated the 19th ultimo, from the 1st. Judge of the Court of Circuit in the Western Division,- submitting Copy of North Malabar Calendar 1st. Quarterly Sessions AD 1819.-

(Here enter No 196)

Read return, dated the 19th ultimo, from

from the 1st. Judge on Circuit in the Northern Division to the precept dated 4th. Ultimo ordering communication to the Criminal Judge of Nellore of the Courts observations on Case No 8 Nellore Calendar 1st. Sessions AD 1819.-

(Here enter No 198)

Read letter, dated the 23d. Ultimo, from the 2d. Judge on Circuit in the Southern Division, stating that he has found it necessary to remit Trichinopoly for medical aid, the Cazee and several servants of the Court of Circuit having been attacked by a malignant fever.-

(Here enter No 204)

Read Return, dated the 22d. Ultimo, from the 2d. Judge on Circuit in the Western Division, to the precept dated 11th Ultimo, ordering transmission of copy of Canara Calendar 1st. Sessions AD 1819 with as little delay as possible.-

(Here enter No 202)

Read Return, dated the 24th Ultimo, from the 3d. Judge on Circuit in the Centre Division, - to the precept dated 18 Ultimo ordering communication to the Criminal Judge in the Zilla of Cuddapa of the Courts observations on Case No 11 Cuddapa Calendar 1st. Sessions AD 1819.-

1st April 1819.

A.D. 1819.—

(Here enter N.206)

Read letter, dated 23d ultimo, from the 1st Judge of Circuit in the Western Division.— With returned warrant for execution of prisoners in Case No. 17 North Malabar Calendar 4th Quarterly Sessions A.D. 1818.—

(Here enter N.207)

2D.

W.M.

J. C.

At a Court of the Foujdaree Adaulut.

Friday 2d April 1819.

Present.

Andrew Scott, Esqre. .....
Edward Croft Greenway, Esqre. } Judges.
J. H. D. Ogilvie, Esqre. .....

Read letter, dated the 19th February last, from the first Judge of the Court of Circuit in the Central Division,— submitting case No. 6, Chittoor Calendar.— 1st Quarterly Sessions A.D. 1819.

(Here enter N. 156.)

The Court having maturely weighed the proceedings held before the Judge of the Court of Circuit, the futwa of the Provincial Law Officer and the futwa of the Cazee ool Cozat and Mooftee of the Foujdaree Adaulut, confirm the said futwa of the Cazee ool Cozat and Mooftee aforesaid, and order the Sentence of Ookoobut declared in the futwa, adjudge the prisoners,

1st "Kamasawmy,"
2d "Chetumbaram,"
3d "Mootoo,"
4th "Mangaswmy,"
5th "Vaghi,"
6th "Poomi,"
7th "Mamaloo," and
8th "Hurroopaie,"

to be imprisoned and kept to hard labour on roads or other public works for and during the period of twelve Calendar months and then released..

Sent 8th

/Sent following letter A./

It appears from the papers submitted by the Criminal Judge on the Zilla of Chittoo to the Court of Quarterly Sessions, that the prisoners were forwarded by the Police Ameen of the Tauny of Akoot to the Magistrate, instead of the Criminal Judge of the zilla. It will be the duty of the Magistrate, therefore, to call the attention of the Police Ameen to clause fourth Section XXVII Regulation XI of 1816, which declares that persons apprehended under the provisions of that section are to be forwarded to the Criminal Judge of the zilla..

Of the two witnesses, who attested the declarations of the prisoners, taken before the Police Ameen, Chongulsoo was stated before the Court of Quarterly Sessions, that the declarations were written before he went to the Cutcherry, but were read to the prisoners on his hearing, after which he signed them; and by Meeraspuck Chutty, the other subscribing witness, it was represented, that

the declarations were not read to him, nor did he question the prisoners regarding them, but that he signed them because he was ordered to do so by the Ameen..

The Court direct, that the above circumstances be brought to the notice of the Police Ameen of the Tauny of Akoot, and that the attention of the said Police Officer be particularly directed to the words of Clause third Section XXVII, Regulation XI, of 1816, which declare, that in all cases of confession the District Police Officer shall "cause the same to be reduced to writing, and signed or marked by the Prisoner in the presence of two or more respectable persons not being Servants of the Government"

Ordered, that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Central Division, by precept directing him to communicate the same to the Magistrate on the zilla of Chittoo for his information and guidance..

Sent 8th

/Sent following precept B./

Read letter, dated the 12th February last, from the Second Judge of the Court of Circuit on

2d April 1819

in the Northern Division.- submitting case N.11 Mac.
Gillespie's Calender.- 1st Quarterly Sessions A.D. 1819.

/Here enter No 129./

The Court having maturely consid-
ered the proceedings held before the Judge of
the Court of Circuit, the Jurors of the Provincial
Law Officer, and the Jurors of the Coroner and
Members of the Jury sworn to enquire the
said Jurors of the Coroner and Members
aforesaid, and under the Directions allowed by
the Sentence of Ockenhuit, adjudge the prisoner,

"Borrello Mostaccio"

to be imprisoned and kept to hard labour in irons
on the public roads or other public works for and
during the period of twelve Calendar months, and
within that period to be once led through the
principal Street of the town of Musselpurton his person
bareheaded & barefooted with a label, describing his offence.
to be further proclaimed by Sheriff Deputy
Sent following Letter &c.

Read Letter, dated the 19th ultimo,
from the First Judge on Circuit in the Northern
Division, with copy of Registrar's Calendar, 1st
Sessions A.D. 1819.

7.11.

2d April 1819.

The Court desire to have before
them copies of the Jurors delivered in cases N.10,
and 11 of the Calendar, wherein certain Prisoners,
who are stated to have been acquitted by the
Provincial Law Officer, have been ordered to give
security.-

Ordered that extract of these
proceedings be sent to the First Judge on Circuit
in the Northern Division, by precept, desiring
him to send copies of the Jurors delivered in
the several cases abovementioned within five
days from the date of the receipt of the precept.
/Sent following Precept D:/ 2D.

F. C.

At a Court of the Foujdaree Adalut

Present.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
J. H. D Agilvie Esqre

Tuesday 6th April 1819

Read letter, dated 9th February last, from the Acting Magistrate in the Zilla of Rajahmundry, - requesting the decision of the Court upon a point, connected with the administration of the Police, with respect to which the practice hitherto observed in the Zillas of Rajahmundry and Masulipatam, respectively, is different. -

A1

(Here enter No. 158)

In the foregoing letter the acting Magistrate states, that on taking charge of the Magistrate's office he found, that his predecessor had issued orders to the heads of police to send all persons accused of heinous offences to the Criminal Judge, but that cases of petty theft were to be forwarded to the Magistrate. -

The

The Acting Magistrate, after
adverting to the errors committed by the Native
Officers of Police, in acting upon these instructions,
and citing the provision of Regulation XI of
1816, which directs, "that cases of murder, robbery,
"house-breaking theft of considerable amount
"or attended with aggravating circumstances shall
"be forwarded to the Criminal Judge,"
proceeds to remark that "as no mention is
"made in this regulation of petty theft unattended
"with any aggravating circumstances, it is
"held by some that all complaints or prosecutions
"of this nature are cognizable by the Magistrate
"himself only, and that a Criminal Judge is
"not bound to proceed upon such complaints
"if brought before him by a Police Officer
"of the district."

The Acting Magistrate observes
lastly, that "in the adjoining district of
Masulipatam the practice is for the Tahsildar
"to send all cases of theft without distinction
"directly to the Criminal Judge, and states that
he has ordered the same rule to be observed
in

in the District of Rajahmundry."

The Acting Magistrate in the
Zilla of Rajahmundry would appear to
have overlooked the provisions of Section
XXXIII Regulation IX of 1816, wherein it is
declared, that "the Magistrates are authorized
"to hear and determine without reference to
"any authority all complaints or prosecutions,
"brought before them for petty thefts, when
"they shall not have been attended with any
"aggravating circumstances, or committed by
"persons of notorious bad character" — with
reference to the enactments here recited, the
Court of Foujdaree Adalut are unable to
recognize the propriety of the orders issued
by the Acting Magistrate to the Heads of
Police, in contravention to the instructions
which they had received from his predecessor.

The only cases regularly reputed
to a Magistrate by a Police Officer are those
described in Sections XXXII and XXXIII Regulation
IX of 1816, and if on investigation a case so
reported should appear to be deserving of more
severe punishment than the Magistrate is
authorized

authorized to inflict under the regulations, it is his duty to send the prisoner, not back to the Police Officer, as the acting Magistrate states that he has been "compelled" in such cases to do, - but to the Criminal Judge of the Zilla.-

It may be proper to observe further, that in all cases, where a District Police Officer may entertain doubts as to the course he should pursue, it is expedient, that he should submit to the Magistrate the complaint, and await that Officers instructions.-

The Court direct, that these observations be communicated to the acting Magistrate of Rajahmundry and to the Magistrate of Masulipatam thro' the Judges of the Court of Circuit, it being proper that all references from the Magistrate of the Zillas, in cases of a difference of opinion on the meaning and construction of the regulations, as well as the orders thereon, should pass through the Court of Circuit.- The Court further direct that the acting Magistrate of Rajahmundry be instructed on all similar occasions

F. U.

6th April 1819.

occasions to apply for information to the Court of Circuit and to abide their orders.-

Ordered that extract of these proceedings be sent to the Court of Circuit in the Northern Division by precept, requesting them to communicate the same to the acting Magistrate in the Zilla of Rajahmundry and the Magistrate of Masulipatam for their information and future guidance.-

(Sent following Precepts)

9th

A. W. W.

J. M.

At a Court of the Foujdaree Adalut.

Present,

Thursday 8th April 1819

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D Cejlvie Esqre
} Judges.

Read, letter dated the 1st instant,

from the acting Criminal Judge in the Zilla of Canara,-forwarding list of Convicts sentenced

M to banishment to any Zilla out of the provinces of Malabar and Canara, which may be fixed on by the Foujdaree Adalut.

(Here enter No. 218.)

The Court of Foujdaree Adalut

direct, that the prisoners,

1st "Ahmodey," and

2d "Pally,"

be removed to the Jail in the Zilla of Seringapatam, there to be imprisoned and kept to hard labour during the periods of their respective sentences.

11230

Ordered, that extract of these proceedings be sent to the acting Criminal Judges in the Zillas of Canara and Seringapatam for the

F. M.

At a Court of the Foujdaree Adalut.

Present,

Thursday 8th April 1819

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
J. H. D Egilvie Esqre

Read letter, dated the 1st instant,

from the acting Criminal Judge in the Zilla of Canara, - forwarding list of Convicts sentenced to banishment to any Zilla out of the provinces of Malabar and Canara, which may be fixed on by the Foujdaree Adalut.

(Here enter No. 218.)

The Court of Foujdaree Adalut

direct, that the prisoners,

1st "Ahmoday," and

2d "Pally,"

be removed to the Jail in the Zilla of Seringapatam, there to be imprisoned and kept to hard labour during the periods of their respective sentences.

Ordered, that extract of these proceedings be sent to the acting Criminal Judges in the Zillas of Canara and Seringapatam for the

10250

the information and guidance of those Officers respectively.—

(Sent following letters A.)

Read letter, dated the 22d December last, from the 1st Judge of Circuit in the Southern Division,—submitting case № 2 Verdachellum Calendar 2d Sessions A.D. 1818.—

(Here enter № 697 of 1818.)

The Court having maturely considered the proceedings held before the Judge of Circuit, the futwas of the Provincial Law Officers and the futwas of the Cazee ool Cozat and Mooftee of the Foujdaree Adalut, confirm the said futwas of the Cazeeool Cozat and Mooftee aforesaid, and under the sentence of Ashoobut declared in the Futwas, adjudge the prisoners

1st "Chinny"
2d "Tainamay"
3d "Tandavarayen"
4th "Coollen"
5th "Dasa Noottien"
6th "Collacauren" and
7th "Chinnapien"

to suffer death by being hanged at the usual

usual time and place of execution.—

(Sent following letter B.)

The first observation, which suggests itself to the Court, on examination of the Record of proceedings in this Case, respects the statement in the nature of an inductment prepared by the Criminal Judge, which is defective in a material point, inasmuch as it contains no specification of the place where the act charged was committed, and to which is annexed a summary of the evidence produced before the Committing Officer,—a document altogether superfluous and unnecessary.—

Mookly Coundin, head of the Village of Panouty in the Tirvady Talook, deposed before the Criminal Judge, that he received declarations from the prisoners on their apprehension:—and on being asked how he came to do so, contrary to the provisions of Clause second Section V Regulation XI of 1816, he answered, that he did not take the declaration in writing, "but according to "the Tahsildar's orders examined the prisoners "verbally, and forwarded them to the Tahsildar

with

8th April 1819

"with the necessary interpretation

By the clause above mentioned heads of villages are prohibited from receiving from any person, whom they apprehend, any confession, either verbally or in writing, except in trivial cases. The Court of Fouzdaree Adaulut desire, therefore, that the Magistrate in the Southern Division of Arcot will call the attention of the Moodky Court and of Serenna the Talookdar of the District Second Section V Regulation XI of 1816.

It is stated in the record of the proceedings held before the Court of Circuit that Mungatoye, one of the witnesses for the prosecution, was not examined being of immature age. The youth of the person here mentioned did not constitute a sufficient bar to the admission of her evidence. the Judge presiding at the trial should have taken her deposition leaving the Judges of the Fouzdaree Adaulut to determine, as to the degree of credit to be given to her evidence, or accompanying it with such remarks, as he may consider would be necessary for the consideration of the Fouzdaree Adaulut.

8th April 1819.

Ordered, that extract of these proceedings be sent to the 1st Judge of the Court of Circuit in the Southern Division for his information and future guidance, and that he be by precept enjoined to make the necessary communications to the Criminal Judge in the Zilla of Verdachellum and to the Magistrate of the Southern Division of Arcot, for their information and future guidance respectively.

(Sent following Precept &c.)

Read letter, dated the 24th ultimo, from the 3d Judge of the Court of Circuit in the Centre Division, - submitting with explanation copy of Bellary Calendar 1st Sessions A.D. 1819.

(Here enter No. 210.)

Read return, dated the 27th ultimo. from the Provincial Court of Circuit in the Northern Division, - to precept dated 11th February ordering transmission of copy

8 8. April 1819.

Fatwa in Case No. 1 Ganjam Calendar
2d Sessions 1818.-

(Here enter No. 213.)

H

H. M.

1120

1120

H

H. M.

J. M.

At a Court of the Foujdaree Adalut

Present,

Monday
12th April 1819. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
J. H. D. Ogilvie Esqre

Read letter, dated 22d ultimo, from the 3d Judge on Circuit in the Centre Division, stating that many of the Jaboke confessions of prisoners at Cuddapah and some at Bellary are attested by persons unable to read or write, and suggesting that witnesses to such confessions should only be required to attend before the Court of Circuit, and in cases of confession before a Criminal Judge should not be required to attend at all.-

(Here enter No. 205.)

1125

To the general prevalence of the practice pointed out by the 3d Judge in the foregoing letter the records of trials referred to the Court of Foujdaree Adalut from the several divisions, bear testimony, and it cannot be doubted that the attendance of persons, who may

may attest confessions before a District Police Officer, at the Court of the Criminal Judge and before the Court of Circuit, must often be inconvenient, and detrimental to their private affairs.-

The Court are however, unable to concur in the propriety or feasibility of the 3d Judges proposal to exempt witnesses to these confessions from attendance before the Criminal Judge;- Committal for trial before the Court of Circuit is the peculiar province of this officer, and he only has authority to bind over and cause all persons, whose evidence may be required, to appear before that Court. An examination of the attesting witnesses to a confession before an Officer of Police can alone enable the Criminal Judge to determine whether their attendance before the Court of Circuit may or may not be necessary, and this examination is indispensably requisite to the due appreciation of the credibility of such confessions.—

In the concluding paragraph of his letter the 3d Judge suggests, that "in "cases wherein prisoners fully confess their "guilt before the Criminal Judges or wherein "their confessions before the Criminal Judges do not "materially differ from those made by them "before the Darogahs, the witnesses to their "confessions should not be required "to attend the Courts of Circuit."-

The Court of Foujdaree Adaulut have no difficulty in giving their unqualified assent to this suggestion, and resolve to issue circular instructions to the above effect to the several Provincial Courts of Circuit to be communicated to the Criminal Judges within their respective jurisdictions.-

With reference to the observations of the 3d Judge regarding the great difficulty experienced in obtaining witnesses to confessions, and the impropriety of the practice of causing them to be attested by ignorant and illiterate persons, the Court consider it to be their duty again to solicit the attention of the Right Honorable the Governor in Council to the

Draft

12th April 1819

Draft of a Regulation, which accompanied their proceedings dated 13th October last, for rescinding those clauses in the Regulation of 1816, which declare servants of the Government incompetent to attest confessions, by the rescindment of the Clauses in question the Court are of opinion, that a remedy will be afforded for the evils pointed out by the 3d Judge on Circuit in the Centre Division, both as respects the difficulty of procuring attestations to confessions at all, and the incompetency of the persons by whom they are now generally attested.-

Ordered, that the foregoing letter and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

(Sent following letter A.)

Ordered also, that extract from these proceedings be sent to the 3d Judge on

J.C.
12th April 1819.

on Circuit in the Centre Division, and to the several Provincial Courts of Circuit by precept enjoining them to communicate the same to the Criminal Judges within their respective jurisdictions.-

(Sent following Precept B.)

13th

to 1st

EC

H.

1

1819

J. U

At a Court of Foujdaree Udalut

Present

Andrew Scott Esq^re
Edward Croft Greenway Esq^re } Judges
J. H. D Cgilvie Esq^re

Thursday 15th April 1819

Read letter, dated the 17th ultimo, from the 1st Judge on Circuit in the Northern Division, — submitting Case No 16 Rajahmundry Calendar 1st Sessions of 1819. —

(Here enter No 201)

The Court having maturely weighed the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the sentence of Kysaas declared in the futwa adjudge the 1st prisoner "Putnala Bhamah"

to suffer death by being hanged at the usual time and place of execution. —

And acquitting the 4th prisoners

prisoners,

2d "Putuala Ramoodoo,"
3d "Sanagahayalu Kaupiah," and
4th "Cautoory Surmulachary,"

direct that they be set at liberty.-

Sent 17th (Sent for Closing letter A)

Busmaraauze Streekumloo, Head of Police of the Drachavaram Taluck, states in his report addressed to the Criminal Judge, that the Caupoo and Curnums sent to him a report of the Murder "together with the four prisoners, the Corpse, the Girls father "and the Cattepeeta, with which the throat was cut."

By Section XXXVI Regulation XI of 1816 it is declared, that "the Tahsildar in all cases of Murder "within his district shall himself, if possible, proceed "to the spot, examine the body, the place where it was first "found, and all other circumstances, that may be likely "to lead to the discovery of the perpetrators of the crime."

It is obvious to remark in this Case, that the mode of proceeding reported by the Head of Police of the Drachavaram Division is not only wholly unauthorized and irregular in itself, but is calculated to obstruct rather than to forward the discovery of the perpetrators of a

Murder - It is not stated any where that the Police Officer was prevented by other avocations from repairing to the spot, and it will be incumbent upon the Acting Magistrate therefore after admonishing this Officer of the impropriety of the above proceeding to explain to him, as also to the District Police Officers generally under his authority, that whenever a Report of the nature described in Clause Second Section XIII Regulation XI of 1816 may be forwarded to the Police Officer of a District, it is his duty to proceed to the spot in person, if possible, to institute the enquiry and frame the report prescribed in the Section of the Regulation aforesaid.-

The Court of Circuit will have to observe, that the examinations of the 2d 3d 4th prisoners before the Criminal Judge are in the nature of cross examinations.- As the impropriety of this practice was pointed out to the Criminal Judge in the proceedings of the Court under date 18th Ultimo, it is necessary only on the present occasion to call the attention of that officer to the observations therein communicated to him.- It is stated in the Record of the proceedings held before the Court of Circuit

1819.

Circuit, that Gotum Pollador, one of the witnesses
for the prisoner Ramoodoo, being servant of the
"prisoner and the Law Officer declaring it as his opinion
"that his evidence is not admissible, his examination
"is not proceeded in."—

The objection of the Mohummudan
Law Officer here referred to did not justify the proceeding
of the Judge presiding at the trial in depriving the
prisoner of the benefit of the evidence of the witness,
and the Court of Foujdaree Udalut deem it proper to
observe that it is incumbent upon the Courts of Circuit
in every case to go into a full examination of the
witnesses summoned on behalf of a prisoner, excepting
only where the accused may decline to have their
evidence taken.—

In conclusion the Court of Foujdaree
Udalut are compelled to express their strong censure
of the utter negligence, with which the English
translation of the proceedings in this case has been
drawn up, an enumeration of the flagrant errors,
with which the Record abounds would be nearly
impossible, but it may be stated that there is scarcely
a page, which does not contain one or more instances
of

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of inaccuracy similar to that pointed out above in the Margin.

Ordered, that extract of these proceedings be sent to the 1st Judge on Circuit in the Northern Division by precept directing him to make the necessary communications to the Criminal Judge and the Acting Magistrate in the Zilla of Rajahmundry.

(Sent following Precept B)

Read again letter dated the 18th February, from the Second Judge of the Court of Circuit in the Northern Division — forwarding Copy of Masulipatam Calendar 1st Quarterly Sessions A.D. 1819.—

(Hereinter No. 153)

In the above letter the 2d Judge adverts to the pressure of business in the Court of the Criminal Judge of Masulipatam, and to the preparation of translations of Criminal Records, in conformity with the orders of the Court of Foujdaree Udalut under date 26th December 1817, — as interfering with the discharge of that officer's functions in his civil capacity, and suggests that two translators should be allowed to the Court of Circuit for the purpose of preparing the translations in question.—

The Court have received a communication

on

on this subject from the Criminal Judge in the Zilla of Masulipatam and being of opinion that the Superintendt of the translations should remain in the office, in which the final commitment, or admission of the accused to bail, takes place, - they have recommended that the Criminal Judge may be authorized by the Government to employ a translator on a salary of 20 Pagodas per Mensem:-

Ordered, that extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Northern Division for his information.-

(sent following letter C/)

Read letter dated 28th ultimo, from the 3d Judge on Circuit in the Centre Division, expressing his doubts as to the extent of authority conveyed by Clause Second Section XL Regulation IX of 1816, and enclosing copy of a precept issued by him to the acting Magistrate of Bellary.-

(Here enter No 214)

The precept of the 3d Judge to the acting Magistrate of Bellary relates to a Case in the Calendar of persons discharged by the late Head Assistant Magistrate, which appeared to the 3d Judge to have been insufficiently investigated, - and the acting Magistrate is directed in the precept "to endeavour to reapprehend the prisoners, and send them with all the "papers in the Case to the Criminal Judge of the "Zillah.-

By Clause Second Section XL of Regulation IX of 1816 the Courts of Circuit are authorized to transmit to the Magistrates such written orders in cases of this description, "as may "appear to them proper," - with reference to which expression it is to be presumed, that the orders issued by the Courts of Circuit will be in conformity with the provisions of the Regulations in force.-

The Court of Foujdaree Adalut are of opinion, that the acting Magistrate of Bellary should have been directed to proceed on the reapprehension of the prisoners, in the Case in question, in the mode prescribed by Section XXIV Regulation IX of 1816, the second Clause of which Section directs that "if it shall appear to the Magistrate, "that the crime or misdemeanor was actually committed, and that there is evidence of the prisoner's having

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"having been concerned in the perpetration of it, the
"Magistrate shall send the prosecutor the witness,
"and the prisoner with the proceedings on the Case
"to the Criminal Judge of the Zilla."-

Ordered, that extract of these pro-
=ceedings be sent to the Third Judge on Circuit in
the Centre Division for his information.-

sent 18th

(sent following letter Dft 20.

To W. M.

In the trials lately referred to the Court
of Foujdaree Udalut instances have occurred of the exa-
=mination of persons under age, as witnesses before the
Courts of Circuit, who have not been put upon oath:
Some Cases have also been brought before the Court,
in which the evidence of infants, as well as of other
persons, against the admission of whose testimony
exception may have been taken by the Mohummudan
law Officer, assisting at the trial,- has been rejected
altogether.-

With respect to both of the cases last
mentioned it is to be presumed, that the rejection by
the Courts of Circuit of the evidence of such persons
has arisen from a consideration of the light, in which
their testimony is viewed by the Mohummudan law,
the

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the Court of Foujdaree Udalut deem it proper, therefore,
to direct the attention of the Judges of those Courts
to the provisions of Section II Regulation I of 1818,
under the operation of which enactment it is com-
=petent to the Court of Foujdaree Udalut to convict
and sentence to punishment in cases of acquittal
under the Mohummedan law.-

With reference to the powers vested
in the Foujdaree Udalut by the legislature enact-
=ment above cited it is obvious, that no evidence
which is admissible under the law of England, is to be
rejected in Criminal Cases.-

Want of discretion is held to be a
good exception against a witness, and an infant is in
no case to be admitted as Evidence without Oath:-
but immaturity of age is not of itself to be considered
to derogate from the competency of a witness.-

The Court of Foujdaree Udalut
direct, therefore, that whenever a person of tender
age may be brought before the Court of Circuit
as a witness,- the Judge presiding at the trial
do satisfy himself by personal examination, as
whether or not the party be sensible of the nature
and

and obligation of an Oath and of the consequences of perjury, — by the result of which examination he will be guided in the admission or rejection of the evidence of the witnesses.—

Ordered, that Extract of these proceedings be sent to the several Criminal Courts of Circuit by precept enjoining them to communicate the same to the several Judges now on Circuit for their information and future guidance.—

sent 16th

sent 17th

(Sent following Precept Ejx

Read letter, dated the 6th instant, from the 3d Judge on Circuit in the Centre Division, reporting his arrival at Chingleput.—

(Here enter No 219)

Read letter, dated the 31st ultimo, from the 1st Judge on Circuit in the Northern Division, reporting his arrival at Vizagapatam.—

(Here enter No 220)

Read return, dated the 2d instant, from the 3d Judge of the Court of Circuit in the Western Division with returned warrant for execution of prisoner in Case No 8 South Malabar Calendar 2d Sessions of 1818.—

(Here enter No 221)

Centre Division, — reporting that the Sessions at Chingleput had closed and requesting that all letters addressed to him [illegible] at 25th Pondicherry

Read

Read letter, dated the 25th Ultimo, from the 2d Judge of the Court of Circuit in the Northern Division, — submitting further return of the Magistrate of Guntoor to his precept dated 9th Ultimo.

(Here enter No 208)

The return of the Magistrate is explanatory of his proceedings in Case No 28 of the Calendar of persons committed by the Criminal Judge of Masulipatam, in which the observations of the Court of Foujdaree Adalut were recorded in their proceedings under date 22d Ultimo.—

Under the explanation afforded by the Magistrate it appears to the Court of Foujdaree Adalut, that the measure adopted by him of forwarding the prisoners in the Case in question to the Criminal Judge is fairly attributable to an error in judgment, at the same time it may be remarked, that by the Magistrate's own shewing it is plain, that means were not taken by him to obtain the best procurable evidence against the persons apprehended.—

Ordered, that extract of these proceedings

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proceedings be sent to the 2d Judge of the Court
of Circuit in the Northern Division by precept
directing him to communicate the same to the
Magistrate of Guntoor for his information.—
(Sent following Precept J. J. & Co)

Ord 18th

EC
AH

W.H.

Read letter, dated 2d. Ultimo, from
the 2d Judge on Circuit in the Western Division,
submitting trial No. 12 Canara Calendar per. Sessions
A.D. 1819.—
(Here enter No. 173)

The Judges of the Court of Fouzdaree
Udalut, on a deliberate consideration of the circum-
stances of the case in evidence before them, concurring
in opinion that the proof against the prisoners,
"Poma",
"Poloojee",
"Sejoo" and
"Jamojee"
is sufficient to convict them of having put to death
the deceased Tatoo, deare, under Clause second Section II
Regulation I of 1813, that the Cazee-ool-Coozat and
Mooftees of the Fouzdaree Udalut will declare by
a second futwa, to what sentence the prisoners would
have been liable under the Mohummudan law of

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they had been convicted by full legal evidence,
of the crime laid to their charge.—

Ordered that extracts of these Pro-
ceedings be translated and delivered to the Cazee-
-ool-Coozat and Mooftees for their information and
guidance.—

W.H.

J. U

At a Court of the Zeyjdaree Udalut

Present

Friday
16th April 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D Ogilvie Esqre
} Judges

M.

Read letter, dated 28th February, from the 3d Judge late on Circuit in the Western Division, submitting report prescribed by Section XXXVII Regulation VII of 1802.-

(Here enter Nº 175)

The 3d Judge observes in the foregoing report, with reference to the abstract statements of Robberies & other crimes of a heinous nature, directed by the Court of Zeyjdaree Udalut to be laid before the Judge of Circuit at each Sadr delivery, that "as these Statements refer only to the cases forwarded "to the Criminal Judges, and not to other crimes, "the perpetrators of which are either unknown, or "had not been apprehended, they afford no more "information than is to be collected from the "Calendars & proceedings sent up with them.-

The Court in their proceedings of

under

J. U

At a Court of the Fouzdaree Udalut

Friday
16th April 1819.

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D Ogilvie Esqre
} Judges

Read letter, dated 28th February, from the 3d Judge late on Circuit in the Western Division, submitting report prescribed by Section XXXVII Regulation VII of 1802.

(Here enter a Pr 175)

The 3d Judge observes in the foregoing report, with reference to the Abstract Statements of Robberies & other crimes of a heinous nature directed by the Court of Fouzdaree Udalut to be laid before the Judge of Circuit at each Sadr delivery, that "as these Statements refer only to the cases forwarded "to the Criminal Judges, and not to other crimes, "the perpetrators of which are either unknown, or "had not been apprehended, they afford no more "information than is to be collected from the "Calendars & proceedings sent up with them.—

The Court in their proceedings of

under

under date 2d March 1818, directed that the statement
referred to by the 3d Judge, should be prepared
to the form prescribed in Section XXX Regulation
IX of 1816, which is plainly intended to include a return
of all Robberies and other heinous crimes, reported
to have been committed, and is by no means restricted
to cases forwarded to the Criminal Judge, as the 3d
Judge would appear to suppose. —

The Court conclude, that the
accuracies mentioned by the 3d Judge, as observable
in the Abstract Statements furnished by the Ma-
gistrates of Malabar and Canara, have been brought
to their Notice, should it be otherwise the Court
direct, that the 3d Judge do issue the requisite orders
to those Officers, enjoining them to be more exact
in future in the discharge of this part of their duty. —

Ordered, that Extract of these Proceed-
ings be sent to the 3d Judge of the Court of
Circuit in the Western Division for his information
and guidance. —

(Sent following letter A) +

The Court of Foujdaree Adawlut having
recorded such observations on the foregoing report as
appear

appear to them to be requisite for the future guidance
of the 3d Judge, direct that the report be submitted
for the information of the Right Honorable the
Governor in Council, they ~~refrain on the present~~
~~occasion from any remark on the reasoning,~~
~~by which the 3d Judge of the Court of Circuit~~
~~in the W. Division is led to regard "the unfavour-~~
~~able state of things in Malabar," as connected~~
~~with "the defectiveness of the System," a compa-~~
~~rison of the facts, brought to the notice of~~
~~the Court by the 3d Judge, with the arguments~~
~~which he has deduced from them, will form a~~
~~subject of future consideration. —~~

Ordered, that the foregoing
Report and Extract from these proceedings be sent
to the Secretary to the Government in the Judicial
Department for the purpose of being laid before the
Right Honorable the Governor in Council. —

(Sent following letter B) + (No 15)

Read letter, dated the 3d instant,
from the acting Criminal Judge in the Zilla
of Vizagapatam, — with reports prescribed by Section
XXXV Regulation X of 1816. —

(Here enter No 230)

In the foregoing Report of persons apprehended in the Zillas of Vizagapatam, are two Cases, Nos 14 & 15, in which a delay of three months and thirteen days appears to have occurred in forwarding the prisoners to the Zilla Station:-

The Court of Foujdaree Adalut observe that these instances of delay were brought to the particular Notice of the Magistrate of the Zilla.

In the Report of sentences of the Foujdaree Adalut in the last quarter it is stated that the warrant for the imprisonment of Battoolah Gooraiah, who was sentenced to be imprisoned & kept to hard labour in irons for two years,- "cannot be executed as the prisoner is "on Bail on 19th November 1818, and has not yet been "produced by the Securities."-

The Court of Foujdaree Adalut direct, that the Acting Criminal Judge do immediately call upon the sureties for the payment of the amount of their bail bond, and in the event of their refusal or omission on the part of the sureties to comply with such requisition, that he do commit them to close custody until the amount shall be paid.

Entered

No 11

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Ordered, that extract of these proceedings be sent to the Acting Criminal Judge in the Zilla of Vizagapatam for his information and guidance.-

(Sent following letter C/+

Read letter, dated 1st instant, from the 3d Judge on Circuit in the Centre Division,- recommending that Gourapa, to whose information and exertions is to be attributed the apprehension of the prisoners in Case No 1 Cuddapa Calendar for September 1819, may be presented with the sum of 100 Pagodas, and suggesting that the Magistrate in the Zilla of Cuddapa should be authorized to offer a reward of about 50 Pagodas for the apprehension of Cadregadoo, who belonged to the same Gang with the aforesaid prisoners, and that application should be made to the Resident at Mysore to procure the publication of a proclamation to the above effect in the District in which Cadregadoo formerly resided.-

(Herewith No 227)

In consideration of the circumstances stated by the 3d Judge, with respect to the conduct and the sufferings of Gourapa, the Court of Foujdaree

16. April 1819.

Foujdaree Udalut resolve, under the authority vested in them by Section XXIII Regulation IX of 1816, to grant to him a gratuity of 350 Rupees.—

The Court of Foujdaree Udalut, agreeing in opinion with the 3d Judge on Circuit in the Centre Division, as to the importance of accomplishing the recapture of Cadregadoo, a member of the Gang by whom so many acts of atrocity have been committed, authorize and direct the Magistrate of Cuddapa to offer two hundred Arcot Rupees for his apprehension, payable on the delivery of his person to the Magistrate.

The Court further resolve to submit the foregoing letter for the consideration and orders of the Right Honorable the Governor in Council, with reference to the suggestion offered by the 3d Judge in the concluding paragraph.—

Ordered, that extract of these proceedings be sent to the 3d Judge on Circuit in the Centre Division by precept, enjoining him to communicate the same to the Magistrate in the Zilla of Cuddapa for his information and guidance.—

Sent 16th

(Sent following Precept D.)

Read

16. April 1819.

Read letter, dated 7th instant, from the 2d Judge on Circuit in the Western Division, with copy of Canara Calendar 1st Sessions A.D. 1819.

(Here enter 229)

The Court of Foujdaree Udalut observe, that in cases Nos. 5 & 10 of the foregoing Calendar it is stated, that the prisoners were committed on the ground of their confessions before the Potail.—

Clause Second Section V Regulation XI of 1816 declares, that Heads of villages shall "not receive from any persons whom they may "apprehend any confession, either verbally or in "writing, except in trivial cases."— The confessions therefore, in question possessed no validity whatever, and the Court direct that the error committed by the Criminal Judge in receiving them be brought to the notice of that Officer.—

The Court also direct, that the attention of the Potail, by whom these confessions were taken, be directed to the provisions of Clause Second Section V Regulation XI of 1816.—

Ordered, that Extract of these proceedings

proceedings be sent to the 2d. Judge on Circuit in the Western Division by precept, directing him to make the necessary communications to the Acting Criminal Judge, and the Magistrate in the Zilla of Canara.—

(Sent following Precept D.)+

Read letter, dated 2d. Ultimo, from the 2d. Judge on Circuit in the Western Division, submitting trial of 12 Canara Calendar 1st Sessions 1819.—

(Here enter No. 173)

The Court, having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool-Cozzat and Mooftees of the Fouzdaree Udalut, confirm the said futwa of the Cazee-ool-Cozzat and Mooftees aforesaid and, under the sentence of Kissaas declared in the futwa, order the prisoners,

1st "Poma,"
2d "Poolooa,"
3d "Lesoo," and
4th "Tamoia,"

time and place of execution.—

(Sent following letter No. 7.)+

Read letter, dated 6th Ultimo from the 2d. Judge of the Court of Circuit in the Northern Division, submitting copies of certain precepts issued by him to the Magistrate of Masulipatam and of that officer's returns thereto for the orders of the Fouzdaree Udalut

(Here enter No. 185)

The 2d. Judge and the Magistrate appear to be at issue on the three following points:— first as to the term, by which Head Police officers should express their official designation— secondly as to the legality of a Peshcar's exercising the powers of a Tahsuldar, on the death or removal of his immediate superior:— and lastly as to the reference of cases of petty theft by a Police officer to the Magistrate.—

With respect to the first of these points the Court of Fouzdaree Udalut are disposed to think the annexation of the title of Tahsuldar or Darogha, as the case may be, to the proper name, preferable to the use of the English time "Head

of

Court of Circuit in the Northern Division by precept directing him to communicate the same to the Magistrate of Masulipatam for his information and future guidance.—

(Sent following Precept &c.) +

Read Return, dated 6th instant, from the 1st Judge of the Court of Circuit in the Western Division, — to the precept dated 25th Ultimo, ordering communication to the Criminal Judge of North Malabar of the Court's observations on Case No 13 North Malabar Calendar 4th Quarterly Sessions AD 1818.—

(Here enter No 223)

Read letter, dated 8th instant, from the 3d Judge of Circuit in the Centre Division, — forwarding copy of a letter from the acting Criminal Judge in the Zilla of Bellary, in which that Officer corrects a statement, which appears in his remarks on Case No 12 Bellary Calendar 1st Sessions AD 1819, and encloses copy of a letter from the late Assistant Magistrate of Bellary on the subject.—

(Here enter No 232)

Read

"of Police" excepting for an Armun, who is not specifically pointed out by that title.—

The powers, vested in a Head being limited to the Native Collector of a District, the Court of Foujdaree Udalut are decidedly of opinion that a Peshcar cannot legally exercise those powers, unless he be appointed to act as Native Collector.—

With reference to the remarks of the Judge under discussion it appears to the Court that both the 2d Judge and the Magistrate have entirely overlooked the provisions of Regulation IX of 1816, as the sentiments of the Foujdaree Udalut on this question have been communicated to the Provincial Courts of Circuit in the Northern Division in their proceedings dated 6th Instant; it is sufficient on this occasion to refer the 2d Judge & the Magistrate of Masulipatam to the exposition of the law contained therein.—

Ordered, that extract of these proceedings be sent to the second Judge of the Court

16. April 1819.

Read Return dated 8th instant, from the Provincial Court of Circuit in the Northern Division, - to the precept dated 4th ultimo ordering communication to the Criminal Judge and the acting Magistrate in the Zilla of Rajahmundry of the Court's observations on Case No 3 Rajahmundry Calendar 2d Sessions A.D 1818, and to the Proceedings of the Provincial Court, of the Remarks of the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut. -

(Here enter No 233)

Read Return dated the 8th instant from the Provincial Court of Circuit in the Northern Division, - to the precept dated 8th ultimo, ordering communication to the Criminal Judge and the acting Magistrate in the Zilla of Rajahmundry of the Court's observations on Case No 11 Rajahmundry Calendar 2d Sessions A.D 1818. -

(Here enter No 234)

20

J. C.

At a Court of the Foujdaree Adalut.

Present,

Tuesday 20th April 1819

Andrew Scott Esqre.
Edward Croft Greenway Esqre.
J. H. D. Ogilvie Esqre.
} Judges.

Read letter, dated the 13th ultimo,

from the Magistrate in the Zillah of Masulipatam, forwarding copies of a letter, addressed to him by the 2d Judge of the Court of Circuit in the Northern Division, and of a letter which he had previously addressed to the 2d Judge, regarding the powers to be committed to the Superintendent of Police at Masulipatam;

(Here enter No 162.)

The Magistrate has fallen into an irregularity in transmitting the above letters directly to this Court, as all communications of this nature should be made through the Court of Circuit, It appearing however to the Court of Foujdaree Adalut that the subject may be disposed of without further reference, they

"several acts, which Heads of villages are
"authorized to perform under the provisions
"of the Regulations; and the law plainly gives
"an option to the Magistrate, with regard to
"a direct or indirect communication with such
"Aumeen of Police, in order that it may be
"regulated, as circumstances may seem to
"require."-

The option here pointed out, "with regard to direct or indirect communication," has obviously reference only to an "Aumeen of Police" invested with the Police powers, vested in Heads of villages.

With regard to such an Aumeen of Police it is true, that as a Head of a village he must forward persons apprehended to the Head of Police of the District, but it appeared and does still appear to the Court of Foujdaree Adalut, that upon every principle of just analogy a Police Aumeen vested with the powers of a Head of a village, and resident at the same station with the Magistrate, should forward persons apprehended to the Magistrate, as the local Head of Police.-

Viewing

Viewing the question in this light, and understanding from the representation of the Magistrate of Masulipatam, that He or his Assistant remained at all times at the Sudr Station, the Court of Foujdaree Adalut were of opinion, that an Aumeen vested with the powers of a Head of a village was competent to render the aid required in the Department of Police at Masulipatam, but with reference to the statement of the Magistrate in the foregoing letter, that both He and his Assistant are occasionally absent on Revenue duty, the Court are led to regard the appointment of an Aumeen, invested with the powers of a Tahsildar, to be necessary.-

The Magistrate having authority to make this appointment, the sanction of the Court of Foujdaree Adalut is not requisite, but it may be proper in dismissing this subject to repeat the remark, recorded by the Court in their proceedings of the 16th December

they do not consider it necessary to return the
letter to the Magistrate. In the second paragraph
of the foregoing letter, addressed to the 2nd Judge,
the Magistrate observes, that "the arguments of
the Joydaree Adalut appear to have been
"founded on the supposition, that whether the
"Aumeen be" vested with the powers of a "Tafsildar
"or whether he be" vested only with those "of a
"Head of a village," "it is still optional with the
"Magistrate to keep him," "immediately under
"his own orders," "or to put him" "under the Tafsildar
"of the District," "but this construction will be
"found to involve an impossibility in practice."

The Magistrate then proceeds
to shew, that an Aumeen, "who has all the powers
"vested in Tafsildars by Regulation XI of 1816,
must communicate directly with the Magistrate,
and conform in other respects to the rules
enacted for the guidance of Heads of Police
of Districts."

With reference to this part of
the Magistrate's letter the Court of Joydaree Adalut
have to remark, that they discover no trace
of

of the "supposition," described by the Magistrate,
in their proceedings under date 3d of February
last, to which the Magistrate refers, and have
no difficulty in admitting, that such a construc-
=tion does involve "an impossibility in practice."

The Magistrate in the above
extracts from the proceedings of the Court
has brought together passages, wholly unconnected
with each other, and would have been difficult
by such a process to arrive at any conclusion,
but that of absurdity.

The observation of the Joydaree
Adalut, to which the Magistrate would appear
to have partially adverted, runs as follows—
"Section XL Regulation XI of 1816 expressly declares,
"that whenever the appointment of an Aumeen
"of Police may be found to be necessary, such
"officer may be appointed by the Magistrate
"to act either immediately under his own orders
"or under the Tafsildar of the district. The Police
"Power mentioned in this Section must be held
"to refer, not to any particular mode or channel
"of communication, but generally to the
"several

December last, that an order to the Police
"Amuen to refer all cases to the Magistrate
"with the exception of certain specified cases
"of a trifling nature is incompatible with
"the permission to exercise the duties of a
"Tahsildar."-

Ordered, that extract of these
proceedings be sent to the Provincial Court
of Circuit in the Northern Division, and
that they be by precept directed to commu-
nicate the same to the Magistrate of
Masulipatam for his information and
guidance.-

sent 24th

(Sent following precept A.A
25

At a Court of the Foujdaree Adaulut.-
Present,

Monday.
26th April 1819. Andrew Scott Esqre.——
Edward Croft Greenway Esqre. } Judges.-
J. H. D Egilvie Esqre.——

Read letter, dated 13th Instant, from the acting Criminal Judge in the Zilla of Bellary, forwarding copy of correspondence with the late acting Magistrate, regarding the non-attendance of the prosecutor and witnesses in a case of highway robbery, committed in that Zilla, and suggesting that the prisoners should be remanded to the Magistrate for the purpose of their being brought to trial through the Criminal Court at Cuddapah;-as the prosecutor and witnesses are inhabitants of the latter Zilla.-

(Here enter No 247.)

It appears, that the prisoners in the case referred to by the acting Criminal Judge are also charged with the commission

of a Highway robbery in the Zilla of Cuddapah, the witnesses in which case are the persons, who are the evidences with regard to the crime perpetrated in the Zilla of Bellary.-

The Court of Sowjdarce Adalut having taken into consideration the peculiar circumstances, which have been brought to their notice in the foregoing letter, are of opinion that the prisoners in the case referred to should, in the event of there being sufficient evidence for their commitment be brought to trial before the Court of Circuit at Cuddapah, and they therefore authorize the acting Criminal Judge in the Zilla of Bellary to send the prisoners to the acting Magistrate for the purpose of their being forwarded to the Criminal Judge in the Zilla of Cuddapah.-

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Centre Division by precept directing them to communicate the same to

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to Criminal Judge and the Magistrate in the Zilla of Cuddapah, and to the acting Criminal Judge and the acting Magistrate in the Zilla of Bellary for their information and guidance respectively.-

(Sent following Precept &c.)

Read letter, dated the 8th instant, W.H. from the 1st Judge of the Court of Circuit in the Western Division, - with returned warrant for the execution of prisoners in Case No 13. North Malabar Calendar 4th Quarterly Sessions A.D. 1818.-

(Here enter No 235.)

Read return, dated the 10th instant, from the 1st Judge of the Court of Circuit in the Centre Division, - to precept dated 2d Instant ordering communication to the Magistrate of Chittoor of the Courts observations on Case No 6 Chittoor Calendar 1st Sessions A.D. 1819.-

(Here enter No 236.)

Read return, dated the 10th instant, from the 1st Judge on Circuit in the Northern Division

26th Oct. 1819
26th April 1819

Division — to precept dated 25th ultimo ordering communication to the Criminal Judge of Nellore of the Court's observations on Case No. 4 Nellore Calendar 1st Sessions A.D. 1819 —

(Here enter No. 242.)

Read letter, dated the 12th instant, from the Second Judge on Circuit in the Southern Division — reporting the arrival of the Court of Circuit at Madura —

M

(Here enter No. 238.)

E&S

1819

F. U

At a Court of the Foujdaree Udalut

Present

Tuesday 27th April 1819

Andrew Scott Esqre.
Edward Croft Greenway Esqre.
J. H. D. Eglisue Esqre.
} Judges

Read letter, dated 15th instant, from the

M 2d Judge of the Court of Circuit in the Centre Division, submitting copy of Chittoor Calendar 2d Quarterly Sessions A.D. 1819 —

(Here enter No. 244)

In cases Nos. 5 & 6 of the above Calendar it is stated, that the prisoner, who is charged in both cases with theft to a large amount, has been "acquitted in consequence of being under age," and ordered to be released previously to recording any observations in the above sentences, the Court of Foujdaree Udalut direct, that the 2d. Judge be called upon to furnish any explanation which he may have to offer, regarding the grounds of the judgments so passed by him —

E&S

1819

Ordered, that extract of these proceedings be sent to the 2d. Judge of the Court of Circuit in the Centre

27th April 1819.

Centre Division for his information and guidance.—

(Sent following letter A)

Read letter, dated 8th instant from the 3d Judge of Circuit in the Centre Division,— submitting copy of Chingleput Calendar for Sessions 2d 1819 and of certain precepts in reference thereto issued by him to the Criminal Judge.—

(Here enter No 241)

Read Return, dated 12th instant, from the 2d Judge on Circuit in the Western Division,— to the precept dated 29th Ultimo ordering communication to the Magistrate in the Zilla of Canara of the Court's observations on Case No 20 Canara Calendar for Sessions 2d 1819.—

(Here enter No 245)

Read letter, dated 17th instant, from the Second Judge on Circuit in the Southern Division,— With copy of Madura Calendar for Sessions 2d 1819.—

(Here enter No 258)

Read Return, dated 19th instant, from the 3d Judge of Circuit in the Centre Division, to the precept dated 29th Ultimo ordering communication to the Criminal Judge of Cuddapah of the Court's observation on Case No 13 Cuddapa Calendar for Sessions 2d 1819.

(Here enter No 259)

Read Return dated 19th instant, from the 3d Judge of Circuit in the Centre Division,— to the precept dated 16th instant ordering communication to the Magistrate of Cuddapa of the Court's orders respecting the offer of a Reward of 200 Rupees for the apprehension of Cadregadoo a Gang Robber.—

(Here enter No 260)

Read return dated 15th instant, from the Provincial Court of Circuit in the Centre Division,— to the precept dated 12th instant, ordering communication to the several Criminal Judges within their jurisdiction of the Court's orders relative to the attendance of witnesses to Talook confessions before the Courts of Circuit.—

(Here enter No 262)

Read Return, dated 15th instant, from the 1st Judge on Circuit in the Northern Division,— to the precept dated 2d Instant calling for Copies of the futwas delivered in Cases No 4 & 14 Rajahmundry

27th April 1819.

Rajahmundry Calendar 1st Sessions A.D. 1819.-

(Here enter No. 266)

Read letter, dated 19th instant, from the 2d Judge on Circuit in the Western Division,- with returned Warrant for execution of the prisoner in Case No. 2 Canara Calendar 1st Sessions A.D. 1819.-

(Here enter No. 267)

Read Return, dated 21st Ultimo, from the Provincial Court of Circuit in the Western Division to the precept dated 12 instant ordering communication to the several Provincial Judges of the Courts' orders regarding the attendance of Witnesses to Zillah Courts

(Here enter No. 271)

J. U

At a Court of the Fuujdaree Udalut

Present

Friday 30th April 1819.

Andrew Scott Esqre. ....
Edward Croft Greenway Esqre.
J. H. D. Cgilvie Esqre. ---
} Judges

Read letter, dated the 26th. March,

M

from the 3d. Judge on Circuit in the Centre Division, with Case No. 29 Cuddapa Calendar 1st. Sessions A.D. 1819.-

(Here enter No. 215)

EDS

The Court, having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool-Coozat and Mooftees of the Fuujdaree Udalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and under the provisions of Clause sixth Section II Regulation XV of 1803, direct that the prisoner,

WBD

"Goorovadoo,"

be released, on producing security for his future good behaviour and appearance when required.-

(Sent following letter A)

20th April 1810

27th [illegible]

30th April 1819.

