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J. U

8th January 1821

the Court of Circuit, are confined to certifying the two discordant depositions, delivered by them on oath, but as no evidence is brought forward disproving the facts averred by them in that deposition, wherein the perjury is alleged to have been committed, the prisoners are entitled to an acquittal. –

Extract sent to the Judge from Para 11th to 19th inclusive. Vide Part. Para

12 To the judicial proceedings on this case are prefixed a transcript of the instructions, furnished by the late Special Commissioner in Canara to the Criminal Judge, regarding the commitment of the prisoners to take their trial for perjury and to those instructions are annexed copies of certain depositions, taken before the Special Commission relative to the transaction, regarding which the prisoners delivered discordant testimony before the former and the special Commission. –

12 These documents are superfluous, as they can in no way affect the merits of the decision

decision on the case, and it is necessary for the Court to point out the error, in which the 3rd Judge appears to have fallen, of considering one of the depositions in question in the light of evidence on the trial before him.—

13 Although, however, the instructions of the Special Commissioner to the Criminal Judge do not come under the review of the Court, as a material part of the case, submitted for their judgment, they deem it incumbent upon them to notice a passage in those instructions, which displays a complete misconception of the object of the forms of Law in indictments for Perjury.— In the passage referred to the Special Commissioner observes as follows— "When a witness swears contradictorily "to a fact that is plain and obvious to the senses, it "is not easy to assume, either one or the other of his "statements as the Truth — I should imagine, therefore "that it is a presumption which the law takes in "such cases, that the witness has knowingly and wil- "fully [illegible] oath on what, in reality "he has [illegible] Judge: Hence probably may

"may have devised the form of introducing in "indictments for Perjury an affirmation aga "each fact contradictorily deposed to by the fal "swearing witness".—

14 In the part of the instructio of the Special Commissioner, immediately pre ceding the foregoing Extract, the Crimenal Judge is desired to insert, after the recital each of the contradictory statements, delivered the prisoner, an averment, that it was con to truth and fact.—

15 If the Court understand the part of the instructions of the late Special Co missioner, it would appear, that he considered it proper to enter an affirmation, that each the two contradictary statements was contra to truth and fact; in other words to allege th the deposition of the prisoner was false, both when he asserted that he did, and when he de clared that he did not see a certain transaction

16 This would be reducing the aver ment required to be made on the part of the prosecuto

prosecutor to an empty form indeed, without even
the vestige of an intelligible object, whereas the
form, as prescribed in the Court's orders of
31st January 1820, is most important, and has re-
peatedly been explained by the Court to be the
setting forth of "the truth which is to be proved"
not a formal affirmation of two opposite facts,
both of which could not possibly be true.—

17 Under the instructions of the late
Special Commission all that would be required
would be to prove, that two inconsistent statements
had been delivered on Oath, whereas the Law im-
poses on the prosecutor the onus of shewing, that
one of those depositions was false and this can only
be done by evidence to the truth and fact.—

18 The Court of Zayd are Ud alat-ded
not expect, that the 2nd Judge of the Court of
Circuit in the Western Division could have fallen
into the error, which has here been noticed, in his
capacity of Special Commissioner, after the in-
4th Nov. sued to him by the Court under date
reference to Case No. 21
North

(3) F U.

8th January 1821

North Malabar Calendar 3rd Quarterly Sessions
1818, and after the perusal of the Court's observation
addressed to the 1st and 3rd Judges of the Court
of Circuit in the Western Division, under date
7th December 1818, regarding Case No. 1 Canar
Supplemental Calendar 2nd Sessions AD 1818.

19 In their observations on the
latter of the above Cases the Court pointed out
the necessity of stating in an Indictment for
jury in which of two contradictory depositions
given by the accused the false swearing was
supposed to have been committed, and with respect
to the former Case the Court observed, that "an
"arraignment is distinctly to state the issue or
"question to be tried, and it is essential to the issue
"in a case of perjury, that the truth which is to
"be proved be set forth, as well as the falsehood
"which is to be proved to have been uttered on
"oath.—

20 The reference of this trial has
been made by the Third Judge in consequence
of

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January 1821

of his disapproving the futwa delivered by the
Law Officer attached to the Zilla Court of Canara,
who officiated for the Law Officer of the Provincial
Court on the occasion.—

21 By the exposition of the Mohum=
=medan Law of Perjury, given in the remarks of the
Cazee ool Coozat and Mooftees of the Sudder
Adalut on the futwa in question, it will be seen
that under that Law circumstantial evidence, and
credible testimony, establishing a matter of fact,
the opposite of which had been sworn to, is suf=
=ficient for a conviction of perjury, supposing
of course, that the false testimony operated to the
injury of a party to a judicial proceeding, or in
other words was "on a point material to the issue
thereof."—

22 Ordered, that the remarks of the
Law Officers be sent to the 3rd Judge late on
Circuit in the Western Division accompanied by
an English translation, and extract of these pro=
=ceedings, and that he be by precept enjoined to com=
=municate the necessary part to the Criminal
Judge

8th January 1821

Judge in the Zilla of Canara for his informa
and guidance, with instructions to him to com
=municate the remarks of the Cazee=ool Coz
and Mooftees for the information and guidan
of Mooftee Juseeh=ood=deen.—

Sent 15th / Sent following Precept No 7. /

Ordered, also, that Extract of
these proceedings be sent to the 2nd Judge
of the Court of Circuit in the Western Division
(late Special Commissioner in Canara) fo
his information.—

Sent 15th / Sent following letter No 8 /

Read letter dated the 5th No=
=vember last, from the acting 3rd Judge
on Circuit in the Centre Division,— submitting
Case No. 46 Bellary Calendar 2nd Sessions
AD 1820.—

/ Here enter No. 630 of 1820 /

The Cazee=ool=Coozat and
Mooftees of the Sudder Adalut declare in
the foregoing Futwa, that the prisoner Maunthia
is convicted on strong presumption of the crime
of robbery and wounding laid to his charge, the
Court

January 1821 Court therefore concurring in the opinion declared in the futwa resolue 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 pri=soner would have been liable under the Mo=hummedan 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 20th November last, from the 2nd Judge on Circuit in the Southern Division,— submitting Case No 7 Zuninevelly Calendar 2d Sessions AD 1820.—

/Here enter No 654 of 1820./

The Cazee=ool=Coozat and Mooftees of the Zuydaree Adalut declare in the fore=going futwa that the prisoner Chellapermal is convicted on strong presumption of the crime laid to his charge.— the Court therefore in opinion declared in the futwa resolue

(4)

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8th January 1821.

resolue under the provisions Section II Regulation XV of 18 their Law Officers to declare by to what specific punishment the would have been liable under the Mo=medan Law if he had been convicted by fu legal evidence.—

Ordered, that extract of these proceedings be translated and delivered to the Cazee=ool=Coozat and Mooftees of the Court

GLS

AH

Read Statement delivered by the Senior Mooftee in obedience to the orders of the Court under date 18th Ultimo of his reasons for not having signed the futwa delivered by the Cazee=ool=Coozat and Junior Mooftee in Case No 73 Salem Calendar 2nd Sessions AD 1820.=

/Here enter Statement/

In the above explanation t= Mooftee Abdool Wadood merely a=quiesces in the futwa of the Cazee=ool=Coozat and Junior Mooftee for his omitting to assign any reason for dissenting from the opinion of Circuit Judge

January 1821

to affix his signature to it.—

As the said futwa appears to the Court of Foujdara Udalut to be conformable to reason, and agreeable to the Mohummudan Law, the Court direct, that the Senior Mooftee be required, either to point out in what respect the said futwa is inconsistent with the provisions of the Mohummudan law, citing the authorities on which his opinion may be founded, or to affix his signature thereto, should he be unable to dispute the correctness of the exposition of the law therein given.—

Ordered that extract of these proceedings be furnished to the Mooftee Abdool Vadood.—

Read return dated the 26th ultimo from the 3rd Judge of the Court of Circuit for the Northern Division,— to the precept dated 11th ultimo ordering communication to the Criminal Judge in the Zilla of Masulipatam of the Court's instructions relative to the commitment of Jacobez for receiving stolen goods.—

(Here enter No. 704 of 1820)

Read

8th January 1821

Read return, dated the 26th ultimo from the 2d Judge of the Court of Circuit in the Northern Division,— to the precept dated 2d ultimo ordering communication to the Magistrate of Vizagapatam of the Court's orders on certain references regarding that officers proceedings made by the 2nd Judge.—

(Here enter No. 711 of 1820)

Read return, dated the 26th ultimo, from the Provincial Court of Circuit in the Northern Division,— to the precept dated 27th November last ordering communication to the several Criminal Judges and the Magistrates of the Court's instructions relative to the punishment of persons for cruelty to slaves.—

(Here enter No. 699 of 1820.)

Read return dated 26th ultimo from the Provincial Court of Circuit in the

Ja[illegible] January 1821.

the Western Division,- to the precept dated 11th Ultimo ordering communication to the Circuit Judges in the Zillas of North and South Malabar of the Court's orders relative to the discharge of certain persons confined in the Lunatic Hospital at Tellicherry.-

(Here enter No 701 of 1820)

Read letter dated 27th Ultimo from the 2d Judge on Circuit in the Western Division,- reporting his arrival at Seringapatam.-

(Here enter No 710 of 1820)

Read letter, dated 21st Ultimo from the 2d Judge on Circuit in the Centre Division with copy of Chingleput Calendar 2d Sessions No 1820.-

(Here enter No 705 of 1820)

Read letter, dated 29th Ultimo from the 2d Judge on Circuit in the Western Division,- reporting the completion of the Jail Delivery at Seringapatam.-

(Here enter No 3 of 1821)

W. H.

7 A6.

At a Court of Fouzdaree Adalut.

Thursday
11th January 1821.

Present

Andrew Scott, Esquire
Edward Greenway, Esq.re } Judges.

A1

Read again letter dated the 5th November last from the Acting Third Judge on Circuit in the Centre Division,- submitting case No 46 Bellary Calendar 2d Sessions A.D. 1820.-

(Here enter No 630 of 1820)

Read the Second Futwa delivered in this case by the Cazee-ool-Cozat and Mooftee of the Fouzdaree Adalut.-

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-Cozat and Mooftee of the Fouzdaree Adalut confirming the said Futwa of the Cazee-ool-Cozat and Mooftee

11th January 1821

Masters aforesaid and under the sentence of Deksebat declared in the sentence adjudges the prisoner,

"Maurtiah,"

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

Sent following letter No 9/

2 Ths witness Venkat Kistnapa, and Camalapah, who attested the declaration delivered by the prisoner in this case before the Talook Serishtadar, stated respectively before the Court of Circuit, that the declaration was written before they arrived at the Cutcherry.-

3 The Court direct, that the above circumstance be brought to the notice of Kistnapa Serishtadar of the Talook of Muddukserah, by the Magistrate in the Zilla of Bellary, 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

Sent 18th

11th January 1821

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 and the presence of two or more respectable persons."-

4 Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit on the Centre Division by precept enjoining them to communicate the same to the Magistrate in the Zilla of Bellary for his information and guidance.-

(Sent following precept) No 10 /

Sent 18th

1 Read a guard letter, dated the 20th November last, from the Second Judge on Circuit in the Southern Division, submitting case No 17 Criminally Calendar 2d Session AD 1820.-

(Here enter No 654 of 1820/)

Read the Second petition delivered in this case by the Cazee and Coyet and Masters of the Tinjavore Adalut

The Court having maturely considered

considered the proceedings held before the Judges
on Circuit the Letters of the Provincial Law Officer
and the Letters of the Magistrates & Constables
of the Surfaces Detached confirm the said Letters
of the Magistrate Clerk and Constables aforesaid
and under the provisions of Section XVIII Regulation
Second VIII of 1802 adjudge the Prisoner

Charles Jeffreys

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

Sent following Letter No 11

The Court of Surfaces Detached
have to refer to their order the confirmation
of the Criminal Judges to their instructions
bearing date 12th April 1819 that in order
whereas Prisoners fully confess their guilt
before the Criminal Judges or whereas their
confessions before the Criminal Judges do
not materially differ from those made by
them before the Detachment the voluntary
& their Judicial confessions should not be
required

J. H.

11th January 1821

required to attend the Courts of Circuit

In the present case the declara-
tions of the Prisoner before the Criminal Judges
are substantially the same as that delivered
by him before the Detachment, and he stated
that he willingly gave the said last mentioned
declarations but the interpreter to the confessions
taken by the District Police Officers were brought
before this Court of Circuit and only one of the
interpreters who attended them appeared before
the Criminal Judges - the report of the Courts
understanding when called was exempt from at-
tendance before the Courts of Circuit the voluntary
confessions before Officers of Police in all
cases, whereas their subsequent confessions or
confirmations of a former confession before a
Criminal Judge, might supersede such original
confessions the Court therefore direct, that the
Criminal Judges will be careful to observe
this mode of proceeding in future, and that
the Officers attendance be particularly called
to the words of Section X Regulation X of 1816
which

which prescribing that the Criminal Judges shall
cause to attend before the Court of Grand the
requisite number of witnesses to conform
delivered before them.

4 Wm Court of Inquisition Whereas
observing that Pettigrew, a witness obliged to be
under oath, deposed before the Criminal Judges
that he saw the prisoner hurl the stone and
struck the deceased, and afterwards give her
goldsmiths the jewells, which he had taken
from her person: and the Court found, that the
witness was not bound even by the Criminal
Judges to give evidence before the Court of Grand
As the Criminal Judges have not assigned any
reasons for this conduct the Court can only con-
clude, that he did not consider it necessary
to bind over a witness, who was under oath
The Court have to observe, however, that such
could be no sufficient ground for the recog-
-nizance here referred to, that the testimony of
Pettigrew, for whatever light it might have
been viewed under the Malicious wounding Law,
would

would have enabled the Courts of Grand and
Inquisition to establish the fact of the prisoner
that
on the case, and for every case it is the duty
of the Criminal Judges to bind over all
persons who may have any knowledge
of the offence with which the prisoner is
charged, to be examined before the Court of
Grand.

6 Ordered, that extract of these
proceedings be sent to the Second Judge sitting
in Grand on the Southern Division, by pres-
-ent Secretary, here to communicate the
same to the Criminal Judges on the Dalton
of Summoning for his information and
future guidance.

Read letter dated the 10th October
last from the Acting Third Judge in Grand on the
Eastern Division, enclosing and No 36 of Calendar
for the 2d Session A.D. 1820.

Also order No 333 of 1820

Ho

11 January 1821.

The Court having maturely weighed the proceedings had before the Judges Deputed from the Judges of the Provincial Sea Offices and the Judges of the Zillah Court and Assistant of the Tongloo Talook confirmed the said Judges of the Zillah Court and Assistant proceed and under the Authority of Reference declared on the Judges the Prisoner

1st Venkataramudoo

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

And under the Talook power by the Regulations of Pulicat declared against the Prisoners

2d Dugu Venkatu

3d Narrumpa Nagadu

4th Nallaconthu Ramgadu and

5th Surrapa Subbarayadu

the said Judges Deem to be confirmed and therefore to Prison of Madras Island there to be carefully imprisoned and kept to hard labor as above in the Public Works or the Public Works for and during the term of their natural lives respectively.

And under the provisions of Clause 2nd Sec. II Regulation XV of 1803 the said

Court

7th

Court that the Prisoners

11th January 1821. 6th Sunnuma Mutha and

7th Sunnuma Kaltzah

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

Sentence to be

/Sent following letter No 13/

Read letter, dated the 8th November last from the Second Judge on Circuit in the Southern Division, submitting under Reg. Madras Calendar, 2d Sessions A.D. 1820.

/Has ended No 637 of 1820/

The Court having maturely considered the proceedings held before the Judge on Circuit the Letters of the Provincial Sea Officer and the Letters of the Zillah Court and Assistant of the Tongloo Talook confirm the said Letters of the Zillah Court and Assistant proceed and under the Authority granted by the aforesaid Judges the Prisoners

1st Vellacumpa

2d Cutayya

3d Pedabanna and

4th Varabadrayi

for

11th January 1821

to be imprisoned and transported to Terra of Waters
Island there to be severally imprisoned and kept
to hard labour in irons on the public roads & other public works
for and during the period of their natural lives
respectively. Sent following letter No 14/

Read letter dated the 29th November
last from the Second Judge Circuit Court Southern
Division submitting case No 1 Formally adjusted 3d
Sessions of 1820.

Vide order No 657 of 1820/

The Court having maturely weighed
the proceedings held before the Judge Circuit
Court the petition of the Provincial Secretary
Officer and the petition of the Superintendant
and Members of the Temporary Council and
Depositions of the Witnesses examined on
the part of the Crown against the prisoners
Dagga, Hanna, Toyjah, Voyrah, Samah, and
Matthew, is sufficient to commit them of the
offence of grand robbery and wounding for
which a penalty is specially denounced in
Clause Second Section IV Regulation XV of 1810.

The Court under the authority
vested in them by Clause First Section II Regulation
Code I of 1818 accordingly adjudge the said
prisoners

1st "Dagga"
2d "Hannah"
3d "Toyjah"
4th "Voyrah"
5th "Samah" and
6th "Matthew"

to be imprisoned and transported to Terra of
Waters

11th January 1821

on the Southern Division submitting case No 31
Sitting Calendar 2d Session A D 1820

Vide order No 639 of 1820/

The Court having maturely con-
sidered the proceedings held before the Judge Cir-
cuit Court the petition of the Provincial Sec-
Officer and the petition of the Superintendant
and Members of the Temporary Council and
Depositions of the Witnesses examined on the
part of the Crown against the prisoners
Dagga, Hanna, Toyjah, Voyrah, Samah, and
Matthew, is sufficient to commit them of the
offence of grand robbery and wounding for
which a penalty is specially denounced in
Clause Second Section IV Regulation XV of 1810.

The Court under the authority
vested in them by Clause First Section II Regula-
tion I of 1818 accordingly adjudge the said
prisoners

1st "Dagga"
2d "Hannah"
3d "Toyjah"
4th "Voyrah"
5th "Samah" and
6th "Matthew"

to be imprisoned and transported to Terra of
Waters

Sent following letter No 15/

Read letter dated the 5th November
last from the Acting Third Judge Circuit Court

11th January 1821

to be imprisoned and transported to Penal Settlement of Western Islands there to be severally imprisoned and kept to hard labor in irons on the public roads & other public works for and during the period of their natural lives respectively. Record following letter No 14/

Read letter dated the 22nd November last from the Second Judge Circuit Court Southern Division submitting case No 1 Formally Calendar 2nd Sessions of 1820.

Vide order No 657 of 1820/

The Court having maturely considered the proceedings held before the Judge Circuit Court the petition of the Provincial Fiscal Officer and the petition of the Cafre called Cogtal and Mosselas of the Tambookie Nation and the petition of the Cafre called Cogtal and Mosselas respectively praying the prisoner

"Teroövooma maaker"

might be put to death.

Record following letter No 15/

Read letter dated the 5th November last from the Acting Third Judge Circuit

11th January 1821

Court Southern Division submitting case No 31 Military Calendar 2nd Sessions A.D. 1820.

Vide order No 629 of 1820/

The Court having maturely considered the proceedings held before the Judge Circuit Court the petition of the Provincial Fiscal Officer and the petition of the Cafre called Cogtal and Mosselas of the Tambookie Nation and the petition of the Cafre called Cogtal and Mosselas respectively praying the prisoners Dayza, Hooma, Tayjaka, Vayzaka, Sumaka, and Mutkaza, is sufficient to convict them of the offence of gang robbery and accessory for which a penalty is specially denounced and clause second Section IV Regulation XV of 1809.

The Court under the authority vested in them by Clause First Section II Regulation I of 1818 accordingly adjudge the said prisoners

1st "Dayza"
2nd "Hooma"
3rd "Tayjaka"
4th "Vayzaka"
5th "Sumaka" and
6th "Mutkaza"

to be imprisoned and transported to Penal

11 January 1825

Wales's Island there to be confined most part light
to hard labour and one of the months each
other public works for and during the period
of their natural lives respectively.

(Next following letter No 17)

1

Read letter dated the 18 October
last from the 1st Judge of the Court of Circuit
in the Centre Division submitting Case No 5
Chittoor Calendar 4th Quarterly Sessions 1824
(Here enter No 621 of 1820)

The Court having maturely con-
sidered the proceedings held before the Judge
of the Court of Circuit the Sentence of the Pro-
vincial Law Officer and the Sentence of the
Cazee-ool-Coozat and Mooftees of the Sud-
der Adalut confirm the said Sentence of
the Cazee-ool-Coozat and Mooftees aforesaid
and acquitting the Prisoners
1st Nargalay
2d Modrigadoo and
3d Ramasamy

11th January 1825

(Next following letter No 19)

2

The reference of this trial has
been made by the 1st Judge in consequence
of his being "uncertain whether Clause third
Section XXXII Regulation XI of 1816 means to
exclude the evidence of witnesses who depose
to confessions acknowledged but not taken
"in their presence"—

3

The presence of the attesting
witnesses to a confession during the time when
the same may be "reduced to writing" is special
prescribed in the enactment above referred to,
and is indispensable to the validity of their
evidence to such confessions before a higher
tribunal. It is obvious, that a person not
present when a confession may have been
dictated must be unable to depose to the
material points of its free and voluntary deliv
or to the fact of its correct transcription; and

the

these constitute the only particulars to which attention is necessary to call in the proceedings of the Court of Foujdaree Adalut cannot account for the doubt expressed by the Pundit Judge with regard to the incompetency of the meetings from which the Prohkar of Tripaty

4.

It appears, that the declarations of the prisoners in this case were taken by the Prohkar of Tripaty

5.

It being competent only to the Head local Officer of Police, or Assistant duly appointed, and not to the Prohkar to perform the duties prescribed in Section XXVII Regulation XI of 1816, the Court of Foujdaree Adalut direct, that the Magistrate be called upon to state whether the Police authority with which he has been invested by Section XXXVIII Regulation XI of 1816 to Punish the Prohkar of Tripaty, and if not that the said Prohkar be prohibited from a repetition of this illegal assumption of authority.

11th January 1821.

6.

The Pundit Judges notices in the trial accompanying the neglect manifested by the Police Officer, of the provisions of clause third Section XXVII Regulation XI of 1816 with regard to the attestation of the confessions, and observes that "in this respect and in the transmission of the case to the Magistrate instead of the Criminal Judge, the Prohkar of Tripaty acted contrary to the Regulations and to the repeated orders of the Foujdaree Adalut."

The inattention of the different Police Officers in the Zilla of Chittoor to the provisions of clauses third and fourth Section XXVII Regulation XI of 1816 has been repeatedly noticed by the Court of Foujdaree Adalut, and in their proceedings under date 21st September 1818 the Court directed, that "the attention of the several District Police Officers in the Zilla aforesaid should be particularly called to clause fourth Section XXVII Regulation XI of 1816, which declares that persons charged with

these constitute the only particulars to which the
prisoner was to confess & some to depose the
Court of Sudder Adalut cannot account for
the doubt expressed by the Pr. Judge with re-
gard to the incompetency of the witness pro-
duced
4.
It appears, that the declarations
if the prisoners in this case were taken by
the Darokhar of Tryaty -
5.
It being competent only to
the Head local Officer of Police, by whatever
name designated, and not to the Darokhar to
perform the duties prescribed in Section XXVII
Regulation XI of 1816, the Court of Sudder
Adalut direct, that the Magistrate be called
upon to state whether the Police authority with
in Tukuleea has been granted by him upon
the provisions of Section XXVIII Regulation
XI of 1816 to Venkatachella the Darokhar of Tryaty
and if not that the said Darokhar be prohibited
from a repetition of this illegal exemption of
authority -

8.
The Pr. Judge notices in the letter
accompanying the trial the neglect manifested
by the Police Officer, of the provisions of Clause
third Section XXVII Regulation XI of 1816 with
regard to the attestation of the confessions, and
observes that "in this respect and in the transmission of the case to the Magistrate with
"of the Criminal Judge, the Darokhar of Tryaty
"acted contrary to the Regulations and to the
"repeated orders of the Sudder Adalut."
The inattention of the different
7.
Police Officers in the Zillah of Chittoor to the
provisions of Clauses third and fourth Section
XXVII Regulation XI of 1816 has been repeatedly
noticed by the Court of Sudder Adalut, and
in their proceedings under date 21st September
1818 the Court directed, that "the attention of
"the several District Police Officers in the
"Zillah aforesaid should be particularly called
to Clause fourth Section XXVII Regulation
XI of 1816, which declares that persons charged
with

11th January 1821.

Smith having committed offences of the nature described in the first clause of that Section shall be forwarded direct to the Provincial Judge of the Zilla.—

8.

Ordered, that the attention of the several District Police Officers in the Zilla of Chittoor be again called to the provisions of the clauses of the Regulation above cited, the Court of Foujdaree Adawlut deem it proper to require, that a report be transmitted to them by the Magistrate, through the Court of Circuit, certifying that these orders have been duly attended to, and that the Magistrate has advised of the duty incumbent on him to enforce a strict observance, on the part of the Police Officers under his authority, of the orders which may from time to time be issued by the Court of Foujdaree Adawlut for their guidance.—

9.

Ordered, that an extract of these proceedings be sent to the 1st Judge of the Provincial Court of Circuit in the Centre Division, by forwarding to him to communicate to

(5.)

11th January 1821.

to the Magistrate in the Zilla of Chittoor such part thereof as concern that officer, and to call upon him to furnish the information required without delay.—

Sent following Receipt 1818

1. Read letter dated the 21st November last, from the 1st Judge in Circuit in the Northern Division, submitting Case No 7 Vizagapatam Calendar 2d Sessions 1820.—

(Here enter No 662 of 1820)

The Court having maturely considered the proceedings held before the Judge in Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee and Cozgat and Mooftees of the Foujdaree Adawlut confirm the said futwa of the Cazee and Cozgat and Mooftees aforesaid and acquitting the prisoner

Kankinaudah Banloodoo,

direct that he be set at liberty.—

(Sent following Letter 1819)

11th January 1821

2. The Court of Fauzdaree Adalut observe, that the several questions which were put in the course of the examination of the witnesses in this case before the Assistant Crimenal Judge with the view of ascertaining the particulars specified in Clause third Section XVIII Regulation VII of 1802 have been inserted in the Record. This practice was expressly prohibited in the circular orders issued by the Court of Fauzdaree Adalut on 17th of January 1815, to which the attention of the Crimenal Judge in the Zilla of Vizagapatam was particularly directed by the orders of the Court under date 30th November 1818.

3. The Court of Fauzdaree Adalut will strictly expect on this occasion their expectations, that the Assistant Crimenal Judge will be more careful in future to observe the instructions issued for his guidance.

4. Ordered, that extract of these proceedings be sent to the Pr. Judge of the Provincial

11th January 1821

Provincial Court of Circuit in the Northern Division by precept enjoining him to communicate the same to the Assistant Crimenal Judge in the Zilla of Vizagapatam for his information and future guidance

Sent following Precept No

Read letter dated 25th October last from the Acting Third Judge on Circuit in the Centre Division, - submitting Case No 40 Bellary Calendar 2nd Sessions AD 1820. -

(here enter No 598 of 1820)

The Court having maturely considered the proceedings held before the Judge on Circuit the future of the Provincial Law Officer and the future of the Cazee ool Coozat and Mooftees of the Fauzdaree Adalut confirm the said future of the Cazee ool Coozat and Mooftees aforesaid;

11th January 1821

aforesaid and under the sentence of Perwanah declared in the fatwa adjudge the prisoners,

1st "Burmah" and

2nd "Doddah"

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

And it appearing that the prisoner,

3rd "Paupee"

is in a state of pregnancy the Court adjudge her to suffer death by being hanged at the usual place of execution, 40 days after her delivery.-

/Sent following letter 20th/

Cott 18th

W. H.

EHS

7th

At a Court of the Zillah Adalut.-

Present,

Monday 15th January 1821 — Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.-

Read letter dated 13th Instimo from the Magistrate in the Zilla of Masulipatam submitting copy of correspondence between the Assistant Magistrate of Masulipatam and the Assistant Magistrate of Guntoor, relative to the execution of a Warrant issued by the former officer,- upon which the Magistrate requests the instructions of the Court.-

/Here enter No. 694 of 1820/

2. The question, involved in the foregoing reference, is twofold:- first whether a warrant can be legal, if not made out according to the form prescribed in Clause Second Section XII Regulation II of 1816.- Secondly, whether it be necessary that a warrant issued by a Magistrate should in all cases be served by peons on his own establishment.-

Upon

3. Upon the first point the Court of Foujdaree Udalut deem it sufficient to observe, that in the cases described in the latter part of Section XIII Regulation IX of 1816, wherein a Magistrate is authorized to issue process "to apprehend a person suspected of having committed a heinous crime, or for whose apprehension sufficient cause may appear upon the report of a Police Officer, or upon any other credible information," the precise form of words given in No 3 of the Appendix to Regulation IX of 1816 cannot of course be retained.

4. And with regard to the second point the Court of Foujdaree Udalut are of opinion, that as a warrant ought always to contain the name of the person charged with the execution of it, the proper course to be adopted by a Magistrate, in order to procure the apprehension of a person resident in a different Zilla, is to apprize the Magistrate of that Zilla by letter of the ground existing for the apprehension of the individual, or to take with

with reference to the provision above cited from Section XIII Regulation IX of 1816, would be sufficient to authorize the latter Officer to issue a warrant for his apprehension.

5. Ordered, that extract of these proceedings be sent to the Magistrates in the Zillas of Masulipatam and Guntoor for the information and future guidance of those Officers respectively.—

(Sent following letter 22.)

1. Read letter dated 9th Ultimo, from the 3d Judge of the Court of Circuit in the Western Division, submitting copy of North Malabar Calendar 4th Quarterly of A.D. 1820, and of the remarks and instructions issued by him to the Criminal Judge in the Zillas of North Malabar, on certain of the cases on the Calendar.—

(Here enter No 686 of 1820.)

2. The only part of the above papers, which it is necessary for the Court of Foujdaree Udalut to notice, is the

Minute

15th January 1828

Minute signed by the 3d Judge regarding [illegible]
No 10 on the Calendar, and the duty of the
Criminal Judge thereto —

3

In the Minute here referred
to the 3d Judge remarked the examination of the
Criminal Judge to examine the witness to
the prisoners confession before the Police
Officer, which the 3d Judge observed "it was the
"duty of the Criminal Judge to have done upon the
"prisoner denying its truth, not so much on after
"to its confirmation, as to the discovery of any
"undue means that might have been taken to get
"rid of the force of legal inducement upon which
"the witness to the confession were not
"sent in or examined by the Criminal Judge,
"the precept of the Sudr Court under date the
"12th April 1819 disapproving of such proceeding
"the practice."

4 "The Court of Sudr Adawlut
are utterly at a loss to comprehend what
[illegible]

5th January

F. C.

15th January 1821.

principle of interpretation the Criminal Judge
could have inferred from the circular instruc-
tions to which he alludes, that the Court
disapproved of the examination by a
Criminal Judge of the witness to confession
alleged to have been delivered before the
Native Officers of Police by prisoners
brought before him —

The following is a transcript
5
of the circular precept in question —

6 "Read letter dated 22d October
"from the 3d Judge on Circuit in the Canara
"Division, stating that many of the Talook
"confessions of prisoners at Cuddapa and
"some at Bellary are attended by persons
"unable to read or write and suggesting the
"witnesses to such confessions should only
"be required to attend before the Court of
"Circuit and in cases of confession before
"a Criminal Judge should not be required
"to attend at all"

"In the concluding paragraph
7
"of his letter the 3d Judge suggests, that in
cases

15th January 1821

called or known fundamentally wrong if the Judge before the Criminal Court or Court of Assize confessions before the Criminal Judge should materially differ from those made by the before the Magistrate the instructions to Jaloux confessions should not be rejected at the Court of Assize."

8.

"The Court of Cassation have no difficulty in giving their assent to this suggestion and make the circular instructions to the several Criminal Courts of Assize communicated to the Criminal Judges their respective jurisdictions."

9.

"Although the letter of the Judge of the Court of Assize and the Decision above referred to contained further suggestion that instructions confessions should be required before the Court of Assize that the instructions of the Court of Cassation Jaloux has application solely to the suggestion, which it does not touch in

15th January 1821

the Extract of their proceedings circulated to the Criminal Judges—

As the Court did not suppose it possible, that words so plain could be mistaken, it was not thought necessary to circulate that part of their proceedings under date 12th April 1819, which referred to the proposition of exempting witnesses to Jaloux confessions from attendance before the Criminal Judge—

The Court will, however,

10.

here repeat for the information of the Criminal Judge the observations, which were recorded by them regarding this proposition, and which immediately preceded the passage above cited from their proceedings of 12th April 1819—

"The Court are unable to

12.

"concur in the propriety or feasibility of the 2d Judges proposal to exempt witnesses confessions from attendance before the Criminal Judge— Committal for trial before the Court of Assize is the peculiar province

"pleasance of this officer, and he only has authority
"to bind over and enter all persons, whose evidence
"may be required, to appear before that Court.
"An examination of the attesting witnesses to a
"Confession before an Officer of Police can
"alone enable the Criminal Judge to determine
"whether their attendance before the Court of
"Circuit may or may not be necessary, and
"this examination is indispensably requisite to
"the due appreciation of the credibility of the
"confessions."

13. With reference to that part of the remarks of the 2d Judge in which the necessity of examining the witnesses to a prisoner's confession before a Police Officer is made to depend on the prisoner's denial of such confession, the Court of Sudder Adawlut deem it proper to observe, that the examination should be held in every case in order to ascertain whether the confession was extorted by violence, or whether the attesting witnesses, if any, were present when it was regularly taken, and that whenever

15th January 1825

consequence of a prisoner's confession before the Criminal Judge or confirmation of the former confession, the attendance of the witnesses to the Police confession, before the Court of Circuit, may be dispensed with, it is the duty of the Criminal Judge to bring to the notice of the Magistrate any irregularity, that may appear to have attended the delivery of the original confession before the Officer of Police.—

14. Appearing by the foregoing representation of the Criminal Judge, that the witnesses to confessions taken by the District Police Officers are not "sent in" with the proceedings in cases referred by them to that Officer, the Court direct that the several District Police Officers in the Zillah of North Malabar be specially enjoined by the Magistrate of Malabar 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 that Section.—

15. Ordered, that extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Western Division by precept enjoining him to make the necessary communication to the Criminal Judge in the Zilla of North Malabar and to the Magistrate of Malabar for the information and guidance of those officers respectively.—

(Sent following letter 23/

Read return dated 7th Instant from the Provincial Court of Circuit in the Centre Division,— to precept dated 9th ultimo calling for statement from the several Magistrates respecting the circulation of translation of Regulation XI of 1816.—

(Here enter No. 698 of 1820)

Read letter dated 2d Instant from the 2d Judge on Circuit in the Southern Division,— with

with returned warrant for execution of the prisoner in Case No 73 Salem Calendar 2d Sessions A.D. 1820.—

(Here enter No 7 of 1821)

Read letter dated 3d Instant from the Provincial Court of Circuit in the Centre Division,— transmitting a communication from the Magistrate of Bellary regarding the orders of the Court under date 30th November last.—

(Here enter No 8 of 1821)

Read letter dated 4th Instant from the 2d Judge of Circuit in the Western Division,— transmitting copy of precept issued by him to the Criminal Judge in the Zilla of Canara ordering execution of the sentence of death passed on the prisoner in Case No 7 Canara Calendar 2d Sessions A.D. 1820 and of that officers return certifying the death of the prisoner in the Hospital.—

(Here enter No 21 of 1821)

Read—

15th January 1821

Read letter dated 8th Instant from the 1st Judge of the Court of Circuit in the Southern Division, stating that he has fixed on 25th Instant for opening the Sessions of Gaol delivery at Combaconum—

(Here enter No. 24 of 1821)

Read letter dated 4th Instant from the 2d Judge on Circuit in the Western Division, reporting his arrival at the Sea Station—

(Here enter No. 25 of 1821)

Read letter dated 6th Instant from the 2d Judge on Circuit in the Northern Division, reporting his arrival at Nellore—

(Here enter No. 33 of 1821)

J.U

At a Court of the Foujdaree Udalut

Thursday 18th January 1821

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter, dated 8th instant,

from the Criminal Judge in the Zilla of North Malabar, transmitting copy of Warrant of the 3d Judge for banishment of a convict to any Zilla out of Malabar selected by the Foujdaree Udalut—

(Here enter No. 36)

The Court of Foujdaree Udalut

2 direct that the prisoner,

Pofsador Packy alias Putemporail Packy,

be removed to the Gaol 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

3 proceedings be sent to the 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 1826)

At a Court of the Foujdaree Udalut

Present,

Monday
22d. January 1821. Andrew Scott Esqre. } Judges
Edward Croft Greenway Esqre. }

Read letter dated 22d. Ultimo, from
N. the 2d. Judge of the Court of Circuit in the
Western Division, - submitting case No. 15.
North Malabar Calendar 4th. Quarterly Sessions
A.D. 1820.

(Here enter No. 1 of 1821.)

The Judges of the Court of
Foujdaree Udalut on a deliberate consideration
of the circumstances of the case in evidence
before them, concurring in opinion that
the proof against the prisoner,
"Aripahil Cackroomar",
is sufficient to convict him of the crime
of Manslaughter, desire under clause second
Section II Regulation I of 1818, that the
Cazies-vol- Cozat and Mooftees of the
Foujdaree Adalut will declare by a second
futwa to what sentence the prisoner
would-

would have been liable under 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 the Cazee of Cozat and Mooftees of the Court.—

Read letter, dated 22d ultimo from the Provincial Court of Circuit in the Centre Division, submitting copy of a communication from the Magistrate of Bellary, regarding the proceeding to be adopted in cases of resistance on the part of witnesses to the process of District Police Officers.—

(Here enter No. 703. of 1824.)

2.

In the foregoing letter the Magistrate states, that "cases have occurred "in the district in which witnesses duly "summoned in writing by the District Police "Officers, or Police Ameens vested with the "powers of Tahseldars, in Criminal cases, under "enquiry before them, have refused to obey

"that process," and the Magistrate proceeds to state, that finding "no enactment ap=plicable to the resistance of the process "of the Native Police Officers," he is at a loss to answer the references made to him for instructions in such cases.—

In submitting the above com=munication the Provincial Court observe

3.

that a Magistrate "in enforcing the "process of his subordinate Officers is in "fact enforcing obedience to his own "authority as he is enable to do by Section "XVIII Regulation IX of 1816."—

The Court of Foujdaree Adalut

4.

concur entirely with the Provincial Court in the view taken by them of the ap=plicability of the provisions of the Section of the Regulation above cited to resistance of the process of District Police Officers, and are of opinion that in all such cases it is competent to the Magistrate, provided he shall be satisfied, that the person summoned was able to give evidence

evidence material to a case, under
investigation before a Police Officer,
to proceed as directed in the several
clauses of Section XVIII Regulation IX of 1816.-

5 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 Magistrate in the Zilla
of Bellary for his information and
guidance.-

last 25th

/Sent following letter 27/

11 Read letter dated 2d November last,
from the acting 2d Judge on Circuit in the
Centre Division, submitting case No 15 Bellary
Calendar 2d Sessions A.D 1820.-

/Here enter No 622 of 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 Foujdaree Adalut
confirm the said futwa of the Cazee ool
Coozat

F 11

22d January 1821.

Coozat and Mooftees aforesaid and
under the sentence of Bohoobut declared
against the prisoner,

1st "Mowzee Tukeergadoo,"

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

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

2d "Conda Reddy,"

3d "Guddum Govindoo,"

4th "Tellary Nursegadoo,"

5th "Tellary Kaseegadoo,"

6th "Chinnapah Reddy," and

7th "Balnagadoo,"

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

last 29th

/Sent following letter No 28/

2 The Court of Foujdaree Adalut
observe, that the Judge presiding at the trial
of this case, after hearing what each prisoner

had

had to offer in his defence, proceed to a cross examination of the prisoner, and called on the Cazee and the prosecutor to put to him any questions, that they might choose.

3 The Court cannot withhold the expression of their regret and surprize, that the late acting 2d Judge, upon whom for a considerable period have devolved the functions of a high judicial office, should have adopted a proceeding so glaringly improper, and inconsistent with that tenderness for the accused, which should always mark the proceedings of a Judge of the Court of Circuit.

4 In Clause first Section XV Regulation VII of 1802 it is declared that the confession of a prisoner, if he plead guilty," is always "to be received with circumspection and tenderness," and it cannot be necessary for the Court to point out how utterly at variance with the spirit of this provision must be the examination of a prisoner on

Extracted from the P.C. Proceedings from Para 5 to 46 and that Para

his trial with the manifest object of making him criminate himself.

5 The Court of Zoujdaree Adalut remark also, that the prisoners in this case were put through a cross examination by the late Assistant Criminal Judge in the Zilla of Bellary, when brought before him.

6 It becomes necessary, that the Court should notice this circumstance to the late Assistant Criminal Judge in order to prevent the repetition of a practice, which is manifestly improper, as evincing an anxiety to make the accused criminate themselves, and as inconsistent with that provision of the Regulations, which enjoins Criminal Judges to be careful that all confessions made by prisoners are free and voluntary.

Ordered, that extract of these

7 proceedings be sent to the Provincial Court of Circuit in the Centre Division for their information.

Sent following letter No 29.

8 Ordered also that extract of these proceedings be sent to the Criminal Judge in the Zilla of Rajahmundry, late acting 2d Judge of Circuit in the Centre Division for his information and future guidance.—

Sent following letter No. 30.

9 Ordered further 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 in the Zilla of Combaconum for the information and future guidance of the Assistant Criminal Judge, late Assistant Criminal Judge in the Zilla of Bellary.—

Sent following Precept. No. 31.

W. H.

Y. U.

At a Court of the Foujdaree Adalut.

Present,

Thursday 25th January 1821. Andrew Scott Esqre. } Judges.
Edward Croft Greenway Esqre. }

Read letter dated 22d Instant from the 2d Judge late on Circuit in the Southern Division,— submitting the Report prescribed by Section XXXVII Regulation VII of 1802.—

(Here enter No. 9.)

2 In the 10th paragraph of the above Report the 2d Judge observes, that the Magistrate in the Zillas of Combaconum, in his arrangements for the preservation of order and tranquillity in the Zilla, "has considered it to be necessary to retain "a distinct Establishment of Police upon "the footing of the previous system, though "under new Denominations, namely Police "Ameens, instead of Darogahs, and Deputies "instead of Tanadars for the Protection of

25th January 1825.

"of those parts of the Zillah, which lie
"contiguous to the Woods of Tondaman,
"and the Jungles of Swagungah, which
"are Inhabited chiefly by Colleries, and
"other Disorderly Tribes."-

3. And with respect to the administration of Police in the Zilla of Salem the 2d Judge observes as follows,-

"The Police in this Zillah has
4. "greatly improved in vigilance and activity
"since I last had occasion to report upon
"it: and this beneficial change appears
"to me to be chiefly ascribable to a partial
"recurrence to the Principle of the Previous
"System, in the manner of conducting its
"details."

5. "The two Departments of Revenue
"and Police, the Local Duties of which
"were lately under the exclusive direction
"and controul of the Tahsildars, have
"again been separated, and their respective
"Duties are now performed by Distinct

25th January 1825.

Native Authorities under the General Superintendance and controul of the Collector and Magistrate.-

6. "The Native Officer at the
"Head of the Taloob Police is styled an
"Ameen. He communicates directly with the
"Magistrate, or Criminal Judge, as the case
"may be, and in all other respects, his Duties
"are precisely the same, as those which were
"performed by the late Darogahs. One Officer
"of this Description is stationed in every
"Taloob with an Establishment of Peons
"to him suited to the Position, extent
"attached and Local circumstances of each, and
"whose services are solely and exclusively
"devoted to objects of Police."-

The Court of Foujdaree Udalut

7. have perused the foregoing passages in the report of the 2d Judge with the greatest surprize, and previously to submitting the Report to Government they deem it necessary to obtain from the Magistrates in the Zillahs of Combaconum and Salem full information regarding

"regarding the measures, which they have
considered themselves competent to adopt,
the former in modification, and the latter
in complete subversion of the system of
Police established by Regulation XI of 1816.—

8. Clause first Section XXV of
the above Regulation declares, that "Tahsildars
"or Native Collectors of Districts, by whatever
"name designated, shall be ex-officio Heads
"of the Police of their respective districts."—

9. In Clause second it is declared,
"that the Peshkars, Gomashtas, and Peons
"who are or may be employed under Tahsildars
"of Districts, shall perform the duties of
"Police, as well as Revenue duties, and they
"shall be considered officers of Police, as
"well as Revenue Servants."—

10. Sections XXVII, XXVIII, XXIX, XXXI XXXII
XXXIII XXXIV XXXV XXXVI and XXXVII define the
powers and prescribe the duties of "Tahsildars."—

11. By Section XXXVIII the Magistrate
is authorized "in districts, where from the
land

25th January 1821. "land rent being paid directly to the Collector
"there may be no Tahsildars," to "grant to the
"most respectable Native servant employed
"in the collection of the customs, or other
"dues of Government, the same Police
"authority as is vested in Tahsildars."—

12. In Section XL it is declared, that
"in large Towns, where it may be found, that the
"Police duties cannot be conducted by the Head
"Inhabitant, the Magistrate shall appoint
"a person to act as Ameen of Police, either
"immediately under his own orders, or under
"the Tahsildar of the district, and either with
"the Police Powers vested in Heads of villages,
"or with those vested in Tahsildars."—

13. This last is the only provision,
contained in the existing Regulations respecting
the appointment of Ameens of Police, and
it is scarcely necessary for the Court of
Foujdaree Adalut to remark, that it is only
in "towns" that the Magistrate is empowered
to place such officers, and that their authority
is strictly confined to the limits of such

Towns

Covenant.—

14. This limitation of the authority of Armies of Police is not only prescribed by the words of the Section last cited, but is further necessarily consequent upon those provisions of the Regulation, which describe the powers exclusively vested in Tahsildars, or ex-officio Heads of Police of Districts.—

15. The last provision of Regulation XI of 1816, which the Court deem it necessary here to cite, is Section XLVIII, in which it is declared, that "the Police establishment, which "may be transferred to the Collectors as Magistrates, "shall not be considered as distinct from the "Revenue establishments, but shall be equally "employed in Police and Revenue duties, as "occasion may require."

16. With reference to this provision it is to be observed, that the separation of the Revenue and Police establishments, as described in the 16th and 40th paragraphs of the Report, is in itself perfectly illegal, and as the powers of District Police Officer

are vested exclusively in Tahsildars, or Native Collectors of Districts, the proceedings of any other officer,—in a district, where there may be a Tahsildar,—in exercise of those powers, must be destitute of all legal validity.—

17. The Court of Foujdaree Adaulut cannot conclude these observations without expressing their surprize, that the 2d Judge, however well founded might be his conviction of the expediency of the arrangements, which he describes, could have overlooked the insuperable objection of their utter illegality.—

18. The Court deem it necessary, in order to their bringing the subject fully before Government, that they should be furnished with any explanation which the Magistrates in the Zillas of Combaconum and Salem may have to offer on the subject, and they accordingly direct that extract of these proceedings be

be sent to the 2d Judge late on Circuit in the Southern Division by precept, enjoining him to communicate the same to the Magistrates in the Zillas of Combaconum and Salem, and to call upon those officers for an explanation of any Police arrangements, which may have been made by them in modification of the general System of Police, established by Regulation XI of 1816.-

Sent 31st

(Sent following Precept. 32)

Read again letter dated 22d Ultimo from the 2d Judge of the Court of Circuit in the Western Division, - submitting Case No. 15 North Malabar Calendar 4th Quarterly Sessions A.D. 1820.-

(Here enter No. 1.)

Read the second futwa delivered in this case by the Cazee ool Cozzat and Mooftees of the Tongadee Adalut.-

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer

25th January 1821.

Officer and the futwa of the Cazee ool Cozat and Mooftees of the Tongadee Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and in commutation of the penalty of Decyut, adjudge the prisoner,

"Aripahil Pachroomal,"

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 No 33)

Sent 31st

Read letter dated 12th Instant, from the 2d Judge on Circuit in the Western Division, - submitting copy of South Malabar Calendar 2d Sessions A.D. 1820.-

(Here enter No. 34.)

The Court are desirous to have before them a Copy of the Futwa passed in Case No. 16 of the foregoing Calendar, wherein it is stated, that the Prisoner, who was charged with having murdered a person by stabbing him on the back was

25th January 1821.

was found guilty, and sentenced under Dreyut to one years imprisonment and hard Labor.-

Ordered, that extract of these proceedings be sent to the 2d Judge Cuttack on Circuit in the Western Division, and that he be by precept commanded to send up copy of the Sentence passed in No 16 of the Calendar aforesaid within five days from the date of the receipt of the precept.-

Sent following precept No 24/ 50.

E C S. W. S. T.

N

Ent 30 to

7. A.

At a Court of the Fouzdaree Udalut

Present,

Monday 29th January 1821. Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.

Read letter dated 16th Ultimo from the 2d Judge on Circuit in the Western Division,- submitting case No 19 Canara Calendar 2d Sessions A.D. 1820.-

Here enter No 696. of 1820

E C S

N

The Judges of the Court of Fouzdaree Udalut, on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the Prisoners,

1st "Jaroo," and

2d "Soma,"

is sufficient to convict them of having put to Death the deceased Dooma, desire, under Clause Second Section II Regulation I of 1813, that the Cazee-ool-Coozat and Mooftees

Mooftees of the Foujdaree Adaulut will declare by a second futwa, to what sentence the prisoners would have been liable under the Mohummedan law if they had been convicted by full legal evidence of the crime laid to their charge.—

Ordered, that extract of these Proceedings be translated and delivered to the Cazee ool Cozat and Mooftees for their information and guidance.—

Read letter, dated 6th Instant, from the 2d Judge of the Court of Circuit in the Western Division, submitting case No 8 North Malabar Calendar 4th Quarterly Sessions A.D. 1820.—

(Here enter No. 697 of 1820.)

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

Sahitottalil Sayed Amad"

is sufficient to convict him of having

put to death the deceased Pachroo, desire, under clause second Section II Regulation I of 1818, that the Cazee ool Cozat and Mooftees of the Foujdaree Adaulut 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 Cozat and Mooftees for their information and guidance.—

Read again letter, dated 19th October last from the 1st Judge of the Court of Circuit in the Southern Division, submitting Abstract of the Calendars laid before the Court of Quarterly Sessions and returns of prisoners confined in the Jail at Trichinopoly and representing the want

29th January 1821.

want of a Debtor's Jail.-

/Here enter No. 575 / of 1820./

2. In the foregoing letter the 1st Judge observes, that the erection of a separate debtor's Jail "would obviate the necessity "of enlarging the present Criminal Jail," and "relieve many Revenue Defaulters of "high Cast and family, from the nuisance "and annoyance, which they at present "experience from being confined with so "many of the lower order of people, who "have been convicted at the different "Criminal Sessions."-

3 Included in the above return of prisoners the Court observe "26 revenue "Defaulters and 8 Civil prisoners."-

4 The Court of Foujdaree Adawlut in an Extract of their proceedings, submitted to Government under date 25th July 1814, advocated to "the severity and impolicy of "confining Criminals and debtors in the "same prison:- and they deem it incumbent "upon them on this occasion strongly to

2/ F.M.

29th January 1821.

to recommend, that a separate place of confinement may be provided for the latter class of prisoners at Trichinopoly.-

5. Ordered, that the foregoing letter 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 No. 35/

No. 2. Read letter dated 5th Instant.
Last 30th

1. from the Secretary to Government in the Judicial Department, transmitting copy of a communication from the Criminal Judge in the Zilla of North Malabar, and desiring that the Court of Foujdaree Adawlut will issue authority for the liberation of certain prisoners therein mentioned.-

/Here enter No. 15 of 1821./

The Honorable the Governor

2 in Council having been pleased to remit the unexpired periods of the sentences of

of the prisoners,

"Walalaharen Pokan,"

and

"Allanjay Cumby Coolty Nair,"

sentenced by the Court of Foujdaree Adawlut,
under date 25th April 1814, to be imprisoned
and kept to hard labor in irons on the
public roads or other public works, - the
former for ten, the latter for seven years,
which sentences were confirmed by the
Honorable the Governor in Council, under
date 7th June 1814 -

3. The Court direct, that the
said prisoners,

"Walalaharen Pokan,"

and

Allanjay Cumby Coolty Nair

be set at liberty -

4. Ordered, that extract of these
proceedings be sent to the Criminal Judge
in the Zilla of North Malabar by precept
commanding him forthwith to conform to
the tenor thereof, and to observe, in the release
of the two prisoners in question, the precaution
enjoined in the Courts orders of 3d October 1817,
upon

upon the release of convicts on the
expiration of their time of imprisonment.

/Stat following precept No 136./

Read letter dated 20th Instant,
from the 2d Judge late on Circuit in
the Western Division, - submitting copy of
Seringapatam Calendar 2d Sessions
A.D. 1820 -

/Here enter No 73 of 1821./

The Court are desirous to
have before them a copy of the futwa
passed in case No 1 of the foregoing
Calendar, wherein the prisoners who
were charged with escaping from the
Jail while under sentence of imprison
=ment are stated to have been "found
"guilty on their own confession, and
"awarded discretionary punishment" -

Ordered, that extract of
these proceedings be sent to the 2d
Judge late on Circuit in the Western
Division, and that he be by precept
commanded

29th January 1821.

commanded to send up a copy of the Sentence passed in No 1 of the Calendar aforesaid within five days from the date of the receipt of the precept.-

(Sent following precept No 37)

W.H. The Reports on the 3rd and 4th Quarterly Sessions of Jail Delivery at Tellicherry for the last year not having been transmitted by the 1st and 3rd Judges of the Court of Circuit in the Western Division, as required by the Courts orders of 9th December 1819.-

The Court direct, that the First and Third Judges of the Court of Circuit in the Western Division be by precept commanded to send up the prescribed Report within two weeks from the date of the receipt of the precept.-

(Sent following Precept No 38)

W.H. Read letter dated 15th Instant from the 3d Judge on Circuit on the Centre Division, reporting his arrival at Cuddapa.-

(Here enter No 41.)

Read letter dated 15th Instant from the

3/

F.H. 29th January 1821.- from the 1st Judge on Circuit in the Western Division,- reporting his arrival at Mangalore.

(Here enter No 43)

Read letter dated 19th Instant from the 1st Judge of the Court of Circuit in the Northern Division,- stating his intention to proceed without delay to Masulipatam to complete the Jail delivery there.-

(Here enter No 61.)

Read letter dated 25th Instant from the 2d Judge on Circuit in the Northern Division,- reporting his intention to proceed on 26th Instant for Rajahmundry.-

(Here enter No 72)

Read letter dated 22d Instant, from the 2d Judge late on Circuit in the Southern Division,- with returned warrant for transportation of the prisoner in case No 2 Coimbatore Calendar 2d Sessions 1820.-

(Here enter No 77.)

F. H.

At a Court of the Foujdaree Udalut

Present

Thursday 1st February 1821. — Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges

Read again letter, dated 7th Dec.r last, from the 3rd Judge of the Court of Circuit in the Western Division, - submitting Case No. 8 North Malabar Calendar 4th Quarterly Sessions of 1820. -

(Here enter No. 697 of 1820)

Read the second futwa delivered in this case by the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut. -

The Court, having maturely con-sidered the proceedings held before the Judge of the Court of Circuit, the futwa of the Pro-vincial Law Officer, and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid; and under the provisions of Section XVII. Regulation VIII. of 1802 adjudge the prisoner

"Johitottatil Sayed Amod"

1st February 1821

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

2nd 8th

(Sent following letter 39.)

Read again letter dated 16th December last from the 2d Judge on Circuit in the Western Division,— submitting case No 19 Canara Calendar 2d Sessions A.D. 1820.—

(Here enter No 696)

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 Hudd as declared against the prisoner;

1st Saroo,

adjudge him to suffer death by being hanged

1st February 1821

hanged at the usual time and place of execution.—

And under the latitude given by the sentence of Corabut declared against the prisoner,

2d Sowa,"

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

2nd 8th

(Sent following letter No 40)

Read again letter, dated 22d November last, from the Provincial Court for the Centre Division,— submitting copy of a communication from the Acting 3d Judge late on Circuit in the Centre Division in reply to the observations of the Court on Cases Nos 3, 5, 6, 7, 11, and 23. Cuddapa Calendar 2d Sessions A.D. 1820.—

(Here enter No 655 of 1820.

Read also return, dated 13th December last, from the Provincial Court of Circuit in the Centre Division,— to precept dated 27th October last, ordering transmiss of

5th February 1821

of the proceedings held in Cases Nos 3, 5, 6
7, 11, and 23. Cuddapah Calendar 2d Sessions
A.D. 1820.

Here enter No 689 of 1820

The Court, having maturely
considered the proceedings held before the
late acting Judge of Circuit, the futwa
of the Provincial Law Officer, and the
futwas of the Cazee ool Coozat and Mooftee
of the Foujdaree Udalut, do confirm the
said futwas of the Cazee ool Coozat
and Mooftees aforesaid; and under the
sentence of Tazeer, declared in case No 3
against the prisoner

2d Sydoo,

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 3 years from 27th
July 1820, and then to be released.

And the Court acquitting the prisoner,

"Poola Reddy,"

direct that he be set at liberty.

(sent following letter No 41)

Subjoined

5th February 1821

Subjoined to the Record of the
Proceedings held in Case No 6 is the copy
of a warrant issued by the late acting
3d Judge of Circuit to the Criminal Judge
in the Zilla of Cuddapah directing that

"Poola Reddy,"

the 1st prisoner in Cases Nos 3, 5, 6, 7, 11, and
23 should receive 39 stripes and be im-
=prisoned and kept to hard labor in irons
for the period of seven years.

By the futwa of the Mohum-
4
=medan Law Officer, who officiated on
the Trials, it was declared that suspicion
of the acts charged was established a-
gainst this prisoner, and further that
he appeared to be "a notorious robber."

It is prescribed in Claude
5.
sixth Section II Regulation XV of 1803,
that no punishment whatever shall
be inflicted on suspicion only. And
in the latter part of the same Claude
it is provided that "in cases of strong
"suspicion though not amounting to
conviction,

conviction, as well as upon proof of notorious bad character, security may be required for future good behaviour and appearance.-

8 With reference to the foregoing provisions of the law it is manifest, that under the futwa delivered by the Mohummedan Law Officer it was competent only to the late acting Judge to direct, that the prisoner Poola Reddy should be released either conditionally, or unconditionally, as might to him have appeared expedient, and that the sentence to corporal punishment and imprisonment was consequently illegal.-

7 After the most mature consideration of the evidence adduced in support of the several charges, in cases Nos 3, 5, 6, 7, 11, and 23, against the said Poola Reddy, the Court of Zillah Rajahmundry do not find that any one of the felonious acts, for which he has been indicted is brought home to him.-

Under these circumstances it has become the duty of the Court to pass a new sentence in conformity with the provisions of Clause fifth Section VII Regulation XV of 1803, and they accordingly directed, that the said prisoner should be set at liberty.-

In reply to the observations

9 of the Court of Rajahmundry Adalut in their proceedings, under date 9th October last, regarding the impropriety of taking from the Mohummedan Law Officer only one futwa on the six foregoing cases, the late acting 3d Judge stated, that he considered that he "was acting in conformity with the Rajahmundry Court's proceedings of 27th December 1811."-

In the proceedings here referred

10 to the Court of Rajahmundry Adalut observed, on a reference from the 1st Judge of the Court of Circuit in the Centre Division, as to the proper course to be pursued with respect to a prisoner charged "by

1st February 1821

"by three different persons of having
"committed three separate burglaries,"—
that "when a prisoner may be brought
"to trial in two or more cases on the same
"Calendar, all of which are described to
"be similarly circumstanced, the Mohammedan
"Law Officer should not be required to declare
"to what punishment he may be subject,
"until the trial of all the separate cases
"shall have been completed, and that then
"his futwa should be demanded, not on
"any one, but on the whole of the proceedings
"held against the prisoner."—

"The above instructions had
reference solely to cases, in which a single
prisoner might be brought to trial in
two or more cases, "similarly circumstanced"—
not only are the circumstances of the
cases under consideration dissimilar, but
the prisoners in three of them are not
the same persons; although, therefore,
the name of the prisoner Poola readily

appeared

F. 11.

1st February 1821.

appeared in each of the six numbers
on the Calendar, the requisition of a
separate Futwa in each case was ob-
viously "indispensable, in order to
"ensure a clear and perspicuous statement
"of the evidence on record."—

2. Ordered, that extract of these
proceedings be sent to the Provincial
Court of Circuit in the Centre Division
for their information.—

(Sent following letter No. 42)

Ordered also, that extract
of these proceedings be sent to the
Criminal Judge in the Zilla of Rajah-
=mundry late acting 2d Judge of Circuit
in the Centre Division for his informa-
=tion and future guidance.—

(Sent following letter No. 43)

2d

11 W. S. Read letter dated 25th ultimo
from the 1st Judge on Circuit in the Southern Division
reporting his arrival at Combaconum.—

(Here enter No. 82)

Read

1st February 1821

Read letter dated 27th ultimo from the Criminal Judge in the Zilla of Chingleput,- reporting the arrival of a Convict under sentence of transportation.

(Here enter No 88.)

1st February 1821

Read return dated 22d ultimo from the 3d Judge late on Circuit in the Western Division,- to precept dated 8th ultimo ordering communication to the Criminal Judge in the Zilla of Canara of the Court's observations in case No 1 Second Supplemental Calendar 1st Sessions A.D. 1820.-

(Here enter No 83.)

Read return dated 22d ultimo from the Provincial Court of Circuit in the Centre Division,- to precept dated 11th instant, ordering communication to the Magistrate of Bellary of the Court's observation on cases No 46 Bellary Calendar 2d Sessions A.D. 1820.-

(Here enter No 87.)

Read return dated 25th ultimo from the 3d Judge of the Court of Circuit in the Western Division,- to precept dated 15th ultimo ordering communication to the Criminal Judge in the Zilla of North Malabar and the Magistrate of Malabar of the Court's orders on a reference regarding the examination of the witnesses to Talook confessions.-

(Here enter No 89.)

Read

At a Court of the Foujdaree Udalut
Present,

Monday
5th February 821. Andrew Scott Esqre } Judges.
Edward Croft Greenway Esqre }

Read letter dated 25th ultimo. from
the Criminal Judge in the Zilla of South
Malabar, with copy of a warrant for the
banishment of a convict from the Zillah
of Malabar.

/Here enter No. 92/

The Court of Foujdaree Udalut
direct that the prisoner,
"Malliakel koonjanoo Kooriakel"
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 Criminal Judge in
the Zilla of South Malabar and to the
Criminal Judge of Seringapatam
for

5th February 1821.

for the information and guidance of those officers respectively.—

Sent 5th

Sent following letters 9245/

N1

E/S

F 11

At a Court of the Foujdaree Udalut

Present

Wednesday 14th February 1821.— Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter dated 12th instant,

N1

from the Magistrate in the Zilla of Chingleput,

E/S

recommending an offer of rewards for the ap=
=prehension of persons concerned in a late
murder.—

/Here enter No. 124/

The Court of Foujdaree Udalut,

having considered the grounds on which a re=
=commendation is made for an offer of rewards
to the extent specified in the above letter, authorize
and direct the Magistrate of Chingleput to offer
five hundred Arcot Rupees for the apprehension
of the leader, and One hundred Rupees for the
apprehension of each of the inferior offenders,
payable on their conviction before the Court of
Circuit.—

Ordered, that extract of these

proceedings

proceedings be sent to the Magistrate in the Zilla of Chingleput for his information and guidance.—

/Sent following letter 9th/

W. H.

Read again Read Letter, dated 20th November last, from the 1st Judge on Circuit in the Northern Division,— with copy of Vizagapatam Calendar 2nd Sessions A.D. 1820.—

(Here enter No. 66 of 1820)

The proceedings held before the Judge on Circuit in the cases No. 5 and 9 of the Vizagapatam Calendar, which are to be referred to the Foujdaree Adalut, not having been received,

2

The Court direct, that the attention of the First Judge late on Circuit in the Northern Division be directed to Section XXXVII Regulation VIII of 1802 and that he be by precept commanded to send up the Records of the proceedings held before him in the two cases abovementioned within fifteen days from the date of the receipt of the precept.—

Sent 15th W. H. /Sent following Precept 9th/ 20

Read return dated 29th Ultimo from the Provincial Court of Circuit in the Centre Division,— to precept dated 22d ultimo ordering communication to the Magistrate in the Zilla of Bellary of the Courts' instructions relative to the proceedings to be observed on resistance to the process of police officers.—

/Here enter No. 105/.

Read return dated 31st Ultimo from the Provincial Court of Circuit in the Southern Division,— to precept dated 27th November last ordering communication to the several Judges and Magistrates of the Courts remarks relative to the punishment of a Master for ill treating his slave.—

/Here enter No. 105./

Read return dated 2d Instant from the 2d Judge late on Circuit in the Southern Division,— to precept dated 11th ultimo ordering communication to the Criminal Judge in the Zilla of Tinnevelly of the Courts observations in Case No. 17 Tinnevelly Calendar 2d Sessions A.D. 1820.—

/Here enter No. 110.—/

Read

14th February 1821.

Read letter dated 31st ultimo from the Provincial Court of Circuit in the Centre Division, with returned warrant for execution of the prisoners in cases Nos 47. 48. 49. and 50 Cuddapa Calendar 2d Sessions A.D. 1820.-

(Here enter No 106)

Read letter dated 13th ultimo from the 1st Judge of the Court of Circuit in the Centre Division, submitting copy of Chittoor Calendar 1st Quarterly Sessions A.D. 1821.-

(Here enter No 85)

Read letter dated 1st Instant, from the 2d Judge on Circuit in the Northern Division, reporting the commencement of the Sail Delivery at Berhampore.-

(Here enter No 119.-)

Read letter dated 7th Instant, from the 1st Judge on Circuit in the Southern Division, submitting copy of Conjeveram Calendar 1st Sessions A.D. 1821.-

(Here enter No 120.-)

Read letter, dated 5th Instant from the 2d Judge late on Circuit in the Southern Division, enclosing explanation of the Criminal Judge in the Zilla of Tinnevelly of certain parts of the Proceedings in case No 17 Tinnevelly Calendar 2d Sessions A.D. 1820.-

(Here enter No 123)

F. C.

At a Court of the Foujdaree Adalut.

Present,

Thursday 15th February 1821.- Andrew Scott Esqre } Judges
Edward Croft Greenway Esqre }

Read again petition presented by the Vukeel Gunesh Das on behalf of Nuwab Roostom Jah Hootub-ood-Doulah Bahadoor of Masulipatam.-

(Here enter Pet. F.C. No 1 of 1821.)

