1908 [illegible] 91

Sanpdaree

Proceedings

&c.

1823

1084

222

At a Court of the Vice Admiralty

Thursday Present

2d January Charles Harris Esqre Puisne Judge

1823 George Gowan Esqre Acting Judge

Read letter dated 18th November

last from the acting Judge on Circuit

the Northern Division submitting a

Schedule & Calendar 2d Sessions

AD 1822

(Seventeen Nos 15 of 1822)

The Court having maturely

considered the proceedings had before the

Judge on Circuit the Opinions of the Provincial

Law Officers and the Opinions of the Cazee

ool Coozat and Moofties of the Supreme

Court do not confirm the said Opinions of the

Cazee ool Coozat and Moofties aforesaid

and concurring in the Opinion declared

in the Sentence of the prisoners it is only

Ordered that the prisoner,

"Paramalloo" "Coosalgaudoo"

be placed under charge of the Surgeon

of the Zilla Court of Chicacole there to

be eventual confined in the

Lunatic Asylum at Madras

Court following

The 1st and 2d witnesses in this
case on their examination before the
Assistant Criminal Judge deposed, that the
wife of the prisoner represented to them
that he was subject to fits of insanity
and the circumstances of the case lead
unavoidably to the same conclusion.

2 In the latter accompanying
the trial the acting Judge late on Circuit
states it as his opinion, that "there can
"be no doubt of the prisoner's being subject
"to occasional lunacy" in a fit of which
"one day about 3 days before the full
"of the moon, he killed his child."

3 The circular order of the Court
of Vryheid, dated 27th October 1807
direct that "in all cases wherein it shall
"appear to the Judge in Circuit, either from
"the Magistrates' proceedings or otherwise,
"that there are grounds for supposing a
"prisoner committed for trial to be deprived
"of reason, he shall in the first instance
"enter upon an investigation of this
"fact" the result of which, should the
prisoner's insanity be proved, is directed
to be communicated for the orders of
the Vryheid Circuit.

On

2d January 1823

On 27th February last
4 circular orders were issued by the Vryheid
Circuit to the several Criminal Judges
through the Courts of Circuit, directing
the former officers to place under charge
of the Medical Officer of the station
"all prisoners brought before them on
"Criminal charges who may appear from
"evidence to be of unsound mind:" and
in the 5th paragraph of the orders last
mentioned it was observed, that this
present instructions would to a certain
degree supersede the standing orders of
the Vryheid Circuit, dated 27th October
1807 regarding lunatic prisoners, but
that should "cases of the nature therein
"described hereinafter arise it would be
"proper that those orders should be
"adhered to by the Judges of Circuit."

5 The orders of the Vryheid
Circuit, dated 27th February last, not
having been observed by the Assistant
Criminal Judge, who conducted the
preliminary examination of this case,
the Court direct that his attention be
called to those orders, and that the
acting Criminal Judge be instructed to place
the prisoner Paromalloo Moosaligan
under

under charge of the Medical Officer, in view to his eventual confinement in the Lunatic Asylum at the presidency; and should the Surgeon after the treatment prescribed in these cases not deem the prisoner a proper subject for the Asylum, the Criminal Judge will refer to the Foujdaree Adawlut for orders as to his disposal.—

The Court of Foujdaree Adawlut regret to observe in the proceedings of the acting Judge in this case a neglect of the obvious duty of making himself acquainted with the standing orders of the Court issued for the guidance of the Judges of Circuit, which is aggravated in the present instance by the circumstance that the orders here referred to were forcibly noticed in recent instructions to the several Criminal Judges.—

The acting Judge having in violation of orders with which it was his duty to make himself acquainted, put the prisoner on his trial, hurried through the proceedings with a precipitation altogether unsuitable to a grave judicial investigation of a capital charge, rendering himself

2d January 1823.

himself up with receiving the prisoner's plea of guilty, and dispensing with the examination of the witnesses for the prosecution.—

The Court of Foujdaree Adawlut have had occasion to observe in other proceedings of the acting Judge late on Circuit an apparent inclination to get through the duties committed to him with as little labor as possible. repeated orders of the Court, to which the acting Judge had access, join upon the Judges of Circuit particular attention to the duty of revising the translations of records referred to the Foujdaree Adawlut, a duty which the acting Judge late on Circuit appears to the Court to have systematically neglected.—

The other trials referred by this officer exhibit inaccuracies, for which the Court consider him to merit their censure, but the following passages taken from the English translation of the proceedings in this case before the Court of Circuit have led the Foujdaree Adawlut to conclude that the acting Judge has not scrupled to

to affix his signature, without examination, to the attempts of an ignorant native at an English translation; a proceeding in the opinion of the Court most incredibly disrespectful to the Judge of Circuit, and disrespectful to the Judiciary Institution.

In the examination of the witness for the prisoner occur the following passages.

Q. "Look at the prisoner at the bar, do you know him?

A. I know him since six months.

Q. How the prisoner was living and what was his conduct?

A. He is a tolddy drawer. I heard his wife was crying that he had struck his son, and that he (the son) died thereby before that his conduct was good.

* * * *

Q. Why was he mad? whether by drunkenness or by what?

A. It has not been created by drunkenness; he was in the habit of getting mad naturally."

The examination of the witness for the prisoner contains the following passages:-

Q. "Look at the prisoner at the bar, do

do you know him?

A. I know him since 1 year.

Q. How this prisoner was living and what was his conduct?

A. He is toddy vender, his conduct was good.

Q. Was this prisoner ever mad?

A. I heard from his father and mother that he was getting mad formerly. On a certain day perhaps he may get mad, I heard that he killed his son on that day. About a year ago this prisoner is residing at my village. Since he came to my village I did not see him ever get mad."

Ordered, that extract of these proceedings be sent to the acting Judge late on Circuit in the Northern Division for his information and future guidance, and that he be by precept commanded to communicate to the acting Criminal Judge in the Zilla of Chicacole such part thereof as concerns that officer for his information and guidance.

Sent following precept N°21

Read letter, dated 16th November last, from the 2d Judge on Circuit in the Centre

2.

Centre Division; - submitting case No 5
Bellary. Calendar 2d Sessions A.D. 1822.
(Here enter No 725 of 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 prisoner
Nedamah, is sufficient to convict
her of having wilfully put her child
to death, under clause second
Section II Regulation I of 1818. that the
Cazee ool Coozat and Mooftees of the
Foujdaree Adalut will declare by a record
futwa to what sentence the prisoner
would have been liable under the
Mohummedan law if she had been
convicted by full legal evidence of the
above crime -

Ordered, that extract of these
proceedings be transmitted and delivered
to the Cazee ool Coozat and Mooftees
of the Foujdaree Adalut -

Read letter dated 9th December
last from the 3d Judge on Circuit in the Centre
Division; submitting case No 5 Bellary Calendar
2d Sessions A.D. 1822 -

(Hereunto No 736)

F.C.

2d January 1823

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 Kissaas declared in the futwa adjudge the prisoner "Nursaoo" to suffer death by being hanged at the usual time and place of execution: -

(sent following letter No 3)

20

At a Court of the Poydarce Adalut

Present

Monday 6th January 1823 — Charles Harris Esqr. Puisne Judge
George Gowan Esqr. Acting Judge.

Read again letter dated 8th November
last from the 3d Judge on Circuit in the Central
Division, - Submitting Case No. 5 Bellari Calendar
Second Sessions A.D. 1822.-

/Here enter No. 725/

Read the Second Futwa delivered
in this case by the Cazee ool Coozat and Mooftees
of the Poydarce 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 Poydarce Adalut confirm the said Futwa
of the Cazee ool Coozat and Mooftees aforesaid
and under the provisions of Section XV Regu-
-lation VIII of 1802 adjudge the prisoner,

Neelamah

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

/Sent following Letter No. 4./

f. 69

Read letter dated 2d December
last from the Acting Judge on Circuit in the
Northern Division, - Submitting Case No. 13

Chicacole

6th January 1823.

Chicacole Calendar 2nd Sessions AD 1822.-

/Here enter No 734/

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 Maanjarapoo Ankah is sufficient to commit her of having put to death the deceased Ankah, desire 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 Mahummudan Law if she had been convicted by full legal evidence of the above crime.-

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

Read letter dated 16th Decemr last from the 3d Judge on Circuit in the Centre Division, submitting Case No 36 Bellary Calendar Second Sessions AD 1822.-

/Here enter No 764/

The Court having maturely considered

6th January 1823.

considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazeeool Coozat and Mooftees of the Foujdaree Adaulut confirm the said futwa of the Cazeeool Coozat and Mooftees aforesaid and under the sentence of Hissaad declared in the futwa adjudge the prisoner Boradoo,

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

/Sent following Letter No 5/

Read letter, dated 16th Decemr last from the Acting Judge on Circuit in the Northern Division, submitting Case No 23 Chicacole Calendar Second Sessions 1822.-

/Here enter No 751/

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 Cazeeool Coozat and Mooftees of the Foujdaree Adaulut confirm the said futwa of the Cazeeool Coozat and Mooftees aforesaid and under the provision of Section III Regulation I of 1822 adjudge the prisoners,

1st Gontoopilly Pattabiramdoo,
2d Gontoopilly Gopaloodoo,
3d Yellooroodah Goorapah,
4th Gunjoolo Yellaiah,
5th Baanalah Rawnkristamah,
6th Pandolah Nauganah,
7th Lanapandah Venkanah, and
8th Conadum Nardimloo

to

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 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 6

The warrant issued by the Acting Judge late on Circuit to the Criminal Judge in this case is not in the form prescribed by the circular orders of the Foujdaree Adalut dated 8th May 1818; the sentence in such case is directed to be ~~would~~ generally for transportation without the specification of the place, which is left to the discretion of the Governor in Council.-

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

/sent following letter No 7.

No 16.

At a Court of the Foujdaree Adalut.

Present,

Wednesday 8th January 1823.- Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge.-

Read letter, dated 19th November ult, from the 2d Judge of the Court of Circuit in the Centre Division,- submitting case No 7 Chittoor Calendar 4th Quarterly Sessions A.D. 1822.-

(Here enter No 7 of 1822.)

The 2d Judge will perceive, on reference to the circular orders of the Foujdaree Adalut dated 29th October 1817, that it was not competent to him to issue instructions regarding the disposal of the prisoner, under the impression of his being insane, and that the trial should not have proceeded, until every exertion had been used to obtain the evidence of persons acquainted with his former habits of life, as to the state of his intellects.-

The Court of Foujdaree Adalut,

2

deeming the proof of the prisoner's insanity to be defective, although strong grounds exist for such a presumption, resolve to return the record of the trial to the

the 2d Judge, who will transmit it to the Criminal Judge in the Zilla of Chittoor with instructions to obtain, if possible, by application to the Magistrate, and to annex to the record the evidence of persons acquainted with the prisoner, Gungadoo, regarding his state of mind previously to and about the time of his committing the homicide, for which he has been tried, and should none of the prisoner's friends or acquaintances be discoverable, it will be proper that the record should be retransmitted to the Court of Sudder Adawlut with a further opinion from the Surgeon of the station, as to the appearance in the prisoner of any symptoms of Lunacy.

Ordered, that the record and extract of these proceedings be sent to the 2d Judge of the Court of Circuit in the Centre Division by Precept enjoining him to make the necessary communication to the Criminal Judge in the Zilla of Chittoor for his information and guidance.

(Sent following Precept No 13)

Read letter, dated 26th Ultimo, from

from the acting Judge at Coimbatore Circuit in the Northern Division, - forwarding the necessary Calendars on the conclusion of the Circuit -

(Here enter No 1 of 1823)

In the 2d paragraph of his letter the acting Judge states that he does not consider "the experience acquired" "in one Circuit sufficient to authorize" him "to make a particular report" and in the 4th paragraph the acting Judge notices in the proceedings of the Criminal Judge in the Zilla of Chicacole the irregularity of causing a prosecutor's complaint before the Magistrate or Police Officer to be read over to him in the first instance instead of taking a charge from him -

2 The Court of Sudder Adawlut entirely concur with the acting Judge in considering this mode of proceeding to be irregular and at variance with the provisions of Clause first Section IX Regulation X of 1816; and they direct that the acting Criminal Judge be advised of this impropriety in the proceedings of the late Criminal Judge. The above provisions of the Law require that the prosecutor should be examined by

8 January 1823.

by the Criminal Judge on oath, in the same manner as the witnesses against the prisoner.

3 The Court of Foujdaree Adaulut are unable to admit the validity of the grounds assigned by the acting Judge late on Circuit in the 2d paragraph of his letter for dispensing with the report prescribed by Section XXXVII Regulation VII of 1802; and they direct that he be required to transmit a report on the several points noticed in that section; which the Court of Foujdaree Adaulut are required to submit to Government for transmission to the Honorable the Court of Directors.

4 Ordered, that extract of these proceedings be sent to the acting Judge late on Circuit in the Northern Division by precept enjoining him to make the necessary communication to the acting Criminal Judge in the Zilla of Chicacole, and to submit a report of the nature described in Section XXXVII Regulation VII of 1802.

5 Precept returnable in fourteen days from and after its receipt.

(Vide following Precept № 14)

Read again letter dated 2d Ultimo, from

7 M.

8th January 1823. from the acting Judge on Circuit in the Northern Division - submitting case № Chicacole Calendar 2d Sessions AD 1822 -

(Here enter № 734 of 1822)

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

The Court having maturely considered the proceedings held before the Judge 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 sentence of Shariat declared in the futwa adjudge the prisoner,

Woonjaraipoo Ankah,

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

(Vide following letter № 15)

20

M. Read letter dated 30th Ultimo from the 3d Judge on Circuit in the Northern Division, - reporting his intention of proceeding on 30th Ultimo to Chittore -

(Here enter № 2)

Read return, dated 2d Instant from the 3d Judge late on Circuit in the

the Southern Division;- to precept dated
20th Ultimo ordering communication
to the Magistrate of Tinnevelly of the
Courts orders for remission of certain
fines illegally imposed by him.-
(Here enter No 8)

Read letter, dated 2d Instant,
from the 3d Judge late on Circuit
the Southern Division,- with returned
warrant for transportation of a prisoner
in Case No 39 Madura Calendar 2d
Sessions 1822.-
(Here enter No 10.)

Read return, dated 2d Instant,
from the 2d Judge of the Court of Circuit
in the Northern Division,- to precept
dated 20th ultimo ordering him to revise
the sentence passed in case No 21 Madura
Dipatam Calendar 2d Quarterly Session
1822.-
(Here enter No 11-13)

7 H.

At a Court of the Foujdaree Adalut.-
Present,

Thursday
9th January 1823 Charles Harris Esqre Puisne Judge.-
George Govan Esqre Acting Judge.-

Read letter, dated 18th Ultimo,
from the 3d Judge on Circuit in the Southern
Division, submitting case No 15 Madura
Calendar 2d Sessions A.D. 1822.-
(Here enter No 762 of 1822)

The grounds declared by the
Law Officers of the Foujdaree Adalut to bear
a sentence of Hid against the prisoners
in this case being of the nature described
in Clause fourth Section II Regulation XII
of 1803, the Court direct that they may
be called upon to declare by a second
futwa to what punishment the prisoners
would have been liable under the Mohum-
medan law, if the above exceptions in
bar of Hud had not existed.-

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

Read letter, dated 7th Ultimo,
from the 3d Judge late on Circuit in
the

the Southern Division, reporting on the Jail deliveries of Salem and Madura for the 2d Sessions of 1822.—

(Here enter No 8 of 1823)

The foregoing report does not contain any matter which calls for particular observation from the Court of Vanjore Vakeel.—

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

(Sent following letter No 17)

Vol. Cont 14th

Z. A.

Z. Ch.

In the Court of the Poojdaree Udalut

Present

Friday - - - } Charles Harris Esqr. Puisne Judge
10th January 1823 } George Gowan Esqre. Acting Judge

Read again letter, dated 18th Ultimo
C. H. from the 2d Judge on Circuit in the Southern Divi-
G. G. sion, submitting Case No. 15 Maowa Calendar
become Appeals A.D. 1822.-

(Here enter No. 762)

Heard the Second Futwa delivered
in this case by the Cazee-ool- Coozat and Mooftees
of the Poojdaree Udalut.-
-sions the proceedings held before the Judge on Ci-
-rcuit the Futwa of the Provincial Law officer
and the Futwa of the Cazee-ool Coozat and Moof-
-tees of the Poojdaree Udalut confirm the said Futwa
of the Cazee-ool Coozat and Mooftees aforesaid
and under the provisions of ~~Section~~ XXI Regu-
-lation VIII of 1802 adjudge the prisoners
1st Chevalingom, and
2d Chinnan
to be imprisoned and kept to hard labour
in irons on the public roads or other pub-
-lic works for and during the period of seven years
and then to be released.-

~~Certified Calendar & Records~~

10th January 1823.

1

The Law officers of the Faujdaree Adalut having in the second instance required in this case agreeably to the provisions of Clause fourth Section III Regulation XV of 1803 declared the prisoners liable to amputation of the right hand, the Court have passed upon them the sentence prescribed by Section XXI Regulation VII of 1802.—

2

The 3d Judge of Circuit has recorded on the proceedings his opinion founded on the youth of the prisoners, their plea before the Criminal Judge in extenuation of their offence, and the general circumstances of this robbery, that they are fit objects of a Mitigation of the punishment prescribed by Law for their offence; that it was not competent to him under the Regulations in force at the period of the perpetration of their offence to pass a mitigated sentence; but concurring with the 3d Judge in opinion that the sentence irregularly passed by him will be sufficient in this case the Court resolve, under the provisions of Section XIX Regulation VIII of 1802 to suspend the execution of the sentence passed by them under Section XXI Regulation VII of 1802, and to submit the case to the Honorable the Governor in

10th January 1823

in Council with a recommendation that he may be pleased to commute the sentence of 7 years' imprisonment and hard labor to 36 stripes with a Rattan and imprisonment with hard labor for the term of two years.—

3

By the provisions of Section II Regulation VI of 1822 the Court of Circuit is vested with discretionary power in apportioning the punishment in cases of this description, whence cognizance is also given under particular circumstances to the Criminal Judge.

Ordered, that the Record of trial

4.

Nº 15 Mauna Calendar 2d Sessions A.D. 1822 be submitted with Extract of these proceedings for the orders of the Honorable the Governor in Council.—

Nº 2 / sent 15th / Sent following letter Nº 18

At a Court of the Adawlut.

Present:

Monday, 13th January 1823. Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

Read letter, dated 30th ultimo, from the 1st Judge Calicut Circuit in the Western Division, - submitting copy of South Malabar Calendar 2d Sessions 1822.-
(Vide entry No. 7.)

1 In the column of remarks on case No 12 of the Calendar it is stated, that by the Futwa of the Law Officers "and was declared to be barred" in consequence of the prosecutor suffering no loss "and the prisoner being seized immediately "after the commission of the Act".

2 The reasons here assigned in bar of a sentence for the specific penalty being of the nature described in clause fourth Section II Regulation XV. of 1803, a second Futwa should have been required from the Law Officers.

3 The same observation applies to case No 31, wherein as the 1st Judge has passed sentence for five years imprisonment it will be necessary that a second futwa should be required,

required as prescribed by the Clause above cited and a revised sentence passed accordingly.-

4 Case No 44 appears by the abstract of the charge to come under the definition of robbery by open violence, given in Clause first Section III Regulation XV of 1803, the 1st and 7th prisoners are stated to have been sentenced under a futwa of Hud to 7 years imprisonment, and the 2d 3d and 4th under a futwa of Tazeer to two years imprisonment.-

5 The futwa in this case having awarded amputation of one limb, the specific penalty for the offence technically denominated in the Mohummedan Law Saraca i. e. theft, the Court of Sunderee Adalut conclude, that those parts of the charge which brought the case under the description of Saraca i. e. Robbery, or robbing by open violence as defined in the Regulations, were not established in evidence.-

6 If such were the fact, an entry to that effect should have been made in the Calendar, but if on the other hand the whole of the charge was declared to be proved against the prisoners, the case fell within the provisions of Regulation I. of

13th January 1823. of 1822, by which the 1st Judge should have been guided.-

7 The Court of Sunderee Adalut deem it proper to direct, that copy and translation of the futwa delivered in case No 44 of the Calendar be submitted for their information, and that the 1st Judge do at the same time report, as whether or not it appeared to him, that the acts of open violence charged against the prisoners were proved on the trial.-

Ordered, that extract of these proceedings be sent to the 1st Judge Eastern Circuit in the Western Division by precept enjoining him to proceed as herein directed, making return in five days from the date of the receipt of the precept.-

(Sent following precept No 20)

175

Read letter, dated 6th Instant, from the Acting Judge on Circuit in the Southern Division, reporting his arrival at Comhaconum.-

(Here enter No 26)

Read

Read return, dated 4th Instant,
from the 2d Judge late on Circuit in the
Centre Division, - to precept dated 19th
ultimo calling on him to explain the
cause of not having made return to
the precepts dated 24th September and
11th October last. -

(Here enter № 27)

Read letter, dated 4th Instant,
from the 2d Judge late on Circuit in the
Southern Division, - with returned warrant
for transportation of a prisoner in case
№ 85 Salem Calendar 2d Sessions AD
1822. -

(Here enter № 28)

Read return, dated 9th Instant,
from the 2d Judge on Circuit in the
Centre Division, - to precept dated 9th
ultimo ordering communication to the
Criminal Judge in the Zilla of Cuddapa
of the Court's orders in case № 15 Cuddapa
Calendar 2d Sessions AD 1822. -

(Here enter № 32)

Read return, dated 9th Instant,
from the 2d Judge on Circuit in the
Centre Division, - to precept dated 25th
ultimo ordering communication to
the Criminal Judge in the Zilla of
Bellary

2/ F. C.
13th January
1823.

Bellary of the Court's orders in case № 9
Bellary Calendar 2d Sessions AD 1822. -

(Here enter № 33)

Read return, dated 6th Instant,
from the Provincial Court of Circuit in
the Centre Division, - to precept dated
30th ultimo ordering communication to
the Magistrate of Chittoor of the Court's
observations on his proceedings in
the case of the son of the Zemindar
of Calastry. -

(Here enter № 36)

Read return, dated 10th Instant
from the 2d Judge of the Court of Circuit in
the Centre Division, - to precept dated 30th
ultimo ordering communication to the
Criminal Judge in the Zilla of Chittoor of
the Court's orders regarding certain prisoners
detained on a requisition of security. -

(Here enter № 34)

At a Court of the Tuijdaree Adalut

Present

Tuesday - 11th January 1823 — Charles Harris Esqr. Presiding Judge
George Gowan Esqr. 2d Judge.

Read letter dated 5th Ultimo from the Second Judge late on Circuit in the Cs Western Division, - Submitting Case No. 35 South Cs Malabar Calendar 1st Sessions A.D. 1822. -

Here enter No. 740 of 1822

The Court having maturely considered the proceedings held before the Judge on Circuit the Cs futwa of the Provincial Law officer and the futwa of the Cazee-ool Cozat and Mooftee of the Tuijdaree Adalut confirm the said futwa of the Cazee-ool Cozat and Mooftee aforesaid and under the provisions of Clause sixth Section II Regulation XV of 1803 direct that the prisoners

2d Walloly Shengoo Canikar,
3d Paloor Kopoo Nair, and
4th Kalambata Conashen Nair,

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

Sent following letter No. 21

Read letter, dated 8th Instant, from the 3d Judge on Circuit in the Western Division, - reporting his arrival

arrival at Mangalore.—
(Here enter № 39)

Read return, dated 6th Instant
from the Provincial Court in the Southern
Division,— to precept dated 17th November
last ordering communication to the
Criminal Judges and Magistrates of the
Courts construction of Section III. and IV
Regulation II of 1822.—
(Here enter № 40)

Read return, dated 6th Instant
from the Provincial Court in the Southern
Division,— to precept dated 27th November
last ordering communication to the
Criminal Judges and Magistrates of the
Courts orders on a reference from the
Criminal Judge in the Zilla of Masulipatam
regarding the construction of Regulation
II of 1822.—
(Here enter № 41.)

Read return, dated 6th Instant,
from the Provincial Court in the Southern
Division,— to precept dated 7th October
last ordering communication to the Acting
Criminal Judge of Salem and the Magistrate
of Coimbatore of the Courts orders on
a reference from the former officer
regarding

regarding the attendance of attesting
witnesses to confessions.—
(Here enter № 42)

Read return, dated 6th Instant,
from the Provincial Court in the Southern
Division,— to precept dated 8th November
last ordering communication to the
Criminal Judges and Magistrates of
the Courts orders regarding publication
of Regulation.—
(Here enter № 43.)

Read letter, dated 9th Instant,
from the 2d Judge of the Court of Circuit
in the Centre Division,— reporting the
close of the 4th Quarterly Sessions of Jail
delivery at Chittoor and his intention to
proceed under the order of Government
on Circuit.—
(Here enter № 80.)