The Record of the Proceedings held by the Court of Circuit in the foregoing case, is not accompanied by the proceedings of the Police officer, by which the prisoner would appear to have been forwarded to the Criminal Judge.—

Referring to the above circumstance the Court resolve to direct the attention of the Judge of the Court of Circuit in the Centre Division to the circular instructions of 25 July 1817, wherein it was stated that in the absence of the proceedings, either of the Magistrate or Police officer as the case might be, the Courts of Circuit and of Foujdaree Adalut must be very limited view of the merits of a case and it was therefore essentially important, in order to the effectual administration of Criminal Justice, that the proceedings of the Magistrate or of the Police officer should invariably form part of the Record of proceedings required to be returned to the Judge of the Court of Circuit, under Section XX Regulation X

The spirit of these instructions requires, that the proceedings either of the Magistrate or Police officer, should also form part of the Record

30th April 1819.

the proceedings in all cases, which may be referred for the final sentence of the Foujdaree Adalut.—

Although the Record does not contain the proceedings of the Police officer in this case, it appears in evidence before the Court of Circuit, that those proceedings were highly irregular.—

Imaum Saick, the 6th witness, states that "Shashadree Curnum of Chundrapulla "came and informed Ram Rao, the Jaysildar of "Sidhout, that some persons had beaten and killed "Bada Bahee the son of the Prosecutrix, when the "Jaysildar sent him (the witness) and two Police "Peons along with the curnum Shashadree, with "directions to investigate the said circumstance".—

The witness proceeds to state, that the party went accordingly to Chundrapulla and that "three days "previously to their arrival the Curnum Loorapah "of that village had caused the apprehension of the "prisoner, and kept him in confinement."—

Soorapah, the 9th witness, deposes that one morning having heard, that some persons had killed the deceased, he sent a person to bring the

prosecutrix

prosecutrix - that on her declaring that she suspected the prisoner and his brother in Law, he sent for them, and received declarations from them - and in answer to a question by the Court, this witness stated, that "he "did not see the spot, where the deceased was said to "have been, but that Abdul Nubee & Mussoorgan "went and saw".-

Upon receiving information of the murder it was the duty of the Tahseeldar, under Clause second Section XIII Regulation XI of 1816 to proceed in person, if possible, to enquire into the circumstances, under which the body might have been discovered, instead of sending Peons, who could not possess any authority whatever to enquire into the matter.-

The attendance of the Tahseeldar on the spot might have enabled him to obtain more satisfactory evidence on several important particulars preceding or attending the discovery of the body, and it will be incumbent on the Magistrate, therefore particularly to enjoin on this Police officer a strict observance of the provisions of the Clause above-mentioned

above-mentioned in cases of the nature therein contem-plated, wherein it must be considered to be general-ly necessary for the ends of justice, that the in-vestigation should be conducted under the personal superintendence of the District Police Officer.-

In the absence of the Tahseeldar it was the duty of the Head of the Village to con-duct the investigation, it does not however appear that Vengareddee, the Renter, who is stated by the Prosecutrix to have seen the body, proceeded to the spot where the body was discovered, as prescribed by Clause first Section XIII Regulation XI of 1816, it will therefore be proper that the attention of this officer should be particularly directed to the provisions of this section and referring to the statement above cited, as delivered in evidence by the 6th & 9th witnesses, that a declaration was received from the prisoner by the Curnum, and that the prisoner was detained for three days in confinement by his order, the Court of Foujdaree Adalut desire, that the Magistrate in

in the Zilla of Cuddapah will call the attention of the head of the village to clause second Section V Regulation XI of 1816, which expressly declares, that Heads of villages shall not receive from any person, whom they may apprehend, any confession either verbally or in writing, except in trivial Cases, and that they shall not on any account, except the accused person be in such a state as to render his removal improper, detain any person in their custody longer than twenty four hours.—

In conclusion the Court of Foujdaree Udalut direct, that the highly improper conduct of the Police peon Abdul Rubee, in permitting the prisoner, while in confinement under his charge, to change his cloaths, be pointed out to him, & that a suitable admonition be conveyed to him by the Magistrate.—

Ordered, that extract of these proceedings be sent to the 3d Judge of the Court of Circuit in the Centre Division by precept, directing him to make the necessary communications to the Criminal Judge & the Magistrate in the Zilla of Cuddapah.—

(Sent following Precept B)

Read

Read letter, dated 22d February, from the Third Judge of Circuit in the Centre Division submitting Case No 14 Cuddapa Calendar 1st Sessions AD 1819.—

(Here enter No 159)

In the concluding paragraph of the letter, which accompanies the Record of the foregoing trial, the 3d Judge states that he "entertains some "slight doubt whether the prisoner was, when he "killed his wife, and whether he is at present, in a "perfectly sane state of mind."—

Such being the opinion of the 3d Judge, it was obviously his duty to have made the investigation, enjoined in all such cases, by the circular orders of the Foujdaree Udalut under date 29th October 1807.—

There are no circumstances in evidence before the Court, which tend to raise a doubt of the sanity of the mind of the Prisoner, but with reference to the above remark of the 3d Judge the Court of Foujdaree Udalut consider it necessary, that the state of his mind at present, and at the time when the act was committed, should be ascertained.—

It will be the duty of the 3d Judge to

to issue a precept to the Criminal Judge in the Zilla of Cuddapah, requiring him to call before him any respectable persons, capable of deposing to the state of the mind of the prisoner Mullongandoo, previously to the commission of the offence, with which he is charged, and to examine them to this point in the presence of the prisoner, - and to call upon the Surgeon at the Zilla Station to examine the prisoner, and depose to the state of his mind at present. -

Ordered, that extract of these proceedings be sent to the 3d Judge of the Court of Circuit in the Centre Division by precept, directing him to make the necessary communication to the Criminal Judge in the Zilla of Cuddapah, and to transmit the further evidence required with as little delay as possible. -

Sent 5th May

(Sent following Precept C)

Read letter, dated 15th March, from the First Judge of the Court of Circuit in the Western Division, - submitting Case No 12 North Malabar Calendar 1st Quarterly Sessions of 1819

(Here enter No 194)

In

J. C.
30th April 1819

In the letter accompanying the Record of the foregoing trial the 1st Judge states, that "two of the Gang, Chaddalla Moideen Cootty, and Chimbel Addian had been offered a promise of pardon on their giving evidence against the prisoners. "The first of these persons was committed to take "his trial for Robbery, and as no remark respecting "the circumstance of his being an evidence in 2d. "XII appeared on the case in the Calendar, he was "tried, convicted and sentenced previous to the "trial of the present case; that under these circumstances he did not consider him competent "as a witness, and the Law Officer concurring in that "opinion, he was not examined." -

The 1st Judge has erred altogether in considering the conviction of Chaddalla Moideen Cootty, in a case of Robbery, to affect his competency as an Approver in the present trial for murder; and the Court of Foujdaree Adalut, being of opinion that his testimony is material to the issue, direct that the 3d Judge do call before him the said Chaddalla Moideen Cootty, and take his evidence

viz

30th April 1819

in the Case, No 12 of the North Malabar Calendar
= by Sessions AD 1819. in the presence of the prisoners to whom

It is obvious to remark, with reference
to the proceeding of the 1st Judge upon the present
occasion, that the omission to take the evidence of
Chaddalla Moideen Cootty, to whom the tender of
a conditional pardon, "as far as regards the guilt
"incurred by him in the murder of Bomaya and
"Cania Kencandy Pacroo," has been made, under the
provisions of Section XX Regulation VIII of 1802,
rendered him liable to be put on his trial for that
offence.-

Ordered, that extract of these pro
=ceedings be sent to the 1st Judge of the Court of
Circuit in the Western Division by precept requiring
him to receive and transmit to this Court the #
further evidence required without delay.-

(Sent following Precept D)

Read letter, dated 12th instant, from
the 1st Judge of the Court of Circuit in the #
Southern Division, - with copy of Trichinopoly
Calendar 2d Quarterly Sessions AD 1819.-

(Here enter No 237)

R he will allow full liberty of cross exa = = mination, and call upon them to state whatever they may have to offer in plug = = ming the testimony of the said Chaddalla Moideen Cootty.-

Sent 5th May

30th April 1819

The 1st Judge states in the foregoing
letter, that "there is no shelter under which the
"convicts can dress their Victuals, except the cells
"in which they are confined, and that every prisoner
"in the Jail cooks his own Meal consequently,
"as by return of prisoners in the Jail, there must
"be one hundred & eleven fires."-

It appears to the Court, that it
would be a feasible mode, of remedying the evil
here pointed out, to erect a Cook Room for each
cast of prisoners, and that the Criminal Judge
should select the best behaved convict of each
Cast, to be Cook.-

The Court of Foujdaree Adalut
direct therefore, that a precept be issued to the
1st Judge of the Court of Circuit in the Southern
Division directing him to obtain and submit to the
opinion of the Criminal Judge in the Zilla
Court ~~of the Province of Canara~~
of Trichinopoly as to the expediency of the arrange =
~~latter to put the arrangement here proposed, for~~
= ment here proposed.-
~~the Province of Canara by the Judge selected to be Cook~~
~~Cascade the Province of Canara.~~-

(Sent following Precept E)

Read

30th April 1819.

Read letter dated 15th Instant from the 3d Judge of the Court of Circuit in the Western Division, - transmitting copy of letter from the Criminal Judge North Malabar, recommending that certain inhabitants of Tellicherry should be remunerated for their exertions in recapturing 33 Convicts, who had escaped from their guard, to the extent specified in Section XXXIII Regulation IX of 1816 - stating that he has authorized the payment of such remuneration, & recommending a further grant of 50 Rupees to each of four Mookistars and the banishment of the convicts in question from Malabar. -

(Here enter N° 254)

The Court of Sujdaree Adalut having taken into consideration the highly meritorious services of the Mookistars, Chundan, Anandan, Ambon, & Komapen, as reported by the 3d Judge of the Court of Circuit in the Western Division, resolve under the authority vested in them by Section XXIII Regulation IX of 1816 to grant to each of the above named persons a gratuity of 50 Rupees -

Ordered

30th April 1819

Ordered, that extract of these proceedings be sent to the 3d Judge of the Court of Circuit in the Western Division by precept, desiring him to communicate the same to the Criminal Judge in the Zilla of North Malabar for his information and guidance.

Sent following Precept N° 20

J. M.

At a Court of the Zoujdarey Udalut.
Present,

Tuesday
4th May 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D Ogilvie Esqre
} Judges.

M

Read letter, dated 25th ultimo, from the Magistrate in the Zilla of Canara, recommending an offer of rewards for the apprehension of persons concerned in a late Burglary.

El

(Here enter No. 290.)

The Magistrate in the Zilla of Canara recommends, in consideration of the extent of the robbery, the acts of violence with which it was attended, and the strength of the Gang, by which it was committed, that four hundred Rupees be offered for the apprehension of the leader of the Gang, and fifty Rupees for that of each of the inferior offenders, concerned in the perpetration of the crime.—

W.D.

The Court of Zoujdarey Udalut having considered the grounds, on which a recommendation is made for an offer of rewards to

the

to the extent here specified, authorize and direct the Magistrate of Canara to offer four hundred Arcot Rupees for the apprehension of the leader, and fifty Rupees for the apprehension of each of the inferior offenders, payable on the delivery of their persons to the Magistrate of Canara, or to the Magistrate in whose jurisdiction they may be apprehended.-

Ordered, that extract of these proceedings be sent to the Magistrate in the Zilla of Canara for his information and guidance.-

Sent 5th

(Sent following letter A.)

M 16/10

E.C.S

M.D.D

At a Court of the Tanjore Adalut.

Present,

Wednesday 5th May. 1819.- Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.-
J.H.D. Ogilvie Esqre

Read letter dated 22d ultimo, from

E.C.S
M the Provincial Court of Circuit in the Northern Division, transmitting copies of the Futwas in cases No.4 and 14 Rajahmundry Calendar 1st Sessions A.D. 1819.

(Here entered No. 264.)

Read again letter, dated 16th March last from the 1st Judge on Circuit in the Northern Division, submitting copy of Rajahmundry Calendar 1st Sessions A.D. 1819.-

(Here entered No. 265.)

With regard to the sentences in cases No. 4 and 14, on Caly Cursor, Adapa Goorapa, Bunder Ramdos, Gundum Venkatadah and Serum Venkatasa,- the Court of Tanjore Adalut conclude, that they were passed on the

M.D.D

the ground of bad character, as given in evidence
before the Court of Circuit, it being obvious
to remark, that judgment can be regularly
pronounced only on a consideration of all the
circumstances of the case, as recorded in evidence
on the proceedings of the Court. With reference
however to the expression used by the Ist Judge,
as declarative of the grounds of the sentences,
"that the prisoners were of suspected character,"
the Court deem it proper to remark, that under
the provisions of Clause sixth Section II.
Regulation XV of 1793, it is competent to the
Judges of the Courts of Circuit to require
security only in cases, in which suspicion
of guilt may be declared in the futwah,
or proof may be adduced of the bad character
of the accused.

The Court observe three cases
on the above Calendar Nos 13, 14, and 15, in
which the Criminal Judge has blended
charges for acts, alleged to have been committed
at different times, and in one of which,

No

No 14, the crimes charged are totally distinct,
being robbery and false swearing.—

In these cases, each of the acts
charged should have formed the subject of
a separate trial, and the Court direct that
the Ist Judge do bring the cases in question
to the notice of the Criminal Judge in the Zilla of Rajahmundry, enjoining him to be particularly
careful, that in all cases, where the offender
or offenders may be charged with two or
more acts, alleged to have been committed
at different times, the charge for each
separate act do form a distinct number
in the Calendar.

Ordered, that extract of these
proceedings be sent to the Ist Judge on
Circuit in the Northern Division by
precept commanding him to make the
necessary communication to the Criminal
Judge in the Zilla of Rajahmundry
for his information and future guidance.

Sent following Precept &c

5th May 1819

Read letter, dated 26th ultimo from the 3d Judge of Circuit in the Centre Division, representing that the Magistrates of the Centre Division observe a practice in the punishment of persons for petty offences, which he considers to be incorrect.-

(Here enter No. 281.)

In the foregoing letter the 3d Judge states, that "all the Magistrates in the "Centre Division consider themselves authorized "to imprison persons convicted of Petty offences, "such as abusive language, Calumny in condition "able assault, and affrays, as long as one "month." in support of which practice they refer to clause first Section XXXIX Regulation IX of 1816.-

In the clause of the Regulation cited it is declared, that "whenever a fine "to the use of Government shall be imposed, "the Magistrate, who may pass the sentence, "shall at the same time, fix a definite "period

F. 11.

5th May 1819.

"period of imprisonment to be held as equivalent "to the fine," and the concluding part of the Clause prescribes, that "in cases, in which "the Magistrates shall impose fines, the "imprisonment to be fixed by them, as equivalent "to the fines, shall not exceed the periods "specified in Sections XXXII and XXXIII of "this Regulation".-

By Section XXXII Regulation IX. of 1816 the Magistrates are empowered to punish persons, convicted of any of the petty offences, enumerated in the above letter of the 3d Judge, by imprisonment "for a term "not exceeding fifteen days," and the authority conveyed to Magistrates by Section XXXIII of that Regulation to commit to prison for one month is explicitly restricted to cases of petty theft.-

The practice, therefore, reported by the 3d Judge is obviously illegal, and its general adoption by the Magistrates in the Centre Division ~~shows~~ betrays an inattention to

May 1

3 May 1819

Read letter, dated 28th ultimo from
the 3d Judge of Circuit in the Centre Division
representing that the Magistrates of the Centre
Division observe a practice in the punishment
of persons for petty offences, which he considers
to be incorrect.-

(Here enter No 281.)

In the foregoing letter the 3d
Judge states, that "all the Magistrates in the
"Centre Division consider themselves authorized
"to imprison persons convicted of petty offences
"such as abusive language, Calumny and
"=able assault, and affrays, as long as one
"month." in support of which practice
they refer to clause first Section XXXII
Regulation IX of 1816.-

In the clause of the Regulation
cited it is declared, that "whenever a fine
"to the use of Government shall be imposed
"the Magistrate, who may pass the sentence
"shall at the same time, fix a definite
"period

J. H.

5th May 1819.

"period of imprisonment to be held as equivalent
"to the fine;" and the concluding part of the
Clause prescribes, that "in cases, in which
"the Magistrates shall impose fines, the
"imprisonment to be fixed by them, as equivalent
"to the fines, shall not exceed the periods
"specified in Sections XXXII and XXXIII of
"this Regulation".-

By Section XXXII Regulation
IX. of 1816 the Magistrates are empowered to
punish persons convicted of any of the petty
offences, enumerated in the above letter of
the 3d Judge, by imprisonment "for a term
"not exceeding fifteen days;" and the authority
conveyed to Magistrates by Section XXXIII
of that Regulation to commit to prison
for one month is explicitly restricted to
cases of petty theft.-

The practice, therefore, reported
by the 3d Judge is obviously illegal, and
its general adoption by the Magistrates
in the Centre Division [illegible] an infraction
to

to the provisions of the Regulations which
for their guidance, which the Court cannot
but contemplate with surprize and regret

Ordered, that extract of these
proceedings be sent to the Provincial Court
of Circuit in the Centre Division by precept
enjoining them to communicate the same
to the several Zilla Magistrates within
their jurisdiction

6th inst.

(Sent following Precepts)

Read letter, dated the 18th ultimo, from
the 1st Judge on Circuit in the Northern Division
with copy of Vizagapatam Calendar 1st Sessions
A.D. 1819.—

(Here enter No 270.)

Read return, dated the 28th ultimo,
from the 2d Judge of the Court of Circuit in the
Northern Division,— to precept dated 6th instant
ordering communication to the Magistrate
of Guntoor of the Court's observations on the
Magistrate's further return to the precept

of the 2d Judge dated 6th ultimo.—

(Here enter No 272.)

Read letter, dated the 24th ultimo
from the 2d Judge on Circuit in the Western
Division,— reporting his arrival at Calicut.—

(Here enter No 283.)

Read return, dated the 26th ultimo,
from the Provincial Court of Circuit in the
Southern Division,— to precept dated 12th
ultimo ordering communication to the Criminal
Judges of the Court's instructions respecting
Talook confessions.—

(Here enter No 284.)

Read return, dated the 26th ultimo,
from the 1st Judge of Circuit in the Southern
Division,— to precept requiring transmission
to the Criminal Judge of Verdachellum and
the Magistrate in the Southern Division
of a Copy of extract of the Court's proceedings
of the 8th April, related to trial No 2 on
the Verdachellum Calendar for the 2d Sessions
of 1818.—

(Here enter No 287.)

5th May 1819.

Read return, dated the 17th ult.
from the Provincial Court of Circuit in the
Southern Division, - to precept requiring
transmission to the General Judges on the
of the Court's instructions, dated the 15th
relative to the admission of the evidence
certain persons -

EC
AA

(Here enter No. 285.)

W. H.

6th Ins

No 286

J. C.

At a Court of the Foujdaree Adalut.

Present,

Friday
7th May 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D Egilvie Esqre
} Judges.

H

Read letter, dated 26th ultimo, from
the Criminal Judge in the Zilla of Masulipatam
submitting copies of certain orders issued to
him by the Acting 3d Judge of Circuit,
EC presiding at the Court of Quarterly Sessions,
referring for his decision four cases, in
which he had committed the prisoners for
trial before the Court of Quarterly Sessions -

(Here enter No. 292.)

The mode of reference, adopted
by the Criminal Judge of Masulipatam,
being irregular, the Court of Foujdaree Adalut
would have directed his letter to be returned
WWD to him, for the purpose of it's being submitted
through the proper channel of the Court

JC

arisen from the supposition, that it could not be necessary to provide against as manifest a violation of the first principles of justice, as would attend a different mode of proceeding.—

The Court of Foujdaree Adawlut are at the same time of opinion, that a strict adherence to the letter of the provisions of Section ~~XXIV~~ Regulation IX V of Section IX Regulation ~~IX~~ must be observed by Judicial Officers in the investigation of all cases not punishable by them, to the exclusion of all evidence on behalf of the person accused, the admission of which would in the opinion of the Court be highly objectionable, as anticipating his defence before the higher tribunals.—

Ordered, that extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right

Right Honorable the Governor in Council—

Sent following letter D/ 19.

ES
M
W.M.

1220

of Quarterly Sessions, it appearing however to be material to the ends of Justice, that the prisoners in the several Cases reported by the Criminal Judge should take their trial before the Court of Quarterly Sessions, the Court of Foujdaree Adaulut direct, that if the Criminal Judge shall not have tried and sentenced the prisoners in Cases Nos. 1, 3, 9 and 10 of the Masulipatam, Calendar 2d Quarterly Sessions of 1819, under the instructions of that Court, before the receipt of these orders, the acting 3d Judge of Circuit do revise the orders issued by him to the Criminal Judge on these several cases, and proceed to the trials of the parties without delay.-

It would appear, that the inconsiderable value of the property stolen formed the ground, on which the Judge presiding at the Court of Quarterly Sessions determined to refer the cases here mentioned for the decision of the Criminal Judge; but where a charge is preferred for a Burglarious entry, it is on the

the proof of this fact, and not on the amount value or description of the property plundered, that the punishment must depend; and with reference to the cases Nos. 1 and 3 of the Calendar it is proper to observe generally, that it is the nature of the offence charged, which must determine, whether it shall be tried by the Criminal Judges or by the Courts of Circuit:- and that even when the offence charged be not in itself of a heinous description, yet if it shall appear on the face of the proceedings to have been committed by persons of notorious bad character, or to have been attended with any circumstances of peculiar aggravation, it must be considered to require a penalty greater than that specified in Section VII Regulation X of 1816.-

In the precept of the acting 3d Judge, returning the cases Nos. 9 and 10 of the Calendar, wherein the same prisoner was committed for trial, charged with having committed Burglary on the nights of the 4th and the 8th of January 1819, the attention

of

7th May 1819

of the Court of Foujdaree Adalut has been excited by an expression, which, if they comprehend the meaning intended to be conveyed by it, involves a serious misconception of the proper mode of proceeding in Criminal Trials.

The Acting 3d Judge assigns as a reason for returning these cases, "the confusion occasioned by bringing two unimportant cases forward, in which the same prisoner is charged with nearly the same offences, stated to have been committed within a few days of each other."

With reference to this passage in the precept of the 3d Judge, the Court of Foujdaree Adalut deem it necessary to observe, that whenever a prisoner may be charged with two or more offences, it is essential, in order to a due investigation, regarding the commission of each offence so alleged against him, that the cases should be kept entirely distinct, and brought forward in separate numbers of the Calendar.

In

F. M.

7th May 1819.

the concluding paragraph of the foregoing letter the Criminal Judge stated, that he made a reference to the Mohammudan Law Officer of the Zilla Court, regarding the punishment to which the prisoners would have been subject on conviction of the offences with which they were respectively charged.

The Court of Foujdaree Adalut are aware, that this proceeding is sanctioned by their orders of the 4th June 1814, but subsequent experience of the operation of these instructions having led them to question the propriety of the practice, they direct, that in all cases when it may appear to the Criminal Judge, that a person brought before him has committed a criminal offence, which has not been specially provided for by any Regulation, and for which the degree of punishment prescribed in Section VII Regulation X of 1816 shall not appear to be sufficient, he do, without any reference to the Mohammudan Law Officer, commit the accused, or hold him

of the Court of Sonjdarce Adalut has been
excited by an expression, which, if they
comprehend the meaning intended to be conveyed
by it, involves a serious misconception of the
proper mode of proceeding in Criminal cases.

The Acting 3d Judge alleges as a
reason for returning these cases, "the proceedings
"occasioned by bringing two unimportant cases
"forward, in which the same prisoner is charged
"with nearly the same offences, stated to have
"been committed within a few days of each
"other."

With reference to this passage
in the precept of the 3d Judge, the Court of
Sonjdarce Adalut deem it necessary to observe
that whenever a prisoner may be charged
with two or more offences, it is essential,
in order to a due investigation, regarding
the commission of each offence so alleged
against him, that the cases should be kept
entirely distinct, and brought forward in
separate numbers of the Calendar.

In

No. 11.

7th May 1819.

No. the 7th Instt.

concluding paragraph of the foregoing letter
the Criminal Judge states, that he made
reference to the Mohummudan Law Officer
of the Zilla Court, regarding the punishment
to which the prisoners would have been
subject on conviction of the offences with
which they were respectively charged.

The Court of Sonjdarce Adalut
are aware, that this proceeding is sanctioned
by their orders of the 17th June 1814, but subse-
quent experience of the operation of these
instructions having led them to question the
propriety of the practice, they direct, that in
all cases when it may appear to the Criminal
Judge, that a person brought before him has
committed a criminal offence, which has
not been specially provided for by any
Regulation, and for which the degree of
punishment prescribed in section VII Regulation
X of 1816 shall not appear to be sufficient,
he do, without any reference to the Mohummudan
Law Officer, commit the accused, or hold
him

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7th May 1819. him to bail to take his trial before the Court of Circuit-

Ordered, that extract of these proceedings be sent to the acting 3d Judge presiding at the second Court of Quarterly Sessions at Masulipatam for 1819 by precept, directing him to communicate the same to the Criminal Judge in the Zilla of Masulipatam for his information & future guidance- (Sent following Precept &)

Sent to. W. H.

Read return, dated the 17th ultimo, from the Provincial Court of Circuit in the Western Division,- to precept dated 15th ultimo ordering communication to the Judge on Circuit of the orders of the Court regarding the evidence of infants and other persons whose testimony is considered inadmissible under the Mohummudan Law.-

(Here enter No. 291.)

Read return, dated the 28th ultimo, from the 2d Judge of the Court of Circuit in the Northern Division,- to precept dated 6th ultimo

7th May 1819.

ultimo ordering communication to the Magistrate of Masulipatam of the sentiments of the Court on certain points whereon the 2d Judge and the Magistrate were at issue-

(Here enter No. 293.)

Read return, dated the 28th ultimo, from the 2d Judge on Circuit in the Western Division,- to precept dated 6th ultimo ordering communication to the Criminal Judge and the Magistrate of Canara of the Court's observations on cases Nos. 5 and 6 Canara Calendar for 4th Session A.D. 1819.-

M (Here enter No. 298.)

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Sent 5

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A 11

At a Court of the Fouzdaree Udalut

Present

Thursday 13th May 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D'Egilvie Esqre
} Judges.

M

Read letter, dated the 22 Febry from the Third Judge of Circuit in the Centre Division submitting Case N° 30 Cuddapa Calendar 1st Sessions AD 1819.—

(Here enter N° 160)

EG

The Court, having maturely weighed the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool Coozat and Mooftees of the Fouzdaree Udalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, and under the discretion allowed by the sentence of Hookoom, direct that the prisoner,

"Sungeeneegadoo,"

be released, on producing security for his future good behaviour and appearance when required.—

(Sent following letter A)

In

In the letter, accompanying the record of proceedings in this case, in which the prisoner Sungeeveegadoo was charged with "having strangled "and murdered Jimmee, the mother of the prosecutor "and robbed from her body money to the amount "of Rupees 64,"— The Third Judge of Circuit observed that "the prosecutor has stated, that some shepherd boys informed the Jasildar, that a corpse "had been found lying under a Tamarind tree, and a "witness who lives in the village, where the deceased "resided has stated, that an inhabitant of Connd "informed him, that the corpse of an old woman "was lying in the bed of the river, but it does not "appear that the Jasildar proceeded himself, "or sent any Police officers to examine the body, "or to ascertain the truth of the information, and "no person who saw the body has deposed to the "fact of its discovering, though that the Mother "of the prosecutor is dead, and died a violent death "no doubt can be entertained."

The Court of Foujdaree Adaulut,

upon the most mature consideration of the evidence in this case, are unable to discover adequate grounds for the conclusion, at which the 3d Judge has arrived — Although not absolutely indispensable, it is of paramount importance, in trials for murder, that the fact of the violent death of the person deceased should be established upon the most unequivocal testimony, in the absence of which nothing but the very strongest collateral evidence, involving a train of circumstances, not otherwise to be accounted for, can be admitted as proof of the guilt of the accused, and even in this case it must be clearly shown on the trial, that direct evidence was not to be procured.

The Record of the case now under consideration does not contain a tittle of evidence to the fact, that Jimmee the Mother of the prosecutor "died a violent death," and from the statements of the prosecutor, Gooroova Dasaree, and of the 7th witness, Narrania, before the Court of Circuit it is to be gathered, that a body was found

found, supposed to be that of the said Tummee, and that owing to the apparent indifference of the prosecutor, & the negligence of the police, no means were taken to identify it.-

In the precept issued by the 3d Judge to the Criminal Judge of Cuddapa it is directed, that the omission of the Tafsildar of Cailcoontlah to "proceed himself, or to send some Police officer "examine the body, or to ascertain at least whether the "information was true that a body had been found should be pointed out to him.-

The Court of Foujdaree Adawlut have to observe upon the above communications to the Police Officer, that under the provisions of Section XIII Regulation XI of 1816, whenever the Police officer of the District may not be able to attend to conduct the enquiry therein prescribed, it is the Head of the village, where the body may have been discovered, who is commanded to enter upon the investigation, in conjunction with the canungo of such village, & consequently that no other officer of police possess any authority to conduct the enquiry.-

With reference to the enactment here cited it will be the duty of the 3d Judge to revise the instructions issued by him to the Criminal Judge, and to direct that the attention of Appoorow the Tafsildar in the District of Cailcoontlah, be particularly called to the provisions of Section XIII Regulation XI of 1816.-

Ordered, that extract of these proceedings be sent to the 3d Judge of Circuit in the Centre Division by precept, enjoining him to make the necessary communication to the Criminal Judge, and the Magistrate of the Zilla of Cuddapah.-

(Sent following Precept B)

Read letter, dated the 24th February, from the 3d Judge of Circuit in the Centre Division,- submitting Case No 25 Cuddapa Calendar for Sessions AD 1819.-

(Here enter No 163)

The Court, having maturely considered the proceedings held before the Judge on Circuit the futwa of the Pro=
=vincial

Provincial Law Officer, and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, and acquitting the prisoner,

"Iyaloogandoo,"

direct that he be set at liberty.-

(Sent following letter C)

It appears in evidence before the Court of Circuit, that Nursapah, the Renter of the Village of Avookin the District of Caleoontlah, received a declaration from the prisoner.-

The Court of Foujdaree Udalut desire therefore, that the Magistrate in the Zilla of Cuddapah will call the attention of the said Nursapah to Clause Second Section V Regulation XI of 1816, which expressly declares that Heads of Villages shall not receive from any person, whom they may apprehend, any confession either verbally or in writing, except in trivial cases.-

Ordered, that extract of these proceedings be sent to the 3d Judge of the Court of Circuit in the Centre Division by precept, directing him to communicate the same to the Magistrate in the Zilla of

Cuddapa for his information & guidance.-

(Sent following Precept D)

Read letter, dated the 8th Ultimo, from the 2d Judge on Circuit in the Centre Division,- submitting Case No 7 Chittoor Calendar 2d Quarterly Sessions AD 1819.-

(Here enter No 243)

The Court, having maturely weighed the proceedings held before the Judge of the Court of Circuit, the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, but not seeing sufficient grounds for the supposition of the prisoner's insanity, direct that he,

"Govindum,"

do suffer death by being hanged at the usual time and place of execution.-

(Sent following letter E)

Read letter, dated 24th Ultimo, from the 3d Judge of Circuit in the Centre Division,- submitting Case No 26 Bellary Calendar 1st Sessions AD 1819.-

(Here enter No 276)

The

13th May 1819.

The Court, having maturely weighed the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Mooftees of the Fouzdaree Udalut, confirm the said futwa of the Mooftees aforesaid and under the provisions of Clause sixth Section II Regulation XV of 1803 direct, that the prisoner,

"Venkateegadoo",

be released on producing security for his future good behaviour and appearance when required.—

(Sent following letter F)

17th inst.

The 3d witness, Curnum Gavasapah, stated before the Criminal Judge, and before the Court of Circuit, that he was not present when the Tahsuldar of Adoni examined the prisoner, but that the prisoner's declaration was read over to him "in the presence of "the prisoner, who acknowledged it to be the same he had "given," and he then signed it as a witness.—

The Court direct, that this irregularity be brought to the notice of the Tahsuldar of Adoni by the acting Magistrate of Bellaree, and that the attention of that Police officer be particularly directed to the words of Clause third, Section XXVII Regulation XI of 1816, which declare that in all cases of confession the

13th May 1819

the District Police officer shall "cause the same "to be reduced to writing, and signed or marked by "the prisoner in the presence of two or more respectable "persons not being servants of the Government.—

Ordered, that extract of these proceedings be sent to the Third Judge of the Court of Circuit in the Centre Division by precept, directing him to communicate the same to the Acting Magistrate in the Zilla of Bellary for his information & guidance.

17th inst.

(Sent following letter G) 20

W.H.C.

Read letter, dated 12th instant, from the 2d Judge on Circuit in the Southern Division, Reporting the arrival of the Court of Circuit at Tinnevelly.—

(Here enter No 303)

Read letter, dated 4th instant, from the 1st Judge of the Court of Circuit in the Southern Division,— with returned Warrant for the execution of the prisoner in Case No 2 Virdachellum Calendar 2d Sessions AD 1819.—

(Here enter No 304)

Read Return, dated the 30th Ultimo, from

13th May 1819.

from the 1st Judge on Circuit in the Northern Division, - to the precept dated 15th March last ordering communication to the Criminal Judge and the acting Magistrate of Rajahmundry of the Court's observations on Case No 16 Rajahmundry Calendar 1st Sessions A.D. 1819.-

(Hereunto No 306)

J. H.

At a Court of the Sudder Adalut.

Present,

Wednesday.-
19th May 1819. } Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Cgilvie Esqre } Judges.

Read letter, dated the 23d ultimo, from the 3d Judge of the Court of Circuit in the Centre Division, - submitting case No 17 Bellary Calendar 1st Sessions A.D. 1819.-

(Hereunto No 304)

The Court having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer, and the futwa of the Mooftees of the Sudder Adalut, confirm the said futwas of the Mooftees aforesaid, and under the sentence of Kissas declared in the Futwa, adjudge the prisoner

"Gauleemuskeegadoo"

to suffer death by being hanged at the usual time and place of execution.-

The

19th May 1819.

The 3d Judge late on Circuit in the Centre Division, in the letter accompanying the record of the foregoing trial, after remarking upon the circumstances of the prisoner's great age and diseased condition, the long interval which has elapsed since the commission of the murder, and the lawless habits of society at the period of its perpetration, observes that "to subject him to capital punishment would "tend to give an impression of unnecessary rigor "in the execution of the law, and to keep him longer "in prison could be attended with no advantage "as an example", and he therefore recommends, "that he may be pardoned and released".-

The Court of Foujdaree Adawlut, having deliberately weighed the circumstances of this case are of opinion, that the prisoner Gauleemah Cheegadoo is "a proper object for mercy".-

The Court are not led to recommend a remission of the prisoner's sentence by the consideration, that "to suffer him to live is "probably as great a punishment, as can be inflicted

XI of 1816, wherein

19th May 1819

"inflicted on him," but concurring in opinion with the 3d Judge, that the execution of the sentence of the law would in this case be unattended with the beneficial effect of example, a primary object in all punishment, and adverting to the near approximation to anarchy, exhibited by the state of the Ceded Districts, at the period when this murder was committed, the Court resolve under the provisions of Section XIV Regulation VIII of 1802 to suspend the execution of their sentence, and to submit the case to the Right Honorable the Governor in Council, with a recommendation that he may be pleased to grant a free pardon to the prisoner Gauleemah Cheegadoo.-

In the concluding paragraph of his letter the 3d Judge recommends, that the sons of the prisoner, whom he considers to be implicated in the murder of the prosecutor's father, "may not be molested on account "of the present crime, of which their father "has been convicted, in case they should

return

"return to, or be discovered in the Company's
"territories."—

Upon this suggestion of the 3d
Judge the Court of Foujdaree Adalut deem it
sufficient to observe, that they cannot
anticipate any charges, which may be preferred
against these persons.—

Ordered, that extracts of these
proceedings, with the Record of the trials in
Case No 17 of the Bellaree Calendar be
transmitted to the Secretary to the Government
in the Judicial Department for the purpose
of being laid before the Right Honorable
the Governor in Council—

(Sent following letter &c)

Read letter dated 4th Instant, from
the 2d Judge on Circuit in the Western Division,
requesting the opinion of the Foujdaree Adalut as
to "whether in cases where the guilt of the prisoner
"depends chiefly on the evidence of approvers, who
"have obtained a conditional pardon from
"Government under the provisions of Section XX
Regulation

J. C.

19th May 1819.

"Regulation VIII of 1802, the Judge presiding
"at the Court of Circuit, before which the Trial
"may take place, can call on the Law Officer
"in the event of his Futwa declaring the
"Evidence insufficient agreeably to the
"Mahomedan Law, to deliver a second Futwa
"stating what would have been the Futwa
"had the evidence been deposed by competent
"witnesses,— and to pass sentence thereupon,—
"or whether it be necessary under the Judge's
"opinion of the prisoner's guilt that the trial
"should be referred to the Foujdaree Adalut."—

(Here enter No 309.)

The subsisting Regulations
do not authorize the Courts to over-rule any
objection to the competency of a witness,
except such as are grounded on his religious
persuasion,— and it appears to the Court of
Foujdaree Adalut to be clearly deducible
from the words of Section XX Regulation XII
of 1802, that the evidence of approvers is
to be regarded merely as auxiliary, and to
be in no case sufficient of itself for conviction.

By

19th May 1819.

19th May 1819.

By the Mohummudan law the evidence of approvers is rejected altogether, but it is competent to the Court of Foujdaree Adalut to allow to this evidence the weight to which it may appear to them to be entitled, under the general discretion vested in them by Clause II Regulation I of 1818.

Under the foregoing exposition of the law it will be necessary, that all cases, under the circumstances described by the 2d Judge in the concluding part of his letter, should be referred to the Foujdaree Adalut.

Ordered, that extract of these proceedings be sent to the Second Judge on Circuit in the Western Division for his information.

(Sent following letter C.)

Read return, dated the 8th instant, from the 3d Judge of the Court of Circuit in the Centre Division, to precept dated 30th ultimo ordering communication to the Criminal Judge and the Magistrate of Cuddapa of the Court's observations

19th May 1819.

observations on Case 26. Cuddapa Calendar for Sessions A.D. 1819. The 3d Judge observes on his return upon the impossibility of attention to Police duties on the part of heads of villages.

(Here enter No. 315.)

Read letter, dated 28th ultimo, and received on the 12th instant, from the Secretary to Government in the Judicial Department, remarking upon the construction given by the 3d Judge of the Court of Circuit in the Western Division, to the provisions of Clause first Section XXIV Regulation IX of 1816, and desiring that the Foujdaree Adalut will state distinctly their opinion concerning the right construction of the provisions of the above Clause, and of Section IX Regulation X of 1816.

(Here enter No. 312.)

The passage in the precept of the 3d Judge of the Court of Circuit in the Western Division, referred in the above letter, runs as follows:- "as to the exculpatory evidence taken

No 3

"taken before the Assistant Magistrate, it is
"exceedingly questionable, and at all events of
"no validity because contrary to the provisions
"of Clause first Section XXIV Regulation IX
"of 1816, which restricts the Magistrate to the
"examination of witnesses in behalf of the
"prosecutor, or in the words of the Regulation,
"to examine the prisoner, and also such other
"persons as are stated to have any knowledge
"of the Crime, or misdemeanor alleged against
"the prisoner."

The Court of Foujdaree Adalut
in their proceedings under date 20th of January
last, which were submitted to Government
with the letter of the 3d Judge, observed
that "the remarks of the 3d Judge on the
"provisions of Clause first Section XXIV
"Regulation IX of 1816 are to be received with
"some limitation, inasmuch as the restriction
"therein imposed applies only to cases, in
"which prisoners may be forwarded
"to a Criminal Judge, and not to those cases
in

File
19th May 1819.

"in which it is competent to a Magistrate
"to pass sentence under the provisions of the
"Regulations. In all cases of the latter
"description it is the duty of a Magistrate
"to observe the course pointed out in
"Clause Second Section XVIII Regulation
"VII of 1802."

The Court of Foujdaree Adalut
are of opinion, that the Spirit of the
foregoing remark is to be maintained in
the construction of Section IX Regulation X
of 1816. It being contrary to the fundamental
principle of law, which has in view the protection of persons, that any man should be condemned unheard. —

That it is the bounden duty of the
as the case may be
Criminal Judge or Magistrate, in the investi-
=gation of the offences specified in Section
VII Regulation X of 1816, and in Sections
XXXII and XXXIII Regulation IX of 1816, to
take evidence on behalf of the person
accused and to afford to him every facility
of defence, could never admit of a doubt,
and although no express provision to
that effect is contained in the subsisting
Regulations, the omission may have
arisen

"taken before the Assistant Magistrate, it is
"exceedingly questionable, and at all events of
"no validity because contrary to the provisions
"of Clause first Section XXIV Regulation IX
"of 1816, which restricts the Magistrate to the
"examination of witnesses in behalf of the
"prosecutor, or in the words of the Regulation,
"to examine the prisoner, and also such other
"persons as are stated to have any knowledge
"of the Crime, or misdemeanor alleged against
"the prisoner."

The Court of Foujdaree Adalut
in their proceedings under date 28th of January
last, which were submitted to Government
with the letter of the 3d Judge, observed
that "the remarks of the 3d Judge on the
"provisions of Clause first Section XXIV
"Regulation IX of 1816 are to be received with
"some limitation, inasmuch as the restriction
"therein imposed applies only to cases, in
"which prisoners may be forwarded
"to a Criminal Judge, and not to those cases

in

"in which it is competent to a Magistrate
"to pass sentence under the provisions of the
"Regulations. In all cases of the latter
"description it is the duty of a Magistrate
"to observe the course pointed out in
"Clause second Section XVIII Regulation
"VII of 1802."

The Court of Foujdaree Adalut
"are of opinion, that the Spirit of the
foregoing remarks is to be maintained in
the construction of Section IX Regulation X
of 1816. As being contrary to the fundamental
principle of law, which
has in view the
protection of persons,
that any man
should be condemned
unheard. —

That it is the bounden duty of the
as the case may be
Criminal Judge or Magistrate, in the investi-
=gation of the offences specified in Section
VII Regulation X of 1816, and in Sections
XXXII and XXXIII Regulation IX of 1816, to
take evidence on behalf of the person
accused and to afford to him every facility
of defence, could never admit of a doubt,
and although no express provision to
that effect is contained in the subsisting
Regulations, the omission may have

arisen

arisen from the supposition, that it could not be necessary to provide against as manifest a violation of the first principles of justice, as would attend a different mode of proceeding.—

The Court of Foujdaree Adawlut are at the same time of opinion, that a strict adherence to the letter of the provisions of Section ~~XXIV~~ Regulation IX V of Section IX Regulation ~~IX~~ must be observed by Judicial Officers in the investigation of all cases not punishable by them, to the exclusion of all evidence on behalf of the person accused, the admission of which would in the opinion of the Court be highly objectionable, as anticipating his defence before the higher tribunals.—

Ordered, that extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right

Right Honorable the Governor in Council—

Sent following letter D/ 19.

ES
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W.M.

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J. U.

At a Court of the Jaydaree Udalut

present

Andrew Scott Esq^re.
Edward Croft Greenway Esq^re. } Judges.
J. H. D. Agilvie Esq^re.

Saturday
20th Feby 1819

Read letter dated 4th instant, from

M the 3d Judge late on Circuit in the Centre Division, - sub-
-mitting Case No. 20 of 4 Cuddapa Calendar for
Sessions A.D. 1819. -

(Here enter No 296)

The Court having maturely considered
the proceedings held before the Judge on Circuit the
futwa of the Provincial Law Officer and the futwa
of the Mooftees of the Jaydaree Udalut, confirm the
said futwa of the Mooftees aforesaid and acquitting
the prisoner

"Lutchmeegandoo"

direct that he be set at liberty. -

Sent 22d (Sent following letter.)

Viewing the whole of the declarations
made by the Prisoner in this Case before the Tahsildar
and.

and the Criminal Judge and construing them, as the Court are bound to do, in the manner most favorable to the accused, they cannot be considered as establishing criminality against him. His conduct however according to his own statement, as well of the mode in which the Bullock came into his possession, as of his subsequent attempt to question the right of the owner to his property, is deserving of reprehension, and the Court of Fouzdaree Udalut desire therefore, that in communicating their final sentence the Criminal Judge will point out to the prisoner the impropriety of his conduct, and will dismiss him with suitable admonition.—

The law Officers of the Fouzdaree Udalut notice in their Futwa the inconsistency between the declaration of the prisoner before the Tahsuldar, and the description given of that declaration before the Court of Circuit by the witnesses, who attested it.—

The Court of Fouzdaree Udalut observe, that the 1st & 2d witnesses in answer to the question from the Court of Circuit, whether "they knew any thing regarding the charge preferred "against the prisoner," stated both in the same words

words, that they were present during the examination of the prisoner by the Tahsuldar, and that "he gave a declaration regarding his having "stolen a bullock."—

The Court are of opinion, that these witnesses should have been examined more particularly regarding the subject matter of the declaration in question, and adverting to the practice of the 3d Judge to direct the declarations of prisoners to be shewn to the attesting witnesses for the purpose of their pointing out their signatures thereon, the Court direct that the 3d Judge do in future, after hearing the viva voce evidence of each witness, who appears before the Court of Circuit to prove the authenticity of a prisoners former declaration,— cause the same to be read aloud in Court in presence of the witness.—

Ordered, that extract of these proceedings be sent to the Third Judge late on Circuit in the Centre Division & by precept directing him to make the necessary communication to the Criminal Judge in the Zylla of Cuttack.—

(Sent following Rcpt B)

Read again letter dated 1st instant, from

22d May 1819.

from the 3d Judge late on Circuit in the Centre Division, submitting Case № 21 Addapa Calendar 1st Sessions 1819.-

(Here enter № 296).

The Court, having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Mooftees of the Sovdaree Adalut, confirm the said futwa of the Mooftees aforesaid and acquitting the prisoner,

"Lutchmeegaudoo"

direct that he be set at liberty.-

(Sent following letter C)

dated 26th

The Court of Sovdaree Adalut are unable to understand the grounds, upon which the 3d Judge has been led to the conclusion, that the guilt of the prisoner in this case "is demonstrated "beyond the possibility of doubt."-

The prisoner was put on his trial, charged with having stolen "a bullock of the value "of 30 Rupees from the place, where the servant of "Rachuppa a foreign Merchant had halted."-

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22d May 1819.

The only evidence in this case before the Court of Circuit is that of two witnesses to a declaration, given by the prisoner before the Amildar of the Carnalapoor Talook, and which these witnesses ascribe to have been "a declaration which he gave "regarding having stolen a bullock."-

On reference to the declaration in question it appears, that it was given on an examination respecting the theft of a bullock belonging to one Hyder Khan, which has not the slightest connection with the charge in this Case, and which would indeed seem to have been introduced into the Record by mistake.-

In a marginal note on the proceedings of the Court of Circuit it is observed, that "this declaration relates particularly to the Bullock "of Hyder Khan," and that "the Criminal Judge "laid before the Court of Circuit two copies of this "declaration, one copy in Case № 20 and one copy "in this case."-

It will be proper for the 3d Judge to point out to the Criminal Judge of Addapa the irrelevancy of this document to the charge against

against the prisoner, and he will doubtless see ~~the Court of Appeal~~ that in the absence of all other evidence of the guilt of the prisoner, he should on every principle of law and reason have been acquitted.—

Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Centre Division for his information and future guidance.—

sent 28th

(sent following letter D)

Read letter, dated the 26th Ultimo, from the 3d Judge late on Circuit in the Centre Division, submitting Case No 7 Cuddapa Calendar 1st Sessions A.D. 1819.—

sent 28th

(Here enter No 275)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Mooftees of the Sudder Udalut confirm the said futwa of the Mooftees aforesaid, and it appearing from the evidence recorded on these proceedings, that the prisoner, Soobadoo, is labouring under mental derangement, the Court direct, that the Criminal Judge in the Zilla of Cuddapa be commanded to ascertain

ascertain whether the friends of the prisoner are able and willing to undertake such care of him, as may prevent the possibility of his doing any mischief, and in such case, to deliver him into their charge; and that in the event of any unwillingness, or inability on their part to receive charge of the Prisoner, the Criminal Judge be required to confine him in such place and manner, as consistently with a regard to the public safety shall to him appear expedient, until the arrangements now in progress relative to the establishment of a Lunatic Hospital at Chittoor shall be finally carried into effect; when it will be the duty of the Criminal Judge to forward the Prisoner to the Criminal Judge in the Zilla of Chittoor, in order to his being confined in the general Hospital ordered to be established at the Sudder Station for the reception of Lunatic prisoners within the Division.—

sent 28th

(sent following letter E)

In the letter accompanying the foregoing trial the 3d Judge, in commenting on the futwa of the Mohummudan Law Officer, which pronounces

pronounces the prisoner to be insane, and directs that
"he should be set at liberty," observes that "the relea-
"se of any person so soon after having committed homi-
"cide (though insane at the time) is obviously ex-
"tremely objectionable, the most common attention to
"the security of the lives of others would dictate that
"any one thus situated should be imprisoned at least
"for some years - the period might vary according
"to the different circumstances of each case, if this
"prisoner is well at this time and should continue
"free from a return of his disorder for eight or ten years
"it would afford some ground for expectation, that his
"release would not then be attended with danger; -
"if a contrary practise (founded on Mohummudan
"law) should become prevalent, & it has likewise in
"too many instances been adopted, it would tend to
"encourage murder, - instances have occurred of prison-
"escaping the punishment due to this crime by affecting
"or their friends setting up for them the plea of insa-
"which is admitted by the law officer on very exploe-
"ficial grounds." -

It does not appear in what manner
the concluding remarks [illegible]

the present case, in which the Judge is of opinion that
the prisoner's insanity is established by evidence; - or
how it is connected with the passages in his letter,
which immediately precede it. -

The introduction of the reasoning,
contained in the 3d Judge's letter, for the purpose
of demonstrating the impropriety of letting loose
upon society insane persons, who may have com-
mitted fatal acts of violence, would have been ex-
tremely proper, if the measure recommended by
him were not invariably adopted in all such
cases by the orders of the Foujdaree Adalut. - The
Court are however of opinion, that the safety of the
community is effectually consulted by the confine-
ment of persons of this description, as long as
they may be considered by medical authority as
of unsound mind, and that it could not be held
indispensable to this prisoner's release, that "he
"should continue free from a return of his disorder
"for eight or ten years," - without grievously aggravating
the severest of human afflictions. -

Ordered, that extract of these pro-
ceedings be sent to the 3d Judge late on Circuit
in the Centre Division for his information
and

and guidance.—

(Sent following letter F)

Read letter, dated the 1st Ultimo, from the 3d Judge late on Circuit in the Centre Division,— submitting Case No 25 Bellary Calendar 1st Sessions AD 1819.—

(Here enter No 222)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Mooftees of the Fouzdaree Adalut and having the said futwa of the Mooftees aforesaid and under the discretion allowed by the sentence of Ashoobut adjudge the prisoners,

1st "Buslingah,"
2d "Purrapah,"
3d "Rungadoo"

to suffer death by being hanged at the usual time and place of execution.—

sent 26th

(Sent following letter G)

Read letter, dated the 6th instant, from the 2d Judge on Circuit in the Western Division, with

With returned Warrant for the execution of the prisoner in Case No 12 Canara Calendar 1st Sessions AD 1819.—

(Here enter No 320)

Read Return, dated the 7th instant, from the 3d Judge of the Court of Circuit in the Western Division,— to the precept dated 30th Ultimo, ordering communication to the Criminal Judge in the Zilla of North Malabar of the Court's order that a gratuity of 50 Rupees each be paid to certain Mooftees,

(Here enter No 321)

Read letter, dated the 7th instant from the 3d Judge of the Court of Circuit in the Western Division,— with copy of North Malabar Calendars 2d Quarterly Sessions AD 1819.—

(Here enter No 322)

Read return, dated the 11th instant, from the Provincial Court of Circuit in the Northern Division,— to the precept dated 15th Ultimo ordering communication to the 1st Judge on Circuit of the Court's instructions relative to the admission of the evidence of persons whose testimony is inadmissible under the Mohummudan Law.—

(Here enter No 324)

Read

22d May 1819.

Read return, dated 11th instant, from the Provincial Court of Circuit in the Northern Division, to the precept dated 1st Ultimo ordering communication to the Criminal Judge and Magistrate of Ganjam of the Court's observations on Case No 15 Berhampore Calendar 2d Sessions A.D 1818. –

(Here enter No 325)

Read return, dated 11th instant, from the Provincial Court of Circuit in the Northern Division, to the precept dated 2d Ultimo ordering communication to the Magistrate of Masulipatam of the Court's instructions relative to the powers to be committed to an Aumeen of Police. –

(Here enter No 326)

Read return, dated the 11th instant, from the Provincial Court of Circuit in the Northern Division, – to the precept dated 12th Ultimo ordering communication to the Criminal Judges within their jurisdiction of the Court's instructions relative to the attendance of witnesses to Talook confessions before the Courts of Circuit. –

(Here enter No 327)

Read

4 J U

22d May 1819

Read return, dated the 11th instant from the Provincial Court of Circuit in the Northern Division, – to the precept dated 6th Ultimo ordering communication to the Acting Magistrate of Rajahmundry and to the Magistrate of Masulipatam of the Court's observations on a reference from the former regarding the construction of Section XXVIII Regulation XI of 1816. –

(Here enter No 328)

20

J.

M

6.11.0

J. C.

At a Court of the Zoujdaree Adalut.

Present,

Wednesday
26th May 1819. Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges.
J. H. D Agilvie Esqre.

Read again letter dated 15th ultimo, from the 2d Judge of the Court of Circuit in the Centre Division, submitting copy of Chittoor Calendar 2d Quarterly Sessions A.D. 1819.

(Here enter No. 254)

The Court under date 27th ultimo, called upon the 2d Judge to furnish any explanation "which he might have to offer regarding the "grounds of the judgments passed by him "in cases Nos. 5 and 6. of the foregoing "Calendar."

The 2d Judge not having complied with the above requisition, the Court of Zoujdaree Adalut direct, that he be by precept

precept commanded to furnish the required explanation without further delay.-

Ordered, that extract of these proceedings be sent to the 2d. Judge of the Court of Circuit in the Centre Division by precept, to be returned in two days from and after its receipt.-

(Sent following Precept A.)

W.H.

Read return dated the 20th. instant, from the 3d. Judge of the Court of Circuit in the Centre Division, - to precept dated 13th. instant ordering communication to the Criminal Judge and the Magistrate of Cuddapa of the Court's observations on Case No 30 Cuddapa Calendar 1st. Sessions A.D. 1819.