It appears that the petitioners son Hootub-ood-Doulah Hasun Alee Khan Bahadoor with others ~~has been committed~~ is to take his trial before the Quarterly Sessions of Jail Delivery at Masulipatam on a charge of abetting a mob of Moosulmans who plundered a Hindoo Temple, and the prayer of the foregoing petition is that at the trial he may appear by Vukeel, and not in person.-

The application is pretended to be founded on Section XIV Regulation IX of 1816 which is altogether inapplicable to the case,- having reference only to proceedings before

before the Magistrate; and it is asserted that a similar application was made to this Court and granted under date the 30th July 1818 in the case of one E. Seetaramiah. This assertion is altogether unfounded.-

3 It appears that the person above mentioned is at large upon bail; and it is therefore to be inferred that the offence, for which he is to take his trial, amounts only to a misdemeanour.- The Court are not aware of any Regulation, authorizing a departure from the ordinary mode of trying cases of this description, according to which the person above mentioned must be present at the trial in person, although from the nature of the charge against him it may not be necessary that he should stand in the prisoners box, and in consideration of his rank the Judge who presides at the trial may indulge him with a chair near the Vakeel whom he may employ to assist him in conducting his defence.-

4 Ordered that extract of these proceedings

15th February 1821.

proceedings be sent for the information of the 1st Judge of the Court of Circuit in the Northern Division.-

Sent following letter No 56/.

Ordered also that extract of these proceedings be furnished to the petitioner on his application.-

The Court reprimand the Vakeel who presented the foregoing petition 1st for praying a Regulation wholly inapplicable to the case; and 2dly for attempting to mislead the Court by asserting that a similar application had formerly been granted by them.-

20

EC
N

15.

F. H.

At a Court of the Foujdaree Udalut

Present

Monday
19th February 1821. Andrew Scott Esqre. } Judges.
Edward Croft Greenway Esqre. }

The Reports prescribed by Sec=
=tion XXXVII Regulation VII of 1802 for the 2nd Ses=
=sions of 1820 not having been received from the
Judges late on Circuit in the Northern and
Western Divisions,-

The Court direct, that the 1st
Judge of the Court of Circuit in the Northern
Division, and the 2nd Judge late on Circuit in
the Western Division be by precept commanded
to send up the prescribed Report, containing their
observations made during the Circuit, within
three weeks from the date of the receipt of
the precept.-

Sent following Precepts/57/

Read letter, dated 6th October
last, from the 1st Judge of the Court of Circuit
in the Centre Division,- submitting case No 3
Chittoor

19th February 1821

Chittoor Calendar 4th Quarterly Sessions AD 1820.

(Here enter No. 615 of 1820).

The Cazee-ool-Coozat and Mooftees of the Faydaree Udalut declare in the foregoing Futwa, that the prisoners are convicted on strong presumption of the crime of forgery.- 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 prisoners would have been liable under the Mohummudan law, if they 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 20th ultimo, from the 2nd Judge on Circuit in the Northern Division,- submitting Case No. 5 Nellore Calendar 1st Sessions AD 1821.-

(Here enter No. 64)

The Court having maturely considered the

19th February 1821

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 Faydaree Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the latitude given by the sentence of Mohoobut, declared in the futwa, adjudge the prisoner

"Chenchoogadoo"

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 period of his natural life.-

/Sent following letter No 58/

20

W.H.C.

Read letter dated 7th instant, from the 1st Judge late on Circuit in the Northern Division,- reporting his arrival at Masulipatam

(Here enter No. 125)

Read letter dated 7th instant, from the Criminal Judge in the Zilla of Madura,- reporting

reporting the escape of two prisoners from a working party.—

(Here enter No. 128)

Read return dated 8th instant from the 2d Judge late on Circuit in the Western Division to the precept dated 29th ultimo calling for copy of futwa delivered in Case No. 1 Serungapatam Calendar 2d Sessions AD 1820.—

(Here enter No. 129)

Read letter, dated the 14th instant, from the 1st Judge on Circuit in the Southern Division, stating that notice has been given to the Criminal Judge in the Zilla of Salem that the Court of Circuit may be expected to arrive there on or about 3rd Proximo.—

(Here enter No. 134)

Read letter, dated 12th instant, from the 1st Judge on Circuit in the Southern Division,— reporting his arrival at Vurdachellum.—

(Here enter No. 140)

Read letter dated 9th instant, from the 2d Judge late on Circuit in the Southern Division,— with returned warrant for execution of the prisoner in case No. 17 Tinnevelly Calendar 2nd Sessions AD 1820.—

(Here enter No. 142)

At a Court of the Zoujdaree Udalut.

Present,

Tuesday 20th February 1821.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

M
E.S.

Read again letter dated 9th October last from the 1st Judge of the Court of Circuit in the Centre Division,— submitting case No. 3. Chittoor Calendar 4th Quarterly Sessions AD 1820

(Here enter No. 615 of 1820.)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Zoujdaree Udalut.—

The Court having maturely considered the proceedings held before the Judge of Circuit, the futwa of the Provincial Law Officer, and the futwa of the Cazee ool Coozat and Mooftees of the Zoujdaree Udalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and under the provisions of Clause first Section III Regulation VI of 1818 adjudge the prisoners,

1st Kundapah Moodely, and

2d Mooneyapun,

to be publicly exposed in the mode denominated Sushcer

20th February 1821

Tasheer, to receive thirty stripes with a Corah,
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 four years, and then to be released.-

And under the provisions of Clause third Section III. Regulation VII of 1811, adjudge the prisoner,

Zn Moonyattal,

to be imprisoned and kept to hard labor, without irons, on the public roads or other public works for and during the period of four years, and then to be released.-

(Sent following letter. No 61.)

W. H.

Z. R.

At a Court of the Foujdaree Adalut

Present,

Thursday 22d February 1821.- } Andrew Scott Esqre — } Judges
Edward Croft Greenway Esqre }

Read letter, dated 6th Instant.

AH from the 2d Judge late on Circuit in the Western Division,- submitting case No 3.

EG Sering a patam Calendar 2d Sessions A.D. 1820. and urging that sentence may speedily be passed on the case.-

(Here enter No 137.)

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

futwa

Sutton adjudge the prisoner
Thomas James,
to suffer death by being hanged at the
usual time and place of execution -

(Sentence following letter No 62)

Read again letter dated 9th December
last from the Magistrate in the Zillah of
Vizagapatam, recommending the offer of
rewards for the apprehension of certain persons

(Here enter No 687 of 1820)

Read also letter, dated 20th Instant,
from the Secretary to Government in the
Judicial Department, stating that the
Governor in Council sanctions the offer
of the several rewards proposed by the
Magistrate of Vizagapatam -

(Here enter No 152 of 1821)

Under the permission of the
Honorable the Governor in Council com-
municated in the above letter, the Court
of Foujdaree Adalut authorize and direct
the Magistrate in the Zillah of Vizagapatam
to offer the several rewards hereunder
specified

specified for the apprehension of the
following persons -

For the apprehension of Sergum Yercum dorah	}	Rupees 1000
" Sergum Veeravanah brother of Sergum Yercum = dorah	}	400
" Peddy Reddy Veerah Pautroodoo		300.
" Goorley Semadry		300.
" Dubby Appanah		300.
" S. Balaram Pautroodoo		300.
" Peddah Poolee		300.

payable, under the provisions of Section
Regulation I of 1818 on the delivery of th
several persons to the Magistrate in
the Zilla of Vizagapatam, or to the
Magistrate in whose jurisdiction th
may be apprehended -

Ordered that extract of
2. the proceedings of the Court of Fouja
Adalut, under date 27th December last
extract of the letter from the Secret
to Government in the Judicial Depa

under

22d February 1821

under date 20th Instant, and extract of these proceedings be sent to the Magistrate in the Zilla of Vizagapatam for his information and guidance.-

(Sent following letter No 63.)

Read letter dated 13th Instant, from the Criminal Judge in the Zilla of Canara,- applying for certificates of pardon under the provisions of Section XX Regulation VIII of 1802 to be delivered to two informers.-

(Here enter No 144 of 1821.)

1 It appearing on reference to the report of the First Judge of the Court of Circuit in the Western Division enclosed in the foregoing letter, that the informers Keechapa and Anuntasing have fulfilled the conditions, on which they received an offer of pardon from Government-

2 It is ordered, that Certificates in confirmation of such conditional pardon, be prepared and forwarded to the Criminal Judge in the Zilla of Canara, to be by him delivered to the parties aforesaid for their security as far as regards the acts therein referred to.-

25th February 1821

3 The Court of Foujdaree Adalut also direct, that the Criminal Judge in the Zilla of Canara be commanded to call before him the informers above mentioned, and to caution them against the repetition of practices, which must render them obnoxious to the severest penalties of the law, and the Court further direct, that the Criminal Judge of Canara be enjoined to give due notice to the Magistrate of the Zilla of the release of the persons here mentioned, in order that the requisite precautions may be taken with a view to the insurance of the public safety.-

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

(Sent following letter No 64

At a Court of the Foujdaree Udalut

Present.

Friday 23d February 1821. Andrew Scott Esqre } Judges
Edward Croft Greenway Esqre }

Read letter dated 6th Instant from the 2d Judge on Circuit in the Northern Division, referring for the orders of the Court the proceedings of the Criminal Judge in the Zilla of Nellore on certain cases, in which the 2d Judge is of opinion, that punishment had been awarded on insufficient grounds.-

(Here enter Ac. 135)

Read also letter, dated 12th Instant, from the 2d Judge on Circuit in the Northern Division,- submitting translates of the sentences, passed by the Criminal Judge in the Zilla of Nellore in certain cases, referred to in the foregoing letter.-

(Here enter Ac. 139.)

Para 1. The present reference has been made by the 2d Judge to the Court of Foujdaree Udalut, in consequence of the absence of the 3d Judge of the Court of Circuit from the

the Juor Station, which precludes the reference to the Judges of the Court of Circuit, prescribed by Section XXIII Regulation X of 1816.-

2. In his letter, dated 8th Instant, the 2d Judge states, that cases Nos 20, 21, 22 and 36 on the 2d Calendar, laid before the Court of Circuit by the Criminal Judge in the Zilla of Vellore, under the provisions of Section XXIII Regulation X of 1816, appear to require "immediate orders," and a translation of the proceedings held in case No 20 accompanies the letter

3. In his letter, dated 12th Instant, the 2d Judge submits translation of the sentence passed in Case No 20, of which he states that "the sentences in No 21 and 22 are a counterpart" together with translate of the sentence passed by the Criminal Judge in case No 36 of the Calendar abovementioned.-

4. Upon an examination of the proceedings in case No 20, submitted by the 2d Judge, it appears, that four prisoners, named

1st Erdoola Narapah,
2d Boochahoyla Bailiah,
3d Vuddoy Vermail, and
4th Cotaconda Buswanadoo,

were brought before the Criminal Judge charged

charged by Prosecutor, Chochala Pollygandoo with having plundered his house of certain articles, by him specified.-

5. In declarations delivered by the prisoners before the Police Officer, which appear to have been confirmed by them respectively before the Criminal Judge, the 1st prisoner acknowledges the commission of two robberies at the houses of Gazoolapilly Nursoo, and Poochaculla Chinsoo,- and the remaining prisoners deny having been concerned in the offence, with which they are charged, but state, that the 1st prisoner joined company with them, as they were on the road to Vengaloya pully, and went with them to Gonnoopilly, the village in which the robberies were committed by the 1st prisoner, that they all lay down at night under a Tamarind tree outside the village, and that in the course of the night the 1st prisoner went into the village, and returned with certain articles in his possession, which he stated that he had procured from his people in the village, that afterwards they all proceeded on their way

23d February 1821.

...way together, and were apprehended, and brought back to Gonnoopully.

6 The 1st witness deposed, that he and three others apprehended the prisoners, having been informed by Gazoola Nurson Chetty, that his house had been robbed, and that the articles produced in Court were all found on the 1st prisoner.-

7 The 2d witness deposed, that a Gold Bagadaloo produced in Court was presented by him to the prosecutor, Sumbula Poolingadoo.-

8 The 3d and 4th witnesses depose, that the declarations of the prisoners before the Police Officer were freely and voluntarily delivered.-

9 Before the Criminal Judge the 1st prisoner confirmed the declaration delivered by him before the Police Officer, denied having robbed the prosecutor, and stated that the property produced in Court was his own.-

10 The 2d prisoner denied all knowledge of the robbery; and the 3d and 4th confirmed their former declarations.-

11 From the foregoing summary of the evidence recorded in case №20 it appears

21 F.H.

23d February 1821.

appears, that the only circumstance, tending to the criamination of the 2d 3d and 4th prisoners, is the acknowledged fact of their having been in company with the 1st prisoner, outside the village of Gonnoopully, on the night in which he declares himself to have committed robbery at houses in that village.-

12 In the absence, however, of any direct testimony against these persons, the Court of Foujdaree Adalut consider, that suspicion only of participation in the offences of the 1st prisoner existed against them, and that consequently it was the duty of the Criminal Judge to have committed them for trial before the Court of Circuit, with whom it would have remained to exercise, or continue the authority given by clause sixth Section II. Regulation XV. of 1803, in the requisition of security, prior to their release from confinment.-

13 With respect to the proceedings of the Criminal Judge against the 1st prisoner, whose commission of two distinct robberies is established by his confession, the Court of Foujdaree Adalut have to remark, that much

much confusion has arisen from the absence
of any particular list of the property found
upon him, and that before the only article
specifically described in the record is not
admitted to be the property of the prosecutor
in this case the prisoner should have been
called upon to prove by evidence his state
=ment of the mode, in which it came into
his posession.-

It appears by the above letter
from the 2d Judge, that the whole of the prisoners
in this case were sentenced by the Criminal
Judge to 30 stripes and 6 months imprisonment
and hard labor in Irons, and that similar
sentences were passed by the Criminal Judge
in cases Nos 21 and 22, "making in the 3 Cases
"18 Months and 90 stripes to each Individual".

Cases Nos 21 and 22 not being before
the Court, they are unable to decide with respect
to the correctness of the opinion pronounced
on those cases by the 2d Judge, that in them
"there is no legal proof against any of the
"prisoners," but whatever might have been
the nature of the charges or of the evidence
adduced
adduced in support of them, the Criminal
Judge was guilty of an undue assumption
of authority in passing the sentences in
question.-

By Section VII Regulation X
of 1816 Criminal Judges are empowered to pass
sentence, in cases of theft, of 6 months imprison
=ment with corporal punishment not exceeding
30 rattans, and whenever a prisoner brought
before a Criminal Judge may appear, either
from the commission of any one heinous
offence, or the repetition of petty offences, to
deserve severer punishment than the Criminal
Judge is by that Section empowered to
inflict, it is his duty to commit the offender
for trial before the Court of Circuit.-

The Court of Foujdaree Adawlut
trust, that their orders on the present reference
will reach the Criminal Judge before the
infliction of a corporal punishment, from
which if any fatal consequence were to
ensue, that officer would incur an awful
responsibility.-

Until the proceedings in Cases
Nos 21 and 22 shall be before the Court, no final
order

order can be passed as to the disposal of the prisoners,-

1st Ledoola Narapah,
2d Borchahoyla Banliah,
3d Vuddoy Permanil, and
4th Catacondu Buswenaidoo,

but the Court of Foujdaree Adalut direct, that the said prisoners be released on their giving sufficient Bail for their appearance before the Criminal Judge, until a final order be passed upon the charges against them.-

19. It appears from the above proceedings, that the declarations of the prisoners before the Police Officer were read aloud to them before they were interrogated respecting the offence laid to their charge.- This mode of proceeding is irregular and improper: in all such cases an enquiry should be instituted denovo into the circumstances of the charge, and it is only on the completion of the examination of the prisoners touching the charge, that they should be interrogated as to the declarations, which they may have made before the

officers

officers of Police.-

20. It further appear, that the said declarations of the prisoners were read over to the attesting witnesses before any questions were put to them as to their contents.

21. The Court of Foujdaree Adalut deem it proper, therefore, to direct that the Criminal Judge do in all such cases examine the subscribing witnesses to a prisoner's Confession before the Police Officer, prior to it's being read over to them, as to their knowledge of the contents of the declaration and of the manner in which it was delivered and as to their having been present during the time that the same was reduced to writing, as prescribed by Clause third Section XXVII Regulation XI of 1816.-

22 It remains for the Court of Foujdaree Adalut to consider case No 36, in which it is stated in the letter of the 2d Judge, that the charge was for "selling "Betel leaf without paying duty" to Government, and in which it appears that the prisoners were sentenced each to "3 Months imprison"=ment and hard labor in irons, and 12 Rattans

The

23 The Court of Foujdaree Adaulut do not concur in the opinion recorded by the 2d Judge, "that there is no authority vested "in the Criminal Judge to take cognizance "of such complaint;" as they consider that the provisions of Section XXI Regulation I of 1817, which are declared applicable to the Criminal Judge by Section XLIV Regulation IX of 1816, embrace every "attempt to defraud the customs"- but the Court regret to observe in this case another instance of illegal proceeding on the part of the Criminal Judge in the adjudication of corporal punishment, his authority in such cases being expressly limited to the imposition of a fine to Government, commutable to imprisonment and hard labor for three months.-

24 In consideration of the punish=ment already inflicted on the prisoners in case No. 36,

1st Cunnamoory Ramoodoo, and
2d Adipooby Nullapa Reddy,

the Court of Foujdaree Adaulut direct, that they be forthwith let at liberty.-

25. Ordered that extract of these proceedings

proceedings be sent to the Criminal Judge in the Zilla of Nellore by precept com=manding him to release the prisoners,

1st Edoola Narapah,
2d Boocharoyla Baulah,
3d Vuddavy Permaul, and
4th Catacondu Busvenaidoo,

on their giving bail for their appearance until a final order be passed by the Court on the charges against them- And to release unconditionally the prisoners,

1st Cunnamoory Ramoodoo, and
2d Adipooby Nullapa Reddy.-

(Sent following Precept No 65)

Ordered also, that extract of

26. these proceedings be sent to the 2d Judge on Circuit in the Northern Division by precept, directing him to transmit to the Court translates in English of the proceedings held in cases Nos 21 and 22 of the second Calendar,- laid before the Court of Circuit by the Criminal Judge in the Zilla of Nellore under the provisions of Section XXIII Regulation X of 1816.-

(Sent following Precept No 66)

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F. C.

At a Court of the Foujdaree Udalut

Present

Monday
26th February 1821 — Andrew Scott Esqre
Edward Croft Greenway Esqre } Judge

Read letter dated 10th Instant from
the 2nd Judge on Circuit in the Northern Division
submitting copy of Nellore Calendar Sessions
AD 1821, and recommending the banishment of
certain prisoners to another Zilla —

(Here enter No. 145)

Agreeably to the recommendation
of the 2nd Judge, the Court of Foujdaree Udalut
direct that the prisoners,

1st Zungaula Venkadoo,
2nd Moonungy Purdasy,
3rd Moonungy Chimpurgaudoo,
4th Yendlooroo Bungagaudoo, and
5th Guddala Paupadoo,

convicted in Case No. 20 on the Calendar of Gang
Robbery and sentenced to 14 years imprisonment
and hard labor in irons be removed to the Jail
in the Zilla of Chittoor there to be imprisoned and
kept to hard labor in irons during the period of
their sentence —

Ordered

26th February 1821.

Ordered, that extract of these proceedings be sent to the Criminal Judges in the Zillas of Nellore and Chittoor for the information and guidance of those Officers respectively.—

Sent following letter 27/

Tuesday 27th February 1821

At a Court of the Fouzdaree Udalut

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read again letter dated 10th instant, from the 2nd Judge on Circuit in the Northern Division,- submitting copy of Nellore Calendar 1st Sessions AD 1821 and copy of the futwa delivered in Case No 13 and recommending the banishment of certain Convicts to another Zilla.—

(Here enter No 145)

Agreeably to the recommendation of the 2nd Judge the Court of Fouzdaree Udalut have under the authority vested in them by Clause fifth Section VIII Regulation XV of 1803, directed the removal of the prisoners specified in the foregoing letter, to the Jail in the Zilla of Chittoor. but the Court deem it proper to direct the attention of the 2nd Judge to the provisions of Clause third of the Section abovementioned, under ~~the provisions~~ of which it was competent to him to issue his warrant

warrant to the Criminal Judge for the banishment of the prisoners to any Zilla selected by the Court of Foujdaree Udalut.—

The Court of Foujdaree Udalut being of opinion that the grounds on which the prisoner in Case No. 13 of the Calendar is declared in the futwa to be acquitted of the charge of murder are unsatisfactory, deem it necessary to have before them the record of the proceedings which have been held in the case.—

It is ordered therefore, that extract of these proceedings be sent to the 2nd Judge on Circuit in the Northern Division by precept, desiring him to send up English and Persian translations of the proceedings held before him in Case No. 13 of the Nellore Calendar for Sessions AD 1821 within one month from the date of the receipt of the Precept.—

/Sent following Precept No 68/

Sent 6th

GS

W. H.

No. 11.

At a Court of the Foujdaree Udalut

Present,

Wednesday
28th February 1821 Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read letter dated 24th December last,
from the Magistrate in the Zilla of Bellary—
submitting copy of correspondence with the Criminal
Judge and complaining of the proceedings adopted
by that officer in certain cases referred to him
under the provisions of Section XXVII Regulation
XI of 1816.—

/Here enter No 708 of 1820/

Read also letter, dated 31st December
last from the Magistrate in the Zilla of Bellary—
submitting copy of further correspondence with
the Criminal Judge connected with the above
reference.—

/Here enter No 6 of 1821.—/

Para 1. The Court of Foujdaree Udalut,
having premised that the mode of communica-
tion adopted by the Magistrate is irregular,
the Court of Circuit being the proper authority,
to which all references from the Criminal

Judges

Judges and Magistrates, in cases of doubt or difference of opinion should be made in the first instance, - proceed to record such remarks and instructions, as appear to be necessary on the several cases brought to their notice in the above communication.-

2. The first letter, in point of date, contained in the above correspondence is from the Criminal Judge in the Zilla of Bolany, dated 23d. November last, transmitting to the Magistrate for correction certain reports, furnished by a District Police Officer under the provisions of Clause fourth section XXVII Regulation XI of 1816, and stating that in one case two persons had been sent in irons, who were described in the Police Officer's report to be witnesses, of which extraordinary proceeding the Magistrate was requested to obtain an explanation.-

3. On the 18th December the Criminal Judge reported to the Magistrate, that the peons in charge of the two witnesses in question had taken them away, and that the case remained undecided for want of evidence.-

4. In reply to the two foregoing communications the Magistrate, under date 22d. December, transmitted corrected reports from the Police Officer on the cases first mentioned, and that officers explanation of his reasons for sending two witnesses in the other case in irons, namely "that one "of them received from the prisoners a "handkerchief, knowing it to have been "stolen, which he subsequently denied;" and that the other "accompanied the two prisoners, "who took the stolen property from the house "of the thieves, and then denied, like them, having "done so."-

5. The Magistrate proceeded to remark, that all this had been pointed out to the Criminal Judge in the original Vazeer of the Police Officer, and after observing on the consequences of the Criminal Judge's omission to enquire into the case, which the Magistrate attributed to the informality of the Police Officer's report, he states his opinion, that

that "the two witnesses in irons instead of
"inducing the Criminal Judge to defer a
"personal examination of the case, and call
"for information which was already before
"him, should have prompted his proceeding
"as directed in the Regulations to examine
"the case as brought before him by the
"Police Officer, that if on the evidence sent by
"him the proceedings of that officer appeared
"to the Criminal Judge to be wrong, it was his
"province to rectify them, to free the witnesses
"from their fetters, and then, and not until then,
"should the Criminal Judge have brought the
"Amildar's conduct to his/the Magistrate's/notice."-

6. The Court of Foujdaree Adalut do not consider it necessary to pursue the quotation of the Magistrate's letter on the subject of this case.- That officer's observations are founded on an apparent misconception of the Criminal Judge's application for "evidence" on the case, which the Magistrate interprets to be a call on him to send back the very witnesses "whom/he remarks/the Criminal

Criminal Judge has "incarried out with a months
"confinement in irons:-" and from the reference
made by the Magistrate, in the 9th Paragraph,
to the provisions of Section IX. Regulation X
of 1816 it would appear, that he does not
consider the implication of a party as a partisipes
criminis to constitute any bar to his admissibility
as a witness in the case.-

7. The Criminal Judge in his
reply, dated 27th December, to the letter last
mentioned renews his application for further
information, to which the Magistrate rejoins
on 29th, that he "can not investigate a case
"pending before the Criminal Judge," and
requests a list of such witnesses as may be
required; and in his letter to the Court of
Foujdaree Adalut under date 29th December,
the Magistrate requests, that the Court
will decide "how he can act upon such
"a communication, respecting a case stated
"by the Criminal Judge to be pending before
"him, undecided for want of evidence."-

8. It appears to the Court of
Foujdaree

Zoujdaree Adalut, that the delay and other inconveniencies, represented by the Magistrate to have ensued from the Criminal Judge's neglect to proceed in the case here referred to, as directed in Section IX Regulation X of 1816,- are wholly attributable to the irregularity committed by the Police Officer in the first instance,- and to the Magistrate's omission or inability to correct that irregularity, when brought to his notice by the Criminal Judge.-

9 The Criminal Judge was correct in declining to examine as witnesses persons sent in irons and against whom circumstances of suspicion were alleged in the Arzee of the Police Officer, his application to the Magistrate for additional evidence against the prisoner was perfectly regular, and it was through the Magistrate alone that information could be obtained to enable the Criminal Judge to dispose of the two persons sent to him in a situation so equivocal-

10. His scruples, avowed by the Criminal Judge, with respect to affixing his signature to an informal or incorrect report from a District Police Officer, must have arisen from inattention to the words of Clause fifth Section XXVII Regulation XI of 1816, which prescribes that the Criminal Judge shall certify on the back of the report, "whether or "not the prisoner and documents have "been received."-

11 Where, as in several of the cases described in the correspondence before the Court, a defective or irregular report may be sent to the Criminal Judge, an endorsement to that effect should be affixed thereto and the report be delivered to the Police Peons, who should in no case be detained at the Zilla station.-

12 On all such occasions a communication should be made to the Magistrate, in order that instructions may be given for the information and future guidance of a Police Officer, whose report may be informal only, and not essentially defective;

28th February 1821.

defective; and that any documents not transmitted, any requisite procinable evidence, or another report in the form prescribed by clause fourth of the above Section" - where such may appear to be necessary" - may be obtained by the Magistrate from the Police Officer.-

13 "The Court of Foujdaree Adalut proceed to consider the remaining cases, brought to their notice in the present reference.-

14 On the 7th December last the Criminal Judge addressed a letter to the Magistrate, informing him that a case of theft to the amount of 4½ Rupees had been sent to him by the Aumeen of Goatty - that the Amildar of the same place had sent "a case of suspicion of robbery but not the "slightest degree of evidence in the complaint, "no witnesses or any thing to corroborate his "suspicions:" - also that the Amildar had sent another case, in his Report of which he stated, that "there was not the smallest suspicion

F.11

28th February 1821.

"suspicion of the murder, but that the prosecutor, "had complained from enmity." The Criminal Judge concludes his letter by stating that he had "delivered the documents to the "persons, who brought them and recommended "them to proceed to the Magistrate with "their charge."

The Magistrate in his answer, 15. dated 15th December, observed that the Criminal Judge had "with great propriety referred" to him the case of petty theft, mentioned in his letter:- and expressed his great surprize at the proceeding adopted in the other cases by the Criminal Judge, who "on the mere "perusal of the Police Officers Urzee," sent the parties in the case of murder to the Magistrate without having examined the prisoner or either of the three witnesses sent with him; and in the case of robbery had no communi-cation with the prisoners.

The Court do not concur with 16. the Magistrate in thinking, that the Criminal Judge acted correctly in sending to him the parties in a case of petty theft

referred

28

referred to him, on account of its being cognizable by the Magistrate.—

17. The Court are of opinion, that it was the duty of the Criminal Judge to proceed to enquire into the circumstances of the charge, and should it have appeared at the close of the enquiry, that the prisoner was liable only to the inferior degree of punishment specified in Section XXXIII Regulation IX of 1816, it would have been competent to the Criminal Judge to communicate such his opinion to the Magistrate, with whom it would have remained to issue the necessary orders for the information and future guidance of the Police Officer.—

18. The reference of cases by a Criminal Judge to the Magistrate is no where permitted by the Regulations; and must tend in every instance to the obstruction of the administration of Criminal Justice, and the inconvenience and injury of individuals.—

19. The above remark of course applies much more strongly to cases of a heinous description, which are from their

their nature excluded from the Magistrate's cognizance unless brought before him in the first instance; and the Court are utterly at a loss to account for the proceeding adopted by the Criminal Judge in the two cases of robbery and murder here referred to.—

In the one case three witnesses

20

appear to have been sent to the Criminal Judge and dismissed unexamined, in consequence of an opinion regarding the case given in the Urzee of the Police Officer; whereas it was the duty of the Criminal Judge to have taken their evidence, and if it appeared to be sufficient, to have committed the accused for trial before the Court of Circuit; and in the other case where no witnesses appears to have accompanied the prisoners, it was still the duty of the Criminal Judge to receive them, and to communicate immediately on the subject with the Magistrate,— in order that the omission might be supplied.—

21.— Ordered, that extract of these

28th February 1821. these proceedings be sent to the Provincial Court in the Centre Division by precept enjoining them to communicate the same to the Criminal Judge and Magistrate in the Zilla of Bellary for the information and future guidance of those officers respectively.-

(Sent following precept No 71.)

Lieut Mauck

No 70

Read return dated 8th Instant from the 2d Judge late on Circuit in the Western Division,- to precept dated 25th ultimo calling for copy of finding delivered in Case No 6 South Malabar Calendar 2d Sessions A.D. 1820.-

(Here enter No 126.)

Read return dated 16th Instant, from the Criminal Judge in the Zilla of North Malabar,- to precept dated 26th ultimo ordering release of two convicts under instructions from Government to the Tondaree Adalat.-

(Here enter No 160.)

Read return dated 21st Instant, from the Provincial Court of Circuit in the Southern Division,- to precept dated 22d ultimo ordering communication to the Assistant Criminal

28th February 1821. Criminal Judge in the Zilla of Combaconum of the Court's observations on his proceedings as Assistant Criminal Judge in the Zilla of Bellary on a case before him.-

(Here enter No 171.)

Read letter dated 19th Instant from the 3d Judge of the Court of Circuit in the Western Division,- stating that the reports on the late and present Quarterly Sessions at Tellicherry will be dispatched without delay.-

(Here enter No 168.)

Read letter dated 19th Instant, from the third Judge of the Court of Circuit in the Western Division,- with returned warrant for execution of prisoner in case No 8 North Malabar Calendar 4th Quarterly Sessions A.D. 1820.-

(Here enter No 167.)

Read letter dated 19th Instant, from the Provincial Court of Circuit in the Centre Division,- with returned warrant for execution of prisoner in case No 25 Cuddapa Calendar 2d Sessions A.D. 1820.-

(Here enter No 157.)

28th February 1821

Read letter dated 24th Instant from the 2d Judge on Circuit in the Southern Division, stating his intention to proceed to Salem without delay.-

(Here enter No 169.)

Read return, dated 13th Instant, from the 1st Judge of the Court of Circuit in the Centre Division,- to precept dated 11th ultimo ordering them to acquire from the Magistrate of Chittoor a report certifying the communication to the Police Officers under his authority of the Court's observations regarding their neglect of certain provisions of Section XXVII Regulation XI of 1816.-

(Here enter No 175)

F. 11.

At a Court of the Foujdaree Adalut.-

Present,

Monday 5th March 1821.- Andrew Scott Esqre. } Judges.
Edward Croft Greenway Esqre. }

Read letter dated 12th ultimo from the Provincial Court of Circuit in the Centre Division,- purporting to contain the returned warrant for the execution of Burmah and "Doddah" prisoners in case No 40 Bellary Calendar 2d Session A.D. 1820.-

(Here enter No 155)

It appearing on inspection of the paper which accompanied the foregoing letter, that it is a warrant for the execution of Burmah Doddah and Panjee, the three persons sentenced by the Court of Foujdaree Adalut under date 4th January 1821 to suffer death for the murder of Sungeevah; and that full execution of the said warrant has not been done,-

It is ordered, that the warrant be returned to the Provincial Court of Circuit in the Centre Division, and that they be by precept directed to retransmit the same

5th March 1821.

came to the Criminal Judge on the Zillah of Bellary for the purpose of its being duly returned when executed, agreeably to the provisions of Section XIII Regulation VIII of 1802.-

(Sent following precept. No 173)

Letter

W. H.

Read return dated 24th ultimo, from the 1st Judge of the Court of Circuit in the Western Division, - to precept dated 29th January last calling for report on 3d Quarterly Sessions for 1820.-

(Here enter No 180)

Read letter dated 22d ultimo, from the 3d Judge of the Court of Circuit in the Western Division, - with returned warrant for execution of the prisoners in case No 19 Canara Calendar 2d Sessions A.D 1820.-

(Here enter No 174)

Read letter dated 26th ultimo, from the Provincial Court of Circuit in the Centre Division, with returned warrant for execution of a prisoner in case No 15 Bellary Calendar 2d Sessions A.D. 1820.-

(Here enter No 181.)

Read letter dated 28d ultimo from

5th March 1821.

from the 2d Judge on Circuit in the Northern Division, - reporting his arrival at Rajahmundry

(Here enter No 176.)

Read letter dated 22d ultimo from the 3d Judge of the Court of Circuit in the Northern Division, - reporting his arrival at Masulipatam -

(Here enter No 172)

At a Court of the Foujdaree Udalut.

Present,

Thursday 8th March 1821. Andrew Scott Esqr. } Judges
Edward Croft Greenway Esqr. }

Read letter dated 21st ultimo from the 1st Judge on Circuit in the Southern Division submitting copy of Verdachellum Calendar 1st Sessions A.D. 1821.

(Here enter No. 161.)

The Court observe, that the dates of the apprehension of the several prisoners are omitted in the above Calendar.

Ordered, therefore, that the 1st Judge late on Circuit in the Southern Division be by precept commanded to bring the above omission to the notice of the Criminal Judge in the Zilla of Verdachellum, in order that it may not be repeated.

Court following Precept No. 81

Read letter dated 9th January last from the Magistrate in the Zilla of Bellary, transmitting copy of a precept issue

issued to him by the 2d Judge on Circuit in the Centre Division, and of his return thereto on which he solicits the orders of the Court.

(Here enter No 55.)

1 On reference to the papers accompanying the above letter it appears that they are connected with a case, in which the proceedings of the Magistrate are about to be submitted by the Court of Foujdaree Adaulut.—

2 The Court conclude, that every document connected with the case in question will be laid before them, and that the Magistrate's submission of these papers is wholly unnecessary; but as the only regular mode of reference on such occasions is through the Court of Circuit, the Court of Foujdaree Adaulut deem it proper to direct, that the foregoing letter with its enclosures be returned to the Magistrate.—

(Sent following letter No 82)

sent 9th E C

1. Read letter, dated 8th ultimo from the 2d Judge of Circuit in the Northern Division, submitting

submitting copy of Berhampore Calendar 2d Sessions A.D. 1820, and requesting the Court's instructions respecting one of the cases on the Calendar.—

(Here enter No 156.)

2 In case No 9 of the above Calendar, wherein 14 prisoners were charged with going with a large body of armed men by night to the village of Mondrawuldah, wounding the prosecutor, and setting fire to the house of the first prosecutor,—the Court of Foujdaree Adaulut observe a memorandum by the Criminal Judge, from which it appears that the 14th prisoner, who in consideration of his rank had not been committed to Jail, was prevented by sickness from appearing before the Court of Circuit, and that the Criminal Judge, supposing that the trial could not be proceeded in in his absence, did not summon the witnesses.

The cause assigned by the

3 Criminal Judge for omitting the measures necessary for putting on their trial the several persons committed by him in this

this case, is extremely futile and unsatisfactory.

4 It was the duty of the Criminal Judge to have proceeded under the circumstances represented by him, in like manner as if the 14th prisoner had not been apprehended, and that officer ought to have known, that whatever part any absent individual might have appeared to have taken in the atrocious offence, for which he committed these 13 persons to be tried by the Court of Circuit, they were entitled to the benefit of the earliest Sessions of Jail Delivery.-

5 With regard to case No. 17, the trial of which has been postponed, the 3d Judge solicits the instructions of the Court of Foujdaree Adaulut.-

6. It appears, that in this case 11 prisoners were committed for trial on the charge of having come in a body to the dwelling house of the Prosecutrix, broken open the door of a room, and stolen therout sundry Images and ornaments,- and that the 12th prisoner was charged with having sent the above persons to commit this offence.

7. It is stated in the letter of the 3d Judge, that the 12th prisoner is the mother of the Zumeendar of Mohery, that her rank being such as not to admit of her appearance in public, she has never been examined by the Magistrate, or Criminal Judge, on which account the 3d Judge was uncertain how far he might have been justified in proceeding to her trial.-

The 3d Judge further represents

8. that "the Prosecutrix and the 12th prisoner "are widows of the late Zumeendar of Mohery that "the former of these is childless "and the other Mother to the present Zumeendar and that "it appears, that the Lands which "have been seized belong of right to the "Head of the Samustanum; and as the "Prosecutrix refused to give them up they "were taken by force."-

Under the circumstances here

9. stated the Court of Foujdaree Adaulutare of opinion, that the charge of robbery preferred in the case should have been dismissed, and that the accused were merely liable criminally for a breach of the peace.-

Referring

8th March 1821.

10 Referring to the rank and peculiar situation of the individual, accused of having caused the perpetration of the offences of robbery and house breaking, the Court of Foujdaree Adalut are of opinion, that it was the duty of the Magistrate to have adopted in this case the line of proceeding, prescribed in Section XIV Regulation IX of 1816, and that if it had appeared on an investigation into the circumstances of the case, that it partook more of the nature of a misdemeanor than of a felony, the Magistrate was competent to dispose of the charge, unless serious acts of violence had been committed.-

11 In such a case the Regulations provide for the appearance of the accused before the Magistrate by Vakeel.-

12 The Court of Foujdaree Adalut cannot understand upon what construction of the Regulations the Criminal Judge could have felt himself authorized to hold any sort of proceeding against the individual here referred to, who never was before him; the provisions of Section IX Regulation X of

8th March 1821.

of 1816 applying solely to prisoners brought before the Criminal Judge.-

13 On the general question submitted by the 3d Judge the Court of Foujdaree Adalut have no difficulty in deciding, that as neither sex nor rank relieve a party from amenability to the Courts of Criminal Judicature for offences, such as on conviction require punishment for the ends of public justice, so neither can adventitious circumstances of this nature be allowed to interfere with the ordinary rules of trial before a Court of Circuit, of which it is one of the most essential that the accused shall be present.-

14 In this number as well in that above noticed the 3d Judge should have disposed of the cases of the prisoners in custody, although he might have been well assured of his incompetency to proceed to the trial of an absent individual.

15. In the concluding paragraph of his letter the 3d Judge states, that the trial of certain numbers on the Calendar was

Transmitted to the 3d Judge from Para 14 & 15 of the last Para.

8th March 1821.

was postponed "because the Commitments ~~on~~ which have taken place since the commencement of the present year."

16. This proceeding of the 3d Judge being in direct opposition to the provisions of Section XI. Regulation VII. of 1802, demands on that account the severe censure of the Court of Foujdaree Udalut, but when reference is had to the inconvenience and hardship thereby imposed upon the prosecutors and witnesses, who were in attendance, and to the eventual injury sustained by the prisoners, the 3d Judge's neglect of an obvious provision of the law becomes in the opinion of the Court wholly inexcusable.-

17. Ordered, that extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Northern Division by precept enjoining him to communicate to the Criminal Judge of Chicacole, and the Magistrate of Ganjam such parts thereof as concern those officers, for their information and guidance respectively.-

(Sent following Precept No 83.)

sent 9th

3/ J. M.

8th March 1821.

sent 9th

18. Ordered also that extract of these proceedings be sent to the 2d Judge on Circuit in the Northern Division for his information.

(Sent following letter No 84.)

Read letter dated 3d ultimo, from the 3d Judge on Circuit in the Centre Division, submitting case No 10 Cuddapa Calendar 1st Sessions A.D. 1821.-

(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 Coozat and Mooftee of the Foujdaree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid and under the provisions of Section XVII Regulation VIII of 1802 adjudge the prisoner, "Govindoogaudoo," to suffer death by being hanged at the usual time and place of execution.-

sent 12th

(Sent following letter No 85.)

Read letter dated 6th ultimo, from the 3d Judge on Circuit in the Centre Division, submitting case No 35 Cuddapah Calendar 1st Sessions A.D. 1821.-

(Here enter No 136.)

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"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 Poujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Shara as declared in the futwa adjudge the prisoner,

"Vengajee,"

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

(Sent following letter No 86.)

Read letter dated 17th ultimo from the 3d Judge on Circuit in the Centre Division submitting copy of Cuddapa Calendar 1st Sessions A.D. 1821.—

(Here ends No 153) 20

Read return dated 1st Instant from the Criminal Judge in the Zilla of Nellore to precept dated 23d ultimo ordering release of certain prisoners sentenced by him to specified terms of imprisonment.—

(Here enter No 180)

Read return dated 2d Instant from the 1st Judge of Circuit in the Northern Division to precept dated 14th ultimo calling for proceedings

proceedings held in cases Nos 5 and 9 Vizagapatam Calendar 2d Sessions A.D. 1820.—

(Here enter No 192)

Read return dated 5th Instant from the 3d Judge on Circuit in the Southern Division, reporting his arrival at Salem.—

(Here enter No 193.

Read return dated 27th Ultimo from the 2d Judge late on Circuit in the Western Division, to precept dated 19th ultimo calling for Report prescribed by Section XXXVII Regulation VII of 1812.—

(Here enter No 189.)

Read letter dated 20th ultimo from the 1st Judge of Circuit in the Northern Division, with returned warrant for execution of prisoners in case No 3. Rajahmundry Calendar 2d Sessions A.D. 1820.—

(Here enter No 187.)

Read letter dated 26th Ultimo from

8th March 1821

From the 3d Judge of Circuit in the Western Division,- submitting copies of North Malabar Calendar 1st Quarterly Sessions A.D. 1821.-

(Here enter No 190.)

7. N.

At a Court of the Foujdaree Adalut.-

Present,

Monday 12th March 1821.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.-

Read again letter dated 17th ultimo from the late 3d Judge on Circuit in the Centre Division,- submitting copy of Cuddapa Calendar 1st Sessions A.D. 1821.-

(Here enter No. 153.)

1 The proceedings held before the late Judge on Circuit in case No 25 of the Cuddapa Calendar, which is to be referred to the Foujdaree Adalut, not having been received.-

2 The Court, direct that the attendance of the 2d Judge on Circuit in the Southern Division, late 3d Judge on Circuit in the Centre Division, be directed to Section XXXVI. Regulation VII of 1802, and that he be by precept commanded to send up the Record of the Proceedings held before him in the above case within fifteen days from the date of the receipt of the Precept.-

(Sent following Precept No 87)

Read letter dated 15th Ultimo from the late 3d Judge on Circuit in the Centre Division submitting case № 32 Cuddapa Calendar 1st Session A.D. 1821.

(Here enter № 133)

The Court having maturely considered the proceedings held before the late Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Section XVII Regulation VIII of 1802 adjudge the prisoner,

"Chamula Lutcheyador,"

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

(Vide following letter № 88)

1 In the letter accompanying the trial the late 3d Judge on Circuit in the Centre Division, after recording his opinion, founded on "the voluntary and repeated confessions of the prisoner and the disappearance of the deceased," that he has "been guilty of the crime laid to his charge," proceeds as follows—

2 "I do not refer this case to the "Foujdaree Adalut as one deserving of Capital "Punishment, because there are two considera- "which, notwithstanding the confession of "the Prisoner, ought to have some weight in "his favor. I mean the circumstance of the "Body of the murdered Person not having been "found, and the apparently insufficient incite- "=ment to the commission of the crime. But "I am of opinion, that the prisoner is deserving "of imprisonment and transportation for life."

3 The Court of Foujdaree Adalut perused with much concern the above passage in the letter of the late 3d Judge, which exhibits an instance of singularly perverted reasoning.

4 If any ground had existed for doubt of the guilt of the prisoner, he was entitled to an acquittal. A recommendation for commutation of the penalty of death in a case of this description could only be reasonably founded on some circum- -stance affecting the Criminality of the act, of which the prisoner was convicted, the supposed inadequacy of the motive, which

12th March 1821.

which he assigned, for a deliberate and barbarous murder, does not appear to the Court to be a very obvious plea in extenuation of his guilt; while the inevitable inference, from the 3d Judge's allusion to the non discovery of the body of his victim, is, that in the opinion of that officer the penalty of transportation for life should be awarded, though the evidence of guilt be defective.-

5 After the most deliberate and attentive consideration of the whole of the evidence,- in his summary of which the late 3d Judge has not noticed the remarkable declaration of the prisoner before the Criminal Judge, that the cloth round his waist was given to him "by the deceased Goorooappa" on the day he "took him away from the village,"- or the description given by the Police peon of the place pointed out by the prisoner, as the scene of the murder, that the grass there was so long and thick as to make it difficult to find any thing in it,- the Court of Foujdaree Adalut have convicted him of the crime laid to his charge, his

12th March 1821.-

his reiterated and most circumstantial confessions being corroborated by the fact established in evidence of his having gone with the deceased from the village at the time represented by him, and the plea set up by him on his defence, that he was entertained by the prosecutor, persuaded to make a confession, implicating Chinnamah, the woman kept by the deceased, being disproved by his own witnesses.-

6 Ordered, that extract of these proceedings be sent to the Provincial Court in the Centre Division for their information

(Sent following letter No 89.)

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

(Sent following letter No 90.)

7 Read letter dated 2d ultimo from the 3d Judge late on Circuit in the Western Division

12th March 1821

Division, - submitting copy of a letter from the 4th Circuit to the 1st Judge on Circuit to the Provincial Court Western Division and recommending that Narnapa a prisoner in Case No 1 third Supplemental Canara Calendar 1st Sessions AD 1820 may be released on Bail -

(Here enter No 115)

Read also letter dated 10th July 1821 from the 3d Judge of the Court of Circuit in the Western Division, - submitting case No 1 Canara 3d Supplemental Calendar 1st Sessions A.D. 1820 -

(Here enter No 107 of 1820.)

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudder Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoners,

1st Gopaul Krishna,
2d Venkatta Ramaniah,
3d Dasoo; and
4th Pattaly Narnapa,

direct that the bail of the said 1st 2d and 3d prisoners

12th March 1821

prisoners be discharged, and that the 4th prisoner be set at liberty -

Sent following letter No 91.

Sudder

The Court of Sudder Adalut

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deem a particular disquisition upon the evidence in this case to be unnecessary, as after the most deliberate and attentive examination of the Record, they concur in the view taken thereof by the 3d Judge in the able commentary which he has given in the letter accompanying the trial.

As with regard to the other

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constituent parts of the mass of evidence oral and documentary, advanced in support of the prosecution; so also with respect to the declaration of the 4th prisoner before the late Special Commissioner the Court of Sudder Adalut coincide in opinion with the 3d Judge, that it is wholly undeserving of credit, and required the support of collateral evidence in order to this prisoner's conviction of Perjury. His unprincipled prevarication and disregard

20th Feb 1821

12th March 1821.

disregard of truth is however manifested through every stage of the proceedings, but under all the circumstances of the case the Court are disposed to consider the confinement which he has undergone to be a sufficient punishment.—

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

Sent following letter No 29

last 15th

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At a Court of the Zoujdaree Udalut

Present:

Monday 19th March 1821 — Andrew Scott Esqre — Edward Croft Greenway Esqre } Judges.

Read again letter dated 3d January last from the 2d Judge late on Circuit in the Southern Division, — submitting the Report prescribed by Section XXXVII Regulation VII of 1802.

(Here enter No 9.

Read also return dated 2d Instant from the 2d Judge late on Circuit in the Southern Division, — to precept, dated 25th January last, ordering him to call on the Magistrates in the Zillas of Combaconum and Salem to explain what Police arrangements they may have respectively adopted in modification of the General System of Police established by Regulation XI of 1816.—

(Here enter No 10.

The sentiments of the Court of Zoujdaree Udalut, regarding the practice of confining Criminals and debtors in the same prison, being already before Government, they deem it unnecessary to add any observations to

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to the representation, made on this subject by the 2d Judge in the 13th and 20th paragraphs of the Report. The serious objection to the situation of the Jail at Verdachellum, which is urged by the 2d Judge in the latter paragraph had been on former occasions brought to the notice of Government.-

2 In the 30th paragraph of the Report are contained certain observations regarding Case No 46 of the Salem Calendar for the 2d Sessions of 1820, in which the prisoner was convicted on a charge of murder, and sentenced by the Foujdaree Adalut to suffer death.-

3. In his description of the circumstances of this case the 2d Judge goes very nearly to express an opinion, that the wound inflicted by the prisoner on the deceased was accidental, which however is refuted by the evidence in the Record, and directly opposed to the opinion given by the 2d Judge in his letter referring the trial, in which he imputes "the outrageous "conduct of the prisoner in wantonly wounding "the deceased" to temporary frenzy rather than

a premeditated or settled design to commit murder.-

4 The Court of Foujdaree Adalut, in submitting the Report to Government deem it proper to state, that by the concurrent and undisputed testimony of two eye witnesses in this case it was established, that when the deceased came up to the Pagoda, the prisoner, who was sitting with a sword in his hand, arose, and stabbed him with it in the thigh.-

5. So far from it being in evidence that the prisoner was "whirling or "about with his sword in the crowd," and that "while in the performance of those superstitious "evolutions" he wounded the deceased, the testimony of the eye witnesses was positive as to his having risen from his seat on the unfortunate man's arrival, and stabbed him.-

6. Many cases have been before the Court of Foujdaree Adalut, wherein persons guilty of homicide have set up, as did the prisoner in this case, the plea of temporary possession by a God or Goddess. It is unnecessary for the Court to insist upon the inevitable result

result of admitting such a plea, when unsupported by any proof of insanity. Where previous enmity or other atrocious motive for the act of homicide may not be proved, the attack with a murderous weapon is, in the opinion of the Court, sufficient evidence of malice.—

7. By the futwa of the Law Officers of the Foujdaree Adalut in this case it was declared, that Kispaad was barred on the ground of there being only one competent witness to the fact of the deceased having died of the wound; but the evidence on this point being considered by the Court to be full and conclusive, the prisoner was sentenced to Death.—

8 The next subject, which requires the observations of the Court is the report of the 2d Judge on the administration of Police in the Zillas of Combaconum and Salem.—

9 In order to bring this subject in the clearest form before the Honorable the Governor in Council the Court deem it proper to recite the following remarks, recorded in their proceedings, under date 25th January last, on this part of the 2d Judge's Report, and will then notice the explanations submitted in the

the return of that Officer from the Magistrates in those Zillas.—

10 "In the 16th paragraph of the "above report the 2d Judge observes, that the "Magistrate in the Zilla of Combaconum, in "his arrangements for the preservation of "order and tranquillity in the Zilla, has "considered it to be necessary to retain a "distinct establishment of Police upon the "footing of the previous system, though "under new Denominations, namely Police "Ameens, instead of Darogahs, and Deputies "instead of Tanadars for the Protection of "those parts of the Zillah, which lie contiguous "to the Woods of Tondaman, and the Jungles "of Sevagungah, which are Inhabited chiefly "by Colleries, and other Disorderly Tribes.—

11 "And with respect to the administration of Police in the Zilla of Salem the "2d Judge observes as follows.—

12 "The Police in this Zillah has "greatly improved in vigilance and activity "since I last had occasion to report upon it, "and this beneficial change appears to me "to be chiefly ascribable to a partial recurrence

"recurrence to the Principle of the Previous System,
"in the manner of conducting its details—

13 "The two Departments of Revenue
"and Police, the local Duties of which were
"lately under the exclusive direction and
"controul of the Tahsildars, have again been
"separated, and their respective Duties are
"now performed by Distinct Native Authorities
"under the General Superintendance and controul
"of the Collector and Magistrate—

14 "The Native Officer at the Head
"of the Talook Police is styled an Amein
"He communicates directly with the Magistrate,
"or Criminal Judge, as the case may be, and in
"all other respects, his Duties are precisely the
"same, as those which were performed by
"the late Darogahs. One officer of this Descrip-
"-tion is stationed in every Talook with an
"Establishment of Peons attached to him suited
"to the Position, extent and Local circumstances
"of each, and whose services are solely and
"exclusively devoted to objects of Police.—

15 "The Court of Foujdaree Adalut
"have perused the foregoing passages, in the

"the report of the 2d Judge with the greatest
"surprize, and previously to submitting the
"Report to Government they deem it
"necessary to obtain from the Magistrates
"in the Zillas of Combaconum and Salem
"full information, regarding the measures
"which they have considered themselves Com-
"-petent to adopt, the former in modification,
"and the latter in complete subversion of
"the system of Police established by Regulation
"XI of 1816.—

16. "Claude first Section XXV of
"the above Regulation declares, that
"Tahsildars or Native Collectors of Districts,
"by whatever name designated, shall be
"ex-officio Heads of the Police of their
"respective districts.—

"In clause second it is declared,

17. "that the Peshkars, Gomashtas, and Peons
"who are or may be employed under Tahsildars
"of Districts, shall perform the duties of
"Police, as well as Revenue duties, and they
"shall be considered officers of Police as well
"as Revenue Servants.—

Sections

19th March 1821.

18 "Sections XXVII XXVIII XXIX XXXI XXXII
"XXXIII XXXIV XXXV XXXVI and XXXVII define the powers
"and prescribe the duties of Sahsildars.—

19 "By Section XXXVIII the Magistrate
"is authorized in districts where from the land
"rent being paid directly to the Collector there
"may be no Sahsildars, to grant to the most
"respectable Native Servant employed in the
"collection of the customs, or other dues of Govern.
"-ment, the same Police authority as is vested
"in Sahsildars.—

20 "In Section XL it is declared, that
"in large Towns, where it may be found,
"that the Police duties cannot be conducted
"by the Head Inhabitant, the Magistrate
"shall appoint a person to act as Ameen of
"Police, either immediately under his own orders,
"or under the Sahsildar of the district, and
"either with the Police Powers vested in Heads
"of villages, or with those vested in Sahsildars.—

21. "This last is the only provision,
"contained in the existing Regulations respecting
"the appointment of Ameens of Police, and it
"is scarcely necessary for the Court of Foujdaree
Adalut

19th March 1821 "Adalut to remark, that it is only in towns
"that the Magistrate is empowered to place such
"officers, and that their authority is strictly
"confined to the limits of such Towns.—

22 "This limitation of the authority
"of Ameens of Police is not only prescribed by
"the words of the Section last cited, but is
"further necessarily consequent upon those
"provisions of the Regulation, which describe
"the powers exclusively vested in Sahsildars,
"or ex-officio Heads of Police of Districts.—

23. "The last provision of Regulation
"XI of 1816, which the Court deem it necessary
"here to cite, is Section XLVIII, in which it is
"declared, that the Police establishment, which
"may be transferred to the Collectors as
"Magistrates, shall not be considered as
"distinct from the Revenue establishments,
"but shall be equally employed in Police
"and Revenue duties, as occasion may
"require.—

24. "With reference to this provision
"it is to be observed, that the separation of
"the Revenue and Police establishments,
"as described in the 10th and 40th paragraphs of

"of the Report, is in itself perfectly illegal:-
"and as the powers of District Police Officer are
"vested exclusively in Tahsildars, or Native
"Collectors of Districts, the proceedings of any
"other officer,- in a district, where there may be
"a Tahsildar,- in exercise of those powers, must
"be destitute of all legal validity.-

25. "The Court of Foujdaree Udalut
"cannot conclude these observations without
"expressing their surprize, that the 2d Judge,
"however well founded might be his conviction
"of the expediency of the arrangements, which
"he describes, could have overlooked the
"insuperable objection of their utter illegality.-

26. "The Court deem it necessary, in
"order to their bringing the subject fully
"before Government, that they should be
"furnished with any explanation which the
"Magistrates in the Zillas of Combaconum
"and Salem may have to offer on the
"subject, and they accordingly direct that
"extract of these proceedings be sent to the
"2d Judge late on Circuit in the Southern
"Division by precept, enjoining him to
communicate

"communicate the same to the Magistrates
"in the Zillas of Combaconum and Salem,
"and to call upon those Officers for an
"explanation of any Police arrangements,
"which may have been made by them in
"modification of the general system of Police
"established by Regulation XI of 1816."-

27. The Magistrate in the Zilla of Salem in the 2d paragraph of his letter in reply to the above observations stated, that on his taking charge of the District he "found "a great number of servants under the denomi-"nation of Police Ameens, scattered over the "whole Zilla- the head quarters of each was "fixed at some town or village: to each of "which a certain extent of territory was "allotted- and the business of Police in each "Circuit was conducted under the superintend-"ance of the Ameens."-

28. In the 3d paragraph the Magistrate states, that "as this arrangement "was not found to be efficient the number "of Ameens was greatly reduced, and one only "allowed to each Tahsildaree"- that "their duties

"duties were particularly confined to the
"Cutcharis of the Talooks in which they
"assisted the Tahsildar in all matters of Police,"
"and were at the same time liable to be
"deputed, to any part of the Talook, which
"might require their presence - that Tahsildars
"have always been the heads of Police in their
"respective Talooks - that the Ameens have
"acted under their orders - and that every public
"Servant under whatever denomination he
"may be is liable to be ordered to perform
"both Police and Revenue duty."-

29 From this passage in the Magistrate's letter it might be inferred, that the 2d Judge was incorrect in stating that in this Zilla "the Native Officer at the head of the Talook "Police is styled an Ameen," and that to this "office is attached "an establishment of Peons whose services are solely and exclusively devoted to objects of Police," - but it appears from the 4th paragraph of the Magistrate's letter that on a late occasion the duties of Head of Police devolved entirely on the Ameens, the "Tahsildars being fully employed

"employed on duties of a revenue nature;" and in the 5th paragraph the Magistrate states that "although the Tahseeldars are the heads "of Police of their respective Talooks still under "them it will always be found necessary to "employ a considerable establishment of Ameens, "proper & actually and exclusively for purposes "of Police - altho' perhaps not nominally so."-

30 In the concluding paragraph of his letter the Magistrate after admitting, that "the legal jurisdiction of the Ameens" is confined to Towns, observes that "if "Jurisdiction is given to them beyond the "limits of the Town, they are then considered "as Gomastahs or Peishcars & acting under "the Tahseeldars."-

31. The Court of Fouzdaree Adalut do not understand on what principle the Magistrate would defend the delegation to Ameens of jurisdiction, other than that which he considers to be legal. - Under the provisions of Section XLI Regulation XI of 1816 the Court do not consider, that a Police Ameen is intended to be employed as a

Revenue

Revenue Officer, or to be deputed to different parts of a Taluk by the Tahsildar — but supposing his occasional employment under the Tahseldar as a "Peishcar," or "Gomastah" to be allowed by the Regulation, he would be incompetent, if so deputed, to discharge the functions of a Head District Police Officer, as well under the terms of the above section, as under the general provisions of Regulation XI of 816, by which the powers vested in those officers are limited to the Native Collector of a district, who is declared to be ex-officio Head of the Police of such district.—

32 These general provisions of the Regulations stand equally opposed to the arrangement, suggested by the Magistrate in the Zilla of Combaconum, who represents that in those Taluks, in which Ameens of Police and deputies are now employed, the present revenue servants, "who are by the "Regulations empowered to act as Officers "of Police cannot possibly maintain that "vigilance and superintendance which is "required," and proposed "in consequence

"of the Sudder Court's observations on the illegality "of these distinct appointments for the performance "of Police duties, to legalize their acts by giving "them to a certain extent Revenue Jurisdiction, "and changing their denominations, calling "them Head Peshcars and Peshcars instead of "Police Ameen."—

33. If, as is represented by the Judge of Circuit and by the Magistrate, the employment of those Officers in the duties of Police, exclusively, is essential to the maintenance of order and tranquillity, the arrangement here proposed would be objectionable, as calculated to impair their efficiency, even were the delegation of the authority of Head of Police to those officers thereby legalized.— but the Court are of opinion, that under the law as it now stands that authority can only be exercised by the Tahseeldar, or Native Collector of a District by whatever name designated.—

34. Instead of giving sanction to the distinction, drawn by the Magistrate of Salem, between the actual and nominal functions of the officers employed in the most

19th March 1828

most important branches of Police, or to the mode by which the Magistrate of Tanjore proposes to legalize the acts of officers, not contemplated by the existing Regulations, the Court of Foujdaree Adaulut, concurring entirely in the expediency of investing the Magistrates "with a more enlarged discretion" in the assignment of Police functions to officers, not employed in Revenue duties, would propose the enactment of a Regulation, empowering the Magistrates, whenever from particular causes the measure may be thought necessary, to relieve the Tahsildar of a District from the duties of Head of Police, and to appoint a Darogah, vested with the powers and charged with the duties of a District Head of Police, with a separate subordinate establishment.—

35. In submitting this proposition for the consideration of the Honorable the Governor in Council it is the duty of the Court to represent, that some immediate modification of the existing law will be requisite, should the Government admit the validity

F. C.

19th March 1828.

validity of the grounds, on which the Magistrates of Salem and Tanjore assert that a necessity exists for employing other officers, besides the Tahsildars as Heads of Police of Districts; more particularly because the confessions of prisoners, received according to the provisions of clause third Section XXVII Regulation XI of 1816, are admissible, under the Mohummedan Law, as evidence on trials before the Court of Circuit, - but are invalid, when taken by any officer not authorized by law to receive them—

The Court of Foujdaree Adaulut

36. refrain from any comment on the description given by the 2d Judge of the state of Police in the Zillah of Tinnevelly; nor do the Court feel themselves called upon to offer any opinion with respect to the measure suggested by that officer "to meet the "emergency of the existing evil," - namely the revival of the Police system "which "existed previously to the year 1816."—

Ordered, that extract of these

37. proceedings together with the foregoing papers be sent to the Secretary to Government in the Judicial Department

for

most important branches of Police, or to the mode by which the Magistrate of Tanjore proposed to legalize the acts of officers, not contemplated by the existing Regulations, the Court of Foujdaree Adaulut, concurring entirely in the expediency of investing the Magistrates "with a more enlarged discretion" in the assignment of Police functions to officers, not employed in Revenue duties, would propose the enactment of a Regulation, empowering the Magistrates, whenever from particular causes the measure may be thought necessary, to relieve the Sahsuldar of a District from the duties of Head of Police, and to appoint a Darogah, vested with the powers and charged with the duties of a District Head of Police, with a separate subordinate establishment.

35. In submitting this proposition for the consideration of the Honorable the Governor in Council it is the duty of the Court to represent, that some immediate modification of the existing law will be requisite, should the Government admit the validity

validity of the grounds, on which the Magistrates of Salem and Tanjore assert that a necessity exists for employing other officers, besides the Sahsuldars as Heads of Police of Districts; more particularly because the confessions of prisoners, received according to the provisions of clause third Section XXVII Regulation XI of 1816, are admissible, under the Mohummedan Law, as evidence on trials before the Court of Circuit, - but are invalid, when taken by any officer not authorized by law to receive them -

36. The Court of Foujdaree Adaulut refrain from any comment on the description given by the 2d Judge of the state of Police in the Zilla of Tinnevelly; nor do the Court feel themselves called upon to offer any opinion with respect to the measure suggested by that officer "to meet the "emergency of the existing evil," - namely the revival of the Police system "which "existed previously to the year 1816."

37. Ordered, that extract of these proceedings together with the foregoing papers be sent to the Secretary to Government in the Judicial Department for

19th March 1821

for the orders of the Honorable the Governor in Council.-

(Sent following letter. No 95/

No 8.
dd 19th

Read again letter, dated 25th October last from the 3d Judge of the Court of Circuit in the Northern Division,- retransmitting the proceedings, submitted by him under date 9th August last, which were returned by order of the Court, as having been irregularly referred.-

(Hereunto No 5 of 1820/

1 In their proceedings under date 5th October last the Court of Foujdaree Adalut recorded their 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"

2 In the above letter the 3d Judge states, that he has made application to the Court of Circuit to forward the above proceedings, and that this request having been refused, he is again necessitated to transmit them.-

3 The Court of Foujdaree Adalut are

19th March 1821

are willing to impute the 3d Judge's repetition of a measure, declared by them to be irregular, to a misconception of the full intent of their observations under date 5th October last, which appeared to the Court to be sufficiently plain.-

4 The Court hold, that after the reference to the Court of Circuit prescribed by Section XXIII Regulation X of 1816.- the cases so referred are removed from the cognizance of the Judge on Circuit, who has no authority to call in question the correctness of the decision, which may be passed by the Judges of the Court of Circuit collectively thereupon.-

5 The Court of Foujdaree Adalut refrain from recording a formal affirmation of the judgment finally passed in the case in question, as it appears to them that an appeal from the decision of the Judges of the Court of Circuit in such cases, unless it be preferred by the Criminal Judge, under the provisions of Regulation XXII of 1802, is not intended by the Regulations.

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Police

it does not appear, however, to the Court that the grounds assigned by the 3d Judge for questioning the correctness of the judgment passed on the case by the Provincial Court of Circuit, are borne out by the record.-

6. Ordered, that extract of these proceedings be sent to the 3d Judge of the Provincial Court of Circuit in the Northern Division for his information and guidance

(Sent following Letter 96)

Read letter dated 9th Instant from the 2d Judge for the 2d Judge late on Circuit in the Western Division,- with returned warrant for execution of the Prisoner in Case No. 3 Seringapatam Calendar 2d Sessions A.D. 1820.-

(Here enter No. 205.)

Read return dated 5th Instant from the Provincial Court of Circuit in the Centre Division,- to precept dated 28th ultimo ordering communication to the Criminal Judge and the Magistrate of Bellary of the Court's orders on a late reference by the latter officer.-

(Here enter No. 207)

Read

5/ Fll
19th March 1821.

Read return dated 17th Instant from the 1st Judge of the Court of Circuit in the Southern Division,- to precept dated 8th instant ordering communication to the Criminal Judge in the Zilla of Verdachellum of the Court's observations on an omission in the form of his Calendar of prisoners committed for trial before the Court of Circuit.-

(Here enter No. 209)

Read letter dated 12th Instant from the 2d Judge on Circuit in the Northern Division,- reporting his intention of proceeding on 15th instant to the Zilla of Chicacole.-

(Here enter No. 212)

W.H.