At a Court of the Zoujdaree Adalut.

Present,

Thursday 16th January 1823.

Charles Harris Esqre Puisne Judge.

George Govan Esqre Acting Judge.

Read letter, dated 30th ultimo.

C# from the 1st Judge late on Circuit in the

Western Division, - submitting case No 7

64 South Malabar Calendar 2d Sessions 1822.

(Here enter No 13)

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

"Poodymanel Kadra,"

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

(sent following letter No 22)

Read letter, dated 30th ultimo,

from the 3d Judge of the Court of Circuit in the Northern Division, - submitting

case

16. January 1822.

Caze No 3 Malabaritam Calendar 4th Quarterly Sessions 1822.-

(Here enter No 15.)

The Court having maturely considered the proceedings held before the Judge on Circuit the Futwa of the Hindu Law Officers and the Futwa of the Cazee ool Coozat and Mooftee of the Zillah Adalut confirm the said Futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provision of Section III Regulation I of 1822 adjudge the prisoner Kandah Ramiengah to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of 9 years and then to be released.-

(Vide following Letter No 23)

In the letter accompanying the trial the 3d Judge states, that he has thought it best to make the reference in order that it may be ascertained whether or not the circumstance of the Law Officer having declared the prisoner liable to punishment although not convicted of the specific crime with which he was charged, is sufficient to satisfy "the provision of Section IV Regulation I of 1822, which requires that the

16. January 1823

"the Law officer concur in opinion with "the Judge of Circuit as to the conviction "of the prisoner."-

2 The Court of Foujdaree Adalut having premised that the provisions of Section XXII Regulation VII of 1802 require the reference to them of all trials wherein the Judge of Circuit may not concur in the futwa of the Law officer, have to intimate to the 3d Judge their opinion, that the provision of Section IV Regulation I of 1822 did not authorize his passing sentence upon the prisoner; it appearing to the Court to be quite clear that the concurrence of the Law officers with the Judge of Circuit as to the prisoner's being duly convicted of the specific crime of robbery by open violence, is required by the provisions of that Section to warrant a sentence for the stated punishment.-

3 The Court of Foujdaree Adalut desire that the Criminal Judge may be instructed in communicating their sentence to the prisoner to warn him of the consequences of a repetition of such an offence, as that whereof he has been convicted, apprizing him that his

his youth and the absence of aggravating circumstances generally in this case have induced the mitigation of the sentence prescribed by Section III Regulation I of 1823.

It will be proper also that the 3d Judge should intimate to the Law Officer of the Court of Circuit, who is to be on the trial, that the declaration in the futwa that the prisoner was liable to "Ashrakat" from the circumstance of having found upon him the stolen property was not sufficiently precise, the ground of the futwa being, as the Court must conclude, either that the prisoner had received into his possession the property knowing it to have been stolen, or that from its having been found upon him he fell under suspicion of robbery.

Ordered that Extract of these proceedings be sent to the 3d Judge of the Court of Circuit in the Northern Division by precept enjoining him to make the necessary communications to the Criminal Judge in the Zillah of Masulipatam and to the Cazee of the

16th January 1823.

1822

the Court of Circuit.-

(Sub by following precept No 24.)

Read return dated 30th November last, from the 2d Judge of the Court of Circuit in the Northern Division - to precept dated 8th October last calling for record of proceedings in cases Nos 2, 3, and 5 Masulipatam Calendar 3d Quarterly Sessions AD 1822-

(Herewith No 732 of 1822)

The Judges of the Sunjdaree Adawlut concurring in opinion that the proof against the 3d prisoner, Adoogoola Pauparaotoodoo, is sufficient to convict him of having knowingly purchased the stolen property under Clause second Section II Regulation I of 1818 that their Law Officer would declare by a second futwa to what punishment the prisoner would have been liable under the Mohummedan Law had he been convicted by full legal evidence of that crime.-

Ordered, that extract of these proceedings be translated and delivered to the Cazee and Mooftee of the Sunjdaree Adawlut.-

Read return, dated 7th Instant, from the 3d Judge late on Circuit in the Centre Division - to precept dated 24th September last directing him to transmit to

1823.

to the Criminal Judge in the Zilla of Cuddapah
the Record of the proceedings held in case
№ 10 Cuddapah Calendar 2d Sessions 1822
1822 together with the proceedings of the
Court of Foujdaree Adawlut thereupon.-

(Here entered № 31.)

In the 3d paragraph of the
return the third Judge reports, that he
"has taken means for the Magistracy
"in the Zilla of Cuddapah forewarning
"its police officers of the impropriety of the
expression Bencoolen, as usual to denote
transportation beyond sea and the 3d Judge
proceeds to remark, that the introduction
"of the word Prince of Wales's Island will
"it is thought meet obstacles from the
length and to the natives unusual form
"of that word and from their utter inapplicability
to distinguish geographically the new
"name from the one which they as well
"Hindoos, Gentoos, and Malabars, as the
"Mussulmans, have been so long accustomed
to use."-

2 In a subsequent part of the
return the 3d Judge offers a suggestion,
that to the charge on which the prisoner
Savetree had been ordered to be tried should
be added a specification of the time when

and

16th January 1823.

and place where she was found at
large.-

3 The addition here suggested
by the 3d Judge to the form of the prisoner's
arraignment appears to the Foujdaree
Adawlut, though not absolutely requisite
in this case, to be generally judicious,
and they direct that it be adopted.-

4 With respect to the observations
above quoted from the return the Court
of Foujdaree Adawlut have to remark,
that no part of their orders, dated 27th
September last directed that the designation
Prince of Wales's Island should be
substituted by the subordinate officers
for that of "Bencoolen" in cases of this
description.- The orders of the Court were

5 confined to the case of the prisoner
"Savetree," who had been transported under
sentence to Prince of Wales's Island-

6 The Government having
discontinued the practice of sending
convicts sentenced to transportation beyond
sea, to the place last mentioned, the use
of the words Prince of Wales's Island in
future cases would be as erroneous,
as was that of the term Bencoolen
in the Case of Savetree; prisoners

brought

brought to trial under the provisions of Clause second Section IX. Regulation XV of 1803 should be arraigned for returning without permission to the territories of Fort St. George from transportation beyond Sea.-

7 Should the orders of the 3d Judge to the Magistrate of Cuddapah be in any way inconsistent with the above remarks of the Foujdaree Adawlut, it will be the duty of the 3d Judge to revise them.-

8. Ordered, that extract of this proceedings be sent to the 3d Judge Circuit in the Centre Division for his information and guidance.-

Sent 22d

(Sent following letter No. 25)

Read letter, dated 18th Ultimo, from the 3d Judge on Circuit in the Southern Division, submitting case No. 10 Madura Calendar Decisions No. 7761 of 1822

(Here enter No 7761 of 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 Mooftees of the Foujdaree Adawlut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the

sentence

3 / 16th January 1823 sentence of Ashootut declared in the futwa adjudge the prisoner, "Ramakistnen," to be removed to the Zaid in the Zillah of Chittoor 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 22d (Sent following letter No. 26)

1 In the original confession of the prisoner as recorded in the proceedings, he stated that his brother who accompanied him to the temple where the robbery was committed, put to death a person, who was lying at the door.-

2 The prisoner stood charged with robbery; and it does not appear from any thing in the record, that the foregoing statement of the prisoner gave rise to any inquiry as to whether or not the body of any person had been found at the place described by him as the scene of a murder, whether any person was stationed to watch at the temple, or upon any of the points so calculated to elicit proof of the real facts of the case.-

3 The Court of Foujdaree Adawlut desire, that the Magistrate in the Zillah of

16. January 1823.

of Madura may be called upon to report whether any and what measures have been taken in consequence of the above declaration of the prisoner Ramakistnen

4 Ordered, that extract of these proceedings be sent to the 2d. Judge on Circuit in the Southern Division by precept enjoining him to communicate the same to the Magistrate in the Zilla of Madura for his information

Sent 22

Sent following precept No. 27/ 25

Sent

At a Court of the Foujdaree Adalut.

Present:

Friday, 17th January, 1823. Charles Harris Esqre. Puisne Judge.
George Gowan Esqre. Acting Judge.

C. H. 64

Read again return, dated 30th November last from the 2d Judge of the Court of Circuit in the Northern Division, to precept dated 8th October last calling for record of proceedings in cases Nos. 2, 3, and 5 Masulipatam Calendar 3d Quarterly Sessions A.D. 1822.

(Reference No. 732 of 1822)

Read the second futwa delivered in case No. 2 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 are of opinion that the proof against the prisoners 1st Helaun Venkaroo, and 2d Chasseedy Venkaroo, is sufficient to convict them of the crime of robbery by open violence for which a finality is specially denounced in Clause third

third Section IV Regulation XV of 1803 and the like offence is established against the 1st prisoned in cases Nos 3 and 5 of the Calendar.

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

1st "Helwar Vankadoo"

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 the prisoner,

2d Chappedy Vankadoo,

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.-

And under the sentence of Cohoolut declared in the future adjudge the prisoner,

3d Adoogoola Paupahuttoodoo,

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

Read 22d

of 14 years and then to be released.-

(Sent following letter No 35.)

Read letter, dated 15th Instant, from the 2d Judge in Circuit in the Northern Division,- reporting his arrival at Nellore

(Here enter No 51.)

Read return, dated 9th Instant, from the Provincial Court in the Centre Division,- to precept dated 30th Ultimo ordering communication to the Criminal Judges and Magistrates of the Court's instructions regarding the cases of persons confined under the provisions of Section III Regulation II of 1822.-

(Here enter No 52)

Read letter, dated 14th Instant, from the 2d Judge late on Circuit in the Centre Division,- with returned warrant for execution of prisoner in case No 9 Bellary Calendar 2d Sessions A.D. 1822.-

(Here enter No 53.)

At a Court of the Foujdaree Adalut

Present

Wednesday 22d January 1823 — Charles Harris Esqre Prime Judge; George Gowan Esqre Acting Judge

Read letter, dated 23d Ultimo from the Second Judge of the Court of Circuit in the Western Division, submitting Case No 9 North of Malabar Calendar 4th Quarterly Sessions AD 1822.—

/ Here enter No 3 /

The Court having maturely considered the proceedings held before the Judge on Circuit the Futwa of the Provincial Law officer and the Futwa of the Cazee ool Cozat and Mooftee of the Foujdaree Adalut are of opinion that the proof against the prisoner, Vengual Rarman is sufficient to convict him of the crime of forgery for which a penalty is specially denounced in clause first Section III Regulation VII of 1811.—

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 third Section III Regulation VII of 1811 adjudge the prisoner, "Vengual Rarman",

to be imprisoned and kept to hard labour in

in irons on the public roads or other
public works for and during the period
of eighteen months and then to be released.—
Sent following letter No 36.

Read letter, dated 9th Ultimo
from the 3d Judge of the Court of Circuit in the
Northern Division, submitting Case No 2 of
Madulipatam Calendar 4th Quarterly Sessions
1822.—

Here enter No 14

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 Cazee ool Coozat and Mooftee
of the Poojdaree Adalut confirm the said futwa
of the Cazee ool Coozat and Mooftee aforesaide
and under the provisions of Section III Regn.
=lation I of 1822 adjudge the prisoner,
"Gerlay Pennaliá",
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 and during
the period of his natural life.—
Sent following letter No 37.

Read letter, dated 14th Ultimo
from the 3d Judge on Circuit in the Southern Division
submitting Case No 25 Madura Calendar Second
Sessions A.D. 1822.—

Here enter No 15

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 Poojdaree Adalut are of opinion that the
proof against the prisoners,
1st Moattien,
2d Aruniyan,
3d Nellapermal,
4th Moattien,
5th Canatchee,
6th Curpanen,
7th Pamasamy,
8th Elliapermal,
9th Coroombon,
10th Payen,
11th Kaleyna,
12th Nullapermaul,
13th Poonnayapen,
14th Veeranen,
15th Payandy,
16th Nullapermaul,
17th Sunathaven,
18th Seroomalyen,
19th Mayandy,
20th Elliapermaul,
21st Permaun,
22d Kalvovathaven,
is sufficient to convict them of robbery by open
violence for which a penalty is specially de=
=nounced in Section III Regulation I of 1822.—
The

F. C.
22d January 1823

Read letter, dated 27th Ultimo from the 1st Judge late on Circuit in the Western Division, - Submitting Case No. 21 Canara Calendar Second Sessions of 1822.-

/Here enter 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 Cazee ool Cozat and Mooftees of the Poujdaree Udalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and acquitting the prisoner,

1st "Panjee",

direct that he be set at liberty.-

/Sent following letter No. 39./

250.

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

1st Moottien,
2d Arieyan,
3d Nellaperumal,
4th Moottien,
5th Camatchee,
6th Curpanen,
7th Ramadamy,
8th Elliaperumal,
9th Coosoombien,
10th Payen,
11th Kalayee,
12th Nullapennaul,
13th Ponnayapen,
14th Veeranen,
15th Payandy,
16th Nullapennaul,
17th Arunathanen,
18th Seroomalyen,
19th Mayandy,
20th Elliaperumal,
21st Permaun
22d Halanathanen

to receive thirty nine 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 and during the period of their natural lives respectively

/Sent following letter No. 38/

Rs

At a Court of the Huydaree Iddalut

Present

Thursday 23d January 1823 } Charles Harris Esqr Puisne Judge
George Gowan Esqr Acting Judge

Read letter, dated 15th Instant,
64 from the 3d Judge late on Circuit in the Centre
44 Division; submitting copy of Chingleput Calendar
second Sessions A.D. 1822.—

/Here enter No. 61./

In Case No. 1 of the Calendar
it is stated, that the prisoners were acquitted,
their confessions before the Tahseeldar having
been proved by the two attesting witnesses to
have been extorted from them: and in Cases
Nos. 8, 9, 10, 11, 12, 13 & 20 the several prisoners were
acquitted and released; the confessions delivered
by them before the Tahseeldar having been either
proved to have been extorted by violence, or
to be invalidated by circumstances tending
to establish the presumption, that measures
of this atrocious description had been resorted
to by the Head of Police in order to obtain
the confessions.—

In case No. 15 it appears from
2 the Column of remarks, that fictitious exa=
=minations with false dates were attempted
by

by the Head of Police to be palmed upon the Court of Circuit.—

3 The Court of Luydaren Udalen regret extremely to observe, that their repeated orders to the several Magistrates, having in view the suppression of conducts so heinously criminal in itself, and so subversive of the pure and effectual administration of Criminal Justice, should hitherto have proved ineffectual.—

4 It is the duty of the Court on this occasion to direct, that the Magistrates under whose authority the police officers, who are implicated in the above proceedings, are employed, do enter upon a strict & investigation of their conduct, examining the parties who appear from the proceedings held before the Court of Circuit to be able to give evidence regarding the acts of the Police, & such other persons, as may be found to possess information on the subject, in view to the exemplary punishment of the guilty individuals on conviction before the Courts of Circuit.—

Circular Letter to 3 Royal Courts thro 5th Paras including thro 1st & last Paras.

5 The Court of Luydaren Udalen deem it proper on the present occasion to direct, that the Judges of Circuit in the Western Centre, and Southern Divisions be required to instruct

instruct the Criminal Judges, whose Jurisdiction in consequence of late arrangements may extend over more than one Collectorate, invariably to & specify in the Calendars laid before the Court of Circuit, from the jurisdiction of what Magistrate each prisoner was brought before them.—

6 By an Extract of the proceedings of the Courts of Circuit, dated 29th Ultimo, transmitted with the Calendar it appears, that the prosecutor and two witnesses in Case No 116 having failed to attend, the Court of Circuit & examined their recognizances which were found "to be without any fixed penalty, it being left "to the discretion of the Court to fix ones of their "recognizances be forfeited."—

7 It appears also, that the 3d Judge deeming it "improper" to allow the neglect of these persons to be passed over with impunity directed the Criminal Court "to levy a fine of "twenty four rupees from each of the said persons "who does not satisfactorily account for his & "neglect," commutable if not paid to imprisonment in the Zilla Jail for one month.—

8 The Extract of the proceedings of the Court of Circuit concludes with a recommendation to the Criminal Judge, "that "in future some penalty adequate to constrain "persons to attend be specified" in the & recognizances.—

Clause

23rd January 1823

9

Clause fourth Section IX Regu-
=lation X of 1816 prescribes, that "the recognizan-
"ces required to be taken from Roscentors and
"witnesses shall be for a Specific sum;" and
"shall contain a clause declaring the amounts (A)
"forfeited to Government in the event of the
"conditions of it not being performed."—

10

The Court of Foujdaree Udalut direct,
that the attention of the Criminal Judge in the (B)
Zilla of Chingleput be pointedly called to this
provision of the Regulations enacted for his (C)
guidance, which he had so unaccountably over-
=looked.—

11

The obligation substituted by the
Criminal Judge for the only form of recognizance
in such cases, which has the sanction of Law,
being wholly invalid, the Court of Foujdaree
Udalut do not understand the grounds, on which
the 3d Judge proceeded to acquit fines against
the persons in question, which the Court direct
be forthwith remitted.—

12

Ordered, that Extract of these pro-
=ceedings be sent to 3d Judge late on Circuit in
the Centre Division by precept enjoining him
to issue the requisite instructions to the Criminal
Judge in the Zilla of Chingleput and the Mar-
=gistrate of Chingleput and the Southern Divi-
=sion of Arcot for their information and (D)
guidance respectively.—

/Sent following precepts Nos 43 & 44/

Sent 29th

27th

Fo. No.

23d January 1823

Ordered also, that Extracts
of these proceedings be sent to the Provincial
Courts of Circuit in the Northern Division and
Southern Divisions by precepts enjoining them
to communicate the same to the several Crimi-
=nal Judges concerned for their respective (E)
information and guidance.—

Precepts returnable in five
days from and after their receipt.—

/Sent following precept No 44/

Read letter dated 16th Instant
from the Criminal Judge in the Zilla of Canara
transmitting for the orders of the Foujdaree Udalut
a copy of sentence and report of a convict ad-
=judged to be banished to any Zilla selected
by the Foujdaree Udalut.—

/Here enter No 68/

The Court of Foujdaree Udalut
direct that the prisoner,

"Oruaya"

be removed to the Jail in the Zilla of Chittoor,
there to be imprisoned and kept to hard la-
=bour during the period of his sentence.—

Ordered that Extract of these
proceedings be sent to the Criminal Judge in
the Zilla of Chittoor and to the Criminal Judge
in the Zilla of Canara for the information
and guidance of those officers respectively.—

/Sent following letters Nos 45.

25

Read return dated 15th Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 30th Ultimo ordering communication to the Criminal Judges and Magistrates of the Courts order regarding the cases of persons confined by the Magistrates under the provisions of Section III Regulation II of 1822.—

/Here enter No. 65/

Read letter dated 23rd Instant from the Secretary to Government in the Judicial Department, acknowledging receipt of letter dated 30th Ultimo and 9th Instant with the Proceedings therewith transmitted.—

/Here enter No. 73/

Read letter dated 15th Instant from the 3d Judge late on Circuit in the Southern Division; with returned warrant for transportation of prisoner in Case No. 34 Madura Calendar 2d Sessions 1822.—

/Here enter No. 77/

Read return dated 17th Instant from the Provincial Courts of Circuit in the Northern Division to precept dated 31st Ultimo ordering communications to the Criminal Judges and Magistrates of the Courts order regarding the cases of persons confined by the Magistrates under the provisions of Section III Regulation II of 1822.—

/Here enter No. 78/

At a Court of the Foujdaree Adaulut

Present.

Friday ---
24th January 1823 } Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

Read return, dated 6th Instant
from the 3d Judge late on Circuit in the Centre Divi-
sion to precept, dated 14th October last, convey-
ing the observations of the Court of Foujdaree Adaulut
on certain cases on the Cuttack Calendar of
2d Sessions A.D. 1822 - and directing the revision
of the sentence passed in Case No. 24 -

(Here enter No. 38)

The only part of the foregoing
return which demands immediate observation
or calls for any specific orders from the Court of
Foujdaree Adaulut has respect to the case No. 24,
wherein the Court in their proceedings of 14th October
directed, that a further sentence should be taken
with reference to the provisions of Clause fourth
Section II Regulation XV of 1803 and sentence
passed accordingly -

It appears by the return, that the
further taken under the above orders has awarded
amputation of one limb against each of the prisoners,
and the 3d Judge submits in consideration of
their having already suffered the punishment
of stripes under the erroneous sentence originally passed on the case, that a portion of the
prescribed term of imprisonment under that

further

24th January 1823.

future should be remitted.—

3. The Court of Foujdaree Adalut per-
=curring in opinion with the 2d Judge, that the
prisoners in question are, under every principle of
Justice and equity, entitled to some consideration
on account of their having undergone — punish-
which under the provisions of the Code as to the
stood was not originally meant to them, and
as the Regulations do not contain any specific
provision for a case of this nature, in exercise of
the general control vested in them over the find-
=ings of the Courts of Circuit, do admit the sen-
=tence passed by the 3d Judge in Case No 23 of the
Calendar to stand.—

4. Ordered, that Extracts of these
proceedings be sent to the 3d Judge at the Cutwa Station
in the Cuttack District for his information and
guidance.—

Ent. 29th

Extd.

(Sent following Extract 29th)

1

Monday 27th January 1823.

At a Court of the Foujdaree Adalut.

Present,

Charles Harris Esqre Puisne Judge.

George Gowan Esqre Acting Judge.

Read letter dated 21st Instant,
from the Secretary to Government in the
Judicial Department stating that the
Governor in Council commuted the punish-
=ment of seven years imprisonment to
two years in the case submitted under date
16th Instant but entertains doubts as to
his competency to substitute the punish-
=ment of 36 Rattans for that part of
the imprisonment remitted.—

(Here enter No 72.)

The Honorable the Governor
in Council having been pleased to
resolve that the sentence of seven years
imprisonment passed on the prisoners
1st Shewalingum and 2d Chinnoo, in case
No 15 of the Madura Calendar for the
Second Sessions A.D. 1822 shall be
commuted to two years imprisonment
and hard labor.—

Ordered

27th January 1823

Ordered that,
1st Shevalingum, and
2d Chinnan,
be accordingly 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 be released.—

Sent 30th

(Sent following letter No 51)

At a Court of the Foujdaree Adalut

Present

Friday 31st January 1823 } Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

Read letter, dated 25th Instant, from the 2d Judge on Circuit in the Northern Division submitting translations of examinations held in case No. 11 of Nellore Calendar 1st Sessions A.D. 1823, wherein a plea of insanity has been set up by the prisoner.—

C.H.
G.G.

(Here enter No. 96)

The Court of Foujdaree Adalut, having taken into consideration the papers transmitted with the foregoing letter, do not perceive any adequate grounds for believing that the prisoner, Gopaul Sing, labors at present under a deprivation of intellect, or committed the homicide with which he is charged while in a state of insanity; and the Court, therefore, direct that he be put on his trial.—

2 Should the protracted absence of the witnesses, stated by the 2d Judge to be at Maorad, render it impossible to proceed to the trial of the prisoner, Gopaul Sing, during the present Sessions; it will be the duty of the 2d Judge, under the provisions of Section XVII Regulation VII of 1802, to postpone the trial.—

Ordered

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

/Sent following letter No 55

Read letter dated 17th Instants from the 2d Judge late on Circuit in the Western Division, to precept dated 30th Ultimo ordering communication to the Magistrates of Malabar and Canara of the Courts ordered on certain parts of his late Circuit reports.-

/Here enter No 79/

Read letter, dated 20th Instant from the 2d Judge on Circuit in the Centre Division, Reporting his arrival at Cuddapah

/Here enter No 80/

Read letter, dated 23d Instant from the Acting Judge on Circuit in the Southern Division; With copy of Canda-num Calendar 1st Sessions 1823.-

/Here enter No 87/

Read letter, dated 20th Instant from the 3d Judge late on Circuit in the Centre Division; With returned Warrants for execution of prisoner in Case No 10/Bellarilalenaar 2d Sessions 1822.-

/Here enter No 90/

Read

Read letter dated 23d Instant from the 1st Judge late on Circuit in the Western Division, to precept dated 13th Instant ordering revision of the sentence passed in Case No 31 South Malabar Calendar 2d Sessions A D 1822 and calling for copy and translation of the finding delivered in Case No 44.-

/Here enter No 108/

F. 11.

At a Court of the Foujdaree Adaulut

Present

Monday - - -
3d February 1823 } Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

Read letter dated 9th December
last from the Second Judge late on Circuit in the
Western Division, - Submitting Case No 59 South
Malabar Calendar 1st Sessions A.D. 1822. -

/Here enter No 752/

The Judges of the Foujdaree Adaulut
on a deliberate consideration of the circumstances
of the case on evidence before them concurring in
opinion that the proof against the prisoners 1st 2d 3d
& 4th is sufficient to convict them of having aided in
murder of the deceased Kunhey Pisarody desire under clause 4
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 prisoners would have been liable under the
Mohummedan Law if they had been convicted
by full legal evidence of the above crimes -

Ordered that Extracts of these
proceedings be translated and delivered to the
Cazee ool Coozat and Mooftees of the Foujdaree Adaulut.