(Here enter No. 331.)

Read return, dated the 19th instant, from the 3d. Judge late on Circuit in the Centre Division, - to precept dated 13th instant ordering communication to the acting Magistrate of Bellary of the Court's observation in case No

No 26 Bellary Calendar 1st. Sessions A.D. 1819.-

(Here enter No 332.)

Read return, dated the 19th. instant from the 3d. Judge late on Circuit in the Centre Division, - to precept dated 13th. instant, ordering communication to Magistrate of Cuddapa of the Court's observations on case No 25. Cuddapa Calendar 1st. Sessions A.D. 1819.-

(Here enter No. 333.)

G.G.

W.H.

J. W.

At a Court of the Foujdaree Udalut.

Present

Thursday 27th. May 1819.

Andrew Scott, Esqr. .....
J. H. D. Bygilove, Esqr. ..... } Judges

M

Read a letter, dated the 5th. ultimo, from the Second Judge on circuit in the Western Division, - submitting case No. 27 Cawnpore Calendar, - 1st. Sessions A. D. 1819.

(Here enter No. 225.)

The Mooftee of the Foujdaree Udalut declare in the foregoing futwa, that the prisoner is convicted, on strong presumptions, of the crime of murder laid to her charge. The Court, therefore, concurring in the opinion declared in the futwa, resolve, under the provisions of Aussa third Section II, Regulation XV, of 1803, to call upon their Law Officers to declare by a second futwa to what specific punishment the prisoner would have been liable under the Mohammedan law, if she had been convicted by full legal evidence.

Ordered

27th May 1819.

Ordered that extract of this proceedings be translated and delivered to the Mooftee of the Court.-

W.M.

Read letter, dated the 15th instant from the First Judge on Circuit in the Northern Division.- requesting his arrival at Burrisaul-

/Here enter No 335/

Read letter, dated the 15th instant from the Second Judge on Circuit in the Southern Division with copy of Criminal Calendar for Sessions A.D. 1819.-

/Here enter No 336/

J. M.

At a Court of the Fouzdaree Adalut

Present

Friday 28th May 1819. Andrew Scott Esqre. ..... } Judges.

J. H. D. Ogilvie, Esqre. ....

Read agreeable letter, dated the 5th ultimo, from the Second Judge on Circuit in the Western Division.- submitting case No 27 Calendar for Calendar for Sessions A.D. 1819.

/Here enter No 225/

Read the several fatwas, delivered in this case by the Mooftee of the Fouzdaree Adalut.

The Court, having maturely weighed the proceedings held before the Judge on Circuit, the fatwa of the Provincial Law Officer, and the fatwas of the Mooftee of the Fouzdaree Adalut, confirm the said fatwa of the Mooftee aforesaid, and under the Sentence of Kisaas declared in the fatwas adjudge the prisoner "Sooba,"

to

to suffer death by being hanged at the usual time and place of execution.—

/Sent following letter A./

The Court of the Zuijdaree Adalat have to observe with respect to the examination of the prisoner in this case, held before the Acting Criminal Judge, that it is in the nature of a cross examination.— The Court are satisfied, that it is necessary only to bring this circumstance to the notice of the Acting Criminal Judge in order to prevent the repetition of a practice, which is manifestly improper, as exercising an authority to make the accused criminate themselves, and as inconsistent with the provisions of the Regulations, which enjoin Criminal Judges to be careful that all confessions made by prisoners are free and voluntary.

It appears in evidence before the Court of Circuit, that Lieutenant Rose, Assistant of Boferungedy in the Bauteaulle Talook, received a declaration from the prisoner.

The Court of Zuijdaree Adalat desire, that the Magistrate in the gillie of Carnaw will point out to this Office the Regulation of the

28th May 1819. the above proceedings, and that he will cause it to be understood generally by the subordinate Officers

VI of Police under his authority, that it is competent only to Head local officers of Police, by whatever name designated, and not to Peshcars to perform the duties prescribed in Section XXVII. Regulation XI. of 1816.

Ordered, that extract of these proceedings be sent to the Second Judge on Circuit in the Western Division, by present directory bird to make the necessary communication to the Magistrate and Acting Criminal Judge in the gillie of Carnaw.

/Sent following Precept B./

Read letter, dated the 30th ultimo, from the Third Judge late on Circuit in the Central Division, submitting case No. 22, Cuttack Calendar 1st Session A. D. 1819.

/Vide entry No. 286./

The Court, having maturely weighed the proceedings held before the Judge on Circuit, the letter of the Provincial Law Officer, and the letter of the Moofties of the Zuijdaree Adalat, confirm

28th May 1819.

confirm the said sentence of the Assessors aforesaid and under the provisions of Clause third Section N. Regulation XV. of 1803, adjudge the prisoner "Lutchmeeraop" to be imprisoned and transported to Prince of Wales island, there to be imprisoned and kept to hard labour on irons on the public roads or other public works, for and during the period of his natural life.

/Sent following letter D:/

By examining the proceedings held before the Judge on Circuit on this case, the Court of Foujdaree Udalut observe, that after the prisoner had been called upon to state what he had to offer in his defence, - witness was examined on the part of the prosecution.

The impropriety of summoning - witness for the prosecution to depose to any circumstance whatever, after the defence was closed, is sufficiently manifest, and the Court consider it only necessary to add, that had the evidence previously recorded in this case been insufficient for the conviction of the prisoner they should have deemed it incumbent upon them to give the prisoner the full benefit of such

7 U.

28th May 1819.

defect in this proceedings, and to pass sentence accordingly.

Ordered, that extract of these proceedings be sent to the Third Judge, late on Circuit in the Centre Division, for his information and future guidance.

/Sent following letter D:/

Read letter, dated the 1st. instant, from the Third Judge late on Circuit in the Centre Division - submitting case No. 12 Bellary Calendar. - 1st Sessions A.D. 1819. /Hircarra No. 223./

The Court having attentively considered the proceedings held before the Judge on Circuit, the pleas of the Prisoner, and the pleas of the Provincial Law Officer, and the pleas of the Assessors of the Foujdaree Udalut, confirm the said pleas of the Assessors aforesaid, and under the discretion allowed by the sentence of Cohoobut direct that the prisoner "Veeriah" be set at liberty.

/Sent following letter D:/

1820

M

60 A

20

Circuit

Read

J. H.

At a Court of the Foujdaree Adalut

Present

Andrew Scott Esqre
J. H. D. Ogilvie Esqre } Judges

Monday
31st May 1819

Read letter, dated the 24th Ultimo, from the 3d Judge of Circuit on the Centre Division, submitting Case No 18 Cuddapa Calendar 1st Sessions

M

A.D. 1819.—

(Here enter No 274)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Mooftees of the Foujdaree Adalut confirm the said futwa of the Mooftees aforesaid and under the provisions of Clause fifth Section IV Regulation XV of 1803 adjudge the prisoner,

"Ganeegadoo,"

to be imprisoned and transported to Prince of Wales Island there to be imprisoned and kept to hard labour on irons on the public Roads or other public Works for and during the period of his natural life.—

Sent following letter A

Court of Circuit

31st May 1819.

Read letter dated the 26th Ultimo from the 3d Judge late on Circuit in the Centre Division, Submitting Case No 1 Bellary Calendar 1st Sessions AD 1819.—

(Here enter No 277)

The Judges of the Court of Foujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the prisoners,

1st "Mollepeda Vencateegah," and
2d "Chinna Vencateegah"

is sufficient to convict them of having put to death the deceased Shaik Meeran, desire, under Clause Second Section II Regulation I of 1818 that the Mooftees of the Foujdaree Adalut will declare by a second futwa, to what sentence the prisoners would have been liable under the Mohummedan law if they had been convicted by full legal evidence, of the crime laid to their charge.—

Ordered that extract of these proceedings be translated and delivered to the Mooftees for their information and guidance.—

10 H

J. 16.

At a Court of the Foujdaree Adalut.

Thursday
3d June 1819.

Present

Andrew Scott, Esqr.
Edmond Wolf Greenway, Esqr. } Judges.
J. H. D. Ogilvie, Esqr.

Read returns, dated the 26th April, from the Acting third Judge of the Court of Circuit in the Northern Division, to the Court's precept of 7th ultimo, ordering communication to the Criminal Judge of Masulipatam of the Court's instructions, regarding certain cases returned for trial by the Criminal Judge, in which the parties had been committed to take their trial before the Court of Second Quarterly Sessions A. D. 1819.—

(Here enter No 345.)

The Court of Foujdaree Adalut have perused the foregoing returns by the Acting Third Judge of the Court of Circuit

31st May 1819.

Read letter, dated the 26th Ultimo from the 3d Judge late on Circuit in the Centre Division, Submitting Case No 4 Bellary Calendar 1st Sessions 4th 1819.—

(Here enter No 277)

The Judges of the Court of Foujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the prisoners,

1st "Mullespeda Vencateegah," and
2d "Chinna Vencateegah"

is sufficient to convict them of having put to death the deceased Shaik Meeran, desire, under Clause Second Section II Regulation I of 1818 that the Mooftees of the Foujdaree Adalut will declare by a second futwa, to what sentence the prisoners would have been liable under the Mohummudan law if they had been convicted by full legal evidence, of the crime laid to their charge.—

Ordered that extract of these proceedings be translated and delivered to the Mooftees for their information and guidance.—

W.H.

J. U.

At a Court of the Foujdaree Adalut.

Thursday
3d June 1819.

Present

Andrew Scott, Esqre
Edward Croft Greenway, Esqre } Judges.
J. H. D. Ogilvie, Esqre

Read returns, dated the 26th April, from the Acting Third Judge of the Court of Circuit in the Northern Division, to the Court's precept of 1st ultimo, ordering communication to the Criminal Judge of Masulipatam of the Court's instructions, regarding certain cases returned for trial by the Criminal Judge, in which the parties had been committed to take their trial before the Court of Second Quarterly Sessions A. D. 1819.—

(Here enter No 345.)

The Court of Foujdaree Adalut have now perused the foregoing returns by the Acting Third Judge of the Court of Circuit

31st May 181

3rd June 1819.

the object of his reference to be merely "to relieve himself from the doubt and embarrassment, which they will occasion to him in the future disposal of cases of Burglary, Night robbery of grain pulse, and stealing and killing Cattle."

The Acting Third Judge took in the above representation of the grounds of the proceeding adopted by the criminal Judge omitted a material part of that officers report to his precept. For this omission the Court of Foujdaree Udalut do not find it necessary to account, inasmuch as it essentially affects the reasoning of the criminal Judge, which the Acting Third Judge has not noticed in any manner of different import from the criminal Judge's proceeding in the case stated in the reference for the release of the prisoner from imprisonment without labour until considered as

J. U.

3rd June, 1819.

of the description of the prisoners, would be followed with the receipt of the allowance of four Dubs per day, and no work- and it was with reference to this recorded opinion as well as to the circumstances noticed by the Acting Third Judge, that the Criminal Judge came to the resolution of releasing the prisoners.-

The Acting Third Judge, adverting to the Age of two of the prisoners and the youth of the third prisoner, in this case, observes, "These are the people, whom the Criminal Judge would venture to remand to the Sudder Court, as fit persons to be tried before the Court of Quarterly Sessions."

It is inferrible from that remark, that the Acting Third Judge considers the description of the Criminals, and not of the offence, to form the criterion of the propriety of commitment for trial before the Courts of Circuit.- the opinion of the Foujdaree Udalut on this head was conveyed to the Acting Third Judge in

Circuit in the Northern Division with the strong
sentiments of regret, and it appears
trig to the Court, that several passages in the
call for their particular remark, they resolve to
record their observations upon them in detail.

On the case No. 1 the Acting
3d Judge expresses himself as follows — "The
"Sudder Court will be pleased to observe, when the
"Criminal Judge comes to try the cases himself
whatever irregularities he may attach to the act
"of pilfering from a sense of praise for Pandey
"it is plain, that little effect could have
"resulted from the trial before the Court of
"Quarterly Sessions, when the Criminal Judge
"is compelled to discharge the Prisoners un-
"punished, because two of the prisoners viz.
"Gotha Venkadoo and Pandee Venkadoo, are urged
"deserter men and unfit subjects for criminal
"punishment, and the other is a youth, who
"has doubtless been led astray by the example
"of his Elders."

these

"These are the people, whom the
"Criminal Judge would venture to name to
"the Sudder Court, as fit persons to be
"tried before the Court of Quarterly Sessions.
"Certainly, the Criminal Judge can hardly
"be deemed warranted to oppose himself
"to the Court of Quarterly Sessions in mak-
"ing such a reference."

Adverting to the terms made use
of by the Acting Third Judge in the latter
part of the above passage, as also to the reflection
attempted to be conveyed on the Criminal
Judge for having made an appeal, as a
matter of public grievance and of faulty
proceedings in the Court of Quarterly Sessions,
that the records of these numbers were re-
turned to him," the Court of Foujdaree
Adawlut deem it proper to observe, that
the Criminal Judge in his letter of 26th
April explicitly disclaims any intention
to question the propriety of the orders
of the Court of Quarterly Sessions, and stated
the

3d June 1819.

31st May 18

Circuit in

[illegible]

[illegible]

[illegible]

in the extract from their proceedings of the 7th
ultimo - to which it does not seem, that the
Acting Third Judge has given his concurrence.-

The Court of Foujdaree Adaulut
consider the Criminal Judge to be mistaken
in his opinion, that the power vested in
him by Section VII Regulation X of 1816 only
extends to the adjudication of imprisonment
"without Labour." The Court are of opinion,
that in most instances, wherein a Sentence
of imprisonment may be passed by a Crimi-
nal Judge, such Sentence must be wholly
nugatory unless accompanied with hard labour
and chains during the term of imprisonment -
That cases may occur, in which, considering the
rank or circumstances of the person convicted,
imprisonment may be held to be a sufficient
punishment, the Court are not prepared
to dispute; but they are fully impressed
with the conviction, that the mode of
procedure, contemplated by the Criminal
Judge

Judge, must, when considered with reference
to its general operation, eventually tend
rather to the encouragement than the
suppression of offences. -

On the cases Nos 9 and 10 the
Acting Third Judge observes as follows: - 'The
'Criminal Judge assumes, that the prisoner
'may possibly be an Idiot - and under this
"supposition thinks it proper to remit the
"corporal punishment, which he is authorized
"to inflict." Does the Criminal Judge
mean he is authorized to inflict corporal
punishment on an Idiot? Surely the
Sudder Court will see just reason for having
referred back such a case to the Criminal
Judge. -

It appears to the Court of Foujdaree
Adaulut, that the reflection here attempted
to be cast on the Criminal Judge is not
borne out by the words of his letter. It is the
plain and obvious meaning of the Criminal
Judge, that he considers the possibility of

of the prisoner's insanity to be clear to the exercise of the authority vested in him of inflicting corporal punishment. The sentence of imprisonment passed on this prisoner, "in order to put a stop to his depredations on the public," is improper, and the Court direct that it be set aside accordingly.-

The opinion expressed by the Acting Third Judge, - that the suspected insanity of this prisoner constituted "just reason for his having referred back" these cases to the Criminal Judge, - ~~not consistent with~~ ~~ignorance~~ of the duty enjoined upon the Courts of Circuit in such cases. The Court of Vaujdaree Adalut deem it proper to direct the attention of the Acting Third Judge to their Circular order, under date 29th October 1807, agreeably to which it will be the duty of the Acting Third Judge to go into an investigation of the state of the mind of the prisoner, Isahaka Sorbadee, the result of which he will report for the information

of the Vaujdaree Adalut.

The Acting Third Judge attempts to question the relevancy of the instructions conveyed to him by the Court, regarding the ~~blending~~ blending of distinct and separate charges in one indictment. In the precept of the Acting Third Judge, returning the cases No. 9 & 10 to the Criminal Judge, he represents himself to be "not unmindful of the confusion occasioned by bringing two unconnected cases forward, in which the same prisoner is charged with nearly the same offences, stated to have been committed within a few days of each other."-

The Court in their proceedings of the 7th May intimated the possibility of their not having comprehended "the meaning intended to be conveyed by the above passage," - but in supposing it to countenance the practice of blending distinct charges in one indictment, the Court are of opinion, that they adopted a construction of the words of the Acting Third Judge, less constrained,

than

those the following, which he proposes to substitute
for it, namely "that the order was deemed irregular
"and confused, principally from the intention
"of the prisoners, and the manner such an order
"would be considered to have acted in such case."

With respect to the case No 3. the
Acting Third Judge expresses himself as follows
"This case, after having been inserted on the
'1st. Calendar, as of importance sufficient to claim
'the attention of the Court of Circuit, has now,
'it appears, been referred for the investigation
'and decision of the Assistant Criminal Judge,
'who, it is presumed, found great contradiction in the
'evidence taken on the part of Prosecution; to that
'three of the Prisoners having confessed, were pu-
'nished with 30 rattans, and the other four were
'discharged. The Sudder Court will be pleased
'to determine, how far the Criminal Judge was
'justified under such circumstances to bring such
'a case into the Calendar of persons committed for
'trial before the Court of Second Quarterly Sessions,
'instead of allowing the Assistant Criminal Judge,
'as himself to undertake the investigation and

'decision of the case in the first instance. For
'taking the matter in the only sense, in which
'it can appear, as it was not deemed just
'by the Assistant Criminal Judge to punish
'the offender to the full extent of his power,
'under operation of Section VII. Regulation X.
'1816. it follows, that it was not a case, as
'the Criminal Judge has presumed to say,
'which was of so aggravating a nature or
'otherwise important, as to demand the attention
'of the Court of Quarterly Session.

The Acting Third Judge in the
foregoing observations appears to have forgotten,
that the defect in the evidence in this case
could not appear, before the trial was entered
upon, and that the Criminal Judge could
not anticipate the fact, that the 4th witness
would on a subsequent examination appear
unable to point out the same three men, that
he had pointed out before the Criminal Judge;
at being those he had observed, while com-
mitted in the commission of the offence,
with which they were charged.—

The

3d June 1819.

The Court of Foujdaree Udalut are of opinion, that the offence of bullock stealing, which formed the charge against the prisoners in case No 3, is itself deserving of punishment greater than that, which it is competent to a Criminal Judge to inflict; in this case however two of the prisoners had been on a former occasion sentenced by the Court of Quarterly Sessions to two years imprisonment and hard labour in irons, which circumstance brings them within the description of persons of notorious bad character.

The Acting Third Judge concludes his return by citing an extract from the proceedings of the Foujdaree Udalut, under date the 2d of August 1817, from which he has inferred, that the Court of Foujdaree Udalut include the crime of Burglary among those offences, which are not of a heinous nature, and therefore not of sufficient importance to engage the attention of the Court of Circuit.

4 / 7 tt.

3d June 1819.

On reference to the Nellore Calendar for the Second Sessions of 1817 the Court observe, that the charges in the two cases (Nos 6 and 7) to which the above order applies, are simply described as "Theft," without any statement of its having occurred in the night time, and without any specification of the circumstances, quoted by the Acting Third Judge from the records of those trials.

The inadequacy and indeed incorrectness of the information, contained in the Calendar led the Court to conclude, that these cases were of a trivial description, and from the Calendar alone as the Acting Third Judge ought to have been aware, the Court could obtain any knowledge of the circumstances of cases which were not referred to them for trial. It became necessary however on the present occasion to apprize the Acting Third Judge that persons accused of the crime of "Burglary according to the legal definition of that Offence should unquestionably be brought to

3d June 1819.

The Court of Enquiries Udalut are of opinion, that the offence of bullock stealing, which formed the charge against the prisoners in case No. 3, is itself deserving of punishment greater than that, which it is competent to a Criminal Judge to inflict; on this case however two of the prisoners had been on a former occasion sentenced by the Court of Quarterly Sessions to two years imprisonment and hard labour in irons, which circumstance brings them within the description of persons of notorious bad character.-

The Acting Third Judge concludes his return by citing an extract from the proceedings of the Enquiries Udalut, under date the 2d of August 1817, from which he has inferred, that the Court of Enquiries Udalut include the crime of Burglary among those offences, which are not of a heinous nature, and therefore not of sufficient importance to engage the attention of the Court of Circuit.-

3d June 1819

On reference to the Nellore Calendar for the Second Sessions of 1817 the Court observe, that the charges in the two cases (Nos 6 and 7) to which the above order applies, are simply described as "Theft" without any statement of its having occurred in the night time, and without any specification of the circumstances quoted by the Acting Third Judge from the records of those trials.-

The inadequacy and indeed incorrectness of the information contained in the Calendar led the Court to conclude, that those cases were of a trivial description, and from the Calendar alone as the Acting Third Judge ought to have been aware, the Court could obtain any knowledge of * * * the circumstances of cases which were not referred to them for trial.- it becomes necessary however on the present occasion to apprize the Acting Third Judge that persons accused of the crime of "Burglary according to the legal definition of that Offence should unquestionably be brought to

to trial before the Court of Circuit" an opinion
conveyed to the Second Judge of the Court of
Circuit on the Northern Division by the order
of the Foujdaree Adalut, under date 10th Febru-
-ary 1818.

Ordered, that extract of these
proceedings be sent to the Acting Third Judge
of the Court of Circuit on the Northern Division
by precept directing him to make the neces-
-sary communications to the Criminal Judge of
the Zilla of Mussulpoor, and to enter upon
the investigation of the state of mind of
the prisoner, Isakada Soobadoo, without delay.-
dated 10th
(Sent following precept A.)

Read, a given letter, dated 6th
April, from the Third Judge late on Circuit in
the Central Division, - submitting case No 1 Bellary
Calendar, 1st Sessions A.D. 1819.
(Here enter No 2777).

Read also the Second future,
delivered in this case by the Members of
the Foujdaree Adalut.

The Court having maturely consi-
-dered the proceedings held before the Judge
on Circuit, the future of the Provincial Law
Officer, and the future of the Members of the
Foujdaree Adalut, confirm the said future of
the Members aforesaid, and, under the provisions
of Section XVII. Regulation VIII. of 1802, adjudge
the prisoners
1st Mullicpadoo Vencatrogah, and
2d Chinna Vencatrogah,
to suffer Death by being hanged at the usual
time and place of execution.-

The Third Judge late on Circuit
in the Central Division observes in his letter,
accompanying the Record of the foregoing
trial, that there is some ground to suppose
it might not have been the intention of
the prisoners to murder the deceased, and con-
-cludes by expressing his opinion, that the
prisoners should not suffer Death, but should
certainly be severely punished.-

The Court of Foujdaree Adalut
resolve

resolve, on consideration of the opinion here expressed by the Third Judge, to suspend the execution of their sentence, and under the provisions of Section XIV. Regulation VIII of 1803, to submit the case to the Right Honourable the Governor in Council, with a recommendation, that he may be pleased to commute the punishment of Death to imprisonment and transportation for life.-

Ordered, that extract of these proceedings with record of the trial in case No. 1 of the Bellary Calendar, be transmitted to the Secretary to the Government in the Judicial Department, for the purpose of being laid before the Right Honourable the Governor in Council.-

Sent following letter B/ No 21/ 50

Sent 8th

M. H.O

J. C.

At a Court of the Zillah Adalut.

Monday 7th June 1819.

Present

Andrew Scott, Esqre.
Edward Croft Greenway, Esqre. } Judges.
J. W. D. Ogilvie, Esqre.

M.

Read return, dated the 28th ultimo, from the First Judge of the Court of Circuit on the Southern Division, to the precept of the 30th April, directing him to obtain and submit to the Court the opinion of the Criminal Judge of Trichinopoly regarding the erection of a Cook room for each cast of prisoners in the jail.-

(Here enter No 348.)

It appearing from the foregoing return, that the Criminal Judge on the Zillah of Trichinopoly does not consider the arrangement proposed by the Court, of erecting a Cook room for each cast of prisoners,- to be open to objection

objections, or likely to be attended with a heavy
offence;-

The Court direct that the Letter
of the 1st Judge of the Court of Circuit in
the Southern Division of the 12th April, with
the foregoing prompt and return be forwarded to the Secretary
to Government in the Judicial Department,
for the purpose of being submitted for the
orders of the Right Honourable the Governor
in Council.-

Sent 11th

(Sent following Letter A.) 2nd 22

Read letter, dated the 31st Ultimo, from
the Secretary to Government in the Judicial De-
partment,- stating that the Right Honorable the
Governor in Council has been pleased, in conformity
to the Court's recommendation to grant a free
pardon to the Convict, Gauleemusleegadoo.-

(Here enter No. 350)

The Right Honorable the Governor
in Council having been pleased to resolve, that
the sentence of death passed on the prisoner,
Gauleemusleegadoo, in Case No. 17 of the Bellary
Calendar

Calendar for the 1st Sessions of 1819, shall not
be carried into execution:-

Ordered, that

"Gauleemusleegadoo,"

be accordingly set at liberty.-

Sent 9th

(Sent following letter B)

Read return, dated 5th instant, from the
the 2d Judge of the Court of Circuit in the Centre
Division,- to the precept dated 26th Ultimo, calling
upon him to furnish the explanation, called for by
the Court under date 27th April last, regarding the
grounds of the Judgements passed by him in Cases
Nos. 5 and 6 Chittoor Calendar, 2d Quarterly Sessions of 1819.-

(Here enter No. 353)

The prisoner in the cases here referred
to was stated in the Calendar to have been acquitted
"in consequence of being under age," and ordered to
be released.-

In the foregoing return to the
precept of the Court, calling upon him for "an
"explanation of the grounds of the judgments
"so passed by him," the 2d Judge states, with
reference to the Futwa of the Law Officer, which

which directs the release of prisoner, in consequence of his being a Minor, - that "had he (the 2d Judge) been aware of the sentiments of the Fouzdaree Adalut "with regard to age, as contained in their precept to "the Provincial Court of the 15th April 1819, he should "instantly have referred it."-

The Court of Fouzdaree Adalut deem it necessary to remark that their orders of the 15th April last, regarding the admissibility of the evidence of persons under age in Criminal cases, were not intended to relate to, and cannot properly be held to bear upon the cases of minors put on their trial before the Courts of Circuit, charged with the commission of criminal acts.-

In the two cases under consideration the 2d Judge took evidence, respecting the prisoner's age, which was stated at 15 years, and as the commission of thefts to a large amount had been established against him, it appears to the Court that the concurrence of the 2d Judge in the Futwa, directing the release of the prisoner, must be regarded as an erroneous application of a general principle and it is to be feared also an instance of undeserved lenity.-

Ordered

7th June 1819

Ordered that extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Centre Division for his information.-

(Sent following letter C)

Read letter, dated the 27th March, from the 2d Judge on Circuit in the Western Division,- submitting Case No 9 Canara Calendar for Lessons of 1819.-

(Here enter No 216)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer, and the futwa of the Mooftees of the Fouzdaree Adalut, confirm the said futwa of the Mooftees aforesaid and under the sentence of Ashoobut declared against the 1st prisoner,

"Munjoo,"

adjudge him to suffer death by being hanged at the usual time and place of execution, and acquitting the prisoners,

2d "Packeer Shetty," and
3d "Abban Shetty,"

direct they be set at liberty.-

(Sent following letter D)

Sent 14th

The

The first observation, which the Court of Foujdaree Udalut deem it requisite to make in the foregoing trial, respects the introduction into the Record of a long and unnecessary statement by the Government Vukeel, who conducted the prosecution.

This statement not being delivered upon oath is not evidence, and ought not to appear upon the proceedings of the Court of Circuit. The Court of Foujdaree Udalut are of opinion, that in all similar cases the following words, inserted at the head of the proceedings, would convey the requisite information:- viz "The heirs of the deceased "not being forthcoming, the prosecution is conducted "on the part of Government:" and they consider that any examination of the Vukeel in such cases is improper.-

The Government Vukeel was questioned by the Court of Circuit, as to whether any enquiry was made, "if the deceased had any relation at Surey" To which he replied, that "an order was dispatched "to Surey, through the Magistrate to make enquiry"

It appears to the Court of Foujdaree Udalut, that a Certificate of the Criminal Judge to

to the above effect would have been the most proper vehicle for this communication.-

The Court observe, that the declarations, which would appear to have been made by the prisoners before the Tahsuldar of the Barcoor Talook, are not attested by the signature of that Officer - The Court direct, that this circumstance be brought to the notice of the Magistrate of the Zilla, in order that he may enjoin the several District police Officers under his authority invariably to attest with their signatures the several documents, which they may from time to time forward to the Criminal Judge, under the provision of Section XXVIII Regulation XI of 1816.-

It appears in Evidence before the Court of Circuit, that the Shambog and Potails of Soorab in the Barcoor Talook took declarations from the prisoners after which they were forwarded to the Tahsuldar.-

It will be the duty of the Magistrate in the Zilla of Canara to call the attention of the Shambog, Venkapa, and the potails, Soobana and Kristnaya, to the provisions of Clause second Section V

Rajahmundry of the Court's observations on certain cases in the Calendar in which distinct charges were blended in one indictment.—

(Here enter No 338)

Read letter, dated the 17th ultimo, from the 2d Judge on Circuit in the Northern Division with returned warrant for execution of the prisoner in Case No 16 Rajahmundry Calendar for Sessions 4th 1819.—

(Here enter No 339)

Read letter, dated the 22d ultimo from the 2d Judge on Circuit in the Northern Division,— With returned warrant for execution of the prisoner in Case No 4 Nellore Calendar for Sessions 4th 1819.—

(Here enter No 347)

M

MDO

ECS

J. M.

At a Court of the Foujdaree Adalut—

Present,

Monday 14th June 1819. Andrew Scott Esqre——
Edward Croft Greenway Esqre } Judges.
J. W. D. Ogilvie Esqre——

M

Read letter, dated 20th ultimo, from the acting 3d Judge of the Court of Circuit in the Northern Division,— referring by desire of the Magistrate of Masulipatam copies of certain precepts to that officer and of his returns respecting a complaint of the forcible seizure of a Corge.—

ECS

(Here enter No 357)

The circumstances, which led to the present reference are as follows:— A petition was presented on the 5th April last to the acting 3d Judge, presiding at the Court of 2d Quarterly Sessions on the part of one Chitta Narsimlow, inhabitant of Sataloor in the Purgunnah of Toorneg in the Zilla of Masulipatam, stating that the petitioner had under date 4th February preceding, presented to the Magistrate of Masulipatam a charge against

MDO

against Sowranany Venkatapatty Row, Zemindar of Jormedy, and Boddaranje Coobbaranje, Sanadar of Jormedy, for the forcible seizure of his land and crop, and that the Magistrate had rejected and returned the said charge to the petitioner with an endorsement, directing him to seek redress in the Civil Court of Judicature. The petition concluded with a prayer, that a precept might be issued to the Magistrate directing him to proceed in the case conformably to Clause first Section 1st Regulation XI of 1816.

A copy of the above petition was transmitted by the Acting 2d Judge to the Magistrate by precept, requiring him to state "why Section 1st Regulation XI of 1816, "adverted to by the petitioner, was not observed "and acted upon by the Magistrate in the "instance stated in the petition."

In making return to this precept the Magistrate commenced by observing, that the petitioner in this case was an Enamdar in the Jormedy Purgunnah, he

14 June 1819. he then proceeded to remark upon the intricacy of questions, relative to the claims of Enamdars, adverted to several probable occasions of dispute between these persons and the Zemindar, to the authority with which the Zemindars are invested by the Government "to distrain for any sums that "may be due to them from lands situated "in their Zemindaries," cited the provisions of Section XX Regulation XXVIII of 1802, which enjoin on the Police a cooperation with persons "authorized to distrain property "for arrears of rent or revenue" in making the attachment; and closed his return in the following words:- "It appears to me "that the rule above quoted (i.e. Section 1st "Regulation XI of 1816) is totally inapplicable "to cases of this description, and that so far "from being intended to authorize the interference "of the Magistrate in the demands of a Zemindar "upon the Crops of the petty land holders, it "was meant only to be acted upon, when "the public peace might be endangered by by

against Soonanany Venkatapathy Row,
Zemindar of Toomedy, and Boddarangy
Coobbarangy Janadoo of Toomedy, for the
forcible seizure of his land and crop, and
that the Magistrate had rejected and returned
the said charge to the petitioner with an
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in the Civil Court of Judicature. The petition
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by

issued to the Magistrate, commanding him
to comply with the prayer of the petition
in question, is not authorized by the
Regulations. The only express provision in
the code, regarding the orders to be issued
by a Court of Circuit to a Magistrate is
contained in Clause Second Section XI
Regulation IX of 1816 for the guidance of a
Judge presiding at a Sessions of Gaol delivery
with regard to the Calendars submitted by
a Magistrate. It is declared further in
Clause third of the same Section, that the
Court of Circuit are to report to the Sudder
Adalut for the information and orders of
Government, whenever the Magistrates have
been guilty of neglect or misconduct in the
discharge of their duty. But the Regulations
it is to be observed, do not vest in the Judge
of a Court of Circuit that authority to call
on Magistrates for their proceedings, which
those Judges possess collectively with respect
to the proceedings of Criminal Judges under
Section XXIV Regulation X of 1816.

According

According to the spirit of
these provisions the Court of Foujdaree Adalut
do not consider a Judge presiding at a
Sessions of Gaol delivery authorized to order
a Magistrate to perform any Judicial
act with regard to cases that may be
brought before him. It is competent
only to a Judge of Circuit to bring to the
notice of the Magistrate any irregularities
which may have appeared on the proceedings
of the Magistrate, to give him such
instructions as he may deem necessary
for his future guidance, and to call him
upon for any explanation, which
he may have to offer on matters, about
to be submitted to the Court of Foujdaree
Adalut.

Under this view of the
intent and meaning of the regulations
the Court of Foujdaree Adalut are of
opinion, that the acting Judge should
have directed the petitioner to appear
before the Magistrate of Masulipatam,

forwarding

forwarding at the same time such observations to that officer on the subject matter of the petition, as he might have considered to be proper.-

It will be the duty of the acting 3d Judge to revise the order issued by him to the Magistrate of Masulipatam to whom he will communicate such part of these proceedings as concerns that officer for his information.-

Ordered, that extract of these proceedings be sent to the acting 3d Judge of the Court of Circuit in the Northern Division by precept, directing him to issue the requisite instructions to the Magistrate of Masulipatam without delay.-

Sent 17th

(Sent following Precept N.)

Read letter, dated the 7th Instt. from the 3d Judge of Circuit in the Centre Division,- submitting Case No 4 Bellary Calendar per Sessions A.D 1819.- (Hereunto No. 302)

It appears in evidence before the Court of Circuit that the prisoner in this case, was, together with one Bukajee or Jacojee, sent by the Tahsildar of Harpunhullee to the acting Magistrate of Bellary, who "examined and confined the prisoner, and released "the other."-

In a marginal Note upon this part of the evidence before the Court of Circuit it is stated that the name of this man (Jacojee) "does not appear "in the 9th petty Calendar in conformity to the Re- "gulations- had the proceedings respecting him been "submitted to the Judge on Circuit, they might have "thrown additional light on the present case."-

The Court of Foujdaree Udalut concur in the opinion given by the 3d Judge late on Circuit in the Centre Division, and they trust that the attention of the Magistrate of Bellaree has been called to the provisions of Section XL Regulation IX of 1816, in order to prevent the recurrence of a similar omission.

Being at the same time of opinion, that the proceedings of the Magistrate referred to above are requisite to com- plete the body of evidence in this Case the Court direct, that the 3d Judge late on Circuit in the Centre

Division

Division be by precept required to call on the Magistrate of Bellaree for his proceedings in the case of Jacoje, to be transmitted to the Court with the least possible delay.—

Sent 17th

(Sent following Precept B)

Read letter, dated the 12 Ultimo, from the 3d Judge of Circuit in the Centre Division, submitting Cases Nos 10 & 11 Bellaree Calendar 1st Sessions AD 1819.—

(Here enter No 318)

Read letter, dated the 6th instant, from the acting Criminal Judge in the Zilla of Bellary reporting the death of the prisoner in Cases No 10 & 11 Bellary Calendar 1st Sessions AD 1819.—

(Here enter No 372.)

Read Return dated the 5th instant, from the 3d Judge late on Circuit in the Centre Division to the precept dated 22d Ultimo ordering communication to the Criminal Judge in the Zilla of Cuddapa of the Court's observations in Case No 20 Cuddapa Calendar 1st Sessions AD 1819.—

(Here enter No 359)

Read letter, dated the 7th instant, from the

the Secretary to Government in the Judicial & Department, desiring that the Court will instruct the 3d Judge of the Court of Circuit in the Western Division and the Magistrate of Malabar in the proper construction of Section XXIV Regulation IX of 1816.—

(Here enter No 360)

Read letter, dated the 6th instant, from the 2d Judge on Circuit in the Centre Division with returned warrant for the execution of the prisoner in Case No 7 Chittoor Calendar 2d Quarterly Sessions AD 1819.—

(Here enter No 365)

Read letter dated the 4th instant from the Provincial Court of Circuit in the Centre Division, communicating the arrival of the 3d Judge at this station.—

(Here enter No 365)

Read Return, dated the 4th instant, from the Provincial Court of Circuit in the Centre Division, to the precept dated 25th April last ordering communication to the Criminal Judge and Magistrate of Cuddapa and the acting Criminal Judge and the acting Magistrate of Bellary of the Court's [illegible] case of highway robbery committed

committed in the Zilla of Bellary and to be tried at Cuddapa:—

(Here enter No. 368)

Read Return, dated the 4th instant, from the Provincial Court of Circuit in the Centre Division,—to the precept dated 5th Ultimo ordering communication to the Magistrates within their jurisdiction of the orders of the Court, respecting the term of imprisonment that can legally be awarded for the offences specified in Section XXXIII Regulation IX of 1816.—

(Here enter No. 369)

H. H. Read Return, dated the 4th instant, from the Provincial Court of Circuit in the Centre Division,—to the precept dated 15th April last ordering communication to the Judge on Circuit of the Court's instructions relative to the admission of evidence rejected by the Mohummudan law.—

(Here enter No. 364) 20.

H

JWD

EHS

J. H.

At a Court of the Foujdaree Adalut

Present,

Thursday. 17th June 1819. Andrew Scott Esqre. / Edward Croft Greenway Esqre. / J. H. D'Eyrie Esqre. } Judges.—

Read letter, dated 20th ultimo, from the Acting 3d Judge of the Court of Circuit in the Northern Division, submitting copy of the Masulipatam Calendar for the 2d Quarterly Sessions of 1819.—

(Here enter No. 358.)

On examining the foregoing Calendar the attention of the Court of Foujdaree Adalut has been excited by the Sentence on Palahoorla Veeriah, the prisoner in case No. 2 under a futwa of Dohoobut, the grounds for which are stated in the following words.—"as it was not "proved that he was insane when he stole, but "having been proved to be sometimes insane, "ordered to be confined without irons for twelve "months, the Surgeon attending the prison "occasionally to report upon him".—

H.

JWD

17th June 1819.

It does not distinctly appear from the foregoing remark, whether or not the prisoner was of sound mind when put upon his trial, and the order for his confinement would appear to have been suggested by a doubt of his sanity when sentenced.- The Court of Fouzdaree Udalut deem it necessary to have before them the record of the proceedings which have been held in this case, to enable them to determine as to the propriety of the Judgment.-

In the cases Nos. 4 and 8. the prisoners were sentenced to certain specified terms of imprisonment, "without irons or labour."-

The instructions conveyed through the Acting 3d Judge to the Criminal Judge of Masulipatam, regarding the inexpediency of sentences of this description, apply with greater force to Cases of conviction before the Court of Circuit.-

The Acting 3d Judge in his letter accompanying the above Calendar comments in terms of reprehension upon the sentence made by the Criminal Judge in this Case of the

17th June 1819.

of the examinations, and the statement of the grounds of commitment.-

Referring to the case No. 7. in which the Criminal Judge has recorded his opinion, that "the evidence will probably "not satisfy the Mahomedan Law "Officer," the Court of Fouzdaree Udalut desire, that the Acting 3d Judge will convey to the Criminal Judge of Masulipatam their opinion, that all observations of this description, which have a manifest tendency to anticipation of the judgment of the higher Court, are irregular.-

Ordered, that extract of these proceedings be sent to the Acting 2d Judge of the Court of Circuit in the Northern Division by precept directing him to make the necessary communication to the Criminal Judge of Masulipatam, and to send up English and Persian translations of the proceedings held before him in Case No. 2 Masulipatam, Calendar 2d Quarterly Session A.D. 1819 within three weeks from the date of the receipt of the precept.-

(Sent following Precept A)

At a Court of the Foujdaree Adalut.

Present,

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre
} Judges.

Monday 28th June 1819

Read letter, dated the 10th March, from the 2d Judge of Circuit in the Northern Division,— submitting case No. 12 Masulipatam Calendar 1st Quarterly Sessions A.D. 1819.

(Recorded No. 87.)

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Mooftee of the Foujdaree Adalut confirm the said futwa of the Mooftee aforesaid and under the provisions of Clause Sixth Section II Regulation XV of 1803 direct that the 1st prisoner

"Cheekeelee Atcheegandoo,"

be released on producing Security for his future good behaviour and appearance

when

when required, and acquitting the prisoners
7th "Gopaulmoitee" and
8th "Ooanee Seetanee"
direct that they be set at Liberty.-
Sent 25th
EGS
M (Sent following letter. M

Read return, dated the 8th inst
from the 2d Judge on Circuit in the West
Division,- to precept dated 25th ultimo and
communication to the acting Criminal Judge
and the Magistrate of Chittagong the Court
observations in Case No 27 Camara Colum
7th Session A D 1819-

(Here enter No 382)

In the Court of Circuit

At a Court of the Zoydaree Adalut

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges
J. H. D. Eglvie Esqre

Thursday 24th June 1819

Read letter, dated 17th Ultimo, from
the 3d Judge late on Circuit in the Centre Division,
forwarding copy of a letter from the Criminal
Judge in the Zilla of Chingleput, stating that
representations have been made to him by three
prisoners, confined in the Jail of Chingleput, named
Chunna Gelloogah, Condah, and Gungah, setting forth
that they were unjustly confined,- and that on reference
to the Records of his office, he has not discovered any
Warrants against them.-

M

EGS

(Here enter No 381)

11120

Together with the foregoing letter
from the Criminal Judge the 3d Judge has trans-
=mitted copy of a warrant, issued by the 2d Judge
of the Court of Circuit in the Centre Division to
the

the Superintending Collector and Acting Magistrate in the Ceded Districts, directing that the sentence of "Banishment" passed by the Fouzdaree Adalut in Case No. 14 Cuddapah Calendar 1st Sessions of 1804, against six persons among whom are the three prisoners named above, - should be carried into execution.

On reference to the Record of the trial No. 14 of the Cuddupa Calendar for the 1st Sessions of 1804 it appears, that the three persons in question were convicted of murder and sentenced by the Fouzdaree Adalut to suffer death, - which sentence was commuted by the Governor in Council to "Banishment for life". -

By the copy of a letter from the Collector of the Ceded Districts to the Judge and Magistrate of Chingleput, dated 7th September 1819 which the Criminal Judge has annexed to his letter it appears that Chinna Yellogah, Condah, and Gungah, were three of nine convicts, forwarded under a guard to Chingleput, "sentenced to be "transported beyond sea"; - & the Court of Fouzdaree Adalut are unable to account for the detention of the three persons in Jail at Chingleput, and for the

omission of the present Criminal Judge to report the circumstance at an earlier period. -

It will be the duty of the Criminal Judge to send the three prisoners in question, together with the other convicts in his Custody under sentence of transportation to Prince of Wales's Island to the Police Office at the Presidency, under the instructions to that effect, which he will receive from the Secretary to the Government in the Judicial Department. -

Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Centre Division by precept directing him to communicate the same to the Criminal Judge in the Zilla of Chingleput for his information and guidance. -

(Sent following Precept &) 250

28th

N W P.

J. U

At a Court of the Foujdaree Udalut

Present

Monday
28th June 1819.-

Edward Croft Greenway Esqre.
J. H. D. Sgilvie Esqre. } Judges.-

Read letter dated the 9th instant,

GLS from the Secretary to Government in the Judicial Department,- Stating that the Right Honorable the Governor in Council has been pleased to commute the sentence of death passed on the Prisoners Mullee-peda Vencateegah and Chinna Vencateegah in Case No 1 Bellary Calendar 1st Sessions 1819, to imprisonment and transportation for life.-

(Here enter No 386)

The Right Honorable the Governor in Council having been pleased to resolve that the sentence of death passed on the prisoners Mulleepeda Vencateegah and Chinna Vencateegah in Case No 1 of the Bellary Calendar for the 1st Sessions 1819, shall be commuted to imprisonment and transporta-tion for life;

Ordered, that
"Mulleepeda Vencateegah" and
"Chinna Vencateegah,

be

J. U

At a Court of the Foujdaree Udalut

Present

Monday
28th June 1819.-

Edward Croft Greenway Esqre
J. H. D. Egilvie Esqre
} Judges.-

Read letter dated the 9th instant,

GLS from the Secretary to Government in the Judicial Department - Stating that the Right Honorable the Governor in Council has been pleased to commute the sentence of death passed on the Prisoners Mullee-

JWD -peda Vencateegah and Chinna Vencateegah in Case No. 1 Bellary Calendar 1st Sessions 1819, to imprisonment and transportation for life.-

(Here enter No. 386)

The Right Honorable the Governor in Council having been pleased to resolve that the sentence of death passed on the prisoners Mullee-peda Vencateegah and Chenna Vencateegah in Case No. 1 of the Bellary Calendar for the 1st Sessions of 1819, shall be commuted to imprisonment and transporta-tion for life;

Ordered, that

"Mullee-peda Vencateegah" and
"Chenna Vencateegah,"

be

24

J. C.

At a Court of the Foujdaree Udalut

Present

Monday
28th June 1819.-

Edward Croft Greenway Esqre.
J. H. D. Egilvie Esqre. } Judges.-

Read letter, dated the 9th instant,

GLS from the Secretary to Government in the Judicial Department - Stating that the Right Honorable the Governor in Council has been pleased to commute the sentence of death passed on the Prisoners Mullee-
-peda Vencateegah and Chinna Vencateegah in Case
JWD No 1 Bellary Calendar for the 1st Sessions AD 1819 to
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(Here enter No 386)

The Right Honorable the Governor in Council having been pleased to resolve that the sentence of death passed on the prisoners Mulleepeda Vencateegah and Chinna Vencateegah in Case No 1 of the Bellary Calendar for the 1st Sessions AD 1819, shall be commuted to imprisonment and transporta-
-tion for life;

Ordered, that
"Mulleepeda Vencateegah" and
"Chinna Vencateegah,"

be

be accordingly imprisoned and transported to Prince of Wales' Island, there to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of their natural lives respectively.—

(Sent following letter A)

Sent 1st July

Read letter, dated 22d Ultimo, from the Secretary to Government in the Judicial Department, stating that the Governor in Council has received from Mr. Thomas Oakes an assurance that he will for the future abstain from the unjustifiable conduct which has repeatedly drawn down upon him the displeasure of Government.—

(Here enter No. 385)

Ordered, that extract of the proceedings of the Foujdaree Adalut dated 1st April last, and copy of the foregoing letter, be sent to the 2d Judge of the Court of Circuit in the Northern Division, for his information.—

Sent 24th

(Sent following letter B)

20

Read letter, dated 8th Ultimo, from the 3d Judge late on Circuit in the Centre Division,

submitting Case No. 16 Bellary Calendar 1st Sessions of 1819.—

(Here enter No. 308)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Mooftees of the Foujdaree Adalut confirm the said futwa of the Mooftees aforesaid, and under the provisions of Clause sixth Section II Regulation XV of 1803, direct that the prisoner

"Soonkadoo"

be released on producing security for his future good behaviour & appearance when required.—

Sent 12th July

(Sent following letter C)

Annexed to the Record of the proceedings of the Court of Circuit in the foregoing trial is the copy of a precept, issued by the 3d Judge to the Acting Criminal Judge, wherein that officer is directed "on the arrival at Bellary of the witnesses "required in this Case, by the Judge on Circuit's precept "under date 22d Ultimo to examine them (respecting "the apprehension of the prisoner, the statement given "by him at that time, and the recovery of the stolen "property from him) before the prisoner and Mooftee of

"of the Zilla Court, who will affix his seal and signature to
"the proceedings, which the Acting Criminal Judge
"will transmit to the Judge on Circuit with English
"and Persian Translations thereof."—

In the body of the Record appears
the following Memorandum regarding the evidence
referred to in the above precept:— "Before closing
"the evidence on the side of the prosecution it is resolved
"to direct the Acting Criminal Judge to cause with
"as little delay as possible the attendance before the
"Court of Circuit of Mooftee Yeeriah, Renter of Paton
"pullee Paupadoo Talaree of the same place, and
"Panoomuntoo Talaree of Kuncheesamoodrum in
"the Talook of Panoocondah."—

A precept to this effect was issued
on 22d February to the Acting Criminal Judge, and
on the 4th March the Nazir having reported the
non-arrival of the witnesses the Court of Circuit
proceeded to hear the defence of the prisoner, and
receive the Futwa.—

It appears, therefore, that the 3d
Judge, after the trial had been completed, and the
futwa delivered by the Mohummudan Law Officer,
issued

28 June 1819.— issued a commission to the Acting Criminal Judge
to take the evidence of three witnesses for the pro-
secution.—

It is incumbent on the Court of
Foujdaree Adalut to call the attention of
the 3d Judge to the extreme impropriety,
as well as illegality of this proceeding.—

It is the duty of the Judge on Circuit
to take the whole of the evidence for the prosecution
before he calls on the prisoner to make his defence,
and when the prisoner's defence, together with the
evidence which may be adduced in support thereof,
shall have been heard before him, it remains for
him to call upon the Law Officer to deliver his
futwa in the Case.—

To proceed to hear any further
evidence in support of the prosecution, after the
defence shall have been brought to a close,
is a practice not easily reconcilable
with that degree of tender
circumspection, which should ever be exercised
towards the accused; but the taking
any evidence, after receiving the Futwa on the
Case is so palpably at variance with the
principles

28 28 June 1819

principles of Justice that the Court of Zoujdaree Udalut are persuaded that this Notice of the proceeding will be sufficient to guard the 3d Judge from again falling into a similar error.—

Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Centre Division for his information and future guidance.—

Sent 12th July EC

(Sent following letter D)

WM

Read letter dated the 3d Instant, from the 1st Judge on Circuit in the Northern Division,— With copy of Berhampore Calendar 1st Sessions AD 1819.—

(Here enter No. 379)

WMD

J. U.

At a Court of the Zoujdaree Udalut

Present

Thursday 1st July 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Sylvie Esqrel

} Judges

Read Return, dated the 25th Ultimo,

No 1

from the 3d Judge late on Circuit in the Centre Division,— to the precept dated 30th April last directing an investigation into the state of the mind of the prisoner in Case No 14 Cuddapa Calendar 1st Sessions AD 1819.—

EC

(Here enter No 388)

WMD

Read again letter, dated the 22d February last, from the 3d Judge late on Circuit in the Centre Division,— Submitting Case No 14 Cuddapa Calendar 1st Sessions AD 1819.—

(Here enter No. 159)

The Judges of the Court of Zoujdaree Udalut, on a deliberate consideration of the circumstances of the Case in evidence before them, concurring in opinion, that the proof against the prisoner,

"Mulleegandoo,"

is sufficient to convict him of having wilfully put

28th 28th June 1819

principles of Justice that the Court of Foujdaree Udalut are persuaded that this Notice of the proceeding will be sufficient to guard the 3d Judge from again falling into a similar error.—

Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Centre Division for his information and future guidance.—

Sent 8th July GHS

(Sent following letter D)

WH

Read letter dated the 3d Instant from the 1st Judge on Circuit in the Northern Division,— With copy of Berhampore Calendar 1st Sessions AD 1819.

(Here enter No. 379)

WHD

In the Court of the Foujdaree Udalut.

Thursday 1st July 1819.

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre

} Judges

Read Return dated the 25th ultimo

All from the 3d Judge late on Circuit in the Centre Division,— to the precept dated 30th April last directing an investigation into the state of the mind of the prisoner in Case No 14 Cuddapa Calendar 1st Sessions AD 1819.—

GHS

(Here enter No 388)

WHD

Read another letter dated the 22d February last, from the 3d Judge late on Circuit in the Centre Division,— Submitting Case No 14 Cuddapa Calendar 1st Sessions AD 1819.—

(Here enter No. 159)

The Judges of the Court of Foujdaree Udalut, on a deliberate consideration of the circumstances of the Case in evidence before them, concurring in opinion, that the proof against the prisoner,

"Mulleegaundoo,"

is sufficient to convict him of having wilfully put

28

1st July 1819

put to death his wife Nangee, desire, that the Cazee-ool-Coozat and Mooftee of the Fouzdaree Udalut will declare by a second futwa, to what sentence the prisoner would have been liable under the Mohummudan Law if he had been convicted, by full legal evidence, of the crime laid to his charge.-

Ordered that extract of these proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftee for their information and guidance.- 20

W. M.

J. M.

At a Court of the Fouzdaree Udalut.