Read return dated 3d Instant from the 3d Judge of the Court of Circuit in the Western Division,- to precept dated 29th January last calling for report on 4th Quarterly Sessions for 1820 and 1st Quarterly Sessions for 1821 at Tellicherry.-

(Here enter No. 195)

F. M.

At a Court of the Foujdaree Adaulut
Present,

Monday
26th March 1821. Andrew Scott Esqre } Judges.
Edward Croft Greenway Esqre }

Read letter dated 9th January
last. from the 2d Judge late on Circuit in
the Centre Division, submitting case No 22
Chingleput Calendar 2d Sessions A.D. 1820.

(Here enter No 34)

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

1st "Narrainen," and
2d "Chellen,"

is sufficient to convict them of having put
to death the deceased Acha Coopen, desire
under clause second Section II Regulation I
of 1818 that the Cazee ool Coozat and Moofties
of the Foujdaree Adaulut will declare by
a second futwa, to what sentence the
prisoners would have been liable
under

26th March 1821

under the Mohummedan law if they had been convicted by full legal evidence of the crime laid to their charge.-

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

Read letter dated 11th December last from the 3d Judge of the Court of Circuit in the Western Division,- submitting case No 6 of North Malabar 4th Quarterly Sessions A.D. 1820.-

(Here enter No 691 of 1820)

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

1st Vanian Samvely Vannen,"
2d Parrol Eddatil Kunhunkan alias Cheroo or Uthuma," and
3d Mecherryeddatil Kamaren,"

is sufficient to convict them of having put to death the deceased Pursooram Pudier, desire, under clause second Section II Regulation I of

26th March 1821

of 1818, that the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut will declare by a second futwa, to what sentence the prisoners would have been liable under the Mohummedan law, if they had been convicted by full legal evidence, of the crime laid to their charge.-

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

W. H.

19. March 1821

7. M.

At a court of the Foujdaree Adalut.

Present,

Thursday 29th. March 1821. Andrew Scott Esqre. } Judges.
Edward Croft Greenway Esqre. }

Read again letter dated 9th January last from the 2d. Judge late on Circuit in the Centre Division, - submitting case No 22 Chingleput Calendar 2d. Sessions AD 1820. (Here enter No. 34)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftee 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 Mooftee of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid and under the sentence of Hiffaz as declared in the futwa adjudge the prisoners,

1st Narrainen,"
2d Challen,"

to suffer death by being hanged at the

At a Court of the Foujdaree Adalut.

Present,

Thursday
29th March 1821. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read again letter dated 9th January
A1 last from the 2d Judge late on Circuit in
E&S the Centre Division, - submitting case No 22
Chingleput Calendar 2d Sessions AD 1820.
(Here enter No 34)

Read the second futwa delivered
in this case by the Cazee ool Coozat and
Mooftee 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 Mooftee of the Foujdaree Adalut
confirm the said futwa of the Cazee ool
Coozat and Mooftee aforesaid and under
the sentence of Kisas as declared in the futwa
adjudge the prisoners,
1st Narrainen,
2d Challen,
to suffer death by being hanged at
the

the usual time and place of execution.

(Sent following letter No 100)

It appears in evidence in this case that Ragavachary, Moonsiff of the village of Velleyoor, received declarations from the prisoners.

The Court of Foujdaree Adaulut desire, therefore, that the Magistrate in the Zilla of Chingleput will call the attention of the said Village Moonsiff, Ragavachary, to clause second Section V Regulation XI of 1816, which expressly declares that Heads of villages shall not receive from any person, whom they may apprehend, any confession, either verbally, or in writing, except in trivial cases.

With reference to the irregularity here pointed out, which is also referred to by the 2d Judge in his letter accompanying the trial, the Court of Foujdaree Adaulut deem it proper to direct, that whenever the records of proceedings, which may be delivered to him at the Sessions of Gaol Delivery, exhibit instances of departure from the provisions of the Regulations, the 2d Judge will be careful to notice the same, and to issue such

such orders thereon, as he may deem proper for the future guidance of the local officers.

Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Centre Division for his information and future guidance, and that he be by precept commanded to make the necessary communication to the Magistrate in the Zilla of Chingleput for the purpose herein specified.

(Sent following Precept No 101)

Read again letter dated 11th December last from the 2d Judge of the Court of Circuit in the Western Division, submitting case No 6 of North Malabar Calendar 4th Quarterly Sessions A.D. 1820.

(Hereunto No 69 of 1820)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftee of the Foujdaree Adaulut.

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftee of the Foujdaree Adaulut

confirm

29 29th March 1821

confirm the said finding of the Cazee and Coozat and Mooftee aforesaid and under the sentence of Fitwaa declared in the finding adjudge the prisoners,

1st Vanian Samuelly Kannen,

2d Parral Edatil Kunhukan alias Cheror or Kkama, and

3d Mecherryedatil Kamaren,

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

1 The 3d Judge of the Court of Circuit in the Western Division, recommends in his letter accompanying the Record of the trial, that sentence of transportation for life instead of a sentence of death should be passed on the 3d prisoner in consideration of his youth.-

2 The Court of Foujdarree Adalut concurring in the above recommendation resolve, under the provisions of Section XIV Regulation VIII of 1802 to suspend the execution of their sentence and to submit the case to the Honorable the Governor in Council with a recommendation that he may be pleased to

2 F. H. to commute the punishment of death adjudged

29th March 1821 against the said prisoner Mecherryedatil Kamaren, to imprisonment and transportation for life.-

3 Ordered, that extract of these proceedings, with record of the Trial in case № 6 of the North Malabar Calendar be transmitted 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 № 102/

W. H.

Read return dated 11th Instant from the 1st Judge of the Court of Circuit in the Northern Division, to precept dated 19th ultimo calling for the report prescribed by Section XXXVII Regulation VII of 1802

(Here enter № 217.)

Read return dated 12th Instant from the Provincial Court of Circuit in the Centre Division, to precept dated 6th Instant ordering the warrant for execution of the prisoner in case № 40 Bellary Calendar 2d Sept. A.D. 1820 to be returned to the Criminal Judge in

29 29

in order that due execution thereof be certified

(Here enter No 224.)

Read letter dated 19th Instant from the 3d Judge on Circuit in the Northern Division submitting a justification of his omission to try certain cases on the Ganjam Calendar 2d Sessions A.D. 1821 censured by the Court in their proceedings of 8th Instant.-

(Here enter No 230.)

Read return dated 20th Instant from the 3d Judge on Circuit in the Southern Division,- to precept dated 12th Instant calling for record of proceedings held in case No 25 Cuddapah Calendar 2d Sessions A.D. 1821.-

(Here enter No 229.)

Read letter dated 17th Instant from the 1st Judge on Circuit in the Western Division reporting his intention of proceeding for the Zillah of South Malabar on 18th Instant.-

(Here enter No 225.)

Read letter dated 20th Instant from the 2d Judge of the Court of Circuit in the Northern Division,- reporting on the 4th Quarterly Sessions for 1820 at Masulipatam.-

(Here enter No 702.)

Read

Read letter dated 15th Instant from the 2d Judge on Circuit in the Northern Division,- with copy of Rajahmundry Calendar 1st Sessions A.D. 1821.-

(Here enter No 216.)

Read letter dated 17th Instant, from the 3d Judge on Circuit in the Southern Division,- with copy of Salem Calendar 1st Sessions A.D. 1821.-

(Here enter No 219.)

At a Court of the Foujdaree Adalut

Present,

Monday
2d. April 1821. — Andrew Scott Esqre. — Edward Croft Greenway Esqre. } Judges

Read again letter dated 4th. December
last from the 2d. Judge of the Provincial Court
of Circuit in the Western Division, submitting
his sentiments as to the legality of a conviction
in any trial before a Court of Circuit without
a Futwa from the Mohummudan Law Officer

(Here enter No 671.)

The Court of Foujdaree Adalut,
having taken into consideration the argu-
ments adduced by the 2d. Judge in the
foregoing letter, deem it proper to revise
the instructions issued to that officer, under
date 20th. November last, and to issue the
following instructions for the guidance
of the several Courts of Circuit in conducting
trials for Breach of Prison and return from
transportation, under the provisions of
Section IX Regulation XV of 1803.—

It having been declared by the
Mohummudan Law Officers of the Foujdaree
Adalut, that the mere act of escape from
custody

custody is not a punishable offence, the Court direct, that in all cases of the above description, where it may appear that no act of violence has been committed by the prisoner in the attempt to escape, or subsequently thereto, the Judge presiding at the trial do simply put the question to the Law Officer, as to the sufficiency of the proof adduced to establish the fact of such escape, and on receiving his answer, do proceed, as directed by the provisions of the general Regulations, either to pass sentence under the provisions of the Section of the Regulation above cited, or to refer the case for the adjudication of the Coujdaree Adalut: and that when in addition to the Breach of prison or escape from custody any acts of violence or circumstances of aggravation may be in evidence against the prisoner, a finding be taken generally, as to the prisoner's liability to punishment under the Mohummudan Law.-

3. 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 future guidance.-

(Sent following Circular Receipts 9 to 103)

Read letter, dated 31st January last from the 2d Judge of the Court of Circuit in the Southern Division, submitting with remarks Trichinopoly Calendar 1st Quarterly Sessions A.D. 1821.-

(Here enter No 189)

Read also letter, dated 24th February last, from the 1st Judge of the Court of Circuit in the Western Division, submitting report on the 3d Quarterly Sessions for 1820 at Tellicherry.-

(Here enter No 179)

Read also letter, dated 5th Ultimo, from the 1st Judge of the Court of Circuit in the Southern Division, reporting on the Jail Deliveries at Combaconum and Tirdachellum.-

(Here enter No 191)

Read also letter, dated 8th Ultimo, from the 1st Judge of the Court of Circuit in the Northern Division, reporting on the Jail deliveries at Nellore Rajahmundry and Vizagapatam.-

(Here enter No 213)

Ordered,

2d April 1821.

Para 1

Of the foregoing Reports the only one, which requires observation from the Court of Foujdaree Adalut, is that of the 2d Judge of the Court of Circuit in the Southern Division on the 4th Quarterly Sessions of Jail Delivery at Tschingelpoly.

2. The attention of the Foujdaree Adalut has been attracted, on the examination of many of the Calendars lately submitted to them, by the increasing prevalence of the offence of house breaking, and it is the intention of the Court to propose without delay the enactment of a Regulation for making more adequate provision for the punishment of this offence.

3. Ordered, that the foregoing letters together with an extract of these proceedings be transmitted to the Secretary to Government in the Judicial Department for the purpose of being laid before the Honorable the Governor in Council.

No 12. Sent 5th GLS

W. J. H. (Sent following letter No 104)

P. M.

At a Court of the Foujdaree Adalut
Present,

Thursday
5th April 1821. Andrew Scott Esqre. } Judges
Edward Croft Greenway Esqre. }

Read letter, dated the 30th ultimo from the Criminal Judge in the Zilla of Chingleput, reporting the circumstances of a late murder in which eighteen Sepoys of 3d Battalion of Golandauz at St. Thomas' Mount were concerned and recommending the offer of a Conditional pardon to one of the persons apprehended.

GLS
M

(Here enter No 238)

1. In consideration of the circumstances reported by the Criminal Judge, the Court of Foujdaree Adalut, resolve to submit his application to Government without delay, and to recommend that the Honorable the Governor in Council may be pleased to authorize an offer of pardon to Baulasistna, on the terms specified in Section XX Regulation VIII of 1802.

2. Ordered, that the foregoing letter

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

(Sent following letter No 108)

No 13./
and 5th

W.H.

Read letter dated 15th January last from the 1st Judge of the Court of Circuit in the Centre Division,- submitting case No 7 Chittoor Calendar 1st Quarterly Session A.D. 1821.-

(Here enter No 107.)

The Cazee-ool-Coozat and Mooftees of the Zeydaree Adalut declare in the foregoing Futwa that the prisoners are committed on strong presumption of the crime of Highway robbery laid to their charge - The Court therefore concurring in their opinion declared in the Futwa, as above under the provisions of Clause third Section II Regu-lation XV of 1803 to call upon their Law Officers to declare by a second Futwa to what specific punishment the prisoners would have been liable under the Mohomedan Law, if they had been

committed by full legal evidence.-

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

EHS WM

At a Court of the Foujdaree Udalut

Present

Friday
6th April 1821.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read again letter dated 15th January from the 1st Judge of the Court of Circuit in the Centre Division, - submitting Case No. 7 Chittoor Calendar 1st Quarterly Sessions AD 1821.-

M

(Here enter No. 107)

E C S

Read the second futwa delivered in this case by the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut.-

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 do confirm the sentence of imprisonment and transportation for life passed on the prisoners by the 1st Judge under date 15th January last and do accordingly direct that the said prisoners,

1st "Chinna Venkategan," and
2nd "Yerrian,"

be

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 period of their natural lives respectively.—

Sent 9th

/Sent following letter No 109/

W. H. C.

At a Court of the Foujdaree Adalat.

Present,

Monday 9th April 1821.— Andrew Scott Esqre } Judges.
Edward Croft Greenway Esqre }

Read letter dated 4th December from the 3d Judge of the Court of Circuit in the Western Division,— submitting case No 2 North Malabar Calendar 4th Quarterly Sessions A.D. 1820.—

W. C.
M

(Here entered No 684 of 1820.)

The Court having maturely considered the proceedings held before the Judge of Circuit, and the answer of the acting Cazee and Coozah and Mooftee of the Foujdaree Adalut to the question put to them, as to the sufficiency of the proof in this case, confirm the same, and under the provisions of Clause first Section IX Regulation XV of 1803 adjudge the prisoner,

5th Teyan Cotty ally,

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

9th April 1821

during the period of his natural life.-

And the Court adjudge the prisoners,

1st "Kokoonat Kawally, alias Kabbilly Namboory"

2d "Ally paramba Mamoony,"

3d "Erangatela Amod Coothy,"

4th "Kopoo,"

5th "Hydros, alias Neeramy,"

6th "Tollyal Veeran," and

7th "Karyakantil Moideen"

to be removed to the Jail in the Zilla of Seringapatam there to be severally imprisoned and kept to hard labor in irons on the public roads or other public works for the period of their respective sentences, and after the expiration thereof for the further period of twelve Calendar Months, and then to be released.-

Cont 12th

(Sent following letter No 112)

In the letter accompanying the trial the 3d Judge recommends that the 5th prisoner should be transported beyond sea for the remaining period of his former sentences, and such further punishment in addition thereto as the Court of Foujdaree Adalut may adjudge against him.-

The recommendation of the 3d

9th April 1821

Judge, if intended to apply to a sentence of imprisonment for a limited period, is at variance with the provision contained in Clause Second Section VIII Regulation XV of 1803.- but the Court of Foujdaree Adalut in consideration of all the circumstances of this prisoners Case deem him to be a fit object of imprisonment and transportation for life, to which he has accordingly been sentenced.-

Ordered, that extract of these proceedings be sent to the 3d Judge of the Court of Circuit in the Western Division for his information.-

Cont 12th

(Sent following letter No 113)

Read letter dated 17th February last from the 3d Judge on Circuit in the Centre Division, submitting cases No 26 of Cuddapa Calendar 1st Session A.D. 1821.-

(Here enter No 154 of 1821)

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 Acting Cazee-=ool Cozat and Mooftee of the Foujdaree Adalut

9th April 1821

Adalut confirm the said futwa of the Acting Cazee and Coorgat and Mooftee aforesaid and under the latitude given by the sentence of Mahomedan declared in the futwa adjudge the prisoner,

Yandy Paupadoo,"

to suffer death by being hanged and his body to be suspended in irons in a spot to be selected by the Acting Criminal Judge in the Zilla of Cuddapa near the village of Guntapoorum in the Cumbum Talook.—

Sub 12th

Sent following letter No 1141

Appended to the record of the proceedings held in this case is copy of a return from the Criminal Judge in the Zilla of Cuddapa to a precept from the late 3d Judge, calling for translations of the Police proceedings for transmission to the Foujdaree Adalut.—

In the return in question the Criminal Judge goes at some length into the consideration of his competency, with reference to the provisions of Section VIII Regulation X of 1816, to indict the prisoner for the crime of murder, the charge against him, as given in the report of the Police Officers

F. A.

9th April 1821.

Officers having been for highway robbery.—

The Section of the regulation here quoted relates exclusively to the mode in which criminal charges or informations are to be brought before a Criminal Judge, but nothing contained in the aforesaid Section is intended to fetter in any degree the subsequent proceedings of the Criminal Judge, whose duty it is according to the spirit of the Courts instructions of 31st January 1814 to frame the indictment against such prisoners, as may be committed by him for trial, according to the facts in evidence before him.—

It is obvious to remark, that in cases sent to the Criminal Judge by the Native Officers of Police it cannot be expected, that the charge should be framed with accuracy and precision, and the Court hold it to be the duty of the Criminal Judge to amend the charge against prisoners brought before him, whenever it may appear to be incorrectly recorded in the preliminary proceedings, whether before the Magistrate or District Police

9th April 1821.

Police Office.

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 Acting 3d Judge on Circuit for his information and future guidance.-

(Sent following precept No 115)

Read letter dated 3d Ultimo from the 2d Judge on Circuit in the Northern Division,- submitting case No 11 Rajakmunny Calendar 1st Sessions A.D. 1821.-

(Here enter No 194 of 1821)

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 acting Cazee col Cozat and Mooftee of the Sunjdaree Adalut confirm the said futwa of the acting Cazee col Cozat and Mooftee aforesaid and under the sentence of Kisas declared in the futwa adjudge the prisoner,

"Vogeranda Atchy,"

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

(Sent following letter No 111)

W. F.

Lodr.

J. M.

At a Court of the Sunjdaree Adalut.

Present,

Thursday 12th April 1821.- Andrew Scott Esqre } Judges
Edward Croft Greenway Esqre }

Read letter dated 17th February last

No 81 from the 3d Judge on Circuit in the Centre

Division, submitting case No 57 Cuddapa

GCS Calendar 1st Sessions A.D. 1821.-

(Here enter No 151.)

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 acting Cazee col Cozat and Mooftee of the Sunjdaree Adalut confirm the said futwa of the acting Cazee col Cozat and Mooftee aforesaid and under the provisions of clause sixth Section II Regulation XV of 1803 adjudge the prisoners,

1st Chinnoo Gandoo," and

2d Goondaloo gandoo,"

to be released on producing good and sufficient security for their future good

good behaviour and appearance when
required.

(Sent following letter No 119)

W. H.

Read letter dated 26th Ultimo from the
3d Judge on Circuit in the Southern Division, reporting
his arrival at Coimbatore—

(Here enter No. 236)

Read letter dated 23d Ultimo from the
acting 2d Judge on Circuit in the Centre Division—
reporting the arrival of the Judge of Circuit at
Bellary—

(Here enter No 237)

Read return dated 28th Ultimo from
the 3d Judge of Circuit in the Northern Division—
to precept dated 8th Ultimo ordering communication
to the Criminal Judge and Magistrate of Ganjam
of the Court's observations on certain cases on
the Ganjam Calendar 2d Sessions A.D. 1820—

(Here enter No 238)

Read return dated 6th Instant from
the 2d Judge late on Circuit in the Centre
Division,— to precept dated 29th Ultimo ordering
communication to the Magistrate in the
Zilla of Chingleput of the Court's orders
on

on Case No 22 Chingleput Calendar 2d Sessions
A.D. 1820—

(Here enter No 240)

At a Court of the Cuttack Udalut -

Present,

Monday 16th April 1821. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges -

Read letter dated 13th Instant

No 715 from the Secretary to Government in the Judicial Department, stating that the Governor in Council authorizes the Criminal Judge in the Zilla of Chinglepat. to make a conditional offer of pardon to Baula Sistna. -

(Here enter No. 262)

Ordered, that copy of the foregoing letter be sent with extract from the Court's proceedings of the 5th instant for the information and guidance of the Criminal Judge in the Zilla of Chinglepat. -

(Sent following letter 121)

Read letter, dated 13th instant from the Secretary to Government in the Judicial Department, stating that the Governor

16 April 1821

Governor in Council has been pleased, to commute the sentence of death passed on the Prisoner Mecherry Eddatil Ramaren in case № 6 North Malabar Calendar 4th Quarterly Sessions of 1820, to imprisonment and transportation for life.-

(Here enter № 263)

The Honorable the Governor in Council having been pleased to resolve, that the sentence of death passed on the prisoner Mecherry Eddatil Ramaren in case № 6 of the North Malabar Calendar for the 4th Quarterly Sessions of 1820, shall be commuted to imprisonment and transportation for life,

Ordered, that

Mecherry Eddatil Ramaren,

be accordingly imprisoned and transported ~~to such place or places being one of the Governor in Council shall appoint~~ to ~~Prince of Wales Island~~, there to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of his natural life.-

Sent 19th

E C S.

(Sent following letter
№ 122)

Read

16 April 1821

Read letter, dated 5th instant, from the 3rd Judge on Circuit in the Southern Division, - submitting copy of Coimbatoor Calendar 1st Sessions AD 1821.-

(Here enter № 250)

Read letter, dated 2d instant, from the 1st Judge on Circuit in the Western Division with copy of Canara Calendar 1st Sessions AD 1821

(Here enter № 252)

Read letter, dated 9th instant, from the 1st Judge on Circuit in the Western Division, - reporting his arrival at South Malabar

(Here enter № 261.)

F. A.

At a Court of the Foujdaree Adalut

Present,

Thursday
19th April 1821. Andrew Scott. Esqre. } Judges
Edward Croft Greenway Esqre. }

Read letter dated 6th January last.

M
2/5 from the 2d Judge late on Circuit in the
Western Division, - submitting case No. 8
South Malabar Calendar 2d Sessions AD
1820.

/Berenter No. 40/

The Court having maturely
considered the proceedings held before the
Judge of Circuit the futwa of the Moonsiff
Law Officer and the futwa of the acting Cazee
ool Coozat and Mooftee of the Foujdaree
Adalut confirm the said futwa of the
acting Cazee ool Coozat and Mooftee afore
=said and under the sentence of Hissaad
declared in the futwa adjudge the prisoner,

"Chittian todil Edmoo",

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

/Sent following letter 9/4/23./

Read

19th April 1821

Read letter dated 15th January last from the 2d Judge Tatwon Circuit in the Western Division,- submitting case No 17 South Malabar Calendar 2d Sessions AD 1820.

(Here enter No 74)

The Judges of the 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, 2d "Parakaut Ramanien,"

is sufficient to convict him of having aided in the murder of the deceased Edahanata Krittinen Embrandry desire under clause second Section II Regulation I of 818 that the acting Cazee ool Cozat and Mooftee 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 acting Cazee ool Cozat and Mooftee of the Court.-

19th April 1821

Read letter, dated 9th February last from the 1st Judge of the Court of Circuit in the Northern Division,- submitting case No 5 of the Vizagapatam Calendar 2d Sessions A.D. 1820.-

(Here enter No 131.)

The acting Cazee ool Cozat and Mooftee of the Foujdaree Adalut declare in the foregoing futwa that the prisoners 3d to Chikanty Venkoloo, and 8th Gallavilly Bangadoo, are convicted on strong presumption of the crime of Gang Robbery and arson.- 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 prisoners would have been liable under the Mohummedan Law if they had been convicted by full legal evidence.-

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

Read

19th April 1821.

Read letter dated 7th January last from the 2d Judge Eastern Circuit in the Western Division, - submitting Case №2 South Malabar Calendar 2d Sessions A.D. 1821.-

(Here enter №148)

The acting Cazee ool Coozat and Mooftee of the Foujdaree Udalut declare in the foregoing futwa that the prisoner is convicted on strong presumption of the crime of Arson 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 Mohummedan law if had been convicted by full legal evidence.-

Ordered, that extract of these proceedings be translated and delivered to the acting Cazee ool Coozat and Mooftee of the Court.-

Read letter dated 17th ultimo from the 3d Judge on Circuit in the Southern Division, submitting

2/ F 11

19th April 1821.

submitting case №21 Salim Calendar 1st Sessions A.D. 1821.-

(Here enter №221.)

The Judges of the Foujdaree Udalut on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner Acheo is sufficient to convict her of having exposed her infant in the Jungle with the intention of causing its death desire under clause second Section II Regulation I of 816 that the acting Cazee ool Coozat and Mooftee of the Foujdaree Udalut will declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan Law if she has been convicted by full legal evidence of the above crime.-

Ordered, that extract of these proceedings be translated and delivered to the acting Cazee ool Coozit and Mooftee of the Court.-

20

Z U

At a Court of the Zoujdaree Udalut

Monday
23d April 1821

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read again letter dated 9th
February last from the 1st Judge of the Court of
Circuit in the Northern Division - submitting case
No 5 of the Vizagapatam Calendar 2d Sessions
AD 1820 -

(Here enter No 130)

Read the second futwa delivered
in this case by the acting Cazee-ool-Coozat and Mooftee
of the Zoujdaree Udalut -

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 acting Cazee-ool
Coozat and Mooftee of the Zoujdaree Udalut confirm
the said futwa of the acting Cazee-ool Coozat and
Mooftee aforesaid and under the provisions of
clause second Section IV Regulation XV of 1803
adjudge the prisoners

1st Aurugullah Mootealoo"
4th "Doomary Poloovadoo"
5th "Chikanty Venkooloo"
6th "Shanapatty Ramerady"
7th "Boyjah Jogkee" and
8th "Gallavilly Bangadoo"

to be imprisoned and transported to such place or places beyond Seas as the Governor in Council shall appoint there to be imprisoned and kept to hard labor in irons on the public roads or other public works for the period of their natural lives respectively.—

/Sent following letter No 124/

Read again letter, dated 17th January last, from the 2nd Judge late on Circuit in the Western Division,- submitting case No 2 South Malabar Calendar 2d Sessions AD 1820.—

(Here enter No 148)

Read the second futwa delivered in this case by the acting Cazee-ool-Coozat and Mooftee of the Zuydaree Udalut.—

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa

futwa of the acting Cazee-ool-Coozat and Mooftee of the Zuydaree Udalut confirm the said futwa of the acting Cazee-ool-Coozat and Mooftee aforesaid and under the latitude given by the sentence of Ashoobut declared in the futwa adjudge the prisoner

"Koyakel Ramen"

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of 14 years and then to be released.—

/Sent following letter No 125/

Read again letter, dated 15th January last, from the 2nd Judge late on Circuit in the Western Division,- submitting case No 17 South Malabar Calendar 2nd Sessions AD 1820.

(Here enter No 74)

Read the second futwa delivered in this case by the acting Cazee-ool-Coozat and Mooftee of the Zuydaree 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 acting Cazee-ool-Coozat

23d April 1821.

Cazee = ool Coozat and Mooftee of the Fouzdaree Udalut confirm the said futwa of the acting Cazee = ool Coozat and Mooftee aforesaid and under the sentence of Hijeaas declared against the prisoners,

1st "Kootole Kariata Kristna Kariar," and

2nd "Parrakaut Rama Nair,"

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

/Sent following letter No 126./

Read again letter, dated 17th ultimo, from the 3rd Judge on Circuit in the Southern Division,- submitting Case No 21 Salem Calendar 1st Sessions A.D 1821.-

(Here enter No 221)

Read the second futwa delivered in this case by the acting Cazee = ool Coozat and Mooftee of the Fouzdaree 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 acting Cazee = ool Coozat and Mooftee of the Fouzdaree Udalut confirm the said futwa of the acting Cazee = ool Coozat and Mooftee aforesaid

F 11

23rd April 1821.

aforesaid and under the latitude given by the sentence of Ookoobut declared in the futwa adjudge the prisoner,

"Ackee,"

to be imprisoned and transported to such place beyond the seas or places as the Governor in Council shall appoint, there to be imprisoned and kept to hard labor in irons on the public roads or other public works for the period of her natural life.—

/Sent following letter No 127/

No 4

Read again letter, dated 8th February last, from the 2d Judge on Circuit in the Northern Division,- referring for the orders of the Court the proceedings of the Criminal Judge in the Zilla of Nellore in case No 20 of the second Calendar laid before the Court of Circuit under the provisions of Section XXIII Regulation X of 1816.—

(Here enter No 135)

Read also return, dated 4th Instant, from the 2nd Judge on Circuit in the Northern Division to precept, dated 23d February last, calling for English translates of the proceedings held

held by the Criminal Judge in the Zilla of Nellore in Cases Nos. 21 and 22 of the Calendar above mentioned.

1 The Court of Sudder Udalut (Vide entry No 253) in their proceedings under date 23rd February last reviewed the proceedings held by the Criminal Judge in case No 20 of the Calendar, on the charge of the prosecutor, Chocherla Pollygandoo, against the prisoners,

1st Vedoola Narapah,
2d Boochay Kayla Baulliah,
3d Vuddey Permaul, and
4th Cataconda Buswanadoo,

for Larceny.-

2. In cases Nos 21 and 22 the same prisoners stand charged by the prosecutrix, Nulleshetty Ittchamah, and the prosecutor, Nardimloo, with Burglarious entry and robbery.-

3 In their proceedings above referred to the Court observed, that the only circumstance tending to the Crimination of the 2d 3d and 4th prisoners was the acknowledged fact of their having been in company with the 1st prisoner, outside the village of Gunnoopully on the night on

which he declared himself to have committed robbery at houses in that Village.-

4 In addition to the circumstance here referred to the Court remark that Ganly Mooteanloo, the village watcher, deposes in case No 22, that after receiving information from the prosecutor, Nardimloo, of the robbery that had been committed in his house, he "found the traces of four people, which traces he "followed, and apprehended the four prisoners."-

5. This witness was not asked, whether the traces which he stated himself to have followed extended from the wall of the prosecutor's house.- and in his deposition in case No 20 the Court observe the expression, that he went "taking information".- the original depositions not being before the Court, they are unable to ascertain whether this witness in his examination on 23d October omitted to mention this material circumstance, which appears in his evidence on 6th November before the Criminal Judge.-

6. If this witness is to be believed, the Court are of opinion that his evidence

tends

tends to enhance the suspicion against the 2d 3d and 4th prisoners, who declare that they proceeded on their journey with the 1st prisoner the morning after he is proved to have committed two robberies in the village of Gunnopully.-

7. A particular list of the property found on the 1st prisoner, the absence of which was noticed by the Court in their proceedings of 23d February, would have enabled the Court to come to some satisfactory conclusion as to the charges in these three cases; but this omission may be supplied by the persons who took the prisoners into custody.-

8. On a deliberate consideration of all the circumstances in evidence before them the Court are of opinion, that strong ground of suspicion exists against the 2d 3d and 4th prisoners; and that the confession of the 1st prisoner before the Police Officer, confirmed by him before the Criminal Judge, and corroborated by the discovery of certain articles in his possession, which he declared that he had stolen, and which are

are identified by the prosecutor Narsimloo,- affords abundant evidence of his having committed at least one Robbery,- on the night in question.-

9. The Court, therefore, deem it proper to direct, that a precept be issued to the 2d Judge, commanding him to instruct the Criminal Judge in the Zilla of Nellore to bring the prisoners,

1st Eedoola Narapah,
2d Boochay Koyla Baulah,
3d Vuddavermaul, and
4th Cataconda Buswaidoo,

to trial before the Court of Circuit at the ensuing Sessions of Jail delivery, and that the 2d Judge do point the attention of the Criminal Judge to those particulars, in which the evidence, as recorded in his proceedings, appears to be defective.-

Sent following Precept No 128/

Read return dated 18th Instant from the Provincial Court of Circuit in the Western Division,- to precept dated 2d Instant, ordering communication to the Judge on Circuit of the Court's instructions relative to

23d April 1821

to trials for Breach of prison.—

(Here enter No. 269.)

Read letter dated 16th Instant, from 2d Judge late on Circuit in the Centre Division,— with returned warrant for the execution of the 2 Prisoners in Case No. 22 Chingleput Calendar 2d Sessions A.D. 1820—

(Here enter No. 275.)

J. U.

At a Court of the Foujdaree Udalut

Monday
30 April 1821.—

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter dated 2d instant from the 1st Judge of the Court of Circuit in the Northern Division,— with copy of Masulipatam Calendar 1st Quarterly Sessions A.D. 1821.—

(Here enter No. 255)

The proceedings held before the Judge of the Court of Circuit in Case No. 9 of the Masulipatam Calendar, which are to be referred to the Foujdaree Udalut not having been receive

2 The Court direct that the attend of the First Judge of the Court of Circuit in the Northern Division be directed to Section XXXVI Regulation VII of 1802 and that he be by precept commanded to send up the Record of the proceedings held before him in the case abov= mentioned within fifteen days from the date of the receipt of the precept.—

Sent following precept No. 130.

Ct P. Duty.

7. M.

At a Court of the Zoujdaree Udalut.

Present,

Thursday
7th May 1821.

Andrew Scott Esqr.
Edward Croft Greenway Esqre } Judges.

M

E.C.G

Read letter dated 30th September last from the 3d Judge late on Circuit in the Western Division, - submitting case No 22 on the Calendar and No 1 Supplemental Calendar for South Malabar 4th Sessions A.D. 1820.

(Here enter No 583 of 1820)

The Judges of the Court of Zoujdaree Udalut, on a deliberate consideration of the Circumstances of the case, in evidence before them, concurring in opinion that the proof against the prisoners,

4th Kayadian Coothally Kandayagatha Koonjeathmy
12th Collakodavel Alapen, or Allyapen, and
13th Payagatha Koonjee Moidien,

is sufficient to convict them of the offence of aiding in the murder of the deceased Abdoolla, desire, under clause second Section II Regulation I of 1818, that the Acting Cazee of Coogat and Mooftee of the Zoujdaree Udalut will

3d May 1821.

will declare by a second futwa to what sentence the prisoners would have been liable under the Mohummedan law if they had been convicted by full legal evidence of the above crime.-

Ordered, that extract of these proceedings be translated and delivered to the Acting Cazee ool Coozat and Mooftee of the Zoujdaree Udalut.-

20

E.S. W.J.

Z. A.

At a Court of the Zoujdaree Udalut.-

Present,

Friday 4th May 1821. Andrew Scott Esqre. } Judges.
Edward Croft Greenway Esqre. }

Read again letter dated 5th September
E.S. last from the 3d Judge talook Circuit in the
M Western Division,- submitting case No 22 on the
Calendar and No 1 Supplemental Calendar for
South Malabar for Sessions A.D. 1820.-

(Here enter No 583 of 1820)

Read the second futwa delivered in this case by the Acting Cazee ool Coozat and Mooftee of the Zoujdaree Udalut.-

Read also the remarks of the Acting Cazee ool Coozat and Mooftee of the Zoujdaree Udalut.-

(Here enter Remarks)

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 Acting Cazee ool Coozat and Mooftee of the Zoujdaree Udalut confirm the said futwa of the Acting Cazee ool-Coozat and Mooftee aforesaid

aforesaid and under the provisions of Section XVII Regulation VIII of 1802 adjudge the prisoners,

1st "Saragan Kojaniagata alias Norady anguna Agatha Ahmed, or Ahamadoo,"

2d "Payagatha Seyed Omar Cootty alias Sheik Omar Cootty,"

3d "Ajinagatha Moideen Cootty," and

17th "Koonikel Seinadeen alias Koonikul Ainy Moideen or Korika Senny Moideen,"

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

And under the sentence of Cohootut declared against the prisoners,

4th "Kayadian Cottially Kandayagatha Koonjee ahmud,"

12th "Pollakadavel Alaffen, or Allyaffen," and

18th "Payagatha Koonjee Moideen,"

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 3 years and then to be released.—

And under the provisions of Clause sixth Section II Regulation XV

of

of 1805 adjudge the prisoners,

5th "Packy Mashiar son Kapattalatunde =agatha Abdoola, alias Awdala,"

6th "Noorandianagatha Moideen,"

7th "Kapanyanagatha koonjee Tarry,"

8th "Nooranyande Nellaterin koom Sattan Moideen Cootty,"

9th "Manjaboreyagatha Koyamoo,"

10th "Pootenvettil Camootty,"

11th "Kooderakaren Marcar's son Mayen alias Ambalawittil Mayen,"

14th "Pattoongal Koonjaran,"

15th "Ajeeragatha Seinadeen," and

16th "Nellanvittil Koonjee Moideen,"

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

(Sent following letter No 135)

Ordered, that the remarks of the Law Officers be sent to the 2d Judge late on Circuit in the Western Division,— accompanied by an English translation, and extract of these proceedings, and that he be instructed to communicate the

remarks

Sent 7th

4th May 1821

remarks of the Acting Cazee & Cozat and Mooftee for the information and guidance of the Cazee Mohummud Huneef.-

Ult. 7th

M 11th (Sent following letter N 136)

Read letter, dated 8th Ultimo from the Magistrate in the Zilla of Bellary, transmitting copy of correspondence with the Criminal Judge, regarding the case of a body of Phansegars, and recommending the offer of a conditional pardon to one of the supposed accomplices, who, "the Criminal Judge seems to think, cannot be admitted as "an evidence without that preliminary."-

(Here enter N 2861)

1 From the foregoing papers it appears, that fifteen persons charged with various robberies and murders were sent to the Criminal Judge by the Assistant Magistrate, accompanied by a female witness, who on her examination appeared to have been herself "Connected with the gang."-

2 The Criminal Judge in a letter to the Magistrate on the subject of this case observed, that this witness was "so much "implicated with the prisoners, that her evidence ought

2/ F 11

4th May 1821

ought not to have been taken without the provisions contained in Section XX Regulation VIII of 1802 had been complied with, and a pardon granted," that a sepoy, the only evidence reported by the Assistant Magistrate to be forthcoming, in one of the cases of murder, had not reached the Court; and that with the evidence before him there was "no possibility of committing the parties for trial, with the exception of two, against whom he hoped the charges would eventually be substantiated.-

3 In the concluding paragraph of his letter the Criminal Judge stated, that "although by Section IX Regulation X of 1816" he "properly ought to release the prisoners," yet that previously to doing so he deemed it his duty to make the Magistrate acquainted with the circumstances of the case.-

4 In his letter in reply to the above communication the Magistrate observed, as follows:- "Section XX Regulation "VIII 1802 empowers Magistrates and the "Courts of Circuit to recommend, that pardons

"pardons should be granted to an accessary
"in any heinous offence, where the grant of
"such pardon is requisite to induce the accessary
"to make such a full disclosure of every
"circumstance connected with the case
"as may lead to the conviction of the principal
"offender, or offenders — But where, without
"any such offer or grant of pardon, an
"accessary voluntarily comes forward and
"gives evidence in the case, I submit that,
"although a magistrate ought specially to
"caution him that his confession may
"affect himself, there is no provision in
"the regulations, nor can I perceive any
"other valid objection, against the receipt
"of the evidence of the accessary, voluntarily
"given, without promise of reward, or
"stipulation for pardon."

5. The first observation which the Court of Foujdaree Udalut deem it necessary to make on the subject before them is that the Criminal Judge appears entirely to have misconstrued the provisions of Section IX Regulation X of 1816, in supposing it to be

thereby enjoined, that prisoners in a case circumstanced like that before him should be released.—

6. In this case it is shewn by the letter of the Criminal Judge, that all the persons "stated to have any knowledge "of the crime" alleged against the prisoners had not been before him:— and it was clearly his duty to detain the prisoners, until all procurable evidence should have been obtained; with reference also to the provision contained in Clause 2nd Section II Regulation XV of 1803 the Court hold it to be the duty of a Criminal Judge to commit for trial before the Court of Circuit all persons, against whom there may be grounds for strong presumption of guilt, although he may be of opinion that the evidence against them is insufficient for conviction.—

7. The reference, which has been made in this case by the Magistrate recommending the tender of a conditional pardon to one of the supposed accessaries has arisen the Court presume, from an impression entertained

entertained by this officer and by the Criminal Judge, that the provisions of section XX Regulation VIII of 1802, in which the term Magistrate is used, do not apply to the Criminal Judges.-

8. The omission to declare, that the provisions of the Section of the Regulation last cited were applicable to the Criminal Judges and Magistrates, respectively, was an obvious oversight, which the Court of Foujdaree Adalut have not considered it requisite to bring to the notice of Government, as it has been the constant practice of the Criminal Judges to apply for permission to make an offer of pardon to supposed accessaries, whenever it appeared necessary for the conviction of offenders before them.-

9. An application for such permission in the present case, which is before the Criminal Judge, can only regularly come from that officer; should he be of opinion that a full disclosure of every circumstance within knowledge

of

of the supposed accessary may lead to the conviction of the principals.-

10. Upon the sentiments recorded by the Magistrate in the passage above cited from his letter to the Criminal Judge, regarding the admissibility of the evidence of an accessary voluntarily given,- the Court regret to remark that this officer has betrayed an ignorance of one of the most obvious and universally acknowledged principles of justice namely- that "the confession of one person cannot be received as evidence against others."-

11. If, as appears from the statement of the Criminal Judge the deposition of Joramah, the person referred to in this correspondence, went to implicate her in the crimes charged against the prisoners, the Assistant Magistrate acted erroneously in swearing her to it, which the Court conclude he must to have done, as she was sent in as a witness, to the Criminal Judge.-

12. The Magistrate in the 5th paragraph

4th May 1821.

paragraph of his letter to the Court of Foujdaree Adalut remarks, that he is not in possession of any general orders which may have been issued by the Court on the subject "of the admission by Magistrates of the "evidence of an accessary against either "principals or other accessaries:"— and adverts to his former suggestion of the expediency of his being furnished with copies of any general orders of this description issued by the Court.—

13. The Court of Foujdaree Adalut, deeming it expedient that their instructions, under date 27th January 1820 regarding the mode of taking the declarations of persons admitted to be approvers should be circulated to all the Magistrates, will issue orders to that effect.— but with reference to the suggestion here referred to by the Magistrate, in his communication, under date 27th October last, "that means should be adopted to place the "present Magistrates in possession of the "Circular orders issued by the Sudr Foujdaree "Adawlut in explanation of any part of

4th May 1821

the Regulations,"— The Court deem it sufficient to observe, that they consider its adoption to be unnecessary, inasmuch as the orders of that description, issued by the Court to the former Magistrates, have, generally, no reference to the powers and the duties of the Magistrates, appointed under the provisions of Regulation IX. of 1816.—

14. 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 guidance of those officers respectively.—

(Sent following precept No 137

Cut 7th

F. R.

Monday
7th May 1821.

At a Court of the Fouzdaree Adalut

Present

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges

GS
M

Read letter, dated 6th March last from the 1st Judge on Circuit in the Western Division, - submitting Case No. 22 Cauara Calendar 1st Sessions AD 1821.

(Here enter No. 200)

The Acting Cazee-ool Coozat and Mooftee of the Fouzdaree Adalut declare in the foregoing futwa that the 1st prisoner is convicted on strong presumption of instigating the acts of the 2nd and 3rd prisoners, and that if the witnesses had been Mooslims the 3rd prisoner would have been convicted on strong presumption of having bound and beaten the deceased. 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

to call upon their law Officers to declare by a second futwa to what specific punishment the aforesaid prisoners would have been liable under the Mohummedan law, if they had been convicted by full legal evidence.—

Ordered, that extract of these proceedings be translated and delivered to the Acting Cazee-ool Coozat and Mooftee of the Court.

Read letter, dated the 21st March last, from the 3rd Judge on Circuit in the Northern Division,- submitting case No. 21 of Gayam Calendar 2nd Sessions AD 1820.—

(Here enter No. 233)

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

"Surrajee,"

is sufficient to connect her of the crime of murder, desire, under clause Second Section II Regulation I of 1818, that the Acting Cazee-ool Coozat and Mooftee

Mooftee of the Foujdaree Udalut will declare by a second futwa to what sentence the prisoner would have been liable under the Mohummedan law if she had been convicted by full legal evidence of the above crime.—

Ordered, that extract of these proceedings be translated and delivered to the Acting Cazee-ool-Coozat and Mooftee of the Court.—

Read letter, dated the 17th February last from the 3rd Judge on Circuit in the Centre Division,- submitting case No. 53 Cud-dapa Calendar 1st Sessions AD 1821.—

(Here enter No. 150)

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 Acting Cazee-ool Coozat and Mooftee of the Foujdaree Udalut confirm the said futwa of the Acting Cazee-ool-Coozat and Mooftee aforesaid and in consideration

7th May 1821.

consideration of the imprisonment to which the prisoner,

"Timmareddee,"

has already been subjected, direct that he be released.-

/Sent following letter No. 1144/

dist 10th

W.H. Read letter, dated the 21st Ultimo from the acting 3rd Judge on Circuit in the Centre Division,- with copy of Bellary Calendar 1st Sessions A.D. 1821.-

/Here enter No. 285/

Read letter, dated the 19th Ultimo, from the 2nd Judge of the Court of Circuit for the Southern Division,- submitting copy of Trichinopoly Calendar 2d Quarterly Sessions of 1821.

/Here enter No. 305/

Read letter, dated 28th Ultimo, from the 3rd Judge of the Court of Circuit in the Western Division,- with returned warrant of execution of the prisoner in case No. 6 North Malabar Calendar 4th Quarterly Sessions A.D. 1820.-

/Here enter No. 309/

(2)

7th May 1821.

Read letter, dated 21st Ultimo from the acting 3rd Judge on Circuit in the Centre Division,- reporting his intention of proceeding to Chingleput on 22d Instant.-

/Here enter No. 286/

Read letter, dated 26th Ultimo, from the 3rd Judge on Circuit in the Southern Division,- reporting his arrival at Madura

/Here enter No. 293/

At a Court of the Foujdaree Udalut

Present

Thursday 10th May 1821.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read again letter, dated 6th March last from the 1st Judge on Circuit in the Western Division, - submitting case No. 22 Canara Calendar 1st Sessions AD 1821.

(Here enter No. 200)

Read the second futwa delivered in this case by the acting Cazee-ool-Coozat and Mooftee 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 acting Cazee-ool-Coozat and Mooftee of the Foujdaree Udalut confirm the said futwa of the acting Cazee-ool Coozat and Mooftee aforesaid and under the sentence of Pokoobut declared against the prisoners,

1st "Doogan Shetty," and
2nd "Appoolea,"

adjudge

adjudge them to be imprisoned and kept to hard labor in irons on the public roads or other public works for the space of six Calendar months and then to be released.-

And under the sentence of Lazer declared against the prisoner,

3rd "Packeerd,"

adjudge him to be imprisoned and kept to hard labor in irons on the public roads or other public works for six Calendar months and then to be released.-

Sent 10th

/Sent following letter No. 145/

Read again letter, dated 21st March last, from the 3rd Judge on Circuit in the Northern Division,- submitting case No. 21 Gaya an Calendar 2nd Sessions AD 1820.-

/Here enter No. 233/

Read the second futwa delivered in this case by the acting Cazee-ool Coozat and Mooftee of the Zuydaree 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 acting Cazee-ool Coozat and Mooftee of the Zuydaree Udalut confirm the said futwa of the acting Cazee-ool Coozat and Mooftee aforesaid and under the latitude given by the sentence of Cohoobut declared in the futwa adjudge the prisoner,

"Surrajee,"

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

Sent 10th

/Sent following letter No. 146/

In the letter accompanying the above Trial, as well as in the letters of the 3rd Judge, which have accompanied the greater part of the cases referred by him for the final adjudication of the Zuydaree Udalut, the Court observe that a summary is given of the principal facts in evidence, but no "opinion on the merits of the case."

The Court, therefore, deem it necessary to direct the attention of the 3rd Judge to the provisions of Section XXVI Regulation

10th May 1821

VIII of 1802 and to enjoin him invariably to record, on the reference of a trial, his sentiments as to the guilt or innocence of the accused, and the specific grounds of the reference.-

Ordered, that extract of these proceedings be sent to the 3rd Judge of the Court of Circuit in the Northern Division for his information and future guidance.-

Sent following letter No 147/

W.H. Read letter dated 16th January last from the 2d Judge late on Circuit in the Western Division,- submitting case No X South Malabar Calendar 2d Sessions A.D. 1820.-

/Here enter 177/

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,

Tachey Eddata Cheechotty,

is sufficient to convict him of having put to death the deceased Keren Rambien,

desire

2/ F.H.

10th May 1821.

I of 1818 that the Acting Cazee ool Cozat and Mooftee 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 aboad crime.-

Ordered that extract of these proceedings be translated and delivered to the Acting Cazee ool Coozat and Mooftee of the Foujdaree Adalut.-

Read letter dated 4th Instant from the 3d Judge on Circuit in the Southern Division,- submitting case No 17 Salem Calendar 1st Sessions A.D. 1821.-

/Here enter No 249/

The Acting Cazee ool Coozat and Mooftee of the Foujdaree Adalut declare in the foregoing futwa that the prisoner is convicted on strong presumption of the crime of murder laid to his charge- The Court therefore concurring in the opinion declared

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 Acting Cazee ool Cozat and Mooftee of the Foujdaree Udalut.-

W.H.

At a Court of the Foujdaree Udalut

Present,

Friday.
11th May 1821.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read again letter dated 16th
January last, from the 2d Judge late on
Circuit in the Western Division,- sub=
=mitting case No X South Malabar Calendar.
2d Sessions A.D. 1820.

(Here enter No 177)

Read the second futwa delivered
in this case by the acting Cazee ool Cozat
and Mooftee of the Foujdaree Udalut.-

The Court having maturely con=
=sidered the proceedings held before the Judge
of Circuit the futwa of the Provincial
Law Officer and the futwa of the acting
Cazee ool Cozat and Mooftee of the Foujdaree
Udalut confirm the said futwa of the
acting Cazee ool Cozat and Mooftee aforesaid
and under the sentence of Corbooltut
declared

11th May 1821.

declared in the futwa adjudging the prisoner,
Seeky Eddata Chichaotty,
to suffer death by being hanged at the
usual time and place of execution.—
(Sent following letter No 150)

Sent 14th

Read again letter dated 4th
Ultimo, from the 2d Judge on Circuit in
the Southern Division,— submitting case
No 17 Salem Calendar 1st Sessions A.D. 1821.
(Here entered No 2149)

Read the record futwa delivered
in this case by the acting Cazeeaal Coozat
and Mooftee of the Zoojdaree 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 acting
Cazeeaal Coozat and Mooftee of the Zoojdaree
Adalut confirm the said futwa of the acting
Cazeeaal Coozat and Mooftee aforesaid
and under the sentence of Cutcherry declared
in the futwa adjudge the prisoner,
Yerra Simma Naik,
to suffer death by being hanged at the
usual

11th May 1821

usual time and place of execution.—
(Sent following letter No 151)

Sent 14th

H

H.H.

At a Court of the Zoujdaree Adalut.

Present,

Monday
14th May 1821. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read letter dated 27th March last from the 2d Judge on Circuit in the Northern Division,- submitting case No 3 Ganjam Calendar 2d Sessions A.D. 1820.-

(Vide enter No 234)

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 prisoner,

Booraganny Dongadoo,

is sufficient to convict him of having put to death the deceased Gauroo, desire, under Clause second Section II Regulation I of 818, that the Acting Pundit and Mooftee of the Zoujdaree 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

legal evidence of the above crime.-

Ordered, that extract of these proceedings be translated and delivered to the Acting Cazee ool Cozat and Mooftee of the Foujdaree Adalut.-

Read letter dated 12th February last, from the 1st Judge on Circuit in the Western Division, submitting case No. XXIX Canara Calendar 1st Sessions A.D. 1821.-

(Here enter No. 138)

The Acting Cazee ool Cozat and Mooftee of the Foujdaree Adalut declare in the foregoing futwa that the prisoner is convicted on strong presumption of the crime of murder laid to his charge. The Court therefore concurring in the opinion declared in the futwa, resolve under the provisions of Clause third Section II Regulation XV of 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 Mohummedan law, if he had been convicted by full legal evidence.-

Ordered, that extract of these proceedings be translated and delivered to the

the Acting Cazee ool Cozat and Mooftee of the Foujdaree Adalut.-

Read letter dated 13th March last from the 1st Judge on Circuit in the Western Division,- submitting case No. 26 Canara Calendar 1st Sessions A.D. 1821.-

(Here enter No. 215.)

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

1st "Donhea," and

2d "Coobah,

is sufficient to convict them of having put to death the deceased Deco, desire, under Clause second Section II Regulation I of 1808 that the Acting Cazee ool Cozat and Mooftee of the Foujdaree Adalut will declare by a second futwa to what sentence the prisoners would have been liable under the Mohummedan law if they had been convicted by full legal evidence of the crime laid to their charge.-

Ordered, that extract of these

14th May 1821.

these proceedings be translated and delivered to the Acting Cazee ool Coozat and Mooftee of the Paydaree Adalut.-

W. S.

M

7th M.

At a Court of the Zillah Paydaree Adalut

Present,

Tuesday
15th May 1821. Andrew Scott Esqre ——— } Judges
Edward Croft Greenway Esqre }

Read again letter dated 27th March last from the 3d Judge on Circuit in the Northern Division - submitting case No 3 Gunjam Calendar 2d Sessions A.D. 1821.-

E.C.G
M

(Here enter No 234)

Read the second futwa delivered in this case by the Acting Cazee ool Coozat and Mooftee of the Paydaree 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 Acting Cazee ool Coozat and Mooftee of the Paydaree Adalut confirm the said futwa of the Acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Cohoobut declared in the futwa adjudge the prisoner,

Booraganny Dongadoo"

to suffer death by being hanged at the

the usual time and place of execution.-

(Sent following letter No 152.)

1 The Police proceedings in this case call for certain observations from the Court of Foujdaree Adalut.-

2 It appears from the evidence of Baureka Moosalee, village watcher, and Potoolah Vencapa, Police peon, that the latter, on receiving information of the discovery of the body of the deceased proceeded to the spot, and held an enquiry into the circumstances of the case, after which he directed Baureka Moosalee to apprehend the prisoner, whom he kept in custody till the following day, and then took him to the Daroghá.-

3 It is obvious to remark, that Potoolah Vencapa, a Police Peon, possessed no authority to investigate the case, or, to order the prisoner's apprehension - It was his duty, as well as that of the village watcher, under Section XXIII Regulation XI of 1816, to have reported the discovery of the body to the Head of the village, with whom it would have remained to proceed in the mode

prescribed by Section XIII of that Regulation.

4 It was the duty of the Police Daroghá on receiving information of the murder to proceed to the spot, and institute a local enquiry, as prescribed by Section XXXVI of the Regulation above quoted.-

5. The inattention, exhibited in these proceedings, on the part of the village and District Police Officers, to the provisions of the Regulations, and their remissness in the discharge of their duty call for the particular notice of the Magistrate under whose authority they are placed- It will be incumbent upon him to caution the Police Peon Potoola Vencapah against a repetition of such an undue assumption of authority as that above noticed, and generally to direct the attention of the subordinate Police Servants to the provisions of Regulation XI of 1816 relative to the investigation of cases of murder. Saulanna Cacmoodoo, one of the subscribing witnesses to the prisoners declaration before the Police Daroghá, states before the Court of Circuit

that

that he was not present when the declaration was written.-

6. The Court direct that the above circumstance be brought to the notice of Dilly Ingganandum, the Head of Police in the Purlah Kimedy Talook, by the Magistrate in the Zilla of Ganjam, and that the attention of the said Police Officer be particularly called to the words of Clause third Section XXVI 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.

7. It appears from the evidence of Potoolah Veneapah before the Criminal Judge, that "when the prisoner was taken "to the Police Daroga his hands were put "in wooden Menacles by the pressure whereof "his hands were wounded."-

8. It will be proper, that the Magistrate should convey to the Police Daroga abovementioned his strong censure

censure of the cruelty of his conduct, and enjoin him in future strictly to confine himself to such precautionary measures, as may be absolutely necessary for the safe custody of prisoners under his charge.-

9. Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Northern Division by precept enjoining him to make the necessary communication to the Magistrate in the Zilla of Ganjam for his information and guidance.-

last 18th

(Sent following Precept No 153)

Read again letter dated 12th February last from the 1st Judge on Circuit in the Western Division,- submitting case No XXIX Canara Calendar 1st Sessions A.D. 1821.-

Here enter No 138.

Read the second futwa delivered in this case by the Acting Cazee ool Cozat and Mooftee of the Zoujdaree Adalut.-

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

Law Officer and the futwa of the acting Cazee ool Coozat and Mooftee of the Poujdaree Udalut confirm the said futwa of the Acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Cohoobut declared in the futwa adjudge the prisoner,

"Colary Mana,"

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

sent 18th

(Sent following letter No 154)

Read again letter dated 13th March last from the 1st Judge on Circuit in the Western Division,- submitting case No 26.- Canara Calendar 1st Sessions A.D. 1821.-

(Here enter No 215.)

Read the second futwa delivered in this case by the Acting Cazee ool Coozat and Mooftee of the Poujdaree 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 acting Cazee ool Coozat and Mooftee of the Poujdaree Udalut confirm the said futwa of the

Acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Cohoobut declared against the prisoners,

1st "Don.hea," and

2d Soobah,

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

sent 18th

(Sent following letter No 155)

Read letter dated 14th Ultimo from the 2d Judge late on Circuit in the Northern Division,- submitting case No 13 Ganjam Calendar 2d Sessions A.D. 1820.-

(Here enter No 274.)

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 acting Cazee ool Coozat and Mooftee of the Poujdaree Udalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid and acquitting the prisoner,

"Nayalapooreyadoo,"

direct that he be set at liberty.-

sent 18th

(Sent following letter No 156.)

Jaggannadu

15th May 1821.

1. Jaggunadea Baharah, the 1st witness for the prosecution, deposed before the Court of Circuit, that the prisoner on being questioned by the Sayer Peshcar of the Village of Podanghi respecting the murder of the deceased, replied that "he neither beat nor "killed him - whereon the Paishcar and "certain other persons said to the prisoner "as follows, we will release you, if you "would confess before us that you killed "Latchmaya."

2. This witness also in answer to a question from the prisoner deposed, that he saw him flogged on that night by Dundasies, and Cattar Baharah, the 2d witness for the prisoner, deposed that "the Sayer Paishcar caused ten slaps and some boxes with the fist to be given to "the prisoner, thereby he fell down." - further that "one hour afterwards the Sayer Paishcar "threatened him, that he would have him "flogged more, and put in the stocks - if "he did not tell the truth - and that he "would release him if he confessed the "truth."

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3 F. C.
15th May 1821.

3. The Court of Foujdaree Adawlut, impressed with the conviction that a strict enforcement of the provisions contained in the Regulations for the punishment of the atrocious practice of extorting confessions, is absolutely necessary in order to prevent the increasing prevalence of an abuse of authority, so detestable in itself and pregnant with consequences so fatal, deem it proper on this occasion to desire, that the Magistrate in the Zilla of Ganjam will institute a strict enquiry into the proceedings of the Sayer Peschcar of the village of Podanghi, with a view to his eventual punishment under the provisions of Section XXX Regulation XI of 1816.

4. The Court have at the same time to remark, that the Peshcar's detention and examination of the prisoner was in itself perfectly unauthorized, unless he had been invested with Police powers under the provisions of Section XXXVIII of the above Regulation, which does not appear to have been the Case, as the

prisoner

15th May 1821.

prisoner was subsequently forwarded to the Head of Police of Tschapoor.-

5. Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Northern Division by precept enjoining him to make the necessary communication to the Magistrate in the Zilla of Ganjam for his information and guidance.-

(Sent following Precept W 757)

E.C.S.
M

W.S.T.

7. A.

At a Court of the Foujdaree Adalut.

Present,

Thursday 17th May 1821

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read again letter dated 2d. Ultimo from the 1st Judge on Circuit in the Western Division, - submitting copy of Canara Calendar 1st Sessions A.D. 1821.

E.C.S.
M

(Here enter No 252)

By an extract of the proceedings of the Court of Circuit under date 14th March last accompanying the foregoing letter, it appears, that the trial of Devapaik, prisoner in Case No 1 of the Calendar for Perjury and Conspiracy, has been postponed in consequence of his inability from severe illness to appear before the Court.-

2 The Court of Foujdaree Adalut on reference to the record of proceedings in case No 1. Canara 2d. Supplemental Calendar 1st Sessions A.D. 1821, and to the abstract of the examinations and statement of the grounds of commitment in this Case, - being of opinion that the charge of Perjury and Conspiracy against

17th May 1821.

against the prisoner Devapah cannot be sustained, direct that he be discharged.-

3. Ordered, that extract of these proceedings be sent to the 1st Judge on Circuit in the Western Division by precept commanding him to communicate the same to the Criminal Judge in the Zilla of Canara for his information and guidance.-

(Sent following precept 1059)

Read again letter dated 12th February last, from the 2d Judge talon Circuit in the Western Division, submitting the report prescribed by Section XXXVII Regulation VII of 1802.-

(Here enter No 182)

In the 11th paragraph of the Report the 2d Judge suggests an amendment of the provision, contained in Section IX Regulation XV of 1803, for the punishment of convicts returning from the place to which they may be transported" to any part of the Company's territory under the Presidency of Fort St. George.-

2. That the omission of the Legislative authority to extend the penalty denounced in the above section, to the act of returning to any part of the Company's dominions, has

been

17th May 1821

been productive of practical evil, is not shewn in the Report; nor does it appear to the Court of Foujdaree Adawlut to be probable that a convict, after effecting a return to those territories would voluntarily absent himself from the scene of his former life, unless with the view of avoiding detection, which a recurrence to his former lawless habits would be most likely to ensure.-

3. The extension of the provision, recommended by the 2d Judge may, however, be considered desirable, as meeting a possible, though not a very probable contingency.-

4. In the 15th and 16th paragraphs of the Report the 2d Judge discusses the expediency of prohibiting persons by a penal enactment from keeping in their possession bad or counterfeit Money.-

5. The Court of Foujdaree Adawlut concur in the observations, which the 2d Judge has recorded on this subject, and as it is within the knowledge of the Court, that the offences of forging and uttering counterfeit coin are prevalent in several parts of the territories subject to this Presidency, particularly at the principal

station

station in the Northern Division, and in the Zilla of Tinnivelly, the Court beg leave to recommend the enactment of a Regulation, containing the following provisions for the punishment of these offences, which are contained in Bengal Regulation XVII of 1817.-

1st The Provisions contained in Regulation VI of 1811, for the punishment of persons convicted of forgery or procuring forgery, shall be declared subject to the following modifications.-

The Judge of Circuit before whom a prisoner may be convicted of having forged or procured to be forged any counterfeit coin in imitation of any of the gold, silver, or copper coins of the British Government in India, or of any coin usually received as money in the British possessions in India, shall, provided he concur with the Law Officer in the conviction of the prisoner, sentence him to be publicly exposed in the mode commonly denominated Cattaer, to receive thirty stripes with a rattan, and to be imprisoned in banishment from the

the district for the period of fourteen years, unless the Judge of Circuit, on consideration of all the circumstances of the case, shall be of opinion, that any part of the prescribed punishment is too severe, in which case he shall be authorized to mitigate the sentence to imprisonment, with or without taskeer for any period not less than seven years.-

If in any instance the Judge of Circuit shall be of opinion, that a further mitigation or remission of punishment is necessary, he shall, provided he concur in the conviction of the prisoner, pass sentence according to the preceding Clause, and refer the trial with his sentiments at large for the final sentence of the Court of Foujdaree Adalut.-

2dly Any person who shall be convicted on or before a Court of Circuit or the Court of Foujdaree Adalut of paying or tendering in payment counterfeit coin, knowing the same to be counterfeit, shall be sentenced to imprisonment for such period, not exceeding seven years, as the Judge of Circuit, or the Court of Foujdaree Adalut may deem adequate to the circumstances of the case, and shall also, in all instances of an aggravated

aggravated nature, or of a repetition of the offence, after being once convicted and punished, he sentenced to pu- -blic exposure by Tasheer.- In every instance of a re- -petition of the offence after a previous conviction and punishment, the Judge of Circuit shall further, at his discretion, sentence the offender to receive corporal punishment, not exceeding thirty stripes with a rattan.

The provisions in the preceding clause shall be declared applicable to persons convicted of clipping, filing, drilling, defacing, or debasing the gold or silver Coin of the British Governments in India, or any coin usually received as money within the British possessions in India.-

3rdly If any person subject to the Jurisdiction of a Zilla Magistrate shall be convicted of having in his or her possession any counterfeited coin, and shall not shew good and sufficient cause for having such counterfeit coin in his or her possession, the person so convicted shall be sentenced by the Magistrate to pay a fine equal to four times the nominal value of such counterfeit coin, in his or her possession, one moiety of which fine shall, on receipt of it, be given to any informer or informers, who may have given information of the offence,

and

and established the truth of it.- In the event of such fine not being paid the person convicted shall be confined in the Zilla Jail for such period as the Magistrate may direct, not exceeding six months.- The counterfeit coin shall also in every instance be forwarded to the Mint Master.

6 In the 19th and 20th paragraphs of the Report the 2d Judge suggests that Shroffs and "all the different casts who work in "Gold, Silver, Brass, or Copper," should be required to take out licenses.-

7 Provisions to the above effect, having in view the object of the 2d Judge's sug- -gestion, namely to check the practice of pur- -chasing stolen property.- were enacted in Bengal Regulation I of 1811 and as it appears that the rules in question were rescinded by Regulation XXI of 1812, on the ground that the benefit re- -sulting from their operation had not "been "proportioned to the inconvenience with which "they had on some accounts been attended," the Court of Foujdaree Udalut are unable to recom- -mend the repetition of the experiment.-

The

carried

The Court are, however, fully convinced of the necessity which exists for establishing adequate punishment for the offence of knowingly receiving or purchasing stolen goods.- A penal enactment of this nature is contained in Bengal Regulation I. of 1811, by which also special provision is made for the punishment of the offence of house breaking, and the Court, adverting to the increasing prevalence of the latter crime, beg leave to propose the enactment of the following provisions, which are substantially the same as those here referred to in the Bengal Code.-

1. First. The provisions contained in section V Regulation XV of 1803 shall be declared subject to the following modifications.-

Any person or persons who may hereafter be convicted before the Courts of Circuit of breaking between sun-set and sun-rise, with intent to rob, into any dwelling house, whether constructed of stone, brick, mud, bamboo, grass, or other materials, or into a tent or other place of habitation, whether such entry be effected by cutting through or under the wall (mucenbzanee) or by any other means attended with

with breaking; and whether in pursuance of the intent to commit such robbery, any property shall be carried away, or otherwise, shall be sentenced to imprisonment in banishment during the term of fourteen years, and to corporal punishment not exceeding thirty nine stripes with a rattan.-

2dly Any person or persons who shall be convicted of the crime above defined, committed between sun-rise and sun-set, shall be sentenced to imprisonment in banishment for seven years, and to corporal punishment not exceeding twenty stripes with a rattan.-

3rdly Any person who may be hereafter convicted of the offence of breaking into any warehouse, storehouse or other building, or place used for the custody and preservation of property, either by day or by night with the intent to rob, shall be sentenced to imprisonment for the term of seven years, and to corporal punishment not exceeding twenty stripes with a rattan, whether in pursuance of the intent to commit such robbery, any property shall have been actually carried

carried away or otherwise. Provided however that nothing contained in any part of this Regulation shall be construed to supersede the provisions contained in Regulation XV of 1803, or in any other Regulation regarding the punishment of persons convicted of the crime of Duckytee, or robbery by open violence.

