F. Co.
Proceedings
for the Year
1822.-

1828

333

At a Court of the Zuydaire Adalut

Present,

Thursday.

3d January 1822 Charles Harris Esqre ---- Puisne Judge

Peter Perera ---- 4th Judge

Read letter dated the 18th Instt

from the acting 2d Judge on Circuit in the

Centre Division, - submitting case No 2 Bellary

Calendar 2d Sessions A.D. 1821 -

(Recorded No 85 of 1821)

The Court having maturely considered

the proceedings held before the Judge on Circuit

the futwa of the Provincial Law Officer as

the futwa of the acting Cazee of Cooyat and

Mooftee of the Zuydaire Adalut confirming the

said futwa of the acting Cazee of Cooyat and

Mooftee aforesaid and under the sentence

of Corroboree declared in the futwa adjudging

the prisoners,

1st "Dasareegadoo,"

2d "Chinna Nunneegadoo,"

3d "Lutchmeegadoo," and

4th "Runyadoo,"

to suffer death by being severally hanged

at the usual time and place of execution.

(Sent following letter No 1.)

1. The arraignment of the

prisoners

prisoners before the Court of Circuit does not describe the manner in which the murder of the deceased was perpetrated or the place where the act was committed.

2 The Court of Sudarre Adalut dum it proper therefore to call the attention of the acting Judge late on Circuit in the Centre Division to the importance of describing with accuracy and precision the nature of the crime laid in the indictment and the place as well as the time of its perpetration.-

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

(Sent following letter No 2.)

Read again petition presented by Davanachary of Chittoor.-

(Here enter Pet. No 3 of 1821.)

The petitioner complains of an order passed by the Judge presiding at the 3d Quarterly Sessions for 1821 at Chittoor, whereby his petition praying for an order to the Magistrate for the restitution of a small Sumbal alleged to have been stolen from him, and for a re-investigation of his case was rejected.-

The Court, on consideration of the matter set forth in the foregoing petition, and of the order complained of, see no ground whatever for their interference.-

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

Read again petition presented by Poodeyahutto Koyally, of the Zilla of North Malabar.-

(Here enter Pet. No 4 of 1821.)

The petitioner complains that he has been unjustly dismissed from the situation of Cutwal of Cannanore, and prays that he may be restored.-

It appears that the petitioner's case has been under the consideration of the Provincial Court for the Western Division, and the papers accompanying the foregoing petition do not shew that there is any ground whatever for the interference of the Court.-

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

Read 25

3rd January 1822

Read letter, dated 20th Ultimo, from the Criminal Judge in the Zillah of Chicacole, explaining the causes of delay, which has occurred in a case in his late Quarterly Report of persons apprehended.-

(Vide enter No. 866 of 1821.)

In the 7th paragraph of the foregoing letter the Criminal Judge states that many of the persons who attended as evidence in the case before the Criminal Court could "not recognize any of the plunderers and if any "person recognized & plundered but had been "ill-treated or plundered he became indeed "a Prosecutor, but was disqualified from being "a witness, and perhaps all the recognizers of "the Plunderers in any act of plundering had so "become Prosecutors, and on account of there "being no witnesses it was useless to commit "the case."-

2. The reasoning of the Criminal Judge in the foregoing passage is wholly fallacious and betrays an ignorance of or inattention to the provisions of the existing Regulations, for which the Court of Foujdaree Adaulut are unable to account.-

3 The Court consider all references to the rules of evidence contained in the

F. C.

3rd January 1822

Mohummedan Law to be foreign to the duty of a Criminal Judge, upon whom it is incumbent to commit for trial all persons appearing to him from the testimony adduced against them to have committed an offence deserving of greater punishment than he is competent to inflict.-

4 All questions on points of Mohummedan Law will be properly referred to the Provincial Law Officer by the Judge of the Court of Circuit, with whom it will also remain to take such further steps as shall to him appear expedient under the general provisions of the

6 Regulations.-

5. Had the Criminal Judge adverted to those provisions of the Code, which direct a reference to the Foujdaree Adaulut in all cases where the futwa of the Mohammedan Law Officer may appear to the Judge of Circuit to be contrary to the evidence or to natural justice, and to the enactment under which the Court of Foujdaree Adaulut are authorized to convict a prisoner, whatever may be the futwa delivered in the case, he

could

could not have adopted the conclusion that the commitment of the prisoners was useless, because the Mohummedan rules of evidence appeared to bar their conviction.-

6. The Court of Foujdaree Adalat considering it to be highly important that the erroneous impression entertained by the Criminal Judge on this subject should be corrected, deem it proper to communicate these observations to him through the Provincial Court of Circuit, and to direct that the Judges of that Court will be careful to overrule under the provisions of Section XXIII Regulation X of 1816 the proceedings of the Criminal Judge in any case in which he may have discharged prisoners brought before him merely under the impression that their conviction was opposed by the rules of evidence of the Mohummedan Law.-

7. Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division for their information and guidance, and that they be by precept directed

to communicate the same to the Crimi=nal Judge in the Zillah of Chicacole for his information and future guidance.

(sent following precept N°3/

Ed: Mk

W. M.

Read Return dated the 25th Ultimo from the 1st Judge late on Circuit in the Western Division, to precept dated 13th Instant directing that the Magistrate of Malabar and Criminal Judge of South Malabar be instruct=ed to bring three persons therein named to trial for Perjury and Subornation of Perjury.

/Here enter N° 870/

Read letter dated the 23d Ultimo from the Acting Judge on Circuit in the Centre Division,- With returned warrant for execution of prisoner in Case N° 4 Cud=dapa Calendar 2d Sessions A.D. 1821.-

/Here enter N° 869/

Read letter dated 24th Ultimo from the 2d Judge late on Circuit in the North=ern Division,- With returned warrant for execution of prisoners in Case N° 8 Chicacole Calendar 2d Sessions A.D. 1821.-

/Here enter N° 873/

Read letter dated the 29th Ultimo from the Acting 3d Judge on Circuit in the Centre Division,- Explaining a mistake in

in the letter accompanying the returned war=
=rant for execution of the prisoner in Case
No. 45 Cuddapa Calendar 2d Sessions A.D.
1821.—

/Here enter No. 875/

Read letter dated the 26th Ultimo from the 1st Judge late on Circuit in the Western Division,- With returned Warrant for execution of prisoners in Cases Nos. 39 & 40 South Malabar Calendar 1st Sessions A.D. 1821.—

/Here enter No. 3/

Read letter dated the 26th Ultimo from the 3d Judge on Circuit in the Western Divi=sion,- submitting the proceedings held in a case in which the prisoner was discharged from the bar without trial.—

/Here enter No. 2/

At a Court of the Foujdaree Adalut.

Present,

Monday 7th January 1822. Charles Harris Esqre. . . Puisne Judge
Peter Cherry Esqre. . . . . Acting Judge

Read again letters dated respectively
23d and 28th November last from the Magistrate
in the Zilla of Madura, and letter dated 5th
Ultimo from the Criminal Judge, recom=
=mending the tender of a conditional pardon
to Raumen a person implicated in an
atrocious murder.—

Here enter Nos. 803, 816, and 823 of 1821.

Read also return, dated 26th
Ultimo, from the Acting Criminal Judge in
the Zilla of Madura, to precept dated 12th
Ultimo, ordering transmission of the examina=
=tions held in the above Case.—

/Here enter No. 886 of 1821./

The Court of Foujdaree Adalut,
after having attentively considered the
whole of the evidence which has been
taken in this Case, being of opinion that
a full and unreserved disclosure by the
prisoner Raumen of all the circumstances
within his knowledge relative to the murder

of the deceased Natchyamay and the several persons concerned in it, is requisite for the conviction of the principals, resolve to submit the application of the Criminal Judge to Government and to recommend that the Honorable the Governor in Council may be pleased to authorize an offer of pardon to the said Raumen on the terms specified in Section XX Regulation VIII of 1802.-

2. Ordered, that the foregoing letters with extracts of the proceedings of the Tonjodaree Boatut dated 27th November last and 12th 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 7.)

No 1. Sent 8

W.H.

Read return dated 28th Ultimo, from the 2d Judge late on Circuit in the Northern Division, - to the precept dated the 8th Ultimo communication to the Criminal Judge in the Zilla of Chicacole and to the Magistrate of Ganjam of the Courts orders on Case No. 16 Chicacole Calendar 2nd Sessions AD 1821.

(Here enter No 5)

Read return, dated 28th Ultimo from the 2d Judge late on Circuit in the Northern Division to the precept dated 13th Ultimo ordering communication to the Criminal Judge in the Zilla of Chicacole and the Magistrate of Ganjam of the Courts observations on Case No 9 Chicacole Calendar 2d Sessions AD 1821.-

(Here enter No 6)

Read return dated the 31st Ultimo from the Judges of the Provincial Court of Circuit in the Southern Division, - to the precept dated 30th November last ordering them to communicate to the several Magistrates of the Courts orders relative to the Officers of Police appointed under Regulation IX of 1821.

(Here enter No. 10)

Read return, dated 31st Ultimo, from the Judges of the Provincial Court of Circuit in the Southern Division, - to the precept dated 14th November last ordering them to communicate to the Magistrates the Courts' orders regarding the Calendars prescribed by Section XI. Regulation IX of 1816.-

Here enter No. 11

F. C.

At a Court of the Tanjadore Adalut.

Present,

Wednesday 9th January 1822. Charles Harris Esqre. ..... Puisne Judge
Peter Cherry Esqre. ..... Acting Judge.

Read letter dated 27th Ultimo. from the Criminal Judge in the Zilla of South Malabar, enclosing 9 warrants for the banishment of Convicts to any Zilla selected by the Tanjadore Adalut.

(Here enter No. 7)

The Court of Tanjadore Adalut direct that the prisoners,

1st Coony Calingal Shetty Ramen,
2d Tinda Manaan Vella,
3d Cola Coopa Ayapen,
4th Paaatingal Ayapen,
5th Shettoondayto dyil Marcar,
6th Erambally Coren,
7th Manaantodyil Chekoo,
8th Wadakayuittil Ally,
9th Chembiladeil alias Choloyil Ahmod Cooty,
10th Pallyil Vallapil Velloo,
11th Anata Echoo,
12th Peroonally Coonjoo Panikar, and
13th Arikarepanambil Moydeen,

be removed to the Jail in the Zilla of Chittore, there

there to be imprisoned and kept to hard labor during the period of their respective sentences

2 The removal of certain convicts from the provinces of Malabar having on a former occasion been attended with injury to their health, the Court of Sudder Adawlut deem it proper to direct that the Criminal Judge in the Zilla of Chittoor do from time to time report to the Court the state of health of the abovenamed thirteen prisoners in order that they may be removed from that station should the measure appear advisable on account of their health.-

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

Sent to Mr Smith

Sent following letters No 8/

Read letter, dated 3d Instant, from the acting 2d Judge late on Circuit in the Centre Division,- submitting copy of Chingleput Calendar 2d Sessions A.D. 1821.-

(Here enters No 13)

1 In the remarks of the Court of Circuit upon several cases in the above Calendar

Calendar, as also in an Extract of the proceedings of the Court in the case of two prisoners discharged from the bar, the Court of Sudder Adawlut observe that the proceedings of the officers of Police are stated to exhibit false dates of apprehension and maltreatment of the prisoners.-

2 The Court of Sudder Adawlut trust, that the particular attention of the Magistrate has been called to the misconduct of the several Police Officers referred to, but should the acting Judge have omitted that measure, the Court direct that the Magistrate be instructed to take such measures as may appear most effectual to prevent the recurrence of practices so subversive of the due administration of Criminal Justice.-

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

Sent following letter No 9/

Read return, dated 31st Ultimo, from the Provincial Court of Circuit in the

the Northern Division - to precept dated 21st Ultimo ordering them to return to the Criminal Judge in the Zilla of Chicacole a communication from him relative to the remarks of the Court of Foujdaree Adalut on the Circuit report of the late 2d Judge of the Provincial Court of Circuit in the Northern Division.-

(Here enter No 17)

Read return, dated 31st Ultimo, from the Provincial Court of Circuit in the Northern Division, - to precept dated 21st Ultimo ordering communication to the late acting Judge the Court's orders relative to cases in which a prisoner may be charged with several crimes of the same description

(Here enter No 18)

Read return, dated 13th Ultimo, from the acting 3d Judge on Circuit in the Centre Division to precept dated 1st November last ordering him to examine the original proceedings held in the case of Ranoo Rao of Chinglepat and transmit to the Magistrate such orders thereupon as may appear proper.-

(Here enter No 9)

Read letter, dated 2d Instant, from the acting 3d Judge on Circuit in the Centre Division, transmitting proceedings held in the case of 2 lunatic prisoners.-

(Here enter No 12)

7th

At a Court of the Foujdaree Adalut

Tuesday 15th January 1822 } Present Charles Harris Esqre Puisne Judge; Peter Cherry Esqre Acting Judge

Read letter dated 4th Instant, from the Secretary to Government in the Judicial Department, - stating that the Governor in Council would consider it unadvisable and impolitic to take the administration of Police out of the hands of the Zemindars in the Northern Division of Circuit.- (Here enter No 20)

Ordered that a copy of the foregoing letter be transmitted to the 2d Judge on Circuit in the Centre Division by precept commanding him to communicate the same to the Magistrate in the Zilla of Chittoor for his information and guidance.-

(Sent following precept No 11)

Read letter dated the 7th Instant from the Register of the Provincial Court of Circuit in the Centre Division, - Desiring instructions as to the execution of sentence passed by the Foujdaree Adalut in case No 14 Chittoor Calendar 4th Quarter Sessions A.D. 1821.- (Here enter No 23)

Read

15th January 1822

Read letter dated 7th Instant
from the 1st Judge on Circuit in the Southern Divisn.
=on.- Reporting his arrival at Combaconum =
/Here enter No. 26/

Read letter dated 5th Instant
from the 3d Judge on Circuit in the Western Divis=
=sion.- With returned warrant for execution
of prisoner in Case No. 15 Canara Calendar 2d Ct
Sessions A.D. 1821.-
/Here enter No. 28/

Read letter dated the 11th Instant
from the Acting 3d Judge late on Circuit in the
Centre Division,- With returned warrant for
execution of prisoner in Case No. 30 Bellari
Calendar 2d Session A.D. 1821.-
/Here enter No. 31/

Read Petion dated 7th Instant
from the 3d Judge late on Circuit in the Western
Division to precept dated 27th Ultimo calling
for case No. 3 Canara Supplemental Calendar
2d Sessions A.D. 1821.-
/Here enter No. 32/

Read letter dated 4th Instant
from the 3d Judge late on Circuit in the
Western Division,- Submitting copy of South
Malabar Calendar 2d Sessions A.D. 1821.-
/Here enter No. 34/

7 M.

At a Court of the Foujdaree Adalut.
Present,

Wednesday
16th January 1822.- Charles Harris Esqre. - - - Puisne Judge.
Peter Cherry Esqre. - - - - - Acting Judge.

Read letter, dated 11th Instant,
C# from the Secretary to Government in the
M. C. Judicial Department,- stating that the Govern=
=or in Council sanctions the tender of a con=
=ditional pardon recommended on the
7th Instant.-
(Here enter No. 36.)

Ordered, that copy of the
foregoing letter be sent with extract from
the Courts' proceedings of the 7th Instant,
for the information and guidance of the
Acting Criminal Judge in the Zilla of
Madura.-

A. 11th (Sent following letter No. 12.)

W. H.

At a Court of the Foujdaree Adalut.

Present.

Friday 18th January 1822. Charles Harris Esqre. ---Puisne Judge

Peter Cherry Esqre. ----- Acting Judge.

C.H.

Read again return dated 20th October last, from the 2d Judge on Circuit in the Northern Division,- to precept dated 16th August last ordering transmission of the Proceedings held in cases Nos. 1 and 7 Nellore Calendar 2d Sessions A.D. 1821.-

(Here enter No 747 of 1821.)

Read also return dated 20th December from the 2d Judge late on Circuit in the Northern Division,- to precept dated 8th November last ordering him to obtain evidence as to the ages of the prisoners in cases Nos. 1 and 7 Nellore Calendar 2d Sessions A.D. 1821.-

(Here enter No. 4)

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 Mooftee of the Foujdaree Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid

aforesaid and under the latitude given by the sentence of Cohaubut declared in the Futwa adjudge the prisoners,

1st "Mundala Booddavaddoo" and

2d "Malum Goorvadoo"

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of 5 years to be computed from the 24th day of July A.D. 1821 being the date of the warrant issued in this Cate by the 2d Judge.

The Court having maturely considered the proceedings held in case No. 7 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 Tinjore Zillah confirm the said Futwa of the acting Cazee ool Coozat and Mooftee aforesaid and under the provisions of Section XXI Regulation VII of 1802 adjudge the prisoner,

Bozza Anhadoo

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of 7 years in addition to the terms of imprisonment to which he has been adjudged in

in Nos. 6, 13, and 23 of the Nellore Calendar 1st Sessions A.D. 1821.

Sent following letter No 14/

Sub 22d

W. H

2D

P.C.

At a Court of the Poygdaree Adalut.

Present,

Wednesday 23d January 1822. Charles Harris Esqre. - - - Puisne Judge.
Peter Cherry Esqre. - - - - - Acting Judge.

C.H.
P.C.

Read letter, dated 20th ultimo, from the acting 3d Judge on Circuit in the Centre Division, - submitting case No 4 Bellary Calendar 2d Sessions A.D. 1821.

(Here enter No 87 of 1821)

The Judges of the Poygdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner, Abdool Qadir, is sufficient to convict him of having put to death the deceased Shiekh Surour, desire under clause second section II Regulation I of 1818 that the acting Cazee ool Coozat and Mooftee of the Poygdaree 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 above crime.-

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

W.C.

120

At a Court of the Poojdaree Udalut.

Present,

Thursday 24th January 1822. Charles Harris Esqre. — Puisne Judge.
Peter Cherry Esqre. — Acting Judge.

C:H.
P.C.

Read again letter, dated 26th Ultimo from the acting 2d. Judge on Circuit in the Centre Division, submitting case No. 14 Bellary Calendar 2d. Sessions A.D. 1821.

(Here enter No. 874 of 1821.)

Read the second futwa delivered in this case by the acting Cazee ool Cozat and Mooftee of the Poojdaree 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 Cozat and Mooftee of the Poojdaree Udalut confirm the said futwa of the acting Cazee ool Cozat and Mooftee aforesaid and under the sentence of Tazeer declared in the futwa adjudge the prisoner,

"Abdool Qadir,

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

Sent following letter No. 18/

425

The

1

The Court of Foujdaree Udalut have given matures consideration to the two questions on points of Law which have been raised by the late Acting Judge on the trial of this case.-

2

It appears, that on a reference made by the Magistrate an order was issued by the Governor in Council, directing that the prisoner should "be brought to trial before "the Court of Bellary."-

3

The Court of Foujdaree Udalut concur in the propriety of the further reference to Government, which was made by order of the late Acting Judge before he proceeded to the trial of the case, and as Section III Regulation XI of 1809 does not prescribe the form of the Special order of the Governor in Council therein mentioned, the Court are of opinion, that the second order of Government, dated 12th October 1821, was full and sufficient authority for the trial of the prisoner before the Court of Circuit.-

4

The Court of Foujdaree Udalut dissent from the construction given by the late Acting Judge to Section II Regulation XI of 1809, whereby a voluntary submission to the Jurisdiction of the established Courts of Criminal

Criminal Judicature by returning within the limits of the British Provinces is made essential to the amenability of a native subject of the Government to those Courts for crimes committed in places out of those limits. In the opinion of the Court of Foujdaree Udalut the Regulation above cited fully provides for the trial and punishment of Native subjects of the British Government, charged with heinous offences, committed in any place out of the limits of the British Provinces, whether their return within those limits may have been voluntary, or compulsory.-

5

Entertaining this view of the intent and meaning of the legislative enactment under which the prisoner Abdool Qadir has been brought to trial, and being of opinion that the proof of his guilt is conclusive, the Court have sentenced him to suffer death.-

6

The present case has suggested to the Court the propriety of issuing the following circular instructions to the several Criminal Judges and Magistrates relative to the proper course of proceeding to be adopted in the cases contemplated in Regulation XI of 1809.-

As

7 As the course of proceeding en-
=joined in Clause second Section II of the above-
Regulation must devolve on the Criminal
Judge, as the only committing officer for tri-
=al before a Court of Circuit; the Court of
Foujdaree Udalut are of opinion that the
Report prescribed in Clause first of the same
Section to be made to the Governor in Coun-
=cil appertains to the functions of the Criminal
Judge, although this part of the duty pres-
=cribed to the Magistrate in the Regula-
=tion has not been expressly transferred
to the Criminal Judge.

8 The Court of Foujdaree Udalut
deem it proper, therefore, to direct, that
the several Magistrates be instructed
in all cases of this description, which
may be brought before them, to send
the accused with all the procurable
evidence to the Criminal Judge, leaving it
to the latter officer to report the result
of his investigation for the orders of Go-
=vernment.

9 Ordered, that extract of these
proceedings be sent to the acting Judge
late on Circuit in the Centre Division
by precept enjoining him to communicate
para 6

para 6, 7, 8 to the several Criminal Judg-
and Magistrates in the Centre Division.-
/sent following precept No 19/

10 Ordered also, that extract
of these proceedings be sent to the Provincial
Courts of Circuit in the Northern, Southern
and Western Divisions by precept enjoining
them to communicate the same to the several
Criminal Judges and Magistrates within
their respective Divisions.-

/sent following precept No 20/

Ex. Mr.

Read letter, dated 4th Instant, fro-
the acting 2d Judge late on Circuit in the
Centre Division,- submitting case No 10 Bella-
Calendar 2d Sessions A.D. 1821.-

/Here enter No 14/

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
Udalut confirm the said futwa of the
acting Cazee ool Cozat and Mooftee afore-
=said and under the provisions of Claus-
sixth Section II Regulation XV of 1803 direct
that the prisoners,

2d Fuqueerah, and
3d Lutchumah,

be released on producing good and sufficient
Security

security for their future good behaviour and appearance when required.-

(Sent following letter No 21.)

1 The records of the proceedings in this case and in others which have been referred for the final judgment of the Foujdaree Adalut by the Acting Judge on Circuit, holding the 2d Sessions of Jail Delivery for 1821 at Bellary, fully establish the prevalence of a practice among the Head Officers of Police in that Zilla of entering in their reports, furnished to the Criminal Judge under the provisions of Clause fourth Section XXVII Regulation XI of 1816, false dates of the prisoners' apprehension.-

2 It appears, moreover, in the present case by the report of Soobrow, Tahseeldar of the Taluk of Anuntapoor, that from 27th January 1821 the date of the examination of the first three prisoners, they were detained by him until 13th February awaiting the appearance of the remaining prisoner.-

3 From several trials referred to the Foujdaree Adalut, as well as from the Quarterly Reports received from the Criminal Judge, it appears that delays of weeks and even months between the alleged date of the apprehension of prisoners, and their arrival

arrival at the Zilla Station are of common occurrence.-

4 The falsification of dates indeed puts it out of the power of the Court to ascertain to what precise extent the provision contained in Clause fourth Section XXVII Regulation XI of 1816, which declares that the detention of a prisoner shall in all possible cases be limited to forty eight hours, is ordinarily violated by the Police Officers in the Zilla of Bellary. The Court of Foujdaree Adalut have, however, on former occasions directed the Magistrate to point out to those officers the inadequacy of the cause assigned by Soobrow, the Tahseeldar, in this case for detaining the prisoners already in custody, and while they deem it necessary on the present occasion to direct, that the Magistrate do warn the several District Police Officers under his authority of exemplary punishment on any future occasion, wherein it may be found that their reports have exhibited false dates of the apprehension of prisoners, the Court desire that the Magistrate will strenuously enjoin the observance of the above provision of the Regulations enacted for their guidance, apprizing them that the reasons ordinarily

ordinarily assigned for the detention of persons
in custody, such as the time occupied in
search for stolen property, the illness of
witnesses, or the non apprehension of other
suspected persons will not be admitted
as valid grounds for its infringement,
but that on such occasions the prisoners
should be forwarded with the evidence
obtained, and the deficiencies supplied as
soon as possible.-

5

In his letter accompanying this
trial the late acting Judge remarks generally
upon ~~the instructions~~ the want of indifference of the Police
officers in the Zilla of Bellary, as to the
discovery of evidence, and their confining
their proceedings to the adoption of various
"measures" to obtain confessions from
persons accused.-

6

To the atrocious nature of the
measures resorted to by native officers of
Police for this purpose the records of the
Court of Sunjarees Adalut bear abundant
testimony; and it is obvious that such
proceedings might be greatly checked by
attention on the part of Magistrates to
enforce the rule, which prohibits the
detention of prisoners beyond forty eight
hours after their apprehension.-

the appr-

7

Another

F. N.

24th January 1822. 7

Another important check to
such practices consists in the uniform
requisition of all the evidence which a
case may admit of. The Court of Sunjarees
Adalut in their circular instructions to
the several Magistrates under date 18th
June 1817 directed them to impress upon
the minds of the Police officers the primary
importance of an adherence to the provisions
enacted for their guidance in this respect,
but experience has shewn that those
injunctions have produced very little
effect.-

8

The present case exhibits
a remarkable instance of inattention
on the part of the Police to the general
duty of searching for evidence, as well
as to positive provisions of the Regulations.
No search whatever appears

9

to have been made by the Police for the
stolen property, and the Tahseeldar assigns
as a reason for their not having been
even a search of the prisoners' houses,
after their apprehension on the charge
of the prosecutrix, that "neither the
villagers, the Talaries, nor the prosecu-
trix wished" it.-

The

10

The Magistrate in his letter to the Criminal Judge, dated 6th November last, after stating that the case did not appear from the report made to him to be of any unusual description, "observes that in cases sent direct to the Criminal Judge from the talooks he the Magistrate has no knowledge of the facts, receipt from the Criminal Judge's receipt for the prisoners -

11

Section XXV Regulation XI of 1816 declares, that Tahseldars "shall report "to the Magistrate all acts which they may "do, and all information which they may "receive connected with their Police duties." -

12

The manifest object of this provision is to secure the Magistrate's immediate and correct acquaintance with all matters appertaining to the administration of Police in the districts under his charge. A bare report of the occurrence of a robbery, or other offence, omitting all mention of "the facts of the "case," or the proceedings held, is obviously very far from answering to the description given in the Section of the Regulation above cited of the report to be required from

24 January 1822.

from the Heads of the Police of Districts. -

13

The late acting Judge in his letter accompanying the trial notices the benefit, which he has known to result from requiring the officers of Police to transmit to the Magistrate immediate notice, whenever any considerable property may have been lost, sending also by the earliest tappal a list of the property, which was immediately introduced into a Proclamation, and fixed up at the principal stations of the Zilla within a short period after the robbery. -

The late acting Judge describes

14

these measures as tending to increase the difficulty of disposing of stolen goods, and promoting the general security of property by manifesting the interest taken by the Officers of Government in the welfare of its native subjects, and their readiness to use their best exertions for recovering their property from the hands of Plunderers; and the Court of Foujdaree Adalut, concurring entirely as to their utility and expediency, directed that the Magistrate do issue the necessary instructions for their adoption.

The

24th January 1822

15 The Court of Foujdaree Adawlut have observed with great concern the proof, which has been afforded by the issue of several trials held at the late Sessions at Bellary of the commission of the most atrocious crimes, either immediately by, or with the ascertained cognizance of the village watchers.—

16 To the suppression of an evil so alarming in its manifest operation upon the administration of Police, as well as subversive of the course of Justice, the attention of the Magistrate should be earnestly directed, but without the strictest supervision of the proceedings of the higher officers of Police, and the uniform punishment of ~~discovered~~ remissness or irregularity on their part no amelioration in the conduct of these subordinate agents can reasonably be looked for.—

17 The case now before the Court presents an instance of village watchers having been detached from their proper police functions by order of a Tahseeldar.—

18 The Court trust, that an example has been made by the Magistrate of this officer, who would appear to have been not only grossly negligent and irregular in

4/ F. H.

24th January 1822 in his own proceedings but to have exceeded his authority in causing the officers subordinate to him to violate the Regulations promulgated for their common guidance.—

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

Sent 30th

(Sent following precept 1822)

It being within the knowledge of the Court that many of the irregularities which have been noticed in the above case obtain in other Zillas, and the Court being of opinion, that the foregoing observations and instructions, if duly attended to, may be generally useful; direct that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept enjoining them to communicate the same to the Magistrates within their several divisions for their respective information and guidance.—+

+ The Magistrate in the Zilla of Bellary has already been furnished with the foregoing Extract which therefore requires only to be communicated to the other Magistrates in the Centre Division

Sent 7th

(Sent following precepts No 23)

Read

Read letter, dated 31st Ultimo, from the acting 3d Judge on Circuit in the Centre Division, - submitting case No. 28 Bellary Calendar 2d Sessions A.D. 1821 -

(Hereunto No. 1)

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 Poojaree Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid and acquitting the prisoners,

1st "Chohah,
2d "Nela Naik,
3d "Kuleah,"
4th "Liddeah,
5th "Ranah,
6th "Rayah, and
7th "Namah,

direct that they be set at liberty. -

sent 29th

(Sent following letter No. 24)

1 In this as well as in other cases referred by the late acting Judge on Circuit the precepts issued by him relative to the police proceedings in the case are inserted in the body of the Record. -

2 The Court of Poojaree Adalut are of opinion, that the record is needlessly

loaded with these documents, and that whereas the matters to which they refer are interesting as exhibiting the mode of Police administration the precepts and returns would be fitly introduced as an appendix to the General Report prescribed by Section XXXVII Regulation VII of 1802. -

3 The proceedings of the Police Officers in this case exhibit marks of irregularity and inattention to the provisions of the Regulations of a character similar to those observable in the other cases tried at the late Sessions of Gaol Delivery for the Zilla of Bellary. -

4 Goondapah, Cumum of Wokulmanee in the Durmanar Talook, states in evidence before the Court of Circuit, that after receiving intelligence of the murder of the two women, he sent Two Seevanuppah and Paupunnah, two Police Peons, together with Ramsing his private servant to enquire into the circumstance. - This witness acknowledged also before the Criminal Judge, that he did not see the bodies. -

5 It appears by the correspondence between the Criminal Judge and the Magistrate entered in the record, that this officer's neglect

neglect of the provisions of Section XIII Regu-
=lation XI of 1816 in the above instance had
been brought to the notice of the Magistrate,
by whom the Court of Foujdaree Adalut trusts
that suitable notice has been taken of his
misconduct- It does not appear, that the
report prescribed in the above Section
was made to the District Police Officer
Amanda Row, or that the Head of the village
took any steps whatever in the case-

6 Had the investigation, prescribed
in the Section of the Regulation here
referred to, been immediately held by the
District Police Officer, and the general
provisions of the Regulations been observed
in the examination of the Lumbadies, as well
as of any other persons able to afford informa-
=tion relative to the case, it is probable en
that the perpetrators of two most atrocious
murders would have been brought to
Justice-

7 Here, however, it appears that
the District Police Officer either was not
summoned, or if summoned did not attend,
and that the village Police Officer, on
whom in the absence of his Superior
the duty of investigation devolved, took
persons

persons to the spot for that purpose, who
possessed no authority whatever to act
in the case-

8 It is established also by the
evidence delivered on the trial, that the sub-
=scribing witnesses to the declarations alleged
to have been delivered by the prisoners before
the District Police Officer were not present while
they were reduced to writing from the lips
of the prisoners. They were also persons of the
most illiterate description, not even capable
of recognizing the marks affixed by
themselves to the declarations-

9 It is also in evidence, that
the District Police Officer entered in his
report, as the date of the prisoners' appre
=hension, the date of their examination
before him, and did not sign the declara-
=tions until some days after they were
taken-

10 The declarations, taken without
the observance of the forms prescribed by
law for ensuring their authenticity no
credit can be given, and as the police
have not obtained any collateral proof
of the guilt of these prisoners their acquittal
has inevitably followed-

11 It would appear, that
Amanda Row no longer fills the situation
of Head of Police of the Durmamar Talook,
whether

whether dismissed from public employment for incompetence or misconduct is not stated, but the Court do not consider him to be a person fit to be trusted with the important functions of an officer of District Police.-

12. Ordered, that extract of these proceedings be sent to the late acting Judge on Circuit in the Centre Division, by precept injoining him to communicate to the Magistrate in the Zilla of Bellary such parts thereof as concern that Officer for his information and guidance.-

Sent 30th

(Sent following precept No. 25)

Read letter dated 31st Ultimo, from the 2d Judge late on Circuit in the Northern Division,- submitting case No. 1 first Supplemental Chicacole Calendar 22 Sessions A.D. 1821.-

(Hereunto No. 16)

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 Sunpareo Uoalut confirm the said Futwa of the acting Cazee ool Coozat and Mooftee aforesaid and

and acquitting the prisoner, Sawarah Jogiah, direct that he be set at liberty.-

(Sent following letter No. 26)

1 As the 2d Judge concurred in the acquittal of the prisoner in this case the trial should not have been referred, and the prisoner was under the provisions of the general Regulations entitled to an immediate discharge.-

2 The looseness, defectiveness, and irregularity of the proceedings of the Police Officer should have been brought to the notice of the Magistrate, and any special notice thereof which the 2d Judge might consider necessary for the information of the Court of Sunpareo Uoalut should have been reserved for his general report on the administration of Police in the Zillas visited by him.-

3 The 2d Judge observes, that no measures appear to have been taken by the Head of Police "to ascertain whether the murder was actually committed, or to cause any search to be made for the dead body," and it appears that the prisoner's declaration was not taken down in the language in which it was

was delivered by him.-

4 The Court of Foujdaree Adaulut desire, that the attention of the Magistrate may be called to the misconduct of P. Luggan andum, the Police Officer here referred to, in order that such notice may be taken thereof as may effectually prevent its recurrance.-

5 Ordered, that a extract of these proceedings be sent to the 2d Judge late on Circuit in the Northern Division by precept enjoining him to communicate to the Magistrate of Ganjam such part thereof as concerns that officer for his information and guidance.-

Sent 30th (Sent following precept. No 27.)

Read letter, dated 31st ultimo, from the 2d Judge late on Circuit in the Northern Division,- submitting case No 2 first supplemental Calendar of Chicacole 2d Sessions A.D. 1821.-

(Here enter No 15.)

The Court having maturely considered the proceedings held before the Judge on Circuit the Futwa of the Provincial Law

6/ F. 16.

24th January 1822.

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 aforesaid and accordingly adjudge the prisoner,

Goorooroogaury Seetanah,

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

Sent 29th (Sent following letter No 28.)

No 16.

The prisoner in this case being the individual tried in cases Nos 5 & 6 1st supplemental Calendar, called for by precept of the Foujdaree Adaulut under date 26th November last, and the issue of the case before the Court rendering the reference of the other trials no longer necessary.-

Ordered, that the 2d Judge late on Circuit be relieved from the duty of sending up the records of the proceedings held in cases Nos 5 & 6 Chicacole 1st supplemental Calendar 2d Sessions A.D. 1821.-

Sent 30th (Sent following letter No 29.)

Read letter, dated 15th Instant, from the 1st Judge on Circuit in the Southern Division,- with copy of Combaconum Calendar

31st January 1822.

these proceedings be translated and delivered to the Acting Cazee ool Coozat and Mooftee of the Poujdaree Adaulut.-

H. G.

Z 11.

At a Court of the Poujdaree Adaulat.

Present,

Friday 1st February 1822. Charles Harris Esqre } Judges
H. S. Graeme Esqre }

CH
RHG

Read again letter dated 18th December last, from the 2d Judge on Circuit in the Northern Division,- submitting case No 1 of the second Supplemental Calendar of Chicacole 2d Sessions A.D. 1821.-

(Here enter No 867. of 1821.)

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

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 Adaulut confirm the said futwa of the Acting Cazee ool Coozat and Mooftee aforesaid and under the latitude given by the sentence of Adaulut declared against the

the prisoner,

1st "Roopsing"

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

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

2d "Myda Beebee,"

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

Sent following letter No 32/

Read letter, dated 19th ultimo, from the 2d Judge on Circuit in the Western Division, reporting the arrival of the Court of Circuit at Mangalore.-

(Here enter No 61)

Read letter, dated 22d ultimo, from the 1st Judge on Circuit in the Southern Division, reporting the arrival of the Court of Circuit at Salem.-

(Here enter No 66)

Read letter, dated 24th Decr last, from the Provincial Court of Circuit in the Centre Division, - with returned warrants for

for execution of prisoners in cases No 1 and 17 Bellary Calendar 2d Sessions A.D. 1821.-

(Here enter No 67.)

Read return, dated 23d ultimo, from the 2d Judge on Circuit in the Centre Division, - to precept dated 15th ultimo ordering communication to the Magistrate in the Zilla of Chittoor of the sentiments of the Governor in Council relative to the administration of Police in certain Zumindaries.-

(Here enter No 76.)

Read letter, dated 27th ultimo, from the 3d Judge of the Court of Circuit in the Southern Division, - transmitting copy of Trichinopoly Calendar 1st Quarterly Sessions A.D. 1821.-

(Here enter No 80.)

Read letter, dated 25th ultimo, from the 1st Judge of the Court of Circuit in the Southern Division, transmitting abstracts of Calendars laid before the Court holding the 1st Quarterly Sessions at Trichinopoly for 1822 by the Criminal Judge and the Magistrate.-

(Here enter No 93)

Read

1st February 1822.

Read letter, dated 29th ultimo, from the acting 2d Judge on Circuit in the Northern Division,- reporting the arrival of the Court of Circuit at Nellore.-

(Here enter No 94/S

At a Court of the Poujdarree Adalut.

Present,

Monday 4th February 1822.- Charles Harris Esqre } Judges.
H. S. Graeme Esqre }

C# H&Q

Read letter, dated 3d ultimo, from the Acting 2d Judge late on Circuit in the Centre Division,- submitting case No 24 Bellary Calendar 2d Sessions A.D. 1821.-

(Here enter No 19.)

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 Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid and under the provisions of Clause sixth Section II. Regulation XV of 1803 direct that the prisoner,

Pauseegah,

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

sent 6th

(Sent following letter No 33.)

H. H.

At a Court of the Poydaree Adalut

Present,

Monday
11th February 1822. Charles Harris Esqre } Judges
H. S. Graeme Esqre }

The Reports prescribed by
Section XXXVII Regulation VII of 1812 for
the 2d Sessions of 1821 not having been
received from the Judges late on Circuit
in the Northern and Western Divisions.

The Court direct, that the
2d Judge late on Circuit in the Northern
Division, and the 3d 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 two
weeks from the date of the receipt
of the precept.—

12th Sent following Precepts N°s 44/

N. B. The report prescribed by Section
XXXV Regulation X of 1816 not having been
received from the Zilla of Masulipatam
for the last quarter—

Ordered

11th February 1822.

Ordered that the Criminal Judge of the Zilla of Masulipatam be by precept commanded to send up the Report without further delay and to explain the circumstances that may have occasioned 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 12th

(Sent following Precept № 451)

W. H.

Read letter, dated 8th ult. from the 2d Judge late on Circuit in the Northern Division, - with returned warrant for execution of prisoner in case № 9 Chicacole Calendar 2d Sessions A.D. 1821.-

(Here enter № 87.)

Read return, dated 1st Instant from the Provincial Court of Circuit in the Northern Division, - to precept dated 24th Ultimo ordering communication to the Criminal Judges and Magistrates of the Courts orders relative to the mode of

11th February 1822.

of proceeding to be adopted in the cases referred to in Regulation XI of 1809.-

(Here enter № 120)

Read return dated 1st Instant, from the Provincial Court of Circuit in the Western Division, - to precept dated 24th Ultimo ordering communication to the Criminal Judges and Magistrates of the Courts orders relative to the cases described in Regulation XI of 1809.-

(Here enter № 121.)

Read letter, dated 5th Instant, from the 2d Judge on Circuit in the Centre Division, - with copy of Cuddapa Calendar 1st Sessions A.D. 1822.-

(Here enter № 122.)

Read letter, dated 26th Ultimo, from the 2d Judge late on Circuit in the Northern Division, - transmitting return made by the Magistrate of Ganjam to the precept which accompanied the observations of the Court in case № 9 Chicacole Calendar 2d Sessions A.D. 1821.-

(Here enter № 101.)

At a Court of the Foujdaree Udalut.

Present,

Tuesday 12th February 1822.

Charles Harris Esqre
H. S. Graeme Esqre
} Judges

C#
H H G

Read letter, dated 8th Ultimo, from the 3d Judge late on Circuit in the Western Division, submitting case No. 23 South Malabar Calendar 2d Sessions A.D. 1821.-

(Here enter No 49)

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 Shaaa declared in the futwa adjudge the prisoner,

Cheerooman Coonjahen,

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

(Sent following letter No 46.)

Lr to 3d

H. H.

25

At a Court of the Foujdaree Adalut

Present.

Thursday 21st February 1822. — Charles Harris Esqre. / H. S. Graeme Esqre. — } Judges

C. A. 1822

Read letter, dated 18th ultimo from the 8d Judge late on Circuit in the Centre Division, - submitting case No. 34 Bellary Calendar 2d Sessions A.D. 1821.

(Here enter No. 50.)

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 Cozyat and Mooftee of the Foujdaree Adalut are of opinion that the proof against the prisoners, Nawab, Govindah, and Jaracheund, is sufficient to convict them of the offence of Gang Robbery attended with aggravating circumstances 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 Nubee, alias Naval,
11th Govinda k, and
18th Jarachund,

to be severally 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 and during the period of their natural lives respectively.—

And under the provisions of clause sixth Section II. Regulation XV of 1793 the Court adjudge the remaining prisoners,

2d Chauthmal
3d Ghatha,
4th Dhuhlaa,
5th Dowlah,
6th Deenan,
7th Leeladaar,
8th Ungreea,
9th Rupaal,
10th Aohak,
11th Bhowanee,
12th Mujeetah,
13th Runjeet,
15th Codah,
16th Leeradar,
17th Juneeah,
19th Ebram, and
20th Puttayuth,

to be released on producing good and sufficient security

for their future good behaviour and appearance when required.—

Sent following letter No 52/

1 The Court of Foujdaree Adawlut deem it necessary to record certain observations upon the proceedings held in this case in addition to those which have been communicated to the Magistrate by the Judge on Circuit, in which the Court entirely concur.—

2 The robbery of the 1st prosecutors house occurred on the 24th February 1821, and he stated in evidence before the Court of Circuit that on the following day he "informed the Magistrate of the circumstance." It appears also by the testimony of several witnesses connected with the Police, that a proclamation was issued for the apprehension of the persons concerned in this daring robbery, and that the prisoners were seized on 27th March at a place within the limits of the Zilla of Cuddapah, distant about 140 miles from Bellary.—

3 The first recorded proceedings held by the Magistrate are dated 28th May, and consist of depositions taken after the prisoners were consigned to that officer's custody.—

4 With reference to the provisions of Sections XII and XIII Regulation IX of 1816

the Court of Foujdaree Adaulut conclude that depositions irregularly taken by the Magistrate before the issue of process for the apprehension of the persons accused in this case, and those depositions together with a copy of any proclamation issued on the occasion should have formed a part of the record.

5 The importance of including the first depositions in the records of proceedings referred to the Foujdaree Adaulut is shewn in the present case, as a correspondance between the number of persons therein stated by the prosecutors to have been concerned, with the number of the Gang subsequently apprehended would have been strongly corroborative of the truth of their statments.-

6 With regard to the alleged murder of the son of the prosecutrix, Lohara Sahiba, the record contains no information whatever besides her statement.

7 The Court of Foujdaree Adaulut can scarcely suppose, that the first deposition delivered by this Complainant was that, dated 3 months after the date assigned to the transaction, which is the earliest contained

F. A.

21st February 1822

contained in the record- It would appear indeed from her evidence before the Court of Circuit, that some previous examination must have been held, for she states that the Magistrate sent for her to give evidence upon the arrival of the prisoners-

8 Her deposition as it stands in the record does not in any way identify the prisoners with the transaction, if the boy was put to death in the manner described by her there must have been persons able to depose to the manner of his death, and it was the duty of the Magistrate to have procured their evidence- The explanation given by the Magistrate with respect to the exclusion of the Civil Police from the Cantonment may be admitted to account for the absence of the regular official inquest enjoined on such occasions by the Regulations, but measures should have been taken to supply as far as possible the consequent defect in the evidence.-

9 The late acting Judge on Circuit in his letter accompanying the trial suggests, that some women who appear to belong to this Gang of Bhats should be

be paſed to their own Country.-

10 The Court of Foujdaree Adalut concur in the eligibility of this measure, regarding which it will be proper that the Magistrate should communicate with the Government.-

11 The Court of Foujdaree Adalut, approving also of the recommendation of the late acting Judge for the separation of the prisoners ordered to be detained on a requisition of security, if unable to give the required surety direct that they be distributed by the Criminal Judge as between the Zillas of Chittoor, Cuddapa, and Salem.-

12 The Criminal Judge will report to the Court the names of the prisoners sent under these orders to each of the above stations.-

13 In conclusion the Court of Foujdaree Adalut have to remark, that† amidst the many difficulties which presented themselves during the trial, and which the late acting Judge exerted himself in a most zealous manner, to surmount, he appears to have overlooked the discrepancy between the statements of the 1st prosecutor before the Magistrate, the Criminal Judge, and the Court of Circuit of the individuals recognized by him as having been present at the robbery of his house- He

pointed out on his first examination the 1st, 8th, 11th, and 18th, on his second, the 1st, 4th, 11th, and 18th and before the Court of Circuit the 1st 11th 18th and 19th prisoners

14 Under the provisions of Clause sixth Section XVIII Regulation VII of 1802 an opportunity should have been given to the deponent to explain these apparent inconsistencies.-

His omission to specify the

15 19th prisoner in either of his former depositions, when the transaction was recent and his recollection of the circumstances must be supposed to have been most accurate, is deemed by the Court to weaken considerably the credibility of his ultimate testimony as regards that prisoner.-

This defect in the evidence

16 might to a great degree have been supplied by the testimony of Ramaiah, a witness who identified this prisoner before the Magistrate; the late acting Judge observes in his letter, that this witness "was not "brought to give evidence before the Court "of Circuit;" but the Court have searched the record in vain for the cause of her non appearance.-

21st February 1822.

17

Ordered, that extract of these proceedings be sent to the late acting Judge on Circuit in the Centre Division by precept enjoining him to communicate to the Criminal Judge and the Magistrate in the Zilla of Bellary such parts thereof as concern those officers respectively, for their information and guidance.-

Sent

Sent following precepts N.s 53.

L.D.

D. M. Read return, dated 7th Instant, from the 2d Judge late on Circuit in the Northern Division,- to precept dated 24th ultimo ordering communication to the Magistrate of Ganjam of the Court's observations in case No 1 Chicacole 1st Supplemental Calendar 2d Sessions A.D. 1821.-

(Here enter No 130.)

Read return, dated 7th Instant, from the 2d Judge late on Circuit in the Northern Division,- to precept dated 20th November last calling for English and Persian Translations of the Proceedings held in cases Nos 5 and 6 Chicacole Calendar 2d Sessions A.D. 1821.-

(Here enter No 131)

Read letter, dated 9th Instant, from the 3d Judge late on Circuit in the Centre Division,- with returned warrant for execution

7

3/

D. M. of prisoners in case No 2 Bellary Calendar 21st February 1822. 2d Sessions 1821.-

(Here enter No 132)

Read return dated 7th Instant from the Provincial Court of Circuit in the Western Division,- to precept dated 20th ultimo ordering communication to the Magistrates of the Court's observations relative to the duties of the Officers of Police.-

(Here enter No 133)

Read return, dated 6th Instant, from the Provincial Court of Circuit in the Centre Division,- to precept dated 24th ultimo ordering communication to the Magistrates of the Court's observations relative to the duties of the officers of Police.-

(Here enter No 134)

Read return, dated 6th Instant, from the Provincial Court of Circuit in the Centre Division,- to precept dated 21st December last ordering communication to the Magistrate of Chittore of the opinion of the Court that a representation should be made to Government regarding the state of Police in certain Zemindaries in that Zilla.-

(Here enter No 135)

21st February 1822.

Read letter, dated 13th Instant, from the Provincial Court of Circuit in the Centre Division,- with returned warrant for execution of prisoner in case No 14 Chittoor Calendar 4th Quarterly Sessions A.D. 1821.-

(Hereunto No 136.)

Read letter, dated 11th Instant, from the 1st Judge on Circuit in the Southern Division,- with copy of Salem Calendar 1st Sessions A.D. 1822.-

(Hereunto No 141.)

Read return, dated 10th Instant, from the Criminal Judge in the Zilla of Masulipatam,- to precept dated 17th Instant calling for the report prescribed by Section XXXV Regulation X of 1816.-

(Hereunto No 145)

Read return, dated 13th Instant, from the Provincial Court of Circuit in the Northern Division,- to precept dated 24th Ultimo ordering communication to the several Magistrates of the Courts instructions upon certain points of police administration.-

(Hereunto No 147.)

7 M.

At a Court of the Foujdaree Udalut.

Present,

Monday 4th March 1822.

Charles Harris Esqre } Judges.
H. S. Graeme Esqre }

C H.
H H G

Read letter, dated 17th January last, from the acting Judge late on Circuit in the Centre Division,- submitting trial No 27 Bellary Calendar 2d Sessions A.D. 1821.

(Hereunto No 29.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Circuit Officers and the futwa of the acting Cazee and Cooyat and Mooftee of the Foujdaree Udalut are of opinion that the prisoners, Varatheegadoo, Nagadoo, Goondagadoo, and Kasseegadoo, 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 XIV 1803.

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

1st Varatheegadoo,
2d Nagadoo,
3d Goondagadoo, and
4th Kasseegadoo,

to

4th March 1822.

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 and during the period of their natural lives respectively.

Sent 7th

/Sent following letter No 58./

1 In an extract of the proceedings of the Court of Circuit entered in the record of this case the late Acting Judge notices the great importance of recording in the preliminary proceedings held on cases forwarded to the Criminal Judge, the original complaint preferred to the Police Officer, as well as the summons or warrant issued thereupon for the apprehension of the offenders.

2 It is obvious to remark, that the ~~same~~ apprehension ~~complained~~ credit, to which the subsequent testimony delivered by the prosecutor and witnesses may be entitled, must in many cases depend materially upon the statment originally made by the complainant, which under the provisions of Section XXV Regulation IX and Section XXVII Regulation XI of 1816 should form a part of the proceedings, forwarded by the Magistrate or Police Officer to the Criminal Judge, and should be included in the proceedings

proceedings laid before the Court of Circuit, and in the records of trials referred to the Court of Foujdaree Adalut.-

3 The Court deem it proper also to direct, that a copy of the warrant which may have been issued by the Magistrate or Officer of Police for the apprehension of the accused, be in like manner entered in the records of proceedings laid before the Court of Circuit, and of trials referred for the final sentence of the Superior Court.

4 The Magistrates should be carefull themselves, and should also enjoin the Police Officers under their authority to require the complainants in cases of robbery and other heinous offences to particularize the articles stolen, and the number of persons concerned and to take down the names of such, as may be alleged to be personally known to the complainants.-

5. The Courts of Circuit and Foujdaree Adalut will be frequently enabled by reference to a record of this description to judge how far the testimony delivered on the trial is founded on the deponents original knowledge of the facts

facts deposed to by him or how far it may be[+] deem it also to be proper, that copies of any proclamations issued by the Magistrate for the apprehension of the accused should be included in the records of all cases referred.-

[+] biassed by a presumption of the guilt of a prisoner arising from a knowledge of circumstances acquired at a later period.

7. The letters accompanying several of the trials, which have recently been under the consideration of the Court of Sunjaree Adalut, have not contained a distinct opinion from the Judge of Circuit with respect to the guilt of each particular prisoner, and the degree of punishment which in the judgment of that officer should be inflicted upon him.-

8. The Court of Sunjaree Adalut deem it to be of great importance, that they should in all cases receive, as in certain special cases is prescribed by Clause third Section VI. Regulation XV of 1803, the distinct sentiments of the Judges of Circuit as to the guilt and punishment of each prisoner, together with a statement at large of the grounds of their judgment whether for or against the prisoner with such of the facts and circumstances in evidence upon the trial, as may be necessary to explain the case of the prisoner.-

&c

2/ 7. 11.

4th March 1822

9. As these [illegible] are intended to be circulated to the several Courts of Circuit, the Court of Sunjaree Adalut consider it proper to state that the letters transmitted by the Judges of the Court of Circuit in the Western Division are remarkable for a perspicuous exposition of the evidence, and always convey a distinct opinion on the merits of each particular case.-

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

(Sent following letter No 59)

Ordered also, 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 and such part thereof as concerns the several Criminal Judges and Magistrates to those officers respectively for their information and guidance.-

(Sent following Precepts No 60 to

11. Read letter, dated 19th Ultimo, from the 2d Judge on Circuit in the Centre Division

4th March 1822.

Division,- submitting explanation of the Majistrate in the Zilla of Cuddapah respecting the mode in which the confession of the prisoners were taken in case №20 Cuddapah Calendar 1st Sessions A.D 1822.-

(Here enter №155)

Read letter, dated 21st ultimo, from the 2d Judge on Circuit in the Centre Division,- reporting his arrival at Bellary on the 18th and the commencement of the Sessions on the 21st Instant.-

(Here enter №156.)

Read letter, dated 18th ultimo, from the 1st Judge of the Court of Circuit in the Western Division,- with copy of North Malabar Calendar 1st Quarterly Sessions A.D 1822.-

(Here enter №157)

Read return, dated 20th ultimo, from the late acting Judge on Circuit in the Centre Division,- to precept dated 27th ultimo ordering communication to the Magistrate in the Zilla of Bellary of the Court's observations on case №10 Bellary Calendar 2d Sessions A.D 1821.-

(Here enter №159.)

Read return, dated 25th ultimo, from the late acting Judge on Circuit in the Centre Division,- to precept dated 27th January last ordering communication to the Criminal Judges

4th March 1822.

Judges and Magistrates in the Centre Division of the Court's orders respecting the cases contemplated in Regulation XI. of 1809.-

(Here enter №160)

Read return, dated 25th ultimo, from the late acting Judge on Circuit in the Centre Division,- to precept dated 27th January last ordering communication to the Magistrate in the Zilla of Bellary of the Court's observations on case №28 Bellary Calendar 2d Sessions A.D. 1821.-

(Here enter №161)

Read letter, dated 22d ultimo, from the 2d Judge late on Circuit in the Northern Division,- with returned warrant for execution of the prisoner in case №2 first Supplemental Calendar of Chicacole 2d Sessions A.D. 1821.-

(Here enter №162)

Read letter, dated 22d ultimo, from the 2d Judge late on Circuit in the Western Division,- with returned warrant for execution of prisoner in case №23 South Malabar Calendar 2d Sessions A.D. 1821.-

(Here enter №164)

Read letter, dated 25th ultimo, from the 2d Judge late on Circuit in the

4th March 1822.

the Northern Division,- with returned warrant for execution of prisoners in case No.1 on the 2d Supplemental Calendar of Chicacole 2d Sessions A.D 1821.-

(Here enter No.166)

At a Court of the Foujdaree Adalut

Present,

Monday.
11th March 1822. Charles Harris Esqre } Judges.
H. S. Grame Esqre }

Read letter dated 5th January last from the 2d Judge on Circuit in the Western Division,- submitting case No.3 Canara Supplemental Calendar 2d Sessions A.D 1821.-

C#
R&C

(Here enter No.33.)

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 "Pally Cootty" and
2d "Dar Cootty,"

is sufficient to convict them of having put to death the deceased Sheikh Fareed, desire, under clause second Section II Regulation I of 1818. that the Acting Cazee of Coorgat 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.

11th March 1822.

Ordered, that extract of these proceedings be translated and delivered to the acting Cazee ool Coozat and Mooftee of the Zoujdaree Adalut.—

50

W. H.

F. U.

At a Court of the Zoujdaree Adalut

Present,

Tuesday 12th March 1822. Charles Harris Esqre
H. S. Graeme Esqre } Judges.

C#
R&G

Read again letter, dated 5th January last, from the 2d Judge late on Circuit in the Western Division,—submitting case No. 3 Canara Supplemental Calendar 2d Sessions A.D 1821.—

(Here enter No. 33)

Read the second futwa delivered in this case by the acting Cazee ool Coozat 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 Officer and the futwa of the acting Cazee ool Coozat and Mooftee of the Zoujdaree Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Kohroobut declared in the futwa adjudge the prisoners,

1st "Pally Coolly" and
2d "Dar Coolly"

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

Sent following letter No. 70/

Ie

The Court of Foujdaree Udalut being of opinion, that Dooghey, to whom the Criminal Judge was authorized under date 10th July last to tender a pardon on condition of her making a full disclosure of every circumstance within her knowledge relative to the murder of the deceased Shaik Yarreed, has fulfilled the conditions of the pardon so tendered to her by the Criminal Judge:-

Ordered, that the certificate specified in Section XX Regulation VIII of 1802 in confirmation of such conditional pardon, be transmitted to the Criminal Judge of the Zilla of Canara for the purpose of being delivered to the party for her security as far as regards the act referred to.-

(Sent following letter № 71.)

Read letter, dated 25th January last, from the late acting 2d Judge on Circuit in the Centre Division,- submitting case № 4 Chingleput Calendar 2d Sessions A.D. 1821.-

(Here enter № 90.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Mooftee Law Officer and the futwa of the acting Cazee

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 Tazeer declared in the futwa adjudge the prisoner

Soottan Khan,

to pay a fine of Rupees twenty to Government or for fifteen days imprisonment commutable if not paid to imprisonment.-

(Sent following letter № 72.)

Read letter, dated 1st Instant, from the 3d Judge late on Circuit in the Western Division,- explaining his delay in transmitting report prescribed by Section XXXVIII Regulation VII of 1802.-

(Here enter № 175.)

Read return, dated 1st Instant, from the 2d Judge late on Circuit in the Northern Division,- to precept dated 11th ultimo called for report prescribed by Section XXXVII Regulation VII of 1802.-

(Here enter № 177.)

Read letter, dated 2d Instant, from the 2d Judge on Circuit in the Centre Division, transmitting copy of Bellary 1st Supplemental Calendar 1st Sessions A.D. 1822.-

(Here enter № 182.)

At a Court of the Zuljdaree Udalat

Present,

Friday 15th March 1822.- Charles Harris Esqre } Judges.
W. S. Graeme Esqre }

Read letter, dated 5th Instant,
from the 2d Judge on Circuit in the Centre
Division,- submitting copy of Bellary Calendar
1st Sessions A.D. 1822.-

(Here enter No. 181.)

The prisoners in Cases Nos. 1 and
2 on the Calendar are stated to have been
acquitted by the Futwa of the Law Officer,
and were ordered to be detained in custody
until the orders of the Sudder Adawlut should
be received:- and in the letter accompanying
the Calendar the 2d Judge suggests the
adoption of certain precautionary measures
regarding them.-

2 This proceeding of the 2d Judge
is altogether irregular, if the futwa of
acquittal has received his concurrence, it
will be his duty to direct the conditional
or unconditional
release of the prisoners under the pro-
-visions of the general Regulations.-

3 The Court direct, that the
Calendar

Calendar be returned to the 2d Judge in order that it may be made to exhibit in the regular manner the mode in which the above cases may have been disposed of.-

4 The prisoner in case No. 11 was charged with wounding the prosecutor, was sentenced under a futwa of Corroboubto 8 years' imprisonment and hard labor.-

5 Supposing the nature of the wound inflicted by the prisoner not to render him liable to any stated penalty under the Mohummedan law, which is to be inferred from the description given of the case and the futwa of the Law Officer, the case of this prisoner fell within the provisions of Clause seventh Section II Regulation XV of 1803.

6 The Court of Foujdaree would direct, therefore, that the 2d Judge be by precept commanded to revise the sentence passed by him in case No. 11 of the Calendar in communication with the Mohummedan Law Officer, referring the trial to the Superior Court should

he be of opinion, that the punishment adjudicable by the Court of Circuit under the clause of the Regulation last cited is insufficient. The 2d Judge will at the same time return the Calendar with the information above required.-

7 Precept returnable within three days from and after its receipt.-

(Seal) (Seal following Precept No. 74)

W. H.

25

At a court of the Foujdaree Adalut

Present

Thursday 25th March 1822 — Charles Harris Esqr. / H. S. Grame Esqr. } Judges

C.H. H.H.G

Read letter dated 4th Instant, from the 2d Judge on Circuit in the Centre Division, referring under the provisions of Clause third Section XL Regulation IX of 1816 copies of certain precepts issued by him to the Magistrate in the Zillah of Bellary, and of that officer's returns thereto.—

/Here enter No. 176/

It appears that the Calendars prescribed by Section XI. Regulation IX of 1816 to be delivered to the Courts of Circuit upon their arrival at the place of residence of the Criminal Judge not having been received from the Magistrate in the Zilla of Bellary on 26th February being five days after the day appointed for the arrival of the Judge of Circuit, the 2d Judge called upon the Magistrate by precept to explain the cause of the delay and also "to afford his explanation to

"to the Court under what circumstances it
"had happened that neither himself per=
=sonally, or his Assistant so delegated should
"have been present at the Cusbah station
"on the appointed day of the arrival there
"of the Circuit Judge."—

2

In his return to the precept
the Magistrate stated that no delay had
occurred on his part in furnishing the
Calendars, that the delay which had taken
place had been "unavoidable arising from
"all his records having been carried on
"Circuit by the acting Head Assistant
"Magistrate lately in charge of the district
"to a distance of more than 100 miles from
"Bellary, and the necessity of removing
"them thence."— The Magistrate proceeded to
observe, that "it formed no part of his duty
"or that of his Assistants to be present at
"the Cusbah station on the appointed day
"of the arrival there of the Circuit Judge"— and
that "in erroneously attributing to them
"this duty and calling for explanations
"why it had not been performed the 2d
"Judge obliged the Magistrate to point
"out to him his apparent oversight of
"the existing Regulations and misappre=
=hension of the duties of the present
Magistracy

"Magistracy in this respect."—

3

On receipt of the above return
the 2d Judge issued a second precept
to the Magistrate, in which he observed that
to defer the delivery of the Calendars "for
"reasons of personal convenience or under
"any other pretext till six days after
"the appointed arrival of the Court of Circuit
"at the Cusbah station must be considered a
"delay, which implies an inattention to the
"Regulations, under which he is bound to act;
and that no reason had been given "why if
"the Magistrate was not present to deliver
"his Calendars, his Assistant could not be
"caused to do so."— The 2d Judge having
then noticed the Magistrate's omission to
furnish the return of officers specially
appointed by him under the provisions
of Regulation IV of 1821, as directed by
the orders of the Foujdaree Udalut under
date 30th November last, called upon
the Magistrate to "prepare and furnish
"for the information of the Circuit Court a
"general list or statement of all the Police
"officers employed within his Jurisdiction, both
"superior and subordinate, giving the
"names of the stations and respective range
"of each, and the number of peons per=
=manently employed by them respectively."—

In

21st March 1822

4

In return to the precept last mentioned the Magistrate referred to his former explanation of the delay which had occurred in the delivery of the Calendars, stated that "the presence or absence of the Magistrate or "his Assistants at the Cutchah, or any other "station within the district was a matter "which the second Judge ought to have "known to be foreign to the jurisdiction, "unconnected with the contraul, and not "open to any official observation or remark "of the Court of Circuit;-" and that the return required by the orders of the Fouja=dary Udalut above cited had not been and could not yet be made, as the Magistrate had not appointed "any subordinate officers "under the provisions of Section III Regulation "IV of 1821 to perform in different parts of "each Talook the duties assigned to Tahsildars "and other Head officers of Police by Sects. "ons 27, 28, 29, 31, 32, 36, and 37 Regulation XI "of 1816." In conclusion the Magistrate states that "without express authority from the "Board of Revenue to whose contraul & "exclusively all the revenue and Police & "establishments have been made subject "by Government, he did not consider "himself authorized to afford the very "extensive information, altogether different and

7th U

21st March 1822.

"and distinct from that directed by the "Sudr Court to be furnished, which had "been newly called for by the Court of "Circuit."

