1086

Journal of Medical
Proceedings for
1820

331

Fol.

At a Court of the Zoujedarree Adawlut

Thursday

13th January 1820.

Present

Andrew Scott, Esqre.
Edward Croft Greenway, Esqre. } Judges

Read the letter dated the 1st
Instant from the Criminal Judge on the Zilla
of South Malabar, stating for the orders of the
Court of Circuit prescribed by Section XX Regulation XII
of 1807 to be delivered to an informer.

(Referred to 14th of 1819)

It appearing, on reference to the
record of the case No 2. South Malabar Calendar
1st Sessions A.D. 1819, and to the order of the
First Judge of the Court of Circuit on the Western
Division enclosed in the foregoing letter, that the
informer Putata Kanjee has fulfilled the con-
ditions, on which he was promised an offer of pardon
from Government.

It is ordered, that a certificate and
confirmation of such conditional pardon, be
prepared and forwarded to the Criminal Judge
in the Zilla of South Malabar, to be by him
delivered

delivered to the party aforesaid for his security as regards the [illegible] therein referred to.

The Court of Enquiry [illegible] direct, that the Criminal Judge in the Zilla of South Malabar be commanded to call before him the informer abovementioned, and to caution him against the repetition of proceedings which must render him obnoxious to the severest penalties of the law, and the Court further direct, that the Criminal Judge of South Malabar be enjoined to give due notice to the Magistrate of the Zilla of the release of the person here mentioned, and order that the requisite precautions may be taken with a view to the assurance of the public safety.

Ordered, that a Extract of these proceedings be sent to the Criminal Judge in the Zilla of South Malabar for his information and guidance.

(Sent following letter N:)

Read, return, dated the 29th Ult.o from the Provincial Court of Circuit in the Centre Division, to precept dated 20th Ultimo:- ordering commu-

-nication to the Magistrate of Bellary of the observations on case N.o 53 Bellary Calendar 2.d Sessions of 1819.-

(Here enter N.o IV & V)

Read returns, dated the 27th Ultimo, from the Acting Judge of the Court of Circuit in the Western Division, to precept dated 16th Ultimo, ordering communication to the Criminal Judge in the Zilla of North Malabar of the Court's observations on case N.o 6 North Malabar Calendar 4th Quarterly Sessions A.D. 1819.

(Here enter N.o 2.)

Read return, dated the 28th Ultimo, from the Second Judge late on Circuit in the Northern Division, to precept dated 6th Ultimo- ordering communication to the Criminal Judge of Canara and the Criminal Judge of Rajahmundry of the Court's orders respecting the banishment of certain persons.

(Here enter N.o 4.)

Read letter, dated the 5th instant from the Third Judge on Circuit in the Northern Division- reporting the commencement of the Sessions at Nellore.-

(Here enter N.o 17.)

13 January 1820.

Read letter, dated the 1st instant from the Provincial Court of Circuit on the Southern Division, to precept dated 9th ultimo.- ordering communication to the Criminal Judges within their jurisdiction of the Court's instructions regarding the issue of precepts in future.-

Hereunder No. 18.

25.

7th

Copied

At a Court of the Toujdaree Adalut

Present

Monday 17th January 1820.-

Andrew Scott Esqre. } Judges

Edward Croft Greenway Esqre. }

Read letter, dated the 28th Ultimo, from the First Judge of the Court of Circuit in the Western Division.- requesting the orders of the Court as to the trial of an infant for Murder.-

Hereunder No. 3.

The First Judge reports in the foregoing letter, that the infant who forms the subject of reference, is about 5 years of age, and he forwards a copy of the prisoner's examination before the Criminal Judge, from which it is not to be estimated, that the act of throwing a girl aged two years into a well, which he has committed, was attended with malice, which under the rule of the English law must, in such a case, be established

12 January 1820.

17 January 1820.

Judicial

to render the accused liable to punishment.

Under these circumstances the Court of Tovjdaree Adalut deem it proper to direct that Arutha[illegible]ambutha Koyally be delivered by the Criminal Judge of South Malabar into the custody of his relations who should be admonished of the propriety of watching the future conduct of a child who has committed so fatal an act of violence.

Ordered that a transmitting their orders to the First Judge the Court of Tovjdaree Adalut have to observe that it would have been more satisfactory, if the precise age of the infant had been ascertained by the evidence of his Mother, and if his demeanor on his apprehension had been certified to the Court by the deposition of the persons, who took him into custody to which the Criminal Judge refers in the prisoner's examination.

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

17 January 1820.

Read a letter, dated the 31st Ultimo, from the First Judge on Circuit in the Western Division, with a copy of South Malabar Calendar, - 2d Sessions A.D. 1819.

(Here enter No 21.)

Copies

J U

At a Court of the Foujdaree Udalut

Present

Thursday 20th January 1820

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter, dated 2nd October last

M

from the Acting 3rd Judge on Circuit in the

605

Southern Division, - submitting Case No 2 Timmenelly

Calendar 2nd Sessions AD 1819 -

(Here enter No 584 of 1819)

The Court having maturely considered

the proceedings held before the Judge on Circuit

the futwa of the Pronuncial Law Officer and the

futwa of the Cazee-ool-Coozat and Mooftees of

the Foujdaree Udalut, conferm the said futwa

of the Cazee-ool-Coozat and Mooftees aforesaid

and under the pronuncons of Section XVII Regu-

-lation VIII of 1802, adjudge the prisoners,

1st "Massicapen" and

2d "Moottoo Curroopen"

to suffer death by being hanged at the usual time

and place of execution. -

(Sent following letter A)

In the proceedings on this Case

before the Court of Circuit, as well as in other trials

which

Part 21

which have been referred to the Foujdaree Udalut by the acting 3rd Judge late on Circuit in the Southern Division, the Court remark that the several depositions of the witnesses for the prosecution and the defence are attested by the signatures of two subscribing witnesses, as well as certified by that of the Judge presiding at the trial.—

This proceeding not being enjoined by any Regulation, or order in force, and the attestation of witnesses not being essential to the validity of depositions, certified by the officer receiving them, the Court of Foujdaree Udalut direct, that the 2nd Judge of the Court of Circuit in the Centre Division (late acting 3rd Judge in the Southern Division) be instructed to discontinue this practice, as unnecessary.—

Ordered, that extract of these proceedings be sent to the Second Judge of the Provincial Court of Circuit in the Centre

20th January 1820.

Division for his information and future guidance.—

(Sent following letter B)

Read letter, dated 9th December from the acting 3rd Judge on Circuit in the Centre Division,—submitting Case No. 10 Chingle-put Calendar 2nd Sessions AD 1819.—

(Here enter No. 699 of 1819)

The Court having maturely considered the proceedings held before the Judge late 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 in commutation of the penalty of Dreyut, adjudge the prisoner,

"Andee,"

to be imprisoned and kept to hard labour in irons on the public roads or public works for and during the space of twelve Calendar Months, and then released.—

(Sent following letter C)

Read letter dated 29th October last, from

20th January 1820

from the 1st Judge on Circuit in the Western Division,- submitting Case No 7 South Malabar Calendar 2d Sessions AD 1819.-

(Here enter No 645 of 1819)

The Court, having maturely considered the proceedings held before the Judge late 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 sentence of Cokoolut declared against the prisoner,

"Koonay Kaut Kundesse Nair, alias Kanden Nair,"

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

sent 21st

(Sent following letter D)

Read letter, dated 29th November last, from the 1st Judge of the Court of Circuit in the Northern Division,- submitting Case of Maselipatam Calendar 4th Quarterly Sessions AD 1819.-

(Here enter No 688 of 1819)

The Court having maturely considered the proceedings held before the Judge [illegible]

F U

20th January 1820

Court of 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 acquitting the prisoner,

"Pooloogoo Pentadoo"

direct that he be set at liberty.-

(Sent following letter E)

21st

Read letter, dated 3d December last, from the Acting 3rd Judge on Circuit in the Centre Division,- submitting Case No 3 Bellary Calendar 2nd Sessions AD 1819.-

(Here enter No 684 of 1819)

The Court having maturely considered the proceedings held before the Judge late 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 acquitting the prisoner,

"Huddee,"

direct that she be set at liberty.-

Read letter, dated 25th October last, from the Acting 3rd Judge on Circuit in the Centre

Centre Division, submitting Case No. 56 Bellary
Calendar 2nd Sessions AD 1819.

(Here enter No. 626 of 1819)

The Court having maturely weighed
the proceedings held before the Judge late on Circuit
the futwa of the Provincial Law Officer and the
futwa of the Cazee-ool-Coozat and Mooftees of
the Zoujdaree Udalut confirm the said futwa
of the Cazee-ool-Coozat and Mooftees aforesaid
and under the sentence of Cohoolut declared against
the prisoners,

1st "Nagadoo" and
2nd "Moonegadoo"

adjudge them 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 J.)

Read letter, dated 5th October last,
from the Acting 3rd Judge on Circuit in the
Centre Division, submitting Case No. 25 Cuddapa
Calendar 2nd Sessions AD 1819.—

(Here enter No. 585 of 1819)

The Cazee-ool-Coozat and Mooftees
of the Zoujdaree Udalut declare in the foregoing
futwa that the first prisoner Venkata is con-
victed 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 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 Mahommudan Law
if he had been convicted by full legal evidence.—
Ordered that extract of these
proceedings be translated and delivered to the
Cazee-ool-Coozat and Mooftees of the Court.—

Read letter, dated the 25th October
last from the Acting 3rd Judge on Circuit in the
Centre Division, submitting Case No. 49 Bellary
Calendar 2d Sessions AD 1819.

(Here enter No. 627 of 1819)

The Court having maturely con-
sidered the proceedings held before the Judge
on Circuit the futwa of the Provincial Law
Officer

Officer and the futwa of the Cazee-ool-Cozat and Mooftees of the Saydaree Adalut, are of opinion that the proof against the prisoners,

1st "Immagandoo"
2d "Irmeulgandoo" and
3d "Ippagandoo"

is sufficient to convict them of the crime of murder, in the prosecution of an intent to rob, for which a penalty is specially denounced in Clause First 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 prisoners,

1st "Immagandoo"
2d "Irmulgandoo" and
3d "Ippagandoo"

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

(Sent following letter G.)

Read letter, dated 7th September last, from the 3rd Judge of the Court of Circuit in the Western Division, - submitting Case No 6 North Malabar Calendar 3rd Quarterly Sessions AD 1819

(3.)

J. H. No 7 of 1819.

20th January 1820. (Here enter No 547 of 1819)

The Judges of the Court of Saydaree Adalut, on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the 1st Prisoner,

"Kanean Kandy Ally Cotty"

is sufficient to convict him of the crime of Manslaughter, desire, under Clause Second Section II Regulation I of 1818, that the Cazee-ool-Cozat and Mooftees of the Saydaree Adalut will declare by a second futwa, to what sentence the prisoner would have been liable under the Mussulmaun Law if he had been convicted by full legal evidence of the above crime.-

Ordered, that extract of these proceedings be translated and delivered to the Cazee-ool-Cozat and Mooftees of the Court.-

W. H.

Read letter, dated 6th instant, from the Magistrate of Malabar, - submitting papers

papers connected with a complaint before a District Police Officer and suggesting that provision should be made for the punishment of persons preferring false and malicious accusations. -

/Here enter No. 36/

Copied

J. U

At a Court of the Fouzdaree Udalut

Present

Friday 21st January 1820. - Andrew Scott Esqre. } Judges
Edward Croft Greenway Esqre. }

Read again letter, dated the 5th October last, from the acting 3rd Judge on Circuit in the Centre Division, - submitting Case No. 25 Cuddapa Calendar 2nd Sessions AD 1819. -

(Here enter No 585 of 1819)

The Court having maturely considered the proceedings held before the Judge late 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 sentence of Reference declared against the prisoner,

pk "Poola Venkata"

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

provisions of Clause sixth Section II Regulation XV of 1803 direct that the prisoner,

2nd "Chengadoo"

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

(Sent following letter A)

Read again letter, dated the 7th September last, from the 3rd Judge of the Court of Circuit in the Western Division,- submitting Case No. 6 North Malabar Calendar 3rd Quarterly Sessions AD 1819.-

(Here enter No. 547 of 1819)

The Court having maturely considered the proceedings held before the Judge of Circuit the fatwa of the Provincial Law Officer and the fatwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut confirm the said fatwa of the Cazee-ool-Coozat and Mooftees aforesaid and in commutation of the penalty of Dreyet, adjudge the prisoner,

1st "Kanian Kandy Ally Cotty"

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

(Sent following letter B)

Sent 24th

W. M.

H. S.

Court

At a Court of the Toujdaree Adalut.

Present,

Monday 24th. January 1820. } Andrew Scott Esqre. Edward Croft Greenway Esqre. } Judges.

Read letter, dated 5th. Instant from the Provincial Court of Circuit in the Western Division, - submitting papers connected with a case of misconduct on the part of a District Police Officer.

(Here enter No. 26.)

Read also letter, dated 5th. Instant, from the Provincial Court of Circuit Western Division, - submitting copy of a communication from the Magistrate of Malabar and an Extract of their proceedings in continuation of the above reference.

(Here enter No. 48.)

The latter of the above letters is misdated the 5th. Instant and gives cover to an Extract of the Proceedings of the Provincial Court under date 11th. Instant, in which that Court observe that some error must have arisen "with respect to the dates alluded to

Court

"to by the Magistrate at those under which
"the suspension and dismissal of the Tahseeldar
"took place."

On reference to the correspondence transmitted by the Provincial Court it appears that the Magistrate of Malabar in a letter to the Assistant Criminal Judge in the Zilla of South Malabar dated 2d October last stated, that the revenues of his talook were suffering great detriment from the absence of the Tahseeldar, Komba Paramkara Nair, and requested to be informed whether his further attendance was required by the Criminal Court.-

In his letter to the Register of the Provincial Court, dated 8th Instant the Magistrate states, that "ever since the month "of August this Tahseeldar has been suspended "from his Functions, and was dismissed on "the 1st October."-

The Court of Foujdaree Adalut deeming it essential to their decision upon the foregoing reference from the Provincial Court in the Western Division, that an explanation should

should be furnished by the Magistrate of Malabar of the inconsistency between the statements in his letter to the Assistant Criminal Judge in the Zilla of South Malabar, and to the Register of the Provincial Court in the Western Division above cited, resolve to suspend the consideration of the subject, until an opportunity shall have been afforded to the Magistrate of explaining the discordant representations here referred to.-

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Western Division by precept directing them to communicate the same to the Magistrate of Malabar for his information and guidance.-

(Sent following Precept A)

Read letter dated the 15th Instant from the 1st Judge on Circuit in the Southern Division with copy of Combaconum Calendar 1st Session A.D. 1820.-

(Here entered No 47.)

Read

Read letter dated the 10th instant from the 2d Judge of the Court of Circuit in the Southern Division with copy of Trichinopoly Calendar 1st Quarterly Sessions A.D. 1820.-

(Here enter No 40.-)

Read letter dated the 13th instant, from the 1st Judge on Circuit in the Centre Division, reporting the arrival of the Court of Circuit at Cuddapah.-

(Here enter No 44)

Read return dated 17th instant, from the 1st Judge on Circuit in the Western Division to precept dated 30th ultimo calling for copy of South Malabar Calendar 2d Sessions A.D. 1819.-

(Here enter No 41.)

Read letter dated 9th Instant from the 1st Judge on Circuit in the Southern Division reporting his arrival at Combaconum.-

(Here enter No 27.)

Read letter, dated 15th Instant, from the 3d Judge on Circuit in the Western Division, reporting the arrival of the Court of Circuit at Mangalore.-

(Here enter No 54.)

J. N.

At a Court of the Foujdaree Adalut

Present

Thursday 27th January 1820.- Andrew Scott Esqre. } Judges
Edward Croft Greenway Esqre. }

N 1
E G

Read letter, dated the 26th October last from the acting Judge of the Court of Circuit in the Western Division,- submitting Case No 1 North Malabar Calendar 4th Quarterly Sessions A.D. 1819.-

(Here enter No. 634 of 1819)

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 Adalut conferring the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and acquitting the prisoner,

"Chadala Moideen Cotty,"

direct that he be set at liberty at the expiration of the period of imprisonment to which he has been sentenced.-

(Sent following letter A)

Court

The first observation, which the Court of Foujdaree Udalut deem it proper to make on this Trial has reference to the circumstance of its having been conducted by the Officer, upon whom in his capacity of Criminal Judge, had devolved the preliminary investigation in Case No. 12 North Malabar Calendar 1st Quarterly Sessions of 1819 out of which the present prosecution has arisen.—

The previous cognizance of the Case having an obvious tendency to lead the acting Judge to a prejudgment of its merits, the Court of Foujdaree Udalut are of opinion, that the ulterior proceedings should not have been conducted by that Officer without the consent of the accused.—

In his letter accompanying the trial the acting Judge lays considerable stress upon the confession of the prisoner before the Police Officer, to which the observations recorded by the Court of Foujdaree Udalut in their proceedings on the Case above referred to, under date 19th July 1819 apply,—namely that it was subsequently "denied before the Zilla Criminal Court, and is not "corroborated by credible testimony."—

And here the Court have to remark, that the evidence of Chembel Addean, who was admitted as an approver in the Case cited No. 12 above cited, ought to have been taken in this Case, and would not have been liable to the same objections, as existed to his testimony before the confirmation of his conditional pardon.—

The present Case has brought under the immediate notice of the Court an inconvenience arising from the ordinary procedure with respect to persons admitted to give evidence under the provisions of Section XX Regulation VIII of 1802.—

The admission of approvers as evidence in Cases of Felony has been adopted by the legislature from the practice of English Courts of Law, but the rules under which such testimony is received in England have been infringed in one most important particular.—

"A person desiring to be an approver must confess himself guilty of the offence, "and desire to accuse his accomplices."—

The Court

27th January 1820

The practice of taking upon oath the declaration of an approver before the Criminal Judge is altogether at variance with the rule here cited the propriety of which is directly annuced by the issue of the case under consideration, which must have terminated in the conviction of the accused had he not been sworn to his declaration before the Criminal Judge, which from its having been taken on oath could not be received in evidence against him.—

The Court of Foujdaree Udalut re= solve, therefore, to circulate these observations to the four Provincial Courts of Circuit and to direct that the several Criminal Judges be in= structed in all cases, in which an accessary in a Felony may receive a conditional offer of pardon, under the provisions of Section XX. Regulation VIII of 1802, to receive the declaration of the party in the mode prescribed for the admission of the confessions of persons accused.—

Before the Court of Circuit the evidence of the approver is of course to be taken "corroborated by credible

on

F. H

27th January 1820

on oath and on the non-fulfilment of the con= ditions of pardon he will be liable to conviction on his former confession.—

Ordered that extract of these proceedings be sent to the Acting Judge of the Provincial Court in the Western Division for his information and guidance.—

(Sent following letter B)

Ordered also, that extract of these proceedings be sent to the four Pro= vincial Courts of Circuit by precept, directing them to communicate the same to the se= veral Criminal Judges within their respective jurisdictions for their information and future guidance.—

(Sent following Circular Receipt C)

Court

Copied

Fill.

At a Court of the Fujdaree Udalut.

Present,

Monday
31st January 1820. Andrew Scott Esqre } Judges.
Edward Croft Greenway Esqre }

Read letter, dated 14th Instant from the Provincial Court of Circuit in the Western Division, submitting for the orders of the Court papers connected with a perjury, alleged to have been committed before the acting Criminal Judge in the Zilla of South Malabar.

(Here enter No. 56.)

It appears by the papers transmitted with the foregoing letter, that the acting Criminal Judge in the Zilla of South Malabar being of opinion, that the prosecutor and two of the witnesses in a case before him were guilty of wilful perjury in their depositions, sent the said prosecutor and witnesses together with copies of the depositions in question to the Magistrate of Malabar.

The reason for adopting this mode of proceeding is not stated by the Assistant Criminal Court

Criminal Judge in his letter to the Magistrate, but the Court of Foujdaree Adalut conclude, that it resultes from the same view of the existing legislative enactments, as that taken by the Magistrate of Malabar, who in his letter to the Register of the Provincial Court of Circuit in the Western Division, requesting instructions how to act on the occasion, observes,- "Had a perjury "been so committed in the Civil Court, the Court "could of itself have committed the offender for "Trial. A Circuit Judge has the same powers; "but they do not seem to be extended to a "Criminal Judge, who is precluded by Section VIII "Regulation X of 1816 from taking cognizance "of any Criminal charge, unless it be brought before "him by a Magistrate or Police Officer."-

The Extract of the proceedings of the Provincial Court of Circuit in the Western Division contains the following observations on the question referred by the Magistrate of Malabar.- "Section "VIII Regulation X of 1816 is absolute, and "under these provisions the only legal course to be "pursued when a Zilla Judge deems it necessary to

"corroborated by creadv-

bring to Trial, on a charge of perjury, any "person, who may appear to have incurred such guilt "guilt in matters of Civil or Criminal cognizance "is to forward the parties to the Magistrate "with a statement of the case, and the record on "which the Perjury is supposed to rest, in order "that this officer may hold the necessary preliminary "proceedings."-

The opinion expressed in the above extract by the acting and officiating Judge must have been formed without a due consideration of the following provisions.

By Section VIII Regulation III of 1802, which is referred to in Section XXIX Regulation IX of 1816, it is enacted, that "if a "witness or any person shall be guilty of wilful "and corrupt perjury in any cause or matter "depending in a Zilla Court, the Judge is "immediately to commit the offender to close "custody, to take his trial before the Court "of Circuit."-

It is to this provision, that the Magistrate of Malabar refers in the passage above cited from his letter to the Register

Court

31st January 1820.

Criminal Judge in his letter to the

but the Court is of

of Section VIII Regulation III of 1802 are sufficiently explicit, to exclude all suppositi of intermediate, or as termed by the acting and Officiating Judge "preliminary" proceedings to be held by a Magistrate, consequent upon the commission of a Perjury before a Zilla Court, and anterior to the Committal of the offending party for trial before the Court of Circuit.-

With respect to the proper mode of proceeding in a Case of perjury before a Criminal Judge, the Magistrate, the assistant Criminal Judge, and the Provincial Court have fallen into the same error from not duly considering the peculiar nature of this offence; and have thus been led to apply the provisions of Section VIII Regulation X of 1816 to a case which is in its own nature, as well as by other provisions of the Code specially excluded from their operation.-

The Section in question declares, that

that the Criminal Judge of the Zilla shall not

27th January 1820 receive or take cognizance of any Criminal "charge or information except such as may "be brought before him by a Magistrate or "some Police Officer."-

It is obvious to remark, that a provision determining the mode, in which a "Criminal charge or information" is to be "brought before" a Criminal Judge cannot by any just analogy be made to apply to an offence, which from its peculiar nature is at the moment of its commission under his official cognizance.-

From Section V Regulation VI of 1811 it is clearly to be inferred, that all Courts, Civil or Criminal, are competent and bound to commit persons, whom they may consider to have been guilty of perjury before themselves, the reason for the rule appear to be because the primâ facie case, which must necessarily be made out before a party is committed or held to bail, is already before a competent tribunal- because it is at the instance of a judicial tribunal, and not on

Court

on the accusation of an interested individual that the trial is to take place, and because it is essential to the pure and effectual administration of justice, that every Court should protect and vindicate its own dignity; and perjury is the highest species of contempt.—

A modification of the penal enactment with regard to perjury has been made by Section XXXV Regulation IX of 1816, the provisions of which are strictly limited to the petty cases, specified in Sections XXXII and XXXIII of that Regulation, and authority is thereby vested in Magistrates to punish the party instituting a false complaint in all cases, which those officers are competent to hear and determine—

The vindication of the dignity of his own Court in this respect is thus immediately vested in the Magistrate, in conformity with the principle above referred to, it being considered that false swearing in charges of so petty a description did not demand the severest penalties of the law.—

The

The Court of Foujdaree Adawlut having recorded these observations on the general question involved in the present reference, have to observe with respect to the particular Case under consideration, that the remark in the proceedings of the Provincial Court, that "no injury had resulted from the false swearing," appeared to have been made without due reference to the hardship, sustained by a person detained in Custody and subjected to legal investigation on a false and ignominious charge.

The Court deem the present to be a fit occasion for calling the attention of the several Courts of Circuit and Criminal Judges to a defect very generally observable in the Trials for Perjury, which have been referred to the Foujdaree Adawlut.—

The statement in the nature of an indictment, directed by the orders of the Court under date 27th January 1814 to be prepared by the Committing Officers, and adopted by the Judge of the Court of Circuit as

Court

as the arraignment, is rarely found to contain an averment of the several particulars, the establishment of which is essential to a conviction of the Crime of perjury under the definition of that offence contained in Section IV Regulation VI of 1811.-

The endeavours of the Court to introduce correctness in this most important particular, in trials for Perjury, having hitherto failed of success, they resolve to circulate the following instructions and direct that they be in all instances conformed to as far as the nature of the case will admit.-

"The indictment should first state that A.B. being a party or a witness in a certain civil suit, or criminal trial (as the case may be) and being called upon to depose to certain matters of fact, material to the issue of the said suit or trial, did on such a day, and before such a Court, having been sworn to depose truly in the said matter, depose on oath in words to the following effect (Here recite the words on which the

31st January 1820.

perjury is assigned) Whereas in truth and in fact (Here recite the fact in opposition to the averment of the accused) that it was material to the issue of the said suit, or trial, to shew that &c, and that the said witness well knew at the time of the said swearing that his deposition so given was false, and that he the said A.B. did therefore commit wilful and corrupt perjury."

On the establishment of these particulars by evidence must depend the issue of a trial for Perjury, and it is scarcely necessary to observe, that the testimony with respect to the fact, opposed to the deposition of the accused, must in order to his conviction be full and undeniable.-

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Western Division by precept directing them to communicate the same to the Criminal Judge of both Malabar, and the Magistrate of Malabar for their information and guidance.-

(Sent following Precept &c.

Ordered

Ordered also that extract of these proceedings be sent to the Provincial Court of Circuit by precept, enjoining them to communicate the same to the Criminal Judges within their respective divisions.-

sent 2

(Sent following Precept B.)

Read letter, dated 9th ultimo from the Acting 3d Judge late on Circuit in the Centre Division, - submitting, case No 9 Chingleput Calendar 2d Sessions A.D. 1819.

(Here enter No 700 of 1819.)

The Court having maturely considered the proceedings held before the Judge late on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee ool Cozat and Mooftees of the Dayaree, confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and acquitting the prisoner, "Venatachellum," direct that he be set at liberty.-

sent 4th

(Sent following letter 6.)

Ramanooja pillay one of the subscribing

subscribing witnesses to the prisoner's declaration before the Police Ameen stated before the Court of Circuit, that he was not present when the declaration was written.-

The Court direct, that this circumstance be brought to the notice of Adeney Veerarayavaray, Police Ameen of Conjeveram, by the Magistrate in the Zilla of Chingleput, 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."-

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 Chingleput

31st January 1820.

Chinglepet for his information and guidance.

Sent following Precept D.

Read letter, dated 27th Ultimo, from the 2d Judge of the Court of Circuit in the Centre Division,- submitting Case No 5 Chittoor Calendar 4th Quarterly Sessions A.D. 1819.

Here enter No 683 of 1819.

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 Punjdaree Adalut confirms the said futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoner,

"Kistnen,"

direct that he be set at liberty.-

Sent following letter E.

The Court of Punjdaree Adalut regret to observe in the present case the repetition of irregularities, to which they have already called the attention of the Magistrate and District Police Officers in the Zilla of Chittoor

4/ F.C.

31st January 1820.

Chittoor:-

Moonesamy Chitty and Ramen Chitty the subscribing witnesses to the declaration of the prisoner before the Police Ameen stated severally before the Court of Circuit, that they were not present when the prisoner was examined.-

When the prisoner was sent by the Police Officers to the Acting Magistrate, that officer confined himself to interrogating the accused as to the correctness of his declaration before the Ameen, to which was then annexed a Memorandum of its having been confirmed before the Acting Magistrate, attested by two witnesses, and signed by the prisoner.-

The Court in their proceedings under date 17th October 1818, remarked on the same proceeding of the Acting Magistrate, that it was "irregular and improper," that "in all such cases an enquiry should be "instituted de novo into the circumstances "of the charge," and that it was "only on the

completion

31st January 1820

"completion of the examination of the prisoners
"touching the charge, that they should be
"interrogated as to the declarations which they
"might have made before the Officers of Police."

The Court direct, that the attention
of Sunjeevepillay Police Ameen of the
Town of Vellore be particularly called 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."

Moonesawmy and Sroonagun
Chetty the witnesses, who attested the prisoner's
declaration before the Criminal Judge stated
severally before the Court of Circuit that they
were not present, when the Criminal Judge
examined the prisoner, and that the declaration
was written before they came into the Criminal
Court, but read to the prisoner in their presence.

The Court of Foujdaree do also

31st January 1820

direct, that the above circumstance be brought
to the notice of the Criminal Judge in the
Zilla of Chittoor, and that his attention be
directed to Section X Regulation X of 1816,
which declares that the confession of a
prisoner is to be "witnessed by as many credita-
=ble persons, who may be present at the
time it may be made, 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 Centre Division by precept
directing them to make the necessary com-
=munications to the Criminal Judge and
acting Magistrate in the Zilla of Chittoor
for the information and guidance of those
officers respectively.

(Sent following Precept &c)

Read letter, dated 9th ultimo
from the acting 2d Judge Cutcherry on Circuit in
the Centre Division, submitting case No 12
Chingleput Calendar 2d Sessions A.D. 1819.

(Here enter No 697 of 1819)

The Court having maturely
considered

considered the proceedings held before the Judge late on Circuit the Guttwa of the Provincial Law Officers and the Guttwa of the Cazee ool Coozat and Mooftees of the Foujdaree Udalut confirm the said Guttwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Kisaas declared in the Guttwa adjudge the prisoner,

1st "Coopersen,"

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

And under the latitude given by the sentence of Dohoobut adjudge the prisoner

2d "Mootoo,"

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

Sent following letter G.

Read letter, dated 9th ultimo, from the acting 3d Judge late on Circuit in the Centre Division,- submitting Case No 3. Chingleput Calendar 2d Session AD 1819-

(Here enter No 698 of 1819.)

The Court having maturely considered the proceedings held before the Judge late on Circuit the Guttwa of the Provincial Law Officers and the Guttwa of the Cazee ool Coozat and Mooftees of the Foujdaree Udalut confirm the said Guttwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Dohoobut declared against the prisoner,

"Veerasawmy Naick,"

adjudge him to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of two years and then released-

Sent following letter H.

Read letter, dated 4th ultimo from the 2d Judge of Judge in the Northern Division,- submitting case No 7 Ganjam Calendar 2d Session AD 1819.-

(Here enter No 701 of 1819.)

The Court having maturely considered the proceedings held before the Judge of Circuit the Guttwa of the Provincial Law Officers and the Guttwa of the Cazee ool Coozat and Mooftees of the Foujdaree Udalut confirm the said Guttwa of the Cazeeool Coozat and Mooftees

31st January 1820.

Proceedings aforesaid and under the sentence of Hispaias declared in the Futwa adjudge the prisoner,

"Gnoogoo Valsadoo,"

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

dated 4th

(Sent following letter I.)

Read letter dated 30th November last, from the 2d Judge of Circuit in the Northern Division,- submitting case No 5 Vizagapatam Calendar 2d Sessions A.D. 1819-

(Here enter No 691 of 1819)

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 Coozat and Mooftee of the Tuydaree Adalut confirm the said Futwa of the Cazee ool Coozat and Mooftee aforesaid and under the latitude given by the sentence of Rokoobut, adjudge the prisoner,

"Condapilly Dandeedoo,"

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

dated 4th

(Sent following letter J.)

31st January 1820.

Read letter dated 19th Instant, &c. from the Acting Criminal Judge in the Zilla of North Malabar,- enclosing copy of a warrant for the banishment of a convict to any Zilla selected by the Court of Tuydaree Adalut.-

(Here enter No 67.)

Read also letter dated 27th Instant, from the Acting Criminal Judge in the Zilla of North Malabar,- enclosing copy of warrant for the banishment of a convict to any Zilla selected by the Tuydaree Adalut.-

(Here enter No 87.)

The Court of Tuydaree Adalut direct that the prisoners,

"Valapile Moideen," and

"Malapally Coty Hassan,"

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 Judge in the Zilla of North Malabar and to the Criminal Judge of Seringapatam for the information and guidance of those Officers respectively.

dated 4th

(Sent following letters K.)

J. M.

At a Court of the Zoujdaree Adalut.

Present,

Monday 7th February 1820. Andrew Scott Esqre. —— Edward Croft Greenway Esqre. } Judges

Read letter dated 21st ultimo from the Provincial Court in the Southern Division, referring two letters from the Criminal Judge and the Magistrate in the Zilla of Madura respecting the legality of a warrant issued by the latter officer to the keeper of the Zilla Jail.—

(Here enter No. 70.)

The first question submitted for the decision of the Court of Zoujdaree Adalut in the above reference, is whether under the authority vested in a Zilla Magistrate by Reg. IX. 1816 to commit offenders in certain specified Cases to prison, it is competent to that Officer to direct that the party be kept to hard labor during the period of such imprisonment.—

On the general view of practical expediency it appears to the Court

Court of Foujdaree Udalut to be unquestionable, that labor should at the discretion of the committing officer accompany imprisonment when intended as a punishment — and in the opinion of the Court it is clearly inferrible from the provisions of the Regulations, enacted on the first establishment of the system for administering Criminal Justice, that such was the intention of the Legislature.—

By Section XXI Regulation VII of 1802 the punishment to be inflicted in cases, when a prisoner may be adjudged to suffer amputation by the futwa of the Mohummedan Law Officer, is specially declared to be imprisonment with hard labor, for the periods therein specified.—

By Clause second Section XV, and Clause second Section XXXIX of the above Regulation imprisonment, at the discretion of the Court, is prescribed in Commutation of the penalty of Deyut:— and no mention is made of hard labor in addition to the imprisonment.—

The offences incurring the penalty of a Deyut under the Mohummedan Law include

include homicide, and the most atrocious acts of personal violence; and amputation of one limb is the stated punishment for a simple theft to an inconsiderable amount.—

It would, therefore, be irreconcilable with every principle of reason or justice, were imprisonment with hard labor to be adjudged only in the cases referred to in that provision of the Regulation above cited, in which it is specially prescribed.—

The words of Clause third Section VIII. and Clause first Section IX, Regulations of 1803 are corroborative of the opinion entertained by the Court of Foujdaree Udalut, that imprisonment always implies labor, at the discretion of the Court passing the sentence.

In the former Clause it is declared, that "in all cases of convicts sentenced "to imprisonment for a limited period, the "Court by whom the sentence is passed, if "it deem the same proper, on consideration "of the prisoner's offence, may adjudge him "to be banished during the period of his "sentence from the district in which his

place

7th February 1820.

"place of abode is situated; and to be kept to
"hard labor on the public roads or other public
"works, in any other district, to which he may
"be removed by order of the Foujdaree Adalut."

In the latter clause provision is made for the punishment of convicts sentenced "to imprisonment, who during the period of their "sentences may escape from Jail, or other place "of confinement, or from the Roads, or any "other place where they may be employed."

In the two clauses here cited reference is made to sentences of imprisonment, generally, and it is clear that labor is in both instances contemplated as an adjunct of personal confinement.

The Court of Foujdaree Adalut are, therefore, of opinion that it is consistent with the spirit of the Code to construe the provisions of Regulations IX and X of 1816 which vest in Criminal Judges and Magistrates authority to pass sentence of imprisonment, as conveying to those Officers a discretion to adjudge hard labor in addition to such imprisonment.

In

2/

F. C.

7th February 1820.

In dismissing this subject the Court of Foujdaree Adalut deem it proper to observe, that although cases may occur, in which, considering the rank or circumstances of the person convicted, imprisonment may be deemed a sufficient punishment the adjudication to confinement in the Zilla Jail without the imposition of labor would, if generally adopted, tend rather to the encouragement than to the suppression of offences.

The present reference involves the further question of the competency of a Criminal Judge to prevent the Jailor from carrying into execution a warrant addressed to him by a Magistrate, under the provisions of Clause first Section XXXIV. Regulation IX of 1816.

By the second Clause of this Section it is prescribed that a paper shall accompany the Magistrate's warrant to the Jailor, for the information of the Criminal Judge, and the Court of Foujdaree Adalut are of opinion that the latter Officer, although he may unquestionably

communicate

communicate to the Magistrate such observations as he may deem necessary on the subject of the warrant is not permitted to exercise any discretion as to the disposal of the prisoner, but that whenever it may appear to him that a sentence passed by a Magistrate is not authorized by the Regulations, it will be his duty to make a reference on the subject to the Provincial Court of Circuit.-

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 and Magistrates within their respective divisions for their information and future guidance.- (Sent following Precept A.)

Read letters dated 13th December last from the 2d Judge of the Court of Circuit in the Centre Division,- submitting cases Nos 2 and 18 Chittoor Calendar 4th Quarterly Sessions A.D. 1819.-

(Here enter Nos 708 & 707 of 1819)

The Court having maturely considered the proceedings held before the Judge of the Court of Circuit the futwas of the Provincial Law officer

Officer and the futwas of the Cazee ool Coozat and Mooftees of the Poujdaree Adalut confirm the said futwas of the Cazee ool Coozat and Mooftees aforesaid and under the latitude given by the sentence of Tazee adjudge the prisoners,

1st "Shaik Horsain" and

2d "Emamboyee",

to be imprisoned and kept to hard labor 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.)

Read letter dated 26th November last, from the 2d Judge of the Court of Circuit in the Centre Division,- submitting case No 13. Chittoor Calendar 4th Quarterly Sessions A.D. 1819.-

(Here enter No 677 of 1819)

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 Poujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under

7th February 1820

under the provisions of Clause sixth Section IV Regulation XV of 1803 direct that the prisoner

"Candoory Vencategadoo,"

be set at liberty.-

(Sent following letter C.)

Read letter, dated 29th ultimo from the acting Criminal Judge in the Zilla of North Malabar, with copy of warrant for the banishment of a Convict to any Zilla selected by the Foujdaree Adaulut.-

(Here enter No. 108.)

The Court of Foujdaree Adaulut direct that the prisoner,

Punitilayathoo Koya Pohur,

be removed to the Jail in the Zilla of Seringapatam, there to be imprisoned and kept to hard labor during the period of his sentence.-

Ordered, that extract of these proceedings be sent to the acting Criminal Judge in the Zilla of North Malabar and to the Criminal Judge of Seringapatam for the information and guidance of those officers respectively.-

(Sent following letters D.)

F.M.

At a Court of the Foujdaree Adaulut

Present,

Thursday.

10th February 1820. Andrew Scott Esqre. —— } Judges.
Edward Croft Greenway Esqre. }

Read letter, dated the 22d December last, from the late 2d Judge of the Court of Circuit in the Centre Division,- submitting report prescribed by Section XXXVII Regulation VII of 1802.-

(Here enter No. 712 of 1819.)

The foregoing report does not contain any matter, which calls for particular observation from the Court of Foujdaree Adaulut.

Ordered, 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 before the Right Honorable the Governor in Council.-

(Sent following letter A.)

Read letter, dated 22d instant, from the 1st Judge on Circuit in the Centre Division,- submitting case No. 15. Cuddapa Calendar

7th February 1820. Calendar 1st Sessions A.D. 1820.

(Here enter No. 95.)

The Court having maturely weighed the proceedings held before the Judge of the Court of Circuit consider the charge of returning from transportation to be established against the prisoner,

"Choutoor Anhadoo,"

and adjudge him to be imprisoned and retransported to Prince of Wales's 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 natural life.-

(Sent following letter A.)

The Court of Foujdaree Adaulut having referred to the Record of the Trial No. 38 on the Cuddapa Calendar for the 2d Sessions of 1810, in which the prisoner in the present case was convicted and sentenced to Transportation for life, observe that the acts of Robbery established against him were not accompanied by circumstances of cruelty, or otherwise of aggravated criminality and they have therefore, in exercise of the discretion vested in them by Clause second Section

10 February 1820. Section IX. Regulation XII of 1803, adjudged him to be retransported to Prince of Wales's Island.-

The Court direct, that the Criminal Judge in the Zilla of Cuddapa be instructed to expressly to notify to the prisoner, Choutoor Anhadoo on communicating to him their sentence, that a repetition of the offence of which he had now been found guilty will infallibly subject him, on conviction, to Capital punishment.-

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

(Sent following Precept B.)

Read letter, dated 31st ultimo from the Secretary to Government in the Judicial Department, specifying the reward to be granted to Canian Cundy Moideen for his gallant conduct on an attack of a gang of robbers.-

(Here enter No. 129.)

Ordered, that copy of the foregoing

10th February 1820

foregoing letter and Extract from the Courts' proceedings of the 13th December last be sent to the Acting Judge of the Provincial Court of Circuit in the Western Division for his information and guidance.-

(Sent following letter 6.)

Read letter dated 25th ultimo from the 2d Judge on Circuit in the Northern Division,- with copy of Nellore Calendar 1st Sessions A.D. 1820.

(Here enter No. 106.)

Read letter, dated 29th ultimo from the 1st Judge on Circuit in the Southern Division,- with copy of Verdachellum Calendar 1st Sessions A.D. 1820.-

(Here enter No. 107.-)

Read letter, dated 5th Instant from the 1st Judge on Circuit in the Centre Division,- with copy of Cuddapa Calendar 1st Sessions A.D. 1820.-

(Here enter No. 125)

Read return, dated 31st ultimo, from the Provincial Court of Circuit in the Centre Division,- to precept dated 27th ultimo ordering communication to the several Criminal Judges within their jurisdiction of the Courts orders respecting the admission of the declarations of approvers.-

(Here enter No. 109.)

Read

2/ F.C.

10th February 1820.

Read return dated 31st ultimo from the Provincial Court of Circuit in the Western Division,- to precept dated 24th ultimo ordering communication to the Magistrate of Malabar of the Courts observations upon an apparent inconsistency between that officers statement in his letters to the Assistant Criminal Judge in the Zilla of South Malabar and to the Register Provincial Court Western Division.

(Here enter No. 118.-)

Read letter, dated 24th ultimo, from the Secretary to Government in the Judicial Department,- acknowledging the receipt of the Circuit Report of the late 3d Judge of the Provincial Court in the Centre Division and remarking upon the impropriety of certain passages therein contained.-

(Here enter No. 85.)

10.1.0

Read letter dated 24th Ultimo from the Provincial Court of Circuit in the Centre Division,- with returned Warrant for the execution of prisoners in Case No. 58 Bellary Calendar 2d Sessions A.D. 1819.-

(Here enter No. 174)

Read

Read letter, dated 24th Ultimo, from the 2d Judge of the Court of Circuit in the Southern Division, - with returned warrant for the transportation of prisoners in Case No. 1 Combaconum Calendar 1st Sessions AD 1819. -

(Here enter No. 88)

Read letter, dated 26th Ultimo, from the 1st Judge on Circuit in the Southern Division, - reporting his arrival at Tiedachellum. -

(Here enter No. 64)

F. R.

At a Court of the Zoujdaree Adalut

Present,

Monday 21st February 1820. — Andrew Scott Esqre. / Edward Croft Greenway Esqre. / William Thackeray Esqre. } Judges.

Read letter dated 8th Instant from the Criminal Judge in the Zilla of South Malabar, - enclosing copy of a letter from the Officer Commanding in Malabar, and requesting permission to send 100 Convicts from the Zilla Jail in South Malabar, to be employed on the works at Cannanore. -

(Encaty No. 145)

It appears from the foregoing letter and enclosures, that the number of convicts employed on the public works at Cannanore is reduced from three hundred to ninety five, that a great part of the work, for the completion of which 140 Convicts were drafted from the Zilla of South Malabar to Cannanore by the orders of the Zoujdaree Adalut, under date 16th

16th October 1815, remain unfinished, and that 100 Convicts can at present be removed without inconvenience from the Jail in the Zilla of South Malabar.

Under these circumstances the Court of Foujdaree Adalut resolve, in virtue of the authority vested in them by Clause fifth Section VIII Regulation XV of 1813, to adopt the suggestion of the Judge in the Zilla of South Malabar, and accordingly direct, that 100 Convicts be transferred by that Officer to the Custody of the Criminal Judge in the Zilla of North Malabar to be lodged in the Jail at Cannanore, and employed on the public works at that place for the periods of their respective sentences of imprisonment.

The Court will expect to receive a Report, containing the names, Crimes, and sentences of the several prisoners, who may be sent to Tellicherry under the orders of this date, among whom the Criminal Judge in the Zilla of South Malabar will take care not to include any prisoners, who may have been

sentenced only to six Months imprisonment, or whose sentences may be about to expire within the term here mentioned.

Ordered, that extract of these proceedings be sent to the Criminal Judges in the Zillas of North and South Malabar for their information and guidance respectively.

(Sent following letters A/

Read letter dated the 29th ultimo from the 3d Judge on Circuit in the Northern Division, submitting Case No 96 of the Sessions A.D. 1820.

(Here enter No 96.)

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 Foujdaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and acquitting the prisoner,

"Thumpatepulla Gooravadoo,"

direct that he be set at liberty.

(Sent following letter B.)

21st Febry 1820.

Read letter dated 17th ultimo from the 2d Judge of the Court of Circuit in the Southern Division, - submitting case No 2. Trichinopoly Calendar 1st Quarterly Sessions AD 1820.

(Here enter No. 78.)

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 latitude allowed by the sentence of Cobroobut adjudge the prisoners,

1st "Palany",

2d "Curpen," and

3d "Yasen,"

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

(Vide following letter C.)

It appears, from the record of the proceedings held in this case, that the Prisoners Palany, Curpen and Yasen, were forwarded

Letter 6th

21 F. R.

27th Febuary 1820.

forwarded by the Police Ameen Nellatumby Pillay to the Magistrate in the Zilla of Trichinopoly.-

As it seems possible, from the absence of all remarks with regard to this proceeding, that similar irregularities may have been permitted to pass unnoticed in the Zilla of Trichinopoly, the Court of Foujdaree Adalut 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.-

In the proceedings on this Case before the Court of Quarterly Sessions, as well as in other trials which have been referred to the Foujdaree Adalut by the 2d Judge of the Court of Circuit in the Southern Division, the Court remarks that the several depositions of the witnesses for the prosecution (1)

are attested by the signatures of the subscribing witnesses, as well as certified by that of the Judge presiding at the trial.—

This proceeding not being enjoined by any regulation, or order in force, and the attestation of witnesses not being essential to the validity of depositions, certified by the officer receiving them, the Court of Pinjdaree Moatut direct, that the 2d Judge of the Court of Circuit in the Southern Division be instructed to discontinue this practice as unnecessary.—

Ordered, that extract of these proceedings be sent to the Second Judge of the Provincial Court of Circuit in the Southern Division by precept directing him to make the necessary communication to the Magistrate in the Zilla of Trichinopoly — for his information and future guidance—

(Sent following precept D.)

Read letter dated 20th ultimo, from the 1st Judge on Circuit in the Centre Division, — submitting case No. 21 Cuddapa. Calendar

Calendar 4th Sessions A.D. 1820.

(Here enter No. 112.)

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 Pinjdaree Moatut do confirm the sentence of imprisonment and transportation for life passed on the prisoners by the 1st Judge under date the 20th of January last, and do accordingly direct that the prisoners,

1st "Dasuppa," and

2d "Gungaloo,"

be imprisoned and transported to Prince of Wales's Island, there to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the space of their natural lives—

(Sent following letter E.)

Read letter, dated 29th November last, from the Acting Judge of the Court of Circuit in the Western Division, — submitting

Case

Calld No 7 North Malabar Calendar 4th Quarterly Sessions A.D. 1819.-

(Here enter No 682.)

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 Tanjore Zillah confirm the said futwa of the Cazee ool Cozat and Mooftee aforesaid and acquitting the prisoners 1st "Kunhyrayen" and 2d "Choychy" direct that they be set at liberty.-

(Sent following Letter N)

The acts which are established against the prisoners in this Case not being punishable under the Mohummedan Law, and no penalty having been denounced against the parties to the sale of free born Children by the existing Regulations, the Court of Tanjore Zillah have directed the release of the prisoners in conformity with the futwa of their Law Officers.-

Referring to the observations, contained

contained in the letter of the Acting Judge accompanying the trial, regarding the nature and extent of the practice of selling free born Children, the Court of Tanjore Zillah consider it to be the duty of that Officer to propose in the prescribed mode, the enactment of such legislative provisions, as with his local experience may appear to be best calculated to effect the abolition of a traffic, contemplated by him as so injurious to the highest interests of Humanity.

Ordered, that extract of these proceedings be sent to the Acting Judge of the Provincial Court in the Western Division for his information.-

(Sent following letter O)

W.H.O Read return dated 4th instant, from the Provincial Court of Circuit in the Centre Division, - to precept dated 31st ultimo ordering communication to the several Criminal Judges of the Courts instructions relative to trials for perjury.-

(Here enter No 127)

Read return, dated 4th instant, from

from the Provincial Court of Circuit in the Western Division, to precept dated 27th ultimo ordering communication to the several Criminal Judges of the Court's orders regarding the evidence of approvers.

(Here enter No. 130.)

Read return dated 7th instant, from the Provincial Court of Circuit in the Central Division, to precept dated 27th ultimo ordering communication to the Magistrate in the Zillah of Chingleput of the Court's orders on Case 4 of Chingleput Calendar 2d Sessions A.D. 1819.

(Here enter No. 133.)

Read return dated 7th instant, from the Provincial Court of Circuit in the Central Division, to precept dated 27th ultimo ordering communication to the Criminal Judge and Magistrate of Chittoor of the Court's observations on Case No. 5 Chittoor Calendar 4th Quarterly Sessions A.D. 1819.

(Here enter No. 132.)

Read return, dated 7th Instant, from the Provincial Court of Circuit in the Southern Division, to precept dated 27th ultimo ordering communication to the several Criminal Judges of the Court's orders regarding the evidence of approvers.

(Here enter No. 131.)

Read return, dated 9th Instant, from the Provincial Court of Circuit in the Western Division, to precept dated 27th ultimo ordering communication to the Criminal Judge of South Malabar and the Magistrate of Malabar of the Court's orders relative to a charge of perjury.