4thly All persons convicted of having been present, aiding and abetting in the commission of any of the offences above described or although not present, of having procured or caused by hire, command or command, the perpetration of such robbery or attempt to rob or in any manner of confederating with the robbers in pursuance of a preconcerted plan for that purpose, shall be adjudged to suffer the same punishment, as the principals concerned in the crime are liable to, under the foregoing clauses.—

5thly Any person, who may hereafter be convicted of the offence of receiving or buying stolen goods, cattle, jewels, or effects of whatever description, knowing the same to be stolen, shall be sentenced to imprisonment for the period of seven

seven years, and to corporal punishment not exceeding thirty nine stripes with a rattan.—

6thly If any person or persons shall purchase or receive plundered property of any description whatsoever, knowing such property to have been obtained by robbery by open violence (Dukytee or Rahzunnee) such person or persons being duly convicted of such offence, shall be sentenced to imprisonment during the term of fourteen years, and to receive thirty nine stripes with a rattan, unless the Judge of Circuit, in consideration of the age or bodily infirmity of the prisoner or prisoners, shall see cause to mitigate or remit the latter part of the sentence.—

7thly Any person, who may have been concerned in the commission of the crime of breaking into any house, or tent as described in clause first of this Draft, or of robbery by open violence, as defined in Section III Regulation XV of 1803 but which shall not have been attended with murder, wounding, or other aggravating act of personal violence, whether such person shall be in custody or otherwise, shall be entitled, upon

upon giving such information to the Magistrate or Criminal Judge, at any time previous to conviction as shall lead to the apprehension and conviction of the principal receiver or receivers, purchaser or purchasers of the property stolen, to receive a pardon for the said offence: the Magistrate or Criminal Judge, as the case may be, shall without delay transmit to the Court of Sudder Udalut a report of the circumstances of the case, together with a copy of any proceedings which may have been previously held by him upon the charge against the informer: and the Court of Sudder Udalut are hereby authorized to confirm such pardon, under the seal of that Court, to be delivered by the Criminal Judge, on the conviction of the receiver or purchaser of the stolen property to the party who may be entitled to the same.—

8thly The Magistrates, Criminal Judges, and the Judges of Circuit shall report to the Sudder Udalut any case, in which they may consider it expedient to make a conditional offer of pardon to any person, whether in custody or

otherwise (not being a principal offender) who may have been privy to or concerned in any offence of the nature described in clause first of this Draft or the crime of robbery by open violence, as defined in Section III Regulation XV of 1803 which may have been attended with murder, wounding, or other aggravating acts of violence, upon such person giving information which may lead to the discovery, apprehension and conviction of the principal receiver or receivers, purchaser or purchasers, of the stolen property. The Magistrates, Criminal Judges, and the Courts of Circuit shall at the same time transmit to the Court of Sudder Udalut, all the information obtained by them respecting the privity or other criminality of the person for whom the offer of pardon is proposed, and so much of the circumstances of the case as may be necessary to enable the Court of Sudder Udalut to judge of the expediency of authorizing such offer of pardon, and the Court if they deem the measure to be expedient shall submit the case to the Governor in Council, who if he approve the same, will authorize such offer of pardon, to

to be confirmed by a written certificate under the seal of the Court of Foujdaree Udalut, and to be delivered on the conviction of the receiver or purchaser of the stolen property to the party, who may be entitled thereto.-

9thly It is further hereby declared, that any person or persons who may have been guilty of the offence of knowingly receiving, or purchasing stolen goods, cattle or effects of whatever description, but who shall at any time previous to conviction render up to the Criminal Judge, Magistrate or Head of Police such stolen goods, cattle or effects, and shall give information leading to the apprehension and conviction either of the vender thereof, or of the principals concerned in the theft or robbery, shall upon a report to be submitted by the Magistrate, or Criminal Judge, or by the Court of Circuit, to the Foujdaree Udalut receive a pardon under the seal of the Court to be delivered, on the conviction of the vender of the property, or the principals concerned in the robbery, to the party entitled thereto.-

10 In paragraph 29 the 2d Judge adverts to "the gradual influx and establishment"

in the Zilla of Canara of the Moplahs of Malabar, and in the following paragraph suggests the adoption of measures to restrain their further colonization in that province.-

11. It appears to the Court, that the measures recommended by the 2nd Judge with a view to the accomplishment of this object are deserving of the consideration of the Honorable the Governor in Council.- it may be observed upon the 2d Judge's suggestion at the conclusion of the 30th paragraph, that by clause third Section VIII Regulation XV of 1803 the Courts of Circuit are empowered "in all cases of convicts sentenced to imprisonment" to adjudge the offender to be "banished during the period of his sentence from "the district in which his place of abode is situated."

12 In the 70th paragraph of the Report the 2d Judge after a detailed exposition of the disturbed state of Malabar, where it appears that the atrocious crime of Gang Robbery by open violence is alarmingly prevalent, proposes a suspension of the general Regulations for the administration of Criminal Justice and the enactment

enactment of certain rules for the instant trial of persons charged with Gang robbery, or any very serious breach of the peace, before the two Judges of the Provincial Court, who remain at the Sub station; whose sentences in all such cases shall be limited to 14 years imprisonment and hard labor in irons, with transportation beyond sea or banishment during that period, and 39 stripes with a rattan.-

13. To this proposition of the 2d Judge there lies the general objection, that its adoption would tend to obstruct the Civil proceedings of the Provincial Court, but the Court of Zuydaree Adalut are of opinion, that a more serious objection exists in the inadequacy of the punishment proposed, both as respects the atrocity of the crime, and the future security of society from the Criminal.-

14. It appears to the Court, that a modification of Regulation XV of 1803, with a view to render more effectual the provisions therein contained for punishing with transportation for life all persons connected of the crime of robbery by open violence, will be calculated to afford the best check

check to the increasing prevalence of this offence.-

15. By clause third Section IV Regulation XV of 1803 a discretion is vested in the Zuydaree Adalut in cases of Gang Robbery not accompanied with acts of personal injury and cruelty, such as are described in the preceding clause, to extend the sentence of 14 years imprisonment to imprisonment and transportation for life, upon any leaders of Gangs or other offenders convicted of a repetition of the crime or without such repetition, if, from proof of notorious bad character of the person convicted, or on consideration of any other circumstance of aggravation, appearing upon the trial evincing the danger of his future depredation, if set at liberty, it shall in the judgment of that Court be just and necessary to inflict more severe punishment than imprisonment and labor for fourteen years.-

16. The Courts of Circuit being at the same time authorized to pass sentence in all cases of conviction, with the concurrence of their Law Officers, where the sentence may not be for perpetual imprisonment

imprisonment without reference to the Fouzdaree Adalut this Court has seldom been enabled to exercise the discretionary power above stated, and in consequence it has been found from the proceedings of the Courts of Circuit on various cases, that persons convicted of gang robbery, of whose amendment no hope can be entertained from their confirmed habits and principles, are set at liberty, at the expiration of a limited period to join their former associates and renew their depredations.—

17. In the opinion of the Court of Fouzdaree Adalut it is, therefore, expedient and necessary, that all cases of conviction of the daring and atrocious crime of robbery by open violence as defined in Clause first Section III Regulation XV of 1803 should be brought before them, and that the Court should be empowered to pass sentence of imprisonment and transportation for life, when the offender may be duly convicted and may not be liable to suffer death.—

18. A Regulation to this effect was found to be absolutely necessary in Bengal and from Regulation VIII of 1808 of the Code of the

the Supreme Government are taken the following provisions, the enactment of which the Court beg leave strongly to recommend.—

First. Clause third Section IV Regulation XV of 1803 shall be rescinded.—

Secondly. All persons convicted of being concerned, as principals or accomplices, in the crime of robbery by open violence, as defined in Section III Regulation XV of 1803, and who may not under the Regulations in force be liable to a sentence of death, shall be adjudged by the Courts of Circuit and by the Fouzdaree Adalut to receive thirty nine stripes with a rattan and to be imprisoned and transported for life unless from any extenuating circumstances appearing on the trial the stated punishment shall appear too severe in which case the Court of Fouzdaree Adalut shall be authorized to mitigate the sentence, as in other cases left to the discretion of that Court by clause fifth Section IV Regulation XV of 1803, or to act in pursuance of clause sixth of that Section, if the prisoner appear a proper object of mercy and pardon.—

Thirdly

17th May 1821

Thirdly. The Courts of Circuit shall refer to the Court of Foujdaree Udalut in the manner prescribed by the existing regulations, the trials of all prisoners convicted of the crime of robbery by open violence, and liable to the punishment declared in the preceding section. The Judge of Circuit, before whom the trial may be held, shall, in all cases, pass sentence for the stated punishment, if the prisoner appear to him, and to the Law Officer of the Court of Circuit to be duly convicted, whether by his free and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence. But such sentence shall not be deemed final nor shall any warrant be issued for carrying the same into execution until it be confirmed by the Court of Foujdaree Udalut. And if the Judge of Circuit shall be of opinion that there are grounds for a mitigation or remission of punishment, he shall state the same in his letter, to accompany the trial, as required by Clause Third, Section VI Regulation XV 1803.

19. The powers proposed by the 2d Judge in

F. 11

17th May 1821

in paragraph 71 to be vested in the Magistrate to be exercised in disturbed Talooks appear to the Court to be calculated to promote the peace of the Country, and under the supervision and controul of the Court of Circuit to be little liable to abuse.-

20 The recommendation of the 2nd Judge in the 73rd paragraph for the encouragement and reward of individual exertions in aid of the Police meet the entire concurrence of the Court.-

21. The Report of the 2nd Judge on the state of the Jails at the Zilla Stations of Mangalore, Calicut, and Seringapatam is highly satisfactory.-

22 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 following letter No 169./ Read

17th May 1821.

Read letter, dated 4th instant, from the 3rd Judge of the Court of Circuit in the Western Division, - with returned warrant for execution of the prisoner in case No. 8 South Malabar Calendar 2d Sessions AD 1820. -

(Here enter No. 317)

Read Return, dated 8th instant from the 1st Judge of the Court of Circuit in the Northern Division, - to the precept dated 30th Ultimo ordering transmission of Record in Case No. 9 Masulipatam Calendar 1st Quarterly Sessions AD 1821. -

(Here enter No. 321)

Read letter, dated 9th instant, from the 2nd Judge on Circuit in the Northern Division, - with returned warrant for the execution of the Prisoner in Case No. 11 Rajahmundry Calendar 1st Sessions AD 1821.

(Here enter No. 328)

Read letter dated 12th instant, from the 3rd Judge on Circuit in the Southern Division

17th May 1821 Division, - with copy of Madura Calendar 1st Sessions AD 1821. -

GB

(Here enter No. 326)

W. H.

At a Court of the Foujdaree Adalut.

Present,

Monday. 27th. May 1821. Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.

The Report prescribed by Section XXXV Regulation X of 1816 not having been received from the Zillas of South Malabar and Chicacole for the last quarter.-

Ordered, that the Criminal Judges of the Zillas of South Malabar and Chicacole 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 Precepts No 1691 250

Entered.

Read

Read letter, dated 9th February last, from the Third Judge on Circuit in the Central Division, submitting case No. 25 Cuddapah Calendar - 1st Sessions A.D. 1821.

(Here enter No. 202.)

The Court having maturely considered the proceedings held before the Judges on Circuit, the futwas of the Provincial Law Officer, and the futwas of the Acting Cazee, Cazee-ool-Cozat and Mooftee of the Zoujdaree Adalut are of opinion that the proof against the prisoners Chapala Gungooloo and Gopaloo is sufficient to convict them of the offence of gang robbery for which a penalty is specially denounced in Clause third Section IV Regulation XV of 1803.

The Court, under the authority vested in them by Clause first Section II Regn. I of 1818, accordingly adjudge the said prisoners,

1st "Chapala Gungoolo," and
2d "Gopaloo,"

to be imprisoned and kept to hard labour in irons

irons on the public roads or other public works for and during the period of fourteen years respectively and then released.

(Sent following letter No. 170)

Read letter, dated 9th March last, from the Second Judge on Circuit in the Northern Division, submitting case No. 19 Rajahmundry Calendar - 1st Sessions A.D. 1821.

(Here enter No. 203.)

The Acting Cazee-ool-Cozat and Mooftee of the Zoujdaree Adalut declare in the foregoing futwa that the 1st prisoner is convicted on strong presumption of the crime of wounding laid to his charge - The Court therefore concurring in their 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

21st May 1821 evidence.-

The Judges of the Zoujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the 2d prisoner, Kalepala Soondaramdoo, is sufficient to convict him of having wounded the Prosecutor Cundy Venkiah, desire, under Clause second Section II Regulation I of 1818 that the Acting Cazee ool Cozat and Mooftee of the Zoujdaree 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 above crime.-

Ordered that extract of these proceedings be translated and delivered to Acting Cazee ool Cozat and Mooftee of the Zoujdaree Adalut.-

Read Letter dated 12th February last from the 1st Judge late in Circuit in the Northern Division,- submitting case No 9.

Vizagapatam

21 Jl

21st May 1821.- Vizagapatam Calendar 2d Sessions A.D. 1821.-

(Here enter No 147)

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 acting Cazee ool Cozat and Mooftee of the Zoujdaree Adalut confirm the said futwa of the acting Cazee ool Cozat and Mooftee aforesaid and under the latitude given by the sentence of Corroboration declared against the prisoners,

1st Numboory Lyapah," and
4th Rauvy Pauroopilly Gaury Appiah

direct that they be set at liberty.-

And acquitting also the prisoners,

2d Nurmala Pedda Venkiah,"
3d Rauvy Samiah Gaury Pauroopilly,"
5th Sheeremulla Yellamanchelly,"
6th Sheeremulla Lyapah,"
7th Chipporoopilly Somada," and
8th Chipporoopilly Appigandoo,"

direct that they be set at liberty.-

Sent following letter No 171

Last 24th

The Court of Zoujdaree Adalut observe that the several examinations of the prisoners and the witnesses in this case, which would

21st May 1821

would appear to have been taken before the Head of Police of Yellamanchilly, are not attested by the signature of that Officer.- It is moreover stated at the Head of several of the declarations of the prisoners, as well as of the depositions of the witnesses, that they were delivered on Oath.-

2 The Court direct, that these circumstances be brought to the notice of the Magistrate of the Zilla, in order that he may enjoin the several District Police Officers under his authority invariably to attest with their signatures the several documents, which they may from time to time forward to the Criminal Judge under the provisions of Section XXVIII Regulation XI of 1816, and that he may caution those officers against the future assumption of an authority not vested in them by any provision of the Regulations in requiring parties, or witnesses, to swear to their depositions.-

3 It will also be proper, that the Magistrate should point out to Undoo Rooy Luchmiumdoo, the Head of Police of Yellamanchelly, the peculiar impropriety of

of his proceeding in swearing the prisoners to their declarations.-

4 The Court consider it proper to notice to the Pt. Judge an extravagant error in the translation of the futwa delivered by the Law Officer, who officiated at the trial.-

5 It is declared in the Futwa, that under the Mohummudan Law, (Shurra) the evidence of an enemy to the accused is not admissible against him:- which principle of the Law of evidence is in the translation stated to be "according to the Vedas", or Hindoo written Law.-

6 Ordered, that extract of these proceedings be sent to the Pt. Judge late on 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. No 172)

20

At a Court of the Fouzdaree Adalut

Present,

Thursday
24th May 1821 — Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.

Read again letter dated 9th March last from the 2d Judge on Circuit in the Northern Division, - submitting case No. 19 Rajahmundry Calendar 1st Sessions A.D. 1821.

(Here enter No. 203.)

Read the second futwa delivered in this case by the Acting Cazee ool Coozat and Mooftee of the Fouzdaree 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 acting Cazee ool Coozat and Mooftee of the Fouzdaree Adalut confirm the said futwa of the Acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Sohoolut declared against the prisoners

1st Thalapala Naganah, and

2d Thalapala Soondaramdoo,

adjudge

adjudge them 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 to be released.-

(Sent following letter N°177)

W.H.C. Read letter dated 15th Instant from the Secretary to Government in the Judicial Department, inclosing copy of a letter dated 5th Instant from the Magistrate of Guntoor, and conveying the desire of the Governor in Council that a small party of convicts may be removed to that station.-

(Here enter No. 331. of 1st. Vol. of this Book)

The Court of Foujdaree Adalut, having referred to the communication made to them by the Provincial Court of Circuit in the Northern Division, under date 11th December 1818, in which that Court recorded their opinion, that the removal of convicts to Guntoor was inexpedient,- remark that the sentiments of the Provincial Court, on this point, as well as the concurrent opinions of the late and present 2d Judges, while on Circuit

Circuit in the years 1815, and 1816, are founded on the inadequacy of the accommodation in the Jail for the number of prisoners lodged in it.-

2. It appears from the foregoing letter, that the Magistrate of Guntoor requires the services of only 25 persons, and the Court concluding that the Jail at Guntoor, if still standing, would afford ample accommodation for so small a number of persons, and that if the Jail should have been removed or have become uninhabitable, the Magistrate can find no difficulty in providing a secure and salubrious place for their custody, direct that the Criminal Judge in the Zilla of Nellore do send to Guntoor 25 able bodied convicts, selected from among those, the expiration of whose term of imprisonment is most distant.-

3. The Court will expect to receive a report containing the names, crimes, and sentences of the several prisoners, who may be sent to Guntoor, under the orders of this date from the Jail in the Zilla of Nellore.

4. The Court further desire, that the

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the Magistrate of Guntoor will report for their information, through the Court of Circuit, what accommodation he may provide for the convicts placed under his charge, and that he be instructed on the completion of the work, on which they are to be employed, to apply for the orders of the Court of Foujdaree Adalut as to their disposal.

5. Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division by precept commanding them to communicate the same to the Criminal Judge in the Zilla of Nellore and to the Magistrate of Guntoor for the information and guidance of those officers respectively.—

sent 25th

W.H. (Sent following Precept. No 1781

Read letter, dated 11th Instant, from the 2d Judge of the Court of Circuit in the Western Division, with returned warrant for execution of prisoner in case No 17. South Malabar Calendar 22 Sessions 1820.—

(Here enter. No 333.)

Read

21 F.H.

24th May 1821. Read return, dated 14th Instant, from the 2d Judge on Circuit in the Northern Division,— to precept dated 23d ultimo ordering communication to the Criminal Judge in the Zilla of Nellore of the Court's orders relative to the committal of certain parties to take their trial before the Court of Circuit at the ensuing Sessions of Jail Delivery.—

(Here enter. No 336.)

At a Court of the Foujdaree Adaulut.

Present,

Monday 28th May 1821. — Andrew Scott Esqre. — Edward Croft Greenway Esqre. } Judges.

Read letter dated 17th March last from the 2d Judge on Circuit in the Northern Division, submitting case No. 20 Rajahmundry Calendar 1st Sessions A.D. 1821.

/Here enter No. 214/

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 acting Cazee ool Coozat and Mooftee of the Foujdaree Adaulut confirm the said futwa of the acting Cazee ool Coozat and Mooftee afore-said and under the sentence of Ashoohut-i-Hudud declared in the futwa adjudge the prisoner,

Chancala Mopanty Reddigandoo,

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

/Sent following letter No. 179/

Read letter dated the 17th March last from the 2d Judge on Circuit in the Southern

Southern Division,- submitting case No 18 Salem Calendar 1st Sessions A.D. 1821.-

(Here enter No 220.)

The acting Cazee ool Coozat and Mooftee of the Foujdaree Udalut declare in the foregoing futwa that the 2d prisoner is convicted on strong presumption of the crime of murder laid to his charge. The Court therefore concurring in their 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.-

The Judges of the Foujdaree Udalut on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the 1st prisoner, Vencatum, is sufficient to convict him of having aided in the murder of the deceased, Venkatapathy Goundan, desire, under clause second Section II Regulation I of 818 that the acting Cazee ool Coozat and Mooftee of the Foujdaree Udalut will

declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan Law if he had been convicted by full legal evidence of the above crime.-

Ordered that extract of these proceedings be translated and delivered to the acting Cazee ool Coozat and Mooftee of the Foujdaree Udalut.-

W.H.

Read letter dated 17th Instant from the 2d Judge of the Court of Circuit in the Western Division,- with returned warrant for execution of the Prisoners in case No 22 on the Calendar and No 1 Supplemental Calendar South Malabar 1st Sessions A.D. 1820.-

(Here enter No 338.)

Read letter dated 21st Instant from the 2d Judge on Circuit in the Southern Division,- reporting his arrival at Tinnevelly

(Here enter No 344)

Read letter dated 19th Instant from the 1st Judge on Circuit in the Western Division,- reporting his having returned his

his duties on 17th Instant.—

(Here enter № 337.)

Read letter dated 22d Instant, from the acting 3d Judge on Circuit in the Centre Division,—reporting his arrival at Chinglepat.—

(Here enter № 339.)

Read letter dated 25th Instant, from the Secretary to Government in the Judicial Department,—returning the reports on Gaol Deliveries submitted on 2d ultimo,

(Here enter № 340.)

At a Court of the Foujdaree Adalut.—

Present,

Thursday. 31st May 1821. Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.—

Read again letter dated 17th March last from the 3d Judge on Circuit in the Southern Division,—submitting case № 18 Salem Calendar 1st Sessions A.D. 1821.—

(Here enter № 220.)

Read the second futwa delivered in this case by the acting Cazee ool Coozat and Mooftee of the Foujdaree Adalut.—

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 acting Cazee ool Coozat and Mooftee of the Foujdaree Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Corroobut-i- Shudeeda declared in the futwa adjudge the prisoners,

1st Vencatum, and

2d Narrainen,

to suffer death by being hanged at the usual

28

before them concurring in opinion that the proof against the prisoner Koyahootindo Pandishathil Mothy is sufficient to convict him of having put to death the deceased Hadir Comah, desire under clause Second Section II Regulation of 1818 that the acting Cazee ool Coozat and Mooftee 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 has been convicted by full legal evidence of the above crime.-

Ordered that extract of these proceedings be translated and delivered to the acting Cazee ool Coozat and Mooftee of the Foujdaree Adalut.-

W. H.

29

Read letter, dated 22d Instant, from the 2d Judge late on Circuit in the Western Division,- with returned warrant for execution of the prisoner in case No 10 South Malabar Calendar 2d Sessions A.D. 1820.-

(Here enter No 349.)

F.R.

At a Court of the Foujdaree Adalut

Present,

Friday,-
1st June 1821.

Andrew Scott Esqre
Edward Croft Greenway Esqre
} Judges.

Read again letter dated 15th

A1

January last from the 2d Judge of the Court of Circuit in the Western Division,- submitting

C[illegible]

case No 5 South Malabar Calendar 2d Sessions A.D. 1820.-

(Here enter No 345.)

Read the second futwa delivered in this case by the Acting Cazee ool Coozat and Mooftee 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 Acting Cazee ool Coozat and Mooftee of the Foujdaree Adalut confirm the said futwa of the Acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Tazeer declared in the futwa adjudge the prisoner

1st June 1821.

prisoner,

Koja hoottinde Pandithatil Mothy,

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

(Sent following letter No 193) S

Sent 2d

At a Court of the Tovjdaree Adalut.

Present,

Monday 4th June 1821.— Andrew Scott Esqre. } Judges.
Edward Croft Greenway Esqre. }

Read letter dated 22d January last from the 2d Judge of Circuit in the Western Division,— submitting case No 9 South Malabar Calendar 2d Sessions A.D. 1820.—

(Here enter No 264)

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 acting Cazee ool Coozat and Mooftee of the Tovjdaree Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Cohoobut declared against the prisoner,

1st "Panguel Baroo,

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

And acquitting the prisoner,

2d "Wangattil Sayata Baroo,"

direct that he be set at liberty.—

(Sent following letter No 194)

Read

31st May 1821

June 1821.

Read letter dated 17th March last from the 1st Judge on Circuit in the Western Division,- submitting case No. 21 Canara Calendar 1st Sessions A.D. 1821.-

(Here enter No. 223)

As the Law Officers have declared in their futwa on the foregoing case that the prisoners are convicted on strong presumption of the homicide laid to their charge, but that as the prosecutrix has pardoned them they should be set at liberty- the Court resolve under Section XXVII Regulation IX of 1816, which declares that "in crimes of a heinous nature, "such as one conviction may require exemplary "punishment for the ends of public justice, no "private compromise shall be admitted by the "Magistrate," to require the Law Officers to declare by a second futwa to what punishment the prisoners would have been liable under the Mohummudan law, if they had been convicted by full legal evidence, and the prosecutrix had not withdrawn her charge.-

Ordered, that extract of these proceedings be translated and delivered to the

4th June 1821.

the Acting Cazee ool Cozat and Mooftee of the Sudder Adalut.-

28

W.H.

At a Court of the Zoyjdaree Adalut

Present

Tuesday
5th June 1821 — Andrew Scott Esqr.
Edward Croft Greenway Esqr. } Judges.

Read again letter dated 17th March last from the 1st Judge on Circuit in the Western Division,- submitting case No 21. Canara Calendar 1st Sessions A.D. 1821.

(Here enter No 223)

Read the second futwa delivered in this case by the Acting Cazee ool Coozat and Mooftee of the Zoyjdaree 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 Acting Cazee ool Coozat and Mooftee of the Zoyjdaree Adalut confirm the said futwa of the Acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Ashoobut declared in the futwa adjudge the prisoners,

1st "Aylor Naick," and
2d "Cyapoo,"

to be imprisoned and kept to hard labor in irons

5th June 1821

irons on the public roads or other public
works for and during the period of twelve
Calendar Months and then to be released on

(Sent following letter No 185)

Sent 7th

W.M.

20

At a Court of the Foujdaree Adalut.

Present,

Thursday 7th June 1821. Andrew Scott Esqre. } Judges.
Edward Croft Greenway Esqre. }

A1

Read letter, dated 18th Ultimo from the Provincial Court of Circuit in the Western Division, - submitting copy and translate of a petition from Kerula Varma, the Rajah of Nelleseram, applying for authenticated copies of the examinations of certain Witnesses in a case wherein he and others were tried for Forgery, Perjury, and Subornation of perjury "for the purpose of being presented "to the Court of Sudr Adalut in appealed "Cause No. 13 of 1819 on the file of that Court" and requesting "the opinion and orders of the Court as "to the competency of a Judge or a Collective Court of Circuit to grant "under Section XX Regulation XIII A.D. 1816 authenticated copies "of criminal records upon applications "of a nature similar to" the above. -

(Here enter No. 343)

1. Without adverting to the particular object of the petitioners application in the foregoing petition, the admissibility of the

documents

documents in question, as evidence before the Sudr Adalut in a Civil case, being for the determination of that Court, whenever their assistance may be prayed. The Court of Sudr and Foujdaree Adalut are of opinion, generally, that on application for proceedings and documents for the delivery of which no express provision has been made by the Regulations in force the Courts of Appeal and Circuit and the Civil and Criminal Judges must be considered to possess a discretion, either to comply with applications for copies, on sufficient cause being stated for granting them on the stamped papers required by Section XXII. Regulation XIII of 1816, or for allowing them to be taken on any paper, in pursuance of Section XXX of that Regulation; or to refuse compliance when satisfactory cause may not be assigned for granting a copy, or allowing it to be taken, especially when the application may be from a person not a party, or immediately interested in the case.-

2. The Court are of opinion, that applications for extracts from records of Criminal trials, which have been transferred to

to the Custody of the Provincial Court of Circuit, must be made to that Court.-

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

(Sent following letter No 186.

Read letter dated 27th February last from the 3d Judge of the Court of Circuit in the Western Division,- submitting report on the 4th Quarterly Sessions of 1820 and 1st of 1821 at Tellicherry.-

(Here enter No 196.)

Read also letter dated 5th March last from the 3d Judge of the Court of Circuit in the Western Division,- transmitting appendix C to the above report.-

(Here enter No 197.)

1. In the 11th Paragraph of the Report the 3d Judge suggests the expediency of some Legislative enactment, denouncing penalty against the practice of forcible Proselytism, which appears to be prevalent among the Moplahs of Malabar.-

2. As the Mohammedan Law

das

does not provide for the punishment of this practice, and the 3d Judge considers the evil consequences arising from it to call for the interference of the Legislative authority for its suppression, the Court desire that the 3d Judge will submit in the mode prescribed by the circular instructions of Government under date 2d May 1820 such special provisions, as may appear to him to be best calculated to meet the evil.

3. The sentiments of the Court of Foujdaree Adalut as to the best mode of providing for the discharge of the functions of a District Head of Police, when the Sahseebar may be fully occupied in duties of a different nature were submitted to Government in an Extract of their proceedings, under date 19th March last.

4. To the enlargement of the Judicial powers vested in Magistrates and Head Assistants, which the 3d Judge suggests in 27th Paragraph of the Report, it appears to the Court that there lies the general objection, that the Judicial and Police functions, consigned to these officers under the Regulations at present

present in force, would appear to require all the time and attention which can conveniently be diverted from their fiscal avocations.

5. The 27th paragraph of the Report contains also a proposition for extending the powers of Criminal Judges. To this measure a similar objection to that above noticed does not apply, and the Court of Foujdaree Adalut observe, that it has been deemed expedient by the Supreme Government to extend the powers of the Magistrates, whose functions are analogous to those of the Criminal Judges under this Presidency, in cases of simple theft, house-breaking, receiving stolen property, and prison breaking.

6. It is not to be doubted that considerable relief to parties and witnesses would be afforded by the adoption into the Madras Code of the provisions contained in Sections II, III, IV, V, and VI of Regulation XII of 1818 in the code of the Supreme Government, and with the several special restrictions and limitations therein prescribed, the Court of Foujdaree Adalut are of opinion, that such

such an extension of the powers of Criminal Judges partly in modification of the regulation proposed by the Court, under date 17th Ultimo to be enacted for the punishment of the offences of house-breaking and receiving stolen property would be generally conducive to the better administration of public justice.-

7. The Court have understood that the subject discussed by the 7th Judge in paragraphs from 28 to 33 inclusive has already engaged the attention of Government, and that the evils resulting from the operation of Regulation III of 1810 will soon be remedied.-

8. The Court regret, that the 5th Judge should have omitted to call on the Criminal Judge of North Malabar for an explanation of the mode in which the examination of the prisoner in the case of perjury, noticed in the 42d paragraph of the Report was taken.-

9. In the 45th paragraph of the Report the 5th Judge assigns certain reasons for the conclusion, that the answers of this prisoner as recorded in the proceedings of the Criminal Judge were fabricated, and the

7th June 1821.

7th June 1821. the Court of Foujdaree Adalut are of opinion that it was highly necessary to require from this officer an explanation of a circumstance, affecting the authenticity of his proceedings in a point of the greatest possible importance.-

10 Agreeably to the suggestion of the 3d Judge in the 57th paragraph of the Report the Court of Foujdaree Adalut have consulted their Hindoo Law Officers, with respect to the sanction given by the Shasters to the appearance of Females in a public Tribunal for the purposes of public Justice; and their declaration of the Law on this head with the texts on which it is founded, and an English translation is transmitted for the information and guidance of the Hindoo Law Officers attached to the Provincial Court in the Western Division and to the Zilla Court of North Malabar.

11. In paragraphs from 58 to 62 inclusive the 3d Judge describes "the abuse "which is made by the Head Brahmins and the

"the Rajahs of those assembled called Hallaies
"charum to require and determine regarding
"matters of Cast," and to the Report is
appended a copy of two Sections of a Police
Regulation submitted by him, in pursuance
of the orders of Government under date 7th Novem-
-ber 1811, containing provisions for the reference
of such complaints to arbitrators to be convened
by the Magistrate, for the punishment of persons
offending against the rules of Cast, and for the
prohibition of assemblies for the purpose of
excluding any person from Cast on pain of
fine and imprisonment.-

12 The Cognizance of matters of
Cast is vested by the Regulations in the Civil
Courts, and the Policy of transferring such
matters to the Jurisdiction of the Criminal
Courts appears to the Judges to be very questionable.-

13. Cast is a Civil institution which
the Courts are bound to protect. Excommuni-
-cation from Cast when adjudged by
an unauthorized assembly is a Civil Injury
and like all other Civil injuries must be
remedied

3/ F. M.

7th June 1821.

remedied by the Civil Court. Of the competency
of that Court to annul such a sentence
passed by an unauthorized assembly and to
award compensation to the injured Individual
there can be no doubt; - and with reference
to the Case cited by the 3d Judge in the 6th
paragraph of the report the Court have
to observe that it is the duty of the Civil
Courts in cases of this nature, as much as
in other cases, to take such steps as may
be necessary to enforce their decrees.-

14. Ordered, that extract of these
proceedings together with the reports 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 dt. 18th)

15. Ordered, also, that extract of
these proceedings be sent to the 3d Judge
of the Court of Circuit in the Western
Division by precept enjoining him to cause
the declaration given by the Pandits of the
Law regarding the appearance of females before
a public Tribunal to be communicated to
the Hindoo Law Officers of the Provincial

Court

7th June 1821.

Court and of the Zilla Court of North Malabar.

(Sent following precept, 1887)

W. H.

Read letter, dated 21st Ultimo, from the 2d Judge on Circuit in the Northern Division, submitting copy of Chicacole Calendar 1st Sessions A.D. 1821.—

(Here enter № 350)

Read return, dated 25th Ultimo, from the 1st Judge on Circuit in the Western Division,— to precept dated 17th Ultimo ordering communication to the Criminal Judge in the Zilla of Canara of the Courts orders for release of Davapa charged with conspiracy and perjury.—

(Here enter № 351)

Read return, dated 9th April last from the Provincial Court of Circuit in the Centre Division,— to precept dated 2d April last ordering communication to the acting Judge on Circuit of the Court's orders relative to the mode of taking the future of the Mohummedan Law Officer in cases of breach of prison.—

(Here enter № 356)

Read return, dated 8th Ultimo, from

7th June 1821.

Questions put to the Pundits of the Court of Sudr Udalut.

Their Answers thereto

Questions	Answers
1st. Is the appearance of Hindoo females before a public Tribunal, on occasions where their oral testimony is essential for the purposes of public justice, permitted by the Hindoo Law?	Yes.
2nd. If, under the circumstances above stated, the Hindoo Law allows of the appearance of Females before a public Tribunal, the Pundits will produce passages from the Shasters sanctioning the practice.—	Yagnaval Kyah "All persons are to appear as Witnesses in cases of Rape, Theft, Assault and Murder" Catyayanah "A Woman managing the affairs of her family, a prostitute, a dancing Woman, a Woman of mean origin and an excommunicated Woman may be summoned by the King. A Woman (from the time of her attaining

(Translated) Woodbrow Pandit

W. Hyde Esqr. Dy. Regr.

attaining the age
of maturity until
she arrives at the
age of 30) of a Kshena
or middle cast;
a Woman of the
highest Cast; a Woman
within the time of
one Month from
the date of her de=
=livery of a child;
a Woman of a
higher cast than
that of the person
at whose instance
she may be required
to appear; and an
unmarried Woman
should not be sum
=moned by the King
because they are
in the eye of the
law considered
as governed by their
relatives - but says
Haureetah in cases
of importance sick
persons (including
Women) may be
required by the
King

King to appear, by
being conveyed in a
body or other con=
=veyance according
to the circumstances,
consideration being
had of the custom
of the Country and
the suitableness
of the time. - The
King may also
summon, in cases
of high importance,
a Vanaprastha or
a Sunyasi or others
(the word others
includes Women)
who are acquainted
with the circumstances
of the case in such
a manner that
their feelings may
not be hurt. -

These texts are
extracted from the
Vyavahara Ma
=trooka and Sak
=shipracarnum

in

7th June 1821.

7th June 1821.

in the Law Book
called Vigna =
=neshwereyum and
also from the Law
Book called =
Smriti Chendreka -

21st May 1821.

(Translated)
V. Cooprow
Pandit

7th June 1821.

from the 1st Judge late on Circuit in the Northern Division, - to precept dated 21st Ultimo ordering communication to the Magistrate in the Zilla of Vizagapatam of the Court's observations on Case No 9 Vizagapatam Calendar 2d Sessions A.D. 1820. -

(Here enter No 359)

Read return, dated 31st Ultimo,

from the Criminal Judge in the Zillas of South Malabar, - to precept dated 21st Ultimo calling for report prescribed by Section XXXV Regulation X of 1816. -

(Here enter No 361.)

7. 11.

At a Court of the Foujdaree Adalut.

Present,

Saturday
23d. June 1821.

George Stratton Esqre. Chief Judge.
Charles Harris Esqre. Puisne Judge.

Read letter, dated 6th. Instant,
from the Criminal Judge in the Zilla of
Canara, reporting the occurrence of an
atrocious murder, and applying for permission
to make an offer of conditional pardon to
a person who was privy thereto.—

(Here enter No. 375.)

In consideration of the circum-
stances stated by the Criminal Judge,
the Court of Foujdaree Adalut resolve to
submit his application to Government,
and to recommend that the Honorable the
Governor in Council may be pleased to
authorize an offer of pardon to Doorgy,
on the terms specified in Section XX Regu-
lation VIII of 1802.—

Ordered, that the foregoing
letter and enclosures with extract of these
proceedings be sent to the Secretary to
Government

Government in the Judicial Department, for the purpose of being laid before the Honorable the Governor in Council.-

sent 26th No 24

(Sent following letter No 191.)

Read letter, dated 22 Instant, from the Magistrate in the Zilla of Canara, applying for permission to offer certain rewards for the apprehension of the parties concerned in several robberies.-

(Here enter No 377.)

The Magistrate in the Zilla of Canara recommends, that two hundred Rupees should be offered for the apprehension of one Ishut supposed to be the Sardar of a Gang of Thieves, who have committed several Robberies in the Zilla:- and fifty Rupees for that of each of the inferior offenders.-

The letter of the Magistrate does not contain any account of the circumstances, attending the robberies to which he refers, or any specification of the grounds existing for suspicion as against the party, designated by name as the leader of the Gang; the Court however in consideration of the unavoidable delay which has occurred in replying to the Magistrate's

Magistrate's application resolve to adopt his suggestion on the present occasion, without further reference and do accordingly authorize and direct the Magistrate to offer a reward of two hundred rupees for the apprehension of the said Ishut payable under the provisions of section VI. Regulation I of 1818 on the delivery of his person to the Magistrate in the Zilla of Canara, or to the Magistrate in whose jurisdiction he may be apprehended,- and rewards of 50 rupees for the apprehension of each inferior offender, payable according to the provisions of section XXII Regulation IX of 1816, on the conviction of such offender before the Court of Circuit.-

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

sent 28th

(Sent following letter No 192.)

Read letter, dated 5th Instant, from the 3d Judge on Circuit in the Southern Division, enclosing a list of convicts sentenced by him to

to be banished from the Zilla of Tinnevelly to any Zilla to be selected by the Foujdaree Adalut.-

(Here enter № 370)

The Court of Foujdaree Adalut direct that the prisoners,

Pandyen,
Soodalimootoo,
Palawasum,
Mootoo Caupen,
Puchen, and
Madaswamy

be removed to the Jail in the Zilla of Chittoor, there to be imprisoned and kept to hard labor during the period of their respective sentences.-

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

Sent 26th

(Sent following letters № 193.)

Read letter, dated 6th Instant, from the Criminal Judge in the Zilla of North Malabar,- with copy of warrant, of the Court of Quarterly Sessions, for the banishment of a convict to any Zilla selected by the Foujdaree Adalut.-

(Here enter № 376)

23d June 1821.-

The Court of Foujdaree Adalut direct that the prisoner,

Valliatinamel Amod,

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 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 26th

(Sent following letters № 194)

Read letter, dated 20th Ultimo, from the Criminal Judge in the Zilla of North Malabar,- enclosing a warrant issued by the Judge presiding at the Court of Quarterly Sessions for the banishment of a convict to any Jail selected by the Foujdaree Adalut.-

(Here enter № 380)

The Court of Foujdaree Adalut direct that the prisoner,

Shaik Ibraim,

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

23d June 1821

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

Sent 26th

(Sent following letters No 195)

~~[illegible]~~

23d June 1821

Read letter, dated 19th Instant, from the acting 3d Judge on Circuit in the Centre Division,— stating that Mohummud Mogam Cazee of the Provincial Court in the Centre Division will repair to the Presidency after signing the fair copy of referred trial № 2 of the Chingleput Calendar 1st Sessions A.D. 1821.—

(Here enter № 387.)

Read return, dated 1st Instant, from the Provincial Court of Circuit in the Centre Division,— to precept dated 9th April last ordering communication to the acting 3d Judge on Circuit of the Courts observation on a return made by him as Criminal Judge in the Zilla of Cuddapa to a precept of the late 3d Judge calling for the Police proceedings in a case before him.—

(Here enter № 371.)

Read return, dated 1st Instant, from the Provincial Court in the Centre Division,— to precept dated 4th ultimo ordering communication to the Criminal Judge and the Magistrate in the Zilla of Bellary of the Courts Orders on a late reference from the latter

23d June 1821.

latter officer respecting a case of Phansegaree

(Here enter No. 374)

Read letter, dated 1st Instant, from the Provincial Court of Circuit in the Centre Division,- with returned warrants for execution of the prisoners in Cases Nos. 10. 32, and 35. Cuddapa Calendar 1st Sessions A.D. 1821.-

(Here enter No. 373)

Read return, dated 7th Instant, from the Provincial Court in the Southern Division, to precept dated 2d April ordering communication to the Judge on Circuit of the Court's instructions relative to trials for breach of Custom.-

(Here enter No. 380)

Read letter, dated 8th Instant, from the 3d Judge on Circuit in the Southern Division,- with returned warrant for execution of prisoner in Case No. 17. Salem Calendar 1st Sessions A.D. 1821.-

(Here enter No. 379.)

Read letter, dated 8th Instant, from the 3d Judge on Circuit in the Southern Division,- with returned warrants for transportation of prisoner in case No. 21

3)

F.R.

22d June 1821.

Salem Calendar 1st Sessions A.D. 1821.-

(Here enter No. 378.)

Read letter, dated 11th Instant, from the 2d Judge of the Court of Circuit in the Western Division,- with returned warrant for execution of prisoner in case No. 5 South Malabar Calendar 2d Sessions A.D. 1820.-

(Here enter No. 388.)

Read return, dated 1st Instant, from the Criminal Judge in the Zilla of Chicacole,- to precept dated 31st ultimo calling for reports prescribed by Section XXXV Regulation X of 1816.-

(Here enter No. 366.)

Read letter, dated 2d Instant, from the 1st Judge on Circuit in the Western Division,- with returned warrants in cases Nos. 28 and 29. Canara Calendar 1st Sessions A.D. 1821.-

(Here enter No. 363.)

Read letter, dated 1st Instant, from the Provincial Court of Circuit in the Centre Division,- with returned warrant for execution of 3 prisoners in case No. 40 Bellary Calendar 2d Sessions A.D. 1820.-

W.H. (Here enter No. 369.)

40

At a Court of the Bujdaree Adaitut.
Present,

Thurday 28th June 1821. — George Stratton Esqre Chief Judge
Charles Harris Esqre Puisne Judge -

C: H.

Read letter, dated 5th ultimo, from the 2d Judge of the Court of Circuit in the Southern Division, - reporting on the 2d Quarterly Sessions of Jail Delivery at Trichinopoly.

(Here enter A. 320.)

1 It appearing from the letter of the Criminal Judge accompanying the above report, as well as from the Medical Certificate therewith transmitted, that the prisoner Abdool Cadir has ceased to exhibit symptoms of Insanity, the Court authorize and direct the Criminal Judge in the Zilla of Trichinopoly to call before him the friends of the prisoner, and to deliver him into their charge -

2 The remarks of the 2d Judge upon the state of Police in and around the Fort of Trichinopoly are not illustrated by reference to the circumstances of any particular cases, from which the inefficiency of the officers of that department might be inferred, but are conceived in the same general

Read

23

general terms, as have been applied to this subject in former Reports from the 2d Judge:- the Judges therefore deem it proper to require*

Ordered, that extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Southern Division, by precept enjoining him to communicate the orders of the Court regarding the prisoner Abdool Cadir to the Criminal Judge in the Zilla of Trichinopoly for his information and guidance.-

(Sent following precept No 196)

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 No 197.)

Read return dated 22d Instant, from the 3d Judge of the Court of Circuit in the Western Division,- to precept dated 7th Instant ordering communication to the Pundits of the Provincial Court in the Western Division and the Zilla Court of North Malabar of the declaration given by the Pundits of the Tuydaree Adalut regarding the appearance of Hindoo females before a public tribunal.-

(Here enter No 396.)

* that the 2d Judge will report the particulars of some of the cases to which he refers in which the Criminals have eluded the vigilance of the Police.-

Sent No 25

Read return dated 22d Instant from the 3d Judge late on Circuit in the Northern Division,- to precept dated 15th ultimo ordering communication to the Magistrate in the Zilla of Ganjam of the Court's observations on Case No 3 Ganjam Calendar 2d Sessions A.D. 1821.-

(Here enter No 393) 2D

W.H.

Read letter, dated 10th Ultimo, from the 1st Judge of the Court of Circuit in the Northern Division,- submitting copy of Masulipatam Calendar 2d Quarterly Sessions A.D. 1821.-

(Here enter No 329)

Read letter, dated 5th Instant, from the 3d Judge on Circuit in the Southern Division,- with copy of Tinnevelly Calendar 1st Sessions A.D. 1821.-

(Here enter No 372)

Read letter, dated 11th Instant, from the 3d Judge on Circuit in the Centre Division,- with copy of Chingleput Calendar 1st Sessions A.D. 1821.-

(Here enter No 387.)

Read letter dated 16th Instant, from the 2d Judge late on Circuit in the Western Division,- with returned warrant for execution of a prisoner in case No 9 South Malabar Calendar

Read

28 June 1821

Calendar 2d Sessions A.D. 1820.

(Here enter No. 390.)

At a Court of the Foujdaree Udalut

Present,

Saturday 7th July 1821. George Stratton Esqre. Chief Judge.
Charles Harris Esqre. Puisne Judge.

Read letter, dated 21st April last, from the 2d Judge on Circuit in the Northern Division, - submitting in return to precept dated 27th February 1821 English and Persian translates of the proceedings held in case No 13 Nellore Calendar 1st Sessions A.D. 1821.

(Here enter No 394.)

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 acting Cazee ool Cozat and Mooftee of the Foujdaree Udalut confirmo the said futwa of the acting Cazee ool Cozat and Mooftee aforesaid and it not appearing to the Court to be proved that the prisoner knew the nature of the drugs administered to her husband, the Court in consideration of the imprisonment to which she has been already

Read

7th July 1821.

already subjected adjudge the said prisoner,

Avaury Soobbee,

to be forthwith set at liberty.—

(Sent following letter No 208.)

Dist 10th

W.H.

7. A.

At a Court of the Zoydaree Adalut.

Present,

Monday 9th July 1821. Charles Harris Esqre — Puisne Judge.

Peter Cherry Esqre — Acting Judge.

C H

P C

Read letter dated 31st January last, from the 2d Judge late on Circuit in the Western Division,— submitting case No 19 South Malabar Calendar 2d Sessions A.D. 1820.—

(Here enters No 284)

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 Acting Cazee of Cooyat and Mooftee of the Zoydaree Adalut are of opinion that the proof against the prisoner,

2d Parambata Wallapil Moideen,

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 XV of 1803.

The Court under the authority vested in them by Clause first Section II Regulation I of 1818 accordingly adjudge the said prisoner,

2d Parambata Wallapil Moideen,

to suffer death by being hanged at the usual

time and place of execution.—

And under the sentence of Acquittal declared in the fourth the Court adjudge the prisoner,

9th "Seerambata Chakapen,"

to suffer death by being hanged at 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 prisoners,

1st "Perroomparrambil Cootty ally,"
4th "Poolatodyil Eratally,"
5th "Poolaut Marrar,"
6th "Karingul Moideen," and
7th "Hoddalaor parrambil Thaye,"

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

And the Court acquitting the prisoner

8th Ellambally Eydross,

direct that he be set at liberty.—

/ Sent following letter No 209 /

1. The first observation, which the Court of Sudder Adawlut deem it necessary to make on this case, is that as the 2d Judge concurred with the Mohummudan Law Officer in the unqualified acquittal of the 8th prisoner, he

he should have ordered his immediate release agreeably to the provisions of Clause second Section VI Regulation XV of 1803.—

2. It appears by the evidence of the witnesses, Alongatil Abdoollah Kootty and Poolyhil Cheekootty, before the Criminal Judge and the Court of Circuit, who attested the declarations of certain of the prisoners before the acting Tahseldar, that they were not present when the examinations of the prisoners were taken.—

3 The Court of Sudder Adawlut have repeatedly had occasion to desire that the notice of the Heads of Police in Malabar should be called by the Magistrate to the irregularity here pointed out in the proceedings of the acting Tahseldar of the Chowghaut Taloor.—

4. With reference to the provisions of Section III Regulation IV of 1821 the Court direct that the Magistrate of Malabar will call the particular attention of the several District Police Officers under his authority, as well as of the several officers to whom the Magistrate may delegate the functions of a Head of Police under the

authority

9th July 1821.

authority vested in him by Clause first of the above Section, to the words of Clause third Section XXVII Regulation XI of 86 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.

5. The Court deem it proper on this occasion to repeat an observation, which has on former occasions been addressed to the 2d Judge, that it is his duty whenever the records of proceedings, which may be delivered to him at the Sessions of Jail Delivery exhibit instances of departure from the regulations, to notice the same, and issue such orders thereon as he may deem proper for the future guidance of the local Officers.

6. Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Western Division by precept, directing him to communicate to the Magistrate of Malabar such part thereof as concerns that Officer for his information and guidance.

(Sent following precept 210.)

F.H.

21. F.H.

9th July 1821.

Read again letter, dated 20th November last, from the Acting 2d Judge on Circuit in the Centre Division, reporting on the Jail deliveries at Cuddapa and Bellary, 2d Sessions A.D. 1820.

(Here enter No. 656 of 1820.)

Read also letter, dated 18th April last, from the 2d Judge on Circuit in the Centre Division, reporting the Jail delivery at Chingleput for the 2d Sessions of 1820.

(Here enter No. 280 of 1821.)

Para 1. The report of the late Acting 2d Judge is accompanied by copy of a precept issued to the Criminal Judge in the Zilla of Cuddapa, and of that Officer's return, respecting a case of Perjury, referred to him by the Assistant Magistrate.

2. The Court of Foujdaree Adalut do not deem it necessary to follow the Criminal Judge through the whole of his disquisition on the State of the law regarding Perjury, but on the question raised by the Criminal Judge and submitted by the late acting Judge for the determination of the Court of Foujdaree Adalut, as to "who should be the committing Officer," and what is "the proper mode of prosecution" on charges of perjury referred

by a Magistrate, the Court are clearly of opinion that commitment for trial before the Court of Circuit in charges of this as well as of every other nature is the province of the Criminal Judge, as the only committing Officer recognized in the Regulations. The Court are further of opinion, that whenever a Criminal Judge may see adequate ground for putting a party so charged upon his trial, under the provisions of Regulation VI of 1811, he should authorize the Vakeel of Government to conduct the prosecution.

3 In such cases the proceedings on which the charge of perjury is founded should be referred by the Magistrate to the Criminal Judge, whose duty it is to apply to that officer for any additional evidence, which may appear to be requisite and procurable, and to frame the indictment on the commitment of the accused in the mode prescribed by the Courts orders of 30th January 1821.

4 The Criminal Judge in his observations on the present case notices a defect in the law regarding the offence of perjury,

perjury, which had on a former occasion attracted the attention of the Court, He observes, that doubts appear to exist as to the legal steps for the punishment of "perjuries committed before the Collector, "if he be warranted to take examinations "on Oath by Regulation XII A.D. 1816; or "before the Talook Moonsiffs and Talook "Punchayets, or before the village Moonsiffs "and Village Punchayets."

5 From other references which have been made to the Court of Sudr Adalut it has appeared, that similar doubts have been entertained as to the mode of proceeding in cases of Perjury before the Registers and Sudr Ameens.

6 As Perjury may undoubtedly be committed before the Courts of the several Officers abovementioned, and as the existing Regulations do not prescribe the mode in which the offenders may be brought to punishment, the Court beg leave to suggest the enactment of the following provisions.

1st In all cases wherein a witness giving evidence on Oath before a Collector, Register, Sudr Ameen, District Moonsiff, District Punchayet

9th July 1821.

Punchayet, Village Moonsiff, or Village Punchayet, may be considered by the Officers holding those Courts respectively to be guilty of wilful perjury, or Subornation of perjury; the proceedings on which the charge is founded shall be referred to the Zilla Judge by the Officer, before whom they may have been held, with that officers sentiments on the case; and if the Zilla Judge be of opinion that there are sufficient grounds for bringing the accused party to trial before the Court of Circuit, on a charge of perjury or Subor-=nation of perjury, he shall record his opinion to that effect; and at the same time direct whether the accused shall be admitted to bail or kept in Custody. An authenticated copy of the order passed by him with the whole of the original papers relative to the case shall then be transferred to the Court of the Criminal Judge, in order that the case may be brought before the Court of Circuit, in the same manner as if the charge had been instituted, and proceeded upon in the Court of Criminal Judge.-

2dly In all such cases the Criminal Judge shall

3. F 11

9th July 1821.

shall appoint the vakeel of Government to conduct the prosecution before the Court of Circuit.-

7. In a subsequent part of his return the Criminal Judge supposes the case of the Magistrates "taking cognizance "of complaint of perjuries committed before "the Criminal Judge, or before the Magistrates, "though complaints be preferred by parties, "in Criminal suits either against their own "witnesses or against the witnesses of the "opposite party."-

8. Under the provisions of Section V Regulation VI of 1811 it appears to the Court to be unquestionable, that Criminal Judges are bound to commit or hold to bail for trial persons appearing on their own proceed-=ings or those of their Assistants, to be guilty of wilful perjury: but in order effectually to prevent unfounded and malicious charges of perjury or Subornation of Perjury, the Court of Foujdaree Adaulut would propose, that the restriction contained in Section XXIX Regulation IX of 1816 against prosecutions for perjury or Subornation

of

of perjury of witnesses and parties in the Civil Courts, unless the Officers presiding in those Courts shall be of opinion that there are grounds for such prosecutions, should be extended to all charges of perjury or subornation of perjury against witnesses and prosecutors in the Criminal Courts, provision to which effect have been enacted in Bengal Regulation XVII of 1817.

9. In concluding their remarks on the above return of the Criminal Judge the Court have to observe that by Regulation XII of 1816 the ~~Magistrates~~ Collectors are required to take evidence on Oath in certain cases; and that by no provision of the Regulations is such authority vested in Native Officers of Police.—

10. It appears from the opening paragraph of the above Report from the late 2d Judge on Circuit in the Centre Division, that his report was postponed until the receipt of the sentence of the Foujdaree Adalut on the case referred by him.—

11. The Court deem it, therefore, proper to point out to the late 2d Judge

that under the provisions of Section XXXVII Regulation VII of 1802 the report therein prescribed should be transmitted "on the return of the Judge from each Circuit," and that the Regulations no where authorize its postponement.—

12. In the 7th paragraph of the report the 2d Judge adverts to "a Regulation which would appear to exist in the Zilla of Chinglepat of fixing the prices of "articles in the Market."—

13. The Court of Foujdaree Adalut, being of opinion that a practice so injurious should be brought to the notice of Government, desire that the late 2d Judge will call upon the Magistrate in the Zilla of Chinglepat for a report specifying the villages in which the market prices of articles have been fixed, and under what authority this measure has been adopted.—

14. The Court of Foujdaree Adalut are concerned to observe the irregularities noticed by the late 2d Judge in the proceedings of the Assistant Magistrate of this Zillah.—

15. They trust that the remarks of

of the late 2d Judge will have the effect of inducing on the part of this Officer a more strict observance of the rules enacted for his guidance; - but they consider it necessary explicitly to state, that in the adjudication of imprisonment on the same individual in different numbers of the Calendar for a period exceeding one Month, the Assistant Magistrate was guilty of an illegal assumption of authority.-

16 Where, as would appear to be the case in the Zilla of Chingleput, the whole of the Police functions are delegated by the Magistrate to his Assistant, the Court of Foujdaree Adalut are of opinion that the Cutcherries of the latter Officers should be held in central situations, and that their proceedings should be controuled by some degree of Superintendence on the part of the Magistrates-

17. The Court direct, that the Magistrate be called upon to state the reasons for selecting Poolliecarnee for the station of his Assistant, - a place on the confines

confines of the Zilla, and at an inconvenient distance from the dwellings of a great Majority of the inhabitants

18. Enclosed in the report of the late 2d Judge are copies of the proceedings of the Magistrate in the Zilla of Bellary in a case, which had been brought before the late acting 2d Judge, with respect to which the Court of Foujdaree Adalut consider it sufficient to observe, that the dispute between the parties being entirely of a Civil nature, the Magistrate could not under any circumstances be competent to issue process therein, neither could any transfer of property made under the Magistrates order be legal, - that the restitution of things to the condition they were in antecedently to the commencement of the Magistrates irregular proceedings resulted as a necessary and natural consequence, that the issue of such orders as might have been necessary for the security of the property appertained to the province of the Zilla Judge, and that the record contains no evidence of the breach of the peace, described in such strong terms by the Magistrate, to the suppression of

9th July 1821

of which, if it did occur, the Magistrate's duty and authority were obviously confined.—

19. Ordered, that extract of these proceedings be sent to the 1st Judge, late on 2d Judge, on Circuit in the Centre Division by precept commanding him to communicate to the Criminal Judge in the Zilla of Cuddapa, the Magistrate in the Zilla of Bellary, and the Magistrate in the Zilla of Chingleput such parts thereof as concern those Officers for their information and future guidance respectively, and to obtain and forward without delay the information herein called for from the latter Officer.—

(Sent following letter No 211)

20. Ordered also, 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 Honorable the Governor in Council.—

(Sent following letter No 212)

C H
W H

29.

25.

M

711

At a Court of the Foujdaree Adalut

Friday 13th July 1821. Present,

Charles Harris Esqre ..... Puisne Judge
Peter Cherry Esqre ..... Acting Judge.

C H

Read letter, dated 10th Instant, from the Secretary to Government in the Judicial Department,— stating that the Governor in Council sanctions the offer of a conditional pardon to Doogby referred to in the Court's proceedings of 28th Ultimo.—

M.

(Here enter No 419)

Ordered, that copy of the foregoing letter be sent, with extract from the Court's proceedings of the 28th Ultimo, for the information and guidance of the Criminal Judge in the Zilla of Canara.—

(Sent following letter No 215)

Sent 15th

Read letter, dated 2d Instant, from the Provincial Court of Circuit in the Western Division,— transmitting copy of a communication from the Magistrate in the Zilla of Canara regarding the particulars intended to be inserted in the abstract statement of crimes and punishments as required

required by the Courts orders, dated 25th June 1819.

(Here enter No. 412)

1 The Magistrate requests to be informed, with reference to the circular instructions of the Court, under date 23d May last, "whether it is meant to include those apprehensions and punishments in cases of which according to Section XXXVII Regulation IX of 1816 the examinations are not made matter of record," as also the apprehensions in cases in which the parties may be dismissed without punishment by Tahsildars and Heads of villages, and which agreeably to Clause 2d Section XXXIII and Clause 2d Section X Regulation XI of 1816 have not hitherto been reported, or entered, in the Registers kept by those Police Officers.

2. Agreeably to the circular instructions of the Court, under date 23d May last, the numbers of persons apprehended and punished or released in the cases described in Section XXXVII Regulation IX of 1816, are to be included in the half yearly Statement required by the Courts orders of 25th June 1819. And the first column of that Statement is intended to include the total number of persons

persons apprehended by the Police:- and the last column the total number sent by the Magistrate and the Police Officers to the Criminal Judge.

3. With reference, however, to the provisions contained in Sections IV and VII Regulation IV of 1821 the Court of Foujdaree Adalut deem it proper to issue the following instructions respecting the preparation of the half yearly statment required by their orders under date 25th June 1819.-

4 The statement is in future to be headed "Abstract Statement of all crimes committed in the Zilla of — of persons apprehended, and punishments inflicted by the Magistrate and the District Police Officers."

5. The first column is intended to exhibit the total number of crimes committed of every description; the second the whole number of persons apprehended by the Police, and either punished by them, sent to the Magistrate or sent to the Criminal Judge- the third column the number of persons acquitted by the Magistrate,- the number acquitted by the Police not being reported under the Regulations in force,-

the

13th July 1821

the fourth Column the number of persons convicted by the Magistrate and by the Police Officers under his authority.-

6 To the heading of the 3 following columns are to be added the words "and the District Police Officers" and the punishments adjudged by them are to be included in their respective columns.-

7 The last column is to specify the total number of persons sent by the Magistrate and by the Officers of Police to the Criminal Judge

8 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 Magistrates within their respective jurisdictions for their information and future guidance respectively.-

Sent 15th inst

(Sent following Precepts No 216)

Read return, dated 9th Instant, from the 2d Judge of the Court of Circuit in the Southern Division,- to precept dated 28th ultimo ordering him to communicate

to

F. C.

13th July 1821-

communicate to the Criminal Judge in the Zilla of Tinnivelly the orders of the Court for the discharge of Abdool Cader an insane prisoner and to state the particulars of any cases in his knowledge of crimes committed without discovery of the offenders.-

(Here enter No 417)

Read letter, dated 9th Instant, from the 2d Judge on Circuit in the Northern Division,- reporting his arrival at Nellore.-

(Here enter No 418)

Read letter, dated 9th Instant, from the 2d Judge on Circuit in the Northern Division, with returned warrant for execution of prisoner in case No 5 Ganjam Calendar 2d Sessions A.D. 1820.-

(Here enter No 419)

Read letter, dated 2d Instant, from the Provincial Court of Circuit in the Centre Division,- with returned warrant for execution of a prisoner in case No 26 Cuddapa Calendar 1st Sessions A.D. 1821.-

(Here enter No 420)

Read letter, dated 2d Instant, from the 3d Judge of Circuit in the Southern Division

Crime

13th July 1821 Division,- with returned warrant for execution of the prisoners in Case No 18 Salem Calendar Ft Sessions A.D. 1821.-

(Here enter No 404)

F.H

At a Court of the Foujdaree Udalut

Present

Monday 16th July 1821.- Charles Harres Esqre .- Puisne Judge
Peter Cherry Esqre .... Acting Judge

Read letter dated 28th April last,

C.H. M. from the 2nd Judge of the Court of Circuit in the Southern Division- submitting Case No 6 Trichinopoly Calendar 2nd Quarterly Sessions A.D 1821.-

(Here enter No 310)

The Judges of the Foujdaree Udalut on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the Ft prisoner,

"Noor-ood-deen,"

is sufficient to convict him of having mixed with poison with sugar for the purpose of causing the death of the prosecutor, desire under clause second Section II Regulation I of 1818 that the acting Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut will declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan law if he had been convicted by full legal evidence of the crime

16th July 1821

crime laid to his charge.—

Ordered, that extract of these pro-
=ceedings be translated and delivered to the acting
Cazee=ool=Coozat and Mooftees of the Zuydaree
Udalut.—

W. H.

Z. U.

At a Court of the Zuydaree Udalut

Present

Tuesday
17th July 1821.—

Charles Harris Esqre. . . . . Puisne Judge
Peter Cherry Esqre. . . . . Acting Judge

C. H.
M

Read again letter, dated 28th April
last, from the 2nd Judge of the Court of Circuit in
the Southern Division,— submitting Case No. 6 Tri=
=chinopoly Calendar 2nd Quarterly Sessions A.D. 1821.—

(Here enter No. 310)

Read the second Futwa delivered
in this case by the acting Cazee=ool=Coozat and
Mooftees of the Zuydaree Udalut.—

The Court having maturely
considered the proceedings held before the Judge
of the Court of Circuit the futwa of the Pro=
=vincial Law Officer and the futwa of the acting
Cazee=ool=Coozat and Mooftees of the Zuydaree
Udalut confirm the said futwa of the acting
Cazee=ool=Coozat and Mooftees aforesaid and
under the sentence of Tazeer=i=Khafeef declared in the futwa
adjudge the prisoner

1st "Nood=ood=deen"

to receive twenty four stripes with a Rattan and
to be imprisoned and kept to hard labour in irons

on

17th July 1821

on the public roads or other public works for the period of three years and then to be released.-

And acquitting the prisoner,

2nd "Ghoolam Mohee ood deen,"

direct that he be set at liberty.-

/Sent following letter No 218/

W.H.

20.

Read letter, dated 23d. May last, from the 1st Judge on Circuit in the Western Division submitting Case No. 3 South Malabar Calendar 1st Sessions No 1821.-

(Here enter No. 347/

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 acting Cazee-ool-Cozat and Mooftee of the Zoujdaree Udalut confirm the said futwa of the acting Cazee-ool-Cozat and Mooftees aforesaid and under the sentence of Kissaas declared in the futwa adjudge the prisoner,

"Manjerry Kandy Koyama,"

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

/Sent following letter No 219/

W.H.

250

Cert 18th

C H

N6

17th July 1821

Read letter, dated 9th Ultimo, from the 1st Judge Presiding at the 2d. Quarterly Sessions of Jail delivery for 1821 at Masulipatam, referring by desire of the Magistrate copy of certain precepts issued to that officer and of his returns thereto, together with a letter addressed by him to the Court,- respecting a Case brought before the 1st Judge by certain Inhabitants of Cozelly Pettah at the 4th Quarterly Sessions of 1819.-

(Here enter No. 382/

1 It appears from the foregoing papers, that a petition was presented, under date 6th November 1819 to the 1st Judge Presiding at the Quarterly Sessions by certain Inhabitants of Cozelly petta, praying that a grant made by the late Assistant Magistrate and confirmed by the Magistrate, to a certain individual, of a piece of waste ground, which had from time immemorial been allotted to the private use of the women at that Petta,- might be set aside.-

2 The petition was referred to the Magistrate for explanation, who under date 20th December 1819 submitted to the 1st Judge his reasons for having in this case exercised "the prescriptive "right, from time immemorial exercised by the Magistrate

Read

17th July 1821.