5 The Court of Foujdaree Udalut are of opinion, that the explanation given in the first instance by the Magistrate of his delay in furnishing the prescribed Calendars aught to have been considered sufficient by the 2d Judge, and need not open to the imputations intimated in the 2d precept. The Court, however, consider it to be proper, that whenever the Ma=gistrate may be unable to furnish the Calendars at the period prescribed in the Regulations, an explanation of the cause of delay should be given to the Judge of Circuit on his arrival at the Zilla station.-

6 As the existing Regulations do not require the attendance of the Magistrate at the station upon the arrival of the Court of Circuit, the Court of Foujdaree Udalut do not understand upon what ground the Magistrate was required to account for his non-attendance:- at the same time the Court are of opinion that the language and tone of the Magistrate's comments on this point are not consistent with the respect due

due from him to the authority of the Court of Circuit.—

7. The special ground of the present reference appears to be the refusal of the Magistrate to comply with the requisition of the 2d Judge for a "general list or statement "of all the Police officers employed within his "jurisdiction, both superior and subordinate "giving the names of the stations and respective range of each, and the number of peons "permanently employed by them respectively".—

8. The circular orders of the Governor in Council, dated 27th June 1820, declare "that the Board of Revenue shall "be the sole channel of communication with "Government, in regard to any alterations in "the revenue or Police establishments, of "which they shall be vested with the general "superintendence, control, and revision".—

9. The Magistrate has construed those orders to preclude his furnishing to the Court of Circuit a detailed list of his Police establishments, but as in investigating the operation of a Police system it may be necessary to be informed of the number and designation of the Police officers and the extents of their range respectively, it appears to the Court of Foujdaree Adalut that

that such information must be accessible to the Superior Courts of Criminal Judicature with reference to the duties enjoined by section XXXIII Regulation VII and section VIII Regulation VIII of 1802, and that the Magistrate was not authorized to withhold it.—

10. The nature of the present reference renders it imperative upon the Court of Foujdaree Adalut under the provisions of clause third section XI Regulation IX of 1816 to submit the case for the information and orders of Government, and in doing so the Court must express their regret at the unconciliatory tone adopted by the 2d Judge in his communications to the Magistrate, and the objectionable language of parts of the latter officer's returns.—

11. Ordered, that the foregoing letter and its inclosures with Extracts of these proceedings be sent to the Secretary to Government in the Judicial Department for the information and orders of the Honorable the Governor in Council.—

Sent following letter No 279/

No 8 sent 22d

Read

Ed Mk

At a Court of the Tuyjdaree Adalut.

Present,

Friday 22d March 1822. — Charles Harris Esqre. } Judges.
W. S. Grame Esqre. — }

C. H.

Read letter, dated 8th January last, from the 3d Judge at Don Circuit in the Western Division, - submitting case No. 18. South Malabar Calendar 2d Sessions A.D. 1821.-

(Here enter No. 77.-)

The Acting Cazeecool Cozataud Mooftee of the Tuyjdaree Adalut declare in the foregoing futwa that the 1st prisoner, is convicted on strong presumption of the crime of being concerned in the murder of the deceased Tayen Nair. 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 Mohummedan law if he had been convicted by full legal evidence.-

The Judges of the Tuyjdaree Adalut

21st March 1822.

Read letter dated 11th Instant from the Provincial Court of Circuit in the Centre Division, - With returned Warrants for execution of a prisoner in Case No. 14 Bellari Calendar Second Sessions A.D. 1821.-

(Here enter No. 186)

Read return dated 12th Instant from the late Acting Judge on Circuit in the Centre Division to precept dated 21st Ultimo ordering communication to the Criminal Judge and the Magistrate in the Zilla of Bellary of the Courts observations on case No. 34 Bellari Calendar 2d Sessions A.D. 1821.-

(Here enter No. 189)

Read also return dated 13th Instant from the Provincial Court of Circuit in the Centre Division to precept dated 4th Instant ordering communication to the several Criminal Judges and Magistrates of the Courts orders relative to certain documents to be included in the records of Proceedings in Criminal cases and to the Judge on Circuit of the Courts instructions regarding the opinion to be given on the reference of trials.-

(Here enter No. 191.-)

Read letter dated 18th Instant from the 1st Judge of the Court of Circuit in the Centre Division. Reporting the completion of the 1st Quarterly Sessions of Jail Delivery for 1822.-

(Here enter No. 197)

22d March 1822. Udalut on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the 2d prisoner, is sufficient to convict him of having aided in the murder of the deceased Tayen Nair, desire under Clause second Section II Regulation I of 1818 that the acting Cazee ool Coozat and Mooftee of the Toujdaree Udalut will declare by as 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 extracts of these proceedings be translated and delivered to the acting Cazee ool Coozat and Mooftee of the Toujdaree Udalut.-

20

U. M.

J. M.

At a Court of the Toujdaree Udalut.

Present,

Saturday. 23d March 1822.- Charles Harris Esqre } Judges.
R. S. Graeme Esqre }

C. H. H. S. G.

Read again letter dated 18th inst. January last, from the 3d Judge late on Circuit in the Western Division,- submitting case No 18 South Malabar Calendar 2d Sessions AD 1821.-

(Here enter No 77)

Read the second futwa delivered in this case by the acting Cazee ool Coozat and Mooftee of the Toujdaree 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 Toujdaree Udalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Cahoobut declared in the futwa adjudge the prisoners,

1st "Methrakot Naddatil Kristna Nair," and
2d Tiem Pandarakattil Ramen,

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

(Sent following letter No 80)

20

U. M.

At a Court of the Foujdaree Adalut.

Present,

Monday, 25th. March 1822. Charles Harris Esqre. } Judges.
H. S. Graeme Esqre. }

C. H. Read letter, dated 1st. Instant
H. G. from the 2d. Judge late on Circuit in the Northern Division,- submitting report prescribed by Section XXXVII Regulation VII. of 1802.-

(Here enter No. 179.)

The third paragraph of the foregoing report contains certain observations regarding the hardship to which prisoners are obnoxious in cases of reference to the Provincial Court by the Judge on Circuit under the provisions of Section XXIII. Regulation X of 1816. The 2d. Judge notices a case, in which a reference was so made by him, and the Provincial Court concurred in his opinion, but the prisoner entirely lost the benefit of the reference "as his "period of imprisonment expired before "their orders for his release could be "transmitted to the Criminal Judge."-

2. The Court of Foujdaree Adalut

do

do not consider that any alteration of the existing Law is necessary to obviate the evil here pointed out- It appears to the Court, that the case of a prisoner, whose punishment may be considered by the Judge on Circuit to have been awarded on insufficient grounds, and its remission recommended to the Provincial Court, is analogous to that of a person still under trial, that under the general authority given by Section XI Regulation X of 1818, it is competent to the Court of Circuit to order the prisoner to be admitted to Bail, and that in the event of his inability to furnish sufficient Bail, the penal part of the sentence passed by the Criminal Judge should be suspended, and the prisoner merely detained in custody, until the orders of the Provincial Court be received--

3. Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Northern Division for his information and guidance.-

(Sent following letter No 81.)

4. 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 82.)

Read letter, dated 20th Instant, from the 1st Judge of the Court of Circuit in the Centre Division,- with copy of Chittagong Calendar for 1st Quarterly Sessions A.D. 1822-

(Herewith No 199)

Read return, dated 20th Instant, from the Provincial Court of Circuit in the Northern Division,- to precept dated 4th Instant ordering communication to the Judge on Circuit and to the Criminal Judges and Magistrates of the Court's instructions relative to documents required to be furnished by the Magistrates and Police officers in cases of robbery and other heinous offences.-

(Here enter No 200.)

Read return, dated 15th Instant, from the Provincial Court of Circuit in the Western Division,- to precept dated 4th Instant, ordering communication to the

25th March 1822.

the Judge on Circuit and to the Criminal Judges and Magistrates of the Courts on instructions relative to documents required to be furnished by the Magistrates and Police Officers in cases of robbery and other heinous offences.-

(Here enter No 203)

J. A.

At a Court of the Foujdaree Adalut.-

Present,

Monday.
1st April 1822.- Charles Harris Esqre } Judges.
H.S. Graeme Esqre ---- }

Read letter, dated 5th Ultimo,
from the 1st Judge of the Court of Circuit
in the Centre Division,- submitting trial
No 5 Chittore Calendar 1st Quarterly
Sessions A.D. 1822.-

(Here enter No 173)

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

Shikh Mukhtoom,

to be imprisoned and kept to hard labor
in irons on the public roads or other
public works for and during the
period of twelve Calendar months

and

F. U.

At a Court of the Foujdaree Udalut

Present

Thursday 4th April 1822 — Charles Harris Esqre. / H. S. Grame Esqre. } Judges

Read letter, dated the 26th January last, from the late Acting 2d Judge on Circuit in the Centre Division, - submitting case No. 1 Bellance Supplemental Calendar 2d Sessions A.D. 1825.-

/Here enter No. 88./

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provin= =cial 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 latitude given by the sentence of Ookoobut declared in the futwa direct that the prisoner Letchmah"

be set at liberty.-

/Sent following letter No. 88/

The

4th April 1822

Para 1 The Court of Tanjore would have adopted the recommendation of the late Acting Judge in this case and in consideration of the long confinement to which the prisoner has been already subjected have ordered his release, instead of directing the Criminal Judge to dispose of the case under the provisions of Section XXI Regulation I of 1812.-

2. The prisoner stood charged "under "the provisions of Clause third Section IV Regu"=lation VI A.D. 1811 with forgery or illicit "imitation of the custom stamp on a certain "cloth."-

3 The late acting Judge in an Extract of his proceedings entered in the record expresses his dissent from the opinion declared by the Court of Tanjore would in an extract of their proceedings dated 8th May 1815, that the definition of the crime of forgery contained in clause third Section IV Regulation VI of 1811 did not embrace the act of imitating the custom chop.-

4 But the Court after deliberately reconsidering are confirmed in the correctness of that opinion.-

5 The preamble to the above Regulation, in which agreeably to clause first Section V Regulation I of 1802 are to be

4th April 1822

be found "the reasons for its being enacted," opens with a declaration of the prevalence of the crimes of perjury and forgery which are described as being "equally injurious to the "rights of individuals and to the due adminis"=tration of justice," this description of the offence in which it is to be traced the ground of the highly penal enactments passed for its suppression, is evidently inapplicable to an act limited both in its design and effects to a fraud on the public revenue.-

6. The established rule, that "penal statutes must be construed strictly," appears also to the Court to militate against the extension of the application of the law to the illicit imitation, except on "written or "printed papers," of the Chokeydar's seal prescribed by Clause second Section XVI Regulation I of 1802.-

7 It is also observable, that this last Regulation which was enacted 9 months after the promulgation of the law which prescribed a specific penalty for the crime of forgery, contains a general provision for the punishment of persons defrauding the customs; and it must be supposed, that if the highly penal enactments against forgery had been intended to be applied

to

to any misdemeanor arising out of the provisions of this Regulation, it would have been therein specially declared.-

8 The late acting 3d Judge in his discussion of this question, in paragraph 8 of his proceedings under date 7th April 1821, observes that "many examples may be produced "from the English law of the forgery of public "seals or of excise stamps on leather and on "cloth being declared subject to the greatest "severity of punishment as forgeries."-

9 In the opinion of the Court of Foujdaree Adawlut the analogy of the English Law, as here cited comes in support of their construction of the Regulation. The provisions of Regulation VI of 1811 could only have been made applicable to cases of this nature by a declaratory Clause in Regulation I of 1812.-

10 The Court of Foujdaree Adawlut having affirmed the construction of Regulation VI of 1811 declared under date 6th May 1815 deem it proper, adverting to the degree in which the public interests are liable to be affected by the eventual prevalence of this offence, for the suppression of which the infliction of the penalty denounced

denounced in Section XXI Regulation I of 1 against attempts to defraud the customs appears to be inadequate, to bring the case to the notice of the Honorable the Governor in Council in order that special provision may, if thought necessary, be enacted to punish the fabrication or use of an illicit imitation of the Chokeydar's seal prescribed in Clause second Section XVI Regulation I of 1812.-

11 The Court of Foujdaree Adawlut having recorded the foregoing observations on the general question involved in the present reference proceed to notice certain circumstances elicited by the record, which cannot be passed over without comment.-

12. And first it is obvious to remark, that even had the act imputed to the prisoner fallen under the definition of Forgery given in Clause third Section IV Regulation VI of 1811, there is a flaw in this case that would have barred the conviction of the prisoner; which must have rested upon proof of his having fabricated or affixed to the cloth a "public stamp established by Government," and the description given by the Magistrate in

in his proceedings dated 13th April 1821 of the custom stamp used in the Zilla, with the imitation of which the prisoner was charged, does not answer to that contained in Clause second Section XVI Regulation I of 1812, being the only provision by which the Chokeydar's official seal or chop could be brought under the designation of a public stamp established by Government.-

13 The Court of Foujdaree Adawlut are not aware of the reasons which may have led to the abandonment of the prescribed inscription in the "local language of the "province" but they deem it proper that the Magistrate should be appriezed of the effect of the alteration, which as rendering native witnesses incompetent "to distinguish the impression of the true "from that of a well made false stamp" appears to be otherwise objectionable.-

14. Upon the question raised by the late acting Judge on Circuit of the propriety of the Collector's being the prose= =cutor in cases affecting the public revenue, the Court of Foujdaree Adawlut have to observe, that under the general rule for empowering the Government Vakeel to conduct

conduct criminal prosecutions on behalf of Government before the Courts of Circuit the Collector's interference is not necessary, while it might in some cases be incon= =venient.-

15 In conclusion the Court have to notice the mode, in which the case of Nursinga Row a Sayer Servant, appears by the proceedings of the Court of Circuit under date 9th June 1821 to have been disposed of by the Magistrate.-

16. It appears that Nursinga Row having obtained possession of the false stamp found in the house of the prisoner, Lutchma, was induced by a Bribe of 60 Rupees to destroy it, and that on finding that the case would be brought to the notice of the Magistrate, he fabricated a second forged stamp which he placed in the prisoner's house, and which was produced as evidence against him.-

17. Nursinga Row is stated to have been punished for exacting bribes under Section XXIII Regulation I of 1812 and Section XLV Regulation IX of 1816, the Magistrate considering the measure of punishment authorized by Section XXXIII to be adequate to his offence.-

18. The Court of Foujdaree Adawlut concur

4th April 1822

concur with the late acting Judge in thinking that Section XXIII Regulation I of 1812 had no application to such a case. As the Magistrate considered the offence of the prisoner Lutchma to amount to forgery he should have sent Nursinga Row to the Criminal Judge as an accessary after the fact to that offence and he was further liable to be tried as a principal for the fabrication of the second stamp.-

19 The conduct of the Sayer officer exhibits such a complication of atrocity that the Court of Foujdaree Adalut are no less astonished at the Magistrate's estimate of his guilt, than at his irregularity in passing sentence on a party implicated in an offence not determinable by him under the Regulations.-

20 Ordered, that extract of these proceedings be sent to the late acting Judge on Circuit in the Centre Division by precept enjoining him to communicate to the Magistrate in the Zilla of Bellary such parts thereof as concern that officer for his information and guidance.-

(sent following precept No 89/

21.- Ordered, also, that the record of the foregoing trial, with extract of the

3/

7th M.

4th April 1822.

the proceedings of the Court of Foujdaree Adalut under date 9th May 1815. 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 90./

Read letter, dated 4th ultimo, from the 2d Judge on Circuit in the Western Division,- submitting for the orders of the Foujdaree Adalut copies of certain precepts issued to the Magistrate in the Zilla of Canara, of that officer's returns, and of documents therein referred to on the subject of a petition presented to the Judge on Circuit by a deputation of the Merchants of Mangalore.-

(Here enter c No 193/

Read also letter, dated 12th ultimo, from the 2d Judge on Circuit in the Western Division,- reporting the circumstances of a case referred to at the conclusion of the foregoing letter, wherein an order was issued by him to the Criminal Judge against which

the

4th April 1822. the Magistrate has protested to Government.

/Here enter No. 196

Also read letter, dated 19th Ultimo, from the Secretary to Government in the Judicial Department, transmitting for the consideration of the Foujdaree Adalut a letter from the Magistrate in the Zilla of Canara, protesting against certain orders passed by the 2d Judge on Circuit;- and desiring that the Court will report their opinion how far the conduct of those officers respectively may have been legal and proper.-

/Here enter No. 198/

From the former of the foregoing communication it appears, that a petition was presented on the 15th Februa=ry to the 2d Judge on Circuit by a depu=tation of the Merchants of Mangalore, re=presenting that the wooden Halees, or measures, by which their mercantile trans=actions were regulated, and which had been established during Mr. Ramenshaw's Collectorate and adjusted at subsequent periods by Mr. Baber, and Mr. Cameron, had been in the month of January last suddenly and indiscriminately seized by the Tahseeldar of Mangalore, without any complaint having been preferred to him

4th April 1822. him, that they were taken to his Cutcherry and a report made by him to the Magistrate that they were false, whereupon the Tahseel=dar intimated to them that an order had been received from the Magistrate fining them in the sum of about 1,630 Rupees.- That the Tahseeldar also caused Maadees of rice to be conveyed from their Bank=sauls to his cutcherry, placing under attachment what remained; after which he caused the said Halsees, bearing the Sirkar's seal to be burnt. That they had twice petitioned the Magistrate against the above proceeding, praying that he would go into a personal examination of the case, but received no answer, and that in reply to a third petition they were informed that their request would not be taken into consideration, that if they did not pay the fines an order would be issued for their imprisonment, and that their Halsees had been destroyed by the Magistrate's order.-

2 Copy of the foregoing petition was forwarded by the 2d Judge to the Magistrate by a precept, calling for his proceedings in the case and desiring that, if the fines had not been paid their enforcement should be suspended until

4th April 1822. until further orders.-

3 In return to the precept the Magistrate reported, that the case "coming "under the provisions of section VI /VII/ Re: "gulation IV of 1821, his proceedings were not "recorded," but being desirous that his acts should receive every possible examination, he proceeded to state that the public weights and measures had been formerly regulated and proclaimed, and had on various subse= =quent occasions "been examined and con= "firmed by the Magistrate upon the scale "laid down, that deficiencies were punish= "ed and the weights and measures destroyed. The Magistrate then cited section LIV Regu= =lation XI of 1816, as vesting him with the cognizance of frauds committed in using false weights and measures, adverted to the prevalence of such offences, and to his proclamation of 1820 which had refer= =ence to a fraudulent transaction, in which he believed that some of the par= =ties to the foregoing petition were concerned; and stated that "information having been "received that similar frauds were going "on in Mangalore the Magistrate directed "his head Police officer in that Town to "send for or to seize and examine the weights and

4/

4th April 1822 "and measures used by the Merchants to "conduct his examinations publickly, and to "transmit attested copies of such weights and "measures, the owners name and a comparative "scale of their contents and those fixed by "authority." That the Police Officer, "on an "appeal from the Merchants to his first "examination of the measures by measure= "ment examined them by weight, and by an "attested list of such examination, the "frauds committed were clearly again proved.

4 In return to further pre= =cepts from the 2nd Judge the Magistrate explained that the appeal was made by the Merchants to the Tahseeldar "to "have their measures examined by weight "which was done by Mr. Read's standard "which the present Magistrate had pro= "mulgated," the Magistrate at the same time transmitted copies of the orders which had been issued by him in this case, and of an arzee from the Tahseeldar accompanied by a statement shewing the result of the inspection made by him the Tahseeldar of the measures and of the contents of certain rice Moodees belonging to the several Merchants therein named.-

5 From these papers it appears that the Tahseeldar of Mangalore having in

4th April 1822.

in conformity with a circular order issued by the Magistrate to the Tahseeldars of the different Talooks, seized all the measures and weights which were in the possession of the Merchants residing in the Town of Mangalore, transmitted to the Magistrate a list of such as he considered to differ from the standard, reporting at the same time that a complaint having been made that some of the principal Merchants of Mangalore, having proper measures in their possession, packed up their moodees of rice deficient in weight, he had caused the Moodees which had been got ready for the purpose of selling to be brought from the Bankshauls of the Merchants, and included in his list the names of the Merchants and a specification of the deficiency in the Moodees taken from them respectively.

6 Upon the foregoing report of the Tahseeldar an order was issued by the Magistrate fining the several merchants in the sum of Rupees 1605 for possessing measures of sizes larger and smaller than the standard and moodees short of the established weight. The Tahseeldar was directed to call on the Merchants to pay the fine in 3 days "and in case any of them should

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"should not pay the fine within the pres-
"cribed time to attach and sell such of
"their property as might be sufficient to
"realize the amount: also "to break up the
"false measures and burn them in front
"of his cutcherry."

7 By an order of the Magistrate, nine days after, the attachment and sale of the property of the Merchants was countermanded; and the Tahseeldar having subsequently reported "the re-
"fusal of the Merchants to pay the
"fines at the instigation of Lutchmana-
"poy, who made objections," was directed to place the said Lutchmana poy in confinement for 15 days, if he persisted in his refusal to pay the fine within 3 days, and to make known Lutchmana-poy's punishment to the other Merchants regarding whom similar orders would be sent, should they continue to resist paying their fines.

8 The 2d Judge in his letter of reference remarks, that "the Magistrate
"seems to have taken his measures entirely
"on confidential information," that "the
"Merchants were not dilatory in making
"their appeal to him" and that "on a

subject

"subject which so essentially affected their
"best Interests it would have been satisfactory
"had the Magistrate made some endeavour to
"ascertain the correctness of the Tahsildars
"report, the more especially as he had no standard
"proof in his Huzzoor Cutcherry of the weights
"and measures established by Mr. Read, except-
"ing what appeared on record."

9

The 2d Judge proceeds to no-
-tice the difficulty of proving any measure
by the test of weight, observing that "the
"Rupee weight is generally quoted in the
"Lawns on that coast, but then it would
"require to know the sort of Rupee which
"was originally assumed to fix the standard,
"whether it was its corresponding weight
"in water, Paddy, Rice, or any of the dry
"grains which regulated the Salee measure
"&c." that "it may be doubted whether
"any of these circumstances occurred to the
"Magistrate," that "the whole matter
"seemed to have been left in the hands of
"the Tahseeldar, and that unfortunately
"the order for burning the Salees had
"completely left the Magistrate destitute
"of that simple proof, which was the best
"and only one he could have retained to
"justify his conduct."

The

The second Judge, after
observing that he could not consistently with
justice have allowed the Magistrate's order
to have full operation, as the Merchants could
have had no redress, "had they suffered the period
"of their imprisonment in lieu of the fine and
"such fine on the appeal been ordered to be
"remitted", expresses a doubt as to whether by
the letter of Clause second section XLI (XL)
Regulation IX of 1816, it be competent to him
as Judge on Circuit to pass a decision upon
the present case, "in which the Magistrate
"has held no proceedings:" puts hypothetically
a construction of section VIII Regulation IV
of 1821, which the Court will hereafter notice,
and cites an opinion of the Foujdaree Adawlut
recorded in their proceedings of 21st September
1817, under which he might have taken
upon himself to pass a decision in the
case, but that he felt doubtful how far
it might be the intention of Regulation
IV of 1821 "to make the Magistrates in the
"infliction of any of their punishments
"independent of the controuls of the Judges
"on Circuit."

The 2d Judge concludes this
branch of his reference by shewing "the
"impossibility of making a resident Mer-
"chant at such a port as Mangalore
"responsible for the full weight of each

Moodee

"Moodee of rice in his Banksaul" and ad-
=verts to the consequent "injustice of mulcting
"him if any of them should be found deficient",
and the serious detriment to "which the trade
"of the Port might be liable, if the Zahedar
"or even the Magistrate, should at his discre-
="tion be allowed to seize or lay a general
"embargo or attachment for one moment ||
"on the staple commodity of the Country."—

12 The Magistrate on receiving from
the 2d Judge instructions to suspend the
enforcement of the fines pending the reference
to the Foujdaree Udalut, returned that
although he was "satisfied he would ||
"not only be correct but justified in ||
"declining compliance with the foresaid
"order of the Judge on Circuit, he would not
"do so and his respect for the high station
"of the Judge, as well to manifest to the
"people that respect as to shew them where
"their redress always lies if aggrieved was
"the cause of his not acting up to the ||
"powers confided to him."—

13 The Court of Foujdaree Uda-
=lut proceed to notice those provisions of
the Regulations, which bear upon the ||
case before them, and will then record
their decision upon the reference of the
2d Judge.—

section LIV Regulation XI
of 1816 prescribed, that on complaints "regar-
="ding frauds committed in using false weig-
"hts and measures" the Magistrates shall "proce-
"as directed in section XXXII Regulation IX
"1816," which empowers those officers "to hear
"and determine without reference to any ||
"authority all complaints or prosecutions ||
"brought before them" for the offences therein
specified.—

15 Clause second section VII Re-
=gulation IV of 1821 declares that "Magistrates
"shall not be required to take down in writ-
="ting or to record the examinations they may
"take in the investigation of complaints pre-
="ferred before them under Sections XXXII and
"XXXIII Regulation IX of 1816:" and under
section VIII Regulation IV of 1821 Magistrates
are not required "to include in the Calendar
"prescribed in the latter part of section
"XL Regulation IX of 1816 returns of any ||
"punishments adjudged by them under the
"provisions of section XXXII of that ||
"Regulation."—

16 The Magistrate in the Zilla
of Canara being under the foregoing pro-
=visions of the Regulations in force ||
authorized to hear and determine with-
=out making his examinations matter

of

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of record a complaint for an offence, such as that on the imputation of which the Merchants of Mangalore represented in their petition that their fines had been awarded, the Court of Foujdaree Udalut are of opinion, that the order of the 2d Judge calling for copies of the proceedings held by the Magistrate in the case was not regular; but that it was competent to the 2d Judge to refer the petition to the Magistrate, calling upon him to report whether or not the facts therein alleged were correctly stated.—

17 The authority given to the Court of Circuit to receive petitions and the obligation imposed on that Court by clause third section XI. Regulation IX of 1816 to make a report to the Foujdaree Udalut. "whenever it shall appear to them "that the Magistrates have been guilty "of neglect or misconduct in the discharge "of their duty," appear to the Court of Foujdaree Udalut to require, that the Magistrates should furnish such explanation, when the Judge of Circuit may see fit to call for it.—

18 Had the Magistrate on the present occasion been able to certify that he had proceeded in the manner and decided under the authority vested in him the Regulations, the provision which relieves him from taking written evidence in cases whereon he is competent to decide would have precluded a revision of his orders.—

19 In the present case, however it appears by the Magistrate's own shewing that the provisions of the Regulations, to which he refers in vindication of his proceedings, have not been observed by him.

20 The adjudication of punishment by a Magistrate on the ground of an investigation held by a Native officers of Police, in any cases but those punishable by the Heads of Police under the provisions of section IV Regulation IV of 1825 is wholly unauthorized by the Regulations. With the exception of not making the examinations matter of record it is still the duty of the Magistrates in all cases referrible to them strictly to adhere to the rules laid down in section XXIV Regulation IX of 1816; the enquiry through the instrumentality of the Police officers, which in cases of doubt is authorized by section XIV of that Regulation being declared to be only preliminary, and it being imperative

imperative upon the Magistrate whenever he shall believe the charge to be well founded ⁂ to enter into a personal investigation of the same in the manner pointed out in the ⁂ Regulations.—

24 The proceeding of the Magistrate in passing sentence against the Merchants of Mangalore without allowing them a hearing or holding any personal investigation in the case being altogether illegal, the ⁂ remission of the fines adjudged by him follows as an inevitable consequence, and the Court of Foujdaree Udalut direct, that they be remitted accordingly.—

22 It being necessary both with reference to the provisions of clause third Section XL. Regulation IX of 1816, and to the foregoing letter from the Secretary to Government in the Judicial Department, that the proceedings of the Court of Foujdaree Udalut on this case should be laid before the ⁂ Honorable the Governor in Council, the Court deem it necessary to record some further observations on certain parts of this reference, and to state distinctly their opinion as to the power of a Judge of Circuit to pass orders on petitions, complaining of the proceedings of a Magistrate on cases determinable by him.—

The

The difficulty of proving the measures, seized under the Magistrate's orders, by the test appealed to, and the vagueness of the information furnished by the Tahaseeldar with respect to the deficiency in the Moodees of rice, which the latter officer would appear to have seized without any authority, and to have condemned without being able to refer to any standard in proof of their deficiency or to establish the responsibility of the possessors for their accuracy, had accuracy been attainable, are circumstances which materially aggravate the arbitrary and illegal conduct of the Magistrate, while the destruction of the Kaldees not only deprived him of the means of establishing the guilt of the Merchants, but them of the power of proving their innocence.—

24 The Magistrate's violation of the provisions of Clause first Section XXXIX Regulation IX of 1816 in his ⁂ original order for levying the amount of the fines, which at last was corrected with respect to one only of the Merchants calls also for the marked animadversion of the Court.—

Upon

25

Upon the construction sug-
=gested by the 2d Judge in the 17th paragraph
of his letter of sections VII and VIII Regu-
=lation IV of 1825 the Court of Foujdaree Ad
Udalut will only remark, that by those
provisions the Magistrates are expressly
relieved from the duety of recording their ad
examinations in the petty offences punishable
by them, and that returns are not required
to be made of any fines adjudged under
section XXXII Regulation IX of 1816.—

26

With regard to the author-
=ity of a Judge on Circuit to proceed on ad
petitions against the orders of a Magistrate
on cases determinable by him the Court
of Foujdaree Udalut are of opinion, as
above intimated, that it is confined
in the first instance to a reference for
explanation, when sufficient ground may
appear for requiring it, and that when
the petitioner may allege acts unauthorized
by or in violation of the express enactments
of the Law, which, as in the present case,
may be acknowledged by the Magistrate, it
is the duety of the Judge on Circuit to refer
the case to the Court of Foujdaree Udalut,
and to suspend the operation of any
penal

penal sentence unwarranted by law, pending
such reference.—

27

The proceeding, therefore, adopted
by the 2d Judge with the single exception
above noticed receives the entire concurrence
of the Court of Foujdaree Udalut.—

28

In concluding their observations
on this case the Court of Foujdaree Udalut
deem it proper to suggest the expediency
of establishing standards of weights and
measures, and declaring by a Regulation
that to be the standards which may ad
be fixed under the special sanction of
the Board of Revenue by proclamation
of the Magistrate, whether the standard
be uniform for the whole Zilla, or vary
according to the local custom in each
Talook.—

29

By the letter of the 2d Judge
on Circuit, dated 12th Ultimo it appears
that on a petition from one Amoody ad
setting forth that his brother had been
arrested, and seven days antecedent to the
date of the petition had been beaten, ad
bound, suspended by a rope, and other-
=wise tortured by the Peishcar; and that
as the Tahseeldar had refused to interfere—

the

he did not know what might be the fate of his brother, the 2d Judge, the Magistrate and his Assistant being absent, directed the Criminal Judge to "call upon the Peishcar "complained of or the Tahsseldar under whom "he acted to deliver over forthwith to the "authority of the Judge the person of Oomur "the younger brother of the petitioner with "a full report of his proceedings in the "case."

30

The exercise of the authority vested in the Criminal Judge by section III Regulation III of 1817 being limited to the particular cases described in that section the Court of Foujdaree Udalut are of opinion that it was not competent to the 2d Judge to issue the order above recited, and that the Magistrate should have been desired to enquire into the conduct of the Peishcar, who should through him have been admonished of his breach of the Regulations in detaining the prisoner.—

31

The foregoing observations of the Court of Foujdaree Udalut on the references made for their orders by the 2d Judge on Circuit have anticipated the consideration

consideration of the merits of the two cases brought to the notice of the Honorable the Governor in Council by the Magistrate in the Zilla of Canara, and it remains only for the Court of Foujdaree Udalut to conclude with such further observations as are suggested by the protest of the Magistrate.—

32

And first the Court of Foujdaree Udalut have to remark, that Section II Regulation XXII of 1802 prescribes a course of proceeding which should have guided the Magistrate, if he was of opinion, that the order of the 2d Judge was "contra "=ry to or unwarranted by the existing "regulations," and that his return to the Judge on Circuit, intimating that his order was carried into effect merely through the Magistrate's forbearance to "act up to "the powers confided to him," protesting against "the order and proceedings of the Judge "on Circuit," and stating that his "protests "would be submitted direct for the informa "=tion and orders of the Honourable the "Governor in Council," was irregular, and disrespectful.—

33

The former part of the Magistrate's protest has reference to the order issued by the 2d Judge to the Criminal Judge which

4th April 1822.

which the Honorable the Governor in Coun=
=cil will have perceived is considered by
the Court of Foujdaree Udalut to have been
improper.—

34 With respect to the case
of the Merchants of Mangalore the Magistrate
states, that "he was guided in directing
"the Head Police officer to seize and &
"examine the weights and measures in &
"use in Mangalore under Regulation IV
"of 1816.— His orders on the subject were &
"very particular and the investigation
"was conducted entirely to his satis=
="faction."—

35 It does not appear to the
Court of Foujdaree Udalut, that Regu=
=lation IV of 1816 gives any authority
to Magistrates with respect to the dele=
=gation of investigations to the Officers
of Police, which they did not possess
under the enactments of 1816. From the
foregoing passage and other parts of
the Magistrate's communications as well
as from the whole proceeding in this case
it would seem, that he considered the
exemption from recording examinations to

authorize

8/

4th April 1822

authorize his dispensing with personal
examination altogether, an opinion which strongly
points out the necessity of that local super=
=vision, which it is the duty of the Court
of Circuit to exercise over the proceedings
of the Magistrates.—

36 The Magistrate has not disput=
=ed the assertion of the Merchants in their
petition, that they appealed to him in &
vain from the proceeding of the Tahsildar,
he observed that "after a second investigation
"made by the Tahseeldar at the instance of
"the Merchants themselves, and on his reports
"that the deficiencies were again amply &
"proved he issued his order to the Tahseeldar
"to levy fines specified against the names
"of the several offenders."—

37 From the judgment passed
by the Tahaseeldar on an investigation,
which it was competent to the Ma=
=gistrate only to hold, no appeal was
admitted except to a second investigation
by the Tahaseeldar.—

38 Upon that part of the &
Magistrate's protest, which refers to
the provisions which "render him liable
"to punishment" for acts done in apposition

to

to any established Regulation, it may be observed that the present case evinces the inadequacy of those provisions to obviate the occurrence of such acts, and that the interposition of the Court of Circuit, where their illegality may be ascertained, appears to offer the only effectual redress to the aggrieved party.—

39 In conclusion the Court of Foujdaree Adawlut have to remark, that the requisition of explanation from the Magistrate which they consider to be the duty of a Judge on Circuit, when sufficient ground may appear for questioning the legality of his proceedings in any case, does not appear calculated to defeat the object of Government in the enactment of section VII Regulation IV of 1821, while it is essential to the efficient exercise of that general superintendence over the Magistrates which belongs to the province of the Court of Circuit.—

40 Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Western Division by precept enjoining him to communicate to the Magistrate in the Zilla of Canara such part thereof as

are concerned that officer for his information and guidance.—

/Sent following precept No. 91./

41 Ordered also, that the foregoing letters from the 2nd Judge on Circuit 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, and that the original papers which accompanied the foregoing letter from the Secretary to Government in the Judicial Department be returned.—

/Sent following letter No. 92/

Read letter dated 27th Ultimo from the 3d Judge late on Circuit in the Western Division, with returned warrant for execution of prisoners in Case No. 3 Canara Supplemental Calendar 2nd Sessions A.D. 1825.—

/Here enter No. 220./

Read letter dated 23d Ultimo from the 1st Judge on Circuit in the Southern Division,—Reporting his arrival at Madura

/Here enter No. 215/

Read return dated 25th Ultimo from

4th April 1822.

from the 2d Judge on Circuit in the Centre Division to precept dated 15th Instant &c ordering revision of his sentences in Case No. 12. of the Bellari Calendar 1st Sessions A.D. 1821.—

/Here enter No. 217/

At a Court of the Zoujdaree Udalut

Present,

Monday.—
15th April 1822. Charles Harris Esqre. } Judges.
H.S. Graeme Esqre.—

Read letter dated 22d ultimo,

C+
P&L

from the 1st Judge of the Court of Circuit in the Northern Division,— transmitting copy of Masulipatam Calendar 1st Quarterly Sessions A.D. 1822.—

(Here enter No. 213.)

1. In the column of remarks on case No. 12 of the Calendar it is stated, that the prisoners who were charged with Burglary were acquitted upon the depositions of two witnesses, that their "declaration that "they had taken the property was extorted "by compulsion:"— in further proof of which it is remarked that "Chittala Venkiah "the Peshcar of Moguttore, a witness of "great respectability deposed, that from a "previous enquiry made by him at the "application of the Prosecutrix there was "reason to believe the jewels were deposited "with the prisoners by a near relation "of hers".—

And

2 And in case No 22 it is stated that the futwa of acquittal, in which the 1st Judge concurred, was given "on the ground "that no witnesses subscribed the prisoners "declarations, and of the evidence of their "witnesses that those declarations were "extorted from them by compulsion".-

3 The Court of Sunjaree desire, that the circumstances of these two cases, if they have not been already, may immediately be brought to the notice of the Magistrate by the 1st Judge, in order that a strict enquiry may be instituted into the conduct of the Police officers concerned with a view to their exemplary punishment, if proved to have been guilty of the atrocious abuse of authority alleged against them.-

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

16th Inst. (Sent following letter No 194/

E.M.L.

W.M.

Read

Read return dated the 6th Febru-
=ary last from the Judges of the Provincial Court
of Circuit in the Southern Division to precept
dated 21st January last ordering communication
to the several Magistrates of the Courts orders
on certain points of Police.-

/Here enter No 225/

Read return dated 19th Ultimo
from the Judges of the Provincial Court of
Circuit in the Southern Division to precept
dated 21st January last ordering communica-
=tion to the several Criminal Judges of the
Courts instructions relative to the course
of proceeding to be adopted under Regu-
=lation XI of 1809.-

/Here enter No 224/

Read letter dated 6th Instant
from the 2d Judge on Circuit in the Centre
Division. Reporting his arrival at Chin-
=glepute.-

/Here enter No 228/

Read letter dated 8th Instant
from the 1st Judge of the Court of Circuit in
the Centre Division. Reporting the opening
of the 2d Quarterly Sessions for 1822 at Chittoo-
=r.-

/Here enter No 233/

Read letter dated 6th Instant
from the 3d Judge late on Circuit in the West-
=ern Division. With returned warrants for exe-
=cution of the prisoners in case No 18 South Malabar
Calendar 2d Sessions A.D. 1821.-

/Here enter No 234/

At a Court of the Foujdaree Adalut.
Present.

Wednesday 17th April 1822 — Charles Harris Esqre. / H. S. Graeme Esqre. — } Judges.

C. H. / H G

Read letter, dated 30th Ultimo, from the 1st Judge of the Court of Circuit in the Centre Division, - submitting case No 32 Chittore Calendar 1st Quarterly Sessions A.D. 1822.-

(Here enter No. 229.)

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 Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Kissas declared in the futwa adjudge the prisoner,

"Vencatroydoo,"

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

(Vide following letter No 96.)

20th

W. H.

At a Court of the Foujdaree Adaulut.

Present,

Wednesday 24th April 1822. Charles Harris Esqre } Judges.
H. S. Graeme Esqre }

Read letter dated 15th Instant,

C.H. from the Magistrate in the Zilla of Canara,
H.S.G. recommending that the highest reward authorized by the Regulations may be offered for the apprehension of the persons concerned in a late Burglary.—

(Here enter No. 246.)

1 The Magistrate transmits copy of a letter, dated 6th Instant, from the Assistant Magistrate reporting the occurrence of the burglary, which was attended with circumstances of great outrage and cruelty, two days before, and stating that he had not yet examined the sufferers, but had directed the Sahseeldar "to proceed instantly "to the village and prosecute a most vigorous "enquiry into the case."—

2 The Court of Foujdaree Adaulut are of opinion, that an examination of the sufferers and an investigation of the circumstances of the case should have preceded the Magistrate's application to the

the Court under the provisions of Section XXI Regulation IX of 1816, as being requisite to enable them to judge whether or not the "ordinary process for the apprehension of "public offenders" was likely to be ineffectual in this case.-

3 In order however, to obviate the evil consequences that might result from the delay of a further reference, the Court authorize the Magistrate, in the event of it's appearing necessary from a fruitless exertion of the ordinary means of enquiry, to offer five hundred Arcot Rupees for the apprehension of the leader and one hundred Arcot Rupees for the apprehension of each of the inferior offenders, payable on their conviction before the Court of Circuit.-

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

/Sent following letter No. 97/

Read letter, dated 15th Instant, from the Criminal Judge in the Zilla of North Malabar,- transmitting warrants issued by the 2d Judge at Calicut Circuit for

banishment of certain
selected by the Court
(Here enter
1 The Court
direct that the prisoners
1st Arrookundy Kuppa
2d Kelleyenmanddy Matty Cotty,"
be removed to the Jail in the Zilla of Chittore, there to be imprisoned and kept to hard labor during the periods of their respective sentences.-

2 With reference to an Extract of the proceedings of the Sunderee Adalut dated 6th January last, the Court direct that the Criminal Judge in the Zilla of Chittoor do from time to time report to the Court the state of health of the above named two prisoners, in order that they may be removed from that station, should the measure appear advisable on account of their health.-

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

/Sent following letters No. 98/

24th April 1822. the C
B

F. U.

Thursday 25th April 1822

At a Court of the Foujdaree Udalut
Present
Charles Harris Esqre } Judges
H. S. Grame Esqre }

Read letter dated the 20th Ult

C H.
K G

January last from the 2d Judge late on Circuit in the Northern Division, submitting case No 4 Chicacole Calendar second Sessions AD 1821.—

/Here enter No 78/

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 Fouj-daree Udalut are of opinion that the proof against the prisoners 3d Pundoolah Lutch-miah 5th Fakeer Mahomed, alias Hyder Sahib and 9th Totandah Venkaoo is suffi-cient to convict them of the offence of Gang robbery for which a penalty is specially denounced in Clause third Section IV Regu-lation XV of 1803.—

The

The Court under the authority vested in them by clause first section II Regulation I of 1818 accordingly adjudge the said prisoners-

3 Pundoolah Lutchmiah
5 Faker Mahomed, Alias Hyder Sahib
and
9 Totandah Venkadoo

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

And under the sentence of Oakoobut declared in the futwa the Court adjudge the Prisoners

1st Gundum Appanah
2 Mootealah Veerapah
4 Mooloogoo Raumoodoo
6 Jungum Gopaloodoo
7 Yerrumsetty Mullayah
8 Boodda and Banjaniah

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

I sent the following letter No 1

It appears by the evidence of the witness, Boyanah Veerapah, before the Court of Circuit, that the Darogah placed the 2d prisoner in the stocks before taking his

declaration; and that after it had been reduced to writing he "for some time" refused to have it read over to the prisoners-

2 Bazavadah Ramasamy also deposed, that after the 3d prisoner had denied the charge, the Darogah having "said that the Criminal Judge would release him and that "he should cause his declaration to be written, "he then gave his declaration".-

3 The proceeding of the Head of Police in putting the 2d prisoner into the stocks was illegal and oppressive, and not to be palliated on the plea of it's being requisite to use particular precautions for the safe custody of the prisoner, as it is in evidence that he was ill at the times, and came to the Chaultry" by the "assistance of another person.-

4 The rigour, with which the prisoner was treated before his examination was calculated to affect his mind while giving his declaration, and the unwillingness of the Darogah to have it read over to him betrayed an inclination to prevent his explaining any part of what he had stated, or rectifying any error in the transcript.-

5 The above proceeding as also that of holding out a delusive hope to the

the 3d prisoner for the purpose of obtain-
=ing a confession from him manifest a dis-
regard of the Courts orders of 18th June
1817, and are in direct violation of the prin-
=ciple of the law, which requires that no
confession of a prisoner can be admitted
in evidence against him, but such as
may be "free and voluntary."-

It will be the duty of the
Magistrate of Vizagapatam to communi-
=cate to Lyalu Soomayajoola Sinkarapa
the Head of police of Anjengilly the
foregoing remarks and to caution him
against treating with rigour unnecessary
for their safe custody prisoners under
his charge, or using undue means for
obtaining from them confessions of guilt.-

7 Ordered, that extract of
these proceedings be sent to the 2d Judge
late on Circuit in the Northern Division
by precept directing him to communicate
the same to the Magistrate of Vizagapatam
for his information and guidance.-

sent 26th

I sent following precept.

Read letter dated 15th instant
from the Acting Judge late on Circuit in the
Northern Division, submitting copy of

Nellore

F. U.

25th April 1822

Nellore Calendar 1st Sessions AD 1822.-

Vere enter No. 241.

1 In the column of remarks on case
No. 1 of the Calendar it is stated, that the acquittal
of the prisoners in which the Acting Judge
Concurred, went partly on the ground that
"the confession of Nulliah was extorted."-

2. In case No. 5 it is stated, that
there was "the testimony of several inhabitants
"to various acts of gross ill treatment being
"resorted to by the police officers to extort
"confessions from the prisoners, while the
"record itself proved that some had been
"several days imprisoned before they were
"examined in the Talook."-

3. "That some of the prisoners,
"reported as apprehended on the 20th December
"and whose first examinations by the
"Police Ameen, at Anasoomoondrumpet are
"dated nearly one month after the above
"date, were really apprehended one or two
"days after the robbery," which occurred
on 8th December.-

4. And that "some of the police
"officers who witnessed, they assert, the
"confession" of Chintapail appiah, which
"was dated 2d January" at annasoomoondrum
"pettah were on the 2d January at Nellore."-

The

5. The Court of Poydaree Adalut desire, that a strict inquiry may be instituted by the Magistrate into the conduct of the Police officers concerned in the above case, in order that they may be visited with exemplary punishment, if proved to have been guilty of the atrocious act of extorting by violence confessions from the prisoners.-

6. The falsification of the dates of apprehension and examination reported in the latter case by the acting Judge, though an offence of minor enormity, demands severe punishment, and should subject an officer of Police, who may be guilty of such imposition, to dismissal from office.-

7. The illegal detention of the prisoners and more particularly the postponement of their examination for several weeks after their apprehension demand also the marked animadversion of the Court of Poydaree Adalut.-

8. Alleged confessions of prisoners after such detention, even if open to no other ground of suspicion, cannot be regarded as "free and voluntary," and it will be the duty of the Magistrate to

notice to the Police Officers the additional obligation, that is hereby imposed on them to proceed without delay to the examination of prisoners brought before them, and to punish every instance of detention beyond the period allowed by the Regulations, which may not be satisfactorily accounted for.-

9. Ordered, that extract of these proceedings be sent to the late acting Judge on Circuit in the Northern Division by precept enjoining him to communicate the same to the Magistrate in the Zilla of Nellore for his information and guidance.-

(Sent following Precept No 101.)

126

At a Court of the Zujdaree Udalut.

Present,

Friday.-
26th. April. Charles Harris Esqre. } Judges.
1822.- H. S. Graeme Esqre. }

Read letter, dated 7th. January
last, from the 3d. Judge late on Circuit in
the Western Division,- submitting case No 11
South Malabar Calendar 2d. Sessions A.D.
1821.-

(Here enter No. 37.)

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
Zujdaree Udalut are of opinion that
the proof against the prisoner, Cherootoyil
Ittery Nair, is sufficient to convict him
of the crime of murder in the prosecution
of a robbery for which a penalty is specially
denounced in Claude first section IV Regu-
-lation XV of 1803.-

The Court under the authority
vested in them by Claude first section
II Regulation I of 1818 accordingly adjudge the

the said prisoner,

Cherootodyil Ittery Nair,

to suffer death by being hanged and his body suspended in Chains at a spot to be selected by the Criminal Judge in the Zilla of South Malabar as near as conveniently can be to the place where the murder was committed.—

Sent 28th

(Sent following letter No. 102)

W. H.

At a Court of the Poydaree Adalut.

Present.

Monday 29th April 1822. Charles Harris Esqre } Judges.
H. S. Graeme Esqre }

Read letter, dated 22d Instant from the Magistrate of Malabar, requesting authority to exercise his discretion "on offering "a Pardon to any of the accomplices" in the offence of setting fire to the Betutnaad Talook Cutcherry, "who will turn King's "evidence."—

C.H. H.G.

(Here enter No. 273)

The general discretion which the Magistrate is desirous to obtain for offering a pardon to any of the accomplices in this offence is a discretion, which it is not competent to the Court to grant or to the Magistrate to exercise under the subsisting Regulations. It does not appear from the foregoing letter, either that any of "the supposed accomplices", who alone are contemplated in Section XX. Regulation VIII of 1802, have been apprehended, or that there are grounds for believing that an offer of pardon to any such supposed accomplice would lead to the apprehension

or

or conviction of the principal offender or offenders.- It is only on receiving a report either from the Criminal Judge or Magistrate particularizing by name any supposed accessaries to whom, for reasons to be by him specified, it may appear expedient to make a conditional offer of pardon, that the Court of Foujdaree Adaulut can submit any such recommendation for the consideration and orders of Government.-

2 The Court deem it proper to remark in conclusion, that the expression "turn king's evidence" is objectionable, as being unknown to the Regulations and inapplicable to the administration of Criminal Justice by the Courts established under the Company's Government.-

3. Ordered, that extract of these proceedings be sent to the Magistrate of Malabar for his information and guidance.-

Sent following letter No 103/

Read letter, dated 22d Instant, from the 2d Judge on Circuit in the Centre Division, submitting copy of Chingleput Calendar 1st Sessions A.D. 1822.-

(Here enter No 259/

In the column of remarks on case No 8 of the Calendar it is stated, that the prisoners who were committed for trial on the grounds of their confession before the Tahseeldar, were acquitted" it "having been proved by evidence that they "were maltreated, when examined before "the prosecutor and before the Tahseeldar".-

2 In case No 11 it is also stated, that five of the prisoners committed on their confessions before the Tahseeldar, were acquitted," it having been proved "that they were maltreated in the district "when examined."-

3. The Court of Foujdaree Adaulut direct, that the circumstances of these cases be communicated by the 2d Judge to the Magistrate in the Southern Division of Arcot, and that he be directed to institute a strict enquiry into the proceedings of the officers in question, with a view to their eventual punishment under the provisions of Section XXX Regulation XI of 1816.-

4 The Court deem it proper to remark, that all instances of irregular and improper proceedings on the part of

of the officers of Police, which may appear on trials before the Court of Circuit, should immediately be brought to the notice of the Magistrates in order to their investigation and condign punishment.-

5. Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Centre Division by precept enjoining him to communicate the same together with the particulars of the cases referred to for the information and guidance of the Magistrate.-

Sent following Precept A°1041

J. H. C.

The Court of Sudder Adawlut having taken into consideration the representations, which have been made by different Magistrates of the difficulty and occasional impracticability of carrying into effect their circular orders, dated 6th September last, respecting the attestation of confessions delivered before the Native Officers of Police, direct in modification of those orders, that the several Police Officers empowered to receive confessions be instructed in cases wherein the presence and attestation of persons wholly unconnected with

F. H.
29th April 1822.

with the Police may not be procurable, to cause any free and voluntary confessions that may be delivered by prisoners to be attested in the mode prescribed in clause third section XXVII Regulation XI of 1816 by two or more persons, not being Police peons, but in any other capacity belonging to the Police establishment as described in Section III of that Regulation.-

2 At the same time the Court, adverting to the instances which have lately been brought to their notice of the undue practices resorted to by officers of Police for the purpose of obtaining confessions from accused persons, direct that the several Magistrates do pointedly call the attention of the police officers under their authority to the provisions of Section XXX Regulation XI of 1816, and use every exertion in their power to check practices so atrocious and to bring the offenders to punishment.-

3 And as the Court have observed many instances of neglect on the part of the Heads of Police to hold the local inquest in cases of murder which is prescribed in Section XIII Regulation XI of 1816, to search for the stolen property in cases of robbery,

and

and generally to obtain all the evidence pro-
=curable in cases referred to the Criminal
Judge, they desire that on all such occasions
which should immediately be brought
by the Criminal Judge to the notice of the
Magistrate, the neglect of the Police officer
may be visited with such penalty as may
be calculated to prevent its recurrence-

4 The Court of Foujdaree Adalut
have had occasion frequently to remark
on the illegal detention of prisoners by the
officers of Police, and instances have of late
been brought to their notice, of their post-
=ponement of the prisoner's examination
for several days after his apprehension-

5 The attention of the Criminal Judges
and Magistrates should be particularly directed
to the correction of irregularities so pernicious
and every instance of detention beyond
the period allowed by the Regulations
which may not be satisfactorily accounted
for, should be punished-

6 It has appeared on many trials
referred to the Foujdaree Adalut that the
witnesses to alleged confessions of prisoners
before the officers of Police were not produced
during the time of their being reduced to
writing

writing at the dictation of the prisoner,
but were called in afterwards and merely
attested the prisoners subscription of the
declaration- The Court of Foujdaree Adalut
desire that every instance of inattention to the
provisions of Clause third Section XXVIII Regu-
=lation XI of 1816 in this respect may be
brought by the Criminal Judges and Courts
of Circuit to the notice of the Magistrate,
in order that measures may be taken
to enforce the observance of so important
a part of the Regulation enacted for
the guidance of the officers of Police-

7 But with all these precautions
the principal security against the fabrica-
=tion or extortion of confessions will
consist in the careful investigation by
the Magistrates, Criminal Judges and
Courts of Circuit of the cases coming
under their cognizance. The too easy
admission of confessions will always
operate as a temptation to impose false
confessions on the Courts, while if they
are received with circumspection, and
all the additional evidence which the
case may admit of uniformly required
and carefully taken, the fear of
detection

detection must prove a powerful discourage-
=ment to the practice.-

8 With reference to the circular orders of the Sudder Adalut dated 6th September last, respecting the attestation of confessions delivered before the Criminal Judges and Magistrates, the Court deem it proper to notify to those officers that the objection of the Mohummedan Law is confined to the testimony of Peons of Police, strictly so called, who are directly employed in the seizure of offenders, and does not extend to other peons attached to the office of the Magistrate or to the Zilla Criminal Court. It will be proper on any occasion, when the attestation of a peon may be taken to these confessions, that his capacity of service should be precisely specified at the head of his examination before the Court of Circuit.-

9 Ordered, that extract of these proceedings be sent to the four Provincial Courts of Circuit for their information and guidance, and that they be by proper enjoined to communicate the same to the several Criminal Judges and Magistrates within

F. H.

29th April 1822.

within their jurisdictions for their information and guidance respectively.-

Sent following Precepts No. 105/

Read letter dated 9th Instant from the 2d Judge on Circuit in the Western Division Reporting the completion of the Jail Delivery of the Zilla of Canara.-

/Here enter No. 238/

Read return dated 17th Instant from the 2d Judge on Circuit in the Western Division to precept dated 4th Instant ordering communication to the Magistrate in the Zilla of Canara of the Courts order on a reference from the 2d Judge regarding a petition to the Court of Circuit from certain merchants of Mangalore.-

/Here enter No. 256/

Read letter dated 23d Instant from the Judicial Secretary to Government communicating the concurrence of the Governor in Council in the sentiments of the Court of Sudder Adalut recorded in their proceedings under date 4th Instant upon the reference from the 2d Judge on Circuit in the Western Division except with respect to establishing a standard of weights and measures.-

/Here enter No. 257/

Read letter, dated 20th Instant from

29th April 1822.

from the 2d Judge on Circuit in the Western Division,- Reporting his arrival at Calicutt

/Here enter No. 258/

Read letter dated 25th Instant from the 1st Judge of the Court of Circuit in the Centre Division,- With returned dft warrant for execution of prisoner in Case No. 32 Chittoor Calendar 1st Quarterly Sessions and A.D. 1822.-

/Here enter No. 264/

Read letter dated 22d Instant from the 2d Judge on Circuit in the Western Division,- With copy of Canara Calendar 1st Sessions A.D. 1822.-

/Here enter No. 268/

W. H

At a Court of the Foujdaree Adalut.

Present,

Wednesday. 1st May 1822.- Charles Harris Esqre. } Judges.
H. S. Graeme Esqre. }

C. H. H. G.

Read letter, dated 18th March last, from the 3d Judge late on Circuit in the Western Division,- submitting case No. 3 South Malabar Calendar 2d Sessions A.D. 1821.-

(Here enter No. 219.)

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 cool Coozat and Mooftee of the Foujdaree Adalut are of opinion that the proof against the prisoner Sacharatodoogail Koongoben, is sufficient to convict him of the offence of Gang Robbery attended with circumstances of great aggravation for which a penalty is specially denounced in Clause second Section IV Regulation XV of 1803.-

The Court under the authority vested in them by Clause first Section II Regulation I of 1818, accordingly adjudge the said prisoner,

"Sacharatodoogail Koongoben,"

to be imprisoned and transported to such

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 and during the period of his natural life.-

Sent 2.

(Sent following letter No 108)

Read letter, dated 28th January last, from the late Acting 3d Judge on Circuit in the Centre Division,- submitting case No. 29 Bellary Calendar 2d Sessions A.D. 1821-

(Here enter No. 89.)

The Acting Cazeevah Coozat and Mooftee of the Poujdaree Adalut declare in the foregoing futwa that sentence of Hud is barred against the prisoners by reason of their denial of the charge on the trial-

The Court therefore under the provisions of Clause fourth Section II Regulation XV of 1803 direct that their Law officer be required to state by a second futwa to what punishment the prisoners would have been liable under the Mohummudan Law if that special exception in bar of Hud had not existed in this case-

Ordered that extract of these proceedings

proceedings be translated and delivered to the Acting Cazeevah Coozat and Mooftee of the Poujdaree Adalut.-

Read letter, dated 22d ultimo, from the Criminal Judge in the Zilla of North Malabar, - transmitting warrant of the 3d Judge of the Court of Circuit in the Western Division for the banishment of five Convicts to any Zilla selected by the Poujdaree Adalut.-

(Here enter No. 209)

The Court of Poujdaree Adalut

1

direct that the prisoners,

1st "Putan paramban alias Onaken,"

2d Kankikool Nannen,

3d Kaliaddenvittil Amboty,"

4th Varatil Cunhy Chekeny, and

5th Chullah Soopy,"

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

2

With reference to an extract of the proceedings of the Poujdaree Adalut, dated 9th January last, the Court direct that the Criminal Judge in the Zilla of Chittore do from time to time report to the Court the state of health of the abovenamed five prisoners in order that

1. May 1822

that they may be removed from that station, should the measure appear advisable on account of their health.-

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

Sent 3d

Sent following letters № 1091 to 95.

H. H.

F. H.

At a Court of the Foujdaree Udalut

Present

Thursday 2d May 1822 } Charles Harris Esqre } Judges
H. S. Grome Esqre }

C H
H H

Read letter, dated 22d Ultimo from the 1st Judge presiding at the 2d Quarterly Sessions of Jail delivery for 1822 submitting case № 3 Chittoor Calendar.-
(Here enter № 2657)

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

1 In this case the prisoner Syud Jemal is charged with the murder of his wife Mohyuya Beebee, and the record does not shew whether or not the deceased has left children begotten by the accused.- ~~deceased.~~

2 The enforcement of the right of retaliation for death being barred under the Mohummedan Law, in cases where a child may possess that right against his parent, it is necessary in all cases of the above description, that it should be ascertained whether the accused has children living by the deceased.-

The

2d May 1822.

3. The Court of Foujdaree Udalut resolve therefore to return the record of the trial, and direct that the Provincial Court of Circuit be instructed to issue a precept to the Criminal Judge in the Zilla of Chittoor requiring him to take evidence to this point, in the presence of the prisoner and annex authenticated translations of the same in English and Persian to the original record which the Court of Circuit will retransmit to this Court.

4. Ordered, that the record of proceedings in the above case and extract of these proceedings be sent to the Provincial Court of Circuit in the Centre Division by precept enjoining them to proceed conformably to the foregoing instructions and to make return in two weeks from the date of the receipt of the precept.

W. M.

Sent following Precept R. 11/2 C.D.

F. U.

At a Court of the Foujdaree Udalut

Remarks of the Acting Cazeeool Coozat and Mooftie of the Foujdaree Udalut.—

Reasons for returning the record of proceedings held in Case No. 3 Chittoor Calendar 2d Quarterly Sessions A.D. 1822.—

It is not discoverable by the record of this case whether the prisoner Lyud Lemal has or has not, children by the deceased Mohyya Beebee, in order that in the former case a futwa might be given for the payment of dyut, or in the latter for the infliction of kisas.—

It is therefore requisite that the Judge of Circuit should ascertain this point, and retransmit the case in order that a futwa may be given accordingly.—

W. M.

C.D.
Zilla of Chittoor No. 3.
Quarterly Sessions A.D. 1822.

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F. U.

At a Court of the Foujdaree Udalut

Present

Friday - - }
3d May 1822 } Charles Harris Esq.re } Judges
H. S. Grame Esq.re }

C H
H G

Read letter dated the 4th 26th January last, from the late Acting Judge on Circuit in the Centre Division, - submitting case No. 13 Chingleput Calendar second Sessions A.D. 1825. -

Here enter No. 171

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 Mool Coozat and Mooftee of the Foujdaree Udalut but confirm the sentence passed by the late Acting Judge under date the 31st December 1824 upon the prisoner Rungen and accordingly adjudge the said prisoner

1st Rungen

to be imprisoned and kept to hard labour in irons on the public roads or other public works for four years from the date of the warrant of the late Acting Judge.

3: May 1822.

Judge on Circuit.—

And under the provisions of Clause sixth Section II Regulation XV of 1803 the Court direct that the prisoner 2d Cundan be released on procuring sufficient security for his future good behaviour and appear=ance when required.—

Sent 6t

/Sent the following Letter No 11/

L.D.

Para 1st In the letter accompanying the trial the late Acting Judge noticed in terms of merited reprehension the Tahsil=dar's falsification of the date of the pris=oner's apprehension, which is unequivocally established both by the prosecutor's complaint attested by the signature of the Tahseeldar, and by the text of the prisoner's declaration, record=ed as delivered before him.—

2d In support of the plea of the prisoner, Cundum, that the declaration alleged to have been given by him was not taken down at his dictation, and that his signature, which he acknowledged, had not been volun=tarily affixed thereto, the contents of the decla=ration afford internal evidence, which is supported by the testimony of the prosecutor, and the false date assigned to the prisoner's apprehension

3: May 1822.

apprehension by the Police officer throws a doubt over the integrity of his whole proceedings.

3d The Court of Foujdaree Udalut direct, that the misconduct of Mootiah Moodely, the Tahseeldar of Conjeveram, in having assign=ed a fictitious date for the apprehension of the prisoner be brought to the notice of the Magistrate by the late acting Judge in order to it's being visited by such penalty as may prevent it's recurrence, and that the Magistrate be instructed to warn the several districts of Police officers under his authority against any incorrectness in this part of their reports upon pain of his severest displeasure.—

4th The Court of Foujdaree Udalut observe that the depositions of the prosecutor and witnesses before the Tahseeldar are severally attested by the signature of two subscribing witnesses.—

5th It will be the duty of the Magistrate to notify to the officers of Police, that such attestation is required only to confessions, which may be delivered by prison=ers.—

6th The late acting Judge in his letter referring the trial, after expressing his dissatisfaction with regard to the validity of the evidence adduced against the prisoner, Cundum, on the grounds of which he dissented from the

3d May 1822

the Law Officers' futwa of conviction, remarks in the concluding paragraph, that if the prisoner Cunden "has been engaged in the robbery "he should be adequately punished."-

7th A remark of this nature, if intended to have any effect at all, would go to neutralize the preceding arguments urged against the credit due to the evidence, and in so far contravenes the provisions of the Regulations, and the orders of the Foujdaree Udalut, which require that trials referred for their final decision shall be accompanied by a clear and decided opinion from the Judge of Circuit, as to the guilt or innocence of the prisoners.-

8th Ordered that a Extract of these proceedings be sent to the late Acting Judge on Circuit in the Centre Division for his information and guidance, and that he be by precept enjoined to communicate to the Magistrate in the Zilla of Chingleput so much such parts thereof as concern that officer for his information and guidance.-

/Sent following Precept No. 114

Read

No. 66

No. 67

No. 68

3d May 1822.

Read again letter dated 26th Janry. ult. from the late Acting Judge on Circuit in the Centre Division submitting case No. 29 in the Ballary Calendar 2d Sessions A.D. 1821.-

/Here enter No. 89/

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 Coozat and Mooftee of the Foujdaree Udalut confirm the said futwa of the Acting Cazee and Coozat and Mooftee aforesaid and under the provisions of Section XXI Regulation VII of 1802 adjudge the said prisoners

1st "Ulleekhan," and
2d "Ramdoo,"

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 to be released.-

/Sent following Letter No. 115./

The Court of Foujdaree Udalut

Para 1st regret to observe in the proceedings of Venkatasiah, Tahseeldar of Gootee, the Police officer who held the preliminary proceedings in this case, circumstances of the grossest irregularity & aggravated

aggravated by an attempt to impose on the Court false dates both of the apprehension and examinations of the prisoners.