(Here enter No. 148.)

Read return, dated 9th Instant from the Provincial Court of Circuit in the Northern Division, to precept dated 27th ultimo ordering communication to the Criminal Judges within their division of the Court's instructions respecting the admission of evidence of approvers.

(Here enter No. 147.)

Read return, dated 9th Instant, from the Provincial Court of Circuit in the Northern Division, to precept dated 27th ultimo ordering communication to the Criminal Judges within their jurisdiction of the Court's instructions relative to indictment for perjury.

(Here enter No. 150.)

Read return dated 9th Instant, from

from the Provincial Court of Circuit in the Western Division,- to precept dated 31st ultimo ordering communication to the Criminal Judges within their jurisdiction of the Court's instructions relative to indictment for perjury.-

(Here enter No. 149.)

Read return dated 11th Instant, from the Provincial Court of Circuit in the Southern Division,- to precept dated 31st ultimo ordering communication to the Criminal Judges within the Southern Division of the Court's orders respecting indictment for perjury.-

(Here enter No. 144.)

Read return, dated 11th Instant, from the Provincial Court of Circuit in the Centre Division,- to precept dated 7th instant, ordering communication to the several Criminal Judges and Magistrates within their jurisdiction of the Court's observations on the provisions of the Regulation respecting sentences of imprisonment.-

(Here enter No. 153.)

Read

Read letter, dated 8th Instant, from the 1st Judge on Circuit in the Southern Division,- reporting his arrival at Salem

(Here enter No. 142.)

Read letter, dated 14th Instant, from the Provincial Court of Circuit in the Centre Division,- with returned Warrant for the execution of the prisoner in case No. 25. Cuddapa Calendar 2d Sessions A.D. 1819.-

(Here enter No. 154.)

Read letter, dated 12th Instant, from the 1st Judge on Circuit in the Southern Division,- with copy of Salem Calendar 1st Sessions A.D. 1820.-

(Here enter No. 151.)

M
E.C.S

Read letter, dated 31st ultimo, from the 1st Judge of Circuit in the Western Division, with returned warrant for execution of prisoner in case No. 7 South Malabar Calendar 2d Sessions A.D. 1819.-

(Here enter No. 117.)

At a Court of the Foujdaree Adalut

Present,

Thursday
24th February 1820. Andrew Scott Esqre ———
Edward Croft Greenway Esqre } Judges.
William Thackeray Esqre

Read letter, dated 20th ultimo
from the 2d Judge on Circuit in the Northern
Division — submitting case No. 1. Nellore Calendar
1st Session A.D. 1820.

(Here enter No. 97.)

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
Foujdaree Adalut 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,
"Ramsing,"
The Court direct, that the acting Criminal Judge in
the Zilla of Nellore be commanded to ascertain
whether the friends of the prisoner are able
and willing to undertake such care of him as

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 forward the Prisoner to the Criminal Judge in the Zillah of Masulipatam, in order to his being confined in the general hospital established at the Sudr station for the reception of Lunatic prisoners within the Division.-

Read letter, dated 28th ultimo, from the 3d Judge on Circuit in the Northern Division,- submitting case No. 14 Nellore Calendar 1st Sessions A.D. 1820.-

(Here enter No. 98.)

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 Zillah Adalut confirm the said futwa of the

the Cazee ool Cozat and Mooftees aforesaid and under the provisions of Clause Sixth Section II Regulation XV of 1803 direct that the prisoners,

1st "Bottah Ramoo," and

2d "Bonum Chenchy,"

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

(Sent following letter B.)

B.11.

Read letter, dated the 7th ultimo from the 2nd Judge of the Court of Circuit in the Southern Division,- with returned Warrant for the execution of 3 prisoners in Case No. 1 Combaconum Calendar 2d Sessions A.D. 1819.-

(Here enter No. 39)

Read letter, dated 14th Ultimo from the 2d Judge of the Court of Circuit in the Northern Division,- with returned warrant for the execution of the prisoners in Cases Nos. 4 and 11 Rajahmundry Calendar 2d Sessions A.D. 1819.-

(Here enter No. 51)

J. C.

At a Court of the Foujdaree Udalut

Present,

Monday
28th February 1820. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
William Thackeray Esqre

At

Read letter dated 24th January

685 from the 1st Judge on Circuit in the Centre Division,
submitting case No. 16. Cuddapa Calendar 1st Sessions
A.D. 1820.

(Translated 4th Sept.)

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 Foujdaree Udalut confirm the said futwas
the Cazee ool Cozat and Mooftees aforesaid
and acquitting the prisoner,

"Capee,"

direct that she be set at liberty.-

(Sent following letter A.)

The Court of Foujdaree Udalut
regret to observe, that the Record of the
Proceedings

28th February 1820.

Proceedings in this Case furnishes matter of grave animadversion.—

In the letter accompanying the trial the first Judge states his opinion, that the difference between the depositions is immaterial, "the more so as the prisoner acknowledges her "confession, though she says it was forced; she "mentions no force but abuse and threats," — and in the memorandum at the foot of the record of the proceedings of the Court of Circuit is the following observation, "The prisoner acknowledges "her confession, but pleads that she was "compelled to make it; the force by her own "account amounted to no more than threats and "abuse."—

The English translation of the defence of the prisoner contains the following passage— "They" (the Reddy and Carnum) "tied my hands and legs with ropes and forced "me to say, that it was I who had pushed the "daughter of the Prosecutor into the Well."—

The Persian translation of this part of the defence is, (literally rendered) as follows:—

"They bound my hands and feet with a rope

"rope, beat, and terrified me and told me to "say that I had thrown the prosecutor's "daughter into a well." And in a subsequent part of the defence, as given in the Persian, occurs the following expression, which is omitted altogether in the English translation viz:— "I said they might do what they "would;— "I knew nothing."—

The statement, therefore, delivered by the prisoner on her defence, as given in the Persian version of the Record contains a positive disavowal, instead of an acknowledgment of the confession, alleged to have been delivered by her before the Reddy and Carnum— and had this inconsistency between the two translations of the Record, certified by the 1st Judge, formed the only ground for dissenting from that Officer's conclusion of the guilt of the prisoner, it would have been the duty of the Court of Sujdarce Adalut to return the record for correction;— that the record is essentially defective in other respects the Court will

proceed

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1820.

proceed to shew, but it may be proper to observe in this place, that the concluding words of the defence, as given in the English version, in which the prisoner declared the marks of the blows to be still discernible on her body, as well as the fact of her disavowal of the confession in her declaration before the Criminal Judge, — afford a presumption favorable to the correctness of the Persian, rather than the English translation of those passages in the defence before the Court of Circuit, which describe the treatment which the prisoner received, and her behaviour when examined by the Reddies and Curnums —

The Court trust, that their observations regarding the discrepancies between the translations of this Record will induce the Pot. Judge to exercise particular care in revising such trials, as he may refer in future for the final sentence of the Fouzdaree Adalut —

The declaration so frequently referred to, as having been given by the prisoner before

F. 16.

28th February 1820.

before the Reddies and Curnums, does not appear in the Record, and the examination may not have been committed to writing; the Court of Fouzdaree Adalut have, however, to observe that such a declaration, if recorded, would not have possessed any validity whatever, it being expressly declared in Clause Second Section V Regulation XI of 1816, that the Heads of villages shall not receive from any person, whom they may apprehend, any confession, either verbally or in writing, except in the trivial Cases referred to, in the first Clause of that Section —

The Law Officers of the Fouzdaree Adalut point out in their Futwa two material defects in the evidence on the case, there being no testimony to the identity of the Jewels produced before the Court of Circuit, or to the fact of the death of the Child, for the murder of whom the prisoner was brought to trial —

It must have been known to the Pot. Judge, as well as to the Criminal Judge in the Zilla of Cuddapa, that under the Mohummedan Law the averment of the prosecutor

28th February 1820.

proceed to shew, but it may be proper to observe in this place, that the concluding words of the defence, as given in the English version, in which the prisoner declared the marks of the blows to be still discernible on her body, as well as the fact of her disavowal of the confession in her declaration before the Criminal Judge, — afford a presumption favorable to the correctness of the Persian, rather than the English translation of those passages in the defence before the Court of Circuit, which describe the treatment which the prisoner received, and her behaviour when examined by the Reddies and Curnums.

The Court trust, that their observations regarding the discrepancies between the translations of this record will induce the Futwa Lawjee to exercise particular care in revising such trials, as he may refer in future for the final sentence of the Provincial Adalut.

The declaration so frequently referred to, as having been given by the prisoner before

F. 16.

28th February 1820.

before the Reddies and Curnums, does not appear in the Record, and the examination may not have been committed to writing; the Court of Foujdaree Adalut have, however, to observe that such a declaration, if recorded, would not have possessed any validity whatever, it being expressly declared in Clause second Section V Regulation XI of 1814 that the Heads of villages shall not receive from any person, whom they may apprehend any confession, either verbally or in writing, except in the trivial Cases referred to, in the first Clause of that Section.

The Law Officers of the Foujdaree Adalut point out in their Futwa two material defects in the evidence on the case, there being no testimony to the identity of the Jewels produced before the Court of Circuit, or to the fact of the death of the Child, for the murder of whom the prisoner was brought to trial.

It must have been known to the Futwa Lawjee, as well as to the Criminal Judge in the Zilla of Cuddapa, that under the Mohummedan Law the averment of the prosecutor

prosecutor on these points is not admissible in evidence, it was obviously the duty of the latter Officer to cause the attendance of witnesses to the fact of the violent death of the presumed child, before the Court of Circuit, if procurable and in the absence of all evidence to this point the Committal of the accused was improper.-

The Court of Foujdaree Adawlut have to remark in conclusion, that as the prisoner in this Case was charged with "murder" it became the duty of the Police Officer in the Pooloovintoola Talook, under the provisions of Section XXVIII Regulation XI of 1816, to send the said prisoner not to the Magistrate but to the Criminal Judge of the Zilla of Cuddapa-

In order to prevent the recurrence of similar irregularities it is desirable that the Magistrate should direct the attention of the Heads of villages in his Zilla to the provisions of Clause second Section V Regulation XI of 1816, and that he should cause it to be distinctly understood by the several police Officers

of Districts within his jurisdiction that, in all the cases specified in Clause First Section XXVII Regulation XI of 1816, they are to forward the accused or suspected persons to the Criminal Judge of the Zilla.-

Ordered, that extract of these proceedings be sent to the Pt. Judge on Circuit in the Centre Division by precept directing him to make the necessary communications to the Criminal Judge and the Magistrate in the Zilla of Cuddapa

(Sent following precept &c)

Read letter dated 19th instant from the Acting Criminal Judge in the Zilla of North Malabar, transmitting copy of a warrant for the banishment of certain prisoners to any Zilla selected by the Foujdaree Adawlut-

(Here enter No. 167)

The Court of Foujdaree Adawlut direct that the prisoners,

"Munakadden Kunguer"

"Munakadden Cotten", and

"Pidil Maty",

be removed to the Zilla in the Zilla of Cuddapa

Seringapatam, there to be imprisoned and kept to hard labor 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 to the Criminal Judge of Seringapatam for the information and guidance of those Officers respectively.-

(Sent following letters &c.)

Read return, dated 8th instant, from the Provincial Court of Circuit in the Western Division,- to precept dated 7th instant ordering communication to the Criminal Judges and Magistrates within their Jurisdiction of the Courts instructions respecting sentences of imprisonment

(Here enter No 172.)

Read return dated 21st instant from the Provincial Court of Circuit in the Southern Division,- to precept dated 7th instant ordering communication to the Criminal Judges and Magistrates within their Jurisdiction of the Courts instructions relative to sentences of imprisonment

(Here enter No 169.)

Read letter dated 21st instant, from the 1st Judge on Circuit in the Southern Division,- reporting his arrival at Coimbatore.-

(Here enter No 170.)

Read letter dated 17th Instant, from the 1st Judge on Circuit in the Centre Division,- reporting his arrival at Bellary.-

(Here enter No 163.)

Read letter dated 18th Instant, from the Provincial Court of Circuit in the Centre Division,- with returned warrant for the execution of the prisoners in Case No 19. Bellary Calendar 2d Session A.D. 1819.-

(Here enter No 159.)

M

E.L. W.H.

Read letter dated 16th Instant from the Provincial Court of Circuit in the Centre Division,- with returned warrant for the execution of the prisoners in cases No 6 of the Addapa Calendar and No 12 of the Chinglepat Calendar for the 2d Sessions of 1819.-

(Here enter No 157.)

Read letter dated 11th Instant from the Second Judge of the Court of Circuit in the Southern Division,- with returned warrant for the execution of the prisoner in case No 2 Tinnevelly Calendar 2d Sessions A.D. 1819.-

(Here enter No 162.)

28. Feb

Lud 2d

Z 11.

At a Court of the Zoujdaree Adalut.

Present,

Thursday
2d. March 1820. Andrew Scott Esqre. - - - -
Edward Croft Greenway Esqre. } Judges.
William Thackeray Esqre. -

Miscellaneous Petition.

Read again petition presented by the Tukeel Vencataramad Sastry on behalf of D. Comara Pedda Vencatapa Naidoo Zumeendar of Catastry. -

(Here enter P. P. Petition No. 1 of 1820.)

The petitioner prays the Court to issue a precept to the Court of Circuit in the Centre Division requiring them to direct an inquiry into the conduct of Arnala Vencatraw, Boodrapa Naidoo, and Paapanaidoo, who, as he states, held for a considerable time responsible situations in his Zumeendaree, and under illegal assumptions of authority alienated lands to Brahmins, and also to send orders to the

the Collector to depute an Ameenah for the purpose of investigating the frauds committed by the said persons.

If the petitioner has any demands upon the persons above-mentioned or any complaint to make against them, the course which he must pursue is sufficiently obvious. This application to this Court is irregular, and the foregoing petition is altogether frivolous, and highly discreditable to the Vakeel who presented it.

Ordered that the prayer of the petition be rejected; and that extract of these proceedings be furnished to the petitioner on his application.

EdS

No 76.

At a Court of the Sudder Adalut.

Present.

Monday 6th March 1820. Andrew Scott Esqre
Edward Croft Greenway Esqre
William Thackeray Esqre
} Judges.

Read letter dated 8th ultimo from the 2d Judge on Circuit in the Western Division submitting case No 27 Canara Calendar 1st Sessions AD 1820.

(Here enter No 156)

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 Sudder Adalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid and acquitting the prisoner, Canaik, direct that he be set at liberty.

(Sent following letter No 1)

1816

The Report prescribed by Section XXXV Regulation X of 1816 not having been

6th March 1820.

been received from the Zilla of Chittoor for the last quarter.—

Ordered that the Criminal Judge of the Zilla of Chittoor 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 to the said precept to be made within five days from the date of its receipt.—

(Sent following Precept. B)

S. A.

At a Court of the Sudder Adalut

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
William Thackeray Esqre
} Judges

Thursday 9th March 1820.

Read letter, dated 23d Ultimo, from the Magistrate in the Zilla of Canara, submitting copy of his correspondence with the acting Criminal Judge upon an application addressed to the Magistrate by that Officer, for the apprehension of a person ordered by the Special Commissioner in Canara to be committed to take his trial for perjury.—

(Here enter 30177)

It appears from the papers accompanying the foregoing letter that a person, named Davapah, who was considered by the Special Commissioner in Canara to have been guilty of wilful perjury in his evidence before him, absconded pending the proceedings preparatory to his committal by the acting Criminal Judge for trial before the Court of Circuit. The acting Criminal Judge immediately requested the Magistrate of the Zilla to cause the apprehension of the accused, and the question involved in the present reference is simply

—— expected.—

whether or not the Magistrate was bound to fly with such requisition.-

The Magistrate in his letter to the Foujdaree Adalut, as well as in his correspondence with the Acting Criminal Judge, goes into a discussion of the provisions of certain existing legislative enactments, relative to the execution of process, the orders of a special Commissioner, and to the penalties for the wilful breach of an oath taken before such Commissioner, - the Court of Foujdaree Adalut do not deem it necessary to follow the Magistrate through an argument, which appears to them to be foreign to the question at issue, as they have no difficulty in pronouncing their decided opinion, that it is incumbent on a Magistrate to afford every assistance in his power to effect the apprehension of all public offenders.-

In the 4th. Paragraph of his letter the Magistrate observes as follows:- "The whole "process contained in Regulation IX. appears to me "to apply to the Magistrate distinctly, as the Officer "thro' whom, Crimes and offences are to be detected, "of which he takes not only original cognizance "but must satisfy himself of their Commission, "or he cannot otherwise legally proceed to execute "his powers under that Regulation. In the

"instance now submitted to the Foujdaree Court, "no original enquiry, no cognizance whatsoever has "been instituted by the Magistrate."-

Upon the reasoning contained in the above passage the Court consider it sufficient to remark, that its fallacy, when introduced for the purpose of justifying a refusal to act under such an application, as that which was addressed in this case by the Acting Criminal Judge to the Magistrate, will be apparent, if a case somewhat analogous, be supposed, of the escape of a party sent to the Criminal Judge by a Police Officer under the provisions of Section XXVII Regulation XI of 1816, wherein "no enquiry would have been instituted by the Magistrate," but in which it is not to be imagined, that the Magistrate would hesitate to comply with a requisition for the apprehension of the party.-

The Court are satisfied, that the disinclination of the Magistrate to act on the first application made to him by the Criminal Judge, proceeded wholly from a sense of public duty, and they trust that the apprehension of the individual, whose flight is so strongly presumptive against him, will be effected.-

28. Febry. March 1820.

6.

9. March 1821.

The Court direct that their observations be communicated to the acting Criminal Judge and the Magistrate through the Judges of the Court of Circuit, it being desirable that all references from the Judicial authorities in 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 of the Division.—

Ordered that extract of these proceedings be sent to the Judges of the Provincial Court of Circuit in the Western Division by precept, desiring them to communicate the same to the acting Criminal Judge and the Magistrate in the Zilla of Canara for their information.—

/Sent following Precept A/

Read letter dated 2d. Instant from the 2d. Judge of the Court of Circuit in the Southern Division, forwarding a petition, transmitted to him by the acting Criminal Judge in the Zilla of Trichinopoly, from the three prisoners in Case No. 2 of the Trichinopoly Calendar 1st Quarterly Sessions AD 1820, who have been convicted of murder and sentenced by the Court of Fouzdaree Udalut to suffer

J. U.
9th March 1820.

1

suffer death.— (Here enter No. 192)

The foregoing petition is a prayer for remission of the sentence of death passed against the prisoners,

Palany,
Curpen, and
Yasen

by the Court of Fouzdaree Udalut under date the 21st Ultimo, copy of which was transmitted on the 25th Ultimo to the 2d. Judge of the Court of Circuit in the Southern Division.—

In the letter accompanying the petition the 2d. Judge states, that he had fixed on Wednesday the 15th. Instant for carrying into execution the sentence of Death passed by the Court of Fouzdaree Udalut, and received the petition from the acting Criminal Judge on the 2d. Instant, which he has been induced to submit to the Court "in compliance with the earnest solicitation of the "Culprits, coupled with a feeling of consideration "for the grief and agony of mind with which they "appear to be overwhelmed," although the opinion "expressed by him, that they stand most justly "convicted upon the evidence deposed before "the Court of Quarterly Sessions, is in no manner alter

altered by the statement contained in the petition"—

For a proceeding wholly unprecedented, and directly at variance with the provisions of Section XIII Regulation VIII of 1802, which declares that on the communication of the final sentence of the Foujdaree Adalut, the Judge of Circuit "is "immediately to issue a warrant," to the proper officer, "to cause the sentence to be carried into execution"— the Court would have expected to receive the most weighty and substantial reasons:— the delay of execution until the 15th Instant, which is incidentally mentioned by the 2d Judge, is, however, entirely unaccounted for by that officer, and his letter does not contain a single argument, on which the Court of Foujdaree Adalut could found a recommendation in favor of the prisoners to the Right Honorable the Governor in Council, as "proper "objects for mercy."—

The opinion of the case delivered by the 2d Judge in his letter accompanying the trial is expressed in the following words, "The "crime, which the prisoners have committed, from "the evidence of the 1st 2d and 3d witnesses, appears "to have been an act of the most wanton, deliberate, and

and savage Barbarity," and the Court cannot but regret, that the 2d Judge should, without seeing any cause to alter this opinion, have given countenance to a petition, so irregularly laid before him by the Acting Criminal Judge, more especially as he must have known, that the pleas set forth in the petition were directly contradicted by the evidence in the Record, upon which the prisoners have been convicted of the Murder:—

The Court will not enlarge on the obvious impropriety of an application for the remission of their grave and deliberate judgment, unsupported by any one argument affecting the facts, on which that judgment was founded; it may be sufficient to remark, that the delusive hope excited in the minds of the prisoners by the admission of their petition, has needlessly aggravated their punishment, and that the public impression, likely to arise from such an attempt to obtain a reversal of a sentence of the Court of Foujdaree Adalut, is of manifestly injurious tendency.—

The Court of Foujdaree Adalut, seeing no ground for departing from the judgment

9th March 1820.

passed under date 21st Ultimo in Case No. 2 of the Trichinopoly Calendar 1st Quarterly Sessions of 1820 reject the prayer of the foregoing petition, and direct that their sentence be carried into execution.—

Ordered, that extract of these proceedings be sent to the 2d Judge of the Provincial Court of Circuit in the Southern Division by precept, commanding him to carry into effect the sentence aforesaid, and to make the requisite communication to the Acting Criminal Judge in the Zilla of Trichinopoly for his information and future guidance.—

(Sent following Precept B)

Read letter, dated the 26th Ultimo from the 2d Judge on Circuit in the Southern Division,— submitting copy of Combaconum Calendar 1st Sessions of 1820.—

(Here enter No. 181)

20

EHS

P. 11.

At a Court of the Foujdaree Adalut.

Present,

Monday
13th March 1820 Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
William Thackeray Esqre

Read letter dated 7th Instant,

EHS from the Secretary to Government in the Judicial Department,— transmitting copy of a letter from the Acting Criminal Judge in the Zilla of North Malabar, and desiring that the Foujdaree Adalut will authorize the transfer of certain Convicts from that jail to Cannanore if unobjectionable.—

(Here enter No. 182.)

The Court of Foujdaree Adalut, having taken into consideration the letter, dated 15th ultimo, addressed to the Secretary to the Government in the Judicial Department by the Acting Criminal Judge in the Zilla of North Malabar, resolve, in virtue of the authority vested in them by Clause fifth Section VIII Regulation XV of 1803,

to

to authorize the removal of 34 Convicts from the Jail at Tellicherry to the Jail at Cannanore, and direct that the Acting Criminal Judge in the Zilla of North Malabar do transmit to the Court a report of the nature described in the Extract of the proceedings of the Bundaree Adalat, under date 27th ultimo, with respect to certain convicts to be transferred from the Zilla of South Malabar, and conform to the instructions therein given, in his selection of the persons to be employed on the workshop at Cannanore, until the expiration of the periods of their sentences of imprisonment.-

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

(Sent following letter A)

W.H.

Read letter dated 20th ultimo, from the Acting Criminal Judge in the Zilla of Nellore,- requesting the instructions of the Court

Court on the subject of a case, brought before him by a District Police Officer, and referred by him to the Magistrate, in consequence of certain irregularities in the Police Officer's proceedings.-

(Were entered No 179)

It appears from the foregoing letter, that certain prisoners were sent to the acting Criminal Judge by the Head of Police of Paumoor, charged with Burglary and Larceny;- and that the acting Criminal Judge observed inconsistencies in the report, furnished by the Police Officer under the provisions of Clause fourth Section XXVII Regulation XI of 1816,- and found in the depositions of the prosecutor's witnesses matter of accusation against other persons, for whose apprehension no steps appeared to have been taken, also that two material witnesses had not been examined before the Police Officer, nor forwarded to the Criminal Court.-

The acting Criminal Judge having detailed the irregularities observable in the proceedings of the Police Officer in

in the Case in question, states, that "in
"communicating these particulars to the
"Magistrate, that officer was informed, that
"proceedings so utterly destitute of all legality
"and without one essential form of Justice,
"compelled the Criminal Judge to forward
"all the parties and Proceedings in this Case
"to the Magistrate, and that similar Pro-
"=ceedings should they ever occur would
"oblige the Criminal Judge to refer to the
"Sudr Court of Foujdary Adalut the particulars
"of such extraordinary matters for their
"information, in order to obtain the instruc-
"=tions of that Court whether to release the
"parties or how otherwise to proceed. That
"it was however resolved in the first
"instance to acquaint the Magistrate of the
"Zillah of the above particulars, with a
"request in reference to other late commun-
"=nications to him respecting irregularities
"of some of the Native Police Officers, that
"he would issue such Circular instructions
"to all of them, should he think it proper
"so

"to do, as to render unnecessary any resort to
"Superior authority to remedy the evils com-
"=plained of."

The reply of the Magistrate was communicated to the Acting Criminal Judge in the form of a motion presented by the Government Vakeel in open Court, respecting the Magistrate's desire to receive "the parties returned to his authority and "stating that last proof might be wanting "in the Case instructions had been sent to "the Police Officer to obtain it."

The Acting Criminal Judge in bringing the matter to the notice of the Foujdaree Adalut desired "instructions, "whether the mode of communication with "the Criminal Judge, as above pursued "by the Magistrate received the approbation "of the Court, as in accordance with "Section II Regulation III of 1817."

In all cases of irregularity or impropriety in the proceedings of a Police Officer, laid before a Criminal Judge under the provisions of Section XXVII Regulation

in the Case

Regulation VI of 1816 enjoins upon the latter
the duty of the latter Officer to communicate
his observations to the Magistrate, in order
that cognizance may be taken of all
deviations from the provisions of the
Regulations, enacted for the guidance
of the Subordinate Officers of Police, and
that all material and procurable evidence,
which may not have been forwarded
with the Report prescribed in the fourth
Clause of the Section above cited, may
be supplied, to enable the Criminal Judge
to proceed with the investigation directed
in Clause first Section IX Regulation
X of 1816.-

The measure, resorted to by the
acting Criminal Judge, of "forwarding the parties
"and proceedings to the Magistrate" was altogether
improper, and the Court of Foujdaree Adawlut
regret to observe, that the tone of the acting
Criminal Judge's communication to the Magis-
trate was by no means conciliatory, or
calculated to promote that "full and free
"communication" between those officers,

which is virtually enjoined in Section II
Regulation III of 1817, and to the non observance
of which on the part of the Magistrate
the acting Criminal Judge has called the
attention of the Court.-

It is at the same time
incumbent on the Court of Foujdaree Adawlut
to notice the proceeding of the Magistrate
in terms of reprehension, his appearing
by Vakeel before the Court of Criminal
Judge being wholly inconsistent with
the relative situations of those Officers, and
further highly objectionable, as proclaiming
to the Inhabitants of the Zilla the absence
of that spirit of cordial co operation,
essential to the efficient discharge of the
important duties committed to them.-

Trusting, that the acting
Criminal Judge and the Magistrate will
feel the injury, that must result to
the public service from discordance or
between the officers employed in the
same line of duty and that their
future correspondence will be more
consistent

13. 13th March 1820.

consistent with that full and free communication, which ought to subsist between the departments, the Court do not consider it to be necessary in the present instance to submit the matter to Government.—

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division by precept directing them to communicate the same to the Acting Criminal Judge and the Magistrate in the Zilla of Nellore for their information and future guidance.—

(Sent following precept B)

Read letter dated 27th ultimo, from the 1st Judge on Circuit in the Southern Division,— submitting case No 9 Salem Calendar 1st Sessions A.D. 1820.—

(Here enter No 173.)

Read letter dated 9th Instant, from the Criminal Judge in the Zilla of Salem,— reporting the death of the prisoner in case No 9 Salem Calendar 1st Sessions A.D 1820, under reference to the Foujdaree Adalut

(Here enter No 205.)

F. H.

13th March 1820.

Read letter dated 6th Instant, from the First Judge on Circuit in the Centre Division,— with copy of Bellary Calendar 1st Sessions A.D. 1820.—

(Here enter No 198.)

Read return dated 25th ult. from the 1st Judge on Circuit in the 2d Division,— to precept dated 10th Instant, ordering communication to the Criminal Judge in the Zilla of Cuddapa of the Court's orders on Case No 15 Cuddapa Calendar

(Here enter No 174.)

Read letter dated 28th ultimo from the 2d Judge of the Court of Circuit in the Northern Division,— with returned warrant for the execution of prisoners in Cases No 5 of the Vizagapatam Calendar and No 7 of the Ganjam Calendar for the 2d Sessions of 1819.—

(Here enter No 185)

13. Mar

F. U.

At a Court of the Foujdaree Adalut

Thursday
16th March 1820.

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
William Thackeray Esqre
} Judges.

N

Read letter dated the 25th January
last from the 1st Judge on Circuit in the Centre
Division, submitting Case No 26 Cuddapa Calendar
1st Sessions of 1820.

(Here enter No. 113)

The Court having maturely considered
the proceedings held before the Judge on Circuit
the futwa of the Pronuncial 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 Hyssaas, declared against
the prisoner,

1st "Daseegadoo,"

adjudge him to suffer death by being hanged at
the usual time and place of execution - And under
the latitude given by the sentence of Sookbut

the

the Court adjudge the prisoner,

2nd "Timmee,"

to suffer death by being hanged at the usual time and place of execution - And acquitting the prisoner,

3rd "Gungadoo,"

direct, that he be set at liberty.-

Sent 21st

(Sent following letter A)

Read letter, dated the 25th January last, from the 1st Judge on Circuit in the Centre Division, - submitting Case No. 27 Cuddapa Calendar 1st Sessions A.D. 1820.-

(Here enter No. III)

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 Fouzdaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and acquitting the prisoner,

"Yellee,"

direct that she be set at liberty.-

Sent 21st

(Sent following letter B)

The

The arraignment of the prisoner in this case charges her with "having one Evening about "23d October 1819, at Cuddapa, in the District of "Poolumundala, murdered Vencata Dofs" - Vide -

In a marginal note on the Record by the 1st Judge it is stated, that "this date is taken "from the Criminal Judge's Indictment, but the "proper date appears on the proceedings to be the "5th November 1819."-

On reference to the last quarterly Report of persons apprehended in the Zilla of Cuddapa it appears that the prisoner Yellee was apprehended on the 6th November 1819: by the evidence of the 1st and 2nd Witnesses in this case it is shewn, that her examination before Sheenewasa Row the Police Officer of Poolumundala Jaloor took place on the day, after that on which the deceased was missed, and this examination bears date 6th November, which is also the date recorded on the deposition delivered by Nurseegadoo, the son of the prisoner, before the said Police Officer in which he states that on the preceding day at sun set he saw his Mother Yellee throw the deceased Vencata Dofs into a Well.-

For

16th March 1820

For the date assigned to the transaction by the Criminal Judge there are no grounds discoverable in the record, this error in the Indictment would not of itself have been fatal to the prosecution, but the Court deem it proper, that the attention of the Criminal Judge should be called to the circumstance as exhibiting a want of that precision and accuracy, which are peculiarly required in framing the statement of the case, which is to be adopted by the Court of Circuit as the arraignment.—

The case as against the prisoner rests altogether on her alleged confession before the District Police Officer, a species of evidence to which the Court of Foujdaree Udalut are never disposed to attach implicit credit, unless strongly corroborated by other circumstances, or subsequently confirmed before the Zillah Criminal Court.—

The statement of the 1st and 2nd Witness before the Court of Circuit that the prisoner, after being questioned three times by the Police officer, confessed the charge, leaves little room for the supposition, that the confession was free and voluntary and is so far in accordance with the prisoner's representation, that violence was resorted to for

J. U.
16th March 1820.—

the purpose of extorting from her an avowal of guilt.—

By the proceedings of the Police Officer it would seem, however, that he had before him the testimony of an eye-witness to the act charged against the prisoner—and the Court of Foujdaree Udalut are utterly unable to account for the omission of the Criminal Judge to procure the attendance of this witness, whose testimony was manifestly of the greatest importance to the issue of the Trial.—

The deposition above referred to, delivered by Nursee gadoo the witness in question, aged ten years, bears every appearance of having been dictated to him, and it is remarkable that the witnesses Chinuppa and Immapa, whose names are subscribed to this deposition, do not mention the fact of it's having been given, in their presence, in the evidence given by them before the Court of Circuit, which is confined entirely to the confession of the prisoner.—

Under these circumstances the Court cannot but regard with suspicion the whole

16th March 1820

whole of the proceedings of the Police Officer of the Poolumindala Talook, and they direct that the Magistrate in the Zilla of Cuddapa be instructed to call the attention of the said Police Officer to the circular orders of the Court, under date the 18th June 1817, in which the Court endeavoured to illustrate the duty enjoined upon the District Police Officers by the provisions of Section XXVII Regulation XI of 1816, and inculcated the importance of removing the impression, so general among the natives of this Country, that the most important step in the investigation of a Criminal charge is to obtain a confession from the accused party.-

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

Sent following Precept

At a Court of the Toujdaree Adalut.

Present,

Thursday.

23d March 1820. Andrew Scott Esqre
Edward Croft Greenway Esqre
William Thackeray Esqre
} Judges.

Read again letter dated 20th November last from the acting Judge of the Provincial Court in the Western Division, submitting copy of the North Malabar Calendar and general Report on the 4th Quarterly Sessions of Jail delivery for the year 1819.-

(Here enter No. 674 of 1819.)

Read also letter dated 18th ultimo, from the acting Judge of the Provincial Court in the Western Division,- submitting copies of North Malabar and Seringapatam Calendars and general Report on the 1st Quarterly Sessions for 1820.-

(Here enter No. 176 of 1820.)

The latter of the foregoing letters

is wholly taken up with a review of the operation of the Criminal enactments of 1816, which the Court of Foujdaree Adalut deem it proper to submit without observation to the consideration of Government.

4 With reference to the first paragraph of the report of the Acting Judge dated 20th November last the Court of Foujdaree Adalut consider it requisite to state, that Circular instructions were issued by them, under date 6th December last, requiring the Judges of the several Courts of Circuit to submit, at the conclusion of each Quarterly Sessions of Jail Delivery at the Sudr Stations, a Report of the nature prescribed in Section XXXVII Regulation VII of 1802, which had not previously been transmitted on those occasions from any but the Court of Circuit in the Northern Division.-

5 The Case, alluded to by the Acting Judge in his observations upon the state of Slavery in the provinces of

Malabar, was disposed of by the Court of Foujdaree Adalut, under date 21st ultimo.-

6 The charge was for selling a free born female child into slavery, and one of the prisoners was the mother of the child.-

7 The transaction was fully established on the trial, but not being punishable under the Mohummedan Law, which has not in this point undergone any legislative modification, the Court directed the release of the prisoners, in conformity with the futwa of their Law Officers, and have called upon the Acting Judge to propose such enactments, as his local experience may enable him to suggest, for the suppression of this species of traffic.-

8 Although the practice elicited in this case is noticed by the acting Judge, as connected with the degraded state of Slavery existing in the province of Malabar, it appears to the Court

of Foujdaree Adaulut to involve considerations of a nature altogether different from the question of the policy, or humanity of vesting with the rights of civil liberty the race of Natives, described by the Acting Judge, as "born in slavery to the soil, on which they "receive their birth."-

9 The Court of Foujdaree Adaulut have not thought it expedient to adopt the suggestion of the Acting Judge in calling for further information connected with this question, which may already be in the possession of the Government, nor are they prepared to offer any opinion on the subject, founded on general principles, the purchase and sale of persons free born involves an obvious infringement of inherent rights, and it does not appear that this traffic has the sanction of old and acknowledged usage, or that its suppression would offer violence to the prejudices of the Native subjects of

the Government.-

10 The only remaining part of the report, which requires any observation from the Court of Foujdaree Adaulut, is that which relates to the limitation of the privilege, guaranteed to the subjects of the Company by the Regulations in force, of summoning before the Court of Circuit all witnesses, whom they may require for their defence, when tried on a Criminal charge.-

11 The Court have been induced by the urgent representations of the Acting Judge, describing the wanton abuse of this privilege, on the part of prisoners,- to the obstruction of public justice, and the injury of individuals, to reconsider the opinion, which they had deliberately formed, and which was submitted to the Government in an extract of their proceedings, under date the 28th October last,- that this privilege

Could

of Foujdaree Adaulut. to involve consideration
of a nature altogether dist.

the Court of Foujdaree
accordingly be done to the effect that
provisions contained in Sections XIII,
XIV. and XVIII. Regulation X of 1816 may be
subjected to the following modifications.

First. That whenever a prisoner,
who may confess before the Criminal
Judge the offence with which he is
charged, or may confirm a former confession
thereof, shall require witnesses to attend
on his behalf before the Court of Circuit,
it shall be discretionary with the Criminal
Judge to cause the attendance of any such
witnesses, or not, according as it may
appear from the nature of the Case, that
it admits of palliatory evidence—

Secondly— That in all other cases, when
a prisoner may desire the attendance of more
than two witnesses on his behalf the
Criminal Judge shall have authority
to question the prisoner, as to the facts
to which

which he wishes to establish by their
testimony— that when it may appear that
the testimony required is irrelevant to the
prisoner's defence, the Criminal Judge shall
not comply with the requisition of the
prisoner; and that when several distinct
facts are required to be established,
which may be material to the defence,
the Criminal Judge shall only summon
two witnesses to each point—

Thirdly— That the Criminal Judge
shall invariably record on his proceedings
the grounds, on which he may exercise
the discretion so vested in him, of
refusing to summon a witness or
witnesses, on behalf of a prisoner,
to appear before the Court of Circuit;
and that if it shall at any time appear
to the Judge of Circuit, presiding at
a trial, that procurable evidence
material to a prisoner's defence has
not been brought before him, he
shall

shall postpone the trial until the next Sessions of Jail Delivery.-

Ordered that the 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 25th

(Sent following letter A 918)

Read letter, dated 17th Instant, from the Acting 2d Judge of the Court of Circuit in the Southern Division, - requesting the Court to the instructions of the propriety of his trying certain cases, as Acting Judge of the Court of Circuit, committed by him in his capacity of Criminal Judge.-

(Here enter No. 219.)

It appears from the foregoing letter, that the prisoners in three Cases to be tried at the ensuing Quarterly Sessions of Jail Delivery, at which the Acting 2d Judge of the Court of Circuit in the Southern Division is

to preside, were committed for trial by that Officer in his Capacity of Criminal Judge.-

Under these circumstances it will be proper that the Acting 2d Judge should at the commencement of the Sessions, call before him the prisoners aforesaid and question them as to their willingness to take their trial before him, and the Court direct, that the trial of such among them as may object to plead before the Acting 2d Judge, shall be conducted by the 2d Judge of the Court of Circuit in the Southern Division, now present at the Outer Station.-

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Southern Division for their information and guidance.-

Sent 26th

(Sent following letter B.)

Read return, dated 8th Instant, from the Provincial Court of Circuit in the Northern Division, - to precept dated 7th ultimo, ordering communication to the

Criminal

Criminal Judges and Magistrates within the
jurisdiction of the Court's instruction relative
to Sentences of imprisonment.—

(Here enter No. 207.)

Read return, dated 8th Instant, from
the 2d Judge of the Court of Circuit in the Southern
Division,— to precept dated 21st ultimo ordering
communication to the Magistrate in the Zilla
of Tinchinopoly of the Court's observations on
Case No 2 of the Tinchinopoly Calendar 4th
Quarterly Sessions A.D. 1820.—

(Here enter No. 214.)

Read letter, dated 17th Instant, from
the 2d Judge of the Court of Circuit in the Southern
Division,— transmitting in return to the precept
of 9th Instant warrant for the execution of
the prisoners in Case No. 2 Tinchinopoly Calendar
4th Quarterly Sessions A.D. 1820 with an endorse-
ment by the Criminal Judge certifying that
the sentence has been carried into effect.—

(Here enter No. 222.)

Read letter, dated 10th Instant, from the 1st
Judge of the Court of Circuit in the Western Division,—
transmitting report of the death of the 2d prisoner
in Case No. 2 South Malabar Calendar 2d Sessions A.D. 1819.—

(Here enter No. 210.—)

23d.

At a Court of the Foujdaree Adalut

Present,

Monday
27th March 1820. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges
William Thackeray Esqre

Read letter dated 20th Instant,
from the 3d Judge on Circuit in the Northern
Division,— requesting permission to hold the
Sessions for the delivery of the Jail at
Vizagapatam at Bimlipatam, in conse-
-quence of a fever which is raging at
the former Station.—

(Here enter No. 229.)

In consideration of the circum-
-stances stated in the foregoing letter, the
Court of Foujdaree Adalut authorize the
Third Judge on Circuit in the Northern
Division to hold the 1st Sessions, for the
delivery of the Jail in the Zilla of Vizaga-
patam, at Bimlipatam.—

Ordered, that extract of
these

Criminal Judges and Magistrates within the
jurisdiction of the Court's instruction relative
to sentences of imprisonment.—

(Here enter No. 207.)

Read return, dated 8th Instant, from
the 2d Judge of the Court of Circuit in the Southern
Division,— to precept dated 20th ultimo ordering
communication to the Magistrate in the Zilla
of Trichinopoly of the Court's observations on
Case No 2 of the Trichinopoly Calendar 4th
Quarterly Sessions A.D. 1820.—

(Here enter No. 214.)

Read letter, dated 17th Instant, from
the 2d Judge of the Court of Circuit in the Southern
Division,— transmitting in return to the precept
of 9th Instant warrant for the execution of
the prisoners in Case No 2 Trichinopoly Calendar
4th Quarterly Sessions A.D. 820 with an endorse-
ment by the Criminal Judge certifying that
the sentence has been carried into effect.—

(Here enter No. 222.)

Read letter, dated 16th Instant, from the 1st
Judge of the Court of Circuit in the Western Division,—
transmitting report of the death of the 2d prisoner
in Case No 2 South Malabar Calendar 2d Sessions A.D. 1819.—

(Here enter No. 210.)

W. H.

At a Court of the Foujdaree Adalut

Present:

Monday
27th March 1820. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges
William Thackeray Esqre

Read letter dated 20th Instant,
from the 3d Judge on Circuit in the Northern
Division,— requesting permission to hold the
Sessions for the delivery of the Jail at
Vizagapatam at Bimlipatam, in conse-
-quence of a fever which is raging at
the former Station.—

(Here enter No. 229.)

In consideration of the circum-
-stances stated in the foregoing letter, the
Court of Foujdaree Adalut authorize the
Third Judge on Circuit in the Northern
Division to hold the 1st Sessions, for the
delivery of the Jail in the Zilla of Vizaga-
patam, at Bimlipatam.—

Ordered, that extract of
these

27th March 1820

these proceedings be sent to the Third Judge on Circuit in the Northern Division, for his information and guidance.—

Sent following letter A.

Read letter dated 17th Instant, from the Acting Criminal Judge in the Zilla of Canara,— transmitting list of Convicts sentenced to banishment to any Zilla selected by the Court of Foujdaree Adawlut

(Here enter No. 225.)

The Court of Foujdaree Adawlut direct, that the prisoners,

1st Boma Ahmoday,
2d Pucheera,
3d Belle Moosa,
4th Meemcosky Mohuderoy, and
5th Hat Buwa.—

be sent to the Acting Criminal Judge in the Zilla of North Malabar, to be forwarded by him to the Sub at Cannanore for the purpose of their being employed on the public works at that place for the periods of their respective sentences

Ordered

27th March 1820

Ordered that extract of these proceedings be sent to the Acting Criminal Judges in the Zillas of Canara and North Malabar for the information and guidance of those officers respectively.—

Sent following letters B.

B. 1. Read letter dated 18th Instant from the 3d Judge on Circuit in the Northern Division,— forwarding a Medical certificate and two depositions relative to the insanity of a prisoner committed for trial on a charge of murder; for the orders of the Court.—

(Here enter No. 226.)

It appearing from the papers enclosed in the foregoing letter, that the prisoner Daserady Mungiah has for five years past been subject to occasional fits of insanity;—

The Court direct, that the Acting Criminal Judge in the Zilla of Rajahmundry be commanded to forward

27th March 1820

forward the said prisoner to the Criminal Judge in the Zilla of Masulipatam, in order to his being confined in the General Hospital established at the Sudr Station for the reception of Lunatic prisoners within the Division.-

Ordered, that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division by precept, desiring him to communicate the same to the Acting Criminal Judge in the Zilla of Rajahmundry and to the Criminal Judge in the Zilla of Masulipatam for the information and guidance of those Officers respectively.-

(Sent following precepts &c.)

Sent 7th April

20

M

W. H.

685

86

J. W.

At a Court of the Foujdaree Adalut.

Present,

Monday 3d April 1820.

Andrew Scott Esqre
Edward Croft Greenway Esqre
William Thackeray Esqre
} Judges

Read letter dated 19th February last from the 3d Judge on Circuit in the Western Division, submitting case No. 16. Canara Calendar for Sessions AD 1820.-

(Here enter No. 168.)

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,

"Poovance,"

is sufficient to convict him of having put to death the deceased Kinagey, desire, under clause Second Section II Regulation I of 1813 that the Cazee ool Coozat and Mooftee of the Foujdaree Adalut will declare

by

by a second futwa, to what sentence the prisoner would have been liable under the Mohummadan 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 Cozat and Mooftees for their information and guidance.—

Read letter, dated 3d December last, from the 1st Judge on Circuit in the Western Division,— submitting case No. 2. South Malabar Calendar 2d Sessions A.D. 1819.—

(Here enter No. 696 of 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 Cozat and Mooftey of the Sungolaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftee aforesaid and under the provisions of Clause sixth

3d April 1820. Sixth Section II Regulation XV of 1803 direct that the prisoners,

3d "Pattamel Cothan,"
4th "Manyalatherry Koyamoo,"
5th "Kodery Ismaul Cotty," and
7th "Kallyaut Comoo,"

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

(Sent following letter No. 8th)

Read letter dated 19th January last, from the 1st Judge on Circuit in the Centre Division,— submitting case No. 14 Cuddapa Calendar 1st Sessions A.D. 1820.—

(Here enter No. 121.)

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 Foujdaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and

3d April 1820.

and acquitting the prisoners,

1st "Cumuree Wookoolooputhee,"

2d "Mala Wookoolooyadoo," and

3d "Ankaloogadoo,"

direct that they be set at liberty.-

Read letter dated 29th January last from the 1st Judge on Circuit in the Centre Division,- submitting case No. 32 Cuddapa Calendar 1st Sessions AD 1820.

(Here enter No. 121.)

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 Fouzdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Fazier declared against the prisoners,

1st "Causimgadoo," and

2d "Fagueera,"

adjudge them to be imprisoned and kept to hard labor in irons on the public roads

87

F. C.

3d April 1820.

roads or other public works for and during the period of seven years and then released.

And under the provisions of Clause sixth Section II Regulation XV of 1803 the Court adjudge the prisoners,

2d "Rungapa," and

4th "Soobadoo,"

to be released on producing security for their future good behaviour and appearance when required.-

(Vide following letters B.)

Read letter, dated 1st February last from the 1st Judge on Circuit in the Centre Division,- submitting Case No. 37 Cuddapa Calendar 1st Sessions AD 1820.

(Here enter No. 119)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Prouncial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Fouzdaree Adalut confirm the said futwa of the Cazee-ool-Coozat and

Mooftees

3d April 1820.

Mooftees aforesaid and acquitting the prisoners
1st "Vasunteegadoo"
2nd "Yadegherree Chennoogadoo" and
3rd "Karappa Reddee"
direct that they be set at liberty -

(Sent following letter C)

No 61 W.H. 25

The proceedings of the Police in this Case call for particular observation from the Court of Fouzdaree Adalut -

It is stated by the 1st witness before the Court of Circuit that the Reddy and Curnums of the village of Condamanoy in the District of Gooruncondah, having caused the apprehension of the 1st and 2d prisoners, whom they suspected of having been concerned in the murder of Goorindoo, proceeded to examine these prisoners, who "for two days denied having any knowledge "of it," but on the 3d day delivered the confessions which are deposed to by the 1st 2d 3d 4th 5th and 6th witnesses for the prosecution -

The 4th and 8th witnesses, who attested

3d April 1820.

attested the declarations alleged to have been delivered by the three prisoners in this case before the Tahseeldar of the Gooruncondah Taloork, state, respectively, that the declarations were not written in their presence, but were read over to the prisoners in their hearing, and that they acknowledged having voluntarily made those declarations - The 8th witness states further, that the examination of the prisoners "continued "for three or four days," after which the District Police Officer sent for him and desired him to witness their declarations -

The Court of Fouzdaree Adalut regret to observe, that the Judge presiding at the trial considers the confessions stated to have been made before the Reddy and Curnums as sufficient with the corroboration, which they appear to him to receive from the declarations delivered before the District

District Police Officer to establish the guilt of the prisoners.—

Of the confessions in question it is sufficient to observe, that being taken in direct violation of Clause second Section V Regulation XI of 1816 they could not be received in evidence against the accused, had the proceedings of the village Police Officers been in other respects unobjectionable; but the repeated examination and detention of the 1st and 2d prisoners by the Heads of the village, in opposition to the positive injunction contained in Clause fourth Section XVII of the above Regulation, leave in the opinion of the Court of Foujdaree Adalut little room for the supposition, that their confessions could have been "free and voluntary," which would have been essential to their credibility, had they been delivered before an Officer authorized to receive them.—

To

3d April 1820.

To the declarations of the prisoners before the District Police Officer the same objection applies; this Officer appears to have obtained them, after detaining the prisoners for three or four days, in violation of Clause fourth Section XXVII Regulation XI of 1816, and the validity of the attestation of the subscribing witnesses is vitiated by this Officer's neglect of the provisions of the preceding Clause of that Section, which directs 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".