Present,

Thursday 15th July 1819. Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Egilvie Esqre
} Judges.

M

Read letter, dated the 10th May last, from the 3d Judge of Circuit in the Centre Division,- submitting case № 24 Bellary Calendar 4th Sessions A.D. 1819.-

(Here enter A. 316.)

E.S.

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Mooftees of the Fouzdaree Udalut confirm the said futwa of the Mooftees aforesaid and acquitting the prisoner,

"Atchamah,"

direct that she be set at liberty.-

(Sent following letter № 1.

The 1st Witness for the prosecution, Taliar Ramdoo who deposed before the Court

of

of Circuit to the prisoners confession beyond
similars of the crime laid to her charge, as
in his examination before the acting Ma
Judge, that "after the similar had been
her ten times, she said that while the
"sides palpitated a little, she buried it

The Court of Foujdaree Ad
regret to observe in this case an inst
of inattention to their circular order
18th June 1817, regarding the practice
confessions from persons accused

The Confession of a prison
to be received only in cases, in which
may be free and voluntary. A confe
made by a prisoner, after having
examined ten times is obviously
regarded as having been obtained
means, and as not possessing, therefore
validity in law. It will be the
the Magistrate of Bellary to call
attention of Sumara pah, Amildar
Yadahy to the wards of Chande

him of the impropriety of the proceeding
above referred to, and the Court desire that
he will impress upon the minds of the
District Police Officers under his authority
that it is their duty to take in the first
instance the depositions of those persons,
who may be able to give evidence material
to the case, and that the confession of an
accused person is a matter not of primary
but of subordinate consideration.-

In the letter accompanying
the trial the 3d Judge, after expressing his
conviction of the guilt of the prisoner, states
his opinion "that she should be imprisoned
for some years."

The Court of Foujdaree Adawlut
deem it proper to remark, that had the
guilt of the prisoner been established, no
discretion would have remained to the Court
of mitigating the sentence of death, and
that no palliatory feature in the case
is pointed out by the 3d Judge, on which
to found a recommendation to mercy.

under

15th July 1819.

under the provisions of Section XIV Regn VIII of 1802.-

Ordered, that extract of the proceedings be sent to the 3d Judge of Circuit in the Centre Division by post directing him to make the necessary communication to the Magistrate in the Zilla of Bellary for his information & guidance.-

Sent 19th

Sent following precept to D.

Read letter dated the 10th May from the 2d Judge of Circuit in the Centre Division submitting case No 37 Bellary Calendar Sessions A.D. 1819.-

(Here enter No 317.)

The Court having matured the proceedings held before the Judge of Circuit the futwas of the Provincial Law Officer and the futwa of the Mooftee of the Zayd'aree Adalut confirm the futwas of the Mooftees aforesaid, and acquitting the prisoner, "Narunnah", direct that she be set at liberty

Sent 19th

15th July 1819.

The Law Officers of the Zayd'aree Adalut in their futwas on this case reject altogether the confession alleged to have been made by the prisoner before the District Police Officer, and in their opinion of the degree of credit due to this document the Court entirely concur.-

The Court remark, that the District Police Officer, by whom the prisoner was forwarded to the Criminal Judge is the person whose proceeding in Case No 24 of the Calendar called for their animadversion.-

A bare and uncorroborated confession certified by an officer of Police, who has shewn himself so little scrupulous, as to the means to be employed for obtaining this description of evidence, cannot be deemed worthy of credit.- and the Court are disposed to consider the unequivocal denial by the 2d witness, Yellummah, before the Court of Circuit of all the circumstances detailed in the deposition, stated to have been

been delivered by her before the Amildar of the Gadahee Talook, as affording a further presumption unfavorable to the correctness of that officer's proceedings.—

The Court desire that the Magistrate of Bellary will communicate these observations to Suncarapah, Amildar of Gadahee, and enjoin on him particularly a strict observance of the several provisions of Section XXVIII Regulation XI of 1816.—

In the concluding paragraph of the letter of the 3d Judge, accompanying the trial, the observation of the Fouzdaree Adalut on case No 24 of the Calendar is applicable.—

Ordered, that a extract of these proceedings be sent to the 3d Judge late on Circuit in the Centre Division by precept, directing him to make the necessary communication to the Magistrate in the Zillah of Bellary for his information and guidance.—

(Sent following precept D/)

Sent 19th

15th July 1819

Read again letter, dated the 22d February last, from the 3d Judge late on Circuit in the Centre Division, submitting case No 14 Cuddapah Calendar 1st Sessions A.D. 1819.—

(Here enter No 159.)

Read again return, dated the 25th June, from the 3d Judge late on Circuit in the Centre Division, to the precept dated 30th April last directing an investigation into the state of the mind of the prisoner in case No 13 Cuddapah Calendar 1st Sessions A.D. 1819.—

(Here enter No 388)

Read the second futwa, delivered in this case by the Mooftees of the Fouzdaree Adalut.

The Court, having maturely weighed the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer, and the futwa of the Mooftees of the Fouzdaree Adalut, confirm the said futwa of the Mooftees aforesaid, and under the sentence of Kissaas declared in the futwa, adjudge the said prisoner,

"Mulloogandoo"

to

15th July 1819

Read letter, dated the 4th May last from the 3d Judge of the Court of Circuit in the Western Division, submitting case No 3 North Malabar Calendar 2d Quarterly Sessions A.D. 1819.

(Here enter No 370.)

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Mooftees of the Fouzdaree Adawlut confirm the said futwa of the Mooftees aforesaid and acquitting the prisoner,

"Challian Kittoney"

direct that he be set at liberty.

Last 19 to

(Sent following letter 4 p. 5)

The Court of Fouzdaree Adawlut have to observe with respect to the examination of the prisoner in this case before the Criminal Judge, that it is in the nature of a cross examination. The Court are satisfied that it is necessary only to bring this circumstance to the notice of the Criminal Judge in order to prevent the repetition of a practice which

15th July 1819

is manifestly improper, as evincing an anxiety to make the accused criminate themselves, and as inconsistent with that provision of the Regulations, which injoins Criminal Judges to be careful, that all confessions made by prisoners are free and voluntary.

It was stated by the witness Oringal Moota Nair, before the Court of Circuit, that "he was not caused to stand "by," when the prisoner was dictating his declaration before the Jaloor Cheristadar.

This person is one of the witnesses to the declaration in question, and the Court therefore direct, that this circumstance be brought to the notice of Kayakara Comaren Jaseeldar of the Walowanaad Jaloor, by the Magistrate of Malabar, and that the attention of the said police Officer be particularly directed to the words of Clause third Section XXVII Regulation XI of 816, which declare that in all cases of confession the District Police Officer shall "cause the "same to be reduced to writing, and signed

or

28 23 15 15th July 1819.

to suffer death by being hanged at the usual time and place of execution.-

sent 19th

/sent following letter 6/-

The proceedings of the Court of Sougdaree Adalut in the trial of this case have been embarrassed, in consequence of an expression of doubt of the soundness of the prisoner's understanding in the letter of the 3d Judge, accompanying the trial.-

sent 82

The Court deemed it necessary to call for evidence on this point, and the result of the enquiry directed by them has removed all ground of question regarding the prisoner's sanity.-

In the 3d Judge's return to the precept of 30th April last, calling for the evidence required, he observed that if he "had conceived, that the slight doubt, which "he entertained respecting the prisoner's state "of mind, particularly at the time he killed "his wife, could have been removed by evidence "he would have endeavoured to obtain information "on the subject- that doubt arises from the

sent 19

sent 19th

3 / J. A.

15th July 1819.

"prisoner's appearance, his habits and the "circumstances of the case, and the 3d Judge "mentioned it in his letter, as a ground for on "the whole not recommending, that the prisoner "should suffer death- considering that it "might be preferable, that he should be "transported or imprisoned for life."-

The Court of Sougdaree Adalut trust, that the issue of the investigation directed by them in this case will have convinced the 3d Judge of the practical utility as well as the abstract propriety of a formal enquiry in all cases of this nature, they deem it, however, proper to observe, that a doubt of the sanity of a prisoner's intellect would bar a sentence of "transportation" or "imprisonment for life," as much as a sentence of Death.-

Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Centre Division for his information and guidance.-

/sent following letter 7/-

"or marked by the prisoner in the presence
"of two or more respectable persons."

The Court of Zoujdaree Adawlut
approve entirely of the instructions and
sentiments conveyed by the 3d Judge to the
Magistrate, on the representation addressed
to the Court of Circuit by Cingal Mootta
Nair. No persons are legally compellable
to attest confessions, and the conduct of the
Police Officer with respect to this individual
was altogether unwarrantable.

The Court trust, that under the
operation of Section II Regulation V of 1819
whereby the disability imposed by the
Legislature on the Servants of Government
with respect to the attestation of confessions
has been removed, the difficulties hitherto
experienced in finding persons competent,
and willing to attest them, will not recur.

Ordered, that extract of these
proceedings be sent to the 3d Judge of the
Court of Circuit in the Western Division.

F. A.

15th July 1819.

by precept directing him to make the
necessary communication to the Criminal
Judge North Malabar and the Magistrate
of Malabar for their information & future
guidance respectively.—

Sent following Precept A. J. S

Read letter dated the 1st April
last from the 3d Judge of Circuit in the
Centre Division,— submitting case No 1.
Cuddapa Calendar 1st Sessions A.D. 1819.

(Here enter No 231.)

The Court, having maturely
considered the proceedings held before the
Judge on Circuit the futwa of the Provincial
Law Officer and the futwa of the Mooftees
of the Zoujdaree Adawlut confirm the said
futwas of the Mooftees aforesaid, and
under the provisions of Clause sixth Section
II. Regulation XI of 1803, direct that the
prisoners,

1st "Chinneegadoo,"
2d "Condoogadoo," and
3d "Cunneegadoo,"

be released, on producing security for
their

28 28 15. 15th July 1819.

their future good behaviour and appearance
when required.-

Sent 19th

(Sent following letter 21/

The Court of Foujdaree Udalut,
after the most deliberate consideration of the
evidence in this Case have been unable to
discover adequate grounds for the conclusion at
which the 3d Judge has arrived, that "the charge
"of murder and Robbery is most satisfactorily
"proved against the prisoners."-

In the letter accompanying this
the 3d Judge has enumerated a variety of circumstances
forming in his opinion "a body of evidence" which
"carries irresistable conviction" of the guilt of
the prisoners: among these the Court of Foujdaree
Udalut are surprized to observe, that the 3d Judge
considers a former acquittal of two of the
prisoners, when tried on a charge of murder
and robbery, as constituting a ground of
suspicion against them.- It is not without
regret, that the Court perused the following
observation with reference to the case in
question: namely, "The prisoners were tried

15. July 1819.

"and acquitted, and unconditionally released,
"deriving no doubt from the weakness of
"the law renewed vigour and boldness in
"their Criminal avocations;" upon which
observation the Court deem it necessary to
remark, that it not only assumes guilt,
where none had been established, but
asserts the commission of acts of criminality,
by the accused after they had been acquitted by
a lawful tribunal.-

The law Officers of the Foujdaree
Udalut observed in their Futwa, that the 5th
and 11th witnesses who recognized certain
of the articles produced in Court, as having
belonged to the deceased Lutchmeyandoo, "have
"not pointed out any particular mark upon
"those articles," which are not themselves
of that peculiar description, which would
enable a person to depose with certainty to
their identity.-

On reference to the record of
the proceedings of the Court of Circuit, the
Court observe, that the 5th witness Vencata-
reddy, on being asked, How "he came
to

15th July 1819.

"to know" that these articles had belonged to the deceased, said "I and Lutchoomanen, "the deceased, served in the Choultry at "Balpalle, therefore I have seen them with "him."-

It appears to the Court that the 2d Judge omitted a most obvious question to this witness, as to the particular marks on any of the articles, or other means of recognition, which enabled him to depose to them,- the Court concur in the validity of the objection taken by their Mohummudan Law Officers, with regard to this part of the evidence; it is indeed admitted by the 2d Judge in reference to the evidence of the 17th witness, who swears to an ~~examining~~ examining by the deceased on the day of his death, that this article is "difficult to identify," an admission which the Court cannot easily reconcile with the remark of the 2d Judge immediately following, that he does not "the least doubt it has "been her Husband's property."-

The

F. C.

15th July 1819.

The inadequacy of the evidence on this very important point is fatal to the prosecution, there being no other ground or discoverable in the record for a presumption of the guilt of the accused.-

Gourapa, who was the 5th witness examined by the Criminal Judge did not appear before the Court of Circuit, but all that can be gathered from his account is that he fell in with the prisoners on the road, suspected their characters from their mode of answering his questions to them, and thereupon caused their apprehension.

None of the other witnesses in the case adduce any matter corroborative of the charges against the prisoners, but the Court not being of opinion, that the accounts which they have given of themselves are satisfactory, as to the nature of their mode of life, have directed that they shall not be released without security.-

It appears, that the prisoners

in

in this Case were forwarded by the Amildar of Gorumcondah to the Magistrate in the Zilla of Cuddapah.

As it seems possible from the absence of all remark with regard to this proceeding, that similar irregularities may have been permitted to pass unnoticed in the Zilla of Cuddapah the Court of Foujdaree Udalut direct, that the attention of the several District Police Officers in the Zilla aforesaid be particularly called to Clause fourth Section XXVII Regulation XI of 1816, which declares that persons charged with having committed offences, of the nature described in the First Clause of that Section, shall be forwarded direct to the Criminal Judge of the Zilla.-

Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Centre Division, by precept directing him to communicate the latter part thereof to the Magistrate in

in the Zilla of Cuddapah for his information and guidance.-

(Sent following Precept)

Read letter, dated the 25th ultimo 450
from the 2d Judge on Circuit in the Southern Division,- submitting his Circuit report for the 1st Sessions of 1819.-

(Here enters No 390.)

The statement of the 2d Judge regarding the dilapidated condition, and insecure and inconvenient situation of the Gaol at Cuddachellum appears worthy of the attention of Government, and the Court of Foujdaree Udalut concur with that officer in opinion, that the construction of a new Gaol in the immediate vicinity of the Court house is extremely desirable.-

Ordered, that the foregoing report and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

(Sent following letter No 923)

28 28 15th July 1819.

Read letter, dated the 14th ultimo, from the Secretary to Government in the Judicial Department,- forwarding copy of a letter to the Civil Architect respecting the construction of a building in the Jail at Tinkinsoly as a Cook-room for each cast of prisoners.-

(Here enter No. 389)

Read return, dated the 25th ultimo, from the acting 3d Judge of the Court of Circuit in the Northern Division, to precept dated 11th ultimo, ordering communication to the Criminal Judge of Masulipatam of the Court's orders on certain points noticed in the return of the acting 3d Judge to the precept of 7th May.-

(Here enter No. 391.-)

Read return, dated the 30th ultimo from the 2d Judge late on Circuit in the Western Division,- to precept dated 21st ultimo ordering communication to the Criminal Judge at Chingleput of the Court's orders respecting certain convicts to be transported to Prince of Wales' Island.-

(Here enter No. 394)

Read

J. C.
15th July 1819.

Read return, dated the 25th ultimo, from the acting 3d Judge of the Court of Circuit in the Northern Division,- to precept dated 11th ultimo ordering communication to the Magistrate of Masulipatam of the Court's instructions in a case referred by that Officer under Section II Regulation XXII of 1802.-

(Here enter No. 396.)

Read return dated the 28th ultimo, from the 2d Judge on Circuit in the Western Division,- to precept dated 7th ultimo ordering communication to the acting Criminal Judge and the Magistrate in the Zilla of Canara of the Court's observations on Case No. 9 Canara Calendar 4th Sessions A.D. 1819.-

(Here enter No. 397.)

Read letter, dated the 30th ultimo, from the 2d Judge on Circuit in the Western Division,- forwarding the warrant for the execution of sentence passed by the Foujdaree Adaulut on the 28th May 1819 on No. 27 of the Calendar 4th Sessions of 1819, certificate of the

the execution thereof and the report on the occasion of the acting Criminal Judge in Zilla Canara.-

(Here enter No. 398)

Read letter, dated the 29th ultimo from the 2d Judge on Circuit in the Western Division, - reporting his departure from Soonda Malabar on the 14th his arrival at Seringapatam on the 24th and his quitting it for Tellicherry the 28th June.-

(Here enter No. 399)

Read letter, dated the 6th instant from the 3d Judge of the Court of Circuit in the Centre Division, - with returned warrant for the execution of the Prisoners in case No. 25 Bellary Calendar 1st Session A.D. 1819.-

(Here enter No. 400)

Read letter, dated the 6th instant from the Acting 3d Judge on Circuit in the Southern Division, - reporting his arrival at Combaconum.-

(Here enter No. 401.)

Read letter, dated the 5th instant from the 2d Judge on Circuit in the Western Division, - forwarding the warrant for the execution of sentence passed by the Foujdaree Adawlut on the 7th June 1819 on No. 9 of the Calendar 1st Sessions of 1819, certificate of the execution thereof and the report on the occasion of the acting Criminal Judge in the Zilla Canara.-

(Here enter No. 402.)

At a Court of the Foujdaree Adalut
Present,

Monday 19th July 1819. Andrew Scott Esqre. ——
Edward Croft Greenway Esqre.
J. H. D. Cgilvie Esqre. —— } Judges.

M Read return, dated the 11th May last, from the 1st Judge of the Court of Circuit in the Western Division, - to precept dated 30th April ordering him to take the evidence of Chadalla Moideen Cooty a witness in case No 12 North Malabar Calendar 1st Sessions A.D. 1819 to whom an offer of conditional pardon was made under Section XX Regulation VIII of 1802.

(Here enter No 329.)

EES Read again letter, dated the 15th March last, from the First Judge on Circuit in the Western Division, - submitting case No 12 North Malabar Calendar 1st Quarterly Sessions A.D. 1819. -

JHDD (Here enter No 194)

The

At a Court of the Foujdaree Udalut—
Present,

Monday
19th July 1819. Andrew Scott Esqre. —
Edward Croft Greenway Esqre. } Judges.
J. H. D. Egilvie Esqre. —

M

Read return, dated the 11th May last,
from the 1st Judge of the Court of Circuit in the
Western Division, — to precept dated 30th April
ordering him to take the evidence of Chadalla
Mocheen Cooty a witness in case No. 12 North
Malabar Calendar 1st Sessions A.D. 1819, to
whom an offer of conditional pardon was
made under Section XX. Regulation VIII of 1802.

(Here enter No. 326.)

JHD

Read again letter, dated the
15th March last, from the First Judge on
Circuit in the Western Division, — submitting
case No. 12. North Malabar Calendar 1st
Quarterly Sessions A.D. 1819. —

(Here enter No. 194.)

The

The Court, having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of their Mooftees of the Foujdaree Adalut confirm the said futwa, as aforesaid and under the latitude given by the sentence of Fazeer, adjudge the prisoner,

3d "Arapundequel Moossa"

to be imprisoned and transported to Prince of Wales Island there to be imprisoned and kept to hard labour in irons on the public works for and during the period of his natural life: and acquitting the prisoners,

1st "Kotten Cunhy ally"

2d "Sanddan Kandy Cunhy Amod" and

4th "Kanoo Chaddien"

direct that they be set at liberty—

Sent following letter No. 1

The only evidence against the 1st and 4th prisoners in this case consists in the confessions, which they are stated to have respectively delivered before the acting Sheristadar

Sheristadar Comaperambarom Nair, and the testimony of the approver, Chembil Addian—

The confessions taken by officers of Police, the Court of Foujdaree Adalut are never disposed to attach implicit credit, and in cases where such confessions are denied before the Zilla Criminal Court, and are not corroborated by credible testimony, the Court deem them entitled to very little consideration.

In the present Case the Court consider the evidence to the confessions of these three prisoners to be extremely unsatisfactory, and the circumstances under which they are represented to have been given, afford a presumption adverse to their credibility.—

It would appear, that the prisoners were apprehended by the Police on several charges of robbery, after having been previously examined on the present charge of robbery and Murder, and released,— and it is alleged that on such subsequent apprehension they voluntarily confessed the crimes, which form the

the subject of the present trial.—

The 2d 3d 4th and 5th witnesses, who were brought forward to prove the declarations of the prisoners delivered at the Talook Cutchery stated severally before the Criminal Judge, and the Court of Circuit, their inability to recite the substance of the declarations in question, and the 5th witness who deposed to the confessions of the 1st and 2d prisoners, admitted before the Court of Circuit, that he was not present at the commencement of the examinations.—

Under these circumstances the Court of Foujdaree Adalut do not consider the confessions, on which the 1st Judge mainly rests his opinion of the guilt of the accused, to be entitled to any credit whatever.—

Agreeably to the recommendation of the Court, founded on the representation of the Criminal Judge of North Malabar, the Government authorized the tender of a conditional pardon, under the provisions of Section XX Regulation VIII of 1802 to Chembil Addian and Chadalla

2/

J. A.

19th July 1819

Chadalla Moideen Cooty, two of the prisoners charged with the murder of Aomaya and Canachencandy Pacros.—

The competency of an approver as a witness in a Court of Justice, is recognized by the law of England, and by the legislative enactments of this Government, it must, however, be acknowledged that the credibility of such a witness is materially affected by the circumstances, under which he appears before the Court.— The testimony therefore of Chembil Addian, being uncorroborated by any other species of evidence against these prisoners, must be regarded as altogether invalid.— That testimony having, however, been delivered on the faith of an offer of pardon, this approver is entitled to the prescribed certificate from the Court.—

The conditions, on which a pardon was tendered to Chadalla Moideen Cooty, not having been fulfilled, the Court direct that he be put on his Trial for the murder of Aomaya and Canachencandy Pacros.—

Ordered

Ordered that extract of this proceedings be sent to the 1st Judge of the Court of Circuit in the Western Division by precept directing him to make the necessary communication to the Criminal Judge of North Malabar for his information and guidance.—

(Sent following Precept B.)

J. U

At a Court of the Fouzdaree Adalut

Thursday 22d July 1819.—

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre
} Judges

Read letter, dated 7th Instant, from the 2d Judge on Circuit in the Western Division with copy of South Malabar Calendar for Session AD 1819.—

(Here enter No. 407)

The Court desire to have before them Copies of the Futwas delivered in Cases No. 3, 4, 23, and 38, wherein certain prisoners, who are stated to have been "acquitted," have been ordered to "be released on producing security for their future "good behaviour and appearance when required."—

Ordered that Extract of these proceedings be sent to the 2d Judge on Circuit in the Western Division by precept desiring him to send up Copies of the Futwas delivered by the Provincial Law Officer in the several cases abovementioned within six days from the date

of

J. C.

At a Court of the Foujdaree Adalut

Present

Thursday 22d July 1819 — Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre } Judges

Read letter, dated 7th Instant, from the 2d Judge on Circuit in the Western Division with copy of South Malabar Calendar for September AD 1819 —

(Here enter No. 407)

The Court desire to have before them Copies of the Futwas delivered in Cases Nos. 3, 4, 23, and 38, wherein certain prisoners, who are stated to have been "acquitted," have been ordered to "be released on producing security for their future "good behaviour and appearance when required." —

Ordered that Extract of these proceedings be sent to the 2d Judge on Circuit in the Western Division by precept desiring him to send up Copies of the Futwas delivered by the Provincial Law Officer in the several cases abovementioned within six days from the date

of

7th July 1819.

Ordered that extract of these proceedings be sent to the 1st Judge of the Court of Circuit in the Western Division by precept directing him to make the necessary communication to the Criminal Judge of North Malabar for his information and guidance. —

Sent following Precept

1st

of the receipt of the precept.—

(Sent following Precept A)

W.H. Read letter, dated the 18th instant from the 1st Judge on Circuit in the Northern Division reporting his arrival at Masulipatam.—

(Here enter No. 415)

Read Return, dated the 16th instant from the 3d Judge of Circuit in the Centre Division to the Zillah's letter dated 28th Ultimo communicating for his information and guidance certain observations on Case &c from Bellary Calendar 1st Septr AD 1819.—

(Here enter No. 418)

20

J. A.

At a Court of the Fouzdaree Adaulut.

Present,

Monday 26th July 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre
J.H.D. Cgilvie Esqre
} Judges.—

Read letter, dated 15th Instant, from the Acting Criminal Judge in the Zilla of Canara,—reporting the occurrence of three atrocious

11 of burglary and recommending the offer of a conditional pardon to two of the persons concerned.—

(Here enter No. 422.)

1820

In consideration of the circumstances stated by the Acting Criminal Judge the Court of Fouzdaree Adaulut resolve to submit his application to Government, and to recommend that the Right Honorable the Governor in Council may be pleased to authorize an offer of pardon to Moideen and Pateera on the terms specified in Section XX Regulation VIII of 1802.

Ordered that the foregoing letter

letter and enclosures with extract of these proceedings be sent to the Secretary to Govern=ment in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

Sent 27th

(Sent following letter A.)

W.H. Read letter, dated 21st instant, from the 2d Judge or Circuit in the Northern Division, transmitting copy of the examinations of certain witnesses in Case No 7 of the Nellore Calendar 2d Sessions 1819. and of persons called by him to depose to the state of the mind of the prisoner, and requesting the instructions of the Court as to the propriety of proceeding with the trial.-

(Here enter No 428.)

By the orders of the Foujdaree Court under date 29th October 1807, which are cited by the 2d Judge in the present reference, it is directed, that "if at the time of arraignment "a prisoner be found insane, the Judge shall "postpone the trial until a future Session

"or until such time as he shall be capable "of pleading to the arraignment and of "answering for the offence with which he is "charged."

As it does not appear from the examinations taken by the 2d Judge, that there is proof of the prisoner's having been "insane at the commission of the crime" charged against him, and as his capacity to plead to the arraignment is unquestionable,- the Court of Foujdaree do not understand upon what grounds the suggestion of post=poning the trial till the ensuing Sessions can be founded, and they direct that the trial of the prisoner Ramsing be therefore brought to a close without further delay.-

Ordered, that extract of these proceedings be sent to the 2d Judge of Circuit in the Northern Division for his information and guidance.-

Sent 30th

W.H. (Sent following letter B.)

23 & 26. 26. July 1879.

Read letter dated the 17th instant, from the 3d Judge on Circuit in the Southern Division, with copy of Cumlaconum Calendar 2d Sessions A.D. 1879.

(Here enter No. 421.)

Read letter, dated the 18th instant from the 1st Judge of the Court of Circuit in the Southern Division, with copy of Trichinopoly Calendar 3d Quarterly Sessions A.D. 1879.

(Here enter No. 427.)

Sent 27

Sms

P. A.

J. U.

At a Court of the Foujdaree Udalut

Present

Monday
7th August 1879. } Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Gilbee Esqre } Judges

Read letter, dated the 21st ultimo, from the 2d Judge of the Court of Circuit in the Northern Division, - transmitting copy of a precept issued by him to the Magistrate of Nellore and of that Officer's return, regarding the office of Asmeen for that Station. -

(Here enter No. 430)

The 2d Judge reports in the foregoing letter, that having observed, "that besides "a Tahsildar exercising the authority of a "Head of police in the Town of Nellore, the "usual Residence of the Magistrate and his Head "Assistant, a Person styling himself an Asmeen "of Police of the Town of Nellore also performed "duties attached only to a Head of Police," - he called on the Magistrate by precept to state the nature of this person's appointment. -

In

Read letter dated the 19th instant, from the 3d Judge on Circuit in the Southern Division, with copy of Conluconum Calendar 2d Sessions A.D. 1819.

(Here enter No. 421.)

Read letter, dated the 17th instant, from the 1st Judge of the Court of Circuit in the Southern Division, - with copy of Trichinopoly Calendar 3d Quarterly Sessions A.D. 1819.

(Here enter No. 427.)

J. U

At a Court of the Zoujdaree Udalut

Present

Monday
2d August 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre
} Judges

Read letter, dated the 21st ultimo, from the 2d Judge of the Court of Circuit in the Northern Division, - transmitting copy of a precept issued by him to the Magistrate of Nellore and of that Officer's return, regarding the office of Tuseen for that Station. -

(Here enter No. 430)

The 2d Judge reports in the foregoing letter, that having observed, "that besides "a Tahsildar exercising the authority of a "Head of police in the Town of Nellore, the "usual Residence of the Magistrate and his Head "Assistant, a Person styling himself an Asmeen "of Police of the Town of Nellore also performed "duties attached only to a Head of Police," - he called on the Magistrate by precept to state the nature of this person's appointment. -

In his Return to the precept of the 2d Judge the Magistrate states, that Vaysawady Ramachendrapah, the person in question "is "appointed Police Ameenah for the Town of Nellore in which capacity he "acts when the Tahsildar "Head of Police is absent from the town, or too "much engaged otherwise to be able to perform "the duty" - that "he is immediately under the "Magistrates own orders when present in Nellore "the Assistant when he is not there, and the "Tahsildar Head of the Police, when neither "Collector nor any Assistant is at the station "and is vested with the powers & authority given "in the Regulations."-

Section XL Regulation XI declares, that "in large towns where it may be "found that the police duties cannot be conducted "by the Head Inhabitant the Magistrate shall "appoint a person to act as Ameen of Police "either immediately under his own orders or under "the Tahsildar of the [illegible] and either under

"the police powers vested in heads of Villages or "with those vested in Tahsildars."-

It is scarcely necessary to observe that the appointment of the Police Ameen of the town of Nellore, as described by the Magistrate, is not "in strict conformity with "the Regulation here cited - Instead of being vested either with the powers of a head of a village or those of a Tahsildar, the Police Ameen of Nellore would appear to exercise powers co-ordinate with those of the Tahsildar, or to be subject to the latter officers authority, according as he may or may not happen to be "too much engaged otherwise to be able to perform the duty."-

However convenient an appointment of this description may be found, it is wholly unauthorized by the Regulations and must therefore be discontinued.-

It appears to the Court of Foujdaree Udalut to be very questionable, whether on the supposition of the Magistrate or his Assistant being generally resident at the Zilla

2d August 1819.

The Court also observe in the above Calendar various instances, in which the 1st Judge has passed a sentence of imprisonment "without irons & without hard labour."—

The Court of Foujdaree Udalut are of openion, that in almost every instance, in which a sentence of imprisonment may be passed by a Court of Circuit, such sentence must be wholly nugatory unless accompanied with hard labour and irons during the term of imprisonment.— That cases may occur, in which considering the Rank or circumstances of the person convicted, imprisonment may be considered a sufficient punishment the Court are not prepared to question, but they are fully impressed with the conviction, that the adjudication of this punishment, must when considered with reference to its general operation eventually tend, rather to the encouragement than to the suppression of offences.—

2d August 1819.

The Court of Foujdaree Udalut remark that with respect to Case No. 10 of the Calendar in which the prisoner has been found guilty by the Mohummudan law Officer it is stated, that "no sentence is "passed on the prisoner, he being one in reg "which is ordered for reference."—

The 1st Judge has erred in considering himself to be precluded from passing sentence on this prisoner in a Case, in which he is competent to give judgment, by the circumstance of the same individual being concerned in another case, under reference to the Foujdaree Udalut, because the issue of the reference must be uncertain and the Court according direct that the 1st Judge do resume his proceedings in the Case No. 10 and dispose of it in the same manner, as if the prisoner Soobarayen were not a party to any Case referred to the Foujdaree Udalut.—

Ordered that extract of these proceedings be sent to the 1st Judge of the Court

2d August 1819.

Zilla station, there should be more than one office to which persons may repair to seek redress of grievan and as in the event of the absence of both these officers it would appear, that there would still be a district Police officer, stationed at the town of Nellore, the Court are of opinion that the appoint ement of a Police Auneem for that town cannot be necessary.-

Ordered, that extract of these proceedings be sent to the 2d. Judge of the Court of Circuit in the Northern Division by precept directing him to communicate the same to the Magistrate of Nellore for his informati and guidance.-

sent 7th

(Sent following Precept A)

Read letter, dated the 15th. Ultimo from the 1st. Judge of the Court of Circuit in the Centre Division,- With copy of Chittoor Calend 3d. Quarterly Sessions AD 1819.-

(Here enter No. 438)

On examining the foregoing Calendar the Court remark two Cases No. 14 & 26 in

2d. August 1819

which the prisoners were charged with thefts to an inconsiderable amount, and if an inference may be drawn from the very slight degree of punishment adjudged by the Court of Quarterly Sessions, the acts in question do not seem to have been attended with circumstances of aggravation.

The Court of Foujdaree Adalut deem it proper on this occasion to enjoin the 1st. Judge, that whenever any of the offences enumerated in the Calendar delivered to him by a Criminal Judge shall not be of a heinous nature, and shall not appear on the face of the proceedings, to have been committed by persons of notorious bad character, or to have been attended with circumstances of aggravation, such as would subject the offenders on conviction to a penalty greater than that specified in Section VIII Re= gulation X of 1816, he, the first Judge, do return the proceedings in all such cases to the Criminal Judge by precept, directing him to take cognizance of the Offences under the provisions of the Section of the Regulation aforesaid.

The

26. July

2d August 1810.

2d August 1819.

The Court also observe in the above Calendar various instances, in which the 1st Judge has ordered a sentence of imprisonment without irons & without hard labour.—

The Court of Foujdaree Udalut are of opinion, that in almost every instance, in which a sentence of imprisonment may be passed by a Court of Circuit, such sentence must be wholly nugatory unless accompanied with hard labour and irons during the term of imprisonment.— That cases may occur, in which considering the rank or circumstances of the person convicted, imprisonment may be considered a sufficient punishment the Court are not prepared to question, but they are fully impressed with the conviction, that the adjudication of this punishment, must when considered with reference to its general operation eventually tend, rather to the encouragement than to the suppression of offences.—

The

2d August 1819.

The Court of Foujdaree Udalut remark that with respect to Case No. 10 of the Calendar in which the prisoner has been found guilty by the Mohummudan law Officer it is stated, that "no sentence is "passed on the prisoner, he being one in No 9 "which is ordered for reference."—

The 1st Judge has erred in considering himself to be precluded from passing sentence on this prisoner in a Case, in which he is competent to give judgment, by the circumstance of the same individual being concerned in another case, under reference to the Foujdaree Udalut, because the issue of the reference must be uncertain and the Court accordingly direct that the 1st Judge do revise his proceedings in the Case No. 10 and dispose of it in the same manner, as if the prisoner Soobarayen were not a party to any Case referred to the Foujdaree Udalut.—

Ordered that extract of these proceedings be sent to the 1st Judge of the Court

2d. August 1819.

Court of Circuit in the Centre Division for his information & future guidance.—

sent 7th

(Sent following letter B)

Read Return, dated the 27th. Ultimo from the 3d. Judge late on Circuit in the Centre Division,— to the precept dated 15th. Ultimo communicating the Court's observations on Case No. 16 Cuddapa Calendar 1st. Sessions AD 1819.

sent 27

(Here enter No. 451)

Read Return, dated 27th Ultimo from the 3d. Judge late on Circuit in the Centre Division,— to the precept dated 15th. Ultimo communicating to the Magistrate of Bellary the Court's observations on Case No. Bellary Calendar 1st. Sessions AD 1819.—

(Here enter No. 452)

Read Return, dated the 27th Ultimo from the 3d. Judge late on Circuit in the Centre Division,— to the precept dated 15th. Ultimo communication to the Magistrate of Bellary the Court's observations on Case No. 24 Bellary Calendar

H.M.

2d. August 1819.

Calendar 1st. Sessions AD 1819.—

(Here enter No. 453)

Read letter, dated the 17th. Ultimo, from the 1st. Judge on Circuit in the Western Division,— reporting his arrival at Mangalore.—

(Here enter No. 433)

Read letter, dated the 26th Ultimo, from the Acting 3d. Judge on Circuit in the Southern Division,— Reporting his arrival at Tirdachellum.—

(Here enter No. 450)

Read letter, dated the 27th Ultimo, from the 3d. Judge of Circuit in the Centre Division,— Reporting his arrival at Cuddapah.

(Here enter No. 447)

20

H.M.

W.H.

£1000

F. M.

At a Court of the Foujdaree Udalat.

Present,

Tuesday.-

3d. August 1869. Andrew Scott Esqre. ——
Edward Croft Greenway Esqre. } Judges.
J. H. D. Ogilvie Esqre. ——

Read letter, dated the 29th ultimo,
from the Secretary to Government in the Judicial
Department,- authorizing the Acting Criminal
Judge of Canara to offer a conditional pardon
to the two persons referred to in the Court's
proceedings of 26th ultimo.-

(Here enter No. 459.)

Ordered, that copy of the
foregoing letter be sent, with extract from
the Court's proceedings of the 26th ultimo, for
the information and guidance of the acting
Criminal Judge in the Zilla of Canara.-

(Sent following letter A.)

Z U

At a Court of the Zoujdaree Udalut

Present

Thursday 5th August 1819. Andrew Scott Esqre. Edward Croft Greenway Esqre. I. H. D. Ogilvie Esqre. } Judges

11

Read letter, dated the 29th Ultimo, from the 2d Judge on Circuit in the Northern Division, - submitting certain precepts issued to the Magistrate of Nellore together with that Officer's returns for the orders of the Court.

(Here enter No. 465)

The 2d Judge on Circuit states, that the proceedings of the Magistrate of Nellore are submitted under Clause Third Section XL Regulation IX of 1816 to the Court of Zoujdaree Udalut for their orders thereon". -

On reference to the Clause of the Section here cited the 2d Judge will observe, that whenever Reports may be made by a Judge on Circuit to the Zoujdaree Udalut, either in cases of omission or refusal on the part

5th August 1819.

part of a Magistrate to obey the orders of a Judge on Circuit, or in cases wherein it shall appear to a Judge on Circuit that a Magistrate has been guilty of neglect or misconduct in the discharge of his duty, it becomes incumbent on the Court of Foujdaree Adalut to submit the case for the information and orders of Government.- Unless the 2d. Judge shall be of opinion, that the act of the Magistrate referred to in these proceedings is to be considered as evincing "neglect or misconduct in the discharge of his duty," such as renders it desirable of the notice of Government, it will be competent to the 2d. Judge to pass such orders as he may deem proper, under Clause Second Section XL of the Regulation above quoted.

The Court direct, therefore that the papers be returned to the Second Judge on Circuit in the Northern Division, in order that he may revise the proceedings held before him in this case in strict attention to the provisions of the Regulations.

5th August 1819.

Ordered, that extract of these proceedings be sent to the Second Judge on Circuit in the Northern Division for his information and guidance.-

(Sent following letter A)

Read letter, dated the 20th ultimo, from the Acting 3d. Judge of the Court of Circuit in the Northern Division,- transmitting copy of examinations taken regarding the state of mind of the prisoner in Case No 2 of the Masulipatam Calendar 2d. Quarterly Sessions AD 1819.-

(Here enter No. 449)

It appearing from these examinations that the Prisoner Isakalai Soobadoo is of unsound mind:-

The Court direct, that the Criminal Judge in the Zilla of Masulipatam be commanded to ascertain whether the friends of the Prisoner are able and willing to

5 to 5 August 1819.

to undertake the care of him, and, in such event, to deliver him into their charge, and that in the event of any unwillingness or inability on their part to receive charge of the Prisoner, the Criminal Judge be required to confine him in the general hospital established at Masulipatam for the reception of Lunatic prisoners.—

Ordered, that extract of these proceedings be sent to the Acting 3d Judge of the Court of Circuit in the Northern Division by precept desiring him to communicate the same to the Criminal Judge in the Zilla of Masulipatam, for his information and guidance.—

(Sent following Precept B)

F. C.

At a Court of the Foujdaree Adalut

Wednesday 11th August 1819

Present

Andrew Scott Esqre.
Edward Croft Greenway Esqre.
J. H. D. Ogilvie Esqre.
} Judges.

Read letter, dated 23d June from the Acting 3d Judge of the Court of Circuit in the Northern Division, forwarding at the request of the Magistrate of Masulipatam a letter from that Officer and copies of certain precepts issued to him and of his Returns relative to his proceedings in certain Cases reported in the Calendars prescribed by 4th Clause first Section XL. Regulation IX of 1816.—

(Here enter No. 393)

The Court of Foujdaree Adalut do not consider it necessary to go into a detailed examination of the proceedings here referred to, as it appears that a want of information, respecting the measures previously directed by the 2d Judge led to the original order issued by the Acting 3rd Judge to the Magistrate, and in the opinion of the

11th August 1819

the Court of Foujdaree Adalut the removal of the misunderstanding subsisting on this point between the Acting 3d Judge & the Magistrate, obviating the necessity of any reference to the Court.—

Although the provisions of Sec. XIV Regulation IX of 1816 do not bear directly on the Cases in question, the Court are of opinion that according to the spirit of those provisions the order directed by the Acting 3d Judge is not open to objection.

In the concluding paragraph of his letter to the Court the Magistrate desires to be informed whether he "shall in future consider it to be his duty to procure evidence in proof of the "of alleged assault, after the witnesses named by "the prosecutors may have failed to substantiate "them" — and in his return dated 7th Ultimo to the precept of the acting 3d Judge, the Magistrate observes, that "the person complaining of an act "must surely be the best able to point out those "were the witnesses to the act complained of" "the people called by him fail to prove it, it is the duty of the Magistrate to discharge the

11th August 1819

The Court of Foujdaree Adalut deem it sufficient to remark on the foregoing observations of the Magistrate, that the line of conduct to be pursued by a Judicial Officer in the investigation of charges of this description must depend on the circumstances of the case, & that whenever it may appear from the evidence before him, that there are persons competent to depose to any material point, whom the prosecutor may have omitted to summon, it will undoubtedly be his duty to obtain their testimony, if procurable.

Ordered, that extract of these proceedings be sent to the Acting 3d Judge of the Court of Circuit in the Northern Division by precept, directing him to communicate the same to the Magistrate of Masulipatam, for his information.—

(Sent following Precept A)

To the Acting Deputy Register ~~proceeds to the Court~~ Hyderabad

that no return has been received to the Court's precept dated the 14th June last enjoining the 3d Judge late on Circuit in the Centre Division to call on the Magistrate of

of Bellaree for his proceedings in the case of Jacojee, who was apprehended at the same time with the prisoner in Case №. 4 Bellary Calendar 1ˢᵗ Sessions AD 1819.—

Ordered that extract of these proceedings be sent to the 3ᵈ. Judge late on Circuit in the Centre Division, and that he be by precept commanded to explain the cause why he has not obeyed the exigence of the precept of the 14ᵗʰ. Inst. last.—

Return to the said precept to be made within Five days from and after its receipt.—

sent 12ᵗʰ

(Sent following Precept (B)

W. H.

Read Return, dated the 26ᵗʰ Ultimo from the 3ᵈ. Judge of Circuit in the Western Division,—to the precept dated 15ᵗʰ Ultimo ordering communication to the Criminal Judge of Malabar and the Magistrate of Malabar of the Court's observations on Case №. 3 North Malabar Calendar 2ᵈ. Quarterly Sessions AD 1819.—

(Here enter №. 458)

Read Return, dated the 29ᵗʰ Ultimo from the 3ᵈ. Judge late on Circuit in the Centre Division,—to the precept dated 15ᵗʰ Ultimo ordering communication to the Magistrate of Cuddapa of the Court's observation on Case №. 1 Cuddapa Calendar 1ˢᵗ. Sessions AD 1819.—

(Here enter №. 454)

Read Return, dated the 30ᵗʰ Ultimo, from the 1ˢᵗ. Judge of the Court of Circuit in the Western Division,—to the precept dated 19ᵗʰ Ultimo ordering communication to the Criminal Judge of North Malabar of the Court's observations on Case №. 12 North Malabar Calendar 1ˢᵗ. Quarterly Sessions AD 1819.—

(Here enter №. 473)

Read letter dated the 3ᵈ. instant, from the 2ᵈ. Judge on Circuit in the Northern Division,—Reporting his intention of leaving Nellore on 4ᵗʰ. instant.—

(Here enter №. 471)

Read letter, dated the 23ᵈ Ultimo, from the 2ᵈ. Judge late on Circuit in the Western Division

11 August 1819.

Division:- With copy of Seringapatam Cal.
for Sessions of D 1819.-
(Here enter Fo 448)

Read Letter, dated the 28th ult.
from the Acting 3d Judge on Circuit in the
Southern Division,- with copy of Trincomalee
Calendar for Sessions of D 1819.-
(Here enter Fo 456)

2D.

F. C.

At a Court of the Zoujdaree Adaulut.
Present,

Thursday 12th August 1819.- Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges
J. H. D'Oyly Esqre.

The report prescribed by Section XXXVII Regulation VII of 1802 not having been received from the Judge who proceeded on Circuit in the Centre Division during the first Sessions of 1819.-

The Court direct that the third Judge of the Court of Circuit in the Centre Division be by precept commanded to send up the aforesaid Report, and to make return to the Precept within fifteen days from the date of its receipt.-

(Sent following Precept A/

2D.

At a Court of the Fouzdaree Adalut.

Present,

Monday. 23d. August 1819. Andrew Scott Esqre. / Edward Croft Greenway Esqre. / J. H. D. Cgilvie Esqre. } Judges.

Read letter, dated the 18th instant,

11 from the Criminal Judge in the Zilla of North

Malabar,- forwarding copy of a Warrant issued by

E.C.S the Court of Quarterly Sessions for the bandishment

of a prisoner therein named to any Zilla that

the Court of Fouzdaree Adalut may select.-

(Here enter No. 494.)

The Court of Fouzdaree Adalut

W.D. direct, that the prisoner,

"Pulloly Puchroo"

be removed to the Jail in the Zilla of

Seringapatam, there to be imprisoned and

kept to hard labour during the period

of his ~~11~~ sentence.-

Ordered that extract of these

proceedings be sent to the Criminal Judge

in

in the Zillas of North Malabar and
Seringapatam for the information and guidance
of those Officers respectively.-

(Sent following letters A.)

W.H.

Read letter, dated the 7th instant,
from the Acting 3d Judge on Circuit in the
Southern Division,- reporting his arrival at
Salem.-

(Here enter No. 481.)

Read letter, dated the 9th instant,
from the 1st Judge of the Court of Circuit in the
Centre Division,- submitting explanation of his
proceedings in certain cases on the Chittoor Calendar
for the 3d Quarterly Sessions of 1819.

(Here enter No. 490.)

Read letter, dated the 11th instant,
from the 2d Judge on Circuit in the Northern
Division,- stating that it has not been in his
power to obey the precept of the Court dated
20th ultimo in which he was directed to proceed
with the trial of the prisoner in Case No 14

Nellore

Nellore Calendar the order not having reached
him until his return to Masulipatam.-

(Here enter No. 502.)

11 Aug

7. 11.

At a Court of the Zuijdaree Adalut.

Monday
9th August 1819.

Present

Andrew Scott, Esqre
Edward Croft Greenway, Esqre } Judges
J. H. D. Ogilvie, Esqre

Read letter, dated 6th instant from the First Judge of the Court of Circuit and the Centre Division, submitting by desire of the Acting Magistrate of Chittoor a question relative to the construction of Section XXXVII Regulation IX of 1816. [Hereunder No. 483.]

The point at issue between the First Judge and the Acting Magistrate is whether cases, in which a complainant is fined for preferring a groundless complaint, under Section XXXV Regulation IX of 1816, may or may not be included among those cases, which are not required to be made matter of record, under Section XXXVII Regulation IX of 1816, provided the fine or imprisonment shall not

Read letter, dated 11th instant, from the Acting Third Judge on Circuit in the Southern Division, - submitting copy of Salem Calendar 2d Sessions A. D. 1819.

[Here enter N. 500.]

In case N. 18 of the above Calendar it is stated, that the prisoner, who is charged with having broken into a Dwelling House and stolen some Cloths, was convicted of Burglary, but "being under Age and by futwah not liable "to punishment - Ordered to be released."

The Court of Sujdaree Adalut direct, that the Acting Third Judge be called upon to explain the grounds of his acquiescence in the futwa on the above case.

Ordered, that extract of these proceedings be sent to the Acting Third Judge on Circuit in the Southern Division, for his information and guidance. -

[Sent following Letter B.]

not exceed the measures of punishment, specified in the latter sections.

It appears to the Court of Sujdaree Adalut, that the desertions, allowed by the provisions of Section XXXVII Regulation IX of 1816, applies solely to cases in which the punishment of the offenders shall not exceed the measure therein specified, and that the names of all persons discharged for want of evidence are to be included in the Calendar required to be delivered to the Courts of Circuit under Section XL Regulation IX of 1816.

Ordered, that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Centre Division by precept, directing him to communicate the same to the Acting Magistrate in the Zilla of Chittoa for his information and guidance. -

[Sent following Precept A.]

30th August 1819.

Read letter, dated 26th inst.
from the Magistrate and the Zillah of Salem
requesting permission to offer 250 Rupees for
Sundas and 50 Rupees for each inferior offender
and as most atrocious Murder committed
the village of Callaveypollium on the Night
of last month.-

(Here enter No. 512.)

The Court, concurring with the
judiciary of calling forth the attention of
the Government with a view to the
apprehension of the several persons accused
reported, do authorize and direct the Magis-
trate and the Zillah of Salem to offer rewards
for their apprehension, at the rate of 250
Rupees for each Sundar, and 50 Rupees for
each inferior Offender, pursuant to the according
to the provisions of Section VI Regulation I
of 1818, on the delivery of these persons to
the Magistrate of Salem, or to the Magis-
trate, in whose jurisdiction they may be
apprehended.-

Ordered

J. U.

30th August 1819

Ordered, that extract of these
proceedings be sent to the Magistrate in the
Zillah of Salem for his information and guidance.-

(Sent following letter 6)

Read letter, dated 3d Instant, from
1.
the 2d Judge on Circuit in the Northern Division,
submitting under clause third Section XL Regulation
IX of 1816 a precept issued by him to the Magistrate
of Nellore together with that Officer's return.-

(Here enter No. 486)

Read also letter, dated 6th instant,
2.
from the 2d Judge on Circuit in the Northern
Division, referring under clause third
Section XL Regulation IX of 1816 a precept,
issued by him to the Magistrate of Nellore
with that Officer's return, which were sent
back on account of the informality of the
former reference.-

(Here enter No. 506)

Under the clause of the Regulation
3.
cited by the 2d Judge it is imperative upon the
Court of Foujdaree Adalut to submit the foregoing
papers "for the information and orders of Government"
and the Court deem it proper at the same time to

record

(Read following receipt)

record a few observations on the principles developed in the returns of the Magistrate of Nellore, both as respects the mode of proceeding enjoined upon himself by the Regulations in force, and the compatibility of the duties of Revenue and Police in his district.-

4.

By the precept of the 2d Judge, dated 24th ultimo, the Magistrate was called upon "explain the circumstances, under which a confession of a prisoner had been received, which was certified as taken before the Darogah of Police, and respecting which two witnesses deposed, that it was taken in the presence of the Magistrate."

5.

In his return to this precept the Magistrate stated, that "the accused when brought "before him immediately and voluntarily made "a confession of his crime, which was taken "down in writing;" but the Magistrate finding "the case perfectly clear, and abundance of "evidence against the delinquent, referred it "immediately to the Police Ameenah."-

6.

The Magistrate afterwards proceeds

proceeds to state, that "on the case being "referred to Town Police Ameen the confession "and investigation was again regularly taken "and made out before him.- From the "singularity of the circumstance the Magistrate "was present during part of the examination, "in which he can perceive no impropriety, "nor any occasion for his entering in person "into the tedious formalities of a preliminary "investigation in a case as clear as day light, "and which was immediately to come under "the examination of the Criminal Judge."-

7.

The mode of proceeding incumbent on a Magistrate, "upon a prisoner being brought "in the first instance before him," is clearly prescribed in Section XXIV Regulation IX of 1816, under the 2d Clause of which it was the duty of the Magistrate, if satisfied that there was ground "to believe the prisoner guilty "of the crime charged against him," to send him to the Criminal Judge of the Zillah.- The reference made by the Magistrate to the Police Ameen was in direct violation of this

this provision of the Regulation enacted for his guidance, and the pertinacity with which the Magistrate maintained his competency to pursue this course of proceeding, after its irregularity had been pointed out to him by the Court of Circuit appears to the Court of Foujdaree Udalut to be alike incompatible with the respect due from him to that Court, and with a due recollection of the obligations under which he is placed to "perform the duties "of his office, conformably to the Regulations".

8. By the precept of the 2d Judge dated 28th ultimo the Magistrate was directed to point out to the Police Ameen of Nellore the impropriety of which he had been guilty in recording the evidence of a certain witness in a different language from that in which it was delivered.

9. Upon the return of the Magistrate to this precept the Court of Foujdaree Udalut considered it sufficient to observe, that the mode in which the propriety of the aversion passed by the Court of Circuit

and

F. C.

30th August 1819.

therein called in question is by no means respectful, and that the defence which the Magistrate offers of the conduct of the Ameen appears altogether unsatisfactory.