2d It is established in evidence on the trial, that two declarations were taken by the Tahseeldar from the 1st prisoner, Allee Khan, there being an interval of ten days between the examinations, and that they were afterwards imbodied into one declaration, which was attested by persons who had not been present on the first occasion, and was forwarded by the Tahseeldar, as a confession delivered at one and the same time.

3d In his report submitted under the provisions of Clause fourth Section XXVII Regulation XI of 1816 the Tahseeldar entered 15th March, as the date, on which all the four prisoners were apprehended.

4th It is in evidence, however, that two if not three of the prisoners were seized more than a week before, and that the 4th prisoner was ordered into custody by the Tahseeldar seven or eight days after the others arrived at Goatee, in consequence of his persisting to visit the other prisoners.

5th The duty of causing a search for the stolen property, which consisted of

of a great number of jewels valued at 7100 Rupees, was so utterly neglected by the Police officer, that even the places where the treasure was acknowledged to have been buried were not examined, until after the investigation of the case before the Criminal Court, and the Tahseeldar in a representation to the Criminal Judge intimated that the separate confinement of the prisoners, and the infliction of a dozen stripes on each would be calculated to elicit information on this point.

6th The misconduct of this officer of Police, as shewn in this case generally, and more particularly the principle avowed in his communication to the Criminal Judge should be noticed by the Magistrate in such a manner as may effectually discourage such irregularity, and prevent the operation of a principle so subversive of the pure administration of Justice.

7th This Police officer having stated in explanation of the date assigned to the prisoners apprehension, that the practice obtains of entering the date of the prisoners arrivals at the Cutcherree, as that of their being originally taken into

Custody

3d May 1822

custody, the Court of Foujdaree Udalut do deem it proper to direct that the Magistrate do strictly enjoin the several District Police officers under his authority invariably to enter in the report prescribed by Clause fourth Section XXVII Regulation XI of 1816 the precise date of the seizure of each individual prisoner by the officers of Police.—

8th The letter of the late Acting Judge accompanying the trial contains a variety of general observations on the administration of Police and Criminal Justice, and describes the circumstances which marked the proceedings of various other trials held by him at the late Sessions of Jail Delivery for the Zilla of Bellary.—

9th The Court of Foujdaree Udalut are desirous, that the letters accompanying trials referred for their final decision should relate exclusively to the Case, with which they are immediately connected, giving a clear exposition of the evidence and a distinct opinion as to its effect on the case of each particular prisoner, such general observations as may occur to

F.R.
3d May 1822.

to the Judge of Circuit on the matters subject to his official cognizance should in the opinion of the Court be reserved for the report prescribed by Section XXXVII Regulation VII of 1802, in which the Court have desired by circular orders dated 4th April 1825, that detailed notices of all cases of peculiar interest should be inserted.—

10th Ordered, that extract of these proceedings be sent to the late Acting Judge on Circuit in the Centre Division by precept enjoining him to communicate to the Magistrate in the Zilla of Bellary such parts thereof as concern that officer requiring him to make return for the information of the Court of Foujdaree Udalut that the misconduct of the Tahseeldar has been noticed in the manner above directed.—

(Sent following precept No. 116)

Ex. M.L.

W.M.

Read letter dated 14th Ultimo from the 1st Judge on Circuit in the Southern Division,— With copy of Madura Calendar 1st Sessions A.D. 1822.—

(Here enter No. 275

Read letter dated 30th Ultimo from the Secretary to Government in the Judicial Department

3d May 1822

Department. Referring for the consideration of the Court copy of a Letter from the Magistrate of Bellary and stating the opinion of the Gov.ernor in Council that it must often be impossible for a Magistrate to complete his Calendar to the date of delivery to the Court of Circuit.

/Here enter No. 277/

F. C.

At a Court of the Foujdaree Udalut.

Present,

Saturday 4th May 1822. Charles Harris Esqre. } Judges.
H. S. Graeme Esqre. }

Read letter, dated 15th ultimo, from the Criminal Judge in the Zilla of Masulipatam, transmitting with reference to the orders of the Foujdaree Adalut dated 5th December last list of prisoners from Rajahmundry sentenced to temporary imprisonment at the 1st Quarterly Sessions of Jail delivery for 1822 at Masulipatam.

C. H.
H. G.

/Here enter No. 263/

The Court of Foujdaree Adalut direct that the prisoners,

1st "Veeyoola Naugah,"
2d "Shaikh Cunniah"
3d Guntoor Pairauz"
4th Gentah Soobbiah,"
5th Muddala Peddaz Sonnaah,"
6th Muddala Pariah" and
7th Conatum Nagaraug."

be removed to the Jail in the Zilla of Cuddapa there to be imprisoned agreeably to the tenor of their respective sentences.

2. Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Masulipatam and to the Criminal

4th May 1822

Criminal Judge of Cuddapa for the information and guidance of those officers respectively.

Sent 7th

W Sent following letters No 17.

25

At a Court of the Foujdaree Adalut

Present,

Monday, 6th May, 1822.-

George Stratton Esqre Chief Judge

H. S. Grame Esqre - Puisne Judge.

W

H G

Read letter, dated 5th February from the 3d Judge late on Circuit in the Western Division,- submitting case No 8 South Malabar Calendar 2d Sessions AD 1821.-

(Here enter No 154)

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 Coazat and Mooftee aforesaid as far as regards the 1st 2d 3d & 4th prisoners, and under the provisions of Clause first section IV Regulation XV of 1803 adjudge the prisoners,

1st Mambata paramkil Aosan Mayoo,

2d Caripoyil Chekoo. and

4th Codasherry Toomban Mootah,

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

And under the provisions of Clause fifth section IV Regulation XV of

of 1803 the Court adjudge the prisoner,

2d "Caripayil Ally"

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

The Court also are of opinion that the proof against the remaining prisoners 5th, 6, and 7th is sufficient to convict them of having been present aiding and abetting at the commission of a murder in prosecution of a robbery for which a penalty is specially denounced in Clause first Section IV Regulation XV of 1803.

The Court therefore, under the authority vested in them by Clause first Section II Regulation I of 1818, and in exercise of the discretion given by Clause fifth Section IV Regulation XV of 1803, adjudge the said prisoners,

5th "Ponatooparambil Ally Cootty"

6th "Ponatooparambil Coonjolin," and

7th Manhatty alias Tekepidiakel Aushee,

to be severally banished to the Hills of Chettoor there to be imprisoned and kept to hard labor in irons on the public roads or other public

public works for and during the period of ten years and then to be released.—

(Sent following letter No 118/ 20.

W. H.

F. U.

At a Court of the Foujdaree Udalut

Present:

Wednesday 15th May 1822. Charles Harris Esqre } Judges
H. S. Grame Esqre }

C #

Read letter, dated 2d March last, from the 1st Judge of Circuit in the North-ern Division, submitting Case No. 28 Masulipa-tam Calendar 1st Quarterly Sessions A.D. 1822.-

Here enter No. 180

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

1 The Court of Foujdaree Udalut, having maturely considered the proceedings held in this case, resolve to return the record of the Trial to the 1st Judge of Circuit.-

2 The 1st Judge in his letter of reference rests his opinion of the guilt of the prisoner upon his confession before the Head of Police" in addition to the circum-"stance of part of the ornaments of the deceased "being discovered in the prisoners' house".-

3 To the identity of the ornaments as those which had been worn by the deceased, or to the fact of their having been discovered in the house of the Prisoner no evidence was adduced

announced on the trial excepting the testimony of the prosecutor.-

4 The prisoners' declaration as taken down before the Head of Police was to the effect, that he had aided in the murder of the deceased, sold certain Jewels, which had been taken from his person, and pointed out the dead body to the Mk inhabitants of the village.-

5 This declaration was attested by three police peons, one of whom acknowledged that he was not present, when it was delivered by the prisoner.-

6 It is obvious to remark, that the prisoner's declaration admitted of confirmation by the evidence of the person to whom he sold the Jewels, and any of the persons who were present when he pointed out the place where the body was found.-

7 The prosecutor stated before the District Police officer, that 20 of the inhabitants of the village accompanied the prisoner when he pointed out the dead body; & he deposed before the Court of Mk Circuit that the Heads of the village of Nedadavalao gave information, that a Banian named

named Venkoyala Veerathalingum, had purchased the Jewels from the prisoner. It appears also, that inhabitants of the Mk village of Landanulla, where the prisoner lived were present when certain of the ornaments were delivered up by the Kept mistress of the prisoner in this house.-

8 Section X Regulation X of 1816 prescribes, that in cases of confession before the Criminal Judge the witnesses to the commission of the crime are to be bound over and examined before the Court of Circuit "in the same manner as if the prisoner had denied the charge".-

9 The rule applies of course a fortiori to cases of confession before the Native officers of Police; but the Court of Mk Foujdaree Adalut observe with astonishment that not only was it considered unnecessary by the Criminal Judge, or the Judge of Circuit, to require the evidence of the witnesses competent to depose to facts so material to the charge, but the latter officer omitted, as is remarked by the law officers of the Foujdaree Adalut, to take the evidence, which must have been immediately within his reach, of the witnesses to the prisoner's declaration before the Criminal Judge, which as recorded

15th May 1822.

recorded in the proceedings held by him contained an acknowledgment that he was an eye witness of the murder, received and sold part of the Jewels, delivered the abovementioned declaration before the Head of Police, and produced the corpse.

It will be the duty of the 1st Judge to issue a precept to the Acting Criminal Judge in the Zilla of Masulipatam requiring him to obtain by application to the Magistrate the attendance of one or more of the inhabitants of the village of Laudamulla, who were present when the prisoner pointed out the body of the deceased, and when the ornaments were discovered in his house; the evidence of the Banian to whom the prisoner disposed of part of the Jewels should also be attained, if procurable, as well as further testimony in proof of their identity.

The Acting Criminal Judge should further be directed to call up before him the prisoner, Abd-ool-Rahee, to examine in his presence and in that of the Mohummadan Law officer of the Court such

F. C.

15th May 1822.

such of the above witnesses as may be [illegible] to take the evidence at the declaration

Remarks of the Acting Cazee-ool-Coozat and Mooftee of the Foujdaree Adalut

Reason for returning the cause
record of proceedings held in case No. 28 to the
Masulipatam Calendar 1st Quarterly sessions
A.D. 1822.

Although the Prisoner Abd-ool-Rahee delivered a declaration before the Criminal Judge to the effect that he sold the Jewels which had belonged to the deceased, & pointed out the dead body; yet as Bodee Vencatanarsoo and Canseelunka Loobaroydoo, the attesting witnesses thereto, were not examined on the trial, the declaration does not go to establish the crime against the prisoner. It becomes necessary, therefore, that the Judge who presided at the trial should take the evidences of the witnesses abovementioned, or of such persons, not peons of Police, as may be able to speak to the facts of the prisoner's selling the Jewels, & pointing out the dead body, and retransmit the trial, in order that a

contained an acknowledgment that he was

a future founded on such evidence may

given.—

/ Atmr Translation /

/ signed / W. Sudleston

Dy Atmr

E. Malone

F.C.

15th May 1822.

such of the above witnesses as may be procurable, to take the evidence of the attesting witnesses to the prisoners declaration before the Criminal Judge, and to cause the said declaration to be read aloud to the prisoner, allowing him to put to the witnesses any questions he may choose, and to annex authenticated translations in both English and Persian of these additional proceedings to the original record, which the 1st Judge will re-transmit to the Court of Foujdaree Udalut with as little delay as possible.

/Sent following Receipt No. 121./

Read letter dated 31st January last from the 3d Judge late on Circuit in the Western Division, submitting case No. 5 South Malabar Calendar second Sessions A.D. 1821.

/Here enter No. 126/

The Judges of the Foujdaree Udalut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoners 1st Valiapathy Ramen, and 2d Cannan Andy, is sufficient to convict them of having put to death the deceased Thamoo, desire under Clause Second Section II Regulation I of 1818 that

that the Acting Cazee-ool-Coozat and Mooftee 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 above crime.-

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

Exd. HK

Read letter dated 30th Ultimo from the 2d Judge of the Court of Circuit in the Southern Division, with copy of Chinapoly Calendar 2d Quarterly Sessions A.D. 1822.-

/Here enter No. 280./

Read letter dated 30th Ultimo from the 1st Judge of the Court of Circuit in the Centre Division, with copy of Chittoor Calendar 2d Quarterly Sessions A.D. 1822.-

/Here enter No. 282/

Read letter dated 27th Ultimo from the 3d Judge of the Court of Circuit in the Western Division, submitting copy of North Malabar Calendar 2d Quarterly Sessions A.D. 1822

/Here enter No. 288. Read

Read Return dated 8th Instant from the 2d Judge late on Circuit in the Centre Division to precept dated 29th Ultimo ordering him to communicate to the Magistrate in the Southern Division of Arcot the misconduct of the Tahsildars as exhibited in Cases Nos. 8 & 11 Chingleput Calendar 1st Sessions A.D. 1822.-

/Here enter No. 294/

Read return dated 29th Ultimo from the late Acting Judge on Circuit in the Centre Division to precept dated 4th Ultimo ordering communication to the Magistrate in the Zillah of Bellary of the Court's orders on Case No. 1 Bellary Supplemental Calendar 2d Sessions A.D. 1822.

/Here enter No. 297/

At a Court of the Foujdaree Udalut

Present,

Thursday. 16th May 1822. Charles Harris Esqre } Judges.
H. S. Graeme Esqre }

C.H. H.S.G.

Read again letter, dated 31st January last from the 3d Judge late on Circuit in the Western Division, - submitting case No 5 South Malabar Calendar 2d Sessions 1821 - (Here enter No 136)

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

The Court having maturely consid- =dered 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 Kisaas declared against the prisoners,

1st "Wawalipathy Ramen," and

2d "Pannan Andy,"

adjudge them 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

16th May 1822.

of 1803 direct that the prisoners,

2d "Eelaven Walliawittil Wellandy,"
4th "Eelaven Mangara Shamy," and
5th Ponayil Chottata Shekaree Pannikar,

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

(Sent following letter No 122)

Read letter, dated 5th February last from the 2d Judge on Circuit in the Centre Division, submitting case No 20 Cuddapa Calendar 1st Session A.D. 1822.-

(Hereunto No 118)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwas of the acting Cazee ool Coozat and Mooftee of the Zillah Adalut 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 Royal Vencateegandoo,"
2d Madane Boyana Sunjeevoo,"
3d Nurseegandoo,"
4th Naurapah,"
5th Sukkay Vencateegandoo,"
6th Chalapathy,"
7th Guravpah,"

16th May 1822.

8th Casereddy Venkattah," and
9th Sunjeevoo,"

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 and during the period of their natural lives respectively-

And in exercise of the discretion given by clause fifth Section IV Regulation XV of 1803 the Court adjudge the prisoner,

10th Wobunnah,"

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

(Sent following letter No 123.)

1 The prisoners in this case were convicted of the offence of robbery by open violence and declared by the futwa of the Law Officer of the Court of Circuit to be liable to discretionary punishment.-

2 The circumstances of the case bringing it within the provisions of Clause second Section IV Regulation XV of 1803, it was the duty of the 2d Judge who

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who presided at the trial under the provi=
=sions of Clause second Section II of that
Regulation to sentence the prisoners to
imprisonment and transportation for
life; and if any of the prisoners were considered
by him to be proper objects of mitigation
of punishment the 2d Judge should under
clause third Section VI of the same Regulation
have stated at large the grounds of his
judgment in their favor.

3. The 2d Judge omitted to pass the
prescribed sentence, and his letter, instead
of giving a distinct statement of any ground
for mitigation of punishment, concludes
with a loose intimation of his opinion,
that a discrimination therein will have
a good effect, and that a pardon to the
"two prisoners" and perhaps to others of the
"Gang will probably be the result of this
"reference".-

[illegible]

2/

7 M.
16th May 1822.

4 The prisoners having severally
delivered confessions before the Assistant
Criminal Judge, that they went in a body
to rob the prosecutor's flock of sheep, and
it being proved on the trial, that Vuedasamy
the prosecutor's son, who was watching
the flock, was severely wounded by
the Gang, the Court of Foujdaree Adalut
have passed judgment upon them
under the provisions of Clause second
Section IV Regulation XV of 1803.-

The Court of Foujdaree Adalut
5
are, however, concerned to remark that
the 2d Judge overlooked altogether the
irregularity of the Assistant Criminal
Judge in omitting to examine and cause
the witnesses to appear before the Court of Circuit
to appear before the Court of Circuit
"crime alleged against the prisoners," as
required by the provisions of Section
X Regulation X of 1816.-

Timmadoo, the prosecutor's
6
brother, stated by him to have been
not only present but to have been
himself wounded at the attack on the
flock of sheep, was not called to
give evidence on the trial nor were
either of the other five persons stated
by

by the prosecutor in his deposition before the Asistant Criminal Judge to have been guarding the sheep on the night of the robbery.-

The omission of the 2d Judge to call for these witnesses is, however, less reprehensible than his non observance of the rule contained in Clause sixth Section XVIII Regulation VII of 1802 in regard to the testimony of the prosecutor.

In his deposition before the Asistant Criminal Judge the prosecutor swore, that seven persons whom he named were watching the sheep on the night of the robbery; that he, the prosecutor, had gone to another village in a different Taluk, "and when he understood this," or according to the Persian translation "upon hearing of this "circumstance," he came to his village and found his son wounded.-

That such was in fact the tenor of the prosecutor's evidence before the Criminal Judge, and that there is no ground for distrusting the accuracy of the English and Persian translations with regard to the material fact of the prosecutor's absence, when the robbery occured, appears from the

the wording of the questions put by the Asistant Criminal Judge to the several prisoners, wherein they are respectively asked whether they did "go to the place "when the prosecutor's brother, his son, and "some others were watching near a flock "of sheep."

The prosecutor's deposition on Oath before the Court of Circuit runs in the following words- "On a certain "night about two months ago, myself, "my son Vencatacondoo, and my brother "Timmadoo, we three were watching our "flock of sheep close to Sunjeeveredoy "pillay, when these prisoners came and "carried away six sheep, on their going "away they stabbed my son and my brother "and robbed us of our Cumblies cloths &c."

In answer to a question from the Court of Circuit the prosecutor stated, that besides himself there were present six other persons, whom he named, and in the enumeration he omitted one of the names included in his deposition before the Asistant Criminal Judge, leaving the same total seven for the number of those present, including himself whom

whom he had before described as absent in another talook.-

12 It is also remarkable that Baula Gooroova pah, the 3d witness who for the first time appeared as an evidence before the Court of Circuit, deposed that on the night of the robbery a noise was heard from the place, where the prosecutor's flock was kept, and that he the witness and some others "went thither and found "the Prosecutor his son and brother crying".-

13 It is impossible that both the depositions given by the Prosecutor can be true; and as it would appear from the circumstances of the case, that the fact of his having been present, or not, with the flock at the time of the robbery can be ascertained from an examination of his son Vencatacondu, his brother Simmadoo, and Nagada, and Sunjeevoo, all of whom are described as having been watching the flock, the Court of Foujdaree Adalut deem to be requisite for the ends of public justice, that application be made by the Criminal Judge to the Magistrate to cause the attendance of these persons before the Criminal

F. U.
16th May 1822

Criminal Judge, who should be furnished with the prosecutor's original deposition before the Court of Circuit, as well as that of the witness, Baula Gooroova pa, and should sufficient evidence be obtained in disproof of the fact sworn to by the prosecutor in that deposition, namely that he was present watching the flock on the night of the robbery, the Criminal Judge will commit him to take his trial before the Court of Circuit for Perjury.- and should it be fully established that the prosecutor Vutadavadoo was absent throughout the night of the robbery, the witness, Baula Gooroova pa, will become obnoxious to as similar prosecution.-

14. The Criminal Judge in his proceedings under those orders will be careful to attend to the circular instructions of the Court of Foujdaree Adalut, under date 8th January 1820, regarding indictment for Perjury.-

15 Ordered, that extract of these proceedings be sent to the 3d Judge of Circuit in the Centre Division by precept commanding him to furnish

16th May 1822.

furnish the Criminal Judge with the original depositions of the Prosecutor and the witness Baula Gooroova pa before the Court of Circuit, together with the above orders for his information and guidance.-

(but following Precept No 124)

Entd 24th

C H

25.

W. M.

Read letter dated 1st Instant, from the Criminal Judge in the Zilla of Bellary, transmitting for the orders of the Court copy of a correspondence with the Magistrate relative to the issue of Process for the attendance of witnesses before the Court of Circuit and the Criminal Judge.-

1 (Here enter No 287)

From the foregoing papers it appears, that an important witness in a case of murder, referred to the Criminal Judge by the Tahseeldar of Bellary, not having been examined or forwarded to the Criminal Court by that officer, an application was made to the Magistrate under date 23d March last requesting him to cause her attendance, and the necessary orders were accordingly issued by him to the Tahseeldar

16th May 1822.

Tahseeldar.-

2 On the 24th Ultimo the Magistrate addressed a letter to the Criminal Judge, stating with reference to certain application made by him to the Magistrate to summon specially witnesses before the Court of Circuit, that as regarded such witnesses the Magistrate considered his duty confined "to the publication of the proclamation alluded to in section XVII Regulation X 1816," and that in the event of the non attendance of the "witnesses therein mentioned" it appeared to the Magistrate to be the duty of the Criminal Judge under section XXII of the same Regulation "to summon them specially" through the Nazir, or some one on his behalf.-

3 The Magistrate proceeded to state his opinion "that when new witnesses "not mentioned by the Amildars" or by himself might be required by the Criminal Judge they should be summoned directly by him in the same manner,- unless the party whose attendance was required should be "a Police Officer" in which case under section LV Regulation XI of 1816, it would be necessary that the

the order for his attendance should be issued through the Magistrate.—

4 The Criminal Judge having on the 26th Ultimo renewed his application to the Magistrate for the attendance of the witness in the case abovementioned, the Magistrate intimated his opinion, that the Criminal Judge should obtain her attendance by his own process; and adverting to applications made to him by the Criminal Judge to forward a second time witnesses who had been once sent in by the Police the Magistrate, announced that he "must in future decline doing so," considering it to be the province of the Criminal Judge to prevent the departure without permission of witnesses once delivered to him, and should they so depart to issue his own process for their attendance.—

5 The Criminal Judge in his letter referring the above correspondence remarks upon the inconvenience arising from the departure of witnesses from the station before they can possibly be examined, which is occasioned by his want of

of power to punish this contempt, repeats a suggestion offered in his letter dated 27th October last that the Tahseldars and Magistrates should be directed to bind over prosecutors and witnesses in a certain penalty to appear before the Criminal Court, and states that since the transfer of the Police establishment to the Magistrates all witnesses in Criminal cases except those alluded to in Section XVIII Regulation X of 1816 "have been "summoned by police peons or through the "Magistrates."—

6 The duty of causing the attendance before the Criminal Judge of all witnesses able to give evidence material to cases referred to him being expressly imposed upon the Magistrate or District Police officer, as the case may be, by the provisions of the Regulations in force, the Court of Foujdaree Adalut are clearly of opinion, that whenever any such witnesses may not have been forwarded originally with the prisoner to the Criminal Judge, the application should be made to the Magistrate

Magistrate in order that the defect in the evidence may be supplied.—

7 On the same principle the Court are of opinion, that the attendance of any "new witnesses" called for by the Court of Circuit in cases under trial should be attained through the Magistrate.—

8 Not only is this mode of proceeding suggested by the provisions of the Regulations referred to, but it is considered by the Court of Foujdaree Udalut to be further requisite in order that all defects in the proceedings held by the officers of the Police should be brought under the cognizance of the Magistrate, to whom exclusively appertains the duty of their correction.—

9 It appears also to the Court of Foujdaree Udalut, that when compulsory process may be required for the attendance of witnesses forwarded to the Criminal Judge, who may have departed before their examination, it should issue through the department of the Magistrate, as being requisite to give effect to the original process for their attendance. The Court have no power

power to authorize the measure suggested by the Criminal Judge of taking recognizances from witnesses instead of issuing compulsory process for their attendance before him.—

10 With respect to witnesses, who may have been bound over by the Criminal Judge under the provisions of clause third Section IX Regulation X of 1816 to attend and give their evidence before the Court of Circuit the Court are of opinion, that the duty of the Magistrate is limited to the publication of the proclamation prescribed in Section XVIII Regulation X of 1816, and that under the provisions of Section XXII of the same Regulation it is necessary that the Special Summons for the attendance of such witnesses should be served through the Nazir or person deputed on his part.—

11 Ordered, that extract of these proceedings be sent to the 3d Judge of the Provincial Court of Circuit in the Centre Division by precept enjoining him 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 125.)

The

16. May 1822.

The Court of Faujdarie Udalut having remarked, that in cases of robbery the evidence is frequently defective with respect to the particular articles of property found upon individual prisoners, deem it proper to direct, that all articles of stolen property which may be produced in a case before the Court of the Magistrate or Criminal Judge be numbered; that the witnesses by whom the property may have been discovered be invariably examined as to the particular articles found on each individual prisoner; and that throughout the examinations before the Magistrate, the Criminal Judge, and the Court of Circuit the number of every article referred to be specified:—

2 With the view of enabling the Court of Faujdarie Udalut to determine in all cases the degree of credit due to the testimony of prosecutors or witnesses, as to their recognition of prisoners, the Court direct, that whenever the deponent may identify a prisoner in prisoners on the trial, he be questioned as to whether, at what place, and at

16. May 1822.

at what period he was acquainted with the person of the prisoner previously to the occurrence of the offence with which he may stand charged:—

3 The Court of Faujdarie Udalut take the occasion of circulating the present instructions to direct, in modification of the circular order issued to the several Magistrates under date 14th November last, that the Calendars required by section XI Regulation IX of 1816 be completed up to the latest practicable date with reference to the time, fixed for the arrival of the Judges of the Courts of Circuit in the written publication prescribed by section XVII Regulation X of 1816.—

4 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 Criminal Judges and Magistrates for their information and future guidance respectively.— Sent the following precepts &c. 1261

Ex Mss

16th May 1822

At a Court of the Foujdaree Udalut

Present

Monday 20th May 1822. — Charles Harris Esqre } Judges
H. S. Grame Esqre }

C#
KKG

Read letter dated the 23d Ja-nuary last. from the 1st Judge of the Court of Circuit in the Centre Division,- submitting trial No. 26 Chittoor Calendar 1st Quarterly Sessions A.D. 1822.-

/Here enter No. 158/

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 Hifsaas declared in the futwa adjudge the prisoner Venkateegaudoo to suffer death by being hanged at the usual time and place of execution.-

/Sent the following letter No. 129/

Read letter dated 25th March last from the 1st Judge of the Court of Circuit in the Centre Division,- submitting Case No. 33 Chittoor

20th May 1822

Chittoor Calendar 1st Quarterly Sessions A.D. 1822.-

/Here enter No. 218/

The Court having maturely consi=dered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Acting Cazee-ool-Caezat and Mooftee of the Foujdaree Udalut confirm the said futwa of the Acting Cazee-ool-Caezat and Mooftee aforesaid and under the provisions of section XVII Regulation VIII of 1802 adjudge the prisoner

Andegandoo"

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

/Sent following letter No. 130/

Lmb 27.

W. H.

50

Read return dated 11th Instant from the late Acting Judge on Circuit in the Centre Division to precept dated 3d Instant ordering communication to the Magistrates in the Zillas of Chingleput of the Court's observations in Case No. 13 Chingleput Calendar 2d Sessions A.D. 1825.-

/Here enters No. 304/

Read return dated 10th Instant from the Judges of the Provincial Courts of Circuit in the Western Division, to precept dated 29th Ultimo ordering communication to the several

20th May 1822

General Criminal Judges and Magistrates of the Court's orders relative to the attestation of con=fessions.-

/Here enter No. 306/

Read returns dated 7th Instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 29th Ultimo ordering communication to the Criminal Judges and Magistrates of the Courts orders regarding the attestation of confessions.

/Here enter No. 307/

Read letter dated 15th Instant from the 2d Judge of the Court of Circuit in the Northern Division,- submitting copy of Masulipatam Calendar 2d Quarterly Sessions A.D. 1822.-

/Here enter No. 312/

In Court of the Foujdaree Adalut

Present

Tuesday 25th May 1822 } Charles Harris Esqre
H. S. Grome Esqre } Judges

Read letter dated the 20th

C H March last from the 3d Judge late on
Circuit in the Western Division, submitting
case No. 55 South Malabar Calendar Session
Sessions A.D. 1821.-

/Here enter No. 2161/

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 ad
Adalut confirm the said futwa of the Acting
Cazee-ool- Coozat and Mooftee aforesaid and
under the sentence of Hifsaas declared in the
futwa adjudge the prisoner

"Chachantata Wallia Ramen Nair,"

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

/Sent following letter No. 133./

It appears by the report
of Coonjen Nair, the Acting Tahseldar, who
commanded

forwarded this case to the Criminal Judge, that the delay of twenty three days, which ensued intervened between the prisoner's apprehension and his being sent to the Villa station, was from the suspension of the functions of the Head of District Police, between the dating of the Tahseeldars' being summoned to Calicut, and the arrival of the Acting Tahseeldar at the Talook.-

2

The Court of Foujdaree Udalut adverting to the serious ill consequences likely to insue from any suspension of the functions of the Head of District Police, direct an intimation to the Magistrate of their opinion, that whenever it may be necessary to remove a Tahsildar from his district, some officer on the spot should be appointed to act for him, either until his return, or until the arrival of such other officer as the Magistrate may determine to temporarily to invest with the functions of Native Collector of the District.-

3.

Ordered, that Extract of these proceedings be sent to 3d Judge late on Circuit in the Western Division by precept enjoining him to communicate the same to the Magistrate of Malabar for his information & future guidance.

Sent following precept W.C. 1824

4th

21st May 1822.

Friday.
27th May 1822.

C H
R H G

A.M.

At a Court of the Foujdaree Udalut
Present,
Charles Harris Esqre } Judges.
H.S. Graeme Esqre }

Read again letter dated 15th November last from the Acting 3d Judge on Circuit in the Centre Division,- with Copy of Bellary Calendar 2d Sessions A.D. 1821.

(Here enter No 782 of 1821)

Read again letter dated 3d January last from the Acting 3d Judge on Circuit in the Centre Division,- transmitting Copy of Chingleput Calendar 2d Sessions A.D. 1821.

(Here enter No 13 of 1822)

The records of the proceedings held by the late Acting 3d Judge in cases No 3 Bellary Calendar and Nos 5, 6, 9, 15, and 17 Chingleput Calendar, which according to the remarks entered in the foregoing Calendars are to be referred to the Foujdaree Udalut, not having been received,-

The Court direct, that the late

2.

Acting Judge on Circuit in the Centre Division be by precept commanded to send up the Records of the proceedings held by him in the cases aforesaid within

24th May 1822

within twenty days from the date of the receipt of the precept.—

Last following precept No 136

Ld

20

F. 11

At a Court of the Foujdaree Udalut

Present

Monday 27th May 1822 } Charles Harris Esqre } Judges
H. S. Grame Esqre

Read letters, dated respectively 20th March last and 30th Ultimo, from the 1st Judge of the Court of Circuit in the Centre Division, reporting on the 1st and 2d Sessions of Quarterly Jail delivery for 1822 at Chittoor.—

(Here enter No 222. V 296.)

The only part of the former of the foregoing reports, which calls for particular observation from the Court of Foujdaree Udalut, is the representation given in paragraphs 8 and 9 of the proceedings observed in the Zilla of Chittoor for causing the attendance of the prosecutors and witnesses, who may have been bound over by the Criminal Judge to appear at the Sessions of the Court of Circuit.—

2 The Magistrates and Police Officers under their authority being expressly enjoined by the Regulations to forward to the Criminal Judge all witnesses able

able to give evidence material to cases referred by them to that officer, the Court of Foujdaree Adalut have always ruled, that in cases wherein material witnesses may not have been sent to the Criminal Judge in the first instance, application should be made to the Magistrate, in order that the defect in the evidence may be supplied.-

3 This arrangement appears to the Court of Foujdaree Adalut to offer the only regular means of enforcing the observance of the provisions of the Regulations on this subject, and of obtaining the correction of irregularities and omissions on the part of the Native officers of Police.-

4 But for the attendance before the Court of Circuit of persons, who having been examined by the Criminal Judge may be bound over by him under the provisions of Clause third Section IX Regulation X of 1816 to appear at the Sessions, special rules of process are prescribed in Sections XVII and XXII of that Regulation, under which the duty of the Magistrate is limited to the promulgation of the written publication, notifying the date fixed for the arrival of the Court of Circuit, while the service of

of special summons for the attendance of witnesses devolves on the Nazir of the Zilla Court, or person deputed on his part.-

5 The issue of summonses for the attendance of the witnesses last mentioned through the department of the Magistrate being contrary to the letter and subversive of the object of the provisions contained in Section XXII Regulation X of 1816, the Court of Foujdaree Adalut direct, that it be discontinued.-

6 In the 5th paragraph of the report, dated 30th Ultimo, the 1st Judge solicits instructions regarding the manner in which the proceedings in a case of murder should be conducted in a Military cantonment with reference to the provisions of Regulation VI of 1821; and also whether it is competent to a Criminal Judge to receive or take cognizance of any Criminal charge excepting through the channel prescribed in Section VIII Regulation X of 1816.-

7 In the 16th and five following paragraphs of the report the 1st Judge notices the irregularity, undue arrogation of authority, and cruelty, exhibited in the proceedings of two persons styled in the Report

Report the "Military Cutwals of Ranneepettah"
and urged "the necessity of interference on the
"part of the Government with a view to the
"establishment of more regularity in the Police
"duties performed in the Military Bazars".—

8 From the Statement given in
this part of the Report and in Extracts of the
proceedings of the Court of Circuit, dated
25th and 29th Ultimo, appended thereto, it
appears that the Police functions at the
station of Arcot have been exercised
by two persons, called 1st and 2d Cutwal,
appointed by the Commanding officer, and
assisted by a part of the Magistrate's
establishment of peons, that these per-
sons have exercised the authority of
apprehending and examining persons
suspected of offences and issuing warrants
for the search of dwelling houses, not only
within the immediate limits of that Can-
tonment, but also at Wallajah Pettah;
and that in their preliminary investigation
of certain cases, tried by the Court of
Quarterly Sessions, there was evidence of a
resort to acts of torture for the purpose
of

of obtaining a confession.—

9 The Magistrate in his return
to the precept of the 1st Judge, dated 25th Ultimo,
in which he was requested to state whether any
arrangement had been made for the transfer of
the Police authority at Ranneepettah to the
officer commanding that cantonment, and
whether he possessed any plan to shew the
extent of the Military jurisdiction, represent-
ed that the transfer had taken place
"conformably with the provisions of Regu-
"lation VI of 1825," that the Magistrate
"considered that the officer commanding
"had received instructions from Govern-
"ment for assuming the Police," and lost
no time in making the required transfer;
that "the servants of the Magistrate for-
"merly carrying on the Police Duties at the
"station were apprized of the transfer of
"authority which had taken place, but were
"at the same time left at the disposal
"of the Commanding officer;" that "the cutwal
"had been exchanged but that the peons con-
"tinued to perform the Police duties."—

10 The Magistrate added, that
"no direct sanction as regards the transfer-
"red limits, as laid down in the plan,

has

"had been received from Government; but that such might "possibly be implied to have received their assent" from their having directed that certain arrack licenses granted previously to the promulgation of Regulation VI of 1821 should continue in force until the conclusion of the present Fusly—

"

Clause first Section III Regulation VI of 1821 declares, that "the Police "authority and maintenance of the peace "within the limits of Garrisons Cantonments "and stations, including the Military Bazars "attached thereto, plans of which shall with "that view have been first sanctioned and "confirmed by Government, and deposited "at the Cutcherry of the Magistrate of the "District in which they are respectively "situated, may by express authority from the "Governor in Council, be vested in the officer "commanding at such places, who will in "such case take the necessary measures, by "means of the troops under their command, "for preventing the commission of crimes within "the limits of the said Cantonments, and in "Military Bazars, and for the discovery "and apprehension of persons guilty of the "same."

With

With reference to the provisions of the above section it appears to the Court of Foujdaree Adalut to be clear, that the transfer of the authority by the Magistrate to the commanding Officer at Arcot before the sanction of Government to the plan of the limits of the Cantonment, or any express authority from the Governor in Council for the arrangement, had been communicated to him, was altogether irregular and indeed invalid; the Court not being aware, whether or not the requisite sanction may have been subsequently given, are not prepared to recommend that the Magistrate should temporarily resume the authority heretofore exercised by him within the limits of the Cantonment, but the circumstances brought to their notice on the present occasion do appear to the Court to evince the necessity of some orders from Government to establish a regular course of proceeding in cases of offences, committed within the limits of Military Cantonments or bazars, but not cognizable by the Military authorities under the provisions of Regulation VI of 1821.

13

By the provisions of sections III & VII of the foregoing Regulation it appears to the Court of Foujdaree Adalut to be intended, that

that persons apprehended on charges of a &
heinous nature within the limits of Military &
Cantonments or bazars, where the Police Juris-
=dn may be vested in the Military authorities,
should be delivered over to the charge of the
civil power, "in order to their being dealt &
"with according to the Regulations."

14 In cases of the above description
the Court of Foujdaree Udalut are of opinion, &
that the proceedings of the Military authorities
should be limited to the seizure of the supposed
offender, who together with such persons, as &
may be stated to have any knowledge of the
crime alleged against him, should with all
practicable expedition be brought before an
officer vested with the authority of a Head
of District Police.-

15 With this view the Court of Fouj=
=daree Udalut would suggest, that the Magis=
=trates should be directed to station an
Jumeen of Police, vested under the Provision
of Section XI. Regulation XI of 1816, and &
Section II Regulation IV of 1821, with the &
police powers of a Tahseeldar, at a con=
=venient spot contiguous to the cantonment
or bazar, who should be specially charged
with the duty of holding the preliminary &
proceedings in such cases in the mode
prescribed

prescribed by the Regulations.-

16 When the evidence of any per=
=sons resident within the limits of the Military
station or bazar may be required by the Cri=
=minal Judge, he should apply to the Ma=
=gistrate to take the necessary measures
for procuring their attendance.-

17 Sanction is not given by &
Regulation VI of 1821 for the employment
of cutwals and peons of police under the
Military authorities; by Section III of the
Regulation the discovery and apprehen=
=sion of criminals is required to be effected
by means of the troops under the command
of the officer vested with the police autho=
=rity; and Sections VII and XXI appear
to contemplate only the intermediate &
agency of an European Military officer.
The Court of Foujdaree Udalut are, therefore,
of opinion that it was not competent to
the officer commanding at Arcot to appoint,
or employ police cutwals, while the manner
in which these persons appear to have acted
shows an utter absence of the necessary &
control over the proceedings of officers of
that description.-

18 The Court of Foujdaree Udalut
concur in opinion with the 1st Judge, &
that

that Section VIII Regulation X of 1816 precludes the Criminal Judges from taking cognizance of Criminal charges, referred to them directly by the Military authorities; the arrangements suggested by the Court in paragraph 15 of these proceedings would obviate any infringement of the provisions of the Regulations on this subject.—

19 The instructions of the 1st Judge to the Magistrate, referred to in paragraph 12 of the report are considered by the Faujdaree Udalut to be perfectly correct.—

20 In the 15th paragraph of the report the 1st Judge requests to be informed, whether he has authority to suggest to the Magistrate the removal of a Police officer, appearing to have been guilty of great dereliction of duty.—

21 The Court of Faujdaree Udalut are of opinion, that on such occasions the circumstances of the case should be brought by the Judge of Circuit to the notice of the Magistrate, who should exercise his own judgment as to the propriety of dismissing the police officer from his employment, and that a notice of cases of this description should be contained in the general report on the Circuit

Circuit.—

22 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 the following letter No. 138)

Ed. M.L.

Read return dated 20th Instant from the 2d Judge late on Circuit in the Northern Division to precept dated 25th Ultimo ordering communication to the Magistrate of Vizagapatam of the Court's observations on Case No. 4 Chittacole Calendar 2d Sessions A.D. 1821.—

(Here enter No. 318)

Read return dated 23d Instant from the Provincial Court of Circuit in the Centre Division to precept dated 29th Ultimo ordering communication to the Criminal Judges and Magistrates of the Court's orders relative to the attestation of confessions.—

(Here enter No. 319)

Read return dated 23d Instant from the Provincial Court of Circuit in the Centre Division to precept dated 16th Instant ordering communication to the several Criminal Judges and Magistrates of the Court's orders relative to the identification of stolen property the recognition of prisoner by witnesses and

27th May 1822.

and the period up to which the Calendars prescribed by section XI. Regulation IX of 1816 should be prepared.—

/Here enter No. 320/

dated 23d Instant

Read returns from the 4th Judge of the Provincial Court of Circuit in the Centre Division to precept dated 16th Instant ordering communication to the Criminal Judge and the Magistrate in the Zilla of the Bellari of the Court's orders on reference from the former officer regarding the issue of process for the attendance of witnesses before the Criminal Courts.—

/Here enter No. 321/

J. U. 8

At a Court of the Foujdaree Udalut

Present

Tuesday 28th May 1822 } Charles Harris Esq.re } Judges
H. S. Grome Esq.re

Read letter dated the 1st March last from the 1st Judge of the Court of Circuit in the Northern Division, submitting case No. 7 Masulipatam Calendar 1st Quarterly Sessions A.D. 1822.—

C H
N G

/Here enter No. 170/

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 acquitting the prisoner,

"Nimmakayala Caummmah",

direct that he be set at liberty.—

/Sent the following Letter No. 139/

The reason of the reference of this case is entered by the 1st Judge on the Record in the following terms viz.

"The record of this trial is referred for the final sentence of the Court of

Foujdaree

28th May 1822.

"of Foujdaree Udalut conformably to section XXII
"Regulation VII of A.D. 1802. being doubtful whether
"the prisoner is to be considered as wholly innocent
"of the crime laid to his charge".-

3 The letter of the 1st Judge accom=
=panying the trial contains no positive opinion
as to the guilt or innocence of the prisoner,
nor any statement of the grounds of suspi=
=cion against him.-

4 The Court of Foujdaree Udalut
deem it proper, therefore, to direct the atten=
=tion of the 1st Judge to those provisions of
the Regulations, which require that the letters
of a Judge of Circuit on the reference of
trials should contain a distinct "opinion
"on the evidence, and on the guilt or innocence
"of the prisoners".-

5 It is the indispensable duty
of a Judge of Circuit to make up his
mind as to the result of the trial; and
the dissent from the futwa of the Law officer,
which by section XXII Regulation VII of 1802
is made a ground of reference to the Fouj=
=daree Udalut, must be positive, and not
limited to a doubt of the correctness of
the futwa.-

Ordered

28th May 1822.

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

/sent the following Letter No. 140/

Read letter, dated the 6th March
last, from the 1st Judge of the Court of Circuit in
the Northern Division,- submitting, case No. 9
Masulipatam Calendar 1st Quarterly Sessions
A.D. 1822.-

/Here enter No. 187/

The Court having maturely consi=
=dered 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 confirm
the said futwa of the Acting Cazee ool Cozat
and Mooftee aforesaid and under the provi=
=sions of Clause Sixth Section II Regulation
XV of 1803 direct that the prisoners,

1st Bandarala Reddy,"
2d Chaumurla Yamady,"
3d Buttana Ramiah,"
4th Buttana Soobbaroydoo," and
5th Cheemaladindy Soobbaroydoo,

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

/sent the following Letter No. 141./

In

28th May 1822.

1 In the letter accompanying the trial, the 1st Judge, after reciting the grounds of the Law officer's futwa of acquittal, states that "preferably to confirming" the futwa he has "considered it advisable, in regard that "the crimes of Highway and Gang robbery are "of frequent occurrence in these parts, to "refer the trial for the final sentence of "the Superior tribunal".-

2 To this letter may be applied the same observations, as have been made on the 1st Judge's reference of the preceding trial.- It contains no positive opinion on the merits of the case, nor any distinct ground of dissent from the futwa of acquittal. No provision in the existing Regulations requires the reference of trials on account of the general prevalence of the offences charged against the prisoners; and it is obvious to remark, that the ends of justice can in no way be promoted by the reference to the Court of Foujdaree Adalut of cases of acquittal under the Mahummudan Law; wherein the Judge of Circuit does not find ground for conviction.

3 The English translation of the proceedings in this case exhibits an inattention on the part of the 1st Judge to the duty

F. C.
28th May 1822

duty of revising the records of trials referred to the Superior Court, which is particularly censurable after the frequent animadversions, which have been addressed to that officer on this subject.-

Ordered, that Extract of these

4 proceedings be sent to the 1st Judge of the Court of Circuit in the Northern Division for his information and guidance.-

/Sent following letter No. 142/

Read letter dated 21st March last, from the 1st Judge of the Court of Circuit in the Centre Division,- submitting case No. 19 Chittoor Calendar 1st Quarterly Sessions A.D. 1822.-

/Here enter No. 208/

The Court having maturely considered the proceedings held before the 1st 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 Mooftee aforesaid and under the provisions of Section XXI Regulation VII of 1802 adjudge the prisoner, 1st "Paupadoo,"

to be imprisoned and kept to hard labor in irons on the public roads or other public works

works for the period of seven years and &c
then to be released.-

And acquitting the prisoner
2d Kishnadoo
direct that he be set at liberty.-

Sent the following Letter No. 113.

1 The reference of this case is &c
stated by the 1st Judge to have been made
principally in consequence of the rejection by
the Provincial Law officer of the confession
of the 2d prisoner on the ground of its having
been taken before the Tahseeldar, an officer
employed in the apprehension of public &
offenders.-

The Court of Foujdaree Adalut
but have already notified in their circular
orders, dated 29th Ultimo, that the objection
of the Mohummudan Law in regard to the
attestation of confessions applies only to &
persons directly employed in the seizure
of offenders. The Acting Cazee. of Cooja &
has been instructed to admonish the Mooftee,
Moulanee Mean Kalunder Buksh, of the &
untenability of the dictum contained in
the Futwa, that a confession is unworthy
of credit because taken before a &
Tahseeldar.-

3 The Futwa of the Provincial
Law

28th May 1822.

Law officer in this case declared that the
first prisoner was liable to Poksoot, the
penalty of Hud being barred by the defect
of "certain conditions" requisite for the &
establishment of a charge of robbery.-

The Law Officers of the Court
4 of Foujdaree Adalut have by their Futwa
adjudged the said prisoner to suffer &
amputation of the right hand.-

The present case, as well as
5 others referred for the final decision of the
Court of Foujdaree Adalut, have attracted their
attention to the omission on the part of
the Courts of Circuit to enforce the observance
of the provisions contained in Section II
Regulation XV of 1803 respecting Futwas
awarding discretionary punishments.

The Court of Foujdaree Adalut
6 are aware, that the practice which at &
present obtains of admitting such Futwas
unaccompanied by a statement of the grounds
which bar the adjudication of the Specific
penalty, has occasionally received the &
sanction of their own proceedings; but as this
practice appears to be inconsistent &
with the intention of the provisions above
referred to, & with respect to the lower
Courts tends to defeat one of the declared
objects of the Regulation, namely the &
maintenance

maintenance of the uniform & adequate pun-
=ishment of offenders," the Court deem it in-
=cumbent upon them to call the particular
attention of the Courts of Circuit to the provi-
=sions of the Law on this subject, and to
direct that they be implicitly attended to
in future.-

7 Clause first Section II Regu-
=lation XV of 1803 declares, that in "all trials
"before the Courts of Circuit wherein the Moham-
="medan Law officers of those Courts may
"consider the prisoner liable to discretionary
"punishment, their futwa shall declare the
"same generally with a statement of the
"grounds on which the prisoner is adjudged
"subject to discretionary punishment."

8 By the second Clause it
is provided, that if the crime shall in
such cases" have been specially provided
"for by any subsisting Regulation denoun-
="cing the penalty to be adjudged on proof
"of the commission of such crime," and the
Judge shall consider the crime to have
been established against the prisoner, he
shall sentence him to suffer the punishment
prescribed by the Regulations, or if the
case be referable under the Regulations
for

F. C.
28th May 1822

for the sentence of the Foujdaree Adalut
shall transmit the trial with his opinion
thereupon to that Court.-

Clause third declares, that a
9 second futwa of Wud or Hiffaad shall be
required in cases, where the crime shall not
have been provided for by any Regulation,
but be specifically provided for by the
Mohummudan Law, and sentence of discre-
=tionary punishment may be awarded on
the ground of the prisoners being convicted
on strong presumptive proof, not on
full legal evidence.-

By Clause fourth it is pro-
10 =vided, that such second futwa shall
also be taken in cases of conviction either
on full legal evidence or on strong pre-
=sumptive proof, where sentence for the
specific penalty may be barred by some
special exception or scrupulous distinction
-on, not affecting the nature & criminality
of the offence & evidently repugnant to
the principles of equal justice.-

For the due enforcement of
11 the provisions contained in clauses third
and fourth, it is obviously requisite
that the provisions of Clause first re-
=quiring the statement of the grounds
of all futwas of discretionary punishment
in

28th May 1822

in cases specifically provided for by the Mohammedan Law, or in other words of the grounds existing in bar of a sentence for the specific penalty, should be uniformly observed.

12 With reference to the provisions of Clauses first and fifth of the above section it is to be observed, that when the offence may have been specially provided for by any Regulation, no second sentence is to be taken; but the Judge, should he concur in the conviction of the prisoner, is required to pass sentence for the prescribed punishment by-

13 The Court of Foujdaree Udalut desire, that in cases of theft or robbery where a sentence of discretionary punishment may be declared, a translation of the grounds assigned for such sentence may be given in the Calendars, submitted by the Court of Circuit.

Ordered, that a Extract of these Proceedings be sent to the 1st Judge of the Court of Circuit in the Centre Division for his information.

/sent the following letter 24/5/22/

Ordered also, that Extract of these proceedings be sent to the 4 Provincial Courts of Circuit by precept enjoining them

28th May 1822

them to communicate the same to the Gl General Judges on Circuit for their information and guidance respectively.

/sent the following precepts Nos 1 to 5/

20.

At a Court of the Foujdaree Udalut

Present

Thursday 30th May 1822 — George Stratton Esqre Chief Judge
H. S. Grame Esqre ..... Puisne Judge

Read letter dated 14th March last from the 3d Judge late on Circuit in the Western Division, submitting case No 33 South Malabar Calendar 2d Sessions AD 1821.

/Here enter No 209/.

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 latitude given by the sentence of Ookoobut, the Court in consideration of the imprisonment which the prisoner,

"Tayatapoylil Shangaron",

has already suffered, direct that he be set at liberty—

/Sent the following letter No 146.

Read return dated 22d Instant from the Judges of the Provincial Court for the Northern

30th May 1822.

Northern Division to precept dated 16th Instant ordering communication to the Criminal Judges, and Magistrates of the Courts' orders relative to the identification of prisoners and stolen property and the preparation of the Calendars prescribed by Section XI. Regulation IX of 1816

/Here enter No. 329/

Read return dated 24th Instant from the 1st Judge of the Court of Circuit in the Northern Division to precept dated 16th Instant ordering further evidence to be taken in Case No. 28 Masulipatam Calendar 4th Quarterly Sessions A.D. 1822.-

/Here enter No. 330/

Read letter dated 22nd Instant from the Acting 3rd Judge on Circuit in the Northern Division,- Reporting the commencement of the Sessions at Chicacole.-

/Here enter No. 328/

Read return dated 24th Instant from the Judges of the Provincial Court for the Western Division to precept dated 16th Ultimo ordering communication to the Criminal Judges, & Magistrates of the Courts' orders relative to the identification of prisoners and stolen property & the preparation of the Calendars prescribed in Section XI. Regulation X of 1816.-

/Here enter No. 331/

F. N.

At a Court of the Foujdaree Adaulut

Present

Tuesday - 4th June 1822 } Charles Harris Esqre. } Judges.
H. S. Grome Esqre. - }

Read letter dated 13th April last from the 1st Judge on Circuit in the Southern Division submitting case No. 14 Madura Calendar 4th Sessions A.D. 1822.-

/Here enter No. 253/

The Judges of the Foujdaree Adaulut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoner, Sandana Thaven, is sufficient to convict him of having wilfully put to death his wife the deceased Ratnathiar, desire under clause second Section II Regulation I of 1818 that the Acting Cazeroolc Cozat and Mooftee of the Foujdaree Adaulut 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 Cazeroolc Cozat and Mooftee of the Foujdaree Adaulut.-

At a Court of the Foujdaree Udalut

Present

Thursday — 6th June 1822 } Charles Harris Esqre. H. S. Grame Esqre. } Judges

C. H. H. G.

Read again letter dated the 13th April last, from the 1st Judge on Circuit in the Southern Division, - submitting case No. 14 Madura Calendar 1st Sessions A.D. 1822.-

/Here enter No. 253/

Read the second futwa deliv-ered in this case by the Hoting Cazee-ool-Cozat and Mooftee of the Foujdaree Udalut.—

The Court having maturely consid-ered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Hoting Cazee-ool-Cozat and Mooftee of the Foujdaree Udalut confirm the said futwa of the Hoting Cazee-ool-Cozat and Mooftee aforesaid and under the sen-tence of Kiffaas declared in the futwa of abjudge the prisoner,

Sandanathaven,

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

C. H.

/Sent the following letter No. 150./

The

6th June 1822.

1 The Court of Tsjidaru Udalatt have convicted the prisoner in this case on the positive testimony of the 1st and 2d witnesses, supported as it is by the facts, of the body of the deceased being immediately found wounded in the manner, that could have ensued from a shot fired under the circumstances described by them, and of the witnesses being found by the Police officers on the spot; while the case set up by the prisoner, besides the improbability if not absolute impossibility of the story, it is at variance with what would appear to have been his first account of the transaction, and is attempted to be established by witnesses, who do not account in any way for their having been on the spot, and whose evidence given in the very words of the prisoner's defence bears every mark of a story fabricated for the occasion.

2 But the Court do not consider that the examination of the witnesses on the trial was conducted with that minuteness and care, which the circumstances of the case required. The 1st and 2d witnesses should have been separately questioned more particularly as to the situation in which they, the prisoner, and deceased stood at the moment of the transaction; because the statement given by the

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the 3d witness was at variance with their's as to the deceased's having fallen down wounded inside the house.—

3 The 3d witness moreover was not examined as to the discrepancy between his testimony on the trial, and that given by him before the Criminal Judge in regard to his hearing the shot fired, and the deceased's having immediately fallen.

4 The attesting witnesses to the Prisoner's declaration before Casinally the Police Annuam of Shevagunga, stated that they were not present when it was taken, nor was it ever read over to them in the presence of the prisoner.—

5 The Court desire, that this circumstance may be brought to the notice of the Magistrate, in order that means may be taken to enforce a strict observance of the provisions of Clause third Section XXVII Regulation XI of 1816 on this subject.—

6 The letter of the 1st Judge accompanying the trial contains the following opinion on the Law of evidence. Adverting to the declaration in the futwa, that the testimony of a single witness is insufficient for conviction, the 1st Judge observes, "while the accused "denies what a single witness affirms, Truth "remains as it were suspended,- and the

right

6 6th June 1822.

"right of every person to be believed innocent
"unless the balance is in his favor."

7 This opinion, which appears to be
quoted from the Marquis Beccaria's Essay on crimes
and punishments, is controverted by Blackstone
4 Comm. ca. 27 pa. 357, who observes that the bare
denial of the person accused is not equivalent
to the positive oath of a disinterested witness.
And by the Law of England in cases of felony
a single credible witness is sufficient to
commit a prisoner.

8 But assuming the Abstract
~~correctness~~ of the principle of evidence cited
by the 1st Judge, it is obviously inapplicable
to a case wherein the positive testimony of a
witness may be corroborated by circumstantial
evidence.

9 The credibility of the 3d Witness,
who is referred to in the letter, is affected by the
inconsistency observed in his two depositions,
but had his testimony stood clear of any
such objection it would under the circumstances
of this case have sufficed for the conviction of
the prisoner.

10 Ordered, that Extract of these
proceedings be sent to the 1st Judge on Circuit
in the Southern Division by precept of
enjoining

F.R.

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enjoining him to communicate to the Magistrate
in the Zilla of Madura such part thereof
as concern that officer for his information
and guidance.

Sent the following precept No. 151

W.A. 50

Read return dated 27th Ultimo
from the late Acting Judge on Circuit in the
Centre Division to precept dated May last
directing communication to the Magistrate of
Bellary of the Court's orders on Case No. 29 Bellari
Calendar 2d Sessions AD 1821 and requiring a return
from that officer shewing that the misconduct
of the Tahsildar had been noticed in a man-
ner to prevent the recurrence of such irregulari-
ties.

/Here enter No. 332/

Read letter dated 27th Ultimo
from the 3d Judge late on Circuit in the
Western Division, With returned warrant
for execution of the prisoner in Case No. 11 of
South Malabar Calendar 2d Sessions AD 1821.

/Here enter No. 335/

Read letter dated 3d Instant
from the 3d Judge of the Court of Circuit in the
Centre Division, With returned warrants for
execution of prisoners in Cases Nos. 26 & 33 Chittore
Calendar 1st Quarterly Sessions AD 1822.

/Here enter No. 339/

At a Court of the Tuticorin Adalat.

Present,

Monday 10th June 1822. Charles Harris Esqre } Judges.
H. S. Grame Esqre }

Read letter, dated 28th ultimo from the 1st Judge on Circuit in the Southern Division, - with copy of Tinnevelly Calendar 1st Sessions A.D. 1822.

(Here enter No. 340.)

1 The prisoners in Case No 11 of the Calendar were charged with assembling "in a gang and feloniously rescuing two "robbers, whom the prosecutor had appre- "hended in the act of committing a Burglary "and robbery in the 1st prosecutors house "with the stolen property upon them."-

2 The first 20 prisoners are stated to have been convicted "and sentenced "under Cowhout to receive 39 stripes and "to be imprisoned and kept to hard labor "in Irons for the term of 14 years."

3 The offence of rescuing a public offender is not specially provided for by any regulation nor by any stated penalty

penalty in the Mohummudan Law, in such cases it is provided by Clause seventh Section II. Regulation XV of 1803, that the Judge of Circuit shall "adjudge the "prisoner to suffer such punishment as may "appear adequate to his guilt and the "nature of the offence of which he is convicted "not exceeding corporal punishment of "thirty nine stripes and imprisonment with "hard labor for the term of seven years," and that "if in any instance this degree "of punishment appear to the Judge of "Circuit insufficient in a case not specifically provided for by the Mohummudan Law or the Regulations he shall transmit the trial with his sentiments thereupon to the Court of Nizamut Adawlut."

4 The sentence passed by the 1st Judge in the above case not being warranted by Law, and it appearing therefrom that the penalty adjudicable by the Court of Circuit under the provision here cited would not, in the opinion of the 1st Judge, be sufficient, the Court direct that a precept be

issued to the 1st Judge, commanding him to transmit within one Month from the receipt of the precept English and Persian translations of the proceedings held in case No. 11 Sinnevelly Calendar 1st Sessions A.D. 1822 to be finally disposed of under the provisions of Clause third Section VII Regulation XV of 1803.—

(Sent following precept No 152)

W. M.

20

At a Court of the Poydaree Adalut

Present,

Tuesday
11th June 1822.- Charles Harriot Espr.
H.S. Graeme Espr. } Judges.

Read letter, dated 6th April last from the 1st Judge of the Court of Circuit in the Northern Division,- submitting case No 27 Masulipatam Calendar 1st Quarterly Sessions A.D. 1822.-

(Here enter No 235)

The Court having maturely consid-ered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the acting Cazee and Coazat and Mooftee of the Poydaree Adalut are of opinion that the proof against the prisoners, 1st 2d 3d and 4th is sufficient to convict them of the crime of robbery by open violence, for which a penalty is specially denounced in Clause third Section IV Regulation XV of 1803.

The Court under the authority vested in them by Clause first Section II Regulation I of 1818 accordingly

accordingly adjudge the said prisoners,

1st "Coolwerty Padmanaboden,"

2d "Tandiconda Banpania,"

3d "Koopsin Saheb," and

4th "Chinnum Veerasah,"

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 14 years and then to be released.

Sent to Canning letter No 154/

1 The letter of the 1st Judge referring this trial contains a copy instead of an abstract of the evidence before the Court of Circuit and the subordinate authorities.

2 The object of the orders of the Court of Sunjdarce Adalut on this subject is to be furnished with a concise abstract of the evidence, which should be strictly confined to what is material in the depositions of particular witnesses, on the trial, and does not require any reference to their evidence on the preliminary investigation, excepting when that evidence may disagree with their ultimate testimony.

testimony.

3 A transcript of the evidence such as is given in the above letter of the 1st Judge, is worse than useless, as subjecting the Court to the task of reading twice the same depositions, while the general effect of the evidence as regards each particular prisoner is not brought more prominently into view than in the detailed examinations in the record.

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

Sent following letter No 155/

25

Read return, dated 31st Ultimo from the 3d Judge late on Circuit in the Western Division, to precept dated 21st Ultimo ordering communication to the Magistrate of Malabar of the Court's orders relative to the appointment of an Acting Tahsildar on the removal of the Tahsildar from his District

Mr. June 1822.

District.-

(Here enter No 342)

Read letter, dated 27th ultimo from the 3d Judge late on Circuit in the Western Division,- with returned warrant for execution of prisoner in case No 5 South Malabar Calendar 2d Sessions- 1821.-

(Here enter No 343)

Read letter, dated 3d Instant, from the 3d Judge late on Circuit in the Western Division,- with returned warrant for execution of the Prisoners Nos 2d & 5th in case No 8 South Malabar Calendar 2d Sessions No. 1821.

(Here enter No 346)

Read letter, dated 3d Instant, from the 3d Judge late on Circuit in the Western Division- with returned warrant for execution of the prisoner in case No 5 South Malabar Calendar 2d Sessions No 1821.-

(Here enter No 347)

At a Court of the Fouzdaree Adalut.

Present,

Thursday.
13th June 1822. Charles Harris Esqre. } Judges.
R. L. Graeme Esqre.

C.H.
1846

Read letter, dated 6th Instant, from the 2d Judge on Circuit in the Western Division,- reporting that the annual number of cases on the Calendars for the Zilla of South Malabar will prevent his visiting the Zilla of Seringapatam, and applying for permission eventually to continue the Sessions at the former station until 4th Proximo.-

(Here enter No 350)

Under the circumstances represented by the 2d Judge in the foregoing letter the Court of Fouzdaree Adalut authorize and direct him to complete the delivery of the Jail of the Zilla of South Malabar, and as time will not allow of any special provision being made for holding a Sessions of Jail Delivery at Seringapatam during the

the period of the present Circuit, the Court further direct that the 1st Judge, who will proceed on the ensuing Circuit, do visit the Zilla of Seringapatam on the completion of the Sessions for the Zilla of Canara.

2 It appearing that the 1st Judge will be detained at the Luor Station, in order to allow time for his establishment to reach Mangalore, until the period designated by the 2d Judge for his return, and there being no provision in the Regulations prohibiting a Judge of the Provincial Courts of Appeal from exercising his functions in that capacity, if present at the Luor Station, during the period assigned to his circuit, the Court of Sudder Adawlut, consider the adoption of the arrangement suggested by the 2d Judge in the 5th paragraph of his letter to be competent to the 1st Judge, and free from objection.—

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

13th June 1822.

his information and guidance.—

Sent following letters No 158/

Ordered also that copy of the foregoing letter and extract of these proceedings be sent to the 1st Judge of the Provincial Court of Circuit in the Western Division by precept directing him to make the necessary communication to the Criminal Judge in the Zilla of Seringapatam for his information and guidance.—

Sent following precept No 159.