"Magistrate for the time being at Masulipatam, to "dispose of all waste spots of all land within the "limits of the said city." And urged that a decree which had been passed by the Zilla Court, inter= =dicting the present grantee of the waste land from shutting up a pathway thereto, was not meant to prevent the Magistrate from exercising the above right.—

3

A petition, dated 15th January 1820, was presented by the same individuals to the 1st Judge Presiding at the 1st Quarterly Sessions for 1820, setting forth that they had been obliged by the Magistrate to attend at Veeravelly a village about 30 Miles from Masulipatam, and were there compelled to sign certain depositions, which were not read over to them, and of the contents of which they were ignorant.—

4

The last mentioned petition was referred on 14th February 1820 to the Magistrate, who on the following day applied to the 1st Judge for the record of his proceedings in the case, which was transmitted to him on 3d March following, and on 4th March the Magistrate submitted his statement, that only four of the complainants ever gave any depositions, that three of them never left Masulipatam, and that every deposition was

F. C.

17th July 1821.

was taken, read over, and signed, in his (the Magistrate's) presence.—

5

From 4th March 1820 no further proceeding is recorded until 28th April 1821, when the 1st Judge presiding at the 2nd Quar= =terly Sessions for that year returned to the Magistrate the record of his proceedings.—

6

On the 4th May the Magistrate addressed the 1st Judge, complaining of his de= =tention of the record, of his having "on 7th, 9th, 10th, "11th, 13th, 21st, 25th and 29th of March 1820 exa= ="mined the persons" who had preferred the com= =plaint against the Magistrate, (of his having extorted their depositions,) "and recorded their "denial of such questions and answers contained "in the declarations taken by the Magistrate "as they disavowed." The Magistrate concluded by requesting to be informed, whether the 1st Judge's last communication was "meant to do away "the interdiction, which his first precept implied "against the fulfilment of the Magistrates order," or whether he was still to look for further in= =structions.—

7.

On 11th May last the opinion of the

Head

17th July 1821

the 1st Judge, that the decree of the Zilla Court had affirmed to the Petitioners "the privilege of using "the spot of ground in question," and "that the grant "should be recalled," was communicated to the Ma= =gistrate.—

8 The Magistrate, in referring the pa= =pers for the consideration and orders of the Foujdaree Udalut, submits to the Court "whether, in a general point "of view they see any objection to the authority, heretofore "exercised by the Magistrate for the time being, "of giving away waste spots of land situated with= "in the limits of the Town; whether in the particular "instance now under discussion the decree of the Zilla "Judge can properly be considered to bear the con= "struction, put upon it by the 1st Judge; and whether "the more regular way of disposing of the appeal "would not have been to refer the petitioners to the "Court by whom the decision was past, and with "whom its execution rests."—

9 The Magistrate further submits to the Foujdaree Udalut "1st whether it is legal "for a Judge of Circuit to take evidence in any case other

17th July 1821 "other than those committed for trial by the Cri= "minal Judge. Secondly, whether the examinations "taken by the 1st Judge in the present instance were "not irregular — and lastly whether it is competent "for a Judge of Session to postpone his orders on "a Magistrate's proceedings and to detain his re= "cords 18 Months after his Session has ceased, — or "whether the law does not rather contemplate that "here as in Bengal, the sentiments of the presiding "Judge should be communicated before the Ses= "sion closes."—

10 The Court of Foujdaree Udalut are unable to discover in any part of the Re= =gulations in force a sanction for the right assumed by the Magistrate of giving away all spots of waste ground situated within the limits of the Town of Masulipatam, nor can they recognize its validity on the assumed ground of immemorial prescription.—

11 The Court are of opinion, that the petition of the inhabitants of Cazellypetta should have been rejected by the 1st Judge, the matter being cognizable in the Zilla Court on a prose= =cution against the Magistrate under Section XLIII Regulation

Mad

17th July 1821.

Regulation IX of 1816.-

12 The Court are further of opinion, that the Regulations do not authorize a Judge of Circuit, holding a Session of Jail delivery to take further evidence himself, in cases brought before him by petition against the proceedings of a Magistrate.- that the re-examination of the witnesses in the present case, respecting their having deposed in the manner stated in their written depositions,- after the Magistrate's statement that their depositions had been taken, read over, and signed in his presence, was particularly objectionable, as indicative of a distrust of the Magistrate's averment, and as calculated to betray the parties into the commission of perjury.- and that it is the duty of a Judge holding a Sessions to return to the Magistrate all original proceedings, which may have been submitted by him, at the close of the Sessions, and to communicate his sentiments on every case to the subordinate officer, either during the period of the Sessions, or as soon after its termination as his other important duties will permit.-

13. Ordered, that extract of these proceedings be sent to the 2d Judge of the Provincial Court of Circuit in the Northern Division by precept directing him to communicate the same to the Magistrate in the Zilla of Masulipatam for his information and future guidance.-

(Sent following precept No. 220)

(3)

F. R.

17th July 1821.

Read letter, dated 4th Instant, from the Provincial Court of Circuit in the Southern Division,- submitting for the orders of the Court copy of a letter from the Criminal Judge in the Zilla of Madura, accompanied by copies of certain communications from the late Assistant Criminal Judge and the Magistrate, and of the proceedings of the latter officer in two cases sent by him to the Criminal Judge.-

(Here enter No. 414)

1 It appears from the foregoing papers, that a prisoner was sent by the Magistrate to the Criminal Judge, charged by two prosecutors with Burglary, and highway robbery; in each of which cases the Magistrate's records exhibit the following proceedings.-

2 The Report of the Police Officer having been read, the complaint given by the Prosecutor

Prosecutor before the Police Officer was read and shewn to him, and he was sworn to its being correct.—

3 The declaration given by the Prisoner before the Police Officer was read and shewn to him. and he was questioned as to its correctness.—

4 The depositions of the witnesses before the Police Officer were read and shewn to them "agreeable to rules," and they were sworn to the truth of those depositions.—

5 The cases were then ordered to be forwarded to the Criminal Judge:- and "an order "sent to the Government Vukeel according to the "prescribed rules."—

6. The Assistant Criminal Judge, having communicated to the Magistrate his opinion that his proceedings in the above cases were not conformable to the regulations, a representation was made by the latter officer to the Criminal Judge, through the Government Vukeel, in which he observed that the mode of proceeding prescribed in Section XXIV Regulation IX of 1816 was not enjoined in cases sent up by a Police Ameen, when depositions had already been taken, but was uniformly adopted in cases, wherein the prisoner

prisoner was brought before the Magistrate in the first instance.—

7 The proceedings of the Magis=trate in the two cases in question are considered by the Court of Foujdaree Adalut to be highly irregular and improper:- in all such cases it is the duty of the Magistrate to institute an enquiry de novo into the circumstances of the charge, and it is only on the completion of the examina=tions of the prisoners and witnesses touching the charge, that the former should be interrogated as to their declarations, or the latter as to their testi=mony before the Officers of Police.—

8 Such is the mode of proceeding which the Court consider it to be incumbent on the Magistrate to observe in cases referrible to the Criminal Judge; but in cases which the Magistrate is competent to hear and determine a strict adherence to the rules laid down in Section XXIV. Regulation IX. of 1816, with the ex=ception of not making the examinations matter of record, is doubly necessary, as the proceedings of that officer are not subject to revision under the provisions of Section VII Regulation IV of 1821.—

With

17th July 1821.

9 With reference to the circular instructions of the Sayd.ree Adalut under date 3d. December 1818, in which the Magistrates were directed to explain to the Police Officers that in their examinations of prose=cutors and witnesses it would be sufficient to reduce the substance of any material information, which might be obtained from each deponent into the form of a statement,- the Court are the more surprised that the Magistrate should have thought it unnecessary to examine the witnesses, or should not have been imme=diately sensible of the impropriety of swearing them to their depositions before the Police, and attaching thereto the validity of evidence taken before himself.-

10 The Court desire to be informed of the nature and object of the order recorded on the Magistrates' proceedings, as having been sent to the Vakeel, on forwarding these cases to the Criminal Judge,- "according to the prescribed rules."-

11 In conclusion the Court deem it pro=per to observe, that the Magistrates proceeding of addressing the Criminal Judge through the Vakeel of Government appears to be inconsistent with the relative situations of those Officers, and with that full and free communication between the departments which is virtually enjoined by Section II Regulation III of 1817, "on all subjects connected with the discharge

(4.) F. A

17th July 1821.

"of their respective duties."-

12 Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Southern Division by precept enjoin=ing them to communicate the same to the Cri=minal Judge and the Magistrate in the Zilla of Madura and to call upon the latter Officer to explain the nature of the orders issued by him to the Government Vakeel, on sending the above cases to the Criminal Judge.-

/Sent following precept No. 221/

Read again Letter, dated 11th Ultimo, from the 1st Judge late on Circuit in the Western Division, stating that there is no probability of his being able to hold a Sessions of Jail Delivery at Seringapatam before the end of the Circuit.-

/Here enter No. 386/

Read also letter dated 30th Ultimo, from the 1st Judge late on Circuit in the Western Division,- reporting his having closed the Sessions at Calicut on 27th Ultimo leaving four cases un=tried, because it would not have been in his power to finish any of them before the end of the Month

(Here enter No. 408)

The

17th July 1821.

The second Circuit for the present year having commenced, the Court direct that the trial of the four cases above referred to on the Calendar of South Malabar as well as of the prisoners committed for trial at Serengapatam do lie over until the ensuing Sessions of Jail Delivery.-

2 The foregoing communications have forcibly attracted the attention of the Court of Foujdaree Adalut to the extreme inconvenience imposed upon parties and witnesses, as well as the eventual injury to prisoners, which must result from the closing of a Sessions before the completion of the Jail Delivery at the expiration of the period assigned to each circuit by Section XI Regulation VIII of 1802.-

3 The Court are aware, that the proceeding adopted in the present instance by the [illegible] Judge has the sanction of a circular order of the Foujdaree Adalut dated 17th July 1804, which directed that in cases when the Jail delivery for the several Zillas might not be completed the Judge about to go on Circuit should furnish himself from the returning Judge with a Register of the Zillas not visited; and should "commence his circuit in the Zilla "wherein the returning Judge ceased, such Zilla not "being completely delivered within the limited time."-

4. The foregoing order having been virtually rescinded by Section IX Regulation XIII of 1808 which declared that the Jail deliveries of the several Zillas

17th July 1821.

Zillas should in future "be made according to the "fixed order of succession" therein laid down, the Court of Foujdaree Adalut have on particular occasions directed that Sessions of Jail delivery should be holden after the expiration of the period of the Circuit, such a measure being necessary to secure to prisoners committed for trial the benefit of two Jail deliveries in the year.-

5 This measure is, however, manifestly objectionable as interfering with the business of the Court of appeal, and the Court of Foujdaree Adalut deem it proper, therefore, with a view to provide against irregularity in the period of holding the half yearly Jail deliveries, to direct that the several Courts of Circuit do report, one month before the date prescribed by the Regulations for the commencement of each Circuit, or, if this should not be practicable from unforeseen circumstances, as early as possible, whenever the Judge, whose proper duty it may be, is prevented from proceeding on the Circuit at the appointed period. And that every Judge on Circuit do in future report to this Court in sufficient time to provide for the contingency, whenever from the number of trials or other cause, it may appear probable, that the business of any Circuit will not be completed before the period fixed for the commencement of the ensuing Circuit, stating particularly in such cases the cause of delay for the information

of

17th July 1821.

of Government, and for what jail deliveries it may appear requisite to make special provision.

6 Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Western Division by precept directing them to make the necessary communication to the Criminal Judge in the Zilla of Seringapatam and to the 3rd Judge on Circuit for their information and guidance respectively.—

sent 19th

7 (Sent following precept No 222)

Ordered also, that extract of these proceedings be sent to the Provincial Courts of Circuit in the Northern, Southern and Centre Divisions by precept commanding them to communicate the same to the several Judges on Circuit for the information and guidance of those Officers respectively.—

That Paras entered

sent 19th

(Sent following precept No. 223)

J. H.

At a Court of the Fuzdaree Adalut

Present

Wednesday 18th July 1821 — George Stratton Esqre Chief Judge

Charles Harris Esqre — Puisne Judge

G/V

C H

Read letter dated 13th February last from the Second Judge on Circuit in the Northern Division — submitting Case No. 12 Nellore Calendar 1st Sessions AD 1821.—

(Here enter No. 146)

The acting Cazee-ool-Coozat and Mooftees of the Fuzdaree 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 acting Cazee-ool-Coozat and Mooftees of the Fuzdaree Adalut.—

W. H.

20

"when such pardon is not demanded by

Z U

At a Court of the Zuydaree Udalut

Present

Thursday 19th July 1821. George Stratton Esqre Chief Judge

Charles Harris Esqre Puisne Judge

C V

C H.

Read again letter dated 13th February last, from the second Judge on Circuit in the Northern Division, - submitting Case Nº 12 Nol - lore Calendar 1st Sessions AD 1821. -

(here enter Nº 146)

Read the second futwa delivered in this case by the acting Cazee = ool = Coozat and Mooftees of the Zuydaree Udalut. -

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 acting Cazee = ool = Coozat and Mooftees of the Zuydaree Udalut confirm the said futwa of the acting Cazee = ool = Coozat and Mooftees aforesaid and under the sentence of Sokoobut - i - Shadeeda declared in the futwa adjudge the prisoner

Gungadoss alias Tusuntadoss

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

(Sent following letter Nº 226)

Appended

19th July 1821.

1 Appended to the Record of pro-
=ceedings in this case is copy of a precept issued by
the 2nd Judge to the Criminal Judge in the Zilla
of Nellore, directing him to retain in his possession
until further orders the whole of the property
ascertained to have been in the possession of
the deceased Charanadoss.—

2 Various individuals appear to have
laid claim to different articles of the above property,
several of whom represent, that part thereof was
pledged by them to the deceased, as security for
advances of money and that there are Vouchers to
be produced of the transactions between them.—

3 A claim appears also to have been
put in by the Vakeel of the Prosecutor, Mohuntoo
Gouroshanadoss, to the whole of the effects as
the property of the Muttum, to the superintendence
of which the deceased was appointed by the Pros=
=secutor.—

4 Under all the circumstances of the
case the Court of Foujdaree Adalut deem it proper
to direct, that the whole of the property in charge
of the Criminal Judge be delivered into the possession

19th July 1821. of the person who may have been duly appointed
to succeed to the superintendence of the Muttum
of Manoolalapettah on security being given by
him sufficient to guarantee to the rightful
claimants the restoration of the property se=
=verally belonging to them, the right whereto
must, in the event of any dispute arising, be de=
=termined by the Civil Courts.—

5 Ordered, that extract of these pro=
=ceedings be sent to the Provincial Court of Cir=
=cuit in the Northern Division by precept enjoin
=ing them to communicate the same to the
Criminal Judge in the Zilla of Nellore for his
information and guidance.—

Sent following precept No 227

W.H.

F. H.

"when such pardon is not demanded by the

F. H.

At a Court of the Foujdaree Adalut

Present

Friday
20th July 1821 - Charles Harris Esqre Ouosne Judge
Peter Cherry Esqre Acting Judge

Read letter, dated 9th instant, from

C. H.
M. the Magistrate in the Zilla of Rajahmundry, reporting the occurrence of a Robbery perpetrated by a Gang of 40 or 50 persons, and recommending the offer of a conditional pardon to one of the persons concerned. -

(Here enter No. 431)

1 In consideration of the circum-stances reported by the Magistrate the Court of Foujdaree Adalut resolve to submit his ap-plication to Government without delay; and to recommend that the Honorable the Governor in Council may be pleased to authorize an offer of pardon to Cuttah Treputty on the terms specified in Section XX Regulation VIII of 1802. -

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

(Sent following letter No. 228.)

No. 431 / Sent to

Read

Read letter dated 14th Instant, from the 3rd Judge on Circuit in the Northern Division, transmitting the original warrant issued by him for execution of Surrajee, prisoner in Case No. 21 Ganjam Calendar 2d Sessions AD 1820, together with copy of a correspondence between the Criminal Judge and the Assistant Surgeon relative to the alleged pregnancy of the prisoner.—

(Here enter No. 430)

1 It appearing by the latter part of the 10th paragraph of the above letter from the Assistant Surgeon, that the fact of the prisoner's pregnancy which is involved in much doubt at present, may be positively ascertained at the third Month, the Court of Foujdaree Udalut deem it proper to direct, that execution of the prisoner be delayed, until a definitive report can be given by the Surgeon as to the situation of the prisoner.—

2 The Court of Foujdaree Udalut observe, that in the warrant issued by the 3rd Judge in this case a day is fixed for carrying into execution the sentence of the Court, nearly one Month after the date of the warrant.—

3 The Court are of opinion, that the warrant so worded is at variance with the intention

of Section XIII Regulation VIII of 1802, and accordingly direct, that the 3rd Judge do in future direct execution of all warrants for capital punishment "without delay."—

4 Full execution of the said warrant not having been done, it ought not to have been forwarded to the Court of Foujdaree Udalut, the Court, therefore, direct that it be returned to the 3rd Judge in order that it may be cancelled, and a fresh warrant issued to the Criminal Judge, to be returned when executed, agreeably to the provisions of Section XIII Regulation VIII of 1802.—

5 Ordered, that the foregoing warrant and extract of these proceedings be sent to the 3rd Judge on Circuit in the Northern Division by precept directing him to communicate the same to the Criminal Judge in the Zilla of Chicacole, who will submit to the Court through the Court of Circuit the Report of the Assistant Surgeon hereby required, as soon as obtained from that officer.—

(Sent following precept No 229)

WH

"when such pardon is not demanded by the

F. C.

At a Court of the Foujdaree Udalut.

Present,

Saturday. 21st July 1821. Charles Harris Esqre Puisne Judge.
Peter Cherry Esqre ... Acting Judge.

Read letter, dated 2d Ultimo,
C. H. from the 1st Judge on Circuit in the Western
N. Division,- submitting case No 4 South Malabar
Calendar 1st Sessions A.D. 1821.

(Here enter No 364.)

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 Acting Cazee aol Coozat and Mooftee of the Foujdaree Udalut confirm the said futwa of the Acting Cazee aol Coozat and Mooftee aforesaid and under the sentence of Kissas declared in the futwa adjudge the prisoner,

"Koothangal Pukrah,"

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

(Sent following letter No 233)

Read letter, dated 27th January last
from the 2d Judge of the Court of Circuit in

21st July 1821

in the Western Division,- submitting case No 23 South Malabar Calendar 2d Sessions A.D. 1821.

(Here enter No 239)

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

1st Sundan coorukantil Parun for deny and

2d " Ambiah Cudamil Chami,"

is sufficient to convict them of having put to death the deceased Lucka Pandaram debtor under clause second Section II Regulation I of 1818 that the acting Cazeerool-Cozat and Mooftee of the Foujdaree Adawlut will declare by a second futwa, to what sentence the prisoners would have been liable under the Mahommudan law if they had been convicted by full legal evidences of the crime laid to their charge.-

Ordered that extract of these proceedings be translated and delivered to the acting Cazeerool Cozat and Mooftee of the Foujdaree Adawlut.-

20

W. Ho Read letter, dated 9th Instant, from the

21st July 1821

the 3d Judge on Circuit in the Western Division, reporting his arrival at Mangalore.-

(Here enter No 427)

Read return, dated 11th Instant, from the 3d Judge late on Circuit in the Northern Division,- to precept dated 15th May ordering communication to the Magistrate in the Zilla of Ganjam of the Court's observations on case No 15 Ganjam Calendar 2d Sessions A.D. 1820.-

(Here enter No 433)

At a Court of the Tuydaree Adalut.

Present,

Monday 23d July 1821. Charles Harris Esqre. - - Puisne Judge
Peter Cherry Esqre. . . . . Acting Judge

Read again letter dated 27th January last from the 2d Judge of the Court of Circuit in the Western Division, - submitting case No 34 South Malabar Calendar 2d Sessions A.D. 1820.

(Here enter No 239)

Read the second futwa delivered in this case by the Acting Cazee ool Cozat and Mooftees of the Tuydaree 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 Acting Cazee ool Cozat and Mooftees of the Tuydaree Adalut confirm the said futwa of the acting Cazee ool Cozat and Mooftees aforesaid and order the sentence of Rohoobut declared in the futwa adjudge the prisoners

1st "Sandan coorachaukl Caren Joden," and
2d "Ambiek Cudaniel Chame,"

to

23d July 1821.

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

And acquitting the prisoners,

2d "Jandanoor tudw Cooja Hellen," and

4th "Moondoor Lahil Ramen"

direct that they be set at liberty. -

Sent following letter 8.234

Read the letter dated

from the 3d Judge on Circuit in the Northern Division, - submitting the record of Proceedings in case No 11 Nellore Calendar 2d Sessions A.D. 1821.

Here enter No 448

In the foregoing letter the 3d Judge states the purport of the Futwa delivered in the case by the Mohummudan Law Officer and the grounds of the said Futwa; but offers no opinion on the merits of the case, as required by Section XXVI. Regulation VII of 1802. -

The attention of the 3d Judge was particularly called to the provisions of the Section abovementioned by order of the Court of Sudder Adalut, under date 12th May last, and he was directed "invariably to record on the reference of a trial his sentiments as to the guilt or innocence of the accused and the specific grounds of the reference." -

23d July 1821.

Read letter, dated 20th Instant, from the 3d Judge on Circuit in the Northern Division, - submitting the record of Proceedings in case No 11 Nellore Calendar 2d Sessions A.D. 1821.

Here enter No 448

In the foregoing letter the 3d Judge states the purport of the Futwa delivered in the case by the Mohummudan Law Officer and the grounds of the said Futwa; but offers no opinion on the merits of the case, as required by Section XXVI. Regulation VII of 1802. -

The attention of the 3d Judge was particularly called to the provisions of the Section abovementioned by order of the Court of Sudder Adalut, under date 12th May last, and he was directed "invariably to record on the reference of a trial his sentiments as to the guilt or innocence of the accused and the specific grounds of the reference." -

25th July 1821

3. In reiterating the orders of the Court, that the 2d Judge will invariably furnish his opinion on the merits of all cases referred, which in order to be available to the Court of Foujdaree Adalut must be accompanied by a statement of the evidence, on which such opinion may be formed - the Court of Foujdaree Adalut deem it proper to notify to the 2d Judge, that any future instance of disobedience on his part to the orders of the Court on this subject will be reported for the consideration of the Honorable the Governor in Council -

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

(Sent following letter No 235)

7 U

At a Court of the Foujdaree Adalut

Present,

Wednesday
25th July 1821. Charles Harris Esqre - - - Puisne Judge.
Peter Cherry Esqre - - - - Acting Judge.

Read letter, dated 24th Instant, from the Secretary to Government in the Judicial Department, - stating that the Governor in Council sanctions the offer of a conditional pardon to a prisoner convicted in a late Burglary at Rajahmundry -

(Here enter p. 452.)

Ordered, that a copy of the foregoing letter be sent, with extract from the Court's proceedings of the 20th Instant, for the information and guidance of the Magistrate in the Zillah of Rajahmundry -

(Sent following letter No 236.)

The Court of Foujdaree Adalut observe, that different forms of warrants for the execution of Convicts sentenced to suffer Capital punishment are used by the different Courts of Circuit; that some of the said forms are wholly at variance with that circulated by

25th July 1821.

by the Court of Foujdaree Udalut for general adoption, under date 26th August 1802, and others in partial modification thereof, and that certain of the Judges of Circuit are in the habit of issuing these warrants under a private Seal, instead of the Seal of the Court of Circuit.

2. The Court having on mature consideration thought it expedient and requisite, with reference to the provisions of Section XIII Regulation VIII of 1802, to modify the form of warrant circulated under date 26th August 1803, so far as a date is therein fixed for the execution of Criminals sentenced to capital punishment, — direct that a revised form of warrant be prepared and circulated to the several Provincial Courts of Circuit by precept enjoining them to conform in all cases thereto, as closely as the wording of the sentences of the Foujdaree Udalut will admit, and to transmit copy of the same to the several Judges on Circuit to be in like manner adopted by them.

(Sent following precepts No 27)

Read letter dated 11th May last from the 1st Judge on Circuit in the Western Division, — submitting case No 21. Sooth Pulliah Cahanoor

25th July 1821.

Calendar 1st Sessions A.D. 1821.

(Here enter No 330.)

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

Talachaloor Raroo Nair

is sufficient to convict him of having put to death the deceased Panjan Nair by stabbing him with a knife, direct under clause second Section II Regulation I of 1818 that the Acting Cazee cool Cozat and Mooftee of the Foujdaree Udalut will declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan law if he had been convicted by full legal evidence of the crime laid to his charge.

Ordered, that extract of these proceedings be translated and delivered to the Acting Cazee cool Cozat and Mooftee of the Foujdaree Udalut.

W. H.

by the Court of Fouzdarree Adalut for general adoption, under date 26th August 1803, and others in partial modification thereof, and that certain of the Judges of Circuit are in the habit of issuing their warrants under a private Seal, instead of the Seal of the Court of Circuit.

2. The Court having on mature consideration thought it expedient and requisite, with reference to the provisions of Section XIII Regulation VIII of 1802, to modify the form of warrant circulated under date 26th August 1803, so far as it date is therein fixed for the execution of Criminals sentenced to capital punishment, - direct that a revised form of warrant be prepared and circulated to the several Provincial Courts of Circuit by precept enjoining them to conform in all cases thereto, as closely as the wording of the sentences of the Fouzdarree Adalut will admit, and to transmit copy of the same to the several Judges on Circuit to be in like manner adopted by them -

Sent following precepts No 27/1

Read letter dated 11th May last from the 1st Judge on Circuit in the Western Division, - submitting case No 21. Lorath Chubbee Cahoor

Seal of the Court of Circuit

Form of Precept to be issued by the Court of Circuit to the Criminal Judge in the Zilla of on the Calendar.

To the Criminal Judge in the Zilla of

Whereas at a General Gaol Delivery for the Zilla of holden at on the day of A.D. AB charged with having been tried by the Court of Circuit has been convicted and finally sentenced by the Court of Fouzdarree Adalut to suffer death,

It is hereby ordered that execution of the said sentence be made and done by causing the said AB to be hanged by the Neck until he be dead at the usual time and place of execution, so soon as conveniently can be after the receipt of this warrant, and that you do return this warrant to me with an endorsement attested by your Official Seal and Signature certifying the manner in which the

25th July 1921

the sentence has been executed as provided
by Section XIII Regulation VIII of A.D. 1821.

Given under my hand and the seal
of the Court this day of
in the year of our Lord one thousand
eight hundred and

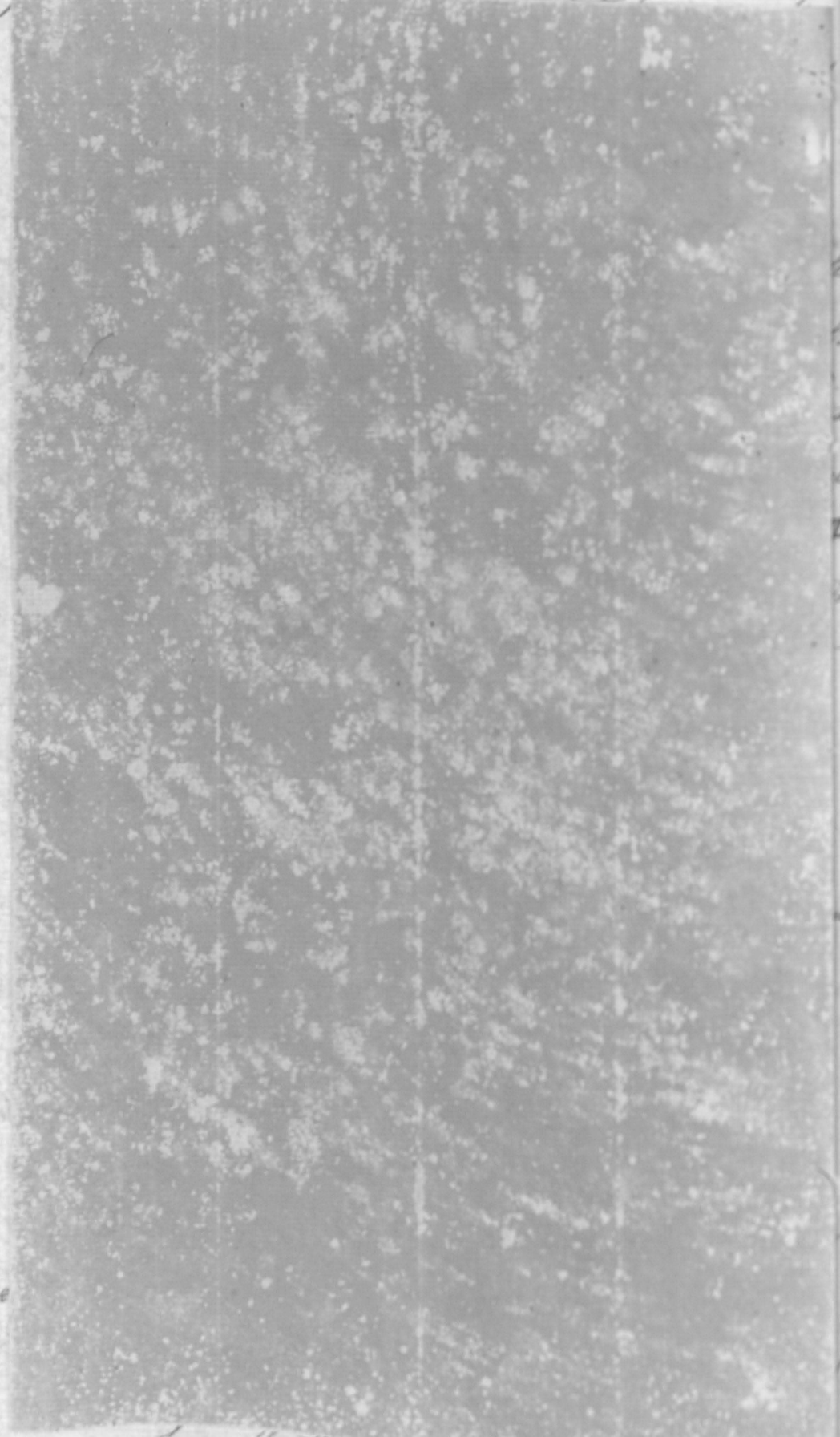
C.D.

Judge

From the Pt. Judge on Circuit in the Western
Division, - submitting case No 21. Lovell Robbins
Calvador

Lodged

25th July 1821



4826

from the Fr Judge on circuit in the Malabar Division, - submitting case No 21 South Malabar Calicut

25th July 1821

Calendar Ft Sessions A.D. 1821.

(Here enter No 330.)

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,

Talachaloor Raroo Nair

is sufficient to convict him of having put to death the deceased Parjan Nair by stabbing him with a knife, desire under clause second Section II. Regulation I of 1818 that the acting Cazee or Cozat and Mooftee 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 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 acting Cazee or Cozat and Mooftee of the Foujdaree Adalut.

W. H.

F. A.

At a Court of the Foujdaree Adalut

Present

Friday 27th July 1821. Charles Harris Esqre Puisne Judge

Peter Cherry Esqre Acting Judge

Read again letter dated 11th. May last from the 1st. Judge on Circuit in the Western Division - submitting Case No. 21 South Malabar Calendar 1st. Sessions No 2 1821 -

/Here enter No. 330/

Read the second futwa delivered in this case by the Acting Cazee : vol : Cozzat 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 Acting Cazee : vol : Cozzat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Acting Cazee : vol : Cozzat and Mooftees aforesaid and under the sentence of Pokoolut declared in the futwa

Court

25 27th July 1821

fatwa adjudge the prisoner,

Talachaloor Raroo Nair,

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

Sent following letter No 241

J. H.

J. H.

At a Court of the Zoujdaree Udalut.

Present,

Monday
30th July 1821 Charles Harris Esqre. ..... Puisne Judge
Peter Cherry Esqre. ..... Acting Judge.

Read letter, dated 25th Instant, from the 3d Judge on Circuit in the Northern Division, stating the conduct of Moonlooee Syud Bashurut alias the Mooftee of the Court of Circuit to have been extremely insolent and improper whilst in Court on the 17th Instant.—

(Here enter No 463).

1. Under the circumstances reported by the 3d Judge the Court of Zoujdaree Udalut deem it proper to direct that the Mohummudan Law Officers of the Zilla Courts of Rajahmundry and Chicacolo do perform the duties of the Law Officer of the Court of Circuit during the ensuing Sail deliveries at those Stations instead of Moulanee Syud Bashurut Allee who will return to the Sudr Station.—

2. And in order that the Court may be enabled to determine as to the measures fit to be adopted towards Moulanee Syud Bashurut Allee, Mooftee of the Provincial Court

Court in the Northern Division, they direct that copy of the foregoing communication from the 3d Judge on Circuit be transmitted to the Judges of the Provincial Court by precept directing them to call upon the Moofties for any explanation, which he may have to offer regarding those parts of his conduct animadverted on by the 3d Judge, and to transmit the same with an English translation for the consideration of the Court.

(Sent following Precept N°348)

The Court also direct, that extracts of these proceedings be sent to the 3d Judge on Circuit in the Northern Division for his information and guidance.

(Sent following Letter N°349)

Read letter dated 15th Instant from the 3d Judge to the Court in the Northern Division, submitting the report prescribed by Section XXXVIII Regulation VIII of 1802.

(Vide order N°3737)

1 In the 4th paragraph of this Report, describing the state of the Police in the Zilla of Salem the 3d Judge observes that all Criminal cases sent direct from the Police

Officers to the Criminal Judge, It is the practice in this Zillah for the Criminal Judge to issue to such Police Officers any further instructions which may appear to him necessary, as to the examination of witnesses, or holding any further Proceedings in the case.

2 Appended to the Report are Copies of a letter from the Criminal Judge in the Zilla of Salem, in which that Officer suggests to the Magistrate the expediency of directing the Officers of Police to forward Prosecutors and witnesses on the requisition of the Criminal Judge, and of the answer of the Magistrate, informing the Criminal Judge, that all Police Officers have been directed to obey every order they may receive from the Criminal Judge.

3 Section IV Regulation XI of 1816 declares that no order shall be issued to any Police Officers, excepting by the Magistrate of the Zilla, or his Assistants, and the modification of this rule by Regulation III of 1817 is expressly confined to the special cases therein mentioned.

4 It being the duty of the Court of Sudder Adawlut to enforce on the part of all subordinate Officers a strict observance of the Regulations enacted for their guidance, it

30th July 1821

it becomes necessary in the present instance to direct, that the Magistrate do forthwith cancel the orders issued by him as above stated, in direct opposition to Section LV Regulation XI of 1816.

5 The Court cannot on the present occasion avoid the remark, that their endeavours to introduce among the inferior Officers of Police an adherence to the rules promulgated for their guidance must be wholly nugatory, where their immediate superiors exhibit an example of contempt of the Regulations, which they have sworn to observe.

6 It is with much regret, that the Court have perused in the 6th paragraph of the Report of the 3d Judge, the declaration of this officer, that he does not "see that the arrangement is inconsistent with the provisions of any of the existing Regulations."

7 With the instances before them of the 3d Judge's inattention to their directions recorded in the Provincial Court, that the Judge of Circuit should be careful to notice to the local officers all instances of departure from the Regulations

2/ F. C.
30th July 1821

can have been but imperfectly attended to by him.

8. Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Southern Division by precept commanding him to communicate to the acting Criminal Judge and the Magistrate in the Zilla of Salem such part thereof as concerns those officers for their information and guidance.

(Sent following precept No 250)

9. Ordered also, that the report and extract of these proceedings be forwarded 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 No 251)

250

W. H.

Read letter, dated 21st Instant, from the 4th Judge on Circuit in the Southern Division with copy of Commissioner Calendar 2d Sessions A.D. 1821

(Hereunto No 451)

Read return dated 17th Instant, from the

30th July 1821

the 2d Judge late on Circuit in the Western Division to precept dated 4th Instant ordering him to communicate to the Magistrate of Malabar the Court's Orders relative to confessions before Police Officers.-

(Here enter No. 465)

Read return, dated 18th Instant, from the Provincial Court of Circuit in the Centre Division, - to precept dated 13th Instant ordering communication to the several Magistrates of the Court's orders relative to the preparation of the half-yearly statement of crimes and punishments.-

(Here enter No. 465)

Read return, dated 23d Instant, from the Provincial Court of Circuit in the Centre Division, - to precept dated 17th Instant ordering communication to the 1st Judge on Circuit of the Court's orders relative to the notice to be given whenever a Judge may be unable to enter upon or to conclude the Circuit.-

(Here enter No. 466)

Read letter, dated 24th Instant, from the 2d Judge on Circuit in the Northern Division reporting his intention of leaving Cochin on 28th Instant.-

(Here enter No. 467)

Read

30th July 1821

Read letter, dated 21st Instant, from the 2d Judge of the Court of Circuit in the Western Division, - with returned warrant for execution of prisoner in case No. 19 South Malabar Calendar 2d Sessions A.D. 1821.-

(Here enter No. 468.)

Read letter dated 27th Instant, from the 2d Judge of the Court of Circuit in the Western Division, - reporting the death of the 1st prisoner in case No. 34 South Malabar Calendar 2d Sessions A.D. 1820.-

(Here enter No. 470.)

Read return, dated 24th Instant, from the 1st Judge of the Court of Circuit in the Northern Division - to precept dated 17th Instant ordering communication to the Magistrate in the Zillah of Masulipatam of the Court's orders on a late reference regarding that officer's proceedings in the assignment to an individual of some waste ground in the city.-

(Here enter No. 474)

At a Court of the Zoujdarree Adalaut.

Present,

Wednesday. 1st August 1821. Charles Harris Esqre —— Puisne Judge

Peter Cherry Esqre —— Acting Judge.

Read again letter, dated 30th April last, from the Provincial Court of Circuit in the Western Division, - submitting for the orders of the Court copies of Minutes recorded by the 2d and 3d Judges and of certain communications from the Criminal Judge in the Zilla of North Malabar on the subject of commitment for Perjury.-

Circ. C. Circ. Judges Malabar

Here enter No. 318.

1. It appears from the foregoing papers, that a reference was made by the Criminal Judge in the Zilla of North Malabar to the Provincial Court of Circuit, regarding "the mode to be pursued in cases where "Magistrates may have occasion to bring to "trial, parties or others who may be supposed "to have committed Perjury."-

2. On the above reference the Court recorded the opinion, that it was the duty of the authority before which the supposed Perjury or subornation of perjury might have

have been committed," whether a Court of Indict-
"Magistrate, or other public officer to prepare
"the statment specifying the particular facts
"upon which the crime is charged against
"the prisoner, which should be the result
"of the examinations taken before that authority
"and to found thereupon the charge of perjury
"or subornation of perjury (as the case may be)
"which is to accompany the original proceedings
"wherein the crime is supposed to have been
"committed; when the case and the parties are
"forwarded to the Criminal Judge of the Jilla,
"with whom it then rests to prepare the cases
"in the manner prescribed in all committals
"of persons to take their trial before the Court
"of Circuit at the suit of Government, exclu-
"sively the appointment of the Sirkar Vakeel
"to conduct the prosecution, and by the examina-
"tion of the prisoners and witnesses, who are to prove
"the several particulars required for a conviction
"of the crime of Perjury."

3. The Court of Circuit further recorded
their opinion, founded on the 7th paragraph of
the orders of the Foujdaree Adalat under date
27th January 1814, and the 11th and 13th paragraphs
of their order dated 31st January 1820, that a

a Criminal Judge is not competent to exercise
any discretion, as to the commitment of "a prisoner
"sent up by a Magistrate to take his trials before
"a Court of Circuit for the crime of Perjury, com-
"=mitted under his [Magte's] Official cognizance."

4. A question was subsequently
put to the Court of Circuit by the Criminal
Judge, arising out of the above instructions,
as to whether Assistant Criminal Judges were,
or were not bound by the same rule as the
Magistrates, with regard to the reference of
the proceedings in all cases of perjury to
the Criminal Judge.- in answer to which
the officiating Judge gave his opinion, that
an Assistant Criminal Judge is not compe
=tent to bring persons to trial for Perjury,
independently of his Superior the Criminal
Judge.-

5. The latter question having been
again referred for the determination of a full
Court, a Minute was recorded by the 2d Judge
of his opinion, that "the Assistant Criminal
"Judge in respect to Perjury commitments is
"exactly in the same situation as Magistrates,"
in answer to which the 2d Judge declared
his doubt, as "to how far it is incumbent
on

1st August 1821. "on a Criminal Judge to commit every person for
"trial before a Court of Circuit his Assistant
"may consider guilty of that crime."

6. The dissent of the 2d Judge to this opinion of the 1st Judge is founded on the invidiousness of the distinction, which would thereby be made between cases of perjury before an Assistant Criminal Judge and a Magistrate, or Assistant Magistrate, "the "authority of the Assistant Criminal Judge in "matters referred to his cognizance" being in the opinion of the 2d Judge "as independant as "that of the Magistrate and Assistant Magistrate"

7. The Court of Foujdaree Adalut are aware, that the orders issued to the Court of Circuit under date 5th January 1820 admit of the construction, which is put upon them in the extract of the Proceedings of the Criminal Court under date 20th December last, with respect to the discretionary powers of a Criminal Judge in disposing of persons sent up by a Magistrate on a charge of Perjury.

8. But on a deliberate consideration of the subject it appears to the Court, that the Criminal Judge, as the only committing officer recognized in the Regulations, should act

1st August 1821. act with respect to all charges of Perjury brought before him by an inferior authority, on the same principles, as in cases of a different description; and should release or commit the prisoner, according as he may be of opinion, that the charge is or is not supported by the evidence before him.

9. In all such cases the proceedings, on which the charge of perjury or subornation of perjury is founded should be sent to the Criminal Judge by the Officer before whom they may have been held, with his sentiments upon the case, together with the prisoner and witnesses; and if the Criminal Judge should be of opinion, that there are grounds for putting the accused party on his trial under the provisions of Regulation VII of 1811, he should prepare the indictment in the mode prescribed by the Court's orders of 5th January 1820, and appoint the Vakeel of Government to conduct the prosecution.

10. The foregoing observations have anticipated the determination of the further question, involved in the present reference.

1st August 1821 reference, as to the authority of an Assistant Criminal Judge to direct the commitment of persons supposed to have committed Perjury before him, or against whom he may consider that a charge of perjury is established- but the Court of Fouzdaree Adalut deem it proper to observe, generally, that the authority of an Assistant Criminal Judge is by Clause first Section V Regulation X of 1816 limited to the express delegation of the Criminal Judge, who on the reference of all charges of a Criminal Nature to his Assistant is competent to direct, whether the proceedings held upon the examination are to be submitted for the decision of the Criminal Judge, or whether the determination upon the charge is to be passed by the Assistant.-

11 Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Western Division by precept enjoining them to communicate the same to the Criminal Judge in the Zilla of North Malabar to be by him communicated to the Assistant Criminal Judge:- and to communicate paragraphs 7, 8, and 9 of these proceedings to

1st August 1821 to the several Criminal Judges and Magistrates within the Division for their information and future guidance:-

(Sent following precept No 252)

Ordered also, that extract of

12. these proceedings be sent to the Provincial Courts of Circuit in the Centre, Northern, and Southern Divisions by precept enjoining them to communicate the same to the Criminal Judges and Magistrates within their several jurisdictions for their information and future guidance respectively.-

(Sent following precept No 253)

52

At a Court of the Foujdaree Adalut.
Present:

Thursday:
2d. August 1821 Charles Harris Esqre. Puisne Judge
Peter Cherry Esqre. Acting Judge.

C.H. P. A case having been brought to
M. the notice of the Court of Foujdaree Adalut, in
which the punishment of stripes with a rattan
has been attended with fatal consequences,
the Court deem it necessary to issue the
following instructions for the guidance of
the Criminal Judges on all occasions of
Corporal punishment.—

pcb 1st All prisoners sentenced by the Court
of Foujdaree Adalut, or by the Courts of Circuit,
to be punished with stripes shall be brought
before the Criminal Judge immediately on
previous to the infliction of the corporal
punishment, that he may by personal
observation and a reference to the Surgeon
of the Station satisfy himself, that the
prisoner does not labour under any bodily
infirmity, and that his general state of
health at the time is such as to render
him

him capable of sustaining the punishment without the probability of its endangering his life.-

2dly. The whippers is to be positively enjoined on all occasions of administering the punishment of stripes to strike the prisoner on the upper part of the back only; with every possible attention to prevent the blows falling on any other part of the body.-

3dly. All prisoners sentenced by a Criminal Judge to corporal punishment are to be examined by the Surgeon of the station, or in the event of his absence by the native Doctor previously to their being punished, and the punishment is to be postponed of any prisoner, whom the Surgeon, or Native Doctor, may consider in too infirm a state to receive it.-

4thly. The Native Doctors attached to the Jails of the several stations are to be present on all occasions when prisoners are punished with stripes; and the punishment is to be stopped at any stage of it, if the Native Doctor shall be of opinion that the infliction of the remaining

remaining stripes will endanger the prisoners life, in which case the remainder of the punishment is to be postponed until the Surgeon of the station shall consider the prisoner to be capable of sustaining it.-

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 Criminal Judges within their respective Divisions for their information and implicit observance in future.-

Sent following Precepts No 2544

Left

P. P.

Read again letter, dated 21st Ultimo, from the 3d Judge on Circuit in the Northern Division,- submitting case No 11 Nellore Calendar 2d Sessions A.D. 1821.-

/Here enter No 448/

Read also remarks of the Acting Cazee and Cozgat and Mooftees of the Foujdaree Adalut.-

The Court of Foujdaree Adalut, observing that in the Heading of the examinations of the prisoners before the Police Officers and the Criminal Judge their respective ages are stated to be unknown:- and that no memorandum is

2. August 1821

is entered on the proceedings of the Criminal Judge, or the Court of Circuit, # of the apparent or probable age of the prisoners, which ought always to be done when the age may not be precisely ascertained, - resolve to return the record of the trial to the 3d Judge on Circuit, whose duty it will be to issue a precept to the Criminal Judge in the Zilla of Nellore, requiring him to call the prisoners before him and to take the evidence of two or more intelligent persons, not peons of the Court, as to their opinion of the prisoners' ages respectively. The Criminal Judge should also be enjoined to annex authenticated translations in English and Persian of the evidence so taken to the original Record, which the Third Judge will thereupon transmit to this Court.-

2 And with reference to the instructions of the Court conveyed to the 3d Judge in an Extract of their proceedings, under date 23d ult.o, respecting this case, the Court of Foujdaree Adalut further direct, that the 3d Judge do together with the trial, transmit an English letter stating his opinion on the evidence and on the guilt or innocence of

2/ F.C. "of the prisoners," as prescribed by Clause first

N. D.
Zilla of Nellore
No 11
2d Sessions A.D.
1821.

Remarks of the Acting Cazee ool Cozat and Mooftees of the Foujdaree Adalut.-

Reason for returning the proceedings transmitted by the 3d Judge on Circuit in the Northern Division in case No 11 of Nellore Calendar 2d Sessions A.D. 1821.-

As the proof in this case against the prisoners Boddoo paupadoo and Tada Poladoo rests on their confessions, and as it is essential to the credibility of those confessions that their respective ages should be ascertained, on which point the record contains no information, it becomes necessary that the proceedings should be returned that the testimony of competent persons should be taken to the actual or probable age of the prisoners, and the record retransmitted, in order that a futwa may be given on the case.-

/True translation/

/signed/ Wm Hudleston -
Deputy Register

in the above case of these

Circuit

receipt

formerly

within five

ceipt.-

ceipt. No 255/

20

2d August 1821

the Criminal Judge,

"an inquiry

"the evidence and on the guilt or innocence

2/

F. C.

2d August 1821

"of the prisoners," as prescribed by Clause first
Section XLI Regulation VII of 1802.—
the Rules of proceedings in the above case
Ordered, that extract of these

3.

proceedings be sent to the 3d Judge on Circuit
in the Northern Division by precept
enjoining him to proceed conformably
~~to the~~ existing instructions
and to make return within five
weeks from the date of its receipt.—

Sent following Precept N° 255/

2d

17th

C. H.

M.

At a Court of the Zoujdaree Adalut.

Present.

Friday 3d August 1821. Charles Harris Esqre. - - - - Puisne Judge
Peter Cherry Esqre. - - - - - - - Acting Judge.

Read letter, dated 26th Ultimo.

C. H. / M. G. from the Criminal Judge in the Zilla of Canara, - applying by recommendation of the Court of Circuit for permission to tender a conditional pardon to Deyoo an accomplice in a case of Murder, and enclosing copy of certain examinations and other papers connected with the case -

(Here enter No. 493.)

1. In consideration of the circumstances elicited by the foregoing papers, the Court of Zoujdaree Adalut resolve to submit the Criminal Judge's application to Government, and to recommend that the Honorable the Governor in Council may be pleased to authorize an offer of pardon to Deyoo, on the terms specified in Section XX. Regulation VIII. of 1802. -

2. Ordered, that the foregoing

letter

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 No 258)

No 38/Sent 3d

W.M.

Read return, dated 23d ultimo, from the Provincial Court of Circuit in the Western Division,- to precept dated 13th ultimo ordering communication to the several Magistrates of the Court's orders relative to the preparation of the half yearly statements of crimes and punishments.-

(Here enter No 482)

Read letter, dated 26th ultimo, from the 1st Judge on Circuit in the Centre Division,- reporting his arrival at Cuddapa.-

(Here enter No 484.)

Read letter, dated 30th ultimo, from the 2d Judge on Circuit in the Southern Division,- reporting his arrival at Verdachellum.-

(Here enter No 489.)

Read return dated 28th ultimo, from the Provincial Court of Circuit for the Northern Division,- to precept dated dated 17th ultimo ordering communication to the Judge on Circuit of the Court's orders respecting notice

to be given whenever said Judge may be unable to proceed on or to complete a Circuit.-

(Here enter No 491.)

Read return, dated 28th ultimo, from the Provincial Court of Circuit in the Northern Division,- to precept dated 13th ultimo ordering communication to the several Magistrates within their jurisdiction of the Court's instructions relative to the preparation of the half yearly statements of crimes and punishments.-

(Here enter No 492)

Read return, dated 27th ultimo, from the Provincial Court of Circuit in the Western Division,- to precept dated 17th ultimo ordering communication to the Judge on Circuit of the Court's orders relative to completion of Jail delivery.-

(Here enter No 496.)

Read letter, dated 27th ultimo, from the 1st Judge late on Circuit in the Western Division,- with returned warrant for execution of prisoner in case No 3 South Malabar Calendar 1st Sessions A.D. 1821.-

(Here enter No 497.)

3d Aug.t 1821

No 11

At a Court of the Foujdaree Adalut

Present.

Tuesday 7th August 1821.- Charles Harris Esqre. — Puisne Judge

Peter Cherry Esqre. — Acting Judge -

Read letter, dated 30th Ultimo, from the 3d Judge on Circuit in the Western Division,- suggesting that he should be permitted to hold a Sessions of Jail delivery at Seringapatam previously to proceeding to Calicut.-

C.H. P.C.

(Here enter A.o 505.)

It appearing from the circumstances stated in the foregoing letter, that a departure from the fixed order of succession established for the delivery of the Zilla Jails in the Western Division will be requisite, in order to ensure to the prisoners committed for trial at Seringapatam the benefit of a Jail delivery during the present Circuit, the Court of Foujdaree Adalut authorize and direct the 3d Judge on Circuit to proceed to Seringapatam after completion of the Sessions in the Zilla of Canara, for the purpose of holding a Sessions of Jail delivery at that Station;- after which he

W290/60

7th August 1821.

he will hold the Sessions for the Zilla of South Malabar.—

2 And the Court further direct that instructions be given to the Criminal Judge in the Zilla of Seringapatam to afford to the Court of Circuit the aid of such part of his establishment as may be required by the Judge Presiding during the continuation of the Sessions:— and that the Mohummudan Law Officer of the Zilla Court do officiate thereat for the Law Officer of the Court of Circuit.—

3. Ordered, that extract of these proceedings be sent to the 3d Judge on Circuit in the Western Division and to the Criminal Judge in the Zilla of Seringapatam for their information and guidance respectively.

sent 8th

(Sent following letters No 260)

W. H.

Read letter dated 3d Instant from the 2d Judge on Circuit in the Southern Division:— with copy of Circuit Calendar 2d Sessions A. D. 1821.—

(Hereunto No 502)

J. A.

At a Court of the Foujdaree Adalut

Present

Wednesday 8th August 1821.

George Stratton Esqre. Chief Judge

Charles Harris Esqre. Puisne Judge

C. W.

C. H.

Read letter, dated 23d May last, from the Second Judge on Circuit in the Northern Division submitting Case No 3 Chicacole Supplemental Calendar 1st Sessions AD 1821.—

(Hereunto No 367)

The Judges of the Foujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoner Ullah Somunnah is sufficient to convict him of having wilfully put to death the deceased Soorapah Dorah desire under clause second Section II Regulation I of 1818 that the acting Cazee-ool-Cozat 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 had been convicted by full legal evidence of the above crime.—

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

(No 290)

Read

7th August 1821

8th August 1821. Cazee-ool-Coozat and Mooftees of the Fouzdaree Udalut.—

20

At a Court of the Fouzdaree Udalut

Present.

Thursday 9th August 1821. George Stratton Esqre Chief Judge

Charles Harris Esqre Puisne Judge

Read again letter dated 23rd May last, from the 2nd Judge on Circuit in the Northern Division, submitting case No 3 Chicacole Supplemental Calendar 1st Sessions AD 1821.—

/Here enter No 367/

Read the second futwa delivered in this case by the acting Cazee-ool-Coozat and Mooftees of the Fouzdaree 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 acting Cazee-ool-Coozat and Mooftees of the Fouzdaree Udalut confirm the said futwa of the acting Cazee-ool-Coozat and Mooftees aforesaid and under the sentence of Kissaas declared in the futwa adjudge the prisoner

Ullah Lomunnah

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

/Sent following letter No 262/

20

At a Court of the Foujdaree Adalut.
Present.

Friday
16th August 1822.— Charles Harris Esqre. ---- Puisne Judge
Peter Cherry Esqre. ---- Acting Judge

Read letter dated 2d. Instant, from
C.H. the Criminal Judge in the Zilla of Canara,
M reporting the apprehension of fifty persons of
whom twenty belonged to a gang of robbers
headed by one Aya Bhut, and thirty to a Gang
of which one Tungoo Pursah was the leader,—
and requesting authority to offer a conditional
pardon to any two of the inferior offenders
belonging to each gang, with a view to the
conviction of such members of the gangs as
are now in custody, and to the discovery of
certain of their accomplices not apprehended.—

(Here enter № 514)

I The general discretion, which
the Criminal Judge is desirous to obtain for
tendering a pardon to any two of each of the
gangs of robbers here referred to, is one which
the Court of Foujdaree Adalut have ruled to
be incompatible with the provisions of Section
XX Regulation VIII of 1802. It is only on

receiving a report from the Criminal Judge of
specifying by name any supposed accessaries
to whom it may appear expedient to make
a conditional offer of pardon, that the Court
of Foujdaree Adalut can submit any such
recommendation for the consideration and
orders of Government.-

2. The proposition of the Criminal
Judge appears also to be open to the further
objection, that for the conviction of the
principal offenders in each case sufficient
evidence is already in his possession, that
those prisoners of the gang of Arjo Bhat, from
whom he proposes to select two for pardon,
would seem to have already disclosed all
the circumstances within their knowledge
relative to the crimes charged against them,-
and that persons, who in the words of the
Criminal Judge "from the nature of the proof
"against them have no chance of an acquittal,-
do not appear to come under the description of
"supposed accessaries," which designation would
with more correctness be applied to the
persons, against whom from their being
brought before the Criminal Judge it is to

be supposed, that there exist grounds of
suspicion, but who have not delivered a
formal confession of guilt.-

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

(Sent following letter No 268)

W.F. Read letter, dated 2d Instant, from
the Provincial Court of Circuit in the Western
Division, requesting with reference to the
circular orders of the Court under date 25th
ultimo instructions as to the Seal which should
be used in warrants for execution.-

(Here enter No 515.)

The Court of Foujdaree Adalut
having taken into consideration the foregoing
reference are of opinion, that the Seal pre-
=scribed for the Courts of Appeal ought not
to be used indiscriminately by those Courts and
by the Courts of Circuit. The Court observe
that for many years past a Seal has been
used by the Court of Circuit in the Centre
Division of the dimensions prescribed in
Section V Regulation IV of 1802, and bearing the
following inscription in the Persian and
language

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language of the Province,- "The seal of the Court of Circuit for the Centre Division." And they deem it proper to direct, that a similar seal be adopted by the Courts of Circuit for the Western, Southern, and Northern Divisions-

Two seals of the above description should be procured for each Court, one for the use of the Court collectively and one for the Judge on Circuit; and the Court of Foujdaree Adalut direct, that after the said seals shall have been prepared, no other be used as the official seal of the Collective Courts, or the Judges of Circuit:-

Ordered, that extract of these proceedings be sent to the Provincial Courts of Circuit in the Western, Southern, and Northern Divisions by precept commanding them to communicate the same to the several Judges on Circuit for their information and guidance respectively.-

(Sent following Precept to No 269)

Read letter, dated 13th June last, from the acting 2d Judge on Circuit in the Centre Division,- submitting case No 4 Bellary Calendar 1st Sessions A.D. 1821.-

(Here enter No 384)

F 11.

11th August 1821.

The Judges of the Foujdaree Adalut on deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoners 1st Cobah, and 2d Siminah is sufficient to convict them of having put to death the deceased Soonhee, desire the under clause second Section II. Regulation I of 1818 that the acting Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut will declare by a second futwa to what sentence the prisoners would have been liable under the Mohummudan if they had been convicted by full legal evidence of the above crime.-

Ordered, that extract of these proceedings be translated and delivered to the acting Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut.-

Read letter dated 31st Ultimo, from the 2d Judge of the Court of Circuit in the Western Division, with copy of North Malabar Calendar 3d Quarterly Sessions A.D. 1821.-

Here enter No 509.-

10th August 1821

Read letter dated 31st Ultimo from the 1st Judge late on Circuit in the Western Division, submitting copy of South Malabar Calendar 1st Sessions A.D. 1821.

Here enter No. 510.

Monday 13th August 1821

At a Court of the Foujdaree Adalut.

Present,

Charles Harris Esqre ..... Puisne Judge
Peter Cherry Esqre ..... Acting Judge.

Read again letter dated 15th June last from the Acting 3d Judge on Circuit in the Centre Division, submitting case No. 4 Bellary Calendar 1st Sessions A.D. 1821.

/Here enter No. 3841/

Read the second futwa delivered in this case by the Acting 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 Acting Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Acting Cazee ool Coozat and Mooftees aforesaid and under the sentence of Sohoobut declared in the futwa adjudge the prisoners,

1st "Cobah," and

2d Timmah,

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

/Sent following letter No 270/

Read

13th August 1821

Read letter, dated 3d Instant, from the Provincial Court of Circuit in the Centre Division, submitting copy of a letter from the Magistrate in the Zilla of Bellary, dated 13th of June last, commenting upon an extract of the Proceedings of the Foujdaree Adalut, dated 4th May last, which was furnished to the Magistrate for his information and guidance.-

(Here enter No. 531.)

Read also letter, dated 3d Instant, from the Provincial Court of Circuit in the Centre Division, - submitting copy of a letter from the Magistrate in the Zilla of Bellary, dated 18th June last, suggesting, that the Court of Foujdaree Adalut will reconsider the orders issued by them under date 29th January last, and circulated to the several Magistrates under date 3d May last, prohibiting the practice of taking on Oath the declaration of an approver.-

(Here enter No. 532.)

In a letter from the Magistrate to the Criminal Judge in the Zilla of Bellary, dated 8th April last, copy of which was transmitted by the former officer to the Court of Foujdaree Adalut the Magistrate, having adverted

13th August 1821

adverted to the practice of granting a pardon to an accessary under the provisions of section XI Regulation VIII of 1802, observed, "where, without "any such offer or grant of pardon, an accessary "voluntarily comes forward and gives evidence in "the case, I submit that although a Magistrate "ought specially to caution him that his confession "may affect himself, there is no provision in "the Regulations, nor can I perceive any other "valid objection against the receipt of the evidence "of the accessary voluntarily given, without "promise of reward, or stipulation for pardon".-

2. Upon the sentiments of the Magistrate, as recorded in this passage, the Court of Foujdaree Adalut observed in their proceedings dated 4th May last, that he had "betrayed "an ignorance of one of the most obvious and "universally acknowledged principles of justice, "namely that the confession of one person "cannot be received as evidence against others."

3. In the letter of the Magistrate now before the Court, dated 13th June last, that officer observed upon this part of the Courts proceedings of 4th May, that "the imputation "of ignorance made against the Magistrate "has arisen from misconception of the "passage in the Magistrate's letter therein referred to

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"to."

4. The Magistrate proceeds to state the reason why the confession of a prisoner cannot be received as evidence against his accomplices to be "because such a confession is not on Oath, "and a prisoner may impeach others to clear "himself." That "this trite Maxim, however, is "not in the least inconsistent with the equally "well known principle of Justice alluded to by "the Magistrate with which it has been con- "-founded, viz. that an accomplice not being "accused or a prisoner may give not a confession, "but evidence on Oath against the principal "and other accomplices in the same crime "provided neither reward nor punishment "is held out to influence his evidence."-

5. The Magistrate further states, that in this respect he "urged nothing more "than has been admitted by the Foujdaree Adalut "itself, who have authorized the Criminal Judge "to admit eventually the evidence of an accessary "situated precisely as supposed by the Magistrate" that he "added and still submits, that the grant "of a pardon is not a necessary preliminary "to the admission of such evidence, and especially when

2/ F. H.

13th August 1821.

"when such pardon is not demanded by the party "giving information of the offence in which "he may have been implicated or where the "grant of it is likely to affect the unbiassed "and unrewarded evidence offered, subject "merely to the discretion of the ruling power."

6. In conclusion the Magistrate "submits whether the Courtesy due to public "correspondence should not have withheld so "gross an imputation as ignorance especially "where none existed, and the supposition of "it originated in a misinterpretation of the "obvious meaning of the Magistrates letter."-

7. The explanation, which the Magistrate has here given of that part of his letter, dated 8th April, on which the Court of Foujdaree Adalut remarked in their proceedings of 4th May last, manifests an acquaintance with the provisions of the Regulations more limited than the Court had ascribed to him.-

8. The Court have no desire to impugn the principle laid down by the Magistrate "that an accomplice may give "evidence on oath against the principal "and other accomplices in the same crime" although

Although under certain circumstances this principle holds good, the Court find in the Regulations no authority for the Magistrates admission of such "evidence". They deem it proper on this point to refer the Magistrate to the provisions of Section IX Regulation IX of 1816, which declares it to be his duty to "apprehend" criminals of every description, an observation of which rule would render impossible the case which the Magistrate supposes, of an acknowledged accomplice in a crime being allowed to depose before him, not "a prisoner", or at all events would ensure his becoming a prisoner as soon as he had avowed his guilt. And as such an avowal would be nothing more or less than "a confession", the Magistrate will find in Section XXIV of the same Regulation that he should not require the prisoner to swear to it's truth.—

9. Upon the observations of the Magistrate, that "the grant of a pardon is "not a necessary preliminary" to the admission of the evidence of an accessary, and that "there is no provisions in the Regulations" nor "any other valid objection against the receipt

7

"of the evidence of the accessary voluntarily given"

The Court have to remark, that under the Regulations the evidence of an accessary cannot be taken without the special permission of the Governor in Council upon a recommendation from the Court of Foujdaree Adaulut.—

10. The Court indeed perceive that in the case of Phanseegaree, reported by the Magistrate under date 8th April last, as also in a case subsequently reported by the Criminal Judge the Magistrate has taken upon himself to exercise this exclusive prerogative of the Governor in Council in admitting an accessary to be an evidence—

11. When the former case came under consideration the Court did not suppose, that the Magistrate could have so far forgotten, that his powers are limited by the law as to venture upon such an unauthorized assumption of authority. It would seem, however, that the Magistrate, who objects so strongly against the imputation of ignorance, requires to be informed, that he possesses no authority but that which is given to him by the Regulations, and that it is incumbent upon him strictly

to

to conform to the rules therein prescribed for his guidance, without presuming to depart from them in any instance on his private judgment of expediency.-

12. The Court will dismiss this part of the subject by strictly enjoining the Magistrate against the repetition of the proceeding adopted in the cases of Seramah and Cauderam, here referred to.

13. The Magistrate's revival of this question affords to the Court of Tongdaree Udalut an opportunity of correcting an erroneous observation in his letter of 8th April last, which they had allowed to pass without remark. A Magistrate is no where enjoined "specially to caution" an offender, "that his confession may affect himself," but it is his duty to receive and cause to be duly attested any free and voluntary confession of crime, which any individual may deliver before him, and to proceed thereupon in the mode prescribed in the Regulations.-

14 Upon the Magistrate's allusion to the authority given by the Court under the provisions of Section XX Regulation VIII of 1802 to the Criminal Judge "to admit eventually

"eventually the evidence of an accessary" the Court will merely observe, that the expression "evidence" is here incorrectly used, the Criminal Judge under the Court's orders having authority only to make to such party the tender of a conditional pardon, and receive his or her declaration without oath,- the "evidence" of the party being taken before the Court of Circuit.-

15. Previously to any further comment on the Magistrate's letter of 13th the Court will proceed to take into consideration his letter of the 18th of June now before them.

16. In this letter the Magistrate observes, that the statement contained in the proceedings of the Court of Tongdaree Udalut, under date 27th January 1820, of the rules under which the testimony of approvers is received in England," appears to have "originated in some mistake both as to "the law and practice of England:"- that "no parole evidence even of an accomplice "can be received in England except under "oath, and it will be found to be the invariable "practice of justices of the Peace both in "this Country and in England, to swear all accomplices

"accomplices admitted by them as King's evidence,
"before their testimony is taken."—

17. In their circular orders of 27th January 1820 the Court merely adverted to the practice of the English Courts in illustration of orders, issued by them for the guidance of the several officers to whom they were communicated:— whether the practice in question was or was not correctly described, the duty of the subordinate officers constituted in a respectful obedience to those orders.—

18. The Magistrate in his attempt to shew the discordance between the practice of the English Courts, and that attributed to them by the Court of Foujdaree Adalut gravely informs the Court, that no parole evidence can be received in England except under oath, and he afterwards remarks that "the "admission of any evidence whatever, even by "an accomplice against any prisoner, except "under the solemn sanction of an oath, is con- "-trary to the express enactments of the Code of "Regulations and to every established principle "of general Law."—

Upon this passage and that which immediately follows it, the Court of Foujdaree Adalut have

have to remark, that as no part of their orders of 27th January 1820 directed the evidence of an accomplice to be taken without Oath, the Magistrate's emphatic deprecation of such a proceeding is wholly gratuitous; while it will require better authority, than this officer's affirmation to convince the Court, that the practice in England as to the cases "of approvers" is or has been other than that therein described.