10. It remains for the Court of Foujdaree Udalut to notice a paper, submitted by the 2d Judge as addressed to him by the Magistrate of Nellore under his official seal and Signature, bearing date the 3d Instant.

11. The insinuations, in the opening paragraph of this paper, of a combination between the Court of Circuit and the Criminal Judge of Nellore, for the purpose of opposing the Magistrate's deriving any relief from "Native Assistance in the execution of the "troublesome duties of his office," is highly offensive and disrespectful - and that his offence should not be incomplete, he has extended this insinuation to the Sudr Udalut, because the Court insisted on the observance of the law, made to protect the subject against unnecessary and oppressive restraint.

The

[illegible] following receipt [illegible]

the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

(Sent following letter D. 1819)

Read letter, dated the 13th ultimo, from the Provincial Court of Circuit in the Northern Division, - forwarding return of the Criminal Judge of Rajahmundry to their precept on Case No. 3 Rajahmundry Calendar 2d Sessions AD 1818.-

(Here enter No 484.)

With reference to the conclusory passage in the above return the Court direct that the Criminal Judge in the Zillah of Rajahmundry be informed, that in the Calendar prescribed by Section XIX Regulation X of 1816 it is only necessary, that an abstract of the charge should be entered, and not a copy of the Indictment at length.-

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division by precept, directing

F. C.
30th August 1819.

them to communicate the same to the Criminal Judge in the Zillah of Rajahmundry for his information and guidance.-

(Sent following Precept D)

Read Return, dated 2nd instant, from the 2d Judge on Circuit in the Western Division to the precept dated 22d ultimo calling for copies of the Futwas in Cases Nos 3, 4, 23, & 38 South Malabar Calendar 2d Sessions AD 1819.-

(Here enter No. 480)

Read letter, dated 7th instant, from the acting 3d Judge of the Court of Circuit in the Northern Division, - with copy of Masulipatam Calendar 3d Quarterly Sessions AD 1819.-

(Here enter 499)

The Court concur entirely in the observations of the Dn Judge, regarding an inconsistency between this paper and the Magistrate's return, dated 24th ultimo, respecting a matter of fact, as appears in the view which that officer has taken of the discretionary powers assumed by the Magistrate with respect to the mode of availing himself of the services of the Native Officers of Police.

12. The Magistrate observes in a subsequent passage, that "in case the Judge "do not choose to leave the person now "Police Ameen, a Dingah, Head of Police, must "be allowed for the town and precincts of Nellore

13 The orders of the Court of Foujdaree Adalut, under date 22d Instant, to which the Magistrate would appear to refer, prohibit the continued exercise by the ameen of Police of powers unauthorized by the Regulations in force, and went no further than to apply the "opinion" of the Court, that the appointment of a Police Ameen for the town of Nellore could

could not be necessary.

14. It is competent to the Magistrate to make this appointment, if necessary, under the provisions of Section XL. Regulation XI. of 1816, but with reference to the statement of the Magistrate in vindication of such necessity, that "even when the Magistrate, Assistant Magistrate and District Police Officer are present, all "three have as many other avocations, as frequently "to render their going into long Magisterial "enquiries, quite impracticable, "and always "very inconvenient and of much disadvantage "to Government, from impeding and delaying "other business," it may be remarked, that it conveys an argument against the existing system, while the main object of the paper is to prove that the system is opposed by requiring an adherence to its provisions.

15. Ordered, that the foregoing letter and enclosures with extract of these proceedings be sent to the Secretary to Government in the

J. H.

At a Court of the Foujdaree Udalut

Present

Monday 6th September 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Agilvie Esqre
} Judges -

Read letter, dated the 24th Ultimo, from the 3d Judge of the Court of Circuit in the Western Division, - with copies of North Malabar Calendars 3d Quarterly Sessions AD 1819. -

(Here enter No 576)

The Court desire to have before them Futwas delivered in Cases No. 3, 7, 8, 9 wherein certain prisoners who are stated to have been "acquitted" have been ordered to be released on producing security for their future good behaviour and appearance when required. -

Ordered that extract of these proceedings be sent to the 3d Judge of Circuit in the Western Division by precept, desiring him to send up Copies of the Futwas delivered by the Provincial Law Officer in the several cases abovementioned within six days from the date of the receipt of the precept. -

(Let following Precept be)

Under clause sixth Section II Regulation XV of 1803 it is competent to the Courts of Circuit "in cases of strong suspicion, though not "amounting to conviction, as well as upon proof "of notorious bad character" to direct that the prisoner shall be detained in custody, until he shall give sufficient security for his future good behaviour and appearance when required.—

In the Courts' Circular orders of 5th June 1815 it is declared to be competent to the Judges of the Courts of Circuit to require security in cases where notorious bad character may be proved to their satisfaction, whatever may be the futwa of the Law Officer. As "suspicion" of guilt can arise only from the matters in evidence before the Court of Circuit, it follows that it is properly within the province of the Provincial Law Officer, who is to state at the end of the record of the proceedings the law applicable to the circumstances of each case, to specify in the futwa, whether any and what degree of suspicion may appear to attach to the prisoner, and that unless such suspicion be declared in the futwa it is not competent to the Judge presiding at the trial to call upon the accused

strong suspicion, to give security for future good behaviour and appearance when required.—

And it appears to the Court of Foujdaree Udalut, that a misconception prevails with respect to the discretion vested in the Courts of Circuit by Clause sixth Section II Regulation XV of 1803, and that the information contained in the abstract of the Futwa and of the sentence of the Court, as generally recorded by the Judges of the Courts of Circuit is insufficient.— They deem it proper to circulate these observations, and to direct that in submitting future Calendars for the information of the Foujdaree Udalut, the Judges of the several Courts of Circuit do in all cases enter in abstract, not only the sentence declared in the futwa, but also the grounds, whether of confession, or of the evidence of credible witnesses, or of presumptive proof, or of suspicion, on which such sentence is founded.— And in cases of an order for the requisition of security the Court of Foujdaree Udalut direct, that the grounds of such requisition be always distinctly specified.—

Ordered, that extract of these proceedings be sent to the four Provincial Courts

6th September 1819.

Courts of Circuit by precept, directing them to com-
municate the same to the several Judges now on
Circuit for their information and future guidance.
(Sent following Precept B)

Read letter, dated the 21st May
last, from the Acting 3rd Judge of the Court of
Circuit in the Northern Division, - submitting Case
No. 19 Masulipatam Calendar 2nd Quarterly Sessions
A.D. 1819. -
(Here enter Page 354)

The Court having maturely considered
the proceedings held before the Judge of the Court
of Circuit the futwa of the Provincial Law Officer
and the futwa of the Cazee-ool-Coozat and Mooftee
of the Fouzdaree Udalut, confirm the said futwa
of the Cazee-ool-Coozat and Mooftee aforesaid and
under the provisions of Clause 4th Section II Re-
gulation XV of 1803 direct that the prisoner,
"Jones Johnson"
be released on producing security for his future good
behaviour and appearance when required. -
(Sent following letter C)

The Court of Fouzdaree Udalut
deem it proper to observe, that the examination of the

F. U.
6th September 1819. -

the Assistant Surgeon in this Case before the Court
of Quarterly Sessions was conducted in a manner
by no means satisfactory. -

The 1st Question put to this witness is
worded as follows: - viz: "Did you examine a
"young girl by name Isaakela Lingee, and what
"is your opinion of her state at present? -

Upon this question it is obvious to
remark, that it is not directed to the point, which
was material to the Case, namely the state in
which the prosecutrix appeared on her first exa-
mination, & in this as well as the remaining
queries to the Assistant Surgeon, regarding the
state in which he found the Prosecutrix & the
prisoner, the Court of Fouzdaree Udalut are
unable to account for the absence of any reference
to the date, on which the examination of the
parties took place, the specification of which
was indispensible to the removal of the apparent
inconsistency between the accounts of the European
Surgeon, & the Native Doctor. -

Ordered, that extract of these
proceedings be sent to the Acting 3d Judge
of the Court of Circuit in the Northern Division
for his information & future guidance. -
(Sent following letter D)

Read

6th September 1819.

Courts of Circuit by precept, directing them to com-
municate the same to the several Judges now
Circuit for their information and future guidan

(Sent following Precept B)

Read letter, dated the 21st May
last from the Acting 3rd Judge of the Court of
Circuit in the Northern Division - submitting Cas
No 19 Masulipatam Calendar 2nd Quarterly Sessio
AD 1819. -

(Here enter Pge 354)

The Court having maturely consider
the proceedings held before the Judge of the Court
of Circuit the futwa of the Provincial Law Office
and the futwa of the Cazee-ool-Cozat and Mooftee
of the Zoujdaree Adalut, confirm the said futwa
of the Cazee-ool-Cozat and Mooftee aforesaid and
under the provisions of Clause 4th Section II Re-
gulation XV of 1803 direct that the prisoner,
"Jones Johnson,"
be released on producing security for his future good
behaviour and appearance when required. -

(Sent following letter C)

The Court of Zoujdaree Adalut
deem it proper to observe, that the examination of

6th September 1819. - the Assistant Surgeon in this Case before the Court
of Quarterly Sessions was conducted in a manner
by no means satisfactory. -

The 1st Question put to this witness is
worded as follows: - viz: "Did you examine a
"young girl by name Isaakela Lingee, and what
"is your opinion of her state at present? -

Upon this question it is obvious to
remark, that it is not directed to the point, which
was material to the Case, namely the state in
which the prosecutrix appeared on her first exa-
mination, & in this as well as the remaining
queries to the Assistant Surgeon regarding the
state in which he found the Prosecutrix & the
prisoner, the Court of Zoujdaree Adalut are
unable to account for the absence of any reference
to the date, on which the examination of the
parties took place, the specification of which
was indispensible to the removal of the apparent
inconsistency between the accounts of the European
Surgeon, & the Native Doctor. -

Ordered, that extract of these
proceedings be sent to the Acting 3d Judge
of the Court of Circuit in the Northern Division
for his information & future guidance. -

(Sent following letter D)

Read

6th September 1819.

Read letter, dated the 18th May last from the 3d Judge on Circuit in the Centre Division submitting Cases No 29 and 30 Bellaree Calendar 1st Sessions AD 1819.—

(Here enter No 330)

The Court having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftee of the Zoydaree Adalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftee aforesaid under the provisions of Clause 3d Section VIII Regulation XV of 1802 direct, that the prisoners

1st "Chenchoogadoo"
2d "Venkateegadoo"
3d "Pedda Venkateegadoo"
4th "Guggul Venkateegadoo"
5th "Timmun Bhoy"

be removed to the Jail in the Zilla of Teichinopoly there to be imprisoned & kept to hard labour in irons on the public Roads or other public works for and during the period of fourteen years.—

(Sent following letter E)

6th September 1819.

Read letter, dated the 8th May last, from the 3d Judge of Circuit in the Centre Division, submitting case No 40 Cuddapa Calendar 1st Sessions AD 1819.—

(Here enter No 334)

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftee of the Zoydaree Adalut confirm the said futwa aforesaid and under the provisions of Clause sixth Section II Regulation XV of 1803 direct that the prisoner,

"Edeegah Gungadoo",

be released on producing security for his future good behaviour and appearance when required.

(Sent following letter F)

In the letter accompanying the foregoing trial the 3d Judge refers to the confessions of two persons named Venkatarandon and Venkatachelum, who were lately apprehended by the Magistrate of Chittoor, "that they, this "prisoner, and others robbed the house of the first

"first prosecutor;" and two papers are annexed to the Record of the proceedings in the Case, which although they are not attested by the signature of any Police Officer, and there is nothing on the face of them to shew that they were taken before any constituted authority, would seem to be the declarations in question.-

Had these documents, however, not been deficient in the attestation requisite for their intrinsic validity, they could have been of no force against the prisoner, as the confession of one person cannot be received as evidence against others, under any circumstances, and the declarations in question are open to a further objection, that would vitiate any evidence whatever, namely that they were not taken in the presence of the accused.-

The Court of Zoydarce Veadatu have observed with much concern the facility with which the 3d. Judge has been led by testimony so utterly unworthy of credence and inadmissible in law to the conclusion of the guilt of the prisoner:- and with respect to the

3/ J. M.

6th September 1819.

the following passage in the letter,- viz: "The "2d. Prosecutor has stated, that Venkataramdoss "also mentioned, that he with this prisoner and "others committed the Robbery in his house, and "though this circumstance does not particularly "appear in Venkataramdoss Jaloka declaration "which accompanies this Trial, it must have "been true, because a great deal of the 2d. "Prosecutors property has been recovered from "Venkataramdoss, and a witness who purchased "some part of it from this Prisoner;"- it is the duty of the Court of Zoydarce Veadatu to observe, that however conclusive it may be against Venkataramdoss as his own confession it is altogether inadmissible as evidence of the fact, that the prisoner was concerned in robbing the house of the 2d. prosecutor.-

The Court of Zoydarce Veadatu are of opinion, that the rest of the remarks of the 3d Judge are open to similar observations to those which they have already recorded, but they trust that what has been said will have the effect of rendering the 3d Judge more cautious

cautions in the admission of inspections of the guilt of the accused, which are unsupported by the facts in evidence before him.-

The Court of Enquiry [illegible] adverting to the general character of the prisoner as developed in the record of this case, have thought fit to direct that he shall not be released until he shall give security for his future good behaviour and appearance, when required.-

Ordered that extract of these proceedings be sent to the Provincial Court of Circuit in the Centre Division for their information.-

(Sent following letter G/ 20

W.M.

The Report prescribed by Section XXXV Regulation X of 1816 not having been received from the Zilla of Cuddapa for the last quarter.-

Ordered that the Criminal Judge of the Zilla of Cuddapa be by precept commanded to send up the Report without further delay and to explain the circumstances that may have occurred to prevent its having been dispatched in conformity with the provisions of Section XXXV Regulation X of 1816.-

Return

Return to the said precept to be made within five days from the date of its receipt.-

(Sent following Precept H)

FB
H WM
WM

Read letter, dated the 23d ultimo, from the acting 3d Judge on Circuit in the Southern Division, reporting his arrival at Coimbatore-

(Here enter No. 510.)

Read letter, dated the 16th ultimo, from the 2d Judge on Circuit in the Northern Division, with copy of Nellore Calendar 2d Session A.D. 1819.

(Here enter No. 513.)

Read return, dated the 25th ultimo from the acting 2d Judge of Circuit in the Northern Division, to precept dated 11th Instant ordering communication to the Magistrate of Masulipatam of the Court's orders on a reference regarding the proceedings of the Magistrate in a case reported

(Here enter No. 515.)

Read letter, dated the 25th ultimo, from the 2d Judge on Circuit in the Northern Division, reporting his arrival at Rajahmundry

(Here enter No. 518.-)

6th September 1819.

Read return, dated the 2d Instant
from the 1st Judge of the Court of Circuit in
the Centre Division, - to precept dated 27th ultimo
ordering communication to the Acting Magistrate
of Chittoor of the Court's orders on a reference made
by that Officer desiring instructions respecting the provisions
of Section XXXVII Regulation IX of 1816.

(Here enter No. 524.)

Read letter, dated the 1st Instant,
from the Acting 3d Judge on Circuit in the Southern
Division, - with copy of Coimbatore Calendar
2d Sessions A.D. 1819.

(Here enter No. 526.) 15

J. M.

At a Court of the Foujdaree Adaulut.

Present,

Monday,
13th September
1819. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
J. H. D. Ogilvie Esqre

Read letter, dated the 25th May last,
from the 2d Judge of Circuit in the Centre Division,
submitting case No. 10 Chingleput Calendar 1st
Session A.D. 1819.

(Here enter No. 342.)

The Court having maturely considered
the proceedings held before the Judge of Circuit the
Jurors of the Provincial Law Officer and the Futwa
of the Cazee and Cozat and Mooftee of the Foujdaree
Adaulut confirm the said Futwa of the Cazee and
Cozat and Mooftee aforesaid and under the
provisions of Clause third Section IV Regulation XV.
of 1803 adjudge the prisoners,

1st "Ravanen Canthavarayen," and
2d "Nullamoottoo,"

to be imprisoned and transported to Prince of
Wales' Island there to be imprisoned and
kept to hard labour in irons on the public
roads

roads or other public works for and during the term of their natural lives.—

And under the authority vested in the Court by Clause sixth Section IV Regulation XV of 1803, direct that the prisoners,

4th "Narrain Maunmoolungy", and

5th "Carootoo,"

be set at liberty.

And acquitting the prisoner,

2d "Mootoosawmy,"

direct that he be also released.—

(Sent following letter A)

In consideration of the circumstances reported by the 3d Judge late on Circuit in the Centre Division, the Court of Foujdaree Adaulut have resolved, under the authority vested in them by Clause sixth Section IV Regulation XV of 1803, to direct that the 4th and 5th prisoners in this Case shall be discharged, and concurring in the opinion of the 3d Judge as to the effect which has resulted from the evidence given by these persons before the Magistrate of Combaconum, and the impropriety of

of their having been put on their trial the Court direct, that the Criminal Judge in the Zilla of Chingleput be instructed to furnish the Prisoners Narrain Maunmoolungy and Carootoo with the allowance prescribed by Section XXXIII Regulation X of 1816 for as many days as may be sufficient for them to return to their homes.—

Under the provisions of Section XXIII Regulation IX of 1816 the Court of Foujdaree Adaulut direct, in conformity with the recommendation of the 3d Judge in his letter accompanying the trial, that the witnesses Royapen and Mootoosamy be presented each with a gratuity of 150 Rupees and that a like sum be paid to Chowry Mootoo Swamy Saravacaran, who appears to have so meritoriously exerted himself in the apprehension of the prisoners Rowmen Canttavarayen.—

In the event of its being discovered that the above mentioned Chowry Mootoo Sarvacaran has "sunk under the fatigues of the journey" from Chingleput to his own Country, the Court of Foujdaree Adaulut further direct that the sum of 150 Rupees be given to

to his family.—

The duty of distributing the gratuities above specified will devolve upon the Magistrate of Combaconum, the several persons in question being Inhabitants of his District.—

I ~~subscribe~~ for the Court of Foujdaree Adalut to notice the error, which was committed by the Magistrate of Combaconum in swearing the 4th and 5th prisoners in this case to the declaration which they respectively delivered before him.

The explanation given by the Magistrate of the grounds of this proceeding is by no means satisfactory.— In reply to an application from the Assistant Magistrate of Combaconum, under date 15th April 1817, for authority to make a conditional offer of pardon to these persons the Court of Foujdaree Adalut assigned, as the ground of their refusal to submit such application to Government, that there was nothing in the letter of the Assistant Magistrate to shew, that these persons were not principals in the robbery.—

An

13th September 1819.

On the 9th of November 1818, after a lapse of a year and a half the evidence of these two persons was taken on oath by the Magistrate of Tanjore, and with reference to the statement made in explanation by the Magistrate in his return to the precept of the Zillah Court at Chingleput dated 9th April 1817, "that it appeared that these "persons were not principals in the robbery," the Court of Foujdaree Adalut have to remark that in that Case it was the duty of the Magistrate to have renewed his application for authority to make a conditional offer of pardon to the two persons in question, without which their evidence must have been altogether inadmissible before a Judicial Tribunal.—

With reference to the concluding paragraph of the orders of the Foujdaree Adalut to the Assistant Magistrate of Combaconum under date 18th May 1817 wherein that officer was instructed "to forward those "persons who might be brought before him

13th September 1819.

"him as having been concerned in the robbery
"committed near Sadras to the Magistrate or
"Assistant Magistrate in the Zilla of Chingleput
The Court of Foujdaree Adawlut direct that the
Magistrate of Combaconum be called upon
to explain the grounds of the detention of these
persons for a period of 18 Months after the
receipt of the order of the Court for their
transmission to Chingleput.

Ordered, that extract of these
proceedings be sent to the Provincial Court
of Circuit in the Centre Division by precept
directing them to make the necessary com-
=munication to the Criminal Judge in the
Zilla of Chingleput.

(Sent following Precept B.)

Ordered, also that extract of these
proceedings be sent to the Magistrate in the
Zilla of Combaconum by precept directing
him to carry into effect the resolution of
the Court respecting the gratuities to the natives
abovementioned, and to furnish the explan-
=nation required in the latter part of
these

13th September 1819.

proceedings without delay.

(Sent following Precept C.)

Read letter, dated the 18th May last,
from the Acting 2d Judge of Circuit in the
Northern Division, submitting case No 12.
Masulipatam Calendar 2d Quarterly Sessions
A.D. 1819.

(Hereunto No 355.)

The Court having maturely considered
the proceedings held before the Judge of Circuit
the futwa of the Provincial Law Officer
and the futwa of the Cazee ool Cozat and
Mooftee of the Foujdaree Adawlut confirm
the said futwas of the Cazee ool Cozat
and Mooftee aforesaid, and acquitting the
prisoners,

"Codawuitty Shayshoo"

direct that he be set at liberty.

(Sent following letter D.)

At a Court of the Foujdaree Adaulut.

Present,

Thursday 16th September 1819. Andrew Scott Esqre. / Edward Croft Greenway Esqre. / J. H. D. Egilvie Esqre. } Judges.

Read letter, dated the 23d April last

No 1 from the 2d Judge of Circuit on the Northern Division, - submitting case No 17. Masulipatam Calendar 1st Quarterly Sessions A.D. 1819.

Hereunto No 285/

No 2 The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Cozat and Moofter of the Foujdaree Adaulut confirm the said futwas of the Cazee ool-Cozat and Moofter aforesaid, and under the latitude given by the sentence of Adaulut adjudge the prisoners

1st "Seelum Bonah Naikdoo,"
2d "Chendoo Lutchma,"
3d "Lumbadee Lutchmah,"
4th "Jotla Venkoo,"
5th "Sunkella Goorradoo,"
6th "Mutlella Nayyah,"
7th "Mopindroo Lutcheeyu,"
8th "Cojala Lutchmoodoo," and
9th "Veerabayyah Venaatapuitee Naidoo"

to be imprisoned and transported to Prince of Wales

Wales's Island there to be imprisoned and kept
to hard labour in irons on the public roads or
other public works for and during the space of
their natural lives.-

Sent 18th

(Sent following letter A)

Read letter, dated the 15th Inst. from
from the Acting 3d Judge on Circuit in the
Centre Division,- submitting trial № 11 of the
Combaconum Calendar 2d Sessions A.D. 1819.

(Here enter № 529.)

The Court having maturely considered
the proceedings held before the Judge on Circuit
the futwa of the Provincial Law Officer and
the futwa of the Sudder adawlut Cazee ool Cozaut and Mooftee
the Foujdaree Adawlut confirm the said futwas of
the Cazee ool Cozaut and Mooftee aforesaid
and order the sentence of Hippaid declared
in the futwa of acquitting the prisoner,

"Coothan,"

to suffer death by being hanged at the
usual time and place of execution.

Sent 17th

(Sent following letter B.)

W.B.

Read letter, dated the 9th instant
from the Acting 3d Judge on Circuit in the Centre
Division

Division,- reporting his arrival at Cuddapa.-

(Here enter № 530.)

Read letter, dated the 8th Instant,
from the Acting 3d Judge on Circuit in the
Centre Division,- with returned warrant for
the execution of the prisoner in Case № 14
Cuddapa Calendar 1st Session A.D. 1819.-

(Here enter № 531.)

J. U

At a Court of the Foujdaree Udalut

Present

Monday 20th September 1819 — Andrew Scott Esqre. / Edward Croft Greenway Esqre. / J. H. D. Ogilvie Esqre. } Judges

Read letter, dated the 3uly last,

from the 1st Judge of the Court of Circuit in the

Centre Division, - submitting Case No. 21 Chittoor

Calendar 3rd Quarterly Sessions of 1819. -

(Here enter No. 440)

The Court, having maturely considered

the proceedings held before the Judge on Circuit the

Futwa of the Provincial Law Officer and the futwa

of the Cazee-ool-Coozat and Mooftee of the Foujdaree

Udalut, are of opinion that the proof against

the prisoner Veneatarayen is sufficient to convict

him of the offence of Robbery by open violence for

which a penalty is specially denounced in Clause

Third Section IV Regulation XV of 1803. -

The Court, under the authority vested

in them by Clause first Section II Regulation I of

1818, and in exercise of the discretion given by Clause fifth

fifth Section IV Regulation XV of 1803 as to the prisoner,

"Veneataroyen"

to receive thirty Stroakes with a Rattan and to be discharged on producing Security for his future good behaviour and appearance when required.—

(Sent following Letter A)

Read Letter, dated the 16th Instant from the 3d Judge of Circuit in the Central Division submitting Case No. 12 Chingleput Calendar Sessions of 1819.—

(Here enter No. 341)

The Court having maturely considered the proceedings held before the Judges of Circuit the future Conduct of the Provincial Law Officers, the future Conduct of the Cazee and Cazeat and the Duties of the Fouzdaree Adalut confirm the future Conduct of the Cazee and Cazeat and the aforesaid Number the sentence of Whipping in the future adjudge the prisoner

Poolagan"

and place of execution.—

(Sent following Letter B)

It appears in evidence before the Court of Circuit that Bungar Rajah the Head of the Village of Poontundalum in the Tookadee of Madumpaukum received declarations from the prisoners in this Case.—

The Court of Fouzdaree Adalut desire therefore, that the Magistrate in the Zilla of Chingleput will call the attention of the said Bungar Rajah to Clause second Section V Regulation XI of 1816, which expressly declares, that Heads of Villages shall not receive from any person, whom they may apprehend, any confession either verbally or in writing, except in trivial Cases. With respect also to the declaration of the 1st prisoner taken by Streenevasa Royer Police Ameen of Madumpaukum, the witnesses Annasamy Goorooeul & Sundeapah Chitty stated before the Court of Circuit, that they went to the Cutcherry of the Police Ameen, after he had taken down the prisoner's declaration, which was read over in their presence, and afterwards attested by them.—

The

The Court direct that the above circumstance be brought to the notice of Sheenevasa Royer, the Police Ameen of Maduma-pauhum by the Magistrate of Chinglepute, and that the attention of this police officer be particularly directed to the words of Clause 3d Section XXVII Regulation XI of 1816, which declares that in all cases of confession, the District Police Officers shall "cause the same to be reduced to "writing and signed or marked by the prisoners "in the presence of two or more respectable "persons".—

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Centre Division by precept directing them to communicate the same to the Magistrate of Chenglepute for his information and guidance.—

Sent 27th

(Sent following Precept &c)

Read letter, dated the 5th June last from the 3rd Judge of the Court of Circuit in the Western Division, submitting Case No 1 of his Calendar

J. C.
20th Sept 1819.

Calendar for North Malabar 2nd Quarterly Sessions AD 1819.—

(Here enter No 373)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Cozzat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee-ool-Cozzat and Mooftees aforesaid and under the provisions of Clause first Section IX Regulation XV of 1803, adjudge the prisoners,

1st "Kotten Cunhy ally"
2d "Koorchee Seeran"
3d "Koovarakel Salamy"
4th "Ponatil Soopy"
5th "Kotty Chatoo"
6th "Kottoram Kelloo"
7th "Chatty Mamally"
8th "Kallyl Cunhy Amod"
9th "Vaekul Sidian"
10th "Coonoo Chaddean"
11th "Mulloly Cunhy Cotty"
12th "Vambery Chandoo"
13th "Eddely Cunhy Amod"
14th "Kalolotta Mamy"
15th "Pelakool Kamaloo"
16th "Chentaukandy Kamaloo"
17th "Chembogotemkeil Amod"
18th "Punachekadavatoo Cunhy Amod"
19th "Soonen Moideen"
20th "Panikarakandy Cooty ally"

21st "Matoorkaren Androoman,"
22d "Yeddatil Poilil Canaren,"
23d "Chakara Maideen,"
24th "Karikodden Maunen,"
25th "Hoshoven Chandoo,"
26th "Chalil Mamod,"
27th "Edeetoo Cheakooty,"
28th "Chetuamaudy Cunhupa,"
29th "Vemanatil Pocky,"
30th "Chaddala Maideen Cooty,"
31st "Yeddyaporuan Choy,"
32d "Cranguey Toory," and
33d "Tellahil Packey,"

to be removed to the Jail in the Zilla of Jerungapatam there to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the periods of their respective sentences after the expiration of which the 1st prisoner,

"Kotten Cunhy ally"

to be imprisoned & kept to hard labour in irons for a further period of three years — The prisoners,

2nd Koorchee Leran,"
10th "Coonoo Chaddean,"
17th "Chembagotenkeel Amod," and
29th "Vemanatil Pocky"

for a further period of two years — And the remaining prisoners,

3rd "Kizarakel Salamy,"
4th "Ponattil Loopy,"
5th "Kotty [illegible]

6th "Kottoram Kelloo,"
7th "Chotty Mamially,"
8th "Kallyk Cunhy Amod,"
9th "Vachal Andian,"
11th "Mulloly Cunhy Cootty,"
12th "Vambery Chandoo,"
13th "Eddely Cunhy Amod,"
14th "Kalolotta Mamy,"
15th "Pelakool Kamaloo,"
16th Chentankandy Kamaloo
18th "Panachekiedavatoo Cunhy Amod,"
19th "Toonen Maideen,"
20th "Panikarakandy Cooty ally,"
21st "Matoorkaren Androoman,"
22d "Yeddatil Poilil Canaren,"
23d "Chakara Maideen,"
24th "Karikodden Maunen,"
25th "Hoshoven Chandoo,"
26th "Chalil Mamod,"
27th "Edeetoo Cheakooty,"
28th "Chetuamaudy Cunhupa,"
30th "Chaddala Maideen Cooty,"
31st "Yeddyaporuan Choy,"
32d "Cranguey Toory," and
33d "Tellahil Packey"

for a further period of twelve Calendar Months and then discharged.—

(sent following letter D)

Read Return, dated the 17th July last, from the Acting 3rd Judge of the Court of Circuit in the Northern Division, — to the precept

precept dated 17th June last calling for Record of proceedings in case No 2 Masulipatam Calendar 2nd Quarterly Sessions AD 1819.-

(Here enter No 435)

The Court having maturely considered the proceedings held before the Judge of the Court of Quarterly Sessions, the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool-Cozat and Mooftees of the Fouzdaree Adalut, confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid, ad adverting to the opinion declared in the futwa regarding the insanity of the prisoner

"Paulacoorty Veeriah"

the Court direct, that the Criminal Judge in the Zilla of Masulipatam be commanded to ascertain whether the friends of the prisoner are able and willing to undertake such care of him as may prevent the possibility of his doing any mischief, and, in such case, to deliver him into their charge, and that in the event of any unwillingness, or inability on their part to receive charge of the prisoner the Criminal Judge be required to confine him in the general Hospital established at Masulipatam, ~~the Court~~ for the reception

F. C.
20th Sept 1819.-

reception of Lunatic prisoners.-

(Sent following letter E)

Read letter, dated the 23d April last from the 2d Judge of Circuit in the Western Division,- submitting Case No 4 North Malabar Calendar 2d Sessions AD 1819.-

(Here enter No 297)

The Court having maturely considered the proceedings held on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Cozat and Mooftees of the Fouzdaree Adalut, confirm the said futwas aforesaid and acquitting the prisoners,

1st "Addiody Gemen," and
2d "Vanapalen Chindden,"

direct that they be set at liberty.-

(Sent following letter F)

Read again letter, dated the 1st May last from the 3rd Judge of Circuit in the Centre Division,- submitting Case No 4 Bellary Calendar 1st Sessions AD 1819.-

(Here enter No 302)

Read

Read also letter, dated the 20th instant, from the 3rd Judge of Circuit in the Centre Division, - transmitting Return of the Magistrate of Bellary to the Court's precept of 14th June calling for his proceedings in the case of Lazaree who was apprehended at the same time with the prisoner in Case No 4 Bellary Calendar 1st Sessions AD 1819.-

(Here enter No. 552)

The Judges of the Court of Foujdaree Adalut, on a deliberate consideration of the circumstances of the Case in evidence before them, concurring in opinion that the proof against the Prisoner,

"Rajahram"

is sufficient to convict him of having accompanied and assisted the Pindarees, when they plundered the Village of Harpanahully, Zillah Bellary, under Clause second Section II Regulation I of 1818, that the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut will declare by a second futwah to what sentence the prisoner would have been liable under the Mohummudan law if he had

20th September 1819.

had been convicted, by full legal evidence, of the crime laid to his charge.-

Ordered that extract of these proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftees for their information and guidance.-

Read return dated the 14th instant, from the Criminal Judge in the Zillah of Arcot - to precept dated 6th Instant calling for report prescribed by Section XXXV Regulation X of 1816.-

(Here enter No. 551.)

Read return, dated the 15th instant, from the Provincial Court of Circuit in the Centre Division, - to precept dated 6th Instant, ordering communication to the Judge on Circuit of the Court's instructions relative to the particulars to be specified in the Calendars furnished for their information -

(Here enter No 545.)

Read return, dated the 15th instant, from the Provincial Court of Circuit in the Southern Division, - to precept dated 6th instant ordering communication to the Judge on Circuit

of the Court's instructions relative to the Calendars furnished for the information of the Foujdaree Adalut.-

(Here enter № 548.)

Read return, dated the 9th instant, from the acting 2d Judge of the Court of Circuit in the Northern Division,- to precept dated 5th ultimo ordering communication to the Criminal Judge of Masulipatam of the Court's orders respecting the disposal of the prisoner in Case № 10 Masulipatam Calendar 2d Quarterly Sessions A.D. 1819.-

(Here enter № 539.)

Read letter, dated the 15th instant, from the acting 3d Judge on Circuit in the Southern Division,- explaining the grounds of the Sentence passed in case № 8 Salem Calendar 2d Sessions A.D. 1819.-

(Here enter № 549.)

Read letter, dated the 15th instant, from the acting 3d Judge on Circuit in the Southern Division,- reporting his arrival at Madura.

(Here enter № 550.)

J 11

At a Court of the Foujdaree Adalut

Monday 27th September 1819.

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Agilvie Esqre
} Judges

M

Read again letter, dated the 1st May last, from the 3d Judge of Circuit in the Centre Division,- submitting Case № 4 Bellary Calendar 1st Sessions A.D. 1819.-

GLS

(Here enter № 302)

The Court having maturely considered the proceedings held before the Judges on Circuit the futwa of the Mohammedan Law Officer and the futwa of the Cazee-ool-Cozat and Mooftees of the Foujdaree Adalut, confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid, and under the latitude given by the sentence of Acts Adalut adjudge the prisoner,

WBD

"Rajahram,"

to be imprisoned and transported to Prince of Wales's Island there to be imprisoned and kept to

to hard labour in irons on the public roads or other public works for and during the space of his natural life.—

(Sent following letter A)

Read letter, dated the 15th instant, from the Acting Criminal Judge in the Zilla of Canara,—applying for the Certificate prescribed in Section XX Regulation VIII of 1802 for two persons who have fulfilled the conditions of the pardon tendered to them by Government.—

(Here enter No. 555)

It appearing, on reference to the order of the 2d Judge of the Court of Circuit in the Western Division inclosed in the foregoing letter that the informers, Shaik Mudeen and Pitchay have fulfilled the conditions, on which they received an offer of pardon from Government.—

It is ordered, that Certificates, in confirmation of such conditional pardon, be prepared and forwarded to the Acting Criminal Judge in the Zilla of Canara, to be by him delivered to the parties aforesaid for their respective security as far as regards the acts therein referred to.—

The

The Court of Foujdaree Adalut also direct, that the Acting Criminal Judge in the Zilla of Canara be commanded to call before him the two informers abovementioned, and to caution them against the repetition of practices, which must render them obnoxious to the severest penalties of the law, and the Court further direct, that the Acting Criminal Judge of Canara be enjoined to give due notice to the Magistrate of the Zilla of the release of the two persons here mentioned, in order that the requisite precautions may be taken with a view to the ensurance of the public safety.—

Ordered, that extract of these proceedings be sent to the Acting Criminal Judge in the Zilla of Canara for his information and guidance.—

(Sent following letter B)

Read letter, dated 7th Instant, from the 2d Judge on Circuit in the Northern Division, submitting return made by the Magistrate of Nellore to his precept, bearing date 20th ultimo, communicating the orders of the

Foujdaree

27th September 1819.

Foujdaree Adalut regarding the powers exercised by the Police Ameen of the Town of Nellore.

[Here enter No. 536.]

In the foregoing return the Magistrate enters into a detailed statement of the grounds, upon which he deems the appointment of an Ameen of Police for the Town of Nellore to be necessary,— the Court of Foujdaree Adalut do not consider it requisite to go into an examination of the Magistrate's reasoning on this point, as that officer is invested by Section XI. Regulation XI of 1816 with full authority to make such an appointment;— there are, however, certain passages in the return which call for the observations of the Court.—

Describing the mode in which the judicial proceedings of his Court are conducted, the Magistrate states, that it is his system "to sit in person, three days in the week to "listen to all complaints, only referring to the "Town Police Ameen cases that require long "preliminary investigation, before going to the

2/

F. M.

27th September 1819.

"the Criminal Judge, and being ever ready to "take up in person, or refer to his Assistant, "if present, such as are involved in any "material difficulty or delicacy."—

The practice here described of referring to a Police Officer cases, that may require "long preliminary investigation," is wholly unauthorized by the Regulations in force, and the Court of Foujdaree Adalut deem it proper to enjoin upon the Magistrate, in all cases in which a prisoner may be brought before him in the first instance a strict observance in future of the provisions of Section XXIV Regulation IX. of 1816.—

A Magistrate is not authorized in any instance to refer a complaint to a Police Officer for investigation, excepting in cases, where he may see cause to distrust the truth of such complaint, and in the mode prescribed by Section XIV Regulation IX of 1816; and it is further to be observed that the inquiry contemplated in this Section is declared to be only a preliminary measure, and that whenever the result of such enquiry shall induce the Magistrate

Magistrate to believe the charge well founded, it is imperative upon him to enter into an investigation of the same in the manner pointed out in the Regulations.-

With reference to that part of the passage above cited from the Magistrate's return, which appears to imply the exercise on the part of that officer of a discretionary power, as to the calling up of complaints instituted before an Officer of Police, for investigation himself. The Court of Foujdaree Adaulut have to remark, that the mode of proceeding incumbent on a district Police Officer in all cases of a heinous description is distinctly prescribed in Section XXVII Regulation XI of 1816, and that the only cases regularly referrible to a Magistrate by a Police Officer are those, which the Magistrate is competent to hear and determine under the provisions of Sections XXXII and XXXIII Regulation IX. of 1816.-

In the 7th paragraph of his return

27th September 1819.

return the Magistrate declares himself to be "not aware" how the actual manner of employing the Police Ameen of the town of Nellore is "inconsistent with the letter of "the Regulations."-

Upon this passage in the return the Court of Foujdaree Adaulut deem it incumbent on them to observe, that it is indicative of an inattention, highly disrespectful, to the precept of the Court dated 27th Ultimo in which the plaintiff was directed to report the result of the investigation of the functions discharged by that Police Officer with the provisions of the Regulations was distinctly pointed out, and was made the ground of an order for their discontinuance.-

In conclusion the Court direct, with reference to the opinion expressed by the Magistrate that the appointment of an Ameen of Police for the town of Nellore, with the powers vested in Tahseeldars, is requisite, that the Magistrate do in the event

event of his making such an appointment particularly injoin upon the Ameen a strict observance of the several provisions, enacted for the guidance of District Police Officers.-

Ordered that extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Northern Division by precept directing him to communicate the same to the Magistrate in the Zilla of Nellore for his information and future guidance.-

Sent 28th

(Sent following Precept &)

Read return, dated the 15th Instant, from the Provincial Court of Circuit in the Northern Division, - to precept dated 6th instant, ordering communication to the Judge on Circuit of the Courts instructions relative to the Calendars furnished for their information.-

(Here enter No 559.)

Read return, dated the 15th instant, from the Judges of the Provincial Court of Circuit

27th September 1819.

Circuit in the Northern Division, - to precept dated 30th ultimo ordering communication to the Criminal Judge of Rajahmundry of the Courts orders relative to the particulars to be specified in the Calendars laid before the Court of Circuit.-

(Here enter No 558.)

Read letter, dated the 15th Instant, from the Acting 2d Judge on Circuit in the Southern Division, - with copy of Instructions Calendar 2d Sessions A.D. 1819.-

(Here enter No. 553.)

Read letter, dated the 15th Instant, from the 1st Judge on Circuit in the Western Division, - reporting his intention of setting out for the Zilla of South Malabar on the 19th Instant.-

(Here enter No 565.)

Read letter, dated the 16th Instant, from the 2d Judge on Circuit in the Northern Division Division, - reporting his intention of setting out on the 17th Instant for Vizagapatam

(Here enter No 566.)

At a Court of the Fouydaree Adalut
Present,

Thursday 30th. September 1819. — Andrew Scott Esqre. / Edward Croft Greenway Esqre. / J. H. D. Egilvie Esqre. } Judges.

Read letter, dated the 18th Instant,
from the Acting Criminal Judge in the Zilla of
Canara,- requesting the orders of the Court as
to the disposal of certain convicts sentenced
to banishment.-

(Here enter No. 562.)

The Court of Fouydaree Adalut
direct, that the prisoners,
1st "Venketesha"
2d "Anta"
3d "Soobaa."
4th "Apaaya,"
5th "Devapa," and
6th "Ahmodey,"
be removed to the Jail in the Zilla of Seringapa-
tam, there to be imprisoned and kept to hard
labour during the periods of their respective
Sentences.-

Ordered

27th Sept

30th September 1819.

Ordered that extract of these proceedings be sent to the Acting Criminal Judge in Zilla of Canara and the Criminal Judge of Seringapatam for the information and guidance of those Officers respectively.

(Sent following letters &c.)

W.H.

E.H.S

W.D.O

Sent 7th

Sent 8

J. A.

At a Court of the Foujdaree Adalut

Present,

Tuesday 5th October 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
J.H.D. Ogilvie Esqre

W.H.

Read letter dated 30th Ultimo from the Magistrate in the Zillah of Verdachellum, recommending an offer of rewards for the apprehension of persons concerned in a late Robbery.

(Here enter No. 543.)

E.H.S

The Magistrate in submitting his application to the Court, requests that he may be authorized to offer "a Reward of 500 "Rupees for the discovery and apprehension of "persons who have been concerned in a Theft "committed in the house of a Merchant at "Cuddalore on the night of the 18th Instant to "the Extent of Rupees 20,900."

W.D.O

With reference to the provisions of Section XXI Regulation IX of 1816 the Court conclude that the Magistrate is desirous to

3d October 1819

to offer five hundred Rupees for each of the Principals,- but as the information contained in the foregoing letter is insufficient to satisfy the Court of the propriety of an offer of the highest rate of rewards on this occasion, and as the terms of the Magistrates application are altogether vague and indefinite, the Court of Fouzdaree Adalut direct that the Magistrate be called upon for a more particular statement of the outrage which has been committed, and that he be directed to frame his application for the sanction of rewards in conformity with the provisions of Section XXI Regulation IX of 1816.-

Ordered, that extract of these proceedings be sent to the Magistrate in the Zilla of Verdachellum for his information and guidance.-

(Sent following letter.)

7. 16.

At a Court of the Fouzdaree Adalut.

Present,

Thursday.-
7th October 1819.

Andrew Scott Esqre
Edward Croft Greenaway Esqre
J. H. D. Cockburn Esqre
} Judges.-

Read letter, dated the 6th August last, from the Acting 3d Judge on Circuit in the Southern Division,- submitting case No. 32 Combaconum Calendar 2d Sessions A.D. 1819.

(Here enter No. 488.)

The Court, having maturely weighed the proceedings held before the Judge on Circuit, the fatwas of the Provincial Law Officer, and the fatwas of the Cazee ool Cozat and Mooftee of the Fouzdaree Adalut, confirm the said fatwa of the Cazee ool Cozat and Mooftee aforesaid and acquitting the prisoner,

"Amoordapa Naechen,"

direct that he be set at liberty.-

(Sent following letter &c.)

The Record of the proceedings held

held in this case calls for some particular observations from the Court of Foujdaree Adalut.

The arraignment of the prisoner before the Court of Circuit is defective, inasmuch as it does not contain any averment of what was the truth, and the fact, the opposite of which having been sworn to constituted the perjury charged. ~~In charges of perjury, it is to be observed, must be set forth those points, first that was not the truth and secondly that was the fact which was not the truth, and wilfully & deceitfully sworn to by the accused.~~ An arraignment ought distinctly to state the issue or question to be tried, and it is essential to the issue in a case of Perjury, that the truth, which is to be proved, be set forth, as well as the falsehood, which is to be proved to have been uttered on oath.

The same defect, which is observable in the arraignment, marks the progress of these proceedings. The only evidence taken before the Court of Circuit is

that of the subscribing witnesses to the depositions stated to have been given by the prisoner before the Criminal Judge and the Magistrate respectively; that is to say of two contradictory depositions one is referred to for proof of the falsity of the other, whereas proof of the truth or falsity of either could alone be found in evidence with respect to the matter of fact.

The Record further exhibits an instance of irregularity, which the Court of Foujdaree Adalut are surprised, that the acting 3d Judge should have passed over without comment.

By the evidence of the witnesses 1st Rungarow and 2d Sobroomoodilly, who depose to the correctness of the deposition, described in the arraignment, as having been given before the Magistrate of Combaconum, it appears that the deposition in question was not committed to writing in the presence of the Magistrate, but was taken in another place by the witness Rungarow, according to the Magistrate's order.

order; - The two witnesses above mentioned further state, in answer to the questions put by the prisoner, that this deposition was not read before the Magistrate, until some days after it had been so taken.

The prisoner, when put on his defence, stated that the 1st and 2d witnesses "caused this deposition to be written in a "different way from what he deposed, and "having taken that false deposition to the "Magistrate required him to swear to it, "saying that the contents were right as he "had deposed, and that he then signed "it."

With reference to the defence here set up, the Court of Foujdaree Adawlut have to observe, that the irregular proceeding of the Magistrate in delegating so important a part of his duty to a person wholly unauthorized to perform it, affords ground for the plea advanced by the accused, and that the deposition, taken under

7th October 1819.

under the circumstances which appear in evidence in this case, could not possess any legal validity.-

Ordered, that extract of these proceedings be sent to the acting 2d Judge on Circuit in the Southern Division by precept, directing him to make the necessary communication to the Criminal Judge and the acting Magistrate in the Zilla of Combaconum.

(Sent following Precept &)

Read letter, dated the 15th August last from the 1st Judge on Circuit in the Centre Division, - Submitting case No. 24 Chittoor Calendar 3d Quarterly Sessions A.D. 1819.

(Here enter No. 509.-)

The Court, having maturely considered the proceedings held before the Judge of Circuit the futwas of the Provincial Law Officers and the futwa of the Cazee-ool-Coozat and Mooftee of the Foujdaree Adawlut

7th October 1819

Do do confirm the said Sentence of the Cazee-ool Coozat and Mooftee aforesaid and acquitting the prisoner,

"Chinglevy Chitty"

direct that he be set at liberty.-

Entered

(Sent following letter. 6)

Read letter, dated the 1st ultimo, from the Acting Third Judge on Circuit in the Southern Division, - submitting case No. 21. Coimbatore Calendar 2d Session A.D. 1819.-

(Here enter No. 595)

The Court, having maturely considered the proceedings held before the Judge on Circuit the Sentence of the Provincial Law Officer, and the Sentence of the Cazee-ool Coozat and Mooftee of the Fouzdaree Adawlut confirm the said Sentence of the Cazee-ool Coozat and Mooftee aforesaid and under the latitude given by the sentence of Bohoobut adjudge the prisoners,

1st "Peria Cutten, alias Pullor Cottam,"
8th "Mutten," and
13th "Peria Pyel,"

to

7th October 1819

to suffer death by being hanged in Iron Chains, - the 1st prisoner Peria Cutten, alias Pullor Cottam, in the Chitts of the village of the Fugitive, Ramon, - the 8th prisoner, Mutten, at the spot where the murders were committed, - and the 13th prisoner, Peria Pyel, in any place, that the Criminal Judge of Coimbatore may consider to be proper.-

The Court further adjudge the prisoners,

2d "Carady Cottam,"
3d "Lutchmon,"
4th "Sadyen,"
5th "Soren,"
6th "Caroomaun,"
7th "Moorogun,"
9th "Podaing," alias Caulan,"
10th "Putchen,"
11th "Chinnapyen," and
12th "Vellay,"

to be imprisoned and transported to Prince of Wales's Island there to be imprisoned and

7th October 1819.

and kept to hard labour in Iron on the public roads, or other public works for and during the period of their natural lives, respectively.—

(Sent following letter D.)

Read letter, dated the 7th July last, from the 2d Judge on Circuit in the Western Division, submitting case stated South Malabar Calendar 1st Sessions A.D. 1819.

(Here enter No. 403.)

The Court having maturely considered the proceedings held before the Judge on Circuit the finding of the Provincial Law Officers and the finding of the Cazee or Cazee and Mooftee of the Fouzdaree Adawlut confirm the said finding of the Cazee or Cazee and Mooftee aforesaid and acquitting the prisoners,

1st "Chitty Chomgutta Koothy," and

2d "Vellakatala Ramen,"

direct that they be set at liberty.—

(Sent following letter E.)

The Court of Fouzdaree Adawlut, after

J. H.

7th October 1819.

after the most mature consideration of the evidence in this case have been unable to discover adequate ground for the conclusion, at which the 2d Judge has arrived, of the guilt of the prisoners.—

The finding of the Provincial Law Officers, in which the 2d Judge has expressed his concurrence, declares that the prisoners are liable to Corporal punishment on their respective confessions before the Talook Caristadar of the crime of murder charged against them as deposed to by the 2d 6th & 9th witnesses, but the objection taken by the Law Officers of the Fouzdaree Adawlut to the testimony of these three witnesses, namely, that the written declaration of the Prisoner, Ramen, "does not contain any such confession, "appears to the Court decisive of its invalidity as respects that prisoner, while the fact of the detention of the prisoners for five days at the Talook Cutchery, after they had denied all knowledge of the crime charged against them, is corroborative of the plea advanced by

by the prisoners on their defence, that indeed meant were used to obtain their ultimate declarations.

In the letter accompanying the trial the Dn Judge includes in his detail of "the circumstances of this Case," the history given by the witness Itty Kally, in her deposition before the Criminal Judge of the murder of the deceased Chamoo by the prisoners, with respect to which it is scarcely necessary for the Court to remark that it is divested of all claim to credibility by this witness' subsequent retraction upon the Court of Circuit of all she had said "which tended to criminate the prisoners."

It appears from the evidence of Chermal Pekee, one of the subscribing witnesses to the declarations of the prisoners before the Talook Sarishtadar, Shamoo Ayen, that the examinations of the prisoners were over when he arrived at the Talook Cutcherry, and the seventh witness for the prosecution states in

Circuit that the prisoners were examined at the Talook Cutcherry "one or two days," The first and second examinations of the prisoners attested by the signature of Shamoo Ayen, the Polyghaut Police Officer, are dated respectively the 22d and 28th of October.—

The Court direct, that these circumstances be brought to the notice of the Sarishtadar of the Polyghaut Talook by the Magistrate of Malabar, and that the attention of that Police Officer be particularly directed to Clauses 2d and 4th Section XXVIII Regulation XI of 1816, which declare that in all cases of confession the District Police Officer shall cause the same to be reduced to writing, and signed or marked by the prisoners in the presence of two or more respectable persons, and that the prisoners shall be forwarded to the Criminal Judge "within forty eight hours if possible."—

With reference generally to

to the proceedings of the Police Officers as recorded in this Case, the Court of Foujdaree Udalut deem it necessary to repeat the observation made in their Circular order of 18th June 1817, that it is the duty of the District Police Officers to take down in the first instance the depositions of those persons who may be able to give evidence material to the Case, and that the confession of a prisoner is to be received only in cases in which it may be free and voluntary.—

Ordered, that extract of this proceeding be sent to the Provincial Court of Circuit in the Western Division by precept directing them to make the necessary communication to the Magistrate of Malabar for his information and guidance.—

Ld. Dl

(Sent following Precept F.)

It appearing, that in the transcription of the sentence passed by the Court of Foujdaree Udalut in Case No 17.

7th October 1819. Masulipatam Calendar 1st Quarterly Sessions A.D. 1819, the name of the Prisoner,

Gr. Veerabayana Venkatapattee Naidoo,

was inadvertently omitted, and that the final sentence of the Court of Foujdaree Udalut, which was transmitted on the 18th ultimo, contained only the names of the first eight prisoners;—

It is ordered, that the final sentence of the Court in Case No 17. Masulipatam Calendar 1st Quarterly Sessions A.D 1819, correctly drawn out, be forthwith transmitted to the Judge of the Court of Circuit in the Northern Division, and that he be by precept directed to return the erroneous paper, transmitted under date 18th ultimo, to the Court.—

Return to the precept to be made in two days from the date

J

of its receipt.—

(Sent following Precept G.)