20

F. U.

At a Court of the Foujdaree Udalut

Present

Monday 17th June 1822. Charles Harris Esqre. } Judges
H. S. Grame Esqre. }

Read letter, dated 20th Ultimo, from the 1st Judge of the Court of Circuit in the Northern Division, - submitting case No. 23 Masulipatam Calendar 1st Quarterly Sessions A.D. 1822.-

/Here enter No. 323/

C H H G

The Court of Foujdaree Udalut have perused the record of proceedings held in the above case with astonishment, and concern.-

The prisoners,

1st "Chavakoolah Uppiah",

and

2d "Cangetala Voogtain,"

were arraigned before the Court of Quarterly Sessions on the following charge viz: "having on Monday "the 3d decreasing Moon of Curtee Sum, year Vrooda "/12th November 1821/ about midnight been concerned "with the Gang that robbed the house of the Prosecu-"tor at Peddapoodoo and carried away from thence "jewels ready money, and Cloths &c. to the value "of Rupees 298."-

2 The preliminary proceedings before the Criminal Judge, to whom the case was referred by the Darogah of the District of Ellore, exhibit the following evidence.-

3 Catenaury Nannapah the prose-

At a Court of the Toujdaree Udalut

Present

Monday 17th June 1822. Charles Harris Esqre. } Judges
H. S. Graeme Esqre. }

Read letter, dated 20th Ultimo, from the 1st Judge of the Court of Circuit in the Northern Division, - submitting case No. 23 Mausul-patoam Calendar 1st Quarterly Sessions A.D. 1822.-

/Here enter No. 323/

The Court of Toujdaree Udalut have perused the record of proceedings held in the above case with astonishment, and concern.-

The prisoners,

1st "Chavakoolah Uppiah",
and
2d "Cangetala Voojain,"

were arraigned before the Court of Quarterly Sessions and on the following charge viz: "having on Monday "the 3d decreasing Moon of Curteekum, year Vrood- "/12th November 1821/ about midnight been concerned "with the Gang that robbed the house of the Prosecu- "-tor at Pedapaudas and carried away from thence "jewels ready money, and Cloths &c to the value "of Rupees 298."-

2 The preliminary proceedings before the Criminal Judge, to whom the case was referred by the Darogah of the District of Ellore, exhibit the following evidence.-

3 Catenaury Narrapah the prose-

deposed that a Gang of about 20 persons came to his house at midnight armed with firelocks, swords, pikes and sticks and broke open the door of the back yard. Prosecutor hearing the noise requested Sataravaloo, (alias Nungala) Servesah, a native doctor, who slept by him for the purpose of affording Medicaid, (prosecutor being then ill) to ascertain the cause six of the gang immediately entering ejaculated the said Sataraloo Servesah, and after severely beating the prosecutor with the butt end of a pike, called upon him to produce his money. Prosecutor being in fear of his life desired Sataraloo Servesah to bring and deliver to them the key of the box containing his money, from which they took the bags of rupees and duds, and three boxes containing jewels, the value of which together with six cloths amounted to Rupees 411.- The Gang then charged prosecutor with having more money, and on their proceeding to threats of burning and otherwise Maltreating him if he did not deliver it, prosecutor's daughter being alarmed fled from the house and fell into a well, his wife also fled to a neighbouring house, and Sataraloo Servesah having also run off, gave the alarm to the village people, twenty of whom assembled and came to the spot. The robbers on seeing them ran off, and were pursued by the villagers, who secured Munda Narsimloo, (since deceased) upon whom were found a bag of duds and various articles of the plundered property.-

In answer to a question from the Criminal Judge the prosecutor swore, that the 3 prisoners before the Court, i.e. the prisoners Chavakoola Uppiah, Cangetala Hoofpain, and the deceased Munda Nardimloo, were the persons who beat him, and he identified the property produced in Court.

5 The prisoner, Chavakoola Uppiah, stated on his examination that one Mooroogoolo Vullabaroydoo gave him one morning a bundle of cloths, which he deposited in a bed of vegetables fronting the house of the prisoner, Cangetala Hoofpain.-

6 A declaration alleged to have been delivered by this prisoner, before the Daragah having been read, the prisoner on being asked whether he had caused it to be written, said "they kept me out, I do not know "what they wrote inside".-

7 The following is the substance of the declaration in question, as entered in the proceedings of the Police Officer, namely, that the prisoner and five others armed joined their Sardar, Bondelu Calanading, at about 8 o'clock at night - that they proceeded to the prosecutor's house, and certain of the party broke open the door and went in, that prisoner remained outside and did not know what took place within, that Narsimloo brought out and produced to those outside certain cloths and jewels, and that on alarm being

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being given they all ran off.-

8 The prisoner Cangetala Hoosain, on his examination before the Criminal Judge, denied having gone with the gang, or caused to be written the declaration said to have been given by him before the Police officer.-

9 The substance of that declaration, as entered in the Police officers proceedings, is that he also accompanied the gang which robbed the prosecutors house that he did not enter the house; but that after the escape of the Gang he received a share of the stolen property.

10 The attesting witnesses to the above declarations were not examined by the Criminal Judge.-

11 Boipoody Venkatanarrainna, 1st witness, was one of the party who assembled on hearing of the attack on the prosecutors house, pursued the Gang, one of whom Munda Narsimloo aimed a stab at witness with a pike, by which two fingers of his left hand were wounded; in the confusion another of the Gang stabbed Narsimloo with a pike, and he being disabled by the wound was secured by the villagers. On Narsimloo were found a bag of dubs and three jewels, which were identified by the witness among the property produced before the Criminal Court.-

Satavalos Servosah 2d witness, was

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was attending the prosecutor in his Medical capacity on the night of the robbery.- This witness's deposition confirmed the whole of the prosecutor's narrative, and he swore to the persons of the prisoners, Chavakoolah Appiah, and Cangetala Hoosain, as having taken an active part in the proceedings of the robbers in the prosecutor's house.

13 Cancula Nanganah, 3d witness, was one of the party who pursued the gang.- His witness deposed to the same effect as the 1st witness:- his evidence affecting only the deceased prisoner Narsimloo. He also identified certain of the articles produced as the property of the prosecutor, from whom he had borrowed them on a former occasion.-

14 The testimony of the 4th 5th and 6th witnesses was to the same purport, as that of the 3d witness.-

15 The 7th witness Chodagum Swamy apprehended the 2d prisoner, Cangetala Hoosain, on a warrant from the Darogah of Ellore; and found in his house certain jewels and cloths, which he specified, and subsequently identified among the articles produced before the Criminal Court.

16 The 8th witness, Poonapooreddy Ramanoojum apprehended the 1st prisoner, Chavakoolah Appiah, found on his person certain jewels and cloths which he specified, and on being shewn the property sent to the Criminal Court, identified those articles among it.-

17 Before the Court of Quarterly Sessions, the prisoners having pleaded not guilty to the arraignment; the prosecutor being

stated, that the prisoners were concerned with the gang that robbed his house, that he had formerly delivered his statement before the Criminal Judge and had now to state the same."-

18 The former deposition was thereupon read, and declared by the deponent to be the same. Being asked, by whom he would prove, that the jewels on the Court table belonged to him, he named Sataralao Serwesah, and Bopoody to Vencatanarrainna, two of the witnesses in attendance.-

19 The 1st Judge presiding at the Court of Quarterly Sessions next proceeded to examine the two witnesses to the declarations, taken from the prisoners by the Darogah.-

20 These witnesses deposed that they were present and that the prisoners gave their declarations voluntarily; but neither of the witnesses could state the purport of the contents of the declarations in question.-

21 At the foot of the examination of the above two witnesses is entered the following note.- "The Judge and the Law officer considering "the evidence of the witnesses, who attested the confession of the prisoners before the Head of Police, "to be sufficient to commit the prisoners, the examination of the remaining witnesses is dispensed "with."-

22 The prisoners being put on their defence the 1st stated, that he had kept by him certain articles delivered to him by Vullabaroydoo, and called witnesses to characters. The 2d prisoner stated that 1st prisoner had kept two heads in

in his house, and called witnesses to prove an alibi.

23 The record then exhibits the following note. "The prisoners confession being proved, "the evidence of the prisoners witnesses is dispensed "with."-

24 The law officer was thereupon required to deliver his futwa; and the trial is referred under the provisions of section XXV Regulation VII of 1802.-

25 The letter of the 1st Judge accompanying the trial contains a detailed recital of the evidence, which was taken by the Criminal Judge, and concludes with declaring an opinion that the prisoners are convicted on their confessions before the Darogah, "proved to have been voluntarily "given by the persons who had subscribed as witnesses to them." And the 1st Judge observes, that "as there is no circumstance in the case of either "that points them out as fit objects for mitigating "the penalty annexed to the crime of gang robbery "without wounding;" both should be sentenced to "14 years imprisonment and hard labor."-

26 Clause first section XV Regulation VII of 1802 declares, that "the proceedings on the "trial of prisoners are to be conducted in the "following manner. The charge against the prisoner, his confession (which is always to be "received with circumspection and tenderness) "if he plead guilty; or if he plead not guilty, "the evidence on the part of the prosecutor; the "prisoners' defence, and any evidence which he "may have to advance being all heard before him" the "futwa of the Law officer is to be taken."-

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27 And Section X Regulation X of 1816 declares, that in cases wherein a prisoner may confess before the Criminal Judge the crime or mis=demeanor, with which he may have been accused, or may confirm any former confession thereof, the Criminal Judges "are to be careful, in cases referri= "ble to the Court of Circuit "to have such confession duly witnessed, and that "notwithstanding such "confessions the Judges are invariably to summon and "bind over to attend at the next Sessions the wit= "nesses to the commission of the crime or misdemeanor "alleged against the prisoner, that they may be "examined before the Court of Circuit in the same "manner as if the prisoner had denied the charge."

28 The proceedings held by the 1st Judge on this trial exhibit an utter disregard of the prin= =ciple, and a direct violation of the letter of the foregoing plain and positive enactments of the Laws.

29 With reference to the principle it may be remarked, that if a confession deli= =vered before the Court of Circuit on the trial is to be received with "circumspection and tenderness" and if proof of a confession before the Criminal Judge is declared to be no ground for dispensing with the testimony of the "witnesses to the com= "mission of the crime;" still greater circumspec= =tion is required, and the duty of taking all the evidence brought forward, as well for the pro= =secution as the defence, is still more obligatory, when

P. C.

17th June 1822 when the case against the prisoners rests wholly on a confession taken by a native officer of police.

30 The statement in the nature of an indictment, directed by the standing orders of the Bundaree Adalut to be prepared by the Criminal Judge, and adopted at the arraignment on the trial does not appear in the record.

31 The arraignment should with reference to the facts in evidence before the Criminal Judge have been much more particular= =ly worded. The prisoners should have been charged with having by open violence, at the time and place described, broken into and plundered the house of the prosecutor, nor should the fact of their beating a man in his state of sickness and helplessness have been omitted in the charge.

32 The defectiveness of the arraignment is, however, in comparison with the other impropri= =eties, which mark this case, almost unimportant.

33 The prosecutor, the only person acquainted with any of the facts of the case who was called before the Court of Circuit, was not made to deliver his deposition, but was allowed to confer his former deposition, which was for that purpose read over to him.

34 The Court of Bundaree Adalut in their proceedings, under date 23d August last, which were communicated to the 1st Judge, and submitted for the consideration of the Honorable the Governor in Council, recorded their most marked reprehension of this very proceeding.

35 In the 48th paragraph of the proc

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proceedings the Court observed, that "the substitute "of the record of evidence delivered by the deponents "before a different authority, when 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 labor "of a regular examination".-

36 The 1st Judge's deliberate repetition of an irregularity, which had been so recently and so pointedly denounced by the Court, would, did the case involve no other grounds for the measure, suggest a representation from the Court to the Honorable the Governor in Council.-

37 It does not appear to have been considered by the 1st Judge, that the avowed ignorance of the attesting witnesses, as to the tenor, or purport of the prisoner's declarations was at all important; and in his reference of this trial the 1st Judge has overlooked a fundamental principle in judicial investigation, namely that nothing is evidence in criminal cases, but what is proved on the trial.-

38 The 1st Judge having "dispensed with the testimony of the prosecutor, and the other eye witness to the acts of robbery and violence committed by the prisoners, of the witnesses who seized them and found in their possession the stolen property and of those who identified the articles as having belonged to the prosecutor nothing remains against the prisoners but their

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their own declarations; and supposing to be intitled to the utmost credit they do not prove that the case was more than a burglary unattended with open violence of any description.-

39 As if to complete the infringement of the rules prescribed in section XV Regulation V of 1802 for the conduct of Criminal trials the 1st Judge determined not to take the evidence adduced on behalf of the prisoners.-

40 It becomes the duty of the Court of Foujdaree Adalut to return to the Court of Circuit a trial, which has been conducted with a precipitancy utterly irreconcilable with that calmness, and patience of investigation incumbent on a Judge of Circuit in discharging the high and important duties of his office, and which is marked by irregularities for which the most headlong precipitancy would not of itself account.-

41 The Court deem it proper to direct, that the record be sent to the 2d Judge of the Court of Circuit in the Northern Division about to hold the 3d Quarterly Sessions of Jail delivery at Masulipatam by precept enjoining him to require the attendance of the prosecutor and the 1st 2d 3d 7th and 8th witnesses at the ensuing Sessions and of the witnesses who were designated by the prisoners; and in the presence of the prisoners and the Mohummudan Law officer to take their depositions, allowing the prisoners to put such questions to the witnesses for the

prosecu-

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prosecution as they may choose. The 2d Judge will annex authenticated translations in English and Tamil of these additional proceedings to the original Records and retransmit the same to the Court of Foujdaree Adalut.-

42 In the 5th paragraph of the proceedings of the Court of Foujdaree Adalut, under date 23d August last, the attention of the 1st Judge was particularly called to the orders of the Court requiring 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 them." The 1st Judge's neglect of this form tends further to evince the slight regard, which he attached to the injunctions of the Superior Court.-

43 The Court of Foujdaree Adalut have found frequent occasion for animadversion on the proceedings of the 1st Judge at the late Sessions.- it has also been necessary to return another of the trials referred by him for the purpose of obtaining material evidence which had been dispensed with; and the Court being forced to the conclusion of the inefficacy of their endeavours to induce regularity and propriety of proceeding on the part of this officer deem it to be their Duty, with reference to the instructions cited in paragraph 71 of their proceedings under date 23d August last, to submit the foregoing observations to the consideration of the Honourable the Governor in Council. The trial here referred to can be laid before Government

F. C.

17th June 1822

Government after its retransmission to the Court of Foujdaree Adalut.-

44 Ordered, that Extract of these proceedings be sent to the 1st Judge of the Court of Circuit in the Northern Division for his information.- /sent the following letter No. 160/

45 Ordered also, that Extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Northern Division by precept commanding him to proceed as directed in paragraph 41. and retransmit the record of the trial No. 23 Masulipatam Calendar 1st Quarterly Sessions A.D. 1822 with as little delay as possible.- /sent the following Precept No. 161/

46 Ordered also, that Extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the consideration and orders of the Honourable the Governor in Council.- /sent the following letter No. 162/

24th, W

At a Court of the Poujdaree Udalut

Present,

Tuesday 18th June 1822. Charles Harris Esqre. } Judges
H. S. Grame Esqre. }

Read letter, dated 11th Instant,

C. H. from the Criminal Judge in the Zilla of
H. G. Nellore,- submitting English translations of the proceedings held by him against the prisoners in cases Nos 1 and 3 in his last Quarterly report of persons apprehended in the Zilla of Nellore.-

(Here enter No. 351.)

In the former of the above cases the prisoners,

1st Chinnareddy Seetaramareddy"

and

2d Cantumreddy Codundaramareddy"

are represented to have been charged on behalf of Government "with having "sold their grain at an increase of 6 Rupees "above the current price per every pootty "thereof, to the breach of the peace," also with "having conspired to sell grain at further "enhanced prices."

2. On reference to the last quarterly

quarterly report submitted by the Criminal Judge under the provisions of Section XXXI Regulation X of 1816, it appears that the prisoners were sentenced to be imprisoned for two months and fined 100 rupees each.-

3. In the latter case the 5 prisoners,

1st "Mettah Narapah,"
2d "Sirmoory Nursareddy,"
3d "Soommalah Vencatnursareddy,"
4th "Choondoory Thistnamah, and
5th "Gelly Nursa,"

were apprehended on a similar charge, and by the Quarterly report it appears, that the 1st prisoner, Mettah Narapah, was sentenced to be imprisoned for two months and fined 200 rupees; and that the remaining four prisoners were released "the charge not being proved:-

4 The Court of Foujdaree Adawlut do not deem it necessary to go into an examination of the evidence adduced in these cases, the acts charged against the prisoners not being punishable under the Regulations, the whole proceeding was illegal, and it only remains for the

the Court to afford to the parties, who have been punished such redress as is in their power by directing, that the amount of the fines levied from

"Chinnareddy Seetaramareddy,"
"Cautumreddy Codundaramareddy,"
and
"Mettah Narapah"

be forthwith repaid to them by the Criminal Judge.-

It appearing by the evidence 5 of Rungapah, a merchant of Nellore, and Gopaldoss a Police Naick, that a proclamation has been issued from the office of the Magistrate, limiting the price of grain; the Court of Foujdaree Adawlut resolve to call upon the Magistrate for copy and English translation of any proclamation or order, that may have been issued under his authority on this subject, in order that a measure so injurious may be brought to the notice of the Honorable the Governor in Council.-

Ordered, that extract of 6 these proceedings be sent to the Criminal Judge

18th June 1822.

Judge in the Zilla of Nellore by precept commanding him immediately to repay to the three persons above named, or their representatives, the fines which have been levied from them respectively under the charges above recited.-

sent 19"

(Sent following precept №163.)

Ordered also, that extract of these proceedings be sent to the Magistrate in the Zilla of Nellore by precept directing him to transmit copy and English translation under his official seal and signature of any proclamation or order that may have been issued under his authority for limiting or regulating the price of grain.-

Precepts returnable within two days from and after their receipt.-

sent 19"

(Sent following Precept №164)

Ev: Ms.

sent 20th

F. R.

At a Court of the Foujdaree Adalut

Present,

Thursday - 20th June 1822. } Charles Harris Esqre } Judges
W. S. Grome Esqre - - }

C H

Read again letter dated 22d March last, from the 1st Judge of the Court of Circuit in the Northern Division, transmitting copy of Masulipatam Calendar 1st Quarterly Sessions A.D. 1822.-

(Here enter №213)

The records of the proceedings held by the 1st Judge in cases №s 1182 Masulipatam Calendar which according to the remarks entered in the foregoing Calendar are to be referred to the Foujdaree Adalut, not having been received.-

The Court direct, that the 1st Judge of the Court of Circuit in the Northern Division be by precept commanded to send up the Records of the proceedings held by him in the cases aforesaid within six days from the date of the receipt of the precept.-

(Sent following Precept №165.)

165.

Read Return dated 15th instant from the Judges of the Provincial Court of Circuit in the Southern Division to precept dated 29th April last ordering communication to the Criminal Judges and Magistrates of the Courts orders regarding confessions before offices of Police.-

(Here enter №356)

Read return dated 15th Instant from the Judges of the Provincial Court of Circuit in the Southern Division to the Court's precept dated 16th Ultimo ordering communication to the Criminal Judges and Magistrates of the Courts' orders on certain points of Police administration.—

/Here enter No. 355/

Read return dated 14th Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 28th Ultimo ordering them to communicate to the Judge on Circuit the Court's observations relative to the enforcement of the rules contained in section II Regulation XX of 1816.

/Here enter No. 356/

Read return, dated 1st Instant, from the late Acting Judge on Circuit in the Northern Division,— to precept dated 25th ultimo last ordering communication to the Magistrate of Nellore of the Court's remarks on certain cases in the Calendar 1st Sessions A.D. 1822 where the Police officers were reported to have extorted by violence confessions from several accused and falsified dates of apprehension.

(Here enter No. 353)

F. H.

At a Court of the Foujdaree Adaulut

Present

Monday 24th June 1822.— Charles Harris Esq.re } Judges
H. S. Grome Esq.re }

Read letter dated 17th Instant from the Magistrate in the Zilla of Canara recommending the offer of the highest rewards as sanctioned by section XXI Regulation IX of 1816 for the apprehension of the persons concerned in a late atrocious case of Arson.—

C.H. H.G.

/Here enter No. 363/

The Court of Foujdaree Adaulut entirely concurring in the expediency of calling forth the active exertions of the community with a view to the apprehension of the several persons concerned in the Commission of the atrocious outrages described in this letter, do authorize and direct the Magistrate in the Zilla of Canara to offer rewards for their apprehension, at the rate of 500 Rupees for each leader 100 Rupees for each inferior offender, payable, according to the provisions of section XXIII Regulation IX of 1816 on the conviction of such offender or offenders 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

and guidance.-

/Sent following letter No 169./

Read letter dated 24th April last, from the 1st Judge of the Court of Circuit in the Centre Division,- submitting Case No 7 Chittoor Calendar 2d Quarterly Sessions No 1822.-

/Here enter No 266/

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 Poujdaree Adawlut confirm the said futwa of the Acting Cazee =ool= Cozat and Mooftee aforesaid and under the sentence of Ookoobut declared in the futwa adjudge the prisoners

1 Kaulen,
2 Vellachee,

to be imprisoned and transported to such place or places beyond sea as the Governor in Counsil 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.-

/Sent following letter No 170/

Read letter dated 15th March last from the 1st Judge of the Court of Circuit in the Northern Division, submitting Case No 29 Masulipatam Calendar No 3d Sessions 1822/

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 Cazeecool= Cozat and Mooftee of the Poujdaree Adawlut are of opinion that the proofs against the prisoners 1st 2d 3d 4th 5th is sufficient to convict them of the offence of Gang robbery and murder for which a penalty is specially denounced in Clause first section IV Regulation XV of 1803.-

The Court under the authority vested in them by Clause first section II Regu= =lation I of 1818 accordingly adjudge the pri= =soners,

1st Coossoom Beemoodoo,
2d Baurapoo Lummunah"
4th Doopacotee Singalo"
5th Poosa Pendoo

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

And in exercise of the discretion vested in them by Clause fifth section IV Regu= =lation XV of 1803 the Court adjudge the pri= =soner

3d Gydoo Leroopully"

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

/Sent the following letter No 171/

Read

24th June 1822.

Read return dated 10th Instant from the late Acting Judge on Circuit in the Centre Division to precept dated 24th Ultimo calling for the proceedings held in cases Nos 3 Bellari Calendar and Nos 5. 6. 9. 15. 817 chingleput Calendar 2d Sessions AD. 1821.-

/Here enter No 360/

Read letter dated 11th Instant from the Acting 3d Judge on Circuit in the North-ern Division, Reporting his intention to leave Chicacole on 15th Instant.-

/Here enter No 361/

Read return dated 17th Instant from the 3d Judge of the Court of Circuit in the Centre Division to precept dated 16th Ultimo ordering him to communicate to the Criminal Judge in the Zilla of Cuddapa the Courts' orders on Case No 2 Cuddapa Calendar 1st Sessions AD 1822.-

/Here enter No 362/

F. C.

At a Court of the Foujdaree Adaulut

Present

Tuesday 25th June 1822 } Charles Harris Esqre } Judges
H. S. Grome Esqre - }

Read letter, dated 13th Ultimo from the 2d Judge of the Court of Circuit in the Southern Division, - submitting report on the 2d Quarterly Sessions for 1822 at Trichinopoly.-

C H
H H

/Here enter No 311/

1 The 9th and six following para-graphs of the above report are occupied in a review of the legislative enactments regarding the office of Magistrate previously to the introduction of the system established in 1816, and of the provisions enacted on the subject in that and subsequent years; in the course of which the 2d Judge takes occasion to advert to the present independence of that department of the control of superior authority.-

2 The Court of Foujdaree Adaulut are of opinion, that the sentiments recorded by the 2d Judge in this part of the report are deserving of the attention of Government.-

3 The Court notice in the 11th para-graph of the report the provisions of section XXX Regulation VII of 1802 inaccurately applied by the 2d Judge to the office of Magistrate

Magistrate, that section having been declared in section XXXIX Regulation X of 1816 to be applicable to the Criminal Judge only. But a corresponding provision, with reference to the present Magistrate is contained in Clause third section XL Regulation IX of 1816. which is still in force.

4 In the latter part of the 12th paragraph the 2d Judge suggests the extension to the Magistrates' department of the existing provisions, for an appeal to the Provincial Courts of Circuit, and the Sudder Dewanny Adawlut from the decisions of the Criminal Judges. And in the 14th paragraph the 2d Judge states with reference to the punishments adjudged by the Magistrates, that "as no appeal lays "to a Provincial Court of Circuit and no "proceedings are recorded, the Judge on Circuit "will be unable to discover if any necessity "exists either to reverse modify or confirm "such judgments, which he is empowered to do "by Clause second section XL Regulation IX of "1816."

5 By Clause second section VII Regulation IV of 1821 the provisions of Clause second section XL Regulation IX of 1816 were with one or two special exceptions, virtually rescinded; and it appears to the Court of Sudder Dewanny Adawlut, that the interference

interference of a Judge of Circuit with a view to the modification of judgments, passed by the Magistrates under the provisions of sections XXXII and XXXIII Regulation IX of 1816, must now be confined to cases brought specially to their notice by petition from the party concerned.—

6 By section IX Regulation II of 1822 facility and encouragements are afforded to addresses by petition to the Court of Circuit. the Court of Sudder Dewanny Adawlut in paragraph 26 of their proceedings, under date 4th April last, recorded their opinion, that "the authority of a Judge on "Circuit to proceed on petitions against the orders "of a Magistrate on cases determinable by him "is confined in the first instance to a reference "for explanation, when sufficient ground may "appear for requiring it; and that when the peti- "tioner may allege acts unauthorized by or "in violation of express enactments of the Law; "which may be acknowledged by the Magistrate; "it is the duty of the Judge on Circuit to refer "the case to the Court of Sudder Dewanny Adawlut; and "to suspend the operation of any penal sentence "unwarranted by Law, pending such reference."

7 The provisions of section VII Regulation IV of 1821 preclude the revision of judgments, passed by the Magistrates in conformity with sections XXXII and XXXIII Regulation IX of 1816, upon due legal investigation.

To

To provide, however, the most prompt redress in cases, where the Magistrates may either exceed their authority, in the nature or degree of punishment awarded, or may proceed to judgement without due personal investigation, the Court of Zoojdaree Udalut are of opinion, that the investiture of the Provincial Court of Circuit with the same authority to forward on petitions, as is professed by a Judge on Circuit, would be a salutary arrangement.-

8 Upon a passage in paragraph 14 of the report, wherein the 2d Judge cites the cases described in Clause 8th Section VI Regulation I of 1820 among those, which the Magistrates are empowered to investigate and determine without making their examinations matter of record, the Court of Zoojdaree Udalut deem it proper to observe, that the rule contained in Clause second Section VII Regulation IV of 1821 is limited to complaints preferred before the Magistrates under Sections XXXII and XXXIII Regulation IX of 1816; and that those officers have not been relieved from the duty of taking written evidence, and recording the proceedings held by them, in cases wherein they are specially vested with enlarged powers of punishment.-

9 In the opinion advanced by the

the 2d Judge in paragraph 15 of the report, founded on the inexperience of many of the Assistant Magistrates, the Court of Zoojdaree Udalut must concur. They are, however, of opinion that under the provisions of Section III Regulation IX of 1818 it is competent to the Magistrates, as they may judge expedient, to direct a reference to themselves of cases of importance, and to limit the cognizance of their Assistants to strictly petty cases.-

10 In the 22d paragraph of the report the 2d Judge suggests with a view to deterring prisoners from a repetition of crime "as well as to terrify others from embarking in "it," that "those who are sentenced to hard "labor ought to be compelled to work," and that certain tasks should be allotted to them under certain penalties; also that "every prisoner "convicted of daring and atrocious offences or "notorious offenders, who may be sentenced to "confinement and hard labor for 4 years and "upwards," should be banished "to remote "Zilla Gaols."

11 With respect to the former suggestion the Court of Zoojdaree Udalut are of opinion, that under the general powers of control vested in the Judge of the Court of Circuit by Section XXXII Regulation VII of 1802 he professes authority to issue such instructions to the Criminal Judge, respecting the personal treatment

treatment of the prisoners under his charge, as he may consider to be necessary with a view to the due execution of the sentences which may have been passed upon them. And that consequently, whenever it may appear to a Judge of Circuit that by the system pursued in a Zilla Jail the sentences of prisoners to "hard labor" are not duly enforced, it is competent to him to issue such directions, as may appear to him proper, on the subject.

12 Clause third Section VIII Regulation XV of 1803 declares, that "in all cases "of convicts sentenced to imprisonment for "a limited period the Court by whom the sen"tence is passed, if it deem the same proper "may adjudge him to be banished during the "period of his sentence from the district "in which his place of abode is situated, and "to be kept to hard labor on the public "roads or other public works in any other "district to which he may be removed by "order of the Loujdaree Udalut."

13 The above provision appears to meet the object of the latter suggestion of the 2d Judge above quoted, and the force of his observation on this point in paragraph 23 is not apparent to the Court of Loujdaree Udalut.

14 Under the circumstances reported in paragraph 39 of the report the Court of Loujdaree

Udalut approve of the temporary augmentation therein suggested in the allowance of the convicts. The Magistrate, who has been vested with charge of the Jail by order of the Honorable the Governor in Council, should be directed to prepare a scale of allowances, regulated by the price of grain; on the reduction of which the allowance must be proportionably reduced.

15 Since the receipt of the report of the 2d Judge it has been certified by the Provincial Court of Circuit in the Southern Division, that the Jail at Trichinopoly affords accommodation for the convicts now in confinement, in strict adherence to the provision of Section XXIX Regulation X of 1816. The Loujdaree Udalut have taken frequent occasion to urge, that all the Jails should be furnished with the accommodations required for enforcing so important a provision of the Regulations.

16 In paragraph 55 of the report the 2d Judge notifies his having directed the late acting Criminal Judge in the Zilla of Trichinopoly to forward to Combaconum 16 prisoners, who had been sentenced by him on a charge of Arson to stripes and imprisonment, in order to their being committed for trial before the Court of Circuit.

17 However inadequate the powers vested

25th June 1822

vested in a Criminal Judge may be for the one punishment of an offence to atrocious as Arson, the Court of Foujdaree Udalut on the general principle that a person cannot be twice tried and punished for the same offence deem it necessary to direct that the 2d Judge do revise the order passed by him upon the Case here referred to, and instruct the Criminal Judge in the Zilla of Combaconum to release the 16 prisoners in question on the expiration of the term of imprisonment to which they were originally sentenced by the late Acting Criminal Judge in the Zilla of Tichinopoly-

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 issue the necessary instructions to the Criminal Judge in the Zilla of Combaconum for his information and guidance.-

Ent 27th

/Sent the following precept No 172/

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.-

2019/Ent 27th

/Sent the following letter No 173/

C. H.
K. H.

F. H.

At a Court of the Foujdaree Udalut

Present

Thursday - 27th June 1822 } Charles Harris Esqre } Judges.
H. S. Grame Esqre }

/Read return dated 21st Instant from the Magistrate in the Zilla of Nellore to precept dated 18th Instant calling for copy and English translation of any proclamation issued under his authority for regulating the price of grain.-

/Here enter No 366./

Also, read again letter, dated 11th Instant from the Criminal Judge in the Zilla of Nellore,- submitting English translation of the proceedings held by him in Cases Nos 18 & 19 in his last Quarterly report of persons apprehended in the Zilla of Nellore.-

/Here enter No 351./

The Magistrate in the above return transmits copy and translation of a proclamation issued by the late Head Assistant Magistrate, denouncing severe punishment against those persons who having usually sold grain in the Bazar at Nellore, should "not keep and sell in the "Bazar a large quantity of grain as usual:" also declaring that the persons, who might fail speedily to bring grain from the adjacent villages and sell it at the Nellore Bazar would be apprehended and measures would be taken for bringing them to "a severe punishment:" and that

that intelligence having been received, that the Banians had purchased and concealed a quantity of sixty poottees of Grain brought into the Bazar without exposing it for sale by retail to individuals, any person doing "so hereafter" would be "apprehended and severely punished."—

2 From the proceedings held by the Criminal Judge on the cases of certain persons brought before him charged with conspiring to sell grain at enhanced prices, it appears that the Police officers in the Zilla of Nellore construed the above proclamation to authorize their fixing the price at which the grain should be sold; and altho' the Assistant Magistrate in the body of the proclamation declared that he will "not fix the price," it is obvious that an order requiring that the "usual quantity" should continue to be sold would, if effectual, have had a similar tendency.—

3 The Court of Foujdaree Adawlut being of opinion, that all interference of this description is unjust & impolitic, as well as wholly unauthorized by any provision of the regulations, deem it proper to bring the matter to the notice of the Honorable the Governor in Council, and for that purpose direct that the foregoing papers with extract of these proceedings, and Extract of the Courts' proceedings, under date 18th Instant, be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Honorable the Governor in Council.—

20/Sent 29th.

Sent the following letter 27th 7br

Read letter dated 17th Instant from the Criminal Judge in the Zilla of Chicacole requesting the orders of the Court as to the disposal of 42 Convicts under sentence by the Court of 4th Circuit, and suggesting that the requisite guards be furnished by the Magistrates of Ganjam, Vizagapatam, and Rajahmundry respectively.—

Here enter 2e 373

The Court of Foujdaree Adawlut direct that the prisoners

1 Gontay Gooraiwadoo
2 Choperlah Boocheegandoo
3 Doodah Lutchmoodoo
4 Bandoo Poteegandoo
5 Vijsarapoo Dankugandoo
6 Moollee Appijah
7 Moollee Gooramanah
8 Moodoonoony Dayvanaranze
9 Potoolah Puttaberaum
10 Cotteepilly Potanah
11 Gunnaipoo Cherabadroodoo
12 Rammedy Sanneegandoo
13 Lookoodaypoo Peddaun
14 Caunoor Woomanputty
15 Putnaulah Lommajah
16 Gyelakumtetty Gooraiwanjah
17 Wobbeereddy Moosalaniyah
18 Suppah Moosalaniyah
19 Nuckah Atchanah
20 Jumpah Yerkapah
21 Nauveepany Appaniyah
22 Lunkah Cunna Pautroodoo
23 Choro Bijoyee
24 Ammoodeery Chinniyah

25 Gallapilly Sunnassee
26 Wasseecotah Appanyah
27 Layjah
28 Gopaul
29 Coonesetty Narraidoo
30 Chauttah Chinniyah
31 Cunnayputtee Mantayyah
32 Ramoolah Lutchmeyah
33 Faker Mahomed alias Hyder Saib
34 Gunduru Appiyah
35 Mooteyaulah Cherapah
36 Moogoo Ramsadoo
37 Chrumsetty Mulliyah
38 Poddah Banpaniyah
39 Saula Agyaru
40 Vaatlakah Lamutteewandoo
41 Cadundah Asseeregandoo
42 Ramoolah Chitteegandoo

be removed to the Jail in the Zilla of Masulipatam there to be imprisoned agreeably to the tenor of their respective sentences, and that the Magistrates of Ganjam, Vizagapatam, & Rajahmundry be desired to furnish the requisite guard of Sibbundy peons for escorting the said convicts through their respective districts.-

Ordered, that extract of these proceedings be sent to the Criminal Judges in the Zillas of Chicacole, and Masulipatam, and to the Magistrates of Ganjam, Vizagapatam, and Rajahmundry, for their information and guidance respectively.-

/Sent the following letters Nos. 175/

Rec

27th June 1822.

Read letter dated 10th instant, from the Acting Criminal Judge in the Zilla of Masulipatam, transmitting with reference to the orders of the Foujdaree Adalut dated 5th Dec= =ember last list of prisoners from Rajahmun= =dry sentenced to temporary imprisonment at the 2d Quarterly Sessions of Jail delivery for 1822 at Masulipatam.- /Here enter No. 364/

The Court of Foujdaree Adalut direct that the prisoners,

1 Savarapoo Chalamiah
2 Goondabutta Nursimloo
3 Nookapoye Pulladoo
4 Elakapilly Pulladoo
5 Chapparoopilly Pulladoo
6 Ramoola Liroputty Gadoo
7 Vinjaytee Nursagadoo
8 Cokkelegudda Pedugadoo
9 Goattoola Nursegandoo
10 Yaramaty Ancharuloo
11 Yalamy Narapah
12 Ebarahim Saheb
13 Addabala Soobbiah
14 Comesetty Basavapah
15 Ramdar Ramoodoo

be removed to the Jail in the Zilla of Cuddapa there to be imprisoned agreeably to the tenor of their respective sentences.-

2 Ordered, that extract of these proceedings be sent to the Criminal Judge in the Zilla of Masulipatam and to the Criminal Judge of Cuddapa for the information and guidance of those officers respectively.-

/Sent the following letters Nos. 176/

Read letter dated 15th Instant from the Acting 3d Judge on Circuit in the Northern Division; With copy of Chicacole Calendar 1st Sessions A.D 1822.-

/Here enter No. 370/

Read returns dated 19th Instant from the Judges of the Provincial Court of 4th Circuit in the Southern Division to precept dated 4th March last ordering communication to the Criminal Judges and Magistrates of the Courts orders regarding the preliminary investigation in criminal cases.-

/Here enter No. 369/

Read return dated 19th Instant from the Judges of the Provincial Court of Circuit in the Southern Division to precept dated 28th Ultimo ordering communication to the Judge on Circuit of the Courts orders relative to the enforcement of the providions of Section II Regulation XV of 1803.-

/Here enter No. 368/

S. U.

At a Court of the Foujdaree Udalut

Present

Saturday
29th June 1822 } Charles Harris Esq.re } Judges
H. S. Grame Esq.re - - }

C. H.
H. G.

Read letter, dated 28th Februa=ary last from the 3d Judge late on Circuit in the Western Division,- submitting cases No. 2 on the Calendar and No. 1 additional South Malabar Calendar 2d Sessions A.D 1825.-

/Here enter No. 183/

The Court having maturely weighed in case No. 2 on the Calz. Dpay 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 are of opinion that the proof against the prisoners 1st Paydata Hoos=jamod Mooper, 2d Coonata Ahmad and 4th Poothoocody Mootha is sufficient to convict them of the crime of Murder in pro=secution of a Gang 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

said prisoners,

1st "Sayedata Koonjamood Moopen,"
2d "Coonata Ahmad," and
4th "Poothoocoody Mootha,"

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 prisoner,

3d "Parrakaneetel Chalenoorkaren, alias "Coroonally Coonju Calendan,"

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

The Court having maturely considered the proceedings held before the Judge in case No. 2 on the additional Calendar on Circuit the futwa of the Provincial Law officer, and the futwa of the acting Cazeecool Coozat and Mooftee of the Foujdaree Adaulut confirm the said futwa of the acting Cazeecool Coozat and Mooftee aforesaid and under the provisions of Clause first Section IV Regulation XV of 1806 adjudge the prisoner,

1st "Parrapooramen Baker"

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

The prisoner

5th "Poothoocoody Mootha"

having been sentenced in case No. 2 on the Calendar

Calendar to suffer death, judgment is not declared against him in this case.-

Read letter, dated 26th March, last from the 3d Judge late on Circuit in the Western Division,- submitting Case No. 30 South Malabar Calendar 2d Sessions A.D. 1821.-

/Here enter No. 227/

Read also letter dated 2d April last from the 3d Judge late on Circuit in the Western Division,- submitting Persian Record of the proceedings held in case No. 30 South Malabar Calendar 2d Sessions A.D. 1821.-

/Here enter No. 236/

Also read letter, dated 19th Instant, from the 3d Judge late on Circuit in the Western Division, Reporting the death of the 3d Prisoner in Case No. 30 South Malabar Calendar 2d Sessions A.D. 1821.-

/Here enter No. 372/

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 Cazeecool Coozat and Mooftee of the Foujdaree Adaulut are of opinion that the proof against the prisoners 1st 2d 4th 5th 6th 7th 8th 9th 10th 11th 12th 13th 14th 15th & 16th is sufficient to convict them the crime of Gang robbery, for which a penalty is specially denounced in Clause third Section IV Regulation XV of 1803.-

The

29th June 1822.

The Court under the authority vested in them by Clause first Section II Regulation I of 1818, and in consideration of the notorious bad character of the prisoners, accordingly adjudge the said prisoners,

1st Poollian Pera Candil Comapppen,
2d Teean Poodicoota Shangaren,
4th Aorota Coonjalen,
5th Lay Kilatta Sheally
6th Poylingul Ally Coatty,
7th Killiangul Ramen,
8th Coiangotoo Mothy,
9th Poodhoocoody Narcar
10th Palla Canna Mamoo,
11th Tarawattatta Caoy,
12th Pallacannil Coonjy Raen,
13th Chettiany poilla Coyten
14th Wengally Leady,
15th Platta Coatty Amoo, &
16th Wangally Coattialy

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 and during the period of their natural lives respectively.

The prisoner
17th Poothoocoody Mootah,
having been sentenced in Case No 2 on the Calendar to suffer death judgment is not declared against him in this case.

/Sent following letter No 171/

Asst 2d Judge.

20.

F. C.

29th June 1822.

Read return dated 24th Instant from the Criminal Judge in the Zilla of Nellore to precept dated 18th Instant ordering repayment of the fines awarded against certain persons in his last Quarterly Report of prisoners.-

/Here enter No 374/

Read letter dated 24th Instant from the 2d Judge of the Court of Circuit in the Southern Division, Requesting the orders of the Court respecting the case referred to in Paragraph 55 of his late Circuit Report.-

/Here enter No 375/

Read return dated 25th Instant from the 1st Judge on Circuit in the Southern Division, to precept dated 6th Instant ordering communication to the Magistrate in the Zilla of Madura of the Courts orders relative to the irregularity of the Police Ameen in Case No 14 Madura Calendar 1st Sessions A D 1822.-

/Here enter No 376/

Read return dated 25th Instant from the 1st Judge of the Court of Circuit in the Western Division, to precept dated 13th Instant ordering communication to the Criminal Judge in the Zilla of Seringapatam of the Courts resolution relative to the Jail Delivery at that station.-

/Here enter No 377/

F. U.

At a Court of the Foujdaree Udalut

Present

Monday 1st July 1822 — Charles Harris Esqre. } Judges
H. S. Grome Esqre. }

Read letter, dated 13th May last
from the 2d Judge of the Court of Circuit in the
Southern Division, - submitting Case No. 17 B
Leichinopoly Calendar 2d Quarterly Sessions
A.D. 1822 -

C.H.
H.G.

/Here enter No. 308/

1 The prisoners in this case were charged with having put to death the deceased Doobramanien, by wounding him on the head and nape of the neck with a Munnetty; and stolen from him certain jewels. -

2 The record of proceedings held by the Police Ameen contains a declaration, taken from the deceased after the murderous attack upon him, when in a state, which in the opinion of the Court of Foujdaree Udalut must have induced apprehension of his approaching end. -

3 A declaration, delivered under these circumstances, is by the English Law admissible in evidence; and with reference to the circular orders of the Foujdaree Udalut, under date 15th April 1819, it should have been

1st July 1822

been proved on the trial.-

4 And the Court of Foujdaree Udalut, adverting to the clear and circumstantial detail of the transaction given in the declaration in question, which is supported with respect to such of the facts alleged as admitted of proof by the evidence of the witnesses for the prosecution, deem it proper to return the English translation of the record to the 2d Judge by precept, directing him to transmit the same together with the original declara=tion of the deceased, Soobramanien, to the Criminal Judge in the Zilla of Combaconum with instructions to call up before him the prisoners, Valyan and Aurayee, to cause the said declaration to be read aloud in their presence and to take examinations of the witnesses Thungamoottoo and Rungayen, whose names are subscribed thereto, as to its au=thenticity and the mode in which it was taken. The Criminal Judge should also be enjoined to hear any thing which the prisoners may have to offer regarding the said declaration and to permit them to put any questions they may choose to the subscribing witnesses, and to annex authenticated English translations of the additional proceedings to the Record, which the 2d Judge will retransmit with as little

delay

1st July 1822

delay as possible.-

5 The additional evidence hereby re=quired not being valid under the Mohummudan Law, a Persian translation thereof will not be required.-

Sent following precept No. 179/

Read letter dated 30th March last from the 3d Judge late on Circuit in the 4th Western Division; submitting case No. 50 South Malabar Calendar 2d Sessions A.D. 1822.-

Here enter No. 231/

The acting Cazee ool Coozat and Mooftee of the Foujdaree Udalut declare in the foregoing futwa that the prisoner, Lakedata Layatettil Koonjoony Kidava, is convicted on strong presumption of the crime of murder laid to his charge;- the Court therefore concur=ring 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 4th second futwa to what specific punishment the prisoner would have been liable under the Mohummudan Law if he had been con=victed by full legal evidence.-

Ordered, that Extract of these proceedings be translated and delivered to the acting Cazee ool Coozat and Mooftee of the 4th Foujdaree Udalut.-

Exd.

At a Court of the Tuijdaree Adalut.

Present.

Tuesday.-
2d July 1822.- Charles Harriot Esqre } Judges.
H. S. Graeme Esqre }

C. H.
H. S. G.

Read again letter dated 30th March last from the 3d Judge late on Circuit in the Western Division,- submitting case No. 50 South Malabar Calendar 2d Sessions A.D. 1821.-

(Here enter No. 231.)

Read the second futwa delivered in this case by the Acting Cazee ool Coozat and Mooftee of the Tuijdaree 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 Tuijdaree Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee aforesaid and under the sentence of Kissaas declared

declared in the futwa adjudge the prisoner,

"Tchedata Tayatattil Koongoony Kidawa" to suffer death by being hanged at the usual time and place of execution.—

Sent F.

(Sent following letter No 180)

Read Letter, dated 28th May last, from the late Acting Third Judge on Circuit in the Centre Division,— submitting case No 1 Chingleput Calendar 2d Sessions A.D. 1821—

(Here enter No 333)

The Judges of the Court of Foujdaree Udalut concurring in opinion that the proof against the prisoners, 1st Neelacunta Battan, and 2d Narainen, is sufficient to convict them of the crime of Arson described under clause second Section II Regulation I of 1818 that the acting Cazee ool Coozat and Mooftee 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 above crime.—

Ordered, that extract of these proceedings

proceedings be translated and delivered to the Acting Cazee ool Coozat and Mooftee of the Foujdaree Adalut.—

W C

At a Court of the Zoujdaree Adalut.

Present,

Thursday 4th July 1822. Charles Harris Esqre. } Judges.
H.S. Grame Esqre. }

Cr. 1st. 1822 May last from the late Acting 3d Judge on Circuit in the Centre Division, - submitting case No. 9 Chinglepat Calendar 2d Sessions A.D. 1821.-

(Here enter No. 333.)

Read the second futwa delivered in this case by the Acting Cazee ool Coozat 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 Officer and the futwa of the Acting Cazee ool Coozat and Mooftee of the Zoujdaree Adalut confirm the said futwa of the Acting Cazee ool Coozat and Mooftee aforesaid and under the provisions of Clause third Section VII Regulation XV of 1803 adjudge

10th July 1822. such cases obviates the necessity of any further legislative enactment on this Subject.-

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 Honourable the Governor in Council.-

1822/Sent 12th. (Sent following letter No. 184.)

Ordered, also that Extract of these proceedings be sent to the 1st Judge late on Circuit in the Southern Division for his information.-

Sent 12th. (Sent following letter No. 185.)

W

At a Court of the Foujdaree Adalut.

Present,

Thursday. 11th July 1822. George Stratton Esqre Chief Judge.
H. S. Greame Esqre — Puisne Judge.

GW
HSG

Read letter, dated 8th April last from the 3d Judge late on Circuit in the Western Division,- submitting cases No. 54 on the Calendar and No. 2 Supplemental South Malabar Calendar 2d Sessions A.D. 1821.-

(Here enter No. 239)

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 prisoners, 1st Vellaycoat alias Calleattodyil Mukaven Corukaven, 2d Mukaven Vellaycoat Choya, 3d Vellaycoat Mukaven Carman, and 5th Vellaycoat Mukaven Cootten, is sufficient to convict them of having put to death Cootten, the brother of the prosecutor, Mukaven Janikal Koopien Navitan, desire under clause second Section II Regulation I. of 1818 that the Cazee Mooltee Cozat and Mooftees of the Foujdaree

11 July 1822

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 above crime.—

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

H. H.

7. 11.

At a Court of the Toydaree Adalut.

Present,

Friday. 12th July 1822. George Stratton Esqre Chief Judge
H. S. Grame Esqre — Puisne Judge.

Read again letter, dated 8th April last, from the 2d Judge late on Circuit in the Western Division,— submitting cases № 54 on the Calendar and № 2 Supplemental South Malabar Calendar 2d Sessions A.D. 1821.—

(Here enter № 239.)

GW

HHG

Read the second futwa delivered in this case by the Cazee-ool-Coozat and Mooftee of the Toydaree 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 Mooftee of the Toydaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftee aforesaid and under the sentence of Corraa but declared

in

in the Zillas adjudge the prisoners,
1st Wellaycoat alias Cattattoyil Mukavan Cobalo
2d Mukavan Wellaycoat Chayes,"
3d Wellaycoat Mukavan Cormen," and
5th Wellaycoat Mukavan Cortten,
to be severally 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 and during the period
of their natural lives respectively.-

(Sent following letter No 386)

Read return, dated 1st Instant, from
the 2d Judge of the Court of Circuit in the Southern
Division,- to precept dated 25th ultimo ordering
him to direct the release of 15 prisoners whom
he had directed to be brought to trials for
arson before the Court of Circuit.-

(Here enter No 385)

Read letter, dated 1st Instant, from
the acting 2d Judge late on Circuit in the Northern
Division,- reporting his arrival at Mahulipa-
-tam.-

(Here enter No 387)

Read

Read letter, dated 5th Instant, from
the Secretary to Government in the Judicial
Department,- stating that the Governor in
Council concurs in the observations submitted
by the Fajdaree Adalut upon the conduct
of Mr Webb 1st Judge of the Court of Circuit
Northern Division under date 17th ultimo.-

(Here enter No 390.)

Read return, dated 2d Instant,
from the 1st Judge of the Court of Circuit in
the Northern Division,- to precept dated
20th ultimo calling for records of proceedings
in cases Nos 11 and 21 Masulipatam Calendar
1st Quarterly Sessions A.D. 1822.-

(Here enter No 396.)

Read letter, dated 6th Instant,
from the 2d Judge on Circuit in the Southern
Division,- reporting his arrival at Comba-
-conum.-

(Here enter No 398.)

Read letter, dated 3d Instant,
from the 2d Judge on Circuit in the Western
Division,- reporting the completion of the
Jail Delivery for the Zilla of South
Malabar on 2d Instant.-

(Here enter No 399)

Read

12th July 1822.

Read letter, dated 2d Instant, from the 3d Judge Tatton Circuit in the Western Division,- reporting the death of prisoner No 10 in Case No 30 South Malabar Calendar 2d Sessions AD 1821.-

(Here enter No 401)

Read letter, dated 8th Instant, from the Criminal Judge in the Zilla of Nellore,- certifying the payment of a fine adjudged against a prisoner in his last Quarterly Report of prisoners as ordered by the Foujdaree Adalut in proceedings under date 18th Ultimo.-

(Here enter No 402.)

P. U.

At a Court of the Foujdaree Adalut

Present

Monday 15th July 1822 } Charles Harris Esqr. } Judges
H. S. Grame Esqr. }

C:H.

HHG

Read letter, dated 3d Instant, from the Criminal Judge in the Zilla of Chicacole, suggesting a conditional offer of pardon to 3 Cummums implicated in the forgery of certain fake accounts.-

(Here enter No. 403)

1 In consideration of the circumstances stated by the Criminal Judge, the Court of Foujdaree Adalut resolve to submit this application to Government, and to recommend that the Honorable the Governor in Council may be pleased to authorize an offer of pardon to Narrain Mohenty, Coroocallee Goonnoo, and Poore Mohenty 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 Honble the Governor in Council.

(sent the following Letter No 187)

HHG

23/sent 25th

At a Court of the Foujdaree Adalut.

Present,

Tuesday. 16th July 1822.— Charles Harris Esqre. } Judges.
H. S. Grame Esqre. }

C. H. Read letter, dated 20th April last,
HG from the 2d Judge of the Court of Circuit in
the Southern Division,— submitting case
No. 1 Trichinopoly Calendar 2d Quarterly
Sessions A.D. 1822.—

(Here enter No. 278)

The Court having maturely
considered the proceedings held before the
Judge on Circuit the futwa of the Provincial
Law Officers and the futwa of the Cazee ool
Coozat and Mooftee of the Foujdaree Adalut
confirm the said futwa of the Cazee ool
Coozat and Mooftee aforesaid and
acquitting the prisoner,

2d "Kistnien,"

direct that he be set at liberty.—

(Sent following letter No. 189)

The 2d prisoner in this case
was declared by the futwa of the Mohummedan
Law Officer to be convicted on strong presumption
of aiding and abetting in the commission

of

of a theft.-

2 The 2d Judge in his letter referring the trial observes, that at the 1st prisoner was acquitted, it was morally impossible that the second prisoner could be guilty of aiding and abetting him, and therefore he ought to be acquitted.-

3 The 2d Judge proceeds to intimate his doubt as to the propriety of the reference of this case, and of his omission to pass sentence of acquittal under the rules laid down in Clause sixth Section II. Regulation XV. of 1803; and solicits instructions on the point for his future guidance.-

4 The doubts of the 2d Judge have arisen from a misconstruction of the provisions contained in Clause sixth Section II, and Clause first Section VI Regulation XV of 1803.-

5 The provisions of the former Clause apply exclusively to cases, in which a prisoner may be declared by the futwa to be liable to punishment on suspicion not amounting to the degree of strong "presumption held sufficient for conviction," in such cases the Judge of Circuit is prohibited from directing the infliction

of

of any punishment, and may at his discretion order the prisoner to be released conditionally "whatever may be the futwa of the Law Officers."-

6 Clause third of the same Section prescribes the course to be pursued, where the evidence may by the futwa be declared "sufficient to convict the prisoner on strong presumptive "proof;" and the Judge may concur in the conviction.-

7. The 1st purport contained in Clause first Section VI. of the Regulation regarding cases wherein the Judge of Circuit may disapprove of the futwa and may have been expressly authorized by that or any other Regulation to pass sentence notwithstanding such futwa, "either for the punishment of the prisoner "or for his discharge," has reference first to the cases described in the preamble and quoted in Clause second Section III, wherein provisions of the Mohummedan Law "repugnant to "the principles of public and equal "justice" may oppose the punishment

of

of a prisoner, and secondly to the cases described in Clause sixth Section II, where punishment may be awarded on mere suspicion.- In both these cases the Judges of Circuit are by the provisions of Regulation XV of 1803 authorized to pass sentence notwithstanding the futwa.-

But with these two exceptions the provisions of Section XXII Regulation VII of 1802 hold good, whenever the Judge of Circuit may disapprove of the futwa, and the 2d Judge's reference of this trial was, therefore, necessary.-

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

(Sent forwarding letter No 190)

Read letter, dated 26th April last, from the 2d Judge of the Court of Circuit in the Southern Division,- submitting case No 13 Trichinopoly Calendar 2d Quarterly Sessions A.D. 1822.

(Here enter No 279)

The Judges of the Foujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them concurring in

16th July 1822.- in opinion that the proof against the prisoner, Aroonagree, is sufficient to convict him of having stolen the watch of the prosecutor, desire under clause second Section II Regulation I of 1818 that the Cazee ool Coozat and Mooftees of the Foujdaree Adalut will declare by a second Futwa to what sentence the prisoner would have been liable under the Mohummedan Law if he had been convicted by full legal evidence of the above crime.-

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

150

At a Court of the Foujdaree Adalut.

Present,

Wednesday 17th July 1822. Charles Harris Esqre. } Judges
H. S. Graeme Esqre. }

C.H. H.G.

Read again letter, dated 26th April last, from the 2d Judge of the Court of Circuit in the Southern Division, submitting case No. 3 Trichinopoly Calendar 2d Quarterly Sessions A.D. 1822.

(Here enter No. 279.)

Read the second futwa delivered in this case by the Cazee ool 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 Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the latitude given by the sentence of Cowrah declared in the futwa

adjudge

adjudge the prisoner,
"Aroonagree,"
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 to be released.

Last following letter No 191

1 In paragraphs 20, 21 and 22 of the
letter accompanying the trial the 2d Judge
alludes to certain provisions contained in
Section II Regulation XV of 1803, on which
the sentiments of the Foujdaree Adalut were
recorded in their proceedings under date
28th May last.

2 The only part of the 2d Judges'
letter, which appears to the Court to require
particular notice, is the observation made
by him in paragraph 23, that with
"reference to the provisions of Clause fifth
of the above Section" it appears dubious
"if a second future under the 3d and 4th
"Clauses declaring a prisoner liable to
"incur the punishment of Hud will authorize
"a sentence to the full extent of the second
"future."

3 The Court of Foujdaree Adalut
are

are surprized, that the 2d Judge should
have overlooked the marked distinction
which exists between the cases referred
to in Clause fifth, and those described in
Clauses third and fourth Section II
Regulation XV of 1803.—

4 Clause third refers to cases of
conviction on strong presumptive proof,
where sentence of Hud may be barred
by a special rule of evidence. Clause
fourth refers to cases also of conviction,
where such sentence may be barred
"by some special exception or scrupulous
"distinction not affecting the nature
and criminality of the offence, and evidently
"repugnant to the principles of equal
"justice." In both these cases a future
of Hud or Kissaas is required to be taken,
and sentence to be passed accordingly.

5 Clause fifth has reference
to cases, where the specific penalty of
Hud or Kissaas may be barred not by
any special rule of evidence, or frivolous
exception, or distinction, repugnant to
justice, but by "provisions of the
Mohummedan Law in consideration

of

17th June 1822

"of circumstances which alter the nature
"and diminish the criminality of the offence.-
In these cases a sentence equal to the
specific punishment is prohibited;
and a second futwa of Hud or Kissas
is not directed to be taken.-

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

(Sent following letter No 192)

Sent 19

150

F. 66.

At a Court of the Foujdaree Adalut

Thursday. 18th July, 1822. Present,

Charles Harris Esqre } Judges.
H. S. Graeme Esqre }

Read letter, dated 6th May last,
from the 2d Judge of the Court of Circuit
in the Northern Division,- submitting case
No 7 Rasulipatam Calendar 2d Quarterly
Sessions A.D. 1822.-

(Here enter No 299.)

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
Adalut confirm the said futwa of the
acting Cazee-ool-Coozat and Mooftee aforesaid
and under the sentence of Sayeer declared
in the futwa adjudge the prisoners,
1st "Shaikh Ebrahim," and
2d "Shaikh Dawood,"
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 to be released.-

(Sent following letter No 197)

Read

Read letter, dated 11th Instant, from the Criminal Judge in the Zilla of South Malabar, transmitting warrants of the 2d Judge of the Court of Circuit in the Western Division, for the banishment of six Convicts to any Zilla selected by the Foujdaree Adalut.-

(Here enter No. 414.)

The Court of Foujdaree Adalut direct that the prisoners,

1st "Moothanaparambil Koonhy Moidien"
2d "Koorillil Veeran Kootty,"
3d "Kalloopalla, alias, Arimbatodyil Unny Kutty,"
4th "Elloombilacherry Kunhalon,"
5th "Moolamkodey Choy," and
6th "Toombingel Kanaran,"

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

2 With reference to an Extract of the proceedings of the Foujdaree Adalut, dated 9th January last, the Court direct that the Criminal Judge in the Zilla of Chittore do from time to time report to the Court the state of health of the above-named six prisoners in order that they may be removed from that station, should the measure appear advisable on account of their health.-

Ordered,

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

(Sent following letters No 198)

20

W. A. Read return, dated 9th Instant, from the Provincial Court of Circuit in the Northern Division,- to precept dated 28th May last ordering communication to the Judges on Circuit of the Courts orders regarding the provisions of Section II. Regulation XV of 1803.-

(Here enter No 404)

Read letter, dated 11th Instant, from the 3d Judge on Circuit in the Centre Division,- reporting the arrival of the Court of Circuit at Cuddapah.-

(Here enter No 411)

Read letter, dated 12th Instant, from the 1st Judge of the Court of Circuit in the Centre Division,- reporting the commencement of the 2d Quarterly Sessions A.D. 1822.-

(Here enter No 413)

F. A. 10

At a Court of the Foujdaree Adalut

Present,

Monday. 22nd July 1822. Charles Harris Esqre } Judges
W. S. Grame Esqre }

C H
H G

Read letter, dated 24th Ultimo,
from the 2d Judge late on Circuit in the
Centre Division, submitting report prescribed
by Section XXXVII Regulation VII of 1802.-

(Here enter No 380)

In the 12th paragraph of the
report the 2d Judge states, that one of the cases
on the Bellary Calendar was postponed "and
"the Criminal Judge recommended to obtain the
"presence of the Amildar, before whom the
"confession of the prisoner was taken in the
"Talook, when the case comes on for trial
"again:"-

2. On reference to the Bellary
Calendar for the last Sessions the Court
observe, that the object of summoning
the Amildar before the Court of Circuit is
that he may "answer for the irregularity
"of his proceedings in the case."-

3. The Court of Foujdaree Adalut
direct, that the 2d Judge do revise the order

issued

issued by him to the Criminal Judge on this occasion, the only regular mode of noticing the irregularities of the Native officers of Police being by a communication to the Magistrate, and it being manifest the objection that the attendance of the Heads of Police should be required before the Court of Circuit, excepting where their evidence may be indispensably necessary.—

4. In the 27th Paragraph of the report the 2d Judge remarks, that the allowance of food to certain of the prisoners in the Jail at Chinglepat is considered by the Criminal Judge and by the Surgeon to be insufficient.—

5. The Court of Foujdaree Adaulut desire, that the Criminal Judge may be called upon for full information as to the grounds of the opinion ascribed to him in this part of the report of the 2d Judge,- accompanied by a distinct recommendation from the Medical officer of the station respecting the quantity of food requisite for the health of the particular prisoners referred to.—

On

6. On the arrangement suggested by the 2d Judge in paragraph 33 of the report the sentiments of the Court of Foujdaree Adaulut were submitted to Government in the 3d paragraph of their proceedings, dated 27th May last.—

7. The Court of Foujdaree Adaulut concur in opinion with the 2d Judge as to the propriety of affording to the prisoners detained on a requisition of security every facility for obtaining their release on the conditions required of them, and with a view to the adoption of such measures as may be requisite for this purpose desire that a report be furnished by the Criminal Judge in the Zillah of Bellary of the names and former places of abode, and dates of the apprehension and trial of the several prisoners, so detained in the Jail under his charge.—

8. Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Centre Division by precept enjoining him to make the necessary communications to the Criminal Judges in

in the Zillas of Bellary and Chingleput.-

sent 23d

(Sent following precept. No 199)

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 23d

(Sent following letter No 200)

Read letter, dated 9th Instant, from the 2d Judge on Circuit in the Southern Division, submitting copy of Combaconum Calendar 2d Sessions A.D. 1822.-

(Here enter No 422)

In cases Nos 1, 3, 4, and 8 of the Calendar it is stated, that the several prisoners were convicted upon free and voluntary confessions, previously delivered, and were declared liable to discretionary punishment, sentence of Death being barred owing to the prisoners denying their guilt before the Court of Circuit.-

2 The special exception by which sentence for the specific penalty is here declared to be barred, being manifestly of the nature described in Clause 2 Section II Regulation XV of 1803, the Law Officer should

F.R.

22d July 1822

should have been required to deliver a second futwa in each of the above cases, and sentence should have been passed accordingly.-

3. In case No 6 it is stated, that against the first prisoner a futwa was given of Zun-i-ghalib-i-doozdee; and he was sentenced under Cohoolut to 3 years imprisonment.-

4. Under the provisions of Clause third Section II Regulation XV of 1803 it was requisite, that a second futwa should have been demanded on the case of this prisoner.-

5. The Court of Foujdaree Adalut deem it necessary, therefore to direct that the 2d Judge do call upon the Mohummudan Law Officers to declare to what specific punishment the prisoners in cases Nos 1, 3, 4, and 8 would have been liable, had they not before the Court of Circuit retracted their former confessions, and to what specific penalty the 1st prisoner in case No 6 would have been liable, had he been convicted by full legal evidence.-

6. The 2d Judge, in revising the sentences passed by him in the several cases abovementioned, will be guided by

by the rule laid down in Clause fifth Section II Regulation XV of 1803, should the Law Officer in his second futwa in either of the cases in question declare the specific penalty to be remitted or mitigated by the "provisions of the Mohummudan Law "in consideration of circumstances "which alter and diminish the criminality "of the offence", and should it appear by the second futwa that no other bar exists to a sentence of Hud, than those declared in the original futwa, the 2d Judge will pass new sentences in conformity with the provisions of Section XXI Regulation VII of 1802.—

7. The cases here noticed evince to the Court of Foujdaree Adalut the expediency of directing the several Courts of Circuit to instruct their Law Officers in delivering their futwas under the provisions of Clause first Section II Regulation XV of 1803 invariably to specify all the grounds "on which a "prisoner is declared liable to discretionary "punishment", it being within the knowledge of the Court that the Mohummudan Law Officers deem it sufficient to assign one

of several grounds, which may exist in the same case in bar of a futwa of Hud, and the several provisions contained in Section II Regulation XV of 1803 requiring that a different course shall be pursued according to the nature of the provisions of Law which bar the specific penalty.

8. Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Southern Division by precept enjoining him to proceed in the manner above directed.—

(Sent following precept. No 201.)