Read

3d February 1823.

Read letter, dated 24th Ulto from the 1st Judge late on Circuit in the West Division; Reporting the death of the only surviving prisoner in Case No. 24 of 22 Canara Calendar 2d Sessions 1822.

/Here enter No. 111/

Read letter, dated 30th Ulto from the 3d Judge late on Circuit in the South Centre Division; With returned Warrant for execution of the prisoners in Case No. 5 and 36 Bellary Calendar 2d Sessions 1822.

/Here enter No. 112/

Read Return, dated 30th Ulto from the 3d Judge late on Circuit in the South Centre Division to precept dated 16th December last ordering communication to the Magistrate in the Zillah of Bellary of the Court's orders regarding the disposal of the prisoners in Case No. 17 Bellary Calendar 2d Sessions 1822.

/Here enter No. 113/

X

711.

At a Court of the Foujdaree Adalut.

Present,

Wednesday 5th February 1823.

Charles Harris Esqre Puisne Judge.
George Gowan Esqre acting Judge.

Read again letter dated 6th December last from the 2d Judge late on Circuit in the Western Division, submitting case No. 59 South Malabar Calendar 1st Sessions A.D. 1822.

/Here enter No. 752/

Read the second futwa 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 futwa of the Provincial Law Officer and the futwa of the Cazee ool Cozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and under the latitude given by the Sentences declared in the futwa adjudge the prisoners,

1st Soney Kadawata Chekotty,
2d Wilachata Kunhen Mootaar,
3d Pachata Aswakar, and
4th Elayachatil Parangodan,

to suffer death by being hanged at the

the usual time and place of execution.—

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

5th Seroowa Sari Koonjee Piparoly,

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

Cent

(Cent following letter No 56)

Read return, dated 27th Ultimo from the Acting Judge late on Circuit in the Northern Division to precept dated 2d Ultimo directing him to communicate to the Acting Criminal Judge in the Zilla of Chicacole the orders of the Foujdaree Udalut regarding the disposal of the prisoner in Case No 17 Chicacole Calendar 2d Sessions of 1822.—

(Case enter No 109)

Read also return, dated 30th Ultimo, from the Acting Judge late on Circuit in the Northern Division to precept dated 24th December last ordering the revision of the sentences and orders passed by him in certain Cases on the Chicacole Calendar Second Sessions of 1822.—

(Case enter No 121)

The Court of Foujdaree Udalut in their

their proceedings dated 2d Ultimo expressed their regret that the Acting Judge late on Circuit in the Northern Division should have neglected to make himself acquainted with their orders of 29th October 1807, to which the attention of the several Criminal Judges had been called under date 25th February 1822, respecting the proceedings to be held in the cases of prisoners of doubtful sanity.—

2 The orders in question enjoin upon the Judges of Circuit in all cases wherein it may appear that there are grounds for "supposing a prisoner committed for trial "to be deprived of reason," an investigation, both as to his then state of mind, and also as to "whether the crime charged against him "were perpetrated under a deprivation of the "senses" and where that deficiency of will which exempts from guilt may appear to have existed, it is directed that proceedings against the party should be suspended, and a report of the case submitted by the Judge of Circuit for the orders of the Court of Foujdaree Udalut.—

In Case No 17 Chicacole Calendar

3 2d Sessions 1822 there appeared from the evidence delivered before the Assistant Criminal Judge to be grounds for supposing the prisoner to be a Lunatic, and in referring the trial the Acting Judge

Judge late on Circuit stated that he imagined there could be no doubt of the prisoners being "subject to occasional Lunacy, in a fit of which "one day, about 3 days before the full of the Moon "he killed his child".—

4. The return of the late Acting Judge of Circuit contains in reference to this case the following passage.—

"Should the late Acting Judge ever "have the honor of presiding at another Sessions "he will take good care to enter upon an investigation "of the present state of mind of every prisoner before "him supposed to have ever been deranged in "intellect.— He was perfectly aware of the orders "quoted by the Court for a supposed imitation "of which they have been pleaded to reprimand "him. This prisoner ever since he had been ap- "prehended had been perfectly sane, and when "before the Court appeared to be, and was, "as much in his senses as any of the Spectators, "he gave pertinent answers to questions which "the Acting Judge put to him— the only thing "observable in him was melancholy perhaps "at the act which he had committed. The Acting "Judge therefore being not the slightest ground "for supposing a prisoner committed for trial "to be deprived of reason, did not enter upon "an investigation of the facts— but did enter into "an investigation as to whether he ever had been subject

"subject to derangement.— The Acting Judge "expected, if he did enter into such an investiga- "tion regarding this Prisoner, and enter it in the "proceedings, to be told by the Poojdaree Udalut "that it was totally unnecessary.—

5 It can scarcely be necessary for the Court of Poojdaree Udalut to remark, that nothing either in the letter or spirit of these orders on this subject could require "an investi- "gation of the present state of mind of every "prisoner committed for trial, "supposed to "have ever been deranged in intellect." and nothing can be more clear than that those orders require the suspension of proceedings and a reference to them, whenever there may be evidence before a Court of Circuit that the act charged against the prisoner was committed under a depri- vation of intellect.—

The Court of Poojdaree Udalut cannot believe, that the foregoing remarks of the late Acting Judge are to be accounted for on the sup- position of his misunderstanding instructions so simple, as those contained in their circular orders of 29th October 1817, and the conclusion is forced upon them, that this officer has either declared himself to be "perfectly aware" of orders, which he had not read; or that his departure from the line of proceeding enjoined in those orders was wilful in the first instance, and that a contemptuous pertinacity in known error has induced

induced them to designate this proceeding as a "supposed" violation of their orders.—

7.

The only further observations, which the Court of Foujdaree Adaulut deem it necessary to record on this part of the return of the late Acting Judge, dated 27th Ultimo, are that the facts of its having been stated in evidence before the Assistant Criminal Judge that the prisoner had been subject to occasional Lunacy, and his appearing when put to the bar, as described by the late Acting Judge in his letter referring the trial, "a silly stupid looking man", did furnish prima facie grounds for doubting his sanity at the time; and that if the late Acting Judge "did," as he now reports, enter into an investigation as to whether the man had been "subject to derangement," and the result of that investigation satisfied the late Acting Judge that the act of the prisoner was committed in a fit of "lunacy," his putting the prisoner on his trial and confining the proceedings for the prosecution to recording his confession of an act, whereof he could have had no knowledge, involved not merely a violation of the orders of the Court, but a neglect of the most obvious dictates of reason and Law.—

8.

See 3d. paragraph of the return runs as follows.—

In

"In the 8th paragraph the Court "are pleased to observe, The Court of Foujdaree Adaulut "have had occasion to observe in other proceedings "of the Acting Judge late on Circuit an apparent "inclination to get through the duties committed to "him with as little labor as possible.— Now, "though the Acting Judge was afraid (though he has "the vanity to think himself inferior to none of his "superiors in zeal) that he must some how or "other during his Circuit obtain the censure and "reprehension of the Foujdaree Adaulut, he must "confess that he was not prepared for the above "remark, which would surprize his friends at "Chittacoke."—

The detail, subjoined in the 4th paragraph, whereby it appears that the late Acting Judge held Court on Sundays for the greater dispatch of business, and accomplished the completion of the Sessions of Gaol Delivery 29 Days before the expiration of the period assigned to the Circuit, by no means satisfies the Court of Foujdaree Adaulut, that their opinion, above recited, founded on the slovenly and careless manner in which the trials referred by that officer have been prepared, and the defectiveness of the proceedings held in certain of them, was incorrect, while the style and language in which the late Acting Judge has thought proper to comment on that opinion is marked by disrespectful and petulant flippancy.

The

The return of the late Acting Judge on Circuit, dated 30th Ultimo, to the precepts of the Foujdaree Udalut, dated 21st December last, contains matter which calls for more serious observation.—

11. The Court of Foujdaree Udalut, having received from the Criminal Judge in the Zilla of Chittagong an application for permission to make the tender of a conditional pardon to certain individuals concerned in the fabrication of some Cutcherry accounts, accompanied by copies of examinations, which had been held in the case, obtained the sanction of the Governor in Council for the measure recommended by the Criminal Judge under the provisions of Section XIII Regulation VIII of 1802.—

12. As a proof of the degree of attention which the late Acting Judge devoted to the business of his late Circuit, it appears that the circumstance of the Court's having had before them the examinations held by the Criminal Judge in this case "never struck him", although the letters of the Criminal Judge submitting those papers to the Foujdaree Udalut was laid before the late Acting Judge, and formed the subject of a correspondence between those officers at the sessions.—

13. As the orders of Government sanctioning the tender of a conditional pardon in

5th February 1823

in this case, must have been recorded on the proceedings of the Criminal Judge, as well as the letter addressed by order of the Court to the Government; they can only attribute the Acting Judge's ignorance of their having pronounced the offence to be Perjury, to a hurried perusal or very cursory examination of the preliminary proceedings.—

14. The return, concludes with the following passage.—

"The late Acting Judge assures "the Court that he disclaims any intention of "disrespect when he adds, that he laments the "view which they have taken of the offence in "question, whereby those persons may incur the "severe punishment prescribed by clause first, "Section 3 of 1811; for in his conscience he is "convinced that the Legislature never had it in "contemplation and if they adhere to their present "opinion he will consider it as a misfortune "to him, if Prisoners charged with the offence "should be brought before him as a Judge on "Circuit."—

15. In the foregoing passage the late Acting Judge has arrogantly opposed his opinion on a point of Law to a grave judicial decision of the Superior Court, and this he has done in language of the most offensive description.—

16. The Court having in their proceedings of the 30th December last conveyed to the late Acting Judge, under the provisions of Section XXIX Regulation V of 1802, an admonition upon the disrespectful nature of a former communication, received

received from them, are compelled to make
the returns, now before them, the subjects of a
representation to the Honorable the Governor in
Council, whose interference the Court of Judicature
Udalut deem to be essential to the maintenance
of their authority.

17. Ordered, therefore, that the fore=
=going returns together with Extracts from the
proceedings of the Court of Judicature Udalut, dated
20th October 1807, 24th December and 5th January last,
and extract of these proceedings, together with
the Record of Case No. 17 Chittagong Calendar Second
Sessions A.D. 1807 be sent to the Secretary
to Government in the Judicial Department for
the consideration and orders of the Honorable
the Governor in Council.

Nos 5 and 6

Extract, Sent following letter No 57

At a Court of the Foujdaree Adaulut
Present,

Thursday
6th February 1823. Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge.

Read letter, dated 12th November
last from the 3d Judge on Circuit in the
C. A. Centre Division, - submitting case No 14
U. C. Cuddapa Calendar 2d Sessions A.D. 1822.
(Here enter No 718 of 1822.)

The Judges of the Foujdaree Adaulut
on a deliberate consideration of the circum-
stances of the case in evidence before them
concurring in opinion that the proof
against the prisoners Nos 2 3d 4th 5th and 6th
is sufficient to convict them of having
aided in the murder of the deceased
Boochee and do declare under clause second
Section II Regulation I of 1818 that the Cazee
or Cozat and Mooftees of the Foujdaree
Adaulut 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 above crimes.

Ordered that extract of these
proceedings be translated and delivered to
the Cazee or Cozat and Mooftees of the
Foujdaree Adaulut. -

U. C.

Read

Read return, dated 30th Ultimo,
from the 3d Judge of the Court of Circuit in
the Northern Division, - to precept dated
11th Ultimo ordering communication to the
Criminal Judge in the Zilla of Masulipatam
and to the Cazee of the Provincial Court in the
Northern Division of the Courts remarks on
case No 3 Masulipatam Calendar 1st Quarterly
Sessions A.D. 1822.-

(Here enter No 131)

Read letter, dated 27th Ultimo,
from the 2d Judge late on Circuit in the
Southern Division, - transmitting copy
of the warrant issued for imprisonment
and banishment of the prisoner in Case
No. 1 Madura Calendar 2d Sessions 1822 with
return of the Criminal Judge that the
prisoner has escaped.-

(Here enter No 133)

Read return dated 3d Instant,
from the Provincial Court in the Centre
Division, - to precept dated 28th Ultimo ordering
communication to the Criminal Judges whose
Jurisdiction extends over two Collectorates
of the Court to direct that they shall severally
from the jurisdiction of what Magistrate
each prisoner was brought before them.-

(Here enter No 134)

Read

Read letter, dated 3d Instant,
from the Acting Judge on Circuit in the
Southern Division, - reporting his arrival
at Salem.-

(Here enter No 135.)

Read return, dated 3d Instant,
from the 3d Judge of the Court of Circuit
in the Centre Division, - to precept dated
8th Ultimo ordering further evidence to be
taken regarding the sanity of the prisoner
in case No 7 Chittore Calendar 4th Quarterly
Sessions A.D. 1822.-

(Here enter No 137.)

At a Court of the Fouydaree Adaulut

Friday — 7th February 1823 } Present

Charles Harris Esqr 1st Puisne Judge

George Gowan Esqr 2d Acting Judge

Read again letters, dated 12th

04 November last from the 3d Judge on Circuit

66 in the Centre Division - submitting Case No 14

Cuddapa Calendar Second Sessions 1822 —

(Here enter No 718)

Read the second further de=

-livered in this case by the Cazee ool Coozat

and Mooftees of the Fouydaree Adaulut —

The Court having maturely

considered the proceedings held by the Judge on

Circuit the futwa of the Provincial Law officer

and the futwa of the Cazee ool Coozat and

Mooftees of the Fouydaree Adaulut confirm the

said futwa of the Cazee ool Coozat and Mooftees

aforesaid and under the latitude given by the

sentence of Regulation adjudge the prisoners

"1st Vulleegadoo"

"2d Chinna Narrigadoo"

"3d Linnoogadoo"

"4th Cheruvadoo"

"5th Chinna Abooloogadoo" and

"6th Oppara Pullegadoo"

to suffer death by being hanged at the usual

times and place of execution —

(Letter following letter No 62)

Read

In 11th

Re

Read letter, dated 7th December last, from the 3d Judge on Circuit in the Southern Division, submitting Case No. 8 Madura Calendar 2d Sessions A.D. 1822.-

(Here enter No. 737)

The Court having maturely considered the proceedings held before the Judge on Circuit the future of the Provincial Law officer and the future of the Cazee ool Coozat and Moofties of the Poydaree Adalut confirm the said future of the Cazee ool Coozat and Moofties aforesaid and under the provisions of clause fourth Section IV. Regulation XI of 1803 adjudge the prisoners

1st Sinnavadeen
2d Sheriamma
3d Mayandy
4th Mootheyan
5th Mottanuppa and
6th Mottanuppa,

to be imprisoned and kept to hard labor in irons on the public roads or other public work for and during the period of 6 years and then to be released.-

(Vide following letter No. 463)

7. M.

At a Court of the Poydaree Adalut

Present

Wednesday 12th February 1823.- Charles Harris Esqre. Puisne Judge.-
George Gowan Esqre. Acting Judge.-

Read letter, dated 27th November last from the 3d Judge on Circuit in the Southern Division, submitting case No. 37 Madura Calendar 2d Sessions A.D. 1822.-

(Here enter No. 719.)

Read also letter, dated 17th December last, from the Criminal Judge in the Zilla of Madura, reporting the death of the 11th prisoner in case No. 37 Madura Calendar 2d Sessions A.D. 1822.-

(Here enter No. 760)

The Court having maturely considered the proceedings held before the Judge on Circuit the future of the Provincial Law Officer and the future of the Cazee ool Coozat and Moofties of the Poydaree Adalut are of opinion that the proof against the prisoners 1st Ramasamy, 2d Cauttacootty, 3d Sungaralingam, 5th Cawney, and 9th Arryathanan, is sufficient to convict them of the crime of robbery by open violence for which a penalty

is

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 said prisoners.

1st Ramatamy,
2d Caittacoutty,
3d Sungaidingum,
5th Cavony, and
9th Cungathamy,

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 labor in irons on the public roads or other public works for and during the period of their natural lives respectively.-

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

4th Arryanum,
6th Addalamottoo,
7th Chinna Erooliyan,
8th Palamatum, and
10th Aundy,

be released on furnishing good and sufficient

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

(Sent following letter No 641)

Read letter, dated 5th December last from the 3d Judge on Circuit in the Centre Division,- submitting case No 9 Cuddapa Calendar Second Sessions 1822.-

(Here enter No 757)

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 of Coorgatand Mooftee of the Foujdaree Adaulut are of opinion that the proof against the prisoner Dadeyadoo is sufficient to convict him 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 therefore under the authority vested in them by Clause first Section II Regulation I of 1818 adjudge the said prisoner,

Dadeyadoo,

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

the

12th February 1823

during the period of 14 years and then
to be released.-

(sent following letter No 65)

Monday 17th February 1823.

At a Court of the Foujdaree Adalut.

Present.

Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

Read letter dated 17th Instant,
from the 3d Judge of the Court of Circuit
in the Northern Division, submitting
Case No 4 Masulipatam Calendar 4th
Quarterly Sessions A.D. 1822.-

(Decreted No 85)

The Judges of Foujdaree
Adalut being of opinion that the
proof against the prisoners Vs. Parajabyna
Cristhnaud and 22 Shiddak Soorcak, is
sufficient to convict them of having
assaulted the Officers of Police and to convict
the 2d prisoner of having wounded the deceased Chellacoody
Periah, desire under clause second Section
II Regulation I of 1818 that their Law
Officer will declare by a second
Futwa to what punishment the
prisoners would have been liable under
the Mohemmedan law if they had
been convicted by full legal evidence

of

of the above crimes.-

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

Read letter, dated 27th ultimo,
from the 3d Judge of the Court of Circuit
in the Northern Division,- submitting
case No 10 Masulipatam Calendar for
Quarterly Sessions AD 1822.

(Here enter No 102.)

The Court having maturely
considered the proceedings held before the
Judge on Circuit the future of the Provincial
Law Officer and the future of the Cazee
ool Coozat and Mooftee of the Foujdaree
Adalut confirm the said future of
the Cazee ool Coozat and Mooftee
aforesaid and under the provisions
of Clause fifth Section IV
Regulation XV of 1803 adjudge the prisoners,

"Isanalem Caufadoo"

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

17th February 1823

Sent to

period of his natural life.-

(Sent following letter No 70.)

Read letter, dated 28th ultimo,
from the acting Judge on Circuit in the
Southern Division,- submitting case No 10
Coimbatoor Calendar for Sessions AD
1823.-

(Here enter No 86.)

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

"Durmarajah"

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

(Sent following letter No 71.)

Sent to

Read letter dated 3d Instant,
from the 1st Judge of the Court of Circuit
in the Western Division,- with returned
warrant for execution of a prisoner
in case No 17 South Malabar Calendar 2d
Sessions AD 1822.-

(Here enter No 143.)

17th February 1823

Read return, dated 7th Instant, from the Provincial Court in the Southern Division, to precept dated 23d Ultimo ordering them to instruct the Criminal Judges to specify from the Jurisdiction of what Magistrate each prisoner was brought before them.—

(Here enter № 148)

Read return, dated 7th Instant, from the Provincial Court in the Northern Division, to precept dated 28th Ultimo ordering them to instruct the Criminal Judges to specify from the Jurisdiction of what Magistrate each prisoner was brought before them.—

(Here enter № 153)

Read return, dated 7th Instant, from the Provincial Court in the Southern Division, to precept dated 30th December last ordering communication to the Criminal Judges of the Court's orders regarding the cases of persons confined by the Magistrates under the provisions of Section III Regulation II of 1822.—

(Here enter № 154)

Read letter, dated 11th Instant, from the 2d Judge on Circuit in the Northern Division, requesting his intention to leave Mallore on 11th Instant.—

(Here enter № 155)

At a Court of the Fouzdaree Adalut.

Present

Wednesday — 19th February 1823 — Charles Harris Esquire Puisne Judge

George Gowan Esquire Acting Judge

Read letter dated 20th Ultimo, from the Acting Judge on Circuit in the Southern Division, submitting Case № 11 Cumbaconum Calendar 1st Sessions 1823.—

(Here enter № 74)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee ool Coozat and Mooftees of the Fouzdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Hyaas declared in the futwa adjudge the prisoner

"Veerew"

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

(Sent following letter № 75.)

Sent 21st

Read again letter, dated 17th Ultimo from the 3d Judge of the Court of Circuit in the Northern Division, submitting Case № 6 Masulipa Calendar 4th Quarterly Sessions 1822.—

(Here enter № 85)

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

The

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudr=dawee Udalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the latitude given by the sentence of Ookoobut declared in the futwa acquit the prisoners

1st " Rayaboyena Cuttiwama, and
2d " Giddiah booriah,

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 respectively:—

/Sent following letter No. 76.)

Read again letter dated 11th September last from the 3d Judge on Circuit in the Centre Division; with Copy of Cuboolyut Calendar 2d Sessions AD 1822.—

/Here enter No. 5-7/

1 The records of the proceedings held by the 3d Judge in cases Nos. 1, 5, 17, 24, 25, 28, 37, 38, of the Calendar and No. 1 of the additional Cuboolyut Calendar which according to the remarks entered in the foregoing Calendars are to be referred to the Sudr Dewanny Adaulut, not having been received;—

2 The Court direct, that the 3d Judge on Circuit in the Centre Division be by [illegible] commanded

19th February 1823.

commanded to send up the Records of the proceedings held by him in the cases aforesaid within one Month from the date of the receipt of the precepts.—

/Sent following precept No. 77./

Line 121st

///

At a Court of the Foygdare Idaho

Present,

Thursday 20th February 1823.- Charles Harris Esqre Puisne Judge-
George Gowan Esqre Acting Judge-

And letter dated 11th Instant,
from the 2d Judge on Circuit in the
Northern Division, - submitting copy of
Nellore Calendar for Sessions A.D. 1823.-
Hereunder No 162.

1 In cases Nos 1, 2, 3, 4, 5, and 6,
of the Calendar it is stated, that the
commitments of the several prisoners
were tendered on or before 15th July 1822,
and the Court of Foygdare Idaho but observe,
that the Calendars laid before the Court
of Circuit at the 2d Sessions for 1822
bears date 15th August.-

2 The Court of Foygdare Idaho
direct, that the Assistant Criminal Judge
be required to report the circumstances
which led to the non insertion of the
above cases in the Calendar for the
preceding Sessions.-

3 In the undermentioned
cases the Court of Foygdare Idaho but
require a full explanation of the
extraordinary delay, which occurred
in

in the commitment of the prisoners for trial:- viz. No 1 in which the prisoners were apprehended on or before 11th January and were committed on 16th August 1822, No 8, wherein the apprehension of the prisoners took place on or before 13th January and their commitment on 16th August, No 9, dates of apprehension 6th and 7th January, of commitment 17th August, No 10 prisoners apprehended 28th March, No 12, date of apprehension 24th April, of commitment 20th August, No 13, dates of apprehension 3rd and 4th February, of commitment 2nd August, No 17, date of apprehension 14th October 1821, of commitment 31st August 1822, and No 20, date of apprehension 4th January, of commitment 14th September 1822.

4 Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Northern Division by precept injoining him to obtain and transmit the information above required without delay.-

Sent following precept No 24/

H.M. Read letter, dated 12th Instant, from the 2d Judge on Circuit in the Centre

Centre Division,- submitting copy of Cuddapah Calendar for Sessions A.D. 1823.- (Recorded No 67)

The Court of Fouzdaree Adaulut observe that several cases of Burglary on the foregoing Calendar were struck off by order of the 2d Judge as being cognizable by the Criminal Court under the provisions of Regulation VI of 1822.-

2 Clause second Section III of the Regulation here cited, after specifying certain circumstances of aggravation, on proof whereof the parties are required to be committed for trial before the Court of Circuit, declares, that the like proceeding shall be adopted by the Criminal Judge, if the prisoners "from any peculiar circumstances of the case may appear to him deserving of a severer punishment than he is by the following Clauses authorized to inflict.-

3 Under the general controuling power over the proceedings of the Criminal Judge, which is vested in the Judges of Circuit, the Court of Fouzdaree

Coyajee Vakut hold it to be unquestionably competent to them to overrule the order of a Criminal Judge for the commitment of a prisoner to be tried by the superior Court grounded on his opinion that his own powers are inadequate to the due punishment of the offence, but the Court deem it proper to direct that wherever this authority may be exercised by the Court of Circuit the grounds for returning the case to be disposed of by the Criminal Judge be entered at large on the Calendar for their information.