Read letter dated the 17th May last from the acting 3d Judge of the Court of Circuit in the Northern Division,—submitting case No 14 Masulipatam Calendar 2d Quarterly Sessions A.D. 1819.—

(Here enter No 334.)

The Court having maturely considered the proceedings held before the Judge of Circuit the futwas of the Provincial Law Officers and the futwas of the Cazee ool Coozat and Mooftee of the Foujdaree Adalut confirm the said futwas of the Cazee ool Coozat and Mooftee aforesaid and under the provisions of Clause 2d Section II Regulation XV of 1803 direct that the prisoner,

"Madegay Potador"

be released on procuring security for his future good behaviour and appearance when required.—

(Sent following letter H.)

The letter of the acting 3d Judge

accompanying this case is extended to the length of fifteen pages by a summary of the proceedings, and the Court of Foujdaree Adalut have remarked that the records of most of the cases referred by the acting 3d Judge are burdened with a statement of a similar description.—

Section XXVI Regulation VII of 1802 declares, that the Judges of Circuit are to accompany the records of referrible trials "with a letter containing their opinion "on the merits of the case."—

It is highly proper, that the letter required by the Section of the Regulation here cited should contain a statement of the grounds on which the opinion of the Judge of Circuit is founded, but the Court of Foujdaree Adalut consider, that the acting 3d Judge in going into a summary of all the proceedings on the case has imposed on himself a labour wholly unnecessary and superfluous.—

Ordered, that extract of these

7th October 1819

these proceedings be sent to the acting 3d Judge of the Court of Circuit in the Northern Division for his information and future guidance

(Sent following letter S.)

Read letter, dated the 5th June last, from the 2d Judge on Circuit in the Western Division - submitting case No 13 Canara Calendar 4th Session A.D. 1819.-

(Here enter No 375)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas of the Provincial Law Officer and the futwas of the Cazee ool Cozat and Mooftee of the Foujdaree Adaulut confirm the said futwas of the Cazee ool Cozat and Mooftee aforesaid and under the latitude given by the Sentence of Fazeel adjudge the prisoner

Ps Packenshah

to suffer death by being hanged at the usual time and place of execution -

And acquitting the prisoners

Ps Amrootrow and

Ps Venkatshah

direct that

F. 66

7th October 1819

In the letter accompanying the record of the proceedings held in this case the 2d Judge has gone into a detailed examination of the evidence against the 2d prisoner Amrootrow, and in the sentiments of the 2d Judge with respect to the suspicious nature of the greater part of that evidence the Court of Foujdaree Adaulut entirely concur.-

The Court, however, so far from considering that the record contains proof of the guilt of the 2d prisoner Amrootrow, exclusive of the testimony pronounced by the 2d Judge to be inadmissible, have been unable after the maturest deliberation to satisfy themselves that there is legal ground of suspicion against him.-

The Court do not consider it to be necessary, after the exposition given by the 2d Judge of the grounds of his opinion, to repeat an examination

K

of the evidence in detail, they observe that the declaration of Amrootnow before the Peshcar of the Sooper Talook, and the declarations of certain deceased prisoners annexed to the Record, are included by the 2d Judge among the unexceptionable matter tending to this prisoners criminality with respect to the former the Court have to observe, that a Peshcar of Police having no legal authority to perform the duties prescribed in Section XXVII Regulation XI of 1816, a confession taken by him possesses no validity whatever, and with regard to the latter it is sufficient to cite an acknowledged axiom in the law of evidence, that "the confession of one "person cannot be received as evidence "against others."—

It would appear from the report of Narrain Row, the Peshcar of the Sooper Talook, as well as from the oral testimony recorded in these proceedings, that the

Officer took the declarations of the persons apprehended and the depositions of the witnesses which were recorded at the Talook Cutcherry. None of these documents, however, are attested by the signature of any Police Officer, nor is there any thing on the face of them to shew that they were taken before any constituted authority.—

The Court trust that irregularities of the description here pointed out will not again escape the attention of the 2d Judge, and that he will be careful to bring to the notice of the proper authority all instances of departure from the provisions of the regulations which may appear in the record of proceedings held before him at a Session of Jail delivery.—

The Court direct, that extracts of these proceedings be forwarded to the Provincial Court in the Western Division, by precept desiring them to communicate to the Magistrate in the Zilla of Canara such part of the same as relates to the

proceedings

proceedings of the Police, in order that the
necessary steps may be taken by that office
to prevent the recurrence of similar irregu-
=larities.-

(Sent following Precept K)

Read return, dated the 28th ultimo,
from the 3d Judge late on Circuit in the
Centre Division,- to precept dated 14th June
ordering transmission of the Magistrates
proceedings in the case of Jacojee who was
apprehended at the same time with the
prisoner in Case No 4 Bellary Calendar
1st Sessions A.D. 1819.-

(Here enter No 566.)

Read return, dated the 28th ultimo,
from the Provincial Court of Circuit in the
Centre Division,- to precept dated 15th ultimo
ordering communication to the Criminal
Judge of Chingleput of the Court's observa-
in case No 10 Chingleput Calendar 1st Sessions
A.D. 1819.-

7th October 1819.

Read return, dated the 28th ultimo,
from the Provincial Court of Circuit in the
Western Division,- to precept dated 6th ultimo,
ordering communication to the Judge on
Circuit, of the Court's orders respecting the
particulars to be inserted in the Calendars
submitted to the Foujdaree Adawlut.-

(Here enter No 577.)

Read return, dated the 4th instant,
from the Provincial Court of Circuit in the
Centre Division,- to precept dated 20th
ultimo ordering communication to the
Magistrate of Chingleput of the Court's
orders on case No 12 Chingleput Calendar
1st Sessions A.D. 1819.-

(Here enter No 580.)

Read letter, dated the 20th ultimo,
from the Acting 3d Judge on Circuit in
the Centre Division,- reporting his intention
of proceeding to Bellary on 2d Instant.-

(Here enter No 568.)

7th October 1814.

Read letter, dated the 15th ultimo, from the acting 3d Judge on Circuit in the Southern Division, reporting the arrival of the Court of Circuit at Tinnevelly.—

(Here enter No. 572.)

Read letter, dated the 27th ultimo, from the 2d Judge on Circuit in the Northern Division, reporting the arrival of the Court of Circuit at Vizagapatam.—

(Here enter No. 578.)

Read letter, dated the 4th instant, from the acting Magistrate in charge of the Zillah of Combaconum, stating that he has applied to the Resident in Tanjore to cause Boyapen Mootoosamy and Chowry Mootoo Savacaran to attend at his Court for the purpose of receiving the gratuities granted to them by the Court under date 13th ultimo.

(Here enter No. 581.)

J. U

At a Court of the Foujdaree Adalut

Present

Monday
18th October 1819.—

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Sylvie Esqre
} Judges

Read letter, dated 13th instant, from the Magistrate in the Zillah of Verdachellum, recommending an offer of Rewards for the apprehension of persons concerned in a late Burglary.—

(Here enter No. 595)

The Magistrate in the Zillah of Verdachellum recommends in consideration of the circumstances attending the Burglary, reported in his letter, and the large amount of the plundered property that five hundred Rupees be offered for the apprehension of the principal and one hundred Rupees for each of the inferior offenders.—

The Court of Foujdaree Adalut having considered the grounds on which a recommendation is made for an offer of rewards to the extent here specified, authorize and direct the Magestrate

Z. M.

At a Court of the Zillajdaree Adaulut

Present,

Thursday
27th October 1819. Andrew Scott Esqre. —
Edward Croft Greenway Esqre. } Judges.
J. H. D Eyilvie Esqre. —

Read letter, dated 6th Instant,
from the Acting 3d Judge on Circuit in the
Southern Division,- submitting copy of Tinnevelly
Calendar 2d Sessions A.D. 1819.-

(Here entered No. 592.)

It is stated in the Column of
remarks in Case No. 3 of the Tinnevelly Calendar
that "the 2 and 3d prisoners were convicted
"of Goomaun-i-ghaiutgaree, and sentenced to
"be imprisoned and kept to hard labour in
"Irons for the term of 3 years."-

"Goomaun-i-ghaintgurree" signifies
"suspicion of robbery," and it is declared in
Clause Sixth Section II. Regulation XV. of 1803,
that no punishment whatever shall be inflicted
on suspicion only.- Under this exposition of
the law it will be apparent to the Acting

Magistrate of Verdachellum to offer five hundred
Rupees for the apprehension of each of the principal
and one hundred Rupees for the apprehension of each
of the inferior offenders, payable on the conviction of
such offenders before the Court of Circuit.—

Ordered, that extract of these pro-
=ceedings be sent to the Magistrate in the Zillah
19th Inst of Verdachellum for his information and guidance.

(Sent following letter A)

Ordered, that extract of these pro-
=ceedings be sent to the Civil Auditor, for his infor-
=mation.—

(Sent following letter B)

Read letter, dated the 22nd ultimo from
the acting 3rd Judge on Circuit in the Centre Division
with copy of Cuddapa Calendar 2nd Sessions A.D. 1819.

(Here enter No. 569)

Read letter, dated the 6th instant from
the acting 3rd Judge on Circuit in the Centre Division
reporting the arrival of the Court of Circuit at Bellary.

(Here enter No. 587)

Read letter, dated the 1st Judge on Circuit
in the Western Division, with copy of Canara

18th October 1819.

Calendar 2nd Sessions A.D. 1819.

(Here enter No. 588)

Read letter, dated the 7th instant,
from the 1st Judge on Circuit in the Western
Division, reporting his arrival at Calicut.—

(Here enter No. 591)

Third Judge on Circuit in the Southern Division, that the sentence passed in the present case is not in conformity with the provisions of the Regulations, and that under the Futwa delivered by the Provincial Law Officer it is competent only to the Acting 3d Judge, unless he shall see cause to disapprove the opinion declared in the Futwa, to direct that the Prisoners in question be released, either conditionally or unconditionally as shall to him appear to be expedient

Ordered, that extract of these proceedings be sent to the Acting 3d Judge on Circuit in the Southern Division for his information and guidance.-

Sent

(Sent following letter A/

Read letter, dated 16th ultimo, from the 2d Judge on Circuit in the Northern Division, submitting copy of Rajahmundry Calendar 2d Sessions A.D. 1819.-

(Here enter No. 582.)

Together with the copy of Rajah=
=mundry Calendar for the 2d Sessions of 1819, the

2d

2d Judge has transmitted copy of a precept issued by him to the Criminal Judge in the Zilla of Rajahmundry, directing the discontinuance of the practice of causing the examinations of persons accused and of the witnesses, in Cases under investigation before the Criminal Judge, - to be taken by a Native Officer of the Court, and afterwards read over before the Criminal Judge.-

In the letter of the 2d Judge submitting the Calendar and the precept in question he observes that he has "reason "to believe this practice to obtain in other "Zillas," and the record of a Case lately under Trial before the Court of Foujdaree Adalut exhibited an instance of the same mode of procedure in the Magistrate's Court.-

Section XXIV Regulation IX of 1816, and Section IX Regulation X of 1816, in which the course to be pursued by the Magistrates and Criminal Judges respectively in the investigation of Cases brought before them is prescribed, declare in the same words, that the

Magistrate or Criminal Judge, as the Case may
be, shall "upon a prisoner being brought
"before him," examine the prisoner, and also
"such other persons as are stated to have any
"knowledge of the crime or misdemeanor alleged
"against the prisoner and commit their respective
"depositions to writing".

The Delegation of the duty, here
enjoined on the Magistrates and Criminal Judges
to any Native Officer is wholly irregular and
unauthorized and has a manifest tendency
to obstruct the administration of public
justice, the Court therefore order that the
four Provincial Courts of Circuit be strictly
directed to communicate the foregoing observations
to the Criminal Judges and the Magistrates
within their respective jurisdictions, for
their information and future guidance.

(Sent following Excerpts B.)

W. H.

J. M.

At a Court of the Foujdaree Adalut.

Present,

Thursday
28th October 1819.

Andrew Scott Esqre.
Edward Croft Greenway Esqre.
J. W. D Ogilvie Esqre.
} Judges.

Read letter, dated the 15th ultimo
from the Acting 3d Judge on Circuit in the
Centre Division, submitting Case No. 5
Cuddapa Calendar 2d Sessions A.D. 1819 tried
and kept for reference by 3d Judge late on
Circuit.

(Here enter No. 542.)

The Court having maturely
considered the proceedings held before the
Judge on Circuit the futwa of the Provincial
Law Officer and the futwa of the Cazee
ool Cozat and Mooftee of the Foujdaree
Adalut confirm the said futwa of the
Cazee ool Cozat and Mooftee aforesaid
and under the provisions of Clause
Sixth Section II Regulation XV of 1803.

direct

21st October 1819

direct that the prisoner,
"Sumbah Chellum,"
be released on producing security for his
future good behaviour and appearance when
required.—

(Sent following letter A.)

Read letter, dated the 15th instant,
from the Acting Criminal Judge in the
Zilla of North Malabar,—forwarding
copies of two Warrants for the banishment
of certain Prisoners to any Zilla that the
Foujdaree Judge may direct.—

(Here enter No. 614.)

The Court of Foujdaree Adawlut
direct that the prisoners
1st "Manile Kuvorlen Amboo,"
2d "Variabelly Amboo,"
3d "Kallachery Paikeen,"
4th "Paravan Coety Velly
5th "Chenkunden Kandy Chunden,"
6th "Chekaporatta Koroombotty,"
7th "Kallachery Calundan, and
8th "Cherally Pocken,"
be removed to the Gaol in the Zillah of
Seringapatam

28th October 1819

Seringapatam, there to be imprisoned and
kept to hard labour during the period
of their respective Sentences.—

Ordered, that extract of these
proceedings be sent to the Acting Criminal
Judge in the Zilla of North Malabar
and the Criminal Judge of Seringapatam
for the information and guidance of those
Officers respectively.—

(Sent following letters B.)

Read letter, dated 7th July last,
from the 2d Judge late on Circuit in the
Western Division,—submitting the Report
prescribed by Section XXXVII Regulation VII
of 1802.—

(Here enter No. 482.)

2 The Court proceed to record
some observations on such passages in the
above Report, as appear to call for remark.—

3 In detailing the Cases, which
were brought before him in the Zillah of
Canara, the second Judge reports the dismissal
of one Case, "in which a Revenue or Police
"Officer

"Officer was charged with having corruptly
"compromised a Case of Murder," and the reason
assigned by the second Judge for this proceed-
-ing is that "such offences in Police Officers
"have only become cognizable by the Courts
"of Circuit since the enactment of Regulation III
"of 1819."-

4 It appears to the Court of Foujdaree Adalut, that the second Judge acted upon an erroneous construction of the law in dismissing the case in question.- Section XLIV Regulation XI of 1816, which was rescinded by Section II Regulation III of 1819, declared the mode, in which for "extortion, oppression, or other abuse of "authority," on the part of Police Officers redress might be obtained "by the injured Party."- In the provision here cited it is clear, that the acts contemplated were of the nature of private wrongs, to which indeed, exclusively, the option of a civil action, or Criminal prosecution, could have reference; and the Court are decidedly of opinion, that the law has undergone no modification with respect to such offences, as

as that of compounding felony, for which the accused should undoubtedly have been put upon his trial before the Court of Circuit.-

5. Case No. 13 on the Canara Calendar, which is enumerated by the second Judge, as "the 3d Robbery case," was finally disposed of by the Foujdaree Adalut under date the 7th Instant.- It was with reference principally to the second Judge's observations upon this case, that the Court of Foujdaree Adalut deemed it proper to postpone the transmission of the Report to the Government until its adjudication, which has been unavoidably delayed, owing to the temporary suspension of the Courts proceedings, consequent upon the Death of the late Cazee ool Cozat and the resignation of the Senior Mooftee of the Foujdaree Adalut.

6. By the evidence in the Case in question it is fully established, that a party, by whom the plunder of a considerable remittance of the public money, within the

the limits of the Zillah of Canara, was effected, were in the employ of the Desaye of Saambothy: and the Court submit the suggestion of the second Judge, with respect to the adoption of some mode of checking the predatory habits of the Desayes in the Mahratta borders of Canara as highly deserving the attention of Government.-

7. With respect to case № 35 of the South Malabar Calendar, in which certain persons were charged with attempting to utter Counterfeit Coin, a reference was made to the Court by the 2d Judge under date 5th June last, desiring their opinion, as to whether "counterfeiting a Coin, which is not the Coin "of the Company's Government, could be "considered to come within the provisions "of Claude first Section X Regulation IX "of 1816."

8. It not appearing, that the Futwa of the Mohummedan Law Officer had been taken on the Case, the 2d Judge was instructed

instructed to bring the Trial to a Close and eventually to refer it for the decision of the Foujdaree Adawlut.- Upon the question of Law, which is here raised by the Dy Judge, the Court of Foujdaree Adawlut have no difficulty in declaring their opinion, that the provisions contained in the Regulations, relative to the offence of "Counterfeiting the Coin," have reference, exclusively, to the Coin of the Company's Government.-

9 The Court of Foujdaree Adawlut deem it proper to remark, upon the observations of the 2d Judge, that "under the Futwa of "Zun-i-Hafeyaz (slight suspicion) which "the Law Officer delivered in this Case," the discharge of the prisoners was directed, in consideration of the imprisonment which they had suffered,- that in Claude sixth Section II Regulation XV of 1803 it is declared, that no punishment whatever shall be inflicted on suspicion only.-

10 The Court of Foujdaree Adawlut have

28th October 1819.

have given their best consideration to the recommendation, so strongly urged by the Dr. Judge, of prohibiting the use of the knives, worn by the Inhabitants of Malabar,- that when reference is had to the peculiar features in the character of the people, and to their natural attachment to habits, rendered inveterate by long custom, it appears to the Court, that the measure is to be regarded as one of very doubtful Policy.-

11 The next point, which is brought under consideration by the Dr. Judge in this Report, is the introduction of a law for the punishment of prevarication in evidence given upon Oath, or of false swearing on points not material to the issue of a judicial proceeding, and therefore not coming within the definition or subject to the penalties of Perjury.-

12 The Court of Foujdaree Adawlut are unable to discover adequate grounds for "a modification of the existing Regulation" in the arguments adduced

J. M.
28th October 1819.

adduced by the Dr. Judge in this part of his Report.-

Evidence immaterial to the

13. issue of a Case should not be heard by a Judge conducting a Trial whose duty it is to check the introduction of all irrelevant matter into depositions delivered before him, and to take evidence only to the particular matters averred in the Indictment.- It is difficult to imagine, that any witness will come into Court with the intention of swearing falsely on points not having any connection with the issue of the Case under Trial;- and where the commission of Perjury is intended, it appears to the Court that a judicious conduct of the Witness' examination can seldom fail to lead to the punishment of the offender, unless the ends of justice should, as has too frequently been the Case, be defeated by some defect in the ulterior proceedings against him.-

The observations of the Dr. Judge

14. regarding "the extravagant use made by prisoners

"prisoners of the privilege of summoning witnesses
to support their defence," have received the
attentive consideration of the Court, but they
are of opinion that the suggestions of the
2d Judge on this point are open to objection,
and that, whatever inconvenience may have
resulted from its exercise, the privilege
could not be curtailed without the risk
of far greater evil.-

15. It remains for the Court of
Zoujdaree Adalut to notice the copy of a
return, made by the Magistrate of Malabar
to a precept issued by the 2d Judge, in which
his attention was called "to certain irregularities
in the mode of taking examinations before
the Native Officers of Police.-

16. The Magistrate states in this
return, that "instead of acting up to the
"very letter of the Regulations," He conceived
that the duty of a Tahseeldar "would be
"considered discharged in a satisfactory
"manner," if after directing his Gomastahs

to

"to take the depositions, and perhaps put a
"few questions which practice and experience
"soon makes familiar to them, he had the
"examinations &c. read over, and put such
"farther questions as he might conceive
"necessary."-

17. With respect to the mode of
proceeding here described it is the duty of the
Court of Zoujdaree Adalut to observe, that it
is wholly at variance with the provisions
of Clause second Section XXVII Regulation
XI of 1816,- the Court have found it necessary,
on a recent occasion, to prohibit the
Criminal Judges and Magistrates from
exercising a similar discretionary delegation
of their duties, and they are not of opinion,
that the exercise of unauthorized powers by
by an inferior officer of Police can be
more safely permitted, when delegated by
a Tahseeldar, than when performed
under the instructions and control of an
European Superior.- The

18. The Court concur with the second Judge in withholding all countenance from the remedy, proposed by the Magistrate of Malabar for the evils, which arise from "the impracticability of a Tahseeldar in his "double capacity of Head Officer of Police "and as the Head Officer of Revenue personally "performing the duties in his former capacity "which the Regulations prescribe."— and they beg leave to submit the suggestions and observations, offered by the 2d Judge on this head, without further comment, for the consideration of the Right Honorable the Governor in Council.—

19. Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Western Division by precept directing them to make the necessary communication to the Magistrate of Malabar.—

(Sent following Precept 6.)

H. J. F. K. 20. Ordered also, that the Report and

28th October 1819. extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.—

(Sent following letter D. No 30)

Read return, dated 8th Instant, from the 2d Judge of the Court of Circuit for the Northern Division, to precept dated 27th ultimo ordering communication to the Magistrate of Malabar of the Court's instructions relative to the appointment of an Ameen of Police for the Town of Nellore.—

(Here entered No 618.)

Read letter dated 21st Instant, from the Provincial Court of Circuit for the Centre Division, with returned warrant for the execution of the Prisoner in case No 12 Chingleput Calendar 1st Session A.D. 1819.

(Here entered No 616.)

Read letter, dated 20th Instant,
from the Acting 3d Judge of the Court of
Circuit for the Southern Division, - with
returned Warrant for the execution of the
prisoner in Case No. 11 Combaconnum Calendar
2d Sessions A.D. 1819.-

(Here enter No 617.)

Read letter, dated 13th Instant,
from the 2d Judge on Circuit in the
Northern Division, - reporting his intention
of setting out on 17th Instant for Tanjore.-

(Here enter No 599.)

N. H.

J. H.

At a Court of the Zillah Adalut
Present,

Monday
1st November 1819 Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
H. D. Egilvie Esqre

Read letter, dated 25th ultimo,
from the Magistrate in the Zillah of Canara, -
requesting sanction for an offer of rewards
for the apprehension of persons concerned in
a late Robbery and Murder.-

(Here enter No. 631.)

In the above letter the Magistrate
incloses copy of an Extract of a letter addressed
to him by the Head Assistant Magistrate, sub-
-mitting a report of the Police Daffadar of
Sonda Cutbah detailing the particulars of
the outrage in question and stating that in
order to avoid loss of time he has issued "a
"proclamation offering a reward for the
"apprehension of the offenders agreeable to
"Section XXI Regulation IX of 1816."-

It appears from the letter
of

of the Head Assistant Magistrate that a person named "Nulhuntapah" is represented to have been a principal in the Burglary and Murder reported, but it is not stated whether or not this Individual has been apprehended.

The Court of Foujdaree Adawlut therefore agreeably to the recommendation of the Magistrate of Canara authorize and direct the Magistrate to offer 400 Rupees for the apprehension of each of the principals and 50 Rupees for the apprehension of each of the inferior offenders payable, under the provisions of Section XXII Regulation IX. of 1816, on the conviction of such offenders before the Court of Circuit.

And, in the event of a proclamation being issued for the apprehension of the above mentioned Nulhuntapah, by name, the Court of Foujdaree Adawlut direct, under the provisions of Section VI Regulation I of 1818, that the reward offered for his apprehension be paid on the delivery of his person

person to the Magistrate in the Zilla of Canara, or to the Magistrate in whose jurisdiction he may be apprehended.

Ordered, that extract of these proceedings be sent to the Magistrate in the Zilla of Canara for his information and guidance.—

(Sent following letter A.)

sent 2

Ordered also that extract of these proceedings be sent to the Civil Auditor for his information.—

(Sent following letter B.)

sent 2

10.11.

Els

At a Court of the Zoujedarree Adalut

Present

Thursday
4th November, 1819

Andrew Scott, Esquire,
Edward Croft Greenway, Esquire, } Judges
J. H. D. Ogilvie, Esquire,

Read letter, dated the 4th Instt
from the Second Judge on Circuit on the Western
Division, - submitting case N. 20 South Malabar
Calendar, 1st Sessions A. D. 1819. -

[Here enters N. 425.]

The Court having maturely weighed
the proceedings held before the Judge and Grand
the futwa of the Provincial Law Officer and the
futwa of the Cazee-ool-Cozzat and Mooftee of the
Zoujdaree Adalut confirm the said futwa of the
Cazee-ool-Cozzat and Mooftee aforesaid and
order the latitudes given by the sentence of
Cohoobut adjudge the prisoners

1st Vengapottee Kannaren,

to suffer death by being hanged at the usual
time and place of execution. and acquitting
the prisoners

3rd Poyadoohattee Wasoo Deva Nambiar "

4th November 1819

after the confirmation thereof to be imprisoned and kept to hard labour on the roads for a further period of twelve Calendar months and then released

[Sent following letter D.]

Read letter, dated the 7th August last, from the Second Judge on Circuit in the Northern Division, submitting case No 18 Nellore Calendar, 2d Sessions A.D. 1819.

[Here enter No. 474.]

The Court having maturely weighed the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer & the futwa of the Cazee-ool-Cozzat and Mooftee of the Zoujdaree Adalut confirm the said futwa of the Cazee-ool-Cozzat and Mooftee aforesaid and under the latitude allowed by the sentence of Nazeer, adjudge the prisoner

"Shaik Yomnuer Saleb"

to be imprisoned and kept to hard labour on the public roads or other public works for and during the term of 6 Calendar months and then released.

[Sent following letter D.]

Sent 9th

7. 16.

4th November 1819.

Read letter, dated the 11th September last, from the Acting Third Judge on Circuit in the Centre Division, forwarding the record of Case No 12 Cuddapah Calendar 2d Sessions A.D. 1819 together with the letter of the Third Judge late on Circuit in which that Officer was prevented from signing

[Here enter No. 334.]

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Cozzat and Mooftee of the Zoujdaree Adalut confirm the said futwa of the Cazee-ool-Cozzat and Mooftee aforesaid, and in commutation of the penalty of Decapitation adjudge the prisoner

"Cumbadoo"

to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of three years and then released

[Sent following letter E.]

Sent 6th

directed that he be discharged at liberty.

Sent following letter A.J.

It appears on evidence before the Court of Circuit that Parbuty Vellu Raiaru Cony the Parbaty of Noddenaud Hobaly received a declaration from the 1st prisoner Wenguselles Raiaruaru.

The Court of Foujdaree Adaulut is desired therefore that the Magistrate of Malabar will call the attendance of the said Parbaty Parbuty Vellu Raiaru Cony to whom second Section V Regulation XI of 1816 which declares that Heads of Villages should not receive from any persons whom they may apprehend, any confession either verbally or in writing except in trivial cases.

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit on the Western Division, by precept desiring them to communicate the same to the Magistrate of Malabar for his information and guidance.

Sent following Precept B.J.S.

Read letter, dated the 7th inst. from the third Judge of the Court of Circuit on the Western Division, submitting for trial No. 10. North Malabar Calendar - 3rd Quarter Sessions A.D. 1819.

Here enter No. 5171

The Court having maturely considered the proceedings held before the Judge of the Court of Circuit the futwa of the Provincial Law Officers, and the futwa of the Cazee and Coozzat and Mooftee of the Foujdaree Adaulut Coozzat and Mooftee of the Cazee's Coozzat confirming the said futwa of the Cazee's Coozzat and Mooftees aforesaid and under the provisions of Clause first Section IX Regulation XV of 1803 adjudge the prisoners

1st "Pallikal Chandoddiaru"

2d "Vanicabotaridee Adoliaru" and

3d "Murachicandy Maideen"

to be removed to the Jail on the 7th day of January to be confined there to be employed and kept to hard labour and fixed on the public roads or other public works for and during the periods of their respective sentences and after

4th November 1819

4th November 1819

Read Letter, dated the 5th June last from the Second Judge on Circuit in the Western Division, - submitting case No 40 South Malabar Calendar, - 1st Sessions A. D. 1819.

Vide order No 376

The Court having attentively considered the proceedings held before the Judge on Circuit the Sufteaw of the Provincial Law Officer and the Sufteaw of the Cazee: ool: Cozzat and Moofties of the Tongolaree Adawlut confirm the said Sufteaw of the Cazee: ool: Cozzat and Moofties aforesaid and under the provisions of Clause 3d Section II Regulation XV of 1803 direct that the prisoner "Chetty Komaden Parrambel Tinty Periche"

be released on producing security for her future good behaviour and appearance when required.

Sent following letter No

To the latter accompanying the trial the Second Judge adverts to "an oral confession alleged to have been made by the prisoner, when "interrogated before the Darbuttey," and from the observations of the Second Judge regarding this confession it is inferrible, that he considered the want of legal attestation, as the only bar to its validity.

The Court of Tongolaree Adawlut are

4th November 1819 are concerned to observe, that the Second Judge has in this instance overlooked an obvious illegality in the proceedings of the Darbuttey, based entirely on a confession of murder, recorded in direct violation of Clause Second Section V Regulation XI of 1816, could possess no validity whatever.

It is stated in the Report of the Manjaferal Cowry Menon, Serishtadar of Calicut Talook, that he did not repair to the spot where the body was discovered, as directed by Section XXXVII Regulation XI of 1816, "the Darbuttey having only one or two days after the occurrence of the matter, reported it to him."

The Court of Tongolaree Adawlut desire therefore that the Magistrate of Malabar will call the particular attention of the Darbuttey of the Bey from Hobaly to the provisions of Clause Second Section V, and Clause Second Section XIII, Regulation XI of 1816, which declare that "Heads of Villages shall not receive from any person whom they may apprehend any confession either verbally or in writing except in trivial cases," and that "the Head of the village on receiving information of the discovery of the body of a person suspected to have

4th November 1819.

than been murdered shall without delay send
notice of it to the Police Officer of the District.

The remaining point, which calls
for the observations of the Court is the want
of the signatures of witnesses to the declara-
tion made by the prisoner before the Criminal
Judge. This declaration, although it does not
contain an acknowledgment of the crime
laid to his charge, attached sufficient to his conduct,
inasmuch as it is at variance with his former
statement before the District Police Officer, in
which he had pretended, came into his pos-
session; it was therefore the duty of the
Criminal Judge to have the declaration
attested by as many creditable persons as the
Mohummedan Law requires to give it
validity.

Ordered, that extract of these
proceedings be sent to the Provincial Court of
Circuit in the Western Division, by first dispatch
there to make the necessary communications
to the Criminal Judge of South Malabar and
the Magistrate of Malabar for the information
and guidance of those Officers respectively.

Sent following Packet G.

Read

7. U.

4th November 1819.

Read letter, dated the 20th July
last, from the Second Judge and Circuit in the
Western Division, submitting for Case No. 2 South
Malabar Calendar – 1st Session A.D. 1819.

[Here entered No. 4 A.]

The Court having maturely weighed
the proceedings held before the Judge and Circuit
the pleas of the Provincial Law Officer and
the pleas of the Cazee-ool-Coozat and Mooftee
of the Foujdaree Adalut, are of opinion that
the proof against prisoner

1st "Verrengatil Koonjee Marakar"

is sufficient to convict him of the offence of being
robbery and receiving, for which a penalty is
specially denounced in Clause Second Section IV
Regulation XV of 1803.

The Court under the authority
vested in them by Clause first Section II Regulation
I of 1818 accordingly adjudge the said prisoner

1st "Verrengatil Koonjee Marakar"

to be imprisoned and transported to Prince of
Wales's Island there to be imprisoned and kept
to hard labour in irons on the public roads
or other public works for and during the
space of his natural life.

And

4th November 1819

And under the sentence of Debooboot declared in the Cutcherry the Court of Tanjore Udalut adjudge the prisoner,

2d "Vellootayreddiathe Chanogren,"

to be imprisoned and kept to hard labour and iron on the public roads or other public works for the period of twelve Calendar Months and there to be released, on producing Security for his good behaviour and appearance when required.-

And under the provisions of Clause Sixth Section II Regulation XV of 1803 the Court of Tanjore Udalut adjudge the remaining prisoners

3d "Verrengatib Koonjee Moideen,"
4th "Kantib Koonjee Marakar," and
5th "Kottakarent Marakar,"

to be released on producing security for their future good behaviour and appearance when required.

Sent following letter N.

Read returns, dated the 27th ultimo, from the Provincial Court of Circuit in the Western Division, to precept dated 7th ultimo, ordering communication to the Magistrate in the zillas of Canara of the Court's observations on cases No. 13. Canara Calendar 1st Sessions A.D. 1819.-

[Here entered No. 644.]

Read

4th November 1819.

Read returns, dated the 27th ultimo, from the Provincial Court of Circuit in the Western Division, to precept dated 7th ultimo, ordering communication to the Magistrate of Malabar of the Court's observations on cases No. 11 South Malabar Calendar 1st Sessions A.D. 1819.-

[Here entered No. 643.]

Read returns, dated the 30th ultimo, from the Provincial Court of Circuit in the Western Division, to precept dated 20th ultimo, communicating to the Criminal Judges and Magistrates without their jurisdictions of the Court's orders relative to the delegation of examinations to Native Officers.-

[Here entered No. 646.]

Read returns, dated the 24th September from the Third Judge of Circuit in the Western Division, to precept dated 6th September- calling for Copies of the Pultivas in cases Nos. 3, 7, and 9 of the North Malabar Calendar- 3d Quarterly Sessions of 1819.-

[Here entered No. 579.]

At a Court of the Foujdaree Adaulut.

Present,

Thursday 11th November 1819.

Andrew Scott Esqr.
Edward Croft Greenway Esqr.
J. H. D. Cgilvie Esqr.
} Judges.

Read letter, dated 6th ultimo, from the 2d Judge on Circuit in the Northern Division, - submitting copy of Vizagapatam Calendar 2d Sessions A.D. 1819 -

(Here entered No 611.)

In the letter accompanying the Calendar the 2d Judge requests to be informed, whether or not a Judge on Circuit can receive "Miscellaneous petitions, which do not appear "to have any reference to Cases in the Calendars "ordered to be delivered to the Judge on Circuit "under Section XL Regulation IX of 1816." -

The 2d Judge proceeds to state, that he has been "induced to solicit the orders of the "Court on the subject in consequence of observing "by an Extract from the proceedings of the "Foujdaree Adaulut sent to the acting 3d Judge of the Northern Court dated 11th June 1819, that the

"Court is of opinion that the Regulations do
"not vest in the Judges of a Court of Circuit
"that authority to call on Magistrates for their
"proceedings, which those Judges propose calling
"with respect to the Proceedings of Criminal
"Judges under Section XXIV Regulation X. of 1816.

The 2d Judge has erred in supposing
that the passage cited by him from the Extract
of the proceedings of the Fouzdaree Adaulut, to
which he refers, was suggested by "any new
"view the Court may have entertained of the
"powers of a Judge on Circuit," the passage in
question was not declarative of an opinion
of the Court regarding the powers of a Court
of Circuit, but merely expository of the provisions
of the Regulations in force.-

The Court of Fouzdaree Adaulut
having premised this observation on the
construction given by the 2d Judge to their
orders of 4th June last, proceed to remark,
that it is unquestionably competent to a
Judge presiding at a Sessions of Jail
delivery to receive and investigate all
complaints preferred to him for redress
of

of grievances, and to call upon a Magistrate
for explanation, whenever it shall appear
that the provisions of the Regulations
have been neglected by him, or by any
officer under his authority - and it is to be
observed that the cases enumerated by the
2d Judge as having been brought to his
notice by the petitions of individuals would,
unless a most satisfactory explanation
were afforded, render it imperative on
the 2d Judge to report them to the Fouzdaree
Adaulut under the general injunction conveyed
in the latter part of Claude Third Section
XL Regulation IX of 1816.-

Ordered, that extract of these
proceedings be sent to the 2d Judge on
Circuit in the Northern Division for
his information and guidance.-

Court following letter &c
Read letter dated 11th ultimo, from
the Provincial Court of Circuit in the Northern
Division, submitting copies of certain petitions
addressed

addressed to the Court of Circuit, and of a petition addressed to the Acting 3d Judge presiding at the 5th Quarterly Sessions of Jail delivery at Masulipatam by Rajah Vasireddy Juggannatha Baboo, appealing from a decision passed by the Magistrate of Guntoor, together with copies of certain precepts issued to the Magistrate of Guntoor, and of that officers returns for the orders of the Foujdaree Adalut

(Here enter No. 608.)

It appears, that a petition was presented to the Assistant Magistrate of Guntoor, under date 30th March 1819, by a person named Cheeroomaumullah Venkatacramanah, setting forth that his Sister named Atchamah, had been placed in confinement by her husband Rajah Vasireddy Juggannatha Baboo, that by his order her Jewels had been taken from her person, and that after treating her with various indignities, he had proceeded to the length of depriving her of food, in consequence of

which the immediate interpatition of the authority of the Magistrate was necessary to preserve her from a violent death. The petitioner concluded with a prayer, that his Sister might be set at liberty from the confinement in which she was placed, the Jewels restored, and due punishment inflicted on Rajah Vasireddy Juggannatha Baboo and certain of his dependents, included in the charge.

On the 3d of April the Assistant Magistrate issued summons to the parties accused to appear before him and answer to the above charge, and on the same day addressed to Rajah Juggannatha Baboo a requisition to deliver up his wife into the charge of her brother the complainant, and informed him, that the Police Darogah of Atchamahpettah had received orders from him (the Assistant Magistrate) to procure her enlargement.

On the 6th of April the answers of Rajah Juggannatha Baboo, stating his acquiescence

11th November 1810.

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into the charge of her
brother, was received by the Assistant
Magistrate.

The report of the Police Daroga
dated 6th April, shewed that the orders of the
Assistant Magistrate were that day carried
into execution by the liberation of the aforesaid
Atchamah.

On the 4th of May, the parties
and witnesses being in attendance, the Assistant
Magistrate proceeded to the trial, and on the
6th to the adjudication of the case, and
considering the charge of false imprisonment
to be proved, the Assistant Magistrate awarded
a fine of 200 Rupees on Rajah Juggannath
Baboo, and ordered the restitution to the Com-
plainants Sister of Jewels to the value of
Pagodas 6,645, deposed to by certain witnesses
as having been taken from the said
Atchamah by order of Rajah Juggannath
Baboo.

On the 15th May Rajah Juggannath Baboo

11th November 1819.

Baboo presented a petition to the Provincial Court
of Circuit in the Northern Division, appealing from
the above decision of the Assistant Magistrate, on
the grounds of the insufficiency of the evidence
to the facts charged against him, the illegality
of the imposition of the fine, supposing the
case to have been made out, and the incompe-
tency of the Magistrate to direct the delivery
of the Jewels, the right to which could only
be established in a Court of Civil Judicature.

On the 20th May a written order
was issued by the Assistant Magistrate to the
Police Darogah of Atchamahpettah, in which it
was stated that Rajah Juggannatha Baboo
would be "proceeded with agreeably to the
"Regulations, should he not pay the fine of
"200 Rupees within four days after his perusal
"of this Warrant." and on the 10th June instructions
were issued by the Assistant Magistrate to the
Darogah of Atchamahpettah, directing him
to require the delivery of the Jewels mentioned
in the decision within 6 days after his perusal
of the Warrant."

On

11th November 1819.

On the 20th June Rajah Vapanody Suggunatha Babo addressed a petition to the Magistrate of Guntoor - stating, that he had appealed to the Provincial Court from the decision past against him by the Assistant Magistrate, but had nevertheless in compliance with that officer's order paid the fine of 200 Rupees adjudged against him; representing with reference to the order for the delivery of the Jewels, first that mention was made in the warrant of Soyt, which he "never gave to the younger "Sister of the prosecutor," and secondly that if it had been his "wish to take back the "Jewels belonging to him, which were in the "possession of the prosecutor's Sister he had "power to do so, agreeably to the Hindoo Law, "as well as the custom of the Country."

On the 27th June the following answer to the above address to the Magistrate was sent to Rajah Suggunatha Babo by the Assistant Magistrate - "Your Arzee has "been received, sufficient time has been given "for the execution of the warrant issued by "me,

F. 11.

11th November 1819. "me, should you fail to conform to the "warrant issued to you in pursuance of my "decision, I will have to act according to "the authority vested in me by the Regulations."

On the 6th July Rajah Suggunatha Babo addressed a petition to the acting 3d Judge, presiding at the 3d Quarterly Sessions of Jail delivery at Masulipatam, representing the nature of the orders issued by the Assistant Magistrate, and praying that a precept might be issued to the Magistrate, directing him to suspend his proceedings regarding the Jewels, until an order should be passed by the Court of Circuit on the petition, which had been already presented to them.

On this petition the acting 3d Judge made an endorsement, referring the petitioner to the Magistrate, stating that the petition then before the Court of Circuit would in a few days come on for decision, and suggesting "a suspension of the Magistrate's "proceedings in regard to the petitioner until "the orders of the Circuit Court collectively should

11th November 1819.

On the 20th [illegible] communicated for the information

On the 28th July Rajah Jugganatha Baboo again addressed the Provincial Court of Circuit, praying that an order might be issued to the Magistrate, directing him to return the fine levied from him, and to inform the claimant, that she was at liberty to sue for her Jewels in the Civil Court.-

A Counter petition was filed in the Provincial Court of Circuit on the 7th July by Chermamillah Vencataramanah, praying that the sentence of the Assistant Magistrate might be affirmed; on the 11th August a further petition was presented by Rajah Jugganatha Baboo, similar in purport to those previously filed by him, and on the 11th October the Provincial Court resolved, that the case should be referred for the decision of the Fouzdaree Adalut, and that "the stay of "suspension of the Magistrates orders against "by the acting 2d Judge [illegible] at the 2d

"Quarterly Sessions should be continued till the "result of the reference should be received".-

With respect to the merits of the Case, which has been brought under their consideration, the Court of Fouzdaree Adalut deem it necessary only to observe, that false imprisonment is a Civil injury, of which the Magistrate could not legally take cognizance, and for which pecuniary compensation is awarded by the Civil Courts, and that the investigation of the alleged right to Jewels, in the possession of Rajah Jugganatha Baboo, was at least equally foreign to the Magistrates jurisdiction.-

Under the representation originally made to the Assistant Magistrate it was his duty to obtain the release of the party illegally confined, and to secure her personal safety, leaving her to seek that redress which the law would award for the injury which she had suffered.-

On reference to the extract of the proceedings of the Court of Circuit under date 6th August last the Court of Fouzdaree Adalut

14th November 1819.

Adalut observe, that this Case is described as
"№ 3 of the Guntoor Calendar of persons punished
"by the Magistrate and his Assistant."

Under the provisions of Clause
first Section XL Regulation IX of 1816 this
Calendar should have been laid before the
Court of Quarterly Sessions, which is analogous
to the Court of Circuit, (as referred to in the
Section of the Regulation above cited,) and
not before the Court of Circuit collectively-
and under Clause Second Section XL Regu-
=lation IX of 1816 it devolved upon the Judge,
presiding at the Quarterly Sessions of Jail
delivery to "transmit to the Magistrate such
"written orders on the Case, as might appear
"to him proper".

This duty it remains for the Judge presiding the Court of Quarterly Sessions to perform, to whom it will be proper that Rajah Suggunatha Babas should be referred by the Provincial Court.

Ordered that extract of these proceedings

4/ 7 U.

14th November 1819.

proceedings be sent to the Provincial Court
of Circuit in the Northern Division for
their information and guidance.-

(sent following letter B.)

The Court of Sudder Adalut
having recorded the foregoing observations
and instructions for the information and
guidance of the Provincial Court, deem it
proper to bring the Case to the notice of the
Right Honorable the Governor in Council,
as affording in their opinion a strong
practical illustration of the expediency
of the measure, which the Court had
the honor of submitting to the consideration
of the Right Honorable the Governor in
Council under date 21st February last,-
"of rendering the provisions of Sections XXIV
"and XXV Regulation X of 1816, applicable
"to the proceedings of the Magistrates and
"their Assistants, as a measure necessary
"for the better Regulation of the office
"of Magistrate, and essential to the ends of
"public justice."

Under

Under the existing Regulations it was not competent to the Provincial Court, on the petition presented to them by Rajah Juggunnathd Baboo to call upon the Magistrate for his proceedings, or those of his Assistant on the Case, which could not regularly come under the review of superior authority, until the period for the Quarterly Sessions of Jail delivery. Such power was vested in the Courts of Circuit by Section XVI Regulation IV of 1811, which was rescinded in toto by Section II Regulation IX of 1816, and it appears to the Court of Foujdaree Udalut, that the obvious arguments in favor of the establishment of a local authority for the immediate rectification of the errors of a Magistrate, on a consultation of experienced Judges, derive additional weight from the consideration of the youth and inexperience of the officers, to whom under the provisions of Regulation IX of 1818, it is found that the duties of the office

of Magistrate are almost invariably intrusted.

Ordered that the foregoing letter from the Provincial Court of Circuit in the Northern Division with its enclosures and Extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.

(Sent following letter C.) No 31.

Read letter, dated 2d August last, from the 4th Judge late on Circuit in the Northern Division, submitting case No 5 Ganjam Calendar 1st Sessions A.D. 1819.

(Here enter No 487.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee cum Coojat and Mooftee of the Foujdaree Udalut confirm the said futwa of the Cazee cum Coojat

11th November 1819.

Cozzat and Mooftee aforesaid and acquitting the prisoner;

"Mottiah,"

direct that he be set at liberty.-

(Sent following letter D/

dated 18th

6/8

M 10/8. Read letter, dated 15th ultimo from the 2d Judge of the Court of Circuit in the Southern Division with copy of Trichinopoly Calendar for the Quarterly Sessions A.D. 1819.-

(Here enter No. 616.)

Read letter, dated 25th ultimo from the acting 2d Judge on Circuit in the Centre Division, reporting his intention of leaving Bellary for Chingleput on 6th Instant.-

(Here enter No. 630.)

Read return, dated 27th ultimo, from the Provincial Court of Circuit in the Centre Division to precept dated 21st ultimo ordering communication to the Criminal Judges and Magistrates within their Jurisdiction of the Court's orders relative to the employment of Native Officers to examine prisoners and witnesses.-

(Here enter No 638.)

Read letter dated 2d ultimo from the

5/ J. M.

11th November 1819. the 2d Judge of the Court of Circuit in the Centre Division,- transmitting copy of a letter from the Criminal Judge of Chittoor reporting the death of Shaik Inadar Lunatic prisoner in case No 7. Chittoor Calendar 2d Quarter Sessions A.D. 1819.-

(Here enter No. 639.)

F. 11

At a Court of the Zoydaree Adalut

Present

Monday 15th November 1819. } Andrew Scott Esqre, Edward Croft Greenway Esqre, J. H. D. Agibee Esqre — Judges

Read letter, dated the 19th Ultimo, from the 1st Judge of the Court of Circuit for the Northern Division, - submitting Report prescribed by Section XXXVII Regulation VII of 1802. -

(Here enter No. 615)

The foregoing Report does not contain any matter which calls for particular observation from the Court of Zoydaree Adalut. The remarks of the 1st Judge regarding the state of the Jails at Vizagapatam and at Berhampore appear to merit the attention of the Government. -

Ordered that the Report & extract from these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honourable the Governor in Council. -

(Sent following letter A) No. 33

11 15th November 1819.

Read return, dated 27th ultimo, from the Acting 3d Judge on Circuit in the Southern Division, - to the precept dated 7th ultimo ordering communication to the Criminal Judge and the Magistrate of Combaconum of the Court's observations on Case No. 22 Combaconum Calendar 2d Sessions A.D. 1819.-

(Here enter No 635)

In the above return the Acting 3d Judge comments upon the instructions communicated to him in the precept of the 7th ultimo in the following words:- "That the truth to be "proved should be set forth to establish the "crime of Perjury" the Acting 3d Judge did not "think necessary when a second asseveration "made by the same person denyed the first; "for the position of truth was then lost by the "actual Establishment of falsehood; To this "difference of the two depositions given by the "Prisoner was he arraigned for this difference "constituted in the opinion of the Acting 3d. "Judge the Crime for which he was to be "tried / Perjury /. One deposition was true "the other was false and the Prisoner has

15th November 1819. "sworn wilfully, Absolutely, and falsely to "the truth of both."-

The arraignment of the prisoner before the Court of Circuit to which the remarks of the Court and the above passage in the Acting 3d Judge's return have reference ran as follows:- "You Amoordapoanaiy Vichoy "there accused by the Government of Appharow "pillay of wilful and corrupt Perjury in the "evidence you deposed before the Criminal "Judge in the case of Adultery as a Witness "on the part of the Prosecutor Davadagayum= "=pillay you deposed on Oath before the "Magistrate on the 7th April 1819 that about "1/2 past 8 O'clock P. M. on the 10th December "1818 on your way to your house, you entered "into a house in Company with 2 Women by "the desire of Davadagayum the Prosecutor "in Case No. 21 of the present Calendar, and "saw the Act of Carnal Connection of "Mootoonaigum the wife of the Prosecutor "with a man. But you on Oath contradicted "before the Criminal Judge this your first

"Deposition

15th November 1819.

"Deposition upon Oath before the Magistrate
"How say you are you guilty or not guilty of
"the crime laid to your Charge."?

The Court of Fouzdaree Adaulut did not expect to receive a vindication of this arraignment after the exposure of its perplexity, and confusion and utter incon=sistence with the instructions furnished for the information and guidance of the Judges of Circuit in conducting trials for perjury; at the same time the vindication transmitted by the Acting Third Judge on this occasion manifests so strange a misapprehension of the nature of the offence and of the evidence by which it is required to be established that the Court are induced to endeavour once more to correct the error of his judgment.

In the arraignment it is first stated, that the accused committed perjury in the evidence given by him before the Criminal Judge; in illustration of which charge are subjoined the words of a deposition delivered by him, before the Magistrate, and in which

15th November 1819.

it is averred that the accused contradicted before the Criminal Judge those words.-

Here therefore the Perjury is assigned generally on the accused person's contradiction of certain words contained in a previous deposition alleged to have been made by him, the words of that deposition are recited in the arraignment and not the words in which the perjury was supposed to have been committed, so that the success of the prosecution depended on the establish=ment of the Truth, instead of the Falsehood of the words charged as having been spoken by the accused;- an anomaly for which the Court of Fouzdaree Adaulut were not prepared, after the circulation of their instructions under date 8th January 1814 which declare, that the "charge against the person supposed to be "guilty of perjury ought to contain the words "spoken by the accused person in which "the perjury is supposed to be committed, the "place where and the time when they were "uttered." With reference to the explanation

of

15th November 1819.

the Acting 3d Judge, that one deposition was true, the other was false, and the prisoner had sworn wilfully, absolutely, and falsely to the truth of both," it is observable that in strictness of language the accused could not be said to have sworn falsely to the truth of both depositions, if one of them was true, and that it is not discoverable from the record of the trial which of them was false.

In the Circular instructions of the Zuydaree Adalat above referred to it is observed that on a trial for perjury the several particulars comprised in the definition of that offence as contained in Clause first Section IV Regulation VII of 1811, "together with the falsehood of the words on which the perjury is charged, must be all proved, and it appear to the Court of Zuydaree Adalat that this passage in their instructions might have led the Acting 3d Judge to suppose that the truth to be proved should be set forth to establish the crime of Perjury," inasmuch as

as the Court of Zuydaree Adalat are not aware of any mode by which the falsehood of words can be proved, but by shewing that those words were inconsistent with truth and fact.

Ordered that extract of these proceedings be sent to the acting 3d Judge on Circuit in the Southern Division, for his information and guidance.

(Sent following letter B)

A1

W.H.

JJMD

EHS

J. No.

At a Court of Vonjolaree Adalut.

Thursday
18th November 1819

Present.

Andrew Scott, Esqre. }
Edward Croft Greenway, Esqre. } Judges.
J. H. D. Ogilvie, Esqre. }

Read letter, dated the 12th July
last, from the 1st Judge of the South Circuit in the Centre
Division, submitting cases N.9 Chittaw Calendar
3rd Quarterly Sessions A D 1819.
[Here entered N. 4276.]