Ordered also that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept enjoining them to communicate the same to the several Judges on Circuit for their information and guidance respectively.—

(Sent following precepts No 202)

R Ross

F. M.

At a Court of the Foujdaree Udalut.
Present,

Tuesday
23d July 1822.

Charles Harris Esqre
H. S. Graeme Esqre
} Judges.

Read again letter, dated 22d April last, from the 4th Judge of the Court of Circuit in the Centre Division, - submitting case No. 3 Chittore Calendar 2d Quarterly Sessions A.D. 1822.-

(Here enter No. 265.)

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 Hifsaas declared in the futwa adjudge the prisoner, "Syed Jamaul,"
to suffer death by being hanged at the usual time and place of execution.-

(Vide following letter No. 266.)

Read again a communication dated 1st March last, from the 2d Judge late

late on Circuit in the Western Division,
stating that he had been "prevented from
"sending up the prescribed report for the
"late Circuit within the time required in
"the precept from the Poudaree Court
"dated 14th (18th) February in consequence of
"the whole of his attention with the exception
"of the time devoted to the business of the
"Civil Courts having been given to the
"preparation of the referrible trials."-

(Here enter № 175)

Three months and 15 days having
elapsed since the 3d Judge's transmission
of the whole of the referrible trials of the
2d Sessions of 1821, the Court of Poudaree deem
deem it necessary to direct, that the 3d Judge
be by precept commanded immediately
to transmit the report prescribed by
Section XXXVII Regulation VII of 1802 with
an explanation of the grounds of his
extraordinary delay in conforming to
the exigence of the precept, dated 14th
February last.-

Precept returnable in two days
from and after it's receipt.-

(Sent following Precept № 207)

dated 24th

At a Court of the Poudaree Adaulut
Present,

Wednesday
24th July 1822. Charles Harris Esqre } Judges.
C H. H.S. Graeme Esqre }
HHG

Read letter, dated 14th May last,
from the 3d Judge of the Court of Circuit
in the Western Division,- submitting case
№ 6 North Malabar Calendar 2d Quarterly
Sessions A.D. 1822.-

(Here enter № 316.)

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
Poudaree Adaulut confirm the said futwa
of the acting Cazee ool Cozat and Mooftee
aforesaid and under the sentence of Regulation
declared in the futwa adjudge the prisoner,
"Pattanee Bapoo,"
to suffer death by being hanged at the
usual time and place of execution.-

(Sent following letter № 208)

Read letter, dated 27th May last,
from the 1st Judge on Circuit in the Southern
Division,- submitting case № 6 Tinnevelly
Calendar

Calendar 1st Sessions A.D 1822.-

(Here enter No. 357.)

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 Poojaree Adalut confirm the said futwa of the acting Cazee ool Coozat and Mooftee as aforesaid and acquitting the prisoners,

1st "Arnachellaparadasey,"
2d "Soobramaneaparadasey,"
3d "Kanjamalapillay," and
4th "Letchmanen,"

direct that they be set at liberty.-

Sent 26th

(Sent following letter No 209.)

W. M.

Read letter, dated 6th instant, from the late Acting Judge on Circuit in the Centre Division,- submitting case No 6 Chingleput Calendar 2d Sessions A.D. 1821.-

(Here enter No. 348.)

The Judges of the Poojaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner, Narain Pillay,

is sufficient to convict him of the offence with which he is charged, desire under under clause second Section II Regulation I of 1818 that the Cazee ool Coozat and Mooftees of the Poojaree 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.-

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

W. M.

At a Court of the Foujdaree Adalut

Present,

Thursday
25th July 1822. Charles Harris Esqre
H. S. Grame Esqre

Read letter dated 14th May last,
from the 2d Judge of the Court of Circuit
in the Northern Division, - submitting
case No 1 Masulipatam Supplamental
Calendar 2d Quarterly Sessions of 1822.-
(Here enter No. 313)

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 Mooftee aforesaid and
under the sentence of Kysas declared
in the futwa adjudge the prisoner,
Sookhala Serroofutlee,"
to suffer death by being hanged at
the usual time and place of execution
(Vide following letter No 219)

Read

25th July 1822

[illegible]

25th July 1822.

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 "Vellion", and
2d "Bodundun",

is sufficient to convict them of wounding the prosecutor with intent to put him to death, desire, under clause second section II Regulation I of 1818, that the Cazee ool Cozzat and Mooftees of the Foujdaree Adalut will declare by a second futwa to what sentence the prisoners would have been liable under the Mohummudan Law if they had been convicted by full legal evidence of the crime laid to their charge.

Ordered, that extract of these proceedings be translated and delivered to the Cazee ool Cozzat and Mooftees of the Foujdaree Adalut.

Read letter, dated 25th May last, from the 3d Judge of the Court of Circuit in the Western Division, transmitting trial

The

25th July 1822.

trial by North Malabar Calendar
2d Quarterly Sessions A.D. 1822.

(Here enter No. 538)

The acting Cazee cool Coozat and Mooftee of the Toujdaree Adalut declare in the foregoing futwa that the prisoner, Kurroongara Cunky Corty is convicted on strong presumption of the crime of Murder laid to his charge, the Court therefore, concurring in 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 Mohammudan Law if he had been convicted by full legal evidence.—

Ordered that extract of the proceedings be translated and delivered to the Cazee cool Coozat and Mooftee of the Toujdaree Adalut.—

~~Read a letter, dated 22d April last, from the 2d Judge on Circuit in the Centre Division, submitting case No. 6 of the Sessions A.D. 1822.~~

~~(Here enter No. 538)~~

The

2/

25th July 1822.

C.H.

H.H.

~~The Court proceeded to take into consideration the circumstances of the above case and the opinion declared by the Law Officers of this Court against the 1st prisoner Vajeedun, and after having recurred to the opinion formerly delivered by the Law Officers of this Court, dated the 22d September 1819, that the Court of Circuit should have no power to pass sentence of death upon any prisoner convicted of murder, but should in such cases refer the proceedings to the Nizamut Adalut for the confirmation of the sentence of death, and after having recurred to the Regulations, which declare that the Court of Circuit shall have the power of passing sentence of death in cases of murder, and that the Nizamut Adalut shall have the power of confirming or annulling such sentence, and after having recurred to the Regulations

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 Cazeecoot Coozat and Mooftees of the Poojdaree Adalut confirm the said futwa of the Cazeecoot Coozat and Mooftees aforesaid and under the sentence of Kohoobut declared in the futwa adjudge the prisoner,

Narain Pillay

to pay a fine to Government of 1100 Rupees commutable if not paid to one year's imprisonment with hard labor in irons on the public roads or other public works.

(Sent following letter No 214)

H. H.

At a Court of the Poojdaree Adalut.

Present,

Monday 29th July, 1822. — Charles Harris Esqre } Judges.
H. S. Graeme Esqre }

C H
H G

Read again letter dated 15th May last, from the 1st Judge on Circuit in the Southern Division, submitting case No 20 Tinnevelly Calendar 1st Sessions A.D. 1822.

(Here enter No 317.)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Poojdaree 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 Cazeecoot Coozat and Mooftees of the Poojdaree Adalut confirm the said futwa of the Cazeecoot Coozat and Mooftees aforesaid and under the latitude given by the sentence of Kohoobut declared in the futwa adjudge the prisoners,

1st Vellien," and
2d Codumdum,"

to be imprisoned and transported to such place

place or places beyond Sea as the Governor in Council shall appoint thereto 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 following letter No. 214)

Read again Letter dated 25th May last from the 3d Judge of the Court of Circuit in the Western Division,- transmitting trial No. 1 North Malabar 2d Quarterly Sessions A.D. 1822.-

(Here enter No. 338.-)

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 on 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 Hissa at declared in the futwa adjudge the prisoner,

"Kurroongara Cunhy Coty"

to suffer death by being hanged at the usual

usual time and place of execution.-

(Sent following letter No. 215.)

The

At a Court of the Zuijdaree Adalut

Present,

Tuesday
30th July, 1822. Charles Harris Esqre
R.S. Graeme Esqre } Judges.

Read letter, dated 25th April last,
from the 1st Judge on Circuit in the Southern
Division,- submitting case No 13 Madura Calendar
1st Sessions A.D. 1822.-

(Here enter No 281.)

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 Zuijdaree
Adalut confirm the said futwa of the acting
Cazee ool Coozat and Mooftee aforesaid
and under the provisions of Clause sixth
Section II Regulation XV of 1803 direct that
the prisoners,

1st Naroynen,"
2d Curpunen Amblagaren and
3d Mootoo Curpen,"

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

Sent following letter No 216.)

The

30th July 1822.

The Court of Foujdaree Adalut, adverting to the inconsistency between the testimony delivered by the first and sixth witnesses, who both represent themselves to have been eye witnesses of the murder of the deceased, & Nautchyamay, have been unable to follow the 2d Judge in his conclusion, that the prisoners are convicted, but under the circumstances of strong suspicion existing against them, the Court have directed that they shall not be released without security.

2 The evidence of Raumen, the sixth witness, to whom the tender of a conditional pardon had been authorized by Government under the provisions of Section XX Regulation VIII of 1802, not being corroborated by that of the other eye witness of the transaction, in the important particular of the number of persons concerned, must be rejected as invalid, but as the Court have no means of establishing against him that reserve, with regard to facts within his knowledge, which would justify their withholding a confirmation of the pardon tendered to him, they direct that the certificate specified in Section XX Regulation VIII of 1802 in confirmation of

Foujdaree Adalut

L S

Southern Division

Certificate of pardon to Raumen

Whereas under date the 11th January last the Honorable the Governor in Council was pleased on the recommendation of the Court of Foujdaree Adalut to authorize the Criminal Judge in the Zilla of Madura to tender an offer of pardon to Raumen on condition of his making an unreserved disclosure of every circumstance within his knowledge relative to a case of Murder in which he was concerned implicated, And whereas it appears from the record of the case N 13. Madura Calendar 1st Sessions A.D. 1822 referred to the Court of Foujdaree Adalut that the conditions of the said grant of pardon have been fulfilled —

Now these are to certify and declare that in consideration thereof the Court of Foujdaree Adalut have been pleased under the provisions of Section XX Regulation VIII of 1802 to confirm the pardon conditionally tendered as

ordering him to revise the order passed for

transmitted
of Madura
to the
Faras
of these
Judge late
sion
N217/
of these
Judge
directing
oner
certificate
N218/
Instant,
the
arrival
4th Instant,
in the
22d Instant,

as aforesaid to the said Rammen as far as regards the
acts herein before referred to — And the Court do hereby
confirm the said pardon accordingly. —

Given under my hand and the seal of the
Court this 30th day of July in the year of Our Lord
1822. —

By Order of the Court of Foujdaree Udalut

/ Signed / W. Hubbeston

Deputy Registrar

30th July 1822.

of such conditional pardon be transmitted to the Criminal Judge in the Zilla of Madura for the purpose of being delivered to the said Raumen for his security as far as regards the act referred to.—

Ordered, that extract of these proceedings be sent to the 1st Judge late on Circuit in the Southern Division for his information.—

(Sent following letter № 217.)

Ordered also that extract of these proceedings be sent to the Criminal Judge in the Zilla of Madura by precept directing him to call before him the prisoner Raumen and to deliver to him the certificate of pardon abovementioned.—

(Sent following Precept № 218/ 20

W. H. Read letter, dated 13th Instant, from the 1st Judge on Circuit in the Western Division,— reporting his arrival at Mangalore.—

(Here enter № 421)

Read return, dated 20th Instant, from the 2d Judge late on Circuit in the Centre Division,— to precept dated 22d Instant, ordering him to revise the order passed for

30th July 1822.

for the attendance of the Tahsildar on the ensuing trial of a case postponed at the late Sessions of Bellary and to communicate to the Criminal Judges of Bellary and Chingleput the Courts orders on certain parts of his late Circuit report.-

(Here enter № 461.)

At a Court of the Foujdaree Adalut.

Present

Thursday 1st August 1822. Charles Harris Esqre. } Judges.
H.S. Graeme Esqre. }

Read letter, dated 1st May last, from the 2d Judge on Circuit in the Centre Division, submitting case № 12 Chingleput Calendar 1st Sessions A.D. 1822.

(Here enter № 295.)

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, Paryanum, is sufficient to convict him of the crime of wilful murder, desire under clause second Section II Regulation I of 1818 that the Cazee ool Cozat and Mooftees of the Foujdaree Adalut will declare by a second futwa to what sentence the prisoner 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

1st August 1822.

delivered to the Cayeeool Coozat and
Mooftees of the Poydaree Adalut.-

W.H.

No. 11.

At a Court of the Poydaree Adalut.-

Present,

Friday
2d August, 1822.- Charles Harris Esqre } Judges.
H.S. Graeme Esqre }

C. Harris.
H.G.-

Read again letter, dated 1st May last, from the 2d Judge on Circuit in the Centre Division,- submitting case No 12 Chinglepet Calendar 1st Sessions A.D. 1822.-

(Here enter No 295)

Read the second futwa delivered in this case by the Cayeeool Coozat and Mooftees of the Poydaree 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 Cayeeool Coozat and Mooftees of the Poydaree Adalut confirm the said futwa of the Cayeeool Coozat and Mooftees aforesaid and under the sentence of Kifsaas declared in the futwa adjudge the prisoner,

"Pareyanum,"

to suffer death by being hanged at the

the usual time and place of execution.-

/Sent following letter No220/

W.H.

J. A.

At a Court of the Foujdaree Adaulut.

Present.

Thursday 8th August 1822.- Charles Harris Esqre. } Judges.
H. S. Graeme Esqre.

Read return, dated 2d Instant, from the 2d Judge late on Circuit in the Southern Division,- to precept dated 1st Ultimo ordering him to transmit the English translation of case No 17 stickinghy Calendar 2d Quarterly Sessions A.D. 1822 to the Criminal Judge in the Zilla of Combaconum together with the original declaration of the deceased Soobramanien, with instructions "to call up before him the "prisoners Valyan and Auroyee, to cause "the said declaration to be read aloud in "their presence, and to take examinations of "the witnesses Thungamoottoo and Rungayan, "whose names are subscribed thereto as to "its authenticity and the mode in which "it was taken."-

/Here enter No 467/

In the foregoing return the 2d Judge stated, that the Criminal Judge "has reported that he has not "been

"been able to procure the attendance of the
"aforenamed persons, who have quitted their
"places of Residence and it is not known
"where they are gone to;" and the 2d Judge
proceeds to remark that as the said two
witnesses have already been examined
before the Court of Circuit, he "conceives
"that the absence of these persons is not
"of any material consequence, as the
"evidence already given by them comprizes
"almost all, if not altogether the entire
"knowledge they possess of the circumstances
"connected with the case."-

2. The 2d Judge further reports the decease of the prisoner "Auroyee."-

3. The orders of the Court of Tanjore Adalut under date 1st Ultimo required, that "a declaration taken from
"the deceased after the murderous attack
"upon him, when in a state, which in
"the opinion of the Court of Tanjore Adalut
"must have induced apprehension of his
"approaching end," should be read aloud
in the presence of the prisoners and
proved, it being as was observed by
the Court admissible evidence.-

It

4. It does not appear by the return of the 2d Judge, that the Criminal Judge has acted under the instructions issued by the Court, either in causing the declaration to be read in the presence of the prisoners or in obtaining evidence to its authenticity.-

5. The Court of Tanjore Adalut, therefore, continuing to be of opinion that it is of the importance to the issue of this trial, that the declaration in question should be proved, direct that the English Translation of the trial No. 17 Trichinopoly Calendar 2d Quarterly Sessions A.D. 1822 be sent to the Provincial Court of Circuit in the Southern Division with extract of the Courts proceedings under date 1st Ultimo, and extract of these proceedings; and that they be by precept commanded to retransmit the same to the Criminal Judge in the Zilla of Combaconum in order that he may proceed with respect to the surviving prisoner Valyan, as directed in the orders of the Tanjore Adalut dated 1st Ultimo; the Court seeing no reason to suppose, that

8th August 1822.

that the attendance of the witnesses Thungamaottoo and Rungayen cannot be procured.—

19th. (Sent following precept No 2214.

Read letter, dated 20th Ultimo, from the Magistrate in the Zilla of Bellary transmitting for the orders of the Sudder Adalut a letter addressed by him to the Provincial Court of Circuit in the Centre Division together with copy of the order passed by that Court thereupon.—

(Here enter No 435.)

1 In his letter to the Provincial Court of Circuit the Magistrate referred for their consideration and eventual reference to the Sudder Adalut copy of his correspondence with the Criminal Judge in the Zilla of Bellary, regarding a case of fraud on the customs disposed of by the Assistant Criminal Judge, and the Court of Circuit, considering the Magistrate's interference to be altogether irregular, declined to forward his address to the Court of Sudder Adalut.—

2 The Court of Sudder Adalut entirely concur in the sentiments recorded by the Court of Circuit in their proceedings, dated 26th June last, upon the reference of the Magistrate, and would consider it

F. U.
8th August 1822

sufficient to point the Magistrate's attention to the instructions therein communicated for his guidance, but that he appears to have given to the provisions of Section VIII Regulation V of 1821 an erroneous interpretation, which they deem it proper immediately to correct.—

3 In his letter to the Criminal Judge, dated 6th May last, the Magistrate observes, that this Section "deprives the "Criminal Court in districts in which the "Customs are vested of the power which "they elsewhere possess to try and decide "cases of fraud on the customs:"— and in his address to the Court of Sudder Adalut the Magistrate states, that he "appealed "against the Criminal Court continuing to "exercise jurisdiction over frauds in the "customs, where their jurisdiction in that "respect had been specially transferred "altogether to the Magistrate in vested "districts."—

4 Section XLIV Regulation IX of 1816 declared that such parts of Section XXI Regulation I of 1812, as refer to the Magistrate, should be "applicable to the Criminal Judge of the "Zilla only."—

By

8th August 1822

5 By Section VIII Regulation V of 1821 it is enacted, that "in districts in "which the customs are rented, the powers "vested in Magistrates by Section XXI Regu= "=lation I of 1812, and declared in Section "XLIV Regulation IX of 1816 to be exercisable "only by the Criminal Judges, shall be "considered vested in the Magistrates".-

6 For the construction of a new law, differing from, or modifying a former law, the general rule is, that where the provisions "are both affirmative and "the substance such that both may "stand together," the latter enactment does not repeal the former; but they both have a concurrent efficacy.-

7 Applying this principle to the construction of Section VIII Regu= =lation V of 1821, the Court of Foujdaree Udalut are of opinion, that the Jurisdiction of the Criminal Judges in the cases therein described is not taken away, but that the Magistrates and Criminal Judges have a concurrent jurisdiction, which could have been limited to the former officers only by the express exclusion of other jurisdiction in terms similar to those adopted

8th August 1822. adopted in Section XLIV Regulation IX of 1816, respecting the Criminal Judge.-

8 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 & the Magistrate in the Zilla of Bellary for their information and future guidance respectively.-

(Sent following precept No. 225)

Ent 10th

Read return, dated 20th ultimo, from the Provincial Court in the Centre Division,- to precept dated 2nd ultimo ordering communication to the Judge on Circuit of the Court's orders relative to future of discretionary punishment.-

(Here enter No. 452.)

Read letter, dated 31st ultimo, from the 1st Judge of the Court of Circuit in the Centre Division,- with returned warrant for execution of prisoner in case No 19 Chittore Calendar 2d Quarterly Sessions AD 1822.-

(Here enter No. 455.)

Read return, dated 31st ultimo, from the 2d Judge on Circuit in the Southern Division

8th August 1822

Division,- to precept dated 22d Ultimo ordering revision of the sentences passed in certain cases in the Combaconum Calendar 2d Sessions A.D. 1822.-

(Here enter № 459)

Read return, dated 30th Ultimo, from the Provincial Court of Circuit in the Western Division,- to precept dated 22d Ultimo ordering communication to the Judge on Circuit of the Courts' orders relative to futwas of discretionary punishment.-

(Here enter № 462)

Read return, dated 1st Instant, from the 2d Judge late on Circuit in the Western Division,- to precept dated 28th Ultimo ordering transmission of reports prescribed by Section XXXVII Regulation VII of 1802.-

(Here enter № 466.)

F. C.

At a Court of the Foujdaree Adalut.

Present,

Tuesday, 15th August, 1822.- Charles Harris Esqre. } Judges.
H. S. Grame Esqre. }

C H
R G

Read letter, dated 9th Instant, from the Secretary to Government in the Judicial Department,- stating that the Governor in Council authorized the tender of a conditional pardon to Narrain Mahanty Coroocalloo Goonnoo and Pooroo Mahanty, recommended under date 15th Ultimo.-

(Here enter № 480)

Ordered, that copy of the foregoing letter be sent, with extract from the Courts' proceedings of the 15th Ultimo, for the information and guidance of the Criminal Judge in the Zilla of Chicacole.-

A. 15th

(Sent following letter № 236)

The Report prescribed by Section XXXV Regulation X of 1816 not having been received from the Zillas of Chittoor and Cuddapa for the last quarter.-

Ordered, that the Criminal

13th August 1822.

Judges of the Zillas of Chittoor and Cuddapa be by precept commanded to send up the Report without further delay and to explain the circumstances that may have occurred to it's having been dispatched in conformity with the provisions of Section XXXV Regulation X of 1816.—

Return to the precept to be made within five days from the date of it's receipt.

(Vide following precepts № 237.)

Read return, dated 2d Instant, from the Provincial Court of Circuit in the Northern Division,— to precept dated 22d Ultimo ordering communication to the Judge on Circuit of the Court's orders relative to future of discretionary punishment.—

(Here enter № 473)

Read return, dated 6th Instant, from the Criminal Judge in the Zilla of Madura,— to precept dated 30th Ultimo ordering delivery of certificate of pardon to Raaman under the provisions of Section XX Regulation VIII of 1802.—

(Here enter № 483.)

13th August 1822.

Read letter, dated 6th Instant, from the 3d Judge of the Court of Circuit in the Western Division,— with returned warrant for execution of 2 prisoners in case № 6 North Malabar Calendar 2d Quarterly Sessions A.D. 1822.—

(Here enter № 488.)

F. U.

At a Court of the Foujdaree Adaulut.

Present,

Wednesday, 14th August, 1822. Charles Harris Esqre
H. S. Graeme Esqre } Judges.

Read letter dated 23d April last from the 2d Judge on Circuit in the Western Division, submitting case No 34 Canara Calendar for Sessions A.D. 1822.

(Hereunto No 276.)

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 1st prisoner, Syed Madar, is sufficient to convict him of having put to death the deceased Syed Hussain, desire, under clause second Section II Regulation I of 1818, that the Cazee ool Cozzat and Mooftees of the Foujdaree Adaulut will declare by a second futwa to what sentence the 1st 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 Cozzat and Mooftees of the Foujdaree Adaulut.—

F. R.

15th August 1822.

Rule prescribed by 1816, exhibiting Warrant

At a Court of the Foujdaree Adawlut

Present,

Thursday 15th August 1822.- Charles Harris Esqre. / H.S. Graime Esqre.

C # R & L

Read letter, dated 8th Instant, from the Criminal Judge in the Zilla of North Malabar,- transmitting warrant issued by the 3d Judge presiding at the 3d Quarterly Sessions of 1822 for the banishment of a convict being first selected by the Foujdaree Adawlut.-

(Here enter № 491.)

1 The Court of Foujdaree Adawlut direct that the prisoner,

"Vengalaven Ramen",

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

2. With reference to an Extract of the proceedings of the Foujdaree Adawlut dated 9th January last, the Court direct that the Criminal Judge in the Zilla of Chittore do from time to time report to the Court the state of health of the abovenamed prisoner in order that he

may

may be removed from that station, should the measure appear advisable on account of his health.-

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

/sent following letters №240/

Read letter, dated 2d Instant, from the 2d Judge of the Court of Circuit in the Southern Division,- reporting on the Sail Dalliay at Combaconum 2d Sessions 1822.- №468/

/Here enter №468/

With reference to the observations of the 2d Judge in the second paragraph of the report regarding the distribution of the subordinate officers, specially appointed by the Magistrate in the Zilla of Combaconum under the provisions of Section III Regulation IV of 1821, the Court of Foujdaree Adawlut deem it necessary only to observe, that the general provisions of the enactments of 1816 vest the Magistrates with a discretionary authority as to the distribution of the servants belonging to their establishments, which is not affected by the latter enactments.

In the 4th paragraph of the report the 2d Judge suggests the addition of a column to the report prescribed by Section XXX Regulation IX of 1816, exhibiting the number of cases, in which the persons apprehended may have been concerned.-

15th August 1822.

The Court of Foujdaree Adawlut, being of opinion that this addition to the form of report prescribed in №9 of the Appendix to Regulation IX of 1816 will be useful, deem it proper to direct that it be generally adopted.-

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 №241/

Ordered also, that extract of these proceedings be sent to the 4 Provincial Courts of Circuit by precept enjoining them to communicate the same to the several Magistrates within their respective jurisdictions.-

/sent following precept №242/

Read letter dated 31st Ultimo, from the 3d Judge late on Circuit in the Western Division, submitting report prescribed by Section XXXVII Regulation VII of 1802.-

/Here enter №475/

In the 10th paragraph of the report the 3d Judge "adverting to the serious evils

"evils which must ensue from the premature
"commitment of persons charged with heinous
"offences, and also to the time that would be
"saved if Criminal Judges would only bring
"before the Courts of Circuit those cases wherein
"the evidence is such as, supposing it to re-
=main uncontradicted, would warrant a
"verdict of conviction," recommends "that the
"Court of Foujdaree Udalut should issue their
"orders to that effect; and that in like manner
"the Magistrates be instructed not to send up
"prisoners to the Criminal Judge, and to exercise
"a similar discretion in respect to persons
"apprehended for heinous offences by their
"Police officers in cases, where there was no
"chance, however satisfied they might be in
"their own minds of the guilt of such persons
"of the charge being brought ultimately home
"against them".-

2 Clause third Section IX Regu-
=lation X of 1816 declares, that in cases where
"the crime or misdemeanor be not punishable
"by the Criminal Judge if it shall appear
"that it was actually committed and that
"there is evidence of the prisoner having been
"concerned in the perpetration of it," the
Judge shall commit or hold him to bail
to take his trial before the Court of Circuit.

3 It is the manifest duty of the
Criminal Judge under the provisions of this
section

section to go into a full investigation of all criminal
charges brought before him, and to obtain all the
evidence of which each case may be susceptible. The
commitment of a prisoner for trial upon an insuffi-
=cient investigation, or before measures have been
taken to obtain the best procurable evidence against
him, must always operate injuriously.-

4 Since the enactment of the provision
contained in clause first Section IX Regulation II
of 1822 the commitment of prisoners for trial,
against whom adequate proofs for conviction may
not be obtained, on the ground of strong suspicion,
has ceased to be necessary. And the attention of the
Criminal Judges should be called to those provisions
whenever it may appear to the Judge of Circuit,
that they have been overlooked in the prisoner's
commitment.

5 The recommendation of the 3d Judge,
that the Magistrates should be interdicted from
sending up prisoners to the Criminal Judge, all they
satisfied in their own minds of their guilt, stands
opposed to the express provision of clause second
Section XXIV Regulation IX of 1816. And the la-
=bored and minute investigation, required in
many cases to determine as to the probability of
ultimate conviction, is clearly not intended to be
imposed on the Magistrates.-

6 The control proposed to be exer-
=cised by those officers over the proceedings of the
Heads of Police in heinous cases would require the
reference of all such cases to the Magistrates, an
arrangement at variance with the provisions of
clause fourth Section XXVII Regulation XI of

15th August 1822

but the Court are of opinion that the Regulations should make it discretional with the Magistrate specially to direct any particular case, or under general instructions to direct all cases of a particular nature to be referred to them previously to being sent to the Criminal Judge. This they think would be useful as well to prevent any being sent unnecessarily to the Criminal Judge as to add to the efficacy of the Police System.

7th In the 3th paragraph the 2d Judge states it to be notorious, "that a number of crimes "are suffered to go unpunished the perpetrators whereof "must be well known to the Police or to the Head men "of the villages;" and that "nothing is more common "in the trials before the Criminal Courts than to find "the prisoners had been old offenders, though never "brought before a public tribunal." This the 2d Judge proceeds to remark is no doubt "owing to various "causes, and chiefly the distance and other inconveniences "which at present attend the search after Justice."

8 For the disinclination of private individuals to prosecute or appear against offenders the cause here assigned by the 2d Judge is sufficient to account. It is a cause which has been assigned by several other respectable authorities and so long as it operates must deprive the exertions of the Police officers of a great portion of their efficacy. The Court of Fouzdaree Adaulut are of opinion that the Judges on Circuit should be required to suggest from time to time such measures as may appear calculated to remove or diminish it.

9 In the 3d paragraph of the Report the 2d Judge notices the prevalence in the province of

15th August 1822.

of Canara of the abominable custom of preferring "from motives of revenge, unfounded accusations of "murder" - which adverting to the malignancy of its nature and object, and to its possible consequences appears to him "to call loudly for the interference "of the legislative authority."

10 The sentiments of the 2d Judge on this subject are considered by the Court of Fouzdaree Adaulut to be highly deserving the attention of the Government. Upon the principles of natural justice the attempt to take away the life of an innocent person by perjury should be visited by punishment at least equal to that of any other murderous enterprise. By the common law of England such an attempt, if successful, was punishable as murder, and it appears to the Court of Fouzdaree Adaulut, that the suborner and immediate instrument of such a false accusation should be liable in all cases to a sentence of transportation for life.

11 In paragraph 3½ the 3d Judge urges the importance of a rigorous enforcement of the hard labor, to which convicts are sentenced, which appears to have been neglected by the Criminal Judge in the Zilla of Canara.

12 The Court of Fouzdaree Adaulut entirely concur with the 3d Judge in the importance which he attaches to this branch of the duty confided to the Criminal Judges. Hard labor on the public roads is specifically directed in the sentences of the Courts of Circuit and Fouzdaree Adaulut, and the Court have always been of opinion that the employment

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employment of convicts on any other than public works when labor of that description can be found for them, is irregular and improper. The returns which were made by the several Criminal Judges to a circular precept of the Foujdaree Adaulut on this subject, dated 2th April 1820, shewed that irregularity of this description was not prevalent, and the Court consider it to be the duty of the Judges of Circuit to notice every instance of its occurrence.-

13 In paragraph 36 of the report the 3d Judge, adverting to the increasing business of the Court of Circuit suggests the permanent alteration of the order of succession, prescribed by Section IV Regulation IV of 1817, for the delivery of the Gails in the Western Division.-

14 As the Court of Foujdaree Adaulut are vested with authority to sanction a deviation from the fixed order of succession "upon a report "of any particular circumstances that may render "such deviation necessary," it does not appear requisite to alter the provisions of the above section, in order to effect the object of the 3d Judge's suggestion.

15 In the 39th paragraph of the Report the 3d Judge brings to notice a practice which has been adopted by the Criminal Judge of Beerbhoom of employing in hard labor on the roads persons, under commitment for trial before the Court of Circuit.-

16 The necessary orders have been issued by

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by the 3d Judge for the discontinuance of this practice but the Court of Foujdaree Adaulut cannot refrain from the expression of their surprize and concern, that the Criminal Judge should have lost sight of the fundamental principle in judicial administration, which opposes the punishment of an accused person before his conviction.-

17 The extraordinary proceedings of the Criminal Judge in the case noticed in the 41st paragraph of the Report will, the Court conclude, have received the correction of the Provincial Court of Circuit.- The Court of Foujdaree Adaulut direct, that a copy of the orders of the Court of Circuit on the 3d Judge's reference may be furnished for their information.-

18 In the 43d paragraph of the Report the 3d Judge suggests, that the Judges of Circuit should be authorized "to make particular enquiry "into the behaviour of convicts who are under sentence "of a limited Imprisonment, in view to the abridgment "of the terms of Imprisonments of those who have been "diligent and orderly and given proofs of amendment "and reformation, after having undergone the "greater portion of their sentence".-

19 Section X Regulation XIV of 1816 in the Code of the Supreme Government contains provisions for the remission of the further punishment of convicts in consideration of uniform good behaviour, industry, or meritorious conduct, in preventing the escape of other prisoners, or rendering any other public service.-

The

The Court of Foujdarie Oodalut are of opinion, that the provisions here referred to might be introduced with advantage into a future Regulation. In the mean time the Court will always be ready to receive and commend to the favorable consideration of the Government any judicious suggestions, which may be offered by the Judges of Circuit and the Criminal Judges, in vicw to the mitigation or remission of the adjudicated punishment in particular cases.-

21 In paragraph 53 the 3d Judge regards to a subject discussed by him in former Reports, the pernicious effects produced by the Kulwicharum "Assemblies," who determine on matters of Caste.-

22 The sentiments of the Governor in Council upon this subject having been communicated to the Court of Foujdarie Oodalut in a letter from the Secretary to Government in the Judicial Department, under date 5th October last, the Court do not deem it proper to go into a consideration of the sentiments reiterated by the 3d Judge in this part of the report.

23 In paragraph 68 the 3d Judge states a difference of opinion to prevail in regard to the applicability of the provisions contained in Section XVII Regulation IX of 1816 to the cases of persons, charged with offences not bailable.-

24 To the Court of Foujdarie Oodalut it appears manifest, that Section XVII must be construed in connection with Sections XV and XVI, the process to be observed for the apprehension of persons

persons charged with offences not bailable being distinctly prescribed in Sections XII and XXI of the Regulation. But according to the beneficial effects reported by the 3d Judge to have attended the application of the provisions of Section XVIII to the cases described in Section XII Regulation IX of 1816, the Court of Foujdarie Oodalut deem it proper to suggest the enactment of a declaratory provision, enabling the Magistrates to proceed in the mode prescribed in the former Section on all occasions, wherein public offenders may elude the process of the Laws.-

25 In paragraph 69 the 3d Judge recommends, that the whole of the religious teachers in Malabar should "be required to take out Summuds of appointment according to the provisions of Regulation III of 1808, and that the Zillah "Judges be directed to institute the most rigid "scrutiny into the character and conduct of the "Canjees and their subordinate officers, so that none "but those whose characters are unexceptionable, "and such as to qualify them for the discharge "of the sacred duties of their office, should "be furnished with Summuds of appointment."-

26 The Court of Foujdarie Oodalut concur entirely with the 3d Judge as to the expediency of the measure here recommended with regard to the Canjals of Malabar, and are of opinion, that any measure of a like nature calculated to induce a direct communication between them and the public officers of the Government

Government would have a beneficial tendency.
With respect to the Cauzees and their subordinate
officers the provisions of Clause second Section IV
Regulation V of 1811 are considered by the Court of S.
Foujdaree Adalut to impose upon the lower Courts
the duty of reporting to the Sudr Adalut every instance
of conduct on their part, such as is charged upon
the Cauzees in the province of Malabar by the 3d Judge
And they direct that the attention of the Zilla
Judges in the Western Division be pointedly &
attracted to this subject.-

27 In the 80th paragraph of the Report
the 3d Judge propounds a question regarding the
provisions of the Mohummudan Law in cases of
fraud and breach of trust on the part of Native
officers employed in the administration of the
public Revenues.-

28 In the particular case cited by
the 3d Judge his proceedings on which were submitted
to the Foujdaree Adalut, the Court saw no reason
to question the soundness of the Futwa or the propriety
of the order passed thereupon.-

29 Fraud and breach of Trust, whether
committed by officers of revenue or other persons
are unquestionably punishable under the Mohum-
=medan Law: and the provisions of the general
Regulations respecting cases, for which discretionary
punishment is adjudged by the Futwa are therefore
applicable to such cases.-

30 The Court of Foujdaree Adalut have taken an opinion from the
Mohummedan

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Law officers on the point discussed
by the 3d Judge in this part of the report, from &
which it appears, that when public money &
entrusted to an officer may be appropriated
by him to his own use but be made good
previously to any demand or prosecution no &
penalty is incurred, and that in such cases
restitution is all that the Law requires.-

31 The Court observe, that Bengal
Regulation II of 1813 was enacted for the &
purpose of preventing native officers from &
making use of public money entrusted to &
their care; and it appears to the Court that
the provisions therein enacted for the punishment
of this act, as a misdemeanor, might be ad-
=vantageously incorporated into the Code of &
this Government.-

32 The remarks of the 3d Judge in the
87th and following paragraphs of the Report
sufficiently demonstrate the incorrectness of the
reports furnished by the Magistrate of Malabar
in form No 9 of the Appendix to Regulation IX
of 1816. And the Court of Foujdaree Adalut &
direct that a communication of those observations
be made to the Magistrate, and that he be
enjoined to use every endeavour to render the
returns as correct as possible in future.-

33d The Court of Foujdaree Adalut &
entirely concur in opinion with the 3d Judge as
to

to the great utility of the report proposed by him in the 91st paragraph to be required from the Magistrates and their subordinate officers, and are further of opinion that it is highly desirable, that a report should at each Sessions be furnished by the Magistrates on the general state of Police, "explaining the causes supposed or real of any "striking difference in the comparative number of "offences, accompanied by such suggestions as from "their experience may to them appear to be proper;" as was recommended by the 2nd Judge of the Court of Circuit in the Western Division in his report dated 31st July, submitted to Government under date 28th October, 1819.-

34 Should this suggestion receive the concurrence of the Honorable the Governor in Council, the Court will be prepared to circulate the requisite instructions to the Magistrates.-

35 Paragraph 92 of the report contains a proposition for modifying the provisions of Regulation I of 1822 by vesting in the Provincial Court of Circuit collectively the power of adjudging the punishment of transportation for life.-

36 In this part of his report the 3d Judge adverts to a suggestion, offered in his report dated 13th September 1820, that authority should be given to the Provincial Court of Circuit collectively to overrule the futwa of the Mohummudan Law officer on charges for which on conviction a Court "of

"of Circuit is competent to pass sentence,"-

37 The important modification of the existing Law, which is now recommended by the 3d Judge is essentially different from that proposed in his former Report. The power of adjudicating perpetual imprisonment hitherto been limited to the Highest Court of Criminal Jurisdiction, and in the opinion of the Court of Foujdaree Adaulut should continue to be so. The Court are fully aware of the labour incidental to the preparation of referible trials, the number of which in the early stages of the operation of Regulation I of 1822 is likely to be considerably augmented; but it may reasonably be expected that this effect of the provisions of the Regulation will eventually be counteracted by the diminution in the number of cases of Gang robbery, consequent upon the enforcement of its enhanced penalties.-

38 The Regulation recently passed for extending the powers of the Criminal Judges will reduce the general business of the Courts of Circuit; and in view to diminishing the number of referible trials the Court of Foujdaree Adaulut beg leave to recommend the rescindment of the provision, contained in section XXV Regulation VII of 1802, which prescribes a reference to the Foujdaree Adaulut in all cases, wherein the evidence may be declared "incompetent by the Mohummudan Law, solely on the ground of the persons "giving such evidence not professing the Mohummudan

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= an Religion."

39

The provision of the above Section, which interdicts the Courts of Circuit from passing sentence in such cases, was probably adopted on the principle of restricting as far as possible the necessary modifications of the Mohummudan Law of evidence. The Court of Foujdaree Adalut are of opinion, that the continuance of this provision is no longer desirable; and that the rule contained in clause third Section II Regulation XV of 1803 for cases of conviction on strong presumption may with advantage be applied to the cases, described in Section XXV Regulation VII of 1802, namely, that the Judge of Circuit shall pass sentence according to the Hanafi Futwa, commuting the punishment, if any Regulation require it, and referring the trial, only in the event of the offence being of a description not punishable by the Court of Circuit under the provisions of the general Regulations.—

40

Towards the conclusion of the 92d paragraph of the Report the 3d Judge reverts to a suggestion contained in his former Report, that persons who have been robbed should be reimbursed their losses from the property of those by whom they have been plundered.—

41

The Court of Foujdaree Adalut have reason to believe, that the measure here recommended is already under the consideration of the Government.

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It may be remarked, that the recent enactment prescribing the punishment of Transportation for life in all cases of Gang robbery will effectually deprive persons, who may be hereafter convicted of this crime, of the chance of succeeding to the ultimate enjoyment of wealth acquired by plunder after undergoing the penalties of the Law.

42

With respect to the 3d Judge's suggestion in the 93d paragraph, "that the restitution "of stolen property or its value should be made "one of the conditions of the Bail Bond entered "into for notorious offenders who may be convicted "of any fresh crime after their restoration to liberty" the Court of Foujdaree Adalut have to remark, that its adoption would in all probability render it impossible for such persons to furnish security as few persons would venture to incur an undefined responsibility.—

43

The remarks of the third Judge in this paragraph regarding the village police in Malabar appear highly deserving of the attention of the Honorable the Governor in Council.—

44

In paragraph 94 the 3d Judge notices a case, in which a blacksmith of Calicut was fined 50 rupees by the Magistrate "for "repairing two muskets for the Havildar of the "peons of the Zilla Court of South Malabar," and quotes

quotes a passage from the Magistrates' return to the precept issued by the 3d Judge on the occasion, in which the authority of the Court of Circuit to annul a sentence passed by the Magistrate in any case which he is empowered to hear and determine, is denied.-

45. The Court of Foujdaree Adalut in paragraph 26 of their proceedings, dated 4th April last, on a reference from the 2d Judge on Circuit in the Western Division, have pointed out the course, which they consider proper to be pursued by a Judge of Circuit on petitions against the orders of a Magistrate.-

46 In the particular case referred to the Magistrate would appear to have infringed the provisions of Section XXXIX Regulation IX of 1816 by attaching the property of the Blacksmith in satisfaction of the fine assessed.

The Court of Foujdaree Adalut concur in the whole of the observations recorded by the 3d Judge respecting the impolicy of discouraging the inhabitants from keeping arms for their defence. Any measure of this tendency adopted by the Magistrate was inconsistent with the intention of the Legislature, as declared in Section XLIX Regulation XI of 1816; and it would appear that the Magistrate has recently received instructions from Government on the subject, to which it will of course be his duty to give full effect.-

In

47 In furtherance of the intentions of the Honorable the Governor in Council notified in a letter from the Secretary to Government in the Judicial Department dated 5th October last, that provisions should be framed for the punishment of forcible proselytism to the Mohummudan religion, the Court of Foujdaree Adalut desired the 3d Judge to propose such enactments as might appear to him most proper for the attainment of the end in view.-

48 The Court cannot withhold their acquiescence in the observations offered by the 3d Judge in the present report on this subject, as applied to the cases of adults; but they are of opinion that the induction of Hindoo Infants into the Mopla community by forcibly subjecting them to the ceremonies observed on the admission of a proselyte, might be declared a misdemeanor punishable at the discretion of the Courts of Circuit under the authority vested in those Courts by Clause Seventh Section II Regulation XV of 1803, in cases liable to discretionary punishments.-

49 With reference to the subject discussed by the 3d Judge in paragraph 96 of the report the Court of Foujdaree Adalut are of opinion, that the decision of the Provincial Court of Circuit, declarative of the invalidity of a proclamation of Government for the establishment of

of a monopoly of Timber in Malabar and Canara, was perfectly correct.-

50 Under the provisions of Section II Regulation I of 1802 such a monopoly can be established only by a Regulation; and the Court agree in opinion with the 2d Judge, that in framing any Legislative enactment for this purpose precautions will be requisite to prevent the subversion or infringement of the indefeasible rights of individuals in the Forests of those provinces.-

51 The remarks of the 2d Judge regarding the treatment of convicts afford matter for consideration.-

52 It appears from the concluding paragraph of the Report, that the delay of six months which has occurred in the transmission of the 2d Judges' able report on the 2d Sessions of the last year has arisen from his having awaited the final sentences of the Court of Foujdaree Adalut upon all the trials referred.

53 In their orders of 4th April 1821 the Court directed that detailed notices should be given in the Report furnished under the provisions of Section XXXVIII Regulation VII of 1802 of any cases exhibiting striking traits of national character, or the effects of national opinions and usages.- As however a report of the final issue of trials referred is not requisite in

order to the attainment of the object of those orders, and the delay with which it must often be attended would protract the dispatch of the Report for many months, the Court do not consider the additional information thereby afforded sufficiently important to warrant a departure from the rule hitherto observed, that the report should be sent up as soon as possible after the return of the Judge from each Circuit.-

54 Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Eastern Division for his information.- (Sent following letter No. 243.)

55 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. 244.)

No 34/1826.

Read letter dated 23d April last from the 2d Judge on Circuit in the Western Division,- Submitting Case No. 34 Canara Calendar 1st Sessions No. D. 1822.- (Here enter No. 276)

Read the second Putwa delivered in this Case by the Cazee-ool-Cozat and Mooftees of the Foujdaree Adalut.-

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

15th August 1822. Futwa of the Cazee-ool- Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool- Coozat and Mooftees aforesaid, and under the sentence of Hifsaas declared against the prisoner

1st "Syed Masar"

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 XX of 1803 direct that the prisoner

2d "Syed Ally"

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

/ Sent following letter No. 245. /

Ex. Mk.

U.K.

Read letter, dated 12th Instant, from the 3d Judge on Circuit in the Southern Division, reporting his arrival at Salem.-

(Here enter No. 492.)

Read letter, dated 9th Instant, from the 2d Judge late on Circuit in the Centre Division, transmitting report of prisoners confined at Bellari on a requisition of security.-

(Here enter No. 484.)

At a Court of Foujdaree Udalut

Present

Monday 19th August 1822

Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

C H.
U K

Read letter, dated 10th Instant, from the Criminal Judge in the Zilla of South Malabar transmitting copy of a warrant issued by the 2d Judge late on Circuit in the Western Division for the banishment of a convict to any Zillah selected by the Foujdaree Udalut.-

/ Here enter No. 493 /

1 The Court of Foujdaree Udalut direct that the Prisoner

"Manakamchery Uney Moyee alias Cunky Moyee

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

2 With reference to an Extract of the proceedings of the Foujdaree Udalut dated 9th January last, the Court direct that the Criminal Judge in the Zilla of Chittore do from time to time report to the Court the state of health of the abovenamed prisoner in order that he may be removed from that station, should the

19th August 1822. the measure appear advisable on account of his health.-

3 Ordered, that Extract of these Proceedings be sent to the Criminal Judge in the Zilla of South Malabar and to the Criminal Judge of Chittore for the information and guiddance of those officers respectively.-

sent 22. (Sent following letters No. 245.)

1116 Read letter, dated 10th instant, from the 3d Judge of the Court of Circuit in the Western Division,- with returned warrant for execution of prisoner in case No 7 North Malabar Calendar 2d Quarterly Sessions A.D. 1822.-

(Here enter No 495)

Read letter dated 12th instant, from the 2d Judge of the Court of Circuit in the Northern Division,- with returned warrant for execution of the prisoner in case No. 1 Masulipatam Supplemental Calendar 2d Quarterly Sessions A.D. 1822.

(Here enter No 496.)

Read letter, dated 12th Instant, from the 1st Judge on Circuit in the Western Division reporting his having resumed the duties of the Circuit.-

(Here enter No. 498.)

Read letter, dated 9th Instant, from the 2d Judge late on Circuit in the Western Division

19th August 1822. Division,- with copy of South Malabar Calendar 1st Sessions A.D. 1822.-

(Here enter No 499)

Read letter, dated 9th Instant, from the 3d Judge of the Court of Circuit in the Western Division,- with copy of North Malabar Calendar 3d Quarterly Sessions A.D. 1822.-

(Here enter No 500)

At a Court of the Huzdarey Adalut

Present

Monday } Charles Harris Esq.re Puisne Judge
26th August 1822 } George Gowan Esq.re Acting Judge

Read letter dated 22d Ultimo from the 1st Judge of the Court of Circuit in the Centre Division,- submitting Case No. 13 Chittoor Calendar 3d Quarterly Sessions A.D 1822.-

Here enter No. 429/

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-a-al-Coozat and Mooftees of the Huzdarey Adalut confirm the said futwa of Cazee-a-al-Coozat and Mooftees aforesaid and under the sentence of Hufsaas declared in the futwa adjudge the prisoner,

Sheikh Hameed,

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

Sent following letter No. 250

Read letter, dated 14th June last from the Acting 2d Judge on Circuit in the Northern Division,- submitting Case No. 20 Chicacole

26th August 1822. Chicacole Calendar 1st Sessions AD 1822.-

(Here enter No. 371)

1 The Court having maturely con-
=sidered the proceedings held before the Judge on
Circuit the Futwa of the Provincial Law officer
and the Futwa of the Cazee-cole Cozat and
Mooftees of the Foujdaree Adalat are of opinion
that the proof against the prisoner Condra Hollado
=doo 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.-

2 The Court therefore under the
authority vested in them by Clause first Section II
Regulation I of 1818 and in exercise of the
discretion given by clause fifth Section IV
Regulation XV of 1803 adjudge the said prisoner

Condra Hollado

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 labour in irons on the public roads
or other public works for and during the
period of his natural life.-

(Sent following letter No. 251)

W. R.

Sent 29th

20

5 A

At a Court of the Foujdaree Adalut.

Present,

Thursday.-
29th August 1822. Charles Harris, Esqre. Puisne Judge

George Gowan, Esqre. Acting Judge.-

C. H. W. G.

Read again letter, dated 15th June last from the Acting 3d Judge late on Circuit in the Northern Division,- with Copy of Chicacole Calendar 1st & 2d Sessions A.D. 1822.-

(Here enter No. 370.)

1 The record of the proceedings held by the Acting 3d Judge in case No. 15 Chicacole Calendar, which according to the remarks entered in the foregoing Calendar is to be referred to the Foujdaree Adalut, not having been received,-

The Court direct, that the acting
2. Judge late on Circuit in the Northern Division do by precept commanded to send up the Record of the proceedings held by him in the case aforesaid within ten days from the date of the receipt of the precept.-

(Sent following precept No. 252)

W. R.

20

Read

Read return dated 17th Instant from the Criminal Judge in the Zilla of Chittoor to precept of the 13th Instant - calling for report prescribed by Section XXXV Regulation X of 1816.-

/Here enter No. 503/

Read letter dated 16th Instant from the acting Judge on Circuit in the Northern Division Reporting his arrival at Nellore-

/Here enter No. 504/

Read letter dated 19th Instant from the 1st Judge of the Court of Circuit in the 4th Northern Division,- With returned warrant for execution of certain prisoners in Case No. 29 Masulipatam Calendar 1st Quarterly Sessions A.D. 1822.

/Here enter No. 505/

Read letter dated 20th Instant from the 2d Judge late on Circuit in the Centre Division,- With returned warrant for execution of a prisoner in Case No. 12 Chingleput Calendar 1st Sessions A.D. 1822.-

/Here enter No. 506/

Read return dated 12th Instant, from the Provincial Court of Circuit in the Centre Division to precept dated 8th Instant ordering them to communicate to the Criminal Judge and the Magistrate in the Zilla of Bellary the Court's orders on a reference by the latter officer respecting a case of fraud on the customs.-

/Here enter No. 511/

Read return, dated 22d Instant, from the acting Criminal Judge in the Zilla

29th August 1822. Zilla of Cuddapah,- to precept dated 13th Instant calling for report prescribed by Section XXXV Regulation X of 1816.-

/Here enter No. 510/

At a Court of the Foujdaree Udalut.

Present

Friday - 30th August 1822 } George Stratton Esqr. Chief Judge
Charles Harris Esqr. Puisne Judge.

Read letter, dated 19th June last from the late Acting Judge on Circuit in the Northern Division - Submitting case No. 8 Bellore Calendar 1st Sessions A.D. 1822 -

Here enter No. 3951

The late Acting Judge in his letter accompanying the foregoing trial, after reviewing the evidence adduced against the prisoners, concludes with the exception of his scruples as to its adequacy for capital punishment -

2 Clause first section XLI Regulation VII of 1802 prescribes that the letter of a Judge of Circuit accompanying a trial referred to the Court of Foujdaree Udalut shall contain his opinion on the evidence and on the guilt or innocence of the prisoners -

3 The Court of Foujdaree Udalut deem it to be the indispensible duty of a Judge of Circuit strictly to conform to the above provision on the reference of trials for their final judgments; and in their orders on several recents occasions the Court have urged upon the Judges of Circuit the peremptory obligation imposed upon

30th August 1822.

upon them of recording on these occasions a distinct and decisive opinion on the merits of the case.

4 Not only is a distinct report of the impression, produced by the evidence on the mind of the Judge personally holding the trial, of essential use in assisting the judgment of the Court of Foujdaree Udalut, but it is manifestly necessary that the Judge of Circuit should make up his mind on the result of each trial, in order that in cases of acquittal by the Futwa of the Mohummudan Law Officer, the prisoners may have the benefit of his concurrence in the verdict.

5 The Court of Foujdaree Udalut, considering the indecisive tone of the late acting Judge's letter referring the above case, to be extremely unsatisfactory, and deeming it proper to enforce the observance of the provisions of the Regulations on this subject, direct that the English translation of the record of case No. 8 Chittoor Calendar first Sessions AD 1822 be returned to the late Acting Judge by precept, enjoining him to retransmit the same with a brief and distinct opinion, as to the guilt or innocence of each and every of the prisoners.

Precept returnable in 5 days from and after its receipt.

Sent following Precept No. 256.

1534

25.

F. 11.

At a Court of the Foujdaree Udalut

Present,

Thursday, 5th September, 1822.

Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

Read letter, dated 29th Ultimo, from the 1st Judge of the Court of Circuit in the Centre Division, - submitting Copy of Chittoor Calendar 3d Quarterly Sessions A.D. 1822.-

(Here enter No. 533.)

1 In case No 1 it is stated that the prisoner was convicted, and declared liable to discretionary punishment, sentence of death being barred "owing to his having denied the "charge before the Court of Circuit."-

2 The special exception, by which sentence for the specific penalty is here declared to be barred being manifestly of the nature described in Clause fourth Section II Regulation XV of 1803, the Law officer should have been required to deliver a second futwa, and sentence should have been passed accordingly.-

3 Referring to a note by the Criminal Judge on case No 4 the Court of Foujdaree Udalut desire, that it may be intimated to that officer that a sentence of

of absolute imprisonment for 12 months exceeded the power vested in him by Section VII Regulation X of 1816.-

4 In case No 17 it is stated that the prisoner under a future of Bud was sentenced to 14 years imprisonment.-

5 The provisions of Section XXI. Regulation VII of 1802 require, that the Sentence under this future should in cases not capital be 7, or 14 years imprisonment.-

6 In case No 24 it is stated that the prisoner was declared liable to discretionary punishment, "the penalty of Bud being barred as the property was not secured in a place of safety;"- in this case a second future was required and the prisoner was sentenced under Bud to 7 years imprisonment and hard labor

7. The Court of Foujdaree Adawlut consider, that the defect of custody is a circumstance altering and diminishing the criminality of the offence of robbery, and that therefore the requisition of a second future, and the sentence to the prescribed penalty were at variance with the provisions contained in Clause fifth Section II Regulation XV of 1803.-

8. The Court of Foujdaree Adawlut deem

deem it proper, therefore, to direct that the 1st Judge do call upon the Law officer to declare to what specific punishment the prisoner in case No 1 would have been liable if he had not put in the plea of not guilty on his trial- and do revise the Sentences passed by him in cases Nos 5 and 24 with reference to the foregoing observations.-

Ordered that extract of these proceedings be sent to the 1st Judge of the Court of Circuit in the Centre Division by precept enjoining him to proceed in the manner above directed and to communicate the remark contained in para 3 of these proceedings to the Criminal Judge in the Zilla of Chittoor for his information and future guidance.-

(Sent following precept No 261)

Read letter, dated 21st Ultimo, from the 2d Judge late on Circuit in the Western Division,- submitting case No 12 South Malabar Calendar 1st Sessions A.D. 1822.-

(Here enter No 528.)

Read letter, dated 28th Ultimo, from the 2d Judge late on Circuit in the Western Division,- reporting the death

of

5th September 1822.

of the prisoner in case No 12 South Malabar Calendar 4th Sessions A.D. 1822.—

(Here enter No 537.)

Read return, dated 28th Ultimo, from the Provincial Court of Circuit in the Centre Division,— to precept dated 15th Instant, ordering communication to the several Magistrates of the Court's orders that a Column be added to the report prescribed by Section XXX Regulation IX of 1816 shewing the cases in which the persons apprehended were concerned.—

(Here enter No 532.)

Read return, dated 30th Ultimo, from the Provincial Court of Circuit in the Northern Division,— to precept dated 15th Ultimo ordering communication to the several Magistrates of the Court's orders that a Column be added to the report prescribed by Section XXX Regulation IX of 1816 shewing the cases in which the persons apprehended were concerned.—

(Here enter No 534.)

Read letter, dated 2d Instant, from the 1st Judge of the Court of Circuit in the Centre Division,— with returned warrant for execution of prisoner in case No 13 Chittore

2/ F.M. Chittore Calendar 3d Quarterly Sessions A.D.
5th September 1822 1822.—

(Here enter No 536.)

Read return, dated 28th Ultimo, from the Provincial Court of Circuit in the Western Division,— to precept dated 15th Ultimo ordering communication to the Magistrates of the Court's order regarding an additional Column to the report prescribed by Section XXX Regulation IX of 1816.—

(Here enter No 538.)

F. U.

At a Court of the Foujdaree Adalut
Present

Monday 9th September 1822 } Charles Harris Esqr. Senior Judge
George Gowan Esqr. Acting Judge -

Read letter, dated 20th Ultimo,
from the 3d Judge on Circuit in the Southern
Division, transmitting the proceedings held by
him on the case of an insane prisoner -

C #
U/L

/ Here enter No. 317 /

The evidence taken by the 3d Judge,
agreeably to the circular order of the Foujdaree
Adalut under date 29th October 1821, goes to
prove the insanity of the prisoner Manien, and
has the corroboration of an opinion delivered
by the Zilla Surgeon in reply to a letter
addressed to him by the 3d Judge -

2 The circular orders of the Foujdaree
Adalut, dated 21st February last, directed that
the Criminal Judges should place under the
charge of the Medical officer of the station
all prisoners brought before them on Criminal
charges, who might appear from evidence etc.
to be of unsound mind. -

3 As it does not appear from
the letter of Mr. Assistant Surgeon Richmond
appended to the foregoing proceedings, that
the

9th September 1822.

prisoner had been previously placed under his charge the Court of Tanjadore Ahatut do direct, that the attention of the Acting Criminal Judge in the Zilla of Salem be called to their orders of 21st February last on this subject; and that the prisoner be placed under charge of the Medical officer in view to his eventual transmission to the Lunatic Hospital at the Presidency.-

4 Ordered, that extract of these proceedings be sent to the 3d Judge on Circuit in the Southern Division by precept enjoining him to make the necessary communication to the Criminal Judge in the Zilla of Salem for his information and guidance.-

Sent 11th

(sent following Precept No. 263)

Read letter dated 27th Ultimo, from the 2d Judge late on Circuit in the Western Division, submitting english translations of the proceedings held by the Court of Circuit in case No. 18 South Malabar Calendar 1st Sessions A.D. 1822.-

(Here enter No. 527)

1 From the evidence taken before the Court of Circuit in the foregoing case it appear that the prisoner "Kuniamgattoo Koonhally" charged with severely wounding the prosecutor with a bill hook is subject to occasional

Lent 15th

9th September 1822.

occasional fits of insanity, and from the circumstances attending the transaction which led to his commitment for trial there appears every reason to believe, that he wounded the prosecutor while in a state of mental alienation.-

2 The Court of Tanjadore Ahatut deem it proper, therefore, to direct that the aforesaid prisoner be placed under the charge of the Medical officer of the Zilla station in view to his being eventually sent to the Lunatic Hospital at the Presidency, should the Surgeon not consider him a fit subject for the Lunatic Hospital, the Court direct that his opinion on the prisoner's case may be furnished for their information and final orders.-

3 Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Western Division by precept enjoining him to make the necessary communication to the Criminal Judge in the Zilla of South Malabar.-

(sent the following Precept No. 264)

Lent 15th

EMK

WM

At a Court of the Foujdaree Udalut.-
Present,

Tuesday, 17th September, 1822.- Charles Harris Esqre. Puisne Judge.
George Gowan Esqre. Acting Judge.

Read letter, dated 3d Instant,
C#. 44 from the acting Judge on Circuit in the Northern Division,- submitting copy of Nellore Calendar 2d Sessions A.D. 1822.-

(Here enter No. 543.)

1 In case No. 3 it is stated, that "the Futwah declared Goomaun to attach "to the prisoner;" and he was sentenced under Tadeek to one year's imprisonment.-

2 Clause sixth Section II Regula=tion XV of 1803 declares, that no punishment whatever shall be inflicted on suspicion only; and it will, therefore, be apparent to the acting Judge that the sentence passed in the present case is not in conformity with the provisions of the Regulations, and that under the Futwa delivered by the Mohummedan Law Officer, it is competent only to the acting Judge, unless he shall see cause to disapprove the opinion declared in the futwa, to direct that the prisoner in question be released either conditionally

or

or unconditionally, as shall to him appear to be expedient.-

3 In case № 12 it is stated, that the 1st 2d and 3d prisoners were declared liable to Kohoobut; "but being barred by their denial of the charge".-

4 The special exception by which sentence for the specific penalty is here declared to be barred & being manifestly of the nature described in Clause fourth Section II. Regulation XV of 1803, it is requisite that the Law Officer should be called upon to declare by a second futwa to what specific punishment the prisoners would have been liable, had they not denied the charge on their trial.-

5 The same remark applies to case № 24.-

6 The Acting Judge, in revising the sentences passed by him in the ~~several~~ two cases ~~above~~ last mentioned, will be guided by the rule laid down in Clause fifth Section II Regulation XV of 1803, should the Law Officer in his second futwa in either of the cases in question, declare the specific penalty to be remitted or mitigated by "the provisions "of the Mohummedan Law in consideration "of circumstances, which alter and diminish "the criminality of the offence," and should it

appear by the second futwas that no other bar exists to a sentence of Kud, than those declared in the original futwas, the acting Judge, will pass new sentences in conformity with the provisions of Section XXI Regulation VII of 1802.-

7 The Court of Foujdaree Adalut desire to have before them copy and English translation of the futwa delivered in Case № 23. of the Calendar, wherein Kud was declared to be barred by reason of the confessions of the prisoners not being explicit, and by its not being ascertained which of them stole the property.-

8 In case № 2 on the Supplemental Calendar the prisoners, who were convicted of wilful and corrupt perjury are stated to have been sentenced to two years imprison=ment without labour or irons.-

Under the provisions of Clause 1st Section III Regulation VII of 1811 it was not competent to the acting Judge to pass sentence of less than four years imprisonment with hard labor on the prisoners in this case; and should he be of opinion that the punishment here specified is too severe, it will be his duty to refer the trial for the final adjudication of the Court of Foujdaree Adalut.-

ordered,

10th September 1822.

Ordered, that extract of these proceedings be sent to the Acting Judge on Circuit in the Northern Division by precept directing him to transmit copy and English translation of the futwa delivered in case No 8 and to proceed as above directed with respect to cases Nos 3, 12, and 24 of the Calendar and No 2 of the Supplemental Calendar.

Precept returnable within five days from and after its receipt.-

(Sent following precept No 265)

Read letter, dated 28th June last, from the late acting Judge on Circuit in the Centre Division,- submitting case No 5. Chingleput Calendar 2d Sessions A.D. 1821.-

(Here enter No 394)

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 "Ummunee," and

2d "Rungum,"

is sufficient to convict them of having committed the robbery with which they are charged, desire under Clause second Section II Regulation I of 1818 that the Cazee ool Cozat and Mooftees of the Foujdaree Adawlut will declare by a second futwa to what sentence the prisoners would have been liable

10th September 1822

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 Cazee ool Cozat and Mooftees of the Foujdaree Adawlut.-

Read letter, dated 1st July last, from the late acting Judge on Circuit in the Centre Division,- submitting case No 25. Chingleput Calendar 2d Sessions A.D. 1821.-

(Here enter No 395)

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 "Chockalingum," and

2d "Iyyah Catavaroyen,"

is sufficient to convict them of being concerned with the prisoners in case No 5 of the Calendar in the robbery of the prosecutor's house, desire, under Clause second Section II Regulation I of 1818, that the Cazee ool Cozat and Mooftees of the Foujdaree Adawlut will declare by a second futwa to what sentence the prisoners would have been liable

liable under the Mahummedan 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 Cazee of Coojat and Mooftee of the Fouzdaree Adawlut.-

H. M. Read letter, dated 31st ultimo, from the acting 3d Judge late on Circuit in the Northern Division,- submitting Abstracts of the Calendars laid before the Court of Circuit at the last Sessions for 1822 at Chicacole.-

(Here enter No 539.)

Read letter, dated 2d Instant, from the acting Judge on Circuit in the Northern Division,- reporting his intention to proceed to Chicacole Via Masulipatam on 5th Instant.-

(Here enter No 541.)