20. The Court trust, for the Magistrate's own sake, that no instance will occur of his acting inconsistently with their orders of 27th January 1820, whenever they may accede to an application from him under the provisions of Section XX Regulation VIII of 1802; but as that which has appeared to be clear to every other officer under the jurisdiction of the Court would seem to be misunderstood by the Magistrate,— the Court consider it proper to explain to him, that a person to whom an offer of a conditional pardon may be tendered by a Magistrate, under the provisions of the above Section, is to be examined by that officer as an informer not as a witness,— with a view to the discovery and apprehension of the principal or several of the persons by whom a crime may have been committed, or for the discovery of facts and circumstances, which

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which may assist in their conviction, - and that it is only before the Court competent to try cases of the nature described in that Section, that the "evidence" of such accomplice is taken. -

21. The Magistrate takes occasion to state, "that the infringement which has taken "place in our provincial Courts, upon the law "and practice of England in regard to evidence "by accomplices, consists not in taking their "evidence upon oath, but in issuing pardons "to them, before their final evidence has been "given - In England, no such previous pardon "is issued; the admission of an accomplice as "King's evidence by a Justice of the Peace does "not bind the Superior Courts and his admission "by both amounts not to pardon, but to a "mere promise of recommendation to mercy."-

22. In this passage is exhibited another instance of the Magistrate's utter ignorance of the subject, which he has taken it upon him to discuss. No pardon has ever yet been issued to an accomplice by the Courts under this Presidency "before their final "evidence has been given." - The pardon never issues from the Court of Foujdaree Adalut, until the receipt of a report from the Judge

F.H.

13th August 1821.

Judge of Circuit, that the conditions on which an offer of pardon was made to the accomplice have been fulfilled, in other words, until his final evidence has been given - Justices of the Peace have in fact no authority to admit "an accom "=plice as King's evidence," which the Magistrate might have discovered in the note in Blackstone page 331, from which most of his remarks appear to have been taken, - and the other observations of Mr. Professor Christian in the same place might have had the effect of convincing the Magistrate of the irrelevancy of his whole line of Argument to the question which he professed to discuss, the practice in England, as to "King's evidence," - and that established by the Regulations, as to the evidence of accomplices, being wholly dissimilar. -

23. The foregoing observations appear to the Court to be sufficient to shew, that the proceeding, enjoined by the Court in their circular orders of 27th January 820, does not, as asserted by the Magistrate, "involve a very "dangerous breach of two great and leading "principles in the general law of evidence. "Viz. 1st. that all parole evidence not upon "oath is invalid, and 2dly. that the confession "of one party cannot affect any but himself,

though

to conform to the rules th

13th August 1821.

"though his evidence upon oath may affect others
"implicated in the crime;" and with respect to
the remark of this officer, that the evidence of
an accomplice "if he is believed forms the best
"of all testimony," the Court of Foujdaree Adalut
are constrained to observe, that under this
supposition it will be difficult to account
for the exceptions taken by writers on the
law of evidence to the "credit" of witnesses so
situated; and that "the great and leading
principle," which the Magistrate intended to
quote, probably was, that "a man is the best
"possible witness against himself;" a principle
very different from that, to which those
epithets have been applied by this Officer.-

24. The Magistrate's letter concludes
with the following passage: "The Magistrate
"earnestly trusts, that this return will be received
"as written with no other desire than to promote
"the ends of Justice; if he has been obliged to
"question in any respect the decision of the superior
"Courts, he has endeavoured to do it with that
"consideration which is due to a superior tribunal;
"but at the same time with the candour requisite
"for a clear explanation of his own views."-

25. As the instructions of the Court
of Foujdaree Adalut, under date 24th January 1820, and

13th August 1821 and 4th May last were communicated to the
Magistrate for his information and future
guidance, and not in the form of a precept,
directing any act to be performed, no "return"
was required.-

26 The act of the Magistrate in
addressing the Court was wholly uncalled for,
and the Court regret to observe, that not only
is there no justification of this intrusion of
his sentiments to be found, either in the strength
or relevancy of his arguments,- but the
Magistrate would appear in several
passages of his letters to have entirely over-
looked the subordinate situation, which
he holds in reference to the authority, which
he was addressing.-

27. The Court of Foujdaree Adalut
desire, that the Magistrate will understand
that his attempt to dictate to the Court the
style in which their orders should be worded,
and his flippant and dogmatical comments
upon their instructions are considered to be
most unwarrantable, and altogether irrecon-
cilable with that respect which it behoves
him to manifest, at all times, towards a
superior Court, and of which his professions
are

are themselves disrespectful.-

28. The Court of Foujdaree Udalut being unwilling to resort, in any case, except where it may be necessary for the maintenance of their authority, to an application for the interposition of Government, and hoping that the Magistrate will see the impropriety of his conduct, and that an admonition from them will be a sufficient correction for his fault,- do direct that the Magistrate be advised of his fault, and admonished accordingly.-

29. And, in issuing their final orders on this subject, the Court, adverting to the numerous references which have been made by the Magistrate deem it proper to enjoin him in future to abstain from the intrusion of his opinions, regarding any orders which he may receive from them, or any address to the Court on such occasions, except where the meaning of the orders issued to him may appear doubtful.-

30. The Magistrate is also enjoined to consider the present orders upon his communications of 13th and 18th June as final, and that no reply will be admitted.-

Ordered

5/ F.M. 13th August 1821.

31. 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 in the Zilla of Bellary for his information and guidance.-

32. Return to the precept to be made within three days from and after its receipt.-

Sent following Precept No. 271

W.H.

C.H. F.M.

Read return dated 1st Instant from the Judges of the Provincial Court of Circuit in the Western Division, to precept dated 25th Ultimo ordering communication to the Judge on Circuit of the Courts orders relative to the form of warrant for execution of persons sentenced by the Foujdaree Udalut to capital punishment &c.-

Here enter No. 517.

Read letter dated 2d Instant from the 1st Judge late on Circuit in the Western Division, with returned warrant for execution of prisoner in case No. 4 South Malabar Calendar 1st Sessions A.D. 1821.-

Here enter No. 518.

Read return dated 3d Instant from the Provincial Court of Circuit in the Southern Division, to precept dated 17th Ultimo ordering communication to the Judge on

13th August 1821. on Circuit of the Courts orders relative to the Notice to be given when a Judge may be unable to commence or complete the Circuit.-

Here enter No. 521.-

Read return dated 3d. Instant from the Provincial Court of Circuit in the Southern Division, to precept dated 13th Ultimo ordering communication to the Magistrates within their jurisdictions of the Courts instructions relative to the particulars to be inserted in their half yearly statement of crimes and punishments.-

Here enter No. 523.-

Read return dated 3d. Instant from the Provincial Court of Circuit in the Southern Division, to precept dated 25th Ultimo ordering communication to the Judge on Circuit of the Courts orders relative to warrants for execution.-

Here enter No. 524.-

Read letter dated 8th Instant from the 1st Judge of the Court of Circuit in the Southern Division, submitting copy of Trichinopoly Calendar 3d. Quarterly Sessions A.D. 1821.-

Here enter No. 527

Read return dated 30th Ultimo from the Provincial Court of Circuit in the Centre Division, to precept dated 25th Ultimo ordering communication to the Judge on Circuit of the Courts orders respecting the form of warrant

13th August 1821. warrant for execution.-

Here enter No. 528.-

Read return dated 4th Instant from the Judges of the Provincial Court of Circuit in the Northern Division, to precept dated 19th Ultimo ordering communication to the Judge in the Zilla of Nellore of the Courts orders as to the disposal of the property in Case No. 12 Nellore Calendar 1st Sessions A.D. 1821.-

Here enter No. 530.-

Read Return dated 3d. Instant from the Provincial Court of Circuit in the Southern Division, to precept dated 17th Ultimo ordering them to require from the Magistrate in the Zilla of Madura an explanation of the nature of the instructions issued by him to the Government Vakeel on cases sent to the Criminal Judge.-

/Here enter No. 525/

13th August 1821.

At a Court of the Foujdaree Adalut

Present

Tuesday 14th August 1821. Charles Harris Esqre. ... Puisne Judge

Peter Cherry Esqre. ... Acting Judge

C. H.
P. C.

Read letter, dated 8th March last from the 1st Judge late on Circuit in the Northern Division, submitting under the Court's orders of 26th October last the proceedings held by him in Cases No. 1 and 31 Rajahmundry Calendar 2nd Sessions AD 1820.

(Here enter No. 202)

The Court having maturely considered the proceedings held in Case No. 1 before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Acting Cazee-ool Coozat and Mooftees of the Foujdaree Adalut are of opinion that the proof against the prisoners,

7th "Ausapoo Dhurmiah,"
18th "Cautevady Seetanah,"
19th "Davarah Nurgasha," and
26th "Angadala Dorapah,"

is sufficient to convict them of the offence of Gang Robbery and wounding for which a penalty is specially denounced in Clause second Section IV Regulation XV of 1803.

Appearing on reference to the Rajahmundry Calendar

Calendar for the 2d Sessions of 1820 that the 7th prisoner was adjudged to receive two Dozen stripes and then to be released, no sentence can now be passed upon him. but the Court under the authority vested in them by Clause first Section II Regulation I of 1818 adjudge the prisoners,

18th "Cantenady Seetanah,"
19th "Dwarah Naugadha," and
20th "Augadala Dorapah,"

to be imprisoned and transported to such place or places as the Governor in Council shall appoint 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 their natural lives respectively –

And under the provisions of Clause Sixth Section II Regulation XV of 1803 it appearing that the 4th and 13th prisoners have also been released the Court direct that the prisoners,

1st "Ausapoo Loorapah,"
3d "Cuncherla Jautiah,"
5th "Mauroory Banjaniah,"
6th "Caukarla Goorvapah,"
8th "Enoomurty Ummanah,"
9th "Enoomurty Chinniah,"
11th "Caukarla Daulaboo,"
12th "Ausapoo Pullaloo,"
14th "Angadawla Soobanah,"
15th "Wootakoory Mulloo,"
16th "Enoomurty Paradeshy,"
17th "Dwarah Banjanah,"
21st "Mottamurry Caumadetty,"
22d "Nausum Chelmah,"
23d "Buttoola Venkadoo," and
24th "Sack Ghausy,"

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

/Sent following letter No 272./

The Court having maturely considered the proceedings held in Case No 31 before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the acting Cazee-ool Coozat and Mooftees of the Foujdaree Adalut are of opinion that the proof against the prisoners,

1st "Moortha Ramachendroodoo,"
2d "Goodemuttah Pudmahnaboodoo,"
3d "Causagaumy Venkata Chellum,"
4th "Causagaumy Tripetty,"
6th "Pundery Mahadamoodoo,"
7th "Gonnala Bauloo,"
8th "Tandeshetty Pullaloo,"
9th "Goodoory Parrauze,"
10th "Cocherlapauty Kristnamarauze,"
11th "Gottamookala Tripettyrauze,"
12th "Yarkarauze Venkatarauze," and
14th "Gottamookala Narsarauze,"

is sufficient to convict them of the offence of Gang robbery for which a penalty is specially denounced in clause third Section IV Regulation XV of 1803.

The Court under the authority vested in

13th

14th August 1821.

in them by clause first Section II. Regulation I of 1818 accordingly adjudge the said prisoners,

1st "Moortta Ramachendroodoo"
2d "Goodemutlah Pudmahnaboodoo"
3d "Causagauny Venkata Chellum"
4th "Causagauny Tripetty"
6th "Pundery Mahadamoodoo"
7th "Gonnalah Baulo"
8th "Sauderhetty Pullalo"
9th "Goodoory Parrauze"
10th "Coocherlapauty Kristnamarauze"
11th "Gottamookala Tripettyrauze"
12th "Yarkarauze Venkatarauze" and
14th "Gottamookala Narsarauze"

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

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

5th "Salandy Lungum" and
15th "Goontoory Narsarauze"

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

Sent 18th

(Sent following letter No 273.)

W.H.

Read letter dated 27th April last, from the 1st Judge of the Court of Circuit in the Northern

(2)

JH.

14th August 1821.

Northern Division,— submitting Case No 9 Masulipatam Calendar 1st Quarterly Sessions AD 1821.

(Here enter No 303)

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

"Chaukala Ramdoo"

direct that he be set at liberty.—

(Sent following letter No 274)

Sent 17th

Read letter, dated 11th May last, from the 3rd Judge on Circuit in the Southern Division,— submitting Case No 5 Madura Calendar 1st Sessions AD 1821.—

(Here enter No 325)

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 acting Cazee-ool-Coozat and

14th. August 1821.

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

Angaiah Chetty

direct that he be set at liberty.—

Sent 17th

/Sent following letter No 275/

W H.

J U

At a Court of the Foujdaree Adalut

Present

Wednesday 15th August 1821.

Charles Harris Esqre. . . . . Puisne Judge

Peter Cherry Esqre. . . . . Acting Judge

Read letter, dated 10th. instant, from the Secretary to Government in the Judicial De-partment,- stating that the Governor in Council sanctions the offer of a conditional pardon to Deyoo referred to in the Court's proceedings of 3rd Instant.

C H

H

/Here enter No. 537/

Ordered, that copy of the fore-going letter be sent, with extract from the Court's proceedings of the 3rd. Instant, for the information and guidance of the Criminal Judge in the Zilla of Canara.—

Sent 15.

W H. /Sent following letter No 276./

The Report prescribed by Section XXXV Regulation X of 1816 not having 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 despatched in conformity with the provisions of Section XXXV Regulation

15th August 1821

Regulation X of 1816.-

Return to the said precept to be made within five days from the date of its receipt.-

Sent following Precept No 277.

F. U.

At a Court of the Foujdaree Udalut

Present

Thursday 16th August 1821 — Charles Harris Esqre Chief Judge

Peter Cherry Esqre Acting Judge

Read letter dated 26th Ultimo, from the 3d Judge on Circuit in the Northern Division, with the copy of Nellore Calendar 2d Sessions A. D. 1821.-

(Here enter No 472)

1 In case No 1 of the above Calendar it is stated that the 1st and 2d prisoners were declared by the futwa "liable to Hud" and that they were sentenced each to five "years imprisonment" and in case No 7 the prisoner is stated to have been declared "liable to Hud" and sentenced to "three "years imprisonment."-

2 The sentences passed in these two cases being contrary to the provisions of Section XXI Regulation VII of 1802, the Court of Foujdaree Udalut deem it necessary to have before them the records of the proceedings, which have been held therein.-

3 It is ordered therefore that

exhact

extract of this proceedings be sent to the 2d Judge on Circuit in the Northern Division by precept commanding him to send up English and Persian translations of the proceedings held before him in Cases Nos 1 & 7 of the Nellore Calendar 2d Sessions A.D. 1821 within two months from the date of the receipt of the precept.—

Sent following Precept No 280

Read letter dated 30th Ultimo from the 2d Judge of the Court of Circuit in the Western Division, submitting copy of North Malabar Calendar 2d Quarterly Sessions of 1821.—

Here enter No. 511.

The record of the Proceedings held by the Second Judge in Case No 1 North Malabar Calendar, which according to the remark entered in the foregoing Calendar is to be referred to the Sunjaore Adalut, not having been received.—

2 The Court direct, that the Second Judge of the Court of Circuit in the Western Division be by precept commanded to send up the Record of the proceedings held by him in the case aforesaid within 5 days from the date of the receipt of the precept.— and that he be required to state the reason of his delay in transmitting the Calendar for the 2d Quarterly Sessions, which closed on 25th May last.—

Sent following Precept No 281

Read letter dated 7th Instant from the 2d Judge on Circuit in the Southern Division,— Reporting his arrival at Salem

Here enter No. 534.—

Read return dated 6th Instant from the Provincial Court of Circuit in the Centre Division,— to precept dated 1st Instant ordering communication to the several Criminal Judges of the Court's instructions relative to the mode of proceeding on charges of perjury.—

Here enter No. 535

Read letter dated 6th Instant from the 2d Judge of the Court of Circuit in the Western Division, With returned warrant for execution of prisoner in Case No 34 South Malabar Calendar 2d Sessions A.D. 1820.—

Here enter No 536.

Read return dated 9th Instant from the Provincial Court of Circuit in the Northern Division,— to precept dated 25th ult. ordering communication to the Judge on Circuit of the Court's orders relative to form of warrant for execution.—

Here enter No. 538

Read

13th August 1821

16th August 1821.

Read letter dated 8th Instant from the 1st Judge late on Circuit in the Western Division, with returned warrant for execution of prisoners in Case No. 21 South Malabar Calendar 1st Sessions A.D. 1821.-

Here enter No. 539.

F 11

At a Court of the Fouzdaree Udalut

Present

Monday 20th August 1821. Charles Harris Esqre. . . Puisne Judge

Peter Cherry Esqre. . . . Acting Judge

Co: Hs M

Read letter dated 13th instant, from the Magistrate of Malabar, requesting authority to tender a conditional pardon to one Kurripaly Parangoden for diverse offences.-

Here enter No. 555

The Magistrate applies in the foregoing letter for permission to make to the individual thereon mentioned "an offer of pardon on the "conditions specified in Section XX Regulation VIII of "1802 of all guilt which may have been incurred by him "in the murder of Koondoor Koonjoo Nair, and Robbery "and Arson committed in his House, on the 16th February "1820, and in the Robbery of Abdool Hader and Sheikh "Mookumed of certain Bales of Cloth committed on the "26th November 1819 and other offences (except murder) "in which he may have been concerned merely as an "accessory."-

2 The offer of pardon, contemplated in Section XX Regulation VIII of 1802, must be limited to the particular case in which the evidence of any of

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of the supposed accessaries may be considered to be ne=
=cessary in order to the apprehension or conviction of the
principal offender or offenders, and cannot be held
to exempt the parties from amenability to the Courts
of justice for any other act or acts in which they may
have been concerned.—

3 The Court direct that extract of
these proceedings be sent to the Magistrate of Malabar
for his information and guidance.—

Ent 21st

/Sent following letter No 283/

Read letter, dated 26th June last from
the 1st Judge on Circuit in the Western Division, submit=
=ting case No. 25 South Malabar Calendar 1st Sessions
AD 1821.—

(Here enter No. 402)

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 Acting Cazee=ool=Coozat and Mooftees of the
Foujdaree Adalut confirm the said futwa of the Acting
Cazee=ool=Coozat and Mooftees aforesaid and under the
provisions of clause second Section IV Regulation XV
of 1803 adjudge the prisoners,

1st Rekan Chattoo Illichataroo Nair,
2nd Koonanatoo Candoo Nair,

3rd

3rd Pootenmittil Illychataroo Nair,
4th Pareangattoo Ram Pannikar, and
5th Cadoopatten Coyacolly Navoo,

to be imprisoned and transported to such place or
places beyond sea as the Governor in Council shall
appoint, there to be imprisoned and kept to hard labor
in irons on the public roads or other public works
for the period of their natural lives respectively.—

Ent 22d

/Sent following letter No 284/

Read letter, dated 14th May last,
from the 1st Judge on Circuit in the Western Division
submitting Case No. 8 South Malabar Calendar
1st Sessions AD 1821.—

/Here enter No. 334/

The Acting Cazee=ool=Coozat and
Mooftees of the Foujdaree Adalut declare in the
foregoing futwa that the prisoner is convicted
on strong presumption of the crime of murder
laid to his charge—The Court therefore concurring
in the opinion declared in the futwa, resolve under
the provisions of clause third Section II Regula=
=tion XV of 1803 to call upon their Law Officers
to declare by a second futwa to what specific pu=
=nishment the prisoner would have been liable
under the Mohummudan Law if he had been
convicted

convicted by full legal evidence.—

Ordered that extract of these proceedings be translated and delivered to the acting Cazee-ool-Coozat and Mooftees of the Fouzdaree Udalut.—

Read letter, dated the 13th June last from the acting 3rd Judge on Circuit in the Centre Division,—submitting Case No. 9 Bellary Calendar for Sessions AD 1821.—

(Here enter No. 383)

As the Law Officers have declared in their futwa on the foregoing case that the prisoner is convicted of the crime laid to his charge, but that as there is reason to suppose that the matter was compromised between the parties, he should be set at liberty,—the Court resolve, under Section XXVII Regulation IX of 1816, which declares that "in crimes "of a heinous nature, such as on conviction may require "exemplary punishment for ends of public justice no "private compromise shall be admitted by the Magistrate," to require the Law Officers to declare by a second futwa to what punishment the prisoner would have been liable under the Mohummudan law, supposing no compromise to have taken place.—

Ordered

F.H.

20th August 1821

Ordered that extract of these proceedings be translated and delivered to the acting Cazee-ool-Coozat and Mooftees of the Fouzdaree Udalut.

20

At a Court of the Zoujdaree Udalut

Present

Tuesday 21st August 1821

Charles Harris Esqre ... Puisne Judge

Peter Cherry Esqre ... Acting Judge

Read again letter, dated 14th May last,

C. H. P. C. from the 1st Judge on Circuit in the Western Division, - submitting Case No 8 South Malabar Calendar 1st Sessions AD 1821 -

/ Here enter No 334 /

Read the second futwa delivered in this Case by the acting Cazee-ool-Coozat and Mooftees of the Zoujdaree Udalut -

The Court having maturely con-sidered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Of-ficer and the futwa of the acting Cazee-ool-Coozat and Mooftees of the Zoujdaree Udalut confirm the said futwa of the acting Cazee-ool-Coozat and Mooftees aforesaid and under the latitude given by the sentence of Pokoolut adjudge the prisoner,

Edacodal Callady Ramen,

to

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

Sent 22

(Sent following letter No 285)

Read again letter, dated 13th June last, from the acting Third Judge on Circuit in the Centre Division,— submitting case No 9 Bellary Calendar 1st Sessions AD 1821.—

(Here enter No. 383)

Read the second futwa delivered in this case by the acting Cazee-ool-Coozat and Mooftees of the Zuy Adawlut.—

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 acting Cazee-ool-Coozat and Mooftees of the Zuy Adawlut confirm the said futwa of the acting Cazee-ool-Coozat and Mooftees aforesaid and under the provisions of Clause second Section XXXIX Regulation VII of 1802 adjudge the prisoner,

Penoogaroo,

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

Sent 23d

N. B. (Sent following letter No 286)

Read return dated 10th Instant from the Judges of the Provincial Court of Circuit in the Western Division,— to precept dated 7th Instant ordering communication to the Criminal Judges and Magistrates of the Court's orders relative to commitments for perjury.—

Here enter No. 547

Read return dated 16th Instant from the 3d Judge late on Circuit in the Southern Division,— to precept dated 30th ultimo ordering communication to the Acting Criminal Judge and the Magistrate in the Zilla of Salem of the Courts orders on certain parts of his late Circuit Report.—

Here enter No. 554

Read return dated 18th Instant from the Criminal Judge in the Zilla of Chittoor,— to precept dated 15th Instant calling for report prescribed by section XXXV Regulation X of 1816.—

Here enter No. 560

Read return dated 10th Instant from the Provincial Court of Circuit in the Centre Division,— to precept dated 2d Instant ordering communication to the Criminal Judges of the Court's orders relative to the precautions to be observed in inflicting corporal punishment.—

Here enter No. 562

Read return dated 18th Instant from the Provincial Court of Circuit in the Centre Division,— to precept dated 13th Instant ordering communication to the Magistrate of Bellary of the Court's observations on his letters dated 13th and 18th June.—

Here enter No. 564

Read

At a Court of the Zoujdaree Adalut.

Present.

Thursday 23d. August 1821. Charles Harris Esqre. Puisne Judge.
Peter Cherry Esqre. Acting Judge.

Read again letter dated 27th. April last, from the 1st. Judge presiding at the Court of 1st. Quarterly Sessions, submitting case No. 9 Masulipatam Calendar 1st. Quarterly Sessions A.D. 1821.

C. H.
P. C.

(Here enter No. 303)

Para. 1st. It appears from the record of proceedings in his case, that the prisoner, Chakala Ramdoo, was sent by the Assistant Magistrate to the Criminal Court with the following charge.

2d. "The prisoner is charged with "wilful perjury in deliberately and falsely de- "posing on Oath before the Criminal Judge of "the Zilla of Masulipatam, on the 21st. day of "November last that on the 2d. Day of his "examination viz. the 10th. of November 1820, "before Mr. Morris the Assistant Magistrate "at Ellore respecting a charge of conspiracy "against Poto. Moshoondaram, and others, he "had told the Gentleman that his deposition "of the previous day was all false, whereas "the truth in the fact was that on his the said prisoner's

it would be impossible to prove with regard to the whole of the 1st deposition that it was true, and consequently with regard to the contradictory declaration that it was false, does not clearly appear, all that was requisite being to select from the whole of that deposition an averment material to the issue of the case before him, and to prove its falsehood.-

8th And here the Court of Faujdaree Adalut have to observe, that no ground is discoverable in the record of this case for the prisoner's having been brought before the Criminal Judge on a charge of Perjury by the assistant Magistrate.-

9th The Court before which a perjury may be utter is the proper authority to commit, if such power be vested in the Court, or to direct the commitment of the offender for trial.- nor can the provision contained in Section VIII Regulation X. of 1816, which define the competency of the Criminal Judge to take cognizance of each Criminal charge or information only as may be brought before him by a Magistrate or some Police Officer,- be held to restrict the Criminal Judge from making commitment in

in any case of perjury which may arise out of such charges or informations so brought before him.-

10th The course of proceeding proper to be adopted by the Assistant Criminal Judge in this Case was most obvious, and with the Court's instructions of 8th January 1814 and 8th January 1820 before him, the Court of Faujdaree Adalut cannot account for his having deviated therefrom.-

11th The prisoner appeared by the Magistrate's proceedings to have sworn, that he brought a letter from Pottoory Mookoonda=ramdoo to Nunnay Guneynadoo, a fact mate=rial to the issue of a case of conspiracy under investigation by that Officer.-

12th Before the Assistant Criminal Judge the prisoner swore, that he did not bring such letter as aforesaid; and two other witnesses in the case swore that he did.-

13th Here was a complete prima facie case of Perjury, the Assistant Criminal Judge could have had no ground for the difficulty, which he states himself to have found, in determining which of the deposition was true and which false, and had he charged the prisoner, in the mode prescribed by the Court's orders of 31st January 1820, nothing but the

registration

23d. August 1821.

it would be impossible to proue with regard to the whole of the 1st. deposition that it was true, and consequently with regard to the contradictory declaration that it was false, does not clearly appiear, all that was requisite being to select from the whole of that deposition an averment material to the issue of the case before him, and to proue its falsehood.-

8th. And here the Court of Foujdaree Adalut have to observe, that no ground is discoverable in the Record of this case for the prisoner's having been brought before the Criminal Judge on a charge of Perjury by the Assistant Magistrate.-

9th. The Court before which such a perjury may be utter is the proper authority to commit, if such power be vested in the Court, or to direct the commitment of the offender for trial- nor can the provision contained in Section VIII Regulation X. of 1816, which define the competency of the Criminal Judge to take cognizance of such Criminal charge or information only, as may be brought before him by a Magistrate or some Police Officer,- be held to restrict the Criminal Judge from making commitment in

2/ F. A.

23d. August 1821.

in any case of perjury which may arise out of such charges or informations so brought before him.-

10th. The course of proceeding proper to be adopted by the Assistant Criminal Judge in this Case was most obvious, and with the Court's instructions of 8th. January 1814 and 31st. January 1820 before him, the Court of Foujdaree Adalut cannot, account for his having deviated therefrom.-

11th. The prisoner appeared by the Magistrate's proceedings to have sworn, that he brought a letter from Pottoory Moohoonda=randoo to Annay Guneynadoo, a fact mate=rial to the issue of a case of conspiracy under investigation by that Officer.-

12th. Before the Assistant Criminal Judge the prisoner swore, that he did not bring such letter as aforesaid; and two other witnesses in the case swore that he did.-

13th. Here was a complete prima facie case of Perjury, the Assistant Criminal Judge could have had no ground for the difficulty, which he states himself to have found, in determining which of the depositions was true and which false, and had he charged the prisoner, in the mode prescribed by the Court's orders of 31st. January 820, nothing but the

transversation

tuguiversation or prevarication of the witness could have prevented his conviction.-

14th By the record of the Criminal Judge's proceedings his deposition would have been proved, and by the testimony of these witnesses its falsehood established.-

15th When the prisoner was brought before the Court of Quarterly Sessions a third form of arraignment was adopted, and he was called upon to plead to the following charge.-

16th "You the prisoner Chabala Ramdo, "are charged by Government with wilfull "perjury in deliberately and falsely deposing "on oath on the 18th day of November 1820, at "Ellore, that you have brought a letter from "Pothoory Moohoondaramdoo and given it to "one named Annay Gungeneedoo; and on 21st "day of November 1820 at Masulipatam "that you did not bring any letter as above "stated."-

17th The form of arraignment adopted by the Court of Circuit being in some respects different from that of the indictment framed by the Assistant Criminal Judge, the Court of Foujdaree Adalut conclude, that it was drawn by direction of the 1st Judge Presiding at

at the trial; but whether such be the case or not, the adoption of this form by the 1st Judge was a direct violation of the orders of the Court, under date 31st January 1820.-

18th According to the common rules of construction this arraignment must be interpreted as charging the prisoner with falsehood, both when he swore that he did bring a letter, and when he swore that he did not bring a letter. But as the second deposition, viz that alleged to have been given by the prisoner on the 21st of November 1820, at Masulipatam was not produced on the trial, it must be inferred that the 1st Judge intended to assign the perjury on the deposition given by the prisoner on the 18th day of November 1820 at Ellore, in which he is stated to have sworn that he brought a letter from Pothoory Moohoondaramdoo, and gave it to one named Annay Gungeneedoo. It is impossible otherwise to account for the absence of all evidence on the trial to the fact of the prisoner's having given the deposition abovementioned to the Criminal Judge.-

19th The arraignment, however, is open to other material objections. It contains no mention of the judicial proceeding on which, or of the Court before which the prisoner

appeared

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appeared as a witness. There is no recital of the fact to be proved in opposition to the evidence given by the prisoner; nor is it shewn how that evidence was material to the issue of any suit or trial,- all which particulars were, by the orders abovementioned, directed to be included in indictments for perjury,- and the attention of the 1st Judge was particularly called to their importance in an extract of the proceedings of the Court of Foujdaree Udalut under date 29th December 1817, communicated to the 1st Judge "for his information and future guidance."

2d. The informality and defectiveness of the arraignment, however, form but a small part of the tissue of anomalies, which is exhibited by the proceedings held on this case.-

3d. It appears, that when the 1st Judge adopted a charge against the prisoner of having falsely sworn, that "he had brought a letter from Pottony Mookoondaramdoo "and given it to one Annay Gungaey Dos" all the evidence recorded on the proceedings of the Criminal Judge went to shew, that the prisoner had brought such a letter:- so that supposing the case against the prisoner to have amounted to perjury, according to the

23d August 1821.

strict and legal definition thereof, the charge should have been reversed, in order to the establishment of this offence against him by the evidence brought forward on behalf of the prosecution.-

2d. The same inconsistency, which distinguished the commencement, marks the progress of these proceedings: of the five witnesses examined before the Court of Circuit, the first deposed to the truth of the prisoner's statement before the Magistrate,- agreeably to what the same witness deposed before the Assistant Criminal Judge.- The 2d witness contradicts all that he had before deposed, and declares that he had sworn falsely before the Criminal Judge, at the instigation of one Jandeconda Sashiah; and the remaining three witnesses merely prove the prisoner's deposition before the Magistrate- and yet the prisoner was called upon for his defence.-

3d. The Court of Foujdaree Adawlut deem it to be proper to notice, in this place, certain questions proposed by the 1st Judge to the witnesses in this case, which are objectionable, as having no relation to the matter averred in the arraignment, to which the evidence taken on a Criminal trial should be confined; or which were calculated to suggest a particular

answer

answer, or to draw from the witness evidence merely hearsay and consequently of no validity in law; - such are the following:-

To the 1st witness.

"After you perused the contents of the said note what did you think of it, that "it was intended to be kept secret or otherwise."

"Did you at any time return to anna "Gungeneydoo aboad which had been made by "him in your name?"

To the 2d witness.

"Do you know whether Mandahoarty "Ramanoojacharloo has been advised by any "one to give his evidence against the prisoner "in this case?"

"Do you know that Tandeeandy Sathiah "told this prisoner to state that he brought a "letter from Pottoory Moohoondaramiah, or did "you hear so from any body."

To the 3d witness, after certain introductory matter is proposed a question in the following form - "Does it not appear to you likely that "a person that had brought a letter should "have stated so in his first narrative?"

24th.

To this question there lies not only the general objection, that the opinion of the witness as to the likelihood of such an occurrence

as is therein hypothetically propounded, could not be material to the issue, but that it had an obvious tendency to suggest a particular answer, an impropriety which was pointedly brought to the notice of the 1st Judge by the Court of Foujdaree Adaulut in their proceedings dated 8th October 1817.-

25th

With respect indeed to many of the questions and the whole line of examination adopted by the 1st Judge it would appear, that there was some other object in view than the trial of the charge before him, - as the Court will have occasion to notice in the sequel.-

26th

The other observations, which the Court have to make on the record of the proceedings held in this case, are that the 1st Judge was most undoubtedly competent and bound by the Regulations to cancel the warrant which he had issued for the prisoner's detention in custody, as soon as he found, that this order had been given in consequence of his not understanding the meaning of the Futwa:- that the frequent postponements of the examinations of the witnesses from day to day were highly irregular and improper, and that it was incumbent on the 1st Judge to notice

23d August 1821.

notice and correct the omission of the Criminal Judge to ask the prisoner, on his committment, whether he wished that any witnesses should be summoned on his behalf;- and to obtain an explanation of the circumstances of the prisoner's being described before the Assistant Magistrate, Criminal Judge, and Court of Circuit, successively, by the different names of Polakonda, Rajah=mundry, and Chakala Ramdoo, and of the different ages of 30, and 40 years.-

27th In the letter accompanying the trial the 1st Judge states, that the prisoner in this case "was charged at the suit of Government "with wilful Perjury in having deposed before "the Criminal Judge, on 2d November 1820, that "he had not brought a letter from Potoor or "Mookoondaramiah to Annay Gungeydoo; "whereas he had previously deposed before the "2d Assistant Magistrate on 10th November 1820 "that he had brought such a letter:- And in the next paragraph of his letter the 1st Judge states, that "from the evidence given before "the Court of Circuit by those who had attested "the depositions of the prisoner before the 2d "Assistant Magistrate, and the Criminal Judge, "it is sufficiently established, that he declared "before the first of these authorities, that he "brought

4/ F. 11.

23d August 1821. "brought a letter, and on his examination by the "latter that he did not bring one".-

28th The Court of Foujdarry Adalut have remarked above, that the deposition averred in the arraignment to have been given by the prisoner before the Criminal Judge was not produced before the Court of Circuit. The Court have searched the record in vain for the evidence of the attesting witnesses to this deposition, which is here referred to by the 1st Judge- No such evidence was, or indeed could have been "given before the Court of Circuit," as the deposition was not attested by witnesses. Nor can the Court find in the record any such charge as that, on which the 1st Judge represents, that the prisoner was tried before him.-

29. The Court know of no way to account for these unparelleled incongruities than by the supposition, that the 1st Judge, when writing the letter which is intended, as prescribed by Clause first Section XLI Regulation VIII. of 1802, to contain his "opinion "on the evidence and on the guilt or innocence "of the prisoner," had forgotten both the charge and the evidence in the case.- The proceedings appear to have been closed on 20th March, and the letter is dated 27th April.-

4

38th

It remains for the Court of Fouzdaree Udalut briefly to notice the matter set forth in the rest of the 1st Judge's letter, which contains a charge against the late Magistrate of Masulipatam of "a violation of the right of property," and "an undue and oppressive exercise of the powers of the Magistracy;" - and concludes with a recommendation that a person named Tandeeondah Sashiah "should be prosecuted at the suit of Government for subornation of Perjury."-

39th

After the various instances of this in the present case of proceedings on the part of the 1st Judge at variance with the most obvious rules of Judicial investigation, the Court are not surprized to find, that the charge which he prefers against the Magistrate rests upon the testimony of the 2d witness in this case, who as above noticed has declared himself to have committed Perjury;- and upon what is stated to be another fact that was recorded in Trial No 12, in the Calendar of Prisoners discharged by the Criminal Judge of Masulipatam for the 1st Sessions of the current year:- which "fact" would appear, from the letter of the 1st Judge to the Magistrate, to be the assistant's Magistrate's examining one Boyanapilly Appiah, as to the mode in which a certain paper found in

in his trunk had come into his possession.-

37th

The case alluded to by the 1st Judge not being before the Court, it is not in their power to judge how far the act imputed to the Magistrate of "converting a writing taken "from the private papers of an Individual "into the means of a criminal prosecution "against him", is or is not established.- The Court, however, do not recognize in such an act, circumstanced as the case is represented by the Magistrate to have been, any "violation of "the right of property or oppressive exercise "of power." And with respect to all that is urged by the 1st Judge on the statement of "the deponent Baswaraiuze Ramiah," the Court of Foujdaree Adalut will only observe, that they know of no process for redemption of the credit of a man, who has sworn himself perjured, and cannot therefore follow the 1st Judge in any remarks, founded on testimony so infamous.-

38th

With regard to the recommendation of the 1st Judge, that Tandeeondah Sashiah should be prosecuted at the suit of Government for subornation of Perjury, provided "the evidence "of Baswaraiuze Ramiah and Chakala Ramdo "may be deemed admissible in support of the "charge"

"charge"- it must be observed, that the 1st Judge would seem to overlook the circumstance that the commission of a Perjury must be established in order to a conviction of subornation of Perjury, that in the supposed such a prosecution as that contemplated by the 1st Judge, the two persons here referred to must of necessity be parties, and their conviction of Perjury must take place, in order to the conviction of the Party charged with subborning them.-

3rdly.

But had not this insurmountable bar opposed the course of proceeding recommended by the 1st Judge, the Court of Fouydaree Adalut could not concur with him in the justice or decency of calling on a man to answer even the most trivial charge, far less that of a crime so highly penal and disgraceful, on the allegations of men, who by their own showing are undeserving of the slightest credit, and if the act with which they charge themselves were legally established against them, would be incapable of giving evidence before any judicial Tribunal.-

35th.

The discovery of matter criminatory of Sandeconah Sashiah, the individual here referred to, or of circumstances in the Magistrate's proceedings in another case, attaching blame to

to that officer would indeed appear to have been a principal object with the 1st Judge, in holding this trial.-

3th. If in the case referred to by the 1st Judge it appeared, that the Magistrate's proceedings had been irregular or improper, it was his duty to call on the Magistrate for an explanation, and if necessary to submit the case for the consideration of the Court of Fouydaree Adalut.- To wander from the trial of the charge before him, and go into an extraneous enquiry regarding the Magistrate's conduct in another case, was not only highly irregular and contrary to the orders of the Court, which direct that evidence should be taken on Criminal trials only as to the matters in issue,- but in the present case it led the 1st Judge into the indelicate and unwarrantable proceeding of taking evidence, on which to found a charge against the Magistrate, from a witness, who had declared himself forsworn, and whose subsequent examination was a disgrace to a Court of Justice.-

37th. Read again letter, dated 8th March last, from the 1st Judge of the Court of Circuit in the Northern Division, submitting under the orders of the Court of Fouydaree Adalut dated

dated 26th October last the Record of Proceedings held in cases No 1 and 31 Rajahmundry Calendar Dr Sessions A.D. 1820.

/Here enter No 202/

38th: The Court of Payonee hereby will notice in their order the irregularities which appear in the proceedings held by the Police Officers, the Assistant Criminal Judge, and the Court of Circuit in the above cases, and will conclude with some observations on the mode, in which they were disposed of by the Pt Judge.-

39th In case No 1 It appears by the evidence of certain of the subscribing witnesses to the alleged declarations of the prisoners before the Head of Police of Nellapilly, that they were not present when the declarations in question were delivered and reduced to writing, but that the prisoners were brought out, and after hearing the declarations said, respectively, in the presence of the witnesses, that they had caused them to be written; and the Court observe above the names of the attesting witnesses to each prisoner's declaration the following note, "witnesses who saw him fix his mark."

40th The Court direct, that the attention of P. Shevaramiah the Head of Police of Nellapilly

be called by the Magistrate to the irregularity of this proceeding, and that he be strictly enjoined in future to adhere to the rule prescribed in Clause Third Section XXVII Regulation XI of 1816, which declares that in all cases of confession the 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-

41st From the evidence of the two first witnesses for the prosecution before the Court of Circuit there would seem to be grounds for suspecting that certain of the prisoners had been treated with violence while in charge of the Police, or at all events that they had been bound, or manacled, so as to leave marks on their limbs.-

42d The Court desire, that the Magistrate will cause an enquiry to be instituted into the proceedings of the Police Officers on this occasion, and that if he should not appear to have exercised any thing like torture towards the prisoners, the Magistrate will advise him of the impropriety of treating accused persons with severity, or binding them in any way that may not be absolutely requisite for their safe custody.-

In

43d In the examinations held before the Assistant Criminal Judge the following question is put to certain witnesses - "Do you know the "prisoners?" and the witness goes into a detail regarding "the prisoners" - but the Court of Foujdaree Adalut lose all the benefit of the evidence from its being no where specified which of the 26 prisoners in this case is referred to -

44th This is a gross irregularity which ought to have attracted the attention of the 1st Judge, and the omission should have been supplied before the record was submitted to the Court of Foujdaree Adalut -

45th In the arraignment of the prisoners before the Court of Circuit there is no mention of the place where the robbery is alleged to have taken place, it is only stated that they plundered the houses of the Prosecutors Enomunty Veeraska and Dewara Nagaska -

46th The 2d prosecutor Dewara Nagaska delivered no deposition before the Court of Circuit, but referred to his former deposition before the Criminal Judge, which was thereupon read and confirmed by him -

47th This is an irregularity of which the Court do not recollect any former example -

The

6/ F. U.

48th The Court do not consider the impropriety of such a proceeding to depend upon whether or not the previous deposition of this person bore strongly against the prisoners - The substitution of the record of the evidence delivered by the deponent before a different authority, where the prisoners were not on their trial, for his viva voce testimony on the trial, involved a breach of the Regulations, and of the rules of judicial proceeding, resorted to, apparently, with the view of avoiding the labour of a regular examination -

28d August 1821 -

49th The ground assigned in a note on the record for not receiving the complaint of the Government Vakeel against the 26th prisoner, - namely "his having delivered his charge before the Criminal Judge" was alike untenable - but no charge against this prisoner should have been preferred on the part of Government, because he was included in the charge preferred by the 1st Prosecutor, whose property was found in his possession -

50th It is only where the complainant may not appear, and where there may be evidence against a prisoner of an offence requiring exemplary punishment for the ends of

of public justice, that the Tribunal of Government should be instructed to prosecute.-

51.st The Court of Foujdaree Adaulut in their circular orders of 27.th December 1815 directed, that at the foot of all examinations of witnesses taken before the Judge of Circuit it should be certified that they were sworn to before him- They remark, however, that in examining this as well as the other trials before them, referred by this Officer, he has invariably omitted this form, and his name only appears after the mark or signature of each witness.

52.d The Court will not attempt to particularize the numerous inaccuracies, observable in the English Transcript of the record- The Court have in vain attempted to impress on the 1.st Judge the necessity of exercising particular care in preparing the records of trials for transmission to the Foujdaree Adaulut- In this respect as well as in various others noticed in these proceedings the 1.st Judge has exhibited an utter neglect of their repeated admonitions- One instance may suffice as a specimen of his carelessness in revising the record of this case.- To Mess.rs Patchett, witness for the prosecution, is put a question in the following form.

23. August 1821. "Look at the prisoners at the bar do you know them?" And a blank is left for his answer.-

It remains for the Court to notice the mode, in which this case was disposed of by the 1.st Judge.-

53.d The following is the entry thereof in the Calendar:- "The Law Officer gave "his Futwah of Corroborat convicting the "whole of the Prisoners with exception of "the 25.th of the Robbery, but not of the murder "the latter not being proved on the ground "of their own confession as well as of the evidence "against them; and as it was not ascertained "that the hurts received by the father of the "1.st Prosecutor were the actual cause of his "death and he had been seriously ailing before "the robbery took place, the Prisoners were "sentenced as follows.-

"1.st to three years imprisonment and hard labor "in irons.-

"2.d to one year and six Months imprisonment "and hard labor in irons, and to receive fifteen "stripes with a rattan.-

"4.th To receive two dozen stripes with a rattan "and to be released.-

"5.th to one year and six months confinement

and the

"without labor.-

"6th " to one year and one Month confinement and
"hard labor in irons.-

"7th " to receive two Dozen stripes with a rattan
"and to be released

"8 To one year and three months confinement and
"hard labor in irons and to receive twelve stripes
"with a rattan

"9 To one year and three months imprisonment
"and hard labor in irons and*

"11th To one year and six months confinement and
"hard labor in irons.

"12th To one year and six months confinement
"and hard labor in irons

"13th To receive two Dozen stripes with a rattan
"and to be released.

"14th To one year and one Month confinement and hard
"labor in irons

"15th To seven years and six months confinement and
"hard labor in irons and to receive one dozen of stripes
"with a rattan, being an old offender.

"16th To one year and one Month confinement and
"hard labor in irons and to receive one dozen of stripes
"with a rattan.-

"17th Do " - - - Do " Do "

"18th Do " - - - - Do " - - Do "

"19th Do " - - - - Do " - - - Do "

* so in the original

J. M.

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"21st To seven years and Six Months confinement
"and hard labor in irons.-

"22d To one year and one Month confinement and hard
"labor in irons and to receive one dozen stripes
"with a rattan.-

"23d To one year and one Month confinement and
"hard labor in irons.-

"24th Do " Do " Do "

"25th Released from confinement

"26th To five years confinement and hard labor
"in irons.-

54th The prisoners were charged
with the commission of Gang robbery,
attended with acts of extreme cruelty- The
Pt. Judge concurred in their conviction of
this atrocious crime, for which but for a
doubt regarding the immediate cause of
the death of a man cruelly tortured by them,
they must have been sentenced to capital
punishment, under the provisions of
Clause first Section IV Regulation XV of 1803.-

55th This doubt, however, could only
so far alleviate the atrocity of the case as to
bring it within the scope of the provisions of
Clause second of that Section, which declares
"that all persons convicted of being the Heads or
"leaders of a Gang of robbers by whom any person

may

o may have been wounded maimed burnt or
"subjected to other personal injury not occasioning
"homicide, as well as all persons convicted of
"having been actively concerned in any of the
"acts aforesaid, shall be adjudged to suffer
"imprisonment and transportation for life."-
This is the lightest punishment, adjudicable
by a Court of Circuit against such offenders,
no power of mitigation is in such cases vested
in that Court under the provisions of Regulation
XV of 1803,- but only in the Court of Foujdaree
Adalut.-

56th The 1st Judge, therefore, violated
the law in finally disposing of the case at
all:- but what shall be said of the judgments,
which in exercise of such unauthorized power,
were passed by him in the case? The heaviest
of the sentences against a person stated to be
"an old offender," only exceeded by six months
imprisonment the penalty denounced under a
sentence of Budd against a simple theft in
Section XXI Regulation VIII of 1802:- the prisoners
for the most part were sentenced to a punishment
scarcely more severe than that usually
awarded by a Criminal Judge in the cases,
determinable by him under the provisions
of Section VIII Regulation X of 1816, and three

of the offenders were ordered to receive two
dozen stripes, and be released.-

57th A more direct encouragement,
bestowed together with the opportunity, to
resume the atrocious practices of which
the 1st Judge considered these prisoners to
be convicted, cannot easily be imagined; and
if a procedure so monstrous may be thought
capable of aggravation, it will be found in
the notorious and encreasing prevalence of the
heinous crime of Gang robbery, in that part
of the country, of which the 1st Judge could
not have been ignorant, and to which the
attention of the Court of Foujdaree Adalut
was called by the Provincial Court of
Circuit in their proceedings of 15th May
preceding.-

58th It will be observed, that
one of the prisoners, whom the Court of
Foujdaree Adalut have convicted and consid-
=ered deserving of transportation for life,
was of the number dismissed with two
dozen stripes.-

59th Case No 71 is circumstanced
somewhat differently from the above,
but the proceedings held therein call for
similar comments.-

This

23d August 1821.

60th This also is a case of extensive gang robbery, though not attended with the same circumstances of aggravation, as marked the former case.-

61st The plea of the prisoners before the Court of Circuit is, in both cases, recorded collectively instead of separately; an irregularity which has been formerly pointed out to the 1st Judge.-

62d The deposition of the Prosecutrix in this case also was omitted to be taken, as although she swore to the persons of several of the prisoners before the Criminal Judge.-

63d The 1st Judge concurred with the Mohummudan Law Officer in the conviction of all the prisoners, excepting the 13th 16th 17th 18th 19th 20th and 21st and the following extract from the Calendar exhibits the sentences passed against them.-

64th "On the 27th Law Officer gave his
"Futwah of Cohoobut against the 1st 2d 3d 4th 5th 6th
"7th 8th 9th 10th 11th 12th 13th 14th and 15th Prisoners on the
"ground of their confession of having been
"concerned in robbery, and of Cohoobut upon
"Sohmuh / suspicion / against the 13th 16th 17th 18th
"19th 20th and 21st Prisoners on the ground that
"the evidence against them consisted in the

8/ F. U.

23d August 1821. "information of the other Prisoners that they were
"parties concerned, and the circumstance of some
"articles of stolen property having been found
"on some of their wives. The Prisoners were
"sentenced as follows. the 3d Prisoner, being
"a principal and old offender to 7 years and
"6 Months imprisonment and hard labor in irons
"and to receive 12 stripes with a rattan the 9th
"10th 11th 12th 14th and 15th to 3 years imprisonment
"and hard labor in irons; the 1st 2d 3d 4th 6th 7th
"and 8th to imprisonment and hard labor for
"3 Months and to receive 4 dozen of stripes
"with a rattan, the first dozen immediately
"the other 3 dozen by one dozen at a time and
"each infliction after an interval of 3 Months
"the 13th 16th 17th 18th 19th 20th and 21st, as no punish-
"=ment has been deemed to attach to a sentence
"grounded on suspicion were ordered to be
"set at liberty.-"

65th In directing the unconditional release of prisoners against whom there existed strong grounds of suspicion, the 1st Judge neglected to avail himself of the authority given to him by Clause sixth Section III Regulation XV of 1803 to require security from parties so situated for future good behaviour and appearance when required,

previous

previously to their release.-

66th With respect to the sentences passed against the other prisoners it is to be observed, that the case being one, for which the punishment of 14 years imprisonment is specially prescribed by Clause third Section IV Regulation XVII of 1817, the 1st Judge was competent under Clause fifth of the same Section to mitigate that sentence "if from any extenuating circumstances which "appeared on the trial, the stated punishment should in any particular instance have appeared too severe.-

67th Not only has the 1st Judge mitigated the prescribed sentence with respect to every one of the prisoners- several of whom are sentenced to 9 Months imprisonment instead of 14 years, but he has adjudged to half of that punishment a man described by him, as "a principal "and an old offender."

68th The Court of Foujdaree Adalut in both of these cases have exercised the authority vested in them by Regulation XV of 1819 and have passed new sentences therein adjudging those prisoners, whom they consider to be convicted in case No 31, to transportation for life, and all the prisoners, tried in case No 34, to 14 years imprisonment.

69th The Court of Foujdaree Adalut avide, that

that the faulty and erroneous proceedings, which it has been their duty to notice in the three foregoing cases, were such as called only for admonition from them.-

70th The Court consider it proper to mention, that although the records of the Foujdaree Adalut exhibit frequent instances of error and irregularity on the part of the 1st Judge, which have called for admonition and correction, yet that no part of his former conduct had been such as to prepare the Court for defaults so gross, as have marked the cases under consideration.-

71st Some parts of these proceedings, however, manifest so utter an ignorance, or a violation so flagrant, of the most obvious rules of Judicial administration, and others appear calculated to produce effects so injurious to the state, rendering the Criminal Courts promotive rather than preventive of crimes the most atrocious,- that the Court of Foujdaree Adalut, with reference to the principle laid down for their guidance in paragraphs 39 and 40 of a General Letter from the Honorable the Court of Directors, dated 7th April, and transmitted to the Court of Foujdaree Adalut under date 30th August 1819, feel compelled

compelled to lay these cases before the Honorable the Governor in Council, together with extracts of such parts of the Courts proceedings, as have been referred to in the foregoing observations.

72. Ordered, therefore, that the Record of the Proceedings held in Cases No.9 of the Masulipatam Calendar 1st Quarterly Sessions of 1821, and No.1 and 21 of the Rajahmundry Calendar for the 2d Sessions of 1820 together with the Calendar for that Sessions. extracts of the proceedings of the Court of Foujdaree Udalut under dates 3rd January 1814, 6th March and 25th September 1816, 8th October and 29th December 1817, 15th April 1819, 27th January, 8th September and 27th October 1820, and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the consideration and orders of the Honorable the Governor in Council.-

(Sent following letter No.290)

No41 / Sent 28th

E.H.A.

F.U.

At a Court of Foujdaree Udalut

Present

Friday 24th August 1821.-

Charles Harris Esq.re ... Puisne Judge

Peter Cherry Esq.re ... Acting Judge

C.H.

P.C.

Read letter, dated 5th Instant, from the Provincial Court of Circuit in the Centre Division, submitting copy of a letter from the Magistrate in the Zilla of Ballary, desiring instructions as to the competency of a witness who has received punishment for a theft to give evidence against a person charged with having instigated the crime.-

Here enter No.529-

In the foregoing letter the Magistrate refers, on the application of his Assistant, the question of "whether a person "convicted and punished for theft can be "admitted as a competent witness to prove a "separate accusation made by him against "the Head of the village, for having instiga"ted and excited him, to commit the crime."-

The question, as stated by the Assistant Magistrate, is put somewhat differently, and he desires to be informed, whether he is "not at liberty to call "for the person, who has been convicted "and punished in the former case, as a "witness in the new charge against the "Reddy, and if it appears necessary to swear him

24th August 1821

kins, as to the truths of his accusation.-

3 The offence, of which the person alluded to has been convicted, not being of a description to disqualify him from giving evidence in a Court of Justice, the Court of Foujdaree Udalut are not aware, that his competency as a witness can be called in question:- circumstanced, however, as the case is represented to be, strong objections must be against the credit of this witness, whose single, unsupported testimony would not, therefore, justify the institution of proceedings against the head of the village, and whose evidence, supposing sufficient ground to exist for a judicial investigation of the charge against the Ryots, ought to be received with great caution.-

4 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 Magistrate in the Zilla of Bellary for his information and guidance.-

M

Sent 26th

/Sent following Precept N°291/

1 The Report prescribed by section XXXVII Regulation VII of 1802 not having been received from the late acting Judge who presided at the Sail deliveries of Bellary and Chingleput for the 1st Sessions of this year.-

2. The Court direct that the late acting Judge on Circuit in the Centre Division be by precept commanded to send up the aforesaid Report and to make return to the Precept within fifteen days from the date of its receipt.-

24th August 1821

M

Sent 25th

/Sent following Precept N°292/

50

At a Court of the Fuujdaree Udalut

Present

Wednesday 29th August 1821.

Charles Harris Esqre ... Puisne Judge

Peter Cherry Esqre ... Acting Judge

C: H.
P. C.

Read letter, dated 23rd instant, from the 1st Judge Presiding at the 3rd Quarterly Sessions of Jail Delivery for 1821 at Masulipatam, submitting copy of the Calendar for the said Sessions.—

/Here enter No. 581/

1 In the "remarks" of the Circuit Court recorded on the foregoing Calendar it is stated, that the trial of Case No. 1 was commenced by the 1st Judge on the 2d, and ended on the 24th July,— that the trials of cases Nos. 2, 4 and 5 commenced on the 4th July and ended the same day— that the trial of case No. 6 was commenced on the 17th and ended on 24th July, and that the trials of Cases Nos. 7 and 10 commenced also on the 17th July, and ended on the same day.—

2 It appears, therefore, that cases Nos. 1, 2, 4 and 5, and Cases Nos. 1, 6, 7, and 10 were under trial at the same time.—

3 The 1st Judge in a letter addressed by him to the Court of Sudr Udalut, under date 23rd

29th August 1821

23d Ultimo, reported, that indisposition had prevented his attending Court from 13th Instant, but the return of health had enabled him that day (23d) to resume the duties of his station.—

4 It would seem, therefore, that the trial of cases Nos. 7 and 10 began and concluded, and the trial of case No. 6 was commenced upon, when the 1st Judge was unable to attend Court, or perform the duties of his station.—

5 The Court of Fouzdaree Udalut deem it necessary immediately to require from the 1st Judge an explanation of the circumstances above noticed.—

6 The Court of Fouzdaree Udalut desire to have before them copy of the fuetwa delivered in case No. 4 of the Calendar, in which the prisoner, who was charged with having "formed part of a Gang "that plundered the house of the prosecutor of property "to the value of Rupees 2,000,"— and the evidence against whom is stated to have been "the fact of his having "in his possession and endeavouring to sell a diamond "and two rubies belonging to the prosecutor and which "formed part of the plundered property, whilst he "was unable to prove the manner in which he says "they came into his possession,"— has been acquitted and released.—

29th August 1821

7 Ordered, that extract of these proceedings be sent to the 1st Judge of the Court of Circuit in the Northern Division by precept commanding him to transmit copy, and translation in English, of the fatwa aforesaid, together with any explanation which he may have to offer respecting the circumstances above noticed, within five days from the date of the receipt of the precept.—

Sent following Precept No 295

Ex. Mk

J. A.

At a Court of the Foujdaree Adalut

Present

Thursday 30th August 1821 — Charles Harris Esqre. ..... Prime Judge
Peter Cherry Esqre. ..... Acting Judge

C.H. M

Read again letter, dated 25th Ultimo, from the 3d Judge on Circuit in the Northern Division, reporting the insolent conduct of Moulavee Syud Busharut allee, the Mooftee of the Court of Circuit, in open Court during the 2d Sessions of Jail Delivery at Nellore.-

Here enter No. 463

Read also return, dated 23d Instant, from the Provincial Court of Circuit in the Northern Division to precept dated 30th Ultimo, directing them to call upon the Mooftee for any explanation which he might have to offer regarding those parts of his conduct animadverted upon by the 3d Judge.-

Here enter No. 584

In the foregoing letter the 3d Judge reported to the Court of Foujdaree Adalut, that Moulavee Syud Busharut allee had been guilty of the grossindecorum and

30th August 1821

and insolence of addressing the Judge on the Bench in angry language, and in a violent manner, and subsequently, on the Judge's riding to quit the Court omitted, & ultimately refused, to pay to that Officer the usual compliment of rising from his seat.-

2 Syud Moulavee Busharut Allee having been called upon, in conformity with the orders of the Court of Zoujdaree Udalut, for an explanation of his conduct, asserts generally, that he has always deported himself respectfully towards the 3d Judge, and that on the occasion in question he had incurred the 3d Judge's displeasure by pointing out to him, that his language to the Court servants was unbecoming his high station.- The Mooftee does not notice the specific charges of having addressed the 3d Judge in an angry manner, & refused to rise when that officer quitted the Bench.-

3 The Records of the Court of Zoujdaree Udalut exhibit very frequent instances of negligence and inattention, if not of absolute ignorance of Mohummudan Law on the part of the Mooftee

30th August 1821 Mooftee Syud Busharut Allee.-

4 The Court of Zoujdaree Udalut being at all times anxious to avoid a recourse to the measure of dismissing an officer from employment, while any other mode of correction could with propriety be adopted,- have hitherto visited the errors of the Mooftee merely with reproof and admonition.-

5 The behaviour of Moulavee Syud Busharut Allee as exhibited in the papers now before the Court, is however of a nature not excusable on the ground of casual inadvertence, or venial remissness, such as have on former occasions demanded reproof, but exhibits misconduct so glaring as imperiously to require his removal.-

6 The Court of Zoujdaree Udalut direct, therefore, in exercise of the authority vested in them by clause second section IV Regulation V of 1811 that Moulavee Syud Busharut Allee be dismissed from the office of Mooftee to the Provincial Court in the Northern Division.

7 Ordered, that a extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division by

by precept, directing them to carry into effect the orders herein contained on the day of the receipt of the Precepts.—

Sent following Precepts

Sent 31st

Read return dated 15th Instant from the Judges of the Provincial Court of Circuit in the Western Division, to precept dated 2d Instant ordering communication to the Criminal Judges of the Court's instructions and relative to the precautions to be observed in corporal punishments

Here enter No 567.

Read return dated 20th Instant from the Judges of the Provincial Court of Circuit in the Southern Division, to precept dated 10th Instant ordering communication to the Judge on Circuit of the Court's orders relative to the seal to be used in official returns.—

Here enter No 572.

Read return dated 22d Instant from the Judges of the Provincial Court of Circuit in the Southern Division, to precept dated 2d Instant ordering communication to the several Criminal Judges of the Court's orders relative to the precaution to be observed in inflicting corporal punishment.—

Here enter No 573.

Read return dated 22d Instant from the Judges of the Provincial Court of Circuit

30th August 1821

Circuit in the Western Division, to precept dated 10th Instant ordering communication to the Judge on Circuit of the Court's orders regarding the seal to be used by the Judges of Circuit.—

Here enter No 582.—

Read return dated 22d Instant from the Judges of the Provincial Court of Circuit for the Southern Division, to precept dated 1st Instant ordering communication to the Criminal Judges of the Court's orders relative to commitments for Perjury.—

Here enter No 575.

Read return dated 22d Instant from the 2d Judge of the Court of Circuit in the Western Division, to precept dated 16th Instant calling for Record of Proceedings in Case No 1 North Malabar Calendar 2d Quarterly Sessions A. D. 1821.— Here enter No 583.—

Read letter dated 18th Instant from the 2d Judge on Circuit in the Southern Division, submitting Copy of Salem Calendar 2d Sessions A. D. 1821.—

Here enter No 565

Read letter dated 17th Instant from the Judges of the Provincial Court of Circuit in the Northern Division, with returned warrant for execution of prisoner, in Case No 12 Nellore Calendar 1st Sessions A. D. 1821.— Here enter No 571

Read

30th August 1821.

Read letter dated 25th Instant from the 1st Judge on Circuit in the Centre Division. Reporting his intention of proceeding to Cuddapa on the 27th Instant.—

Here enter No. 586.

F. M.

At a Court of the Foujdaree Adalut

Present,

Monday 3d September 1821 — Charles Harris Esqre ..... Puisne Judge—
Peter Cherry Esqre ..... Acting Judge—

Read letter, dated 3d Ultimo, from the 2d Judge on Circuit in the Southern Division, submitting case No 6 Verdachellum Calendar 2d Sessions A. D. 1821.

/Here enter No. 506.-/

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 Acting Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Acting Cazee ool Coozat and Mooftees aforesaid, and under the latitude given by the sentence of Circuit adjudge the prisoner,

"Rungapadiachy,"

to be set at liberty.—

/Sent following letter No 298/

Jail 16th

/ It appears by the Record of the proceedings in this case that the charge of the Prosecutrix Sewagamy was not taken on oath before the Assistant Magistrate.—

The

2 The Court of Poudaree Adalut direct, that this irregularity be brought to the notice of the Assistant Magistrate by the Magistrate in the Zilla of Verdachellum.—

3 The Criminal Judge in his examination of the prisoner omitted to put him in possession of the charge preferred against him— and addressed to him a series of questions relative to a talk might have passed between him and the prosecutrix.— This mode of examination is improper, as calculated to throw the accused off his guard, and thus obtain from him evidence against himself.—

4 The Court of Poudaree Adalut have also to remark, that between the evidence of the 11th witness before the Court of Circuit, and that delivered by him before the Criminal Judge, there is a material discrepancy, which the 2d Judge has passed over without notice, contrary to the rule on this point, prescribed in Clause sixth Section XVIII. Regulation VII of 1802.—

5. Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Southern Division for his information and guidance and that he be by precept enjoined to communicate to the Criminal Judge and the Magistrate in the Zilla of Verdachellum such parts thereof as concern those Officers for their information and guidance respectively.—

(Sent following Precept No 2991 dated 6th

Read letter, dated 21st July last from the 3d Judge on Circuit in the Western Division,— submitting trial of Ramanaden Canarah Calendar 2d Sessions A.D. 1821—

(Here enters No 481)

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 Acting Cazee ool Coozat and Mooftee of the Poudaree Adalut confirm the said Futwa of the Acting Cazee ool Coozat and Mooftee aforesaid and order the latitat issued by the sentence of Coroobut adjudged the prisoner,

"Pandee,"

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

(Sent following letter No 300 dated 6th

Read letter dated 27th June last, from the Acting 3d Judge on Circuit in the

the Centre Division,- submitting case No. 12 Chingleput Calendar for the 1st Sessions A.D. 1821.-

(Here enter No 324.)

The Judges of the Foujdaree 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, Woodauram, is sufficient to convict him of having aided in the murder of the deceased Soobray Moodely, desire under Clause second Section II Regulation I of 1818 that the Acting Cazee ool Coozat and Mooftee 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 had been convicted by full legal evidence of the above crime.-

The Acting Cazee ool Coozat and Mooftee of the Foujdaree Adalut declare in the foregoing futwa that the 2d, 4th, 5th 6th and 8th prisoners are convicted on strong presumption of the crime of being concerned in the murder of the deceased Soobray Moodely. The Court therefore concurring in their opinion declared in the futwa, resolve under the provisions of clause third Section II Regulation XV of 1803 to call upon their

2/ F.H.
3d September 1821.

Law Officers to declare by a second futwa to what specific punishment the prisoners would have been liable under the Mohummudan law if they had been convicted by full legal evidence.-

Ordered, that extract of these proceedings be translated and delivered to the Acting Cazee ool Coozat and Mooftee of the Foujdaree Adalut.-

20

W.H.

Read again letter, dated 11th May last, from the 3d Judge late on Circuit in the Southern Division,- submitting case No 5 Madura Calendar 1st Sessions A.D. 1821.-

(Here enter No 325.)