The Court having maturely weighed
the proceedings held before the Judge of the Court
of Circuit the Futwa of the Provincial law Officers,
and the Futwa of the Cazee-ool-Cozat and Mooftee
of the Vonjolaree Adalut confirm the said Futwa
of the Cazee-ool-Cozat and Mooftee aforesaid
and under the Sentence of Ookoobut declared against
the prisoners

2d "Soobaroyen," and
3d "Hanbomuntoo,"

adjudge them to be imprisoned and kept to
hard

18th November 1819.

heard Labours are issued on the fourth instant on the public works for the period of twelve Calendar months and then released. And under the provisions of Clause Sixth Section II Regulation XV of 1803 direct that the prisoner

1st Cundoo

be released on procuring Security for his future good behaviour and appearance when required

/Sent following Letter A/

Read Letter dated the 30th July last from the First Judge of Circuit in the Northern Division submitting case No 8 Company Calendar 1st Sessions A.D. 1819.

/Here entered No 475/

Her Court having mutually considered the proceedings held before the Judge of Circuit the Futwa of the Provincial Law Officers and the Futwa of the Cazee-ul-Cozat and Mooftee of the Foujdaree Adaulut confirm the said Futwas of the Cazee-ul-Cozat and Mooftee aforesaid and acquit the prisoner

Coorganah Jaggannaithum,

direct that he be set at liberty

/Sent following Letter B/

18th November 1819.

The Court of Foujdaree Adaulut observe that, during the examination of the Witnesses before the Criminal Judge, the prisoner was permitted to cross-question them not Literatim. -

The Court direct that this irregularity be brought to the notice of the Criminal Judge and that he be particularly enjoined not to suffer such liberty to be taken under Section VII Regulation X of 1816 not to permit any cross interrogatories, either on the part of the Accuser or the Accused.

The Court of Foujdaree Adaulut also remark, that the several questions which were put in the examination of the parties and witnesses before the Criminal Judge, with the view of ascertaining the particulars specified in Clause Third Section XVIII Regulation VII of 1803, have been inserted in the record. - This practice was expressly prohibited in the Circular orders issued by the Court of Foujdaree Adaulut on the 17th of January 1815. - To these orders the Court deem it proper therefore to direct the attention of the first Judge, who will communicate the foregoing observations to the Criminal Judge and the Zillah of Jaripore and will be careful, in all instances, where similar irregularities

may

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may come under his observation, to issue the neces-
-sary instructions, in order to obviate these occurrences

Ordered, that a Copy of these
proceedings be sent to the First Judge of Circuit in
the Northern Division by present declaring how
the same
to communicate to the Criminal Judge in the
Zilla of Sarjaun for his information and future
guidance.

Ent 22

(Lord following Precept C.)

Read letter dated the 25th ultimo, from
the acting 2d Judge on Circuit in the Central Division,
submitting copy of Bellary Calendar 2d Sessions A.D.
1819.

(Here enter No. 625)

On case No. 4 of the Calendar it
recorded the following remark, "postponed, the
"prisoner in this number having been convicted in
"No. 3, her case has been referred to the Foujdaree
"Adalut. The record is returned to the Criminal
"Judge in order that the prisoner may be brought
"to trial at the next Sessions in the event of
"her acquittal in No. 3."

The acting 2d Judge has erred in
considering himself to be precluded from going
into the trial of the prisoner in this case

2/ F. R.

18th November 1819

by the circumstance of the same Individual
being concerned in another Case, referred to
the Court of Foujdaree Adalut, the issue of
which reference is uncertain; and it appears
to the Court of Foujdaree Adalut, that the mode
of proceeding adopted by the acting 2d Judge is
highly objectionable, inasmuch as in the event
of a sentence of acquittal on the case referred
to the Foujdaree Adalut, the prosecutor and
witnesses will be subjected to the vexation of
an additional journey and attendance on the
Court of Circuit, and the prisoner to the grievance
arising from unnecessary delay in the investi-
-gation of the charge brought against her.

In case No. 39 the prisoner was
committed for trial on his confession before
the Criminal Judge of the charge of "House
"robbery by night of property estimated at 42
"Rupees." and the Case is stated to have been
"dismissed, the Caugy having delivered
"his opinion, that the prisoner was not of
"an age to know right from wrong, and
"the prisoner was ordered to be released."

The

18th November 1819.

The Court of Foujdaree Adawlut direct that the acting 2d Judge be called upon to furnish them with an explanation of the grounds of his acquiescence in the opinion here stated to have been delivered by the Mohummedan Law Officers and acted upon by the acting 2d Judge.—

Ordered, that extract of this proceedings be sent to the acting 2d Judge on Circuit in the Centre Division for his information.—

(Sent following letter D/20)

W.H. Read Return, dated the 5th instant from the Provincial Court of Circuit in the Southern Division,— to the precept dated 2d Ultimo ordering communication to several Criminal Judges and Magistrates within their jurisdiction of the Court's observations relative to the delegation of their duties to Native officers

(Here enter No. 651)

Read letter dated the 11th instant,

18th November 1819.

Southern Division,— transmitting warrant issued by him for transportation of certain prisoners in Case No 21 Coimbatore Calendar 2d Sessions AD 1819 with the return of the Criminal Judge of Coimbatore and copy of a Medical Certificate shewing that two of the parties were unable to proceed to Chingleput.—

(Here enter No. 653)

Read letter dated 4th instant,

from the Provincial Court of Circuit in the Western Division,— with returned warrant for the execution of the prisoner Pacheer Shah in Case No 13 Canara Calendar 2d Sessions AD 1819.

(Here enter No. 648)

Read Return dated 2d instant from the 2d Judge of the Court of Circuit in the Northern Division, to the precept dated 7th Ultimo ordering retransmission of the erroneous copy of the Sentence of the Court in Case No 17 Masulipatam Calendar 2d Sessions AD 1819.

(Here enter No. 647)

Read Return dated 10th instant, from the Provincial Court of Circuit in the Western

18th November 1819.

Western Division, - to the precept dated 28th Ultimo ordering communication to the Magistrate of Malabar of certain parts of the Court's observations on the Report of the 2d Judge Provincial Court Western Division prescribed by Section XXXVII Regulation VIII of 1802. -

(Here enter No 652)

Read letter dated 4th Instant from the 2d Judge on Circuit in the Northern Division, - reporting arrival of the Court of Circuit at Berhampore. -

(Here enter 649)

J. H.

At a Court of the C. C.

Present

Monday 22nd November 1819. - Andrew Scott Esqre.
Edward Croft Greenway Esq. -
J. H. D. Ogilvie Esqre. -
} Judges

Read letter, dated the 4th September last, from the 1st Judge on Circuit in the Western Division, - submitting Case No. 18 Canara Calendar 2nd Sessions AD 1819. -

(Here enter No. 528)

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftee of the Foujdaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftee aforesaid and acquitting the prisoners,

1st "Munjana,"
2nd "Babaia,"
3rd "Jirmul Bungy,"
4th "Doogana,"
5th "Apaia," and
6th "Monapa,"

direct

Neste reet that they be set at liberty.—

(Sent following letter A)

Read letter, dated the 11th instant,
from the Acting Criminal Judge in the Zilla of
North Malabar,—forwarding copy of a Warrant
for the banishment of certain prisoners to any
Zilla selected by the Foujdaree Adalut.—

(Here enter No 655)

The Court of Foujdaree Adalut
direct, that the prisoners,
1st "Chambalen Pottan"
2nd "Kadiriyaill Cangaran" and
3rd "Mamoker Moideen,"
be removed to the Jail in the Zilla of Seringapa-
tam, there to be imprisoned and kept to hard
labour during the periods of their respective sentences

Ordered, that extract of these pro-
ceedings be sent to the Acting Criminal Judge
in the Zilla of North Malabar and the Criminal
Judge of Seringapatam for the information and
guidance of those Officers respectively.—

(Sent following Letters B)

sub 25th

Read letter, dated the 10th instant
from the Second Judge of the Court of Circuit, 2nd Division, the Centre
Division,—transmitting copy of Chittoor Calendar
4th Quarterly Sessions A.D 1819.—

(Here enter No 657)

The Court of Foujdaree Adalut
observe, that the prisoner in case No 16 of the
Calendar, who was charged with "stealing 2 1/4
"Pagodas from a box containing the public
"revenue,"—has been sentenced to "two years
"imprisonment with slight irons and hard
"labour and a fine of 20 Rupees or further
"imprisonment of one year."

Under the provisions of Section
VII Regulation X of 1816 the punishment of fine
is not applicable to cases of theft, and the
Court of Foujdaree Adalut, considering the
principles on which the Sentences of Criminal
Judges in such cases are defined in the
Sections of the Regulation here cited, to be
equally applicable to the Sentences of a
Court of Circuit,—direct that the Second
Judge do revise the Sentence as proposed by

Sum

him in the case in question, as far as related to the imposition of a fine on the person convicted.

The Court of Foujdaree Adaulut also remark, that with respect to case No. 18 of the Calendar, in which the prisoners have been found guilty by the Mohammudan Law Officer it is stated, that "No sentence is passed "on the prisoners, they being in No. 2 of the "Supplimental Calendar under reference to the "Foujdaree Adaulut."

The prisoners in case No. 18 have been convicted of passing counterfeit Coin and the charge in case No. 2 is for "counterfeiting Current Coin."

The offences for which the prisoners have been brought to trial on these two numbers being of a similar description, the Court of Foujdaree Adaulut deem it proper to have before them the records of the proceedings, which have been held in both Cases.

It is ordered therefore, that extracts of these proceedings be sent to the Second Judge of the Court of Circuit in the Carnatic Division by first opportunity to send up any Lists and Persons translations of the proceedings held before him in case No. 18 of the Chittoor Calendar for 4th Quarterly Sessions of 1819.

E C S
Sent 26th
No 9780

25th November 1819.

Foujdaree Adaulut

notice, and

unfounded

Criminal

ting

on,

At a Court of the

Present

Thursday 25th November 1819

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre
} Judges

E C S

Read letter dated the 15th instant, from the acting Criminal Judge in the Zilla of North Malabar, forwarding copy of a Warrant for the banishment of certain prisoners to any Zilla that the Court of Foujdaree Adaulut may select.

(Here enter No. 658.)

The Court of Foujdaree Adaulut direct, that the prisoners,

1st "Tien Amden Nadden,"
2d "Tondil Coonhy Chiken,"
3d "Oppan Pakar,"
4th "Kohany Soory,"
5th "Moondaly Many,"
6th "Kunyahla Moideen," and
7th "Vailil pedahil Paichroomar,"

be removed to the Jail in the Zilla of Seringapatam, there to be imprisoned and

and kept to hard labour during the periods of their respective sentences.—

Ordered that extract of these proceedings be sent to the acting Criminal Judge in the Zilla of North Malabar and the Criminal Judge of Seringapatam for the information and guidance of those Officers respectively.—

28th ELS WH (Sent following letters A/ LD

1. Read letter dated the 17th instant, from the acting 3d Judge on Circuit in the Southern Division,— submitting report prescribed by Section XXXVII Regulation VII of 1802.

(Here enter No. 654.—)

2 In the foregoing report the acting 3d Judge has confined his observations principally to the operation of the existing system of Police, the opinions, which he has delivered on this subject concur with those which have been recorded by the 1st and 2d Judges of the Provincial Court of Circuit in the Southern Division, and are submitted without comment for the consideration of Government.—

3 There is, however, one passage in

in the report, which the Court of Foujdaree Adawlut deem it incumbent upon them to notice, as calculated to convey an injurious and unfounded imputation on the administration of the Criminal Law. In the passage in question the acting 3d Judge observes, that "an innocent man, "if suspected from the established usage "of the Country, has a chance of being tortured "into confession before he is brought before "the Amildar, and finally of being committed for "trial before the Court of Circuit, and by the "Mohomedan Law convicted, for according to it "confession is the best and almost the only "proof of crime."—

4 The prevalence of the practice to which the acting 3d Judge has adverted, of obtaining confessions from persons accused by undue means, and the impediments to the course of public justice, arising from the frequent commitments for trial, solely on the ground of confessions alleged to have been taken before the Native Officers of police,— attracted the attention of the Court of Foujdaree Adawlut, at an early stage of the operation of the existing Criminal enactments, and the following

following extract of the observations and
instructions which were issued to the several
Criminal Judges and Magistrates, through the
Provincial Court of Circuit on 18th June 1817,
evince the pains, which have been taken by
this Court to prevent the continuance of practices
fraught with consequences so pernicious -

5 "An erroneous idea would appear
"to prevail among the Native Officers of Police,
"that a confession is the strongest proof of
"guilt, and to this is to be attributed the custom
"which is known to prevail of obtaining
"confessions by false hopes and promises,
"or of extorting them by the impression of
"fear. - In many instances there has been
"reason to believe that confessions have been
"fabricated, and the practice of obtaining by
"the flattery of hope; of extorting by threats
"or ill treatment and of fabricating confessions
"would seem to have increased till it had
"become general and systematic. -

6 "Bare, uncorroborated confessions
"previous to trial are always to be admitted
"with tenderness and circumspection, and

"when consideration is had to the undue means
"so generally used by the Police Officers in order
"to obtain confessions, it must be obvious
"that they are entitled to little credit as evidence,
"unless strongly corroborated by other circum-
"stances or subsequently confirmed before the
"Zilla Criminal Court. It is evident that all
"such confessions are liable to strong objections
"even when there is no positive proof of their
"having been obtained by improper means,
"since it is not improbable that the officers
"of Police frequently intimidate or ill treat
"the accused till they agree to confess, after
"which their examination is taken and to
"the attesting witnesses it seems to be
"voluntary. -

7 "The attention of the several
"Judicial authorities should be particularly
"given to the means of suppressing an evil
"so serious in its magnitude and so alarming
"in its consequences. The Court do not indulge
"the expectation that a practice so widely
"diffused and so deeply rooted in the habits
"of

25th November 1819.

"of the Natives can be wholly and effectually
"eradicated, but they are of opinion that, by endeavoring
"to impress upon the minds of the Police Officers
"that the confession of an accused person is
"a matter not of primary but of subordinate
"consideration, one important step will be
"taken towards the attainment of this
"desirable object."

8 The principal object of the foregoing instructions was the correction of the errors which were found to obtain in the preliminary proceedings upon Criminal Cases, but it can scarcely be necessary to remark that the circumspection therein enjoined with regard to the admission of uncorroborated confessions by the committing officer, is far more incumbent upon a Judge of Circuit presiding on the trial.

9 To the expression connected by "the Mohomedan Law" as applied to cases before a Court of Circuit, the English Board are unable to attach any definite meaning as no Law which may be regarded by a Judge as repugnant to "natural justice"

25th November 1819.

can under the regulations take effect, and the remark that "according to the Mohomedan "Law confession is almost the only proof "of crime," while it appears to have been gratuitously introduced without any tendency to establish the inference which is deduced from it, must have been suggested by a very erroneous conception of that Law, under which every due weight is given to the testimony of competent witnesses, as well as to that species of collateral evidence which arises from the concurrence of circumstances, tending to a violent presumption of the guilt of an accused party.

10 Ordered that extract of these proceedings be sent to the acting 3d Judge on Circuit in the Southern Division, for his information and guidance.

(Sent following letter B.)

Ordered also, that the report and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid

25th November 1819.

laid before the Right Honorable the Governor
in Council.—

Letter

(Sent following letter 6./1834)

Read return, dated the 13th Instant
from the Provincial Court of Circuit in the
Western Division, to precept dated 4th Instant
ordering communication to the Magistrate of
Malabar of the Court's observations on Case
No 20. South Malabar Calendar 1st Sessions
A.D. 1819.—

(Here enter No. 659.)

Read return, dated 13th instant from
the Provincial Court of Circuit in the Western
Division, to precept dated 4th Instant, ordering
communication to the Criminal Judge of South
Malabar and the Magistrate of Malabar of
the Court's observations on Case No 40 South
Malabar Calendar 1st Sessions A.D. 1819.

W. H. (Here enter No. 661.)

W. H.

Court of the Tanjore Adalut

Monday
6th December, 1819.

Present

Andrew Scott, Esqr.
Edward Croft Greenway, Esqr. } Judges
J. H. D. Ogilvie, Esqr.

At

Read letter, dated the 18th February
E&S last, from the Second Judge of Circuit in the Southern
Division, submitting case No. 1 Combaconum Calendar,
1st Sessions A.D. 1819. (Here enter No. 665.)

WWO

The Court having attentively considered the
proceedings held before the Judge of Circuit, the
futwa of the Provincial Law Officer & the futwa of
the Cazee-ool-Coozat and Mooftee of the Tanjore
Adalut, confirm the said futwa of the Cazee-ool-Coozat
and Mooftee aforesaid and under the Sentence
of Kissas declared in the futwa adjudge the
prisoners

1st "Mullaspparandian,"
2d "Samenadavandian," and
3d "Pauradaiy,"

to suffer death by being hanged on the
spot

25th November 1819.

laid before the Right Honorable the Governor in Council.—

Sent following letter 6./1834

Read return, dated the 15th Instant from the Provincial Court of Circuit in the Western Division, to precept dated 4th Instant ordering communication to the Magistrate of Malabar of the Court's observations on Case No 20. South Malabar Calendar 1st Sessions A.D. 1819.—

(Here enter No. 659)

Read return, dated 15th instant from the Provincial Court of Circuit in the Western Division, to precept dated 4th Instant, ordering communication to the Criminal Judge of South Malabar and the Magistrate of Malabar of the Court's observations on Case No 40 South Malabar Calendar 1st Sessions A.D. 1819.

(Here enter No. 660.)

W. H.

W. H.

In Court of the Zoujdaree Udalut

Monday
6th December, 1819.

Present

Andrew Scott, Esqr.
Edward Croft Greenway, Esqr. } Judges
J. H. D. Ogilvie, Esqr.

Read letter, dated the 18th February last, from the Second Judge of Circuit in the Southern Division, submitting case No. 1 Combaconum Calendar, 1st Sessions A.D. 1819.

(Here enter No. 661)

The Court having maturely considered the proceedings held before the Provincial Law Officer, & the futwa of the Provincial Court and Mooftee of the Zoujdaree Udalut, confirm the said futwa of the Cazee ul Cozat and Mooftee aforesaid and order the sentence of Kissaad declared in the futwa adjudge the prisoners

1st "Mullaspsavandian"
2d "Samenddavandian" and
3rd "Pauvaday"

to suffer death by being hanged ~~on the same tree~~ on a spot

6th December 1819 spot to be selected by the Criminal Judge of Combaconum near to the fields where the murders were committed and that their bodies be subsequently there suspended and chained.

And under the latitude given by the sentence of Ochoobut this Court adjudges the remaining prisoners

4th "Mullapan,"
5th "Sunnasy,"
6th "Chinnbepiel"
7th "Maurej,"
8th "Cunnoocoolly veeren,"
9th "Raunen,"
10th "Palany,"
11th "Pulley Moottan,"
12th "Comaqavellen tevan,"
13th "Candaun,"
14th "Mootien," and
15th "Pura Mootien,"

to be imprisoned and transported to Parts of Malabar there to be imprisoned and kept to hard labour on roads or the public roads or other public works for and during the period of their natural lives respectively.

(Sent following Letter A.)

Read letter, dated the 15th [illegible] from the First Judge of the Court of Circuit for Combaconum transmitting order of the Court of Circuit for the Calendar 3rd Quarterly Sessions A.D. 1819 (Here under A. 5th)

His Court having

6th December 1819 the proceedings held before the 1st Judge of the Court of Circuit, the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool-Coozat and Mooftee of the Tongdaree Adalut confirms the said futwas of the Cazee-ool-Coozat and Mooftee aforesaid and under the sentence of Ochoobut declared in the futwa adjudges the prisoners,

1st "Ramanegodoo,"
2nd "Sidolaspah," and
3rd "Shaik Madar,"

to be imprisoned and kept to hard labour on the public roads or other public works for and during the period of seven years and then released. And the Court adjudges the prisoner

4th "Sutchoomy,"

to be imprisoned and kept to hard labour on the public roads or other public works, for and during the period of twelve Calendar Months and then released. And under the provisions of Clause Sixth Section II Regulation XI of 1803 the Court direct that the prisoners,

4th "Veerabadroodoo,"
5th "Singapiah," and
6th "Gopaulachariloo,"

be released on producing Security for their future good behaviour and appearance when required.

(Sent following letter B.)

Read

6th December 1819.

Read letter, dated the 25th May last, from the Acting Third Judge of the Court of Circuit on the Northern Division, - submitting case № 5 Musalipatam Calendar, - 2d Quarterly Sessions A. D. 1819. -

(Here enter № 356)

The Court having maturely considered the proceedings held before the Judge of the Court of Circuit the futwa of the Provincial Law Officer, & the futwas of the Cazee-ool-Coozat and Mooftee of the Zoujdaree Adaulut, confirm the said futwas of the Cazee-ool-Coozat and Mooftee aforesaid and order the Sentence of Ookoobut declared in the futwa adjudge the prisoners

1st "Vellechaty Rayapah,"
2d "Chaukala Peddia Mohreegaudoo," and
3d "Jaunikee,"

to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of twelve Calendar Months and then released. In addition to which punishment the Court adjudge the prisoner,

3d "Jaunikee."

to have her head shaved by the Village Barber. And order the Latitude given by the Sentence of Ookoobut passed against the prisoner,

4th "Mosfeendy Chestriadoo."

the Court direct, that he be set at liberty.

Court 10th

7. 11.

6th December 1819.

Read letter, dated the 29th May last, from the Acting Third Judge of the Court of Circuit on the Northern Division, - submitting case № 18 Musulipatam Calendar - 2d Quarterly Sessions A. D. 1819. -

(Here enter № 361)

The Court having maturely weighed the proceedings held before the Judge of the Court of Circuit the futwa of the Provincial Law Officer and the futwas of the Cazee-ool-Coozat and Mooftee of the Zoujdaree Adaulut, confirm the said futwas of the Cazee-ool-Coozat and Mooftee aforesaid and order the Sentence of Ookoobut declared in the futwa adjudge the prisoners

1st "Pottoory Raumalingum,"

to pay a fine of 50 Rupees to the Government and to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of twelve Calendar Months - and on failing to pay the said fine of 50 Rupees to be in like manner imprisoned for a further term of twelve Calendar Months and then released - The Court adjudge the prisoners

2d "Nuvoola Bhaawapah," and
3d "Cuisbah Soobaraieze,"

to pay a fine of 20 Rupees to the Government and to

to be imprisoned and kept to hard labour on the
public roads or other public works for and during
the period of twelve Calendar Months and on their
failing to pay the said sums of 30/ respectively, to be
in like manner imprisoned for a further term of
Six Calendar Months and there released.

Sent following letter D.J

It appears by the Record of case
N. 5 of the Massulipatam Calendar for the 2d
Quarterly Sessions of 1819, that the Moonshadar
of the village of Calavacherla and the Naidu
Pergunnah and the Zillah of Masulipatam and
Coffreemady Peddiah, on
under the evidence given on that Case must
be regarded as the principals in the above
transaction; which forms the subject of the
trial, have effected their escape. The Court of
Foujdaree Adaulut deem it proper to desire, that
the Magistrate of Masulipatam will use any
exertions to secure the apprehension of those
persons, the Malignity of whose offence is
greatly aggravated by their rank and situ-
ation in life and the duty incumbent on

them of preserving from violence the unfortunate
individuals over whose maltreatment they took
an active part.

In considering the trial of case
N. 18 of the above Calendar the late Acting Third
Judge committed a gross irregularity in receiving
on Oath from the prosecutrix a Statement on
behalf of her herself and of the prosecutor, of "the
circumstances regarding them both" which
they respectively signed and which is recorded
as their joint deposition before the Court of
Quarterly Sessions.

The Court of Foujdaree Adaulut
deem it sufficient to notice this proceeding as
they trust that it cannot be necessary to guard
by any positive injunction
against the recurrence of an irregularity so pal-
pably improper and unprecedented.

Ordered, that a Extract of these
proceedings be sent to the Provincial Court of
the Northern Division by precept, desiring
them to make the necessary communication
to the Magistrate of Masulipatam for his
information and guidance.

Sent following Precept D.J

He

6th December 1819

The Court of Sunjdarree Udalut having recorded such observations and instructions, as appeared to them proper, on the two foregoing cases resolved to submit the records for the consideration of the Right Honourable the Governor in Council in order that, under the circumstances of the escape of the principal offenders in these cases, who if apprehended and convicted might have been amerced in a sums amounting to something like an adequate compensation for - - -

Division, to the precept of the 21st October last, ordering communication to the Criminal Judges and Magistrates of the Courts orders relative to the practice of entrusting Native Officers with the examination of parties and witnesses in cases under investigation before them.

/Vide order No. 666/

Read letter, dated the 8th ultimo, from the Second Judge or Circuit in the Northern Division, reporting his intention of leaving Berhampore on the 9th ultimo.

/Vide order No. 663/

Read letter, dated the 26th ultimo, from the Acting Third Judge late on Circuit in the Southern Division, with copy of a letter from the Criminal Judge of Coimbatore reporting the deaths of Sadayan and Mootoopen two of the prisoners in case No. 21 Coimbatore Calendar 2d Sessions A. D. 1819.

/Vide order No. 671/

Read letter, dated the 13th June last, from the Acting Third Judge of the Court of

the Zillas of Rajahmundry.

His Court of Sessions Holden under the authority vested in them by Clause fifth Section VIII Regulation XV of 1803 direct the three prisoners

1st Nakurti Nuchi.
2d Nurayah.
3d Dasoodu.
4th Comalooh.

be sent to the Jail in the Zilla of Rajahmundry there to be imprisoned and kept to hard labour during the periods of their respective Sentences.

Ordered that a Copy of these proceedings be sent to the Second Judge late on Circuit in the Northern Division by first post directing him to make the necessary communication to the Criminal Judges in the Zillas of Ganjam and the Criminal Judge in the Zilla of Rajahmundry for the information and guidance of those Officers respectively.

/Sent following Precept No/

Read letter returned, dated the 21st ult from the Provincial Court of Circuit in the North

of Circuit in the Northern Division - forwarding letter from the Criminal Judge of Masulipatam remarking on a perusal from the Acting 3rd Judge.

(Here enter No 383)

To lie over for the Third

Read letter dated the 2d. to the from the Magistrate in the Zilla of Malabar, - suggesting for the consideration of the Court the propriety of furnishing Magistrates with copies of the Judges of Circuit and the remarks of the Udalut thereon - Of sending to the Ma a summary of the sentences of prisoners and of sending every discharged convict native village there to remain under of the police until he return to hab Industry. -

(Here enter No 665)

Sent 13th

11

GL

9/1[illegible]

J. U.

At a Court of the Foujdaree Udalut

Thursday 9th December 1819.

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Egilvie Esqre
} Judges

GS

Read letter dated 10th July last, from the Acting 3rd Judge on Circuit in the Northern Division, - submitting report on the 2d Quarterly Sessions for 1819 at Masulipatam. -

DDD

(Here enter No 419)

2 Read also letter dated 25th September last, from the Acting 3rd Judge on Circuit in the Northern Division, - submitting a report on the 3rd Quarterly Sessions AD 1819 at Masulipatam. -

(Here enter 575)

3 In transmitting the foregoing reports for the perusal of the Right Honorable the Governor in Council the Court of Foujdaree Udalut consider it necessary to explain, that the observations of the Acting 3rd Judge upon the

of Circuit in the Northern Division - forwarding a letter from the Criminal Judge of Masulipatam remarking on a perusal from the Acting Third Judges -

(Here enter No. 383)

To lie over for the Third -

Read letter dated the 28th ultimo from the Magistrate in the Zilla of South Malabar, - suggesting for the consideration of the Court the propriety of furnishing Magistrates with copies of the reports of the Judges of Circuit and the remarks of the Foujdaree Adalut thereon - Of sending to the Magistrate a summary of the sentences of prisoners discharged and of sending every discharged convict to his native village there to remain under surveillance of the police until he return to habits of Industry. -

(Here enter No. 665.)

J.H.

At a Court of the Foujdaree Adalut

Present

Thursday 9th December 1819.

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Egilvie Esqre
} Judges

EGS

Read letter dated 10th July last, from the Acting 3rd Judge on Circuit in the Northern Division, - submitting report on the 2d Quarterly Sessions for 1819 at Masulipatam. -

DDD

(Here enter No. 419)

2 Read also letter dated 25th September last, from the Acting 3d Judge on Circuit in the Northern Division, - submitting a report on the 3rd Quarterly Sessions AD 1819 at Masulipatam. -

(Here enter 575)

3 In transmitting the foregoing reports for the perusal of the Right Honorable the Governor in Council the Court of Foujdaree Adalut consider it necessary to explain, that the observations of the Acting 3rd Judge upon the

the proceedings of the Criminal Judge of Masulipatam in certain cases adverted to in his report on the 2d Quarterly Sessions of 1819, formed the grounds of separate references to the Foujdaree Adalut at the period of the Sessions, which the Court do not consider to be of sufficient importance to be brought to the notice of Government.—

4 The Court of Foujdaree Adalut having under date 6th Instant submitted to Government the records of the Cases of No 5 and 18 of the Masulipatam Calendar 2d Quarterly Sessions of 1819, it is not requisite in this place to offer any remark on the observations of the Acting 3rd Judge upon those Cases.—

5 On the concluding paragraph of this Report it is proper to state, that the Acting 3rd Judge adverts to the subject of a former reference to the Foujdaree Adalut, upon which the Court were of opinion that the Magistrate's proceeding was correct and proper.—

6 The only part of the Report of the Acting 3rd Judge on the 2d Quarterly Sessions

of 1819, which calls for particular remark from the Court of Foujdaree Adalut is that, which relates to the prisoners in confinement in the Zilla Jail under inability to give the security required for their future good behaviour.—

7 The Acting 3rd Judge appears to have overlooked altogether the provisions of Section XI Regulation XV of 1803, the second Clause of which Section distinctly prescribes the duty of the Courts of Circuit on receiving from the Criminal Judge a recommendation for the release of a prisoner so circumstanced, on his personal Moochulka without security, viz. "to "call the prisoner before them and to examine "the proceedings held upon his trial as far as "may be necessary to ascertain the grounds on "which the prisoner may have been required to "find security, after which and duly considering "the circumstances stated in the Criminal Judge's "Report, if they shall concur with the latter "in opinion that the prisoner ought to be released on

"on his Moochulka without security, they are to deal
"the same accordingly"-

8

The Acting 3d Judge having given
the Provincial Court, the Court of Foujdaree
Udalut deem it proper to direct that the Judge
presiding at the ensuing Quarterly Sessions of
Jail delivery at Masulipatam be instructed to
call on the Criminal Judge for his opinion, as
to the propriety of releasing any of the prisoners
detained in confinement under inability to give
the security required, and to proceed with respect to
them in the mode prescribed by Section XI Re-
gulation XV of 1803.-

9

Ordered that the Reports and
extract of these proceedings be sent to the
Secretary to Government in the Judicial Depart-
ment for the purpose of being laid before
the Right Honourable the Governor in Council.-
(sent following letter (A) No 37.)

Ordered also, that extract of the
latter part of these proceedings be sent to the
Provincial Court of Circuit in the Northern Division
for their information and guidance.-
(sent following letter (B)

sent 13th

sent 13th

(2)

F. U

9th December 1819.-

The Court of Foujdaree Udalut
having remarked, that in the trials referred
to them no methodical arrangement is observed
in the insertion of the proceedings of the Ma-
gistrates or Police officers, which are some-
times interspersed between the examinations
of different individuals before the Criminal
Judges, and occasionally subjoined to the
Criminal Judge's proceedings,- deem it proper
to direct that the several Judges of Circuit
do, in the preparation of the Records of all
trials referrible to the Court of Foujdaree
Udalut, insert the proceedings of the subor-
dinate authorities in the natural order, viz
first the proceedings of the Magistrate or
Police officer, as the case may be, and secondly
the proceedings of the Criminal Judges re-
corded in the order prescribed in Section
XX Regulation X of 1816.-

Ordered, that extract of these
proceedings be sent to the four Provincial
Courts

9th December 1819.

Courts of Circuit for their information and future guidance

Sent 13th

(Sent following Circular Letter)

The Court of Foujdaree Adalut considering it to be of particular importance, that they should be furnished with every information regarding the effect of the present system for administering the Criminal laws, deem it proper to direct, that the Judges of the several Provincial Courts of Circuit do in future on the completion of each Quarterly Gaol of Jail delivery at the Sudr Station, submit a report to the Foujdaree Adalut of the cases described in Section XXXVIII Regulation VIII of 1802.

The Judges of the Provincial Court in the Northern Division have been in the habit of submitting the reports here required, but no order to that effect has hitherto been issued the Court consider it proper to direct, that copies of these proceedings be sent to that Court also

Sent 13th

Ordered, that extract of these proceedings be sent to the four Provincial Courts of Circuit for their information and future guidance

Sent 13th

Sent 13th

(Sent following Circular Letter)

9th December 1819.

It appears to the Court of Foujdaree Adalut, that the mode which has hitherto obtained of transmitting the precepts of the Court to the subordinate Judicial authorities with annexed Extracts of their proceedings is objectionable, inasmuch as unnecessary labour is thereby imposed on the several Courts in taking copies of such extracts, which of course are not of equal authenticity with the original extracts certified by the Register of the Court, and the Records of the Court of Foujdaree Adalut are burthened with numerous copies of the proceedings of the Court, returned with the precepts, which are not available to any useful purpose when lodged among the records of the Court of Foujdaree Adalut, and would with propriety form part of the records of the Courts, to which the orders may from time to time be transmitted.

Under the foregoing considerations the Court of Foujdaree Adalut resolve, that from and after the 1st of January next ensuing, the precepts of the Court shall be written on a sheet of paper, detached from the Extracts of the Courts

Courts proceedings transmitted with them, and that the several Courts be directed to make returns by endorsement on such precepts and to deposit the Extracts of the proceedings of the Fouzdaree Udalut among the records of their respective Courts.-

Ordered, that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept directing them to communicate the same to the several Criminal Judges within their respective jurisdictions.-

(Sent following Circular precept E)

Read letter dated the 19th Ultimo from the Provincial Court of Circuit in the Western Division with returned warrant for the execution of Vengapatte Hannaran prisoner in Case No. 20 South Malabar Calendar 4th Sessions A.D. 1819.-

(Here enter No. 662)

Read letter, dated 23d. Ultimo from the Acting 3rd Judge on Circuit in the Southern Division with returned Warrant for the execution of 3 of the prisoners in Case No. 21 Coimbatore Calendar 2d Sessions A.D. 1819.-

(Here enter No. 667)

J. U.

At a Court of the Fouzdaree Udalut.

Monday 13th December 1819.

Present

Andrew Scott, Esquire. }
Edward Croft Greenway, Esquire. } Judges.
J. H. D. Ogilvie, Esquire. }

Read letter, dated the 13th September last, from the Acting Third Judge on Circuit in the Centre Division, submitting case No. 14 Cuddapah Calendar 2d Sessions A.D. 1819 tried and left for reference by the Third Judge late on Circuit.

(Here enter No. 544)

The Court having maturely weighed the proceedings held before the Judge late on Circuit, the futwas of the Provincial Law Officer and the futwas of the Cazee, Mofty and Moofties of the Fouzdaree Udalut convene the said futwas of the Cazee, Mofty and Moofties aforesaid and acquitting the prisoner

Madreega Wobboolasoo,

direct that he be set at liberty.

(Send following letter A.)

Read

Read letter dated the 13th Inst
last from the Acting Third Judge on Circuit in the
Centre Division, submitting cases No 3 of the
Calendar 2d Sessions A.D. 1819 tried and left for
reference by the Third Judge late on Circuit.

(Here enter No 544)

The Court having maturely considered the
proceedings held before the Judge late on Circuit in
the Justices of the Provincial Peace Officers and the
Justices of the Cazee and Circuit and Masters of the
Singalese Medalies confirms the said Sentence of the
Cazee &c. Court and Masters aforesaid and re-
-fers the Sentence of Orderbest Lookmans on the
Prisoner, adjudged the Prisoner,

Cossiparee Cheroowagadee,

to be imprisoned and kept to hard labour in irons
on the Public roads or other Public works for and
during the Period of Seven years and then
released.

Sent following letter No 5.

Record letter dated the 20th
Ultimo, from the Acting Judge of the Circuit of
Circuit in the Western Dou-

13th December 1819.

of certain precepts issued to the Head Assistant
Magistrate of Mullicoar and of that Officers
rejoinder, regarding an order for the remuneration
of a certain Individual, passed by the Acting
Judge presiding at the 4th Quarterly Sessions A.D.
1819, under the provisions of Section XXIII Regula-
tion IX of 1816. (Here enter No 668.)

It appears, that the Acting Judge
on consideration of the meritorious conduct of an
Individual, named Caniaan Cundy Moideen, whose
personal bravery and exertion led to the appre-
-hension and ultimate conviction of Eight
Gang Robbers, of whom two were Murderers, directed that
he should be presented with the sum of 100
Rupees; and on his representing the probability,
that an attack would be made on him by
the remainder of the Gang, who were still at
large, the Acting Judge issued a further
order to the Magistrate for the supply of a
Sword and Musket to the said Caniaan Cundy
Moideen.

Some difficulty appears to have
arisen, as to immediate compliance with the
above

above order, owing to the deficient supply of Arms
on the Cutcheries of the Northern Division of
Malabar, in consequence of which the Acting
Head Assistant Magistrate in charge of that
Division made a reference to the Magistrate,
and that Officer on reply declined to furnish
the Arms in question, on the ground that
under the Section and Regulation above cited
the Courts of Circuit are not authorized "to bestow
"on any individual any thing beyond a simple
"reward, and that only to the extent of
"100 Rupees."

The Court of Sudder Adalut
are of opinion, that under the provisions of
Section XXIII Regulation IX of 1816 an individual,
whose exertion had led to the apprehension
of two Murders and Six notorious offenders,
might have been remunerated by the Court
of Quarterly Sessions in the sum of Rupees
266, an amount considerably exceeding the
reward, granted to Canara Cundy Moideen,
including the value of the arms ordered to
be supplied to him, but although the Court
consider

consider the mode of remuneration recommended
by the Acting Judge to be unobjectionable
in principle, it appears to them that the
sanction of Government is requisite for carrying
it into effect.

The Court of Sudder Adalut
direct, therefore, that the foregoing letter and
enclosure be sent to the Secretary to Government
in the Judicial Department for the purpose of
being laid before the Right Honorable the
Governor in Council.

Read the following letter (No 2381)
from the First Judge on Circuit in
the Western Division, reporting his intention
to proceed to Seringapatam on the 4th instant.

(Here enter No 695)

Read returns, dated the 29th ultimo,
from the Second Judge of the Court of Circuit in
the Centre Division, to precept dated the 22d ultimo,
ordering transmission of the record of the proceedings
of the Court of Quarterly Sessions in case No 18.
Chittoor

12th December 1819.

Gilbert Calender 4th Quarterly Sessions A.D 1819.

[Here enter No 685]

Read letter, dated the 30th Ult.
from the First Judge of Circuit in the Northern
Division to forward dated the 11th Ultimo, enclosing
communications to the Criminal Judges of Gaols
of the Courts observations on entries No 9 Gaol
Calender 1st Sessions A. D. 1819.

[Here enter No 687]

Read letter, dated the 29th
Ultimo, from the Secretary to Government in
the Judicial Department - stating that the
Inspector General of Civil Estimates will be
instructed to communicate with the Criminal
Judges of Dinapore and Benares relative
to the state of the Gaols of those Zillahs.

[Here enter No 690]

Read letter dated the 1st inst.
from the Acting Third Judge on Circuit in the
Centre Division - reporting the arrival of the
Court of Circuit at Chuyalgunt.

[Here enter No 693]

Read letter, dated the 4th

13th December 1819. instant, from the Acting Third Judge on Circuit in
the Centre Division - submitting copy of Chuyal
gunt Calender 2nd Sessions A.D 1819

[Here enter No 693]

WBD

WH

EBS

M

F. C.

At a Court of the Foujdaree Udalut

Present,

Thursday
16th December 1869. Edward Croft Greenway Esqre. } Judges.
J. H. D. Ogilvie Esqre. ———— }

Read letter, dated the 15th ultimo,
from the Acting Judge of the Court of Circuit in the
Western Division,— submitting, case No. 6 North
Malabar Calendar 4th Quarterly Sessions A.D. 1869.—
(Here enter No. 672.)

The Court having maturely considered
the proceedings held before the Judge of the Court of
Circuit the futwa of the Provincial Law
Officer and the futwa of the Cazee ool Coozat
and Mooftees of the Foujdaree Udalut confirm
the said futwa of the Cazee ool Coozat and
Mooftees aforesaid and under the provisions of
Clause first Section IX. Regulation XV of 1803
adjudge the prisoner,

"Kunnumel Pachee,"

to be removed to the Jail in the Zilla of Seringapatam
there

there to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of his former sentence and after the expiration thereof to be imprisoned and kept to hard labour in irons for a further period of twelve Calendar Months and then released.—

(Sent following letter A)

The Record of the proceedings in this Case does not contain an attested copy of the Warrant of the Court of Quarterly Sessions adjudging the prisoner to the employment on the public roads from which he was charged with having made his escape, as required by the orders of the Court under date 21st October 1818, communicated to the Criminal Judge of the Zilla of North Malabar through the second Judge of the Court of Circuit in the Western Division.—

The Court of Foujdaree Adawlut deem it proper to call the attention of the Court of Circuit acting Judge of Circuit for the Western Division to

to the above instructions, and direct that he be by precept enjoined to communicate these observations to the Acting Criminal Judge in the Zilla of North Malabar for his information and future guidance.—

(Sent following Precept B)

Read letter, dated the 15th July last, from the 1st Judge of the Court of Circuit in the Centre Division,— submitting case No 4 Chittoor Calendar 3d Quarterly Sessions A.D. 1819.—

(Here enter No 491.)

The Court having maturely considered the proceedings held before the Judge of the Court of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Cozat and Mooftee of the Foujdaree Adawlut, do confirm the sentence of imprisonment and transportation for life passed by the 1st Judge under date 13th July last, and accordingly direct that the prisoners,

1st "Gungadoo,"
2d "Verradoo,"
3d "Vencategadoo,"
4th "Moogeradoo," and
5th "Soonkadoo,"

be imprisoned and transported to Prince of Wales' Island

there to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of his former sentence and after the expiration thereof to be imprisoned and kept to hard labour in irons for a further period of twelve Calendar Months and then released.—

(Sent following letter A)

The Record of the proceedings in this Case does not contain an attested copy of the Warrant of the Court of Quarterly Sessions adjudging the prisoners to the employment on the public roads from which he was charged with having made his escape, as required by the orders of the Court under date 27th October 1818, communicated to the Criminal Judge of the Zilla of North Malabar through the Second Judge of the Court of Circuit in the Western Division.—

The Court of Foujdaree Adawlut deem it proper to call the attention of the H. Court of acting Judge of Circuit for the Western Division to

to the above instructions, and direct that he be by precept enjoined to communicate these observations to the Acting Criminal Judge in the Zilla of North Malabar for his information and future guidance.—

(Sent following Precept B)

Read letter, dated the 15th July last, from the 1st Judge of the Court of Circuit in the Centre Division,— submitting case No 4 Chittoor Calendar 3d Quarterly Sessions A.D. 1819.—

(Here entered No 491)

The Court having maturely considered the proceedings here before the Judge of the Court of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftee of the Foujdaree Adawlut, do confirm the sentence of imprisonment and transportation for life, passed by the 1st Judge under date 13th July last, and accordingly direct that the prisoners,

1st "Gungadoo,"
2d "Venadoo,"
3d "Vencategadoo,"
4th "Moogeradoo," and
5th "Soonkadoo,"

be imprisoned and transported to Prince of Wales' Island

16th December 1819

Read letter, dated the 14th September
last from the Acting 3d Judge on Circuit in the
Centre Division, submitting case No 92 Cuddapa
Calendar 2d Sessions A.D. 1819 tried and left for
reference by the 3d Judge late on Circuit.

(Here enter No 543)

The Judges of the Court of Foujdaree
Adalut, on a deliberate consideration of the circum-
stances of the case in evidence before them,
concurring in opinion that the proof against
the Prisoners,

"Vistnadoo," and

"Yugneeah,"

is sufficient to convict them of having wounded
the prosecutor Ramanah, desire, under clause
Second Section II Regulation I of 1818. that the
Cazee-ool-Cozat and Mooftees of the Foujdaree
Adalut will declare by a second futwa, to what
sentence the prisoners would have been liable
under the Mohummudan law if they had been
convicted, by full legal evidence of the crime
laid to their charge.

Ordered, that extract of these
proceedings

16th December 1819

Stand there to be imprisoned and kept to hard
in irons on the public roads or other public
for and during the period of their natural
respectively.

Sent 20th

(Sent following letter b)

Read letter, dated the 14th Septem
last from the Acting 3d Judge on Circuit in
Centre Division, submitting case No 15 Cuddap
Calendar 2d Sessions A.D. 1819 tried and left fo
reference by the 3d Judge late on Circuit.

(Here enter No 540)

The Court having maturely consider
the proceedings held before the Judge late on Circui
futwa of the Provincial Law Officer and the fu
of the Cazee-ool-Cozat and Mooftee of the Fouj
Adalut confirm the said futwa of the Cazee-ool-C
and Mooftee aforesaid and under the sentence
Adalut adjudge against the prisoner,

Ernapah,

direct that he be imprisoned and kept to hard lab
in irons on the public roads or other public works
for and during the period of twelve Calendar Months,
that he be afterwards released on producing security fo
future good behaviour and appearance when require

Sent 20th

16th December 1819

proceedings be translated & delivered to
Cazeerool Coozat and Mooftees for their
information and guidance.

E.C.S
W.H.

J.H.D.

F 11

At a Court of the Fouydaree Udalut

Present

Monday
20th December
1819 — Edward Croft Greenway Esqre
J. H. D. Egilvie Esqre } Judges

Read letter, dated the 16th September
last, from the 1st Judge on Circuit in the Western
Division, - submitting Case No 5 Canara Calendar
2nd Sessions AD 1819 -

(Here enter No 546)

J.H.D.

E.C.S

The Judges of the Court of Fouydaree
Udalut on a deliberate consideration of the circum-
-stances of the Case in evidence before them, con-
-curring in opinion that the proof against the
Prisoner,

"Sheik Mohee deen,"

is sufficient to convict him of having forcibly had
connection with Causy, the daughter of the pro-
-secutrix Lingoo, of the age of seven years, desire,
under Clause second Section II Regulation I of 1818
that the Cazee-ool-Coozat and Mooftees of the
Fouydaree Udalut will declare by a second &
futwa

futwa to what sentence the prisoner would have been liable under the Mohummudan Law, if he had been convicted by full legal evidence of the crime laid to his charge.-

Ordered, that extract of these proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftees for their information and guidance.-

Read again letter, dated 14th September last, from the Acting 3rd Judge on Circuit in the Centre Division,- submitting Case No. 22 Cuddapah Calendar 2nd Sessions A.D. 1819, tried & left for reference by the 3rd Judge late on Circuit.-

(Here enter No. 543)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Sooydaree Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the sentence of Ookoobut declared against the prisoners,

1st "Krestnadoo," and
2d "Pugueerah"

adjudge them to be imprisoned and kept to hard labour in irons on the public roads or other public works for the period of five years, & then to be released on producing security for their future good behaviour and appearance when required.-

(Sent following letter A)

Read letter, dated the 6th October last, from the Acting 3rd Judge on Circuit in the Centre Division,- submitting Case No. 39 Cuddapah Calendar 2d Sessions A.D. 1819.-

(Here enter No. 586)

The Court, having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Sooydaree Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and acquitting the prisoner,

"Vamoolagaudoo"

direct that he be set at liberty.-

(Sent following letter B)

Read letter, dated the 18th September last, from the Acting 3rd Judge on Circuit in the

20th December 1819

the Centre Division, submitting Case No 16 Cuddapa Calendar 2d Sessions AD 1819.-

(Here enter No 556)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer, and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the sentence of Hypaas declared in the futwa adjudge the prisoner,

"Soobladoo"

to suffer death by being hanged at the usual time and place of execution.-

Sent 23d

(Sent following letter C)

Read letter, dated the 16th September last, from the 2d Judge on Circuit in the Northern Division, - submitting Case No 11 Rajahmundry Calendar 2d Sessions AD 1819.-

(Here enter No 570)

The Court having maturely weighed the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the

(2)

J U
20th December 1819

the Foujdaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the sentence of Ookoolut declared in against the prisoner,

"Mudkam Boddoo"

adjudge him to suffer death by being hanged at the usual time and place of execution.-

Sent 23d

(Sent following letter D)

Read letter, dated the 15th September last, from the 2nd Judge on Circuit in the Northern Division, - submitting Case No 4 Rajahmundry Calendar 2d Sessions AD 1819.-

(Here enter No 571)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the latitude given by the sentence of Ookoolut adjudge the prisoner,

"Koonna Venkapah"

to suffer death by being hanged at the usual

time

time and place of execution.—

Sent following letter E)

Read letter, dated the 25th October last from the Acting 3d Judge on Circuit in the Centre Division, submitting Case No. 58 Bellary Calendar 2d Sessions AD 1819.—

(Here enter No. 628)

The Court having maturely weighed the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer, and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the latitude given by the sentence of Yokohout, adjudge the prisoners,

1st "Inkadoo"
2nd "Venkatagadoo"
3d "Burregadoo" and
4th "Himegadoo"

to suffer death by being hanged at the usual time and place of execution.—

(Sent following letter F)

It appears from the record of the proceedings held before the Judge on Circuit in the Centre Division, that the Amildar of the Tandimarree talook to the Magistrate in the Zilla of Bellaree, as it seems possible from the absence of all remark with regard to this proceeding, that similar irregularities may have been permitted to pass unnoticed in the Zilla of Bellaree, the Court of Foujdaree Udalut direct that the attention of the several District Police officers in the Zilla aforesaid be particularly called to Clause fourth Section XXVII Regulation XI of 1816, which declares, that persons charged with having committed offences of the nature described in the first Clause of that Section shall be forwarded direct to the Criminal Judge of the Zilla.—

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Centre Division by precept desiring them to communicate the same to the Magistrate in the Zilla of Bellary for his information and guidance.—

(Sent following Precept G)

J. M.

At a Court of the Inquisitorial Adelaide

Thursday
23rd December, 1819.

Present.

Edward Croft Greenway, Esqre.
J. H. D. Pyke, Esqre. } Judges

Read letter, dated the 13th instant, from the First Judge on Circuit in the Western Division enclosing a Medical Certificate of his inability to proceed on Circuit to Swellendam, and stating that he has received information of there being only one case for theft to be brought for trial before the Court of Circuit.

(Vide entry No 709.)

Under the circumstances represented by the First Judge on Circuit the Court of Inquisition do not deem it expedient to direct, that the persons committed for trial before the Court of Circuit by the Criminal Judge in the Zilla of Swellendam be brought to trial before the Court of Circuit at Stellenbosch. It will be the duty of the Criminal Judge in the Zilla of Swellendam, under Section III Regulation VI of 1809, to send the prisoners with the proceedings respecting them

23d December 1819

them to the Criminal Judge on the Zilla of North Malabar with whom it will remain to bring the prisoners to trial in conformity with the provisions of the general regulations.

Ordered that extract of these proceedings be sent to the First Judge on Circuit in the Western Division to the Criminal Judge in the Zilla of North Malabar and to the Criminal Judge in the Zilla of Seringapatam for their information and guidance respectively.

Sent following letters A.

Read again letter, dated the 10th September last, from the First Judge on Circuit in the Western Division, submitting cases N.5 Criminal Calendar 2d Sessions A.D 1819.

Here enter N.346

The Court having maturely considered the proceedings held before the Judge on Circuit the pleas of the Provincial Law Officers and the pleas of the Acting Cazy and Moofties of the Sudder Adalut confirm the said pleas of the Cazy and Moofties aforesaid and order the Sentence of Imprisonment in the pleas aforesaid Sheik Mohiedeen

Sent 27th

23d December 1819

to receive thirty stripes with a rattan and to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of Seven years and then released.

Sent following letter B. 950.

Sent 27th

W.H.

At a Court of the Fouzdaree Adalut

Present,

Thursday
30th December 1819. } Andrew Scott Esqre. Edward Croft Greenway Esqre. J. H. D. Egilvie Esqre. } Judges.

Read letter dated 30th October last
and received on the 20th Instant from the 3d
Judge late on Circuit in the Centre Division,
submitting the report prescribed by Section
XXXVII Regulation VII of 1802.

(Here enter No. 716.)

The bulk of the foregoing report,
and the variety of the points to which the
3d Judge has thought proper to extend his
observations, would render a detailed exa-
mination of those passages, which appear
to the Court of Fouzdaree Adalut to be
objectionable, a work of considerable time.
As the 3d Judge has obtained the permission
of Government to resign his office and
the service of the Honorable Company on
the 1st proximo, and the period of his
departure

departure from Ladies it at hand the Court of Foujdaree Adalut deem it imperative upon them to forward this paper immediately, in order to enable the Right Honorable the Governor in Council to direct, that such communication of his sentiments, regarding the comments therein passed upon the proceedings of the Court of Foujdaree Adalut, as may appear proper, may be made to the author—

3.