Having recorded these observations on the declarations of the 1st and 2d prisoners, which the 1st Judge contemplated as unobjectionable, it is incumbent on the Court of Foujdaree Adalut to remark, that the principle, on which the 1st Judge assumes the guilt of the 3d prisoner to be established, is wholly indefensible

and

and calculated to destroy every safe
guard of the liues and liberties of individuals.
The record of the proceedings
contains nothing criminating of the 2d prisoner,
besides the declarations of the 1st and 2d
prisoners, and the 1st Judge states, in the
letter accompanying the trial, his opinion,
that this prisoner is convicted "under
the English Law", he not having "attempted
"to show what motive the other two prisoners
"could have had in falsely accusing him."
By the English Law of evidence
the confession of one person cannot be
received as evidence against others, and
the inability of an individual to assign
a motive for an accusation brought
against him by a self convicted Criminal
appears to the Court to be a most inadequate
ground for the infringement of a rule,
so manifestly founded on the first
principles of justice and humanity.

Ordered, that extract of

these proceedings be sent to the 1st Judge
on Circuit in the Centre Division for
his information and future guidance; and
that he be by precept directed to
communicate the former parts of these
proceedings to the Magistrate in the
Zilla of Cuddapah, in order that the latter
officer may call the attention of Venkut
Rao the Tahseeldar of the Goorumcondah
Talook to the provisions of Clauses
third and fourth Section XXVIII Regulation
XI of 1816, and may enjoin the said
Tahseeldar to bring to the notice of the
Reddies and Curnums of the Village of
Condamanj within his district their
violation of the provisions of Clause
second Section V, and Clause fourth
Section XIII Regulation XI of 1816.

Ordered, that the following precept be
the irregularities in the
proceedings of the Native Officers of
Police which have been detailed by
the Court of Poujdaree Adawlut in their

proceedings on this Case have been
repeatedly brought to the notice of the
Magistrate in the Zilla of Cuddapa and
the Court have on former occasions
directed that the attention of the several
District Police Officers in the Zilla of
Cuddapa should be called to the several
provisions of Regulation XI. of 1816 the
non observance of which has been
animadverted upon in the present Case.

The Court of Circuit
having remarked, that their observations
on the proceedings of the Native Officers
of Police in other Zillas have also failed
of preventing the repitition of the same
irregularities, sometimes by the same
individuals, are led to question how far
the orders of the Government under date
28th. September 816, with respect to the
distribution of copies of Regulation XI.
of 1816 among the District and Village
Police Officers have been generally attended

F. W.

5. April 1820.

to by the Magistrates.

It is ordered, therefore, that
Extract of these proceedings be sent to the
four Provincial Courts of Circuit by
precept, directing them to call upon the
several Magistrates within their
respective jurisdictions to report, whether
they have, as directed by the orders of
Government above referred to, caused
the District Police Officers and the Heads
of Villages in their Zillas to be put in
possession of copies of Regulation XI
of 1816, and where the Magistrates may
not have generally circulated this
Regulation to explain the grounds of
their omission.—

Sent following precepts &
Read return dated 15th. ultimo,
from the Criminal Judge in the Zilla of
Chittoor, to precept dated 6th. ultimo calling
for reports prescribed by Section XXXV
Regulation X of 1816—

(Hereunto No. 209.)

Read

proceedings on this Case have been
repeatedly brought to the notice of the
Magistrate in the Zilla of Cuddapa and
the Court have on former occasions
directed that the attention of the several
District Police Officers in the Zilla of
Cuddapa should be called to the several
provisions of Regulation XI of 1816 the
non observance of which has been
animadverted upon in the present Case.

The Court of Circuit
having remarked, that their observations
on the proceedings of the Native Officers
of Police in other Zillas have also failed
of preventing the repetition of the same
irregularities, sometimes by the same
individuals, are led to question how far
the orders of the Government under date
28th September 1816, with respect to the
distribution of copies of Regulation XI
of 1816 among the District and Village
Police Officers have been generally attended

to by the Magistrates.

It is ordered, therefore, that
Extract of these proceedings be sent to the
four Provincial Courts of Circuit by
precept, directing them to call upon the
several Magistrates within their
respective jurisdictions to report, whether
they have, as directed by the orders of
Government above referred to, caused
the District Police Officers and the Heads
of Villages in their Zillas to be put in
possession of copies of Regulation XI
of 1816, and where the Magistrates may
not have generally circulated this
Regulation to explain the grounds of
their omission.

Sent following precepts &c

Read return dated 15th ultimo,
from the Criminal Judge in the Zilla of
Chittoor, to precept dated 6th ultimo calling
for report prescribed by Section XXXV
Regulation X of 1816.

Hereunto No. 209.

Read

3d April 1820.

Read return, dated 23d ultimo,
from the 1st Judge on Circuit in the Centre
Division, - to precept dated 16th ultimo ordering
communication to the Criminal Judge and
the Magistrate in the Zilla of Cuddapah
of the Court's observations on Case No. 27
Cuddapah Calendar 1st Sessions 1820 -

(Here enter No. 230.)

Read return, dated 29th ultimo
from the Provincial Court of Circuit in
the Western Division, - to precept dated
9th ultimo ordering communication to
the Acting Criminal Judge and the Magis-
=trate of Canara of the Court's orders on
a reference by the latter officer respecting
the apprehension of a person charged
with perjury -

(Here enter No. 231.)

Read return, dated 23d ultimo
from the Provincial Court of Circuit on the
Northern Division, - to precept dated 13th
ultimo ordering communication to the
Criminal Judge and Magistrate of Nellore

3d April 1820.

of the Court's orders on a reference by
the former officer respecting a cattle
taken to him by a District Police Officer -

(Here enter No. 232.)

Read letter, dated 18th ultimo,
from the 2d Judge of the Court of Circuit
in the Centre Division, - stating that
in consequence of his recent appoint-
=ment to the Provincial Court in the
Centre Division it is not in his power
to furnish the report prescribed in
Section XXXVII Regulation VII of 1802
for the last Quarterly Sessions of Jail
delivery -

(Here enter No. 233.)

Read letter dated 15th ultimo
from the 3d Judge on Circuit in the
Northern Division, - reporting the
commencement of the Jail delivery at
Rajahmundry on 13th Instant -

(Here enter No. 234.)

Read letter, dated 25th ultimo,
from the 2d Judge on Circuit in the
Western Division, - reporting his intention
to

3d April 1820.

to proceed to South Malabar on 25th ultimo.-

(Here enter No. 234.)

Read letter dated 31st ultimo from the 1st Judge on Circuit in the Centre Division,- reporting the arrival of the Court of Circuit at Chingleput.-

(Here enter No. 235.)

W. J.

7 A.

At a Court of the Foujdaree Adalut

Present,

Thursday- 6th April 1820.- Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
William Thackeray Esqre

Read again letter dated 16th February last from the 3d Judge on Circuit in the Western Division- submitting case No. 16. Canara Calendar 1st Sessions A.D. 1820.-

(Here enter No. 168.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers 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 Section XVII Regulation VIII of 1802 adjudge the prisoner,

"Poovanee,"

to suffer death by being hanged at the

the usual time and place of execution.

(Sent following letter A/

1820.

Read letter dated 28th ultimo from the Criminal Judge in the Zilla of Bellary, submitting copies of certain letters from the Magistrate and Assistant Magistrate, regarding the construction of Regulation III of 1819.

(Here enter No 239/

In the foregoing letter the Criminal Judge states his opinion, that under the provisions of Section III Regulation III of 1819 it is competent to a Criminal Judge to entertain, in the first instance, charges against "Native Officers of Police" for extortion "oppression or other abuse of authority."

The above inference is deduced by the Criminal Judge from the wording of clause first Section III Regulation III of 1819, in which it is declared, that for the acts abovementioned Native Officers of Police shall be liable to be "prosecuted, "in a Court of Criminal Judicature," wherein

under Clause first Section XLIV Regulation XII of 1816, such prosecution could only be instituted "before the Magistrate."

The construction given to Regulation III of 1819 by the Criminal Judge is erroneous; the only alteration in the law, produced by the rescission of Section XLIV and XLV Regulation XII of 1816, and the enactment of the provisions contained in Section III Regulation III of 1819, being the extension of the measure of punishment, "in cases "in which the penalties, prescribed in Section XLIV Regulation XII of 1816, might be "inadequate to the aggravated nature of "the offence."

Under the provisions of Regulation III of 1819 actions for damages may be brought, in the first instance, in a Zilla Court, against Native Officers of Police "for extortion, oppression or other abuse of "authority;" but if the injured party should avail himself of the option of instituting a Criminal prosecution, the charge must in the first instance be preferred before a Magistrate,

and

and can only come before a Criminal Judge, when the measure of punishment, is specified in Clause second of the Section of the Regulation above cited shall appear to the Magistrate to be insufficient in which event the Criminal Judge is empowered to dispose of the Case, under the provision of Section VII Regulation X of 1816, or commit the party for trial before the Court of Circuit, should he appear to be deserving of severer punishment than the Criminal Judge is authorized to inflict.—

The Court of Foujdaree Adaulut having reason to believe, that differences of opinion on the construction of Regulation III of 1819 are generally prevalent, direct that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept commanding them to communicate the same to the Criminal Judges and Magistrates within their several jurisdictions for the information and future guidance of those Officers respectively.

Sent following precept.

7. K.

At a Court of the Foujdaree Adaulut

Present,

Monday
10th April 1820. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges
William Thackeray Esqre

Read letter dated 7th ultimo,
from the 2d Judge of the Court of Circuit in
the Centre Division, submitting case No 44.
Chittoor Calendar 1st Quarterly Sessions
A.D. 1820.—

(Here enter No 218.)

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 Adaulut, are of opinion that the proof against the prisoner Chengen is sufficient to convict him of the offence of robbery by open violence, for which a penalty is specially denounced in Clause Third

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 Section IV
(saying that the Lottery was unnecessarily prolonged by the aggravating circumstances
Regulation XV of 1803, adjudge the prisoner,
Vide "Chungen"
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 A.)

Read letter dated 28th February
last from the acting Judge of the Court of
Circuit in the Western Division,— submitting
case No. 12 North Malabar Calendar 1st
Quarterly Sessions A.D. 1820.—

(Reverter No. 189.)

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 Cozzat and Mooftee

16th April 1820.

of the Zoujdaree Adaulut confirm the said
futwa of the Cazee ool Cozzat and Mooftee
aforesaid and acquitting the prisoner,
"Kaddanoly Pachroo,"
direct that he be set at liberty.—

(Sent following letter B.)

No. 11. Read letter dated 25th Ultimo
from the 2d Judge on Circuit in the Western
Division,— transmitting copy of Canara
Calendar 1st Sessions A.D. 1820 and copies of
the Futwas delivered in two cases of
Perjury about to be referred for the final
sentence of the Court of Zoujdaree Adaulut.—

(Reverter No. 236.)

Z. U.

At a Court of the Zujdaree Adaulut
Present,

Monday
17th April 1820 — Andrew Scott. Esqre — } Judges.
William Thackeray Esqre

M

Read letter dated the 1st ultimo.
from the First Judge on Circuit in the
Centre Division, — submitting case No. 19
Bellary Calendar 1st Sessions A.D. 1820.
(Here enter No. 196.)

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 Zujdaree
Adaulut confirm the said futwa of the
Cazee ool Cozat and Mooftee aforesaid
and under the sentence of Cokoobut
declared in the futwa adjudge the prisoner
"Rodeegadoo"
to receive thirty stripes with a rattan
on

and to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of seven years and then released.—

Read letter dated the 2d ultimo from the First Judge on Circuit in the Centre Division,— submitting case No. 34 Bellary Calendar 1st Sessions A.D. 1820.

(Here enter No 195.)

The Court having maturely considered the proceeding held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee and Mooftee of the Cuydaree Adalut confirm the sentence of imprisonment and transportation for life passed on the prisoner by the 1st Judge, under date 2d ultimo and accordingly direct that the said prisoner,

"Moosaleegadoo,"

be imprisoned and transported to Prince of Wales's Island there to be imprisoned and

and kept to hard labor in irons on the public roads or other public works for and during the period of his natural life.—

(Send following letters A/

entered

M. W. W. 250

Read return, dated 8th Instant, from the 1st Judge on Circuit in Centre Division, to precept dated 28th February last ordering communication to the Criminal Judge and the Magistrate in the Zillah of Cuddapa of the Court's observations on Case No. 16. Cuddapa Calendar 1st Sessions A.D. 1820.

(Here enter No. 242.)

Read letter dated 6th Instant, from the 1st Judge of the Court of Circuit in the Western Division,— stating that on the requisition of the 2d Judge on Circuit the Mooftee of the Provincial Court in the Western Division has been sent to officiate at the delivery of the Jail at Calicut and the Mooftee of the Zillah Court of North Malabar called on to officiate at the Court of Quarterly Sessions.—

(Here enter No. 243.)

Read

17th April 1820

Read letter, dated 5th instant from the 2d Judge on Circuit in the Western Division, reporting the arrival of the Court of Circuit at Calicut.

/Here enter No. 245./

Read letter dated 31st ultimo, from the 3d Judge on Circuit in the Northern Division, with copy of Rajahmundry Calendar 1st Sessions A.D. 1820.

/Here enter No. 252./

J. 16.

At a Court of Foujdaree Adalut

Thursday 20th April 1820.

Present

Andrew Scott, Esquire
Edward Croft Greenway, Esqre
William Thackeray, Esqre
} Judges.

Read letter, dated the 3rd Instant, from the First Judge on Circuit in the Centre Division, - submitting case No 8 Bellary Calendar 1st Sessions A.D. 1820.

/Here enter No 194./

The Court having maturely weighed the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee-ool-Cazat and Mooftee of the Foujdaree Adalut confirm the said futwa of the Cazee-ool-Cazat and Mooftee aforesaid and under the Sentence of Ookoobut, declared in the futwa, adjudge the prisoner.

"Goreeveegaudoo."

to be imprisoned and kept to hard labour for

Over

Read letter, dated the 10th instant, from the Acting Third Judge of the Court of Circuit in the Southern Division, with copy of Trichinopoly Calendar, 2d Quarterly Sessions &c. 1820.

(Here enter № 253.)

Read letter, dated the 10th instant, from the Provincial Court of Circuit in the Southern Division, to Precept dated 3d instant, ordering them to call on the Magistrates in the Division to report how far they have complied with the orders of Government for the circulation of translations of Regulations XI of 1816

(Here enter № 259.)

Read letter, dated the 11th instant, from the Provincial Court of Circuit in the Centre Division, to Precept dated 6th instant, ordering communication to the several Criminal Judges and Magistrates within the division of the Courts exposition of the provisions of Regulation III of 1819.

(Here enter № 260.)

Read letter, dated the 13th instant, from the First Judge on Circuit in the Southern Division, reporting the arrival of the Court of Circuit at Madura.

(Here enter № 257.)

Read

dered on the public roads or other public works for and during the period of fourteen years and there released.-

(Sent following letter A.)

W.H.

Read returns, dated the 11th instant, from the Provincial Court of Circuit in the Centre Division to Precept dated 3d instant, ordering them to call on the Magistrates in the Division to report how far they have complied with the orders of Government for the circulation of translations of Regulations XI of 1816

(Here enter № 259.)

Read returns, dated the 11th instant, from the Provincial Court of Circuit in the Centre Division, to Precept dated 6th instant, ordering communication to the several Criminal Judges and Magistrates within the division of the Courts exposition of the provisions of Regulation III of 1819.-

(Here enter № 260.)

Read letter, dated the 13th instant, from the First Judge on Circuit in the Southern Division, reporting the arrival of the Court of Circuit at Madura.

(Here enter № 257.)

Read

At a Court of the Foujdaree Adalut.

Monday 24th April 1820.

Present.

Andrew Scott, Esqr.
Edward Croft Greenway, Esqr. } Judges.
William Thackeray, Esqr.

No.

Read letter dated 31st January last, from the 2d Judge of the Provincial Court of Circuit in the Southern Division, - submitting Report on the 1st Quarterly Sessions of Jail delivery for 1820 held at Trichinopoly.-

(Here enter No. 123)

Read also letter dated 20th instant, from the Acting 3d Judge of the Court of Circuit in the Southern Division, - submitting Report on the 2d Quarterly Sessions for 1820 held at Trichinopoly.-

(Here enter No. 280)

With reference to the suggestions of the 2d Judge and Acting 3d Judge in the

24th April 1820.

the above stated that a proportion of the convicts confined on the Hulk of Leviathan, Bermuda
Island and Cumberland may be transferred to the
Custody of the Criminal Judges on the Gallies
of Trinidad for and during the Term
or Centuries of Years of their being employed
The Court of Magistrates Middlesex Street, that the
Provincial Court of Circuit on the Southern
Division be by Precept required to call upon
the several Criminal Judges and the Gaolers
of Prisoners, who
Sent 29th

[Sent following Precept to Ds]

The Court of Magistrates Middlesex Street
desirous to ascertain the Terms under which
Sentences to Imprisonment and hard Labour
the Public Roads or other Public Works may
carried into effect at the several Gallies stationed
Ordered it is ordered, that a Circular
Precept be accordingly transmitted to the four
Provincial Courts of Circuit, directing them to
call upon the Criminal Judges within their

24th April 1820.

respective jurisdictions for a particular statement
of the works to which the labour of the
convicts on their several Gaols is applied.-

[Sent Circular Precept to Ds]

29th

20

W.H.

At a Court of the Zujdaree Adalut.

Present,

Thursday 27th April 1820

Andrew Scott Esqre
Edward Croft Greenway Esqre
William Thackeray Esqre
} Judges

Read upon letter, dated 1st January last, from the 2d Judge of the Court of Circuit in the Northern Division, submitting under the provisions of Sections XXXIII and XXXVII Regulation VII of 1862, a General Report on the 2d Circuit for 1819.-

(Here enter No. 35.)

2 The Court proceed to record such observations, as appear to be necessary on the several points brought under discussion by the 2d Judge in the above Report.-

3 The suggestions of the 2d Judge in the 6th 7th and 8th paragraphs of the Report regarding an enlargement of the Zilla

Zilla Jail at Rajahmundry are considered by the Court to be highly judicious, and the plan and estimate of the proposed alteration, which are annexed to the Report, appear calculated to effect an improvement, particularly to be desired on grounds of humanity, at an expence, which bears no proportion to the benefit to be derived from the work.

4 With reference to the letter from the Secretary to the Government in the Judicial Department, under date 29th November last, the Court of Foujdaree Adalut conclude, that the requisite alterations in the Zilla Jails of Vizagapatam and Ganjam are now in progress.

5 In the 11th and 15th paragraphs of the Report a circumstance is brought to the notice of the Court, which requires comment.—

6. It appears, that on inspecting a building which had been appropriated, under the sanction of the Government to

the purpose of accommodating sick prisoners in the Zilla Jail at Vizagapatam, the 2d Judge discovered, that three persons "in different "stages of Mental derangement" were confined there; with respect to whom he issued a precept, (Marked C) to the acting Criminal Judge, calling for information regarding the periods for which these persons had been in confinement, and the orders which had been received "regarding them from the Foujdaree Adalut, "or the Court of Circuit."

7. The acting Criminal Judge, in his return to the precept, states that "these "persons have" not been tried," and no orders "have been received from the Foujdaree "Adalut regarding them," and he transmits a list, "in which is inserted the reason, for "which they were severally confined."—

8 On reference to this list the Court observe, that these persons are stated to be confined by the Magistrate for certain specified offences.—

9. The Court have referred to the

the Reports of prisoners confined in the Zilla Jail at Vizagapatam, in which it does not appear that the names of either of the individuals in question have ever been entered, although they are stated to have been lodged in the Jail for periods of five, six, and eight years, respectively.—

10 From this circumstance the Court are led to conclude, that the consignment of the persons in question to a state of personal restraint was not intended as a punishment for the several acts of "attempting to stab," "attempting to set fire to a house," and "stoning people in the street"— but as a measure of precaution, suggested by the apparent insanity of the parties.—

11 Supposing such to have been the case, it was the duty of the late Magistrate, now Criminal Judge, of Vizagapatam to have brought the circumstances of these persons under the notice of the Judge of Circuit, with whom it would have remained to institute an investigation into the state of their minds and to report

the result to the Court of Foujdaree Adawlut.—

Under the decided opinion, expressed by the 2d Judge, of the confirmed idiotcy of Cadareddy Veerasheum, Camsanulty Soobadoo and Seeawo, the three persons in question, the Court of Foujdaree Adawlut deem it proper to direct, that the Criminal Judge in the Zilla of Vizagapatam be instructed to forward them to the Criminal Judge in the Zilla of Masulipatam, in order to their being confined in the General Hospital, established at the Sub station, for the reception of Lunatic prisoners within the division.—

12 The Court proceed to the consideration of the returns of the several Magistrates in the Northern Division, excepting those in the Zillas of Guntoor and Masulipatam, to the precepts of the 2d Judge, calling for information on certain points connected with the administration of the System of Police, which was introduced in 1816.—

13 The remarks of the 2d Judge on the returns in question occupy from the 24th to the 58th paragraph of the Report, and the Court will notice the several points, which require

require observation in the order observed by the 2d Judge.—

14 The Court of Foujdaree Adaulut were not prepared to find, that after the lapse of more than three years from the date of the promulgation of Regulation XI of 1816, a large proportion of the Subordinate Officers of Police in the Northern Division should have been unprovided with copies of the rules enacted for their observance in that Regulation.—

15. The instructions of Government to the Collectors, on their investiture with the office of Magistrate, regarding the mode of giving general circulation to Regulations XI and XII of 1816, not having been issued through the Court of Foujdaree Adaulut, it did not fall within their province to enquire, whether or not copies of the Translations of those Regulations had been distributed among the several descriptions of Police officers, mentioned in the 8th para of the letter addressed by the late Commission for the Revision of the Judicial System to Government, under date 27th September 1816.—

Under

16 Under the impression, that the several District Police Officers and Heads of Villages had been put in possession of the rules, defining their powers and prescribing their respective duties, as Officers of Police, it has been the practice of the Court of Foujdaree Adaulut, when the Police proceedings in cases referred for their adjudication, exhibited departures from the provisions of Regulation XI of 1816,— to direct the Magistrate to point the attention of the officers concerned to the particular provision, which had been violated by him.— The statement in the report now under consideration, confirmed by the experience of the Court of Foujdaree Adaulut, that their endeavours to induce observance of Regulation XI of 816 by the Subordinate Officers of Police have been attended with very partial success, led to the issue of a Circular precept, under date 2d Instant, requiring the four Provincial Courts to ascertain how

how far circulation had been given to that Regulation; the reports on this head from the Magistrates have not yet been received, but it is incumbent on the Court of Foujdaree Adaulut to remark with respect to those Magistrates, whose neglect of the orders of Government on this subject is represented in the report, that their omission has not only been in direct disobedience to those orders, but is strongly presumptive of a systematic disregard of the instructions of the Foujdaree Adaulut, above referred to.

17 The next circumstance noticed by the 2d Judge in his remarks upon the returns under consideration is the declared incompetency of the Heads of Villages throughout the Zillas of Nellore, Rajahmundry, Vizagapatam, and Ganjam, to discharge the duties required of them by the provisions of Regulation XI of 1816.—

18 The Magistrate of Nellore, in which Zilla it appears that this Regulation received

F. H.

27th April 1820.

received early circulation, observes that in the Districts under that Zilla, "Heads of Villages "are generally to be found, but very few, if "any, are capable of performing or comprehend-"-ing the duties, allotted to them by the "Regulations; the reports required to be trans-"-mitted by them by Section XIV Regulation XI "of 1816 have, consequently, never been forwarded "regularly, as since the operation of the said "Regulation there have been only transmitted "to the Magistrate 3 Reports in July 1817, "and 2 in July 1818, and none since that time."

19. The grounds upon which the Magistrate of Nellore rests his opinion of the incapacity of the Heads of Villages in that Zilla are not stated, but it appears to the Court of Foujdaree Adaulut, that the non-transmission of the Monthly Registers, required by Section XIV Regulation XI of 1816, may with some colour of justice be assumed to have been a consequence rather of that officers supineness, than of their incapacity, as he states that on two occasions five of the reports were furnished, and simply

reports

reports the fact of their discontinuance, or without the mention of any steps, taken by him to enforce the observance of this provision of the Regulation.—

20. The Magistrate of Rajahmundry supposes the Pedda Canpoo to be "not likely "readily to understand the rules, contained in "Regulation XI of 1816, as the office is quite "new to him."—

21 That it is so would seem to be in great measure imputable to the omission of the two Predecessors of the present Magistrate to give that circulation to the Regulation, which this Officer has in the short interval since his appointment to completely effected.—

22 The zeal and activity of Mr. Robertson, on this as well as other occasions, demands the commendation of the Court, and it is to be expected that the Zilla under his charge may eventually exhibit a standard of the closest practicable adherence to the provisions of the existing Laws, for the administration of Police.—

The

23 The Magistrate of Vizagapatam observes, that the Heads of Villages in that Zilla "are almost without exception persons "of no education, and therefore incapable "of conducting the duties, allotted to them "by the said Regulation."—

24 In the 25th paragraph of the Report the 2d Judge observes, that "not "a copy of the Regulation appears to have "been sent to any of the villages," throughout the Zilla of Vizagapatam.—

25 How far this remark may be in literal accordance with the fact is not indeed shewn by the papers before the Court, but the passage cited in this part of the report from the return of the Magistrate of Vizagapatam clearly indicates the indifference of that officer to the degree in which the orders of Government on this subject may or may not have been executed.—

26 In the Zilla of Ganjam it would appear that early circulation was given to Regulation XI of 1816, but the Magistrate states, that "the Heads of Villages

"have

"have not been separately appointed, employed,
"and authorized to act under Clause 1st Section
"X of said Regulation," and adds that "with
"few exceptions they are so ignorant, and
"among the Poligars so very indolent and
"backward, that it would be difficult
"to make them act separately in Police
"duties, or to make them understand the
"rules that must guide them."-

27 That Heads of Villages have not been "authorized" to perform a part of the duties specially prescribed to them by the Regulations of the Government, is not quite intelligible to the Court, nor easily reconcilable with the fact of the communication of the Regulation under consideration to them.-

28. It appears to the Court, that this part of the Magistrate's return requires explanation; and it would at the same time be satisfactory to know, whether the task of expounding to the Heads of Villages in the Zilla of Ganjam the provisions

of Regulation XI of 1816,- which the Magistrate would appear to regard as an almost hopeless endeavour, has ever been attempted.-

29. The Court of Sudder Adawlut consider the neglect of the provisions of Sections XVII and XIX Regulation XI of 1816, which is avowed by the Magistrate of Vizagapatam, to be very reprehensible, and not in any way to be justified on the ground assigned by that officer of "the incapacity of Heads of Villages," but with respect to the following observation of the 2d Judge in the 30th paragraph of the Report upon that passage in the Magistrate's return, in which he expresses a "disinclination" "to interfere and to break "through an ancient custom," regarding the nomination of Village Watchers,- namely that the Magistrate "appears to have been "averse to breaking through ancient "custom, alluding, probably to the village "Watchmen being privileged persons to "rob or plunder with impunity,"- the

Court

27. 27th April 1820. Court of Foujdaree Adalut cannot but express their regret that the 2d Judge should have furnished a Report in other respects creditable to him by an insinuation so totally unworthy of his station.—

30 The observations of the 2d Judge in the 32d 33d and 34th paragraphs of the Report, with respect to a more efficient disposition of Cutwalls, appear deserving of the attention of the Right Honorable the Governor in Council.—

31 In the 43d and 44th paragraphs of the Report the 2d Judge adverts to the subject matter of a former reference, which has not been finally disposed of by the Court; but it may be proper to remark, that the course suggested by the 2d Judge in para 44 to be pursued by an Assistant Magistrate, in cases of difference of opinion between himself and his immediate superior, is considered by the Court to be extremely proper.—

32 In the 55th paragraph of the Report the 2d Judge, with that zeal for the public service which has so frequently

27. April 1820. frequently called for the approbation of the Court, proposes to go into the examination of the reports, furnished by Jahseeldars, under the provisions of Section XXXIII of Regulation XI of 1816, "when on Circuit, "or Presiding at the Quarter Sessions."—

33 The Court of Foujdaree Adalut incline to the opinion, that the subjection of the proceedings of the District Police Officers, under the authority vested in them by the above Section, to the supervision of the Court of Circuit, might be of beneficial tendency:— but the measure not being sanctioned by the letter, or consistent with the spirit of the existing enactments for the administration of Police, the Court have no power to authorize its introduction.—

34 The Court proceed to record such observations, as appear to be necessary, upon the several precepts and returns, (marked F) connected with cases in the Calendars laid before the Court of Circuit by

27th April 1821

by the Criminal Judges, and Magistrates.

35 In commenting upon case No 5 of the Calendar of persons committed for trial before the Court of Circuit in the Zilla of Nellore wherein it appears that certain prisoners were detained for sixteen days at Angole, after their apprehension, before they were examined by the District Police Officer, the 2d Judge observes, that it appears necessary "to lay the Case before "the Fouzdaree Adawlut, in order that provision "may be made for the execution of the duty "of Tahseeldar, during any temporary absence "of that Officer by order of the Collector."-

36. The Court of Fouzdaree Adawlut remarked in their proceedings under date 13th July 1818, "that in cases of emergency, where "a District Police Officer, strictly so called, "may be prevented by indisposition from "performing the duties of his office, it will be "competent to the Magistrate to provide, that "a person be appointed to act as Tahseeldar, "or Native Collector, and in virtue of that office, as

9

27th April 1821.

"as Head of Police:"- the Court are of opinion that the arrangement here proposed is applicable to cases, in which a Tahseeldar may be removed from the limits of his official jurisdiction by order of the Collector, and that on all such occasions it is incumbent on the Magistrate to provide against a suspension of the important functions of District Police Officers.-

37 The Court do not concur in the propriety of the order, issued by the 2d Judge to the Magistrate of Nellore, with reference to case No 6 of the Calendar, as prohibiting altogether the use of Irons by District Police Officers for securing the prisoners.-

38. It appears to the Court that, adverting to the descriptions of charges, on which the preliminary proceedings are held by District Police Officers, under the provisions of Section XXVII Regulation XI of 1816, cases must be expected to occur, in which the use of irons may be absolutely necessary for preventing the escape of persons apprehended; and the Court accordingly direct that

that the 2d Judge do revise the orders issued by him on this head to the Magistrate of Nellore, who should be desired to admonish the District Police Officers under his authority against the use of irons in any instance, in which the safe custody of a prisoner can be ensured without them.—

39. With the exception which has here been noticed the several orders issued by the 2d Judge to the Magistrate of Nellore are considered by the Court to be strictly proper; and they trust that the future proceedings of the Magistrate and of the Subordinate Officers of Police in the Zilla of Nellore will not exhibit repetitions of the numerous irregularities which attracted the attention of the 2d Judge.—

40. On perusing the several precepts, issued by the 2d Judge to the Magistrate of Vizagapatam, the Court have remarked with concern the many irregularities and the general laxity of administration, by which the proceedings, as well of the Magistrate,

as of the Subordinate Officers of Police, are distinguished.—

41. The animadversions of the 2d Judge, as recorded in the precepts in question, appear to have been fully called for by the circumstances of the several cases to which they refer; the Court of Sudder Adawlut deem it necessary only to observe with respect to the point, particularly noticed in the precepts of the 2d Judge under dates the 1st November and 4th December last, that although it is unquestionably competent to Magistrates, under the provisions of Regulation IX of 1818, "to delegate any part of their duty" to their Assistants, yet that in the particular instance of an order from the Court of Circuit to cause the immediate apprehension of an accused party, it was obviously the duty of the Magistrate to issue the necessary instructions to the officers of Police, without a delay calculated to frustrate the execution of that order.—

42 In the return of the Head Assistant

Assistant Magistrate of Vizagapatam to the precept of the 2d Judge, dated 6th November it the following passage, "although defendants "are sometimes not all in attendance, yet the "sentence is generally given against them, as "well as those who are present, and the "sentence carried into execution when "apprehended."

43 On this passage the 2d Judge observes, in the extract of his proceedings dated 16th December, that he "is not aware of any "part of the Regulations, that authorize the "Magistrates to pass sentence upon persons "not before them, and duly sworn to as having "been concerned in any act, charged against "them."

44 The practice avowed by the Head Assistant Magistrate, surpasses in impropriety any proceeding, that ever came under the cognizance of the Court of Faujdaree Adalut.

45 By Section XXIII Regulation IX of 1816, the appearance of the accused before

before the tribunal of the Magistrate is pointed out, as the first requisite to his Trial, and "~~to appear for the entrance upon the~~ ~~the Court to which he is referred that~~ ~~attempt to elude by objections~~ ~~to the Court, or to the individuals composing~~ ~~be convicted and punished, shall without~~ ~~delaying~~."

"it can scarcely be necessary for the Court of Faujdaree Adalut to observe, that the acts of passing sentence on persons without trial on the ground of their appearing to have been implicated with other individuals actually tried, and of carrying such sentence into effect, upon the apprehension of those persons, are not only illegal, but in gross violation of the first principles of justice.

46 By forwarding, without comment the returns of the Assistant Magistrate avowing a practice so disgraceful to his office and of such pernicious example the Magistrate has left room for the inference of his acquiescence in the proceeding, if

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it did not originate with himself, and it is the duty of the Court to point out to the special notice of the Right Honorable the Governor in Council an instance in which an Officer has exhibited so total a disregard of one of the most simple rules of his duty.

47. The observations and suggestions of the 2d Judge, which occupy from the 66th paragraph to the conclusion of the Report, with respect to the improvement of the Markets, and the construction of roads throughout the Northern Division, are submitted without Comment for the consideration of the Right Honorable the Governor in Council.

48 Ordered, that extract of these proceedings be sent to the Second Judge late on Circuit in the Northern Division by precept enjoining him to make the necessary communications to the Criminal Judges in the Zillas of Vizagapatam, and Masulipatam, and the Magistrates in the Zillas of Nellore, Rajahmundry, Vizagapatam and Ganjam, for the information and

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and guidance of those Officers respectively.

Sent following Precept &c/

49. Ordered also, that the Report with the papers therein referred to, 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 Honourable the Governor in Council.

Sent following letter &c/

Read again letters, dated respectively 31st January last and 10th instant, from the 2d Judge and the Acting 3d Judge of the Court of Circuit in the Southern Division, submitting Reports on the 1st and 2d Quarterly Sessions of Jail delivery for 1820, held at Trichinopoly.

(Here enter Nos 230 & 231)

2. The Court have taken in consideration the recommendation of the 2d Judge and the Acting 3d Judge with respect to the transfer of a portion of the Convicts from the other Zillas in the Southern

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Southern Division, in order to their being employed on certain public works at Tuticorin poly:— and the Criminal Judges of Combaconum, Verdachellum, Salem and Coimbatore have been called upon to report what number of convicts can be spared from their Jails without inconvenience.—

3. The Court of Foujdaree Adawlut consider the remarks of the Acting 3d Judge, regarding the state of the Police at Tuticorin poly to be highly deserving of the attention of Government

4 Ordered, that the Respects 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 Honble the Governor in Council.—

Ordered, that the following letters be entered on the Records of this Court.

Read letter, dated the 8th inst. from the Acting 3d Judge on Circuit in the Southern Division,— with copy of Tuticorin Calendar 1st Sessions A.D. 1820.—

(Here entered No. 241.)

Read letter, dated the 13th instant from the Third Judge on Circuit in the Northern Division,— reporting the commencement of the Jail delivery at Vizagapatam on the 13th instant.—

(Here entered No. 268.)

Read letter, dated the 13th instant, from the Acting Third Judge of the Court of Circuit in the Centre Division with copy of Chittoor Calendar 2d Quarter Sessions A.D. 1820.—

(Here entered No. 269.)

Read return, dated the 19th Instant, from the Provincial Court of Circuit in the Western Division, to precept dated 6th instant, ordering communication to the Criminal Judges and Magistrates in their Division of the Courts exposition of Regulation III of 1819.—

(Here entered No. 273.)

Read

27th April 1820.

Read return, dated the 17th Instant, from the 3d Judge on Circuit in the Northern Division, - to precept dated 27th ultimo, ordering communication to the Acting Criminal Judge in the Zilla of Rajahmundry and the Criminal Judge in the Zilla of Masulipatam of the Court's orders respecting the disposal of a lunatic prisoned. -

(Here enter No. 279.)

Read letter, dated the 20th instant, from the 3d Judge on Circuit in the Western Division, - transmitting a report from the Acting Criminal Judge in the Zilla of Canara of the death of Chellar Ahmedy a prisoner in Case No. 11 Canara Calendar 1st Sessions A.D. 1820. -

(Here enter No. 283.)

No. 11

At a Court of the Foujdaree Adalut

Present,

Monday
22d May 1820.

Andrew Scott Esqre. }
Edward Croft Greenway Esqre. } Judges.
William Thackeray Esqre. }

Read letter dated the 16th Instant, from the Assistant Magistrate in charge of the Zilla of Cuddapa. - reporting an atrocious murder and applying for permission to offer the highest rate of reward specified in Section XXI Regulation IX of 1816 for apprehension of the offenders. -

(Here enter No. 311.)

In consideration of the circumstances reported by the Assistant Magistrate in the foregoing letter the Court of Foujdaree Adalut authorize and direct the Assistant Magistrate to offer a reward of 500 Rupees for the apprehension of each of the principals and 100 Rupees for the apprehension of each of the inferior offenders, concerned in the murder, payable under the provisions of Section XXII Regulation IX.

IX of 1816, on the conviction of such offenders before the Court of Circuit.-

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

/Sent following letter A./

Ordered also, that extract of these proceedings be sent to the Civil Auditor for his information.-

/Sent following letter B./

Read letter dated 11th ultimo from the 3d Judge on Circuit in the Western Division,- transmitting returned warrant for the execution of the prisoner in case No 16 Canara Calendar 1st Sessions A.D. 1820.-

/Here enter No 285/

Read return dated 8th Instant from the Provincial Court of Circuit in the Western Division,- to precept dated 7th instant ordering them to call on the Magistrates in the Division to report how far they have complied with the orders of Government for the circulation of translation of Regulation XI of 1816.-

/Here enter No 303/

At a Court of the Zoujdaree Adalut

Monday 5th June 1820.

Present,

Andrew Scott Esqre
Edward Croft Greenway Esqre
William Thackeray Esqre
} Judges.-

Read letter dated the 23d February last from the Acting Judge of the Court of Circuit for the Western Division,- submitting case No 1 North Malabar Supplemental Calendar 1st Quarterly Sessions A.D. 1820.-

/Here enter No 186.-/

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 Mooftees of the Zoujdaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and under the latitude given by the sentence of Bohoobut direct that the prisoner,

"Parolly Maday"

be set at liberty.-

/Sent following letter C./

Read letter, dated the 7th April last,
from the 2d Judge on Circuit in the Northern
Division,- submitting case No 12 Rajahmundry
Calendar 1st Sessions A.D. 1820.-

(Here enter No 251.)

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 Zillah Court
confirm the said futwa of the Cazee
-ool Coozat and Mooftees aforesaid and under
the provisions of Section IV Regulation XV of
1803 adjudge the prisoner,

2d "Nutta Chendriah"

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

3d "Gouly Mootyalooyadoo,"
4th "Caurum Veeradah,"
5th "Grandoo Soorapah,"
6th "Woonum Gungoloo,"
7th "Woonum Gantapah," and
8th Grandoo Gungoloo,

to be imprisoned and transported to Prince
of Wales's Island there to be imprisoned
and kept to hard labor in irons on the
public roads or other public works for
and during the periods of their natural
lives respectively.-

And under the provisions of
Clause sixth Section II Regulation XV of 1803
the Court direct that the prisoners,

1st "Murvy Narsimloo"
6th Doddy Ramdoo," and
7th Djalah Sirputty"

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

(Sent following letter B.)

Read letter, dated 2d March last
from the 2d Judge on Circuit in the Northern
Division,- submitting case No 12 Nellore
Calendar 1st Sessions A.D. 1820.-

(Here enter No 203.)

The Court having maturely
weighed the proceedings held before the Judge
on Circuit the futwa of the Provincial

Law

Law Officer and the futwa of the Cazee ool
Coozat and Mooftees of the Zoujdaree Adawlut
confirm the said futwa of the Cazee ool Coozat
and Mooftees aforesaid and under the Sentence
of Cohoobut declared against the prisoners,

1st "Siddavarapoo Paupadoo,"
2d "Mullavarapoo Naugadoo," and
3d "Canhoomoory Chenchoogandoo,"

adjudge them to be imprisoned and kept
to hard labor in irons on the public roads
or other public works for and during the
period of five years and then released

And under the provisions of
Clause 6th Section II Regulation XV of 1816
direct that the prisoners,

1st "Nullapanady Parapanadoo,"
2d "Cheerla Vobboolee Naidoo," and
3d "Casenany Vengamanaidoo,"

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

(Sent following letter C.)

Read

2/ F 11.

5th June 1820.

Read letter, dated the 1st March
last, from the 3d Judge on Circuit in the
Northern Division,— submitting case No. 15
Nellore Calendar 1st Session A.D. 1820.—

(Here enter No. 190.)

The Court having maturely con-
sidered 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 Zoujdaree Adawlut, confirm
the said futwa of the Cazee ool Coozat
and Mooftees aforesaid and under the
Sentence of Cohoobut declared in the futwa
adjudge the prisoners,

1st "Mullavarapoo Naugadoo,"
2d "Siddavarapoo Paupoodoo," and
3d "Caugamoory Chenchoogandoo,"

to be imprisoned and kept to hard labor
in irons on the public roads or other public
works for and during the period of 5 years
and then released.—

And acquitting the prisoners
4th "Cheerla Vobeelecnaidoo," and
5th "Casenany Vengamanaidoo,"

direct

direct that they be set at liberty.-

(Sent following letter &)

52

Read letter dated 26th of april last,
from the Magistrate in the Zilla of Nellore
submitting copies of certain extracts from a
correspondence between himself and the Criminal
Judge, and desiring the opinion of the Court "as
"to the mode of communication which ought
"to be held," between the departments, "under
"the provisions of Section II Regulation III of 1817."

(Here enter No. 284)

It appears from the papers transmitted with the foregoing letter, that the Criminal Judge is in the habit of transmitting to the Magistrate "Extracts of his proceedings through "the Register," on all occasions, wherein it may be necessary to communicate with the Magistrate's department.-

The reason assigned by the Criminal Judge for maintaining the above "form" of communication, in preference to direct correspondence by letter, is "because "it is in an exact analogy with that rule of the

"the Regulations, which prohibits correspondence in matters of suits before the Zillah Civil Courts."-

The Court of Foujdaree Adawlut would have been disposed to attribute to oversight the opinion of the Criminal Judge, as to the nature and the mode of communication enjoined to be observed with the Magistrate, but for the reference made to the Court by the Criminal Judge, under date 26th February last, in which are cited the provisions of Section II Regulation III of 1817, and in reply to which the Court, in their proceedings under date 13th March last, expressed a hope that "the future "correspondence" between the Criminal Judge and the Magistrate would be "more consistent with that full and free communication, "which ought to subsist between the "Departments."-

After the communication of the instructions contained in the Extract of their proceedings last referred to, the Court

of Foujdaree Adawlut are unable to attribute to venial error of judgment the inference, drawn by the Criminal Judge, from the prohibition of correspondence between Zilla Courts in matters of suits, - that "correspondence" with the Magistrate is improper: - nor can the Court understand on what pretence the Criminal Judge avows his intention to await their "Sanction" for a mode of communication, which had been distinctly enjoined by them. -

From the pertinacity with which the Criminal Judge has adhered to a practice so manifestly at variance with the spirit as well as the letter of Section II Regulation III of 1817, - in which his object appears to be to arrogate to himself an authority over the Magistrate, to which he has no pretensions whatever, notwithstanding the endeavours of the Court to remove all misconception on the subject, - the Court of Foujdaree Adawlut are apprehensive, that the interference of the Government may be ultimately requisite to induce that freedom of

5th June 1820. of communication between the Departments of the Criminal Judge and the Magistrate, which is essential to the public Service. The Court however resolve to abstain from a representation on the ~~matter in question~~ to the Right Honorable the Governor in Council, on the present occasion, and direct that extract of these proceedings be sent to the Provincial Court in the Northern Division by precept directing them to communicate the same to the Criminal Judge and the Magistrate of Nellore for the information and future guidance of those Officers respectively. -

(Sent following precept &c)

Read letter dated 1st ultimo, from the 2d Judge presiding at the 2d Court of Quarterly Sessions for 1820 at Masulipatam, - submitting copy of a letter from the Magistrate of Masulipatam, regarding the liability of a Magistrate, or Assistant Magistrate, to prosecution before a Justice of the Peace for acts done in their Official capacity. -

(Here enter No. 207)

The

The Magistrate of Masulipatam in his letter to the Second Judge observed, that "by Regulation IX of 1816 the Magistrate "and his Assistant are authorized to punish "certain offenders," ~~& cited~~ puts several hypothetical cases of undue proceeding on the part of a Magistrate, through error of judgment, and proposes for the solution of the Court the question of a Magistrate's amenability to the jurisdiction of a Justice of the Peace in such Cases.-

The Court of Foujdaree having premised, that all applications to them for instructions, which have reference solely to suppositious cases of difficulty, are improper, as tending unnecessarily to occupy the time and attention of the Court, proceed to observe that the provisions of Section XLIII Regulation IX of 1816 are clearly intended to prescribe the mode, in which a party aggrieved by the official act of a Magistrate may seek redress; and that the argument, which the Magistrate represents

represents to be urged against the applicability of the provisions of the above Section to cases of unjust flogging or fining, namely, that such "acts would "not be in opposition to any established "Regulation, inasmuch as there is no "Regulation which specifies, that a "Magistrate shall not flog on such "and such occasions," - is too puerile for grave refutation. —

The Court do not go into the consideration of that part of the letter of the 2d Judge, which has reference to the powers of a Justice of Peace, "under Clause 1st "of the 5th of the Reg. Cap: 15th" as it is not competent to the Court of Foujdaree Adawlut to issue any orders or instructions whatever on matters connected with the duties of a Justice of the Peace.-

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

Magistrate in the Zilla of Masulipatam
for his information and future guidance.-

(Sent following precept &)

W. H. Read letter, dated 28th February
last from the First Judge on Circuit in the
Centre Division,- submitting case No. 25 Bellary
Calendar 1st Sessions A.D. 1821.-

(Here enter No. 197.)

The Court having maturely considered
the proceedings held before the Judge on Circuit
the futwa of the Cazee ool Cozat and Mooftee
of the Foujdaree Adalut, are of opinion that
the proof against the 1st prisoner Lingah
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 XII of 1809.-

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 Section IV
Regulation

5th June 1821.- Regulation XII of 1809 adjudge the prisoner,

1st "Lingah"

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

And under the provisions
of Clause 6th Section II Regulation XII of
1809 direct that the prisoner,

2d "Bussungoudah,"

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

(Sent following letter G.)

W. H.

J. C.

At a Court of the Foujdaree Adalut

Present

Monday 12th June 1820

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

No 8

685

Read letter, dated 6th Ultimo, from the 2nd Judge presiding at the 2d Quarterly Sessions for 1820 at Masulipatam, submitting for the orders of the Court copy of a communication from the Magistrate of Guntoor, requiring authority to detain a person whom he has apprehended, and against whom he has strong suspicion.-

/Here enter No. 305/

In his address to the Second Judge the Magistrate assigns two grounds for the detention of Gungoo Naik, whom, it would appear, that the Magistrate had apprehended under the supposition of his having been concerned in the depredations of his brother Borrah Naik, lately transported, first in order that time may be afforded for inviting "to prosecute those who may have suffered "by the hands" of the said Gungoo Naik and secondly for

for the purpose of his being admitted as "King's evidence" should "no prosecutors appear against him"—.

By Section IX Regulation IX of 1816 it is declared to be "the duty of the Magistrate to appre= "hend Murderers, Robbers &c.a and persons charged before "him with crimes or misdemeanors"— and it appears to the Court of Foujdaree Udalut, that the Magistrate of Guntoor has inferred from the words of the provision here cited that accusation is not essential to the legal apprehension of the offenders, specifically enumerated in the former part of the Section, but is merely required with respect to the persons mentioned in the latter member of the sentence.—

The Court of Foujdaree Udalut re= =cognize no legal ground for the detention of any individual in Custody, excepting the institution of a specific charge against him in the mode prescribed by the Regulations; and although by the latter part of Clause first Section XXVII Regulation XI of 1816 Police Officers are authorized to apprehend persons, "to whom "suspicion may attach of having committed "certain offences,— and the species of evidence warranting such suspicion is not defined,— yet it is to be observed, that this is only "upon a complaint being made" of any

of the offences in question to the Police Officers— and in default of any such complaint having been preferred in the present instance it is clear, that the apprehension of Gungoo Nack was contrary to law,— and that if no proof of criminality has sub= =sequently been adduced against him, it will be the duty of the Magistrate to set him at liberty.—

Section XX Regulation VIII of 1802 expressly describes the circumstances under which and the objects for which, the tender of a condi= =tional pardon to offenders may be recommended by the Court of Foujdaree Udalut to the Governor in Council; and with regard to the pro= application of this provision of the Code to the Case of Gungoo Nack, the Court of Foujdaree Udalut have to observe, that not one of those circumstances appertains to his case, and that neither of those objects could be attained by admitting him (to use the words of the Magistrate) "as King's "evidence"— for here no "crime is known to have "been committed" and there can be therefore no per= =sons whose apprehension or conviction is the object of taking the Approver's evidence.—

It is only necessary for the Court to

for the purpose of his being admitted as "King's evidence" should "no prosecutors appear against him".

By Section IX Regulation IX of 1816 it is declared to be "the duty of the Magistrate to appre= "hend Murderers, Robbers &c. and persons charged before "him with crimes or misdemeanors". and it appears to the Court of Foujdaree Adalut, that the Magistrate of Guntoor has inferred from the words of the provision here cited that accusation is not essential to the legal apprehension of the offenders, specifically enumerated in the former part of the Section, but is merely required with respect to the persons mentioned in the latter part of the sentence.

The Court of Foujdaree Adalut re= =cognize no legal ground for the detention of any individual in Custody, excepting the institution of a specific charge against him in the mode prescribed by the Regulations; and although by the latter part of Clause first Section XXVIII Regulation XI of 1816 the Police Officers are authorized to apprehend persons, "to whom "suspicion may attach of having committed "certain offences,- and the species of evidence warranting such suspicion is not defined,- yet it is to be observed that this is only "upon a complaint being made" of any

of the offences in question to the Police Officers. and in default of any such complaint having been preferred in the present instance it is clear, that the apprehension of Gungoo Naik was contrary to law,- and that if no proof of criminality has sub= =sequently been adduced against him, it will be the duty of the Magistrate to set him at liberty.