Circular Order from Para 1 to 3.

4 Case No 13, described as one of "Highway Robbery" is among those returned by order of the 2d Judge to be disposed of by the Criminal Judge, and in a note by the latter officer it is stated that "this case is the same as "No 1 of the supplimental Calendar "2d Sessions A.D. 1822."

5 On reference to the latter Calendar the Court of Sowjaree Vakut find that the charge is there stated to be "for robbing and wounding on

F.M.
20th February
1823.

"on the highway," and the prisoners were by the Patwa declared convicted of Ghurtgunee.—

The crime in this case, coming within the definition given in Section III Regulation XV of 1803 of robbery by open violence is not cognizable by the Criminal Judge, and it is also observable that the date of its perpetration brings the case within the provisions of Regulation I of 1822, whereby the punishment of transportation for life is prescribed in such cases and no authority to mitigate the sentence given to the Court of Circuit.—

Under these circumstances it becomes necessary for the Court of Sowjaree Vakut to overrule the order passed by the 2d Judge on Case No 13 of the Calendar and to direct that the Criminal Judge be instructed to recommit the prisoners for trial at the ensuing Sessions.—

Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Centre Division by precept enjoining him to make the necessary communication to the

the Criminal Judge in the Zilla of
Cuddapah for his information and
guidance.—

Sent 124

(Sent following precepts No 95)

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 Judges on Circuit
for their information and future
guidance.—

C—Ms
Sent 126

(Sent following precepts No 96.)

Ms

At a Court of the Zillah Adalut

Present,

Friday
27th February,
1823.

Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

Read return, dated 31st Ultimo from the 3d Judge late on Circuit in the Southern Division,— to precept dated 11th Ultimo directing him to call on the Magistrate of Madura to report whether any and what measures were adopted in consequence of the declaration of Ramachittun, prisoner in case No 10 Madura Calendar 2d Sessions 1822, that a homicide had been committed at the time of robbery, wherewith he was charged.— (Here enter No 136.)

The 3d Judge transmits with the above return copy of a report from the Magistrate, who states that "no "new measures were taken in consequence of the declaration of the "prisoner Ramachittun, because at "the time it was made, a proclamation "issued on the 20th of April 1821 was in "circulation throughout the Zillah of "Madura, and the whole Police Establish-

"had received strict orders to make every exertion
"for the apprehension of the parties concerned
"in the murder and robbery committed in
"the Pagoda of Pylney on the night of Saturday
"the 3rd March A.D. 1821. three persons named
"Pulla Curpen Coopyandy and Maottanen suspected
"of being concerned were apprehended and
"sent by the Police Officers of Jeroonnagaon
"to the Criminal Court on the 18th May 1821
"together with two people named Hurtan
"Aufshary and Maotootandaven Aufshary,
"suspected of having melted down the
"stolen Jewels. Two other persons named
"Chalamalayen and Coonaurin were also
"apprehended and sent by the same Police
"Officer to the Criminal Court on the 19th
"June 1821 and with them three persons
"named Kalaoufshary Maottyan Chetty and
"Chinnian Chetty who were also suspected
"of receiving and melting the Jewels which
"had been stolen from the Pagoda."

"The prisoner Ramakistnen
"together with a Smith allaghery were
"forwarded to this Office by the Magistrate
"of Timnevelly and were sent from hence
"to the Criminal Court on the 6th June 1822."

"The person murdered was one
"Arunachetty Pairathasher, whose body
"was found at the door of the Church
"on

"on the night the robbery was committed."

The prisoner Ramakistnen,
stood charged with having plundered the
temple on Palaymaley" in company
with Curpen, Maotteen, Coopyandy and
Colamalayen who were tried and convicted
in case No 4 on the Madura Calendar
2d Sessions 1821." and on reference to that
Calendar it appears that no mention
of the murder referred to in the foregoing
report from the Magistrate was
contained in their arraignment before
the Court of Circuit, and in the 2d
Quarterly report of prisoners from
the Criminal Judge in the Zilla of
Madura for 1821 the Court of Foujdaree
doubt remark, that to the charge against
the several persons last mentioned
stated to have been "theft."

Before the Court of Foujdaree
can pass any definitive orders
on the case it is necessary, that an
explanation should be furnished
by the Criminal Judge of the omission
to charge the several persons com-
mitted to take their trial for this
robbery with the murder reported
by the Magistrate to have been
perpetrated

perpetrated by the robbers, and acknowledged in the declaration of the prisoner Ramakistnen.-

Ordered, that abstract of these proceedings be sent to the 3d Judge late on Circuit in the Southern Division by precept directing him to call upon the Criminal Judge of Madura for the explanation above required; to be transmitted without delay.-

Sent 28th

(Sent following precept in 87.)

W.H.

F. C.

At a Court of the Foujdaree Adalut

Friday, 28th February 1823

Present

Charles Harris Esquire Senior Judge
George Gowan Esquire Acting Judge

C#
W.C.

Read letter dated 10th Instant from the 2d Judge on Circuit in the Northern Division, submitting Case No. 10 Nellore Calendar 1st Sessions 1823.-

(Here enter No. 163)

The Court having maturely considered the proceedings held before the Judge on Circuit the Futwa of the Provincial Law officer and the Futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut are of opinion that the proof against the prisoner Mohomud Ismoyel is sufficient to convict him of theft accompanied with an attempt to commit murder for which a penalty is specially denounced in clause third Section II Regulation VI of 1822.-

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 Section III Regulation I of 1822 adjudge the prisoner,

"Mohomud Ismoyel"

to receive 39 stripes with a rattan and to be

be imprisoned and kept to hard labour in irons on the publick roads or other publick works for and during the period of 14 Years and then to be released.—

sent 4th March

/Sent following letter No. 89./

The Record of proceedings in this case contains a confession delivered by the prisoner before the Assistant Magistrate, which not having been attested by witnesses had not been admissible in evidence against him.—

2 The Court of Poujdaree Udalut do direct, that this irregularity in the proceedings of the Assistant Magistrate be brought to the notice of the Magistrate with reference to the provisions of Section XXVI Regulation IX of 1816.—

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

/Sent following precept No. 90/

Read letter, dated 25th Ultimo from the 3d Judge of the Court of Circuit in the Northern Division; submitting Case No. 12 Masulipatam Calendar 1st Quarterly Sessions of 1822.—

/Here enter No. 128/

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

of the Cazee-ool-Coozat and Mooftee of the Poujdaree Udalut are of opinion that the proof against the prisoner Thanthunady Venkiah, 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 prisoner, "Thanthunady Venkiah", to suffer death by being hanged at the usual time and place of execution.—

/Sent following letter No. 91./

Read letter, dated 10th Instant from the Acting Judge on Circuit in the Southern Division; submitting Case No. 24 Salem Calendar 1st Sessions 1823.—

/Here enter No. 160/

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 Udalut confirm the said futwa of the Cazee-ool Coozat and Mooftees aforesaid and acquitting the prisoner, "Caroopur", direct that he be set at liberty.—

/Sent following letter No. 92./

Read

28th February 1823.

Read letter, dated 17th Instant from the 3d Judge of the Court of Circuit in the Northern Division With Copy of Masulipatam Calendar 1st Quarterly Sessions 1823.—

/Here enter No. 181/

Read letter, dated 20th Instant from the Second Judge late on Circuit in the Western Division, With returned warrants for execution of prisoners in Case No. 59 South Malabar Calendar 1st Sessions 1822.—

/Here enter No. 186/

Read letter dated 11th Instant from the Judges of the Provincial Court of Circuit in the Northern Division, With returned warrants for execution of prisoners in Case No. 13 Chicacole Calendar 2d Sessions 1822.—

/Here enter No. 173/

Read letter, dated 21st Instant from the 3d Judge late on Circuit in the Southern Division, With returned Warrants for transportation of prisoners in Case No. 25 Masulipatam Calendar Second Sessions A.D. 1822.—

/Here enter No. 177/

No. 11.

At a Court of the Foujdaree Adalut

Present

Tuesday — 4th March 1823 } Charles Harris Esquire Senior Judge
George Gowan Esquire Acting Judge

Read letter dated 14th Ultimo from the 1st Judge late on Circuit in the Western Division, Submitting Case No. 14 South Malabar Calendar 2d Sessions 1822.—

/Here enter No. 71/

The Judges of the Foujdaree Adalut being of opinion that the proof against the prisoners 2d Cranchy poora ta Chekooty and 3d Pallakara Apoony, is sufficient to convict them of having aided in the murder of the deceased Abdoallah and that the proof against the 4th prisoner Koonata Patoomah is sufficient to convict her of having concealed the fact of the murder direct under the provisions of clause 2d Section II Regulation I of 1818 that their Law officers be required to declare by a second futwa to what sentence the said prisoners would have been liable if they had been convicted by full legal evidence of the above crimes.—

Ordered that extracts of these proceedings be translated and delivered to the Caizee-ool-Cozat and Mooftees of the Foujdaree Adalut.—

Read

Read letter dated 10th Ultimo from the Second Judge on Circuit in the Northern Division, submitting Case No 24 Nellore Calendar 1st Sessions 1823.—

/Here enter No 164/

The Court having maturely considered the proceedings held before the Judge on Circuit the future of the Provincial Law Officer and the future of the Cazee-ool-Coozat and Mooftee of the Foujdaree Adalut confirm the said future of the Cazee-ool-Coozat and Mooftee aforesaid, and acquitting the prisoner, direct that he be set at liberty.—

"Foudeputy Moottaroo",

/Sent following letter No 93./

The only evidence against the prisoner in this case consists of a confession alleged to have been voluntarily delivered by him on 30th August 1822 before Mr. Chinnaadaar Vencatroodoo, Head Police Jemadar of Buddapoody Mootah.—

2 An objection is taken by the Law officers of the Foujdaree Adalut to the credit of Mohummud Yusoof, one of the two attesting witnesses to the confession, on the ground of his being a police peon; and the Foujdaree Adalut, as stated in their circular orders on this subject, consider the objection entitled to consideration. The credit of this witness is moreover affected by a discrepancy between

4th March 1823

between his evidence before the Criminal Judge and before the Court of Circuit regarding the place where the confession of the prisoner was delivered.—

3 But a stronger objection to the admission of the confession in evidence against the prisoner is to be found in the proceedings of the Police officer, as given in the Record. The charge of the prosecution was delivered on 23d August, the witnesses were examined on the 25th and the examination of the prisoner, who was apprehended on the 24th was postponed until the 30th August; a proceeding at variance with the provisions of Section XXVII Regulation XI of 1816 and affording a presumption that the confession was not freely and voluntarily delivered.—

4 The Court of Foujdaree Adalut have further to remark, that measures do not appear to have been taken to obtain evidence as to the time when and the place where the deceased was last seen, and that the omission of the prescribed inquest by the local officers of police has rendered the proof incomplete on the material point of the identification of the body.—

5 Ordered, that Extracts of these

4th March 1823.

these proceedings be sent to the second Judge on Circuit in the Northern Division by precept enjoining him to communicate the same to the Magistrate of Nellore whose duty it will be to admonish the Police officer of Ruddapoody of the irregularities above noticed in his proceedings.

Sent following precept No. 94.

J. H.

In Court of the Foujdarree Adalut.

Present.

Monday 10th March 1823.

Charles Harris, Esqre ... Senior Judge.

George Gowan, Esqre .... Acting Judge

Read letter, dated 24th ultimo from the Acting Judge on Circuit in the Southern Division, - submitting copy of Sales Calendar - 1st Sessions 1823.

(Here enter No. 185)

In case No. 35 of the Calendar it is stated that the Acting Judge disapproved of the future and proposed sentence against two of the prisoners, the issue of the warrant for their punishment being suspended agreeably to the provisions of clause Second Section VI Regulation XV of 1803"

The clause here cited declares that "in trials referrible to the Foujdaree Adalut of the Judge of Circuit disapproving the future given by his Law Officer, the Judge "shall not pass any sentence except for the acquittal and discharge of

10 March 1823.

of any prisoners not convicted but shall trans
the trial with his opinion thereupon for th
sentence of the Sunjdaree Adalut"

3

The Acting Judge would respe
to have overlooked the foregoing provision
of the clause cited by him in the case
above referred to.

Ordered, that extract of th
proceedings be sent to the Acting Judge
on Circuit in the Southern Division fo
his information and future guidance

Sent H.

(Sent following letter No. 98.)

25

114

F. 11.

At a Court of the Foujdaree Adalut.

Present

Tuesday 11th March 1823. Charles Harris Esqre Officiating Judge
George Gowan Esqre Acting Judge.

Read again letter, dated 4th December
last, from the Acting Judge on Circuit in
the Northern Division, - with copy of Chicacole
Calendar 2d Sessions AD 1822.-

(Here enter No 750 of 1822)

The records of the proceedings
held by the late Acting Judge in cases Nos 2, 29,
31, and 87 Chicacole Calendar, which according
to the remarks entered in the foregoing
Calendar are to be referred to the Foujdaree
Adalut, not having been received.-

2.

The Court direct, that the late
Acting Judge on 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 14 days from the date of the
receipt of the precept.-

Sent following precept No 100.

No return having been received
from the acting Judge late on Circuit in
the Northern Division to precept dated
8th January last calling for report
prescribed by Section XXXVIII Regulation VII

11th March 1823.

of 1802.-

The Court direct, that the late acting Judge on Circuit in the Northern Division be by precept commanded to explain the cause why he has not obeyed the exigence of the precept dated 8th January last.-

Return to the precept to be made within five days from and after its receipt.-

Sent 14th

(Sent following precept No 101.)

W. H.

At a Court of the Foujdaree Adalut.

Present,

Thursday 13th March 1823. Charles Harris Esqre Puisne Judge.
George Govan Esqre Acting Judge.

C#
64

Read again letter dated 11th January last from the 1st Judge late on Circuit in the Western Division, - submitting case No 14 South Malabar Calendar 2d Sessions AD 1822. (Here enter No 71.)

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 futwas 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 Kisas declared in the futwa adjudge the prisoner,

1st Koonata alias Choondaparumbil Abdool Rahman,

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 in the futwa adjudge the prisoners,

2d Eranchypoorata Cheekoty, and

3d Talakara Apoony,

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

And the Court under the sentence of Berhoobut declared in the futwa against the prisoner,

4th Koonata Patoomah,

adjudge her to be imprisoned and transported

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 her natural life.—

(Sent following letter No 102)

Read letter, dated 1st Instant, from the Criminal Judge in the Zilla of Masulipatam,—transmitting with reference to the orders of the Court dated 5th December last, report of prisoners sentenced to temporary imprisonment at the 1st Quarterly Sessions of Jail delivery for 1823 at Masulipatam—

(Here enter No 198)

The Court of Puyjarree dated directs that the prisoners,

1st Goonnadee Veroapatty,
2d Moolagalaty Chinna Nookadoo,
and
3d Hanneeadoo Venkatapah,

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

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 following letters No 103)

W.

Read letter, dated 26th ultimo from the 2d Judge on Circuit in the Centre Division,—reporting his arrival at Bellary.—

(Here enter No 191)

Read letter, dated 4th Instant, from the 3d Judge late on Circuit in the Centre Division,—with returned warrant for execution of prisoners in case No 14 Cuddapa Calendar 2d Sessions AD 1822.—

(Here enter No 197)

Read return, dated 5th Instant, from the Provincial Court in the Centre Division, to precept dated 20th ultimo directing that the grounds for striking off the Calendar submitted by a Criminal Judge the cases described in Regulation VII of 1822 be entered at large on the Calendar.—

(Here enter No 206)

Read return, dated 4th Instant, from the 2d Judge on Circuit in the Centre Division,—to precept dated 20th ultimo ordering revision of the orders passed on certain cases Cuddapa Calendar 1st Sessions 1823.—

(Here enter No 207)

Read return, dated 5th Instant, from the Provincial Court of Circuit in the Western Division,—to precept dated 20th ultimo directing that the grounds for striking off the Calendar submitted by a Criminal Judge the cases described in

At a Court of the Foujdaree Adalut.

Present,

Friday 14th March 1823. Charles Barrie Esqre. Puisne Judge

George Gowan Esqre. Acting Judge.

Read letter, dated 18th ultimo, from the 3d Judge of the Court of Circuit in the Northern Division, - submitting for trial in the Masulipatan Calendar for case No 6 Quarterly Sessions A.D. 1823.-

(Here enter No 182)

The Court having maturely considered the proceedings held before the Judges on Circuit the futwa of the Cazee Law Officer and the futwa of the Cazee ool Cozzat and Mooftee of the Foujdaree Adalut confirm the said futwa of the Cazee ool Cozzat and Mooftees afore said and under the provisions of Clause Sixth Section IV. Regulation XV of 1803 adjudge the prisoner,

Bonnaghur Mallee Dorah,

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 labor in

in Regulation VI of 1822 be entered at large on the Calendar -

(Here enter No 216.)

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

(Sent following letter No 108)

Read letter, dated 17th instant, from the acting Judge on Circuit in the Southern Division,- submitting case No 7 Salem Calendar 1st Sessions A.D. 1823.-

(Here enter No 172)

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 Zeyadaree Adawlut 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 prisoners,

1st Coolien,
2d Sunnayen, and
3d Coonien

to be removed to the Jail in the Zilla of Chittoor 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 109)

Read

Read letter, dated 21st Ultimo from the 3d Judge on Circuit in the Western Division- submitting case No 27 Cainard Calendar 1st Sessions A.D. 1823.-

(Here enter No 187)

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 Zeyadaree Adawlut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Section XV Regulation VIII of 802 adjudge the prisoner Mahomed Hussen,

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

(Sent following letter No 110)

Read letter, dated 27th January last from the Acting Judge on Circuit in the Southern Division, submitting case No 8 Combaconum Calendar 1st Sessions A.D. 1823.-

(Here enter No 113)

The Judges of the Court of Zeyadaree Adawlut being of opinion that the proof against the prisoner Calcanda Soondra Pillay is sufficient to convict him of having fraudulently taken the

14th March 1823.

the jewels of the prosecutor Tydemadah Chitty deliver under Clause second Section II Regulation I of 1818 that the Cazee cum Coozat and Mooftees of the Pointdaree 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 offence laid to his charge.-

Ordered, that extract of these proceedings be translated and delivered to the Cazee cum Coozat and Mooftees of the Pointdaree Adalut.-

Monday 17th March 1823

At a Court of the Pointdaree Adalut

Present,

Charles Harris Esqre Puisne Judge

George Govean Esqre Acting Judge

Read again letter, dated 27th ult January last, from the Acting Judge on Circuit in the Southern Division, submitting case No 8 Combaconam Calendar for Sessions A.D 1823.-

(Here enter No 113)

Read the second futwa delivered in this case by the Cazee cum Coozat and Mooftees of the Pointdaree 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 cum Coozat and Mooftees of the Pointdaree Adalut confirm the said futwa of the Cazee cum Coozat and Mooftees aforesaid and under the latitude given by the sentence of Circuit declared in the futwa adjudge the prisoner,

Callana Soondrapilley,

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

(Circuit following letter No 111)

At a Court of the Foujdaree Adalut

Present

Tuesday 18th March 1823 } Charles Harris Esq.re Puisne Judge
George Govan Esq.re Acting Judge.

Read return dated 5th Ult.o from the 3d Judge late on Circuit in the Centre Division to precept dated 23d January last, ordering communication to the Magistrates of Chinglepute & South Arcot of the Court's orders upon the proceedings of the Police in certain cases Chingleput Calendar 2d Cl.s Jeans A.D. 1822.—

(Here enter No. 141)

Read also, letter dated 12th Ultimo from the 3d Judge late on Circuit in the Centre Division forwarding certain papers referred to in the foregoing returns.

(Here enter No. 168.)

With reference to the 17th paragraph of the foregoing return the Court of Foujdaree Adalut deem it sufficient to observe, that they do not see in the explanation given of the delay which occurred in certain cases on the Calendar, any cause to recal their orders of 23d January for the strict investigation of the alleged acts of violence resorted to by certain officers

officers of Police for the purpose of obtaining confessions from the prisoners.—

2. It appearing by the foregoing papers, that much delay and confusion arose in several of the cases referred to from the Criminal Judge's having sent back certain prisoners forwarded to the Zilla station on the ground of defectiveness & informality in the proceedings of the Police, the Court of Foujdarry Adalut deem it proper to direct, that this Officer be advised of the impropriety of resorting to this mode of proceeding under any circumstances; the only regular course to be adopted in cases where such defects and irregularities may appear in the proceedings of the Native officers of police being to apply to the Magistrate for the correction of what may be irregular, & the supply of what may be deficient.—

3. In reference to a passage in one of the above returns from the Assistant Magistrate in the Southern Division of Arcot, wherein he suggests the expediency of the Criminal Judge's giving to the officers of police the orders necessary in such cases, the Court of Foujdarry Adalut deem it proper to remark, that under the provisions of Section LV Regulation XI of 1816 it is requisite that

that on these occasions the ~~requisite~~ instructions should issue from the office of the Magistrate.—

4. Ordered, that Extract of these proceedings be sent to the 3d Judge late on Circuit in the Centre Division for his information and guidance by precept desiring him to communicate to the Magistrate in the Southern Division of Arcot and the Criminal Judge in the Zilla of Chingleput such parts thereof as concern those officers for their information and guidance respectively.—

(Sent following precept No 1114)

Read returns, dated 10th Instant from the 3d Judge late on Circuit in the Southern Division to precept, dated 25th Ultimo, ordering him to obtain from the Criminal Judge in the Zilla of Madura an explanation of his omission to charge the prisoners in Case No 4 Madura Calendar Second Sessions A D 1822 with the murder, stated to have been perpetrated on the occasion of the robbery whereof they were convicted.—

(Here enter No 221)

By the foregoing return & the explanation of the Criminal Judge it appears, that the latter officer under a construction put by him upon an order of the Court of Circuit dated

18th March 1823.

dated 26th April 1823, regarding "a case "where four different offences were committed "at different times and places by the same "prisoners" committed the prisoners in the case abovementioned to take their trials in one number of the Calendar for a robbery, and in a separate number of the Calendar for a murder committed in the perpetration of that robbery.—

2 A proceeding betraying a misconception so gross of the intent and meaning of instructions so simple has seldom come under the observation of the Court of Foujdaree Udalut; and it must be remarked that the explanation there given by the Criminal Judge which betrays a complete forgetfulness of the provisions of Regulation XV of 1803, wherein special penalties are attached to the crime of robbery attended with murder.—

3 In this most anomalous and unprecedented case it appears, that the prisoners were in No. 4 of the Calendar convicted of Gang robbery, & in No. 6 acquitted of a murder proved to have been perpetrated in the prosecution of that identical robbery.—

The

F. U.

18th March 1823. 4 The general principle of justice, which interdicts the trial of an individual for an offence, whereof he has been acquitted by a competent tribunal, prevents the revision of the proceedings held against the prisoners Cuppen, Mootteven, Coopyandy and Salamaleyen: but in regard to Ra= makistnen, the prisoner committed in Case No. 10 Madura Calendar second Sessions 1822 the Court of Foujdaree Udalut deem it proper to direct, that in the event of his reapprehension he be brought to trial under the provisions of Clause first Section IV Regulation XV of 1803 for Gang robbery and Murder.—

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

Sent the following precept No. 115/

W. K.

At a Court of the Foujdaree Adaulut

Present,

Monday 31st March 1823. Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge

Read letter, dated 15th Instant, from the 2d Judge on Circuit in the Centre Division, submitting copy of Bellary Calendar 1st Sessions A.D. 1823.-

(Here enter No 232)

1 In case No 4 two prisoners, who were convicted on a charge of "taking the prosecutor to the other side of the Bellary "Cowl Bazar by night and throwing him down with an intent to murder him," are stated to have been sentenced to three years imprisonment under Clause first Section IV Regulation VI of 1822.

2 The Clause here mentioned had no reference to cases of the description referred to; and it does not clearly appear to what provision of the Regulation cited it was the intention of the 2d Judge to refer.-

3 In case No 7, wherein three persons stood charged with Murder, it appears by the Abstract of the evidence that four witnesses swore to marks of thumb and of strangulation on the person of

of the deceased; and that the 2d witness saw the corpse suspended by a rope to the roof of the 2d prisoner's house. The 8th witness deposed that the Amildar of Punchapollum came and inspected the corpse, but "that no "inquest was held in consequence of his "having thought the deceased died a "natural death."

4 The Court of Foujdaree Adalut deem it necessary that they should be informed whether any communication was made by the Criminal Judge, or the Court of Circuit, to the Magistrate regarding the conduct of the Head of Police in this case, the reason assigned for dispensing with the prescribed inquest appearing to be at variance with clear and positive testimony.