Read letter, dated 5th Instant, from the 3d Judge on Circuit in the Centre Division,- reporting his intention to proceed on the 10th Instant to Bellary.-

(Here enter No 542.)

Read return, dated 2d Instant, from the acting 3d Judge late on Circuit in the Northern Division,- to precept dated 29th Ultimo calling for the record of Proceedings held in case No 15 Chicacole Calendar for

Sessions A.D. 1822.-

(Here enter No 544)

Read letter, dated 3d Instant, from the 3d Judge of the Court of Circuit in the Western Division,- transmitting copy of the orders of the Provincial Court of Circuit and of papers connected with the case of a prisoner in the Jail at Seringapatam referred to in his late Circuit Report.-

(Here enter No 545)

At a Court of the Zoujdaree Adalut.

Present,

Thursday, 12th September, 1822.

Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge

Read again letter, dated 1st July last, from the late Acting Judge on Circuit in the Centre Division, submitting case No 5 Chinglepet Calendar 2d Sessions A.D. 1821.

(Here enter No 394)

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

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee ool Coozat and Mooftees of the Zoujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Sohoobut declared in the futwa adjudge the prisoners

1st "Ommunee," and

2d "Rungum,"

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

them to be released.-

(Sent following Letter No 269)

1 The Court of Foujdaree Adaulut have observed with great concern the conduct exhibited by the Police Officers of the Talook of Peria Pallam in the Zilla of Chingleput in the preliminary proceedings held in this case.-

2 For the recovery of the stolen property, alleged to be worth upwards of 10,000 rupees, no exertion whatever appears to have been made by these officers. The proceedings of Veeraragava Rajah, the Ameen, and Streenevasa Iyengar, the Sahukaar, were limited to taking declarations from the accused, to the utter neglect of any attempt to procure the evidence of persons acquainted with the circumstances of the case.-

3 It is moreover known by many of the witnesses called by the prisoners, that acts of torture were resorted to, for the purpose of extorting the declarations in question, at which Veeraragava Rajah, the Ameen, personally assisted.-

4 The dates assigned by the Head of Police to the prisoners' apprehensions, are also manifestly incorrect.-

5 The Court of Foujdaree Adaulut

have on many occasions urged upon the several Magistrates the necessity of checking by a vigorous superintendence the disposition of the native officers of police to substitute, for the discharge of the indispensible duty of searching for evidence and recovering stolen property, exertions to induce accused persons to confess the crimes charged against them.

6 The insertion in their reports of false dates of apprehension has also been pointedly denounced by the Court of Foujdaree Adaulut.-

7 In the present case the Court are of opinion, that the conduct of the police officers above named demands severe punishment; and with respect to the Ameen the Court deem it proper to direct, that an investigation into the allegations of the torture practised upon the prisoners may be instituted by the Magistrate, in view to his eventual trial and exemplary punish=ment.-

8 The Court of Foujdaree Adaulut, concurring in the propriety of the suggestion of the late acting Judge, that the Police officers in the Zilla of

12th September 1822

Tanjore should be directed to continue their efforts for the discovery of the stolen property, direct that the Magistrate of the Zilla of Combaconum be required to cause the conduct of the Pundarum Ramasamy, and of the families of the prisoners, Chockalingum and Iyyah Catavarayen, the former of whom are stated to reside at Nagattie and the latter at Malemaghanum in Teroongar Taluck, to be narrowly watched by the Police, in view to obtaining some clue to the discovery of the stolen property.-

Ordered, that extracts of this proceedings be sent to the late Acting Judge on Circuit in the Centre Division by precept enjoining him to make the necessary communication to the Magistrates in the Zillas of Chingleput and Combaconum for their information and guidance respectively.-

(Sent following Precepts Nos 270)

Read 7th Inst. Letter, dated 28th June last, from the late Acting Judge on Circuit in the Centre Division,- submitting Case No 15 Chingleput Calendar Sessions A.D. 1821.-

(Precepts No 303)

2/

F.H.

12th September 1822.

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Tinjavarce 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 Tinjavarce Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Cohoobut declared in the futwa adjudge the prisoners,

1st Chockalingum and

2d Iyyah Catavarayen,

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

(Sent following Precept No 271.

H.H.

F. C.

At a Court of the Foujdaree Adalut

Present,

Friday 13th September 1822 - Charles Harris Esqre Puisne Judge -
George Gowan Esqre Acting Judge -

C#
Ck

Read return, dated the 3d July last, from the 1st Judge late on Circuit in the Southern Division, - to precept dated 10th June last calling for record of proceedings held in case No 1 Sinnenelly Calendar 1st Sessions A.D. 1822. -

(Here enter No 361.)

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 prisoners in this case is sufficient to convict them of the offence laid to their charge, desire, under clause second Section II Regulation I of 1818 that the Cazeeool Coozat and Mooftees of the Foujdaree Adalut will declare by a second futwa to what sentence the prisoners would have been liable under the Mohummedan law if they had

13th September 1822.

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 Tongdaree Udalut.

W

At a Court of the Tongdaree Udalut.

Present,

Monday 16th September 1822. Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge

Read again return dated 3d July last from the 1st Judge late on Circuit in the Southern Division, — to precept dated 10th June last calling for record of proceedings held in case No. 11 Tinnevelly Calendar 1st Sessions A.D. 1822 — (Here enter No. 391.)

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

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftey of the Tongdaree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of

Po hoolut

C#
W

16th September 1822.

Cohorabut declared in the futwa adjudge the prisoners,

1st "Carottacannoo"
2d "Serookavyaloo,"
3d "Ashmanmoodasamy"
4th "Allagamootoo,"
5th "Lyemperumal"
6th "Moolooraikoo"
7th "Cundasamy"
8th "Mundasamy,"
9th "Soopadey,"
10th "Soobramanien,"
11th "Sarcan,"
12th "Mootooraikoo alias Mooty"
13th "Mundasamy,"
14th "Rammen,"
15th "Sudale Annoogum,"
16th "Mootoraikoo"
17th "Ramenperumal"
18th "Vencapum,"
19th "Sengaralingum," and
20th "Vennapum,"

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

(Sent following letter No 274)

Read letter, dated 15th July last from the 2d Judge late on Circuit in the Western Division, submitting case No 1 South Malabar Calendar 1st Sessions A.D. 1822.-

(Here enter No 436.)

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 prisoners,

1st "Vellat Todyil Candy Nair," and
2d "Caranata Ittirachen Nair,"

is sufficient to convict them of aiding and abetting in the murder aforesaid desire under clause second Section II. Regulation I of 1818 that the Cazee ool Coozat and Mooftees of the Zoujdaree 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 above crime.-

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

F. U.

At a Court of the Tovidaree Adawlut

Present

Tuesday 17th September 1822 } Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

Read again letter, dated 15th July last
from the 2d Judge late on Circuit in the Western
C.H. Division, submitting case No. 1 South Malabar
Lilt. Calendar 1st Sessions A.D. 1822.

/Here enter No. 436/

Read the second futwa delivered
in this case by the Cazee-ool-Cozat and Mooftees
of the Tovidaree 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 Cazee-ool-Cozat and Mooftees
of the Tovidaree Adawlut confirm the said futwa
of the Cazee-ool-Cozat and Mooftees aforesaid
and under the sentence of Ookoobah declared
in the futwa adjudge the prisoners.

1st Wallat Todyil Candy Nair and
2d Caranata Ittiradan Nair

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.

/Sent following letter No. 275.

Read

17th September 1822.

Read letter dated 29th July last from the 2d Judge late on Circuit in the Western Division submitting case No 13 South Malabar Calendar 1st Sessions A.D. 1822.—

Here enter No 476

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the provisions of Clause second Section II Regulation XV of 1803 adjudge the prisoner

Cooroodan Kollatingael Mahomed Hanikel

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 and during the period of his natural life—

And acquitting the prisoner,

Tandan Valiaparakel Pungan alias Changaran Kootty

direct that he be set at liberty—

(Sent following letter No 276)

Read letter dated 26th Ultimo from the 3d Judge on Circuit in the Centre Division submitting

17th September 1822. submitting Case No 31 Cuddapa Calendar 2d Session A.D. 1822.—

Here enter No 518

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 Kifaas declared in the futwa adjudge the prisoner

"Guradeegadoo"

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

Sent following letter No 277

1 In the confession of the prisoner in this case delivered before Arundarow, the Acting Tahseeldar of the Goorumcondatta took it was stated that two persons named Anchy, and Gungay were present when he stabbed his wife.—

2 The Tahsildar contented himself with receiving the prisoner's confession, and taking the depositions of certain persons who had viewed the corpse of the deceased.—

3 Under the provisions of Clause second Section XXVII Regulation XI of 1816 it was the duty of the Tahsildar to summon the abovenamed two persons and take their depositions, agreeably to Clause fourth of the Section to forward them to the Criminal Judge.—

The

17th September 1822.

4

The Court of Poujdarry Adaulut enjoin that the attention of the Police officer may be called by the Magistrate to the foregoing provision of the Regulations; and that he be apprized of the obligation thereby imposed upon him to examine and send to the Zilla Station all persons able to give evidence material to the case, notwithstanding the free and voluntary confession of the accused.

5

With reference to the provisions of Section X Regulation X of 1816 the Court of Poujdarry Adaulut consider, that the attendance of the two eye witnesses of the murder should have been required by the Criminal Judge.

6

Ordered, that extract of these proceedings be sent to the 1st Judge on Circuit in the Centre Division by precept enjoining him to communicate to the Criminal Judge & the Magistrate in the Zilla of Cuddapa such parts thereof as concern those officers for their information and guidance respectively.—

/Sent the following precept No 619/

Read letter, dated 26th Ultimo from the 1st Judge of the Court of Circuit in the Centre Division, submitting case No 7 Chittoor supplemental Calendar 3d Quarterly Sessions A.D. 1822.—

/Here enter No. 526/

The Judges of the Poujdarry Adaulut

7.16.

17th Septr 1822.

on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner is sufficient to convict him of a brutal assault upon the prosecutrix with intent to commit a rape, desire under clause second Section II Regulation I of 1818 that the Cazee-ool-Coozat and Mooftees of the Poujdarry Adaulut 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 Cazee-ool-Coozat and Mooftees of the Poujdarry Adaulut.—

Read letter, dated 25th July last from the 2d Judge late on Circuit in the Western Division,— submitting case No 14 South Malabar Calendar 1st Sessions A.D. 1822.—

/Here enter No. 461/

Read also letter dated 9th Instant from the 2d Judge late on Circuit in the Western Division,— Reporting the death of the prisoner in Case No 14 South Malabar Calendar 1st Sessions A.D. 1822.—

/Here enter No. 558/

Read

17th Sept. 1822.

Read return dated 11th Instant, from the Provincial Court of Circuit in the Southern Division, to precept dated 22d July last ordering them to communicate to the Judge on Circuit the Court's instructions regarding future of discretionary punishment.-

(Here enter No 555)

Read letter, dated 9th Instant, from the 2d Judge late on Circuit in the Western Division, with returned warrant for execution of the prisoner in Case No 135 Canara Calendar 1st Sessions AD 1822.-

(Here enter No 556)

F. M.

17

At a Court of the Foujdaree Adalut

Present

Wednesday 18th September 1822 } Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

C+
GG

Read return dated 17th July last from the Second Judge of the Court of Circuit in the Northern Division to precept dated 17th June last ordering him to take certain additional evidence in Case No 23 Masulipatam Calendar 1st Quarterly Sessions AD 1822.-

(Here enter No 453)

Read again letter dated 20th May last from the 1st Judge of the Court of Circuit in the Northern Division, submitting case No 23 Masulipatam Calendar 1st Quarterly Sessions AD 1822.-

(Here enter No 323)

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 cools Coojat and Mooftees of the Foujdaree Adalut are of opinion that the proof against the prisoners,

1st "Chavakula Appiah" &
2d "Cangeetala Hoofsain"

is sufficient to convict them of the crime of

Gang

18th September 1822.

Gang robbery for which a penalty is specially
Enacted in Clause third Section IV Regulation XI
of 1803.-

The Court therefore under the author-
-ity vested in them by Clause 1st Section II Regulation
I of 1813 adjudge the said prisoners

1st "Kanakoola Effiahd
2d "Cangatala Kaplain"

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

/Sent following letter No 279./

Read again letter dated 8th
Ultimo from the 1st Judge of the Court of Circuit
in the Centre Division, submitting case No 7
Chittoor supplemental Calendar 3d Quarterly
Sessions AD 1822.-

/Here enter No 526/

Read the second futwa deliv-
-ered in this case by the Cazee-ool-Coozat and
Mooftees of the Foujdaree Adalut-

The Court having maturely con-
-sidered the proceedings held before the Judge on
Circuit the futwa of the Provincial Law officer
and the futwa of the Cazee-ool-Coozat and Mooftees
of the Foujdaree Adalut confirm the said fut-

18th September 1822. of the Cazee-ool-Coozat and Mooftees aforesaid
and under the sentence of Ookoobut declared
in the futwa adjudge the prisoner,

"Soobarayen,"

to be imprisoned and kept to hard labor in
irons on the public roads or other public
works for and during the period of 7 years
and then to be released.-

/Sent the following letter 280 No/

Read letter, dated 8th June last, No
from the late Acting Judge on Circuit in the Centre
Division, - Submitting Case No 17 Chingleput Calen-
-dar 2d Sessions AD 1822.-

/Here enter No 352/

The Court having maturely consi-
-dered the proceedings held before the Judge on Cir-
-cuit 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 Ookoobut declared in the
futwa adjudge the prisoner

"Moonagheree Pettee,"

to be imprisoned without irons and without labour
for the period of twelve calendar months and then to
be discharged-

/Sent the following letter No 281./

In the letter accompanying
the trial the late Acting Judge intimates his
doubts as to the amenability of the prisoner
to

18th September 1822

to a criminal prosecution, "as a person convicted
"of an offence, that under the present Law is only
"punishable under the provisions of Regulation XIII
"A.D. 1807."—

2 In the Court of Faujdara Adalut
it appears manifest, that the provisions of the
general Regulations, respecting cases for which
discretionary punishments is awarded by the
Mohammedan Law, are strictly applicable
to this case; and that the provisions of Regulation
XXXVII of 1802, which were enacted "for the purpose
"of enabling Collectors to recover embezzlements
"of money and to regain possession of public pro-
"perty withheld or concealed" by native officers, in no
way oppose the criminal prosecution of those
from whom money embezzled may, or may
not have been recovered.—

3 A question recently taken by
the Court of Faujdara Adalut from their Law officer
on this point, declares that the appropriation
of public money deposited is not punishable
provided the same can be made good previously
to any demands or prosecution; and in re-
ference to this provision of Mohammedan Law
Bengal Regulation II of 1813 appears to have
been enacted, whereby native officers, making
use of public money entrusted to their care for

18th September 1822

for their own advantage as that of any other individual, are made punishable.—

4. The Court of Faujdara Adalut have recommended the adoption of the above enactments of the Bengal Code, as necessary for the protection of the public revenue, but being of opinion that under the Law as it stands at present the fraudulent embezzlement of public money is cognizable by the Courts of Criminal Jurisdiction, they have sentenced the prisoners to such a measure of punishment, as under all the circumstances of the case his delinquency appeared to demand.—

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

(Sent following letter No. 282)

WM

At a Court of the Faujdaree Adalut

Present

Thursday 19th September 1822 } Charles Harris Esq.re Puisne Judge
George Gowan Esq.re Acting Judge

C#
U.U

Read letter dated 13th July last from the Acting 3d Judge late on Circuit in the Northern Division, submitting trial No.1 Chacoole Calendar 1st Sessions AD 1822.

Here enter No. 1227

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee-ool-Cozat and Mooftes of the Faujdaree Adalut are of opinion that the proof against the prisoner

"Dundapee Lutchmaneyah"

is sufficient to convict him of the crime of highway robbery and wounding for which a penalty is Specially denounced in Clause second Section IV Regulation XV of 1803.

The Court under the authority vested in them by Clause first Section II Regulation X of 1818, accordingly adjudge the said prisoner

"Dundapee Lutchmaneyah

to

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 labour in irons on the public roads or other public works for and during the period of his natural life.—

(Sent for Warning Letter No 283.)

1 Dewanhu Naimpal, the Head of Police of Berhampore, examined the prisoner in this case, on 17th May 1822, by the person by whom he had been on the preceding day apprehended, & thereupon applied to the Magistrate for instructions as to how he should proceed.—

2 Under the provisions of Section XXVIII Regulation XI of 1816 it was the duty of the police to obtain the attendance of the prosecutor and such other persons as were able to give evidence material to the case, and on the completion of the investigation to forward the prisoner & papers to the Criminal Judge.—

3 The reference to the Magistrate was quite irregular, and censured as the Court conclude to the delay in the prisoner's transmission to the Zilla station.—

4 The Court direct, that the Police officers be admonished of this irregularity by the Magistrate.—

In the proceedings of the Criminal Judge the Court of Foujdaree Adawlut observe, that the prosecutors deposition is dated 15th October, the prisoners commitment the 17th September & the depositions of the witnesses the 22d June, & 15th October 1822.—

6 The irregularity of taking the evidence against the prisoner after his commitment for trial is too obvious to require comment.—

7 If as appears probable the attendance of the prosecutor & witnesses referred to was not obtained for four months after the prisoners arrival, his commitment should have been postponed until evidence so material had been taken.—

8 The Court of Foujdaree Adawlut desire to be informed of the cause, which produced so extraordinary a delay in obtaining the attendance of those material witnesses for the prosecutor.—

Ordered, that extract of these proceedings be sent to late Acting Judge on Circuit in the Northern Division by precept enjoining him to communicate to the Magistrate of Ganjam & to the Criminal Judge in the Zilla of Chicacole such parts thereof as concern those officers for their

19th September 1822

their information and guidance respectively

Sent following Precepts viz.

W

57. A.

At a Court of the Fouydarra Adalut

Tuesday
24th September, 1822.

Present

Charles Harris, Esqre. -- Puisne Judge.
George Gowan, Esqre. -- Acting Judge.

c#
W

Read return, dated the 17th instant from the First Judge of the Court of Circuit on the Centre Division, to precept dated 5th instant, - ordering the revision of the Sentences passed in certain cases on the Kittoor Calendar 3d Quarterly Sessions A. D. 1822.

(Here enter No. 365.)

1 In the foregoing return the 1st Judge observes that a second fatwa was taken in case No 1 of the Calendar, under the provisions of Clause fourth Section II Regulation XV of 1803, the Law Officer being "called upon to declare, what would have been the fatwa had the prisoner been convicted "on full legal evidence."

2 This form of question is applicable only to the cases described in Clause third of the Section, wherein a prisoner may be declared to be convicted on strong presumptive

2

3 In case No 1 of the Calendar the Court of Enquiry Adjudge and declare that the prisoner was fully convicted and that Hanlon deserved to be barred owing to his having denied the charge before the Court of Circuit.

4 The precept of the Court of Enquiry dated 5th instant directed the 1st Judge to call upon the Law Officer to declare to what specific punishment the prisoner would have been liable if he had not put on the plea of not guilty or his pleading other wise, if the special exception by which he was barred had not existed.

5 Made in the proceedings, agreeably to Clause fourth Section II Regulations XV of 1803. and the Court direct thereupon that the 1st Judge do take another petition on the case and pass Sentence accordingly.

6 The Court deem it proper on this occasion to record that the 1st Judge's attention to their Circular orders, dated 22d July last, directing the Courts of Circuit to instruct the Law Officers invariably to specify all the aggravations, on which a prisoner is declared liable to discretionary punishment, which should be on like occasions entered on the Calendar for the information of the Magistracy &c.

Ordered, that a extract of these proceedings be sent to the 1st Judge of the Court of Circuit by precept requiring him to proceed in the manner above directed.

Precept returnable in two days from and after its receipt.

(Sent following precept No 285)

Read letter, dated 27th Ultimo, from the 3d Judge on Circuit in the Central Division, submitting case No 10 Calendar 2d Sessions AD 1822.

Whereon orders No 530

1 Sawbre, the prisoner in this case, appears by the record to have been sentenced in case No 813 Calendar 1st Sessions AD 1812 "to be imprisoned and transported to Prince of Wales Island, there to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the space of her natural life."

2 In the month of February last she was apprehended in the Lines of Cantonment, and being brought before the Assistant Magistrate the following question was put to her.

"Were you formerly sent to Prince

24th September 1822.

"Bencoolen according to the Sentence of the Court
"of Circuit or not?"

To which he answered
"Yes"

3 The Criminal Judge's examination of the prisoner was as follows

Q "You were sent to Bencoolen
"because you had shot your wife in a quarrel
"and killed her. Did you escape from that
"place or not?"

A. It is true I was away.

4 The prisoner thereupon received
a notification that the case committed for
trial for leaving was away from Bencoolen"

5 In the arraignment before the
Court of Circuit the prisoner is charged with
having effected his escape and returned
from transportation to which charge she
pleaded guilty and being desirous to state
the particulars of the escape she described
as having been effected from the island
of Bencoolen.

6 The Government Counsel in his
charge stated that "in the months of June
1812 she was transported to Bencoolen or
Prince of Wales's island."

7 The questions put by the 3d
Judge to the Mahommedan Law Officer

7 Ab.

24th Sept 1822.

were as follows:-

8 "Is the charge of Saookee having returned from Bencoolen (transportation) after having been transported as a State prisoner proved on the said offender by means of her present acknowledgment or not proved?"

9 Throughout the Persian translation of the Record the word written in the English translation, Bencoolen, Bencolen and Bencolen is "Bunkol" which signifies Bencoolen. And the Law Officers of the Fouzdaree Adalut have declared & futwa declaring that the prisoner Saookee is proved to have escaped from Bencoolen.

10 Clause second Section IX Regulation XV of 1803 declares that "any convict under sentence of transportation "for life, who may be transported to any "place beyond sea, after the promulgation of this Regulation, shall escape "from such place of transportation and return without permission to any "part of the Company's territory under "the Presidency of Fort St. George" shall "on conviction thereof to the satisfaction "of the Fouzdaree Adalut, and of no "circumstances appear to that Court to

recommend

11 Let that case the Superintendent Magistrate communicate the nature of the proceedings with the reasons from December which are to surrender the Record, hereto the evaluating questions from this Court of Appeal to the Master Commandant Law Officer

12 That proceedings should have been distinctly assigned for returning from Prince of Wales's Island without proceeding having been conveyed the sentence of transportation for life.

And the record being completed as to the part of the transportation of Sarabaj, that was required for examination was returned.

13 The cases above presented and on the record is to prove that the Court of Magistrates Resident does not possess to grant the writ of the proceedings of the Court of Appeal, and to direct that the prisoner, Sarabaj, be brought to trial at the ensuing Sessions of said Colony on the charge of returning to the Territories of Port St. George from Prince of Wales's Island after she was sentenced under date 15th June 1812 to be transported for life.

Ordered that extract of these proceedings be sent to the 3d Judge on Circuit together with the Record by precept directing him to transmit the same to the Acting Criminal Judge in the Zilla of Salem for his information and guidance.

Send following precept No 286

Read return, dated 10th Instant, from the 3d Judge on Circuit in the Southern Division, - to precept dated 9th Instant ordering him to communicate to the Acting Criminal Judge in the Zilla of Salem the Courts orders regarding Mannion an insane prisoner. -

(Here enter No 567)

Read letter, dated 11th Instant, from the 3d Judge on Circuit in the Southern Division, - with copy of Salem Calendar 2d Sessions A.D 1822 -

(Here enter No 568)

Read letter, dated 17th Instant, from the 3d Judge on Circuit in the Centre Division, - reporting his arrival at Bellary. -

(Here enter No 574)

Read

24th September 1822.

Read return, dated 18th Instant, from the 2d Judge late on Circuit in the Western Division, - to precept dated the 9th instant ordering communication to the Criminal Judge in the Zilla of South Malabar of the Court's Orders regarding two accused prisoners. -

(Here enter No 575)

At a Court of the Foujdaree Adalut.

Present,

Thursday 26th September 1822. - George Stratton Esqre Chief Judge. Charles Harris Esqre Puisne Judge. -

W C H

Read return, dated 9th Instant, from the Provincial Court of Circuit in the Southern Division, - to precept, dated 6th ultimo, ordering them to obtain certain additional evidence in case No 7 Trichinopoly Calendar 2d Quarterly Sessions A.D. 1822. -

(Here enter No 552.)

The Judges of the Court of Foujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the surviving prisoner, Valyan, is sufficient to convict him of aiding in the murder of the deceased Soobramanien, desire under clause second Section II. Regulation I of 1813, that the 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. -

Agreed

26: September 1822

Ordered, that extract of these proceedings be translated and delivered to the Cazee ool Coozat and Mooftees of the Toupdaree Adalut.—

W M

F. M.

At a Court of the Foujdaree Adalut.

Present,

Friday 27th September, 1822.— George Stratton Esqre Chief Judge
Charles Harris Esqre Puisne Judge.

C W
C H.

Read again return, dated 9th Instant, from the Provincial Court of Circuit in the Southern Division, to precept, dated 8th ultimo, ordering them to obtain certain additional evidence in case No 7 Trichinopoly Calendar 2d Quarterly Sessions A.D. 1822.—

/Here enter No 552/

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

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the latitude given by the sentence of a Hindoo adjudge the prisoner, Valyan, "

to suffer death by being hanged at

27. September 1822

the usual time and place of execution.

(Sent following letter No 290)

20

7. Ab.

At a Court of the Foujdaree Adalut.

Monday 30th September 1822.

Present

Charles Harris, Esqre. ... Puisne Judge

George Gowan, Esqre. ..... Acting Judge.

C+

Ut.

Read letter, dated 14th instant, from the 3d Judge on Circuit in the Centre Division, submitting copy of Cuddalore Calendar. 2d Sessions A.D. 1822.

(Here enter No 571.)

1. Together with the foregoing Calendar is submitted an extract of the proceedings of the Court of Circuit upon case No 8 of the Calendar, wherein Parasa Nagapaty, the Appellant in Appeal No 2823 of 1821, was charged with subornation of perjury and Chinnoo, a witness, with having committed perjury in the prosecution of Nonapaty, the Respondent.

2. In this case the 3d Judge observes with reference to the provisions of Section XXIX Regulation IX of 1816, upon the incompetence of a party in a Civil suit to institute a prosecution for perjury against the witness of the adverse party or for subornation

of

30th September 1822

of perjury against the adverse party; and it appeared that the examination and commitment of the prisoners for trial took place under the orders of Mr Lascelles as acting Criminal Judge instead of as Acting Zilla Judge, the 3d Judge considered the investigation to have proceeded non coram judice and directed the discharge of the prisoners in respect to the at present invalid set of "proceedings".-

3 Of the maintenance of [illegible] the party on the suit, to prosecute in this case there can be no question; but it appears to the Court of Sonjalaree Adalut that the most prominent ground, taken by the 3d Judge for deciding against the validity of the proceedings, namely that the examination of the prisoners and their commitment took effect under an order of the Criminal Judge, is insufficient to warrant that decision.-

4. Section XXIX Regulation IX 1816 declares, that "all individuals whose attendance is required in the Civil Courts either as plaintiffs defendants or witnesses" shall not be liable "to any prosecution of this description, unless they shall be committed to take their trial by the Zilla Judge under the

30th September 1822.

authority vested in him by Section VIII Regulation III of 1802."-

5. The Section last cited provides that "if a witness or any person shall be guilty of wilful and corrupt perjury in any cause or matter depending in Court, the Judge is immediately to commit the offender to close custody, to take his trial before the Court of Circuit of the division in which the offence may be committed."-

6. The foregoing provisions are considered by the Court of Sonjalaree Adalut to require, that the prosecution for perjury committed before a Zilla Court shall originate with the Zilla Judge; but after the offender has been ordered into custody, the Court of Sonjalaree Adalut are of opinion, that the papers on which the charge is founded should be transferred to the department of the Criminal Judge, by whom the preliminary examinations should be held, and the case brought before the Court of Circuit.-

7. The illegality in the foregoing proceedings consisted in the admission of a charge of perjury preferred by a party in the suit; but the investigation thereof by the Criminal Judge, had he in his

Civil

30th September 1822.

Civil capacity directed the prosecutions, would not in the opinion of the Court have infringed, either the letter or the spirit of the Law.-

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

Pubd 31st.

Exd. ditd.

(Sent following letter No 297)

H.M.

7th

At a Court of the Foujdaree Adalut

Monday 7th October, 1822.

Present

Charles Harris, Esquire, ... Senior Judge.

&

George Gowan, Esquire ... Acting Judge.

H.

Read letter, dated 30th Ultimo, from the Acting Criminal Judge in the Zillah of Salem, referring for the orders of the Court copy of a letter from the Magistrate of Coimbatore, in answer to an application to him to cause the attendance of the attesting witnesses to a confession in a case of murder.-

(Here enter No 593.)

1. In the first paragraph of his letter the Magistrate suggests to the Acting Criminal Judge the expediency of his calling on the officers of police, directly, to cause the attendance of witnesses required.-

2. Upon this suggestion it is only necessary to observe, that it stands opposed to the provisions of Section LV Regulation XI of 1816, and cannot, therefore, be

be sanctioned by the Court.

6.

In the second paragraph of his letter the Magistrate, referring to the Acting Criminal Judge's observations on the "negligence of the Tahseeldar of Sutharmuggy "here in not sendering witnesses who attest "ed a confession in a case of murder", states, that "witnesses of this description often "refuse to attend the Court, and that there "is some doubt whether the police officers "have authority to compel their attendance" The Magistrate proceeds to state, that he has "taken measures to ascertain, whether there "is any validity in the doubt," and that if it should be "determined that it is in= =valid, care shall be taken, that the wit= =nesses are invariably forwarded with the pri= =soner who may make confessions before them".

4.

The Court of Foujdaree Adalut are not aware to what authority the Magistrate has applied for solution of the doubt, which he states to exist, as to the law on the point in question; but had he referred to the provisions of Regulation XXII of 1802, he would have found, that the determination

7th October 1822.

of the Court on the construction of the Regulations is final and conclusive.-

5.

For the Magistrate's doubt of the authority of the officers of police, to compel the attendance of witnesses to confessions, before the Criminal Judge, the Foujdaree Adalut are unable to account.-

6.

Clause third Section XXVII Regulation XI of 1816 prescribes, that such confessions shall be taken down in the presence of two or more witnesses.- And the following Clause contains a general provision for the transmission of witnesses to the Criminal Judge of the Zillah.-

7.

It is manifestly the indispensable duty of the police officers to forward to the Zillah station the attesting witnesses to a prisoner's confession, as well as witnesses to the facts of the case, it is in view to their future testimony without which the confession is not admissible in evidence, that their presence during its delivery is required, and repeated circular orders of the Foujdaree Adalut have pointed out the importance which they attach to the strict observance of the rule, which requires their presence during

during the whole of the confessions, a fact only to be ascertained from their subsequent examinations.-

Ordered, that extract of these proceedings be sent to the Provincial Court of the Southern Division by pre: cept enjoining them to communicate the same to the Acting Criminal Judge in the Zilla of Salem and the Magis: trate of Coimbatore for their information and guidance respectively.-

(Sent following Precepts N. 299)

Encl 18

Encl 4

W.M.

At a Court of the Foujdaree Adalut.

Present,

Tuesday, 8th October, 1822.-

Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

Read letter, dated 30th Ultimo, from the 2d Judge of the Court of Circuit in the Northern Division,- submitting copy of Masulipatam Calendar 3d Quarterly Sessions A.D. 1822.-

(Hereunto Annexed 597)

In the column of remarks on case No2, wherein the 1st and 2d prisoners stood charged with Gang Robbery and wounding, and the 3d with knowingly purchasing the stolen property, it is stated, that the Futwa convicted the prisoners" in this and the following numbers "viz. 3, 4, and 5, of the crime laid to their "charge and declared them liable to "Coroobut, the confession of the 1st prisoner "before the Assistant Criminal Judge that "he committed robbery in three different "places, and of the 2d prisoner in one place, "as also the confession of the 3d prisoner "that he purchased the property of the "prosecutors in Nos 2 and 4 having been

"proved

"proved by witnesses- Sentence of Hud was
"barred because they denied the crime before
"the Court of Circuit and because the value
"of the plundered property did not appear
"from the declarations of the 1st and 2d prisoners.
"On a second question being put to the law
"Officers, as to what punishment the prisoners
"would have been liable, had they not retracted
"their confessions before the Court of Circuit,
"the 1st and 2d were declared liable to Hud
"and the third to Mohoolut, no specific
"punishment for this crime being denounced
"by the Mohummudan Law;
"The whole sentenced to seven years imprison-
"=ment and hard labor in irons."

2 In case No 3 the first prisoner
in No 2 stood charged with Gang Robbery.

3 In No 4 the 3d prisoners in
No 1 was charged with knowingly purchas-
=ing Stolen property.-

4 And in No 5 the 1st prisoner
in No 1 stood charged with Gang Robbery,
and "wounding the prosecutors father
"and Brothers, of which wounds they died."-

5 The first observation which the
Court of Foujdaree Adalut have to make
on the proceedings held in the above
cases, is that the 2d Judge should not

have demanded a second futwa, the offence
of Gang Robbery being specially provided for
by the Regulations- Paragraph 12 of the
Circular orders of the Foujdaree Adalut, under
date 28th May last, particularly pointed
the attention of the Judges of Circuit to
the mode of proceeding enjoined in these
cases.-

6 For the offence charged against
the prisoner in Case No 5 the punishment
of death is specially prescribed in Clause
first Section IV Regulation XV of 1803;
and the 2d Judge was not, therefore, com-
=petent to dispose of that case.-

7 The latter part of Clause second
of the above section contains a provision
for the infliction of capital punishment
in cases of a repetition of the offence therein
described; which provision would appeared
to be applicable to the case of the 1st prisoner
in case No 2.-

8 The Court of Foujdaree Adalut
deem it proper, therefore, to direct that
the 2d Judge do send up the record of
the proceedings held in cases No 2, 3 and
5 of the Calendar for their consideration
and final judgment.- In

9 In Case No 21 for Gang Robbery and wounding ~~wherein~~ whereas a futwa of discretionary punishment was delivered, a second futwa of Hud was demanded.-

10 It will be the duty of the 2d Judge to revise the sentence passed by him in this case, with reference to the provisions of Clause second Section IV Regulation XV of 1803, passing new sentences on the prisoners should the personal injury charged to have been committed be "trifling" under the circular order of the Sudder Adalut dated 28th November 1820, and should the personal injury be of the nature as contemplated in the former part of that Clause, it will be necessary, that the record of this trial, also, should be submitted for the judgment of the Sudder Adalut.-

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 proceed as above directed, making return in two months from the date of the receipt of the precept.-

Sent following precept No 302/

2/ 7.11

8th October 1822.

Read again letter, dated 11th ultimo, from the 2d Judge on Circuit in the Southern Division,- with copy of Salem Calendar 2d Sessions AD 1822.-

(Here enter No 566.)

1 In case No 3 of the Calendar it is stated that Hud was barred "owing "to the prisoners pleading not guilty before "the Court of Circuit, to his frequenting "the house of the prosecutor and to his not "receiving a share of the stolen property."-

2 In case No 6 the second futwa taken under the provision of Clause third Section II Regulation XV of 1803 declared the prisoners liable to discretionary punishment, "because they pleaded not "guilty and only confessed before the "Criminal Judge, that they received a "part of the property."-

3 In case No 9 Hud was barred "owing to the property having been restored "to the owner, and to the 3d prisoner having pleaded "not guilty before the Court of Circuit."-

4 In case No 27 Hud was barred, "because the prisoners did not "admit that they entered the house of the "prosecutor to commit the robbery."-

The

5 The special exceptions, by which sentence for the specific penalty was in the several cases abovementioned declared to be barred, being of the nature described in Clause fourth Section II Regulation XV of 1803 the Law Officer should have been required to ~~refer~~ order a further futwa in each case and sentence should have been passed accordingly:-

6 In case №20 the prisoners were convicted of robbery by open violence and were declared liable to discretionary punishment; a second futwa was demanded in regard to the 1st 2d 3d and 4th prisoners, and they were sentenced each to 7 years imprisonment.-

7 This offence being specially provided for in Clause 2d Section IV Regulation XV of 1803, no second futwa should have been taken, as was explained in paragraph 12 of the circular orders of the Foujdaree Adawlut, dated 28th May last.-

8. The Court of Foujdaree Adawlut direct, therefore, that the 3d Judge do call upon the Mohummedan Law Officer to declare to what specific punishment, the

the prisoners in Cases №s 5, 6, 9 and 27 would have been liable, had the several exceptions stated in bar of Hud not existed: and that he do revise the sentence passed in case №20 of the Calendar with reference to the provisions of Clause 3d Section IV Regulation XV of 1803.-

9. Adverting particularly to the original futwa delivered in case №6 the Court of Foujdaree Adawlut deem it necessary to call the 3d Judge's attention to their circular orders of 22d July last which directed the Courts of Circuit "to instruct their Law Officers in deliver-"ing their futwas under the provisions "of Clause first Section II Regulation XV "of 1803 invariably to specify all the "grounds, on which a prisoner is declared "liable to discretionary punishment."-

Ordered, that extract of these proceedings be sent to the 3d Judge on Circuit in the Southern Division by precept, enjoining him to proceed in the manner above directed.-

Sent following precept №303.

8 October 1822

Read letter, dated 19th ultimo, from the 1st Judge on Circuit in the Western Division, reporting his intention of proceeding to Seringapatam on 20th Instant.-

(Here enter № 583)

Read return, dated 23d ultimo, from the Provincial Court of Circuit in the Southern Division,- to precept dated 15th ultimo ordering communication to the several Magistrates of the Court's orders that a column be added to the report prescribed by Section XXX Regulation IX. of 1816 shewing the cases in which the persons apprehended were concerned.-

(Here enter № 589)

Read return, dated 5th ultimo, from the 1st Judge of the Court of Circuit in the Centre Division,- to precept dated 24th ultimo ordering revision of the sentence in Case № 1 Chittore Calendar 3d Quarterly Sessions A.D. 1822.-

(Here enter № 591)

Read letter, dated 1st Instant from the 1st Judge on Circuit in the Western Division,- reporting his arrival at Seringapatam.-

(Here enter № 596)

Read

3/

F. H.

8th October 1822.

Read letter, dated 1st Instant, from the 1st Judge on Circuit in the Western Division,- stating that in consequence of the indisposition of the Mohummedan Law Officer he has called on the Law Officer of the Zilla Court to officiate at the Sessions.-

(Here enter № 595)

Read return dated 23d ultimo from the Acting Judge on Circuit in the Northern Division,- to precept dated 10th ultimo ordering revisal of the sentences passed in certain cases Nellore Calendar 2d Sessions A.D. 1822.-

(Here enter № 586)

7 11.

At a Court of the Boujdaree Adalut.-
Present.

Monday 14th October 1822.- Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.-

C# 11 Read again letter, dated 14th Ultimo, from the 2d Judge on Circuit in the Centre Division,- submitting copy of Cuddapa Calendar 2d Sessions A.D. 1822.-

(Here enter No. 571)

1 The mode, in which certain cases in the above Calendar have been disposed of, calls for observation from the Court of Boujdaree Adalut.-

2 In case No. 6, wherein seven prisoners were charged with breaking into and robbing the prosecutor's house, it is stated that the Juttoa convicted the 1st and 2d prisoners of "sharing in stolen property "knowing it to be stolen because they "confessed before the Police they accompanied "Akkigadoo and Gungadoo and sitting down "or waiting in the road got certain articles "of the stolen property from Akkigadoo "&a" and "because they confirmed this before

"before the Criminal Judge, and on their defence
"before the Court of Circuit acknowledged the
"receipt of some cloths, they were declared
"liable to Cohoobut."

3 The 1st prisoner, a Talier, was sentenced to 5 years imprisonment with thirty stripes, and the second to three years imprisonment.-

4 From the admission of the above two prisoners that they accompanied the robbers, and waiting in the road received from them the stolen property, the Court of Foujdaree Adalut are of opinion, that they must be regarded as accomplices in the robbery, and not merely as convicted of knowingly receiving stolen property.-

5 The mode of their co-operation with the gang not being such as to subject them to the specific penalty of Hud, their case fell under the provisions of Clause Seventh Section II Regulation XV of 1803.- What extenuating circumstances may have marked the case of the 2d prisoner the Court are uninformed; but adverting to the aggravated guilt of the 1st prisoner, a village watcher, the Foujdaree Adalut cannot but question the expediency of

of mitigating in his case the punishment adjudicable under the provisions of the Clause last cited.-

6 In case No 7 the prisoner was charged with Arson, and declared by the Futwa convicted on strong presumption, (Zun-i-ghalib) of the crime laid to his charge.-

7 The 3d Judge directed the release of the prisoner, because he "could not place faith in the confession" &c.-

8 The Court of Foujdaree Adalut deem it necessary in reference to this case to point the 3d Judge's attention to the provisions of Section XXII Regulation VII of 1802, which require the reference for their sentence of all cases, wherein the Judge may disapprove of the futwa.-

9 In cases Nos 19 and 20 of the Calendar and Nos 1 and 2 of the Supplemental Calendar the value of the property stolen is omitted to be specified.-

10 In case No 21 the prisoners on a charge of theft were declared liable to discretionary punishment, amputation being

"being barred, because the second did not
"confess he took the property out of custody,
"and because the first who got in by the
"window declared he found and not that
"he stole the articles; and because the
"property was recovered before a com-
"plaint made to a Judge." On a second
futwa it was declared that "amputation
"would be barred, though the 1st prisoner
"had used the word stole, and the goods
"had been in custody in respect to the
"second prisoner, by their delivering up
"the property immediately after the village
"police put them in confinement."

" From the remarks on this case
it would seem that the 2d Judge in
demanding the 2d futwa adverted to two
only of the three special grounds of exception,
taken by the Mohummedan Law Officer
in bar of Hud. As, however, the second
futwa of discretionary punishment rests
upon an exception "not affecting the
nature and criminality of the offence
"and evidently repugnant to the principles
"of equal justice," the Court of Foujdaree
Adalut, with reference to the provisions

of

2/ F. H.
14th October 1822.

of Clause fourth Section II Regulation
XV of 1803, direct that the 2d Judge do take
a further futwa from the Law Officer,
as to what specific punishment would
have been adjudicable, had the prisoners
not delivered up the stolen property
on their apprehension; and do reunite
the sentence accordingly.—

12 In case No 29 a second futwa
was taken, which confirmed the
original futwa of Cohoobut.—

13 The Court of Foujdaree Adalut
conclude, that the grounds still existing
in bar to a judgment for the specific
penalty were stated in the 2d futwa.
They should also have been entered in
the Calendar.—

14 To the sentence passed on the
5th prisoner in case No 36 the same remark
applies as has been above recorded on
that of the 1st prisoner in case No 6.—
The 2d prisoner in this case, named
Mahanundee, is stated to have been
sentenced to be "imprisoned without
"irons with sedentary occupation, he
"being lame." It is requisite, that the

term

Circular sent Para 15. including 1st & last Para.

term of imprisonment adjudged against this person should be reported for the information of the Foujdaree Adawlut.-

15. Adverting to the notices of certain referrible trials in the foregoing Calendar, the Court of Foujdaree Adawlut deem it proper to direct that the several Judges of Circuit do on all trials to be referred enter the usual abstract of the Petition and state the precise ground of the reference.-

16 Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Centre Division by precept injoining him to revise the sentence passed in case No. 21 of the Calendar in the manner above directed and to report the period of imprisonment adjudged against the 2d prisoner in case No. 36.-

Sent 16th

(Sent following precept No. 314)

Ordered also, that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept

precept enjoining them to communicate the same to the several Judges on Circuit for their information and future guidance.-

(Sent following precepts No. 305.)

Read letter, dated 8th Instant from the Secretary to Government in the Judicial Department.- referring for the investigation & report of the Court extract of the Minutes of Consultation in the Military Department under date 27th ultimo & copy of certain communications from the Military Authorities at Bellary complaining of illegal proceedings on the part of the Magistrate.-

(Here enter No. 602)

In order to enable the Court of Foujdaree Adalut to report upon the conduct of the Magistrate in the case before them, it is requisite that they should be furnished with such explanation as he may have to offer on the several points specified in the foregoing letter from

from the Secretary to Government in the Judicial Department.—

2. Ordered therefore that copy of the foregoing papers & extract of these proceedings be transmitted to the Magistrate in the Zilla of Bellary by precept enjoining him to submit a full statement of the case together with certified copies and translations of such of the proceedings held thereon as may have been made matter of Record.—

Precept returnable in seven days from and after its receipt.—

(Sent following precept No. 306.)

At a Court of the Zoujdaree Udalut.

Tuesday.
15th October 1822.

Present.

George Stratton, Esquire. Chief Judge.
Charles Harris, Esquire. Puisne Judge.

Read letter dated 18th ultimo from the late Acting 2d Judge on Circuit in the Northern Division, to the precept dated 30th August last calling on him for a decision thereon on the merits of case No. 8 Nellore calendar 1st Sessions A. D. 1822.

(Here enter No. 584)

Read again letter, dated 19th June last, from the late Acting Judge on Circuit in the Northern Division submitting case No. 8 Nellore Calendar 1st Sessions A. D. 1822.—

(Here enter No. 395)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas of the Provincial Law Officers and the futwas of the Cazeeut Coozat and Mooftees of the Zoujdaree Udalut con-firm the said futwas of the Cazeeut Coozat

and

15th October 1822. and Moosteas aforesaid and under the provisions of Clause Sixth, Section II Regulation XV of 1803 direct that the prisoners

1st "D. Monnoo,"
2d "G. Venatamah,"
3d "M. Yamanah," and
4th "B. Goroovadoo,"

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

(sent following letter No 308)

Sent 18th

W M

7.16.

At a Court of the Toujdaree Adalut.

Present.

Thursday
17th October, 1822.

Charles Harris, Esquire ... Puisne Judge.
C.H.
George Gowan, Esquire, ... Acting Judge.
G.G.

Read letter dated the 22d June last, from the late Acting Judge on Circuit in the Centre Division - submitting case No 3 Battery Calendar - 2d Sessions A.D. 1821.

(Here enter No 381.)

The Court having maturely considered the proceedings held before the Judges on Circuit the Futwa of the Provincial Law Officers and the Futwa of the Cazee-ool-Cozat and Moofties of the Toujdaree Adalut confirm the said Futwa of the Cazee-ool-Cozat and Moofties aforesaid and acquitting the prisoner

"Conarra Row,"

direct that he be discharged from Bail.

(Sent following letter No 309.)

Sent 17th

W M

At a Court of the Foujdaree Adalut.

Present.

Monday
21st October 1822

George Stratton, Esquire ... Chief Judge.
Charles Harris, Esquire ... Puisne Judge.

Read letter dated the 31st July last, from the Second Judge late on Circuit in the Southern Division, - submitting case No 13 Commencement Calendar - 2d Sessions A.D. 1822.

(Here enter No 465)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwahs of the Provincial Law Officer and the futwahs of the Fazeelut Cozzat and Mooftee of the Foujdaree Adalut compare the said futwahs of the Fazeelut Cozzat and Mooftee aforesaid and acquitting the prisoners

1st "Shashegerry Iyen,"
2d "Kistnen,"
3d "Ramasamy Naiken,"
4th "Timblachee Moodelly,"
5th "Narrainguem,"
6th "Veerasammaul," and
7th "Lutchoomunen,"

Lived

21st October 1822

direct that they be set at liberty.-

(Sent following letter No 313)

Ord 22d

J. C.

At a Court of the Foujdaree Udalut

Present,

Wednesday,
23d October, 1822. Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge.

C:#
C.C. Read letter, dated 14th Instant,
from the Criminal Judge in the Zilla of
Madura,- submitting copy of a letter from
the Magistrate of Madura and recommending
the removal of a convict, named Chinnatomby
Naudan, to a distant Zilla.-

(Here enter No 617.)

Read also letter, dated 15th Instant,
from the Criminal Judge in the Zilla of
Madura,- submitting a representation from
the Magistrate of Tinnevelly on the same
subject.-

(Here enter No 620)

The Court of Foujdaree Udalut,
concurring in opinion with the Criminal
Judge that the removal of the convict
Chinnatomby Naudan from the district
of Madura is desirable, direct that he be
sent to the Jail in the Zilla of Chittoor,
there to be imprisoned agreeably to the
terms of the sentence passed against
him.-

Ordered, that extract of

these

these proceedings be sent to the Criminal Judges in the Zillas of Madura and Chittoor for their information and guidance respectively.—

(Sent following Letters No 314)

And 23d

C#

W.C.

The report prescribed by Section XXXVII Regulation VII of 1802 for the 1st Sessions of 1822 not having been received from the 2d Judge Late on Circuit in the Western Division.—

The Court direct, that the 2d Judge Late on Circuit in the Western Division be by precept commanded to send up the prescribed report, containing his observations made during the Circuit within two weeks from the date of the receipt of the precept.—

And 23d

(Sent following Precept No 315)

W.C.

Read Letter, dated 8th instant from the 1st Judge on Circuit in the Western Division,— repeating his intention to proceed on 9th Instant to South Malabar.—

(Here enter No 603)

Read Letter, dated 7th instant, from the Acting Judge on Circuit in the Southern Division,— making supplementary return

return to precept dated 10th ultimo ordering remission of the sentences in certain cases in Nellore Calendar 2d Sessions A.D. 1822.—

(Here enter No 610.)

Read Letter, dated 10th Instant, from the 3d Judge on Circuit in the Centre Division,— with the returned warrant for execution of prisoner in Case No 31 Cuddapa Calendar 2d Sessions A.D. 1822.—

(Here enter No 611.)

Read Letter, dated 11th Instant, from the 1st Judge on Circuit in the Western Division,— with copies of Canara Calendars 2d Sessions A.D. 1822.—

(Here enter No 625)

At a Court of the Foujdaree Adalut.

Present,

Monday 28th October 1822.- Charles Harris Esqre Puisne Judge.-

George Gowan Esqre Acting Judge.-

C : H

W.G

Read letter, dated 12th Instant, from the 1st Judge of the Court of Circuit in the Centre Division, - submitting report on the 3d Quarterly Sessions for 1822 at Chittoor.-

(Perenter No 608)

Para 1. The conduct of the police officer, which forms the subject of the 1st Judge's precept to the Magistrate, dated 31st August last, referred to in paragraph 8 of the report, exhibits instances of flagrant irregularity and abuse of authority, which the Court regret extremely to find possible, in the present advanced stage of the police system.

2. The dismissal of the offending party from the public employ will form an inadequate check to such abuses, unless the Magistrate's exertions shall be strenuously directed to the enforcement of regularity in his own office, as well as on the part of his subordinate officers.-

In

3. In the 9th and 10th paragraphs of the report the 1st Judge adverts to certain cases on the Calendar of persons punished by the Assistant Criminal Judge, wherein that officer's proceedings appeared to be irregular, and the punishments adjudged by him not warranted by Law and refers to a precept, transcript of which accompanied the report, which he had proposed to issue on the occasion, but on further consideration considered to be inconsistent with the provisions of Section XXIII Regulation X. of 1816, inasmuch as it contained a censure of the irregularity of the Assistant Criminal Judge.—

4. From the 11th paragraph of the report it appears that the 1st Judge finally modified his order on certain petitions, presented to him regarding the cases in question, by referring the party to Section XXIV of the above Regulation.—

5. The Court of Foujdaree Adalut on perusing the extract of the proceedings of the Court of Quarterly Sessions, under date 18th Ultimo, which contains the orders proposed by the 1st Judge to be issued to the Assistant Criminal Judge through the

the Channel of the Zilla Judge, do not discover therein any infringement of the provisions of Section XXIII Regulation X. of 1816.—

6. Where the reference of the proceedings of a Criminal Judge for the orders of the Court of Circuit collectively may appear necessary to the Judge on Circuit, in consequence of irregularity or impropriety observable therein, the Court of Foujdaree Adalut are of opinion that the orders of the Judge of Circuit should contain his animadversion on such irregularity or impropriety. And in reference to the remarks of the 1st Judge in paragraph 11 of the report the Court of Foujdaree Adalut deem it proper to observe, that Section XXIII Regulation X of 1816, which was taken from Section XV Regulation IV of 1811 whereby a reference to the Court of Circuit collectively was substituted for the reference to the Court of Foujdaree Adalut required by Section XVII Regulation VI of 1802, is intended to prescribe the reference to the collective Court of Circuit of all cases, wherein the prisoners may appear

appear to have been discharged, or punished on insufficient grounds.-

7. Section XXIV Regulation X of 816 points out the course to be pursued by any party, who may consider himself aggrieved by the sentence of a Criminal Judge. and by Section IX Regulation II of 1822 encouragement is given to such persons to represent their cases by petition.-

8. The provisions of Section XXIV Regulation X of 1816 authorize the revision of a Criminal Judge's proceedings at any period besides that of the Sessions of the Court of Circuit at the Zilla Stations, when the reference to the collective Court is made the duty of the Judge on Circuit, personally examining the proceedings of the Criminal Judge.-

9. In paragraph 12 the 1st Judge states, that he has reason to believe it "not uncommon when a case is sent up "to a Criminal Judge, for that officer on "his examination of it to place one of the "witnesses (who may have accompanied "the prisoner charged with a crime) at "the Bar, and to make the prisoner originally "charged, a witness."-

A

10. As the Regulations vest the Criminal Judge with the cognizance of such charges only, "as may be brought "before him by a Magistrate or some "police officer under his authority," the institution of proceedings against a party, sent to the Criminal Judge as a witness, who may appear to be implicated in the charge under investigation is not competent to this officer.-

11. Where the head of police may happen to send in as witnesses persons so circumstanced, the Criminal Judge should make a communication to the Magistrate in order that the irregularity of the police officer may be duly noticed, and refer the case of the individual to the Magistrate in order that if there should be proof forthcoming of his guilt a charge may be regularly instituted against him.-

12. The suggestion of the 1st Judge in paragraph 14 regarding a Diary or Register to be kept by the Heads of District police is considered by the Judges deserving to be worthy of adoption.-

Paragraph

13. Paragraph 17 of the Report contains a suggestion that a General "Advertisement be authorized to be Published "in every Village, requiring all persons robbed "in whatever manner to deliver in a list "of Property stolen from them, to the "nearest Police Officers signed or marked "by the Person robbed; and if possible "with the value annexed; calling upon "all persons to stop individuals so offering "goods &c. for sale or deposit, and instantly "giving information to the nearest Police "Officer, of which the Heads of Villages "would afford immediate opportunity "and the Tahseeldar of the station, should "be authorized and required not only to "Publish the same in the most general "manner in the Cutcha village where "he may reside and in the village of the "person robbed but should circulate it "in the other Villages under his orders, "transmitting a copy to the Tahsildars "near him for the same purpose and also "to the Magistrate for Publication in the "Town where he may be."

The

14. The measures here suggested are considered by the Court of Foujdaree Adalut to be judicious, and being competent to the Magistrates have probably been generally adopted by them. The Court deem it proper, however, to direct that the foregoing extract of the report be circulated to the several Magistrates in view to the adoption of the precautionary measures therein recommended where they may not already be practised.

15. In paragraph 18 the Pt. Judge puts hypothetically certain cases of robbery and knowingly receiving stolen property, which appear to the Court of Foujdaree Adalut to be provided for by the several provisions contained in Section XXXIX Regulation VII of 1802. Where stolen property be recovered its restitution to the party plundered is prescribed, but the adjudication of pecuniary compensation in such cases is expressly prohibited to the Courts of Criminal Jurisdiction.

16. The recommendation of the Pt. Judge in paragraph 20, that

the

the finders of unclaimed stolen property who may give due notice of the discovery to the officers of police should in the event of the conviction of the robbers, be remunerated by a part or the whole of such property, is deserving of consideration.-

17. The Court of Foujdaree Adalut do not concur with the 1st Judge as to the utility or expediency of altering the established mode of conducting criminal prosecutions, as proposed in the 20th paragraph of the report.-

18. To the evidence of prosecutors all due weight is given by the Foujdaree Adalut under the authority vested in them to over-rule all legal objections taken by the Mohummedan Law Officers, who could attach no greater weight to the complainants testimony if he appeared under the name of a witness than when he appears with the designation of prosecutor.-

19. The Court do not understand how under the established Regulations, which require the reference to them of all trials in which the Judge of Circuit may not concur in the futwa, and which give to the Foujdaree Adalut

power

power to convict in contravention of the futwa, cases of the nature described by the 1st Judge in this paragraph can occur.-

And with reference to the 1st Judge's remark that prosecutors are generally through ignorance incapable of cross examining a witness, the Court have to observe that in such cases the duty of cross examination devolves on the Judge presiding at the trial.-

20. In the 21st para the 1st Judge remarks on the utility of "lists being kept "of all persons known to have been "concerned in Robberies &c."

21. The Court of Foujdaree Adalut have no reason to suppose, that so obvious a measure of precaution is any where omitted.-

22. They concur however in opinion with the 1st Judge that the names of persons, whom prisoners under examination before the Criminal Judge may Criminate as concerned in the crime should be communicated to the Magistrate, in order that all necessary measures may be taken for obtaining evidence against them

under

under the provisions of the general Regulations.-

23. The provisions contained in Sections ~~VIII~~, ~~IX~~, ~~XXII~~, and ~~XXXIV~~ Regulation ~~XI~~ of 1816 appear to provide sufficiently for the measures suggested in paragraph 24 of the report.-

24. In paragraph 25 of the report the Pt. Judge remarks, that the power vested in the Magistrates by Section ~~XXXIX~~ Regulation ~~IX~~ of 1816 in regard to the disposal of fines "is not allowed to the "Criminal Judges."-

25. The Pt. Judge would appear to have overlooked on this occasion Section ~~XXXIV~~ Regulation ~~X~~ of 1816, which declared that "the provisions of Section ~~XXXIX~~ Regu= "lation ~~IX~~, 1816, respecting the imposition "and disposal of fines by the Magistrate "are equally applicable to the office of "Criminal Judge."-

The Court of Foujdaree Adawlut in an Extract of their proceedings, under date 15th August last, submitted a recommendation to Government of the same nature, as that offered by him in the 24th paragraph.-

Ordered,

Ordered, that extract proceedings be sent to the Pt. Judge the Court of Circuit in the Centre Division by precept, enjoining him to communi= =cate to the Magistrate in the Zilla of Chittoor such part thereof as concerns that Officer for his information and guidance.-

(Sent following precept No 316)

Ordered also, 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.-

(Sent following precepts No 317)

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 318)

Read return, dated 6th Instant, from

from the Provincial Court of Circuit in the Centre Division,- to precept dated 11th Instant ordering communication to the Judge on Circuit of the Court's orders that in referrible trials the ground of reference be specified in the Calendar.

(Here enter № 626.)

Read return, dated 17th Instant, from the late acting 3d Judge on Circuit in the Northern Division,- to precept dated 19th Ultimo ordering communication to the Circuit Judge of Chicacole and the Magistrate of Ganjam of the Court's observations in case № Chicacole Calendar 1st Sessions 1822.-

(Here enter № 628)

Read letter, dated 21st Instant, from the 3d Judge on Circuit in the Southern Division,- reporting his arrival at Madras.-

(Here enter № 629)

Read letter, dated 22nd Instant, from the 1st Judge on Circuit in the Western Division,- reporting his arrival at Calicut.-

(Here enter № 634)

711.

Thursday 29th October, 1822.

C. H. W.

At a Court of the Foujdaree Adalut.

Present

Charles Harris, Esquire...Puisne Judge.
George Gowan, Esquire...Acting Judge.

Read letter, dated 16th Ultimo, from the First Judge of the Court of Circuit in the Centre Division,- submitting case № 20. Chittoor Calendar 3rd Quarterly Sessions A.D. 1822.

(Here enter № 569)

Read also Remarks of the Cazee-ool-Cozzat and Mooftee of the Foujdaree Adalut.-

(Here enter Remarks.)

The Court direct that the records of the proceedings held in this case be returned to the 1st Judge of the Court of Circuit in the Centre Division accompanied by the Remarks of the Law Officers of the Foujdaree Adalut, in order that the omissions therein noticed may be duly supplied and that authenticated translations in English and Persian of such additional proceedings may be annexed to the original Record.

The

29th October 1822

The prisoner having on his examination before the Criminal Judge denied the charge but admitted the correctness of a declaration delivered by him before the Police Officer it was requisite as stated by the Law Officers of the Sudder Adalut that the said declaration should be read on the trial and evidence taken to its identity.

Return to the precept to be made within one week from the date of its receipt.

(Sent following Precept N°319)

Read letter, dated 22d March last from the 1st Judge of the Court of Circuit in the Northern Division, - transmitting case N°28 Masulipatam Calendar 1st Quarterly Sessions A.D. 1822.

(Here enter N° 180)

The Court having maturely considered the proceedings held before the Judges on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Cozat and Mooftee of Sudder Adalut confirm the said futwa of the Cazee ool Cozat and Mooftee aforesaid, and under the sentence of Kohoobut declared in the futwa

adjudge

1st Read letter dated 19th August last from the 1st Judge of the Court of Circuit in the Northern Division, - returning the trial N°28 Masulipatam Calendar 1st Quarterly Sessions A.D. 1822 with the additional evidence called for under date 15th May 1822

Here enter N° 508.

29th October 1822

adjudge the prisoner,

Abd-ool-Nabee,

Remarks of the Cazee-ool-Cozat and Mooftee of the Sudder Adalut.

Reasons for returning the Record of proceedings held in case N°20 Chittoor Calendar 3d Quarterly Sessions of 1822.-

The second prisoner in this case delivered a declaration before the officer of police, dated 15th June 1822, confessing his confession that he was a party to the design of the Murder of the deceased, Dhoky Cherry, which declaration he acknowledged before the Criminal Judge and to that acknowledgment the 15th and 16th witnesses deposed before the Court of Quarterly Sessions; but as the prisoner's said declaration before the police officer was not read on the trial, it is inadmissible as legal evidence.

It is, therefore, requisite that the Judge who presided at the trial should cause the declaration in question to be read in the presence of the prisoner and of the above

above two witnesses and should ask
the prisoner whether that is the declar-
ation delivered by him before the
Officer of police present; and ask the
said witnesses whether or not it be
the declaration which the prisoner
acknowledged before the Criminal
Judge. And the record should then
be transmitted. —

(Literal translation)
(signed) W. Hudleston
Sgt. M.

29th October 1822

adjudge the prisoner,

Abd-ool Nabee,

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

(Sent following letter No 320)

Read letter, dated 27th August last, from the 8d Judge on Circuit in the Southern Division,- submitting case No 22 Salem Calendar 2d Sessions A.D. 1822.-

(Here enter No 581.)

The Court having maturely weighed the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Cozat and Mooftees of the Sudder Dewanny Adalat are of opinion that the proof against the prisoner, Chellan, is sufficient to convict him 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 therefore under the authority vested in them by Clause first Section II Regulation I of 1818 adjudge the said prisoner,

Chellan,"

to suffer death by being hanged at the

the usual time and place of execution -

(Sent following letter No 321)

Read letter, dated 30th August last from the 1st Judge on Circuit in the Western Division, - submitting case No 1 Canara Calendar 2d Session A.D. 1822 -

(Here enter No 510)

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 Adaulut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid and under the sentence of Cazeer declared in the futwa adjudge the prisoner, "Pally"

to receive 39 stripes with a rattan and to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of seven years and then to be released. -

(Sent following letter No 322)

Read letter, dated 2d July last, from the 1st Judge of the Court of Circuit in the Northern Division, - submitting case No 11 Masulipatam Calendar 1st Quarterly Session A.D. 1822 -

(Here enter No 391)

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 Adaulut are of opinion that the proof against the prisoners 1st 2d 3d 4th 5th 6th 7th 8th 9th 10th 12th 13th 14th 15th 16th and 17th is sufficient to convict them of Gang Robbery and wounding for which a penalty is specially prescribed in Clause second Section IV Regulation XV of 1803. -

The Court therefore under the authority vested in them by Clause first Section II Regulation I of 1818 adjudge the said prisoners,

1st Muntana Raumarauze,
2d Saunoo Raumoodoo
3d Chintaputta Mullo,
4th Raylungy Baupadoo,
5th Nuttla Veeraistha,
6th Bundauroo Sooriah,
7th Daneesetty Venatherboo,
8th Gopeesetty Loohiah,
9th Sutteenady Raumoodoo,
10th Nulla Veeraistha
12th Chintaputty Venkadoo,
13th Moolagalaty Venkadoo,
14th Moolagalaty Pulladoo,
15th Moommeedarapoo Pulladoo,
16th

4th Nullee Sadasseemoodoo, and
17th Paulabuttoolah Veeraishe,
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 and during the period of their natural
lives respectively.-

And under the provisions of
Clause sixth Section II Regulation XVI of
1803 the Court direct that the prisoner,

4th Sauna Moosaladoo,
be released on producing good and sufficient
security for his future good behaviour and appear-
ance when required.-

Subt.