Para 1. The Court of Foujdaree Adalut having, under date 11th Instant, passed their final sentence in this case, confirming the Futwa of their Law Officers, and directing the release of the Prisoner, proceed to record such observations, as the proceedings which have been held in the case appear to call for.-

2. —— The Court collect from the letter of the 3d Judge accompanying the trial, that the prisoner Anganen Chetty was, with another person named Pethiah, produced

produced before the Magistrate, under date 23d October 1821, by one Angamal to prove a charge of robbery brought by her against one Allagherry Chitty, and five others.-

3d In the deposition delivered by the prisoner on this occasion, which is marked B and was proved on the trial, he deposed that hearing a noise one night, when four or five persons slept at his house, he got up, and went to the prosecutrix' house, that the people who were asleep in his house also ran and came, that there was a lamp burning in the prosecutrix' house, that two persons were standing outside and four persons entered and having spread a cloth put Brass utensils and other property therein, and one of them named Allagherry Chitty took the Jewels- that the prosecutrix cried out two persons are pressing me down and plundering my Jewels- and that he went and asked them why they thus acted unjustly.-

4th The prisoner, when examined as a witness in this case before the Criminal Judge, deposed that he heard the Prosecutrix say that five or six persons took away property

which

which was in her house, but that he did not see it- When questioned as to the difference between this deposition and that delivered by him before the Magistrate he said- "I stated "before the Magistrate as I now depose, in a "stammering manner I do not know what they "wrote down but I marked it."-

5th When charged with perjury, before the Criminal Judge, the prisoner said- "As I was pushed in a hurry before the Ma= "gistrate, I stammered and stated in the same "manner as I have now done before the Criminal "Court,- but did not state as is written in "that examination."-

6th The Criminal Judge proceeded to take evidence to the fact, that the examination of the prisoner, as a witness before the Magistrate was correctly taken down and sworn to by him, and ultimately committed him for trial before the Court of Circuit.-

7th The proceedings thus far, as exhibited by the Record before the Court of Foujdarry Udalut, would lead to the inference that the perjury was supposed to have been committed in the prisoner's deposition, as a witness before the Magistrate.- There is no other way of rationally accounting for the pains taken to prove, that the prisoner as a witness voluntarily gave that deposition on Oath.-

8th It would seem, however, that the Criminal Judge considered the perjury to

to have been committed before himself, and the In=
=dictment of the prisoner runs in the following &c
words:-

"Unganen Chitty, stands charged,
"with Perjury. He being a witness in a Criminal trial
"having been called upon, to depose, on Oath, before
"the Magistrate on the 23d inst. October 1820, did &c
"give a most clear, and distinct account, and
"did truly depose, as to his having been an
"eye witness, as to the Prisoners, having robbed
"the Prosecutrix's house. Whereas in truth, &c
"and in fact, he did on oath, when called
"upon, by the Criminal Court on the 2d inst. No=
"=vember 1820, aver that he knew nothing of
"the said robbery, having been committed, and dis=
"=deny ever having deposed, as to having been an
"eye witness, of the same;- owing to which fore=
=varication, the Prisoners were, for want of
"proof, acquitted of the charge, preferred &c
"against them;- and it is therefore, to be
"inferred, that the witness well knew, at the
"time of the said swearing, that his depo=
"=sition, so given, was false, and that he
"the said Unganen Chitty, has therefore, been
"guilty of wilful, and corrupt Perjury."-

9th " It is difficult to imagine &c
any thing more absurd than the foregoing indict=
=ment. From the words, with which it com=
=mences and concludes, it would seem that the
Criminal Judge had before him the form
prescribed

3 September 1821. prescribed by the Court's instructions under date
31st January 1820,- it exhibits, however, the follow=
=ing unaccountable deviations from those instruc=
=tions;- for "the words on which the perjury
"is assigned," are substituted certain words,
declared, from what data does not appear,
to be true;- and for "the fact in opposition
"to the averment of the accused," is substituted
"the contents of a deposition given by him,"
concerning which it is affirmed, that "the
"witness well knew that it was false."- So
that in the place left blank in the form
of Indictment drawn by the Court for
the prisoners false deposition, the Criminal
Judge has inserted the words of what
he thought to be a "true" one; and in the
place where the Criminal Judge was &c
instructed to recite a "fact" he has cited
what he considered to be a falsehood.-

10th " The record of this trial being
defective in not exhibiting the proceedings
held in the case in which the prisoner ap=
=peared as a witness, the Court of Foujdaree
Adalut are unable to estimate the validity
of the grounds upon which the Criminal &c
Judge adopted the conclusion, that the &c
witness had sworn falsely before him on
a point material to the issue of the case
then under investigation.-

11th " From the passage above cited
from the letter of the 3d Judge accompany=
=ing the trial the Court are led to suppose
that

3d September 1821

that the depositions of Anguaval and Kittiach-went to shew, that the prisoner was present at the robbery; in which case nothing could have been more obvious and simple than the proper mode of laying the charge under the Court's instructions of 31st January 1820:- the perjury should have been assigned on the prisoner's statement, that he was not pre-sent; and the fact opposed to the averment, namely that he was actually present, might have been established by those two persons.-

12th " The prisoner's deposition be-fore the Magistrate, supposing it to be true, could only have been properly introduced into an indictment for Perjury, founded on his denial on oath before the Criminal Judge, that he had given that deposition; a charge of Perjury could not, however, have been maintained upon this ground, because the witness's swearing, that he had not previously sworn to this or to that effect, could not have been materi-al to the issue of the case of robbery, pending before the Criminal Judge.-

13th " The arraignment adopted by the 3d Judge is, if possible, more absurd than the Criminal Judges' indictment.- It does not set forth in which of the two depositions given by the accused the false swearing was supposed to have been committed.- It recites, as does the Indictment, the words of a supposed true deposition, which is followed by an averment, that the prisoner subsequently denied that deposition and by an affirmation, not borne out by the deposition referred to, namely that the prisoner therein averred "that he knew no-thing of the said robbery having been com-mitted."-

3d September 1821

14th " In this arraignment, therefore, the only deposition of the accused which is correctly recited, is affirmed to be true; the words in which the supposed Perjury was contained not being there recited, proof of their falsehood and materiality to the issue of a Judicial proceeding would indeed have been irrelevant; and the Court accordingly find, that the evidence for the prosecution is limited to fact, that the depositions A and B were voluntarily delivered by the prisoner

15th " To enlarge on the absurdity of the whole proceedings is not necessary- but it is incumbent on the Court of Foujdaree Adalut to record their strong censure of the palpable inattention, shewn in this case by the Criminal Judge and by the 3d Judge, to their orders of 31st January 1814, and 31st January 1820,- the former declaring the prin-ciple to be maintained, and the latter pre-scribing the very form to be adopted in indictments for Perjury.-

16th " The Court of Foujdaree Adalut regret

regret also to observe, that the 3d Judge asserts in his letter to matters not contained in the Record, which if material to the case should have been entered therein, but which not being on Record could not with any colour of propriety be referred to.—

17th

In the letter accompanying the trial the 3d Judge observed, that "the Futwa "of the Mooftee does not fully convict the "prisoner in consequence of an unequivocal "acknowledgment of Falsehood being necessary "to a conviction for the crime of Perjury under "the Mohummudan Law."—

18th

The Court of Sudder Adalut, finding on reference to the Futwa delivered by the Mohummedan Law Officer, that it declared proof of the crime of Perjury to depend on the confession of the accused, & direct that the attention of the Mooftee, Mohummud Fuzl Oollah Khan, be particularly called to the exposition of the Law on this Point given by the Cazee-ool-Coozat and Mooftees of the Court of Sudder Adalut and circulated to the several Courts of Circuit under date 3d May last, wherein it is declared that "proof of the fact opposed to the testimony of a witness, is sufficient to establish false swearing under the "Mohummudan Law."—

19th

The Court would hope, that the same anomalous inconsistencies, which mark the present case, were not displayed in

J. M.

3 September 1821.

in the trials of the other cases of Perjury, disposed of by the 3d Judge at the same Sessions; they deem it proper, however, to call for copies of the Futwas delivered in cases Nos 24, 25, and 26 of the second supplemental Madura Calendar on the 1st Sessions A.D. 1821.—

20th

Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Southern Division by precept commanding him to communicate to the Criminal Judge in the Zilla of Madura such part thereof as concerns that officer for his information and guidance, and to transmit copy and english translation of the Futwas delivered in the above cases, within seven days from the date of the receipt of the precept.—

Sent 5th

Sent following precept
No 301

23d

J. U.

At a Court of the Foujdaree Udalut

Present

Tuesday 4th September 1821. Charles Harris Esqre ... Puisne Judge
Peter Cherry Esqre ... Acting Judge

Read letter, dated 28th instant, from the Criminal Judge in the Zilla of Canara, - with list of Convicts sentenced to banishment to any Zilla selected by the Foujdaree Udalut. -

C.H. P.C.

(Here enter No. 600)

The Court of Foujdaree Udalut direct that the prisoners,

Timma Shetty
"Ahmodey"
"Puckeera"
"Veerayya" and
"Beera"

be removed to the Jail in the Zilla of Seringa-patam, 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 Canara and to the Criminal Judge of Seringapatam for the information and guidance of those Officers respectively. -

(Sent following letter No. 302)

Read

Read again letter, dated 27th June last from the acting 3rd Judge on Circuit in the Centre Division, submitting Case No. 12 Chingleput Calendar 1st Sessions AD 1821.—

/Here enter No. 394/

Read the second futwa delivered in this Case by the acting Cazee-ool-Coozat and Mooftee 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 acting Cazee-ool-Coozat and Mooftee of the Foujdaree Udalut confirm the said futwa of the acting Cazee-ool-Coozat and Mooftees aforesaid and under the latitude given by the sentence of Ockoobut declared in the futwa adjudge the prisoners,

1st "Woodauram" and
2nd "Latcheeram"

to suffer death by being hanged at such place in the immediate vicinity of the Mount as may be selected by the Criminal Judge in the Zilla of Chingleput with the concurrence of the Officer Commanding at that Cantonment.

And the Court, under the sentence of Ockoobut declared in the futwa against the

prisoners,

4th "Deedauroo"
5th "Maunoolla,"
6th "Heeraumun," and
8th "Sheik Emambuksh,"

adjudge them to be severally imprisoned and transported to such place or places as the Governor in Council shall appoint, there to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of their natural lives respectively.—

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

3rd "Lulchumana Sing"
7th "Sheik Alley"
9th "Noor Mohummud"
10th "Sheik Ebram"
11th "Mohummud Ebram"
12th "Madooranaikum"
13th "Raanojee Row"
14th "Sheik ally Mohummud"
15th "Peer Khan"
16th "Sheik Hameed" and
17th "Domen"

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

/Sent following letter No 303/

The

Sent 5th

4th September 1821.

1 The Court of Foujdaree Adalut having sentenced the 1st and 2nd prisoners in this case to suffer death by being hanged at a spot in the immediate vicinity of the Mount, direct that the Criminal Judge do on receipt of the warrant for their execution from the Court of Circuit, communicate with the Officer Commanding at that Cantonment, with respect to the place most proper for carrying the sentence into effect and do either proceed himself, or depute the Assistant Criminal Judge to attend the execution.—

2 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 in the Zilla of Chingleput for his information and guidance.—

Sent 8th / Sent following Precept No 304 / 20

W. W.

It appearing, on reference to the record of the above case, that the informer Balakistnah has fulfilled the conditions, on which he received an offer of pardon from Government under date the 13th April last.—

2 It is ordered, that a Certificate, in confirmation of such conditional pardon, be prepared and

4th September 1821 and forwarded to the Criminal Judge in the Zilla of Chingleput, to be by him delivered to the party aforesaid for his security as far as regards the acts therein referred to.—

3. The Court of Foujdaree Adalut also direct that the Criminal Judge in the Zilla of Chingleput be commanded to call before him the informer abovementioned, and to caution him against the repetition of practices, which must render him obnoxious to the severest penalties of the law, and the Court further direct that the Criminal Judge of Chingleput be enjoined to give due notice to the Magistrate of the Zilla of the release of the person here mentioned, in order that the requisite precautions may be taken with a view to the assurance of the public safety.—

4 Ordered, that extract of these proceedings be sent to the Criminal Judge in the Zilla of Chingleput for his information and guidance

Sent following letter No 305 / 20

Sent 6th

W. W. 6

C H.

M

Read return dated 27th Ultimo from the Provincial Court of Circuit in the Northern Division, to precept dated 24th May last ordering communication to the Criminal Judge in the Zilla

4th September 1821.

Zilla of Nellore and the Magistrate of Guntoor of the Courts orders relative to the removal of 25 Convicts from Nellore to Guntoor.-

Here enter No. 592.-

Read letter dated 26th Ultimo from the 2d Judge of the Court of Circuit in the Centre Division;- stating that the 3d Quarterly Sessions has closed and that the calendar and other papers are preparing for transmission to the Foujdaree Udalut.-

Here enter No. 589.

Read letter dated 28th Ultimo from the 3d Judge on Circuit in the Northern Division;- Reporting his arrival at Rajahmundry.-

Here enter No. 593.-

Read return dated 27th Ultimo from the Provincial Court of Circuit in the Centre Division;- to precept dated 24th Ultimo; ordering communication to the Magistrate in the Zilla of Bellary of the Courts orders regarding the competency of a witness punished for theft to give evidence against a person charged with instigating the crime.-

Here enter No. 601.-

Read letter dated 27th Ultimo from the 2d Judge on Circuit in the Southern Division;- Reporting his arrival at Coimbatore.-

Here enter No. 590.

F. U.

At a Court of the Foujdaree Udalut.

Present,

Wednesday 5th September 1821. Charles Harris Esqre. ..... Puisne Judge

Peter Cherry Esqre. ..... Acting Judge.

C. H. P. C.

Read return, dated 28th Ultimo, from the 3d Judge on Circuit in the Northern Division,- to the precept dated 20th July last directing that execution of Surajee be suspended till the fact of her alleged Pregnancy be finally reported on by the Medical Officer.-

(Here enter No. 591.)

1. It appearing from the report of the Medical Officer attached to the Zilla Court of Chicacole, transmitted by the 3d Judge on Circuit that Surajee, prisoner convicted of murder in case No. 21 Ganjam Calendar 2d Sessions A.D. 1820 is not in a state of Pregnancy,- the Court of Foujdaree Udalut direct that the 3d Judge be by precept commanded to cause execution of the sentence passed against the said prisoner without further delay.-

2. The Court deem it proper to observe, that the opinion of the Assistant Surgeon

5th September 1821.

Surgeon Wilson respecting the situation of the prisoner Surajee, which was transmitted to the Court by the 3d Judge under date 14th July last,- however distinct as to the point of her not being "pregnant with a fœtus "of three months,"- was stated to be grounded on premises "clouded with obscurity"- and by no means amounted to the explicit opinion given by this officer in his present report

3. Ordered that extract of these proceedings be sent to the 3d Judge on Circuit in the Northern Division by precept enjoining him to proceed in conformity thereto and to communicate these remarks to the Judge in the Zilla of Chicacole for the information of the Assistant Surgeon-

Sent 8th. (Sent following Precept No 307.)

Ex ML.

C th
M

7 H.

At a Court of the Foujdaree Adalut-

Present,

Thursday 6th September 1821.

Charles Harris Esqre Puisne Judge
Peter Cherry Esqre - Acting Judge-

C. H. Read letter, dated 26th July last from the 3d Judge on Circuit in the Northern
M Division- submitting case No 36 Nellore Calendar
7th Septr A.D. 1821-

(Decree entered No 471.)

The Court of Foujdaree Adalut on deliberate consideration of the circumstances of the case in evidence before them concur in opinion that the proof against the prisoner Botla Audigandoo is sufficient to convict him of the offences of Burglary and wounding for which a penalty is specially denounced in clause second Section V Regulation XV of 1803.-

The Court, therefore under the provisions of clause first Section II Regulation I of 1818, and in exercise of the discretion vested in them by clause fifth Section IV Regulation XV of 1803 adjudge the said prisoner,

Botla Audigandoo,

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

publick roads or other public works for and during the period of ten years and then to be released.—

Sent following letter No 3081

Cert II

1 The 3rd Judge under the provisions of Clause Second Section V Regulation XV of 1803 sentenced the prisoner in this case to transportation for life to Prince of Wales's Island, as convicted of Burglary and wounding.—

2 Although the Court of Foujdaree Adalut are satisfied of the fact that the hand of the Prosecutor was wounded by the prisoner in the scuffle between them, yet as it is not proved that the prisoner deliberately stabbed the prosecutor, and as there appears reason to suppose, that the cuts may have been accidentally given, the Court of Foujdaree Adalut have not considered the prisoner deserving of transportation, and under the authority vested in them by the Regulations have mitigated the sentence to ten years' imprisonment and hard labour in irons.—

3 The warrant issued by the 3rd Judge to the Criminal Judge in this case, is not in the form prescribed by the Circular orders of the Court of Foujdaree Adalut under date 8th May 1815 sentence in such cases is directed to be worded generally for transportation, without the specification of the place, which is left to the discretion of the Governor in Council.—

Circular from Regn 4th to the last.

4 It is stated by the 3rd Judge in his letter accompanying the trial, that the prisoner is "an "old offender," but the Court do not find any entry to that effect

effect in the proceedings of the Criminal Judge. The Court of Foujdaree Adalut, deeming it to be of importance that they should always be put in possession of the nature of the offence or offences, which may have been committed on any former occasion by prisoners under trial before them, direct that the several Criminal Judges be instructed, whenever a prisoner committed by them for trial shall appear to have been convicted at any former Sessions to record on their proceedings and in the Calendar the nature of the offence, the date of the Sessions of the former trial or trials, and the sentence or sentences, which may have been passed on the prisoner.—

1204

5 The Law Officers of the Court of Foujdaree Adalut have in their Futwa, delivered in this case, rejected the confession of the prisoner, before the Police Officer, on account of its being attested only by Police Peons.—

6 The Court of Foujdaree Adalut have also observed, that in several trials lately before them the confessions delivered before the Magistrates and Criminal Judges are in like manner attested by Peons.—

7 This practice, which has been adopted under the general discretion given by Regulation V of 1819 being contrary to the Mohummudan Law, and also objectionable in principle, the Court of Foujdaree Adalut direct, that it be discontinued by the

the Criminal Judges and Magistrates, and that the latter Officers be by precept commanded immediately to issue circular orders to the several Police Officers, who under the provisions of Regulation IV. of 1821 are empowered to receive confessions, strictly enjoining them on all occasions of free and voluntary confession to have the same committed to writing and signed or marked by the accused, in the presence of at least two credible witnesses, totally unconnected with the Police, and unconcerned in the prisoner's apprehension.

8. Ordered that extract of these proceedings be sent to the 3rd Judge on Circuit in the Northern Division for his information and guidance.-

/Sent following letter No 309./

9. Ordered also, that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept enjoining them to communicate to the several Criminal Judges and Magistrates such parts thereof as concern those officers for their information and guidance respectively, and to require from the several Magistrates to report their having issued the above instructions to the Police officers under their authority.-

/Sent following Precept No 310/

Read letter, dated 3d. Ultimo, from the 3rd Judge on Circuit in the Western Division, submitting Case No. 3 Canara Calendar 2d Sessions AD 1821.-

/Here enter No. 519/

The

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the acting Cazee-ool Coozat and Mooftees of the Zillah Court of Adawlut confirm the said futwa of the acting Cazee-ool Coozat and Mooftees aforesaid and order the prisoner under the provisions of Section XVII Regulation VIII of 1802 adjudge the prisoner

2nd "Ayta"

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

And under the provisions of Clause 2nd Section II Regulation XV of 1803 adjudge the prisoner,

per "Panchoo"

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

/Sent following letter No 311/

Read letter, dated 13th. Ultimo, from the 1st Judge on Circuit in the Centre Division, submitting Case No. 3 Cuddapa Calendar 2d Sessions AD 1821.-

/Here enter No 546/

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 acting Cazee-ool Coozat and Mooftees

Mooftees of the Foujdaree Udalut confirm the said futwa of the acting Cazee-ool Coozat and Mooftees aforesaid, and under the sentence of Kifaaar declared in the futwa adjudge the prisoner,

Yerravadoo,

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

/Sent following letter No 312/

Read letter dated 14th Ultimo from the 1st Judge on Circuit in the Centre Division,— submitting Case No. 5 Cuddapa Calendar 2d Sessions AD 1821.—

/Here enter No. 550/

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 acting Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the acting Cazee-ool Coozat and Mooftees aforesaid and under the latitude given by the sentence of Tazeer declared in the futwa, adjudge the prisoner

Sheik Ishmailgaudoo,

to be imprisoned and transported to such place or places as the Governor in Council shall appoint there to be imprisoned and kept to hard labour in irons on the public roads or other public works for & during the period of his natural life.—

/Sent following letter No 313./

Read letter, dated 17th Ultimo from the 2nd Judge on Circuit in the Southern Division, submitting

submitting Case No. 4 Salem Calendar 2d Sessions AD 1821.—

/Here enter No. 556/

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

"Battygaun"

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

/Sent following letter No 314/

Read letter, dated 17th Ultimo, from the 1st Judge on Circuit in the Centre Division,— submitting Case No 27 Cuddapa Calendar 2d Sessions AD 1821.—

/Here enter No. 561/

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 acting Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the acting Cazee-ool Coozat and Mooftees aforesaid

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

Hazee Khan,

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

sent 11th

/Sent following letter No 315/

Read letter, dated 10th Ultimo from the 3rd Judge on Circuit in the Western Division, submitting Case No 1 Canara Calendar 2d Sessions AD 1821.—

/Here enter No 548/

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

Kaudeer,

is sufficient to convict him of having put to death the deceased Sheikh Ahhmud desire under clause second section II Regulation I of 1818 that the Acting Cazee-ool Coozat and Mooftees of the Foujdaree Udalut will declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan Law if he had been convicted by full legal evidence of the crime laid to his charge.—

Ordered that extract of these proceedings be translated and delivered to the acting Cazee-ool Coozat and Mooftees of the Court.—

Read

(3) F. U

6th September 1821.

Read letter, dated 31st Ultimo, from the Criminal Judge in the Zilla of Canara with list of Convicts sentenced to be banished to Zilla selected by the Foujdaree Udalut.—

/Here enter No 605/

The Court of Foujdaree Udalut direct that the prisoners,

Mallapah,

Damarsa Balligea, and

Narraina,

to be removed to the Jail in the Zilla of Seringa-patam, there to be imprisoned and kept to hard labor during the periods of their respective sentence.

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

25

sent 20th

/Sent following letter No 316/

W. W. Co

Read letter, dated the 4th instant from the Secretary to Government in the Judicial Department,— communicating the sentiments of the Governor in Council regarding the cases referred for the consideration of Government under date 23d Ultimo.—

/Here enter No 603/

Ordered that extract of the proceedings of

of the Court of Foujdaree Udalut dated 23d Ultimo and copy of the foregoing letter together with extract of these proceedings be transmitted to the 1st Judge of the Provincial Court in the Northern Division by precept commanding him to communicate to the Criminal Judge in the Zilla of Masulipatam such parts thereof as relate to the proceedings of the late Assistant Criminal Judge for his information and future guidance and to communicate to the Magistrate in the Zilla of Rajahmundry such part as concerns that officer for his information and guidance.—

Sent following Precept No 317

It having come to the knowledge of the Court of Foujdaree Udalut that the instructions which are from time to time issued to individual Judges on Circuit are not always communicated to the Court of Circuit collectively, in consequence of which it frequently happens that proceedings which have been prohibited to one Judge, as irregular or improper, are found to be adopted by other Judges of the same Court of Circuit,— the Court of Foujdaree Udalut deem it proper to direct, that the several Judges of Circuit do in future always furnish to the Register, for the information of the Judges of the Provincial Court of Circuit, all orders and instructions which

which may be addressed to them individually by the Court of Foujdaree Udalut.—

2 Ordered, that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept commanding them to communicate the same to the several Judges on Circuit for their information and future guidance.—

Sent following Precept No 318

At a Court of the Foujdaree Udalut.

Present,

Saturday 8th September 1821. Charles Harris Esqre. - - Puisne Judge.
Peter Cherry Esqre. - - - - - Acting Judge.

C H
M

Read again letter, dated 23d July last, from the Provincial Court of Circuit in the Western Division, - submitting copy of a communication from the Criminal Judge in the Zilla of Canara; and referring for the opinion of the Foujdaree Udalut the question of the competency of a Court of Circuit, at the Sudder Station, to take cognizance of the acts of a Magistrate. -

Here enter No. 495

1. The question referred by the Provincial Court of Circuit has arisen out of the instructions issued by the Court of Foujdaree Udalut, under date 7th February 1820, that whenever it might appear to a Criminal Judge, "that a sentence passed by a Magistrate was "not authorized by the Regulations," it would be his duty to make reference on the subject to the Pro= =vincial Court of Circuit. -

2. The object of the above order was twofold. - first, that in all such cases the Criminal Judges might have the benefit of the opinion of the Provincial Court of Circuit on the point at issue; and secondly, that all references involving the construction

of

8th September 1821.

of the Regulations might come before the Foujdaree Adalut through the Provincial Courts of Circuit.-

3 The Regulations do not vest those Courts with the cognizance of the acts of a Magistrate.-

4 The Court of Foujdaree Adalut do not seem it proper to transmit to the Provincial Court of Circuit in the Western Division their opinion upon the question specifically referred by them, without at the same time communicating to them their opinion, ~~of the Court of Foujdaree Adalut~~ with reference to the point at issue between the Criminal Judge & the Magistrate in the Zilla of Canara, that the period of confinement adjudicable by a Magistrate in commutation of a fine, awarded under the provisions of Section XXXII Regulation IX of 1816 is limited to fifteen days.-

5. Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Western Division by precept directing them to communicate to the Criminal Judge and Magistrate in the Zilla of Canara such part thereof as concerns those officers for their information and guidance respectively.-

Sent following Precept No 319/20.

Sent 11th

W. H.

F. 11.

At a Court of the Foujdaree Adalut.-

Present,

Monday 10th September 1821.- Charles Harris Esqre ----- Puisne Judge.
Peter Sherry Esqre ----- Acting Judge.-

Read again letter dated 10th Ultimo, from the 2d Judge on Circuit in the Western Division,- submitting case No 1 Canara Calendar 2d Session A.D. 1821.-

Here enter No 548.

Read the second futwa delivered in this case by the Acting Cazee ool Coozat and Mooftees of the Foujdaree Adalut.-

The Court having maturely consi=dered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the acting Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftees aforesaid and under the latitude given by the sentence of Corroborat declared in the futwa adjudge the prisoner,

"Rudeer"

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

Sent 12th

Sent following letter No 322.

Read

10th September 1821

Read letter, dated 30th ultimo, from the 1st Judge on Circuit in the Centre Division,- submitting case No. 47 Cuddapa Calendar 2d Sessions A.D. 1821.

/Here enter No. 596./

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 acting Cazee ool Cozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the acting Cazee ool Cozat and Mooftees aforesaid and under the sentence of Kisaas declared in the futwa adjudge the prisoner,-

"Condoogadoo"

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

/Sent following letter No. 323./

Read letter, dated 27th ultimo, from the 2d Judge of the Court of Circuit in the Centre Division,- submitting copy of Chittoor Calendar 3d Quarterly Sessions A.D. 1821.-

/Here enter No. 599./

1 It is stated in the Remarks on Cases Nos. 8 and 9 of the above Calendar, that the prisoners were "convicted of Shobamut Sarakh "on their confessions before the Criminal Judge and

10th September 1821

"and declared liable to Co-hoobut."- And in the former case sentence was passed of six years, and in the latter of two years' imprisonment and hard labor in Irons.-

2 Shobamut-i-Sarakh signifies suspicion of theft, and it is declared in Clause sixth Section II. Regulation XV of 1803, that no punishment whatever shall be inflicted on suspicion only. Under this exposition of the law it will be apparent to the Second Judge of the Court of Circuit in the Centre Division that the sentences passed in the cases were referred to, supposing the entry of the abstract of the futwas to be correct, are not in conformity with the provisions of the Regulations, and that under those futwas it is competent only to the 2d Judge, unless he shall see cause to disapprove the opinion declared in the futwas, to direct that the prisoners in question be released, either conditionally or unconditionally, as shall to him appear to be expedient.-

3 But the Court of Foujdaree Adalut incline to the opinion, that the above entries may be erroneous, and that the prisoners by their confessions before the Criminal Judge may

may have been declared convicted on strong presumption /Zunn-i- ghalib/ in which case the sentences passed upon them would be in conformity with the provisions of Clauses second and third Section II Regulation XV. of 1803.-

4. Should, however, the entry be correct, it will be the duty of the second Judge to revise the sentences passed in cases Nos 8 and 9 of the Calendar with reference to the foregoing instructions.-

5 The Court of Foujdaree Adawlut desire to have before them copies and English translations of the futwas, delivered in these two Cases.-

6 The Court observe, that the "Remarks of the Court of Circuit" are not entered in the Calendar in the prescribed Form, from which it will be requisite, that the 2d Judge should not in future deviate.-

7 Ordered, that extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Centre Division, by precept requiring him to proceed in conformity to the instructions herein contained and to transmit copy and English translation

7

of the futwas delivered in the above cases in two days from the date of the receipt of the precept.-

Ent. at 13d

/Sent following precept No 324/

Read letter, dated 7th ultimo, from the 1st Judge on Circuit in the Centre Division,- submitting case No 10 Cuddapa Calendar 2d Sessions A.D. 1821.-

/Here enter No. 580./

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 acting Cazee ool Coozat and Mooftees of the Foujdaree Adawlut confirm the said futwa of the acting Cazee ool Coozat and Mooftees aforesaid, and under the sentence of Hussud declared in the futwa adjudge the prisoner,

"Nullacondoogaree Narain Reddy,"

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

Ent. at 12d

/Sent following letter No 325/

Read return, dated 2d Instant, from the 3d Judge on Circuit in the Northern Division, to precept, dated 22d ultimo, ordering him to annex to the original Record of case No 11 Nellore Calendar 2d Sessions A.D. 1821 certain further evidence required by the Court

2d

10th September 1821

Law Officers of the Foujdaree Adalut and to retransmit the trial with a letter, stating his opinion on the evidence and on the guilt or innocence of the prisoners.

/Here enter No. 618/

1. By the foregoing precept of the 3d Judge was directed to obtain certain additional evidence, required in Case No. 11 Nellore Calendar 2d Sessions A.D. 1821, English and Persian translations of which were ordered to be annexed to the original Record, which was returned to the 3d Judge for that purpose and with reference to the orders of the Court of Foujdaree Adalut under date 23d July last, the 3d Judge was further directed to transmit to the Court, together with the trial, "an English "letter stating his opinion on the evidence, and "on the guilt or innocence of the prisoners:"-

2. The foregoing return went in the following words:-

"In obedience to the exigence of this "precept, the 3d Judge on Circuit has to state, "that copy of such part of the Extract of "Proceedings which accompanied it, was "transmitted to the Criminal Judge of Nellore, "with a Precept directing him to obtain the opinion

10th September 1821

"opinion of two or more intelligent Natives "respecting the age of the Prisoners in No. 11 "of the Nellore Calendar. The return of that "Officer with original Depositions and English "and Persian Translations thereof, are here- "-with transmitted."-

3. The incorrectness of the phraseology of the foregoing return, and the inattention which it displays to the orders of the Court, contained in their precept of the 2d ultimo, are alike remarkable.-

4. Instead of transmitting certain additional evidence with translations annexed to the original Record, the 3d Judge transmits the evidence without the Record, "in obedience to the exigence of the precept."-

5. This is an instance of carelessness if not of contempt of the orders of the Court, which demands the severest reprehension; and the Court of Foujdaree Adalut deem it proper to intimate to the 3d Judge, that any repetition of a default of this nature will not be visited with a simple admonition.-

6. Ordered, that the foregoing return

6.

16th September 1821

return with it's accompaniments and extract of these proceedings be sent to the 3d Judge on Circuit in the Northern Division by precept commanding him to carry into effect the orders contained in the precept dated 2d Ultimo and to make an amended return certifying due conformity thereto within two days from the date of the receipt of the precept.—

sent 11th.

(Sent following precept-No 326)

C H
C F—

7 A.

At a Court of the Zoydaree Adalut.

Present,

Thursday 13th September 1821.— Charles Harris Esqre ..... Puisne Judge
Peter Cherry Esqre ..... Acting Judge.

Read letter, dated 4th Instant,

C H
M

from the Criminal Judge in the Zilla of Canara,— applying by direction of the 3d Judge on Circuit for permission to tender a conditional pardon to two persons implicated in a case of Murder.—

(Here enter No 619.—

In consideration of the circumstances elicited by the foregoing papers, the Court of Zoydaree Adalut resolve to submit the Criminal Judge's application to Government, and to recommend that the Honorable the Governor in Council may be pleased to authorize an offer of pardon to two persons named Anapoo and Pudpoo Birmana, on the terms specified in Section XX Regulation VIII of 1802.—

2. 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

13th September 1821

Honorable the Governor in Council.-

9V43. Lett 14th

/Sent following letter No 327/

Read letter, dated 28th Ultimo, from the 1st Judge of the Court of Circuit in the Northern Division,- submitting Case No 3 Masulipatam Calendar 3rd Quarterly Sessions AD 1821.-

/Here enter No 587/

The Court of Foujdaree Udalut having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Acting Cuzee-ool-Cozat and Mooftees of the Foujdaree Udalut, are of opinion that the proof against the prisoners 1st, 2d, 3d, 4th, 5th, 6th, 7th, and 8th is sufficient to convict them of the crime of Gang Robbery for which a penalty is specially denounced in Clause Third 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 prisoners,

1st "Casanaynee Permalloo"
2d "Ragoola Coorrauzloo"

13th September 1821

3rd "Singum Luchmoodoo"
4th "Keesara Narraidoo"
5th "Malloopeddee Mootiah"
6th "Mayda Boochana"
7th "Doodaykoola Hoossain" and
8th "Doodaykoola Emam"

to be severally imprisoned and kept to hard labour in irons on the public roads or other public works for and during the term of 14 years and then to be released.-

/Sent following letter No 328/

The Court of Foujdaree Udalut in their circular orders dated 8th May 1815 directed that in all referrible cases a notification should be made according to the form therein prescribed to the prisoners of the reference of their cases to the Foujdaree Udalut.-

2 No such notification being entered on the Record of the above case, the Court of Foujdaree Udalut direct that the attention of the 1st Judge be called to their circular orders here referred to, and that he be instructed to be careful to avoid any such omission in future.-

3 Ordered that extract of these proceedings

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

Sent 17th

(Sent following letter No 329)

(Read letter, dated 7th Ultimo, from the 1st Judge of the Court of Circuit in the Southern Division,- stating that on the Sessions of Jail delivery at Combaconum 2d Sessions A.D. 1821. nothing transpired which called for report.-

(Here enter No 520.)

Read letter, dated 9th Ultimo, from the 1st Judge of the Court of Circuit in the Southern Division,- reporting on the 2d Quarterly Sessions for 1821 at Tuckinopoly.-

(Here enter No 522.)

Read letter, dated 3d Instant, from the 1st Judge on Circuit in the Centre Division,- with copy of Cuddapa Calendar 2d Sessions A.D. 1821.-

(Here enter No 598.)

Read letter, dated 5th Instant, from the 2d Judge on Circuit in the Southern Division,- with copy of Coimbatore Calendar 2d Sessions A.D. 1821.-

(Here enter No 614.)

Read

2/ 7th

13th September 1821.

Read letter dated 7th Instant from the 3d Judge on Circuit in the Western Division,- reporting the completion of the Jail Delivery in the Zilla of Canara.-

(Here enter No 607.)

Read letter, dated 7th Instant, from the 1st Judge late on Circuit in the Western Division,- with returned warrant for execution of prisoner in case No 8 South Malabar Calendar 1st Sessions A.D. 1821.-

(Here enter No 610.)

Read letter, dated 7th Instant, from the Provincial Court of Circuit in the Centre Division,- with returned warrant for execution of prisoner in No 4 Bellary Calendar 1st Sessions A.D. 1821.-

(Here enter No 609)

Read return, dated 10th Instant, from the Provincial Court of Circuit in the Northern Division,- to precept dated 2d Ultimo ordering them to communicate to the Criminal Judges the orders of the Court relative to the infliction of corporal punishment.-

(Here enters No 616.)

Read

13th September 1821

Read return, dated 10th Instant, from the Provincial Court of Circuit in the Northern Division, - to precept dated 1st Ultimo ordering communication to the Criminal Judges and Magistrates of the Court's orders relative to Cases of Perjury before the latter officer. -

(Here enter No 617.)

F. H.

At a Court of the Foujdaree Udalut

Present

Saturday 15th September 1825. George Stratton Esq.re Chief Judge

Peter Cherry Esq.re Acting Judge

Read letters, dated respectively 12th December and 14th April last from the late 1st Judge of the Court of Circuit in the Centre Division, - reporting on the 4th Quarterly Sessions for 1820 and the 1st for 1825 held at Chittoor. -

(Here enter Nos 676 of 1820 & 266 of 1825)

The Court of Foujdaree Udalut having communicated to the several Magistrates the sentiments of the Honorable the Governor in Council contained in para. 6 of a letter (No 320) from the Secretary to Government in the Judicial Department, dated 31st July last, regarding the entire delegation of the Police functions by a Magistrate to his Assistant, - consider it unnecessary further to notice that part of the proceedings of the Magistrate in the Zilla of Chittoor which is animadverted upon by the late 1st Judge in para 6 of his Report dated 14th April last. -

No

15th September 1821

2 As other part of these reports appears to require particular Comment; the recurrence of the irregularity of the Magistrate in inserting the trifling cases described in the latter of the abovementioned reports, in the Calendar submitted to the Court of Quarterly Sessions will be obviated by Section VIII Regulation IV of 1821.—

3 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 Honorable the Governor in Council.—

Vide Cont 20th / Sent following letter No 330/

W. H.

20

F. U.

At a Court of Foujdaree Udalut

Present

Monday, 17th September 1821.— } Charles Harris Esq re Puisne Judge
Peter Cherry Esq re Acting Judge

1 No return having been received from the Acting Judge late on Circuit in the Centre Division to the Precept issued to him under date the 21st Ultimo calling for the report prescribed by Section XXXVII Regulation VII of 1802.—

C H.
M

2 The Court direct, that the Acting Judge late on Circuit in the Centre Division be by precept commanded to explain the cause why he has not obeyed the exigence of the Precept dated 21st Ultimo.—

3 Return to the precept to be made within three days from and after its receipt.—

Sent following Precept No 332.

20

C H.
M

W. H.

Read again letter dated 31st July last from the 1st Judge late on Circuit in the Western Division, submitting copy of South Malabar Calendar 1st Sessions A. D. 1821.—

Vide enter No 510.

The

17th September 1821.

The proceedings held before the Judge late on Circuit in the Cases Nos. 12, 14, 15, 16, 17, 18, 19, 39 & 40. of the South Malabar Calendar which are to be referred to the Foujdaree Adalaut not having been received,-

2. The Court direct that the attention of the 1st Judge late on Circuit in the Western Division be directed to section XXXV Regulation VII of 1802 and that he be by precept commanded to send up the Records of the proceedings held before him in the 8 Cases abovementioned within one month from the date of the receipt of the precept.-

/ sent following precept No 333/

Read letter, dated 8th Instant from the Magistrate of Malabar, requesting permission to make a tender of pardon to a person implicated in two cases one of murder the other of Robbery and Arson.

Here enter No. 624

Also read again letter, dated 13th Ultimo from the Magistrate of Malabar Requesting authority to tender a conditional pardon to one Kurripaly Parangadan for divers offences.-

Here enter No. 555

17th September 1821

In consideration of the circumstances represented by the Magistrate in the foregoing letters the Court of Foujdaree Adalaut resolve to submit his application to the Government with their recommendation that the Magistrate may be authorized to make a conditional offer of pardon to Kurripully Parangodan, under the provisions of Section XX Regulation VIII of 1802 of all guilt incurred by him in the cases of murder, robbery and arson referred to.-

Ordered, that the foregoing letters with Extract of the Courts proceedings dated 20th Ultimo 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 No 334

Read return dated 13th Instant, from the 3d Judge late on Circuit in the Southern Division, - to precept dated 3d Instant ordering communication to the Criminal Judge in the Zilla of Madura

of

17th September 1821

of the Court's remarks on Case No 5 Madura Calendar 1st Sessions A.D. 1821.-

(Here enter No 626.)

Read return, dated 10th Instant, from the Provincial Court of Circuit in the Centre Division,- to precept dated 4th Instant ordering communication to the Criminal Judge in the Zilla of Chingleput of the Court's orders relative to the execution of certain prisoners in case No 12 Chingleput Calendar 1st Sessions A.D. 1821.-

(Here enter No 627.)

Read letter, dated 8th Instant, from the 2d Judge on Circuit in the Northern Division,- with copy of Rajahmundry Calendar 2d Sessions A.D. 1821.-

(Here enter No 630.)

Read letter dated 6th Instant, from the 1st Judge of the Court of Circuit in the Northern Division,- explaining certain entries in the Masulipatam Calendar 3d Quarterly Sessions A.D. 1821.-

(Here enter No 620.)

Read return, dated 6th Instant from the Provincial's Court of Circuit in the Northern Division,- to precept dated 30th ultimo ordering dismission of Moulavee Syyud Basharut Alee Mooftee of the Provincial Court in the Northern Division.-

(Here enter No 621.)

Read letter, dated 8th Instant, from the 2d Judge on Circuit in the Northern Division,- reporting his intention to leave Rajahmundry on 8th Instant.-

(Here enter No 622.)

Read letter, dated Instant from the 2d Judge on Circuit in the Western Division,- reporting his arrival at Seringapatam.-

(Here enter No 623.)

17th September 1821.

At a Court of the Foujdaree Udalut

Present:

Friday 21st September 1821 — Charles Harris Esqre. ..... Puisne Judge
Peter Cherry Esqre. ..... Acting Judge.

C H
D K

Read letter, dated 13th Instant, from the Provincial Court of Circuit in the Northern Division, - transmitting for the orders of the Court of Foujdaree Udalut the proceedings held in two cases on the Calendar of persons punished by the Criminal Judge in the Zilla of Nellore, which were referred by order of the 3d Judge on Circuit, under the provisions of Section XXIII. Regulation X of 1816.-

(Here enter No 639)

1 The present reference has arisen from a doubt entertained by the Court of Circuit as to their competency "to mitigate or remit a "sentence passed by a Criminal Judge or Assistant "Criminal Judge on a reference made to them "by the Judge on Circuit."-

2 It appearing to the Court of Foujdaree Udalut to be unquestionably competent to a Provincial Court of Circuit, under the provisions of Sections XXIII and XXIV Regulation X of 1816, to pass such orders as they may deem proper, on all proceedings of a Criminal Judge, which may be regularly brought

brought before them, - the Court of Sudder Adawlut direct, that the proceedings accompanying the foregoing reference be returned to the Provincial Court of Circuit in the Northern Division to be disposed of by them accordingly --

3 In transmitting their orders on the reference before them the Court of Sudder Adawlut cannot withhold the expression of their surprize, that the Provincial Court should have entertained any doubt as to their competency to dispose of the cases in question, as it appears from an Extract of the Proceedings of the Provincial Court of Circuit in the Northern Division, under date 15th May, forwarded by the 3d Judge to the Court of Sudder Adawlut under date 9th August 1820, that the Provincial Court felt no hesitation, upon that occasion, in passing their orders on a case referred by the 3d Judge on Circuit, under circumstances precisely similar -

4 Ordered, that the proceedings accompanying the above reference be returned to the Provincial Court of Circuit in the Northern Division and that extract of these proceedings be furnished to the Court for their information and guidance -

(Sent following Letter No 335.)

Read

Read letter, dated 15th Instant, from the Acting 3d Judge late on Circuit in the Centre Division, - stating that the report on the Circuit lately completed by him will be furnished as soon as possible --

(Here enter No. 633.)

At a Court of the Faujdaree Udalut

Monday 24th September 1821.

Present

Charles Harris Esqre Puisne Judge

Peter Cherry Esqre Acting Judge

Read letter, dated 13th instant, from the Secretary to Government in the Judicial Department, - stating that the Governor in Council sanctions the conditional offer of pardon recommended by the Court under date 13th Instant.

(Here enter No. 642)

Ordered, that copy of the foregoing letter be sent, with extract from the Courts proceedings of the 13th Instant, for the information and guidance of the Criminal Judge in the Zilla of Canara.-

(Sent following letter No 336)

Sent 24th

W. A.

At a Court of the Bujdaree Adalut -

Present,

Tuesday
25th September 1821 - Charles Harris Esqre. - - - - Puisne Judge.
Peter Cherry Esqre. - - - - - - Acting Judge

Read letter dated 25th Ultimo
C.H. from the 3d Judge on Circuit in the Western
M Division, - submitting case No. 17 Canara
Calendar 2d Sessions A.D. 1821. -
(Here enter No. 588.)

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 Acting Cazee ool Cozat and Mooftees of the Bujdaree Adalut are of opinion that the proof against the prisoners, Timapah alias Tempana, Deyoo, Comaroo, Cohoo, and Toma, is sufficient to convict them of the crime of murder in the prosecution of a robbery for which a penalty is specially denounced in Clause Third Section IV Regulation XV of 1803.

The Court, under the authority vested in them by Clause First Section II Regulation I of 1818 accordingly adjudge the

the said prisoners,

1st "Simapah alias Sempana,"
2d "Deyoo,"
3d "Comaroo,"
4th "Cahoo," and
5th "Loma,"

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

(Sent following letter No 337.)

Read letter, dated 2d Instant, from the 1st Judge on Circuit in the Centre Division, submitting case No 58 Cuddapa Calendar 2d Sessions A.D. 1821.-

(Here enter No 597.)

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 acting Cazee ool Cozat and Mooftees of the Zoujdaree Adalut confirm the said futwa of the acting Cazee ool Cozat and Mooftees aforesaid and under the provisions of Section XVII. Regulation VIII. of 1802. adjudge the prisoner,

"Bungar Naid,"

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

(Sent following letter No 338.)

Read letter, dated 14th Instant, from the 3d Judge on Circuit in the Western Division, reporting the completion of the Jail Delivery at Seringapatam.-

(Here enter No 632.)

Read letter, dated 13th Instant, from the Provincial Court of Circuit in the Northern Division,- with returned warrant for execution of prisoner in case No 3 second Supplemental Calendar of Chicacole 1st Sessions A.D. 1821.-

(Here enter No 634.)

Read return, dated 17th Instant, from the 2d Judge of the Court of Circuit in the Centre Division,- to precept dated 10th Instant ordering transmission of the futwas delivered in cases No 8 and 9 Chittore Calendar 2d Quarterly Sessions A.D. 1821 and the eventual revision of the sentences thereon passed.-

(Here enter No 635.)

Read return dated 17th Instant, from the 2d Judge late on Circuit in the Southern Division,- to precept dated 3d Instant ordering communication to the Criminal Judge and Magistrate in the Zilla of Verdachellum of the Court's observations in case No 6. Verdachellum Calendar 2d Sessions 1821.-

(Here enter No 636.)

25th September 1821.

Read letter dated 12th Instant, from the Provincial Court of Circuit in the Centre Division, - to precept dated 6th Instant ordering communication to the Judge on Circuit of the Court's orders relative to the instructions issued by them to individual Judges of Circuit.-

(Here enter No. 641.) S

At a Court of the Foujdaree Udalut.

Present,

Thursday 27th September 1821. Charles Harris Esqre. ..... Puisne Judge.-

Peter Cherry Esqre. ..... Acting Judge.-

Read letter dated 7th Ultimo, from the 2d Judge of the Court of Circuit in the Western Division, - submitting case No. 1 North Malabar Calendar 2d Quarterly Sessions AD 1821.-

(Here enter No. 549.)

The Court having maturely con=sidered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Acting Cazee ool Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the acting Cazee ool Coozat and Mooftees aforesaid and under the latitude given by Clause third Section III Regulation VI of 1811 adjudge the prisoner,

Pt. Chella Kandy Bapen alias Kappen,

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

one Month.-

And acquitting the prisoner,

2d "Cheroovatoo Kellapoo alias Kellapoo",

direct that he be set at liberty.-

(Sent following letter No 342.)

W. H.

Read letter dated 1st Instant, from the 3d Judge on Circuit in the Western Division, submitting case No 2 Canara Supplemental Calendar 2d Sessions AD 1821.

(Here enter No 606)

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 Acting Cazee and Cozat and Mooftees of the Foujdaree Adalut are of opinion that the proof against the prisoners, Corga Shetty, Mahlinga, and Lingah, is sufficient to convict them of the crime of murder in the prosecution of a robbery 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

the said prisoners,

1st "Corga Shetty,"

2d "Mahlinga" and

3d "Lingah,"

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

(Sent following letter No 343.)

W. H.

Read letter, dated 20th Instant, from the 1st Judge on Circuit in the Southern Division, reporting his arrival at Madura.-

(Here enter No 644.)

Read return, dated 19th Instant, from the Provincial Court of Circuit in the Western Division,- to precept dated 6th Instant ordering communication to the Judge on Circuit of the Court's orders that Individual Judges do in future furnish to the Register for the information of the Provincial Court all orders and instructions addressed to them from the Foujdaree Adalut.-

(Here enter No 645)

Read return dated 19th Instant, from the Provincial Court of Circuit in the Western Division,- to precept dated 8th Instant ordering communication to the Criminal Judge and the Magistrate of Canara

of

27th September 1821

of the Court's opinion regarding the imprisonment adjudicable in commutation of a fine awarded under Section XXXII Regulation XX of 1816.-

(Here enter No. 648.)

Read return, dated 19th Instant, from the Provincial Court of Circuit in the Western Division,- to precept dated 6th Instant ordering communication to the several Criminal Judges and Magistrates of the Court's orders relative to the commitment of old offenders for trial and the attestation of confessions.-

(Here enter No. 646.)

Read return, dated 19th Instant, from the Provincial Court of Circuit in the Northern Division,- to precept dated 6th Instant ordering communication to the Judge on Circuit of the Court's orders that individual Judges do in future furnish to the Provincial Court of Circuit all orders addressed to them from the Court of Fouzdaree Adalut.-

(Here enter No. 647.) /5

7 A.

At a Court of the Fouzdaree Adalut

Present,

Saturday 29th September 1821. Charles Harris Esqre. ..... Puisne Judge

Peter Cherry Esqre. ..... Acting Judge.

Read letter, dated 21st Instant, from

C # M the Secretary to Government in the Judicial Department,- communicating the sentiments of the Honorable the Governor in Council on the report of the 3d Judge late on Circuit in the Southern Division.-

(Here enter No. 662.)

The Court of Fouzdaree Adalut

/ in transmitting to the 3d Judge for his information and guidance such part of the foregoing letter, as relates to the case of Ramarow, described in the 55th and two following paragraphs of his late report, deem it proper to direct, that the 3d Judge will submit such explanation, as he may have to offer, as to the grounds of the judgement passed by him in Case No. 3 of the Madura Calendar 1st Sessions of the present year, which he will forthwith revise agreeably to the desire of the Honorable the Governor in Council.-

2 On reference to the Calendar the

29th September 1821

the Court remark, that the 1st 2d and 3d prisoners in this case were charged with having committed a Burglary in the house of the 4th prisoner, and that the 4th 5th 6th 7th 8th 9th and 10th prisoners were charged "with having "wilfully and knowingly concealed the above "Felony from coming to the knowledge of "the Magistrate, and with having aided and "abetted in the compounding of the said felony."-

3 It is stated in the column of remarks, that the 1st 2d 3d 5th 6th 7th 8th and 9th prisoners were "acquitted and discharged" "That the 4th prisoner was convicted of Wood-"=lahoo-roomee and sentenced under Sadut "to be fined 100 rupees or to be imprisond "for the term of 6 Months."-

4 The charge against the 1st 2d and 3d prisoners in this case being of a nature altogether different from that preferred against the remaining prisoners, the cases should have formed different numbers in the Calendar, and should have been separately tried; and it would appear from the nature of the charge against the 4th and following prisoners, that the conviction of the three first was necessary before

29th September 1821

before they could regularly be put on their trial.-

5 The Court of Foujdaree Adalut do not understand how the 4th prisoner could have been convicted on a charge of concealing a felony, which is not proved to have been committed.-

6. Ordered, that Extract of the letter from the Secretary to Government in the Judicial Department dated 21st Instant and Extract of these proceedings be trans=mitted to the 3d Judge late on Circuit in the Southern Division by precept commanding him to revise the sentence passed in Case No. 3 of the Madura Calendar 1st Session of 1821 as therein directed, and to submit such explanation as he may have to offer with reference to the observations of the Honorable the Governor in Council and those recorded in these proceedings of the Court of Foujdaree Adalut.-

M. M. (Sent following Precept JV 345

Read letter, dated 21st Instant, from the 2d Judge on Circuit in the Western Division, - with returned warrant for execution

29th September 1821.

execution of prisoner in Case No. 12 Canara Calendar 2d Sessions A.D. 1821.-

(Here enter No. 651)

Read letter, dated 24th Instant, from the 2d Judge late on Circuit in the Southern Division,- with returned warrant for execution of the prisoner in case No. 4 Salem Calendar 2d Sessions A.D. 1821.-

(Here enter No. 653.)

Read return, dated 22d Instant, from the 1st Judge of the Court of Circuit in the Northern Division,- to precept dated 6th Instant ordering communication to the Criminal Judge in the Zilla of Masulipatam and the Magistrate in the Zilla of Rajahmundry of certain parts of the Court's proceedings under date 23d August last.-

(Here enter No. 654)

Read letter, dated 24th Instant, from the 3d Judge on Circuit in the Western Division,- submitting copy of Canara Calendar 2d Sessions A.D. 1821.-

(Here enter No. 655.)

Read letter, dated 27th Instant, from the 3d Judge on Circuit in the Western Division,- with copy of Seringapatam Calendar 2d Sessions A.D. 1821.-

(Here enter No. 656)

Read letter dated 24th Instant, from the acting 2d Judge on Circuit in the Centre Division,- reporting his arrival at Bellary.- (Here enter No. 658.)

7. 11.

At a Court of the Foujdaree Adalut.-

Present,

Saturday.-
6th October 1821.- Charles Harris Esqre - Puisne Judge.-
Peter Cherry Esqre - - - Acting Judge.

The report prescribed by Section XXXVII Regulation VII of 1802 not having been received from the First Judge who presided at the Gaol deliveries of Canara and South Malabar for the 1st Sessions of this year.-

The Court direct that the First Judge late on Circuit in the Western Division be by precept commanded to send up the aforesaid Report and to make return to the Precept within eight days from the date of its receipt.-

(Sent following Precept No. 352)

Read letter, dated 5th Instant, from the Secretary to Government in the Judicial Department,- communicating the sentiments of the Governor in Council upon the Report of the 3d Judge of the Court of Circuit in the Western Division on the 4th Quarterly Sessions of Gaol delivery for 1820 and first for 1821 at Tellicherry.-

(Here enter No. 675.)

6th October 1821

In transmitting for the information of the 3d Judge of Circuit in the Western Division, an extract of the foregoing letter, regarding provision for the punishment of forcible proselytism to the Mohummedan religion, - the Court of Vujdaree doubt not deem it proper to call the attention of that officer to an extract of their proceedings, under date 7th June last, in which was communicated to him the desire of the Court, that he would "submit in the mode prescribed by the circular "instructions of Government under date 3d May "1820 such special provisions as might appear "to him to be best calculated to meet the evil."

2

Ordered, that extract of the foregoing letter, and extract of these proceedings be sent to the 3d Judge on Circuit in the Western Division for his information and guidance.

(Sent following letter No 353.)

W.M.

Read return, dated 24th ultimo, from the Provincial Court of Circuit in the Northern Division, - to precept dated 6th ultimo ordering communication to the Criminal Judges and Magistrates of the Court orders relative to the attestation of confessions.

(Here enter No 659.)

6th October 1821

Read letter, dated 28th ultimo, from the 3d Judge on Circuit in the Western Division, with returned warrant for execution of a prisoner in case No 1 Canara Calendar 2d Sessions A.D. 1821.

(Here enter No 670.)

Read return dated 25th ultimo from the acting Judge late on Circuit in the Centre Division, - to precept dated 17th ultimo calling on him to explain his omission to make return to a former precept requiring transmission of report prescribed by Section XXXVII Regulation VII of 1802.

(Here enter No 664.)

Read letter, dated 25th ultimo from the 3d Judge on Circuit in the Western Division, - with returned warrant for execution of a prisoner in case No 3 Canara Calendr 2d Sessions A.D. 1821.

(Here enter No 667.)

At a Court of the Foujdaree Udalut.

Present,

Monday
8th October 1821. Charles Harris Esqre ... Puisne Judge.
Peter Cherry Esqre ... Acting Judge.

C H
M

Read letter, dated 17th August last,
from the late 3d Judge on Circuit in the Northern
Division, - submitting case No 15 Nellore Calendar
2d Sessions A.D. 1821.

Here enter No 5714

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 acting Cazee ool Cozat and
Mooftees of the Foujdaree Udalut confirm the
said futwa of the acting Cazee ool Cozat
and Mooftees aforesaid and under the latitude
given by the sentence of Cohoobut adjudge
the prisoner,

Fd "Carumbaka Lutchmiah,"

to receive 24 stripes with a rattan - to be
led through the principal street in the Town
of Nellore with a label describing his offence
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 six
years.

years, and then to be released.-

And under the discretion given by the sentence of Cohortant declared against the prisoner, 3rd "Caudee Venkatanursoo,"

the Court direct that he be set at liberty.-

And the Court acquitting the prisoners,

1st "Borra Ramachendroodoo,"

2d "Rayoola Venkataswamy," and

4th "Daumojeepooram Jajum,"

direct that they be discharged from confine=ment.-

Cont 5th

/sent following letter. N 356./

1 It appears by the record of the proceedings held in this case, that the Apistant Criminal Judge committed the 5th prisoner for trial on the ground of his deposition taken before him on oath, as a witness in this case.-

2 It is a settled rule of law, that the confession of a prisoner taken upon oath cannot be read in evidence against him.- The Apistant Criminal Judge acted erroneously in committing this person for trial on the ground of his deposition on oath, there being nothing else against him.- If from the statement given by him as a witness before

the Magistrate it appeared to the Apistant Criminal Judge, that he was implicated in the conspiracy charged against the prisoners, his examination should have been taken as a prisoner, without oath, and his declaration would then have been available against him.-

3 The Court considers it proper to bring to the notice of the late 2d Judge of Circuit in the Northern Division the following discrepancy between the English and Persian translations of the Record.-

4 The 3d prisoner on being interro=gated by the Apistant Criminal Judge, as to his commission of the crime, appears by the English Translation to have unequivocally confessed it.- According to the Persian or translation he as explicitly denied it.-

5 The Court conclude from there being no attestation to the declaration of this prisoner before the Apistant Criminal Judge, that the Persian Translation is correct.-

6 Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Northern Division by precept enjoining him to communicate to the Criminal Judge such part thereof as relates to the proceedings of the Apistant Criminal Judge for the information

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information and future guidance of that
Offices.-

(Sent following precept No 357)

Read letter, dated 5th ultimo, from the 1st Judge late on Circuit in the Western Division,- submitting cases No 27 Calendar and 1 and 2 Supplemental Calendar South Malabar 1st Sessions A.D. 1821.-

(Here enter No 631.)

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 Acting Cazee ool Cozat and Mooftees of the Foujdaree Adalut are of opinion that the proof against the prisoner, Terootumul Koonjoonien, 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 XV of 1803.-

The Court under the authority vested in them by Clause first Section II Regulation I of 1818 accordingly adjudge the said prisoner,

"Terootumul Koonjoonien,"

to suffer death by being hanged at the usual

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usual time and place of execution.-

(Sent following letter No 358)

Read letter dated 7th Instant, from the late 2d Judge on Circuit in the Northern Division,- submitting case No 20 Rajahmundry Calendar 2d Sessions A.D. 1821.-

(Here enter No 628)

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 Acting Cazee ool Cozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Acting Cazee ool Cozat and Mooftees aforesaid, and adverting to the opinion declared in the futwa regarding the insanity of the prisoner,

"Yarlagudda Venkapah,"

The Court direct that the Criminal Judge in the Zilla of Masulipatam be commanded to place the prisoner in the Lunatic Hospital established at that station, there to remain until the receipt of further orders from the Court of Foujdaree Adalut.-

(Sent following letter No 359)

Read letter dated 27th August last from the 2d Judge of the Court of Circuit in the

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the Centre Division,- submitting case No 2 Chittoor Supplemental Calendar 3d Quarterly Sessions A.D. 1821.-

/Here enter No 629./

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 acting Cazee ool Cozat and Mooftee of the Foujdaree Adalut confirm the said futwa of the acting Cazee ool Cozat and Mooftees aforesaid and acquitting the prisoners,

1st "Ranjee," and

2d "Pedda Ranjee,"

direct that they be let at liberty.-

/Sent following letter No 360/

1 The proceedings of the Police Officer in this case call for the marked animadversion of the Court of Foujdaree Adalut.-

2 It appears by the evidence of the witness Seroomalrauy, a Moniyar under the Zemindar of Carvatenagarum, that on information given to him by the Prosecutors he set out with certain persons, whom he summoned for the purpose, in quest of the robbers; that they traced a party of Lumbadies whom they surrounded, and among whom were five persons, who

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who were immediately recognized by the Prosecutors, as the persons who had robbed and wounded them- Abullock identified by the 1st prosecutor as his property, appears also to have been found with the party of Lumbadies, and no satisfactory account given as to how it came there- It further appears that two persons designated as the Heads of the Tundah of Lumbadies paid to this witness 120 rupees to induce him to release the five persons whom he had taken into custody.-

3 Under circumstances of a nature so suspicious it was obviously the duty of the Police Officer to search all the property in possession of the Lumbadies, with a view to the discovery of the effects plundered from the Prosecutors- Such a search might have furnished evidence of the guilt of the whole party.- This Police Officer contented himself with receiving the money offered to him and reporting the circumstances to the Zemindar- without taking any steps to follow up the investigation.-

4 It is stated in evidence, that examinations of the persons apprehended were taken by the Zemindar of Carvatena= =garum, and among the papers laid before the

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the Court of Quarterly Sessions by the Criminal Judge in the Zilla of Chittoor are two declarations, which would seem to have been taken before an Officer of Police - they are not however attested by the signature of any native officer, but by that of the Assistant Magistrate before whom, adverting to the subsequent proceedings of the Magistrate, it does not appear that they could have been delivered.-

5 The Court of Foujdaree Adalut direct that the foregoing circumstances be brought to the notice of the Magistrate in the Zilla of Chittoor, in order that he may admonish the Police Officer, Veroomalrauz, of the impropriety of his proceeding on this occasion; - and that the Zemindar of Carvatna-garum, to whom the Court conclude that the Magistrate has delegated the Police functions under the provisions of Section XXXIX Regulation XI of 1816, may be advised of the necessity of attesting with his signature the several documents, which he may from time to time forward to the Criminal Judge under the provisions of Section XXVII Regulation XI of 1816.-

6 This case presents another instance

F.U.

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instance of the inattention of the Police Officers in the Zilla of Chittoor to the provision contained in Clause fourth of the above Section, which declares that the proceedings prisoners and witnesses in such cases shall be sent direct to the Criminal Judge.

The Court of Foujdaree Adalut

7. have so frequently called the attention of the Magistrate in the Zilla of Chittoor to the neglect exhibited by the Police Officers under his authority to the last mentioned provision of the Regulations, that they deem it proper on this occasion to intimate to the Magistrate, that any future instance of similar irregularity will be attributed by the Court of Foujdaree Adalut to the Magistrate's neglect of their orders, and will be noticed accordingly.-

The Court of Foujdaree Adalut

8. are compelled to record their disapprobation of the extreme incorrectness of the English Translation of the proceedings in this case - Every page exhibits errors of so gross a description, in respect to grammar and orthography, that it is impossible to suppose, that the 2nd Judge could have

performed

performed the duty incumbent upon him of revising the Record previously to its transmission to the Court of Poojdaree Adalut.—

Ordered, that extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Centre Division by precept enjoining him to communicate to the Magistrate in the Zilla of Chittoor such part thereof as concerns that Officer for his information and guidance.—

(Sent following precept No 361)

Read letter dated 6th August last from the 2d Judge of the Court of Circuit in the Centre Division,—submitting case No 223 Chittoor Calendar 3d Quarterly Sessions A.D. 1821.

(Here enter No 611.)

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 Acting Cazee ool Coozat and Mooftees of the Poojdaree Adalut confirm the said futwa of the Acting Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoners,

1st Chinnandy,
2d Sandavarayen,
3d Parenandy, and
4th Venkatasum,

direct that they be set at liberty.—

(Sent following letter No 362)

The record of the proceedings held before the Court of Quarterly Sessions in this case is not accompanied by the proceedings of the Police Officer, by whom it would appear that the prisoners, in violation of Clause fourth Section XXVIII Regulation XI of 1816, were sent to the Magistrate; nor of such proceedings as may have been held before the latter Officer.—

Referring to this circumstance the Court of Poojdaree Adalut resolve to direct the attention of the 2d Judge of the Court of Circuit in the Centre Division to the circular instructions of the 30th July 1817, wherein it was observed that in the absence of the proceedings either of the Magistrate or Police Officer, as the case might be, the Courts of Circuit and of Poojdaree Adalut must have a very limited view of the merits of a case, and that it was therefore essentially important in order to the effectual administration of Criminal Justice, that the proceedings of

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of the Magistrate or of the Police Officer should invariably form part of the Record of the proceedings required to be delivered to the Judges of the Court of Circuit under Section XX Regulation X of 816.-

3. The spirit of these instructions evidently requires that the proceedings either of the Magistrate or Police Officer should also form part of the Record of proceedings in all cases which may be referred for the final sentence of the Court of Foujdaree Adawlut.

4 The Court desire that the attention of the Magistrate in the Zilla of Chittoor may be called to the neglect evinced by the Police Officer of Terootany to the provision contained in Clause fourth Section XXVII Regulation XI of 816 and to the repeated orders of the Foujdaree Adawlut on this subject in order that such notice may be taken of his conduct as shall effectually prevent its recurrence.-

5 The same remarks which the Court of Foujdaree Adawlut have recorded on the foregoing case, No 2 Supplemental Calendar are equally applicable to the translation of the proceedings below this case- Many parts of the translation of

T. M.

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proceedings of the Criminal Judges are absolute nonsense.

6 The Court trust that their present remarks will have the effect of impressing the 2d Judge with the necessity of exercising particular care in the revision of the records of all trials which may be referred by him for the final sentence of the Foujdaree Adawlut.-

7 Ordered that extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Centre Division by precept commanding him to communicate to the Magistrate in the Zilla of Chittoor such part thereof as concerns that officer for his information and guidance.-

(Sent following precept No 383)

250

Read letter dated 22d August last from the Provincial Court of Circuit in the Southern Division,- submitting a reference from the Criminal Judge in the Zilla of Tinnevelly regarding certain instructions issued to him by the 2d Judge late on Circuit.-

(Here enter No 577.)