5 The prisoners in this case are stated to have severally pleaded not guilty; and the 10th and 11th witnesses are designated "the persons who attested the 1st prisoner's "confession before the Criminal Court." These entries require explanation.

6 In case No 19 the prisoner was charged with "entering into the prosecutor's "house at night, and stealing therefrom "property to the amount of 21/4 Rupees;" and in the column of remarks it is stated that "this being a case fully competent "to

"to the Criminal Judge to try under Regula- "tion VI of 1823 (1822) and in other respects "not one, which adverting to the evidence "and facts could have proceeded to conviction "before the Court of Circuit," it was ordered to be returned "to be investigated "by the Criminal Judge accordingly."

7 The charge in this case is not described in the Calendar with sufficient precision; if the act charged amounted, as seems most probable, to house breaking and theft, the value of the property stolen took the case out of the jurisdiction of the Criminal Judge under the provisions of Clause second Section II Regulation VI of 1822; but supposing the charge to have been one cognizable by the Criminal Judge, the Court of Foujdaree Adalut cannot perceive in the circumstance of the evidence being such as could not lead to conviction a reason for returning the case to the Criminal Judge for investigation.

8 The circular orders of the Foujdaree Adalut, dated 27th November 1821, require that when the charge against a prisoner committed for trial may appear to the Judge of Circuit to be unsupported by evidence, he shall call

call the trial and release the prisoner, reporting at the same time the grounds of the proceeding for the information of the Foujdaree Adalut.—

9 In case No. 20 the first 6 prisoners are stated to have been charged with "being clariously entering into the prosecutors "house, therefrom stealing property to the "amount of 535 Rupees and 6 Annas." It is stated in the Abstract of the evidence that the first 4 prisoners "pleaded guilty "before the Criminal Court," and in the column of remarks, that the futwa, declared the first 4 prisoners convicted "of receiving stolen goods, knowing them "to be stolen."...

10 Here it is obvious to remark, that the four prisoners in question are declared to have been convicted of an offence different from that with which they were charged, and their conviction is moreover stated to have rested on their confession before the Criminal Judge, who drew the indictment.

11 The Court of Foujdaree Adalut deem it necessary to have before them copies and English translations of the examinations of the said four prisoners before the Criminal Judge, and of the futwa

futwa delivered in the case.—

12 In case No. 21 the prisoner was charged with "breaking the ~~house~~ lock of the "prosecutor's Savony house door, and "therefrom stealing property &c to the "value of 111 Rupees."

13 The case is stated to have been returned to the Criminal Judge on the ground, that there were "two "distinct prosecutions, one robbery "being committed in one village and "the other in another," the sum taken in one case being 23 rupees and in the other 88.—

14 It appears to the Court of Foujdaree Adalut, that the order of the 2d Judge returning this case to the Criminal Judge was inconsistent with the spirit of the provisions of Regulation VI of 1822, which require that persons of notoriously bad character, who may be charged with offences generally cognizable by the Criminal Judge shall be brought to trial before the Court of Circuit. The Court of Foujdaree Adalut hold, that a person guilty of two burglaries must be regarded as deserving of far severer punishment than the Criminal Judge is authorized to inflict under the provisions of Regulation VI of 1822. The

15 The Court of Foujdaree Adalut desire to have before them copy and English translation of the futwa delivered in case No 24 of the Calendar, wherein a charge of "procuring abortion after 5 months pregnancy" was declared by the futwa not to involve an offence punishable by Mohummudan Law.—

16 In case No 32 Nellapah Reddy and Budrapah Curnum were charged with "abuse of authority as Police Officers of the "village of Tollacottah and with having "offered the sum of 80 rupees to the Amildar "of Permacondah for the purpose of bringing "him to a connivance and concealment of "their misconduct as village officers of Police"—

17 And in case No 33 Nellapah Reddy stood charged with neglect of the duty of apprehending certain robbers, with compromising a case of Burglary, and with harbouring notorious thieves.—

18 The column of remarks on Case No 32 exhibits the following passage. "The papers in this and the following "number are returned to the Criminal "Judge to dispose of in such manner as "he may think proper, they appearing "to the 2d Judge to regard the good order "and conduct of officers in a particular department,

"department, and not to embrace a crime "affecting the community and important "enough to engage the attention of a Court "of Circuit."—

19 The Court of Foujdaree Adalut have perused the above remark of the 2d Judge with much astonishment, and cannot but greatly regret, that the authority of a Judge of Circuit should have been given to a declaration, that acts of corruption, neglect, and abuse of authority on the part of the officers of police do not "affect the community," and are not "important enough to engage the attention of a Court of Circuit."—

20 The opinion of the legislature as declared in Regulation III of 1819 appears very different from that of the 2d Judge; and the Court of Foujdaree Adalut being of opinion, that the acts of aggravated misconduct alleged in the charges in cases Nos 32 and 33 of the Calendar merit severer punishment than a Criminal Judge is competent to inflict, deem it proper to cancel the order passed on these cases by the 2d Judge, and to direct that the prisoners be recommitted for trial before the Court of Circuit at the ensuing Sessions of Jail delivery.—

Ordered,

31st March 1823.

31st March 1823.

21 Ordered, that extract of these proceedings be sent to the 2d Judge on Circuit in the Centre Division by precept commanding him to proceed in the manner herein directed and to transmit to the Court of Foujdaree Adalut the several papers and explanations above required.—

Precept returnable in ten days from and after its receipt.—

(Sent following precept No 122)

Z. U.

Read letter, dated 15th Instant, from the Acting Judge on Circuit in the Southern Division,— with returned warrant for execution of prisoner in case No 10 Combaconum Calendar 1st Sessions 1823.—

(Here enter No 227)

Read letter, dated 15th Instant, from the Acting Judge on Circuit in the Southern Division,— with returned warrant for execution of prisoners in case No 11 Combaconum Calendar 1st Sessions 1823.—

(Here enter No 228)

Read return, dated 10th Instant, from the Provincial Court of Circuit in the Northern Division,— to precept dated 21st Ultimo directing that the grounds for

Z. U.

Z. U.

31st March 1823.— for striking off the Calendar submitted by a Criminal Judge the cases described in Regulation VI of 1822 be entered at large on the Calendar.—

(Here enter No 231)

Read letter, dated 17th Instant from the 2d Judge on Circuit in the Western Division,— reporting his intention to proceed on 17th Instant to Calicut.—

(Here enter No 238)

Read return, dated 22d Instant, from the late acting Judge on Circuit in the Northern Division,— to precept dated 11th Instant calling for explanation of his omission to make return to precept dated 8th January last.—

(Here enter No 241)

Read letter, dated 22d Instant, from the Acting Judge on Circuit in the Southern Division,— reporting his arrival at Madura.—

(Here enter No 243)

Read return, dated 21st Instant, from the 3d Judge late on Circuit in the Centre Division,— to precept dated 19th Ultimo calling for cases Nos 1, 5, 17, 24, and 25, of Calendar and No 1 of additional Cuddapa Calendar 2d Sessions 1822.—

(Here enter No 245)

Read

31st March

31st March 1823

Read return dated 24th Instant from the 3d Judge late on Circuit in the Southern Division, to precept dated 18th Instant ordering communication to the Criminal Judge in the Zilla of Madura of the Court's orders on cases No 10 Madura Calendar 2d Sessions 1822.

(Here enter No 246.)

Read return dated 25th Instant from the 2d Judge on Circuit in the Northern Division, to precept dated 20th Instant ordering him to obtain explanation of the delay in the commitment of certain prisoners for trial.

(Here enter No 256.)

Read return, dated 25th Instant from the 2d Judge on Circuit in the Northern Division, to precept dated 4th Instant ordering communication to the Magistrate of Nellore of the Court's observations in Case No 24 Nellore Calendar 1st Sessions 1823.

(Here enter No 257.)

Thursday 3d April 1823

At a Court of the Foujdaree Adalut

Present

Charles Harris Esqre Puisne Judge

G. Gowan Esqre Acting Judge

The Report prescribed by Section XXXVII Regulation VII of 1802 for the 2d Sessions of 1822 not having been received from the 3d Judge late on Circuit in the Centre Division

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

(Sent following Precept No 123.)

Read letter without date from the Acting Judge on Circuit in the Southern Division, submitting Case No 14 Salem Calendar 1st Sessions 1823.

(Here enter No 194)

The Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut declare in the foregoing futwa that the prisoner Moottayee, 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

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 Mahummudan 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 Foujdaree Udalut.—

Read letter, dated 3d Ultimo, from the 3d Judge on Circuit in the Western Division, submitting case No 26 Canara Calendar 1st Sessions 1823.—

/Here enter No 211/

The Judges of the Court of Foujdaree Udalut on a deliberate consideration of the circumstances of the case in evidence before them, concurring in opinion that the proof against the prisoner Madoora is sufficient to convict him of having aided in the murder of the deceased Chickoo; desire under clause second Section II Regulation I of 1818 that the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut will declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan Law if he had been convicted by full legal evidence of the crime laid to his charge.—

Ordered that Extract of these proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut.—

Read letter dated 28th Ultimo from the 2d Judge on Circuit in the Centre Division submitting examination in the Case of an insane prisoner.—

/Here enter No 255/

1 The evidence taken by the 2d Judge agreeably to the circular order of the Foujdaree Udalut under date 29th October 1807. sufficiently proved the insanity of the prisoner Nagee.

2 The circular ordered of the Foujdaree Udalut dated 25th 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 to be of unsound mind.

3 As it does not appear from the foregoing proceedings that the prisoner has been placed under the charge of the Zilla Surgeon the Court of Foujdaree Udalut direct, that the attention of the Criminal Judge in the Zilla of Bellari be called to their Orders of the 25th February last on this subject; and that the prisoner Nagee be placed under charge of the Medical officer in view to her eventual transmission to the Lunatic Hospital at the Presidency.—

Ordered

Ordered that Extract of these proceedings be sent to the 2d Judge on Circuit in the Centre Division by precept enjoining him to make the necessary communication to the Criminal Judge in the Zilla of Bellari for his information and guidance.

/Sent following precept No. 124./

W. Read letter, dated 25th ultimo, from the 3d Judge of the Court of Circuit in the Northern Division with returned warrant for execution of the prisoner in case No 12 Masulipatam Calendar 1st Quarterly Sessions A.D. 1823.

(Here enter No 258.)

Read letter, dated 25th ultimo, from the 3d Judge late on Circuit in the Southern Division, acknowledging receipt of the Court's orders regarding warrants for transportation.

(Here enter No 259)

Read return, dated 2d ultimo, from the Provincial Court of Circuit in the Southern Division, to precept dated 20th ultimo ordering communication to the Judge on Circuit of the Court's orders that the grounds for returning to the Criminal Judge certain cases in the Calendars laid before the Court of Circuit be stated at large on the Calendar.

(Here enter No 260)

At a Court of the Foujdaree Udalut.

Present,

Friday 4th April 1823.— Charles Harris Esqre Puisne Judge.

George Gowan Esqre Acting Judge.

Read again letter, dated 3d ultimo, from the 3d Judge on Circuit in the Western Division submitting case No 26 Canara Calendar 1st Sessions A.D. 1823.—

(Here enter No 211.)

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 Officers 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 Corroobut declared in the Futwa adjudge the prisoner,

Moodoona,

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

/Sent following letter No 126.

Read again letter, dated— ultimo,

Ultimo; from the Acting Judge on Circuit in the Southern Division,- submitting Case No 14 Salem Calendar 1st Sessions AD 1823.-

(Here enter No 194)

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 Officer and the futwa of the Cazee ool Coozat and Mooftees of the Zoujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Hiftaad declared in the futwa adjudge the prisoner,

"Moothanyee,"

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

(Sent following letter No 127.)

Read letter dated 27th January last from the 2d Judge on Circuit in the Centre Division, submitting case No 12 Chittoa Calendar 1st Quarterly Sessions AD 1823.-

(Here enter No 114)

The Judges of the Zoujdaree Adalut being of opinion that the proof against the prisoner, Mahalegan is insufficient to

to convict him of putting to death the deceased Boochee and Moottee deceased under the provisions of Clause 2d Section II Regulation I of 1818 that their Law Officers be required to 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 crimes.-

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

Read letter, dated 8th Ultimo, from the Acting Judge on Circuit in the Southern Division,- submitting case No 15 Salem Calendar 1st Sessions AD 1823.-

(Here enter No 220.)

The Judges of the Zoujdaree Adalut being of opinion that the proof against the 1st prisoner Coothen is insufficient to convict him of putting to death the deceased Cyacharry, deceased, under the provisions of Clause 2d Section II Regulation I of 1818 that their Law Officers be required to declare by a Second futwa to what sentence the said prisoner would have been liable under the Mohummudan law if he had been convicted

convicted by full legal evidence of the above crime.—

Ordered, that extract of these proceedings be translated and delivered to the Adzee ool Coozat and Mooftees of the Foujdaree Adalut.—

Read letter, dated 15th February last, from the 3d Judge late on Circuit in the Centre Division,— submitting case No 4 Bellary Calendar 2d Sessions A.D. 1822.—

(Here enter No 196)

The fact declared in the above case of the above Futwa, to bear as sentence of Hud against the prisoner,

1st Sunna Reddee,

being of the nature described in Clause fourth Section II Regulation XV of 1803, the Court of Foujdaree Adalut direct that their Law Officers be required to declare by a second futwa to what punishment the said prisoner would have been liable, had the property not been removed before the institution of the prosecution.—

And the Court being of opinion that the proof against the prisoner,

22 Lookhadoo,

is sufficient to convict him of having aided in the robbery of the prosecutor's house direct under the provisions of Clause second Section II Regulation I of 1818 that their Law Officers be required

2

4th April 1823.

required to 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 Adzee ool Coozat and Mooftees of the Foujdaree Adalut.—

W. H.

Read letter dated 21st Ultimo from the 2d Judge on Circuit in the Northern Division,— submitting copy of Calendar of persons punished by the Magistrate of Guntoor, and of certain precepts issued to that officer and his returns thereto, regarding the Proceedings held by him in the cases referred to.—

(Here enter No 247.)

1 The principal question involved in the foregoing reference is whether or not the provisions of Section VII Regulation IV of 1823 exempt the Magistrates from the necessity of keeping records of their proceedings in cases required to be included in the Calendars submitted under the provisions of Section XL Regulation IX of 1816 to the Court of Circuit.—

2 Clause second Section VII Regulation IV of 1823 declares, that "Magistrates "shall not be required to take down in "writing or to record the examinations they may

"may take in the investigation of complaints
"preferred before them under sections XXXII
"and XXXIII of Regulation IX of 1816": and as the
provisions of section VIII of the Regulation
respect only a portion of the cases adjudicable
by a Magistrate, it follows that Calendars
in the prescribed form are still required
to be submitted by the Magistrates to the Courts
of Circuit, containing a list of persons,
punished in cases wherein the "examinations"
are not recorded.—

3 The provisions of the general
Regulations, however, still require that all
complaints for offences should be preferred
to the Magistrate in writing, and it is also
necessary for the purposes of regularity,
that a diary exhibiting a sketch of the
proceedings held on each charge and of the
judgment passed should be kept in the Magis-
=gistiated office; and these documents, defective
as they necessarily are, should accompany the
Calendars submitted under clause first section
XL Regulation IX of 1816.—

4 The Court of Foujdaree Udalut
do not hold, that it is competent to a Judge
of Circuit to disturb the judgments passed
by a Magistrate under the provisions of
Sections XXXII & XXXIII Regulation IX of
1816, excepting when it may appear either
that the charge was not cognizable by the

the Magistrate, or that the measure of pun-
=ishment exceeded his powers, in which
case it would be the duty of the Judge of
Circuit to issue such orders as might appear
to him proper, or if deemed requisite to make
a reference on the subject to the Foujdaree
Udalut.—

5 The Court, having affirmed the
construction put by the Magistrate on
the provisions of Section VII Regulation IV
of 1821, have to observe that there are
several cases, on the calendar of persons
punished by the Magistrate, of which
that officer had no authority to take
cognizance.—

6 Cases Nos. 2, 58, and 11 are spec-
=ially for thefts of property exceeding
in value fifty Sicca Rupees, and for
cattle stealing; offences for which the
Criminal Judge is empowered by clause
fourth Section III Regulation VII of 1822
to pass sentence of two years imprison-
=ment and thirty stripes with a rattan.

7 The Court of Foujdaree Udalut
hold, that no offence, rendering a party
liable under the Regulations to a punish-
=ment exceeding the powers of a Magistrate
can be regularly cognizable by that officer re-
=gularly. The designation "petty thefts not attended
"with any aggravating circumstances"
given

4th April 1823

given in Section XXXIII Regulation IX of 1816, certainly leaves open to the Magistrate the exercise of some discretion in determining the extent of his Jurisdiction; but the Court of Foujdaree Udalut are wholly unable to account for the Magistrate's classification of the act of "plundering jewels Viz. valuing Rs. "=goods at 140¾" among the offences so designated.—

8 Certain of the Magistrate's sentences in this Small Calendar of 13 cases are, moreover, illegal upon the face of them.—

9 In Case No. 4 one prisoner was sentenced to be confined for three days and three prisoners for one day "in the stocks", for which sentence no warrant is to be found in the Regulations: and in Case No. 10 sentence of corporal punishment was passed on 3 persons for an assault contrary to the provisions of Section XXXII Regulation IX of 1816.—

10 Ordered, that Extract of these proceedings be sent to Second Judge on Circuit in the Northern Division by precept requiring him to communicate the same to the Magistrate of Guntoor for his information and future guidance.—

/ Sent following precept No. 128. /

Read return, dated 22d Ultimo from the late Acting Judge on Circuit in the Northern Division to precept dated 8th January

F. C.

4th April 1823.

January last, calling for the report prescribed by Section XXXVII Regulation VII of 1802.—

/ Here enter No. 140 /

1 In the foregoing return the late Acting Judge assigns as a reason for not making the prescribed Report, that by the mode in which he was obliged to travel while on Circuit he was "precluded from "obtaining all the local information which "would enable him to report on the Police "Viz. in the Northern Division": and observes that his predecessor did not make one when he was sent on Circuit in the Centre Division.—

2 The late Acting Judge in his letter of 26th December last did not appear to entertain the impression, that no regular report would be required of him, and he is in error in supposing that it was not required by the Foujdaree Udalut from his predecessor, although the extraordinary duties of the latter officer have hitherto prevented its being furnished.—

3 In the conclusion of the above return the late Acting Judge intimates, that he is not "an inattentive observer", and the Court of Foujdaree Udalut cannot recognize in the circumstance of his having travelled post any bar to the communication of

4th April 1823.

of such observations as he may have made during the Circuit regarding the effect of the present system for administering the Criminal laws, in the prevention and punishment of crimes, & such other matters as may deserve the notice of the Courts.-

4 Respecting the Police administration, which is particularly referred to by the late Acting Judge, it appears to the Court of Zuzdanee Adalut that the proceedings in the cases which came under his review must have afforded matter of observation, and the degree in which the provisions of the Regulations on this subject are observed must be regarded as a matter well deserving of notice.-

5 The Court of Zuzdanee Adalut have not found, that other Judges of Circuit when obliged to travel post from one Zilla station to another have been thereby prevented from furnishing full reports on the points specified in section XXXVII Regulation VII of 1802; and they deem it proper, therefore, to repeat their orders that the late Acting Judge do submit a report of the nature therein described, to be forwarded in fourteen days from the date of the receipt of this precept.-

Sent following precept No. 129.

6th

E P M.

At a Court of the Foujdaree Udalut

Present

Saturday - 5th April 1823 } Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge

Read letter, dated 19th Ultimo from the Acting Judge on Circuit in the Southern Division, submitting Case No. 40 Salem Calendar 1st Sessions 1823.-

/Here enter No. 175-/

The grounds declared by the Law officers of the Foujdaree Udalut to bar a Sentence of Hudd against the prisoner in this case being of the nature described in Clause fourth Section II Regulation XV of 1803 the Court direct that they may be called upon to declare by a second futwa to what punishment the 1st prisoner would have been liable under the Mohummudan Law if the above exceptions in bar of Hudd had not existed.

Ordered, that extracts of these proceedings be translated and delivered to the Cazee ool Cozat and Mooftees of the Foujdaree Udalut.-

W. H.

At a Court of the Poydaree Adalut.
Present,

Monday,
7th April 1823. Charles Harris Esqre Puisne Judge.-
George Gowan Esqre Acting Judge.-

Read letter, dated 15th Ultimo
from the 2d Judge on Circuit in the Western
Division,- submitting case No Canara
Supplemental Calendar 1st Sessions AD.
1823.-

(Hereunto No 239.)

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 Poydaree Adalut confirm the said futwas of the Cazee ool Cozat and Mooftees aforesaid and under the sentence of the said declared in the futwa adjudge the prisoner,

Narsabut,

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

(Sent following letter No 130)

Read letter, dated 3d Ultimo-
from the 3d Judge late on Circuit in the
Centre Division,- submitting cases No 37
and 38 Cuddapa Calendar 2d Sessions AD 1822-

(Hereunto No 213.)

The

4th April

7th April 1823

The Judges of the Court of 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, Bunmeegadoo, is sufficient to convict him of breaking into and robbing the houses of the prosecutors, Appiah, and Kasavooloo, direct under clause second Section II. Regulation I of 1818 that the Cazee ool Coozzat 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 Coozzat and Mooftees of the Foujdaree Adaulut.—

Read letter, dated 15th Ultimo, from the acting Judge on Circuit in the Southern Division,— submitting case No 25 Salem Calendar 1st Sessions A.D. 1823.—

(Here enter No 224)

The Judges of the Court of 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, Canmanden, is sufficient to convict him of having put to death the deceased, Chinnaun, direct

7th April 1823

under clause second Section II. Regulation I of 1818 that the Cazee ool Coozzat 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 Coozzat and Mooftees of the Foujdaree Adaulut.—

Read return dated 24th Ultimo, from the late acting Judge on Circuit in the Northern Division,— to precept dated 17th Ultimo calling for cases Nos 2, 29, 81, and 37, Chicacole Calendar 2d Sessions A.D. 1822.

(Here enter No 248.)

In the foregoing return the late acting Judge states, that the delay in transmitting the above cases might have been avoided, "if the Criminal Judges "in the Northern Division prepared "English translations of the cases to "be tried by the Courts of Circuit."—

1

The Court of Foujdaree Adaulut,

2

considering it to be the proper duty of the Criminal Judges to prepare English translations of the documents required to accompany the Calendar under the provisions

Regulation

April 1823.

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provisions of Section XX and XXI Regulation X of 1816, direct that instructions to that effect be given to the Criminal Judges in the Northern Division for their future guidance.—

3. Ordered, that an extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division by precept commanding them to communicate the same to the several Criminal Judges in the Northern Division for their information and guidance respectively.—

Sent 10th

/Sent following precept No 131./

W.M.