(Sent following letter No 323.)

1 Poollah Ganasha, the 1st witness
in this case deposed before the Court of
Quarterly Sessions, that one Poleisetty Mullador
belonged to the Gang of robbers and was
the person who pointed him out as the
owner of the house, that this person was
apprehended by the Daroga of Amalapore,
named Ghuntasalah Vencatachellum
who kept him in custody five or six days
and released him for a bribe.-

2 Poollah Soobiah the 2d witness
deposed

deposed that the 1st prisoner stated to the
Daroga that the Gang were sent by
Lutchmenarsiah and Cristamaraiuze.

3 Voopadrattah Ganapatty,
3d witness, deposed that when the 1st
prisoner was taken to Aveedy as directed
by the Daroga, the Daroga and Lutchme-
-narsiah were inside the house, and that
they (the witnesses) were prevented from
going inside- That the Daroga enquired
for two or three days about Lutchmenarsiah's
affairs but did not investigate this charge.
That on the third day he took a declaration
from the 1st prisoner and desired deponent
to affix his signature thereto, which
deponent refused because all that
this prisoner had stated had not been
committed to writing, but on the
Darogah's saying that he took down
whatever he liked, deponent affixed
his signature.- This witness further
deposed that the 1st prisoner stated that
the rest of the plundered property was in
the house of Lutchmenarsiah and
Cristamaraiuze.-

4 Mookhamala Ragoonaikoo,
the 5th witness, deposed that the 1st prisoner
on his apprehension stated that
Lutchmenarsiah

29th October 1822.

Lutchmenarsiah had sent 33 persons from Avedee and that if conducted thither he would restore the plundered property. That the Daroga on his arrival spoke privately to this prisoner, and three days after took a declaration from him as described by the other witnesses.-

5 The 6th witness, Mookkamala Purdasee, deposed to the same effect as the 5th witness.-

6 The Court of Foujdaree Adalut deem it requisite that the evidence delivered by the above witnesses should be communicated to the Magistrate in the Zilla of Rajahmundry, in view to his instituting a strict enquiry into the circumstances therein represented, which go to impeach the conduct of the Darogah of Police, and to the adoption of such measures as may seem to him best calculated to effect the conviction of the principals as well as accessories in this robbery who have not yet been apprehended, as also the recovery of the large property stolen.-

7 Although the evidence of Cutta Seeroopathy, the 11th witness, to whom the tender of a conditional pardon had been authorized

3/ F.M.

29th October 1822. authorized by Government under the provisions of Section XX Regulation VIII of 1802, if neither so clear nor so circumstantial as was to have been expected, the Court of Foujdaree Adalut do not consider it so far defective as to justify their withholding a confirmation of the pardon tendered to him; and they therefore direct that the certificate specified in Section XX Regulation VIII of 1802 in confirmation of such conditional pardon be transmitted to the Criminal Judge in the Zilla of Masulipatam for the purpose of being delivered to the said Cutta Seroopathy for his security as far as regards the act referred to.-

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division by precept directing them to communicate to the Magistrate of Rajahmundry such part thereof as concerns that officer for his information and guidance.-

Sent following precept No 324.

Ordered also, that extract of these proceedings be sent to the Criminal Judge

29th October 1822

Judge in the Zilla of Masulipatam by precept directing him to call before him the prisoner Cutta Seroopatty and to deliver to him the certificate of pardon above mentioned.—

Sent following precept No 325/

Cutta Seroopatty

20

J. U.

At a Court of the Fouzdaree

Wednesday

Fouzdaree Udalut

L. S.

Northern Division

Certificate of pardon to Cuttah Treputty

Whereas under date the 24th July 1821

The Honorable the Governor in Council was pleased on the recommendation of the Court of Fouzdaree Udalut to authorize the ~~Criminal Judge in the Zilla of~~ Magistrate in the Zilla of Rajahmundry ~~Masulipatam~~ to tender an Offer of pardon to Cuttah Treputty on condition of his making an unreserved disclosure of every circumstance within his knowledge relative to a case of daring Burglary in which he was concerned.— And whereas it appears from the record of the case No 11 Masulipatam Calendar 1st quarter Sessions A.D. 1822 referred to the Court of ——— Fouzdaree Udalut that the conditions of the said grant of pardon have been fulfilled.—

Now these are to certify and declare that in consideration thereof the Court of Fouzdaree Udalut

Adalut have been pleased under the provisions of Section
XX Regulation VIII of 1802 to confirm the pardon
conditionally tendered as aforesaid to the said Cuttak
Treputty as far as regards the acts herein before referred
to— And the Court do hereby confirm the said pardon
accordingly—

Given under my hand and the Seal of the
Court this 29th day of October in the year of our Lord 182

By Order of the Court of Foujdaree Adalut

Deputy Register

F. U.

At a Court of the Foujdaree Adaulut

Wednesday
30th October 1822.

Present

Charles Harris, Esquire. Puisne Judge.
George Gowan, Esquire, Acting Judge.

C#
U.

Read letter, dated 30th August last, from the Acting Third Judge late on Circuit in the Northern Division, submitting case No. 15 Chittagong Calendar 1st Sessions A. D. 1822.

(Hereunto No. 549)

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 Adaulut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the provisions of Clause second Section IV Regulation XV. of 1803, adjudge the prisoners

3d "Chetter Jamah,"
4th "Poreny Shee Naiko,"
5th "Poreny Naiko,"

6th

30th October 1822.

6th Nursinga Naika,
7th Jenkeyah Naika, and
8th Soom Bouryah,

to be imprisioned and transported to such place or places beyond sea as the Governor in Council shall hereafter direct 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, direct that the prisoners,

1st Vendamoory Lutchianah, and
2d Vendamoory Sauruthe,

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

(Sent following letter No. 326)

Read letter, dated 10th Augt last, from the Second Judge late on Circuit in the Western Division,- submitting case No. 19 South Malabar Calendar 1st Sessions AD 1822.-

(Here enter No. 505.)

30th October 1822.

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 is sufficient to convict him of having put to death the deceased Chattapore Nair, desire under clause second Section II Regulation I of 1818 that the Cazee-ool-Cozat and Mooftee of the Foujdaree Adalut will declare by a second fatwa to what sentence the prisoner would have been liable under the Mohammedan law if he had been convicted by full legal evidence of the above crime.-

Ordered that extract of these proceedings be translated and delivered to the Cazee-ool-Cozat and Mooftee of the Foujdaree Adalut.-

At a Court of the Zoujdaree Adaulut

Present,

Thursday 3rd October 1822. Charles Harriot Esqre Puisne Judge
George Gowan Esqre Acting Judge

Read return dated 23d Instant,
from the 3d Judge on Circuit in the Southern
Division, to precept dated 8th Instant,
ordering revision of certain cases Calendar
Calendar 2d Sessions A.D. 1822.

(Here entered No. 633.)

The 3d Judge reports, that in
cases Nos. 3, 6, 9, and 27, a further futwa of
Hud has been declared by the Mohummedan
Law Officer against the whole of the
prisoners, and he awaits the further orders
of the Zoujdaree Adaulut regarding them.

2 In their proceedings of the 8th
Instant the Court of Zoujdaree Adaulut
observed, that in each of the above cases
a further futwa should have been
demanded, "and sentence should have been
"passed accordingly." And the precept
directed the requisition of a futwa on
the cases in question.

3 The manifest intention of
the

the Court's orders was that the sentences in these cases should be revised with reference to the provisions of Section XXI Regulation VII of 1802, with which the 2d Judge is now directed to conform.

4. Under the explanation given in the foregoing return of the circumstances of case No 20 the Court of Foujdaree Adalut are of opinion, that the sentences already passed are sanctioned by the provisions of Section V Regulation XII of 1803.-

Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Southern Division for his information and guidance.-

(Sent following letter No 328)

Read again letter, dated 10th August last, from the 2d Judge late on Circuit in the Western Division,- submitting case No 19 South Malabar Calendar 1st Sessions A.D. 1822.-

(Here enter No 505)

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

The Court having maturely considered

considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Shariat as declared in the futwa adjudge the prisoner,

1st "Coonacattil Carianguel Aylen,"

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 direct that the prisoners,

2d "Kuyyat Shangarun Nair,"

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

(Sent following letter No 329)

Read letter, dated 10th ultimo, from the 2d Judge on Circuit in the Southern Division,- submitting case No 58 Salem Calendar 2d Sessions A.D. 1822.-

(Here enter No 556.)

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

the Courts orders was that the sentences in these cases should be revised with reference to the provisions of Section XXI Regulation VII of 1802, with which the 3d Judge is now directed to conform.

4. Under the explanation given in the foregoing return of the circumstances of case No 20 the Court of Foujdaree Adalut are of opinion, that the sentences already passed are sanctioned by the provisions of Section V Regulation XII of 1803.-

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

(Sent following letter No 328)

Read again letter, dated 10th August last, from the 2d Judge late on Circuit in the Western Division,- submitting case No 19 South Malabar Calendar 4th Sessions AD 1822.-

(Here enter No 505)

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

The Court having maturely considered

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 Shaspa as declared in the futwa adjudge the prisoner,

1st "Coonacattil Caringel Aylen",

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 direct that the prisoner,

2d "Kuyspat Shangaram Nair,"

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

(Sent following letter No 329)

Read letter, dated 10th ultimo, from the 3d Judge on Circuit in the Southern Division,- submitting case No 58 Salem Calendar 2d Sessions AD 1822.-

(Here enter No 556)

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

Law

31st October 1822.

Law Officer and the futwa of the Cazee
ool Coozat and Mooftees of the Fouzdaree
Adalut confirm the said futwa of the
Cazee ool Coozat and Mooftees aforesaid
and under the sentence of Shaasat declared
in the futwa adjudge the prisoner,

"Maury"

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

Sent

(Sent following letter No 330)

Read letter, dated 11th Ultimo,
from the 3d Judge on Circuit in the Southern
Division,- submitting case No 45 Salem
Calendar 2d Sessions A.D. 1822.-

(Here enter No 557)

The Court having maturely
considered the proceedings held before the
Judge on Circuit the futwa of the Provincial
Law Officer and the futwa of the Cazee
ool Coozat and Mooftees of the Fouzdaree
Adalut confirm the said futwa of the
Cazee ool Coozat and Mooftees aforesaid
and in commutation of the penalty of
Dejut adjudge the prisoner,

"Graovaden,"

to be imprisoned and kept to hard labor
in irons on the public roads or other
public

Read letter, dated 4th Instt.
from the 3d Judge on Circuit
in the Southern Division
reporting the death of the
2d Prisoner in case No 45
Salem Calendar 2d Sessions
A.D. 1822
(Here enter No 599)

2/ F.C.
31st October 1822.

and

public works for and during the period
of seven years and then to be released.-

Sent following letter No 331)

Read letter, dated 9th Ultimo,
from the 3d Judge on Circuit in the Southern
Division,- submitting case No 25 Salem
Calendar 2d Sessions A.D. 1822.-

(Here enter No 553)

The Court having maturely
considered the proceedings held before the
Judge on Circuit the futwa of the Provincial
Law Officer and the futwa of the Cazee
ool Coozat and Mooftees of the Fouzdaree
Adalut confirm the said futwa of the
Cazee ool Coozat and Mooftees aforesaid
and under the Sentance of Bo hoot
declared in the futwa adjudge the prisoner,

"Seeranga Coonden"

to receive 39 stripes with a rattan 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 ten years and then to be released.-

and

(Sent following letter No 332)

Read letter, dated 15th Ultimo,
from the 3d Judge on Circuit in the
Southern Division,- submitting case

No

31st October 1822.

No 5 Salem Calendar 2d Sessions A.D. 1822.-

(Here enter No 562.)

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

"Vencatun,"

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

(Sent following letter No 333)

W.M.

Read letter, dated 20th August last from the 1st Judge on Circuit in the Western Division, submitting case No 27 Canara Calendar 2d Sessions A.D. 1822.-

(Here enter No 519)

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

Law Officers and the futwa of the Cazee ool Coozat and Mooftees of the Fouzdaree Adawlut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentences of Hifsaat declared in the futwa adjudge the prisoner,

"Dandoo,"

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

1 The prisoner, Dandoo, is convicted on his confession of having put to death the deceased persons, Droo and Soobee.-

2 In his declaration before the Criminal Judge, describing the particulars of the transaction, he stated that he killed the two females at their own request, after which he made two attempts upon his own life.-

3 The Record contains no evidence of any motive, either malicious or sordid, for the conduct of the prisoner, who from his whole demeanor would appear to have been ignorant of the guilt, which the Law attaches to homicide committed under the circumstances

31st October 1822.

circumstances which he described, while his attempts to destroy himself in pursuance, as he states, of his agreement with the deceased evince a state of mind bordering upon insanity.-

4 The Law Officers of the Foujdaree Adalut having delivered a Futwa of Kisaus against the prisoner in this case the Court have sentenced him to capital punishment, but adverting to the peculiar circumstances of the case, they resolve under the provisions of Section XIX 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 commute the punishment of death to imprisonment and transportation for life.-

5 Ordered, that extract of these proceedings with the record of the trial in case No 27 Canara Calendar 2d Sessions A.D. 1822 be transmitted to the Secretary to Government in the Judicial

3/ F.C.

31st October 1822

Judicial Department for the purpose of being laid before the Honorable the Governor in Council.-

(Sent following letter No 334/

No 42/ sent 2.

WK

Read letter, dated 9th instant, from the 3d Judge of the Court of Circuit in the Western Division, submitting report on the 2d and 3d Quarterly Sessions for 1822 at Tellicherry

(Here enter No 618/

1 Paragraph 10 of the report contains a suggestion, that the practice of compounding crimes of magnitude should be made penal.-

2 The Court of Foujdaree Adalut concur in opinion with the 3d Judge, that a provision to this effect is very desirable; and would recommend its being introduced into some future Regulation.-

3 The remarks of the 3d Judge in paragraph 21, regarding the selection of persons to be Heads of Villages, appear to the Court to be very judicious - The subject would seem to have already engaged the attention of the Government.-

4 Paragraph 10 of a letter from the

31st October 1822

the Secretary to Government in the Judicial Department, dated 31st July 1822, conveyed to the Court of Foujdaree Udalut the sentiments of the Honorable the Governor in Council upon the subject discussed in the 25th paragraph of the report.—

5 Together with the Report the 3d Judge has forwarded copies of certain precepts issued to the Magistrate of Malabar and of that officers returns, regarding various cases of a most atrocious description, which the Magistrate had permitted to be adjusted by Razeenamahs of the parties.—

6 The Court of Foujdaree Udalut entirely concur in the view taken of the Magistrates' proceedings in these cases by the 3d Judge, in his precept dated 27th August last, and in the propriety of the orders passed thereupon. It is a matter of equal surprize and regret to the Court to find in these proceedings of the Magistrate so much irregularity, and a departure so palpable from the rule established for his guidance by section XXVII Regulation IX of 1816.

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.—

43/part 1st

(Sent the following letter No 335)

Ordered also, that extract of these proceedings be sent to the 3d Judge of the Court of 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 No 336)

Read return, dated 28th Instant from the Provincial Court of Circuit in the Southern Division, to precept dated 4th Instant ordering communication to the Judge on Circuit of the Court's orders that in referrible trials the ground of reference be stated in the Calendar.—

(Vide enter No 689.)

F. 46.

At a Court of the Tonjdaree Adaulut.

Present

Friday
1st November 1822. George Stratton, Esquire ... Chief Judge.

W. C. H. Charles Harris, Esquire ... Puisne Judge.

Read a letter, dated 29th July last, from the Second Judge on Circuit in the Southern Divisions, - submitting case No. 5 Combaconum Calendar, 2d Sessions A. D. 1822. -

(Here enters No. 454.)

The Court having maturely considered the proceedings held before the Judge on Circuit the Futwas of the Provincial Law Officer and the Futwas of the Cazee ool Cozat and Mooftee of the Tonjdaree Adaulut conferm the said Futwas of the Cazee ool Cozat and Mooftee aforesaid and under the provisions of Clause Sixth Section II Regulation XV of 1803 direct the prisoners

1st "Soobbien,"

2d "Mottien,"

3d "Chockoodoogun alias Chennien," and

4th "Affiziah,"

be released on producing good and sufficient future security for their good behaviour and assurance

1st November 1822.

ance when required.-

(Sent following letter No 337)

It is established in evidence in the case that the examinations of certain of the prisoners were taken by Sastrygarea Iyen, Vahsildar of Combaconum, nearly two months after the date of their apprehension and that certain of the witnesses who attested their declarations were not present during their delivery by the accused.-

Repeated circular orders have been issued by the Court of Foujdaree Adalut denouncing the irregularities here pointed out in the proceedings of the Vahsildar; and the Court are of opinion that this officer's neglect of those orders and violations of the provisions enacted for his guidance in Section XXVII Regulation XI of 1816, calls for a mark of severe displeasure from the Magistrate.-

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 Magistrate of Combaconum for his information and guidance.-

(Sent following Precept No 338)

7th.

At a Court of the Foujdaree Adalut.

Saturday 2d November, 1822.-

Present

Charles Harris, Esquire Puisne Judge.

George Govan, Esquire Acting Judge.

C. 4th.

Read letter, dated 13th September last, from the Third Judge on Circuit in the Southern Division, submitting case No 85 Salem Calendar- 2d Sessions A.D. 1822.- (Here enter No 563)

The Court having maturely considered the proceedings held before the Judge on Circuit the Futwa of the Provincial Law Officers and the Futwa of the Cazee and Coozat and Moofties of the Foujdaree Adalut do confirm the sentence passed against the prisoners by the 3d Judge under date 3d September 1822, and do accordingly adjudge the said prisoners.

1st "Timmarayen,"

2d "Cadrayen,"

3d "Timmon,"

4th "Pallapanaig," and

5th "Cauliecadrayen"

to

to receive 39 stripes with a rattan and 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 labour and iron on the public roads or other public works for and during the period of their natural lives respectively.

(Sent following letter No 339)

1. Most Illustrious and Dear, Fiscal of the Western Police, in forwarding the prisoners in this case to the Criminal Judge stated that they had been apprehended upon information given by the Jemadah Peon of Vepery Pallee, that they had robbed the Merchants, Venaitapulliar and Gurayapeon, and proceeded thereto - that on summoning the prosecutors they stated that they were in great pain from the wounds which they had received and that the property discovered belonged to them.

2. The prisoners on their examination before the Criminal Judge confessed that they had robbed the individuals above named, but denied the assault, the Criminal Judge in the absence of the complainants directed the Prisoners to be

Yoked to prosecute, and the services of the Honourable Law Officers of the Courts of Circuit and Gaol Delivery declare them duly convicted.

3. By their clear and distinct confessions before the Criminal Judge the prisoners are convicted of robbery by open violence and the Court of Sudder Adalut have accordingly confirmed the sentence passed upon them, under the provisions of Section III Regulation I of 1822.

4. But the Court deem it proper to remark, that the attendance of the complainants, who alleged against the prisoners acts of aggravation not acknowledged by them, and whose testimony was also required in identification of the stolen property, should have been procured by the Criminal Judge.

5. This proceeding is enjoined by the latter part of Section X Regulation X of 1816; and Section XXVII Regulation XI of 1816 imposes on the Heads of Police the duty of summoning and sending to the Criminal Judge all persons able to give evidence material to the cause.

6. There is nothing on the record

to

to shew that the attendance of the above two persons could not have been procured, or that any application was made to the Magistrate to obtain it.

7. It is also to be remarked, that as no evidence was adduced in support of the charge of wounding it was improperly included in the arraignment. there is every reason to suppose that this part of the case might have been substantiated by proof or circumstances of aggravation might have been established, such as to subject the prisoners to the provisions contained in the latter part of clause second Section IV Regulation XV of 1803; the prisoners are, however, entitled to the benefit of the defect in the proceedings, and have received the judgment denounced against robbery by open violence, unattended with peculiar aggravation.

8. The Court direct, that the attention of the Police Officers be called by the Magistrate to the duty, enjoined by Clause second Section XXVII Regulation XI of 1816 of obtaining all material procurable evidence in cases brought before him.

Ordered, that extracts of these proceedings

J.A.

2d/November 1822.

45th

proceedings be sent to the Third Judge on Circuit in the Southern Division, by precept enjoining him to make the necessary communications to the Acting Criminal Judge and the Magistrate in the Zillah of Salem for their information and future guidance respectively.

(Sent following Precept No. 340.)

W.A.

At a Court of the Poujdarce Adalut
Present,

Monday 4th November 1822 — Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge.

Read letter, dated 30th August
last, from the 2d Judge of the Court of Circuit
C. 4. in the Northern Division, - submitting case
No 8 Masulipatam Calendar 3d Quarterly
6/6 Sessions A.D. 1822.

(Here enter No 548)

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

"Vayjaty Venkapah,"

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

(Vide following letter No 341.)

Read letter, dated 24th August
last, from the 3d Judge on Circuit in the
Centre Division, - submitting case No 32
Cuddapah Calendar 2d Sessions A.D. 1822.-

(Here enter No 524.-) The

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee ool Coozat and Mooftees of the Poojdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Shiffa and declared in the futwa adjudge the prisoner,

"Ramachund,"

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

(Sent following letter No 342)

Read letter, dated 16th September last, from the 1st Judge on Circuit in the Western Division,— submitting case No 12 Canara Calendar 2d Sessions A.D. 1822.

(Here enter No 572)

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

Phuckeera,

is sufficient to convict him of Manslaughter resolve under the provisions of Clause second Section II Regulation I of 1817 to call upon their Law Officers to declare by a second futwa to what punishment the

the prisoner 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 ool Coozat and Mooftees of the Poojdaree Adalut.—

Read letter, dated 31st ultimo, from the 2d Judge on Circuit in the Centre Division,— reporting his intention to proceed to Chinglepet on 20th ultimo.—

(Here enter No 641)

Read letter, dated 30th ultimo from the Provincial Court of Circuit in the Southern Division,— with returned warrant for execution of the prisoner in case No 17 Trichinopoly Calendar 2d Quarterly Sessions A.D. 1822.—

(Here enter No 643)

Read return, dated 28th ultimo from the Provincial Court of Circuit in the Northern Division,— to precept dated 4th ultimo ordering communication to the Judge on Circuit of the Court's orders that in referrible trials the grounds of reference

4th November 1822

references be specified in the Calendar

(Here enter No 645)

At a Court of the Foujdaree Adalut.

Present,

Tuesday 5th November 1822.— Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge—

Read letter, dated 1st ultimo from

C.A. 44. the 2d Judge late on Circuit in the Western Division,— submitting case No 53 South Malabar Calendar 1st Sessions A.D. 1822.—

(Here enter No 598)

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 Adalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid and under the sentence of Cohoobut declared in the futwa adjudge the prisoner, 2d Polayen Malopat Velandy, 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

And adjudge the prisoners,

2nd Polayen Vellan, and

4th Polayen Chiroodan,

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

(Sent following letter No 347.)

Read letter, dated 27th September last, from the 2d Judge Tellicherry Circuit in the Western Division,- submitting case No 16 South Malabar Calendar 4th Sessions A.D. 1822.-

(Here enter No 590.)

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, 1st Mullekol Lokotte Ramen, is sufficient to convict him of having put to death the deceased Seeroovantalakel Pokker, declare under Clause second Section II Regulation I of 1818 that the 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.-

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

Read letter, dated 29th Ultimo, from the 3d Judge of the Court of Circuit in the Northern Division,- with copy of Malabar Calendar 4th Quarterly Sessions A.D. 1822.-

(Here enter No 646.)

Read return, dated 2d Instant, from the 1st Judge of the Court of Circuit in the Centre Division,- to precept dated 28th Ultimo ordering communications to the Magistrate of Chittore of certain observations on his report on the late Quarterly Sessions.-

(Here enter No 649.)

At a Court of the Foujdaree Adalut.
Present,

Thursday
7th November 1822. Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

C. H.
G. G.

Read again letter dated 16th September last from the Pt. Judge on Circuit in the Western Division, — submitting case No. 12 Canara Calendar 2d Sessions A.D. 1822.

(Here enter No. 572)

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

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

"Phuckeera,"

to be imprisoned and kept to hard labor in irons on the public roads or other

other public works for and during the
period of two years and then to be
released.-

Sent 18th

(Sent following letter No 348)

Read letter, dated 11th Instant,
from the 3d Judge on Circuit in the Southern
Division,- submitting case No 67 Salem
Calendar 2d Sessions A.D. 1822.-

(Here enter No 606)

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 is sufficient
to convict him of having put to death
the deceased Chinnal his wife, lesid
under clause Second Section II Regulation
I of 1818 that the Cazee ool Coozat 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 above crime.-

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

Read letter dated 9th Ultimo
from the 3d Judge on Circuit in the Southern
Division,- submitting trial No 79 Salem Calendar
2d Sessions A.D. 1822.-

(Here enter No 607)

The Cazee ool Coozat and Mooftees
of the Foujdaree Adaulut declare in the foregoing
futwa that the prisoner Caroopee is convicted
on strong presumption of the crime of murder
laid to her charge the Court therefore concur-
-ring in 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 Mohumm-
-medan Law if she 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
Foujdaree Adaulut.-

Read again letter dated 21st September
last from the 2d Judge late on Circuit in the
Western Division,- submitting case No 16 of
South Malabar Calendar 1st Sessions A.D. 1822.-

(Here enter No 590)

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

The Court having maturely
considered

considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudder Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the Sentence of Hudood declared in the futwa adjudge the prisoner

Mellekollalatte Ramen

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

/Sent following letter No. 349/

Read letter dated 11th Ultimo from the third Judge on Circuit in the Southern Division submitting case No. 56 Salem Calendar 2d Sessions A.D. 1822.—

/Here enter No. 605/

The Judges of the Sudder Adalut on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner is sufficient to convict them of having wounded the prosecutor Venkatachellum, desire under Clause second Section II Regulation I of 1818 that the Cazee ool Coozat and Mooftees of the Sudder Adalut will declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan Law if they had been convicted by full legal evidence of the above crime.—

Ordered

7th November 1822. Ordered, that extract of these proceedings be translated and delivered to the Cazee ool Coozat and Mooftees of the Sudder Adalut.

JMK

At a Court of the Foujdaree Udalut

Present

Friday
8th November 1822 Charles Harris Esq.re 2d Puisne Judge

George Gowan Esq.re ... Acting Judge

C.H. Read letter dated 9th Ultimo
GG from the 2d Judge late on Circuit in the Western
Division submitting case No. 31 South Malabar
Calendar 1st Sessions A.D. 1822.

/Here enter No. 614/

The Court having maturely consid-
-ered 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
Mooftees aforesaid and under the provisions
of clause sixth section II Regulation XX of
1803 direct that the prisoners

1st "Padenharawittil Koonjoony" and
2d "Vallapil" alias "Maliakel Hydroos
Hooly"

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

/Sent following letter No. 350/

Read

8th November 1822

Read again letter dated 10th Ultimo from the 3d Judge on Circuit in the Southern Division, Submitting Case No. 57 Salem Calendar 2d Sessions A.D. 1822.-

/Here enter No. 606/

Read the second futwa delivered in this case by the 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 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 XV Regulation VIII of 1802 adjudge the prisoner,

"Ponnamoopen"

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

/Sent following letter No. 351/

Read again letter dated 9th Ultimo from the 3d Judge on Circuit in the Southern Division, Submitting trial No. 79 Salem Calendar 2d Sessions A.D. 1822.-

/Here enter No. 604/

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

The

8th November 1822

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 Mooftees aforesaid and under the sentence of Kisaas declared in the futwa adjudge the prisoner

"Caroopee"

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

/Sent following letter No. 352/

Read letter dated 7th Instant from the 2d Judge of the Court of Circuit in the Centre Division, With copy of Circuit Calendar 4th Quarterly Sessions 1822.-

/Here enter No. 644/

In Case No. 7 of the Calendar it is stated that the Judge presiding approved of the futwa which acquitted the prisoner on the ground of insanity.-

Under the orders of the Foujdaree Udalut, dated 29th October 1807, the proceedings held against this prisoner and the evidence taken as to his state of mind, must be submitted to the Court for their orders as to the disposal of the prisoner.-

In case No. 12 the prisoner, charged with highway robbery is stated to have been convicted and sentenced to "14 years labour and irons", the case being referred to the Court of Foujdaree Udalut "under Regulation I of 1822.-

The

8th November 1822

The penalty for the crime of robbery by open violence is declared in Section III Regulation I of 1822 to be 39 stripes and imprisonment and transportation for life - and Section IV of the Regulation prescribed that in all such cases the Judges of Circuit before whom the trial is held shall pass sentence for the stated punishments -

It will therefore be manifest to the 2d Judge that the sentence passed by him in this case was illegal -

Ordered that Extract of these proceedings be sent to the second Judge of the Court of Circuit in the Centre Division by precept commanding him to send up the proceedings held in case No 7 and to recall the sentence passed by him in case No 12 Chittoor Calendar 4th Quarterly Sessions 1822 -

Precept returnable in ten days from and after its receipt -

/Sent following Precept No 353/

Read letter, dated 2d Instant, from the Acting Criminal Judge in the Zilla of Salem, transmitting copy of a letter from Mr Assistant Surgeon Richmond, Certifying that Maneyan an insane prisoner has entirely recovered from a state of mania under which he has been labouring for a considerable time -

/Here enter No 655/ Under

F. 11.

8th November 1822

Under the foregoing report of the Zilla Surgeon the Court of Foujdaree Adaulut deem it proper to direct, that the Acting Criminal Judge do call before him the friends of the prisoner, Maneyan, and deliver him into their charge -

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

/Sent following letter No 354/

Read letter dated 12th Ultimo from the Acting Judge on Circuit in the Northern Division, - submitting case No 7 Nellore Calendar 2d Sessions A.D. 1822 -

/Here enter No 623/

The Court having maturely considered the proceedings held before the Judge on Circuit the Futwas of the Provincial Law officer and the Futwa of the Cazee ool Coozat and Mooftee of the Foujdaree Adaulut confirm the said Futwa of the Cazee ool Coozat and Mooftee aforesaid and under the provisions of Clause sixth Section II Regulation XV of 1803 direct that the prisoner

1st "Lumbady Hamah"

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

And acquitting the prisoner

2d "Isklawutall," direct

8th November 1822.

direct that he be set at liberty.-

(sent the following letter No. 355)

Read letter dated 20th September last from the 3d Judge on Circuit in the Centre Division, - Submitting trial No. 1 of supplemental Cuddapa Calendar 2d Sessions of 1822.-

(Here enter No. 601)

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 wal Cozat and Mooftees of the Tanjore Adalut confirm the said futwa of the Cazee wal Cozat and Mooftees aforesaid and under the provision of Section III Regulation I of 1822 adjudge the prisoners

1st "Chellumgadas" and
2d "Mullemcandos,"

to receive 39 stripes with a rattan and 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 labour in irons on the public roads or other public works for the during the period of their natural lives respectively.

(sent following letter No. 356)

In

8th November 1822.

1. In the letter accompanying this trial as also in certain extracts of the proceedings of the Court of Circuit, entered in the Record the 3d Judge has gone at considerable length into the consideration of what legally constitutes the "promulgation" of a Regulation; and has declared his opinion that it is constituted by the general distribution of authorized translations in the Native languages.-

2. The Court of Tanjore Adalut entirely concur with the 3d Judge in the importance which he attaches to the publication and proclamation of all legislative enactments affecting the rights, persons, or property of individuals, and are of opinion that although the Special provisions on this subject contained in Sections XV and XVI Regulation III of 1810 are no longer in force it is highly expedient and necessary, that the measures therein directed or similar means should be resorted to for the purpose of giving due publicity to the enactments of the legislature.

3. But the Court do not concur with the 3d Judge in restricting the meaning of the term "promulgation," when used to determine the date from which the provisions of the Law are to take effect, to the distribution of the translations of the Regulations in the Native languages.-

The

8th November 1822

4

The Court find, that wherever this expression has been used in the Code, it has been taken to designate the date of the issue and circulation of the Regulation in print, under the authority of the Government; and they see no reason to doubt, that this construction is that intended by the legislature.—

5

It is to be observed, that the provisions of Regulation I of 1802 to which the 3d Judge adverts in illustration of his argument did not require any general Proclamation or execution of the Laws in the Native Languages; but only that translations should be furnished to public officers and to those individuals, to whom it might be thought necessary to deliver copies.—

6

As illustrative of the construction given to the expression in question by the Court of Foujdaree Udalut it may be remarked, that the provisions of Regulation I of 1818, cited in clause first Section VII of that Regulation, were put in operation six months after its publication in print; and those referred to in the second clause were immediately acted upon.—

7

The Court of Foujdaree Udalut, entertaining this view of the intent and meaning of the words used in Sections II and III Regulation I of 1822 have sentenced the prisoners to

F. A.

8th November 1822

to suffer the penalty therein prescribed: and they deem it proper to direct that their sentiments in respect to the necessity of giving the greatest possible publicity to the Regulations of Government be communicated to the several Criminal Judges and Magistrates, through the Courts of Circuit, for their information and guidance respectively.

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

(sent following letter No. 357)

Ordered also, that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept enjoining them to communicate the same to the several Criminal Judges and Magistrates within their respective Divisions for their information and guidance respectively.—

(sent following precept No. 358)

Ent 112

Ent 113

Ent

60

At a Court of the Zuijdaree Adalut.

Present,

Monday 11th November 1822. Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge.

Read again letter, dated 11th Ultimo, from the 3d Judge on Circuit in the Southern Division, submitting case No 56 Salem Calendar 2d Sessions A.D. 1822.

(Here enter No 605)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Zuijdaree 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 Zuijdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Cohoobut in declared in the futwa adjudge the prisoners,

1st Sandavan, and

2d Vuddamaloy,

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the

period

2nd 14th

period of seven years and then to be released.

(Sent following letter No 360)

The English translation of the record of the above case exhibits throughout the most gross violations of idiom, grammar and orthography, and is in some parts scarcely intelligible.-

The revision of the translations of trials referred forms a part of the special duty of a Judge of Circuit, to which the Court of Foujdaree Adalut deem it necessary on this occasion pointedly to direct the attention of the 3d Judge on Circuit.-

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

2nd 14

(Sent following letter No 361)

Read letter, dated 28th ultimo, from the 1st Judge on Circuit in the Western Division, with copy of Seringapatam Calendar 2d Session, A.D. 1822.-

(Here enter No 653)

1

In the remarks on case No 7 it is stated that the prisoner has been "ordered" not to be released until he gives "good and sufficient security for his future "good behaviour for two years."-

2

The Court of Foujdaree Adalut direct

direct that the attention of the 1st Judge on Circuit in the Western Division be called to their circular orders, dated the 30th August 1816, in order that the sentence passed in the above case may be revised accordingly.-

3

In case No 8 the 1st prisoner convicted of stealing Jewels 1st value 698 Rupees 6 pice is stated to have been "awarded discretionary punishment."-

4

Under the standing orders of the Foujdaree Adalut the grounds assigned by the Law Officer in bar of Bud in such cases are required to be entered in the Calendar. The Court of Foujdaree Adalut direct that copy and translation of the futwa delivered in this case be submitted for their information.-

5

Ordered that extract of these proceedings be sent to the 1st Judge on Circuit in the Western Division by precept enjoining him to proceed as above directed.

Precept returnable within three days from and after its receipt.-

Sent 14th

(Sent following Precept No 362)

At a Court of the Cuttack Udalut.

Present,

Thursday 11th November 1822.

Charles Harris Esqre Puisne Judge.

George Gowan Esqre Acting Judge.

C.H. G.G.

Read letter, dated 4th Instant, from the Criminal Judge in the Zilla of Canara, recommending the tender of a conditional pardon to a person implicated in a late murder.

(Here enter No 666.)

In consideration of the circumstances stated by the Criminal Judge, the Court of Cuttack 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 Vuketesha, on the terms specified in Section XX Regulation VIII of 1802.

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

(Sent following letter No 366.)

No 45 Sent 11th

Read

14th November 1822.

Read return dated 1st Instant from the Provincial Court of Circuit in the Centre Division to precept dated 28th Ultimo ordering communication to the several Magistrates of the Courts remarks on the report of 1st Judge on the late Quarterly Sessions.-

//Here enter No: 658//

Read return Dated 6th Instant from the Provincial Courts of Circuit in the Southern Division to precept dated 28th Ultimo ordering communication to the several Magistrates of the Courts' remarks on a Suggestion contained in the Report of the 1st Judge of the Court of Circuit in the Centre Division on 3d Quarterly Sessions 1822.-

//Here enter No: 663//

Read letter dated 1st Instant from the Acting Judge on Circuit in the Northern Division,- Reporting his arrival at Chicacole.-

//Here enter No: 668//.

Read return, dated 6th Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 28th Ultimo ordering communication to the Magistrates an extract from the report of the 1st Judge of the Provincial Court of Circuit in the Centre Division on

14th November 1822.

on 3d Quarterly Sessions of 1822 at Chittoor.-

//Here enter No: 670//

Read return Dated 4th Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 14th Ultimo ordering communication to the Judge on Circuit of the Courts' orders regarding particulars to be stated in the Calendars of cases reserved.-

//Here enter No: 671//

At a Court of the Foujdaree Adalut

Present

Monday 18th November 1822 } Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge

C.H.

G.G.

Read letter dated 5th Instant from the Criminal Judge in the Zilla of Masulipatam, transmitting with reference to the orders of the Foujdaree Adalut dated 5th December last list of prisoners from Rajahmundry sentenced to temporary imprisonment at the 2d & 3d Quarterly Sessions of Gaol delivery for 1822 at Masulipatam.-

Here enter No. 669

1 The Court of Foujdaree Adalut direct that the prisoners,

1 Tandecanda Banjaniah

2 Noosdain Sahib

3 Chinnum Veeraiahum

4 Gajdoo Tirputtee

be removed to the Gaol in the Zilla of Cuddapa there to be imprisoned agreeably to the tenor of their respective sentences.-

2 Ordered, that extract of the

18th November 1822

these proceedings be sent to the Criminal Judge in the Zilla of Masulipatam and to the Criminal Judge of Cuddapa for the information and guidance of those officers respectively.-

/Sent following letters Nos 1367/

Sent 19th

20

Read return, dated 11th instant from the Provincial Court of Circuit in the Southern Division to precept dated 1st instant ordering communication to the Magistrate of Combaconum of the Courts' observations in Case No 5 Combaconum Calendar 2d Sessions AD 1822.-

/Here enter No 673/

Read return, dated 7th Instant from the Judges of the Provincial Court of Circuit in the Northern Division, to precepts dated 28th Ultimo ordering communication to the Magistrates of the measures recommended by the 1st Judge of the Provincial Court of Circuit in the Centre Division to be adopted in cases of robbery

/Here enter No 674/

Read return dated 9th Instant, from the 3d Judge of the Court of Circuit in the Western Division, to precepts dated 28th Ultimo ordering

18th November 1822. ordering communication to the Magistrate of Malabar of the Courts' observations on certain parts of his late Report on the Quarterly Sessions at Tellicherry.-

/Here enter No 676/

At a Court of the Foujdaree Adalut

Present,

Tuesday 19th November 1822. Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

C. H.
W.C.

Read letter, dated 18th Instant from the Secretary to Government in the Judicial Department, stating that the Honorable the Governor in Council is pleased to commute the sentence of death passed against Dandoo prisoner in case № 27 Canara Calendar 2d Sessions 1822 to transportation for life.—

(Here enter № 680)

The Honorable the Governor in Council having been pleased to resolve that the sentence of death passed on the prisoner Dandoo, in case № 27 of the Canara Calendar for the 2d Sessions A.D 1822, shall be commuted to imprisonment and transportation for life;

Ordered that,

Dandoo,

be accordingly 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

public works for and during the period of his natural life.-

(sent following letter No. 368/

Read letter, dated 23d Ultimo, from the 3d Judge on Circuit in the Centre Division, submitting with detailed remarks copies of returns from the Criminal Judge and the Magistrate of Bellary and the Magistrate of Cuddapa, regarding the promulgation of late Regulations.-

(Here enter No. 664)

1 Upon the general question discussed by the 3d Judge in the foregoing letter the sentiments of the Foujdaree Udalut were recorded in their proceedings under date 8th Instant.-

2 The only part of the foregoing papers, which appears to the Court to call for observation from them is an opinion declared in a letter from the Secretary to Government in the Judicial Department, dated 23d April last, that the provisions of Regulation II of 1822 give authority to Magistrates to replace in custody persons, whose unconditional release has been directed by the Court of Circuit.-

The

The Court of Foujdaree Udalut, under date 20th June last, intimated to the Government their opinion "that the detention "by the Magistrate or Criminal Judge of a pri= "soner, ordered by the Court of Circuit to be "released without security would be irregular, "and at variance with the principle of the "provisions contained in clause second Section "III and" clause third Section IV Regulation "II of 1822."-

4 The letter from the Secretary to Government in the Judicial Department above cited bears a date two months antecedent to this communication from the Foujdaree Udalut to the Government, who are considered by the Court to have assented to the construction, given by them to the Regulation.-

5 The Court deem it proper, that their construction of the provisions contained in Sections III and IV Regulation II of 1822 should be communicated for the information and future guidance of the several Criminal Judges and Magistrates.-

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

(sent following letter No. 369/

Ordered

Ordered also that extract of these proceedings be sent to the four Provincial Courts of Circuit by precept directing them to communicate the same to the several Criminal Judges and Magistrates within their respective Divisions for their information and future guidance.-

Encl 31.

/ Sent following precepts Nos 370 /

Read again letter, dated 8th Ultimo from the Secretary to Government in the Judicial Department,- referring for the investigation and report of the Court extract of the Minutes of Consultation in the Military Department under date 27th September last, and copy of certain communications from the Military authorities at Bellary, complaining of illegal proceedings on the part of the Magistrate.-

/ Here enter No. 602 /

Read also return, dated 30th Ultimo from the Magistrate in the Zilla of Bellary to precept dated 15th Ultimo, calling for explanation of his proceedings in the case in question.-

/ Here enter No. 662 /

By the foregoing letter from the Secretary to Government in the Judicial Department the Sudder Court are desired to report on the following points, "1. Mr. Campbell's seizure of persons "to serve as coolies, 2. his exercise of police authority within the limits of the Military cantonment "of Bellary, and 3. his arbitrary imposition of two "fines, and threat to repeat them on any like occasion

No. 11.

19th November 1822.

"occasion in future."-

2 In the letter from the Commissariat officer at Bellary, reporting the circumstances of this case, it is stated that certain Woodiars having been seized by the Ameen's peons to serve as Coolies, application was made by Bangalore Chinapa, the grain Merchant with whom they dealt, to the Petta Cutwal to obtain their release.- That the Cutwal having stated his inability to interfere, a Duffadar of the Military Bazar Police, named Pyney, expostulated with the Ameen's peons. That in consequence of a representation on the subject made by the Ameen to the Magistrate, the latter officer repaired to the Cutwal's Choultry, demanded that the said Chinapa and Pyney should be delivered up to him, and having caused them to be conveyed under custody to his dwelling house, after a summary investigation of the case, sentenced the former to pay a fine of 50 and the latter a fine of 7 Rupees; that the Woodiars were ordered to be released, and the sentence of the Magistrate was carried into effect against the merchant, Chinapah, and the Duffadar, Pyney.-

3 The Commissariat Officer, commenting on the above proceeding, observes that the Magistrate was not authorized to apprehend any one within the limits of the Military Cantonment, except in conformity with the rules laid down in Section XVII Regulation

Regulation VI of 1824, and is certainly not warranted in seizing officers of the Military Police and punishing them, without the form of trial, and without making any record of his proceedings.

4. The Commissariat officer proceeds to state, that notwithstanding that the Police authority of the whole station has according to clause first Section III Regulation VII of 1824 been vested in the officer commanding, "the Ameen is still "continued in the exercise of his functions in Bruce "pettah," although the Police establishment of that town has been duly delivered over by the Collector, and the maintenance of the peace within it intrusted to his superintendence.

5. The Commissariat officer remarks on the evil consequences attending this arrangement and states his opinion, that so long as the Ameen, or Amildar, continue to exercise their power within the Military limits discordances will be inevitable.-

6 Appended to the letter of the Commissariat officer are copies of certain depositions, upon which the Court of Foujdaree Udalut have only to remark, that the Commissariat officer therein avows the practice of seizing persons of the Purriar and Chuckler Castes to serve as coolies.-

7 The Magistrate in explanation states, that on a representation from the Police Ameen of Bellary, that certain coolies hired

hired by him for the Magistrate's use had been forcibly taken away by the Military police, and a complaint from Bheem Sing a Police Duffadar that he had been assaulted and beaten on the occasion by a Teesabudy Ryot, named Bungalore Chinnapa, and a Do man, named Pylney, he directed the Police Ameen to summon before him the said Do Bungalore Chinapah and Pylney and the Do two chuld coolies whom they were stated to have forcibly carried off: that the Magistrate proceeded to take his usual evening drive, and in passing through the Pettah met the police ameen and some peons who stated "that "Pylney had concealed himself," that the Magistrate desired the cutwal to direct Pylney to obey the Ameen's summons, that Chinapah, who was present, was directed to attend, and the Magistrate returning to his house verbally examined the case, that finding that the two coolies had been "seized against their will" by the Magistrate's Police officers, they were instantly released and exhorted by the Magistrate to complain to him "on Circuit" against his officers, that it appeared that Chinapah and Pylney had applied to the Military Cutwal against this abuse of authority on the part of the Magistrate's officers, and that on the Cutwal's declining to interfere they proceeded "to rescue the coolies by illegal "force and assaulted the Magistrate's Duffadar "in the violent scuffle which took place."- that the Magistrate "informed the accused that

though

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"though the Coolies illegally seized might have resisted
"themselves, they had transgressed the law not
"only in forcibly rescuing others but in further
"taking upon themselves to punish the abuse of
"authority of the police officers by committing
"an unjustifiable assault on the Duffadars"
which assault having been proved they were
respectively sentenced to pay fines of 50 and
7 Rupees commutable to ten days' imprisonment.—

8 Applying himself to the three
points specially noticed in the foregoing
letter from the Secretary to Government
in the Judicial Department the Magistrate
proceeds to state that he never "by silent
"sanction much less by positive order," has
sanctioned the seizure of persons to serve
as Coolies: that with respect to his exercise of "police authority within the bounds
"of the Military Cantonment at Bellary," he
submits that "the authority exercised by
"him in the case under notice was that of
"situation, fine, and imprisonment only—that
"it has not been police authority but the
"powers of inquiry and judgment vested in him
"by Law which he has exercised in this instance,
"and that the functions of himself, his Assistants, Amildar, and Ameen so far as regards
"the investigation and punishment of Criminal charges

No. 116.

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"charges against the civil inhabitants, cognizable
"under the general Regulations by their respective
"Jurisdictions have in no respect whatever been
"affected by the new inclusion of their respective
"private bandes within the Cantonment of Bellary"
"that if prisoners are sent to them by the Military
"Police they proceed regularly against them, and if
"complaints are preferred to them personally against
"parties not apprehended in the actual commission
"of crime by the Military police it is their duty
"to proceed thereon under the general Regulations,
"by direct citation in petty cases against the
"civil inhabitants, as in the present instance,
"and by warrant through the commanding officer"
"in more serious cases against all classes."—

9 With regard to the fines imposed
by him the Magistrate states that "he exercised
"in this case, he hopes discreetly, the powers vested
"in him by Section XXXII Regulation IX of 1816,
"and Sections VII and IX Regulation IV 1821."—

10 The Magistrate, after some further observations on the statements made to
the Commissariat officer by the parties in this case
concludes with declaring his opinion that "disputes
"between his police and that of the Military will
"never terminate until the boundary of the cantonment
"is restored to its former line and the public
"officers of the Magistrate, Amildar, and Ameen
"placed, as before, out of the Military limits; "that
"to keep the Amildar Ameen, and their police
"peons within the Cantonment, with their existing
"powers of deciding and punishing petty crimes by the

to the Court of Foujdaree Udalut to be utterly incompatible with the provisions contained in Regulation VI of 1824, and the Magistrate's avowal of its existence renders it superfluous to examine the soundness of the distinction drawn by him between the exercise of police authority, strictly so called, and the proceedings held by him in this particular case which with reference to the provisions of Section XV Regulation IX of 1816 must be pronounced to have been irregular ab initio.—

14 With respect to the fines imposed by the Magistrate in this case it must be observed that assuming the correctness of the facts stated by the Magistrate from recollection, he was borne out by the letter of the law in the sentences which he passed.—

15 It is difficult to imagine, however, that on an investigation conducted in the manner described by the Magistrate opportunity was allowed to the accused to rebut by evidence the charge of assault, stated to have been proved, though distinctly denied by them.— The Magistrate being relieved in these cases from the duty of recording the grounds of judgment, the Court have not the means of revising or pronouncing any decided opinion on his proceedings.—

Ordered, that the foregoing return and extracts of these proceedings be sent to the Secretary

"the civil inhabitants and investigating in the "first instance all heinous crimes, deemed in the "opinion of the Military as well as of the Magistrate "the certain means of prolonging dissention."— that "the Amildar and Ameen cannot be removed from "Bellary without materially disturbing both re- "venue and police arrangements; as serious crimes "at Bellary can go to the Criminal Court only "through these native officers, and petty offences "by the civil inhabitants can be punished by "them alone, unless the Magistrate or one of his "assistants be on the spot."—

11 With regard to the first point on which the Court of Foujdaree Udalut are directed to report, they have to observe, that it does not appear from any thing in the papers before them that the Magistrate has directed or authorized the seizure of per- sons to serve as coolies.—

12 In respect to his alleged exer- cise of police authority within the limits "of the Military cantonment," the Magistrate's explanation so far from negativing the fact generally goes to shew, that at Bellary the whole of the officers of the civil Police establishment remain stationed within the limits of the cantonment in the full exercise of their ordinary functions.—

13 This state of things appears to

19th November 1822.

Secretary to Government in the Judicial Department for the purpose of being laid before the Honorable the Governor in Council.—

20/46/Sub 22

Extract of Covering letter No. 371.

WK

At a Court of the Poydaree Adalut

Present.

Thursday 21st November 1822.— Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge.

Read letter dated 19th August last,
C.H. from the 1st Judge of the Court of Circuit in
WK the Northern Division,— submitting case
No 21 Masulipatam Calendar 1st Quarterly
Sessions A.D. 1822.—

(Here enter No. 507.)

The Judges of the Court of Poydaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the prisoners Nos 1, 5, 7, 8, 16, 18, 19, 20, 23, 26, 28, 32, 44, 47, 51, and 52 is sufficient to convict them of having assaulted the prosecutors, desire, under clause second Section II Regulation I of 1818, that the Cazee ool Coozat and Mooftees of the Poydaree Adalut will declare by a second futwa to what sentence the prisoners would have been liable under the Mohammedan 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 Poydaree Adalut.—

20

At a Court of the Fujdaree Adalut

Present

Friday - 22d. November 1822 — Charles Harris Esq.re Puisne Judge

George Gowan Esq.re Acting Judge.

C. H.
G. G.

Read letter, dated 12th. Instant from the Secretary to Government in the Judicial Department, referring for the orders of the Court copy of a letter from the Criminal Judge in the Zilla of Nellore dated 26th. Ultimo with copies of the papers therein referred to.-

/Here enter No. 679/

In the foregoing letter the Criminal Judge states, that in a case lately forwarded to him by the Magistrate of Guntoor certain persons were charged on oath before him, the Criminal Judge, with conspiracy, fraud, and forgery; in consequence of which he applied to the Magistrate to cause their appearance as prisoners at the Criminal Court.- This the Magistrate declined to do; and the points for decision are, first the competence of the Criminal Judge to proceed against them in the event of their appearing as witnesses, 2dly. whether the vukeels of prosecutors should file before the Criminal Judges

22d November 1822

and Circuit Courts to finish Oakalutnamahs or to conduct their proceedings to a close upon the powers filed before the Magistrate.-

2 The points in issue having reference to the construction of the Regulations, the Criminal Judge acted irregularly in applying to the Government instead of the Court of Foujdaree Udalut for instructions.-

3 Under the provisions of Section VIII Regulation X of 1816 the Criminal Judge possessed no authority to "receive or take cognizance of" the charge, to which he refers, and should have directed the parties to appear before the Magistrate.-

4 The Court of Foujdaree Udalut consider that a Oakalutnamah, conveying authority to conduct the prosecution to a close, if filed in the Magistrate's Court, would be sufficient authority for the appearance of the prosecutor & Vakeel before the Criminal Judge & the Court of Circuit.-

Ordered, that extract of these proceedings be sent to the Criminal Judge in the Zilla of Nellore and the Magistrate in the Zilla of Guntoor for their information and guidance respectively.-

(Sent the following letter No. 374)

Read

22d November 1822

Read letter, dated 14th Instant from the Acting Criminal Judge in the Zilla of Salem referring copy of a correspondence with the Magistrate regarding the Criminal Judge's communication to him of an extract of the proceedings of the Foujdaree Udalut, dated 7th Ultimo.-

(Here enter No. 685)

Upon the foregoing papers the Court of Foujdaree Udalut deem it sufficient to observe, that they consider it to be the duty of a Criminal Judge to bring to the notice of the Magistrate all instances of irregularity or remissness on the part of the officers of Police; and that although the transmission to the Magistrate of Salem of observations of the Foujdaree Udalut, animadverting on the proceedings of the Magistrate of Coimbatoor, was uncalled for; yet that the tone of the Magistrate's reply to the Acting Criminal Judge was greatly wanting in the spirit of conciliation which should always mark the communications of officers mutually interested in promoting the public service.-

Ordered, that extract of these proceedings be sent to the Acting Criminal Judge and the Magistrate of Salem for their

22d. November 1822. their information and guidance respectively.-

Sent following letter No. 375)

Read letter dated 8th Ultimo from the Acting Judge on Circuit in the Northern Division, Submitting Case No. 16 Mallore Calendar 2d. Sessions 1822

(Here enter No. 611)

The Court having maturely consi-dered 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 Poydaree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid and acquit the prisoner,

"S. Lutchmenundoo,"

direct that he be set at liberty.-

(Sent the following letter No.)

Read letter dated 12th Ultimo from the Acting Judge on Circuit in the Northern Division, Submitting Case No. 1 Mallore Supplemental Calendar 2d. Sessions A.D. 1822.-

(Here enter No. 625)

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 Poydaree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid and acquitting

No. 116.
22d. November
1822

acquitting the prisoners,
"Pundala Paramadem," and
"Pundala Chenahoo,
direct that they be set at liberty.-

(Sent following letter No.)

Read letter dated 12th Ultimo from the Acting Judge on Circuit in the Northern Division, Submitting Case No. 2 Mallore Supple-mental Calendar 2d. Sessions A.D. 1822.-

(Here enter No. 622)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provinci-al Law officer and the futwa of the Cazee ool Coozat and Mooftee of the Poy-daree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoners

"P. Ghuntaloo," and
"C. Ummiah,"

direct that they be set at liberty.-

(Sent the following letter No. 376)

In the letter accompanying the latter of the foregoing cases the Acting Judge on Circuit states, that he is now aware that the indictment for perjury in both cases was not drawn up agreeably to the instructions of the Court of Poydaree Udalut

22d November 1822.

Udalut on this subject.-

2 Those instructions having been communicated to the Acting Judge in his capa= =city of Criminal Judge early in 1820, the Court of Foujdaree Udalut cannot but contemplate his utter neglect of orders, the observance of which was so urgently prefsed upon the several Criminal Courts, as deserving of anx= =ious reprehension.-

3 With reference to the provisions of Section VI Regulation VI of 1811, the duty of conducting the preliminary proceedings against the prisoner devolved on the Crimi= =nal Judge, whose inattention to the circular orders of the Foujdaree Udalut, dated 31st January 1814 & 31st January 1820, in the proceedings on these cases, is extremely condurable.-

4 But the defect in the preliminary proceedings, and the irregularity and informality of the arraignments in the above cases exhibit but a slight portion of the anomalies, which disgrace the record=

5 The prisoners in both cases having pleaded not guilty before the Court of Circuit

22d November 1822. Circuit, the prosecution is declared to be "closed" and they are put on their defence.-

Clause first Section XV Regu=

6 =lation VII of 1802 prescribes the mode in which the proceedings on all trials before a Court of Circuit are to be conducted; and in regard to cases of perjury, Section VI Regulation VI of 1811 contains a Special proviso, that a "regular" trial shall be held.-

The Court of Foujdaree Udalut

7 have never before had occasion to inti= =mate to a Judge of Circuit, that a "prisoner's denial of a charge cannot form" ground for his conviction.-

Ordered, that extract of these proceedings be sent to the Acting Judge on Circuit in the Northern Division for his information and guidance and that he be by precept commanded to communi= =cate to the Criminal Judge in the Zilla of Nellore such part thereof as concerns that officer for his information and future guidance.- (Sent following precept No 377)

Read

22d November 1822.

Read again letter dated 19th August last, from the 1st Judge of the Court of Circuit in the Northern Division, submitting case No 28 Masulipatam Calendar first Quarterly Sessions A.D 1822.

Vide enter No 507

Read the second futwa delivered in this case by the Cazeecol Coozat and Mooftees 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 Cazeecol Coozat and Mooftees of the Poujdaree Udalut confirm the said futwa of the Cazeecol Coozat and Mooftees aforesaid and under the sentence of Lazeer declared in the futwa adjudge the Prisoners

1st Meerasumshuddeen"
to pay a fine to Government of 100 rupees commutable if not paid to 6 months imprisonment without irons and hard labour—

2d Saber Khann
to pay a fine to Government of 20 Rupees commutable if not paid to 6 months imprisonment without irons and hard labour.—

7th Arrubby Jaffer Saibe
to pay a fine to Government of 10 Rupees commutable if not paid to 6 months imprisonment without irons and hard labours.

8th Mahomed Yakoob"
to pay a fine to Government of 10 rupees commutable if not paid to 3 months imprisonment without

22d November 1822

irons and hard labours.—

16th Khasim Cawn
to pay a fine to Government of 10 rupees commutable if not paid to 3 months imprisonment without irons and hard labour.

18th Manaollah Saib
to pay a fine to Government of 20 rupees commutable if not paid to 6 months imprisonment without irons and hard labours.—

19th Umma Saheb alias Ahamud Saib"
to pay a fine to Government of 10 rupees commutable if not paid to 3 months imprisonment without irons and hard labours.—

20th Shareef Ally"
to pay a fine to Government of 10 rupees commutable if not paid to 3 months imprisonment without irons and hard labours.—

23d Emam Saib
to pay a fine to Government of 10 rupees commutable if not paid to 3 months imprisonment without irons and hard labour.

26th Mohamed Gaubb
to pay a fine to Government of 10 Rupees commutable if not paid to 3 months imprisonment without irons and hard labour.—

28th Ahmud Ally"
to pay a fine to Government of 10 rupees commutable if not paid to 3 months imprisonment without irons and hard labour.

32d

32d Mahomed Kabelakah,
to pay a fine to Government of 10 rupees com=mutable if not paid to 3 months imprison=ment without irons and hard labours-

44th Mohamed Alee,
to pay a fine to Government of 10 rupees com=mutable if not paid to 3 months imprison=ment without irons and hard labours-

47th Shaik Mohedeen
to pay a fine to Government of 10 rupees com=table if not paid to 3 months imprisonment without irons and hard labours-

51st Sabber Saheb Cutwal,
to pay a fine to Government of 50 rupees com=table if not paid to 6 months imprisonment without irons and hard labours-

52d Mohammed Ajzul,
to pay a fine to Government of 20 Rupees com=mutable if not paid to 6 months imprisonment without irons and hard labours-

And under the provisions of Clause 6th Section II Regulation XV of 1803 the Court direct that the prisoners

2d Nawb Saib
3d Pacha Saib
4th Chooge Saib
6th Sharuf Saib
9th Saik Mamma Butcher,
10th Dawood Saib
11th Saik Hummum Butcher,
12th Emam Butcher,
13th Shaik Emam
14th Hoosain Khanum
15th Taher Saib

17th Syde Meyah,
21st Meer Cauzumallee,
22d Nannay Saib,
24th Lipgoo Saib,
25th Cazee Saib,
27th Meer Jaffer Ally
29th Shaik Fareed,
30th Sydee Madaur,
31st Saik Meyan,
33d Meerun Saun
34th Buddy Saib,
35th Cazeer Saib
36th Boddun Saib,
37th Movazeen Padasha Saib,
38th Ally Saib,
39th Mohammed Fazul,
40th Asadally Shaw,
41st Aboul Raheemaun,
42d Mohomed Taheer,
43d Shaik Salum,
45th Shaik Emam,
46th Cunnun Saib,
48th Mohammed Hushem,
49th Peer Mahommed,
50th Madena Barber, and
53d Goolam Hoosain,

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

And acquitting the prisoner,
54th Colayfilly Ramaswamy,
direct that he be set at liberty.-

(Sent following letter No 378.)

20

At a Court of the Foujdaree Adalut

Present

Monday, 25th November 1822 } Charles Harris Esqre Prime Judge
George Govan Esqre Acting Judge

C# 64

1 Read letter dated 15th Instant from the Judges of the Provincial Court of Circuit in the Centre Division, submitting for the consideration and orders of the Court copy of a petition on behalf of Damerla Timmaraid Bahadoor son of Boda Venkatapa Naid Bahadoor Zamindar of Calastry.

Here enter No. 68

The petitioner represents that having quitted Calastry from dread of his father's ill treatment he went to Razanagaram, and that the Magisthate of Chittoor has on a representation from the petitioners father given orders prohebiting petitioner from leaving his place of residence, & has placed peons over him.—

2 The Court of Foujdaree Adalut direct, that the foregoing petition be referred through the Provincial Court of Circuit in the Centre Division to the Magisthate of Chittoor for explanation.—

3 Ordered, that extract of these proceedings

25th November 1822.

proceedings be sent to the Provincial Court of Circuit by precept enjoining them to communicate the same to the Magistrate of Chittoor furnishing that officer with a copy of the petition and directing him to submit the required explanation without delay:—

/sent following precept No. 379/

Read letter dated 18th Ultimo from the 1st Judge on Circuit in the Western Division, submitting case No. 13 Canara Calendar second Sessions A.D. 1822.—

/Here enter No. 632/

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 Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the provisions of clause sixth section II Regulation XV of 1803 direct that the prisoners

1st Linapa, and
2d Caja

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

/sent following letter No. 380/ Read

25th November 1822.

Read letter, dated 7th Instant, from the 2d Judge of the Court of Circuit in the Northern Division, submitting Case No. 9 of Masulipatam Calendar 3d Quarterly Sessions A.D. 1822.—

/Here enter No. 675/

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 Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the provisions of clause first section IV Regulation XV of 1803 adjudge the prisoners.

1st " Minnatoo Chitteegandoo "
2d " Meebogoo Boodeegandoo, alias Nauneegandoo—

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

/sent the following letter No. /

1 It appears from an extract of the proceedings of the Assistant Magistrate in this case that a person named Cajula Poda Ranze proved to have been one of the leaders of the Gang who perpetrated this most atrocious robbery had up to 15th April last succeeded in eluding the efforts of the police for his apprehension.—

2 The Court of Foujdaree Udalut are of opinion, that under these circumstances it was incumbent on the Magistrate to resort

At a Court of the Foujdaree Adalut

Present,

Tuesday 28th November 1822. Charles Hasted Esqre Puisne Judge.
George Gowan Esqre Acting Judge.

Read letter, dated 29th Ultimo,
from the 1st Judge on Circuit in the Western
Division, submitting case No 6 Seringapatam
Calendar 2d Sessions A.D. 1822.
(Here enter No 647)

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 Tazeer declared in the futwa adjudge
the prisoner,

"Shaik Emam,"

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

(sent following letter No 383.)

The 1st Judge who presided at
the foregoing trial omitted to take the evidence
of the child on whose body the prisoner
stood

* The record contains copy of a proclamation dated 19th February 1822 and bearing the signature of the assistant Magistrate in which a reward of 100 rupees is promised "to each individual who will apprehend any of the robbers."