Section XX Regulation VIII of 1802 expressly describes the circumstances under which and the objects for which, the tender of a condi= =tional pardon to offenders may be recommended by the Court of Foujdaree Adalut to the Govern= in Council. and with reference to the projected application of this provision of the Code to the Case of Gungoo Naik, the Court of Foujdaree Adalut have to observe, that not one of those circumstances appertains to his case, and that neither of those objects can be attained by admitting him (to use the words of the Magistrate) "as King's "evidence".- for here no "crime is known to have "been committed" and there can be therefore no per= =sons whose apprehension or conviction is the object of taking the Approver's evidence.

It is only necessary for the Court to

to remark in conclusion that the measure here sug=
=gested by the Magistrate even had it not been at
variance with the law would be simply to hold out
liberation from prison as an inducement to unprin=
=cipled accusation, and that all security of person would
be at an end, if the ground of suspicion assigned by
the Magistrate in this case were held to justify the
apprehension of Individuals.—

Ordered that extract of these pro=
=ceedings be sent to the 2d Judge of the Provin=
=cial Court of Circuit in the Northern Division
by precept directing him to communicate the said
to the Magistrate of Guntoor for his information
and guidance.—

(Sent following Precept A)

Read letter, dated 2d instant, from
the Acting Criminal Judge in the Zilla of Canara,
reporting the occurrence of a daring Robbery and recom=
=mending the offer of a conditional pardon to two
of the persons concerned.—

(Here enter No. 334)

In consideration of the circumstances
stated by the Acting Criminal Judge, the Court of
Foujdaree Udalut resolve to submit his applications

F.R.
12th June 1820.

to Government, and to recommend that the Hon'ble
the Governor in Council may be pleased to au=
=thorize an offer of pardon to Kechapah, and
Anantasing, on the terms specified in Section
XX Regulation VIII of 1802.—

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

(Sent following letter B/No 13)

W.F. Read letter, dated 15th April last
from the Acting Third Judge of the Court of Circuit
in the Centre Division, submitting Case No. 6. Chittoor
Calendar 2d Quarterly Sessions AD 1820.—

(Here enter No. 275)

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

aforesaid and under the sentence of Porkoolut declared
in the futwa adjudge the prisoner,

"Mootten,"

to receive thirty stripes with a rattan and to be im-
=prisoned and kept to hard labor on the public roads,
or other public works for and during the period of
six Calendar months and then released.—

Last 15th

(Sent following letter C)

Read letter, dated 22d April last,
from the 1st Judge on Circuit in the Southern Division
submitting Case No. 1 Madura Calendar for
1820.—

(Here enter No. 282)

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 Fouj-
-daree Udalut confirm the said futwa of the Cazee
-ool-Coozat and Mooftees aforesaid, and adverting
to the opinion declared in the futwa regarding the
insanity of the prisoner,

"Chitten Chitty"

and to the fatal act of violence which he has committed

the Court direct that the Criminal Judge in the
Zilla of Madura be required to forward the pris
to the Criminal Judge in the Zilla of Trichino
in order to his being confined in the general hospit
established at the Sudr Station for the reception
of Lunatic prisoners within the Division.—

Last 15th

(Sent following letter D)

In the letter accompanying
the trial the 1st Judge observes as follows
"The several witnesses differ much in their testimony
"as to the period of the Prisoner's insanity, no sympto
"of which have been observed by the Criminal Judge has
"been shewn by the Prisoner since his confinement."—

The Court of Fouj-daree Udalut
remark, that the examination of the Sailor, un der
whose immediate custody the prisoner was placed
does not contain a single question relative to the
state of his mind while in confinement, and the
Record does not contain any examination of the
Surgeon attached to the station upon this point.—

These omissions it is the duty of
the Court of Fouj-daree Udalut to bring to the
notice of the 1st Judge, who ought to have been

aware

12th June 1820

aware, that a report of information received from the Criminal Judge out of Court could not be admitted by the Court as evidence to the state of prisoner's mind.

It appears, from the record of the proceedings held in this case, that the Prisoner Chitten Chetty was forwarded by the Police Ameen Letchma=naiken to the Magistrate in the Zilla of Madura.

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 Madura, the Court of Foujdaree Adalut 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.

In the proceedings on this Case before the Court of Circuit, the Court of Foujdaree Adalut remark, that the several depositions of the witnesses for the prosecution are attested by the signatures of two subscribing witnesses, as well as certified by that of the Judge presiding at the trial.

(3)

Fk
12 June 1820.

This proceeding not being enjoined by any Regulation, or order in force, and the attesta=tion of witnesses not being essential to the validity of depositions, certified by the Officer receiving them, the Court of Foujdaree Adalut direct, that the 1st Judge on Circuit in the Southern Division be in=structed to discontinue this practice, as unnecessary.

Ordered, that extract of these pro=ceedings be sent to the 1st Judge on Circuit in the Southern Division by precept, directing him to make the necessary communication to the Magis=trate in the Zilla of Madura, for his information and guidance.

Sent following Precept &c

Fk
Ek W.H.

Read letter, dated the 24 April last, from the 3rd Judge on Circuit in the Northern Division with copy of Vizagapatam Calendar for the 1st Sessions AD 1820.

(Here enter No. 297)

Read letter, dated 7th March last, from the 2d Judge of the Court of Circuit in the Centre Division, submitting copy of Chittoor Calendar for 1st Quarter

Quarterly Sessions AD 1820.—

(Here enter No. 215)

Read letter, dated the 29th april last, from the 1st Judge of the Court of Circuit in the Western Division,—with copy of North Malabar Calendar 2nd Quarterly Sessions AD 1820.—

(Here enter No. 293)

Read letter, dated 14th Ultimo, from the 3d Judge on Circuit in the Northern Division,—with copy of Gyanjam Calendar for the 1st Sessions AD 1820.—

(Here enter No. 325)

Read letter, dated 29th april last, from the 1st Judge on Circuit in the Southern Division,—with copy of Madura Calendar 1st Sessions AD 1820.—

(Here enter No. 289)

Read letter, dated 17th Ultimo, from the 2d Judge of the Court of Circuit in the Northern Division with copy of Masulipatam Calendar for the 2d Quarterly Sessions AD 1820.—

(Here enter No. 313)

Read letter, dated 4th March last, from the 1st Judge of the Court of Circuit in the Northern Division,—with copy of Masulipatam Calendar 1st Quarterly Sessions AD 1820.—

(Here enter No. 200)

Read letter, dated 8th Ultimo, from the 1st Judge on Circuit in the Southern Division,—reporting the arrival of the Court of Circuit at Tinnevelly on the 7th instant.—

(Here enter No. 302)

Read letter, dated 8th Ultimo, from the 3d Judge on Circuit in the Northern Division,—reporting the commencement of the Jail delivery at Berhampore on the 8th instant.—

(Here enter No. 308)

Read letter, dated 26th Ultimo, from the Provincial Court of Circuit in the Western Division submitting a Minute by the 2d Judge on certain passages in the extract of the proceedings of the Court of Foujdaree Adaulut upon his late Circuit report.—

(Here enter No. 331)

Read return, dated 17th Ultimo, from the Provincial Court of Circuit in the Northern Division,—to the precept dated 6th april conveying communication to the several Criminal Judges and Magistrates within their Division of the Court's exposition of the provisions of Regulation III of 1819.—

(Here enter No. 315.)

Read return, dated 3d Ultimo, from the Provincial Court of Circuit in the Southern Division,—to the precept dated 6th april conveying communication to the several Criminal Judges and Magistrates within the Division of the Court's exposition

exposition of the provisions of Regulation III of 1819.-

(Here enter No. 294)

Read letter, dated 25th Ultimo, from the 1st Judge on Circuit in the Southern Division, - submitting trial No. 21 Tinnevelly Calendar for the 1st Sessions of 1820.-

(Here enter No. 327)

Read letter, dated 6th instant, from the Assistant Criminal Judge in charge of the Zilla of Tinnevelly, - reporting the death of the Prisoner in Case No. 21 Tinnevelly Calendar 1st Sessions 1820.-

(Here enter No. 336.)

Read return, dated 17th Ultimo, from the Provincial Court of Circuit in the Western Division, to the precept dated 24th Ultimo ordering them to call upon the Criminal Judges in the Western Division for a statement of the mode in which the Convicts in the several Zilla Jails are employed.-

(Here enter No. 316)

Read return, dated 2d instant, from the Provincial Court of Circuit in the Centre Division to the precept dated 24th April last ordering them to call on the Criminal Judges within the Division for a statement of the mode in which the Convicts are employed.-

(Here enter No. 333)

At a Court of the Foujdaree Adaulut

Present,

Monday 19th June 1820.- Andrew Scott Esqre. - - - - - } Judges.
Edward Croft Greenway Esqre. }
J. H. D. Ogilvie Esqre. - - - - - - }

Read letter, dated 18th April last, from the Acting 2d Judge of the Court of Circuit in the Centre Division, - referring under the provisions of Section II Regulation XXII of 1802 certain precepts issued by him to the Criminal Judge of Chittoor, together with that Officer's returns for the orders of the Foujdaree Adaulut.-

(Here enter No. 286.)

To the precepts specially referred by the Acting 3d Judge are prefixed a precept from the Provincial Court of Circuit to the Criminal Judge of Chittoor and a return by that Officer, - with respect to which precept the Acting 3d Judge represents that it is merely sent in circulation, but "most probably in its turn will be submitted by

"by the Judges of that Court for the opinion
"of the Fouzdaree Adaulut."

The Court of Fouzdaree Adaulut being of opinion that the determination of the point at issue in the above reference, neglect involves the consideration of the precept of the Provincial Court, which is not regularly before them:- and that the powers vested in a Single Judge of a Provincial Court by clause eighth Section III Regulation VIII of 1809, with regard to correspondence with the higher Courts, do not extend to the submission of the references, described in Section II Regulation XXII of 1802,- Resolved to return the foregoing letter and enclosure, in order that the subject may be brought under the cognizance of the Court of Fouzdaree Adaulut by the Provincial Court of Circuit, should they deem it proper to make a reference.-

Ordered, that the foregoing letter and enclosures together with Extract of these proceedings be sent to the Provincial Court

Court in the Centre Division for their information and guidance.-

(Sent following letter A.)

EB WH

1 Read again letter, dated 25th Ultimo, from the 1st Judge on Circuit in the Southern Division submitting copy of Tinnevelly Calendar for the 1st Sessions of 1820.-

(Here enter No. 328)

2 Read also letter, dated 12 Instant, from the 1st Judge late on Circuit in the Southern Division,- submitting report on the 1st Circuit for 1820.-

(Here enter No. 345)

3 Also Read again letter, dated 26th January last, from the late Magistrate in the Zilla of Tinnevelly submitting the Report prescribed by Section XXX Regulation IX of 1816.-

(Here enter No. 94)

4 In the foregoing letters from the 1st Judge, as well as in the Report from the late Magistrate of Tinnevelly the attention of the Court is particularly called to the alarming frequency of the crime of Gang Robbery by night in that Zilla.-

5 The persons by whom these outrages

are

19. June 1820.

19. June 1820.

are stated to be committed, are the Maraweurs who, as observed by the 1st Judge in his letter of the 25th Ultimo, "have recently been permitted to return to their "Districts from which they were banished on application "to Government many years ago when Mr. S. Rose "had the management of the Country."—

6 How far the 1st Judge may be correct in attributing exclusively to these persons the enormities reported to be of so frequent occurrence in the Zilla of Tinnevelly, the Court are unable to judge from the information at present before them.

7 The Assistant Magistrate's letter dated 12th Ultimo, forwarded by the 1st Judge assigns the refractory and turbulent spirit of the "Maraweurs, as the cause of the alarming increase "Gang Robberies by Torch light, and general waste "of property throughout the District," but it is clear that the late Magistrate considers the prevalence "House breaking," by which the Court understand Officer to have intended the offence of Gang Robbery by night, "to be in a great measure owing to the "Canilgars knowing that Regulation XI of 1816 had relieved them from all responsibility."—

8 Whatever be the cause, the [illegible]

2)

F. R.

19th. June 1820.—

is one, which appears to require the immediate attention of the Government, and the Court of Foujdaree Udalut resolve therefore to submit the Report of the 1st Judge without delay for the orders of the Governor in Council.

9 With reference particularly to the "Abstract Statement" of crimes furnished by the late Magistrate for the year 1819, the Court of Foujdaree Udalut deem it proper to remark, that although from a comparison between the "computed number "of persons concerned" in the commission of heinous offences, and "the number apprehended and delivered "over to the Criminal Judge," No positive inference ought, in ordinary cases to be drawn as to the general efficiency of a Police establishment,— yet that the disproportion, exhibited by the statement of the late Magistrate, wherein the number implicated is stated to have been 1932, and the number apprehended 168,— points decidedly to something essentially defective, either in the system of Police itself, or the agency to which its execution is committed in the Zilla of Tinnevelly.—

10 Ordered, that extract of these proceedings together with the foregoing letters be sent to the Secretary to Government in the Judicial

19. June 1820.

Judicial Department for the orders of the Honorable the Governor in Council.—

(Sent following letter B/ No 141

25

H

EC

WWW

J. U.

At a Court of the Zoujdaree Udalut

Present

Thursday
29th June 1820.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

H

Read letter, dated 23rd instant, from the Secretary to Government in the Judicial Department, stating that the Governor in Council authorizes the

EC

acting Criminal Judge in the Zilla of Canara to make a conditional offer of pardon to two persons concerned in a late Robbery.—

(Here enter No. 360)

Ordered that copy of the foregoing letter be sent, with extract from the Court's proceedings of the 12th instant for the information and guidance of the acting Criminal Judge in the Zilla of Canara.—

(Sent following letter A/

Read letter dated 7th instant, from the 2nd Judge late on Circuit in the Southern Division, acknowledging the receipt of the orders of the Court, under date 12th Instant, for the confinement of the prisoner in Case No. 1 of the Madura Calendar 1st Sessions of 1820,

in the "Lunatic Hospital established at the Sudr Station",
and desiring further instructions, "as no Lunatic Hospital
"has been yet built at Trichinopoly."—

(Perempteve Rs 35?)

Under the circumstances reported in
the foregoing letter, the Court of Foujdaree Udalut
direct, in modification of the order passed under Date
12th Instant, on the case abovementioned, that the prisoner

"Chitten Chetty"

be confined in such place and manner, as consistently
with a regard to the public safety shall appear expedient
to the Criminal Judge in the Zilla of Madura, until
the completion of the Lunatic Hospital, ordered to be
established at Trichinopoly; when it will be the duty
of the Criminal Judge to forward the said prisoner
to the Criminal Judge in the Zilla of Trichinopoly
in order to his being confined in the General Hospital
at that place.—

Ordered that extract of these pro-
-ceedings be sent to the 1st Judge late on Circuit in
the Southern Division by precept directing him to com
-municate the same to the Criminal Judges in the
Zillas of Madura and Trichinopoly.—

(Sent following Precept B)

Sent to

The Court of Foujdaree Udalut, having
referred to the letter from the Secretary to Govern-
-ment in the Judicial Department, dated 8th January
1819, transmitting copy of a letter, addressed to the
Military Board under that date, in which the sanction
of the Right Honorable the Governor in Council
was given to the estimated expense of erecting a Lunatic
"Hospital at Trichinopoly," are unable to account for
the circumstance reported by the 1st Judge of the Pro-
-vincial Court of Circuit in the Southern Division,
of there being no Lunatic Hospital yet built at Tri-
-chinopoly, and deem it proper to direct, that the Pro-
-vincial Court be called upon to ascertain for the
information of the Court of Foujdaree Udalut, whether
the building be or be not in a state of progress, and
in the former case, how soon it may be expected
to be completed.—

Ordered, that extract of these pro-
-ceedings be sent to the Provincial Court of Cir-
-cuit in the Southern Division for their information
and guidance.—

(Sent following letter C)

50

Sent to

W. H.

Read Return, dated the 14th instant
from

29th June 1820.

from the 2d Judge of the Court of Circuit in the Northern Division, - to the precept dated 5th Instant ordering communication to the Magistrate of Masulipatam of the Courts observations on a reference regarding a Magistrates amenability to the Jurisdiction of Justice of the Peace. -

(Here enter No 348)

Read letter, dated the 19th instant, from the 3d Judge on Circuit in the Western Division, - Reporting his arrival at Seringapatam. -

(Here enter No 350)

Read Return, dated 19th instant from the 1st Judge on Circuit in the Southern Division, - to the precept dated 12th Instant ordering communication to the Magistrate in the Zilla of Madura of the Courts observations on Case No 44 Madura Calendar 1st Sessions of 1820. -

(Here enter No 351)

Read Return, dated 8th instant from the Provincial Court of Circuit in the Northern Division, - to the precept dated 24th April last ordering them to call upon the Criminal Judges within their jurisdiction for a Statement of the mode in which convicts are employed. -

(Here enter No 340)

No 2.

F. M.

29th June 1820.

Read letter dated 12th Ultimo from the 1st Judge of the Court of Circuit in the Northern Division, - submitting his report on first quarter Sessions of 1820 and petitions together with the proceedings in a case brought before the Criminal Judge of Masulipatam.

(Here enter No 306.)

Ordered that the foregoing letter do lie on the Table. -

Read letter dated 6th Instant from the 2d Judge of the Court of Circuit in the Northern Division, - submitting English translate of the proceedings in Case No 11 Masulipatam Calendar 2d Quarterly Sessions of 1820. -

(Here enter No 353)

Ordered that the foregoing letter do lie on the Table. -

At a Court of the Zoujdaree Adalut.

Present.

Monday 3d July 1820. Andrew Scott Esqr. } Judges.
Edward Croft Greenway Esqr. }

Read letter dated 3d April last, from the 3d Judge on Circuit in the Northern Division, transmitting case No 6. Rajahmundry Calendar for Sessions A.D. 1820.

M
J.G

(Here enter No 250.)

The Judges of the Court of Zoujdaree 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 Zulligumpalah Swamy,
2d Mundapanrah Vencanah,
3d Zulligumpala Swamy, and
4th Zulligumpalah Gungiah,

is sufficient to convict them of having put to death the deceased Mooloocotta Bauparah, and Simhadry, desired, under Clause Second Section II. Regulation I of 1818, that the Cazee ool Cozat and Mooftees of

the

the Foujdaree Court will declare the
second futwa, to what sentence the pri
would have been liable under the Mo
=mudan Law if they had been convicted
by full legal evidence, of the crimes
to their charge.-

Ordered that extract of this
proceedings be translated and delivered to
the Cazee ool Cozat and Mooftie for their
information and guidance.-

Read letter, dated 9th March
last from the 3d Judge in Circuit in the
Western Division, submitting calendar
Canara Calendar 1st Sessions A.D. 1820.

(Here enter No. 212.)

The Court having maturely consider
the proceedings held before the Judge on Circuit
the futwa of the Provincial Law Officer
and the futwa of the Cazeerool Cozat
and Mooftee of the Foujdaree Adalut
are of opinion that the proof against the
prisoners, 1st Dejah, 3d Codeenoor ahmood
and 4th Pachroodee, is sufficient to
convict them of the crimes of Gang

3d July 1820.

Robbery and Murder for which a penalty
is specially denounced in Clause first
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 prisoners,

1st "Dejah"

3d "Codeenoor Ahmood," and

4th "Pachroodee,"

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

(Sent following letter A)

Read letter, dated 2d May last,
from the 1st Judge of the Court of Circuit in
the Western Division, submitting case No 9 of
the North Malabar Calendar for the 2d Quarter
Sessions A.D. 1820.-

(Here enter No 201)

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

3d July 1820.

the Futwa of the Cazee ool Coozat and Mooftees of the Zoujdaree Adalut, confirm the said Futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Section XVII Regulation VIII of 1802 adjudge the prisoner,

"Panien Chella alias Kuttak,"

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

(Sent following Letter B.)

Read letter, dated 22d April last, from the 3d Judge on Circuit in the Northern Division,— submitting case No 5 Rajahmundry Calendar 1st Sessions A.D. 1820.

(Here enter No 291.)

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 Zoujdaree Adalut confirm the said Futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoner,

"Syed Rahemun"

direct that he be set at liberty.—

(Sent following letter C.)

last 17th

last 17th

P. 11.

3d July 1820.

Read letter, dated 2d March last, from the 3d Judge on Circuit in the Northern Division,— submitting case No 19 Nellore Calendar 1st Sessions A.D. 1820.—

(Here enter No 292.)

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 Zoujdaree Adalut confirm the said Futwa of the Cazee ool Coozat and Mooftees aforesaid and under the latitude given by the Sentence of Robkoobut, direct that the prisoner,

1st "Goraparty Goorradoo,"

be set at liberty.—

And acquitting the prisoners,

2d "Coonhoo Gooravapah" and

3d "Madaboyana Sonaiah,"

direct that they be likewise released.—

(Sent following letter D.)

Read letter dated 2d March last from the 3d Judge on Circuit in the Northern Division,— submitting case No 23 Nellore

Nellore Calendar 1st Sessions A.D. 1820.

(Here enter No. 204.)

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 Zoujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid and under the latitude given by the sentence of Ashootut direct that the prisoner,

6th "Siddavarapoo Chinnayandoo,"

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

And under the provisions of Clause Sixth Section II Regulation XV of 1803, adjudge the remaining prisoners,

1st "Codoomooroo Nardareddy,"
2d "Eeremmamella Narainapa,"
3d "Dugoomurty Morsalapanaidoo,"
4th "Nurlah Chenchooreddy,"
5th "Doogireddy Narapareddy,"
6th "Nullah Rayavareddy," and
7th "Coneepaukha Caseegadoo,"

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

(Sent following letter D.)

Read letter dated 7th March last from the 1st Judge of the Court of Circuit in the Northern Division,— submitting case No. 1 Masulipatam Calendar 1st Quarterly Sessions A.D. 1820.—

(Here enter No. 205.)

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 Zoujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees and under the sentence of Ashootut declared

in

in the Futwa adjudge the prisoners,

1st "Gundellay Panjiah,"

2d "Ramvoola Kroatniah," and

5th "Munday boya and Goomiah,"

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

And acquitting the prisoners,

3d Dayranaboya and Venkatapathy" and

4th "Dandence Panjiah,"

direct that they be set at liberty.-

Sent following letter E/

The concluding paragraph of the letter of the 1st Judge accompanying the trial is as follows:-

"The Law Officer gave his Futwa "of Cohoobut Shadeedah against the first "and second Prisoners, and Cohoobut against "fifth Prisoner, as Parties accessary to the "death of the deceased- acquitting the 2d and 3d "Prisoners, which sentence appears borne "out by the evidence recorded on the trial, "which is in consequence referred for "the final sentence of the Boijdary Adawlut."

Sent J.

3d July 1820.-

The error in the transcript wherby the 2d and 3d prisoners are stated to have been acquitted by the Law Officer instead of the 2d and 4th is of no importance as immediately corrigible by a reference to the Futwa- the Court of Foujdaree Adawlut notice it merely as an instance of that carelessness in the revision of his proceedings to which they have formerly directed the 1st Judges attention.-

It is to be collected from the foregoing Extract of the letter of the 1st Judge, that the Mohummudan Law Officer acquittal of the two prisoners in question received his concurrence, in which case it was the duty of the 1st Judge, under the provisions of Clause second Section VI. Regulation XV of 1803, to have issued a warrant for their release.-

Ordered, that extract of these proceedings be sent to the 1st Judge of the Court of Circuit in the Northern Division for his information and future guidance.-

Sent following letter F/

3d July 1820.

3d July 1820.

3d July 1820.

Read letter dated 27th Ma
last. from the 3d Judge on Circuit in
Western Division, - submitting calend
Canara Calendar 1st Sessions A.D. 18

(Here enter No 227)

The Court having matur
considered the proceedings held before
Judge on Circuit the futwa of the
Law Officer and the futwa of the
-ool Cozat and Mooftees of the
Udalut confirm the said futwa of
Cazee ool Cozat and Mooftees a
and acquitting the prisoner,

Ramanaik,

last 7th

direct that he be set at liberty. -

(Sent following letter

The Law Officers of the
Udalut notice in their futwa the cir
stance of the detention of the prison
the Jahseeldar for twelve days from
date of his first declaration, in w
he denied all knowledge of the crim

last 7th

At a Court of Sudder Udalut

3d July 1820.

charged against him, - as invalidating the declaration, given after such detention, in which the prisoner makes a full confession. -

In the objection, taken by their Law Officers against the validity of the confession in question, on which alone is founded the opinion of the 3d Judge of the guilt of the prisoner, - the Court of Sudder Udalut concur, and have accordingly directed the release of the prisoner. -

The illegal detention of prisoners by the Heads of Police, with the obvious intention of inducing them to confess the offences laid to their charge, has called for the animadversion of the Court of Sudder Udalut in a very large proportion of the trials referred for their adjudication, since the introduction of the existing system of Police. -

The sentiments of the Court upon this point have on more than

one

3d July 1820

one occation been communicated to the 3d Judge, particularly in the extract of their proceedings under date 7th December 1818, to which they deem it proper to direct that officer's attention, and to observe that, although it is not in evidence in the present case, that a direct promise of impunity was made by Soobnow the Tahseeldar of Soonda, to the prisoner, yet that the period of the prisoner's detention and his reexamination subsequent thereto leave little room to doubt, that the ultimate confession was obtained by undue means.-

The Court direct, that the attention of the aforesaid Police Officer ~~by the Magistrate in the Zillah of Canara~~ be called to the provisions of Section XXVII Regulation XI of 1816, and to their orders of 18th June 1817, which form a commentary on that Section, ~~by the Magistrate in the Zillah of Canara~~.-

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

4 : 7 M

3d July 1820

on Circuit in the Western Division by precept enjoining him to make the necessary communication to the Magistrate in the Zilla of Canara for his information and guidance:-

Sent 7th

(Sent following Precept.)

No 25

No 18 Read return, dated 19th ultimo, from the 2d Judge of the Court of Circuit in the Northern Division,- to precept dated 12th ultimo ordering communication to the Magistrate of Guntoor of the Court's order on a reference regarding Gungoo Naick apprehended by him.-

(Here enter No 356.)

Read letter, dated 22d ultimo, from the 3d Judge on Circuit in the Western Division,- reporting the completion of the Gaol Delivery at Seringapatam.-

(Here enter No 358)

Read return, dated 1st ultimo, from the 1st Judge on Circuit in the Centre Division,- to precept dated 3d April

5th July 1820.

April ordering communication to the Magistrate of Cuddapa of the Court's observations on Case No 37 Cuddapa Calendar 1st Sessions A.D. 1820.—

(Here enter No 342)

Read letter dated 7th ultimo, from the 3d Judge on Circuit in the Western Division,— reporting the completion of the Jail delivery in the Zilla of South Malabar.—

(Here enter No. 343.)

J. A.

At a Court of the Foujdaree Udalut

Thursday 6th July 1820

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

M.
Ols

Read again letter, dated 3rd April last, from the 3rd Judge on Circuit in the Northern Division,— submitting Case No 6 Rajahmundry Calendar 1st Sessions A.D. 1820.—

(Here enter No. 250)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Prounceal 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 Kysâas declared in the futwa, adjudge the prisoners,

1st "Zulligumpalah Swamy"
2d "Mundapaukah Vencanah"
3d "Zulligumpala Swamy," and
4th "Zulligumpalah Gungiah"

5th July 1820.

6th July 1820.

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

(Sent following letter A)

250

W. H.

7 U

Copies

At a Court of the Zoujdaree Adalut

Present,

Monday
10th July 1820. Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges

Read letter dated 22d ultimo,
from the Criminal Judge in the Zilla of
South Malabar,— with copies of warrants for
the banishment of certain convicts to any
Zilla, selected by the Zoujdaree Adalut.—

(Here entered A° 363.)

In the foregoing letter the Crimi=
=nal Judge recommends, that thirteen
Convicts sentenced by the Court of Circuit
at the 1st Session for 820 to imprisonment
and banishment from the Zilla of South
Malabar, should be transferred to the
Zilla of Chittoor, in order to their being
employed on "some great public work
about to be commenced upon" in that
Zilla.—

The Court of Zoujdaree Adalut
have

have not received any notification, that a work of the nature mentioned by the Criminal Judge is in contemplation, but past experience of the fatal effects of a removal to an uncongenial climate on the health of prisoners would, at all events have deterred the Court from adopting the measure proposed by the Criminal Judge.

The Court of Foujdaree do also direct that the prisoners.

1st Variam Kottatil alias Chakingattodyil Mapp
2d " Kalliapidikal, alias Cayimbil, alias Mattadiyil alias, Maryal Marcar "
3d " Athikattil Amaran, "
4th " Kattapaaden Atthen, "
5th " Pattikandan Moyee, "
6th " Poolian Koonan Amaran "
7th " Kanjerapanakel Kary Pookor, "
8th " Mannil Maracar, "
9th " Mannil Moideen Cotty "
10th " Srambikkal Koonjan, "
11th " Karoovantodyil Jeetel, "
12th " Ellambalakerry koonjee Moydeen, "
13th " Pellikatrah koonjee, "

be

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

Ordered, that extract of these proceedings be sent to the Criminal Judge in the Zilla of South Malabar and to the Criminal Judge of Seringapatam for the information and guidance of those officers respectively.—

Sent following letters &c

Cabl 13th

B. 1 P.

Read again letter dated 31st January last, from the 2d Judge of the Court of Circuit in the Southern Division, submitting report on the 1st Quarterly Sessions A.D 1820.—

(Here enter N° 123.)

Read return dated 27th ultimo, from the Provincial Court of Circuit in the Southern Division, — to precept dated 24th April last, ordering them to call on the Criminal Judges of Combaconum,

Virdachellum

Verdachellum, Salem, and Coimbatore to report the number of Convicts, which can conveniently be spared from their respective Jails.—

[Here enter No. 365]

It appears by the returns of the Criminal Judges of Combaconum, Verdachellum, Salem, and Coimbatore to the precepts, issued to them by the Provincial Court, under the orders of the Foujdaree Adalut, ~~under~~ bearing date 24th April last, that from the Zillah Jail at Salem 80 Convicts can be spared, from that of Coimbatore, fifty four, and from that of Verdachellum 18.—

With reference, therefore, to the recommendation of the 2d Judge in his last Circuit Report that a sufficient number of prisoners should be drafted from other Zillas to make up the complement of 250 at Trichinopoly, for the purpose of their being employed on certain

10th July 1820.

certain works of great public utility, the Court of Foujdaree Adalut direct, in virtue of the authority vested in them by Clause fifth Section VIII Regulation XV of 1803, that the Criminal Judges in the Zillas of Salem, Verdachellum, and Coimbatore do transfer without delay the number of prisoners, which can be spared by them respectively, to the Custody of the Criminal Judge in the Zilla of Trichinopoly, in order to their being employed on the public works at that place, for the periods of their respective sentences of imprisonment.—

The Court will expect to receive a Report, containing the names, Crimes, and sentences of the several prisoners, who may be sent to Trichinopoly under the orders of this date, among whom the Criminal Judges in the Zillas of Salem, Verdachellum, and Coimbatore will take care not to include any prisoners, who may have been sentenced only to six Months imprisonment, or whose sentences may be about to expire within

within the term here mentioned.-

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Southern Division, by precept directing them to communicate the same to the Criminal Judges in the Zillas of Salem, Verdachellum, Coimbatore and Trichinopoly for their information and guidance.-

Sent 13th (Sent following precepts)

16 Read return dated 28th ultimo from the 2d Judge of the Court of Circuit in the Northern Division,- to precept dated 5th ultimo ordering communication to the Criminal Judge and Magistrate of Nellore of the Court's Order on a reference by the latter officer regarding the mode of communication maintained by the Criminal Judge.-

(Here enter No 368)

Read letter dated 17th ultimo from the 3d Judge on Circuit in the Western Division,- with copy of Serinja[illegible] Calenda[illegible]

Calendar 1st Session A.D. 1820.

(Here enter No 367)

Read dated 24th January last from the Acting Judge of the Provincial Court of Circuit in the Western Division,- submitting copy of correspondence with the Magistrate of Malabar respecting the removal of Police officers.-

(Here enter No 99.)

Read letter dated 26th January last from the Acting Judge of the Court of Circuit in the Western Division,- forwarding copy of a communication from the Magistrate of Malabar in continuation of the reference under date 24th Instant.-

(Here enter No 86.)

Read again letter dated 5th January last from the Provincial Court of Circuit for the Western Division,- submitting extract of their proceedings and copy of a reference from the 1st Judge on Circuit regarding a case in which there appears a ground for suspecting a District Police Officer of misprision of felony.-

(Here enter No 26.)

Read again letter dated 5th January last from the Provincial Court in the

the Western Division,- submitting copy of an extract of their proceedings and of a communication from the Magistrate of Malabar in continuation of their reference to the Court of Foujdaree Adalut dated 6th January.-

(Here enter No. 48.)

Read letter dated 14th April last from the Provincial Court of Circuit in the Western Division,- forwarding explanation of the Magistrate of Malabar on a point noted in the proceedings of the Foujdaree Adalut under date 24th January last.-

(Here enter No. 263.)

Ordered that the foregoing letters do lie on the table.-

At a Court of the Foujdaree Adalut

Present,

Monday
24th July 1820. Andrew Scott Esqr. } Judges.
Edward Croft Greenway Esqr. }

Read letter, dated 15th May last,
from the 2d Judge of the Court of Circuit
in the Northern Division,- submitting trial
No 12 of the Masulipatam Calendar 2d Quarterly
Sessions of 1820.-

(Here enter No. 914.)

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, are of opinion that the proof against the prisoner Mookhoo Samee Gadoo, is sufficient to convict him of the offence of robbery and wounding ~~~ 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

Regulation I of 1818; and in exercise of the discretion given by Clause fifth. Section IV Regulation XV of 1803 adjudge the prisoner,

"Mookhoo Samee Gatoo,"

be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of five years and then released.—

(Sent following letter A.)

Read letter, dated 14th May last, from the 3d Judge on Circuit in the Northern Division,— submitting the trials Nos 8 and 9 Vizagapatam Calendar for the 1st Sessions A.D. 1820.—

(Here enter Nos 323 & 322.)

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 Soudaree Adalut confirm the said futwas of the Cazee ool Coozat and Mooftees aforesaid and acquit the

the prisoners,

1st "Abdool Aby," and

2d "Syud Hoomar,"

direct that they be set at liberty.—

(Sent following letter B.)

W.W.C. M.

Read return, dated 10th Instant, from the 1st Judge Eastern Circuit in the Southern Division,— to precept dated 29th ultimo ordering communication of the Court's orders regarding a Lunatic prisoner to the Criminal Judges in the Zillah of Madura and Tinnivelly.—

(Here enter No 383.)

Read return, dated 13th Instant, from the 3d Judge on Circuit in the Western Division,— to precept dated 3d Instant ordering communication to the Magistrate in the Zillah of Canara of the Court's observations on Case No 11 Canara Calendar 1st Sessions A.D. 1820.

(Here enter No 406.)

Read letter, dated 17th Instant, from the 1st Judge on Circuit in the Northern Division,— reporting the arrival of the Court of Circuit at Nellore.—

(Here enter No 398.)

Read

24th July 1820

Read letter, dated 8th Instant, from the 2d Judge on Circuit in the Southern Division,- reporting the arrival of the Court of Circuit at Combaconum.-

(Here entered No. 380.)

Read letter dated 7th Instant, from the 3d Judge of Circuit in the Western Division,- reporting the death of Adeavoor Ahmody a prisoner in Case No. 11. Canara Calendar 1st Sessions A.D. 1820.

(Here entered No. 382.)

Read letter, dated 15th Instant, from the 2d Judge on Circuit in the Western Division,- reporting his arrival at Mangalore.-

(Here entered No. 406.)

No. 11.

At a Court of the Poydaree Adalut

Present,

Monday 31st July 1820

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter dated 10th Instant, from the 3d Judge late on Circuit in the Western Division,- transmitting copy of a letter from the Criminal Judge in the Zilla of Seringapatam, who recommends the liberation of a Convict, named Moorar, sentenced under date 18th February 1808 to be imprisoned for life- on the ground of his apparent insanity during the former part of his confinement, and the great change, which has taken place in his conduct since the year 1817.-

(Here entered No. 390.)

On reference to the record

of the trial No 2 of the South Malabar Calendar 2d Sessions A.D. 1819 it appears that the prisoner was tried for the crime of wilful murder and convicted by the Futwa of the Mohummedan Law Officer of the Court of Circuit, in which the Judge presiding at the trial did not concur from a doubt as to the sanity of the prisoner.

3 By the Futwa of the Law Officers of the Foujdaree Adalut the penalty of Deeyut was adjudged against the prisoner on the ground of insanity, and he was sentenced by the Court "to be confined for life."

4 Although the sentence of the Court as above worded differs from the ordinary sentence to imprisonment and labor, yet it is clear from the order of the Court of Foujdaree Adalut, dated 6th January 1809, for the removal of this prisoner to Seringapatam, to be employed on public works at that place, that the confinement to which he was sentenced

was intended as a punishment, and not simply for the security of the public against the acts of a Madman.—

5 The Judge of Circuit, who tried the Case evidently leant to the impression of the prisoners mental sanity, and it would appear, that such was the view taken by the Foujdaree Adalut on trial of the Case, as however the representation of the Criminal Judge of Seringapatam leads to the presumption, that the prisoner may have been deranged at the time when he committed the act proved against him, the Court of Foujdaree Adalut resolve, agreeably to the suggestion of the 2d Judge, to submit the case of the said convict Moorar to the favorable consideration of the Honorable the Governor in Council, and to recommend that he may be released, and furnished with the means of returning to Guzarat.—

Jn

31st July 1820.

6 In laying before the Honorable the Governor in Council the case of the convict abovementioned the Court of Poujdaree Adawlut deem it proper to state, that subsequently to the date of this trial namely on the 29th October 1807, circular orders were issued enjoining a formal investigation of the state of mind of all persons committed for trial before a Court of Circuit, of whose sanity there might exist any doubt, for the purpose of determining on the propriety of their arraignment.-

7 Had the orders in question been in force at the time of the trial of the prisoner Moonar, the examination of evidence to the state of his mind would have been antecedent to and not, as in this case, consequent upon the investigation of the fact of

7 A.

31st July 1820. of the homicide.- that examination must however have resulted in his arraignment, as it did not go to establish the insanity of the prisoner, at the time of the commission of the act charged against him, and he appeared capable of pleading, when put to the bar of the Court of Circuit.-

8 Ordered, that the foregoing letter and enclosure, with Record of the trial No. 2. South Malabar Calendar 2d Sessions A.D. 1807, and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the orders of the Honorable the Governor in Council.-

Sent following letter &
(No 17.)

W. H.

Read letter, dated 18th Instant, from the 1st Judge of the Court of Circuit in the Western Division,- with returned warrant

warrant for execution of the prisoner in Case No 9 North Malabar Calendar 2d Quarterly Sessions A.D. 1820.-

(Here enter No. 415.)

Read letter, dated 15th Instant from the 2d Judge on Circuit in the Southern Division,- with copy of Combaconum Calendar for the 2d Sessions A.D. 1820.-

(Here enter No. 402.)

Read letter dated 19th Instant from the Acting 3d Judge of the Court of Circuit in the Southern Division,- with copy of Trichinopoly Calendar 3d Quarterly Sessions A.D. 1820.-

(Here enter No. 409.)

Read letter dated 22d Instant from the 2d Judge on Circuit in the Centre Division,- reporting his arrival at Cuddapah.-

(Here enter No. 411.)

Read letter, dated 22d Instant from the 3d Judge on Circuit in the

Western Division,- with returned warrant for the execution of the prisoners in Case No 11 Canara Calendar 1st Sessions A.D. 1820.-

(Here enter No. 424.)

Read letter, dated 24th Instant from the 2d Judge on Circuit in the Southern Division,- reporting the arrival of the Court of Circuit at Verdachellum.-

(Here enter No. 423.)

Read return dated 1st Instant from the Provincial Court of Circuit in the Southern Division,- to precept dated 24th April last ordering them to call on the Criminal Judges to report the mode in which the prisoners in their respective Jails are employed.-

(Here enter No. 373.)

Read letter dated 5th Instant from the 2d Judge late on Circuit in the Northern Division,- with returned warrant for execution and transportation of prisoners in case No 12 Rajahmundry Calendar 1st Sessions A.D. 1820.-

(Here enter No. 376.)

Read.

31st July 1820.

Read letter dated 3d Instant from the Provincial Court of Circuit in the Centre Division,— transmitting reports required by the Court's precept dated 20th April last of the mode in which the Convicts in the several Gills within Jurisdiction are employed.—

(Here enter No. 377.)

J. A.

Copied

At a Court of the Foujdarree Adalat

Monday
7th August 1820.—

Present

Andrew Scott, Esqre
Edward Croft Greenway, Esqre } Judges.

No. Weekly Reports prescribed by Section XXXVII Regulation VII of 1802 for the 1st Sessions of 1820 not having been received from the Judges late on Circuit in the Northern and Western Divisions.—

The Court direct that each of the said Judges late on Circuit in the two Divisions aforesaid 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 Precepts.)

Weekly Report on the 2nd Quarterly Sessions of Jail Delivery at Tellicherry for the present year not having been transmitted by the

Last

7th August 1820.

First Judge of the Court of Circuit in the Western Division, as required by the Court's orders of 9th December 1819.

The Court directed that the First Judge be by precept commanded to send in the prescribed Report without fail within two months from the date of the receipt of the precept.

Sent 8th

Sent following precept 187.

Read return dated 26th June last, from the Second Judge of the Court of Circuit in the Northern Division, to the precept of the Tsujdaree Adalut under date 27th April preceding ordering communication to the Criminal Judges of the Zillas of Vizagapatam and Masulipatam and the Magistrates in the Zillas of Nellore Rajahmundry, Vizagapatam and Ganjam of the Court's orders on certain parts of this latter Circuit report.

(Here enter 366)

Read also return dated 24th May last, from the Second Court of Circuit in the Northern Division, to precept dated 27th April last ordering them to call on the Magistrates to report how far orders have been given to Regulation

7th August 1820.

together with the returns to the precept of 27th April the Second Judge transmits copy of an application from the Magistrate of Vizagapatam for a copy of such part of this Circuit Report for the 2nd Sessions of 1819, and of the observations of the Tsujdaree Adalut thereupon as "may have reference to that Zilla," — and of his reply thereto, in which the Second Judge notified to the Magistrate, that "extracts of the further orders of the Court of Tsujdaree Adalut when received, a copy of certain parts of the proceedings of the Tsujdaree Adalut, under date 27th April last, will be furnished to the Magistrate."

There being no provision in the Regulations, which required that a Judge of Circuit should furnish to a Magistrate a copy of his Circuit report, the Court of Tsujdaree Adalut concur in the propriety of the 2nd Judge's refusal of that part of the Magistrate's application; but with respect to the observations of the Tsujdaree Adalut upon the Report, it is the intention of the Court, that such parts thereof, as concern the different subordinate Officers, should be communicated to them respectively. Copy of Vizagapatam

3rd August 1820.

Paragraphs 23, 24 and 25 of the proceedings of the Tonjadaree Adalut dated 27th April ought, therefore, to have been sent to the Magistrate of Vizagapatam on the first instance.—

With reference to the return of the Magistrate of Vizagapatam to the precept of the Court of Circuit, dated 12th August 1819 the Court of Tonjadaree Adalut are of opinion, that the Magistrate's avowal of ignorance, as to the execution of the orders of Government respecting the circulation of Regulation XI of 1816 is not sufficient grounds for the suspension, that "not a copy of the Regulation was "sent to any of the villages throughout the zilla of Vizaga-"patam," although it is clearly indicative of the Magistrate's indifference "to the degree "in which the orders of Government on this "subject may or may not have been executed."

The return of the Magistrate of Vizagapatam to the Court's (circular orders of 3rd April is conformatory of the opinion recorded by the Tonjadaree Adalut on their proceedings of the 27th April above referred to, and the Court accordingly direct that this officer be required to ascertain and report, whether or not copies

No 116.

7th August 1820.

of Regulation XI of 1816 have been furnished to the Heads of Villages in the zilla of Vizagapatam—

Ordered, that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Northern Division by precept requiring him to communicate the same together with paragraphs 23, 24 and 25 of the Extract of the Court's proceedings, dated 27th April last, to the Magistrate in the zilla of Vizagapatam for his information and guidance.

No 117

16th do. Sent following precept &c.

15.1.0

J. A. Copied

At a Court of Foujdaree Adalut

Present

Thursday 11th August 1820. — Andrew Scott Esqre. — Edward Croft Greenway Esqre. } Judges

Read letter, dated 14th May last,

No 11

from the 3rd Judge on Circuit in the Northern

G.C.S.

Division, - submitting trial No 11 of the Vizagapatam

Calendar for the 1st Sessions A.D. 1820. —

(Here enter No. 324)

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 are of opinion, that the proof

against the prisoners, 1st. Guntoogotoo Valapadoray,

2nd. Guntoogotoo Venkandorah, 3rd. Nundalah

Jammiah, 4th. Budnaynay Ramiah, 5th. Doomary

Yendoogaudoo, 6th. Doomary Jaunay, and 7th.

Somalah Lutchoomoodoo, is sufficient to convict

them of the offences of Arson and Robbery, for which

a penalty is specially denounced in Clause second

Section IV Regulation XV of 1803. —

The

9th August 1820. declared on Clause Second Section XXIV

10th August 1820

The Court under the authority vested
in them by Clause first Section II Regulation I of
1818 accordingly adjudge the prisoners,

1st "Gantoogotoo Valapadorah," and
2d "Gantoogotoo Venkandorah"

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 periods of their
natural lives respectively,—

And in excercise of the discretion
vested in them by Clause fifth Section IV Re-
gulation XV of 1803, the Court adjudge the pris-
oners,

3rd "Nundalah Tammah,"
4th "Budnaymay Ramah,"
5th "Doomaury Vendroganboo,"
6th "Doomaury Taumay," and
7th "Somalah Lutchoomoo,"

to be imprisoned and kept to hard labor in irons
on the public roads or other public works, for
during the period of five years and then released

Sent 15th

Sent following letter A/

In the letter accompanying
trial the Third

10th August 1820

"The evidence against the Prisoners
"is so positive, and the specific punishment for this
"crime so clearly laid down in the Regulations, that
"no discretion is left to the Judge on Circuit, in
"passing sentence on them, but as the witnesses are
"all Servants of Sunnasey Rauze and probably
"biassed in his favor, the Court of Fawjdaree Adalut
"Sudut may perhaps be inclined to commute the
"sentence of transportation to a definite term of
"Imprisonment."—

The Court of Fawjdaree Adalut
on an examination of the whole of the evidence in
the Case, as well on the part of the prosecution as
of the defence, respecting the latter of which it
is to be observed, that it makes against the pri-
soners, rather than tending in any way to their
exculpation, - have pronounced them guilty of the
offences laid to their charge, but they deem it
proper to remark on the foregoing passage in
the letter of the 3rd Judge, that any circumstance
having a tendency to impeach the credibility
of the testimony against the accused might have
resulted in their acquittal, but could not with
any colour of propriety operate in mitigation

3. 7th Aug

10th August 1820

punishment, supposing them, nevertheless, to
connicted of the offences charged against them

Ordered, that extract of the
proceedings be sent to the 3rd Judge on Ci
in the Northern Division for his information

Sent 15th

(Sent following letter B)

Read letter, dated 22nd April 1
from the 3rd Judge on Circuit in the Northe
Division, - Submitting Case No. 23 Rajahmund
Calendar for Sessions of 1820. -

(Here enter No 20)

The Court having maturely co
sidered the proceedings held before the Judge
Circuit the futwa of the Provincial Law Of
and the futwa of the Cazee-ool-Coozat and
Mooftees of the Sudder Adalut confirm the
futwa of the Cazee-ool-Coozat and Mooftees of
and acquitting the prisoners,

1st "Toraity Petumna," and
2nd "Cautna Caumoodoo"
direct that they be set at liberty. -

Sent 15th

(Sent following letter C)

The charge against the 2nd pris

1.11.