Read again letter dated 19th February last from the Acting Judge on Circuit in the Southern Division, submitting case No. 40 Salem Calendar 1st Sessions 1823.—

/Here enter No. 175/

Read also 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 provisions of Section XXI Regulation VII of 1802 adjudge the prisoner,

1st Nullachee

to be imprisoned and kept to hard labour in irons

F. U.

7th April 1823

viously on the publick roads or other public works for and during the period of seven years and then to be released.—

1 The second futwa requires from the Law officers of the Foujdaree Udalut in this case under the provisions of Clause fourth Section II Regulation XV of 1803 having declared the prisoner Mettachee liable to Hud, the Court have sentenced him to seven years imprisonment as prescribed by Section XXI Regulation VII of 1802.—

2 The Acting Judge of Circuit in his letter accompanying the trial recommends a mitigation of punishment for the prisoner on the grounds of his youth and the presumption of his having acted under the influence of the 2d prisoner; and the Court of Foujdaree Udalut concurring in opinion with the Acting Judge 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 Hon'ble the Governor in Council with a recommendation, that he may be pleased to commute the sentence of 7 years imprisonment and hard labor to imprisonment with hard labor for the term of two years.—

3 The Acting Judge having confirmed the futwa of the Law officer of the Court of Circuit, which declared the 2d prisoner not convicted, and directed his release on furnishing good and sufficient security, under the provisions of Clause sixth Section Regulation

7th April 1823

Regulation XV of 1803, the Court of Foujdaree Udalut are precluded from taking judicial cognizance of his case; but they deem it proper to record their opinion that the evidence against him was sufficient for his conviction of knowingly receiving the stolen property.—

4 From the examination of the witnesses to the 2d prisoner's declaration before the Criminal Judge it would appear, that the declaration was not read aloud on the trial, a form necessary to its regular admission in evidence.—

5 The interrogatories proposed by the Acting Judge to the 2d prisoner after the close of the prosecution had a tendency to make the prisoner criminate himself and must be regarded, therefore, as inconsistent with that tenderness and forbearance which it is expected will always be shewn by the Judge to the accused.— after the whole of the evidence on the part of the prosecution has been heard, the prisoner should simply be asked what he has to state in his defence.—

6 The Court of Foujdaree Udalut in the 3d paragraph of their proceedings, under date 10th January last, submitting case No 15 Madura Calendar 2d Sessions A.D. 1822, wherein the prisoners were convicted of house breaking and stealing property to the amount of Rupees 154 1/8 declared their opinion that "by the provisions of Section II Regulation VII of 1822 the Courts of "Circuit is vested with discretionary power "in apportioning the punishments in cases of "this description".—

The

7th April 1823

The Court of Foujdaree Udalut on further consideration have been cause to alter the opinion above cited; and it becomes necessary in submitting the present trial to the Honorable the Governor in Council that they should explain the grounds, on which they have come to the conclusion, that the Law as it stands at present does not vest them with a discretion in apportioning the punishment of the prisoners in this case.—

8 The provisions of Clause fourth Section II Regulation XV of 1803 require that when the crime of which the prisoner is convicted may not have been specially provided for by any Regulation but would subject the prisoner to the specific penalty of Hudoor Kisaas if such sentence were not barred by some special exception of the nature stated in the original futwa in this case, a second futwa shall be taken and sentence passed accordingly.—

9 In Clause Second Section II Regulation VII of 1822 the theft of property, "of which the value or amount shall exceed "the sum of one hundred Madras Rupees", is enumerated among those circumstances of aggravation which shall take the case out of the jurisdiction of the Criminal Judge; and the third and fourth clauses of the section declare the punishments adjudicable by the Courts of Circuit in cases, wherein the house breaking or attempt to commit the same may have been accompanied with different degrees

7th April 1823

degrees of corporal injury.—

10 The latter part of clause fifth of the section, which interdicts "an enhancement "of the penalties declared by the Regulations in "force for burglary or theft when not ac= "=companied with wounding or other corporal "injury," leaves all such cases under the oper= =tion of clause first section V Regulation XV of 1803, and the provisions of the Regula= =tions therein referred to, which modify the Mahummudan Law, give no discretion to the Courts of Circuit and Foujdaree Udalut in apportioning the measure of punishment.—

11 Ordered that the Record of trial No. 40 Salem Calendar 1st. Sessions 1823 be submitted with Extract of these proceedings for the orders of the Honourable the Governor in Council.—

Sent following letter No. 132.

No. 7 to 11.

Ent 11th

K. M.

At a Court of the Foujdaree Udalut

Present,

Tuesday, 8th April, 1823.— Charles Harris Esqre. Puisne Judge

George Gowan Esqre. Acting Judge.

Read again letter dated 27th January last from the 2d Judge on Circuit in the Centre Division, submitting case No. 12 Chittoo Calendar 1st Quarterly Sessions 1823.—

(Here enter No. 114.)

Read the second futwa delivered this day by the Cazee ool Coozat and Moofties of the Foujdaree Udalut.—

Ordered that the Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Mahomedan Law Officers and the futwa of the Cazee ool Cooza and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee ool Cooza and Mooftees aforesaid and under the sentence of Kisaz declared in the futwa adjudge the prisoner

Mokalegan,

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

(Sent following letter

Read again letter, d

Ultimo from the Acting Judge on Circuit in the Southern Division, - submitting case № 15 Salem Calendar 1st Sessions A.D. 1823.

(Here enter № 220.)

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 provisions of Section XVII. Regulation VIII. of 1802 adjudge the prisoner,

"Coollun"

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

(Sent following letter № 134)

Read again letter, dated 3d Ultimo, from the 2d Judge late on Circuit in the Centre Division, - submitting cases № 37 and 38 Cuddapa Calendar 2d Sessions A.D. 1822.-

(Here enter № 213)

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 Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Section XXI Regulation VII. of 1802 adjudge the prisoner,

"Rummeegadoo"

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 seven years and then to be released.-

Sent following letter № 135)

Read again letter, dated 12th Ultimo from the Acting Judge on Circuit in the Southern Division, - submitting case № 38 Salem Calendar 1st Sessions A.D. 1823.-

(Here enter № 224)

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

6 April 1823.

of the Poujdaree Adalut confirm the said Futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Hujjaas declared in the Futwa adjudge the prisoner,

Cantinauden,

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

(Sent following letter No 136.)

Read again letter, dated 25th February last, from the 3d Judge late on Circuit in the Centre Division, - submitting case No 4 Bellary Calendar 2d Sessions 1822.

(Here enter No 196.)

Read the second Futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Poujdaree 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 Poujdaree Adalut confirm the said Futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Section XXI Regulation VII of 1802 adjudge the prisoner,

Ist Sinnia Reddee,

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

No 11.

P W 1823, 41, 45
S W 1823. 48, 59

At a Court of the Poujdaree Adalut.

Present,

Friday 18th April 1823. Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

Read again letter, dated 28th February last from the 3d Judge on Circuit in the Western Division, - submitting case No 15 Canara Calendar 1st Sessions 1823.

(Here enter No 202.)

Read the second Futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Poujdaree 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 Poujdaree Adalut confirm the said Futwa of the Cazee ool Coozat and Mooftees aforesaid, and under the sentence of Hujjaas declared in the Futwa adjudge the prisoner,

1st Anoomah,

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

And under the sentence of

Corbut declared in the Futwa of

Court

8 April 18

18 April 1823

Court of Sessions to adjudge the prisoner;

2d Sana Sana,

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

Sent 22d

Sent following letter No 153/

Read letter, dated 31st ultimo from the 1st Judge to Circuit in the Western Division, with returned warrant for execution of prisoner in case No 14 South Malabar Calendar 2d Sessions AD 1822.-

(Here enter No 286)

Read letter dated 2d Instant, from the 3d Judge on Circuit in the Western Division, reporting his arrival at Calicut.-

(Here enter No 270)

Read letter, dated 3d Instant, from the 3d Judge on Circuit in the Western Division, with returned warrant for execution of prisoner in case No 27 Canara Calendar 1st Sessions AD 1823.

(Here enter No 277)

18 April 1823

Read letter, dated 7th Instant, from the 2d Judge of the Court of Circuit in the Western Division, - submitting copy of North Malabar Calendar 1st Quarterly Sessions AD 1823.-

(Here enter No 284)

Read letter, dated 11th Instant, from the 3d Judge of the Court of Circuit in the Centre Division, with copy of Chittoor Calendar 1st Quarterly Sessions AD 1823.-

(Here enter No 285)

Read letter, dated 14th Instant, from the 2d Judge on Circuit in the Centre Division, reporting his arrival at Chinglepute.-

(Here enter No 289)

8 April 18

Z. 11.

At a Court of the Foujdaree Adalut.

Present.

Monday 21st April 1823 Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge

Read letter dated 5th Instant

from the 3d Judge on Circuit in the

Western Division - submitting Case No 11

Canara Calendar Sessions AD 1823.

(Here enter No 222)

The Court having maturely

considered the proceedings held before

the Judge on Circuit the futwa of the

Provincial Law Officer and the futwa

of the Cazee ool Cozat and Mooftees of

the Foujdaree Adalut confirm the said

futwa of the Cazee ool Cozat and

Mooftees aforesaid as far as regards

the 1st prisoner, Hantarah, and under

the provisions of Clause fourth Section

II Regulation VII of 1832 acquit the said

prisoner,

1st Hantarah,

to receive 39 stripes with a rattan and

to be removed to the Jail in the Zilla

of Chittoor there to be imprisoned

and kept to hard labor in irons for

the

the public roads or other public
works for and during the period of 14
years from the date of this sentence.-

The Court of Foujdaree Adawlut
are of opinion that the proof
against the Prisoner Kristnah, is
sufficient to convict him of the crime
of housebreaking and robbery accom
panied with personal injury for which
a penalty is specially denounced in
Clause Fourth Section II Regulation XII
of 1822.-

The Court therefore under
the authority vested in them by Clause
First Section II Regulation I. of 1818
adjudge the said Prisoner,

2d Kristnah,

to receive 39 stripes with a rattan
and to be removed to the Jail in the
Zillah of Chittoor 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
from the date of this sentence.-

(Sent following letter No 157.)

Read

21st April 1823.

Read letter, dated 15th Instant,
from the Secretary to Government
in the Judicial Department,- stating
that the Governor in Council sanctions
the commutation of punishment
recommended in the Court's proceedings
of 7th Instant.-

(Here enter No 300.)

The Honorable the Governor
in Council having been pleased to
resolve that the sentence of Imm
prisonment passed on the
1st Prisoner, Nullachee, in case No 40
of the Salem Calendar for the First
Sessions AD 1823 shall be commuted
to two years imprisonment and
hard labor.-

Ordered that,

1st Nullachee,

he accordingly 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 be released.-

(Sent following letter No 158.)

Ordered that extract of the
Court's

8 Apr

21st April 1823

Court's proceedings of 7th Instant be sent to the Acting Judge on Circuit in the Southern Division for his information and guidance.- Sent following letter- 21/59/

Ans 25.

A.M

20

XII

Sent 11th

F. 11

F. R.

At a Court of the Foujdaree Adalut

Present

Thursday 24th April 1823. Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge

Read letter dated 14th Instant, from the Criminal Judge in the Zilla of Malabar,- with list of Convicts sentenced to banishment.-

(Here enter No 307)

The Court of Foujdaree Adalut direct that the prisoners

1st Panoly Kuzen Moideen Cootty,

2d Manarkandy Moopan,

3d Angadey Moydeen Kootty,

4th Mapla Manny,

5th Rauthan Seydoo,

6th Taragan Kunatta Narooney, alias Ramen,

7th Pootmuttil Moydeen, and

8th Chetty Chinoo,

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

Ordered, that extract of these proceedings be sent to the Criminal Judge in the Zilla of Chittoor and to the Criminal

24th April 1823.

Criminal Judge in the Zilla of Malabar
for the information and guidance of
those officers respectively.-
Sent following letters No 161

W.C. Read letter, dated 18th Instant
from the Secretary to Government in
the Judicial Department, transmitting
extract of instructions issued to the Board
for preparing Regulations for the enactment
of provisions suggested by the Foujdaree
Adalut in their proceedings of 30th
December last.-
(Here enter No 301)

Read return, dated 15th Instant,
from the 2d Judge on Circuit in the
Northern Division, to precept dated 4th
Instant ordering communication to the
Magistrate of Guntoor of the Courts
orders on his Calendars laid before
the Court of Circuit.-
(Here enter No 304)

F. A.

At a Court of the Foujdaree Adalut

Present,

Friday, 25th April, 1823 Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

Read letter, dated 15th ultimo,
from the Acting Judge on Circuit in the
Southern Division, submitting case No 25 at a
Salem Calendar 1st Sessions AD 1823.
(Here enter No 236)

GW
W.C.

1 The examinations of the
prisoners in this case appear by the
Records to have been taken by Naraden
Roysom of the Talook of Suttiamungalam
whom the Acting Tahseldar in his report
states that he deputed to enquire into
the case.-

2 To the admissibility of the
confessions taken by the Roysom, as
evidence against the prisoners, it is
essential that he should have been
vested at the time with special
powers by the Magistrate under the
provisions of Section III Regulation XI
of 1821.-

3 The circular orders of the
Court of Foujdaree Adalut, dated 20th
November 1821, direct the Judges of
Circuit

Circuit "to report to the Foujdaree Adalut
"in all cases referred by them, whether
"the proceedings of the Police officer were
"held by a person duly authorized under
"the provisions of the Regulations"

The Acting Judge not having
complied with the instructions here
cited on the reference of this case, the
Court direct that he be by precepton
commanded to certify whether or not
the Rayson Narain had authority
from the Magistrate, under date 3th
September 1822, to perform the police
duties assigned to Sahseebaut by Sections
XXVII, XXVIII, XXIX, XXXI, XXXII, XXXVI, and XXXVII
Regulation XI of 1816.-

Precept returnable in one
week from and after its receipt.-

(Sent following precept (No 162)

Read letter, dated 24th February
last, from the Acting Judge on Circuit
in the Southern Division, submitting
case No 35 Salem Calendar 1st Sessions
A.D. 1823.-

(Here enter No 214)

The grounds declared by the
Law Officers of the Foujdaree Adalut to

to bar a sentence of Hud against the
2d and 3d Prisoners in this case being of the
the nature described in Clause fourth
Section II Regulation XV of 1803 the Court
direct that they may be called upon to
declare by a second futwa to what punish-
-ment the 2d and 3d Prisoners would have
been liable under the Mohummedan law
if the above exceptions in bar of Hud
had not existed.-

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

Read letter, dated 5th ultimo,
from the 3d Judge of the Court of Circuit
in the Northern Division, submitting
case No 3 Masulipatam Calendar 1st
Quarterly Sessions A.D. 1823.-

(Here enter No 261)

The Court having maturely
considered the proceedings held before the
Judge on Circuit the futwa of the
Provincial Law Officer and the futwa
of the Cazee ool Cozat and Mooftees of
the Foujdaree Adalut are of opinion
that the proof against the prisoners
1st 2d 3d 4th 5th 6th 7th and 8th is sufficient
to convict them of the crime of robbery
by open violence for which a penalty
is

is specially announced 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,

1st Ankoola Vencataramiah,
2d Pursah Soobiah,
3d Tenkala Pentaroo,
4th Dongala Chintadoo,
5th Chookka Lingadoo,
6th Chookka Linnadoo,
7th Imama Saheb, and
8th Galeb Saheb,

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 labor in irons on the public roads or other public works for and during the period of their natural lives respectively.—

And under the provisions of clause sixth Section II Regulation XV of 1803 direct that the prisoner,

9th Goondahayana Veeraunmah,

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

(Sent following letter No 163)

28 April 1823

Northern Division forwarding copy of the proceedings of the Magistrate of Masulipatam called for under date 19th Ultimo.—

(Here enter No 282)

1 From the foregoing papers it appears, that a letter was addressed by Captain A. Stock on 5th February last to the Magistrate of Masulipatam, stating that a woman, named Mary, occupying a house, the property of Lieutenant Colonel G. Wahab, was disposing of the property, and requesting the Magistrate to take such steps as he might think proper to prevent her from making away with it.—

2 The Magistrate in his answer to the above application, dated 6th February, stated that the case was not cognizable by him, as it then stood, and pointed out to Captain Stock the course to be pursued by him under the provisions of the Regulation, should he think proper to prefer a regular charge against the woman in question.—

3 In reply to this letter Captain Stock, on 7th February, addressed to the Magistrate a communication in which he declined to proceed to prove his charge by witnesses, it being then too late, stated

th

28th April 1823.

that had he been informed that witnesses were required he should have procured them, and announced his intention to prosecute the Magistrate in damages "to the amount of the "property made away with for want of his "interference."-

4 A further letter was addressed to the Magistrate by Captain Stock, on the 12th February, forwarding as confirmatory of his charge against the woman a petition of two persons for permission to remove the materials of a wall, purchased of her for Rupees 70.-

5 On 27th February a charge was preferred on oath before the Assistant Magistrate by the woman Mary against four persons for having forcibly ejected her from her house, which they were about to put up to public sale: on which an order was issued by the Assistant Magistrate for preventing the sale; and this decision on the complaint, the only record of the proceedings thereon which has been made, — recites that the defendants forcible occupation of the plaintiff's house & premises of her therefrom was proved, as also her occupation of the house for 3 years.-

The

3/ Z. C.
28th April 1823

6 The Defendants were adjudged to pay certain fines for the injury done to the prosecutrix, who was reinstated in possession of the house: and an intimation was given to the defendants, that should they have any claim to the property they must file a regular suit in the Zillah or Provincial Court, the question of right being only cognizable there.-

7 The Court of Foujdaree Adalut, having taken into consideration the whole of the circumstances detailed in the foregoing papers, do not see any reason to question the regularity or propriety of the Magistrates' proceedings.-

8 The Regulations prescribe a certain course to be pursued by all persons having charges to prefer before a Magistrate, who is not only bound not to proceed, but would act illegally did he proceed on a charge irregularly brought forward, and unsupported by evidence.-

9 In regard to the complaint of the woman Mary, which would seem to have been regularly brought before the Assistant Magistrate, the Court of Foujdaree Adalut

are of opinion, that for the forcible removal of this person from the house which she occupied the defendants were justly liable to fine; and that the restoration to possession of a party so ejected must be considered as essential to the maintenance of the public peace, the conservation of which belongs to the Magistrates' peculiar province.

10 Captain Stock under the circumstances represented by him should have made application to the Zilla Court, which Court, should it have seen grounds for the charge, would have taken measures for preventing the wasting or wrongful alienation of the property in question, pending the investigation of his claim to possession.

" Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division by precept requiring them to communicate the same to the Magistrate of Masulipatam and to Captain A. Stock for their information respectively.

Sent following precept No. 168.

Read letter, dated 22d instant from the late Acting Judge on Circuit in the Northern Division, submitting observations made in his late Circuit.—

/Here enter No. 315/

The foregoing letter does not contain any matter, which calls for particular observation from the Court of Foujdaree Udalut.—

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

/Sent following letter No. 169./

W. M.

28

F. U.

At a Court of the Foujdaree Adaulut

Tuesday - - -
20th April 1823

Present

Charles Harris Esqre Puisne Judge

C. H. George Gowan Esqre Acting Judge

GG

Read again letter, dated

24th February last from the Acting Judge

on Circuit in the Southern Division, Submitting

Case No 35 Salem Calendar 1st Sessions 1823 -

/Here enter No 214/

Read the Second futwa delivered

in this case by the Cazee-ool-Coozat and Mooftees

of the Foujdaree Adaulut -

The Court having maturely

considered the proceedings held before the

Judge 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 provision of Section XXI Regulation

VII of 1802 adjudge the prisoners,

1st Permaul, and

2d Kistnien,

to receive 39 stripes with a rattan

and

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 7 years and then be released.—

And under the provisions of Clause sixth Section II Regulation XV of 1803. direct that the Prisoner,

1st. Chinnam,

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

Sent following letter No. 170

Re. Court of Foujdaree Adalut

deem it proper to observe, with reference to the evidence on the trial before the Court of Circuit to the prisoner's declarations on the preliminary investigation, that such declarations should not be read, until after the witnesses have been examined as to their subject matter.—

2 The Court of Foujdaree Adalut in their proceedings of the 7th Instant noticed the irregular mode adopted by the Acting Judge of examining the prisoner after the close of the evidence for the prosecution. The Acting Judge will be careful in future simply

simply to call upon the Prisoner, after all the evidence against him has been heard, to state what he has to urge in his defence.—

Ordered, that Extract of these proceedings be sent to the Acting Judge on Circuit in the Southern Division for his information and guidance.—

Sent following letter No. 171.

Read return, dated 22d Instant, from the late Acting Judge on Circuit in the Northern Division, to precept dated 4th Instant calling for report prescribed by Section XXXVII Regulation VII of 1802.—

(Here enter No. 316)

Read letter, dated 26th Instant, from the acting Judge on Circuit in the Southern Division,— with returned warrant for execution of a prisoner in case No. 326 Salim Calendar for Sessions 1822.—

(Here enter No. 320)

heard

At a Court of the Foujdaree Adaulut

Present

Friday - - -
2d May 1823

Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge

Read letter, dated 27th March
last from the late Judge on Circuit in the
Northern Division; Submitting Case No. 2
Chicacole Calendar 2d Sessions 1822.—
Here enter No. 254/

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-Cozaat
and Mooftee of the Foujdaree Adaulut, are no
of opinion that the proof against the prisoner
Kosanah Deyanneedhee, is sufficient to con-
=vict him of murder in the prosecution of-
a robbery for which a penalty is specially
denounced in clause first Section IV Regu-
=lation 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,

Kosanah Deyanneedhee,

to suffer death by being hanged at the
usual

Local Certificate

2d May 1823

usual time and place of execution.—

Sent following letter No. 173.

Read return, dated 25th Ultimo from the Provincial Court of Circuit in the Northern Division,— to precept dated 7th instant ordering communication to the Criminal Judges of the Courts noted regarding the preparation of translations for the Court of Circuit.—

(Here enter No 321)

Read return, dated 22d Ultimo from the 3d Judge of the Court of Circuit in the Northern Division,— to precept dated 8th Instant ordering communication to the Criminal Judges of Masulipatam and Chicacole of the Courts orders regarding prisoners from the hill Country.—

(Here enter No 322)

Read return dated 24th Ultimo from the 3d Judge late on Circuit in the Centre Division,— to precept dated 8th Instant ordering communication to the Magistrate of Bellary of the Court's observations on case No 4 Bellary Calendar 2d Sessions 1822.—

(Here enter No 324)

Read

2d May 1823

Read return, dated 26th Ultimo from the 3d Judge late on Circuit in the Centre Division,— to precept dated 8th Ultimo ordering communication to the Magistrate in the Southern Division of Arcot and the Criminal Judge in the Zilla of Chingleput of the Courts orders in the case of certain alleged acts of violence by the Police.—

(Here enter No 325.)

Read return, dated 28th Ultimo from the Acting Judge on Circuit in the Southern Division,— to precept dated 7th Instant calling for translate of the futwa and explanation of the sentence in case No 2 Madura Calendar 1st Sessions 1823.—

(Here enter No 326)

Read return, dated 25th Ultimo from the Provincial Court of Circuit in the Centre Division,— to precept dated 17th Instant ordering communication to the several Criminal Judges of the Courts orders regarding the entry in the Calendar of the abstracts of examinations.—

(Here enter No 328)

Read letter dated 24th Ultimo from the 3d Judge on Circuit in the Western Division,— with returned warrant

2 May 1823

warrant for execution of a prisoner
in case No 26 Cannara Calendar 1st Sessions
1823.-

(Here enter No 329.) /

At a Court of the Zuydaree Adaulut.

Present,

Thursday 8th May 1823. Charles Harris Esq.re Principal Judge

c.r. George Gowan Esq.re Acting Judge

Ut

Read letter, dated 3d Instant, from the Acting Judge on Circuit in the Southern Division,- submitting for the orders of the Zuydaree Adaulut copy of correspondence with the acting Criminal Judge in the Zilla of Salem regarding the pregnancy of Mootayee prisoner in case No 4 Salem Calendar 1st Sessions A.D. 1823.-

(Here enter No 337)

Appearing from the certificate of Mr Surgeon Richmond enclosed in the foregoing letter, that the prisoner,

Mootayee,

sentenced under date the 4th Instant to suffer death, is in a state of pregnancy, the Court of Zuydaree Adaulut direct, that the said Sentence be carried into effect at the usual place of execution, forty days after her delivery.-

2 The above medical certificate

heard

beard date 28th Ultimo, and declares the opinion of the Surgeon that the prisoner Moottayee is four Months gone with child.

3 On reference to the Salem Calendar 1st Sessions of 1823 the Court of Foujdaree Adalut observe, that this prisoner was apprehended on the 6th and committed for trial by the Acting Criminal Judge on the 10th September 1822.-

4 As, therefore, it would appear that the present condition of the prisoner has arisen from the occurrence of sexual intercourse while confined in the Zilla Jail, the Court of Foujdaree Adalut deem it proper on this occasion to advise the Acting Criminal Judge of the necessity of using more effectual means of enforcing one of the most important rules of prison discipline, the separation of male from female prisoners.-

5 The Court deem it also to be the duty of the Acting Criminal Judge to require from the Superior officers attached to the Jail establishment a vigilant observation of the conduct of the peons towards females in custody.-

Ordered

Ordered that extract of these proceedings be sent to the Acting Judge on Circuit in the Southern Division by precept requiring him to communicate the same to the Acting Criminal Judge in the Zilla of Salem for his information and guidance.-

(Sent following precept No 1771)

To

W. M.

Read petition of Seroowala Ammal, wife of Colunda Vengata Iyengar of the village of Agaram, in the Moottah of Timmary and Zilla of Chingleput.-

(Here enter P.C. Misc. Pet. No 1 of 1823)

1 The petitioner represents that seven Brahmins and four Soodras were concerned in certain acts of violence towards her, and after an examination of the case by the Magistrate and under his orders by the Soobady Sahseldar were forwarded to the Criminal Judge, who sentenced certain of the latter persons to fine and released the Brahmins. She prays that the Court of Foujdaree Adalut will examine the case and cause due punishment to be inflicted on the parties released by the Criminal Judge.-

On

8th May 1823

8th May 1823.