Supposing the translation to be correct the Court of Foujdaree Adalut have to remark that the tenor of this proclamation is at variance with the provisions of sections XXI and XXII Regulation IX of 1816 whereby authority is given to the Magistrate to offer a reward of 500 rupees for the apprehension of a dacoit payable only on the conviction of the offender before the Court of Circuit...

resort to the measures prescribed by Section XXI Regulation IX of 1816, and should the apprehension of the individual in question not have been yet accomplished, the Court authorize and direct the Magistrate to offer a reward of 500 rupees payable under the provisions of Section VI Regulation I of 1818 on his delivery to the Magistrate of Rajahmundry, or to the Magistrate in whose jurisdiction he may be apprehended.—

*

Ordered, that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Northern Division by precept ordering him to communicate the same to the Magistrate of Rajahmundry for his information and guidance.—

sent 28th

(sent the following precept No 382)

26th November 1822.

stood charged with having committed a rape. She is described in the preliminary proceedings as being seven years of age.-

2 Under the circular orders of the 15th April 1819 Tongdaree Udalut the evidence of this child should have been rejected only in the event of its appearing that she was not sensible of the nature and obligation of an oath and of the consequences of perjury. and where the examination enjoined by the Court on this point may be held a note to that effect should be entered on the record for the information of the Tongdaree Udalut.-

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

(Sent following letter No 384)

2 Circular

Read letter, dated 13th instant, from the Criminal Judge in the Zilla of Masulipatam, submitting for the consideration and orders of the Court copy of a correspondence with the Magistrate regarding the construction of clause fourth Section IV Regulation VI of 1822.-

(Here enter No 689)

The point involved in the foregoing reference

26th November 1822. reference is whether or not the provisions of the clause above cited require, that every charge of knowingly receiving or buying stolen property should be brought before the Criminal Judge.-

2 The Court of Tongdaree Udalut are of opinion, that where the purchaser or receiver may appear to be implicated only as an accessary in a petty theft punishable by the Magistrate under the provisions of Section XXXIII Regulation IX of 1816, and not a notorious or common receiver of stolen goods, the case is still cognizable by the Magistrate according to the general Spirit of the Regulations, and that the provisions of Section IV Regulation VI of 1822 in no way affect the jurisdiction of Magistrates under the provisions of Regulation IX of 1816, but apply exclusively to the cases of persons brought before the Criminal Judge under the rules prescribed in Regulations IX and XI of 1816.-

3 The Court of Tongdaree Udalut consider that the Criminal Judge was perfectly regular in submitting the above correspondence to the Judges of the Court of Circuit and that it is desirable that all references from the Judicial authorities in the Zillas, in cases of difference of opinion on the meaning and construction of the Regulations, as well as the orders of the Court of Tongdaree Udalut thereon, should pass through the Court of Circuit of the Division

Ordered

Ordered, that extract of these Proceedings be sent to the Provincial Courts of Circuit by precept directing them to communicate the same to the several Criminal Judges and Magistrates within their respective Divisions for their information and future guidance.-

Sent 23d.

/Sent following precept No. 385./

Read return dated 11th Instant from the 2d Judge late on Circuit in the Western Division to precept dated 23d Ultimo calling for Report prescribed by Section XXXVII Regulation VII of 1802.-

/Here enter No. 682/

Read letter, dated 13th Instant from the 2d Judge late on Circuit in the Western Division,- With returned warrant for execution of prisoner in case No. 19 South Malabar Calendar 1st Sessions A.D. 1822.-

/Here enter No. 688/

Read return dated 11th Instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 29th Ultimo ordering communication to the Magistrate of Rajahmundry of the Court's observations on Case No. 11 Masulipatam Calendar 1st Quarterly Sessions 1822.-

/Here enter No. 690/

Read return dated 18th Instant from the Provincial Court of Circuit in the Centre Division, to precept dated 8th Instant ordering communication to the Criminal Judges and Magistrates of the Court's orders regarding publication of Regulations.-

/Here enter No. 695/ Read

Read return Dated 22d

26th November 1822 Instant from the second Judge of the Courts of Circuit in the Centre Division to precept dated 8th Instant ordering revision of certain Sentences in Chittore Calendar 4th Quarterly Sessions 1822.-

/Here enter No. 697/

Read letter, dated 25th Instt. from the 3d Judge on Circuit in the Southern Division,- With returned warrants for execution of prisoners in Cases No. 22 and 38 Salem Calendar 2d Sessions A.D. 1822.-

/Here enter No. 699/

Read letter, dated 20th Instant from the 2d Judge of the Courts of Circuit in the Northern Division,- With returned warrant for execution of prisoner in Case No. 8 Masulipatam Calendar 3d Quarterly Sessions A.D. 1822.-

/Here enter No. 709/

At a Court of the Foydar Adalut

Present,

Wednesday 27th November 1822 — Charles Harris Esqre Puisne Judge
George Gowan Esq.re Acting Judge

Read letter, dated 22d Instant from the Secretary to Government in the Judicial Department, stating that the Governor in Council sanctions the tender of a conditional pardon recommended on the 11th Instant

/Here enter No 701/

Ordered, that copy of the foregoing letter be sent with extract from the Courts proceedings of the 11th Instant for the information and guidance of the Criminal Judge in the Villa of Canara.-

/Sent following letter No 387/

At a Court of the Foujdaree Adalut

Present

Thursday 28th November 1822 — Charles Harris Esq^re Puisne Judge

George Gowan Esq^re Acting Judge.

Read letter dated 4th Instant

C. H. — from the Second Judge of the Court of Circuit

Lt. — in the Centre Division, submitting Case No. 5

Chittoor Calendar 4th Quarterly Sessions A.D.

1822.—

Here enter No. 667

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 Cazeecol Cozat and Mooftee of the Foujdaree Adalut confirm the said futwa of the Cazeecol Cozat and Mooftee aforesaid and under the sentence of Rs. 100 declared in the futwa adjudge the prisoner,

"Harryen,"

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

Sent the following letter No. 207

28th November 1822.

Read letter dated 23d Instant from the 3d Judge on Circuit in the Centre Division With copy of Bellari Calendar second Sessions A.D 1822.-

/Here enter No. 708/

Read return dated 21st Instant from the 1st Judge on Circuit in the Western Division to precept dated 11th Instant calling for futwa in Case No. 8 and ordering revision of the Sentence in Case No. 7 Seringapatam Calendar second Sessions 1822.-

/Here enter No. 702/

Read return Dated 23d Instant from the Criminal Judge in the Zilla of Masulipatam to precept dated 19th Ultimo ordering him to deliver certificate of pardon to Cottah Lenoopatty

/Here enter No. 704/

Read letter dated 25th Instant from the 3d Judge on Circuit in the Centre Division,- Reporting his arrival at Chingleput.

/Here enter No. 705/

Read return dated 25th Instant from the Provincial Court of Circuit in the Centre Division,- to precept dated 19th Instant ordering communication to the Criminal Judges and Magistrates of the Courts' construction of section III & IV Regulation II of 1822.-

/Here enter No. 707/

F. C.

At a Court of the Foujdaree Adalut

Present

Wednesday 4th December 1822 } Charles Harris Esq.re Puisne Judge
George Govan Esq.re Acting Judge.

Read letter dated 11th Ultimo
C.H. from the 2d Judge of the Court of Circuit in the
W.G. Centre Division,- Submitting Case No. 12 Chittore Calendar 4th Quarterly Sessions A.D 1822.-

/Here enter No. 672/

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officers and the futwa of the Cazee ool Coozat and Moofftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Moofftees aforesaid and under the provisions of Section III Regulation I of 1822 adjudge the prisoner "Chinnoogadoo" to be removed to the Jail in the Zilla of Bellari 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 14 years and then to be released.-

/Sent following letter No. 391/

Read

Read letter, dated 22d Ultimo from the 2d Judge late on Circuit in the Western Division,- With returned warrants for execution of a prisoner in Case No. 16 South Malabar Calendar 1st Sessions A.D. 1822.-

/Here enter No. 714/

Read letter, dated 25th Ultimo, from the Assistant Criminal Judge in charge of the Zilla Court of Seringapatam,- Reporting the escape of a convict.-

/Here enter No. 713/

Read return dated 22d Ultimo from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 8th Ultimo ordering communication to the Criminal Judges and Magistrates of the Courts' orders regarding publication of Regulations.-

/Here enter No. 711/

Read return dated 25th Ultimo from the 3d Judge on Circuit in the Southern Division to precept dated 2d Ultimo ordering communication to the Acting Criminal Judge and Magistrate of Salem of the Courts' orders in Case No. 85 Salem Calendar Second Sessions 1822.-

/Here enter No. 712/

Read letter dated 30th Ultimo from the 3d Judge on Circuit in the Centre Division With returned warrant for execution of a prisoner

prisoner in Case No. 32 Cuddapa Calendar Second Sessions 1822.-

/Here enter No. 720/

Read return dated 29th Ultimo from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 10th October last ordering communication to the Criminal Judges and Magistrates of the Courts' construction of Section III & IV Regulation II of 1822.-

/Here enter No. 722/

Read return dated 27th Ultimo from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 10th October last ordering communication to the Criminal Judges and Magistrates of the Courts' construction of Section III & IV Regulation II of 1822.-

/Here enter No. 723/

Read return dated 25th Ultimo from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 8th October last ordering communication to the Criminal Judges & Magistrates of the Courts' orders regarding publication of Regulations.-

/Here enter No. 724/

At a Court of the Foujdaree Udalut

Present

Friday - - - -
6th December 1822

Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge

C #
W

Read letter Dated 25th Ultimo from the 3d Judge on Circuit in the Southern Division Submitting copy of Madura Calendar Second Sessions A.D 1822.-

(Here enter No. 721.-)

1 In case No. 10 the prisoner stood charged with having on the night of 31st March 1822 broken into a Pagoda and stolen therefrom property to a large amount.- He was declared by the futwa liable to discretionary punishment and is stated in the column of remarks to have been sentenced under clause second section III and clause fourth section II Regulation VI of 1822 to receive 39 stripes and to be imprisoned in banishment for 14 years.-

2 Regulation VI of 1822 having been enacted under date 19th July, its provisions cannot be applied to an offence committed in March 1822, and it will, therefore, be the duty of the 3d Judge to revise the sentence passed in this case with reference to the provisions of clause seventh section II Regulation XI of

of 1803.-

3 In Case No. 15 the prisoners were convicted of robbery and declared liable to discretionary punishment, Hud being barred by certain scruples & distinctions of the nature described in clause fourth Section II Regulation XV of 1803.-

4 In the column of remarks the 3d Judge states certain reasons for having departed from the course of proceeding enjoined in the Clause last cited, and passed a mitigated sentence under a futwa of Ooloolut.-

5 The provisions of Clause fourth Section II Regulation XV of 1803 prescribe a course of proceeding to be followed by the Courts of Circuit in the cases therein mentioned; and no departure therefrom on grounds of expediency or propriety is competent to those Courts.-

6 Under the sentiments entertained by the 3d Judge of the merits of this case it will be proper, that he should refer the trial to the Court of Zoojdaree Odalut in order that recourse may had, if requisite, to the provisions of Section XIX Regulation VIII of 1802.-

7 In Case No. 16 the reasons stated in the futwa to bar Hud, were the recovery of the property and the prisoners' denial of the charge. In respect to the 1st prisoner a dawa futwa was demanded, but not with regard to the 2d prisoner in consideration of his being only 16 years of age.-

Under

Under the Mohummudan Law the circumstance last mentioned constitutes a bar to Hud; & should therefore have been so set forth in the futwa, when the proceeding of the 3d Judge would have been strictly regular.-

9 The attention of the Law officer of the Court of Circuit must again be called to the necessity of declaring in each case, wherein a futwa of discretionary punishment may be delivered, all the grounds existing in bar of the specific penalty.-

10 In the column of remarks on Case No. 28 it is recorded, that the prisoners were ordered to be released on security without any entry of the futwa or the other particulars directed to be "in all cases" inserted in the Calendars by the circular orders of the Zoojdaree Odalut, dated 6th September 1819.-

11 The Court of Zoojdaree Odalut do not deem it necessary on the present occasion to return the Calendar to the 3d Judge for the purpose of supplying the defects here noticed, but they direct that his particular attention be called to the circular orders above cited.-

12 Ordered, that extract of these proceedings be sent to the 3d Judge on Circuit in the Southern Division by precept enjoining him to proceed in the manner above directed in respect to cases Nos. 10 & 15 of the Calendar.-

Sent following precept No. 392

No. 6.

At a Court of the Foujdaree Udalut

Present

Monday 9th December 1822

Charles Harris Esqre Pro tem Judge

George Gowan Esqre Acting Judge.

Read letter dated the 3d Ultimo from the 3d Judge on Circuit in the Centre Division submitting Case No. 15 Cuddapa Calendar of Second Sessions A.D. 1822.—

Here enter No. 678

The Court having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Provincial Law officer and the futwa of the Cazee ool Coozat and Mooftee of the Foujdaree Udalut are of opinion that the proof against the prisoner, Soobanah is sufficient to convict him of having fraudulently altered the Survey account of the village of Esullapullee for which offence a penalty is specially denounced in Clause first Section III Regulation XI of 1811.—

The Court therefore under the authority vested in them by Clause 1st Section II Regulation I of 1818 and in exercise of the discretion given by Clause third Section III Regulation

of—

of 1811 adjudge the said prisoner,
"Soobanah"
to be publicly exposed in the mode commonly
denominated Tuchea and to be imprisoned and kept
to hard labor without irons for and during the
period of 4 years and then to be released.-

/Sent the following letter No. 394/

1 The Court of Foujdaree Adalut
have in this case on the recommendation of the
3d Judge on Circuit remitted the corporal punish=
ment, to which the prisoner is liable, in consid=
=deration of his weak bodily condition.-

2 The Court direct, that the prisoner
be informed of the grounds of the mitigated
sentence, which has been passed upon him, and
that the same be declared in a public Notifica=
=tion for general information.-

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

/Sent the following precept No. 395/

Read letter dated 3d Instant from
the Secretary to Government in the Judicial Depart=
=ment conveying the orders of Government on the
proceedings of the Magistrate of Bellari reported
on

on under date 19th Ultimo.-

/Here enter No. 727/

Ordered, that a copy of the forego=
=ing letter be sent to the Magistrate in the Zilla
of Bellari for his information and guidance.-

/Sent the following letter No. 396./

W.M.

Read letter, dated 6th Instant
from the 3d Judge on Circuit in the Southern Division
with returned Warrant for execution of prisoners
in Cases Nos. 57 and 79 Salem Calendar second Sessions
AD 1822.-

/Here enter No. 728/

At a Court of the Foujdaree Udalut

Present

Tuesday — }
10th December 1822 } Charles Harris Esq.re Prime Judge

George Gowan Esq.re Acting Judge

C. H.

WL

Read letter, dated 29th October last, from the 1st Judge on Circuit in the Western Division, submitting case No. 4 Seringapatam Calendar Second Sessions A.D. 1822.—

Here enter No. 648/

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 Udalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of ~~Section XV~~ Regulation ~~VIII~~ of 1802 adjudge the prisoner,

"Naidoo Sepoy"

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

/Sent following letter No. /

Read letter, dated 23d October last, from the 2d Judge late on Circuit in the Western Division, submitting Case No. 58 South Malabar Calendar first Sessions A.D. 1822.—

/Here enter No. 642/

The Judges of the Court of Foujdaree

10th December 1822. Foujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the 2d & 3d prisoners is sufficient to convict them of having aided in the murder of the deceased Changara Menon, desire under clause second Section II Regulation I of 1818, that the Cazee ool Coozat and Mooftees of the Foujdaree Adalut will declare by a second futwa to what sentence the prisoners would have been liable under the Mohummudan Law if they had been convicted by full legal evidence of the crime laid to their charge.-

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

Read return dated 13th Ultimo, from the 1st Judge of the Court of Circuit in the Centre Division, to precept dated 20th October last ordering him to take certain additional evidence in case No 20 Chittoor Calendar 3d Quarterly Sessions 1822.-

Read again letter dated 16th September last from the 1st Judge of the Court of Circuit in the Centre Division submitting Case No 20 Chittoor Calendar 3d Quarterly Sessions AD 1822.- Here enter No 570

/Here enter No 677/

The Judges of the Foujdaree Adalut upon a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the 2d prisoner is sufficient to convict him of having put to

10th December 1822. death the deceased Ducky Chenjanah, the father of the prosecutor, Rungun, Desire under clause second Section II Regulation I of 1818 that the Cazee ool Coozat and Mooftees of the Foujdaree Adalut will declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan Law if he had been convicted by full legal evidence of the above crime.-

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

Read letter dated 17th September last, from the 1st Judge of the Court of Circuit in the Centre Division, submitting Case No 21 Chittoor Calendar 3d Quarterly Sessions AD 1822.-

/Here enter No 570/

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 prisoners 1st & 2d is sufficient to convict them of having aided in the murder of Ducksee Chenganah. And that the proof against the 3d prisoner is sufficient to convict her of having also abetted the murder of the deceased, desire under clause second Section II Regulation I of 1818 that the Cazee ool Coozat and Mooftees of the Foujdaree Adalut will declare by a second futwa to what sentence the prisoners would have been liable under the Mohummudan Law

10th December 1822. 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 Cazee ool Coozat and Mooftees of the Fouzdaree Udalut.—

W

F. H.

At a Court of the Fouzdaree Udalut

Present

Thursday 12th December 1822

Charles Harris Esqre Puisne Judge

George Govan Esqre Acting Judge

C H

W

Read again letter, dated 25th October last, from the 2d Judge late on Circuit in the Western Division, submitting case No. 58 South Malabar Calendar 1st Sessions A.D. 1822.—

/Here enter No. 642/

Read the decond futwa delivered in this case by the 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 Cazee ool Coozat and Mooftees of the Fouzdaree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the latitude given by the Sentence of Pokoobut declared in the futwa adjudge the prisoners,

2d "Chellattoowalapil Parangodan" &

3d "Pookarahparambil Pangodak",

to be imprisoned and transported to such

plac

12th December 1822.

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 and during the period of their natural lives.—

And under the provisions of clause sixth Section II Regulation XV of 1803 direct that the prisoner

1st "Ederamittil Kristna Menon"

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

/Sent following letter No. 398/

Read again return dated 13th Ultimo from the 1st Judge of the Court of Circuit in the Centre Division to precept dated 29th Ultimo ordering him to take certain additional evidence in Case No. 20 Chittoor Calendar 3d Quarterly Sessions 1822.—

/Here enter No. 677/

Read again letter dated 16th September last, from the 1st Judge of the Court of Circuit in the Centre Division,— Submitting Case No. 20 Chittoor Calendar 3d Quarterly Sessions A.D. 1822.—

/Here enter No. 569/

Read

12th December 1822.

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 on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Hijbaas declared in the futwa adjudge the prisoner

"2d Chengadoo"

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

/Sent the following letter No. /

Read again letter dated 17th September last from the 1st Judge of the Court of Circuit in the Centre Division,— Submitting Case No. 21 Chittoor Calendar 3d Quarterly Sessions A.D. 1822.—

/Here enter No. 570/

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 on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Udalut confirm the said

12th December 1822. said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the latitude given by the sentence of Ookoobut declared in the futwa adjudged the prisoner,

1st "Seetah,"

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

And the Court under the sentence of Ookoobut declared in the futwa against the prisoner,

2d "Seroomalay,"

adjudge her 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 labour in irons on the public roads or other public works for and during the period of her natural life.—

And under the sentence of Ookoobut declared in the futwa the Court of Foujdaree Udalut adjudge the prisoner

3d "Paupah,"

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

Sent 16

/Sent following letter No. 399/

Read letter dated 16th Ultimo from the 2d Judge of the Court of Circuit in the Centre Division, submitting case No. 10 Chittoor Calendar 4th Quarterly Sessions 1822.—

/Here enter No. 694/

The Court having maturely considered the proceedings held

12th December 1822. held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and accordingly direct that the prisoners,

1 Goodoobeemah, and
2 Nannamah,

be set at liberty.—

Sent 26

/Sent following letter No. 400/

Read letter, dated 13th Ultimo from the 3d Judge on Circuit in the Centre Division submitting case No. 2 Supplemental Cuddapa Calendar Second Sessions A.D. 1822.—

/Here enter No. 692/

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 Udalut are of opinion that the proof against the prisoners Nagadoo, and Lingadoo, is sufficient to convict them of the crime of robbery by open violence for which a penalty is specially denounced in Section III Regulation I of 1822.—

The Court therefore under the authority vested in them by clause first Section II Regulation I of 1818 adjudge the prisoners

12th December 1822.

prisoners

1st "Nagoodoo", &
2d "Lugmadoo",

to receive 39 stripes with a rattan & 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 labour in irons on the public roads or other public works for and during the period of their natural lives.—

Sent 16th

(Sent following letter No. 401)

Read letter, dated 11th Ultimo from the 1st Judge on Circuit in the Western Division, submitting case No. 1 Seringapatam Calendar & 2d Sessions A.D. 1822.—

(Here enter No. 686)

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 proofs against the prisoner Venkata is sufficient to convict him of having put to death the deceased Iagy desire under clause second section II Regulation I of 1816 & that the Cazee-ool Coozat and Mooftees of the Foujdaree Adalut will declare by a second futwa to what sentence the prisoner & would have been liable under the Mohummudan Law if he had been convicted by full

12th December 1822. full legal evidence of the above crime.—

Ordered that Extract of these proceedings be translated and delivered to the Cazee-ool Coozat and Mooftees of the Foujdaree Adalut.

At a Court of the Foujdaree Udalut

Present

Friday ---
13th December 1822 } Charles Harris Esq.re Puisne Judge

George Gowan Esq.re Acting Judge

Read again letter, dated 11th Ultimo from the 1st Judge on Circuit in the Western Division,- submitting case No.1 Seringapatam Calendar Second Sessions A.D.1822.-

C.t
W.

/Here enter No.686/

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

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Hyder declared in the futwa adjudge the prisoner

"Vencata"

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

/sent the following letter No.2002

Sent 16th

Read

13. December 1822.

Read return dated 2d Instant from the Provincial Court of Circuit in the Centre Division to precept dated 26th Ultimo, ordering communication to Criminal Judges and Magistrates of the Courts' orders on a reference from Criminal Judge in the Zilla of Masulipatam regarding the construction of Regulation VI of 1822.-

/Here enter No. 733/

Read return dated 6th Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 26th Ultimo, ordering communication to Criminal Judges and Magistrates of the Courts' orders on a reference from Criminal Judge in the Zilla of Masulipatam regarding the construction of Regulation VI of 1822.

/Here enter No. 738/

Read return, dated 7th Instant from the 2d Judge of the Court of Circuit in the Northern Division, to precept dated 25th Ultimo, ordering communication to the Magistrate of D Rajahmundry of the Courts' orders on Case No. 9 Masulipatam Calendar 3d Quarterly Sessions 1822.-

/Here enter No. 739/

X

Fl.

At a Court of the Foujdaree Adalut

Present

Monday 16th December 1822 } Charles Harris Esq.re Senior Judge
George Gowan Esq.re Acting Judge

Read letter, dated 23d Ultimo from the 3d Judge on Circuit in the Centre Division on submitting Case No. 3 Bellary Calendar second Sessions A.D. 1822.-

C.
W.

/Here enter No. 726/

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 Kiffaas declared in the futwa adjudge the prisoner

"Bingee Cauthapah"

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

~~/and the proceedings dated &c/~~

The 3d Judge on Circuit in his letter accompanying the foregoing trial notices the circumstances of the prisoners' youth and general deportment, and the absence of all proof of premeditated ~~malice~~ malice as rendering him in same

some measure a fit object of mercy.—

2 The evidence against the prisoner consists of his own declarations, in which he acknowledges, that while in a state of intoxi-cation he stabbed the deceased; and the father of the deceased bears testimony to the friendship which had subsisted between the deceased and the prisoner.—

3 Looking at the whole of the circumstances elicited by the Record, the Court of Foujdaree Adaulut incline to the opin-on, that the act of the prisoner does not amount to more than Manslaughter; the Law Officers of the Foujdaree Adaulut having delivered a futwa of Kissaas against him the Court have passed sentence of Capital punishment, as prescribed by Law; but they resolve under the provisions of Section XIX Regulation VIII of 1802 to suspend the execu-tion of their sentence; and to submit the Case to the Honorable the Governor in Coun-cil with a recommendation, that he may be pleased to commute the punishment of death to 5 years' imprisonment and hard labor in irons.—

4 Ordered, that extract of these proceedings with the record of the trial in the

Case

Case No. 3 Bellaree Calendar 2d Sessions A.D. 1822 be transmitted to the Secretary to the Government in the Judicial Department for the purpose of being laid before the Honorable the Governor in Council.—

/ Sent following letter No. 403. /

Read letter, dated 13th Instant from the Secretary to Government in the Judicial Department;— stating that the Governor in Council sanctions the arrangement proposed by the 3d Judge on Circuit in the Centre Division respecting the disposal of certain persons convicted of receiving stolen Cattle in the Nizams territories.—

/ Here enter No. 748 /

Ordered that copy of the foregoing letter be transmitted to the 3d Judge on Circuit in the Centre Division by precept enjoining him to issue the necessary instructions on the subject to the Magistrate in the Zilla of Bellaree.—

/ Sent following precept No. 404 /

Read letter, dated 14th Instant from the Acting Judge on Circuit in the Northern Division;— Reporting his intention of leaving Chicacole on 5th Instant.—

/ Here enter No. 749 /

Read return, dated 13th Instant from the late Acting Judge on Circuit in the Centre

16th December 1822.

Centre Division to precept dated 12th September last ordering communication to the Magistrates of Combaconum and Chingleput of the Courts orders on Case No 5 Chingleput Calendar Second Sessions 1821.-

/Here enter No 742/

Read return dated 13th Instant from the 3d Judge on Circuit in the Centre Division to precept dated 17th September last ordering communication to the Criminal Judge and Magistrate of the Courts observations on Case No 31 Cuddapa Calendar 2d Sessions 1822.-

/Here enter No 743/

At a Court of the Foujdaree Adalut

Present,

Wednesday, 18th December, 1822.- Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge-

Read letter, dated 4th Instant,

C # 11. from the Magistrate in the Zilla of Canara,- requesting sanction for the offe. of the highest rate of rewards for the apprehension of the persons concerned in mutilating certain horses.-

(Here enter No 746.)

The Court of Foujdaree Adalut, entirely concurring in the expediency of calling forth the actived exertions of the community for the apprehension of the Person or Persons concerned in the perpetratio. of the above offence do authorize and direct the Magistrate in the Zilla of Canara, to offer rewards for their appre- hension at the rate of 500 Rupees for the principal ~~and accessaries~~ and 100 Rupees for each inferior offender, payable, according to the provisions of Section XXII Regu- lation IX of 1816 on the conviction of such

such offender or offenders 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 guidance.-

(Sent following letter No 405.)

At a Court of the Foujdaree Adalut.

Present,

Thursday 19th December 1822.- Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge.

No return having been received from the 3d Judge on Circuit in the Centre Division to precept dated 24th September last directing him to transmit to the Acting Criminal Judge in the Zilla of Cuddapa the record of proceedings in case No 10 Cuddapa Calendar 2d Sessions A.D 1822 together with extract of the proceedings of the Foujdaree Adalut thereon and to precept dated 14th October last directing him to revise the sentence passed in case No 21 of the Cuddapa Calendar 2d Sessions A.D 1822 and to report the period of imprisonment adjudged against the 2d prisoner in case No 36 of the Calendar.

The Court direct that the 3d Judge on Circuit in the Centre Division be by precept commanded to explain the cause why he has not obeyed the exigence

exigence of the Precepts dated 7th. September and 15th October last.-

Return to the precept to be made within three days from and after its receipt.-

(Sent following precept №406.)

Read letter, dated 6th Instant, from the 3d Judge on Circuit in the Southern Division, submitting case №39 Madura Calendar 2d Sessions A.D. 1822.-

(Vide enter №731.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee cool Corzat and Mooftees of the Zoujdaree Adalut are of opinion that the proof against the prisoner, Shodala Mootto, is sufficient to convict him of robbery by open violence accompanied by wounding for which a penalty is specially denounced in Clause second Section IV Regulation XV of 1803.-

The Court therefore under the authority vested in them by Clause first Section II Regulation I of 1818 adjudge the said prisoner,

Shodala Mootto,

to be imprisoned and transported to such place

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 and during the period of his natural life.-

(Sent following letter №407.)

At a Court of the Foujdaree Adaulut.

Present,

Friday 20th December 1822. Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

Read return, dated 30th ultimo, from the 2d Judge of the Provincial Court of Circuit in the Northern Division, - to precept dated 8th October last ordering transmission of the proceedings held in cases Nos 2, 3, and 5 Masulipatam Calendar 3d Quarterly Sessions A.D. 1822, and the eventual transmission of the record of case No 21 of the Calendar.-

/Here enter No 732/

In the latter of the above cases the prisoners were charged with Gang Robbery and wounding, and it was stated in the column of remarks in the Calendar, that "the Futwa convicted the "1st 2d 3d 4th and 5th prisoners of the crime "laid to their charge and declared them "liable to Kisas." And being barred in respect to the 1st 2d 3d and 4th prisoners by their denial of the charge on their defence.-

The

2

The Court of Foujdaree Udalut in their precept dated 8th October last directed the 2d Judge to revise the sentences passed by him in this case, "with reference "to the provisions of Claude second Section "IV Regulation XV of 1803, passing new "sentences on the prisoners, should the "personal injury charged to have been "committed be trifling, under the circular "order of the Foujdaree Udalut dated 28th "November 1820," and the Court proceeded to observe that "should the personal injury "be of the nature contemplated in the "former part of that clause," it would be necessary, "that the record of this trial "should be submitted for the judgment "of the Foujdaree Udalut."

3

In the foregoing return it is stated, that "the 2d Judge forwards "translations of the Record in No 21, as he "has not been able to discover that wounds "of any description were inflicted by "the prisoners on the Nephew of deceased "Chellumah."

4

Referring to the Record the Court of Foujdaree Udalut find, that by the futwa the prisoners were declared convicted of Sarika i- kohra without wounding.-

5

The Court are at a loss to account for the 2d Judge's having under these circumstances sent up translations of the Record of this case, which by their precept was directed to be done only in the event of it's coming under the description given in the former part of Claude second Section IV Regulation XV of 1803.-

6

The Court pointed out to the 2d Judge in the 5th paragraph of their proceedings, dated 8th October last, the irregularity of taking a second futwa in cases of this nature, and they deem it proper to return the record of this case to the 2d Judge in order that the sentences may be regularly passed under the provisions of section IV Regulation XV of 1803.-

7

The attention of the Foujdaree Udalut is forcibly attracted on this occasion to the erroneousness of the entry, in the column of remarks on the Calendar of the substance of the futwa.-

8

By the Calendar it appears that the prisoners were declared by the Mohummedan

Mohummedan Law Officer to be convicted of the whole of the charge, whereas the futwa declared an important part of the charge not to be established.-

9 The impropriety of demanding a second futwa of Hud in a case specially provided for by the Regulations has already been noticed; it appears, however, in this case that the answer delivered by the Law Officer merely declared, that the penalty of "Hud" would be incurred under the circumstances, stated in the question put by the 2d Judge, without specifying the punishment which in this particular case was involved in that sentence.-

10 This omission led the 2d Judge into the further error of awarding seven years imprisonment in commutation of a sentence, which by the Mohummedan Law required amputation of two limbs.-

11 The Court of Foujdaree Adalut desire, that the 2d Judge will be careful in future to require the Law Officer in delivering a futwa of "Hud" to specify the penalty, which in each particular case becomes thereby adjudicable against the prisoners.-

Ordered

2/ 7.11

20th December 1822.

12 Ordered that the Record of the trial № 21 Masulipatam Calendar 3d Quarterly Sessions of 1822 be returned to the 2d Judge of the Provincial Court of Circuit in the Northern Division by precept, enjoining him to revise the sentences passed against the prisoners under the provisions of the several Clauses of Section IV Regulation XV of 1803.-

(Sent following Precept № 409)

Sent 24th

Read letter, dated 11th Instant, from the 3d Judge on Circuit in the Southern Division,- submitting for the consideration and orders of the Court copies of certain precepts issued by him to the Magistrate of Tinnevelly and of that Officer's returns respecting certain cases, wherein fines have been adjudged by the Magistrate "for "contempt of the authority of the Collector."

(Here enter № 753)

The Court of Foujdaree Adalut do not deem it necessary to go into a discussion of the circumstances of the cases referred to in the foregoing papers

papers, or of the arguments on which the Magistrate rests the opinion that the functions of the office of Collector could not be carried on without the right of exercising such a power as he has assumed in the instances cited.

2 The question put by the Magistrate viz: "whether or not a "Magistrate is authorized to take cognizance "of contumacy and disregard of the "authority of the Collector" admits of easy solution: the Court of Foujdaree Adalut recognize no authority in the Magistrate which is not specially given by the Regulations; and they contain no provision for his punishing a contempt of the authority of the Collector.-

3 The fines of 50 Rupees each awarded against 58 Meerasdars for refusing to sign a written statement of their unwillingness to rent their Villages, being illegal, the Court of Foujdaree Adalut direct, that they be remitted.-

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

Circuit in the Southern Division by precept enjoining him to communicate the same to the Magistrate in the Zilla of Tinnivelly for his information and guidance.-

4th 24th Sent following Precept No 410 to 20

[illegible] [illegible]

28th December 1822.

[illegible]

At a Court of the Foujdaree Adalut

Present,

Monday, 23d December, 1822.— Charles Harris Esqre.— Puisne Judge

George Gowan Esqre.— Acting Judge—

Read letter, dated 4th instant,

c.4. from the 3d Judge on Circuit in the Centre

44 Division,— submitting case No 9 Bellary

Calendar 2d Sessions A.D. 1822.—

(Here enter No 729.)

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

Kunee Buswee,

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

(Sent following letter No 411)

The prisoner in this case

on

c.n. 126

on her apprehension charged Neelgar,
a man with whom she cohabited,
with the Murder:- this charge she
subsequently retracted, and the record
exhibits confessions delivered by the
prisoner before the District Police Officer
and before the Criminal Judge.-

2 It appears by the testimony
of the prosecutrix, that when returned
from the search after the child, she
was informed by a Girl, named Damo=
=marah and a boy named Lingaiah,
that the deceased had gone out with
the prisoner; which information
occasioned the prisoner to be suspected
of the Murder.-

3. The Court of Foujdaree Adalut
deem it proper to observe, that under
the provisions of Section XXVII Regula=
=tion XI and Section X Regulation X
of 1816 it was the duty of the police
officer in the first instance, and subse=
=quently of the Criminal Judge, to obtain
the evidence of these two persons ex
notwithstanding the prisoner's confession.

Ordered, that extract of
these

proceedings be sent to the 3d Judge
on Circuit in the Centre Division by
precept directing him to communicate
the same to the Criminal Judge in the
Zilla of Bellary, for his information
and future guidance.-

Sent following Precept No 412/

At a Court of the Foujdaree Adalut.
Present

Tuesday 24th December 1822 — Charles Harris Esq.re Puisne Judge
George Gowan Esq.re Acting Judge

Read letter dated the 4th instant from the Acting Judge on Circuit in the Northern Division; with copy of Chicacole Calendar Second Sessions A.D. 1822. — Here enter No. 750/

In case No. 8 of the Calendar the prisoner was charged with house breaking and theft and by the futwa was declared convicted on strong presumption Zun-i-ghalib.—

From the abstract of the futwa given in the column of remarks it appears, that circumstances of the Nature described in clause fifth section II Regulation XV of 1803 existed in bar of a sentence of Hud.—

In Case No. 19 the prisoners were charged with assaulting and violently beating the prosecutors and were declared by the futwa convicted on Zun-i-ghalib.—

A like futwa was delivered in respect to the 8th & 9th prisoners in Case No. 24 who were charged with Gang robbery and murder, and the 2d prisoner in Case No. 26 charged

charged with fabricating a pretended order of the Zilla Court.-

5 The whole of the prisoners above mentioned were ordered to be released on security in consideration of the suspicion attaching to them.-

6 The degree of strong presumption designated by the expression Zunn-i-ghalib is held by the Mohummudan Law sufficient for conviction; and is so recognized in the Regulations and clause third section II Regulation XV of 1803 directs, that in cases specially provided for by the Mohummudan Law, and not provided by the Regulations, where the specific penalty of the Mohummudan Law may be awarded under this futwa, a second futwa shall be taken. This mode of proceeding is not enjoined in cases of offences specially denounced by the Regulations, or cases not so denounced & not specially provided for by the Mohummudan Law. Sentence is, however, in the cases last mentioned to be passed under the futwa of conviction on strong presumption, in like manner as if the prisoner had been convicted by full legal evidence.-

7 It was not competent to the Acting Judge in any one of the foregoing cases

24th. December 1822. to order the prisoners to be released on giving security, that authority being by clause 4th sixth Section II Regulation XV of 1803 given to the Courts of Circuit only in cases of strong suspicion, not amounting to conviction.-

8 The Court of Foujdaree Adawlut contemplate with surprize and concern the erroneous proceeding adopted in these Cases by the Acting Judge; but the nature of the charge in case No. 24, with respect to which it is declared in clause first section III Regulation XV of 1803, that on conviction "whether by free & voluntary confession or by "the testimony of credible witnesses or by strong "circumstantial evidence", judgment shall be given for the prescribed penalty, leaves the Court at a loss to account for the Acting Judge having in that case overlooked the plain and express provisions, by which he should have been guided.-

9 Clause first section IV Regulation XV of 1803 requires, that this case should be referred for the final judgment of the Foujdaree Adawlut. In the other cases it will be the duty of the Acting Judge to pass new sentences in conformity with the Regulations, the execution of which must be effected with respect to any among the prisoners who may have

have been released, by requiring their Sureties to produce them.-

10 In the Column of remarks on Case No. 31 it appears, that certain prisoners convicted of Robbery by open violence without personal injury have been sentenced by the Acting Judge to imprisonment & transportation for life.-

11 It was not competent to the Acting Judge to pass this sentence against the prisoners in question, but only to the Court of Foujdaree Udalut under the provision to that effect contained in the latter part of Clause third Section IV Regulation XV of 1803.-

12 Together with the Calendar the Acting Judge has forwarded copy of instructions issued by him, under date 15th November last, to the Criminal Judge, directing that the charge of forgery against certain prisoners accused of having fabricated and procured to be fabricated certain false Cummums accounts should not be proceeded on.-

13 The Court of Foujdaree Udalut dissent altogether from the view of the Law taken on this case by the Acting Judge; and hold that under the definition of forgery given

given in clause third Section IV Regulation VII of 1811, these persons will be on conviction liable to the penalties of Forgery.-

14 The acting Judge refers in his letter to the provisions of Regulation XXIX of 1802, which the Court of Foujdaree Udalut consider to have been in so far as regards the offence charged against the prisoners in this Case, modified by the subsequent enactments of Regulation VII of 1811.-

15 The Court of Foujdaree Udalut, having had before them a statement of this case, and having after perusal of the examinations taken therein by the Criminal Judge, recommended the tender of a conditional pardon to certain of the parties implicated in the charge, which in their proceedings of 15th July last was expressly designated as a charge of Forgery; are constrained to observe, that the proceeding of the Acting Judge in dismissing the charge without a reference to them is marked by unbecoming presumption.-

16 In regard to this case the Court order, that instructions be given by the Acting Judge late on Circuit to the Assistant Criminal Judge in charge of the Zilla of Chittagong

Chicacole to bring this charge on for trial at the ensuing Sessions of Jail Delivery, and in consideration of all the circumstances of the case the Court deem it also proper to direct, that the prisoners be allowed to remain at large on bail, if able to produce sufficient bail, until the period of their trial.—

17. Ordered, that extract of these proceedings be sent to the Acting Judge late on Circuit in the Northern Division by precept directing him to proceed as herein directed, making return within six weeks from the date of the receipt of the precept.—

Sent 30th

/Sent following precept No. 413./

Read letter, dated 17th Instant from the Acting Judge of the Court of Circuit in the Southern Division,- Requesting instructions as to the trial of certain prisoners committed by him as Criminal Judge in the Zilla of Salem.—

/Here enter No. 759/

It appears from the foregoing letter, that the prisoners in two cases to be tried at the ensuing Sessions of Jail Delivery, at which the Acting Judge of the Court of Circuit in the Southern Division is to preside

preside, were committed for trial by that officer in his capacity of Criminal Judge.—

2 Under these circumstances it will be proper that the Acting Judge should at the commencement of the Sessions, call before him the prisoners aforesaid and question them as to their willingness to take their trial before him, and the Court direct, that the trial of such among them as may object to plead before the Acting Judge, shall be ~~[illegible]~~ postponed until the ensuing Sessions

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

/Sent following letter No. 414/

Sent 27th

At a Court of the Poydaree Adalut.

Present,

Thursday 28th December 1822. Charles Harris Esqre Puisne Judge.

George Gowan Esqre Acting Judge.

Read letter, dated 22d Ultimo from the 2d Judge on Circuit in the Southern Division,- submitting case No 34 Madura Calendar 2d Sessions A.D. 1822.-

(Here enter No 709.)

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 Poydaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and under the provisions of Section III Regulation I of 1822 adjudge the prisoner,

For Yalanataven,

to receive 39 stripes with a rattan and 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

public roads or other public works for and during the period of his natural life.-

Sent following letter No. 1416/

Lieut 29th

W. H.

At a Court of the Fiujdaree Adalut

Present,

Friday - 27th December 1822 } Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

Read letter dated 24th Instant from the Secretary to Government in the Judicial Department, stating that the Honorable the Governor in Council is pleased to commute the sentence of death passed on Bingee Cauthapah prisoner in Case No. 3 Bellari Calendar 2d Sessions 1822 to five years imprisonment and hard labour.-

(Here enter No. 766/

The Honorable the Governor in Council having been pleased to resolve that the sentence of death passed on the prisoner Bingee Cauthapah, in case No. 3 of the Bellary Calendar for the Second Sessions AD 1822, shall be commuted to five years imprisonment and hard labor in irons;

Ordered, that

Bingee Cauthapah

be accordingly imprisoned and kept to hard labor in irons on the public roads or

27th December 1822.

or other public works for and during the
period of 5 years and then to be released.-

/sent following letter No. 417/

Read letter Dated 11th Instant
from the 2d Judge of the Court of Circuit in the
Northern Division,- With returned warrant for exe-
-cution of prisoners in Case No. 9 Masulipatam Calendar
3d Quarterly Sessions A.D. 1822.-

/Here enter No. 754/

Read return dated 18th Instant
from the 3d Judge on Circuit in the Southern
Division,- to precept dated 6th Instant ordering
him to revise the sentence passed in Case No. 10
and to submit the record of Case No. 15 Madura
Calendar 2d Sessions A.D. 1822.-

/Here enter No. 763/

Read letter dated 16th Instant
from the Judges of the Provincial Court of Circuit
in the Northern Division, With returned warrant
for execution of a prisoner in Case No. 28 Masuli-
-patam Calendar 1st Quarterly Sessions 1822.-

/Here enter No. 765/

F. A.

At a Court of the Zuijdaree Adalut

Present

Monday 30th December 1822. } Charles Harris Esq. Senr. Judge
George Gowan Esq. Acting Judge.

Read return, dated 20th Instant,
from the Acting Judge late on Circuit in the
Northern Division,- to precept dated 22d Ultimo
ordering him to communicate to the Criminal
Judge in the Zilla of Nellore certain observa-
-ons of the Zuijdaree Adalut on cases No. 1 and 2
Nellore Calendar 2d Sessions A.D. 1822.-

/Here enter No. 768./

In the foregoing return the
Acting Judge late on Circuit takes occasion
to apprize the Court of Zuijdaree Adalut, that
he "differs in opinion" with the Court as to the
appositeness of certain animadversions recorded
upon the proceedings held in the cases above
mentioned; and adverting particularly to one
passage in the Extract of the proceedings of the
Zuijdaree Adalut on those cases the Acting
Judge remarks, that he is not so silly as
"to need the intimation of a puerile truism".

The Court of Zuijdaree Adalut,
not having hitherto observed any indication
of a disposition on the part of the Acting
Judge

30th December 1822.

Judge to treat their orders with disrespect, they are inclined to be of opinion, notwithstanding the impropriety of the general tone and the flippancy of that passage of the return, which they have cited, that an admonition from them will prove with this officer an adequate vindication of their authority.-

3 To the Acting Judge, who in preparing his return to a mandatory communication from the Foujdaree Adaulut appears to have temporarily lost sight of his subordinate situation, it becomes necessary for the Court to intimate, that when his proceedings may be declared by them to be worthy of reprehension, the concurrence of his judgment in the conduct is not sought; but that his respectful acquiescence in their decision is demanded.-

4 Trusting, that neither the language nor the spirit of any future communication from the Acting Judge will require a similar reproof, the Court of Foujdaree Adaulut deem it sufficient on this occasion to advise him of his fault; and he is hereby admonished accordingly.-

Ordered, that extract of these proceedings be sent to the Acting Judge late on

30th December 1822. on Circuit in the Northern Division for his information and future guidance.-

(Sent following letter No. 419.)

Read return, dated 6th instant, from the Provincial Court of Circuit for the Centre Division to precept, dated 25th Ultimo, directing them to call for the proceedings held by the Magistrate of Chittoor in the case of Dewan Timmanaid Bahadoor, son of Deoda Venkatapa Naid Bahadoor, Zumeendar of Calastry.-

(Here enter No. 730)

By the proceedings and explanations of the Magistrate in this case it appears, that the son of the Zumeendar, a youth of 16 years of age, having fled from Calastry, the Magistrate on the application of the parent interfered to induce him to return and interdicted the access to him of certain individuals, by whose counsel he was supposed to have been led to abandon the paternal roof.-

2 The natural authority of a parent over a son during his infancy being acknowledged and upheld by Law, the Courts of Foujdaree Adaulut do not perceive in the Magistrate's proceeding any undue infringement of

of personal liberty, and are disposed to regard the measures which he adopted in a case not specially provided for by the Regulations as judicious and proper.-

Ordered, that a extract of these proceedings be sent to the Judges of the Provincial Court in the Centre Division by precept directing them to communicate the same to the Magistrate in the Zilla of Chittoor for his information.-

(Sent following precept No. 420)

Read letter, dated 15th Instant, from the 2d Judge of the Provincial Court of Circuit in the Centre Division, reporting on the 4th Quarterly Sessions of Jail Delivery for 1822 at Chittoor.-

(Here enter No. 758)

In paragraphs 9 and 10 of the report the 2d Judge adverts to the mode of employing convicts in the Jail at Chittoor, and observes "that the profit arising from "the labors of such of the prisoners as are bred "up to any particular art or profession are "capable of being applied greatly to the advantage "of themselves, and so far also to the advantage "of the Country, if they were allowed to retain "a portion of the earnings of their labor to their

2/ J. H.
30th December 1822.-

"their own benefit after being liberated from "confinement."

2. From this part of the report it would appear that the 2d Judge had not before him full information as to the mode in which the different descriptions of convicts in the Jail at Chittoor are employed. From a return, dated 30th June 1820, made by the Criminal Judge to a precept from the Court of Foujdaree Adalut on this subject, it appeared that the labor of the convicts under his charge was most judiciously directed in conformity with their sentence to hard labor "on the public roads or "other public works," and that the object of giving to such as had been instructed in any profession such occasional employment as would facilitate their "returning to their usual "profession when released," was not neglected.-

3. The proposition of rewarding convicts for the labor performed under sentences awarded for their crimes by conferring on them a portion of their earnings does not appear consistent with the general principle of this description of punishment, or calculated to give greater effect to the example which

which it is intended to produce.—

4 The 11th paragraph of the report contains a recommendation, that certain prisoners detained on a requisition of security for their future good behaviour and appearance, under sentences passed by the Court of Circuit and the Court of Foujdaree Adalut, should be released on their personal Moochilkas.—

5 Regarding the prisoners referred to in this part of the report the Court of Foujdaree Adalut have before them a letter from the late Judge and Magistrate of Chittoor, containing particulars of their conduct sufficient to warrant their detention until ample security be given against their returning to those habits of Murder and Robbery, their resort to which, though sufficient proof for their legal conviction was not procured, the strongest grounds for suspicion existed.—

6 The Court concur, however, in opinion with the 2d Judge, that such of the prisoners in question, as may have been ordered to be detained until security should be given for a certain specified term of years, should not suffer

suffer confinement beyond that term and they, therefore, direct that all such prisoners, the period for the security demanded from whom may have expired be discharged on their personal Moochilkas.

7. The Court of Foujdaree Adalut have in their proceedings, dated 30th August 1816, declared their opinion against the legality of sentences, directing that prisoners be detained in custody until they shall give security for future good behaviour and appearance for a specified number of years; and in respect to the release of prisoners confined on a general requisition of security for future good behaviour and appearance when required, rules are prescribed in Section XI Regulation XV of 1803; which the 2d Judge would appear to have overlooked in his observations recorded in paragraph 16 of the Report.—

8 The 15th and 17 following paragraphs of the report relate to the mode, in which the powers given by Section III Regulation II of 1822 have been exercised by the Magistrate in the Zilla of Chittoor; and the report is accompanied by copies of certain precepts issued by the 2d Judge to the Criminal Judge and of that officer's returns,

returns, regarding certain persons imprisoned as Vagrants and persons of notoriously bad character by order of the Magistrate.-

9. From these papers it appears, that the 2d Judge called before him and examined the persons so placed in confinement, as also the Curnum and Nazir of the Jail and inspected the warrants for the detention of the parties, after which "not finding any reason to prevent his carrying "into effect the powers vested in him "under clause second Section III Regulation "II of 1822," he issued orders for their release.-

10. The Court of Foujdaree Adalut cannot understand upon what grounds the 2d Judge adopted the conclusion, that he had "only to act on the information" above described, or how he could have imagined that on such information he could be justified in passing any order, as to the disposal of the prisoners, by a reference from the Magistrate to the Foujdaree Adalut it appears that the 2d Judge's precipitate proceeding in respect to these persons had the effect of rendering nugatory his exertions to preserve the peace of the district.-

11. In the 20th paragraph of the report

3/ F. H.

30th December 1822.-

report the 2d Judge observes that the warrant to the jailor contained no specification of the particular grounds on which the prisoners had been apprehended, and it was obvious that such information could only be afforded by the officer, under whose warrant they were detained.

Circular sent from Beng 12th Jan

12. In order to the regular and efficient exercise of the controuling power vested in the Court of Circuit by the provisions of Clause second Section III Regulation II of 1822, the Court of Foujdaree Adalut deem it proper to direct that the several Magistrates do furnish to the Courts of Circuit at each Sessions of Jail delivery a statement of the grounds, on which they may have directed the detention of any persons then in confinement in the Zillah Jail under the provisions of Clause first Section III Regulation II of 1822, together with the original proceedings held in each case, after the examination of which and a reference to the Magistrate when requisite for further information, it will be the duty of the Judge of Circuit to issue such orders regarding the disposal of the prisoners, as he may

may deem proper.-

13. In paragraph 26 of the report the 2d Judge suggests that in the cases of persons confined by order of the Magistrate under the provisions of the above Clause, that officer should furnish to the Criminal Judge a paper of the description mentioned in Section XXXIV. Regulation IX of 1816, stating "his reasons for the commitment and "giving other particulars" regarding the persons consigned to the custody of the Criminal Judge.-

14. The Court of Foujdaree Adalut are of opinion that the Magistrates' warrants to the Jailor issued under the provisions of Clause First Section III Regulation II of 1822 should be accompanied by a notification to the Criminal Judge of a description similar to that prescribed in Section XXXIV Regulation IX of 1816, to be in like manner returned by the Criminal Judge to the Magistrate, but as the Criminal Judge is not vested with authority to over-rule the Magistrates orders for the detention of persons so confined, it does not appear to the Court of Foujdaree Adalut to be in any way requisite that the grounds of the Magistrates

Magistrates proceeding should be laid before him, all that appears to the Foujdaree Adalut to be required is that the Magistrates should, as above directed, submit to the Court of Circuit at the period of the Sessions the proceedings held in respect to such of the prisoners committed to Jail under clause first Section III Regulation II of 1822, as may be then in custody.-

15. In dismissing this subject the Court of Foujdaree Adalut deem it proper to observe, that they see no necessity for prescribing the Criminal Judge's endorsement of the Magistrate's warrant to the Jailor, that a communication must of course be addressed by the Magistrate to the Criminal Judge, on the former officer's desiring the release of prisoners under the provisions of Clause third Section III Regulation II of 1822, for which a warrant should also issue to the Jailor, and that the assignment of a limited period for the detention of persons committed to Jail as vagrants would involve a modification of the provisions of that Section, which the Court of Foujdaree Adalut see no reason to recommend

30th December 1822.

recommend.—

16. 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 3d Criminal Judge in the Zilla of Chittoor the above instructions regarding the prisoners detained in custody on a requisition of security by order of the Courts of Circuit and Vakeel Istakut—

(Sent following Precept No 421)

Ordered also that extract of these proceedings be sent to the Provincial Courts of Circuit by precept enjoining them to communicate the same to the several Criminal Judges and Magistrates for their information and future guidance respectively.—

(Sent following Precepts No 422)

Ordered further, 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

J. U.

30th December 1822.

Governor in Council.—

(Sent following letter No 423)

Read letter, dated 20th Ultimo, from the 2d Judge late on Circuit in the Western Division, submitting report prescribed by Section XXXVII Regulation VII of 1802.—

(Here enter No 7)

Para 1. In the 11th and 12th paragraphs of the report the 2d Judge noticed a case, in which the forcible ejection of the prosecutor from a dwelling, of which he had by like means gained possession, formed the ground of a charge of Gang robbery, preferred against certain respectable persons; that the Criminal Judge's discernment "having enabled him to suspect what these "real circumstances were," he admitted the accused to Bail. The 2d Judge suggests, that a like discretion should be exercised by the Criminal Judges in all similar cases; and in the 13th paragraph observes that the abuse of this authority might be guarded against by empowering the Court of Circuit "to cancel the Bail "in all cases, where they may deem it "necessary on a representation from the "prosecutor, and consideration of the "proceedings held by the Judge, and of the

"the reasons assigned by him for admitting
"the bail."

2.

Provision is made by Section XI Regulation X of 1816 for the admission to bail of persons, charged with offences not bailable under the general Regulations, by permission of the Court of Circuit, on a report from the Criminal Judge: and as in cases where special grounds may exist for this measure it is not requisite, that the accused parties should be lodged in Jail pending the reference to the Court of Circuit, it does not appear to the Foujdaree Adalut, that the provisions of the Law on this subject require modification.-

3.

In the 5th and six following paragraphs of the report the 2d Judge remarks upon the proceedings of the Assistant Magistrate in the Zilla of Canara in a case brought to his notice by petition, wherein three persons so charged with assault were sentenced to pay fines of 40, 30, and 20 rupees respectively commutable to 15 days imprisonment in the Zilla Jail.-

4.

The distance of the Zilla station from the place where the charge was investigated, and of the latter place

place from that where the assault occurred would have subjected the parties had the fines not been paid to a journey of about 350 Miles, in addition to which it was intended by the sentence of the Assistant Magistrate, that they were to suffer imprisonment in the Zilla Jail for the full term of 15 days.-

5.

Upon this case the 2d Judge observes, that the question arises whether it be consonant with the spirit of the "Regulations that for petty offences which "are determinable by the Magistrate and "his Assistants they should exercise the "discretion of sending the offenders to be "confined in the Zilla Gaol, from whatever "part of the district they may, past the "adjudged punishment, with the view "of rendering a punishment heavier "than mere confinement in an open "Country."-

6.

It appears, that one of the prisoners in the case was taken ill on the road to Mangalore, and that after being in confinement 12 days they obtained their release on payment of the fines awarded against them.-

7.

In the 3d paragraph of the

the report the 2d Judge observes, that
"it remains with the Foujdaree Adaulut to
"determine whether the petitioners be
"not entitled to restoration of a part if
"not the whole of the fines which have
"been paid by them in consideration of
"the journey they had to perform from
"and back to Sircar, and the actual con-
"finement of 12 days, which they underwent."

8. Section XXXII Regulation IX of 1816 vests the Magistrates with discretionary power to sentence persons convicted before them of petty offences, to imprisonment in the Zilla Jail or Village Chauttry "as to them may seem proper, for a term "not exceeding fifteen days."

9. Section XXXIV of the Regulation prescribes the form of warrant to be addressed by the Magistrate to the keeper of the Jail, whenever a prisoner may be sent by him for confinement in the Jail of the Zilla.—

10. This warrant is required by the terms of it to be dated on the day on which sentence may be passed, and from that day is calculated the period of the prisoner's confinement.—

The

5/ F. U. 11.

30th December 1822

The Court of Foujdaree Adaw

are, therefore, clearly of opinion that
the sentences of Magistrates for imprison-
ment in the Zilla Jail in cases of petty
offences punishable by them are intended
by the Regulations to be limited to cases
investigated either at or in the immedia
vicinity of the Zilla Station; and that
is wholly incompetent to a Magistrate
to send such persons to the Zilla Jail
under the provisions of Section XXXII
Regulation IX of 1816 from a place, dis
last 15 days journey therefrom.—

12. The Court of Foujdaree Adaw
of opinion that the sentence pas
by the Assistant Magistrate against the
petitioners, Sircar Pellia, Pandoo and
Batana was at variance with the
letter and spirit of the Regulations,
deem it essential to the ends of justice
that the fines which have been levie
should be repaid to them.—

13. It is observable on this
case that the Assistant Magistrate
must, if the 2d Judge's observations be
correct, have infringed the Regulations
by issuing a warrant to the Zilla Jailor

Sailor in a form different from that pre-
=scribed by Section XXXIV Regulation IX
of 1816.-

14.

The 3d paragraph of the
report contains a suggestion, residing out
of the consideration of the foregoing case,
for extending the powers of the Magistrates
in certain cases, wherein their proceedings
shall be required to be made matter of
record and be liable to the same revision
and controul on the part of the Courts
of Circuit, as are those of the Criminal
Judges.-

15.

This suggestion has the
unqualified approbation of the Court
of Foujdaree Adalut.-

16.

In the 6th paragraph of
the report the 2d Judge having described
in the preceding paragraph certain
cases, wherein he directed commitments
for Perjury, observes that in those cases
"the truth against which the parties
"had falsely deposed on oath admitted
"of being established in evidence, but
"that it is in cases where such evidence
"of the truth is not attainable, and where
"the witnesses by their own contradictory
statements

"statements prove their perjury," that
he is desirous of calling the attention
of the Foujdaree Adalut. And in the 6th
paragraph the 2d Judge illustrates his
former observations by supposing the
case of a witness's swearing before
the Magistrate, Criminal Judge, and
Court of Circuit, respectively, that he
saw the prisoner commit the murder,
with which he is charged, "by Moonlight,
"by Torch light," and "at broad day."-
The 2d Judge then supposes, that "the
"prisoner from the lapse of time or
"other circumstances has no means
"of refuting the accusation by evidence,
"nor can it be ascertained in the course
"of the trial how, or at what time the
"deceased met his death," and proceeds
to observe that although the Court have
the strongest reason to believe that
the evidence of the witness is false,
yet "under the existing rules notwith-
"standing he had thus on oath deposed
"contradictorily on a point material
"to the issue of the Trial, he could not
"be indicted for Perjury."!

The case here put hypothetically
by

17.

30th December 1822.

by the 2d Judge appears to the Court of Poujdaree Adaulut to be one of very improbable occurrence; but they are unable to subscribe to the correctness of the 2d Judge's observation, that a witness so disposing could not under the existing rules "be indicted for perjury." - Supposing the accusation of murder to be untrue, the perjury of the witness might be assigned on any one of the depositions cited, and the Court of Poujdaree Adaulut will not, until such a case shall actually arise, admit that under such circumstances proof sufficient for conviction of perjury could be unattainable. Supposing on the other hand the main fact of the murder to be true, and the falsehood of the witness to depend on his inconsistent statements regarding the time or circumstances of its perpetration, the Court of Poujdaree Adaulut would find equal difficulty in admitting that he "could not be indicted for Perjury." the Court hold it to be essential, that in the indictment for this offence the words of the deposition, in which the perjury is supposed to have been committed, should be recited, and that their falsehood should

7.11.

30th December 1822

should be established in order to the conviction of the deponent; of two contradictory depositions one cannot be referred to for proof of the falsity of the other, and though both cannot be true, the proof of the truth or falsity of either must be sought for in evidence with respect to the matter of fact. -

18. Upon the remark of the 2d Judge in the 65th paragraph of the report, that unless the laws for preventing or checking perjury "are less clogged with technical "difficulties to obtain a legal conviction "there seems no prospect of a diminution "arising from amendment in the morals "of the people," the Court of Poujdaree Adaulut must observe, that the forms prescribed for the trial of this charge are such only as are strictly requisite for the attainment of legal proof; and appear to them to be as requisite to the safety of the community, that the death of the person alleged to have been slain should be established in order to a conviction of murder. -

19. The 66th paragraph of the report describes a "case of affray" under trial before the Court of Quarterly Sessions "between the dependants of two Rajas "both of whom are stated to have been "committed," some of the "witnesses in swearing

"swearing that they saw the deceased shot
"by an arrow from the bow of one of those
"Nayrs, whilst the other witnesses assert
"positively swear that they saw him fall
"from the blow of a bludgeon inflicted
"by the other Nayr;" and the 2d Judge
remarks that "it seems very doubtful
"whether in truth either of them was
"actually present."

20 This latter being a case founded
on actual fact and not on mere hypothesis,
is of course on that account the more
deserving of consideration.—

21. With respect to the evidence,
which the 2d Judge has quoted it may
be observed that both of the depositions
apparently contradictory might possibly
be true. The 2d Judge observes, that some
of the witnesses in this case have retracted
the evidence given by them before the
Magistrate; but as he has not given
the particulars of their inconsistent
testimony the Court are unable to
determine, whether they were guilty
of perjury, or only prevarication; the
2d Judge observes that they "cannot be
"indicted for perjury because no averr-
ment provable by evidence can be

"set forth in the indictment as to the real
"cause of deceased's death— his body being
"supposed to have been burnt immediately
"after the affray, and of course no inquest
"held upon it;" but the prosecutor who
is the brother of the deceased affirms that
he has never yet observed the usual
mourning ceremonies; because he him-
self is not certain of the actual demise
of the deceased— whilst one of the witnesses
for the prosecution swears that he
saw the Prosecutor perform those
ceremonies".

The contradictory evidence
22. which has been given in the case here
mentioned, is certainly peculiarly glaring
and the case altogether would seem to
be of a most extraordinary description
how any persons came to be put on
their trial on an accusation of
homicide, when the prosecutor declares
his doubt of the death of the supposed
deceased, whose body is also "supposed
to have been burnt," is not explained.
It appears to the Court of Judicature
doubtful, that this trial must have been
brought on without sufficient
preliminary investigation, or adequate
search

search for proof of facts material to the issue. In cases of affray where the combatants are numerous, there appear to the Court to be greater reasons than in other cases for making allowance for the mistakes of eye witnesses, who may on such occasions be deceived as to circumstances, which they firmly believe.-

23. It appears to the Foujdaree Adalut to be important for the ends of public justice that every exertion should be made by the Magistrate and his officers of Police to ascertain the very material points in this case, which are stated to be involved in doubt, in order that where perjury may have been committed the offenders may be prosecuted to conviction.-

24. In a letter from the Secretary to Government in the Judicial Department, dated 8th July 1821, the Foujdaree Adalut were desired to "take into con-
"sideration, whether it would not be
"advisable that perjury and subornation
"of perjury in certain cases should
"be

"be made instantly punishable with
"fine and imprisonment by the officer
"before whom they are committed, as
"a contempt of Court."-

25. The Court of Foujdaree Adalut consider, that it would be extremely difficult to draw a line discriminating particular cases of perjury, and are also of opinion that for so heinous an offence, the penalties prescribed by law are in no case to be too severe.- for evarication in evidence taken under the solemn sanction of an oath the Court think, that the Court of Circuit might with advantage be empowered to adjudge fine and imprisonment, the punishment for a contempt of Court prescribed by Section XXVIII Regulation XII 1802 being manifestly inadequate to this offence.-

26. Ordered, that extracts of these proceedings be transmitted to the 2d Judge late on Circuit in the Western Division by precept enjoining him to communicate to the Magistrate in the Zilla of Cuttack such part thereof as

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as concerns that officer for his information and guidance, and to furnish the Magistrate of Malabar with the instructions requisite for carrying into effect the orders of the Court respecting the deposits in the case of affray referred to in paragraph 66 of the report.

18th Jany

Ordered also that the following precept No 424 and extract of the 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 425)

52/Jan 9th Gen Dept

Read letter, dated 23d Instant, from the 1st Judge on Circuit in the Western Division, - reporting the completion of the Jail Delivery for the Zilla South Malabar.

(Here enter No 769)

Read letter, dated 27th Instant, from the 1st Judge of the Court of Circuit in the Centre Division, - with returned warrants for execution of prisoners in Cases No 20 and 21 Chittoor Calendar 3d Quarterly Sessions No 1822.

(Here enter No 770.)