16th August 1821.

property which the 1st prisoner is charged with having stolen. -

It is obvious to remark, that the words above quoted from the arraignment of the 2nd prisoner, before the Court of Circuit, do not describe any offence, and consequently that the substantiation of such a charge could not have been followed by punishment. -

The Court of Sudder Adalut would have considered it sufficient to point the attention of the 3rd Judge to the defectiveness of the arraignment, as affecting the 2nd prisoner, but that the Record does not furnish any adequate ground for a charge against him of receiving the articles in question, knowing them to be stolen. -

The prisoner, as observed by the 3rd Judge in his letter accompanying the trial, acknowledged "that the ornaments produced "before the Court were tied up in his cloth by "the 1st Prisoner". Such his acknowledgment cannot however be taken as evidence against the 1st prisoner, although the same statement by a competent witness might have led to the 1st prisoner's conviction of the crime of murder laid to his charge. -

It

It appears to the Court of Sayder Udalut, that there is no ground on Record for the committal of the 2d prisoner by the Assistant Criminal Judge, and the proceeding is particularly to be regretted, as eventually depriving the Court of the testimony of a most important witness in a Case of atrocious Murder and Robbery.—

Ordered, that extract of these proceedings be sent to the 3rd Judge on Circuit in the Northern Division, by precept commanding him to make the necessary communication to the Criminal Judge in the Zilla of Rajshahy for his information and guidance.—

Sent 15th

(Sent following precept D)

Read letter, dated 21st March last from the 1st Judge on Circuit in the Southern Division submitting Case No. 14 Dacoity Calendar 1st Sessions No. 1820.—

(Here enter No. 228)

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 Sovdaree Udalut confirm the Futwa

10th August 1820.

of the Cazee-ool-Coozat and Mooftees aforesaid and acquitting the prisoner,

"Uyah Poory"

Dated 15th

direct that he be set at liberty.—

(Sent following letter E)

The Court of Sovdaree Udalut, after the maturest deliberation, have been unable to discover adequate grounds for over-ruling the futwa of acquittal delivered by their Law officers in this case.—

It is observed by the 1st Judge in the letter accompanying the trial, that the cord discovered round the throat of the deceased was "proved to be the one, which the prisoner "always wore round his Waist."—

Had sufficient proof to this fact been adduced, the prisoner might have been connected, but no particular mark having been pointed out by the witnesses, whereby they were enabled to identify the cord, the Court are compelled to admit the validity of the objection taken to the evidence on this point by their Mohammudan Law Officers.—

The Court are of opinion, that the

10th August 1820.

the 1st Judge should have questioned the witness more particularly on this point —

The observation of the 1st Judge that part of the Jewels of the deceased were found "in the prisoner's house," is not agreeable to the evidence in the Record, by which it is shewn that the Jewels referred to were found in the house of another person, named Jumboolingum.—

And upon the concluding observation in the letter of the 1st Judge, that "the act of tearing" the Ear-rings from the Ears of the deceased "must have been observed" the Court have to remark, that by the evidence of the witness Looboo Chitty, before the Criminal Judge, it appears that the Bank of the Nulla, in which the body of the deceased was found, was "two men "height," and it does not appear that the persons who attended while the body was taken up by the prisoner stood at the edge of the Bank, which admits of the possibility of the prisoner's removing the Ear-rings from the body without being observed.—

Certain discrepancies are observed [illegible], between the English

10th August 1820. declared in Clause Second Section XXIV.

and Persian translation of the Record.—The Court do not consider it necessary to particularize the passages in question, but they bring the circumstance to the notice of the 1st Judge, in order that he may exercise particular care in preparing the records of trials for transmission to the Sudder Dewanny Adalut.—

Ordered, that extract of these proceedings be sent to the 1st Judge on Circuit in the Southern Division for his information and future guidance.—

Sent following letter No 1

Read letter, dated 24th April last from the 3rd Judge on Circuit in the Northern Division,—submitting Case No 2 Rajahmundry Calendar 1st Sessions of 1820.—

(Here enter No 290)

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 Sudder Dewanny Adalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, and under the sentence of Sazeer declared

declared against the prisoner,

1st "Shaik Taker,"

adjudge him to be imprisoned and kept to hard la
in irons on the public roads or other public work
for and during the period of one year and then
released;-

And under the sentence of Co
declared against the prisoner,

2nd "Peechakah China Mullo,"

adjudge him to be imprisoned and kept to hard
labor in irons on the public roads or other publ
works for and during the period of one year a
then released;-

And under the provisions of
Clause sixth Section II Regulation XV of 1816
direct, that the prisoners,

3rd "Morumpoody Mootadoo"
4th "Seergoo Loobadoo," and
5th "Bundy Yunamadoo,"

be released on producing security for their goo
behaveour for the period of twelve months, or, in
default thereof, after they shall have remained
for that term in Custody.-

Sent 15th AH

/Sent following letter/ 25

HS AWH

Read return, dated 2nd instant, from

the Provincial Court of Circuit in the Southern
Division,- to the precept dated 7th ultimo ordering com
=munication to the Criminal Judges of Trichinopoly,
Virdachellum, & Coimbatore of the Courts orders
respecting the transfer of certain prisoners to
the custody of the Criminal Judge in the Zilla
of Trichinopoly.-

(Here enter No. 459)

Read letter, dated 1st instant, from
the 3rd Judge late on Circuit in the Northern
Division,- with returned Warrant for execution
of the prisoners in Case No 6 Rajahmundry
Calendar 1st Sessions A.D 1820.-

(Here enter No. 449)

Read letter dated 3rd instant, from
the 2nd Judge on Circuit in the Southern
Division,- reporting his arrival at Salem.-

(Here enter No 448)

Read letter, dated 7th instant, from
the 2d Judge of the Court of Circuit in the
Northern Division,- with copy of Masulipatam
Calendar 3rd Quarterly Sessions A.D 1820.-

(Here enter No 460)

J. U. Copies

At a Court of the Sooydaree Adalut

Monday
14th August 1820

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

1 Read letter, dated 31st Ultimo, from
M the 2nd Judge on Circuit in the Western Division,
GS desiring the opinion of the Court as to "Whether a
"Judge on Circuit is precluded from receiving any
"petition, but what is written on stampt paper."—

(Here enter No 1446.)

2 It is stated by the 2nd Judge in
the above letter to have been his practice hitherto "to
"receive all petitions on unstampt paper," and in his
objections to the application of the provisions of
Section XX Regulation XIII of 1816 to petitions pre=
=ferred to a Judge on Circuit the Court of Sooydaree
Adalut, on mature consideration, entirely concur.—

3 The provisions in the Section of
the Regulation above cited, requiring that all
miscellaneous petitions preferred to a Criminal
Judge or Assistant Criminal Judge, to a Provin=
=cial Court of Circuit, and to the Court of Sooydaree
Adalut

Udalut shall be written on stampt paper, are wholly different in spirit from the provision contained in Section XII Regulation IV of 1808 rescinded by Section II Regulation XI of 1816 which had for its object the discouragement of the numerous petty complaints liable to be preferred from litigious or other improper motives.

4 On the introduction of the present system of Police it was considered proper to retain the enactment last referred to, which certainly was open to objection on general principles, as liable to prevent the institution of well grounded complaints which although not of sufficient importance in themselves of a grave description might materially affect the compliance but it appears to the Court of Foujdaree Udalut that the discouragement of grave complaints to the higher Criminal Tribunals may be calculated to compromise the highest Interests of Police and humanity.—

5 Entertaining these sentiments of the general tendency of the provisions contained in Section XX Regulation XIII of 1816, most particularly with respect to petitions preferred to a Court of Circuit it is the duty of the Court of Foujdaree Udalut to submit to the

Governor in Council the propriety of rescinding such parts of that Section, as require that petitions preferred to a Criminal Judge, or Assistant to a Criminal Judge, to a Court of Circuit, and to the Court of Foujdaree Udalut shall be written on stampt paper.—

6 Under the law, as it now stands, the Court of Foujdaree Udalut do not consider it competent to a Judge on Circuit to receive miscellaneous petitions written on unstampt paper. With respect however to prisoners in Jail it is considered by the Judges to be the object of the provision, contained in Section XXXII Regulation VIII of 1802, that all complaints, which they may have to prefer, should be addressed personally to the Judge on Circuit, and, as statements of this description may be more distinctly given in writing than by oral communication, the Judges are of opinion that it is perfectly competent to a Judge on Circuit to receive from prisoners such written statements, on unstampt paper, which cannot however be made matter of Record, although they may furnish ground of investigation.—

Ordered,

14th August 1820

Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Western Division for his information and guidance.—

Sent 18th

/Sent following letter A/

Ordered also that the foregoing letter and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the orders of the Honorable the Governor in Council.—

Sent 18th

A1 /Sent following letter B/ (No 19.)

GCS Read return dated 2d Instant from the Provincial Court of Circuit in the Southern Division,- to precept dated 3d April last ordering them to call on the Magistrates to report how far circulation has been given to Regulation XI of 816.—

(Here enter No 452.)

Copies

At a Court of the Zoujdaree Adalut

Present,

Thursday 17th August 1820.— } Andrew Scott Esqre — Edward Croft Greenway Esqre } Judges

Read letter dated 11th Instant, from the Secretary to Government in the Judicial Department,- stating that the

EC A1 Governor in Council authorizes the Criminal Judge in the Zilla of Seringapatam to release the Convict Moorad and to furnish him with means of returning to his Native place.—

(Here enter No 465.)

Ordered that extract of the Proceedings of the Zoujdaree Adalut under date 8th ultimo together with copy of the foregoing letter be sent to the 2d Judge late on Circuit in the Western Division by precept enjoining him to communicate the same to the Criminal Judge in the Zilla of Seringapatam for his information and guidance.—

(Precept A.)

14th August

Sent 18th

Sent 18th

J. R. Copies

At a Court of the Foujdaree Adalut

Present,

Monday 21st August 1820. Andrew Scott Esqre } Judges
Edward Croft Greenway Esqre }

Read again letter, dated 7th

1 June last, from the acting 3d Judge of
the Court of Circuit in the Centre Division,
submitting report on the 2d Quarterly
Sessions for 1820, held at Chittoor.—
(Here enter No. 341.)

Read also letter, dated 5th

2 Instant, from the acting 3d Judge of
the Court of Circuit in the Centre Division,
submitting report on the 3d Quarterly
Sessions for 1820, held at Chittoor.—
(Here enter No. 455)

3. The Court proceed to record
such observations as appear to be necessary
on certain parts of the Report of the
acting 3d Judge, dated 7th June last.—

4 By a precept, dated 10th
April

april last, copy of which accompanies the report the acting Magistrate of Chittoor was required to answer several Queries therein propounded relative to the enforcement of certain provisions contained in Regulation XI of 1816.—

5 In answer to the 4th Query, regarding the number of Police Ameens appointed in that Zilla and the powers with which they are entrusted, the acting Magistrate, in his return dated 4th May, states that "the powers vested in the "Police Ameens are the same as those possessed "by the Tahseeldars, at the same time that "the Ameens are subjected to the Tahseeldars "orders and transmit all reports of their "proceedings through the Tahseeldars to "the Magistrate."—

6 On this passage in the return of the acting Magistrate it is obvious to remark, that the description of the powers vested in Ameens as being "the "same as those possessed by the Tahseeldars

"is irreconcileable with the statement "immediately following that the Ameens "are subjected to the Tahseeldars orders."—

7 It appears to the Court of Foujdaree Adalut, that the provisions of Section XL Regulation XI of 1816 are expressed in words perfectly clear and precise, that under those provisions an Ameen of Police, if vested with the Police powers of a Tahseeldar, must be an "immediately under" the Magistrate's own orders; and that, if placed under the orders of the Tahseeldar of the District, an Ameen can only be vested with the Police powers of a Head of Village.—

8 The Remarks of the acting 2d Judge, respecting the neglect and injury of the publick roads, although too indiscriminately applied, appear worthy of attention; and the practices which he describes fall clearly under the description of the acts declared cognizable by the Police, in Clause first Section V Regulation XI of 1816.— the conclusion however, of the acting

3d

3d Judge, that the Regulation appears to
"have remained a Dead letter," is not unapparent
deducible from the Acting Magistrate's
statement, that no orders had been issued
to the Tahseeldars to report, when heads
of Villages may have neglected the duty
therein prescribed to them.—

9 Of the advantages of a
general standard of weights and measures
if it could be established throughout
the territories subject to this Presidency
little doubt can be entertained but any
general scheme of this nature will overcome
the objections of local prejudices and its
practicability may be reasonably granted
it does not appear to the Court that
the provision contained in Section VIII
Regulation XI of 1816,— whereby authority
is given to Magistrates "to receive
complaints regarding frauds committed
"using false weights and measures"
implies the existence of any general

2/ 7 M.
21st August 1820

weights, which are represented by the
acting 3d Judge to be most in use at
Chittoor, appear particularly objectionable,
as not being susceptible of reference
to any local standard, whereby their
accuracy might be determined.—

10 The Court of Foujdaree Adalut
proceed to notice the precepts and returns
accompanying the Report, which refer
to cases in the Calendars laid before the
Court of Quarterly Sessions by the acting
Magistrate, and the Criminal Judge of
Chittoor.—

11 The several orders issued
by the Acting 3d Judge to the Acting
Magistrate in the precept dated 24th April,
are considered by the Court of Foujdaree
Adalut to be perfectly correct, with
reference to the arguments of the Acting
Magistrate in justification of the sentence
of corporal punishment passed by him
on certain persons for the offence of
carrying Arrack into the Cantonment
of

of Arcot, the Court have only to observe that under the provisions of Regulation IX of 1816 corporal punishment can only be adjudged by a Magistrate in cases of petty theft.- The Court concur in opinion with the acting 3d Judge, that the offence in question come within the scope of the provisions of Regulation I of 1808, and it appears to the Court, that with the contents entertained by the Magistrate of the Criminality of persons found into a Cantonment it is his duty to stand aloof the Criminal Judge of the Zilla.-

12. In the 5th paragraph of his return to the precept, under consideration the acting Magistrate states, that he is not "aware that cases subsequently submitted "to the Criminal Judge have at any time "been sent up to him by the Police Officers "excepting when the latter may have been "doubtful in their own minds of the guilt "of the prisoners, and uncertain how to "act have referred to the opinion of the

1808 declared in Clause Second Section XXIV

13. The order of the acting 3d Judge for the discontinuance of this practice is in perfect accordance with the provisions of Section XXVIII Regulation XI of 1816, the neglect of which by the District Police Officers in the Zilla of Chittoor has repeatedly excited the observation of the Court of Sudder Adawlut.-

14 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, and those of which the reference to the Magistrate is enjoined in Section XXXI Regulation XI of 1816.-

15 A doubt in the mind of a District Police Officer, with respect to the guilt of persons whom, after an investigation of the circumstances, he may have apprehended- as required by Section XLVII Regulation XI

of 1816,- forms no ground for a departure from the rule contained in the fourth Clause of that Section, prescribing the jurisdiction to which persons, charged with offences of the nature described in the first Clause, shall be transferred.- And although it is obviously inferrible from the proviso introduced into the first Clause of Section XXVII Regulation XI of 1816, that a Police Officer should dismiss such complaints, as shall not "appear "to be worthy of credit,"- yet it is by no means necessary, that all doubt regarding the guilt of a party should be removed before he can be forwarded to the Criminal Judge of the Zilla.-

15 In support of this construction of the intent and meaning of the rules, contained in Section XXVIII Regulation XI of 1816, it is observable that for the reference of cases to a Criminal Judge it is not requisite, that a Magistrate should judicially determine on the guilt of the accused, but merely, as declared

declared in Clause Second Section XXIV Regulation IX of 1816, that the Magistrate should "satisfy his own mind, that there "is ground to believe the prisoner guilty "of the crime charged against him." The Court are at the same time of opinion, that in cases where a District Police Officer may entertain doubt, as to the class of offences, to which any specific act may belong, he should submit to the Magistrate the complaint and the result of his inquiries, and await such instructions, as the Magistrate may deem it proper to issue for his future guidance.-

17 Connected with the precepts issued by the Acting 2d Judge to the Criminal Judge in the Zilla of Chittoo two points, on which a difference of opinion subsists between those officers, are submitted for the decision of the Court of Foujdaree Adalut.-

18 Upon the 1st which involves the construction of the provision, contained in Section VII Regulation X of

of 1816, authorizing the adjudication
corporal punishment to a certain
the Court coincide in opinion w
acting 3d Judge, that sentences of
punishment can only be passed by
Criminal Judge on persons guilty
Upon the reference to Bengal Reg
I of 1811 made by the Criminal Judge
his return to the precept of the Ac
3d Judge, it may be observed, th
penalty which is otherwise pres
=scribed for the offence of receiving
property, knowing it to be stole
only be adjudged by a Court of C
and that a similar power is ve
in the Courts of Circuit, under
Presidency, by the provisions of Cla
Seventh Section II Regulation XII

19. The second question
for the decision of the Court, re
the release of a certain prisoner
on a requisition of security, under
provisions of Clause 1st Section II

21st August 1820.

Regulation XII of 1803.-

20. On this point the opinion
held by the Criminal Judge is perfectly
correct,- under the provisions of Clause
first Section XI Regulation XII of 1803
it is not competent to a Court of
Circuit to order the release of a prisoner
without security,- who may have
"remained in confinement for a year
"or any longer period under inability
"to give the security required," excepting
on the recommendation of the Criminal Judge;
and the Court of Foujdaree Adalut are of
opinion, that the circumstances of the
case of the prisoner, Khan Mahomed,
are such as to warrant the Criminal
Judge in refusing to make such a
recommendation in his favor.-

21. The report of the acting 3d
Judge on the 3d Quarterly Sessions for
1820 at Chittoor does not call for any
comment from the Court of Foujdaree
Adalut.-

Ordered.

22 Ordered, that extract of these proceedings be sent to the acting 2d Judge of the Court of Circuit in the Centre Division by precept, desiring him to make the necessary communications to the Criminal Judge and the Acting Magistrate in the Zilla of Chittoor.—

(Sent following precept A)

Ordered also, that the foregoing

23 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 Honorable the Governor in Council.—

(Sent following letter B.)

A W.11. Read letter, dated 24th Ultimo,

GS from the 2d Judge of Circt in the Centre Division,— with copy of Chittoor Calendar 2d Quarterly Sessions A.D 1820.—

(Here enter No. 427.)

At a Court of the Foujdaree Adalat.

Present,

Monday 28th August 1820 — Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.

Read letter, dated 25th May last, from the 1st Judge on Circuit in the Southern Division,— submitting trial No. 5 of the Tinnevelly Calendar for the 1st Sessions AD 1820.—

(Here enter No. 329)

GS / A — 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,

"Veerabagoo,"

is sufficient to convict him of the offence of counterfeiting the Coin, called Arcot or Rupee, desire, 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 futwa, to what sentence the prisoner would have been liable under the Mohummudan law if he

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 Cozat and Mooftees for their information and guidance.-

Read letter dated 19th Ultimo, from the Acting 2d Judge of the Court of Circuit in the Southern Division,- submitting trial No: 3 Trichinopoly Calendar 3d Quarterly Sessions A.D 1820.-

(Here enter No: 410)

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 Cazeeool Cozat and Mooftees of the Zoujdaree Adalut, are of opinion that the proof against the prisoners 1st Dilshad, 2d Laulah Meah, and 4th Sooben, is sufficient to convict them of the offence of robbery and wounding for which a penalty is specially denounced in Clause Second Section IV Regulation

Regulation XV of 1803.-

the Court, under the authority vested in them by Clause first Section III Regulation I of 1818, and in exercise of the discretion given by Clause fifth Section IV Regulation XV of 1803 adjudge the prisoners,

1st "Dilshad"
2d "Laulah Meah," and
4th "Sooben,"

be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of three years and then released.-

And under the provisions of Clause sixth Section II Regulation XV of 1803, the Court direct that the prisoners,

3d "Sheik Salamaun,"
4th "Nuthoo Saib,"
5th "Seveneu Alias Mootoocarpen," and
6th "Syed Modeen,"

be released on producing security for their future good behaviour and appearance when required

608 K.H. (And following letter No: 5)

21. Augt

7 M. Copies

At a Court of the Zuydaree Udalut

Present

Thursday 27th August 1820. Andrew Scott Esqre. } Judges.
Edward Croft Greenway Esqre. }

Read again letter, dated 25th May last, from the 1st Judge on Circuit in the Southern Division, - submitting trial No 5 of the Tinnevelly Calendar for the 1st Sessions of 1820.-

(Here enter No 329.)

Ells
M

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 Zuydaree Udalut confirm the said futwa of the Cazee ool Cozat and Mooftee aforesaid and under the sentence of Aothoobut declared against the prisoner,

"Veerabagoo,"

adjudge him to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the space of twelve Calendar Months and then released

(Vide following letter A)

Sungalingum one of the witnesses for the prosecution, stated in evidence before the Court of Circuit that "Enamoolan the brother "of the prisoner ran away into the house" "taking the stamp in his hand," which was used in making the counterfeit Rupees. And in his examination before the Criminal Judge this witness stated, that Leena pillay Munapidar of Congaracoonchy also saw the brother of the prisoner so running off.

Under these circumstances it was obviously the duty of Vadachella Moodily, Head of Police of the Peadagramum Talook, to apprehend the said Enamoolan, as an accessary to the offence charged against the prisoner, and it appears to the Court of Foujdaree Adalut that the omission to seize the stamp argues great neglect on the part of the Police in a most obvious and easy part of their duty.

The Court desire that their observations be communicated to the said Vadachellum Moodily by the Magistrate and

and that the attention of this Police officer be particularly directed to the latter part of Claude first Section XXVII Regulation XI of 1816.-

Ordered that extract of these proceedings be sent to the Judge on Circuit in the Southern Division by precept desiring him to communicate the same to the Magistrate in the Zilla of Tinnevelly for his information and guidance.-

(Sent following precept B.J.)

20

W.H.C.

68

Read letter dated 16th Instant, from the 2d Judge on Circuit in the Southern Division,- submitting copy of Salem Calendar 2d Sessions A.D. 1820.-

(Here enter No. 472)

In case No. 6 of the Calendar it is stated that the prisoner, who was charged with theft from two persons, prosecutors in the Case, "pleaded guilty, but "being insane he was ordered to be remanded to

31st August 1820.

"to Jail and detained in confinement until
"he shall recover the use of his right senses."

By the circular orders of the Court of Foujdaree Adalut, under date 29th October 1807 it is directed that in cases where there may be grounds to believe that a prisoner committed for trial is deprived of reason, the Judge on Circuit shall enter on an investigation of the state of the prisoner's mind, and if he be found to be insane, and to have perpetrated the offence charged under a deprivation of intellect, shall order him to be confined in such place and manner as he may think fit, "subject to the "further orders of the Court of Foujdaree "Adalut, to whom the Judge will immediately "report all the circumstances of the case."

With reference to the above orders the Court direct, that the 2d Judge on Circuit in the Southern Division be by precept commanded to transmit to the Court within fifteen days from the date

7th August 1820.

date of the receipt of the precept a copy of such examination, as he may have taken, regarding the state of mind of the prisoner, Arnachelum, together with a Report of all the circumstances of the case for their orders thereupon.—

(Sent following precept &
Read letter dated 27th ultimo,
from the 2d Judge late on Circuit in the
Western Division,— submitting copy of South
Malabar Calendar for Sessions A.D. 1820.—
(Herewith A. 429.)

In cases Nos. 6, 9, 13, 16, 24, and 25 of the Calendar certain prisoners are sentenced to banishment "from the Western "Division" to any Zilla selected by the Court of Foujdaree Adalut.—

In their orders on the Cases in question the Court of Foujdaree Adalut have over-ruled the sentences so passed by the 2d Judge and have directed that the prisoners should be banished to Seringapatam for the periods of their respective sentences of imprisonment.—

The

31st August 1820.

from the 1st Judge on Circuit in the
Northern Division, - with copy of Nellore
Calendar 2d Sessions A.D. 1820. -
/Here enter No. 443./

M

EC

At a Court of the Poujdaree Adalut.
Present,

Monday 4th September 1820. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

M 1 Read letter, dated 27th July last, from the 2d Judge on Circuit in the Southern Division, - with copy of Verdasheltem Calendar for the 2d Sessions A.D. 1820. -
/Here enter No. 432./

2 In case No. 7 of the Calendar it is stated that the prisoner, who was charged with Horse stealing, "pleaded "guilty to the Indictment but, being "insane, he was ordered to be remanded "to Jail, and to be detained in confinement "until he shall recover the use of his "right senses."

3 By the circular orders of the Court of Poujdaree Adalut, under date 29th October 1817, it is directed that in cases where there may be grounds to believe, that a prisoner committed

for.

31st August 1820.

31st August 1820

The Court deem it necessary to apprize the 3d Judge of the Court of Circuit in the Western Division, that under the provisions of Clause third Section VIII Regulation XV of 1803 it is not competent to a Court of Circuit to pass sentence of banishment from the division subject to the Jurisdiction of the Court, but only "from the district in which a prisoner's place of abode is situated"—

Under the provisions of the enactment here cited the Court of Udalut have authority to order the removal of convicts, sentenced to banishment, to "any district," and the Court will always be ready to give due consideration to a recommendation from the Court of Circuit, in cases where from particular circumstances banishment from the District may be thought to be expedient for the ends of justice—

Ordered, that extracts of the proceedings be sent to the third Judge

31st August 1820

last 5th

late on Circuit in the Western Division for his information and future guidance.

Sent following letter D.

W. 18

Read letter dated 26th Instant, from the acting 3d Judge on Circuit in the Centre Division,—reporting his arrival at Cuddapa to take up the Circuit commenced by the late 2d Judge of the Provincial Court in the Centre Division.—

(Here enter No. 484)

Read letter dated 22d Instant, from the 3d Judge on Circuit in the Southern Division,—reporting his arrival at Coimbatore.—

(Here enter No. 479)

Read letter, dated 16th Instant, from the 1st Judge on Circuit in the Northern Division,—with returned warrant for execution of the prisoners 1st 2d and 5th in Case No. 1 Masulipatam Calendar 1st Quarterly Sessions AD 1820.

(Here enter No. 476.)

Read letter dated 2d Instant, from

for trial is deprived of reason, the Judge on Circuit shall enter on an investigation of the state of the prisoner's mind, and if he be found to be insane, and to have perpetrated the offence charged under a deprivation of intellect, shall order him to be confined in such place and manner as he may think fit, "subject to the further orders of "the Court of Foujdaree Udalut, to whom "the Judge will immediately report all "the circumstances of the case."—

4 With reference to the above orders the Court direct, that the 2d Judge on Circuit in the Southern Division be by precept commanded to transmit to the Court within fifteen days from the date of the receipt of the precept a copy of such examination, as he may have taken, regarding the state of mind of the prisoner, Shaykh Salar, together

together with a report of all the circumstances of the case for their orders thereupon.—

Sent following Precept &c

No 16. Read letter dated 29th ultimo

from the 2d Judge on Circuit in the Southern Division,— submitting copy of Darapooram Calendar for the 2d Sessions of 1820.—

(Here enter No 490.)

To the Court of Foujdaree Udalut.

2 Observing that in Case No 3 of the Calendar the trial of the prisoners, who have been in custody ever since 9th January last, has been postponed until the ensuing Sessions on account of the absence of a material witness on the part of the prosecution, and of the witnesses named by the prisoners, deem it proper to call upon the Second Judge to ascertain, whether the necessary measures were adopted to ensure the attendance of the witnesses in question, and also to explain whether in

4th September 1820.

in the event of the witness for the prosecution having been bound over to appear, the penalty of his recognizance has been declared forfeited to Government.—

3 Ordered that extract of these proceedings be sent to the Second Judge on Circuit in the Southern Division by precept commanding him to furnish the requisite information with regard to the forfeiture of the amount of the recognizance of the witness with as little delay as possible.—

(Sent following Precept By)

Dist^t Ells
M

W.14.

Read return dated 28th Ultimo, from the 1st Judge of the Court of Circuit in the Western Division,— to precept dated 7th ultimo calling for report on the 2d Quarterly Sessions for 820 at Tellicherry.—

(Here enter No 494.)

Read return dated 23d Ultimo from the 2d Judge late on Circuit in the Northern

2/ Fll
4th September 1820

Northern Division, to precept dated 10th Ultimo, ordering communication to the Acting Criminal Judge in the Zilla of Rajahmundry of the Court's Orders in case No 23 Rajahmundry Calendar 1st Sessions AD 1820.

(Here enter No 487.)

Read letter dated 3d Ultimo from the acting 3d Judge of the Court of Circuit in the Southern Division,— submitting report on the 3d Quarterly Sessions of Jail delivery at Trichinopoly.

(Here enter No 447.)

4. September 1820.

in the event of the witness for the prosecution having been bound over to appear, the penalty of his recognizance has been declared forfeited to Government.-

3 Ordered that extract of these proceedings be sent to the Second Judge on Circuit in the Southern Division by precept commanding him to furnish the requisite information with regard to the forfeiture of the amount of the recognizance of the witness with as little delay as possible.-

(Sent following Precept By

Dated 8th Sep. 1820. M

W 14.

Read return dated 28th Ultimo, from the 1st Judge of the Court of Circuit in the Western Division,- to precept dated 7th ultimo calling for report on the 2d Quarterly Sessions for 1820 at Tellicherry.-

(Here enter No 494.)

Read return dated 23d Ultimo from the 2d Judge late on Circuit in the Northern

2/ Fll

4th September 1820

Northern Division, to precept dated 10th Ultimo, ordering communication to the acting Criminal Judge in the Zilla of Rajahmundry of the Court's orders in case No 23 Rajahmundry Calendar 1st Sessions AD 1820.

(Here enter No 487.)

Read letter dated 3d Ultimo from the acting 2d Judge of the Court of Circuit in the Southern Division,- submitting report on the 3d Quarterly Sessions of Jail delivery at Trichinopoly.

(Here enter No 447.)

F. U.

At a Court of Sayidaree Udalut

Present

Thursday 7th September 1820.

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges

1 Read Letter, dated 3rd. Ultimo, from the 1st. Judge late on Circuit in the Centre Division, - submitting the report prescribed by Section XXXVII Regulation VII of 1802. -

Here enter No. 437

2 The Court proceed to record some observations on certain passages in the above report, which call for remark. -

3 The 4th and four succeeding paragraphs of the Report are occupied in a discussion of the propriety of the provision, contained in Clause second Section V Regulation XI of 1816, which declares that "Heads of Villages shall not receive from any "person, whom they may apprehend any confession "either verbally or in writing, except in the trivial cases "referred to in the preceding clause of that Section." -

4 In paragraph 20th. the 1st Judge observes as follows: - "Eye Witnesses to the commission "of offences of any magnitude are scarcely ever "obtained, confession in some place or other, is the ground

"ground of almost all the connections, and in proportion as
"it is illegalized, the Courts of Criminal justice labour
"in vain and become useless.—

5 The large proportion of connections, founded solely upon confessions, to which the 1st Judge adverts in the above paragraph, appears to the Court of Foujdaree Adalut to be attributable to the neglect of the District Police Officers to obtain all procurable evidence, material to cases brought before them, as required by Clause Second Section XXVII Regulation XI of 1816, and to the marked preference given by those Officers to confessions over every other species of proof.—

6 The experience of the Court of Foujdaree Adalut of the undue practices resorted to by Police Officers, for the purpose of obtaining confessions stands directly opposed to the opinion, expressed by the 1st Judge on the 22d paragraph of the Report "that force of any kind and even menace for such "a purpose have of late years, in the Company's territories been scarcely ever heard of."—

7 In their circular instructions of 18th June 1817,— recited in the extract of the proceedings of the Foujdaree Adalut submitted to Government, under date 25th November last, the Court

7th September 1820.

Court inculcated the necessity of attention on the part of the several Judicial authorities to the means of suppressing the practices, known to prevail, of "obtaining by the flattery of hope, of "extorting by threats or ill treatment, and of "fabricating confessions."—the Court never considered it necessary to explain, that confessions obtained by such means could not be received as evidence against a prisoner, nor did they suppose that any Judicial Officer could require to be informed that to the validity of declarations from accused persons, tending to their own crimination, it is essential that such declarations be "free and "voluntary."—

8 It is with feelings of astonishment and concern that the Court have perused the concluding passage in the 22d paragraph of the Report, wherein the 1st Judge distinctly advocates the propriety of committing persons on confessions, "if full and circumstantial, by "whatever means short of compulsion obtained."—

9 The Court will not enquire when the 1st Judge would propose to draw the line, or to what extent the application of threats or blows

to

to which the 1st Judge incedentally adverts, as ordi=
=nary concomitants of the examination of a "suspected
offender," might in his opinion be carried without
their becoming compulsory. — In the opinion of
the Court of Foujdaree Udalut an acknowledg=
=ment of guilt, unless spontaneously delivered, cannot
be admitted against an accused person without a
flagrant violation of the first principles of justice,
and from past experience of the abuse of the power
of recieving confessions by the Heads of Police
the Court are persuaded of the wisdom of the
restriction, imposed in this respect on the inferior
and numerous class of Police Officers, by clause
second Section V Regulation XI of 1816, which the
1st Judge proposes to abolish. —

10 On the expression of the 1st Judge
in the 20th paragraph above quoted, that in proportion
as confession "is illegalized the Courts of Criminal
Justice labor in vain and become useless" — the Court
deem it sufficient to observe that in their view
of the subject, the personal security of the innocent
is a result of the pure administration of Criminal
Justice, at least as important as the punishment
of offenders; and that the proposition of "legalizing"
confessions, as explained by the 1st Judge in the

the 22d paragraph of the report would tend, if
adopted to destroy security of person, and render
our Criminal Courts an object of terror instead of
confidence to the guiltless without ensuring the
certain condemnation of the guilty. —

11 The alteration, which the 1st
Judge suggests in the 24th paragraph of the
Report, in the wording of Section X Regulation
X of 1816 is considered by the Court of Foujdaree
Udalut to be objectionable, as every criminal
trial is eventually referrible from the Court
of Circuit to the higher Court, who might not
concur in the propriety of the rejection of evidence,
deemed to be superfluous by the inferior tribunal

12 The Court of Foujdaree Udalut
are compelled to remark, in this place, that the
1st Judge appears insensible to the obligation of
exercising "circumspection and tenderness," in the
admission of confessions from persons accused,
with regard particularly to confessions alleged to
have been given before the Native Officers of
Police, the Court are of opinion, that their too
easy admission will always operate as a tempta=
=tion to impose false confessions on the Courts,
and that to the discouragment of this atrocious
practice

7th September 1820.

practice it is necessary, that all the additional evidence, which a case may admit of, should be uniformly required, and carefully taken, both by the Criminal Judges and the Courts of Circuit.—

13. The suggestion of the 1st Judge in paragraph 29, that summonses for attendance at Sessions of Jail Delivery should be sent to the houses of persons required, instead of the publication prescribed by Section XVIII Regulation X of 1816, appears to the Court to be expedient and proper.—

14 With reference to the observation of the 1st Judge at the conclusion of the 35th paragraph of the Report the Court of Foujdaree Adalut have to observe, that it is unquestionably competent to and incumbent on a Court of Circuit to notice to a Criminal Judge all instances in which it may appear, that persons have been committed or held to bail by him for trial on insufficient grounds.—

15 The observations of the 1st Judge in paragraphs 31, 32 and 33, respecting the expediency of direct communication between a Criminal Judge and the Zahseeldars of the district

7th September 1820.

district, are in principle agreeable to the opinion of the Court of Foujdaree Adalut, but it appears to the Court that the subjection of these officers to the authority of the Criminal Judge would be impracticable under the existing system of Police.—

16 In paragraph 34 the 1st Judge urges the expediency of vesting in the Courts of Circuit and the Foujdaree Adalut that authority to call for the proceedings of the Magistrates, which those Courts possessed under the provisions of Sections XVI and XVII Regulation IV of 1811.—

17 The Court of Foujdaree Adalut having in their proceedings of the 24th February and 11th November 1819 laid before the Government the grounds of their conviction, that the measure "of rendering the provisions of Sections XXIV and "XXV Regulation X of 1816, applicable to the pro-"ceedings of the Magistrates and their Assistants "was necessary for the better regulation of the "office of Magistrate and essential to the ends "of public justice," consider any further agitation of

7th September 1820.

of that question by the Court to be superfluous and unnecessary.—

Circular sent from Para 18 to 21 inl.

18 In paragraph 35 the 1st Judge proposes that the authority of Tahseeldars and Heads of Villages should be extended to the cog=nizance of trifling thefts, and observes that "if "a man steal a few ears of grain, a fowl or a cocoanut, "he, his accusers and the witnesses against him, "are now sent to the Tahseeldar and to the Cri= "=minal Judge, because, although clause first "Section XXVII Regulation XI of 1816 mentions theft "of a considerable amount, as those referrible "to the Criminal Judge, no direction is any "where given what is to be done when the thefts "complained of to a Head of a village or to a "Tahseeldar are trifling.—

19 The Court of Foujdaree Adalut are of opinion that the extension of Judicial authority, vested in the Native officers of Police, which is here suggested by the 1st Judge, is highly objectionable both as dangerous in itself and at variance with the spirit of the Criminal enactments of 1816, and it appears to the

7th September 1820.

the Court that the mode of disposing of trifling cases of theft, described by the 1st Judge, is virtually if not expressly prohibited.—

20 By Section XXXIII Regulation IX of 1816 "the Magistrates are authorized to hear "and determine, without reference to any authority "all complaints or prosecutions brought before "them for petty theft, where they shall not have "been attended with any aggravating circum= "=stances or committed by persons of notorious "bad characters."— although, therefore, no spe= =cific "direction" is given on the point, it is clearly implied by the words of this Section, as well as by those of Section XXVII Regulation XI of 1816, that such complaints are to be referred by the Tahseeldar to the Magistrate, and not to the Criminal Judge.—

21 From the Reports submitted to the Court of Foujdaree Adalut under the pro= =visions of Section XXXV Regulation X of 1816, the Court do not collect, that it is a general practice with District Police Officers to refer

cases

cases of petty theft to the Criminal Judges, they incidentally come to the knowledge of the Court that the Magistrates of some Zillas have instructed the Heads of Police to refer all cases of the nature described in Section XXXIII Regulation IX of 1816 to them, or to the Assistant Magistrates, and as these instructions are more explanatory of the obscure intention of the law, the Court consider it to be desirable, that orders to the same effect should be given by all the Magistrates to the District Police Officers under their authority.—

22

In paragraph 37 the 1st Judge recommends an extension of the allowance granted to prosecutors and witnesses, under the provisions of Section XXXIII Regulation of 1816.—

23

Of the inconvenience and unnecessary loss, to which prosecutors and witnesses are subjected by their attendance before the Courts of Circuit, the Court are fully aware. The last is one, however, which cannot be avoided consistently with the due administration of public justice. From

which the whole community derive inestimable benefit, and as no complaints appear to have been made by individuals of the inadequacy of the prescribed indemnification, it does not appear to the Court of Fouzdaree Udalut, that any augmentation is called for.—

24

Upon the general remarks of the 1st Judge from the 38th paragraph to the conclusion of the Report, on the subject of the "prevention of offences," the Court of Fouzdaree Udalut do not deem it necessary to make any comment.—

Ordered, that extracts of these proceedings be sent to the 1st Judge late on Circuit in the Centre Division for his information and future guidance

(Sent following letter A)

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 before the Honorable the Governor in Council.—

(Sent following letter B) No 21

Ordered

Ordered further that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept desiring them to communicate the same to the several Magistrates in their respective divisions for their information and guidance.—

(Sent following circular Precept C)

J. A.

At a Court of the Foujdaree Adalut—

Present,

Monday. 11th September 1821. Andrew Scott Esqre —— Edward Croft Greenway Esqre } Judges—

Read letter dated 28th ultimo, from the 1st Judge of the Court of Circuit in the Western Division,— submitting report on the Second Quarterly Sessions for 1821 held at Tellicherry.—

(Here enter No. 493)

2. Respecting a case of murder on the North Malabar Calendar 2d Quarterly Sessions of 1820 the 1st Judge observed, that "there was no other proof than the confession "of the first prisoner before the Police "Officer, and which affording strong "suspicion of having been extorted, was "very properly rejected by the Law Officer".

3 The Court of Foujdaree Adalut trust, that the circumstances of the case in question were brought to the notice

of

11th September 1820.

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

Sent 12th

W. H. Sent following letter B/R22

Read again petition presented by the Vakeel Vencatarama Sastry on behalf of Goday Sooriya Narrain Rowe.—

(Recenter Misc. Pet. No 2 of 1820)

Ordered that the foregoing petition do lie on the table

18th Sept. 1820.

the Record in this case has been drawn up.

[illegible] observable [illegible]

[illegible] translation which

Monday At a Court of the [illegible]

4th September 1820. Present

Andrew Scott Esquire
Edward Hugh Greenway Esqre } Judges

Read letter, dated the 2d Inst. from the First Judge on Circuit in the Northern Division, submitting trial No 17 of the Nellore Calendar for the 2d Session A.D. 1820. (Here enter No 17)

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 Cuzzee-ool-Coozat and Mooftees of the Tongdaree Talook are of opinion that the proof against the prisoner Sally Ramsoodoo is sufficient to convict him of the offence of Gang Robbery and murder for which he is penally & specially denounced in Clause first Section IV Regulation XV of 1803.—

The Court under the authority vested

voted on them by Clause first Section II Regulation I of 1818 accordingly adjudge the said prisoner

1st "Catty Kouwaadoo"

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

And the Court, confirming the said finding of the Facts and Charge and Mosfeed of the Circuit Adalut, by which sentence of Oubaheet is given against the 2d 3d and 4th prisoners, under the provisions of Clause first Section IV Regulation XV of 1803 adjudge the said prisoners,

2d "Catty Mudrogaudoo"

3d "Vroomalaswady Naudrogaudoo" and

4th "Catty Cherichoogaudoo"

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

(Sent following letter A.)

2. The Court of Foujdaree Adalut deem it necessary to record their censure of the inaccuracy with which the English translation of the

the Record in this case has been drawn up. Several discrepancies are observable between the English and Persian translations, which the Court do not consider it requisite to particularize, they will merely notice one instance of error so palpable, as to demonstrate the inattention of the 1st Judge to the duty of revising the record. The plea of the prisoners to the arraignment, which according to the Persian translation, as well as the whole tenor of the proceedings, was "not guilty" is there transcribed in the English translation "We are convicted these "crimes".

3. The Court in their proceedings of 15th April 1819 animadverted upon the "negligence, with which the English translation of the proceedings" in a case referred by the 1st Judge had been drawn up, and they regret that their observations should have failed to impress on the 1st Judge the necessity of exer-

particulars case in preparing the records of this
for transmission to the Foreign Office. Ordered.

4 That Court of Royal Alcalde
being of opinion that the mode of recording
the pleas of the prisoners collectively, in
the first person plural, is irregular and other-
wise objectionable, direct that the 1st Judge
do in future demand and record the
plea of each prisoner, separately - and all
cases where several persons are arraigned
on the same charge - after the arraignment
has been read to them collectively.

5 Ordered, that extract of these
proceedings be sent to the 1st Judge and Crown
in the Northern Division for his informa-
tion and future guidance.-

(Send 3 following letters)

1 Read letter dated 6th instant
from the Criminal Judge and the Letter of Mr
of Scotland - transmitting copies of certain statements
taken by the Assistant Criminal Judge

in a case of murder and robbery and recom-
mending the offer of an additional pardon
to Pedrogoe Thorncastle, a person who has
been apprehended, as an accomplice.
(Vide order No 11)

2 In the foregoing letter the Crimi-
nal Judge observes + + + that "upon investi-
gation of this charge it did not appear
from any evidence, that the above named
prisoner was either concerned in the murder,
or present when it was said to be committed
by the prisoner Cuthbert of Barbadoes."
and the reasons assigned by the Criminal
Judge for his recommendation, that a pardon
should be tendered to the individual in
question, is that without the evidence of
of this man the proof of the deceased
having met their death by wounds inflicted
on them will probably be insufficient."

3 On reference to the papers trans-
mitted by the Criminal Judge it appears,
that the witness Rogromaldo Cummins,
who states "that he went with some others
to see" the bodies of the deceased, deposes to
the

charge this prisoner, if it shall appear that there is no evidence of his having been concerned in the committing of the crimes with which he is charged, after which his evidence could of course be taken, - and that under the provisions of Section XX. Regulation VIII of 1802 it is only to suspected accessaries that a tender of pardon is in certain cases to be recommended "on condition of their making a full disclosure of all circumstances within their knowledge relative to the commission of the crimes".

5 Under the circumstances elicited in the examinations transmitted by the Criminal Judge the Court of Zuijtlaren decided are wholly unable to account for the absence of the official inquest on the bodies which it required to be made by the District Police Officer or in his absence the head of the Village under the provisions of Section XIII Regulation XI of 1816; and the Court consider it to be the duty of the Criminal

the fact "that the deceased were dead from wounds on their throats, which appeared "to the witness / inflicted by a knife"; and another witness, Mensela Schaap, deposed, that he "saw the dead bodies, that the whole village "went to see at the same time his Self, and "that there was a spot of blood near the "bodies about two hands breadth".

Under the circumstances deposed to by these witnesses it does not appear to the Court of Zuijtlaren Arondissement, that there is reason to apprehend any deficiency of proof as to the fact of the violent deaths of the deceased persons, and they do not therefore concur in the recommendation of the Criminal Judge, that a tender of conditional pardon should be made to Pedoejoe Seeramoeth for the purpose of obtaining his testimony to this fact, suppressing him to be implicated in the murder, but the Court have to remark that under the provisions of Section IX Regulation X of 1816 it is the duty of the Criminal Judge to dis-

18th Sept

18th September 1820.

Criminal Judge to supply to the Magistrates
in all such cases for the original proceed-
ings held by the Police, whence they may
not be transmitted, as also for further evi-
dence whenever, as in the present case it
shall appear, that there are persons capa-
ble of giving evidence material to the
charge who have not been sent to the
Criminal Court.-

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

Sent following letter &c

Sent 21st

A1
808

1817.

With reference to the orders of the
Court of Judicature Adalut under date the 10th July
last, directing the transfer of certain Prisoners to
the custody of the Criminal Judge in the Zillah
of Trichinopoly from the Zillahs of Salem, Verda-
chellum and Combatore, the Court direct that the
Provincial Court of Circuit in the Southern

7.16.

18th September 1820.

Sent 18th

Divisions be by precept commanded to call on the
Criminal Judges in the Zillahs of Salem, Verdachel-
lum and Combatore for a report, containing the
names, crimes, and Sentences of the several prisoners
who may have been sent to Trichinopoly under
the instructions of the Sudder Adalut of
the above date.-

/Sent following precept D:/

Read return, dated the 8th in-
stant, from the 1st Judge of the Court of Circuit
in the Southern Division, to precept dated 31st
ultimo,- ordering communication to the Magis-
trate of Tinnevelly of the Court's observations
on case No 5. Tinnevelly Calendar 1st Sessions
A.D. 1820.-

/Here entered No 501/

Read return, dated the 13th
instant, from the Acting Third Judge on Circuit
in the Centre Division, to the precept dated
21st ultimo,- ordering communication to the
Criminal Judge and Magistrate of Chittoor
of the Court's observations on certain parts of
his report on 2d and 3d Quarterly Sessions
A.D.

18th September 1820.

A D 1820.

[Here enter N.513]

Read letter, dated the 13th instant, from the Third Judge late on Circuit in the Western Division, to forward dated 17th ultimo, - ordering communications to the Criminal Judge in the Zillas of Seringapatam of the orders of Government relative to the commutation of a convict sentenced to imprisonment for life -

[Here enter N.514.]

Read letter, dated the 6th from the Third Judge late on Circuit in the Western Division, - stating his reasons for the delay in transmitting report prescribed by Section XXXVII Regulation VII of 1802 -

[Here enter N.504.]

Read letter, dated the 11th inst. from the Acting Third Judge on Circuit in the Carnatic Division, - requesting his intention to proceed to Bellary on the 15th

[Here enter N.512]

18th September 1820.

Read letter, dated the 14th instant, from the First Judge on Circuit in the Northern Division, - reporting his arrival at Rajahmundry -

[Here enter N.500.]

At a Court of the Coudaree Udalut
Present,

Monday 25th September 1820. Andrew Scott Esqre. } Judges
Edward Croft Greenway Esqre. }

Copy of the Cuddapa Calendar for the 2d Sessions of 1820 not having been received.—

It is ordered that the Acting 2d Judge on Circuit in the Centre Division be by precept commanded to send up copy of the aforesaid Calendar with as little delay as possible.—

Sent following Precept 4/
250

At a Court of the Poujdaree Adalut
Present,

Thursday
28th September 1820.— Andrew Scott Esqre. — } Judges
Edward Croft Greenway Esqre. }

11 1 Read again letters dated 16th and
2 29th Ultimo, from the 2d Judge on Circuit
in the Southern Division, with copies of
Salem and Daraporiam Calendars for the
2d Sessions of 1820.—

/Here enter Nos. 472 and 490./

2 The records of the Proceedings
held by the Second Judge in cases Nos. 73 of
the Salem and 2 of Daraporam Calendars, which according to the remarks
entered in the foregoing Calendars are to
be referred to the Poujdaree Adalut not
having been received,

3 The Court direct that the Second
Judge on Circuit in the Southern Division
be by precept commanded to send up the
Records of the Proceedings held by him
in the two cases aforesaid within
ten days from the date of the
receipt

receipt of the Precept.—

Sent Oct. 2 Sent following Precept N.

W. P.

Read again letter dated 25 Instant, from the 2d Judge of the Provincial Court of Circuit in the Western Division, requesting that the Court of Foujdaree Adalut will call for a certain petition, presented by a convict in the Jail of the Zilla of Canara to the 2d Judge on Circuit, and forwarded by that Officer to the Provincial Court

(Here enter No. 498.

2. Read also letter, dated 6th Instant, from the 2d Judge on Circuit in the Western Division,— transmitting abstract translation of a petition from a convict named Derahayel Ramiah, confined under a sentence of 5 years imprisonment and hard labor, who prays that the proceedings in cases Nos. 5 and 6 of the Canara Calendar for the 2d Sessions of 1818 may be laid before the Foujdaree Adalut with a view to a commutation of his sentence.—

(Here enter No. 508)

3. The 2d Judge observes at the

ground of the present reference the consideration that "the case is an unprecedented one" and that the Regulations "do not contain any "provision which can be applied to it," and proceeds to observe that should "the "reference be entertained by the Foujdaree "Adalut and ultimately lead to any commu- "tation of the Petitioner's sentence it may "naturally be expected that few prisoners "hereafter convicted by the Courts of Circuit, "would resist the temptation of endeavouring "to seek a reversal of their sentences by "an appeal to the Foujdaree Adalut."

4. The existing Regulations convey no right of Appeal from the judgments of the Courts of Circuit, and it is manifest, that the tendency of the privilege, if allowed, would be such as the 2d Judge describes:— but the Court of Foujdaree Adalut are of opinion that it is competent to a Judge of Circuit after completing the trial and delivering Judgment in a case not referrible to the higher Court, to receive any representa- tion which a Convict may address to him; and eventually to found thereupon a reference of

of the trial to the Poydarree Adalut, should any circumstance be elicited affecting the grounds of the judgment.—

5. The Court of Poydarree Adalut considers that the Judge who may have presided at a trial is the only Officer competent to receive the objections, which a party convicted may have to urge against the sentence passed upon him, and that no representation of this nature should be entertained by that Officer, unless preferred before his departure from the Station, at which the trial may have been held.—

6. Ordered, that extract of these proceedings be sent to the Judges of the Provincial Court of Circuit in the Western Division for their information.—

sent & rec^d

(sent following B.)

7. Ordered also, that extract of these proceedings be sent to the 2^d Judge on Circuit in the Western Division for his information and guidance.—

M sent & rec^d.

(sent following letter 6)

Read

25

21st Aug^t

18th Sep

d 25th

21 7 M.

28th September 1820.

Read return dated 16th Instant from the 2^d Judge on Circuit in the Southern Division to precept dated 8th ultimo calling for the proceedings held by him in the case of a Lunatic prisoner.—

(Here enter No. 515.)