2 On reference to the quarterly report of persons submitted by the Criminal Judge for the first quarter of 1822 the Court observe, that the charge in this case was against 1 Sheenewassingar, 2 Cuttoory Singingar, 3 Vinavally Vincatachary, 4 Varooda Streenewassingar, 5 Collacutty Salian, 6 Moottien, 7 Vurdapah Naick, 8 Pundarum alias Ponnaien, 9 Ramachittien and 10 Vinevally Ramanoojingar; of whom the 5th 6th and 8th were sentenced to imprisonment and fine and the rest released, there being no proof that they assisted in the Molestation complained

3 Together with the above petition the petitioner has filed a paper, certified by the Magistrate of Chingleput to be a true copy; in which bear the signatures of all the persons abovenamed, with the exception of the 6th, and purports to be a joint confession delivered before Lutchoomanier, the Taheseldar, of the acts of violence charged against them by the petitioner.-

4 The petition is also accompanied by an extract of the proceedings of the Criminal Judge, dated 11th May 1822, rejecting the petitioner's application

9 Feb

8th May 1823

application for a reinvestigation of the case; and by an extract of the proceedings of the Court of Circuit, dated 30th December 1822, confirming the proceedings of the Criminal Judge on the ground of there not being witnesses to prove the exceptionable maltreatment of which the petitioner complained.-

5 It appears on the face of the proceedings in this case so far as they are before the Court, that the petitioner substantiated the main fact of her having suffered ill treatment from certain of the accused, and under these circumstances the paper purporting to be the confession of the other parties, that they were concerned in the misdemeanor is deemed by the Europeans Adalut to be intitled to a degree of consideration, which they would not have given to it, if unsupported by collateral evidence.-

6 The Court previously to passing any order on the prayer of the petitioner resolve to call on the Criminal Judge in the Zilla of Chingleput, through the 2d Judge late on Circuit in the Centre Division, to report whether this document was recorded on the proceedings forwarded by the Magistrate

and

8th May 1823.

and if so, to state the grounds on which he considered it to be undeserving of credit.-

7 The Criminal Judge will forward at the same time certified translation in English of his order on the petitioner's application for a reinvestigation of the case.-

8 Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Centre Division by precept requiring him to obtain the explanation and transmit the same to this Court without delay.-

By Court

(sent following precept No 78)

9th May

Ex Clk

Friday - 9th May 1823

No.

At a Court of the Zillah Adaulut

Present

Charles Harris Esqre Circuit Judge

George Gowan Esqre Acting Judge.

Read letter, dated 29th Ultimo, from the 2d Judge on Circuit in the Centre Division submitting copy of Chinglaput Calendar 1st Session

C# 4th A.D. 1823.- Here enter No 330

1 The prisoner in Case No 6 of the Calendar stood charged with "forcibly ravishing the prosecutrix". The future declared by the prosecutrix that the 2d witness prevaricated in his evidence, in consequence of which the testimony of the 1st witness remained single.-

2 The column of remarks exhibits the following entry upon this case.

3 "It appearing from the Criminal Judge's papers, that the prisoner "was in liquor and the Apaunt being "pretty clear against him from these papers "the Criminal Judge is ordered to require "security for his good behaviour before he "be released from confinement."-

4 The foregoing entry is considered by

by the Court of Foujdaree Udalut to be most unsatisfactory. The prisoner was tried before the Court of Circuit, & reference is made only to the examinations recorded on the preliminary investigation, when he was not on his trial: and supposing it to have appeared on the trial, that the prisoner assaulted the prosecutrix with intent to commit a rape, the circumstance of his having been in liquor could not be admitted as any extenuation of his offence.—

5 The Court of Foujdaree Udalut deem it proper to direct, that the 2d Judge do submit for their consideration and final judgment English and Persian Translations of the proceedings held in the above case; and that the Criminal Judge be commanded to detain the prisoner in custody until the receipt of their orders on the case.—

6 Should the prisoner have been released on security, it will be the duty of the Criminal Judge to cause his reapprehension.—

7 Ordered, that Extract of these proceedings be sent to the 2d Judge on Circuit in the Centre Division by precept enjoining him to proceed as above directed & making

making return in one month from and after its receipt.—

Sent following precept No. 179

Read return, dated 25th Ultimo from the 2d Judge of the Provincial Court of Circuit in the Western Division to precept, dated 15th Ultimo, calling for copies and English translations of the futwas delivered in certain cases North Malabar Calendar 4th Quarterly Sessions A.D. 1822.—

Here enter No. 332.

The futwas in cases Nos 1, 2, and 5 of the Calendar were called for by the Court of Foujdaree Udalut, in consequence of the grounds, on which futwas of discretionary punishment were therein given, not having been stated in the column of remarks in the Calendar.—

2 On examination of the futwas in question the Courts find, that the prisoners in cases Nos 1 & 2 and the 1st and 2d prisoners in case No. 5 were declared convicted of offences specifically provided for by the Mohummudan Law, and that the "grounds, on which they were adjudged subject "to discretionary punishment," were not stated as required by the provisions of clause 4th

First

9th May 1823

first Section II Regulation XV of 1803.-

3 The Court of Zujdaree Udalut direct, therefore, that the 2d Judge do require the Law officer to revise the futwas delivered in the above cases, stating the grounds exist=ing in bar of the specific penalty, the 2d Judge will thereupon pass new sentences with ref=erence to the provisions of clauses fourth and fifth Section II Regulation XV of 1803.-

4 By the futwa delivered in Case No. 8 of the Calendar it appears, that proof was not adduced of the value of the property stolen. The theft of property to a certain amount being necessary to subject the offender to the specific penalty of 10yrs, the provisions of clause fourth Section II Regulation XV of 1803 cannot apply to a case, wherein it is not proved that the stolen property amounted to the Nisab. The 2d Judge was therefore, in error in taking a second futwa on the case. The sentences, which were passed by the 2d Judge in cases Nos 6 & 8 under the futwas of 10yrs, were not in conformity with Section XXI Regulation VII of 1802.-

With

2/

Fort William
9th May 1823

5 With reference to the provisions of clause fifth Section II Regulation XV of 1803 no second futwa should have been taken on case No. 6 of the Calendar, as intimated in the proceedings of the Court of Zujdaree Udalut under date 15th Ultimo.-

6 Ordered, that Extract of these proceedings be sent to Second Judge of the Provincial Court of Circuit in the Western Division by precept requiring him to proceed as herein directed in regard to cases Nos 1, 2 & 5 of the Calendar, certifying to the Court of Zujdaree Udalut translations of the futwas, which may be given thereon, and the sentences passed upon the prisoners.-

Sent following precept No. 180

Read letter, dated 30th Ultimo from the 2d Judge on Circuit in the Centre Division submitting examinations taken regarding the state of mind of Veneata gando prisoner in case No. 41 Bellaree Calendar 1st Sessions 1823.-

Here enter No. 323

In the foregoing letter the Second Judge states, that when the prisoner was put to the bar "there was a wildness in "his looks and a desperate audacity in his action" which induced the 2d Judge to "call upon the "witnesses generally to state if any symptoms "of an unsound mind had ever at any time "been discovered in them to their knowledge": and

the

9th May 1823

the 2d Judge has forwarded depositions of two inhabitants of the prisoner's Village, who swear to his having been occasionally subject to fits of insanity.-

2 The evidence, taken and submitted to the Foujdaree Udalut, does not go to prove that the prisoner was insane at the time when he put to death his wife, and the Second witness examined states that the prisoner assigned as a reason for the act his wife's having quitted him and gone to other Villages.-

3 The Court of Foujdaree Udalut are of opinion, that the Zilla Surgeon and persons of the Jail establishment should have been examined, as to the demeanor and conduct of prisoner while under their observation. The Court are not satisfied, that the act of the prisoner was committed under a deprivation of intellect, and no evidence appears on the above proceedings of his incapacity to plead, when put to the bar.-

4 Under these circumstances the Court deem it proper to direct, that the prisoner be recommitted for trial at the ensuing Sessions, when it will be the duty of the Judge on Circuit to ascertain his ability

9th May 1823.

ability to plead and to proceed on the evidence to that point, as directed by the Circular orders of the Foujdaree Udalut of under date 20th October 1807.-

5 The Criminal Judge should be instructed to desire the particular attention of the Surgeon and Jailor to the prisoner in the ~~custody~~ interim in order that they may be fully prepared to depose to the prisoner's state of mind.-

6 Ordered, that extract of these proceedings be sent to the Second Judge on Circuit in the Centre Division, by precept, requiring him to issue the necessary instructions to the Criminal Judge in the Zillah of Bellaree.-

(Sent following precept No. 181)

20

Read letter dated 26th Ultimo from the 2d Judge on Circuit in the Western Division, with returned warrant for execution of a prisoner in case No 1 Supplemental Canara Calendar 1st Session 1823.-

(Here enter No 331)

Read return dated 28th Ultimo, from the Provincial Court of Circuit in the Western Division, - to precept dated 19th Ultimo, ordering communication to the Criminal Judges of the Courts' orders

orders regarding the particulars to be
entered in the Calendars-

(Here enter No. 334)

Read letter dated 2d Instant,
from the Acting Judge on Circuit in the
Southern Division,- with returned warrant
for execution of a prisoner in Case No 15
Salem Calendar 1st Sessions 1823.-

(Here enter No 335)

Read letter dated 5th Instant,
from the 2d Judge on Circuit in the
Centre Division,- with returned warrant
for execution of prisoner in Case No 12
Chittoor Calendar 1st Quarterly Sessions 1823.

(Here enter No 336)

Read return, dated 1st Instant,
from the Provincial Court of Circuit in
the Northern Division,- to precept dated
17th ultimo ordering communication to
the Criminal Judges of the Court's orders
regarding particulars to be entered in
the Calendars-

(Here enter No 342)

At a Court of the Foujdaree Adalut

Present

Saturday 17th May 1823 } Charles Harris Esqre Prime Judge
George Gowan Esqre Acting Judge

Read letter, dated 27th Febru-
C H ary last, from the 2d Judge late on Circuit
W H in the Western Division,- transmitting 12 Cases
No. 17, 24, 25, 33, 34, 38, 39, 40, 41, 42, 43, and 44 South
Malabar Calendar 1st Sessions A.D. 1822.-

(Here enter No. 201)

The Court of Foujdaree Adalut,
being of opinion that the proof against the C H
prisoner 1st in No. 41 Makadayil, alias Papa-
=dakaren Koottyi Appa is sufficient to con-
=vict him of having put to death the deceased
Coolaven, and that the proof against the prisoner
2d in No. 41, Palparambil Moydeen Cooty, is
sufficient to convict him of having been
present aiding and abetting at the commission
of the said crime desire under the provisions
of 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 Mohummedan
law

17th May 1823.

law if they had been convicted by full legal evidence of the above crimes.—

Ordered, that extract of these proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftee of the 4th Foujdaree Adalut.—

W. H.

Read return, dated 6th Instant, from the 2d Judge on Circuit in the Centre Division, to precept dated 2d Ultimo ordering that Nagee an insane prisoner should be placed under charge of the Jilla Surgeon.—

(Here enter No 349)

Read return, dated 10th Instant, from the 2d Judge late on Circuit in the Centre Division, to precept dated 2d Ultimo calling for report prescribed by Section XXXVIII Regulation VII of 1832.—

(Here enter No 350)

Read letter, dated 8th Instant, from the 2d Judge on Circuit in the Western Division, with returned warrant for execution of prisoner in case No 15 Calendar 1st Sessions 1823.—

(Here enter No 353)

Read return, dated 9th Instant, from the Provincial Court in the Northern Division, to precept dated 28th Ultimo ordering

17th May 1823 ordering communication to the Magistrate of Masulipatam and to Captain Ross of the Court's opinion on certain proceedings of the former.—

(Here enter No 355)

At a Court of the Zillah Adalut.

Present,

Monday 19th May 1823. Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge.

Read again letter dated 27th February last, from the 2d Judge late on Circuit in the Western Division, - transmitting 12 Cases Nos 17, 24, 25, 33, 34, 38, 39, 40, 41, 42, 43, and 44 South Malabar Calendar Sessions AD 1822.-

(Here enter No 20.)

Read the second futwa delivered in Case No 17 by the Cazee ool Coozat and Mooftees of the Zillah Adalut.-

The Court having maturely considered the proceedings held before the Judge on Circuit, the futwas of the Provincial Law Officer, and the futwas of the Cazee ool Coozat and Mooftees of the Zillah Adalut, are of opinion that the proof against the prisoner, Pallaparambil, alias Moochooricn Conicn, being the sole prisoner in case No 17 and the 2d prisoner in case No 33 is sufficient to convict him in the former case of murder and robbery and in the latter of robbery

19th May 1823

gang
robbery attended with the most atrocious violence and cruelty, for which offence a penalty is specially denounced in Clauses first and second Section IV Regulation XV of 1803; that the proof against the prisoner, Parayil Mahomed, being prisoner No1 in cases No 33 and No 34, and Ponan Veeran, being prisoner No 2 in cases No 33 and 34, is sufficient to convict them of gang robbery attended with the most atrocious violence and cruelty, for which a penalty is specially denounced in Clause second Section IV Regulation XV of 1803; and that the proof against the prisoners, Poongottil Aydoo, being prisoner No 1 in case No 38, and No 2 in case No 39, and Vallia Paramboil Chechoo, being prisoner No 1 in case No 39, and the sole prisoner in case No 44, is sufficient to convict them of gang robbery and murder, 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,

"Pallaparambil, alias Moochooran Coman"

to suffer death by being hanged, and his body to be suspended in chains at a spot to

19th May 1823

to be selected by the Criminal Judge in the immediate vicinity of the village, to which he belonged.-

And the Court adjudge the said prisoners,

"Parayil Mahomed," and

"Ponan Veeran," hanged

to suffer death by being at a spot to be selected by the Criminal Judge in the immediate vicinity of their respective villages.-

And the Court adjudge the said prisoners,

"Poongottil Aydoo" and

"Vallia Paramboil Chechoo"

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

And under the sentence of Hidayat No 41 in page No 41 declared in the Fatwa, the Court adjudge the prisoner,

"Mahadayil alias Paupadakaren Coty Appoo,"

to suffer death by being hanged, and his body to be suspended in Chains at a spot to be selected by the Criminal Judge in the immediate vicinity of the village, to which he belonged.-

And under the sentence of Jazeer declared in the said Fatwa, the Court adjudge the prisoner,

"Pallaparambil Moideen Kooty,"

to suffer death by being hanged at

19th May 1823

at the usual time and place of execution.

And the Court, being of opinion that the proof against the prisoner, Malayan Kollatil Vythian Attan, being the 5th prisoner in case №33, is sufficient to convict him of Gang Robbery attended with atrocious cruelty, for which a penalty is specially denounced in the latter part of Clause second Section IV Regulation XV of 1803, do 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

"Malayan Kollatil Vythiear Attan"

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 the Court, being of opinion, that the proof against the prisoners, Ayyapara Pokoo being prisoner №2, and Melakalatil Koontypak being prisoner №3 in case №42, is sufficient to convict them of Gang Robbery; and that they are of the same description

2/ T. C.

19th May 1823

description of persons, for whose enhanced punishment special provision is made in the latter part of Clause third Section IV Regulation XV of 1803, do under the authority vested in them by Clause first Section II Regulation I of 1818, adjudge the said prisoners

"Ayyanah Pokoo" and

"Melekallatil Koontypak,"

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 the Court of Cuzzaree Adalut, confirming the finding delivered in case №38, do under the provisions of Clause third Section IV Regulation XV of 1803 adjudge the prisoner,

"Tekan Cumby Moideen,"

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 be released.

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

direct that the remaining 8 prisoners,
"Kambatta Mahadeeg"
"Koondanil Marhar"
"Changaratha Kundy Amoo"
"Koonhatta Uttan Kooty"
"Madam Kokatil Moydoothy"
"Sarakattil Uttuan"
"Koonatta Ayoony" and
"Poongotil Moydeen Kooty"
be released on procuring good and sufficient security for their future good behaviour and appearance when required.—

Ent 26

Read the following letter No 1821 dated, from the late acting Judge on Circuit in the Northern Division,— submitting case No 31 Chicacole Calendar 2d Sessions A.D. 1822.

(Reg. Letters No 253)

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

19th May 1823.

aforesaid and under the provisions of Section III Regulation I of 1822 adjudge the prisoners,

1st Paucha Saheb,
2d Appeecondra Pardesy,
3d Vanka Potegaudoo,
4th Shaik alee,
5th Deddee Noohedoo,
6th Soiray Rajahpah,
7th Baurada Beemoodoo,
8th Bungaroo Potegaudoo,
9th Talvay Dayvunnah,
10th Limmoo Gosaulgaudoo,
11th Tamerapoo Gungiah,
12th Chintacaiyala Caumah
13th Paumoo Gungoolo,
14th Maudasee Guddamaudoo,
15th Paumoo Tamadoo,
16th Caysanapoody Boocheegaudoo,
17th Gebbely Dunnadee,
18th Muntry Baulunnah,
19th Chintah Gungoolo,
20th Chinta Appayanaphoo Uppanah,
21d Chintah Cunniah,
22d Paunada Baudadee,
23d Keemadee Caumadoo,
24th Sangamah Mookoondoo,
25th Vintah Litchmoodoo,
26th Toolada Cunniah,
27th Soosarla Venkoolo,
28th Cosanapoody Gurkoolo,

19 May 1823.

31st Dauveecondah Guddapah,
32d Sanganah Gungooloo,
33d Chintacoyelah Andeeaee,
34th Heemeedy Beemoodoo,
35th Limma Moodapah,
36th Casanapoody Pintagandoo,
37th Pindala Gungiah,
38th Cantay Chettoocooloo,
39th Doolla Boodaydah,
40th Lauserla Limmeady,
41st Cooda Linganah,
42d Soonkanah Gungamah,
43d Munjah Cantajdah,
44th Guttteem Buttadoo,
45th Tippalah Chinniah,
46th Gummalah Poladoo,
47th Yella Beemoodoo,
48th Tonny Vencapa Venapho Rungapah,
49th Chintada Lauettegandoo,
50th Dauracondah Gungooloo,
51st Sangeina Yemayee,
52d Heemeedy Dawadoo,
53d Sangenah Coondooriandoo,
54th Casanapoody Nookanloo,
55th Limma Bimmadoo,
56th Casanapoody Yemapah,
57th Chinta Appalee,
58th Seeka Yemayee,
59th Dandconda Ramoodoo,
60th Rallagudda Chennatah,

3d L. M.
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60th Cunka Beemoodoo,
62d Sangenah Gungooloo and
63d Chintacayla Yemapah,
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 following letter No 193.

4126.

Read letter, dated 29th March last, from the 3d Judge on Circuit in the Western Division, - submitting case No 14 Canara Calendar 1st Sessions 1823. -

(Here enter No 273.)

Read also letter, dated 9th Instant from the 3d Judge on Circuit in the Western Division, transmitting Persian translations in case No 14 Canara Calendar 1st Sessions 1823.

(Here enter No 293.)

Read also letter dated 21st Instant from the 3d Judge on Circuit in the Western Division, reporting the death of the 2d prisoner in case No 14 Canara Calendar 1st Sessions 1823.

(Here enter No 317.)

The Court having maturely considered the proceedings held before the

19th May 1823

the Judge on Circuit the Futwa of the Provincial law Officer and the Futwa of the Cazee ool Coozat and Mooftees of the Sudder Adaulut confirm the said Futwa as far as respects the prisoners 1st Pottia Maderta and 6th Venkatesha, and under the provisions of Section III Regulation I of 1822 adjudge the said prisoners,

1st Pottia Maderta, and
6th Venkatesha,

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 labor in irons on the public roads or other public works for and during the period of their natural lives respectively.—

And the Court, being of opinion that the proof against the prisoners 1st, 4th, 5th, 6th, 7th, 8th, 9th, and 17th is sufficient to convict them of the crime of robbery by open violence, and that the proof against the prisoner 12th is sufficient to convict him of being an accomplice in the said crime, for which offences a penalty is specially denounced

19th May 1823

denounced in Section III Regulation I of 1818 do under the authority vested in them by Clause first Section II Regulation I of 1818 adjudge the said prisoners,

1st Pottia Maderta,
4th Nicolao,
5th Sangar Munjapah,
6th Venkatesha,
7th Anunta,
8th Narainnah,
9th Parmeshur Naranta, and
17th Babaya,

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 labor in irons on the public roads or other public works for and during the period of their natural lives respectively.—

And the Court, under the discretionary authority vested in them by Section III Regulation I of 1822 do adjudge the prisoner,

12th Chickoo,

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

duri

19th May 1823.

during the period of seven years and
then be released-

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

3d Venkatia,

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

Sent following letter No 1844/

Sent 26th

W. H.

20

F. H.

At a Court of the Foujdaree Adalut

Present

Tuesday 20th May 1823 — Charles Harris Esqre Puisne Judge
George Govan Esqre Acting Judge

Read letter, dated 14th Instant,
from the Assistant Criminal Judge in charge
of the Zilla Court of Nellore, requesting
permission to transfer 50 Convicts to the Jail
at Masulipatam.-

Here enter No 361/

It appearing from the foregoing
letter that the immediate removal of fifty
convicts from the Jail at Nellore is essential
both to the health and the safe custody of the
remaining prisoners; the Court of Foujdaree Adalut
authorize and direct the Assistant Criminal Judge
to transfer that number of the convicts, the
unexpired term of whose sentences may be the
longest, to the charge of the Criminal Judge in
the Zilla of Masulipatam.-

The Assistant Criminal Judge
will forward to the Criminal Judges of Masu-
-lipatam a Calendar, exhibiting the names,
crimes and sentences of the prisoners removed
under this order, copy whereof he will transmit

to

to this Court.—

Ordered that extract of these proceedings be sent to the Assistant Criminal Judge in the Zilla of Bellary, and the Criminal Judge of Masulipatam for their information and guidance respectively.—

Sent following letters Nos 198

W. H.

Ult 21st

P. M.

At a Court of the Foujdaree Adalut held

Present,

Thursday,
22d May, 1823.— Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge.

Read again letter, dated 19th inst. No. 11
November last from the 2d Judge of the Court of Circuit
C.H. in the Centre Division,— submitting case
W.H. No 7 Chittore Calendar 4th Quarterly Sessions
A.D. 1822.

(Here enter No 116 of 1822)

Read again also return dated
3d February last, from the 2d Judge of
the Court of Circuit in the Centre Division,
to precept dated 8th January last ordering
further evidence to be taken regarding
the sanity of the prisoner in case No 7
Chittore Calendar 4th Quarterly Sessions
1822.

(Here enter No 137)

Read also letter, dated 1st
instant, from the 2d Judge on Circuit
in the Centre Division,— retransmitting
the record of case No 7 Chittore
Calendar 4th Quarterly Sessions AD
1822 with the evidence called for by the
Foujdaree Adalut under date 8th January
1823

(Here enter No 200.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudder Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and adverting to the fatal act of violence committed by the prisoner and to the manifest inability of his friends to take proper charge of him, the Court direct that the prisoner be detained in custody by the Criminal Judge; and that he be on no account discharged without their orders, obtained through the Court of Circuit, to whom the Criminal Judge will once a quarter the demeanor and state of health of the prisoner.

Gungadoo,

dismt 23d

(Sent following letter & No 193.)

Read letter, dated 1st March last from the 3d Judge Cuttack Circuit & the Centre Division, submitting Code No 16 Bellary Calendar 23d Sessions A.D. 1822.

(Here enter No 210)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudder Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, as far as regards the 2d 4th 5th and 6th prisoners, and under the provisions of Section III Regulation I of 1822 adjudge the prisoner,

4th Yerra Malawadoo Salary,

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

And under the discretion vested in them by the provisions of the above Section the Court adjudge the prisoners

2d Wobesgandoo,

5th Sichavadoo, and

6th Sunkadoo,

to be imprisoned and kept to hard labor

labor in irons on the public roads or other public works for and during the period of 10 years and then be released.—

And the Court being of opinion that the proof against the prisoners 1st and 2d is insufficient 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 do under the authority vested in them by Clause first Section II Regulation I of 1818, and in exercise of the discretion given by Section III Regulation I of 1822 adjudge the said prisoners

1st "Nurseegandoo"

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of 10 years and then to be released;— and the prisoner,

2d Jarrahawadoo

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of 2 years and then to be released.—

Sent following letter No 1941 (Read

Read. letter, dated 15th February last, from the Acting Judge on Circuit in the Southern Division,— submitting case No 116 Salem Calendar 1st Sessions A.D. 1823.— (Hereinafter No 235.—)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Law Officers and the futwa of the Cazee ool Cozat and Mooftees of the Sudder Adawlut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and under the provisions of Clause first Section IV Regulation XV of 1803 adjudge the prisoners,

1st "Moongyn alias Govinden,"

2d "Gungon,"

3d "Parayahoden," and

4th Timboodoo,

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

And the Court in exercise of the discretion vested in them by Clause Sixth Section IV Regulation XV of 1803 adjudge the prisoner,

5th Amoy alias Boodee,

to receive 39 stripes with a rattan and to be imprisoned and transported to such

22d May 1823

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 following letter No 195)

W. H.

F. C.

At a Court of the Foujdaree Adalut

Friday - - }
23d May 1823 } Present
Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge

Read letter, dated 11th Ultimo,
from the 3d Judge of the Court of Circuit in
the Centre Division, Submitting Case No 9
Chittore Calendar 1st Quarterly Sessions 1823.