1. The points involved in the foregoing reference

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appear to be, first the propriety of placing in irons all persons committed for trial before a Court of Circuit;- secondly the feasibility of carrying into effect a sentence of imprisonment and hard labor without irons, and thirdly the power of a Court of Circuit to order the admission of bail in a case of arson.-

2. On the first point the Court of Lingdaree Udalut are of opinion, that the practice of confining in fetters persons ordered to be tried by the Courts of Circuit, who may be charged with offences not of a heinous nature, or who may be committed to prison from inability to find sufficient bail, is improper, as being unnecessary to secure their appearance at the time of trial, the only object of personal custody in such cases, / and it being the evident intention of the Regulations that no prisoner, before he is brought to trial should suffer more corporal restraint or personal ignominy than are unavoidable for his safe custody. It appears to the Court, that no person should be confined in fetters before trial, who may be charged with a bailable offence and committed to prison from inability to find bail; which in bailable cases should always be demanded previously to commitment.-

3. On the second point it appears to the Judges, that the Criminal Judge has raised an imaginary difficulty. It is unquestionably competent to a Court of Circuit to sentence a prisoner to labor without irons; and for such persons it appears that employment may be found within the Jail.-

4. On the last point the Court of Lingdaree Udalut are surprised, that any difference of opinion should prevail, it being manifestly competent to a Court of Circuit, under the provisions of section XI Regulation X of 1816, to direct the admission of bail in cases of every description, wherein "on Report from the Criminal Judge or other "satisfactory information before them," it may appear "just and proper" to do so.-

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 Judge in the Zilla of Tinnevelly for his information and future guidance and to communicate the second paragraph to the several Criminal Judges in the Division for their information and future guidance respectively.-

Sent following Receipt No. 364

Ordered also that extract of these proceedings be sent to the Provincial Courts of Circuit in the Western, Centre, and

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and Northern Divisions by precept commanding them to communicate the same to the several Criminal Judges for their information and future guidance respectively.—

(Sent following Precept No 365)

Exd 10th Mt

Read letter, dated 28th Ultimo from the 3d Judge on Circuit in the Western Division, reporting his having been prevented by illness from reaching Calicut until 26th Ultimo.

(Here enter No 677)

Read return, dated 27th Ultimo, from the 2d Judge late 3d Judge on Circuit in the Northern Division,— to precept dated 5th Ultimo ordering execution of the Sentence of death passed on Surrapee prisoner in case No 21 Ganjam Calendar 2d Sessions A.D. 1820.—

(Here enter No 679.)

Read return, dated 27th Ultimo, from the 2d Judge late 3d Judge on Circuit in the Northern Division,— to precept dated 10th Ultimo calling for an amended return to the precept dated 2d August last.—

(Here enter No 681.)

W. H.

F. R.

At a Court of the Foujdaree Udalut

Thursday 18th October 1821

C. H. M.

Present

Charles Harris Esqre ... Puisne Judge

Peter Cherry Esqre ... Acting Judge

Read letter, dated 10th Ultimo from the 2nd Judge of the Court of Circuit in the Centre Division,— reporting on the 3rd Quarterly Sessions of Gaol Delivery for 1821 at Chittoor.—

(Here enter No 649)

Read also letter, dated 17th Ultimo from the 2nd Judge of Circuit in the Southern Division reporting the 1st Judge's resumption of the Circuit and the state of the Police in the Zillas visited by him

(Here enter No 637)

1. The foregoing Reports do not contain any matter, which calls for particular observation from the Court of Foujdaree Udalut.—

2. 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 Honorable the Governor in Council.—

(Sent following letter No 370)

No 50 Sent 25.

Read

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18th October 1821

Read letter dated 24th. Ultimo from the acting 3rd. Judge on Circuit in the Centre Division submitting Case No. 56 Cuddapa Calendar 2nd Sessions AD 1821.-

/Here enter No. 657/

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 acting Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the acting Cazee-ool Coozat and Mooftees aforesaid and under the provisions of Section XVII Regulation VIII of 1802 adjudge the prisoners,

1st "Boya Rameegadoo" and
2d "Vencat Dasaree"

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

/Sent following letter No 371/

Read letter dated 29th Ultimo, from the acting 2d Judge on Circuit in the Centre Division,- submitting case No 35 Cuddapa Calendar 2d Sessions A.D. 1821.-

/Here enter No. 683/

The Court having maturely [illegible] 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 acting Cazee-ool Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the acting Cazee-ool Coozat and Mooftees aforesaid, and under the sentence of Kifayat declared in the futwa adjudge the prisoner,

Nagadoo,

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

/Sent following letter No 372/

Read letter dated 17th Ultimo, from the 2d Judge of the Court of Circuit in the Western Division,- reporting on the 2d and 3d Quarterly Sessions of Jail delivery for 1821 at Tellicherry.-

/Here enter No 650/

In the 12th and five following paragraphs of the Report the 2d Judge discusses the expediency of the interference of Government to alter the form of the knives worn by the Inhabitants of Malabar.-

2 The Court of Foujdaree Udalut are unable to recommend the adoption of the legislative provisions, suggested by the 2d Judge in this part of his Report from an opinion

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opinion of their inefficacy for the accomplishment of the end proposed, it appearing to the Court that the frequency of homicide in Malabar is attributable to the character of the people not to the form of their knives, and that therefore the introduction of a different description of knife would not check the prevalence of that crime.-

3. 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 following Letter No 373/

Read letter, dated 4th Instant, from the 1st Judge on Circuit in the Southern Division, submitting case No 11 Madura Calendar 2d Sessions A.D. 1821.-

(Here enter No 684)

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

"Poanganly"

is sufficient to convict him of having put to

2/ F.U.

18th October 1821

death the deceased Cooppamaul, desired under clause second Section II Regulation I of 1818 that the Acting Cazee ool Cozat and Mooftees of the Foujdaree Adaulut will declare by a second futwa to what sentence the prisoner would have been liable under the Mahommedan 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 Acting Cazee ool Cozat and Mooftees of the Foujdaree Adaulut.- 20.

W.H.

Read letter, dated 4th Instant, from the 1st Judge on Circuit in the Southern Division, with copy of Madura Calendar 2d Sessions A.D. 1821.-

(Here enter No 685.)

Read return, dated 29th ultimo, from the Provincial Court of Circuit in the Northern Division, - to precept dated 10th August last ordering communication to the Judge on Circuit of the Court's orders relative to the Seal of the Circuit Courts.-

(Here enter No 688)

Read

Read letter, dated 1st Instant, from the 2d Judge on Circuit in the Northern Division, repoiting his arrival at Chicacole.—

(Here enter No. 689.)

Read letter, dated 1st Instant, from the Provincial Court of Circuit in the Centre Division,— with returned warrant for execution of two prisoners in case No. 12 Chinglepet Calendar 1st Sessions A.D. 1821.—

(Here enter No. 691.)

Read letter, dated 9th Instant, from the 3d Judge on Circuit in the Western Division, repoiting his having postponed the Sessions till 9th Instant.—

(Here enter No. 693)

Read letter, dated 10th Instant, from the Provincial Court of Circuit in the Northern Division,— transmitting report of the Magistrate that the orders of the Court relative to the attestation of confessions have been executed.—

(Here enter No. 695)

F. R.

At a Court of the Foujdaree Udalut

Present

Saturday 20th October 1821 } George Stratton Esq^re Chief Judge
Charles Harris Esq^re Puisne Judge

Read again letter dated 4th 9th June last from the late 2d Judge on Circuit in the Northern Division,— submitting the report prescribed by section XXXVII Regulation VII of 1802.—

(Here enter No. 456)

In the 7th Paragraph of the report the late 2d Judge observes, that "the "young culprits and novices in the art of "thieving and plundering are, even before ex- "amination, trial, and ultimate conviction "locked up with the most hardened,"— in the Jail of the Zilla of Nellore.—

It is not necessary for the Court of Foujdaree Udalut to offer any re- mark upon the evil tendency of the system here described.— The attention of Govern- ment has always been alive to the great importance of preventing indiscriminate intercourse between culprits of atrocious and

and hardened character, and persons accused, or convicted of light offences.-

3 Section XXIX Regulation X of 1816, taken from section XXI Regulation VII of 1802, prescribes the separation of the different descriptions of prisoners, and if it should not be in the contemplation of the Government to change the seat of the Zilla Court of Nellore, the Court of Foujdaree Udalut would beg leave earnestly to recommend such an addition to the Jail at that station as may allow of the observance of this important enactment in the Regulations.-

4 In the 9th paragraph of the Report the late 2d Judge suggests, that the quantity of rice allowed to each convict in the Zilla Jail of Nellore should be reduced to three quarters of a seer, and "that this quantity be given to them in dubs, subject "as at present to the rise and fall of the "prices in the market."-

5 The Court of Foujdaree Udalut concurring in opinion with the 2d Judge, that the subsistence of prisoners should be regulated on the lowest scale that may be consistent with their health, direct that the Criminal Judge in the Zilla of Nellore

Nellore be instructed to make a trial of the reduced allowance above proposed with a view to its permanent adoption if found to be sufficient for the health of the prisoners.

6 The practice adverted to in the 10th paragraph of the Report, supposing it to have obtained, will be effectually checked by recent circular orders of the Foujdaree Udalut on the subject.-

7 Paragraphs from 18 to 31 inclusive are occupied in observations regarding case No. 10 on the Calendar of persons committed for trial before the Court of Circuit by the Criminal Judge in the Zilla of Chicacole, and copies of certain precepts issued to that officer on the subject, which accompany the report.-

8 The Court of Foujdaree Udalut entirely concur in the view taken by the late 2d Judge of the proceedings of the Criminal Judge in the case in question.-

9 When the notice of the Court was called to this case by the late 3d Judge on Circuit in his letter dated 8th February last, the Court were not aware of the mode in which the Criminal Judge had interfered in the case.-

10 The Criminal Judge possessed no authority to issue an order to the Head of

8.

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of Police, while occupied in an investigation of the circumstances of the case, and his insertion of the case in his calendar of commitments for the first Sessions of 1821, after receiving the instructions of the Foujdaree Udalut dated 8th March last, was an instance of pertinacious opposition to the declared sense of the Superior Court, deserving of severe censure.—

11 The subject discussed in the 32d and 6 following paragraphs of the report has already received the consideration of Government, and the Court of Foujdaree Udalut were informed in a letter from the Secretary to Government in the Judicial Department, dated 31st July last, that a Regulation would be passed to remedy the evil complained of.—

12 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 Honourable the Governor in Council.—

/Sent following Letter No 374/

13 Ordered also, that extract of these proceedings be sent to the Provincial

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Provincial Court of Circuit in the Northern Division by precept enjoining them to communicate to the Criminal Judges in the Zillas of Nellore and Chicacole such parts thereof as concern those officers for their information and guidance respectively.—

/Sent following precept No 375/

E. M.—

At a Court of the Foujdaree Udalut

Present,

Wednesday 24th. October 1821 — Charles Harris Esqre. — Puisne Judge.
Peter Cherry Esqre. — Acting Judge.

Read again letter, dated 25th. Ultimo,
C+
M from the Secretary to Government in the Judicial Department, communicating the sentiments of the Honorable the Governor in Council upon certain parts of the report of the 3d. Judge late on Circuit in the Southern Division, for the 1st. Sessions of 1821 and upon the proceedings of the Court of Foujdaree Udalut submitted to Government under date 30th. July last.-

(Here enter No. 652)

Read also return, dated 8th. Instant from the 3d. Judge late on Circuit in the Southern Division, to precept dated 29th. Ultimo. ordering him to remit the sentence passed by him in case No. 3 Madura Calendar 1st. Sessions 1821 and to submit any explanation which he might have to offer as to the grounds of his judgment in the case.-

(Here enter No. 692.

1. It is observed in the 2d. paragraph of

of the foregoing letter, that "the Honorable the "Governor in Council cannot consider the 3d Judge "deserving of the severe reprehension he has "received from the Foujdaree Adawlut for his "remarks on the instructions of the Magistrate "of Salem to his Police Officers to obey every "order they may receive from the Criminal "Judge," that "the Section of Regulation XI of 1816, "which declares that no order shall be issued "to any Police Officer except by the Magistrate "of the Zillah or his Assistants, was evidently "meant to prevent clashing between the "Magistrate and the Criminal Judge, and that "the order in question was so far from inter- "fering with that object that it could not "have been issued unless the object had in "the completest manner been effected."-

2. As the foregoing remarks convey the dissent of the Honorable the Governor in Council from the recorded opinion of the Court of Foujdaree Adawlut, and as the point therein discussed appears to the Court to involve a principle of deep importance to the existing system of Civil administration as by law established, the Court deem it to be their duty to enter at large into the consideration of the question immediately

immediately before them, and of the general principles which bear directly upon it.-

3. The Court of Foujdaree Adawlut do not feel themselves called upon to offer any observations, in this place, with respect to the degree in which the order of the Magistrate of Salem above referred to might eventually have interfered with the object of Section LV Regulation XI of 1816, although it seems obvious to remark, that if the prevention of clashing between the Magistrate and the Criminal Judge had been completely effected by an observance of the rule, which prohibited the issue of any order to a Police Officer except by the Magistrate, the infraction of that rule by placing all the Police Officers under the orders of the Criminal Judge was likely to lead to such clashing of authority.-

4. The Court of Foujdaree Adawlut have always held, that where the meaning of any enactment contained in the Regulations is clear and precise, and there may be no room for doubt as to its construction, implicit

implicit obedience thereto is imperative upon the officers concerned:- and that there is no mode by which they can be relieved from the obligation to such obedience, excepting by an alteration of the law made under the provisions of Regulation I of 1802.-

5. The provisions of the Regulation last cited have received the confirmation of the British Legislature in the eighth Section of the Act 37. George III. Chapter CXLII. the application of which to the Presidency of Fort St. George is declared in the eleventh Section of the Act 39 George III Chapter LXXIX it declares that the Regulations framed and transmitted as directed in that Regulation shall be the sole guide of the Civil and Criminal Courts, and takes from the local Governments in India the power to enact or alter any Regulation, excepting in the mode therein prescribed.-

6. It appears to the Court of Foujdaree Udalut to have been a leading object with the Legislature to enforce the strict observance of the Regulations, and to exclude the exercise of private judgement, as to the expediency

of any enactment of the Law, or the feasibility of accomplishing it's object by a deviation from the conduct, which it prescribes.-

7. Nothing can be more distinct and precise than the provision contained in Section LV Regulation XI of 1816.- It declares that "no order shall be issued to any Police "officer, excepting by the Magistrate of the "Zilla, or his Assistants:" and the provisions of Regulation III of 1817, in modification of that Section which vests the Criminal Judges with authority "in cases of emergency," "to "command the services of the Police during "the absence of the Magistrate and of his "Assistant," declare in terms too clear to be mistaken the intention of the Legislature, as to the nature of the authority vested thereby in the Criminal Judges, and describe with particular precision the circumstances, under which alone it shall be competent to these officers to command the services of the Police.-

8. Four years after the promulgation of the Regulation last cited, the Magistrate in the Zilla of Salem resolved to

to place the officers of Police under the orders of the Criminal Judge, and to dispense with the restrictive provisions of Regulation III of 1817 and Section LV Regulation XI of 1816.-

9. With reference to the foregoing observations it appears to the Court of Foujdaree Adalut to be undeniable, that the Magistrate by this act arrogated an authority, which under an express statute of the British Legislature, it is not competent even to the Government to exercise.-

10. By Section VIII Regulation VIII of 1802 the cognizance of "all matters, relating "to the administration of justice in Criminal "cases, and the Police of the Country" is vested "in the Court of Foujdaree Adalut, and in the "exercise of the authority committed to them "under the provisions of Section III Regulation XXII of 1802, "to prescribe the forms and conduct "to be observed by the Courts of Circuit and the "Zilla Magistrates, in all cases provided for "by the Regulations, agreeably to their construction "thereof;" the Court consider it to be their bounden duty to notice and correct every departure of the inferior Courts from the rules contained in

in those Regulations.-

11. Under this impression of the obligation, imposed upon them in the exercise of their important and highly responsible office, the Court of Foujdaree Adalut consider, that they would have been guilty of a culpable dereliction of duty, had they suffered the proceedings of the Magistrate in the Zilla of Salem to pass unnoticed.-

In the 3d paragraph of the foregoing letter are contained certain observations, regarding a case, noticed in the report of the 3d Judge, wherein a Head of District Police and several inferior Police Officers are stated to have been charged with compromising a case of Burglary, committed in the house of a Vakeel of Court, who was himself joined in the charge.-

13. In issuing the necessary orders for carrying into effect the resolution of the Honorable the Governor in Council with respect to the remission of the punishment of the Tahsildar, Ramarow, the Court of Foujdaree Adalut desired, that the 3d Judge would submit any explanation which he might

might have to offer of the grounds of the Judgment passed by him in this case.-

14. From the explanation of the 3d Judge it appears that the acquittal of the Vakeil is to be accounted for with reference to a provision of the Mohammudan Law, which allows of a prosecutor's withdrawing his charge even in the most atrocious cases, and that the delinquency of the Sahseldar was of a more serious nature than might have been inferred from the description given of the case in the late Circuit report of the 3d Judge.-

15. The proclamation of the Magistrate offering a reward of one hundred Pagodas for the apprehension of the offenders in the case, which must have been issued through the Police Officers of the Zilla, precludes the supposition of inadvertence on the part of this officer; but under the most favorable view of the case, it appears to the Court of Foujdaree Adalut that the conduct of an officer of Police, who is bound by the nature of his office to bring offenders to justice, but who assists in screening them from punishment, cannot safely be regarded as a venial

venial offence; and that the expectation of impunity in such cases is calculated to lead to abuses of authority on the part of the native officers of Police, and to a general remissness in one of the most important branches of their duty.-

16. Ordered, that the foregoing communication from the 3d Judge late on Circuit in the Southern Division, together 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 N°379)

N°53. Sent 26th

Ex.dk.

W.H.

At a Court of the Foujdaree Adalut—

Present,

Thursday 25th October 1821 — Charles Harris Esqre — Puisne Judge—

Peter Cherry Esqre — Acting Judge—

Read again letter dated 4th Instant from the 1st Judge on Circuit in the Southern Division,—submitting case No 11 Madura Calendar 2d Sessions A.D. 1821—

/Here enter No. 684/

Read the second futwa delivered in this case by the Acting 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 Acting Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Acting Cazee ool Coozut and Mooftees aforesaid and under the sentence of Bohoodut declared in the futwa adjudge the prisoner "Poangaly,"

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

W. J. S. 6 Sent following letter No 381/ Read

Sent 29th

Read return, dated 12th Instant, from the Provincial Court of Circuit in the Centre Division to precept dated 8th Instant ordering communication to the Criminal Judges of the Courts orders relative to confining in Irons persons committed for trial.-

(Here enter No. 705.)

Read letter, dated 15th Instant, from the 1st Judge on Circuit in the Southern Division, reporting his arrival at Tinnevelly.-

(Here enter No. 706)

Read return, dated 18th Instant, from the 2d Judge of the Court of Circuit in the Centre Division,- to precept dated 8th Instant ordering communication to the Magistrate in the Zilla of Chittoor of the Courts orders on Case No. 23 Chittoor Calendar 3d Quarterly Sessions A.D. 1821.-

(Here enter No. 707.)

Read letter, dated 15th Instant, from the Provincial Court of Circuit in the Centre Division,- with returned warrants for execution of prisoners in cases Nos. 3. 27, 40, and 47 Cuddapah Calendar 2d Sessions A.D. 1821.-

(Here enter No. 708.)

Read letter, dated 16th Instant, from the

3d Judge on Circuit in the Western Division, with returned warrant for execution of 5 prisoners in case No. 7. Canara Calendar 2d Sessions A.D. 1821.-

(Here enter No. 713)

Read letter, dated 16th Instant, from the 2d Judge on Circuit in the Western Division,- with returned warrant for execution of three prisoners in case No. 2 Canara Supplemental Calendar 2d Sessions A.D. 1821.-

(Here enter No. 714)

Read return, dated 17th Instant, from the Provincial Court of Circuit in the Northern Division,- to precept dated 8th Instant ordering communication to the Criminal Judges of the Courts orders relative to confining in Irons persons committed for trial.-

(Here enter No. 715.)

At a Court of the Poydarce Adalut.

Present.

Wednesday 4th October 1821 — Charles Harris Esqre. ——— Puisne Judge

Peter Cherry Esqre. ——— Acting Judge.

C.H.

P

Read again letter dated 30th august last from the late 1st Judge on Circuit in the Centre Division, - submitting copy of Cuddapa Calendar 2d Sessions A.D. 1821 -

/Here enter No. 598/

The records of the Proceedings held by the late 1st Judge in Cases Nos. 7 and 41 Cuddapa Calendar, which according to the remarks entered in the foregoing Calendar are to be referred to the Poydaree Adalut, not having been received -

The Court direct that the acting 2. Third Judge on Circuit in the Centre Division be by precept commanded to send up the records of the proceedings held by the late 1st Judge in the cases aforesaid within fifteen days from the date of the receipt of the precept -

sent 13th

sent following precept No 3811

W.H.

Read letter, dated 2d ultimo, from the 2d Judge on Circuit in the Northern Division

31st October 1821

Division,- retransmitting case № 11 Nellore Calendar 2d Sessions A.D. 1821.-

(Here enter № 640.)

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 acting Cazee ool Cozat and Mooftee of the Zillah Adalut confirm the said futwa of the acting Cazee ool Cozat and Mooftee aforesaid and under the sentence of Correction declared in the futwa adjudge the prisoners,

1st Boddoo Paupadoo, and

2d Yada Poladoo,

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

(Sent following letter № 382)

Sent 2 Provs. C H

31st October 1821

Read return dated 10th Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 8th Instant ordering communication to the Criminal Judges of the Courts orders relative to confining in Irons persons committed for trial.-

(Here enter № 717)

Read also return dated 20th Instant, from the 1st Judge late on Circuit in the Western Division, to precept dated 6th Instant calling for the report prescribed by Sec XXXVII Regulation VII of 1802.-

(Here enter № 722)

Read letter, dated 23d Instant from the 3d Judge of the Court of Circuit in the Southern Division, Reporting on the 4th Quarterly Sessions of Jail Delivery for 1821 at Trichinopoly.-

(Here enter № 718)

Read letter, dated 22d Instant from the 3d Judge of the Court of Circuit in the Southern Division,- submitting copy of Trichinopoly Calendar 4th Quarterly Sessions A.D. 1821.-

(Here enter № 719)

At a Court of the Foujdaree Adalut.

Present,

Thursday, 1st November, 1821.

Charles Harris Esqre. - - - Puisne Judge.
Peter Cherry Esqre. - - - Acting Judge.

Read letter, dated 7th ultimo, from the 1st Judge on Circuit in the Southern Division, - referring case No 10 Madura Calendar 2d Session A.D. 1821.-

(Here enters No 690.)

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 acting Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftees aforesaid and under the provisions of Clause second Section XXXIX Regulation VII of 1802. adjudge the prisoner,

"Joseph Selly,"

to be imprisoned without labor and without irons for the period of five years and then to be released.-

(Vide following letter No 383.)

The

1st November 1821

1 The Record of the proceedings held in this Case calls for certain observations from the Court of Foujdaree Adaulut.-

2 It appears that the prosecutor after delivering his charge upon Oath before the Court of Circuit was ordered to withdraw.-

3 The presence of the prosecutor during the trial is obviously requisite in order that he may have the opportunity of putting any questions that he may think proper to the witnesses for the prosecution and the defence on their direct or cross examination; and the Court of Foujdaree Adaulut cannot understand upon what grounds the prosecutor in this case was debarred from the exercise of this privilege.- His cross examination of the witnesses for the defence might have elicited points material to the issue of the trial.-

4 The Court of Foujdaree Adaulut remark, that the entry required by their circular orders dated 17th January 1815 respecting the admonition prescribed by Clause fifth Section XVIII Regulation VIII of 1802, is not prefixed to the examinations of any of the witnesses in this case before the Court of Circuit.-

The

1st November 1821

5 The transcript of the English translation of the Record terminates with the verification of the copy to which however the 1st Judge has omitted to affix his signature.

6 In conclusion the Court of Foujdaree Adaulut have to observe, that no ground is assigned by the 1st Judge for the reference of this case to them.-

7 The prisoner was declared by the futwa of the Mohummedan Law Officers to be convicted of wilfully wounding the prosecutor and to be liable to discretionary punishment, and under the provisions of Clause seventh Section II Regulation XV of 1803 it was the duty of the 1st Judge to dispose finally of the case unless he was of opinion, that the punishment of "thirty nine stripes and "imprisonment with hard labor for the "term of seven years" would have been insufficient. No such opinion is given by the 1st Judge in his letter accompanying the trial, and no other ground could under the Regulations justify his reference of the case for the final determination of the Court of Foujdaree Adaulut.-

Ordered,

1st November 1821.

8 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 384)

Read letter, dated 23d Ultimo, from the acting Judge presiding at the 4th Quarterly Sessions of Jail delivery at Masulipatam submitting copies of two precepts issued by him to the acting Criminal Judge together with an extract of the Calendar.-

(Here enter No 725)

It appears from the foregoing Extract of the Calendar of persons committed to take their trial before the Court of Quarterly Sessions, that in certain cases the acting Criminal Judge has blended several distinct grounds of accusation in one indictment; an irregularity of which the Court of Foujdaree Adalut have recorded their disapprobation in an extract of their proceedings under date 22d December 1817, which was communicated to the acting Criminal Judge in the Zilla of Masulipatam for

T. M.

7th November 1821.

his information and future guidance.-

2 The orders issued by the acting Judge in correction of the irregularity in the proceedings of the acting Criminal Judge are considered by the Court of Foujdaree Adalut to be perfectly correct.-

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

(Sent following letter No 385)

W. M.

Read letter dated 9th Ultimo, from the 2d Judge on Circuit in the Northern Division, reporting that the warrant issued by him under the orders of the Court dated 5th September last for execution of the prisoner in case No 21 Ganjam Calendar 2d September 1820 has been returned by the Criminal Judge unexecuted, and enclosing copy of a correspondence between that officer and Mr Assistant Surgeon Wilson regarding the situation of the prisoners.-

(Here enter No 698)

It appears from the foregoing papers that the Criminal Judge on receiving the second warrant for execution of the prisoner Soorajee requested that the Medical

Octobr

1st November 1821

medical Officer attached to the Zilla Court would inspect the prisoner and give his opi= =nion of her state at present, she having de= =clared herself to be pregnant, and that Mr. Assistant Surgeon Wilson stated in reply, that "after several careful examinations" of the prisoner he saw no cause to alter the opinion formerly given by him that the prisoner was not pregnant.-

2 Under these circumstances the Court of Foujdaree Udalut cannot understand upon what grounds the Criminal Judge could hesitate to carry the warrant into execution, and they are of opinion that he has acted very improperly in interposing his private opi= =nion upon a question which the Court had referred for the decision of the proper officer.-

3. The Court direct that the 2d Judge on Circuit in the Northern Division be by precept commanded to cause immediate exe= =cution of the sentence passed in the above case and to communicate the foregoing re= =marks to the Criminal Judge in the Zilla of Chicacole for his information and guidance.-

Sent following precept No 386/

Read again petition presented by Ramoo Rao, of the Zilla of Chingleput

(Hereenter Miss: Pet: No 2. of 1825)

1 The petitioner represents that he preferred to the Assistant Magistrate of

1st November 1821

of the Zilla of Chingleput a charge against Rama Rao, the Talook Moonsif of Conjeveram, for having forged a bond in his name, that on taking the examination of his witnesses, the Assistant Magistrate would not allow him to be present, and that he dismissed the complaint, and adjudged him, the petitioner, to be imprisoned for fifteen days. The petitioner further represents that he brought his case before the visiting 2d Judge late on Circuit in the Centre Division, who by his order dated the 13th June last, copy of which accompanies the petition, left the matter to be referred to higher authority.

2 From the 14th paragraph of the extract from the proceedings of the Court of Circuit above-mentioned it appears that although this case was decided so far back as the 19th of March it was not entered in the Calendars furnished to the Court of Circuit on the 25th May. Under the provisions of Section XI. Regulation IX of 1816, and it would seem that it was on this ground the Judge on Circuit refrained from issuing a definitive order on the petitioner's case.-

3 There can be no doubt that the Calendars prescribed by Section XI. Regulation IX of 1816, are intended to include all cases which have been decided up to the date on which those Ca= =lendars are furnished, and the Court resolve

Not to be included in the Extract furnished to the petitioner

1st November 1821

resolves to issue circular instructions for the guidance of the several Magistrates on this point.-

4 The Petitioner's case not having been included in the Calendars furnished to the Judge on Circuit at the last sessions will, it is to be presumed, appear in the Calendars to be presented to him at the ensuing Jail delivery at Chingleput; and the Court do direct that the Acting 3d Judge now on Circuit in the Centre Division be by do precept required to examine the original proceedings held in the petitioner's case, and to transmit to the Magistrate such written orders thereupon as may appear proper.-

Precept returnable on or before the 31st December next.-

dst 2 (sent following precept 1st 1821)

Ordered that Extract of these proceedings be furnished to the petitioner on his application.- dst

C H.

W M

5

J. U.

At a Court of the Foujdaree Udalut.-

Present.

Monday 5th November 1821.- } Charles Harris Esqre Puisne Judge
Peter Cherry Esqre Acting Judge.-

Read letter, dated 26th Ultimo from the Secretary to Government in the Judicial Department,- referring for the consideration and report of the Foujdaree Udalut two letters, dated respectively the 4th and 13th Ultimo, from the Magistrate in the Zillah of Bellary relative to certain orders issued by the Court for his guidance.-

C H
P M

Here enter No 727.-

1 The letter from the Magistrate dated 4th Ultimo contains certain observations upon the circular orders of the Court of Foujdaree Udalut under date 6th September last with respect to the attestation of confessions.-

2 By the orders in question the Magistrates were directed "to issue circular orders to the several Police officers "who under the provisions of Regulation "IV of 1821 are empowered to receive confessions, strictly enjoining them on all occasions "of free and voluntary confession to have "the same committed to writing and signed or marked

1 5th November 1821.

"marked by the accused, in the presence of
"at least two credible witnesses, totally uncon-
=nected with the Police and unconcerned in
"the prisoner's apprehension."-

3 The rule here laid down with respect to the attestation of confessions taken by the Native Officers of Police is one which the Court of Foujdaree Udalut consider to be absolutely necessary to prevent the imposition of false confessions upon the Courts.-

4 The Records of the Court of Foujdaree Udalut bear abundant testimony to the prevalence of the atrocious practice of extorting confessions from persons in the custody of the Native officers of Police un-
=der charges of a Criminal nature, and the order above recited is taken verbatim from a circular order issued by the Court under date 27th December 1815 on the subject.

5 This order was superseded by the provision introduced into the Criminal enactments of 1816 declaring servants of the Government generally to be incompetent to attest confessions; with respect to which provision the Court of Foujdaree Udalut observed in an extract of their proceedings submitted to Government under date 31st August 1818, that it was "understood to have been introduced under "a belief that the testimony of the officers of

5th November 1821.

"Government to confessions was objectionable
"according to the Mohummudan Law but that this
"opinion had no foundation, the objections of
"the Mohummudan Law being restricted to the
"testimony of Police officers to confessions."-

6 After repeated representations from the Court of Foujdaree Udalut of the inconveniance attending the above provision of the Code, the Draft of a Regulation for its rescission, which was proposed by the Court under date 15th October 1818, was adopted by Government and formed the fifth Regulation of 1819.-

7 The removal of the general disqualification with respect to servants of the Government in no way affected the objection against the testimony of Police Officers to confessions, which is taken under the Mohummudan Law, and the validity of which, upon general prin-
=ciples, is established by the experience of the Court of Foujdaree Udalut:- and as it was found that the practice of putting in alleged confessions before the native officers of Police with no other attesta-
=tion than that of inferior police servants was becoming very general it became the duty of the Court to revive the standing order issued in 1815 on the subject.-

8 The Court deeply regret to observe

observe, that recent examples afford but too much evidence of the existing prevalence of the most atrocious practices on the part of the officers of Police for the purpose of obtaining confessions.-

9 At the second sessions of Jail delivery for 1820 at Salem a Head of Police was tried convicted and executed for having tortured to death a prisoner apprehended by him on a charge of theft, in order to extort a confession.-

10 At the first sessions of the present year for the Zillah of Canara the Potail of a village and two subordinate officers of Police were convicted of having tied with the arms behind, suspended to a tree, and in that condition beaten a woman, who was at the time in a horribly diseased state, in order to extort from her the confession of a theft with which she was charged. The unfortunate woman destroyed herself three days after the occurrence.-

11 In further confirmation of the prevalence of such practices the Court of Foujdaree Udalut find it to be stated in the report of the 1st Judge late on Circuit in the Western Division now before them, that it appeared in one of the cases of robbery tried by him at the same sessions, "that the most cruel

5th Nov.

5th November 1821.-

"cruel tortures had been inflicted upon one of "the Prisoners to induce him to confess that he had stolen certain ornaments from the house of the Prosecutor. The 1st Judge proceeds to remark, that "the witness for the prosecution "appeared to have been active Assistants in "inflicting the tortures at the house of the "Potail."-

12 These facts appear to the Court of Foujdaree Udalut sufficiently to establish the necessity for the most scrupulous caution in the admission of confessions, alleged to have been freely and voluntarily delivered before the native officers of Police;- and in order to ensure if possible the integrity of such confessions and to check the atrocious practices above described it appears to the Court to be most essential to require, that they should be attested and deposed to by persons independent of, and unconnected with the Police.- Otherwise an unfortunate person, against whom an extorted or fabricated confession may be adduced in evidence, can have little chance of proving that it was not "free and voluntary."-

13 It appears to the Court that so far from there being in the order complained of by the Magistrate in the Zilla

Zilla of Bellary any contravention of the pro-
=visions of the Regulations, that order is in a
strict accordance with the Spirit of the Law,
which requires that the attesting witnesses
to confessions shall be "respectable persons"
persons independent, disinterested, and of
unimpeachable credit.-

11. It may not be irrelevant on
the present occasion to cite the provisions
in force under the Presidency of Bengal
regarding "the duties of Police officers in
"receiving confessions." It is declared in
clause first section XIX Bengal Regula-
=tion XX of 1817 that "in the event of
"the prisoner making free and voluntary
"confession it shall be immediately written
"down, if practicable, in the language
"best understood by the person confess-
=ing, and in the presence of three or more
"credible witnesses, who can sign their
"names, and are not officers of the Police
"or connected with the Thannah esta-
=blishment."-

15 It appears on reference to
the printed circular orders of the Sud-
=der Adawlut that the restriction
contained in the latter part of the above
clause was adopted in consequence of the
improper means found to have been
used

"used to procure confessions from prisoners
"at the Thannahs."-

16 The recent enactment in sec-
=on III Regulation IV of 1821, by which the
Magistrates are authorized to multiply
at their discretion the number of officers
competent to receive confessions, an autho-
=rity which was by Regulation XI of 1816
expressly limited to Tahseeldars or Head
Police officers of Districts, renders it
more than ever necessary to provide
against practices calculated utterly to
pervert the administration of criminal
Justice, and to destroy that security of
person which is so essential to the hap-
=piness of the community.-

17 Having premised these observa-
=tions with respect to the origin and obje
of the circular order of the 6th September
last the Court of Foujdaree Udalut will offe
a few remarks upon the letters, which ha
been referred for their consideration and
Report.-

With respect to the state-
=ment at the commencement and con-
=clusion of the letter from the Magistrate
of Bellary, dated 4th Ultimo, that the Court
of Foujdaree Udalut have prohibited
the communication to them of his sen-
=timents regarding their orders, the Court
deem

deem it necessary to state that communica-
=tions having been addressed to them by this
officer containing disquisions foreign to his
own particular Duties and couched in a
style wholly inconsistent with his subor-
=dinate situation, and it having appeared
on more than one occasion that the Ma-
=gistrate was rather disposed to dispute
the propriety of the Courts' deliberate
judgment than to act in conformity with
their instructions, it became necessary to
direct that the Magistrate would in
future abstain from comment or reference,
where the meaning of orders issued to him
might not appear doubtful.—

19 The correspondence with the
Magistrate here alluded to being voluminous
the Court will not prepare a transcript
thereof for the perusal of the Honorable
the Governor in Council, unless it should be
considered necessary.—

20 The remarks of the Magistrate,
that the execution of the Courts' order "is
"likely to occasion the most serious &
"inconvenience to some of the most respect-
"-able classes of the native community" and
"to impede the administration of public &
"justice in a material degree," and "that it
" cannot be executed except by pressing the
"more respectable classes of the community" &

Those

5th November 1825.—

"who can write, such as Merchants traders
"&c.," rest upon mere assumption, and are
contradicted by the experience of the Court.—

21 The order when originally pass-
-ed in the year 1815 was carried into effect
without difficulty, nor was any represent-
=ation made to the Court of its injurious
operation, and it was acted upon for a
period of three years and four months &
without the occurrence of the inconvenience
stated by the Magistrate to be a necessa
=ry consequence of carrying it into execu-
=tion.—

22 It is stated by the Magistrate
that notwithstanding every exhortation
nothing can prevail upon respectable
persons unconnected with the Police or
with the case to attest confessions, but
from the reasons stated by the Magi-
=strate to be assigned by such persons
against the performance of this public
duty, viz. that they "have not the most
"remote immediate concern in the matter,
and "take no interest in it," it is to be
inferred that the Magistrates exhortations
to them have been founded on a very &
confined view of the case.—

23 Not only is it the Duty of
every

every member of the community to cooperate for the pure administration of Criminal Justice from which all receive protection, but it is their manifest interest also, most especially in the particular instance under consideration for who is above the reach of an unjust accusation?-

24 The Law indeed appears to have been framed on the presumption that a duty so interesting to individual and general safety would be willingly discharged for though the attendance of witnesses called in Civil suits, or by desire of prisoners as well as of persons acquainted with the facts against them is made compulsory, the attestation of confessions which is also prescribed has not been made a duty of peremptory obligation-

25 The foregoing observations apply to the opinions avowed by the Magistrate that the trouble of attending to give evidence on confessions is "at variance with the immediate interest of individuals and "unattended with any "advantage," and that the resort to certain persons for this purpose has perhaps been attended with "some oppression." The designations indeed given by the Magistrate to

this duty as being "unprofitable and odious" are sufficient of themselves to account for his ill success in inducing its observance by exhortation-

26 Supposing however a reluctance on the part of the people even when apprized of the deep interest which all have in the general performance of this duty, the Court of Foujdaree Adalut are of opinion that this reluctance might be overcome or abated by an ample allowance of Batta in such cases, the expence of which cannot be placed in competition with the object of securing the lives of innocent persons against the effects of testimony, in such cases notoriously undeserving of credit-

27 The Court cannot close their remarks on this letter without observing that this officer has on the present occasion shewn the same disinclination to carry into effect the orders of the superior Court as has marked his former proceedings- His letter expostulating against the circular order of 6th September is dated seven days after he received it and as it would seem before any difficulty had arisen from the attempt to carry it into execution-

28 It remains for the Court to

5th November 1821.

to notice the letter from the Magistrate, dated 13th Ultimo, representing that difficulty had already arisen from the Court's orders of the above date.—

29. In this letter the Magistrate represents the great difficulty which he has found, to "induce anyone unconnected "with the Police to attest" a confession delivered before himself— and he encloses copy of a letter from the Assistant Magistrate, who states that he is unable to procure witnesses "who can read and write, "who are not concerned in the apprehension of the Prisoners and who are totally "unconnected with the Police" to attest two confessions delivered before himself.

30 As the orders of the Foujdaree Udalut, dated 6th September last, do not require that the attesting witnesses to a confession delivered before a Magistrate should be totally unconnected with the Police, the cases here mentioned do not practically illustrate the inconvenience of those orders, but merely show that their meaning was misunderstood by the Magistrate, and his Assistant.—

31 The reasons for the rule in the case of alleged confession before a native officer of Police are of course altogether inapplicable to confessions delivered before a European officer; and the attestation of those confessions is required only with reference to the provisions of the Mohummedan Law.—

32 It can scarcely be necessary for the Court of Foujdaree Udalut to urge any additional arguments to prove the necessity of their circular order of 6th September last; experience has shewn that its observance is feasible, and the difficulties which arose from the rescinded provisions of 1816, have not been proved to attend the operation of this order. Nor do the Court see any reason to doubt that by the cordial endeavours of the subordinate officers any difficulty which may exist in inducing individuals to comply with it, will be effectually surmounted.—

33 Ordered, that extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Honourable the Governor in Council, and that the original papers transmitted for the consideration and report of the Court be returned.—

Sent following letter No 389/

F. M.

5th November 1821.—

No 55/ Sent

E. M.

W. M.

5th November 1821.

Read letter, dated 24th Ultimo from the 1st Judge late on Circuit in the Western Division, with returned warrant for execution of the prisoner in Case No 27 Calendar & 182 Supplemental Calendar of the South Malabar 1st Sessions A.D. 1824.

/Here enter No 730/

Read letter, dated 26th Ultimo from the Provincial Court of Circuit in the Centre Division, with returned warrant for execution of Prisoner in Case No 58 Cuddapa Calendar 2d Sessions A.D. 1824.

/Here enter No 733/

Read return dated the 27th Ultimo, from the 1st Judge late on Circuit in the Western Division to precept dated 17th September last calling for records of proceedings held in Cases Nos 12. 14. 15. 16. 17. 18. and 19. of South Malabar Calendar first Sessions A.D. 1824.

/Here enter No 740/

7th U.

At a Court of the Foujdarry Adaulut

Present

Tuesday 6th November 1824.

Charles Harris Esq 1st Puisne Judge

Peter Cherry Esq 1st Acting Judge

Read letter, dated 20th Ultimo from the 1st Judge late on Circuit in the Western Division, submitting the Report prescribed by section XXXVIII Regulation VII of 1802.

CH

M

/Here enter No 723/

In the 7th paragraph of the Report the 1st Judge observed, that "no regulation exists which makes the "mere possession of counterfeit coins a "crime and punishable."

2 The Court of Foujdarry Adaulut in an Extract of their Proceedings under date 17th May last submitted for the consideration of the Honourable the Governor in Council certain legislative provisions for the punishment of persons convicted of having in their possession any counterfeit coin, who might not shew good and sufficient cause for having such coin in their possession; and in a letter from the

6th November 1821

the Secretary to Government in the Judicial Department dated 31st ult July last, the Court were informed that the provisions in question would be enact=ed by Government.-

3 In the 13th paragraph of the Report the 1st Judge states, that in one of the cases of robbery tried by him at the 1st Sessions of Jail Delivery for the Zilla of Canara it appeared "that the most cruel tortures had been "inflicted upon one of the prisoners "to induce him to confess that he had "stolen from the house of the prosecutor "certain ornaments which were deposited there: and that "the witnesses for the "prosecution appeared to have been "active Assistants in inflicting the tor=tures at the house of the Patail."-

4 The 1st Judge proceeds to state that he "recommended the Prisoner, who "was acquitted to institute a prosecution "against the said witnesses and the Pa=tail, and likewise brought the conduct "of the latter to the notice of the Ma=gistrate.-

5 The Court of Foujdaree Adalut

6th November 1821.

Adalut are of opinion, that the punish=ment of acts so atrocious in themselves, and calculated not merely to paralize the arm of justice but to pervert its administration to the most detestable purposes, ought not to depend on the power or inclination of the injured indi=vidual to prosecute the offenders.-

6 The provisions of section XXX Regulation XI of 1816 apply alike to all persons who may be concerned in maltreating a prisoner for the purpose of obtaining a confession, and as from the description given of the case in the report of the 1st Judge the offence of the persons in question would seem to have been of the most aggravated na=ture, it is manifestly the duty of the Magistrate to proceed in the mode prescribed in the latter part of the above section, should he be of opinion that there is evidence sufficient to bring all or any of the parties before the Criminal Judges.-

7 In the 23d paragraph of the Report the 1st Judge adverts to the assistance given by the inhabitants of Malabar to Gang robbers; and in the 26th paragraph he recommends the revival

6th November 1821

revival of Regulation XIII of 1809" as a "check to the evils resulting from the "inhabitants harbouring and supporting "proclaimed robbers when pursued or in "danger from the Police."—

8 The Court of Zoujdaree Uda= =lut under date 26th September 1817 submitted to Government the draft of a Regulation "for reviving with "certain modifications the several pro= "=visions contained in Regulation XIII "of 1809". It was not considered proper to adopt the provisions proposed by the Court on that occasion; it may however be deserving of the consideration of the Honourable the Governor in Council how far the re-enactment of the Law rendering penal the harbouring of notorious criminals may be expedient—

9 The opinion of the Court of Zoujdaree Udalut upon the usage refer= =red to in the 27th paragraph of the Report is already before the Govern= =ment.—

10 Ordered, that the Report and Extract of these proceedings be sent

6th November 1821

sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Honourable the Governor in Council.—

11 Ordered also, that Extract of these proceedings be sent to the 1st Judge late on Circuit in the Western Division by precept enjoining him to communicate to the Magistrate in the Zilla of N. Canara such parts thereof as concern that officer for his information and guidance.—

Sent following precept

E. M.

W. M.

At a Court of the Foujdaree Udalut

Present

Thursday. 8th November 1821. — Charles Harris Esqre ... Puisne Judge
Peter Cherry Esqre ... Acting Judge

Read return, dated 26th Ultimo from the 2d Judge on Circuit in the Northern Division, — to the precept dated 16th August last ordering transmission of the proceedings held in Cases Nos. 1 and 7 Nellore Calendar 2d Sessions AD 1821. —

(Here enter No. 747)

Read also remarks of the Acting Cazee ool Coozat and Mooftee of the Foujdaree Udalut. —

The Court of Foujdaree Udalut observing that in the Reading of the examinations of the prisoners before the Police Officer and the Criminal Judge their respective ages are stated to be unknown: and that no memorandum is entered on the proceedings of the Criminal Judge, or the Court of Circuit, of the apparent or probable age of the prisoners, which ought always to be done when the age may not be

be precisely ascertained - resolue to return the record of the trial to the 2d Judge on Circuit, whose duty it will be to issue a precept to the Criminal Judge in the Zilla of Nellore, requiring him to call the prisoners before him and to take the evidence of two or more intelligent persons, not peons of the Court as to their opinion of the prisoners' ages respectively. The Criminal Judge should also be enjoined to annex authenticated translations in English and Persian of the evidence so taken to the original Record which the 2d Judge will retransmit to this Court.-

2. Ordered, that the Record of proceedings in the above cases and extract of these proceedings be sent to the 2d Judge on Circuit in the Northern Division by precept enjoining him to proceed conformably to the foregoing instructions and to make return within five weeks from the date of its receipt.

(Sent following precept No 392)

W. B.

Read letter dated 30th Ultimo from the Secretary to Government in the Judicial Department, acknowledging the receipt of the Reports submitted under date 18th September

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N.D.
Zilla of Nellore
No 147.
2d Sessions AD 1821

Remarks of the Acting Cazee and Cozzat and Mooftees of the Foujdaree Adalut.-

Reasons for returning the proceedings transmitted by the 2d Judge on Circuit in the Northern Division in cases Nos 1 and 7 Nellore Calendar 2d Sessions AD 1821.-

As the proof in case No 1 against the prisoners 1st Mundala Booddavadoo and 2d Malum Goorvadoo and in case No 7 against the prisoner Bozza Gunnadoo rests on their respective confessions, and as it is essential to the credibility of those confessions that their respective ages should be ascertained, on which point the record contains no information, it becomes necessary that the proceedings should be returned, that the testimony of competent persons should be taken to the actual or probable age of the prisoners, and the record retransmitted, in order that a futwa may be given on the case.-

(A true translation)-
(signed) W. Rudderton,
Sr Dr

be precisely ascertained - resolue to return the
record of the trial to the 2d Judge on Circuit,
whose duty it will be to issue a precept to the

Read letter dated 30th Ultimo
from the Secretary to Government in the Judicial
Department, acknowledging the receipt of the
Reports submitted under date 18th September
last. —

(Here enter No. 742)

Read return dated 26th Ultimo
from the 2d Judge on Circuit in the Northern
Division to precept dated 8th September
last ordering communication to the Criminal
Judge in the Zilla of Nellore of the 4th
Court's orders on Case No. 15, Nellore Calendar
2d Sessions A.D. 1825. —

(Here enter No. 744)

Read letter dated 2d Instant
from the Secretary to Government in the
Judicial Department, stating that the
Governor in Council concurs generally in
the Court's observations on the Report of the
late 2d Judge of Circuit in the Northern
Division and enclosing copy of a letter
addressed to the Board for preparing
regulations urging the preparation of a
regulation to prevent useless attendance
of witnesses for prisoners. —

(Here enter No. 750)

Read return dated 25th
Ultimo from the Provincial Court of Circuit
in the Centre Division, to precept dated
6th September last ordering communication

to

8. 28th November 1821.

to the Criminal Judges and Magistrates of the Courts orders relative to the attestation of confessions.-

(Here enter No. 753)

J. M.

At a Court of the Zuijdaree Adalut.

Present,

Wednesday 14th November 1821.- Charles Harris Esqre. ---- Puisne Judge.
Peter Cherry Esqre. ---- Acting Judge.

The Court of Zuijdaree Adalut having observed, that the Calendars required by Section XL. Regulation IX of 1816 to be furnished by the Magistrates to the Courts of Circuit are not always made up to the latest practicable date, deem it proper to direct by a circular order, that the Calendars in question be always completed up to the date of their delivery to the Court of Circuit.-

2. 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 Magistrates for their information and future guidance.-

(Sent following Precepts No. 398.)

Circt 15th

J. M.

Read return dated 2d Instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 20th

14th November 1821

20th Ultimo ordering communication to the Criminal Judges of Tellore and Chicacole certain parts of the Courts orders on the Circuit Report of the late 2d Judge of the Court of Circuit Northern Division for 1st Session of 1825.-

(Here enter No. 756)

Read return dated 5th Instant from the Judges of the Provincial Court of Circuit in the Southern Division,- to precept dated 6th September ordering communication to the Judge on Circuit of the Courts orders that communication addressed to individual Judges of Circuit be sent to the Register of the Provincial Court.-

(Here enter No. 761)

Read also return dated 5th Instant from the Judges of the Provincial Court of Circuit for the Southern Division,- to precept dated 8th Ultimo ordering communication to the several Criminal Judges of the Courts orders respecting the imposition of fetters on persons committed for trial.-

(Here enter No. 762)

Read letter dated 2d Instant from the 2d Judge on Circuit in the Northern Division,- Reporting his intention to leave Chicacole on 2d Instant

(Here enter No. 766)

7. A.

At a Court of the Foujdaree Adaulut.

Present,

Thursday 15th November 1821 Charles Harris Esqre. ---- Prime Judge

Peter Cherry Esqre. ---- Acting Judge.

Read letter, dated 1st Instant, from the Criminal Judge in the Zilla of Bellary,- submitting for the orders of the Court the case of a prisoner sent to the Jail by the Assistant Magistrate under the provisions of Section XXXIV Regulation IX of 1816.-

(Here enter No. 745.)

It appears from the foregoing letter and the correspondence accompanying it, that on 15th ultimo a person named Bava Sahib was sent by the Assistant Magistrate to be confined in the Zilla Jail with a warrant addressed to the keeper of the Jail, in which after reciting the prisoner's conviction of having sold cloths with a false chop, the prisoner was ordered to be imprisoned without irons or labour "from the date of the warrant," the term of imprisonment not being specified.-

2. The Criminal Judge applied to the Assistant Magistrate for a revised warrant, specifying the term of imprisonment adjudged

adjudged in the case, and at the same time addressed the Magistrate regarding the illegality of an absolute sentence of imprisonment in the case with reference to the provisions of Section XXI Regulation I of 1812.-

3. On the 24th Ultimo the Assistant Magistrate transmitted a second warrant dated directing the confinement of the prisoner for three Months.- And on the 27th Ultimo the Magistrate transmitted to the Criminal Judge a letter from the Assistant Magistrate, in which he stated that "on reference "to the Regulation under which the prisoner "Bava Sahib should have been punished," he perceived that his sentence was "entirely "at variance therewith, the prisoner in question "never having been required by him to pay "a fine," nor been convicted of a similar offence before. The Assistant Magistrate proceeded to request, that the Criminal Judge might be informed of his having "reversed his original "sentence" and sentenced the prisoner Bava Sahib "to a fine of fifty Rupees, in the "event of his omitting or refusing to pay "which" the Assistant Magistrate requested that he might be confined, under an enclosed warrant, in the Zilla Jail for three Months.-

4. The letter from the Assistant Magistrate concluded with a request, that in the event of the prisoners agreeing to pay his fine, he might be "delivered over to the Amildar "of Bellary," who had been instructed "to collect "from him the amount of the fine."-

5. The 3d warrant from the Assistant Magistrate, intended to be eventually acted upon by the Criminal Judge, stated that the prisoner had been sentenced to pay a fine of 50 Rupees, but being unable to pay it the fine had been commuted to three Months imprisonment without irons or labour.-

6. The Criminal Judge, considering the warrants above described to be "conflicting "and at variance with Law and Justice," re-submits the case "for the instructions of "the Foujdaree Adalut."-

7. The Court of Foujdaree Adalut concur in opinion with the Criminal Judge, that the proceeding of the Assistant Magistrate in the case under consideration was at variance both with Law and Justice.-

8. The omission in the warrants originally transmitted of a part so material is attributable to inadvertence, and the substitution

substitution of an amended warrant, supposing the prisoner to have been liable under the Regulations to an absolute sentence of imprisonment, might not have been open to objection, but the Court do not understand upon what principle the Assistant Magistrate proceeded to issue the third warrant, or under what construction of the Regulations he proposed that the Criminal Judge should act ministerially on the occasion.-

9.

In consideration of the injury sustained by the prisoner Bava Sahib under the operation of an illegal sentence of imprisonment, the Court of Foujdaree Adalut direct that he be forthwith unconditionally set at liberty.-

10.

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Centre Division by precept directing them to communicate the same to the Criminal Judge in the Zilla of Bellary for his information and guidance, and to the Magistrate for the information and future guidance of his Assistant.

11.

Return to the precept to be made in two days from and after it's receipt.

Sent following Precept.

Read

Read letter, dated 22d Instant, from the Criminal Judge in the Zilla of Bellary, requesting the instructions of the Court as to the disposal of a case brought before him by a District Police Officer.-

(Here enter No. 751.

From the foregoing letter and the correspondence transmitted therewith it appears, that on the 10th Ultimo three prisoners named 1st Mullah, 2d Paupee, and 3d Nayak, were sent to the Criminal Judge by the Tahseeldar of Raydroog, the first charged with a slight assault, and the second and third with adultery.-

2 The Criminal Judge in referring the case for the consideration of the Foujdaree Adalut observes, that no complaint appears to have been made to the Tahseeldar, that "the Tahseeldar states in his Urzee that he "heard of Mullah having wounded Nayak and "sent for him." The Criminal Judge then notices the Tahseeldar's inattention to the provisions of Section XXXI Regulation XI of 1816, which would seem to be particularly applicable to the case, and concludes his remarks on this part of the proceedings by observing that "the

15th November 1821

"the Tahseeldar instead of taking security for
"the appearance of the accused on a certain day
"before the Magistrate, sends him forthwith in
"chains to the Criminal Court."-

3. With respect to the charge of adultery the Criminal Judge refers to his correspondence with the Magistrate, upon which the Court of Foujdaree Udalut have first to observe, that the orders cited by the Magistrate, prohibiting of the remanding of cases by the Criminal Judge to the Magistrate, do not apply to this particular case, because the provisions of Section VIII Regulation X of 1816, construed with reference to Section XLVI Regulation XI of 1816, withhold altogether from the cognizance of a Criminal Judge any charge of adultery "except such as may be "brought before him by a Magistrate."-

4. The other observation which the Court of Foujdaree Udalut deem it proper to make on the above correspondence, has reference to that part of the Magistrate's letter dated 25th ultimo, in which he states that "the Foujdaree Udalut have clearly "decided," that he can receive back no case from the Criminal Judge, upon which the Court will merely cite an extract of their proceedings

15th November 1821 proceedings under date 9th November 1820. furnished to the Magistrate, in the 8th paragraph of which it was observed, that "under "the impression that the cognizance of the "offence was specially limited to the Magistrate "by a legislative enactment it was manifest "by the duty of the Criminal Judge to have "remanded the accused to the Magistrate's "Court."-

5. The Court have quoted the foregoing part of their former orders merely to correct an apparent misconception of the Magistrate. In the case under consideration, as it does not appear that the husband was the prosecutor of his wife, the institution of any proceedings on the charge of adultery would have been contrary to the express provision contained in Clause fourth Section III Regulation I of 1818.-

6. The proceedings of the Tahseeldar against the three persons sent by him on this occasion to the Criminal Judge exhibit either gross violation or lamentable ignorance of the provisions of the Regulations enacted for the guidance of the native officers of Police.-

7. The Tahseeldar was totally unauthorized

15th November 1821

unauthorized to take cognizance of an Assault of the nature described in this case, where no complaint had been preferred by the injured party - And had a complaint been made to him, it was obviously his duty to proceed in the mode prescribed in Section XXXI Regulation XI of 1816.-

8. The Court of Enquiry do not consider it proper on this occasion to desire, that the Magistrate will call the attention of the several Heads of Police under his authority to the last mentioned provision of the Regulations and strictly enjoin them against the summary apprehension and transmission to the Criminal Judge of persons charged with a bailable offence.-

9. In conclusion the Court have to observe, that the persons sent to the Criminal Judge on the charge of adultery should have been immediately discharged, and that it was competent to him to dispose of the charge of assault under the general Regulation.

10. 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

3/ F. H. to the Criminal Judge and the Magistrate in
15th November 1821. the Zilla of Bellary for their information
and guidance respectively.-
(And following Precept No 400)

Last 17th Ex. Ack.

H. H.

50

At a Court of the Zoujdaree Adalut

Present,

Monday 19th November 1821. Charles Harris Esqre. - - Puisne Judge
Peter Cherry Esqre. . . . . Acting Judge

As the return of Moulavee Mohummud Kodrut Ollah, the Cazee ool Coozzat to resume the duties of his office may be expected to take place early in the month of January next ensuing, the Court of Zoujdaree Adalut deem it proper to direct that Moulavee Mohummud Mohseem, acting Mooftee of the Sudr and Zoujdaree Adalut do join his station at Chittoor in time to proceed on the first Circuit for the year 1822.-

Ordered, that extract of these proceedings be translated and communicated to Moulavee Mohummud Mohseem for his information and guidance.-

Read letter dated 6th Instant from the 3d Judge of the Court of Circuit in the Centre Division, - submitting copy of Chittoor Calendar 4th Quarterly Sessions A.D. 1821.

(Here enters p 767.)

19th November
1821

1

In cases Nos 16, 17, and 18 and 22 and 23 it is stated that the sentences passed on the prisoners were "the same" as in Nos 15 and 21 respectively.-

2.

The Court of Judicature has also concluded that by the entries in the Calendar of the sentences passed in the above numbered it is intended to be stated, that the sentences passed in Nos 15 and 21 respectively specify the entire punishment adjudged against the prisoners "Caumbum" and "Ramoodoo" the expression used might however denote that in each of the following numbers the same punishment, as was awarded in Nos 15 and 21, had been adjudged against those prisoners.-

3

When the same prisoner may be tried and convicted in several distinct numbers and the full sentence may be entered in the first number all misconception would be obviated by the following memorandum in the other numbers of the Calendar, viz. "For the sentence passed on the prisoner "or prisoners vide No —"

4

Ordered, that extract of these proceedings be sent to the Hon. Judge of the Provincial

19th November
1821.

Provincial Court of Circuit in the Centre Division for his information and future guidance.-

(Sent following letter No 401.)

C.H. to 19th

W.M.

J. U.

At a Court of the Foujdaree Udalut

Present

Thursday 22d November 1825. Charles Harris Esqre Puisne Judge

Peter Cherry Esqre acting Judge

Read letter dated 27th Ultimo from the 1st Judge on Circuit in the Southern Division:- submitting case No. 3 Tinnevelly Calendar 2d Sessions A. D. 1825.-

/Here enter No. 734/

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 acting Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the acting Cazee-ool-Coozat and Mooftees aforesaid and under the provisions of section XVII Regulation VIII of 1802 adjudge the prisoner,

Michail,

to suffer death by being hanged at the

the usual time and place of execution.-

/ Sent the following letter No 402 /

Read letter, dated 8th Instant, from the Criminal Judge in the Zilla of Salem, requesting the further orders of the Court with respect to his authority to apply directly to the Native officers of Police to cause the attendance of prosecutors and witnesses.-

/ Here enter No 765 /

Para 1. In the first paragraph of the foregoing letter the Criminal Judge observes, that the Foujdaree Adalut in their proceedings under date 30th July 1821 have severely animadverted on his conduct, under the idea that he had been in the habit of issuing orders to the Officers of Police, and he proceeds to explain that in his letter addressed to the Magistrate, alluded to in the Court's proceedings he merely desired, that the Police Officers should be allowed to send up witnesses on his requisition. The Criminal Judge concludes with a request, "that the Foujdaree Adalut will upon consideration permit him to continue an arrangement which does not appear to him to be contrary to the spirit of the Regulations."-

2. The "severe animadversion" of the Court of Foujdaree Adalut recorded on their

proceedings dated 30th July last, was directed against an order issued by the Magistrate of Salem enjoining "all Police Officers to obey every order which they might receive from the Criminal Judge." The Court were fully aware, that the Criminal Judge's application to the Magistrate was limited to the arrangement described in the letter now before them. As, however, according to the Court's construction of the Regulations it is necessary, that in the cases contemplated by the Criminal Judge a communication should be made to the Magistrate or through him to the officers of Police, as the case may be, for the purpose of obtaining any additional evidence which may be required, it is not in the power of the Court to sanction the arrangement proposed by the Criminal Judge.-

3. Upon the latter part of a return from the late acting Criminal Judge to a precept from the Court of Circuit, copy of which accompanies the above letter, the Court of Foujdaree Adalut have to observe, that Section II Regulation III of 1817 has reference exclusively to "communication between

"between the Criminal Judge and the Magistrate,"
and that the only cases in which a Criminal
Judge is authorized to issue instructions directly
to the Native Officers of Police are those
described in Section III. of that Regulation.-

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

M Sent following letter N°403/

W. M.

III

II

At a Court of the Foujdaree Udalut

Monday 26th November 1821. } Present

Charles Harris Esq re Prisne Judge

Peter Cherry Esq re Acting Judge

Read letter, dated 2d Instant
C H. from the 2d Judge on Circuit in the Northern
M Division- submitting copy of Chicacole Calen-
=dar 2d Sessions A. D. 1825.-

/Here enter N°776/

1 In case N°2 of the 1st supple-
=mental Calendar it is stated, that the
prisoner Goorooroogaury Seetanah "was con-
="victed of Coota-oot-tareek" and by a note
at the foot of the remarks it appears, that
his case is ordered to be referred to the
Foujdaree Udalut.-

2 In cases N°s 3 and 4 the
same prisoner would seem to have been
tried on charges of Gang robbery and
in the remarks on each of these cases it is
stated, that the futwa acquitted the
prisoner, who was "ordered to be released"-

3 In cases N°s 5 and 6 it appears
that the same prisoner was by the futwa
convicted

26th November 1821

convicted of arson and Gang robbery, and he is stated to have been sentenced to transportation for life.-

4 With respect to the above cases the Court of Foujdaree Udalut have first to remark, that if the prisoners in each number be the same person, a note to that effect should have been entered in the Calendar; and that the entry purporting that he was ordered to be released was incorrect, he being under confinement, awaiting the final sentence of the Foujdaree Udalut.-

5 As no memorandum of the reference of cases Nos 5 and 6 is entered in the Calendar, the Court consider it proper to direct the attention of the 2d Judge to the provisions of clause first section XV Regulation VII of 1802 and clause first section VI Regulation XV of 1803, which prescribe that all cases in which a prisoner may be condemned to imprisonment for life shall be referred for the final sentence of the Foujdaree Udalut.-

6 Ordered, that extract of these proceedings be sent to the 2d Judge of Circuit in the Northern Division by

26th November 1821

sent 27th

by precept commanding him to send up English and Persian Translates of the proceedings held in cases Nos 5 and 6 Chacacole 1st Supplemental Calendar 2d Sessions A.D. 1821,- with as little delay as possible.-

Sent following precepts No 498.

Read letter, dated 15th Instant, from the 2d Judge of the Court of Circuit in the Southern Division, submitting copy of Criminally Calendar 2d Sessions A.D. 1821.-

(Here enter No 778)

In case No 15 of the Calendar the prisoner, who was charged with "wilful and corrupt perjury." is stated to have been "convicted of Zunna galib shadattazoor" and sentenced under Dokoobut to be imprisoned and kept to hard labor in irons for the term of three years. It not appearing to the Judge that the Perjury was "willing and corrupt".-

2 Zunn-i- ghalib-i-shahadut- i- zoor signifies strong suspicion of false testimony: and as the crime of Perjury is one, which from its particular character requires to be most unequivocally established in order to subject the accused to the penalties of the Law, the Court of Foujdaree Udalut are of opinion, that no punishment could legally have been adjudged against

a measure whenever adopted by a Court of Circuit should be communicated to them, they resolve to circulate to the Courts of Circuit in the Northern, Centre, and Southern Divisions, the following instructions on this point, &c. which were on a former occasion furnished to the Court of Circuit in the Western Di=
=vision.-

4 Whenever it may appear to a Judge on Circuit, that any persons brought before him for trial have been committed on insufficient grounds, it will be &c proper, that the Judge should call the trial, and having declared that there were not sufficient grounds for proceeding to trial, should order the discharge of the parties.-

5 It will be proper, however, that the Judges of Circuit in all cases of this nature should report the grounds of their not proceeding to trial for the information of the Court of Foujdaree Udalut.

Continued from p. 2 to 5. inclusive of last Para.

6 In No. 20 of the Calendar &c the prisoner, who was declared in the &c futwa to be liable on "suspicion of &c "Bribery" to Lazeer, has been sentenced to six months' imprisonment.-

7 The sentence so passed by &c the Acting Judge on Circuit is not warranted by the Regulations, which expressly declare that

that the Courts of Criminal Judicature are not authorized to inflict any punishment &c whatever upon suspicion only, when the &c evidence against the prisoner is undeserving of credit, or the presumption of his guilt arising from credible testimony or cir=
=cumstantial evidence, does not amount to the degree of strong presumption &c held sufficient for conviction.-

8 It will be the duty of the Acting Judge, therefore, to revise the sen=
=tence passed by him against the prisoner "Sheik Mufsood", and unless he shall see cause to disapprove the opinion de=
=clared in the futwa, to direct that the prisoner be released, either condition=
=ally or unconditionally as shall to him appear to be expedient, agreeably to the provisions of clause sixth Sec=
=tion II Regulation XV of 1803.-

9 In case No. 25 the prisoner Sunjeeveegandoo was charged with murder, and in the column of remarks it is &c stated, "that on a previous enquiry &c "made to ascertain how far the prisoner "is now deprived of his senses and how "far he perpetrated the murder of his "son while in that state, there appeared "reason to believe that he was afflicted "with insanity, when he perpetrated &c

"the