Read return dated 16th Instant from the 2^d Judge on Circuit in the Southern Division,— to precept dated 4th Instant calling for his proceedings in the case of a Lunatic prisoner.—

(Here enter No. 516.)

Read return dated 16th Instant from the 2^d Judge on Circuit in the Southern Division,— to precept dated 4th Instant calling on him to state whether the amount of the recognizance of a witness who failed to attend the Court of Circuit at Coimbatore had been declared forfeited to Government.—

(Here enter No. 517.)

Read letter dated 13th Instant from the 3^d Judge late on Circuit in the Western Division,— to precept dated 7th ultimo, calling

calling for report on his late Circuit.—

(Here enter No. 523)

Read return dated 20th Instant from the Provincial Court of Circuit in the Western Division,— to precept dated 5th ultimo ordering communication to the Magistrates within their jurisdiction of the Court's orders relative to cases of petty theft &c.—

(Here enter No. 526.)

At a Court of the Puisnee Adalut

Present:

Monday 2d October 1820. Andrew Scott Esqr. } Judges
Edward Croft Greenway Esqre. }

Read letter dated 17th ultimo from the Criminal Judge in the Zilla of Bellary,— desiring the instructions of the Court as to the legality of the mode adopted by the Magistrate of taking examinations in cases referred by the Police Officers.—

(Here enter No 520)

In the foregoing letter the Criminal Judge states, that in cases sent in to him for trial, which have been referred in the first instance by the Police Officers to the Magistrate, he has observed that the Magistrate and his Assistant instead of transmitting examinations regularly taken, and on separate papers, as required by Section XXVIII. Regulation IX of 1816,— "at the foot of the depositions, not "on oath, before the Police Officers, generally "put a further question on oath with the "intention," as the Criminal Judge supposes, "of giving the former deposition an appearance

"of greater validity."-

3. The mode of proceeding here described is irregular and improper.- in all cases referred by a Police Officer to the Magistrate an enquiry should be instituted De Novo into the circumstances of the charge, and that enquiry should be conducted invariably in the mode prescribed in Section XXIV. Regulation IX of 1816.-

4. It appearing probable from the frequency with which cases referred to the Magistrate of Bellary by the District Police Officers are transferred to the Criminal Judge, that the provisions of clause fourth Section XXVII Regulation XI of 1816 are not generally observed by those Officers,- the Court desire that the attention of the several District Police Officers in the Zilla aforesaid be particularly called to the provisions of the Clause above mentioned, and that they be instructed that the cases described in Section XXXII and XXXIII Regulation IX and Section XXXI Regulation XI of 1816 are alone regularly referrible by them to the Magistrate.-

5. Ordered, that Extract of these proceedings be sent to the Judges of the Provincial Court of Circuit in the Centre Division by precept commanding them to communicate the same to the Criminal Judge and the Magistrate in the Zilla of Bellary for their information and guidance.-

(Sent following precept &)

Read letter dated 22d Ultimo from the 1st Judge of the Court of Circuit in the Western Division,- submitting copies of North Malabar Calendars for the 3d Quarterly Sessions of 1820.-

(Recorded No 531.)

2. In case No 1 of the Calendar the prisoner, who was charged with a violent assault endangering the life of a female, is stated to have been "acquitted in consequence "of his being insane at the time the act was "committed,- and discharged by the Court."-

3. Under the Circular instructions of the Boyd dated 27th October 1807, the circumstances of the above case should have been reported for their orders, and the Court deem the neglect of those instructions

instructions by the 1st Judge in this case to be
the more censurable, as a person liable
under the influence of insanity to commit
acts of serious personal violence, could not
be turned loose upon society without
endangering the public safety.-

4 In case No 1 of the Supplemental
Calendar the Court of Foujdaree Adalut observe
the following remarks recorded by the
Committing Officer.-

5 "This prisoner was examined
"twice by the Magistrate for Robbery, once
"he was punished with one years imprisonment,
"and hard labour, and once released the charge not
"being proved, he was examined three times by the
"Criminal Judge for Theft, once punished with
"30 stripes and 6 months imprisonment, and twice
"released, the charge not being proved; he was
"once again examined by the Criminal Judge
"for beating and grossly abusing an Officer at
"Cananore, and was sentenced to 20 days imprison-
"-ment and hard labour."-

6 As under the foregoing circum-
-stances the prisoner, Mangaladen Anarden,
must

7th

2d October 1820

must be regarded as a person of "notorious
"bad character," the Court of Foujdaree Adalut
are of opinion, that he ought not to have
been released without security.-

7 Ordered, that extracts of these
proceedings be sent to the 1st Judge of the
Court of Circuit in the Western Division
for his information and future guidance.-

Sent 6th (Sent following letter B)

1 Read letter dated 30th ultimo, from
the Acting 2d Judge on Circuit in the Centre
Division, - submitting copy of Cuddapah
Calendar 2d Sessions A.D. 1820.-

(Here enter 534)

2 The Court of Foujdaree Adalut
desire to have before them copies of the
Futwas delivered in the undermentioned cases.-

3 In case No 13, in which the prisoner,
convicted on a charge of Burglary, has been
sentenced to six months imprisonment and
hard labor in irons.-

4 In case No 15, in which the
prisoner, who was charged with theft of
property valued at Rupees 142 " 13 " 2, - and
with respect to whom it is stated, that he
"pleaded

"pleaded guilty before the Criminal Judge and "the prosecutor's property was taken on him," has been ordered to be released.-

5 In case №29, in which the 1st prisoner, stated to have been convicted of "Ye hmut wa Hirtear Sarakad," has been sentenced to receive 39 Rattans with seven years imprison=ment with hard labor in irons.-

6 And in case №65, in which the 1st prisoner, convicted on a charge of arson in the prosecution of a robbery, for which offence the penalty of transportation for life is specially prescribed in Clause Second Section IV. Regulation XV. of 1803,- has been sentenced to receive 24 Rattans and five years imprison=ment with hard labor in irons.-

7 The Court of Foujdaree Adalut observe, that Ratchiagree Lutchmegadoo, the 2d prisoner in case №45 of the Calendar, has been convicted of house breaking and theft to a large amount perpetrated on the 17th January 1820,- and has been sentenced to receive 24 Rattans with six years imprisonment with "hard labor in irons."-

8. On reference to the last report of

2d October 1820.

of persons apprehended in the Zilla of Cuddapa the Court observe, that this prisoner is stated to have been "released on security "by warrant of the Foujdaree Adalut."-

9. The date of this prisoner's release is not mentioned in the report, but on reference to the Report of prisoners confined under sentence in the Zilla of Cuddapa up to 23d September 1819 it appears, that this prisoner was not then in confinement, and as his name does not appear in any case tried by the Foujdaree Adalut, since the date last mentioned, the offence of which he has now been convicted must have been committed after his release on security.-

10. Under these circumstances the Court of Foujdaree Adalut deem it proper to direct, that payment of the amount of the security Bond entered into by the person or persons, who became surety for the aforesaid Ratchiagree Lutchmegadoo, be required from the said surety or sureties by the Criminal Judge in the Zilla of Cuddapa, and in the event of its not being paid on such requisition,

2d October 1820.

requisition, that it be levied by the usual process, for the recovery of money, from the Civil Court.-

11. The Criminal Judge will report to the Zoujdaree Adalut through the Court of Circuit what he may do under this order for realizing the amount of the security bond, which has thus become forfeited to Government.-

12. Ordered, that extract of these proceedings be sent to the Acting 3d Judge on Circuit in the Centre Division by precept commanding him to send up copies of the several Putwas aboamentioned with as little delay as possible, and also enjoining him to communicate to the Criminal Judge in the Zilla of Cuddapa such parts of these proceedings as concern that officer for his information and guidance.-

Sent 6th

(Sent following precepts &c.)

Read return dated 16th ultimo from the Provincial Court of Circuit in the Centre Division,- to precept dated 9th ultimo ordering communication to the Magistrates within their jurisdiction of the County orders relative to

3/ 7 11.

2d October 1820.

to cases of petty theft.-

(Here enter No. 528.)

Read return dated 22d ultimo from the Provincial Court of Circuit in the Northern Division,- to precept dated 7th ultimo ordering communication to the several Magistrates of the Court's instructions relative to cases of petty theft.-

(Here enter No. 533.)

Read letter dated 27th ultimo, from the 1st Judge on Circuit in the Centre Division with returned warrant for the execution of two prisoners in case No. 26 Cuddapa Calendar 1st Session 1820.-

(Here enter No. 530.)

Read letter, dated 25th ultimo, from the 2d Judge on Circuit in the Southern Division,- reporting his arrival at Madura.-

(Here enter No. 532.)

W

E.C.S

W.H.

At a Court of the Foujdaree Adalut

Present,

Thursday.

5th October 1820. Andrew Scott Esqre } Judges
Edward Croft Greenway Esqre }

1. Read letter dated 9th August last

M from the 3d Judge late on Circuit in the Northern

EGS Division, submitting copy of the proceedings of the Magistrate and the Assistant Criminal Judge in the Zilla of Rajahmundry, and of the proceedings of the Provincial Court of Circuit for the Northern Division in a case, brought to the notice of the 3d Judge by petition of a prisoner com=plaining of the sentence passed against him by the Assistant Criminal Judge.

/Here enter No. 474./

2. It appears on reference to the foregoing letter and the several papers which accompany it, that the 3d Judge on Circuit, being of opinion that Yellooru Ramachendrudoo, a prisoner in the Jail of Rajahmundry, under sentence of the Assistant Criminal Judge, had been punished upon insufficient grounds, directed that the record of the proceedings in the case should be laid before the Judges of

the

the Court of Circuit collectively for their order under the provisions of Section XXIII Regulation X of 1816.-

3. And the Judges of the Court of Circuit on a review of the proceedings having dissented from the opinion of the 2d Judge on Circuit, and confirmed the sentence, which had been passed in the Case by the Assistant Criminal Judge,- the whole of the proceedings are submitted by the 2d Judge "for the ultimate decision of the Judges of the Foujdaree Adalut."

4. The Court of Foujdaree Adalut, being of opinion that under the provisions of Section XXIII Regulation X of 1816 the further reference of the proceedings in a case, submitted to the Court of Circuit collectively by a Judge on Circuit, is only competent to the Provincial Court of Circuit, should they deem such reference necessary, resolve to return the foregoing letter and enclosures to the 2d Judge, whose individual appeal from the judgment of the Court of Circuit is considered by the Foujdaree Adalut to be wholly irregular.-

5. Ordered, that the foregoing letter and enclosures with extract of these proceedings be sent to the 2d Judge late on Circuit in the Northern Division for his information and guidance.-

Sent following letter A/

Sent 5th

10th Read return, dated 25th ultimo from the Provincial Court of Circuit for the Southern Division,- to precept dated 18th ultimo ordering them to call on the Criminal Judges of Salem, Verdachellum and Coimbatore for Statements of the named crimes and sentences of the prisoners transferred to the custody of the Criminal Judge in the Zillah of Trichinopoly.-

/Here enter No 535./

Read return, dated 26th ultimo, from the Provincial Court of Circuit in the Southern Division,- to precept dated 7th ultimo ordering communication to the Magistrates within their jurisdiction of the Court's instructions relative to cases of petty thefts.-

/Here enter No 536/

Read letter, dated 27th ultimo, from

5th October 1820.

from the Acting 2d Judge on Circuit in the Centre Division - reporting his arrival at Bellary.

(Here enter No. 537.)

Read return dated 27th ultimo from the 2d Judge of the Court of Circuit in the Northern Division - to precept dated 9th August last ordering communication to the Magistrate of Vizagapatam certain parts of the Court's proceedings on the 2d Judge's late Circuit report and calling for a report respecting the circulation of Regulation XI of 1816 in the Zilla of Vizagapatam.

(Here enter No. 536.)

p. 11.

At a Court of the Foujdaree Adaulut.

Present,

Monday, 9th October 1820.

Andrew Scott Esqr.
Edward Croft Greenway Esqr. } Judges.

Read letter dated 6th ultimo from the Criminal Judge in the Zilla of Tinnevelly, submitting copy of correspondence with the Magistrate relative to the propriety of vesting a Cutwal with the powers of an Ameen of Police.

(Here enter No. 521.)

2. It appears from the papers accompanying the foregoing letter, that the Criminal Judge having observed that the Tahseeldar of Nelliambolam delegated the powers vested in him by Section XXVII of Regulation XI of 1816 to the Cutwal of the Town of Tinnevelly, applied to the Magistrate for information as to whether the Cutwal had been appointed an Ameen of Police under the provisions of Section XL of the above Regulation.

The

3. The Magistrate states in reply, that he had ordered the Cumud provided for by the Section of the Regulation last cited to be issued to the Cutwal, subsequently to which a case of robbery having been referred to the Criminal Judge by the Tahseeldar of Nellcamcholam, with examinations purporting to be taken by Vencatasamy Naiken, a Cutwal of the Town of Tinnevelly,— the Criminal Judge represented to the Magistrate, that the appointment of this individual, as Ameen of Police, "must virtually annul "his appointment of Cutwal," with reference to the provisions of Section XXIV Regulation XI of 1816, which declares that Cutwals, wherever "it may be necessary to employ them, shall "be subject to the authority of the Tahseeldars "and Heads of villages."—

4. The Magistrate in reply to this last communication from the Criminal Judge intimated his doubt as to the applicability of the provisions of Section XXIV Regulation XI of 1816 to large towns, and observed that "as "no functions of Police are exercised by any inhabitants

"inhabitants of Tinnevelly,"— "the incompa-
"-tibility of the Cutwals duties, as subordinate
to the Heads of the village, with those of
"an Ameen of Police does not exist in this
"instance."—

5. From the whole of the correspondence of which the heads have been above cited, the Court of Sudder Adawlut collect, that it has been the practice of the Head Police Officer of Tinnevelly to employ the Cutwal of the town in the transaction of the Police duties vested in him, as Native Collector of the district, and that in the opinion of the Magistrate the appointment of the Cutwal to be an Ameen of Police removes all objection to such an arrangement.—

6. Section XL. Regulation XI of 1816 expressly defines the powers of an Ameen of Police to be either, "those vested in Heads of villages," or "those vested in Tahseeldars," and the duties assigned to a village and a District Police Officer, respectively, are alone those, which such an Ameen is competent to perform.—

7. If an Ameen be vested with the

9th October 1820.

the powers of a District Police Officer, he must be placed immediately under the Magistrates own orders; and if placed under the Tahsildar of the District, he can only exercise the Police powers of a Head of a village.-

8. The Court of Foujdaree Adawlut have considered it requisite to record their remarks on the nature of the appointment of Police Ameen, generally, in order to remove the misapprehension, which the Magistrate appears to entertain of the nature of that office and the Court deem it necessary to observe further, that it is not competent to any native servant, employed under the Tahsildar of a District, to perform the duties enjoined in the several Clauses of Section XXVII Regulation XI of 1816.-

9. With respect to the question immediately submitted by the Criminal Judge the Court are decidedly of opinion, that the situation of Cutwal is incompatible with the appointment of Ameen of Police, whether such Ameen be invested with

with the powers of a Head of a Village, or

9th October 1820. of a Tahsildar.-

10. Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Southern Division by precept enjoining them to communicate the same to the Criminal Judge and the Magistrate in the Zilla of Tinnevelly for the information and future guidance of those Officers respectively.-

Sent following precept &c.

Court 10th E.C.S

11. Read return, dated 6th instant, from the Provincial Court in the Centre Division, to precept dated 2d Instant ordering communication to the Criminal Judge and the Magistrate of Bellary of the Court's orders respecting an irregularity in the latter officers proceedings.-

(Here entered No. 551.)

Read letter dated 2d Instant, from the 2d Judge on Circuit in the Western Division, reporting that he has received a petition from a Convict sentenced to

receive

receive 39 Stripes and to be imprisoned for
7 years at the last Sessions of Jail delivery,
praying a commutation of his sentence.—

(Here enter No. 544.)

Read letter dated 2d Instant
from the 2d Judge on Circuit in the Western
Division,— reporting the completion of the
Jail delivery in the Zilla of Canara.

(Here enter No. 542.)

At a Court of the Zoujdaree Adalut
Present,

Monday 16th October 1820— Andrew Scott Esqre — Edward Croft Greenway Esqre } Judges

Read letter dated 14th May
last from the 2d Judge on Circuit for
the Northern Division,— submitting trial
No 17 of the Vizagapatam Calendar for the
1st Sessions A.D. 1820.—

(Here enter No 321.)

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 Zoujdaree Adalut
confirm the said futwa of the Cazee ool
Coozat and Mooftee aforesaid and
acquitting the prisoners,

1st Saulapoo Appiah," and
2d Tandy Canniadoo",

direct that they be set at liberty.—

Sent following Letter A.

The

2. The Law Officers of the Fouj-
dary Adalut observe in their Petition, that "no signs
"appear to have been held on the body of
"the deceased, or its identity ascertained."

3. It would appear, indeed, by the
evidence of the witnesses, Gunnoo Pydah
and Gorapilly Nookanah, before the
Criminal Judge, that Vizianamacharloo
Cousin of the deceased, on being informed
of the murder, desired the witnesses not to
make it known, and resolved to have the
body privately burnt, but the testimony
of this individual was obviously required
to corroborate a statement, by which the
clandestine disposal of the body and the
postponement of the complaint against the
prisoners is by no means satisfactorily
accounted for.

4. It is also observable, that the
testimony of the above named witnesses
before the Criminal Judge differs from
that delivered by them before the Court of
Circuit, with respect to the motive assigned
by the said Vizianamacharloo, for desiring the

the information, communicated to him,
of the murder:- In the former depositions
Vizianamacharloo is stated to have said
to these witnesses,- "do not mention this
"circumstance, for I am a lone man, they
"might also kill me." in the latter he is
represented to have remarked to them,
"if you tell this circumstance now to any
"one, they will not allow Venkatachariod
"corpse to be burnt,- therefore stay quiet."

5. The two witnesses in question
agree in stating, that a boy named Pettan
Pedapah, son of the deceased, who was
sleeping in the hut with his father, came
and told them that persons "were killing
"Venkatacharloo:" this boy is not brought
forward as a witness, but it appears to the
Court of Foujdaree Adalut, that his testimony
in support of the account given by these
witnesses was essential to the establishment
of the guilt of the accused.

6. Several discrepancies are
observable between the English and
Persian translations of the Record:- the
Court will on the present occasion
merely

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2 "

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merely specify one - in order to point out
to the 2d Judge the necessity of exercising
greater care in the preparation of the
for reference to the Poojdaree Vocatah

7. In the English translation
of the proceedings held before the Court
Judge the answer of the witness Judge
=pundah Goonnapah to the question

8. "What did the prisoners state in
"their declarations?" before the Police Officer
is given as follows -

9. "Appiah the 1st prisoner declared
"that a Rajah having desired him to
"kill Santoolooy Venkatachaloo, he did
"him, and afterwards that Gavarah
"told him, that himself and some other
"Paulicaupoolay, killed Venkatachaloo
"also told some other circumstances, and
"a declaration to be written."

Whereas the Persian Translation of
answer of the witness literally rendered
is as follows:-

10. "Appiah the 1st prisoner
'in his declaration that a certain

K. M.

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'Son of a Rajah, told him to kill Vencata=
=charloo - to which he answered "I will
'not kill him" - and that afterwards Gavarah
'Somanah told him / the 1st prisoner / that
'he himself together with some ryots in
'his service killed Vencatachaloo -

11. 'The 1st prisoner caused certain
'other circumstances to be written in
'his declaration -

12. 'And Tandy Canivador / 2d prisoner /
'caused it to be written, in his declaration,
'that he knew nothing respecting the
'murder of the deceased."

13 The Persian version is sub=
=stantially in accordance with the contents
of the declarations, to which the witness
deposed, whereas the English translate
is in direct contradiction to the declaration
of the 1st prisoner, and all mention of the
2d prisoner's declaration is omitted -

14. The Court of Poujdaree Adalut
having remarked, that the 2d Judge, in
referring trials, frequently gives a summary
of the evidence and the futwa of the
Law

merely specify one,- in order to point out to the 2d Judge the necessity of exercising greater care in the preparation of trials for reference to the Poujdaree Adalat.-

7. In the English translation of the proceedings held before the Criminal Judge the answer of the witness, Moogoo =pundah Goonnapah, to the question,

8. "What did the prisoners state in "their declarations,"- before the Police Officer, is given as follows:-

9. "Appiah the 1st prisoner said "that a Rajah having desired him, to "kill Sautoolooy Venkatachalo, he killed "him, and afterwards that Gavarah Somanah "told him, that himself and some others "Paulicaupoolo, killed Venkatachalo,- and "also told some other circumstance, and caused "a declaration to be written:"-

Whereas the Persian Translation of the answer of the witness literally rendered, is as follows:-

10 "Appiah the 1st prisoner stated in his declaration that a certain person, son

=son of a Rajah, told him to kill Vencata =chalo- to which he answered "I will not kill him"- and that afterwards Gavarah Somanah told him the 1st prisoner, that he himself together with some ryots in his service killed Vencatachalo:-

11. The 1st prisoner caused certain other circumstances to be written in his declaration:-

12. And Sandy Canivadoo 2d prisoner caused it to be written, in his declaration, that he knew nothing respecting the murder of the deceased."-

13 The Persian version is substantially in accordance with the contents of the declarations, to which the witness deposed, whereas the English translation is in direct contradiction to the declaration of the 1st prisoner, and all mention of the 2d prisoner's declaration is omitted.-

14. The Court of Poujdaree Adalut having remarked, that the 2d Judge, in referring trials, frequently gives a summary of the evidence and the Futwa of the Law

16th October 1820.

Law Officer without any opinion on the case, deem it proper to direct that Offices attention to the provisions of Section XXV Regulation VII of 1802, which prescribes that "in all cases in which the Courts "of Circuit are directed not to pass sentence, "the Judges are to accompany the record "of the trial, ordered to be transmitted to "the Foujdaree Adalut, with a letter "containing their opinion on the merits "of the case."—

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

Sent 26th

(Sent following letter B.)

1. Read letter dated 27th June last from the 3d Judge on Circuit in the Western Division, submitting trial No 7 of South Malabar Calendar 1st Session A.D. 1820.—

(Here enter No 378.)

The Court having maturely considered

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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 acquitting the prisoners,

1st "Mambilookaut Kuttnen Nair,"

2d "Connery,"

3d "Coolotheroen Cherata Kristna Nair,"

4th "Cholakarry Kristna Nair," and

5th "Cholakary Kannen Nair,"

direct that they be set at liberty.—

Sent 26th

(Sent following letter C.)

2. The Judges of the Court of Foujdaree Adalut, after the most attentive consideration of the Proceedings held in this case have been unable to follow the 3d Judge in his conclusion, that the charge is brought home to the prisoners.—

3. The 3d Judge observes in his letter accompanying the trial that "the "evidence to the Alibi," set up by the prisoners "is certainly very strong," "but "not sufficiently so," in his opinion, to

16th October 1820.

"to take the evidence for the prosecution."-

4. The testimony to the Alibi, as respects the 1st 2d 3d and 5th prisoners being clear and circumstantial, and the witnesses thereto being more numerous than the witnesses to the acts charged against the prisoners, the Court of Poujdaree Adalut would have hesitated to give credit to the evidence for the prosecution, had it been in all respects consistent:- but it appeared to the Court that the credibility of the 1st 2d and 3d witnesses is materially affected by the evidence of the 6th witness for the prosecution, who explicitly contradicts their statement, with respect to the cries proceeding from his house, and the prisoners being there on the night of the affray.-

5. The Law Officers of the Poujdaree Adalut notice in their futwa the discordance between the plaint of the prosecutrix and the evidence of the 1st 2d and 3d witnesses, regarding the person who struck the deceased

3/ F.C.

16th October 1820.

deceased with a Brat tree spear, with respect to which the 7th Judge observes in his letter accompanying the trial, "that the prosecutrix did not witness the affray and being an old and infirm woman, she could not be expected to state her complaint with precision."-

6 The Court of Poujdaree Adalut admit the force of the 7th Judge's observation, but deem it necessary to remark, that the Criminal Judge committed a palpable error in drawing up the arraignment according to the statement of the said prosecutrix, and in direct contradiction to the evidence of the persons disposing before him, as eye witnesses to the transaction.-

7. This error in the arraignment of the 1st and 2d prisoners is highly important, and had the issue of the case been different, would have gone to vitiate the proceedings as respected them, and it was the duty of the 7th Judge to have caused the rectification of the error, before the prisoners were brought to the bar

of

of the Court of Circuit.—

2. Ordered, that extract of these proceedings be sent to the 3d Judge on Circuit in the Western Division by precept enjoining him to make the necessary communication to the Criminal Judge in the Zilla of South Malabar for his information and future guidance.—

(Sent following Precept D)

Sent 25th
M
E.C.S
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F. R.

At a Court of the Foujdaree Udalut

Friday 20th October 1820

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
} Judges

1. Read letter, dated 11th instant, from the 1st Judge of the Court of Circuit in the Southern Division,— with copy of Trichinopoly Calendar for the 4th Quarterly Sessions of 1820.—

M
E.C.S

(Here enter No. 556)

2. In case No. 3 of the Calendar it is stated, that the prisoner, who was charged with theft to a large amount, "pleaded guilty to the "indictment and convicted of Manut, but it being "proved that he is insane he is remanded to Jail, "there to be confined until his family or friends "give satisfactory security for his future good "behaviour to the Criminal Judge.—

3 By the circular orders of the Court of Foujdaree Udalut, under date 29th October 1807, it is directed that in cases where there may be grounds to believe, that a prisoner committed for

for trial is deprived of reason, the Judge of the Court of Circuit shall enter on an investigation of the state of the prisoner's mind, and if he be found to be insane, and to have perpetrated the offence charged under a deprivation of intellect, shall order him to be confined in such place and manner as he may think fit," subject to the further "orders of the Court of Foujdaree Udalut, to whom "the Judge will immediately report all the "circumstances of the case."—

4 With reference to the above orders the Court direct, that the pat. Judge of the Court of Circuit in the Southern Division be by precept commanded to transmit to the Court within fifteen days from the date of the receipt of the precept a copy of such examination, as he may have taken, regarding the state of mind of the prisoner, Abdul Cawder, together with a Report of all the circumstances of the case for their orders thereupon.—

sent 26th

/Sent following Precept &/.

1 Read letters dated respectively 2nd June, and 5th July last, from the Provincial Court

Court of Circuit in the Centre Division submitting copies of certain precepts issued to the Criminal Judge in the Zilla of Chittoor and of that Officers returns thereto, and referring certain points arising out of the said precepts for the decision of the Foujdaree Udalut.—

/Here enter Nos 355 & 385/

2 The first of the letters above noticed contains references on two points for the determination of the Court of Foujdaree Udalut.—

First "Is a Court of Circuit collectively authorized to mitigate the sentences passed by a Criminal "Judge in cases punishable by him under section "VII. Regulation X. A.D. 1816."?

3 The question is answered by the very words of Section XXIV of the same Regulation, "Two or more Judges of a Court of Circuit forming "a Court at the Sudder Station are hereby declared "competent on all occasions, when it may appear "necessary upon petitions presented to them re"lative to the proceedings of any Criminal Judge "or of an Assistant to a Judge within their jurisdiction "to call upon the Judge for his proceedings or "those of his Assistant on the case and to pass such

"such orders thereupon as they may deem proper
"and consistent with the Regulations."—

4. The Criminal Judge of Chittoor does not appear to doubt that this provision vests in the Superior Court the power of reversing his sentences altogether; and it would be a waste of time to demonstrate that the minor power of mitigating sentences of unmerited severity must necessarily be included in the Major power of reversal altogether. Vain also would it be to combat the argument, that the propensity of an inferior judicial officer to differ in opinion from other Judges ought to defend his acts from ordinary supervision and control, and subject individuals to a hopeless forbearance of grievances inflicted by the errors of his self will.—

5. The second Question is,
"Whether in cases not expressly
"provided for by the Regulations a single Judge
"of Circuit (except when holding Sessions) is authorized
"to issue a precept or order to a criminal Judge,
"such precept or order not being final"?

6. The duties to be performed and powers exercised by single Judges of the Provincial Courts of Appeal in the absence of the other Judges

J. U
25th October 1820.

Judges of the Court are defined in Regulation VIII 1809 and the definition which is expressed with regard to the Civil jurisdiction must apply by analogy to the criminal jurisdiction of the Court.—

7. The single Judge is required by clause second Section III of the above Regulation
"To execute all decrees and orders which may
"have been passed by two or more judges of the
"Provincial Court, and which may not have been
"carried into full execution."—

8. As this would appear to be the precise point under reference regarding the sentence passed by the Criminal Judge on a person named Muddoor Sooba Row, and which had been reversed by a competent Court, tho' their order had not been carried into full execution, it is unnecessary to pursue the subject further.—

9. The first of the questions proposed in the proceedings transmitted with the letter of the latest date is—"Whether in petty cases
"which are cognizable by a Criminal Judge
"and in which the parties injured or supposed to
be

20th October 1820.

be injured are present or forthcoming, he can cause
"the proceedings to be carried on in the name of
"the Government"—

10. The Court have no hesitation
in declaring, that they recognize no such author-
-rity in a Criminal Judge — It would in fact
be enlarging the incitements to frevolous com-
-plaint, which it is the spirit of the criminal
code generally to discourage.—

11. The second Question is "Whether
"the conduct of the Criminal Judge of Chittoor
"in his language to his Superior Court and in
"disputing the propriety of their orders in the
"several cases, treated of in his Returns, be such
"as the Foujdary Adawlut think becoming, and
"be not a violation of the express provision of
"the latter part of Section II Regulation XXII 1802".

12. The Provincial Court no doubt
feel the responsibility, which attaches to them
for upholding their own authority, and maintain-
-ing a due subordination among the judicial
officers under their jurisdiction, and that in
any instance wherein they may feel called upon

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upon to represent any act of an inferior amounting to
a disobedience of, opposition to, or contempt of their
authority, it is not discretionary with the Judges
of the Courts of Sudder and Foujdary Adawlut to
withhold the representation from the knowledge
of Government.—

13. In the present instance the Pro-
-vincial Court have not preferred against the
Criminal Judge of Chittoor a charge of disobedience
of, opposition to, or contempt of their authority, but
they have submitted to the opinion of the Foujdary
Adawlut returns of that Officer which they consider
to be expressed in language altogether unauthor-
-ized, and the following is the passage particularly
brought to the notice of the Court of Foujdary
Adawlut, — "This is a mere conjecture of the Court
"of Circuit, which is contrary both to fact and the
"assertion of the Criminal Judge."—

14. On this passage the Court have
no hesitation in pronouncing, that it is highly
contemptuous and indecent, and if they could
believe that the Criminal Judge had deliberately
indicted it with a knowledge of the full extent
of its meaning, and with the intention of insulting
his superiors they would have deemed the course
of

of proceeding adopted by the Provincial Court to be quite inadequate to the purposes of duly maintaining the authority vested in their hands, and of suppressing so gross an act of insubordination and contempt.— But on a careful perusal of the whole of the Criminal Judges return the Judges are disposed to believe, that he has used these expressions without sufficiently reflecting on their force, and without adverting to their manifest impropriety, and even under this view of the case the Judges are of opinion, that the Criminal Judge of Chittoor owes much to the lenient course pursued by the Judges of the Provincial Court on the occasion.—

15. If the Court have erred with regard to the intentions of Mr. Dacre it will still be competent to that Gentleman to uphold them, and he will do so with a knowledge of the extent to which such persistence will necessarily carry him; but if the Court have correctly inferred that Mr. Dacre had it not in view to offer a direct insult to the authorities, to which he is immediately subordinate, they conclude that he will be impressed with a sense of the propriety of justifying the correctness

F. R.
to
20 October 1820.

correctness of the opinion here recorded by a suitable address from himself to the Judges of the Provincial Court whom he has offended however unintentionally on his part.—

16. The Court will dismiss this unpleasant subject with the expression of their hope that it will not be renewed, and with a distinct intimation to Mr. Dacre, that any future instance of his indulging in similar license of expression in his returns to the precepts of his superiors, must be submitted for the consideration and orders of the Honorable the Governor in Council.—

17. The Court of Fouzdaree Adalut having recorded their sentiments on the points immediately submitted for their decision by the Provincial Court deem it necessary to notice an error into which the Provincial Court appear to have fallen with regard to the prosecution of charges against Officers of Police for extortion oppression and other abuse of authority under the provisions of Regulation III of 1819.—

18. The Court are of opinion, that in such cases, when the Magistrate shall consider the information and evidence before him

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him to be sufficient for bringing the parties to trial before the Zilla Crimenal Court, or when the Criminal Judge shall commit the parties for trial before the Court of Circuit the prosecution should be public and conducted by the Vakeel of Government.—

19. Ordered, that extract of these proceedings be sent to the Crimenal Court of Circuit in the Centre Division by precept requiring them to communicate the same to the Criminal Judge in the Zilla of Chittoor for his information and future guidance.—

sent 24th

/Sent following Precept B/

W.M. Read letter dated 11th Instant from the Criminal Judge in the Zilla of Bellary, submitting for the orders of the Court copy of a correspondence with the Magistrate regarding the attendance before the Criminal Judge of witnesses to confessions delivered before the Magistrate or the Officers under his authority.—

/Here enters Pp. 558/

The general question submitted for the decision of the Court of Foujdaree Adalut in the foregoing

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foregoing reference is whether, or not, witnesses to confessions delivered before a Magistrate or his subordinate officers are required to be forwarded to a Criminal Judge with the proceedings on the case.—

The Magistrate states it to be his opinion, that in cases wherein "a confession before the Magistrate or his Assistant is confirmed by the prisoner," before the Criminal Judge, "there can be no necessity for the attendance before the latter Officer, "of the witnesses who "attested it,"—and that in cases wherein a prisoner, when brought before a Criminal Judge, may deny his confession before the Magistrate, "neither "the Criminal Judge, nor the Court of Circuit "can convict him, upon proof by the witnesses "to his confession before the Magistrate, that it "was voluntary."—

The Court of Foujdaree Adalut do not deem it necessary to go into an examination of the grounds advanced by the Magistrate for his opinion, that in two descriptions of cases here referred to the attendance before the Criminal Judge of the witnesses to confessions, taken before the Magistrate or his subordinate Officers, is not "of

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"of any practical utility,"- the opinion of the Magistrate as to the invalidity of such confessions for proof against a prisoner upon his trial before the Tribunals of the Criminal Judge and the Court of Circuit, is wholly erroneous, and the Court are surprised that the provisions in the Regulations, which require such confessions to be attested by as many creditable persons as the Mohomedan law requires to give them validity, did not lead the Magistrate to conclude, that these confessions were intended to be subsequently brought forward on the trial of the prisoner.-

The attendance before the Criminal Judge of witnesses to confessions, which may be delivered by a prisoner before a Magestrate or District Police Officer, is necessary in all cases. If the prisoner should deny his former confession upon his examination before the Criminal Judge, the attesting witnesses to that confession, in all cases of commitment for trial before the Court of Circuit, must be bound over to appear and give their evidence before that Court: and it is only "in cases wherein prisoners may fully confess their "guilt before the Criminal Judge, or wherein their "confessions before the Criminal Judge do not "materially differ from those before made by them"

J. U.
to
20 October 1820.

"them,"- that the Criminal Judge is authorized to dispense with the attendance of the witnesses to confessions before the Magistrate or the District Police Officer,- before the Court of Circuit.-

The Court of Sudaree Adalut regret the obstruction to the proceedings in the case of Murder submitted by the Tahseeldar of Chinnumpully, which has been occasioned by the Magistrate's refusal to cause the witnesses to the prisoner's confession to appear before the Criminal Judge, and adverting to the impression which is likely to be made by the Magestrate's proceeding, the Court desire that the District Police Officers in the Zilla of Bellary may be specially enjoined by the Magestrate in all cases of confession before them of any of the offences specified in Clause first Section XXVII Regulation XI of 1816 to forward to the Criminal Judge the attesting witnesses to such confession together with their proceedings, as prescribed by Clause fourth of the above Section.-

The present case affords another instance of a departure from the provisions of the enactment last cited, in the reference of

a

a case of murder by a District Police Officer to the Magistrate, and it will be the duty of the Magistrate to call the attention of the several District Police Officers under his authority to the provisions of 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 Remeval Judge of the Zilla.—

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Centre Division by precept commanding them to communicate the same to the Remeval Judge and the Magistrate in the Zilla of Bellary for the information and future guidance of those Officers respecting

(Sent following Precept C/

M

E.C.S W.H.P. Read return dated 12th Instant from the acting 2d Judge on Circuit in the Centre Division, — to precept dated 25th ultimo calling for copy of Cuddapah Calendar 2d Sessions A.D. 1820.—

(Here enter No. 560)

Read letter dated 30th September last, from the 2d Judge on Circuit in the Southern Division, — with copy of Madura Calendar 2d Sessions A.D. 1820.—

(Here enter No. 545.)

F. U.

At a Court of Foujdaree Udalut

Present

Thursday
26th October 1820.— Andrew Scott Esqre. } Judges
Edward Croft Greenway Esqre. }

Read letter, dated the 3rd Instt. last,

N
F.S. from the 3rd. Judge on Circuit in the Western
Division,— submitting trial No. 4 of South Malabar
Calendar 1st Sessions AD 1820.—

/Here enter No. 335/

The Cazee-ool-Coozat and Mooftee
of the Foujdaree Udalut declare in the foregoing
Futwa that the prisoner is connected, 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 III Regulation
XV of 1803, to call upon their Law Officers to de-
=clare by a second futwa to what specific pu-
=nishment the prisoner would have been liable
under the Mohummedan law if he had been
convicted by full legal evidence.—

Ordered that extract of these
proceedings be translated and delivered to the

26th October 1820.

Cazee-ool-Coozat and Mooftees of the Court.—

Read letter, dated the 4th August from the 2d Judge on Circuit in the Southern Division—submitting trial No. 12 Combaconum Calendar 2d Sessions A.D. 1820.—

(Here enter No. 454)

The Cazee-ool-Coozat and Mooftees of the Joy Lacee 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 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 Mohummudan law if he had been convicted by full legal evidence.—

Ordered that extract of these proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftees of the Court.—

Read letter, dated 22d July last from the 2d Judge late on Circuit in the Western

26th October 1820.

Western Division,—submitting trial No 20 South Malabar Calendar 1st Sessions A.D. 1820.—

(Here enter No 439)

The Court having maturely considered the proceedings held before the Judge late on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Joydaree Adalut are of opinion that the proof against the prisoner, Koonga parakel Aonien, is sufficient to convict him of the crime of murder in the prosecution of a Robbery, for which a penalty is specially denounced in Clause first Section IV Regulation XII of 1803.—

The Court, under the authority vested in them by Clause first Section II Regulation I of 1818 accordingly adjudge the said prisoner,

Koongaparakel Aonien,

to suffer death by being hanged at the

21st August 1820.

16.

20

26th October 1820.

the usual time and place of execution

(Sent following letter A/

Read letter dated 5th ult.
Lucy last, from the 3d Judge, Circuit in the Western Division, submitting trial No. 8 South Malabar Calendar 1st Session A.D. 1820.

(Here enter No. 453 & 462.)

The Court having maturely 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 Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoners

2d "Chatoo Nair," and
3d "Sainjoo Nair,"
direct that they be set at liberty—

(Sent following letter B/

The Court of Foujdaree Adalut have confirmed the futwa acquitting delivered by their Law Officers in

this

F. H.
26th October 1820.

this case, and have directed the unconditional release of the prisoners, being of opinion that the objections taken to the credibility of the 1st 2d 3d and 4th witnesses namely "that they are slaves," although not of itself sufficient to warrant the rejection of their testimony, must be admitted to lessen its force, when reference is had to their state of moral degradation, and to the influence which the prosecutor may be supposed to have over them—

3. The 3d Judge notices as making against the prisoners the negociation, into which the prosecutor appears to have entered with them regarding a pecuniary indemnification for the loss of his slave, and the circumstance of his failing to produce the body of the deceased for an official inquest by the Police Officers;— but the Court of Foujdaree Adalut are of opinion that the case for the prosecution is materially weakened by these facts, and that it is by no means an

overstrained

overstained presumption, that the charge against the prisoners would not only have been suspected, had they acceded to the terms of accommodation proposed by the prosecutor, but that he may have been led by their refusal to value him the sum at which he valued his slave to recover them.

4 The four witnesses above mentioned are directly contradicted by the 10th and 12th witnesses for the prosecution as to the making and removal of irons from the legs of the deceased, his illness on the day preceding his death, and his having been attended on that day by the 12th witness, who gave him medecine.

5 The Court of Foujdaree Adawlut are of opinion, that the evidence to the previous illness of the deceased is sufficient to throw out entirely the charge of homicide, and that the testimony of the four witnesses above referred to, which is impugned in certain particulars by opposite evidence and is open generally to objection from their want of education and dependant condition, is indequate to establish against the prisoners the charge

of cruelty charged against them.

6 Ordered that extract of these proceedings be sent to the 3d Judge on Circuit in the Eastern Division for his information.

(Sent following letter &c.)

1 Read letter dated 2d Instant from the 1st Judge on Circuit in the Northern Division, submitting copy of Rajahmundry Calendar 2d Session A.D. 1820.

(Here enter No 549.)

2. In case No 1 of the above Calendar 26 persons were charged "with "proceeding in a Gang to the houses of "the prosecutors about midnight, on 21st "January 1820, forcing the door, beating "Imamerty Moormullah, the father "of the 1st prosecutor, of which ill "treatment he died, and plundering the "property of the prosecutors valued at "1000 Rupees."

In the remarks on this Case

3. it is stated, that "the Law Officer gave his

in Clause 2d Section II Regulation
of 1803, whereby the power of mitigating the
prescribed sentence is in certain cases vested
in the Courts of Circuit.—

11

Whenever a prisoner or prisoners
may be convicted of an offence, for which
the penalties of perpetual imprisonment
or death are prescribed in the above
Regulation, the trial must be referred
for the decision of the Foujdaree Adawlut,
and in such cases it is competent only
to that Court to mitigate the prescribed
punishment.—

12

The discretionary power of
mitigating the prescribed penalty, which
is vested in the Courts of Circuit by the
Clause last cited, extends only to the
offences for which a less punishment
than perpetual imprisonment is prescribed
in Regulation XV of 1803.—

13.

Under the above exposition
of the law it will be the duty of the Judge
to send up the record of the proceed-
ings, which have been held in the case
abovementioned

Countersheet from Page 1 to 12 the last Page

7.11.

7.11

above mentioned.—

26th October 1820.

14 The Court of Foujdaree Adawlut desire to have before them copies of the Futwas delivered in the undermentioned cases.

15. In case No. 9, in which certain prisoners convicted on a charge of proceeding in a gang to the house of the prosecutor with offensive weapons, plundering property and wounding several of the Inmates, for which offences the penalty of imprisonment and transportation for life is specially denounced in Clause second Section IV Regulation XV of 1803,— have been sentenced "to receive twelve stripes "with a rattan each and to suffer con- "finement and hard labor in irons for "24 months."—

16. In case No. 14, in which the prisoner, who was convicted on a charge of Burglary attended with criminal acts of violence, for which the same penalty is prescribed, as in cases of robbery by open violence,— by Clause Second Section V Regulation XV of 1803,— has been sentenced "to receive one Dozen "stripes

"his Futwah of Acquittal as regarded
"the whole of the prisoners with the
"exception of the 25th, of the Robbery
"but not of the murder, the latter not
"being proved" and the 1st Judge proceeded
to sentence the prisoners to certain
specified terms of imprisonment:- "as
"it was not ascertained, that the hurts
"received by the Father of the 1st Prosecutrix
"were the actual cause of her death."-

4

The above being clearly a case
coming within the description of offences
for which the penalty of imprisonment
and transportation for life is specially
prescribed by Clause second Section IV
Regulation XV of 1803,- the sentence passed
on the prisoners by the 1st Judge are
illegal.-

5.

Clause second Section II of
the above Regulation declares, that "if
"the crime for which the prisoner is
"declared liable to discretionary punishment
"by the Futwa of the Mohomedan Law
"Officers shall have been specially

26th October 1820.-

"provided for by any subsisting Regulation,
"denouncing the penalty to be adjudged
"on proof of the commission of such
"crime; and the Judge before whom the trial
"may be held shall consider the crime to
"have been established against the prisoner,
"he shall sentence the prisoner to suffer
"the punishment for such crime prescribed
"by the Regulations, or if the case be
"referable under the Regulations for
"the sentence of the Foujdaree Adawlut,
"shall transmit the trial with his opinion
"thereupon to that Court."-

6.

Clause first Section III of
the Regulation above cited declares, viz
"that any person or persons, who shall
"in the day or in the night go forth with
"any offensive weapon, or in a gang
"with or without any offensive weapon
"with the Criminal intent of committing
"robbery, and shall by force or intimidation
"rob or attempt to rob any person or
"persons —— in any place whatever;
"or shall attack by open violence and

rob

"rob or attempt to rob any dwelling house
"or other house or building &c." shall be
"deemed guilty of the crime of robbery by
"open violence, and on due conviction as
"thereof —— shall be adjudged to suffer
"such of the penalties declared in the said
"Section, as may be applicable to the case,
"viz. according as the robbery may be
"with or without homicide, wounding
"maiming or other personal injuries; or
"with or without other circumstances of
"aggravation."—

8. Clauses first, second, third and fourth of Section IV of the Regulation prescribe the judgments to be passed on all persons convicted of the crimes specified therein; and in Clause fifth it is declared that "if from "any extenuating circumstances, which may "appear on the trial before the Court of Circuit "or the Court of Faujdaree Adalut the state "punishment shall in any particular instance "appear too severe, —— it shall be competent "to the Court of Faujdaree Adalut, or to the Court "of Circuit, if the trial be not referable to "the Regulations to the

"to mitigate the sentence, in such cases
"as may be deemed just and expedient."—

9. Clause first Section VI of the said Regulation above cited declares, that "the "Courts of Circuit shall transmit to the "Court of Faujdaree Adalut all trials in "which the prisoner or prisoners may be "convicted, and liable to sentences of "perpetual imprisonment or death."—

Clause second of the Section 9 last cited prescribes the course to be pursued by the Judge of Circuit in trials referable to the Faujdaree Adalut,—and in Clause third are laid down the rules to be observed by the Judges of Circuit in referring to the Faujdaree Adalut the trial of any prisoners, whom they may consider proper objects of an extension, mitigation, or remission of punishment, under the provisions to that effect contained in Regulation XV of 1818.—

10. The Court of Faujdaree Adalut attribute the error committed by the 1st Judge in the case above noticed to a misconstruction of the provision in

26th October 1826.

in Clause fifth Section IV. Regulation XI of 1803, whereby the power of mitigating the prescribed sentence is in certain cases vested in the Courts of Circuit.—

11 Whenever a prisoner or prisoners may be convicted of an offence, for which the penalties of perpetual imprisonment or death are prescribed in the above Regulation, the trial must be referred for the decision of the Foujdaree Adawlut, and in such cases it is competent only to that Court to mitigate the prescribed punishment.—

12 The discretionary power of mitigating the prescribed penalty, as vested in the Courts of Circuit by the Clause last cited, extends only to the offences, for which a less punishment than perpetual imprisonment is prescribed in Regulation XV of 1803.—

13. Under the above exposition of the law it will be the duty of the Judge to send up the record of the proceedings, which have been held in the case abovementioned.

Commandment from Para 1 to 12 of the last Rule

No 14

26th October 1826.

abovementioned.—

The Court of Foujdaree Adawlut desire to have before them copies of the Futwas delivered in the undermentioned cases.

In case No 9, in which certain

15. prisoners convicted on a charge of proceeding in a Gang to the house of the prosecutor with offensive weapons, plundering property and wounding several of the inmates, for which offences the penalty of imprisonment and transportation for life is specially denounced in Clause second Section IV Regulation XV of 1803,— have been sentenced "to receive twelve stripes with a rattan each and to suffer confinement and hard labor in irons for 20 months."—

In case No 14, in which the

16. prisoner, who was convicted on a charge of Burglary attended with criminal acts of violence, for which the same penalty is prescribed, as in cases of robbery by open violence,— by Clause second Section V Regulation XV of 1803,— has been sentenced "to receive one Dozen stripes

"stripes and to suffer confinement and hard
"labor in irons for 15 Months."

17. In case № 26, in which 3 prisoners convicted on a charge of highway robbery and attempt to murder, have been sentenced to "3 years imprisonment and "hard labor in irons."

18. In this most heavy Calendar the Court of Foujdaree Adaulut have observed with astonishment, that in a greater number of cases of Burglary the Fouj. Judge has passed sentences of 15 Months imprisonment; a punishment so manifestly disproportioned to the offence, that it is to be feared that these judgments will operate to the encouragement rather than the suppression of the heinous offences, which appear to be so prevalent in the Zilla of Rajahmundry.—

19. Under the existing Regulations this offence is punishable, according to circumstances, with as far as fourteen years imprisonment and hard labor; and in the sentences referred to the Court are

but too much reason to question the soundness of the discretion exercised by the Fouj. Judge in mitigating the punishment.

20. In proof of this opinion it is sufficient to notice the judgment of 20 Months imprisonment, passed on the prisoner, Moologataty China Nookadoo, who was convicted in two Cases of house-breaking and robbery, and against whom a Petition of Cohoobut on suspicion was passed in a third case of Highway robbery.