The Court have been able to give but a cursory perusal to the report, in which they observe that the 3d Judge has professed to recite, the opinions conveyed to him by them, on the several cases referred for their final decision—

4.

It is unnecessary for the Court of Foujdaree Adalut to remark upon the indecency and gross impropriety, with which the 3d Judge has travelled out of the obvious line of his duty, and presumed to call in question the justice of the grave and deliberate judgments of the Superior Court,

upon certain of the Cases in question—Nor would it be becoming the dignity of the Court to enter the lists with a subordinate officer in an argumentative vindication of their proceedings, they consider it however, proper to state, that in several instances the passages given in the report as "the "Remarks of the Foujdaree Adalut on the "Case," do not contain the whole of the observations of the Court, communicated to the 3d Judge, but imperfect extracts of the proceedings in which their sentiments were recorded—

5.

Of the unbecoming and indecorous licence, in which the 3d Judge has ventured to indulge throughout the report, the Court beg leave to point the attention of the Right Honorable the Governor in Council to the following passages, which are among the first, that offer themselves—

6.

On the cases Nos 20 and 21 of the Cuddapa Calendar, in which the prisoner was acquitted by the Foujdaree Adalut under

two

30th December 1819.

separate charges of Bullock stealing; the 3d Judge sarcastically observes "the result "of the trials appears to have settled the point "noticed at the conclusion of my letter," - the concluding paragraph of the letter in question which is given in the preceding page runs as follows - "it is of consequence to ascertain, whether Bullock stealing is punishable by the Mohomedan Law without a confession of guilt on the part of the accused" - and the final remark of the 3d Judge on these cases is that "each a person" (as the accused) "would not be pronounced innocent under "any criminal Code in the world, except "the Mohomedan as administered on this Court.

7. On these passages the Court of Zoujdaree Udalut will only observe, that an indirect and most offensive insinuation is here conveyed against the Superior Court, under a pretended animadversion on the Mohummedan Law, the 3d Judge being perfectly aware of the provisions of a later legislative enactment, cited by him in a

F. M.

30th December 1819.

former part of the Report, by which the decisions of the Court of Zoujdaree Udalut on the guilt or innocence of parties accused are declared to be wholly unshackled by the futwas of the Law Officers of the Court.

8. The resignation by Mr. Wright of his judicial office and of the service renders it unnecessary for the Court of Zoujdaree Udalut to dwell particularly on the ignorance, which he has manifested, of the principles of the law of his own Country, which he professes to uphold, as well as of those of the Mohummedan Code, which he believes himself to have administered and stands forward to condemn.

9. The marginal Notes on the orders of the Zoujdaree Udalut, scattered through the report, are generally of an offensive description, but the Court will not comment upon any, excepting those on the proceedings in Case No. 46 of the Cuddapah

Secretary

Cuddapah Calendar, with reference to which the Court deem it proper to observe, that the passage to which their instructions relate has been omitted by the 3d Judge in the copy of his "Report of the Case" though quoted in the "remarks of the Foujdaree Adalut" which follow, and that the 3d Judge's annexation of the confessions of certain persons appre-hended by the Magistrate of Chittoor, to the record of Case No 40 of the Cuddapa Calendar is not easy to be accounted for, if the 3d Judge, as stated in the Marginal Notes, did not found on these documents an opinion of the guilt of the prisoner.—

B.

One very glaring impropriety observable in the report of the 3d Judge, which the Court of Foujdaree Adalut consider it their duty to submit to the notice of the Right Honorable the Governor in Council, is the affixing of notes of admiration to the sentences passed by the Court in the last resort.— Whatever opinion it might be the intention of the Judge to insinuate, there can be no

30th December 1819.

no doubt of the tendency of these mar- cast a reflection upon the proceedings of the Superior Court, and the Court feel themselves called upon to complain of the conduct of Mr Wright in these instances as indecent and unbecoming his relative station to the Superior Court, and deroga-tory to all authority. The particular instances referred to will be found in the last page of the 20th Sheet and in the 1st page of the 21st Sheet and without distorting in the to anticipate any interpretation, which Mr Wright may wish to give to third Symbol the Court referring to the latter cannot but remark, that it is singular that the 3d Judge has himself furnished the strongest grounds for suppressing that astonishment which he has marked by no less than five notes of admiration.—

II.

Letter to the Court of Foujdaree, dated as quoted in his report "of the Prisoners guilt not a doubt can be entertained

December 1819

"he has committed a shocking murder, but
"as he was improperly informed when he
"was apprehended, that if he confessed
"the truth he should be released the Court
"may consider it proper that instead of
"suffering capital punishment he should
"be transported for life." It is impossible
to reconcile the astonishment expressed by
the 2d Judge with a knowledge of the
coincidence of the principles of Mohummedan
law as delivered in the futwa on this Case
with those of English law, as contained in the
following passage extracted from a treatise
on the Law of Evidence by L. M. Phillips Esqr
page 81. "But the confession must be voluntary,
"not obtained by improper influence, nor drawn
"from the prisoner by means of a threat or
"promise; for however slight the promise
"or threat may have been a confession so
"obtained cannot be received in evidence,
"on account of the uncertainty and doubt,
"whether it was not made rather from a
"motive of fear, or of interest, than from

a sense of guilt."

19th December 1819.

12. In the rapid view, which the
Court of Foujdaree Adalut have taken, of
the Report of the 2d Judge many points
have been passed over without observation,
on which the Court would under different
circumstances have deemed it incumbent
upon them to comment. They will only
observe in conclusion with reference to
the various cases, enumerated in the Report
wherein the 2d Judge disapproved of the
Futwas, given by the Mohummedan
Law Officers of the Court of Circuit, and
omitted nevertheless to refer them for the
final adjudication of the higher Court,
that he was guilty of a direct violation
of the provisions of Section XXII Regulation
VII of 1802, for which had he continued
in the discharge of his judicial functions
he would have incurred the severest
censure.

13. Ordered that the Report and
extract of these proceedings be sent to the
Secretary

Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

Sent following letter. A. 721

Copy of the South Malabar Calendar for the 2d Sessions of 1819 not having been received.

It is ordered that the First Judge on Circuit in the Western Division be by precept commanded to send up copy of the aforesaid Calendar with as little delay as possible.-

(Sent following Precept B.)

Read letter, dated 9th instant, from the First Judge on Circuit in the Western Division, transmitting copy of a letter from the Criminal Judge of South Malabar reporting the death of the 5th prisoner in Case No. 2 South Malabar Calendar 2d Sessions A.D. 1819.-

(Here enter No. 704.)

Read letter, dated 10th Instant, from the 1st Judge on Circuit in the Western Division,

30th December 1819

with copy of a letter from the Criminal Judge of South Malabar reporting the death of the 5th prisoner in Case No. 2 South Malabar Calendar 2d Sessions A.D. 1819.-

(Here enter No. 705.)

Read letter, dated 20th instant, from the First Judge on Circuit in the Western Division,- reporting the death of the 9th prisoner in Case No. 2 South Malabar Calendar 2d Sessions A.D. 1819.-

(Here enter No. 716.)

Read letter, dated 6th Instant from the First Judge of the Court of Circuit in the Northern Division,- with copy of Masulipatam Calendar 4th Quarterly Sessions A.D. 1819.-

(Here enter No. 703.)

Read return, dated 22d Instant, from the Provincial Court of Circuit in the Northern Division,- to precept dated 9th Instant ordering communication to the several Criminal Judges within their jurisdiction of the Court's instructions regarding the transmission of precepts.-

(Here enter No. 721.)

Read

5th December 1819

Read return, dated 22d Instant, from the Provincial Court of Circuit in the Northern Division, - to precept dated 6th instant ordering communication to the Magistrate of Masulipatam of the Court's orders on Case No 5 Masulipatam Calendar 2d Quarterly Sessions A.D. 1819.

(Here enter No 720.)

Read return, dated 17th Instant, from the Provincial Court of Circuit in the Centre Division, - to precept dated 9th instant ordering communication to the Criminal Judges within their jurisdiction of the Court's resolution regarding the mode of issuing precepts in future.-

(Here enter No 715.)

Read return, dated 20th Instant, from the Provincial Court of Circuit in the Western Division, - to precept dated 9th instant ordering communication to the Criminal Judges within their jurisdiction of the Court's orders respecting the transmission of precepts in future.-

(Here enter No 718.)

Read

J. A.

At a Court of the Foujdaree Udalut

Wednesday. Present,

3d February 1819 - Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
J. H. D. Ogilvie Esqre

Read letter, dated the 26th ultimo, from the 3d Judge late on Circuit in the Northern Division, - submitting case No 6 Rajahmundry Calendar 2d Sessions A.D. 1818.-

(Here enter No 2 J.)

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazeerool-Coozat and Mooftees of the Foujdaree Udalut, confirm the said futwa of the Cazeerool Coozat and Mooftees aforesaid and acquitting the prisoner "Autmanlah Vencanah" direct that he be released accordingly.-

(Sent following letter No)

Sm

In the letter accompanying the record of the trial, the late Third Judge of the Court of Circuit states, that he concurs with the Mohummudan Law Officer in considering suspicion to attach to the accused, "inasmuch as he (the "accused) declared when examined before the "Criminal Judge, that when his fingers were cut "by the straw he did not mention the circumstance "to any person in his house and that no person "saw it; whereas, in his defence before the Court "of Circuit, he has brought four witnesses "to swear that they saw him cut his fingers "with the straw and that they were in his house "the night of the murder."

The evidence of the witnesses for the defence before the Court of Circuit is not to their having actually seen the infliction of the wound in question, but to their having seen the hand of the prisoner after the wound had been so inflicted and to their having interrogated him on the subject. The prisoner's account of the accident before the Court of Circuit agreed with the statement which he had previously

given before the Criminal Judge, and it does not appear to the Court that the original declaration of the accused, as noticed by the late Third Judge, is irreconcileable with the statements of the four witnesses for the defence, whose evidence is clear, distinct and circumstantial. It would have been satisfactory to have ascertained, from the record of the trial, on what date the Criminal Judge asked the prisoner whether he wished to have any witnesses examined in his defence, and the Court deem it proper to take this opportunity of observing, for the future guidance of the Criminal Judge, that the interrogatory to this effect, enjoined in Section XIII Regulation X of 1816, should be recorded in all cases, with the date on which it may have been proposed, at the foot of the prisoner's examination.

The proceedings of the police officer of Mundapattah, which are frequently referred to in the course of the trial, do not accompany the proceedings of the Criminal Judge whose attention should be directed to this Court's circular orders dated

3d February 1819.

dated the 30th July 1817.

The impropriety of permitting cross-examinations before the Criminal Judge in cases wherein the persons accused may not be furnished by that Officer, is not pointed out by the Court in their proceedings dated the 28th December last. The Court deem it sufficient, therefore, in the present instance to bring the circumstance to the notice of the Criminal Judge.

Ordered that extract of these proceedings be sent to the Judges of the Court of Circuit in the Northern Division by precept desiring them to communicate the same to the Criminal Judge in the Zilla of Rajahmundry for his information and future guidance.

Sent following Precept B.

Read letter dated the 8th instant from the acting Criminal Judge in the Zilla of South Malabar, requesting the orders of the Court as to the District to which certain convicts sentenced to banishment are to be transferred.

Here enter No. 70

3d February 1819

The Court direct that the under-mentioned prisoners

1st "Kosen Kotethingnel Vellah"

2d "Moodyellakolotingnel Moideen"

3d "Kypully tody Koonjoonein"

4th "Wellakatalay Chamy or Samy"

5th "Pundarakotil Koonjokur"

6th "Murran Kootty Athen"

7th "Kanjara kaden Kootty Athen"

8th "Cutterytodil Veeran"

9th "Illatodil alias kariady Parrakant Veeran"

and 10th "Cookottil alias Parakal Chotan Moydeen Kootty"

be removed from Calicut to the jail in the Zilla of Seringapatam, there to be imprisoned and kept to hard labour during the periods of their respective sentences.

Ordered that extract of these proceedings be sent to the Acting Criminal Judge in the Zilla of South Malabar and to the Assistant Criminal Judge in charge of the Zilla of Seringapatam for their information and guidance respectively.

Sent following letter C.

Read

Read returns, dated the 22d ultimo,
from the 2d Judge of the Court of Circuit in the
Northern Division, - to precept dated 16th
December ordering communication to the Criminal
Judges of Masulipatam and Rajahmundry
and the Magistrates of Masulipatam and
Guntoor of the Courts observations on the 2d
Judges report of the 4th Quarterly Sessions AD 1818.

(Here enter No. 78.)

Read also letter dated the 18th Decr last,
from the 2d Judge of the Court of Circuit in the
Northern Division, - submitting copy of correspondence
with the Magistrate of Masulipatam respecting
the power delegated to an Aumeen of Police. -

(Here enter No. 696. of 1818.)

On an attentive consideration of
the return made by the Magistrate of Masulipatam
to the precept of the Second Judge, it appears
to the Court of Foujdaree Adalut that the only
reason adduced by the Magistrate for the
appointment of an Aumeen of police with
the powers of a Tahsildar is that, on the
supposition of his being vested with the
inferior

inferior powers of a Head of a village, he
would not be able to communicate direct
with the Magistrate. -

In assuming this fact the
Magistrate seems to have misunderstood
the intent and meaning of Section XI. Regu-
-lation XI of 1816, which expressly declares
that, whenever the appointment of an Aumeen
of Police may be found to be necessary,
such officer may be appointed by the
Magistrate to act either immediately under
his own orders or under the Tahsildar of the
district. - The "police powers" mentioned in
this Section must be held to refer, not to any
particular mode or channel of communication,
but generally to the several acts which Heads
of villages are authorized to perform under
the provisions of the Regulations; and the
law plainly gives an option to the Magistrate,
with regard to a direct or indirect communication
with such Aumeen of police, in order that it
may be regulated as circumstances may seem to
require. The Magistrate of Masulipatam
has

3d February 1819

has stated that during his absence from the Zillah Station, his Assistant remains in charge of the Office of Magistrate, and does not appear therefore, that an Officer of Superior authority is constantly stationed in the town of Masulipatam it is strictly conformable to the letter and spirit of Section XI. Regulation VI. of 1816 that the Aumeen of Police (with whatever powers he may be vested) should be placed immediately under the orders of and in communication with such Officer.

The Court of Circuit having recorded these remarks on the operation of the rules referred to by the Magistrate of Masulipatam, deem it incumbent upon them to repeat the observation recorded in their proceedings dated the 16th December last "that the appointment of an individual on "a salary of thirty five Pagodas a month for "the almost exclusive purpose of apprehending "offenders and sending them to the Office of "Magistrate involves an expense greatly

J. W.

3d February 1819

"appointment." An Aumeen of police, vested with the powers of a Head of a village, would be fully competent to discharge this duty, and the arrangement here contemplated would have this additional advantage, that all complaints for petty offences, with the exception of the trivial cases specified in Section X. Regulation XI. of 1816, would be heard and determined before the Magistrate or his Assistant.—

On that part of the return from the Magistrate of Guntoor which relates to the insufficiency of his office establishment and the inefficiency of the establishment of police officers, the Court are not competent to pronounce any opinion. It is the duty of the Magistrate, as the Court remarked in their proceedings dated the 16th December last, to submit such suggestions in this respect as he may deem necessary for the consideration and orders of the Right Honorable the Governor in Council.—

The

104

14th January 1820

T. C.

At a Court of the Fouzdaree Adalut.

Present

Monday 8th February 1819.

Andrew Scott, Esqr. .....
Edward Croft Greenway, Esqr. } Judges.
J. H. D. Ogilvie, Esqr. ...

Read a letter, dated the 12th ultimo, from the Acting Third Judge of Circuit in the Southern Division, - submitting case No. 3 - Trichinopoly Calendar - 1st Quarterly Sessions A.D. 1819.

/Here enter No. 34./

The Judges of the Court of Fouzdaree Adalut, on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the Prisoner

"Athemistaw Cadery"

1820

is sufficient to convict him of having put to Death the deceased Sheik Meeran, desire, under Clause Second Section II. Regulation I of 1810, that the Cazee of Cazeat and Mooftee of the Fouzdaree Adalut will declare by a Second fetwa,

to

8th February 1819.

to what sentence the prisoner would have been liable under the Mahummudan law if he had been convicted, by full legal evidence, of the crime laid to his charge.

Ordered that the proceedings of this Court be translated and delivered to the Cazee ool Cozat and Mooftee for their information and guidance.

Read letter, dated the 21st November last, from the Third Judge on Circuit in the Western Division, - submitting case No 1 South Malabar Calendar - 3d Sessions A D 1818.

[Vide order No 650 of 1818.]

The Court having maturely weighed the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer, and the futwa of the Cazee ool Cozat and Mooftees of the Fouzdaree Adalut, confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and, under the sentence of Kisas declared against the first prisoner,

"Talakalporat Tatatil Conar Morfatu,"

adjudge him to suffer death by being hanged at the usual time and place of execution.-

8th February 1819.

And under the sentence given by the Sentence of Tazeer, the Court, in conformity with the provisions of Section XVII Regulation VIII of 1802, adjudge the Second Prisoner

"Pallytodil Thack Abdoolah"

to suffer death by being hanged at the usual time and place of execution.-

[Sent following letter No 1]

Read letter, dated the 23d Decem ber last from the Third Judge late on Circuit in the Northern Division, - submitting case No 1 Tri chinopoly Calendar, - 2d Sessions A. D. 1818.

[Vide order No 708 of 1818.]

The Court having materially considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer, and the futwa of the Cazee ool Cozat and Mooftees of the Fouzdaree Adalut, confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and, under the discretion allowed by the sentence of Shaabut, adjudge the prisoner

"Condabuttoolah Tooraviah,"

to be imprisoned and kept to labour without irons

on

8th February 1819.

to extract sentence the Serjeant

8th February 1819.

on the public roads or other public works for and during

the period of two years and then released.

Sent 12th

Sent following letter, viz

Read letter, dated the 4th Decr

last from the Second Judge of this Court of Circuit

in the Western Division forwarding and stating Moolla

Malabar Calendar 3d Quarterly Sessions A.D. 1818.

Where under No. 673 of 1818.

The Court having maturely weighed

the proceedings held before the Judges of Circuit the

opinion of the Provincial Law Officers and the opinion

of the Sazawal Adawlut and Sudder of the Hujooree

Adalaut, confirm the said sentence of the Court

Circuit and Sudder aforesaid, and order that the

prisoner

Pookiree Velloo Nairy

direct that he be released accordingly

Sent 12th

Sent following letter viz

At the close of the trial, the Second

Court of Circuit requested

8th February 1819.

they seen cause for so doing, to overrule the decision

of the Court of Circuit, and to order the prisoners

tried for trial on the grounds of their first examinations

in which as prisoners they acknowledged having

present at the Murder, or whether they shall

be committed for perjury, or whether they should

be set at liberty without any further process

being instituted against them.

In order that the Court may be

enabled to determine respecting the propriety of com-

mitting these persons to take their trial on the

grounds of their examinations as prisoners, it is

necessary that they should revert to the circum-

stances under which they are represented

to have originally implicated themselves as accom-

plices in the alleged murder.

Before the Court of Circuit, Polaven

Meraten, the third witness for the prosecution, on

answer to the forty fifth interrogatory, deposed as

follows, viz. "Ward Kankan was asked by the Pro-

secutor if he knew any thing about the death

of Kotoo Kurren, he answered I know nothing - being

asked if (it. came out) he did know? he said it

could never so happen - Kankan was then laid

hold of, bound, and a stick placed within his

binding, and twisted, - he cried out, when two

Kollars

8. February 1819. "Kolkars were ordered to give him 36 stripes. While
"flogging him with a Tarmarind switch he said Kochan
said "It is Harry who committed the murder-
"the Parbutty then asked who else were with him,
"he said, that Modakudaen Villaen was also
"with him. Koodakan Kannan and Koodakan
"Karran then brought in Cherria Moddakadan
"Villaen who is here in confinement - On him being
"asked by the Parbutty what he knew regarde
"ing the death of Kootan Karran, he said, "I
"know nothing about it" Moddaendacherry Karran
"was then called and ordered to make a pariah
"(Rope) and bind the said Villaen after being
"bound, he was again asked, if he did not
"know the circumstances of Karran's death,
"he persisted in saying he knew nothing,
"but on being bated, he called out, 'It is
"Harry who committed the murder." After this,
"prisoner Harry was again called and asked if
"he had killed Kootan Karran; he said he did not
"Modaendacherry Kannan was desired to bind him,
"which he did and the order was given to beat
"him which the Kolkars did, but he (Harry) per-
"sisted in saying he did not kill Karran.

8. February 1819. "after this all of us were unbound excepting Prisoner
"Harry, Kanhan and Modakadaen Villaen who
"had a rope tied to one arm, and taken
"to the Parbutty's house at Villaen, and kept
"under custody in a garden. - It appears that
Kanhan and Villaen were afterwards taken
to the police office of the Cavay taluk and
that before him, as also subsequently before the
criminal Judge, they confessed that they
had been present during the perpetration of
the alleged murder.
The Court have reconsidered the record
facts so clearly detailed by the third witness,
Pelear Marutard, to whose evidence the Second
Judge attaches particular importance, is sufficient
to invalidate the declarations of Kanhan and
Villaen before the District Police officer and
the criminal Judge of North Malabar; and
it is scarcely necessary to add that statements
of such doubtful credit cannot be considered
as affording grounds for the prosecution of
the parties by whom they were given. It is
indispensably requisite that the circumstances
here detailed should be brought to the notice of

8th February 1819.

of the Magistrate of Malabar, in order that he may be careful to prevent generally the occurrence of the irregularity here shown to have been committed by the head of a village in taking confessions from prisoners, and that he may adopt such other measures in this particular case as shall, on due investigation, appear to him to be necessary.

The second question for the consideration of the Court is "Whether the two persons "Kanhan and Pallaan shall be committed to "take their trial for perjury;" and here it is desired to remark that the observations which have been recorded by the Court, coupled with other facts in evidence before them, tend to the conclusion that the false swearing on the part of those two persons must have been before the Criminal Judge of North Malabar. The Court will proceed, therefore, to consider the depositions as given before the Criminal Judge in order to determine whether they are such as to render the deponents liable to the penalties of perjury.

Kanhan, on his examination

14th January 1819.

they seen cause for so doing, to overrule the objection under the provisions of the general Regulations.

The observations of the second Judge with respect to the dilapidated state of the Court houses at Cuddapah and Chingleput are submitted to the consideration of the Right Honourable the Governor in Council.

Ordered that Reports and Extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.

Sent 19th

+ Reduced also Ext. Extract from those proceedings to be sent to the Secretary to Govt. in the Judicial Dept. for the Rt. Hon. the Governor in Council for his information

+ Sent following letter & Nº 2

Read return, dated the 16th. Ultimo, from the 3d. Judge on Circuit in the Northern Division, to the precept dated the 26th. November last ordering communication to the Criminal Judge of Nellore of the Courts' observations on Case Nº 7 Nellore Calendar 2d. Sessions A.D. 1818.

(Here enter Nº 691 of 1818)

Read return, dated the 16th. Ultimo, from the 3d. Judge on Circuit in the Northern Division to the precept dated 30th November last ordering communication to the Criminal Judge of Vizagapatam

of

1819 14th January 1819.

of the Courts instructions relative to the safe custody of the prisoners in Case No 7 Vizagapatam Calendar 2d Sessions AD 1818.—

(Here enter No 692 of 1818)

Read letter, dated the 17th Ultimo, from the 2d Judge of Circuit in the Northern Division submitting Copy of return by the Magistrate of Masulipatam to his precept of 30th November last respecting the release of certain prisoners.—

(Here enter No 699 of 1818)

Read letter, dated the 22d Ultimo from the 3d Judge late on Circuit in the Northern Division reporting his arrival at Masulipatam.—

(Here enter No 701 of 1818)

Read return, dated the 24th Ultimo from the Court of Circuit in the Southern Division to precept dated 16th Ultimo ordering communication to the Criminal Judge and the Magistrate of Malabar of the Courts observations on the point referred by those Officers for decision relative to the construction of a regulation.—

(Here enter No 703 of 1818)

Read return, dated the 21st

N. W.

7th January 1819.

from the 3d Judge of the Court of Circuit in the Western Division to precept dated 7th Ultimo ordering communication to the Zilla Court at Canara and to Mohummedan Law Officer of the Court and the remarks of the Mohummedan Law Officers on Case No 1 Canara Supplemental Calendar 2d Sessions AD 1818.—

(Here enter No 705 of 1818)

Read Return, dated the 21st Ultimo from the 3d Judge on Circuit in the Western Division to precept dated 7th Ultimo ordering communication to the Magistrate of Malabar of the Courts observations on Case No 25 South Malabar Calendar 2d Sessions AD 1818.—

(Here enter No 706 of 1818)

Read return, dated the 21st Ultimo from the 3d Judge on Circuit in the Western Division to precept dated 7th Ultimo ordering communication to the Magistrate of Malabar of the Courts observations on Case No 26 South Malabar Calendar 2d Sessions AD 1818.

(Here enter No 707 of 1818)

Read letter, dated the 28th Ultimo, from

14th January 1819. From the 3d Judge on Circuit in the Centre Division enclosing Warrant for execution of prisoner in Case No 32 Bellary Calendar 2d Sessions AD 1818 with return of the acting Criminal Judge.—

(Here enter No 711 of 1818)

Read return, dated the 23d Ultimo from the Court of Circuit in the Northern Division to precept dated 3d Ultimo ordering communication to the several Magistrates within their Jurisdiction of the Court's observations relative to examination taken by District Police Officers.—

(Here enter No 712 of 1818)

Read return, dated the 24th Ultimo from the 1st Judge of Circuit in the Southern Division, to the precept dated 16th ultimo ordering transmission of proceedings in the several cases referrible to the Foujdaree Adalut for 2d Sessions AD 1818.—

(Here enter No 702 of 1818)

F. U.

At a Court of the Foujdaree Adalut

Present

Wednesday 20th January 1819

Andrew Scott Esqre
Edward Croft Greenway Esqre
J. H. D. Ogilvie Esqre
} Judges

Read letter, dated the 3rds Ultimo, from the Third Judge on Circuit in the Western Division forwarding copy of correspondence with the Magistrate of Malabar on the subject of certain petitions presented to the Court of Circuit complaining of acts done by Revenue and Police Officers.—

(Here enter No 8)

The Third Judge of the Court of Circuit states that, out of numerous petitions presented to the Court of Circuit complaining of oppressions on the part of the local servants in their Capacities as Revenue and Police officers there were four which appeared to him proper to be brought to the pointed attention of the Magistrate.—

The first of these petitions was presented by one Eramberipilly Coondy Nair, complaining of several acts of oppression and abuse of power

20th January 1819.

power exercised towards himself and his nephews Condy and Chandoo by the Parbutty of Beypoor and Serishtadar of Calicut — Copy of this petition was sent by the Third Judge on the 18th of November to the Magistrate of Malabar who was called upon to state what had been done in the matters referred to by the Petitioner — To the precept of the Third Judge the Magistrate made return that the several petitions which had been presented by the persons abovementioned to the Collector and Magistrate together with the Endorsements thereon would, he was satisfied, convince the Third Judge "that the subject of the petition was "entirely of a Revenue Nature and that none of a police "Nature had been presented to the Magistrate."

On perusing the petition presented to the Judge of Circuit the Court observe that the petitioner charged the Native Officers with the commission of sundry acts which, if established against them, would have rendered them liable to be punished for an arbitrary exercise of authority and the Court consider it to be their duty to remark that whatever might have been the opinion of the Collector and Magistrate respecting the

28th January 1819.

petitions previously presented to him by the petitioner the Statements contained in the petition referred to him by the Third Judge of the Court of Circuit respecting acts of his police Officers which had been formerly brought to his notice, demanded his serious attention —

On the question of the sale by public auction of the petitioners Slaves — the Court of Foujdaree Adalut are not competent to decide, but they consider it to be incumbent upon them to bring to the Notice of the Right Honourable the Governor in Council the circumstance submitted by the Third Judge on a subject so intimately connected with the welfare of a large portion of the subjects of the State and so nearly allied to the highest interests of humanity —

The second petition was presented by one Coony Patooma against certain of the Police Officers and Inhabitants of Kotatoor, the third was presented by one Coonhy Moideen Cootty against the Parbutty of the Wattom Hobully and the fourth by Chakky Umma against the police Officers of Palghaut talook — Copies of these petitions were sent

sent on the 26th November by the Third Judge to the Magistrate who was desired to enquire fully into the circumstances therein set forth and, after passing such orders as might appear to him proper, to report the result for the information of the Court of Circuit.—

To the several precepts of the Third Judge the Magistrate made returns on the 28th November.— Another precept was issued by the Third Judge on the 5th December following reiterating the orders contained in the former precepts and, in making return to the latter precept the Magistrate requested that the several precepts and returns might be submitted for the opinion and decision of the Foujdaree Udalut.—

It appears that the several petitions here referred to were connected with cases recorded on the Calendars which had been submitted to the Court of Circuit by the Assistant Criminal Judge of South Malabar at the second Sessions of 1818; and the doubt entertained by the Magistrate of Malabar relates to the orders which he had received from the Third Judge to make an investigation respecting the petition and to report the result thereof

F. C.
20th January 1819

to him the Third Judge.—

The only express provision contained in the Code regarding the orders to be issued by a Court of Circuit to a Magistrate is that which is contained in Clause second Section XL. Regulation IX of 1816 for the guidance of a Judge presiding at a Sessions of Jail Delivery with regard to the Calendars submitted by a Magistrate.— It is declared further, in Clause Third of the same Section, that the Courts of Circuit are to report to the Foujdaree Udalut for the information and orders of Government whenever the Magistrates omit or refuse to obey their orders as also whenever it shall appear to them that the Magistrates have been guilty of neglect or misconduct in the discharge of their duty.— And the Regulations, it is to be observed, do not vest in the Judges of a Court of Circuit that authority to call on Magistrates for their proceedings which those Judges possess collectively with respect to the proceedings of the Criminal Judges under Section XXIV Regulation X of 1816.—

According to the spirit of these provisions

provisions the Court of Foujdaree Udalut do not consider a Judge presiding at a Sessions of Jail delivery authorized to order a Magistrate to institute any new proceedings or to perform any judicial act with regard to Cases recorded on the Calendars submitted by a Criminal Judge. It is competent only to a Judge of Circuit to bring to the notice of a Magistrate any irregularities which may have appeared on the proceedings of the Magistrate in such cases; to give him such instructions as he may deem necessary for his future guidance and to call upon him for any explanation which he may have to offer on matters about to be submitted to the Court of Foujdaree Udalut.—

Under this view of the intent and meaning of the Regulations the Court of Foujdaree Udalut are of opinion that the Third Judge of the Court of Circuit should have directed the Petitioners to appear before the Magistrate of Malabar, forwarding at the same time such observations to that Officer on the subject matter of those petitions as he might have considered to be proper.—

The Court having

sentiments on the point immediately submitted for their consideration proceed to make some general observations on the papers now before them.—

The remarks of the Third Judge on the provisions of Clause First Section XXIV Regulation IX of 1816 are to be received with some limitation, inasmuch as the restriction therein imposed applies only to cases in which prisoners may be forwarded to a Criminal Judge and not to those Cases in which it is competent to a Magistrate to pass sentence under the provisions of the Regulations.— In all cases of the latter description it is the duty of a Magistrate to observe the course pointed out in Clause Second Section XVIII Regulation VII of 1802.—

In addition to the papers forwarded at the request of the Magistrate the Third Judge has submitted an Extract from his proceedings dated the 22d December containing his observations on various acts of oppression on the part of the Native Officers of Police which have been brought to his knowledge during the Circuit as also on certain irregularities in

in the proceedings of the Magistrate.— In the observations which the Third Judge has deemed it proper to make on the several points noticed in this Extract, the Court of Foujdaree Adaulut entirely concur and they trust that the Magistrate of Malabar will pay every attention to the excellent rules which the Third Judge of the Court of Circuit has prescribed for the guidance of the Magistrate, in order that he may avoid a repetition of the irregularities which have been brought to his notice and suppress those practices among the Officers of police which appear to have prevailed to an alarming extent in the Zillah under his authority and which, if permitted to pass unnoticed, may be attended with consequences the most injurious to the peace and happiness of the Community.—

The greater number of Cases referred by the Magistrate to the Officers of police for the purpose of investigation, would seem to have been so referred in the early part of 1818 and anterior it is to be presumed, therefore, to the receipt of the Courts orders dated 14th February 1818, in which the Magistrate was strictly enjoined to discontinue a

F. U.
20th January 1819

practice which, to the extent and according to the mode in which it has been followed by the Magistrate, is wholly unauthorized by the Regulations and has an obvious tendency to obstruct the due administration of public Justice.—

Ordered that Extract of these proceedings be sent to the Third Judge of the Court of Circuit in the Western Division by precept desiring him to communicate the same to the Magistrate of Malabar for his information and guidance.— (Sent following Precept A)

The Court deeming it expedient also that the several papers should be submitted with their proceedings for the information of Government;

It is ordered that the letter and Extract from these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honourable the Governor in Council.—

(Sent following letter B) Rec-3

Read

20th January 1819.

Read return, dated the 4th instant, from the Second Judge of the Court of Circuit in the Northern Division, - to the precept dated 19th November ordering communication to the Criminal Judge of Masulipatam of the Courts instructions relative to that Officers proceeding in a Case of Assault and torture. -

(Here enter No 17)

Read return, dated the 6th instant from the Provincial Court of Circuit in the Centre Division, - to the precept dated 23d ultimo ordering communication to the Criminal Judge of Chittoor of the Courts observations on Cases Nos 9 & 14 Chittoor Calendar 2d Quarterly Sessions AD 1812 and 16 3d Quarterly Sessions AD 1813. -

(Here enter No 33)

Read return, dated the 6th instant, from the Provincial Court of Circuit in the Centre Division, - to the precept dated 23d ultimo ordering communication to the Magistrate of Chittoor of the Courts observations on a reported matter of treasure trove. -

(Here enter No 37)

J. H.

At a Court of the Zoujdaree Adaulut.

Present,

Thursday 21st January 1819. Andrew Scott Esqre. / Edward Croft Greenway Esqre. / J. H. D. Egilvie, Esqre. } Judges.

Read letter, dated the 6th instant, from the 3d Judge on Circuit in the Western Division, - forwarding copy of South Malabar and Seringapatam Calendars 2d Sessions AD 1818.

(Here enter No 6)

Together with the copies of the Calendars the Third Judge of the Court of Circuit has forwarded copy of a correspondence between the Assistant Criminal Judge in the Zillah of Seringapatam, the Assistant Criminal Judge in the Zillah of Chittoor and the Assistant Magistrate in the latter Zillah relative to the attendance of some witnesses called by the Prisoner in case No 2 of the Seringapatam Calendar -

The observation of the Assistant Magistrate in the Zillah of Chittoor that "he does "not consider himself authorized by any of the Regulations

"Regulations at present in force to direct the attend-
"=ance of witnesses at Seringapatam" argues matter to
to those provisions of the Regulations which enjoin
on Magistrates a chearful cooperation in all
matters connected with the administration of
public justice. The application of the Assistant
Criminal Judge at Seringapatam was regularly sent 23
communicated through the Assistant Criminal
Judge in charge at Chittoor to the Assistant
Magistrate of that Zillah, and it was the duty
of the latter Officer to issue the necessary instruc-
=tions to his subordinate officers with regard to causing
the attendance of the witnesses at Seringapatam
The question referred to in the
concluding part of the letter from the third
Judge, which would seem to have been under
the consideration of the Provincial Court of sent 23
Circuit, cannot be brought before the Higher
Court except with the knowledge and under
the orders of the Judges of the Circuit Court
collectively -

Ordered that extract of the
proceedings be sent to

Court of Circuit in the Western Division for
his information and guidance and that he be
by precept enjoined to make the requisite
communication to the Assistant Criminal
Judge in charge of the Zillah of Seringapatam
for his information

(Sent following Precept A.)

Ordered also that copy of the
correspondence with extract from these
proceedings be sent to the Provincial Court
of Circuit in the Centre Division by precept
desiring them to communicate the same to
the Criminal Judge and the Magistrate
in the Zillah of Chittoor for their information
and future guidance -

(Sent following Precept B.)

Read letter, dated the 12th instant,
from the Acting 2d Judge of Circuit in the
Southern Division - forwarding Copy of Trichinopoly
Calendar 1st Sessions A.D. 1819 -

(Here enter No. 36.)

The Court desiring to have before
them copy of the Futwa delivered in case No. of
the

21st January 1819

the Calendar wherein the first second, fourth, Sixth and tenth prisoners who were acquitted by the Provincial Law Officers have been ordered to give security for their future good behaviour and appearance when required—

It is ordered that a precept be issued to the Judges of the Court of Circuit in the Southern Division enjoining them to send up copy of the Futwa delivered in case No. 1 of the Trichinopoly Calendar, First Quarter Sessions of 1816

Return to be made within 10 days from the date of the receipt of the Precept.

R. A.

(Sent following Precept. 6)

Read letter, dated the 16th instant from the 2d Judge on Circuit in the Centre Division, reporting his arrival at Cuddapah—

(Here enter No. 40)

Read letter, dated the 15th instant, from the 1st Judge on Circuit in the Northern Division, reporting his arrival at Nellore—

(Here enter No. 43)

Read letter dated the 17th instant from the 2d Judge on Circuit in the Southern Division, reporting his

J. C.

A Court of the Foujdaree Adalut

Present,

Monday 25th January 1819. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges
J. H. D. Ogilvie Esqre

Read letter, dated the 12th ultimo, from the 3d Judge on Circuit in the Western Division, submitting case No. 30 South Malabar Calendar 2d Sessions A.D. 1818.

(Here enter No. 682 of 1818)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Clause First Section IV Regulation XV of 1803, adjudge the Prisoners

1st "Mahpraiveth Kristnen"
2d "Teyen alias Poocheth and Vellakaut"
3d "Cherravarambeth Ramen"
4th "Mahpraiveth Koonjetty"
5th

25th January 1819.

5th "Wallapully Eyapen"
6th "Wallapully Chatooney"
7th "Koocheth Kellakoot koonjetty"
8th "Koocheth Kellakoot Ramen"
9th "Wallapully Ramen" and
10th "Koocheth Changaren"

to suffer death by being hanged at the usual time and place of execution.-

And the Court acquitting the eleventh prisoner

"Koocheth [illegible] Koonjee Ramin"

direct that he be released accordingly.-

(Sent following letter &c.)

Read letter, dated the 12th November last from the 3d Judge on Circuit in the Northern Division, submitting case No. 8. Nellore Calendar 2d Session A.D. 1818.-

(Here enter No. 646 of 1818.)

The Court having maturely considered the proceedings held before the Judge on Circuit, the future of the Provincial Law Officer and the future of the Cazee ool Cozat and Inoftees of the Foujdaree Adalut

25th January 1819.

of the Cazee ool Cozat and Inoftees aforesaid and under the provisions of Clause third Section IV Regulation XV of 1803. adjudge the prisoners

2d "Mullalah Cotadoo.-
3d "Coodoomoolapullay Vencatasem" and
4th "Sallah Kristadoo"

to be imprisoned and kept to hard labor in irons on the public Roads or other public works for and during the period of fourteen years and then released.-

And the Court acquitting the remaining prisoners

1st "Streeraum Bungaurigandoo"
5th "Doodacoolah Causkem"
6th "Soopiraulah Brumniah"
7th "Goonjee Caupadoo and
8th "Vontipooly Dayscolagandoo"

direct that they be released accordingly.-

Read letter, dated the 17th November

last, from the 3d Judge on Circuit in the Northern Division, submitting case No. 9 Nellore Calendar 2d Session A.D. 1818.-

(Here enter No. 644 of 1818)

The Court having maturely considered

considered the Proceedings held before the Judge on Circuit the 5th ult. of the Provincial Civil Officers and the 5th ult. of the Cazeeroolah Coazat and Mooftees of the Foujdaree Adaulut confirm the said 5th ult. of the Cazeeroolah Coazat and Mooftees aforesaid and acquitting the prisoners

1st "Chullah Kristadoo"
2d "Mullay Cotadoo"
3d "Coodoomoolupully Venkatadoo"
4th "Doodaycoolah Canseem"
5th "Soopiraulah Krimmiah"
6th "Goongee Caupadoo"
7th "Vontiporly Dayyorlaygandoo" and
8th "Sreeramah Bungaregandoo"

direct that they be released accordingly—

(Sent following letter (B.)

The Court observe that, in the examination before the Assistant Criminal Judge in the Zillah of Nellore of the several prisoners in this case and in the examination of the prisoners and witnesses before the Assistant Magistrate in the same Zillah, the questions put with a view of ascertaining the particular

in Clause third Section XVIII Regulation VIII of 1802 are inserted at length. It will be proper therefore to direct the attention of the Assistant Criminal Judge to the Court's circular orders dated the 5th January 1815 and the Court trust that the Magistrate in the Zilla of Nellore will be careful to give due effect to the instructions of a similar nature which were issued by the Foujdaree Adaulut on the 28th ultimo for the guidance of the Magistrates of the Zillahs—

The Court observe, also, that in the examinations taken before the Assistant Criminal Judge and the Assistant Magistrate of the Zillah of Nellore there are many interrogatories, such as "Did you not see or do such and such a matter" and others, which have a direct tendency to suggest a particular answer.— Referring to the examinations held in these two cases, the Court desire that the attention of those Officers be particularly directed to the provision of Clause second Section XVIII Regulation VIII of 1802 which declares that

general terms as may bring forth all the information the accusants possess and lead to a discovery of the truth.-

The prisoners in these two cases being the same, the ~~Court~~ Third Judge ~~[illegible]~~ late on circuit ~~[illegible]~~ deemed it necessary only to take evidence to the commission of one of the two offences with which the prisoners are charged. The Court have only to observe that, inasmuch as the two acts were totally distinct and, although alleged to have taken place in the course of the same night, were charged, by different prosecutors, to have been committed at different hours and at different places, it was requisite that evidence should have been taken at length in each trial to the several facts connected with each separate charge.-

Ordered that extract of these proceedings be sent to the Judges of the Court of Circuit in the Northern Division by precept desiring them to make the necessary communication to the Criminal Judge and the Magistrate in the Zillah of Nellore for their information

guidance respectively-

(Sent following Precept &c.

RA

250

At a Court of the Foujdaree Udalut

Present

Wednesday 27th January 1819

Andrew Scott Esqre
Edward Croft Greenway Esqre
J H D Agilvie Esqre
} Judges

N

Read letter, dated the 13th instant,

E 8

from the second Judge of the Court of Circuit in the Northern Division, - submitting, at the request of the Magistrate of Guntoor, certain precepts issued to that Officer with his returns together with a letter to the Register to the Foujdaree Udalut. -

(Here enter No 49)

The several precepts and returns - which accompany the foregoing letter having been maturely considered by the Foujdaree Udalut in their proceedings dated the 16th Ultimo, the Court do not consider it to be necessary to notice the first eight paragraphs of the Magistrate's letter further than to record their opinion that the second Judge of the Court of Circuit strictly fulfilled his duty in bringing to the notice of the Magistrate the several irregularities which he had observed in the

the proceedings of his police officers that it was imperative upon the Magistrate, as soon as he became acquainted with the fact that the orders of Government dated the 28th September 1816 had not been duly observed, to take such measures as he might have deemed proper for the performance of those orders, and that, in the event of there being any obstacle to the due fulfilment of the orders of Government, it would have been incumbent upon him to report the same for the consideration and orders of the Right Honourable the Governor in Council.-

In the ninth paragraph of his letter the Magistrate states it is his opinion that "the legitimate province of the Circuit Court is confined to making a report to his Superiors if he "finds reason to consider a Magistrate to have been "guilty of any neglect or misconduct, and that the "authority to admonish rests only in the Foujdaree "Udalut."-

Had the Magistrate perused with attention the provisions of the Regulations to which he has here referred, he would have declared that

may deem it necessary to report to the Court of Foujdaree Udalut instances of neglect or misconduct on the part of a Magistrate of a Zillah such report shall be submitted by the Court of Foujdaree Udalut for the information and orders of Government.-

The irregularities which attracted the attention of the second Judge of the Court of Circuit during the Fourth Quarterly Sessions of 1818 were, as the Court observed in their proceedings dated the 16th Ultimo, chiefly in the proceedings of the police officers.- These and other irregularities had appeared on the records of proceedings which accompanied the Calendar, and as the second Judge did not consider them to evince "neglect or "misconduct" on the part of the Magistrate, such as should seem proper to be reported to the Right Honourable the Governor in Council, he deemed it necessary only to bring the irregularities in question to the notice of the Magistrate and to give that officer such instructions as seemed calculated to obviate their recurrence.- This was a course both regular and proper to be pursued under the provisions of

27th January 1819.

of the general Regulations, and the Magistrate of the Zilla of Guntoor would have acted in a manner more becoming the office with which he is entrusted if, instead of disputing the authority and questioning the motives of the Second Judge, he had manifested a ready disposition to comply with these instructions which appear to have been dictated by a strong sense of public duty and which, by tending to promote an efficient discharge of the important duties of police, are calculated to ensure the welfare of the community and the general security of the Country.-

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Northern Division by precept enjoining him to communicate the same to the Magistrate of the Zilla of Guntoor for his information.-

Sent 29th

(Sent following Precept A)

Read return, dated the 13th instant, from the Provincial Court of Circuit in the Western Division, - to precept dated 28th December ordering communication to the Magistrates in their Jurisdiction of the Court's observation on Case No 11 Rajahmundry

27th January 1819. Calendar 2d Sessions 1818.-

(Here enter No 50)

Read letter, dated the 12th instant, from the 1st Judge of the Court of Circuit in the Western Division, - with copy of North Malabar Calendar 4th Quarterly Sessions 1818.-

(Here enter No 51)

50.

T. B.

G. S.

J. 11

J. 66

At a Court of the Zoujdaree Adalut

Present,

Thursday
28th January 1819. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges
J. H. D. Pigilvie Esqre

M

Read letter, dated the 21st Novemb
last, from the 2d Judge on Circuit in the Western
Division, submitting the 147 South Malabar Calendar
for
2d Sessions A.D. 1818.

(Here enter No. 650 of 1818.)

EBK

The Cazeeool-Cozat and Mooftees
of the Zoujdaree Adalut having declared in their
futwas delivered in this case that the Prisoners
1st "Vonee Moydee" and
2d "Sheik Abdoollah"
are liable to Tazeer on strong presumption of guilt,
the Court of Zoujdaree Adalut, concurring in the
conviction of the prisoners aforesaid on such strong
presumption, desire, under Clause Third Section
II Regulation XV of 1803, that the Cazee oolCozat
and Mooftees will declare, by a second futwa,
to what specific punishment the prisoners
would

would have been liable under the Mohummadan
law if they had been convicted by full legal
evidence of the acts laid to their charge—

Ordered that extract of these
proceedings be translated and delivered to the
Cazee ool Coozat and Mooftees of the Foujdaree
Adalut for their information and guidance—

Read letter, dated the 27th ultimo.
from the 1st Judge of the Court of Circuit in the
Southern Division— submitting for
Sessions Calendar for the 2d Sessions of 1818—
(Case entered No. 709 of 1818.)

The Court having maturely considered
the proceedings held before the Judge of Circuit the
futwas of the Provincial Law Officers and the futwas
of the Cazee-ool-Coozat and Mooftees of the Foujdaree
Adalut confirm the said futwas of the Cazee-ool-
Coozat and Mooftees aforesaid, and under the sentence
of Hiffasas declared in the futwas, adjudge the
prisoner

"Uyraven"

to suffer death by being hanged at the usual
time and place of execution—

In the examination of the
prisoners before the Assistant Criminal Judge
in the Zilla of Tinnevelly, the several questions
put with the view of ascertaining the particulars
specified in Clause Third. Section XVIII Regulation
VII of 1802 are inserted at length— The Court
direct, therefore, that the attention of the
Assistant Criminal Judge be called to their
Circular orders dated the 17th January 1815 ult.
wherein it was directed that the several
particulars here referred to should be specified
at the head of the examination—

The Court remark that the
depositions forwarded by the Police Officers
of the Nellyumberlum taloork are not
attested by his signature— It will be proper
that this omission be brought to the notice
of the District Police Officer, in order that
he may be careful hereafter to attest with
his signature all depositions which may be
taken before him; and the Court of Foujdaree
Adalut deem it requisite to observe, also, that
it

28. January 1819

it is the duty of the Judge presiding at a Sessions to of jail delivery to point out the proper authorities any irregularities or omissions which may appear on the face of the proceedings accompanying the Calendars—

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Southern Division by precept desiring him to make the necessary communications to the Criminal Judge and Magistrate in the Zillas of Tinnevelly for their information and guidance respectively.—

sent 3rd Feby M

R.J. (Sent following Precept R.J.

Read return, dated the 16th instant, from the 2d Judge of the Court of Circuit in the Northern Division, to precept dated 25th ultimo ordering communication to the Criminal Judge of Rajahmundry of the Court's observation on Case No 11 Rajahmundry Calendar 7th Sessions of 1818

(Here enter No 54.)

1819 Read letter, dated the 16th instant, from the acting 2d Judge on Circuit in the Northern Division, reporting his arrival at Berhampore.—

(Here enter No 67.)

J. U

At a Court of the 1st Judge and Circuit

Thursday 7th January 1819

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

41

Read letter, dated the 30th Ultimo, from the 1st Judge of Circuit in the Southern Division, reporting his observations on the late Circuit.—

(Here enter No 1)

Read letter, dated the 31st Ultimo, from the 2d Judge on Circuit in the Centre Division forwarding his Report on the Circuit for 2d Sessions A.D 1818.—

(Here enter No 5)

The suggestions of the First Judge of the Court of Circuit in the Southern Division respecting the construction of Debtors' jails at Trichinopoly and at Madura, appear to merit the attention of the Right Honourable the Governor in Council.—

Of the several cases enumerated by the Second Judge of the Court of Circuit in the Centre Division, one only — No 52 of the Bellary Calendar — seems to call for observation. — In commenting on

28. January 1819

it is the duty of the Judge presiding at a Sessions to of jail delivery to point out the proper authorities any irregularities or omissions which may appear on the face of the proceedings accompanying the Calendars—

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Southern Division by precept desiring him to make the necessary communications to the Criminal Judge and Magistrate in the Zillay of Tinnevelly for their information and guidance respectively.—

sent by Precept

No 11

(Sent following Precept B.J.)

Read return, dated the 17th instant, from the 2d Judge of the Court of Circuit in the Northern Division, to precept dated 28th ultimo ordering communication to the Criminal Judge of Rajahmundry of the Court's observation on case No 11 Rajahmundry Calendar 1st Sessions of 1818

(Here enter No 54)

Read letter, dated the 14th instant, from the acting 3d Judge on Circuit in the Northern Division, reporting his arrival at Berhampore—

(Here enter No 67)

J. U

At a Court of the Foujdaree Adalut

Thursday 14th January 1819

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

No 11

Read letter, dated the 30th Ultimo, from the 1st Judge of Circuit in the Southern Division, reporting his observations on the late Circuit.—

(Here enter No 1)

Read letter, dated the 31st Ultimo, from the 2d Judge on Circuit in the Centre Division, forwarding his Report on the Circuit for 2d Sessions of 1818.—

(Here enter No 5)

The suggestions of the First Judge of the Court of Circuit in the Southern Division respecting the construction of Debtors jails at Trichinopoly and at Madura, appear to merit the attention of the Right Honourable the Governor in Council.—

Of the several cases enumerated by the Second Judge of the Court of Circuit in the Centre Division, one only — No 52 of the Bellary Calendar — seems to call for observation.— In commenting on

this case the Second Judge writes as follows — "The Law
"Officers of the Foujdaree Udalut state in their futwa
"that the testimony of the witnesses nos. 2d & 3d to the
"first Prisoners confession before the Jafsildar, that
"he committed the crime abovementioned, is not admissible
"in Law, by reason of it's having been taken before the
"Jafsildar; whereas clause 3d Section XXVII Regulation
"XI of 1816 authorizes Jafsildars to receive the confession
"of a Prisoner." —

Referring to the above passage the Court of Foujdaree Udalut deem it necessary to remind the Second Judge that the Mohummudan Law Officers of the Courts of Circuit and Foujdaree Udalut are bound to declare the law as applicable to the circumstances of each case and that the provisions of the Regulations, in modification of the Mohummudan law, are intended only for the guidance of the Judges of those Courts. — The objection of the Mohummudan law Officers of the Foujdaree Udalut in the present instance, were according to the strict interpretation of the Futwa, to the "insufficiency" of the testimony in question "for conviction in law" and it would have been competent to the Court [illegible]