21. The only remaining case, which the Court deem it absolutely necessary to notice is № 31, in which 21 persons were tried for gang robbery with violence, for which offence the penalty of fourteen years imprisonment, to be extended at the discretion of the Foujdaree Adaulut to transportation for life, is prescribed by Clause third Section IV Regulation XV. of 1803.—

22 In this case it is stated, that fourteen of the prisoners were convicted;— six of whom have been sentenced

to

to [illegible] imprisonment and hard labor, with
6 stripes, & to 13 months imprisonment with
4 Dozen stripes, and the 6th prisoner, "being
"a principal and old offender to 7 years
"and 6 months imprisonment and hard
"labor, with 12 stripes."—

23 Here it would appear, that the
Pt. Judge has selected, as a proper object
of mitigation of the punishment prescribed
by the Law, "a principal and an old
"offender."—

24 The Court of Foujdaree Adalut
will not enlarge upon the inevitable tendency
of such a proceeding.—

25. They deem it essential to the
ends of public justice, that this trial, as well
as that above called for, should undergo
revision, and direct that the Record of
proceedings held therein be sent up accord-
=ingly.—

26. In conclusion the Court deem sent 31st
it proper to remark, that the Pt. Judge
in passing sentence of 4 Dozen stripes
evinced an utter neglect of the provisions
of

7. M.

26th October 1820. the Regulations on that point, and that from the numerous instances in which the prisoners have been sentenced, on suspicion, to be unconditionally released, it would appear that the Pt. Judge overlooked the provisions of Clause sixth Section II Regulation XV of 1803, by which authority is given for the requisition of security in such Cases.—

27 Ordered, that extract of these proceedings be sent to the Pt. Judge on Circuit in the Northern Division by precept com=manding him to send up English and Persian Translations of the proceedings held before him in cases Nos. 1 and 31 of the Rajahmundry Calendar 2d. Sessions A.D. 1820 within one month, and copies of the futwas in the several cases above specified within ten days from the date of the receipt of the precepts.—

Sent following Precepts.]

The Court of Foujdaree Adalut

28. having reason to believe, that the provisions of Regulation XV of 1803 are not

not generally perfectly understood, directs that extract of these proceedings be sent to the Provincial Courts of Circuit in the Centre, Western & Southern Divisions by precept enjoining them to communicate the same to the several Judges now on Circuit for their information and future guidance, and that extract of these proceedings be sent to the Provincial Court of Circuit in Northern Division for their information and future guidance.—

(Sent following Precepts & Letter &)

Read letter dated 14th Instant, from the 2d Judge of the Court of Circuit in the Northern Division,— with copy of Masulipatam Calendar 4th Quarterly Sessions A.D. 1820.—

(Here enter No. 567.)

Read letter dated 17th Instant, from the Criminal Judge in the Zilla of Bellary transmitting copies of two letters from the Magistrate in continuation of the correspondence submitted on 11th instant.—

(Here enter No. 570.)

Read

Read letter, dated 14th Instant, from the 2d Judge on Circuit in the Western Division,— reporting his arrival at Calicut.

(Here enter No. 562.)

Read letter, dated 12th Instant, from the First Judge of Circuit in the Centre Division,— with copy of Chittoor Calendar on 4th Quarterly Sessions A.D. 1820.—

(Here enter No. 580.)

Read letter dated 17th Instant, from the 2d Judge on Circuit in the Southern Division,— with copy of Tinnivelly Calendar 2d Sessions A.D. 1820.—

(Here enter No. 582.)

At a Court of the Zoujdaree Adalut

Present,

Monday 30th October 1820. Andrew Scott Esqre } Judges.
Edward Croft Greenaway Esqre }

Read again letter dated 3d
Ult
Inst from the 3d Judge on Circuit
885 in the Western Division - submitting No 4
of South Malabar Calendar for the 1st
Sessions A.D. 1820.

(Here enter No 335)

Read the second Futwa
delivered in this case by the Cazee ool=
Cozat and Mooftees of the Zoujdaree Adalut.

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 Zoujdaree
Adalut confirm the said Futwa of
the Cazee ool Cozat and Mooftees
aforesaid and under the sentence of
Hafiz Ad

Kiffaat declared in the futwa adjudge the prisoner,

"Kaddoopatteam Poolichel Tangah,"

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

(Sent following letter A.)

Read again letter dated 4th August last, from the 2d Judge on Circuit in the Southern Division, - submitting trial No 12 Combaconum Calendar 2d Sessions A.D. 1820.—

(Here enter No 454)

Read the second futwa delivered in this case by the Cazee vol Cozat and Mooftees of the Foujdaree Udalut.—

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 vol Cozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazees vol Cozat and Mooftees aforesaid,

and

30th October 1820.

and under the sentence of Kiffaat as declared in the futwa adjudge the prisoner,

"Marooden,"

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

(Sent following letter B.)

W. H.

Read return dated 18th Instant, from the Acting 3d Judge on Circuit in the Centre Division, - to precept dated 2d Instant calling for Copies of the futwas delivered in certain cases of the Cuddapa Calendar 2d Sessions A.D. 1820.—

(Here enter No 581.)

The Court of Foujdaree Udalut direct that the foregoing futwas be prepared for the consideration and opinion of the Cazee vol Cozat and Mooftees of the Foujdaree Udalut.—

At a Court of the Foujdaree Adalut.

Present,

Tuesday 7th October 1820 — Andrew Scott Esqre. —— Edward Croft Greenway Esqre. } Judges.

M. 978

1 Read again return dated 18th Instant, from the Acting 3d Judge on Circuit in the Centre Division, — to the Courts precept, dated 2d Instant calling for copies of the Futwas delivered by the Mohummedan Law Officer in certain cases of the Cuddapa Calendar 2d Sessions A.D. 1820.—

Here enter No. 581.

2 Read again letter dated 28th ultimo, from the Acting 3d Judge on Circuit in the Centre Division, — with copy of Cuddapa Calendar 2d Sessions A.D. 1820.—

Here enter No 534

3 The grounds upon which the prisoner Gootoor Poola Reddy is declared in the Futwa taken in Cases Nos 3, 5, 6, 7, 11, and 23 of the above Calendar to be liable to Kisas or but, appearing to the Court to be very unsatisfactory the Court of Foujdaree Adalut deem it

necessary

necessary to have before them the Records of the proceedings, which have been held in those cases.-

4 The Court of Sunjarce Adalut have to observe, respecting the proceedings held in the six trials abovementioned before the Court of Circuit, that the Mohummedan Law Officer should have been required to deliver a futwa in each separate trial, as applicable to the circumstances of the case.- And they deem it necessary to enjoin upon the acting 3d Judge a strict observance of the rule prescribed in this respect by the general regulations, as indispensable in order to ensure a clear and perspicuous statement of the evidence on record.-

5 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 Acting 3d Judge for his information and future guidance, and to send up English and Persian translations of the proceedings held before the acting 3d Judge in Cells Nos

31st October 1820

Nos 3, 5, 6, 7, 11, and 23 of the Cuddapa Calendar 2d Sessions of 1820, within three months from the date of the receipt of the precept.-

Sent following Precept &c

Con 2 Nov

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645

45

F 11

2nd November

At a Court of the Boydarees
Present,

Thursday
2nd November
1820.

Andrew Scott Esqr.
Edward Croft Greenway Esqre } Judges

1. Read letter dated 20th ultimo, from the Magistrate in the Zilla of Bellary, submitting copy of a correspondence with the Criminal Judge regarding the propriety of the Magistrate's appointment of the Government Vakeel to conduct the prosecution in Cases referred to the Criminal Judge—

(Here enter No. 584)

2. The present reference has arisen out of a letter addressed by the Criminal Judge to the Magistrate, transmitting "a list of "Cases, requiring instructions to be sent to the "Government Vakeel to prosecute on the part "of Government," and requesting that "in "future, in cases where no prosecutor might "be sent," the Magistrate would forward "separate instructions with the Documents "in each case."

3. The Magistrate in reply to the

the above application declined to issue instructions of the nature required to the Government Vakeel, a duty which he considered to belong to the Criminal Judge, should that officer "consider it "proper that Government should prosecute "in any case coming before him and think "it necessary that the Government Vakeel "should perform that duty."

4 It appears to the Court of Foujdaree Adaulut, that the Criminal Judge and the Magistrate have overlooked the provisions contained in Clause second Section XXIV Regulation IX, and in Clause fourth Section XXVII Regulation XI of 1816, which prescribe the first in express terms and the latter by implication, that in all cases referred to the Judge by a Magistrate or a District Police Officer, the prosecutor shall be sent with the prisoner, and witnesses, and the proceedings on the case.

5 To the above provisions the Court consider it proper to direct the attention of the Magistrate, and to desire that the attention

attention of the Police Officers under his authority may in like manner be called to the duty of sending the prosecutor with their proceedings, and the Report prescribed in Clause fourth Section XXVII Regulation XI of 1816, in cases referred by them to the Criminal Judge.

With respect to the particular point submitted for their decision by the Magistrate, the Court have to observe, that in cases referred to a Criminal Judge, where from particular circumstances the attendance of the prosecutor, or complainant, may not be procurable, if the offence be of a description, which would on conviction require punishment for the ends of public justice, it is the duty of the Criminal Judge, and not of the Magistrate or Police Officer, to direct the Government Vakeel to prosecute on the part of Government, provided there appear to be evidence sufficient to put the accused on their trial.

Ordered, that extract of these proceedings

proceedings be sent to the Provincial Court in the Centre Division by precept enjoining them to communicate the same to the Criminal Judge and the Magistrate in the Zilla of Bellary

W. H. (Sent following precept A/

Read letter dated 23d. August last from the 3d. Judge late on Circuit in the Western Division, - transmitting trial No. 21 South Malabar Calendar 1st. Sessions A.D. 1820.

(Here enter No. 492/

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

1st. "Pillyotil Yenadem," and
4th. "Koonatil Paddinjara Porakal,"

is sufficient to convict them of having put to death the deceased Allymanador, desire, under Claule Second Section II Regulation I of 1818, that the Cajeeool Coozat and Mooftees of the Foujdaree Adalat will declare by a Second futwa, to what sentence the prisoners would

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 Cajeeool Coozat and Mooftees of the Court. -

20

W. H. Read return, dated 25th. ultimo from the 2d. Judge on Circuit in the Southern Division, - to precept dated 28th. September calling for Trials referable to the Foujdaree Adalat. -

(Here enter No. 590.

Read letter, dated 21st. ultimo, from the 1st. Judge on Circuit in the Northern Division, with returned warrant for execution of prisoners in case No. 7 Nellore Calendar 2d. Sessions A.D. 1820. -

(Here enter No. 591.

Read letter dated 24th. ultimo from the 1st. Judge on Circuit in the Northern

2d. November 1820.

Northern Division, reporting his arrival at Bimlipatam.—

(Here enter No. 592.)

p. 11.

At a Court of the Foujdaree Adalut.

Present,

Monday 6th November 1820.— Andrew Scott Esqre. — Edward Croft Greenway Esqre. } Judges.

Read letters dated 15th August last, from the 3d. Judge of the Court of Circuit in the Western Division,— submitting cases Nos. 32 and 33 South Malabar Calendar 4th Sessions A.D. 1820.—

(Here enter Nos. 480 & 481.)

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 cool Cozat and Mooftees of the Foujdaree Adalut confirm the said futwad of the Cazeecool Cozat and Mooftees aforesaid and under the sentence of Hifsdar declared in the futwa "pursuant to the former futwa adjudge the prisoner, "Codoongaat-padata-porabel Andy," to suffer death by being hanged at the usual time and place of execution.—

(Sent following letter &)

2d November 1820.

Northern Division, reporting his arrival at Bimlipatam.—

(Here enter No. 592.)

F. 11.

At a Court of the Foujdaree Adalut.

Present,

Monday 6th November 1820.—

Andrew Scott Esqr. —— } Judges.
Edward Croft Greenway Esqr. }

Read letters dated 15th August last, from the 3d Judge of the Court of Circuit in the Western Division,— submitting cases No. 32 and 33 South Malabar Calendar 4th Sessions A.D. 1820.—

(Here enter Nos. 480 & 481.)

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 under the sentence of Hifsaat declared in the futwa upon the former of the said cases adjudge the prisoner, "Codoongaat padata-porathel Andy," to suffer death by being hanged at the usual time and place of execution.—

(Sent following letter &)

6th November 1820.

Read again letter dated 23d August last, from the 3d Judge late on Circuit in the Western Division, - submitting trial No. 21 South Malabar Calendar 1st Session A.D. 1820.-

(Here enter No. 492.)

Read the second finding delivered in this case by the Cazee ool Coozat and Mooftees of the Foujdaree Adaulut.-

The Court having maturely considered the proceedings held before the Judge late on Circuit the finding of the Provincial Law Officer and the finding of the Cazee ool Coozat and Mooftees of the Foujdaree Adaulut confirm the said finding of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Hissaat declared against the prisoner,

1st "Wellyotil Gnaderen,"

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

and under the latitude given by the sentence of Circuit the Court.

adjudge the prisoner,

4th "Komatil Paddinjara Purakel Raman,"

Second finding [illegible]

the usual time and place of execution.-

And under the provisions of clause sixth Section II Regulation XV of 1803 the Court direct that the prisoner,

5th "Ittiery Parrungoodan,"

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

(Vide No. 410. following letter B.)

25

W.H.

Read return dated 27th ultimo from the Provincial Court of Circuit in the Centre Division, - to precept dated 20th ultimo, ordering communication to the Criminal Judge and the Magistrate of Bellary of the Courts orders on a reference from those officers regarding the attendance of witnesses to confessions before the Criminal Judge.-

(Here enter No. 605.-)

Read return dated 30th ultimo from the Provincial Court of Circuit in the Centre Division, - to precept dated 20th ultimo, ordering communication to the Criminal Judge of Chittoor of the Courts orders on two references by the Provincial Court in the Centre Division.-

(Here enter No. 611.)

At a Court of the Foujdaree Adalut.

Present,

Thursday 9th November 1820.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read letter, dated 27th Ultimo

A1 from the Magistrate in the Zilla of Bellary,

submitting copy of his correspondence with the

Criminal Judge, regarding the case of a person

charged with illicit imitation of the Custom

Stamp, who had been released by the

Criminal Judge.-

(Here enter No. 612)

No 7 2 From the foregoing correspondence

it appears, that a person accused of illicit imitation

of the public Custom stamp was sent by the

Assistant Magistrate to the Criminal Judge,

charged "with Forgery under clause third Section

"IV Regulation VII of 1811," that the Criminal

Judge being of opinion, with reference to the

proceedings of the Foujdaree Adalut under

date 8th May 1815, that the offence was

punishable by the Magistrate under Section

XXI Regulation I of 1812, released the

prisoner.-

6th November 1820.

Read return dated 1st Instant, from the Provincial Court of Circuit in the Centre Division, - to precept dated 26th Ultimo ordering communication to the Judge on Circuit in the Centre Division of the Courts observations on certain provisions of Regulation XV of 1803.-

(Here enter No. 614)

Read return dated 1st Instant, from the Provincial Court of Circuit in the Southern Division, - to precept dated 9th ultimo ordering communication to the Criminal Judge and the Magistrate in the Zilla of Tinnevelly of the Courts orders relative to the appointment of a Cutwal to the Ameen of Police.-

(Here enter No 623)

Read return dated 1st Instant, from the 3d Judge late on Circuit in the Western Division, - to precept dated 16th ultimo ordering communication to the Criminal Judge in the Zilla of South Malabar of the Courts observations on Case No 7 South Malabar Calendar 1st Sessions 1820.-

(Here enter No. 625.)

prisoner:- and having subsequently adverted to Section XLIV Regulation IX of 1816, by which the provisions of the Section of the Regulation above cited are declared applicable to the Criminal Judge, he notified to the Magistrate "the prisoners "acquittal upon the charge preferred against him "under Regulation VI of 811," "in order that the latter officer "might if he thought proper, "reapprehend and charge him on Regulation "I of 812 and Section XXI."-

3. The Criminal Judge at the same time requested the Magistrate to alter the charges preferred against certain other persons, similarly situated with the individual in question, stating that "otherwise the examinations "would be proceeded in on the original "complaint."-

4 The Magistrate in submitting to the Court of Foujdaree Adalut the correspondence, connected with the case under consideration, enters at some length into the question of the applicability of the provisions of Clause third Section IV Regulation V

of 811 to the offence of illicit imitation of the Custom stamp.- The Court will not follow the Magistrate into a discussion of this point, seeing no ground to alter the opinion recorded in their proceedings under date 8th May 1815, which they resolve to communicate to the Magistrate for his information.-

5. The Court of Foujdaree Adalut will first observe with respect to the latter part of the Criminal Judge's communication above cited, that this officer appears to entertain a misconception of the provision contained in Section VIII Regulation X of 1816, which prescribes the mode in which Criminal charges or informations are to be brought before a Criminal Judge.

6. Nothing contained in the aforesaid Section is intended, as was remarked by the Court in answer to a reference from the Acting Criminal Judge in the Zilla of Bellary under date 2d April 1818, to fetter in any degree the proceedings of the Criminal Judge, after the accused party shall have been transferred to his jurisdiction:- it is obvious to remark with regard to cases sent

9th November 1820.

sent to the Criminal Judge by the Native Officers of Police, that it cannot be expected that the charges against persons accused should be framed with accuracy and precision; and as it is the duty of the Criminal Judge to frame the indictment against persons committed for trial before the Court of Circuit, according to the facts in evidence before him, so in cases punishable by himself it is his duty to amend the charge, whenever it may appear to be incorrectly recorded in the preliminary proceedings, whether before the Magistrate, or District Police Officer.—

7. For the proceedings adopted by the Criminal Judge in the particular case under consideration of releasing a prisoner, against whom there would appear to have been evidence of an offence punishable under the existing Regulations, the Court of Foujdaree Udalut are at a loss to account.—

8. Under the impression, that the cognizance of the offence was specially limited to the Magistrate by a legislative enactment, it was manifestly the duty of the Criminal Judge

9th November 1820.

Judge to have remanded the accused to the Magistrates Court:— the error of the Criminal Judge in overlooking a provision in the Regulations, expressly defining the duties of his office, is trifling in comparison with the glaring impropriety of releasing a public offender, whose guilt was established by the evidence before him.—

9. 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 Criminal Judge and the Magistrate in the Zilla of Bellary, for the information and future guidance of those officers respectively, and to transmit to the latter officer copy of the circular orders of the Court of Foujdaree Udalut, under date 8th May 1815 regarding the offence of imitating the Custom Stamp.—

Sent 10th

Sent following Precepts &c

1. Read letter dated 27th ultimo from the Provincial Court of Circuit in the Centre Division,— transmitting copy of a communication from

9th November 1820.

from the Magistrate in the Zilla of Bellary, on the subject of the orders of the Court of Foujdaree Adalut under date 2d Ultimo.-

(Here enter No. 609.)

2. The only observation, which the Court of Foujdaree Adalut deem it necessary to make on the above communication, is that the reason assigned by the Magistrate for the objectionable practice, referred to in the proceedings of the Court under date 2d Ultimo, does not alter its character.-

3. Whether it be "with the intention of giving the former depositions an appearance of greater validity," or "for the sake of convenience of reference," the Court of Foujdaree Adalut consider the practice of recording the depositions of witnesses, delivered on Oath before the Magistrates on the same paper, upon which the original depositions before the Native Police Officer are written, to be irregular and improper, and they direct, that it may be discontinued accordingly.-

4. Ordered, that extract of these proceedings be sent to the Provincial Court of

9th November 1820.

of Circuit in the Centre Division by precept directing them to communicate the same to the Magistrate in the Zilla of Bellary for his information and guidance.-

(Vide following Precept B)

Read letter, dated 7th September last, from the 3d Judge late on Circuit in the Northern Division,- submitting report prescribed by Section XXXVIII Regulation VII of 1802.-

(Here enter No. 507.)

2. The 3d Judge offers in the foregoing report, some suggestions regarding the limitation of the privilege, allowed to prisoners under the Regulations, of summoning before the Court of Circuit all witnesses, whom they may require for their defence upon their trial.-

3. The Court of Foujdaree Adalut submitted to the Government in an extract of their proceedings, dated 23d March last, certain rules which appeared to be calculated to remedy the evil pointed out

out by the 3d Judge.—

4 Ordered, that the report with extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Honorable the Governor in Council.—

Sent.

(Sent following letter C. /1128.

AH

EHS

F. C.

At a Court of the Foujdaree Adalut

Present,

Thursday 16th November 1820.— Andrew Scott Esqre. — Edward Croft Greenway Esqre. } Judges

AH

EHS

Read letter, dated 11th July last from the 3d Judge late on Circuit in the Western Division,— submitting trial No 15 South Malabar Calendar 1st Sessions A.D. 1820.—

(Here enter No 431.)

The Court having maturely considered the proceedings held before the Judge late on Circuit the futwa of the Provincial Law Officers 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 acquitting the prisoners, 1st Wadlia Illatta Kristna Menon, and 2d Munnysherry Nittoo, direct that they be set at liberty.—

Sent 21st

(Sent following letter A/

Read letter dated 28th September last, from the 1st Judge on Circuit in the

16th November 1820.

the Northern Division,- submitting case No 3 Rajahmundry Calendar 2d Sessions AD 1820

(Here enter No. 538.)

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 Fouzdaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftee aforesaid and under the sentence of Hissad declared in the futwa adjudge the prisoner,

"Dasary Tripatty,"

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

(Sent following letter B)

Sent 20th

W. H.

EHS

At a Court of the Fouzdaree Adalut-

Present,

Monday 20th November 1820.- Andrew Scott Esqre } Judges-
Edward Croft Greenway Esqre }

Read letter dated 1st Instant,

1 from the Provincial Court of Circuit in the Southern Division,- transmitting copy of a letter from the Criminal Judge in the Zilla of Tinnevelly recommending the banishment to a distant Zilla of ~~certain~~ convicts specified in his letter.-

(Here enter No. 633)

2 The Court of Fouzdaree Adalut resolve, in consideration of the circumstances stated by the Criminal Judge in the Zilla of Tinnevelly, to order the removal of the prisoners in question to the Jail of the Zilla of Chittoor, and they direct therefore under the provisions of Clause fifth Section VIII Regulation XV of 1803 that the several prisoners be sent, accompanied by a descriptive

descriptive list of their names and sentences
to the Criminal Judge in the Zilla of Chittoor.

3. Ordered, that extract of these
proceedings be sent to the Criminal Judge
in the Zilla of Tinnevelly and to the Criminal
Judge in the Zilla of Chittoor for their
information and guidance respectively.—

Sent 22 (Sent following letters A/)

Read letters dated 4th Instant from
the 2d Judge on Circuit in the Western Division,—
submitting case No. 10 Canara Calendar 2d Session
A.D. 1820 and requesting that an early decision
may be passed on the case in consideration
of the prisoners state of health for whom
he recommends a mitigation of the punish-
ment prescribed by clause second Section
IX Regulation XV of 1803.—

(Here enter No 631.)

The Court having maturely weighed
the proceedings held before the Judge on Circuit
consider the charge of returning from transportation
to be established against the prisoner,
"Cadry,"
and adjudge him to be imprisoned and
retransported

retransported to Prince of Wales's 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 natural life.—

Sent 23 (Sent following letter B/)

2 The Court have to observe for
the information of the Second Judge, that
as in cases of this description the Courts do
not administer the Mohummudan law, but a
regulation of the legislature of the Presidency
of Fort St. George, establishing a penalty
for an offence, which it and not the
Mohummudan law, describes and defines,—
it was not necessary to require a futwa
from the Mohummudan Law Officer,—to
whom it belonged to expound exclusively
the law of his religion, and to declare to
what punishment the prisoner would
be liable under that law.—

3 The Court of Sudder Adalut
having taken into consideration the
recommendation of the 2d Judge in favor
of the prisoner, have in exercise of the
discretion

discretion vested in them by Clause second Section IX Regulation XV of 1803, adjudged him to be retransported to Prince of Wales's Island.-

The Court direct, that the Criminal Judge in the Zilla of Canara be instructed expressly to notify to the prisoner, Sadoy, on communicating to him their sentence, that a repetition of the offence of which he has now been found guilty will infallibly subject him, on conviction, to Capital punishment.-

Ordered, that extract of these proceedings be sent to the Second Judge on Circuit in the Western Division, by precept directing him to make the necessary communication to the Criminal Judge in the Zilla of Canara for his information and guidance.-

Entered Sent following Precept &c.

Read letter dated 2d ultimo from the 1st Judge on Circuit in the Northern Division, submitting case No 32 Rajahmundry Calendar

20th November 1820.

Calendar 2d Sessions A.D. 1820.

(Here enter No. 548.)

The Cazee-ool-Coozat and Mooftees of the Foujdaree Adaulut declare in the foregoing Futwa that the prisoner is convicted on strong presumption of the crime of beating the deceased Rama with a stick in consequence of which he died- The Court, therefore, concurring in the opinion declared in the Futwa, resolve, under the provisions of clause 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 Mohummudan law, if he had been convicted by full legal evidence.-

Ordered, that extract of these proceedings be translated and delivered to the Cazee ool Coozat and Mooftees of the Court.-

Read letter dated 4th August last from the 2d Judge on Circuit in the Southern Division,- submitting case

20th November 1820.

Case No. 46 Salem Calendar 2d Sessions AD 1820.—

(Here enter No. 488)

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 Sudder Adawlut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the latitude given by the sentence of Ashoobut adjudge the prisoner,

"Peryan"

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

(Sent following letter D.)

Read letter dated 20th September last from the 2d Judge on Circuit in the Western Division,— submitting case No. 4 Canara Calendar 2d Sessions AD. 1820.—

(Here enter No. 525.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law

20th Novr 1820. Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudder Adawlut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoner,

"Deeo"

direct that he be set at liberty.—

(Sent following letter E)

No. W. Read return dated 6th Instant from the Provincial Court of Circuit in the Western Division,— to precept dated 26th October ordering communication to the Judge on Circuit of the Court's observations on certain provisions contained in Regulation XV of 1803.—

(Here enter No. 636.)

Read return dated 6th Instant from the Provincial Court of Circuit in the Curtic Division,— to precept 2d Instant ordering communication to the Criminal Judge and the Magistrate in the Zilla of Bellary of the Court's orders on a reference regarding the duty of instructing the Government Vakeel to prosecute in criminal Cases.—

(Here enter No. 637.)

Read return dated 13th Instant from

from the Provincial Court of Circuit in the Centre Division, to precept dated 6th Instant ordering communication to the Magistrate of Bellary of the Court's orders respecting the mode of taking the depositions of witnesses.—

(Here enter No. 643.)

Read letter dated 27th September last from the 2d Judge of Circuit in the Western Division, submitting case No. 2 of the Malabar Calendar for Sessions A.D. 1820.—

(Here enter No. 544.)

The Judges of the Court of Sudder Dewanny Adawlut, on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the prisoner,

Karammuttil Koonjayen Koya,

is sufficient to convict him of the crime of Manslaughter, desire, under Clause Second Section II. Regulation I of 1818, that the Cazee ool Cozat and Mooftees of the Sudder Court will declare by a second futwa to what sentence the prisoner would have been liable under

F.M.
20th November 1820.

the Mohummedan Law if he had been convicted by full legal evidence of the above crime.—

Ordered, that extract of these proceedings be translated and delivered to Cazee ool Cozat and Mooftees of the Court.—

Read return dated 15th Instant.

from the Provincial Court of Circuit in the Centre Division, to precept dated 6th Instant ordering communication to the Criminal Judge and the Magistrate of Bellary of the Court's orders on a reference by the latter officer on a case of illicit imitation of the Custom stamp.—

(Here enter No. 644.)

Read letter dated 15th Instant,

from the Criminal Judge in the Zilla of Chingleput, reporting the re-apprehension and committal of a prisoner who escaped from Jail on 1st July last.—

(Here enter No. 642.)

Read letter dated 5th Instant

from the acting 2d Judge on Circuit in the

20th November 1820

the Centre Division, with copy of Bellary Calendar for the 2d Sessions A.D. 1820.-

(Here enter No. 628. J.S

J. C.

At a Court of the Foujdaree Adalut

Present,

Thursday 23d November 1820.- } Andrew Scott Esqre. Edward Croft Greenway Esqre. } Judges.

Read letter dated 15th Instant from the 2d Judge on Circuit in the Western Division, - requesting information relative to the intention of the Court's orders, under date 26th ultimo, respecting the reference of cases under Regulation XV of 1803.-

(Here enter No. 645.)

It appearing from the foregoing letter, that the orders above cited are considered to prescribe the reference to the Court of Foujdaree Adalut of all cases of Gang robbery, accompanied by personal injury, however trifling,-

The Court deem it necessary to explain, that their instructions on this point are intended to be strictly limited to the cases described in Clause second Section IV Regulation XV of 1803, in

in which "trifling" personal injury is not contemplated, as appears clearly from the definition therein given, namely, "personal injury, torture, or cruelty not "occasioning homicide."—

4 Ordered, that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept enjoining them to communicate the same to the several Judges on Circuit for their information and guidance.—

Sent 23d

(Sent following Precept A)

Read again letter dated 2d ultimo, from the 1st Judge on Circuit in the Northern Division,— submitting case No 32 Rajahmundry Calendar 2d Sessions A.D. 1820.—

(Here enter No 548.)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Foujdaree Adalut.—

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

ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and in commutation of the penalty of Deeyut adjudge the prisoner,

"Guttoo Veerabadoo,"

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of one year and then released.—

(Sent following letter B)

Sent 23d

Read again letter dated 23d September last, from the 3d Judge of Circuit in the Western Division,— submitting case No 2 South Malabar Calendar 1st Sessions A.D. 1820.—

(Here enter No 541.)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Foujdaree Adalut.—

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

23d November 1820.

of the Foujdaree Udalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and in commutation of the penalty of Deeyut, adjudge the prisoner,

"Haranny wittil Koonjoyn Koya,"

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of One year and then released.-

sent 27th

(Sent following letter C.)

N

W.S.T.

E.C.S

7 A.

At a Court of the Foujdaree Udalut.

Present,

Monday 27th November 1820.

Andrew Scott Esqr.
Edward Croft Greenway Esqr. } Judges

N

E.C.S

1.

Read letter, dated 13th September last, from the 3d Judge late on Circuit in the Western Division,- submitting the Report presented by Section XXXVII Regulation VII of 1802.-

(Here enter N. 518)

2

In the 17th paragraph of the Report the 3d Judge adverts to the hardships, to which the Inhabitants of the Northern parts of Canara are exposed from the distance of the seat of the Zilla Court.- and in the concluding part of the Paragraph declares his firm conviction, "that many crimes "are committed which do not come to light "from having been compounded between "the parties, or concealed altogether, through "the dread of the inconvenience and loss consequent

"consequent on a public prosecution."

3. The Court of Foujdaree Adaulut consider the observations, recorded by the 3d Judge in this part of the Report, to be particularly deserving of the attention of Government.—

4. It is obvious to remark, that the remoteness of the Zilla Criminal Court must operate as an impediment to the administration of Criminal Justice, tending, as remarked by the 3d Judge, to the impunity, and of course the consequent increase of crimes, to the general vexation of the community, and to the serious injury of the accused in cases of acquittal.—

5. The Report of prisoners received on the 15th ultimo from the Acting Criminal Judge in the Zilla of Canara affords instances of delay and individual hardship in the prosecution of Criminal cases, arising from the situation of the Zilla Court.— In eleven cases, comprizing thirty four prisoners, it is stated that the Court is awaiting the arrival of witnesses," so long owing to the District

"where they reside being distant 200 miles "have not yet reached the Zilla station:" and in another case similarly postponed. the distance of the residence of the witnesses is stated to be 280 miles.—

6. Should the objections advanced by the 3d Judge to the locality of the Zilla Court induce the agitation of the question of its removal, it may be desirable that the sense of the Provincial Court collectively should be required with respect to the eligibility of Cundapoor, the station pointed out by the 3d Judge, as being not only the most centrical, but "possessing other local "advantages superior to most parts of the "Zillah."—

7. In the latter part of the 2nd paragraph the 3d Judge," adverting to "the instances of maltreatment of persons "in the unhappy situation of slaves on "the present Calundaid," submits "that it "be declared by a legislative provision,

27th November 1820.

"1st that they are not property or lawfully
"objects of sale like slaves in the full
"extend of that term, unless they happen
"to be made over at the same time with the
"estate on which they reside; 2dly that they
"shall never be transferred by way of trade
"or loan from one master to another without
"their consent; 3dly that all personal wrongs
"done to a slave by his Master shall be
"estimated like personal injuries in other
"cases; 4thly that they shall be entitled whether
"sick or well, and at all seasons, to a daily
"allowance of wholesome food, and likewise
"provided with suitable habitations and
"raiment by their Masters; and 5thly that all
"Masters, who violate either of these provisions
"shall, on proof thereof to the satisfaction
"of the Magistrate, forfeit their right of
"property over such slaves for ever."—

8. The 1st and 2d of the provisions here suggested by the 3d Judge would go to the subversion of usages established in the

F. C.

27th Nov.r 1820

"in the Provinces of c. Malabar, in which the
expediency of interferences by the Legislative
authority appears to be questionable.—

9. Should, however, an interference
with the usages adverted to be contemplated
by the Government, it may be proper that
enquiry should be made, as to how far
the practices proposed by the 3d Judge to be
abolished, may or may not be of recent
introduction, and whether by ancient
custom the slaves in Malabar were
attached to the soil, and not removable
therefrom by sale, lease, or mortgage at
the will of the proprietor.—

10. As the 3d of the provisions
proposed by the 3d Judge appeared to
imply, that under the existing Law
personal injuries done to a slave by his
Master are not punishable,— the Court of
Foujdaree Adalut have thought it proper
to ascertain from their Law Officers
whether the ill treatment of a slave by
his

Counter from Para 10 to 12 together with 1st & last Para

27th November 1820.

hes. Master be duly punishable by the Mohummedan Law.-

11. The following is a translation of the answer of the Law Officers of the Sudder Adalut to the reference made to them on this head - "Under the Mohummedan Law a Master "is competent to inflict correction (Tazeer) upon "his own Slave. If therefore the Master should "in a lawful manner correct his Slave for "committing an act by which Tazeer is incurred "he is not liable to punishment:- but if a "Master should chastise his Slave without his "having been guilty of any offence incurring "Tazeer, or in the event of the Slave's having "committed such an offence, if the Master "should not correct him in a lawful manner, "but treat him with violence and cruelty, "the Master would be liable to Tazeer."-

12. The Court under the foregoing exposition of the Law consider, that the existing Regulations sufficiently provide for the punishment of owners of Slaves, who may treat

treat them with cruelty; and with a view to discourage and prevent as much as possible the practices alluded to by the Sudder Judges the Court direct, that the several Magistrates be desired to make public the foregoing provision of the Mohummedan Law by a Circular notification to the Police Officers under their jurisdiction respectively, and that they be enjoined to apprehend all persons charged with cruelty towards their own Slaves, in like manner as they are directed to apprehend persons, charged with other crimes of a heinous nature, and it will be the duty of the Criminal Judges, in such cases, whenever the acts established in evidence may appear to demand greater punishment than they are competent to inflict, to commit the offenders for trial before the Court of Circuit.-

13. The provision regarding the diet, lodging, and Cloathing of Slaves is doubtless suggested by the most humane considerations

considerations - how far a necessity exists for
the interposition of Law in these respects is not
shewn in the Report; but the Court are not satisfied,
that the penalty denounced in the final provision
of forfeiture of the rights of property, over a
Slave would, in such cases, be best calculated
for the attainment of the ends of retributive
Justice -

14 In the 33d paragraph of the
Report the 3d Judge draws a picture truly
melancholy, if not indeed alarming, of the
state of Society in Malabar - which he does
not hesitate to ascribe in great measure to
a defective administration of Police, while
he declares his conviction, that the present
Police system is "the best adapted to the
"character, and temper of the people and
"circumstances of the Country in the Division"
15 On this part of the Report the
Court of Foujdaree Adalut consider it proper
only to observe, that the repeatedly recorded
opinions of the 1st and 2d Judges, as well as
of the late acting Judge of the Provincial
Court

3 / 11.
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Court in the Western Division, are directly opposed
to that of the 3d Judge, and ascribe the
inefficiency of the Police to the incompatibility
of the duties, assigned to the officers employed
in it's administration, and not to their supine-
"=ness and misconduct."-

16. The Court of Foujdaree Adalut
coincide entirely with the 3d Judge in deprecating
the superior importance, attached by the native
Officers of Police to the punctual realization
of the Revenues, rather than the mainte-
=nance of the public tranquillity: but it
appears to the Court, that whenever it may
happen, that the duties of one department
interfere with the other, the preference
will always be given to that, in which
any omission or inattention must come
under the notice of the superior authority
over that in which from its nature
complete superintendence is less practi-
=cable -

17. The circumstances connected
with

with that period of tranquillity, to which the
3d Judge refers in terms of satisfaction, should
all be considered in appreciating the fitness
of the measures by which it was produced
to ensure its permanency; and many of them
however generally known can have no place
in a judicial report. It may, however, be
remarked that the "former recollections"
which are now supposed to operate in
preventing present discontents from resolving
into open and positive revolt, must have
been felt with peculiar acuteness at
the period alluded to, and must have contributed
essentially to maintain a respect for public
authority, and to secure the peace of society.

18 The 3d Judge suggests in the 37th
paragraph of the Report, that "the Head
"Cutchery of the Collector and Magistrate
"and his Assistants be as far removed as
"possible from the station where the Zilla
"Court is held;" and that the Criminal Judge
should "possess full and permanent original
jurisdiction

"jurisdiction and authority in all Criminal
"matters arising within the limits of the
"Zillah station."—

19 In the letter from the Secretary to
Government in the Judicial Department dated
23d March 1819, transferred as reported by
the Court of Sudr Adalut under date 19th July 1819 to the Board for prepar-
-ing Regulations, the enactment of a Regulation
was proposed under which Criminal Judges and
their Assistants were to exercise concurrent
authority with the Magistrates and Assistants
Magistrates over the Police.—

20. The enactment of the provisions
proposed in the letter above referred to, would
supersede the latter suggestion of the 3d
Judge; but under the Law as it now stands
it appears to the Court of Sudr Adalut,
that the adoption of the first suggestion
would, with reference to the rule contained
in Section LV Regulation XI of 1816, which
declares that "no order shall be issued to
"any Police Officer, excepting by the
"Magistrate of the Zilla or his Assistants,"—
lead to considerable delay and embarrassment
in

27.

in Cases referred by the District Police Officers to the Criminal Judge, wherein the neglect of the provisions of Section XXVII of that Regulation may render applications to the Magistrate unnecessary.—

21. In the paragraph under consideration the 3d Judge recommends, that "the Magistrate "be vested with authority to employ any description "of his Officers, in whom he places sufficient "confidence, as Head Police Officers."—

22 It appears to the Court of Foujdaree Udalut, that the authority here proposed to be given to the Magistrates would virtually annul several of the fundamental provisions of the existing system of Police; and that to invest the Native Revenue Servants, employed under Tahseeldars of Districts, with the Police powers of their immediate superiors, would be highly objectionable, as tending to insubordination and confusion, as well as to the destruction of official responsibility.—

23. The 3d Judge proceeds to suggest, that the Magistrate be authorized to empower

all his servants, and even the Heads of villages to apprehend and send to him "all persons "who may fail to render a satisfactory "account of themselves, and where grounds "shall appear for supposing such persons "disorderly or ill disposed, and they will not "or cannot give good and sufficient security "for their future good behaviour, the "Magistrate should be empowered to "confine them, until he shall be satisfied "their release from confinement will no "longer be dangerous or inconvenient to "the peace, and good order of the County.—

24. The Court of Foujdaree Udalut are unable to assent to the expediency of the important extension of the authority of the Magistrate, here suggested.—

25. It appears to the Court, that the power of apprehending individuals against whom there may be no specific charge, simply on the ground of their not giving to a Native Officer of Police a "Satisfactory account of themselves" would

would be liable to become an engine of the most grievous oppression:- and with respect to the authority proposed to be given to the Magistrate of requiring security from persons, who may be supposed to be "disorderly, or ill disposed", the Court have to remark, that this power exceeds the authority vested in the Courts of Circuit and the Zoujdaree Adalut, who under the provisions of Clause Sixth Section II Regulation XV of 1803 can order a prisoner to be detained in custody, until he shall give sufficient security for his future good behaviour and appearance when required,- only in cases of "strong suspicion," of a specific offence, or "upon proof of notorious bad character."-

26. The Court have, however, been led by the consideration of this part of the Report, as well as by a late reference from the Magistrate of Tinnevelly to think, that benefit would result to the general peace of the community, if authority were given to the Criminal Judges to require such security from persons, against whom adequate proof for

conviction of a specific offence might not be adduced, but who from evidence furnished by the Magistrate, or Police Officer, might appear to be of "notorious bad character, or to lie under strong suspicion of any act of criminality. That in all such cases a report should be submitted by the Criminal Judge to the Court of Circuit at the ensuing Gaol delivery, specifying the names of persons confined by him on a requisition of security, which they may have been unable to furnish,- the circumstances of each case, with the proceedings held on the commitments, and the amount of security required.-

27. That the Judge of Circuit after inspecting the proceedings and making any further enquiry, deemed necessary, should pass such order as might appear just and proper,- either for the release of the prisoner on his Moochulka, or for reducing the amount of security required, if this appear excessive, or for the further detention

detention of the prisoner, until he give the security required:- and in the latter case, that the prisoner should not afterwards be released without security, unless authorized by the Court of Circuit, on report of the Criminal Judge under the provisions of Section XI Regulation XV of 1803.-

28 In the 38th paragraph of the report the 3d Judge submits for the consideration of the Court of Foujdaree Adalut the expediency of vesting in the Provincial Court collectively the same discretionary power, which is given to the Judges of the Foujdaree Adalut by Section II Regulation I of 1818, "on the acquittal of a prisoner by the Futwa of a Law Officer upon a charge, for which on conviction a Court of Circuit is competent "to pass sentence".-

29. The Court of Foujdaree Adalut have first to observe, that the important modification of the existing Law, which is here suggested by the 3d Judge is open to objection, generally, upon the principle of

of preserving an uniformity of practice in the administration of Criminal Justice, between this, and the Superior Presidency.-

30. The enactment above referred to by the 3d Judge has been taken from the Bengal Code, and the extension of its provisions to the Provincial Courts has not been deemed expedient by the Supreme Government.-

31. But setting aside the foregoing consideration the Court are of opinion, that the measure proposed by the 3d Judge is intrinsically objectionable on the following grounds.-

32 By dispensing in a large proportion of cases with the rule, which at present requires the reference of trials to the Court of Foujdaree Adalut, the preservation of "uniformity of decision "throughout the several Courts of Circuit," one of the objects of the establishment of the Court of Foujdaree Adalut would be defeated.-

33. As the principal Mohummedan Law

Law Officer of the Provincial Court proceed on the Circuit, the reference proposed by the 3d Judge would frequently be from the Judges of the Superior, to that of the Inferior Officers.-

34 An objection also arises from the circumstance, that in cases tried towards the Close of a Circuit it would often happen, that the Judge referring them must himself be one; and occasionally the senior, of the Judges of the Court of Circuit, to whom the reference would be made.- and it is further observable, that the object of "expediting the ends of public Justice" would not necessarily be promoted; as a reference to the Higher Court would eventually be requisite, whenever a difference of opinion might prevail between the Judges of the Provincial Court of Circuit.-

35 In the 39th paragraph of the Report the 3d Judge submits the expediency of a repeal or some modification of that part of Section XXXIX Regulation VII of 1832, that

"that prohibits pecuniary compensation or "sums as damages".-

36 The Court of Foujdaree Adalut are of opinion, that the provision above referred to is requisite, in order to mark clearly the distinction between the Courts of Civil and Criminal Jurisdiction:- With respect to the imposition of fines by way of satisfaction for "groundless and malicious "prosecutions" the Court have to observe, that this power, which is not given to the Criminal Judges, as the 3d Judge would appear to suppose, has always been limited to the cases of the description referred to 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 punishment here prescribed would be obviously inadequate to the deep malignancy of the offence.-

37 In the 40th paragraph

of the Report the 3d Judge urges the justice and expediency of reimbursing a person, who has been robbed, "from the property "of those by whom he has been plundered."

38 On this point the Court of Foujdaree Adalut deem it sufficient to refer the 3d Judge to that part of Mr. Harington's Analysis of the Regulations (Vol. 1st page 498) in which is pointed out the inconvenience, which had been found to result from sentences passed by the Criminal Courts "for the restoration of stolen property "or its value," and which led to the restriction contained in Clause third Section XXXIX Regulation VII of 1802, which appear to the 3d Judge to be objectionable.—

39. To the suggestion of the 3d Judge in the 4th paragraph the same objection applies— The opinion of the Court of Foujdaree Adalut, regarding the best mode of checking the abuse here pointed out, is already before the Government, and with respect to the remarks of the 2d Judge at the conclusion

7

of the paragraph that a witness must entertain a prejudice against the person citing him "if his attendance be detrimental "to him," the Court will merely observe, that they do not discern any practicable mode of removing the inconvenience, described by the 3d Judge, as consequent upon attendance to give evidence before a Court of Circuit.—

40. Upon the modification of the existing Law regarding Perjury, which was proposed by the 2d Judge of the Court of Circuit in the Western Division in his Report on the 1st Sessions of 1819, and to which the 3d Judge adverts in the 42d paragraph of the Report, the opinion of the Court of Foujdaree Adalut was submitted to Government in an extract of their proceedings under date 28th October 1819.—

41. The suggestion of the 3d Judge in the latter part of this paragraph, that the Criminal Judge and Magistrate "might "be safely and advantageously entrusted with

"with the power already vested in the Courts of Circuit by Section XVIII (XXVIII) Regulation VII of 1802" appear to the Court to be unobjectionable, and calculated to check the prevalence of prevarication, on the part of witnesses giving evidence before them.—

42 On the subject brought forward in the 43rd paragraph of the Report the Court of Foujdaree Adalut possess no information — the matter appears to be already before the Government, to whom the suggestion of the 3rd Judge at the conclusion of this paragraph may seem worthy of consideration.—

43 The recommendation of the 3rd Judge in the 44th paragraph of the Report respecting the employment of such of the convicts under charge of the Criminal Judge in the Zilla of South Malabar, as can be spared from the Regd Roads or other public works, appears to the Court to be free from objection.—

44 The measure of employing a part of the convicts in the Jail of Seringapatam in the Gun carriage yard, which was proposed by the

the 2nd Judge in his report submitted to Government under date 2nd March 1818 may appear to the Honorable the Governor in Council to be worthy of adoption.—

45. Ordered, 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 before the Honorable the Governor in Council.—

Sent 5 Dup.ts (Sent following letter A/ N 30)

46. Ordered also, that extract of these proceedings be sent to the 3rd Judge late on Circuit in the Western Division for his information.—

Sent 5 Dup.ts (Sent following letter B)

47. Ordered further that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept enjoining them to communicate the same to the several Criminal Judges and Magistrates within their respective jurisdictions.

Sent 7 Dup.ts (Sent following Precept C)

Read letter, dated 25th August last, from the Third Judge late on Circuit in the Western

27th November 1820.

Western Division,- submitting case No 14 South Malabar Calendar for Sessions AD 1820.-

(Here enter No 495)

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

"Tachengaut Ittyina Nair"

is sufficient to convict him of having put to death the deceased Chattoo Nair, desire, under Clause second Section II Regulation I of 1818, that the Cazee-ool-Cozzat and Mooftees of the Sudder Adalut 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-Cozzat and Mooftees of the Court.-

Read letter, dated 16th August last from the Third Judge late on Circuit in the Western Division

(7) 27th November 1820.

Dated

Calend

=sidered the

late on Circ

Law Officer

=Cozzat and

confirm the said futwa of the Cazee

and Mooftees aforesaid and under the provisions

of Clause sixth Section II Regulation XV of 1803

direct that the prisoner,

"Nawdoy,"

be released on producing good and sufficient security for his future good behaviour and ap=

=pearance when required.-

(Sent following letter E)

Read letter, dated 30th ultimo, from the 2nd Judge on Circuit in the Southern Division submitting case No 2 Coimbatore Calendar 2nd Sessions AD 1820.-

(Here enter No 616)

Then, 8 hes wife Tummy 9 the

Coolpen, for which thirtee

to commited at the 2nd

on are you guilty or

your charge."-

the Court of

of the

ner

the Southern Malabar

the futwa

of the

Sessions

The

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Court and the futwa of the Cazee-ool-Cozat and Mooftees of the Fouj-daree Udalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid and under the latitude given by the sentence of Hokoobut declared in the futwa adjudge the prisoner

"Vadakaun"

to be imprisoned and transported to Bruce of Wales' Island and there to be imprisoned and kept to hard labour in irons on the public roads or other public works for & during the space of his natural life.-

Sent 4th Dst

/Sent following letter F/

2

The arraignment of the prisoner in this case before the Court of Circuit is worded as follows:

"You Vadakaun stand there accused by the Prose-
"cutor the Circuit of being an accomplice in the
"murder of ten persons namely 1 Veeranecutten, 2 his
"wife Coppy, 3 his son Maury, 4 Another son Maury
"5 Another son Caulen, 6 his Daughter Swiganmaul,

"7 Coolty Caulen, 8 his wife Tummy 9 his 2/
"and 10 another son Coopen, for which thirtee
"Prisoners were tried and convicted at the 2nd
"Sessions of 1819, how say you are you guilty or
"not guilty of the crime laid to your Charge"-

3. It is the duty of the Court of Fouj-daree Udalut to call the attention of the 2nd Judge to the loose and incorrect manner in which the above arraignment is drawn up, there being no specification of the time when or the place where the crime was committed, in which the prisoner was charged with having been con-cerned,- particulars which the 2nd Judge must have been aware ought always to be stated with the greatest attainable precision.-

4. Ordered that extract of these pro-ceedings be sent to the 2nd Judge on Circuit in the Southern Division for his information and guidance.-

/Sent following letter G/

Sent 4th Dst

No 10 14 Read return dated 9th instant, from
975 the 1st Judge on Circuit in the Western Division
to

November 1820.

to the precept dated 26th Ultimo ordering transmission of the futwas in certain Cases and of his proceedings in two cases on the Rajahmundry Calendar 2d Sessions AD 1820.

(Here enter No. 639)

Read letter dated 16th instant, from the 2d Judge on Circuit in the Southern Division, - with returned warrant for execution of the prisoner in Case No. 12 Combaconum Calendar 2d Sessions AD 1820.

(Here enter No. 647)

Read letter dated 13th instant, from the 3rd Judge of the Court of Circuit in the Western Division, - with returned warrants for execution of the prisoners in Cases No 4 and 20 South Malabar Calendar 1st Sessions AD 1820.

(Here enter No. 648)

J. A.

At a Court of the Foujdaree Udalut

Present

Thursday 30th November 1820.

Andrew Scott Esqre
Edward Croft Greenway Esqre
} Judges

No 685

Read again letter, dated the 25th August last, from the Third Judge late on Circuit in the Western Division, - submitting Case No 14 South Malabar Calendar 1st Sessions AD 1820.

(Here enter No 495)

Read the second futwa delivered on this Case by the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut. -

The Court having maturely considered the proceedings held before the Judge late 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 Kissaâs declared in the futwa,

adjudge

30th November 1820

adjudge the prisoner

"Lachengaut Ittyna Nair"

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

Sent 2d

Sent following letter &

M

EBS

1. W.H. Read letter dated 17th instant from the Provincial Court of Circuit in the Centre Division, - submitting copy of a communication from the Magistrate in the Zilla of Bellary on the subject of the Courts instructions, under date 20th ultimo, regarding the attestation of confessions de= =livered before the Native Officers of Police. —

2 (Here enter No. 652)

In the foregoing communication the Magistrate submits for the reconsideration of the Court of Foujdaree Adalut the instructions issued by the Court on the 20th ultimo, which required that "the District Police Officers in the Zilla of "Bellary should be specially enjoined in all cases "of confession before them of any of the offences "specified in Clause first Section XXVIII Regu= "=lation XI of 1816 to forward to the Criminal Judge the

30th November 1820

"the attesting witnesses to such confessions together "with their proceedings, as prescribed by Clause "fourth of the above section. —

3 The Court of Foujdaree Adalut having premised, that the proceeding of the Magistrate in suspending execution of their precept is wholly unwarrantable, it being the bounden duty of that officer to shew prompt obedience to the orders of the Court whatever might be his own opinion of their correctness or ex= =pediency, - proceed to take into consideration the grounds advanced by the Magistrate for supposing that "confessions before the Native Officers of Police "are not required to be attested by any witnesses." —

4 With respect to the point first noticed by the Magistrate, namely the punctuation of clause third Section XXVII Regulation XI of 1816, the Court have to observe that the passage referred to appears to bear an ambiguous meaning in consequence of the omission of a comma - It is said of a prisoner's confession, that the Tahseeldar "shall cause the same to be reduced to writing, and

Signed

"signed, or if the prisoner should be unable to write
"marked by the prisoner in the presence of two or
"more respectable persons". A comma should have
been placed after the word marked, and thus the
sentence "or if the prisoner should be unable to
"write, marked," would have appeared, as it ought
undoubtedly to be understood, parenthetical.—

5 The opinion of the Magistrate,
that the presence only and not the written at=
=testation of the persons, who may witness a pri=
=soner's confession before a Tahseeldar, is re=
=quired, betrays an ignorance of the nature and
object of Forms of Law, which appears to the
Court wholly unaccountable.—

6 It becomes necessary, however,
that the Court should explain to the Magistrate,
that the presence of respectable persons, at the
time when a confession before a Tahseeldar
is reduced to writing, and signed or marked,
by the prisoner, is enjoined for the express pur=
=pose of enabling them legally to attest the
confession - and that although in the enactment

(2) Fd

30th November 1820.

prescribing the duty of Native Officers of Police
allusion is not made to the Mohummudan Law,
with which those Officers are not likely to be
acquainted, yet the attendance of the number
of witnesses required by that Law for legal at=
=testation is specifically prescribed the distinction
between the wording of Clause third Section XXVII
Regulation XI, and of Section XXVI Regulation IX
and Section X Regulation X of 1816, having only been
adopted for the purpose of defining in terms more
plain and direct a proceeding essentially the same

7 On the remarks of the Magistrate
upon the provisions of Section XXVI Regulation
IX and Section X Regulation X of 1816 the Court
of Foujdaree Udalut will only observe, that the
omission to enjoin the prisoner's subscription
to a confession before a Criminal Judge or a
Magistrate has probably arisen from its not
having been supposed necessary to prescribe by
a legislative enactment a form so obviously
indispensible.—

8 The Magistrate throughout the
paper under consideration argues upon the as=
=sumption

assumption, that a confession before a Tahseeldar is not admissible as evidence before a Criminal Judge or Court of Circuit.—

9 In this assumption the Magistrate is totally mistaken and the Court cannot but observe that this Officer possessed in the circular orders of the Court dated 18th June 1817 the means of correcting the crude and erroneous notion, which he entertains on this point, had he thought proper to submit his judgment to the recorded sentiments of his superiors.—

10 A reference to the above orders would have shewn the Magistrate, that "attesting "witnesses" are required by the Law to prove, on the trial of a prisoner, the confession delivered in their presence, and that the Court do not require to be apprized that undue "expedients are often "used by Natives to extort confessions."—

11. The analogy supposed by the Magistrate, between the depositions of witnesses and confessions before District Police Officers, does not exist. The testimony of witnesses is invalid for legal proof, unless given on oath, but a free and

and voluntary confession, taken by an Officer authorized to receive it, requires no subsequent confirmation by the accused party to render it good evidence.—

12 The attestation of witnesses in whose presence the confession has been "reduced "to writing" and signed or marked by the prisoner, is prescribed for the purposes of establishing the correctness of the confession, and the fact of its free and voluntary delivery. Aware that even the witnesses may be imposed on in this respect the Court require that these confessions shall be "corroborated by other circumstances" in order to the conviction of a prisoner, but to reject such confessions altogether would involve an alteration of the Law, which the Court are not prepared to recommend.—

13 Upon the concluding observation of the Magistrate the Court have to remark, that when a former confession is confirmed before the Criminal Judge the attesting witnesses to such confirmation only are required to appear before the Court of Circuit, as the original confession is

is thereby superseded, but that when a prisoner may deny the original confession the attendance of the witnesses thereto before the Court of Circuit is necessary in all cases of commitment by the Criminal Judge.—

14 The Court of Foujdaree Udalut, in directing the Magistrates' immediate compliance with the instructions contained in the extract of their proceedings under date 26th Ultimo, deem it necessary to observe, that no part of the Regulations authorize an inferior Officer to dispute the Courts' construction of the Law, and that although the Sentiments of the Magistrate, when submitted in a manner becoming his situation, will always receive the attention of the Court, any future omission on his part to obey their orders will be made the subject of a representation to the Honorable the Governor in Council.—

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

Fd

30th Novr 1820.

sent 1st Dft

in the Zilla of Bellary, for his information and guidance.—

/Sent following Precept B/

1 Read letter dated 10th instant, from the Criminal Judge in the Zilla of Bellary,— submitting a question as to the authority of a Tahseeldar to cause the attendance of witnesses without a summons in writing.—

(Here enter No. 641)

2 The Criminal Judge assigns as a ground for the present reference the inconvenience, which has arisen from "persons on the "pay of the establishment of the Court having "been called upon by Police peons, and carried "away from their public duties by the Tahseeldars "orders, without producing any Summons in writing"

3 The Court of Foujdaree Udalut are of opinion, that it is requisite, as well with a view to obviate the particular inconvenience pointed out by the Criminal Judge, as for the maintenance

maintenance of general regularity of proceedings, that District Police Officers should issue a written Summons to any witness, whose attendance they may require:- and the Court accordingly desire that the District Police Officers in the Zillah of Bellary may be instructed by the Magistrate to observe this mode of proceeding in all cases excepting where circumstances of emergency may not admit of delay.—

4

Ordered that extracts of these proceedings be sent to the Provincial Court in the Centre Division by precept, commanding them to communicate the same to the Criminal Judge and the Magistrate in the Zilla of Bellary for the information and guidance of those Officers respectively.—

Sent 7 Dist.

/Sent following Precepts 6/

W.H.

Read letter, dated 13th instant, from the 2nd Judge on Circuit in the Western Division, with copy of Canara Calendars 2nd Sessions AD 1820.

(Here enter No. 646)

Read letter, dated 16th instant from the Provincial Court of Circuit in the Northern Division,- with copy of the Futwas delivered in Cases No. 9, 14, and 26 Rajahmundry Calendar 2nd Sessions AD 1820.—

/Here enter No. 651/

At a Court of the Foujdaree Adaulut.

Present,

Saturday
2d December 1820. Andrew Scott Esqre ——— } Judges
Edward Croft Greenaway Esqre }

1 Read again letters, dated respectively
28th 29th 30th and 31st December 1819, from
All the 2d Judge of the Court of Circuit in the
Etc Northern Division, transmitting certain
original precepts issued to the Magistrate
of Vizagapatam together with that officer's
returns for the orders of the Court.—

(Here enter Nos. 8, 9, 14, and 22. of 1820.)

2 The subjects referred under the
first two dates are as yet but imperfectly before
the Court, since the results of the further pro-
-ceedings directed by the Judge to be holden
in each case, and which would come under
the notice of the succeeding Judge on Circuit
have not been communicated to this Court—
It is presumable therefore, that they in
effect remedied the errors complained of.—

3. The third reference is partly
made

made at the request of the Magistrate himself and it exhibits the following circumstances-

4 Baratum Soobaiah represented on the 4th of October 1819 that on the 12th of October of the preceding year 1818 he presented a complaint to the Magistrate of the Zilla against Settaraujé Gopanah and others (4 persons) for having in company with other persons not named, on the 11th October 1818 at night beat him, and stolen ready money, joys, and documents of his Master from his lodging in Vizagapatam; that enquiry had been made thereon, and the charge proved against them by 3 witnesses on his part, but to that period no sentence had been passed on the complaint.-

5 On being called upon for an explanation the Magistrate forwarded his original proceedings in the case, which according to his return occupied from the 21st October 1818 to the 4th January following, on which last mentioned date the Magistrate not being satisfied of the guilt of the "Defendants" gave them permission to return to their houses to keep "the Poongal feast with orders to return

"as soon as the feast was concluded- By
"proceedings of 29th January and 5th March
"following it will be seen, that orders were
"sent for the attendance of the parties and
"by proceedings 15th April and 13th May
"following neither the complainant or the
"greater number of the defendants attended,
"the return by the Heads of Police stating
"that the parties were sick, and since
* 21st October 1819. "that period until now the complainant
"has not been reported to the Magistrate
"as in attendance."-

6 In concluding his return the Magistrate states, that -

"The complaint instituted on
"against the head Servant of the Bobilee
"Zemindar by the Sungumveilsah Zemindar's
"principal wife and that Zemindar's brother,
"sometime in September 1817 has to the
"Magistrate's conviction produced many
"unfounded complaints on both sides and
"the present is in the opinion of the
"Magistrate one of those fabricated for
"the purpose- these reasons and the non-
attendance

"attendance of the Complainant have been the
"cause why sentence was not passed."—

7. The Judge on Circuit returned the proceedings, expressing his regret that the Magistrate should delay his proceedings in cases of so much importance on such an extraordinary plea from the party accused (Defendant) and his surprize that the Magistrate had fallen into the error of pronouncing a complaint to be unfounded, previous to examining the evidence and closing the proceedings.—

8 The Judge directed the Magistrate to proceed in the case in question with the least possible delay under the Regulations prescribed for his guidance,—requiring him to acknowledge the receipt of the returned Proceedings within twenty four hours.—

9. To this precept the Magistrate made a return altogether exceeding its exigence, regretting its haste, as only serving to embarrass the Magistrate in the execution of his numerous official duties without having any

any good effect otherwise, whereas it merely required the acknowledgment of the receipt of a record.—

10 It was unnecessary, irregular, and improper for the Magistrate to include in his return to the precept in question any subject unconnected with it, and the Court regret to observe that in availing himself of what he appears to have considered as an opportunity of defending his general mode of proceeding he has manifested a deplorable ignorance of the first principles of law and of the actual constitution of his office. His interpretation of the duty of satisfying his own mind, as to the existence of grounds for believing a person to be guilty, falls nothing short of wresting the defence from the accused, and to send him to a trial afterwards would be a mockery of justice and law.— But to a mind so pertinacious in error it is by no means easy to imagine the course of argument, which shall render this doctrine intelligible.— Nor does there appear the

ground

ground of rational hope that the Magistrate will admit a conviction, that the very mean by which he proposes to himself to arrest the progress of perjury, are of all others calculated to multiply the offence.—

It If it be known to the Magistrate as one of the first principles of law, that a man shall not be twice tried for the same offence he must consider his own proceedings as differing from a trial in the particulars of his inability either to pronounce judgment or to perform the minor duty of committing the accused for trial. If the Court understand the return of the Magistrate as he intended it, the whole scope of his argument is that what he is not prohibited from doing he is permitted to do. If he had extended his reading beyond the single regulation prescribed for the guidance of Magistrates he would have discovered that his Office is the lowest in the European part of the judicial establishment, that the duty of hearing the defence of a prisoner is prescribed to an Officer two grades

above himself, and without the aid of the principles of law he might have concluded (for no other conclusion could be correct) that a duty prescribed to an Officer superior in rank and authority to himself could not be left to him.—

It With regard to the prevalence of perjury in the Zilla of Vizagapatam the Court will observe, that its progress is not likely to be retarded by bringing the opposing testimony of the witnesses for the prosecution and defence into conflict in the incipient proceedings of the Magistrate, who, if the grossest falsehood were sworn to on the part of the defence is not armed with authority to notice it. The Magistrate might possibly be influenced by the false testimony of a witness to the defence to release an accused person, of whose guilt such false swearing offered the only ground of doubt, and if he should discover the falsehood, he would have secured impunity to the offender by the act

act of taking his testimony, not being an officer competent to take such testimony.—

13 It is unnecessary to pursue this branch of the subject further.—

14 The Court have most unwillingly recorded the foregoing remarks, being desirous of making every allowance for the difficulties that might be experienced by a Collector in the very novelty of the duties of the Magistracy; and they refrain from noticing the two former references of the 2d Judge [illegible] considering them as before observed, to be incomplete, and trusting that the errors pointed out by the Judge on Circuit have been avoided in subsequent proceedings:— But one general observation may not be misplaced here, and that is, that on no occasion can the duties of the Magistracy be postponed for fiscal avocations without compromising the welfare of the community and impairing the respect due to the ruling authority. That the necessity for such a compromise is

is obviated by the comparatively small portion of the duties of the Magistracy imposed on the Collector, which is limited to ascertaining (in those cases which he is not authorized to try and determine) whether there are grounds for believing the party accused to be guilty of the offence charged against him, and that not by an examination of all the witnesses on the part of the complainant but of such only as may be sufficient to satisfy the mind of the Magistrate of the offence having been perpetrated and of the probability of the accused being the offender.—

15 Upon the fourth of the above references the Court of Foujdaree Adalut deem it sufficient to observe that the general view taken by the 2d Judge of the Magistrates' authority to require security for keeping the peace is correct, such security being only demandable by that Officer for the

period

period during which a specific charge may be under investigation,— as prescribed in Clause fifth Section XII Regulation IX of 1816.—

16 But the Court entirely acquit the Magistrate of any ~~sinister~~ view in the proceeding referred to, and are of opinion that the circumstances of the case, as before the 2d Judge, did not furnish ground for any graver imputation than that of an error of judgment on the part of the Magistrate, with regard to the extent of his authority.—

17 The Court are sensible of the highly commendable zeal evinced by the 2d Judge in the discharge of the important duties committed to him, and have on this, as well as on former occasions, noticed the beneficial tendency of his exertions; the Court are therefore particularly anxious that the effect of the 2d Judges endeavours to uphold the pure administration of Criminal Justice and check every irregularity calculated

calculated to obstruct its course,— should not be weakened by personal ablusions or the imputation of motives, offensive in themselves, and not necessarily inferrible from the proceedings before him.—

18 Ordered, that extract of these proceedings be sent to the 2d Judge of the Provincial Court of Circuit in the Northern Division by precept enjoining him to make the necessary communication to the Magistrate in the Zilla of Vizagapatam for his information and guidance.—

Sent following precept &c

1 Read return dated 6th ultimo from the 1st Judge of the Court of Circuit in the Southern Division,— to precept dated 20th October ordering transmission of the examinations taken relative to the state of mind of certain Insane prisoners.—

(Here enter No. 632.)

2 It appearing from the evidence transmitted by the 1st Judge that the

the prisoner Abdool Cawder is subject to fits of insanity.—

3 The Court direct that the Criminal Judge in the Zilla of Trichinopoly be commanded to ascertain, whether the friends of the prisoner are able and willing to take charge of him, 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 shall to him appear expedient, and not to release the said prisoner without the permission of the Foujdaree Adalut, to whom the Criminal Judge will from time to time report the state of the prisoners mind, through the Judges of the Court of Circuit.—

4 In the foregoing return the 1st Judge states that "he was not aware "of the Court's Circular letter of 29th October "1807, "at being in India at that period."—

The

deem it necessary to observe, that the reason here assigned by the 1st Judge for his inattention to their instructions is so far from constituting an excuse for his ignorance of them, that it is a direct avowal of his neglect of a most obvious part of his duty, namely the perusal of the orders which had from time to time been issued for the information and guidance of the Court, to which he belongs.—

6 With respect to the order passed in this case by the 1st Judge directing that security should be taken from the friends of the prisoner for his future good conduct,— The Court have to observe that the demand of such an obligation not being authorized by the Regulations, it would not possess any validity in law, and the penalty could not be enforced against the party, in the event

of

December 1820

of the non performance of the conditions of the Deed.-

Ordered, that extract of these proceedings be sent to the 1st Judge of the Court of Circuit in the Southern Division by precept desiring him to make the necessary communication to the Criminal Judge in the Zilla of Trichinopoly for his information and guidance

(Sent following precept B)

W. 18. Read letter dated the 27th ultimo from the 3d Judge of the Court of Circuit in the Western Division,- with returned warrant for execution of the Prisoners in cases Nos 21. 32 and 33 South Malabar Calendar 2d Sessions A.D. 1820.-

(Here enter No 659)

Read letter dated 20th ultimo from the 1st Judge on Circuit in the Northern Division,- with copy of Vizagapatam Calendar 2d Sessions A.D. 1820.-

(Here enter No 661.)

Read

2d December 1820.

Read return dated 27th ultimo from the Provincial Court of Circuit in the Centre Division,- to precept dated 23d November last ordering communication to the Judge on Circuit of the Court's instructions relative to the reference of Cases under Section IV Regulation XV of 1803.-

(Here enter No 663)

the prosecution against the prisoner is for

J. W. Copied

At a Court of the Foujdarree Udalut

Present,

Monday 4th December 1820 — Andrew Scott Esqre } Judges
Edward Croft Greenway Esqre }

1. Read again letters, dated respectively 16th June and 12th September last from the 2d Judge of the Court of Circuit in the Northern Division, — submitting reports on the 2d and 3d Quarterly Sessions for 1820 held at Masulipatam. —

(Vide enter Nos. 349 and 524)

2. In the 2d paragraph of the first of the above Reports the 2d Judge suggests, that "rules for the conduct of the "several Sailors and persons under them "should be framed." — and he adverts in proof of the necessity for specific rules regarding the management of Sails to the evidence given in Case No 11 of the Masulipatam Calendar for the 2d Quarterly Sessions

of

of 1820; from which it clearly appears that a discretion is exercised by the Jailor with respect to the imposition and removal of Irons, and that a general want of superintendence and control on the part of the Criminal Judge prevails in the Zilla Jail at Masulipatam, which is likely to be attended with the most injurious consequences—

3. The attention of the Court of Foujdaree Adalut has of late been particularly directed to the subject brought forward by the 2d Judge in this part of the Report— and the Court propose to submit for the sanction of Government detailed rules for the Management of the Zilla Jails and the treatment of prisoners—with a view to the preparation of which measures have been taken to obtain from Bengal a copy of the rules, which have been circulated for the guidance of the Zilla Magistrates in these respects by the orders of the Supreme Government—

With

the prosecution against the prisoner is for

4 With respect to the question submitted by the 2d Judge in the 4th and 5th paragraphs of the Report the Court of Foujdaree Adalut deem it sufficient to observe, that under the general powers of control vested in the Judge of the Court of Circuit by Section XXXII Regulation VII of 1802 he possesses authority to institute inquiries regarding the management of the Jail of the Zilla and to issue such instructions to the Criminal Judges, respecting the personal treatment of any prisoners under his charge, as he may consider to be necessary with a view to the due execution of the sentences, which may have been passed upon them—

5 The Court beg leave to submit to the favorable consideration of Government the recommendation of the 2d Judge in the latter of the above Reports, that the prisoners should severally be allowed after conviction and sentence

of

4th December 1820.

" of imprisonment and labor one Cumbly Annually."

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

Sent 5th (Sent following letter A/ 1824/

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

Sent 5th (Sent following letter B/

M W. M.

EC/

Copied.

7 M.

At a Court of the Foujdaree Adalut

Present,

Thursday, 7th December 1820. Andrew Scott Esqre. —
Edward Croft Greenway Esqre.

Read letter, dated 28th October last from the 2d Judge on Circuit in the Western Division, — submitting case No. 7 Canara Calendar 2d Sessions A.D. 1820.—

M.

EC/

(Here enters No. 613.)

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,

"Govinda,"

is sufficient to convict him of having put to death the deceased Gieda Goudah, desire, under clause Second Section II Regulation I of 818, that the Cazee ool Cozat and Mooftees of the Foujdaree Adalut will declare by a Second futwa, to what sentence the

the prisoner 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 ool Coozat and Mooftees of the Court.

Read letter dated 28th October
last from the acting 3d Judge on Circuit
in the Centre Division, - submitting case
№ 24 Bellary Calendar 2d Sessions A.D. 1820.

/Here enter №. 610./

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,

"Eragah,"

is sufficient to convict him of having
cut the throat of the Prosecutrix Canadee,
desire, 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 futwa, to what
sentence the prisoner 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 ool Coozat and Mooftees of the
Court.-

H W.H.

GS

3/ F. M.

Copied

F. M.

At a Court of the Foujdaree Adalut.

Present,

Monday 11th December 1820. Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.

Read letter dated 20th October last from the acting 3d Judge on Circuit in the Centre Division, submitting cases Nos 47, 48, 49 and 50 Cuddapa Calendar 2d Sessions AD 1820.

Here enter No 593

The Court having maturely considered the proceedings held before the Judge on Circuit in cases Nos 47, 48, 49 and 50 of the Cuddapa Calendar 2d Sessions AD 1820 the futwas of the Provincial Law Officers and the futwas of the Cazee ool Cozzat and Mooftees of the Foujdaree Adalut are of opinion that the proof against the prisoners, 1st "Soomoolee Papadoo",
2d "Cooroobee Sunjeevee", and
3d "Avvoolagadoo",
is sufficient to convict them of the offences of

of Gang Robbery and Murder for which a penalty is specially denounced in clause first 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 prisoners,

1st "Soomooloo Papadoo," and

2d "Avvoloogadoo,"

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

And the Court adjudge the prisoner,

2d "Coroobee Sungeevoo,"

to suffer death by being hanged, and his body to be suspended in irons in a spot to be selected by the Criminal Judge in the Zilla of Cuddapah near the Village of Rahoolaconta in the Budwehell Taloog.—

Sent following letter A/

Read letter dated 28th October last from the 2d Judge on Circuit in the Southern Division,— submitting case No 73 Salem Calendar

Sent 14th

/Here enter No 617/

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 cool Coozat and Mooftees of the Foujdaree Adawlut confirm the said futwa of the Cazee cool Coozat and Mooftees aforesaid and under the latitude given by the sentence of Fazeer adjudge the prisoner,

"Rajsen Khan,"

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

/Sent following letter B/

Read again letter dated 28th October last from the acting 3d Judge on Circuit in the Centre Division, submitting case No 24 Bellary Calendar 2d Sessions A.D. 1820.—

/Here enter No 618/

Read the second futwa delivered in this case by the Cazee cool Coozat and Mooftees of the Foujdaree Adawlut.

The

11th December 1820.

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 Zoydaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Bohoobut declared against the prisoner,

"Iragah,"

adjudge him to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of five years and then released.—

(Sent following letter C.)

Read again letter dated 28th October last from the 2d Judge on Circuit in the Western Division.— submitting case No 7 Canara Calendar 2d Sessions A.D. 1820.—

(Here enter No 613.)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Zoydaree Adalut.—

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 Zoydaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Hissaat declared in the futwa adjudge the prisoner,

"Govinda"

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

(Sent following letter D.)

Read letter dated 25th October last from the 2d Judge of the Court of Circuit in the Northern Division.— submitting case No 13 Masulipatam Calendar 4th Quarterly Sessions A.D. 1820.—

(Here enter No 597.)

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 Zoydaree Adalut confirm the said futwa

11th December 1820.

futwa of the Cazee or Law Officer and Moofties acquitting the Prisoner of the offence laid to his charge aforesaid.- but as it appears to the Court that the Record of the Case furnishes sufficient evidence of the prisoners having received stolen property, knowing the same to be stolen.-

The Court direct that the prisoner,

"Edward Gregory Jacobs,"

be committed to take his trial at the ensuing Quarterly Sessions of Jail delivery for this offence.-

Sent following letter &c.

2 In the letter accompanying the trial the 3d Judge describes the charge in this case as being "for receiving stolen goods."- and the whole of the evidence criminatory of the prisoner goes to establish against him the above charge, to which should have been subjoined the further allegation, that the prisoner knew the goods in question to have been stolen.-

3 Such being the description given

11th December 1820

of the charge by the 3d Judge, and such the nature of the evidence in the case, the Court of Fujdaree Adaulut are unable to account for the arraignement of the prisoner before the Court of Quarterly Sessions on the charge of "having been concerned in stealing from the tent of Lt Claridge,- a writing Desk - supposed worth ten Rupees."-

4 Although the receiver of stolen goods is to be considered as an accessary after the fact, the above arraignment is manifestly inapplicable to such a case, and could only be supported by evidence of the prisoner's personal cooperation in the act of theft.-

5 In the absence of any evidence to this point the Court are compelled to confirm the futwa of their Law Officers, acquitting the prisoner of the offence, for which he had been tried.-

6 But as the Court consider it to be clearly inferrible, both from the testimony for the prosecution and the admis-

7

11th December 1820. of the prisoner on his examination before the Assistant Magistrate, that he had heard of the proclamation respecting the theft of the Desk before he purchased it, that he did purchase it with the knowledge of its having been stolen, - they deem it necessary for the ends of Justice, that the prisoner should be put on his trial at the ensuing Quarterly Sessions for this offence.

7 The Court accordingly direct, that the Criminal Judge in the Zilla of Masulipatam be instructed to recommit the prisoner Edward Gregory Jacobsz for trial before the Court of Quarterly Sessions, on the charge of receiving stolen property knowing the same to be stolen. -

8 The Court do not discover in the record of this Case any statement in the nature of an indictment framed by the Assistant Criminal Judge, but in lieu thereof it is recited in the Tukalutnamah, issued to the Government Vakeel, that the

3/ 7.11.

11th December 1820. - the prosecution against the prisoner is for "having been concerned in a theft." -

9 As it would appear from the letter of the 3d Judge, that he was aware of the incorrectness of the charge as thus worded, it was his duty to have directed the arraignment to be redrawn in conformity with the facts elicited by the previous proceedings against the prisoner.

10 Ordered, that an extract of these proceedings be sent to the 3d Judge of the Court of Circuit in the Northern Division by precept directing him to make the necessary communication to the Criminal Judge in the Zilla of Masulipatam for his information and guidance. -

Sent 15th Sent following precept 7.

1/11.1. Read letter, dated 1st ultimo, from the Provincial Court of Circuit in the Western Division, transmitting report called for under date 10th October last, regarding the Lunatic Hospital established at

11th December 1820.

at the Sudr station.-

/Here enter No. 626./

2 It appearing from the Report of the Surgeon to the Courts of Judicature at Tellicherry that the prisoners,

1st "Chaatan Cholakara Pokrad",

2d "Vattaparrambil Aivaran",

3d "Innakatt Chattoo Nambiar" and

4th "Ottan Veeran",

confined in the Lunatic Hospital by order of the Court of Foujdaree Adalut may be liberated from confinement without danger to the community, the Court authorized and direct the Criminal Judge in the Zilla of North Malabar to send the above named four prisoners to the Criminal Judge in the Zilla of South Malabar, in order that the latter Officer may call before him the friends of the prisoners, and deliver them into their charge.-

3 Ordered, that extract of these proceedings be sent to the Provincial

11th December 1820. Court of Circuit in the Western Division by precept directing them to communicate the same to the Criminal Judges in the Zillas of North and South Malabar for the information and guidance of those Officers respectively."-

/Sent following Precept by/

20

11

10

6

23d November 1820.

7. 11.

Copied

At a Court of Zoujdaree Adaulut

Friday
15th December 1820.

Present

Andrew Scott, Esqre.
Edward C. Greenway, Esqre.

M 1 Read letter, dated the 12th instant,
from the Magistrate in the Zillah of Nellore-
recommending an offer of rewards for the appre-
-hension of the persons concerned in a late gang
robbery.-

(Here enter No. 6717)

2 2 The Magistrate in the Zillah of
Nellore recommends, in consideration of the
extent of the robbery and the acts of violence
with which it was attended, that two hundred
Rupees be offered for the apprehension of the
Murder of the Gang, and fifty Rupees for
that of each of the inferior offenders, concern-
-ed in the perpetration of the crime.-

3. The Court of Zoujdaree Adaulut
having

15th Decr 1820.

having considered the grounds, on which a recommendation is made for an offer of rewards to the extent here specified, authorize and direct the Magistrate of Nellore to offer two hundred Star Rupees for the apprehension of the Murder, and fifty Rupees for the apprehension of each of the inferior offenders, payable on their conviction before the Court of Circuit.

4 Ordered, that a Extract of these proceedings be sent to the Magistrate in the Zilla of Nellore for his information and guidance. —

(Sent following letter A.)

sent 17th

Read Magistrates return, dated the 11th April 1820 from the Second Judge on Circuit in the Centre Division, to precept dated the 3d April, ordering them to call on the Magistrates in the Division to report how far they have complied with the orders of Government for the circulation of the Letters of Regulation XI of 1816.

(Here enter No 259)

In the above return it is stated

2 that the Court have transmitted a copy of the proceedings which accompanied the precept to each of the Magistrates in the Centre Division with precepts requiring conformity thereto, and will forward copies of their returns when received for the information of this Court.

3 The returns of the Magistrates above referred to not having been transmitted.

Ordered, that the provincial Court in the Centre Division be by precept required to explain the reason of their non-transmission, and to send up such of the returns as may have been received, without further delay. —

(Sent following Precept B.)

Sent 19th

Read return, dated the 29th ultimo, from the Second Judge on Circuit in the Western Division, to precept 20th ultimo, ordering communication to the Criminal Judge in the Zillah of Canara of the Courts orders on cause No 10 Canara Calendar 2d Sessions A.D 1820.

(Here enter No 664)

Read

2d

23d November 1820.

15th December 1820.

Read return, dated the 29th ultimo from the Provincial Court of Circuit for the Western Division, to precept dated 23d ultimo, - ordering communication to the Judges on Circuit of the Court's orders on the subject of the reference of the cases under Regulation XV of 1803. -

(Here enter N: 666.)

Read return, dated the 4th instant, from the Provincial Court of Circuit in the Centre Division, to precept dated 30th ultimo, - ordering communication to the Magistrate in the Zilla of Bellary of the Court's observations on the subject of confessions taken by Police officers. -

(Here enter N: 667.)

Read return, dated the 4th instant, from the Provincial Court of Circuit for the Centre Division, to precept dated 30th ultimo, - ordering communication to the Criminal Judge and the Magistrate in the Zilla of Bellary of the Court's observations relative to the summoning of witnesses by a Tahsildar. -

(Here enter N: 668.) Read

7. 6.

15th December 1820.

Read return, dated the 6th instant, from the Provincial Court of Circuit in the Centre Division, to precept dated 27th ultimo, - ordering communication to the Criminal Judges and Magistrates within their jurisdiction of the Court's instructions relative to the treatment of slaves by their Masters. -

(Here enter N: 672.)

Read letter, dated the 9th instant, from the Second Judge on Circuit in the Southern Division, - with returned warrant for execution of the prisoner in case N: 46 Salem Calendar - 2d Sessions A. D. 1820. -

(Here enter N: 673.)

Read letter, dated the 11th instant, from the Second Judge on Circuit in the Centre Division, - reporting the arrival of the Court of Circuit at Chengulpet.

(Here enter N: 674.)

At a Court of the Foujdaree Adaulut.

Present,

Monday 18th December 1820 — Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.

EBS

1 Read again letter, dated 10th April 1819 from the Secretary to Government in the Judicial Department, transmitting for the information and guidance of the Court Extract from a General letter from England, bearing date 4th March 1818 together with copies of the orders passed thereupon by the Right Honorable the Governor in Council.

(Here enter No. 273 of 1819)

2 Read also letters, dated respectively 28th August, 15th September 4th October and 21st December 1819, and 2d February, 3d April and 2nd June 1820, from the four Provincial Courts of Circuit, transmitting the replies of the several Criminal Judges and Magistrates to the queries circulated by order of the Court respecting the practice of widows burning

burning themselves with the bodies of their deceased husbands.-

*Dt. Foujdaree Diary of the 30th Novr 1819.

(Here enter Nos. 523, 564, and 590 of 1819. and 6, 122, 247 and 332 of 1820/

3. The foregoing Extracts, which were referred for the consideration and report of the Court of Foujdaree Adalut, contain certain observations regarding the practice of Widows burning themselves with the bodies of their deceased husbands, and convey the desire of the Honorable the Court of Directors to be furnished with an account "of the number of women within the limits of this Government, who undergo the Suttee within a specific period of time"

4. In their observations respecting the practice here referred to the Honorable Court advert to certain rules, restrictive of its exercise, which have been enforced in Bengal, and of which they recommend the adoption on this side of India.-

5. The Court of Foujdaree Adalut deemed it necessary to postpone the consideration of

of the rules suggested for the restriction of the practice, until information had been obtained from the late and present Magistrates as to it's prevalence in the territories subject to this Presidency.- For this purpose circular instructions were issued under date 28th June 1819 to the four Provincial Courts of Circuit, with a view to ascertain the number of Cases which had occurred in the 3 years preceding and in the 3 years subsequent to the transfer of the duties of Magistrate to the Collectors, in 1816.- Owing to a misconception of the intention of those instructions, which was noticed by the Court on 30th November following, the Reports were not all received until the 9th June last.- In the reports received, under the orders issued on 30th November 1819, from the Criminal Judges in the Centre Division, the error had been committed of taking the 3 years subsequent to 1816, instead of the three years anterior to that date, according to the instructions of the Court,

Court,- as however the former returns of those Officers contain the specific information required by the Court of Directors, respecting the ascertained number of Suttees,- the Court resolve no longer to delay the transmission of the Report required, and will conclude by proposing for the sanction of Govern=ment the rules, which appear to be best adapted to meet the intentions of the Honorable Court of placing the practice "under every restraint, that may be recon= "=cilable with the precepts of that religious "Code on which it is founded".-

6. By the returns, which are herewith transmitted from the Provincial Court in the Northern Division it appears that, in the three years prior to 1816, the number of widows burnt with the bodies of their deceased husbands in the Zilla of Ganjam was 45:- and in the 3 subsequent years 37.-

Northern Division

Ganjam 45 37

7. The Criminal Judge in the Zilla of Ganjam adverts to a right claimed by the Zemindars

Zemindars of taking the half of the property of widows who have no children,"- as tending to promote this practice.- It is to be observed that this officer cites only one instance of such a claim, which would of course be thrown out by any Court of Justice, and it does not appear from the monthly returns from this Zilla, that a complaint of any such usurpation has ever been made.-

8. It appears from the returns of the Magistrate, that in the Zillah of Vizagapatam 6 Cases of Suttee are reported to have taken place in the 3 years preceding and 17 Cases in the three years subsequent to 1816.-

Vizagapatam 6 17

9. The Magistrate, however observes that "the occurrence is less frequent "within the last ten years."-

10. On the correctness of the Statement furnished by the Criminal Judge in the Zilla of Rajahmundry, in which the number of widows, who sacrificed themselves in the 3 years prior to the transfer of the office of

Rajahmundry

of Magistrate in 1816, is reported to have been
3; no reliance can be placed, this Officer
observing that the former "Police of Rajah-
"-mundry merely consisted of a few Cutwalls
"at the principal stations and the Villagers
"on such melancholy occasions neglecting
"to report them."

11. The Magistrate in the Zilla
of Rajahmundry reports, that in the three
subsequent years 9 Widows were burnt,
and annexes to his Report an account
of a Case of recent occurrence, in which
the widow was only 11 years old.—

12 The Criminal Judge in the Zilla
Masulipatam of Masulipatam reports, that in the three
years prior to the transfer only one case
42 came to his knowledge of a Widow being
immolated on the funeral pile of her
deceased husband within the limits of
that Zillah, and expresses an opinion
founded on a case in which his interference
had prevented this sacrifice, that the
practice

practice "might be altogether abolished by
"an ordinance of Government."

13. But the Report of the Magistrate
of this Zilla, who enumerates 42 cases in
the 3 years, subsequent to his assumption
of the office of Magistrate in 1816, induces
the presumption, that the Criminal Judge's
opinion of the former infrequency of the
practice must be ill founded, and this
Officer recites the particulars of a shocking
instance of the result of an attempt to
prevent the immolation.—

14. The Magistrate of Guntoor
Guntoor reports, that fourteen Widows have been
burnt in that Zilla in the 3 years sub-
-sequent to 1816, but does not specify the
number of cases in the 3 preceding years.—

15. The Criminal Judge in this
Nellore Zilla reports, that he could discover only
one instance of this sacrifice in the 3 years
prior to the transfer in 1816.—

It does not appear, however,
16. that this Officer possessed the means of
furnishing

furnishing an accurate statement of the number of cases.—

17. The Magistrate reports, that 12 women have immolated themselves in the 3 years subsequent to the transfer, but adds that "there is a reason to believe that "Anugamanums often take place in the "District particularly in the large Zemindary "of Vencatagherry, where there is but a very "slender Police Establishment, without the "cognizance of the Magistrate or Police."—

Centre Division

18. By the returns received from the Provincial Court in the Centre Division it appears, that in the Zilla of Bellary no case of Suttee is known to have occurred during the whole period of six years to which the questions of the Court of Foujdaree Adalut applied.— The Magistrate states that "it is understood in this Zilla, that these sacrifices ought not to be made without the permission of the Sirkar Officers."— and that "on two occasions, when the parties

Bellary

18th December 1820.

have applied for permission the "sacrifice has been prevented."— This Officer however remarks, that "it is possible one "or two cases may have occurred at a distance)."—

19. The Criminal Judge in this Zillah reports, that in the three years preceding the transfer of the duties of Magistrate only one instance is known to have happened.—

Cuddapah

20. The Magistrate reports that in the three subsequent years "six Widows "have sacrificed themselves on the funeral "piles of their deceased husbands."— and "four "more were prepared to perform the "Ceremony, but were prevented by the "authority of the Magistrate."—

21. The Criminal Judge in the Zilla of Chingleput reports that "from the "best information he can procure," no case of the kind occurred in the Zillah during the 3 years prior to the transfer.

Chingleput

22. The Magistrate states, that 3 years

four

four cases of this sacrifice have occurred in the 3 subsequent years, but adds that it is probable that it may have taken place without the knowledge of the Police.

Chittoor 23. The Criminal Judge in the Zilla of Chittoor reports, that "on reference to the several Arzees forwarded by the "Police, during the three years prior to the "transfer of the Police duties to the Collector, "only three widows appear to have been "reported by the Police to have been immolated "on the funeral piles of their deceased hus- "bands."-

24. The Magistrate reports the number of Suttees, in the three years subsequent to the transfer, to have been 13:- and it appears that both before and since the transfer the Police have been instructed to ascertain, that every Anugamanum was voluntary on the part of the Female, and "to prevent if possible "the act of immolation."-

Southern Division Trichinopoly. 25. The Criminal Judge in the Zilla of Trichinopoly states, that from the Reports of

of the Police Officers during the three years previous to the transfer he "cannot find that any widows sacrificed themselves "during that period."-

26. The Magistrate reports, that two instances have occurred since 1815. and concludes with proposing a Legislative enactment for the purpose of abolishing the practice.-

Were not Used Law

Combaconum 27. The Criminal Judge in the Zilla of Combaconum reports, that twenty cases of Suttee occurred in three years preceding the transfer of the Police duties to the Collector.-

28. The Magistrate transmits a list of 18 Cases of Suttee in this Zilla from "1st November 1816 to 22d June 1819. and it appears by a further report from the Assistant Magistrate, that between the date last mentioned and the 15th "November following 4 more cases occurred in that Zilla.-

29. The Criminal Judge in the Zilla

Zilla of Virdachellum reports, that no case of the immolation of a widow on the funeral pile of her deceased husband occurred in that Zilla in the 3 years prior to the transfer of the Police, and instances a case, in which a widow abandoned that intention in consequence of the refusal of the acting Commercial Resident at Cuddalore to give his consent.—

30. The Magistrate in this Zilla states, that the act of immolation has not been permitted since the transfer, that "the Police Tahseeldars generally inform all "those, who are about to be concerned that "they as well as the whole Village will be "severely fined, and that this prevented it "in one instance, where an application "was made."—

Centre

31. The Criminal Judge in the Zilla of Salem reports, that the burning of a Widow on the funeral pile of her husband has not been known in that Zilla within the last twenty seven or thirty years.

18th December 1822.— years, but that "previous to the Company's "Government immolations were very frequent."

32. The Magistrate states the practice to be quite unknown in the Zilla.—

33. The Criminal Judge in the Zilla of Coimbatore states, that "no widows were, "during the three years prior to the transfer "of the Police duties to the Collector, immolated "on the funeral piles of their deceased husbands."

Coimbatore

34. This officer mentions, that in 1812 and 1813 two cases occurred of "widows wanting so to be burnt," and that on the "Magistrate's refusing his permission, they "went to the Tanjore Country, and were "there burnt."—

35. The Assistant Magistrate reports, that no instance of the kind has occurred in the 3 years subsequent to the transfer.—

36. The Criminal Judge in the Zilla of Madura reports, that no instance of this sacrifice occurred in that Zilla in the 3 years preceding, and the Magistrate states, that no case has occurred in the 3 years

Madura.

subsequent

subsequent to the transfer. The latter officer adds, that on one occasion an application was made to the Police by a Widow for permission to burn herself, but that the Police officer induced the friends of the Widow to persuade her to abandon the intention.—

Tinnevelly. 37. From the reports of the Criminal Judge and the Magistrate in the Zilla of Tinnevelly it appears, that no instance of this sacrifice is known to have occurred in that Zilla.—

Western Division 38. By the reports transmitted from the Provincial Court of Circuit in the Western Division it appears, that the custom of Widows burning themselves on the funeral pile of their deceased husbands is unknown in the Zillas of North and South Malabar.—

North and South Malabar

Canara. 39. The Acting Criminal Judge in the Zilla of Canara reports, that on an examination of the Police Records, for the 3 years prior to the transfer, it does not appear, that any instance of this sacrifice occurred within this Zilla during that period.—

The Magistrate of this Zilla reports, that four cases of Suttee have occurred in the 3 years subsequent to the transfer, and that these have been confined to the Talook of Buntwal.— In answer to a further question put by the Provincial Court, this Officer states that "3 Widows "have immolated themselves, since the "assumption of Canara by the British "Government" and assigns as a cause of it being peculiar to that Talook, "that many "Chitpavan Brahmins are settled in that part "of the Zilla and seldom found elsewhere."—

Seringapatam 41. By the return of the Criminal Judge and Magistrate of Seringapatam it appears, that only two cases have occurred of application for permission to perform the sacrifice, and that in those the Widows "having found "some opposition made by the Police Servants "to their ceremony retired into the Mysoor "Country, and with the sanction of His "Highness the Rajah there sacrificed them "selves."—

General Remarks 42. From the foregoing Abstract of

18th December 1820.

of the Reports received from the Judicial authorities in the several Zillas it appears, that the practice of widows immolating themselves on the funeral piles of their deceased husbands prevails generally throughout the Northern Division, particularly in the Zillas of Masulipatam and Ganjam; that it exists in a less degree throughout the districts allotted to the Centre Division, with the exception of the Zillas of Bellary, - in which it may be said to be unknown; that in the Southern Division it is almost entirely confined to Tanjore, - and that in the Western Division it is only to be met with in a single Talook in Canara.-

43. With a view to carry into effect the desire of the Honorable the Court of Directors, that the rules which have been passed by the Supreme Government, - prohibitory of the practice of immolation in certain cases, should be adopted throughout the territories subject to this Presidency, - the Sudder Adalut have called upon the Pundits of their Court to declare, whether the

5/

18th December 1821.

texts cited by the Pundits of the Nizamut Adalut, upon which those rules are founded, are received as authority on this side of India.-

44. The answer of the Pundits of this Court being in the affirmative, the Sudder Adalut beg leave to submit for the consideration of the Honorable the Governor in Council the following instructions, drawn up in conformity with those, which have from time to time been issued on this subject by the Nizamut Adalut, with the sanction of the Supreme Government.-

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Draft of instructions proposed to be issued to the several Magistrates with a view to prevent the practice of widows burning themselves in cases not permitted by the Hindoo Law.-

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45. It being a fundamental principle of the British Government to allow the most complete toleration in matters of religion to all classes of its native subjects, whilst at the same time justice and humanity forbid that a

practice

practice attended with the destruction of human life, and often productive of calamitous consequences to the children of the deceased, should be permitted beyond the extent of the rules prescribed for it in the Hindoo Law, you are hereby desired to furnish each of the Tahseeldars, or other Officers vested with the powers of District Police Officer, under your authority with copies under your official Seal and signature of the several undermentioned provisions of the Hindoo Law, as well as of the annexed instructions, and to enforce a strict observance of the same.

46. As the practice of Widows burning themselves with the bodies of their deceased husbands is, generally speaking, recognized by the doctrines of the Hindoo Religion, it is the object of the Government, according to the principle of religious toleration already noticed to allow the practice in those cases, in which it is countenanced by that religion and to prevent it in others, in which it is by the same authority prohibited. It will therefore be proper, that you should

explain carefully, on all suitable occasions, to persons of the Hindoo persuasion, that nothing is farther from the intention of Government than to infringe any established tenet of their religion, and that its only object is to restrain the use of acts and practices, not less repugnant to the doctrines of their own persuasion than revolting to the dictates of humanity.—

Provisions of the Hindoo Law regarding the practice of Widows burning themselves.

47. Every woman of the four casts is permitted to burn herself with the body of her husband, provided she has not a child under three years of age, nor is pregnant, nor in a state of uncleanness, nor under the age of puberty, in any of which cases, with the exception hereunder specified, she is not allowed to burn herself with her husband's body.—

48. But a woman who has infant children, and can procure another person to undertake the charge of bringing them

18th December 1820.

them up, is permitted to burn.—

49. It is contrary to law to cause any woman to burn herself against her wish by administering drugs to stupify or intoxicate her, or by any other means.—

50. A woman may not ascend the pile of her deceased husband for twenty nights after bearing a son, and for a month after bearing a daughter.—

51. When women burn themselves they pronounce the Sunkulp, and perform other prescribed ceremonies previously to burning.—

52. If any woman declare her intention of burning, and afterwards recede from her intention, without having pronounced the Sunkulp, and performed the other ceremonies, she is not enjoined by the Shaster to undergo any (prayaschit) penance, neither is there any thing contained in the law prohibiting her relations from associating with her.—

53. But if a woman after pronouncing the Sunkulp and performing

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other ceremonies, should not have courage to proceed to the funeral pile, she may recover her purity by undergoing a severe penance, and her relations may then associate with her.—

54. The wife of a Brahmin is positively prohibited by the Shaster from burning on any funeral pile excepting that of her husband.—

55. The rite of Anoomarana, or burning without the body of the deceased, may be performed by all such women of the other Casts, as are devoted to their Lord, and absent from them at the time of their death, or such as are in the first and second day of menstruation, the disqualifying cause being here removed in a short interval. Woman under other circumstances are not permitted to perform the rite of Anoomarana.

56. A woman, who being absent from her husband at the time of his death, does not perform the rite of Anoomarana immediately on becoming acquainted with that event, cannot be considered a "pativrata," or devoted to her Lord, and is not

not at liberty to burn herself at any subsequent period.-

57. Also a woman who being pregnant at the time of her husband's death and unrestrained by a legal impediment, omits the act of Suhamarana/ burning with the body of the deceased/ cannot be considered a "pativrata" or devoted to her Lord, and is not at liberty to burn herself at any subsequent period.

Proposed Directions to be issued by the Magistrates to the District Police Officers.-

58. It appearing from the foregoing expositions of the Hindoo Law, that the burning a woman pregnant,- or a Girl not yet arrived at full age,- or who has borne a Son within a period of twenty days, or a daughter within that of a month,- is expressly forbidden by the Shasters: that the intoxicating a woman for the purpose of burning her, and then burning one without her assent, or against her will is highly illegal; also that a Hindoo woman having a child within three years of age is not permitted by

the Shasters to burn herself with the body of her deceased husband, unless some person will undertake to provide a suitable maintenance for the child- that the wife of a Brahmin is positively forbidden by the Shasters to burn herself except on the funeral pile of her husband and that a woman of any other caste is not permitted to burn without the body of her husband, unless absent from him at the time of his death and immediately on hearing of that event,- you are hereby strictly enjoined to make known these rules as stated in the foregoing provisions of the Hindoo Law, whenever a woman may be desirous of performing the Suttee within your district: and after proceeding yourself to the spot, or sending a Peshcar or Gomashtah with a Hindoo peon, for the purpose are to allow or prevent the proposed Suttee according as it may appear to be conformable or not to the provisions of the Shasters applicable to the circumstances of the case.-

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59. You are hereby enjoined to use the utmost care and make every effort to prevent the ceremony of burning from taking place in any case, in which it is not permitted by the Hindoo Law, and for that purpose will ascertain from the woman who is to be burnt, whether she has given her assent, and the other particulars above mentioned relative to her age &c &c. In the event of the female, who is going to be burnt, being less than sixteen years of age, or there being signs of her pregnancy or on her declaring herself to be in that situation, or should the people be preparing to burn her, after having intoxicated her, without her assent or against her will, it will be your duty to prevent the ceremony from taking place and to explain to the people, that in the event of their persisting they would involve themselves in a crime, and become subject to punishment. If a woman having a child under three years of

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