Here enter No 283

The Court, having maturely
considered the proceedings held before the
Judge on Circuit the futwa of the Provincial
Law officer, and the futwa of the Cazee-ool-
Coozat and Mooftees of the Foujdaree Adalut,
are of opinion that the proof against the
prisoner, Abbas Elly, is sufficient to
convict him of having broken into the
house of the prosecutor with intent to
steal and wounded the prosecutor and two
other persons so as to endanger their lives,
for which crime a penalty is specially denoun-
-ced in clause third Section II Regulation VI
of 1822.

The Court, therefore, under
the authority vested in them, by clause
first Section II Regulation I of 1822 as
a Judge

adjudge the said prisoner,
"Abbas Ally"
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
and during the period of his natural life.—
/Sent following letter No. 196/

Sent 28th

1 In the letter accompanying
the trial the 3d Judge recommends, that the
prosecutor, Looban Khan, the prosecutor
Soobhan Mahomed, and the 4th witness, Syed Ally
Mooddin, do receive, the first a reward of
eighty rupees, and the two latter rewards
of fifty rupees each, in consideration of
their meritorious exertions to effect the
apprehension of the prisoner.—

2 And the Court of Foujdaree
Adalut, concurring in the propriety of the
foregoing recommendation, direct under the
provisions of Section XXIII Regulation IX
of 1816, that the rewards be distributed accordingly.—

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

Court of Circuit in the Centre Division
by precept requiring him to communicate
the same to the Magistrate in the Zilla
of Chittoor for his information and
guidance.—
/Sent following precept No. 197/

Sent 28th

Read letter dated 9th Ultimo
from the late Acting Judge on Circuit in the
Northern Division, submitting Case No. 29 Chica-
=cole Calendar 2d Sessions 1822.—
/Here enter No. 280/

The Court having maturely
considered the proceedings held before the
Judge on Circuit the futwa of the Provincial
Law Officer and the futwa of the Cazee
=ool= Cozat and Mooftees of the Foujdaree
Udalut confirm the said futwa of the
Cazee=ool= Cozat and Mooftees aforesaid
as far as regards the 1st 2d 3d and 6th provi=
=sions and under the provisions of Section
III Regulation I of 1822 adjudge the said
prisoners,
1st Chinpak Sahib,
2d Gorinta Ramdoo, and
3d Razaty Sectadoo,
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 labor in irons on the
public

public roads or other public works for and during the period of their natural lives respectively.-

And the Court adjudge the prisoner,

6th Veerapully Lutchayah.

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of 10 years and then to be released.-

And the Court being of opinion that the proof against the 4th prisoner "Boday Cunnegandoo," is sufficient to convict him of the crime of robbery by open violence for which a penalty is specially ann[exed] in section III Regulation I of 1822 do under the authority vested in them by clause first section II Regulation I of 1816 adjudge the said prisoner

4th Boday Cunnegandoo,

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 and during the period of his natural life.-

/Sent following Letter No. 198/ Bud

And 28th

J. U.

23d May 1823.

Read letter, dated 24th March last, from the 3d Judge late on Circuit in the Centre Division, submitting Case No. 5 Cuddapa Calendar 2d Sessions 1822.-

/Here enter No. 267/

The grounds declared by the Law officers of the Sudder Adalut to bar a sentence of Hud against the 1st and 2d prisoners in this case being of the nature described in clause fourth section II Regulation XV of 1803, the Court direct that they may be called upon to declare by a second futwa to what punishment the said prisoners would have been liable under the Mohummudan Law, if the above exceptions in bar of Hud had not existed.-

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

20

K M

At a Court of the Poojdaree Adalut.

Present,

Monday
26th May 1823

Charles Harriot Esqre Puisne Judge
George Govan Esqre Acting Judge

Read again letter dated 29th
March last from the 3d Judge late on
Circuit in the Centre Division submitting
case No 5 Cuddapa Calendar 2d Sessions
A.D 1822.

Here enter No 267

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 Cazee ool Coozat and Mooftees
of the Poojdaree Adalut confirm
the said futwa of the Cazee ool
Coozat and Mooftees aforesaid
and under the provisions of
Section XXI Regulation VII of 1802

adjudge

adjudge the prisoners
1st Chunchoogadoo,
2d Goorooveegadoo
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:-

And under the provisions
of Clause sixth Section II Regulation XV
of 1803 the Court direct that the prisoners,
3d Cumma Rampa, and
4th Nulla Abbee,
be released on producing
sufficient security for their future
good behaviour and appearance when
required.-

Sent 29th

(Sent following letter No 199)

The prisoners in this case were,
on a second future taken under the provisions
of Clause fourth Section II Regulation XV of
1803, declared liable to amputation of one limb.
The 3d Judge passed sentence, as required by the
above clause, upon the first prisoner for the stated
punishment, but passed no sentence on the 4th
second prisoner, and referred the trial to the
Court of Foujdaree Udalut on the ground that
seven years' imprisonment appeared to be an
insufficient

insufficient punishment, he being an old
offender, who had been formerly punished
for gang robbery with five years imprison-
-ment and thirty six stripes.-

2. The 3d Judge in his letter, as
accompanying the trial adverts to certain of
the provisions contained in Regulation VII
of 1822, which, as the offence committed by
the prisoners in this case occurred previously
to the enactment of that Regulation the Court
of Foujdaree Udalut would not notice, except-
-ing for the purpose of correcting two errors,
into which the 3d Judge appears to have fallen
in regard to the construction of the provisions
which he has cited.-

3 Clause second Section II Re-
-gulation VII of 1822 enumerates among the
circumstances of aggravation, which take
cases of the nature described in the preceding
clause out of the Jurisdiction of the Criminal
Judge, that of "the prisoners or any of the
"prisoners" appearing "to have been before
"committed of burglary, robbery, or other
"heinous crime.-

4 In such cases it is requisite,
that "the whole of the prisoners who may appear
"from the evidence adduced to have been concerned
"in the offence," be committed for trial before
the Court of Circuit.-

5 The Court of Foujdaree Udalut
do not find in the provisions of the clause
last mentioned any special declaration,
as described in the 10th paragraph of the
letter

letter, accompanying the trial, that the guilt of a party before commited is "of a sort greatly "aggravated" beyond that of a person committed of a first offence, however morally true the observation may be; and it is certain that the provisions of Section II Regulation XII of 1822 do not authorize, upon that ground, any enhancement of the penalties declared by the Regulations previously in force for burglary, not accompanied with wounding or other criminal act of violence.—

The provisions of clause sixth of the Section have made an essential alteration in the Law by giving cognizance to the Criminal Judge of causes of house breaking and theft "not attended with any of the circumstances "of aggravation specified in clause second." The Legislature has, as above remarked, included among those circumstances of aggravation that of any of the prisoners having been before convicted of certain offences; and the case being so brought before the Court of Circuit must be disposed of according to the provisions enacted for the guidance of that Court, viz. according to the Mohummudan Law with the modifications thereof contained in the Regulations.—

7 The present case falling within the provisions of Clause first Section V Regulation XV of 1803, should have been disposed of by the 3d Judge accordingly; and the

Fd. 29th

F. D.
26th May 1823

the Court of Foujdaree Udalut conclude, that he would have so disposed of it but from an opinion, which is intimated at the close of the 10th paragraph of his letter, that the "prohibition against the enhancement of penalties "except when the crime be accompanied with "wounding," is limited to the Courts of Circuit.—

It appears to the Court of Foujdaree Udalut to be manifest, that the prohibitory enactment quoted by the 3d Judge applies as well to the Court of Foujdaree Udalut, as to the Courts of Circuit, it being only the first part of the clause which is "directed solely," to the latter Courts.—

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

/Sent following letter No. 200/

Read letter, dated 22d February last, from the 3d Judge late on Circuit in the Centre Division, submitting case No. 28 Cuddapa Calendar 2d Sessions A.D. 1822.—

/Here enter No. 190/

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee-ool-Cozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid and under the provisions of

26th May 1823.

of clause sixth section II Regulation XV
of 1803 direct that the prisoners,
1st Paddongadoo,
2d Nallanadoo,
3d Chinna Paddongadoo,
4th Vanaatapah, and
5th Elengaah.
be released on producing good and sufficient
security for their future good behaviour and
appearance when required.—
Sent following letter No 211

Wr
to 29th
Ex Mgt

F. U.

At a Court of the Foujdaree Udalut

Present

Thursday, 29th May 1823 } Charles Harris Esquire Puisne Judge
George Gowan Esquire Acting Judge

C. F.

W

Read letter, dated 10th March last from the 3d Judge late on Circuit in the 4th Circuit Division, submitting Case No 25 Cuddapa Calendar 2d Sessions 1822.

Here enter No 25/

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officers and the futwa of the Cazee-ool-Cozat and Mooftees aforesaid and acquitting the prisoners,

3d Tanegella Papegadoo
5th Vengum Chinnegadoo
6th Veeroomulla Condadoo,
7th Mackulla Timmoogadoo,
8th Chinna Polegadoo, and
9th Nagadoo.

direct that they be set at liberty.—

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

1st Anahella Polegadoo,
2d Tanegella Condregadoo,
4th Ooroo Nagadoo,

be

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

/Sent following letter No. 203.

Read letter, dated 5th Ultimo from the second Judge on Circuit in the Northern Division, submitting Case No. 11 Nellore Calendar 1st Sessions 1823.-

/Here enter No. 288/

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 Soudaree Udalut, confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid and adverting to the fatal act of violence committed by the prisoner direct that he be detained in custody by the Criminal Judge and on no account released without the orders of the Soudaree Udalut, obtained through the Court of Circuit, to whom the Criminal Judge will at each Sessions report the state of health and demeanor of the prisoner.-

Sent.

/Sent following letter No. 204./

Read letter, dated 5th Ultimo from the second Judge on Circuit in the Northern Division, submitting Case No. 21 Nellore Calendar first Sessions 1823.-

/Here enter No. 289/

The

29th May 1823

The Judges of the Soudaree Udalut on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner Gudoom Vengunnah, is sufficient to convict him of having put to death the deceased Mandeegaudoo, desire under the provisions of clause second section II Regulation I of 1818, that their Law officers do 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 extracts of these proceedings be translated and delivered to the Cazee-ool-Cozat and Mooftees of the Soudaree Udalut.-

Read letter, dated 10th March last from the 3d Judge late on Circuit in the Centre Division, submitting Case No. 24 Cuddapa Calendar Second Session 1822.-

/Here enter No. 252/

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 Soudaree Udalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid, and acquitting the prisoners 1st Devun Ramdoo, and 2d Cadeer Mahummed,

direct

29th May 1823.

direct that they be set at liberty.-

And under the provisions of clause sixth Section II Regulation XV of 1803 direct that the prisoners

1st Condoogadoo, and
2d Poollegadoo,

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

/Sent following letter No 205/

The Court of Foujdaree Udalut deem it incumbent upon them, with reference to the examinations taken by the Court of Circuit in this case, to impress upon the Judge, who presided at the trial, the necessity of checking the introduction of irrelevant matter into the depositions of witnesses giving evidence before him.-

2 The Court deem the present to be a fit opportunity for conveying to the 3d Judge their opinion, that it is particularly desirable that the observations in his letters on the reference of trials should be strictly confined to the evidence & circumstances of the case, and that all redundancy and needless amplification should, on such occasions, be carefully avoided.-

For

F. C.

29th May 1823

For the information of the Law officers of the Court of Foujdaree Udalut it is desirable, that Persian translations of all warrants issued for the release of prisoners acquitted in referred trials should be annexed to the Persian Record, which the 3d Judge will be careful to cause in future.-

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

/Sent following letter No 206./

Read letter, dated 10th Ultimo from the Second Judge on Circuit in the Northern Division, submitting Case No 9 of Nellore Calendar 1st Sessions 1823.-

/Here enter No 292/

The Court having materially considered the proceedings held before the Judge on Circuit, the futwa of the Pundits Law officer, and the futwa of the Cazee-ool Coozat and Mooftees of the Foujdaree Udalut, confirm the said futwa of the Cazee-ool Coozat and Mooftees aforesaid, and acquitting the prisoners

1st Davary Unkadoo,
2d Rungoola Moosalagandoo,
3d Chinlabayena Goorapah,
4th Sooroomella Kotapah
5th Boyana Cottiah
6th Kadoo & Nangooloo
7th Guppanum Bhagavanloo
8th Dantybunda Boochegandoo,

dire

At a Court of the Zoujdaree Adalut
Present,
Friday 3rd May 1823. Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

Read letter, dated 1st. Instant
from the 2d Judge on Circuit in the
Northern Division, - submitting case
No 17 Nellore Calendar 1st Sessions 1823.

(Here enters No 297)

The Court having maturely
considered the proceedings held before
the Judge on Circuit the futwa of the
Provincial Law Officer and the futwa
of the Cazee ool Cozat and Mooftees
of the Zoujdaree Adalut confirm
the said futwa of the Cazee ool Cozat
and Mooftees aforesaid and acquit
the prisoners,

1st "Boya L" and
2d "Katty"
direct that they be set at liberty. -

Sent following letter

Read letter, dated 1st. Instant
from the 2d Judge on Circuit in the
Northern Division, - submitting case
No 18 Nellore Calendar 1st Sessions 1823.

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 Zujdaree Udalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, and acquitting the prisoner;

"Neelum Rungopal"

direct that he be set at liberty.—

/Sent following letter No. 209./

1. In the letter accompanying the latter of the foregoing trials the 2d Judge intimates a doubt as to whether the prisoner could be convicted on a confession taken contrary to the provisions of clause 2nd Section V. Regulation XI of 1816.—

2. A confession taken, either in a manner or by a person, not authorized by Law is in itself altogether invalid and inadmissible in evidence; although facts disclosed in such confession may be legally used for the purpose of obtaining valid evidence against the Criminal.

3. With respect to both of the foregoing

foregoing trials the Court of Zujdaree Udalut have to remark, that the letter of the 2d Judge does not contain any explicit opinion on the evidence and on the guilt or innocence of the prisoners, as is prescribed by Clause first Section XLI Regulation VII of 1802, to which the attention of the several Judges of Circuit has been particularly called by circular orders of the Court of Zujdaree Udalut.—

4 The Court will expect to have no occasion in future to call the attention of the 2d Judges to the provision of the Regulations and their orders on this subject.—

5. Ordered, that Extract of these proceedings be sent to 2d Judge on Circuit in the Northern Division for his information and guidance.—

/Sent following letter No. 210./

Read again letter, dated 20th March last, from the 3d Judge late on Circuit in the Centre Division; submitting Case No. 17 Cuddapa Calendar 2d Sessions 1822.—

/Here enter No. 250/

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

The

30th May 1823.

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 Soudaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the sentence of Oolookoot declared in the futwa adjudge the prisoner,

1st "Vancatee Chellum"

to receive 30 stripes with a rattan and to be removed to the Jail in the Zilla of Madura there to be imprisoned and kept to hard labor in irons on the public works or other public works for and during the term of six years in addition to the unexpired term of his former sentence.—

And the Court adjudge the prisoners,

2d "Hassah" and

1st "Timmadoo"

to be removed to the Jail in the Zilla of Madura there to be imprisoned and kept to hard labor in irons on the public

F. C.

30th May 1823.

public roads or other public works for and during the ~~term of~~ six years in addition to the unexpired term of his former sentence.—

Sent following letter No. 211

Read again letter dated 5th Ultimo from the 2d Judge on Circuit in the Northern Division, submitting Case No. 23 Nellore Calendar 1st Sessions 1823.—

Here enter No. 267

Read the second futwa delivered in this case by the Cazee-ool-Coozat and Mooftees of the Soudaree Adalut.—

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-Coozat and Mooftees of the Soudaree Adalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the sentence of Hijaad declared in the futwa adjudge the prisoner,

"Guddem Venganah"

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

Sent following letter No. 212.

Read

30 May 1823.

Read return, dated 23d Instant from the 2d Judge on Circuit in the Centres Division to precept dated 9th Instant directing him to submit for the consideration and final judgment of the Court English & Persian translations of the proceedings held in a trial for rape being No. 5 of the Chingleput Calendar 1st Sessions A.D. 1823 but incorrectly designated in the proceedings of the Foujdaree Udalut as No. 6 of the Calendars.—

1 /Here enter No. 377/

It was observed in the Extracts of the proceedings of the Foujdaree Udalut, dated 9th Instant, that "the future declared "the charge not to be proved on the "ground that the 2d witness prevaricated in his "evidence;" in consequence of which the testimony "of the 1st witness remained single.—

2 The entry in the Calendar of the abstract of the future is in exact accordance with the above remark.—

3 The 2d Judge in this return states, that "it was the first witness, who "prevaricated in this evidence;" and that the 2d witness "was the witness, whose evidence "became single."

4 Supposing the above observation of the 2d Judge in his return to be correct, the present is another instance in addition to several which have attracted the attention of the Court of Foujdaree Udalut, of the gross inaccuracy with which the Calendars submitted by this officer are either prepared, or transcribed.—

5 The precept of the Court of Foujdaree Udalut, dated 9th Instant, directed the transmission of English & Persian translations of the proceedings in this case, which however have not accompanied the second Judge's return.—

6 The return has, therefore, been irregularly made, no good and sufficient reason for non execution of the order being therein contained; and the Court of Foujdaree Udalut direct that it be retransmitted to the 2d Judge, in order that due execution of the precept may be regularly certified on the transmission of the proceedings thereby called for.—

/Sent following letter No. 213./

W. H.

2d

F. C.

At a Court of the Foujdary Adalut

Present

Saturday 31st May 1823 } Charles Harris Esquire Puisne Judge
George Govan Esquire Acting Judge

Read letter, dated 31st March last, from the 1st Judge late on Circuit in the Western Division, submitting case No. 11 South Malabar Calendar second Sessions 1822.—

C. H. G. G.

(Here enter No. 274)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer, and the futwa of the Cazee-ool-Cozat and Mooftees of the Foujdary Adalut, confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid, as far as concerns the prisoners 1st and 2d, and under the provisions of clause first section IV Regulation XV of 1803 adjudge the said prisoners

1st Chetty Soobramanyan"
2d "Tamaeta Kristnen,"

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

And the Court being of opinion that the proof against the prisoner 3d is sufficient to connect him of having been a party to the crime of Murder in prosecution of a robbery for which a penalty is specially demanded in clause first section IV Regulation XV of 1803 do under the authority vested in

91

in them by clause first Section II Regulation I of 1818 adjudge the said Prisoner, 3d "Cottiakattoo Parrengoden" to suffer death by being hanged at the usual time and place of execution.-

/Sent following letter No. 214/

Read letter, dated 3d Ultimo from the 2d Judge on Circuit in the Northern Division; submitting Case No. 16 Vellore Calendar 1st Sessions 1823.-

/Here enter No. 286/

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 2d 3d 4th and 5th is sufficient to convict them of having broken into the house of the prosecutor and stolen therefrom property to the value of Rupees 53. 11.- as set forth in the charge under clause second Section II Regulation I of 1818 that the Cazee-ool-Cozat and Mooftees of the Foujdaree Udalut will declare by a second futwa to what sentence the prisoners would have been liable under the Mahummudan Law, if they had been convicted by full legal evidence of the crime laid to their charge.-

Ordered, that Extracts of these proceedings be translated and delivered to the Cazee-ool-Cozat and Mooftees of the Foujdaree Udalut.-

Read

Read letter, dated 19th Instant, from the Criminal Judge in the Zilla of Bellary, submitting for the orders of the Court copy of a correspondence with the Magistrate regarding the case of a person, sent in by the Police Officer as a witness, who in his deposition delivered on oath before the Criminal Judge acknowledged, that after he found certain stolen property in his house, he did not acquaint the Circar.-

/Here enter No. 36/

1 The question at issue between the Criminal Judge and the Magistrate on this case is whether or not it is competent to the former officer to proceed criminally against a party, sent into him by the Police Officer in the capacity of a witness.-

2 There does not appear to be any difference of opinion between these officers as to the inadmissibility of the deposition above mentioned as evidence against the party although any matter therein disclosed may legally be made use of for the purpose of obtaining valid evidence against him.-

3 The Court of Foujdaree Udalut, having given full consideration to the whole of what is urged by the Magistrate in the above correspondence in support of his opinion, that it is the province of the Criminal Judge to proceed against, and to commit or try a person, sent to him

him as a witness in a criminal case and subsequently found to be implicated in the offence, are nevertheless of opinion, that the provisions of Section VIII. Regulation X of 1816 do not admit of such a proceeding, it being their construction of that Section, that it does not allow of the Criminal Judge's extension of a criminal charge regularly brought before him to persons other than those named in such charge, which would be to all intents and purposes tantamount to receiving a charge not "brought before him by a Magistrate or Police Officer under his authority" as stated by the Magistrate, which prohibits a Criminal Judge's referring cases to a Magistrate, apply only to cases regularly before the Criminal Judge, in a case circumstanced like that now under consideration it appears to the Loudaree Board, that the only course open to the Criminal Judge is to send the party to the Magistrate, in view to his originating criminal proceedings against him.—

The Criminal Judge states in his communications to the Magistrate, that had the individual referred to not

2/ F. 16.

31st May 1823.

not been sworn he should have dealt with him as a prisoner, but even under these circumstances it would not, under the construction given by the Court to Section VIII Regulation X of 1816, have been competent to him to do so.—

Ordered, that extract of these proceedings be sent to the Judges of the Provincial Court in the Centre Division by precept requiring them to communicate the same to the Criminal Judge and the Magistrate in the Zilla of Bellary for their information and guidance.—

(Sent following precept No 215.)

Read return, dated 8th Instant, from the acting Judge on Circuit in the Southern Division,— to precept dated 8th Instant ordering communication to the acting Criminal Judge in the Zilla of Salem of the Courts orders regarding the execution of the prisoner in case No 14.—

(Hereunto No 383.)

Read letter, dated 13th Instant, from the 2d Judge late on Circuit in the Western Division,— reporting the death of the 2d prisoner in case No 38 South Malabar Calendar 1st Sessions 1823.—

(Hereunto No 387.)

Read

31st May 1823

Read letter, dated 19th Instant,
from the 2d Judge on Circuit in the Northern
Division,- reporting his arrival at
Chicacole.-

(Here enter № 374)

Read letter, dated 19th Instant,
from the 3d Judge on Circuit in the
Western Division,- with copies of Canara
Calendars for the 1st Sessions of 1823.-

(Here enter № 380)

Read letter, dated 24th Instant,
from the Provincial Court in the Northern
Division,- with returned warrant for
execution of a prisoner in
Chicacole Calendar No 37
2d Sessions 1822-
(Here enter № 384)

Z 11

At a Court of the Zoujdaree Adaulut.

Present,

Monday,
2d June, 1823.

Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge

Read letter, dated 20th Ultimo
from the 1st Judge of the Court of Circuit in
the Northern Division,- submitting copy of
Masulipatam Calendar 2d Quarterly Sessions
A.D 1823.-

(Here enter № 381)

In case № 8 of the Calendar the
prisoner, charged with house breaking and
theft was declared by the futwa convicted
and liable to Ashoobut, Hudi-sarahdi-
-sogra being barred by his denial of the
charge before the Court of Quarterly
Sessions.-

The special exception, declared
by the futwa in this case to bar a sentence
for the specific penalty, being of the
nature described in Clause fourth Section
II. Regulation XV of 1803, a second futwa
should, as therein prescribed, have been
demanded from the Law Officer and
sentence passed accordingly.-

And the Court of Zoujdaree
Adaulut direct, that the 1st Judge who
presided

2d June 1823

presided at the trial he by precept com-
=manded to require a second futwa and
revise the sentence passed by him in the
above case with reference to the provisions
of Clause fourth Section II Regulation
XV of 1803, and Section XXI Regulation VII
of 1802.-

Precept returnable in two
days from and after its receipt.-
(Sent following precept № 216)

Read letter, dated 27th ultimo,
from the Criminal Judge in the Zilla of
Malabar, transmitting copy of a warrant
for banishment of a prisoner to a ny
Zilla selected by the Tongdarce Adalut.-
(Here enter № 379)

The Court of Tongdarce Adalut
direct that the prisoner
"Kaarangel Kooty"
be removed to the Jail in the Zilla of Chittoor
there to be imprisoned and kept to hard
labour during the period of his sentence.

Ordered, that extract of these
proceedings be sent to the acting Criminal
Judge in the Zilla of Chittoor and to the
Criminal Judge in the Zilla of Malabar
for the information and guidance of those officers
respectively.- (Sent following letters № 217)

2d June 1823.

Read letter, dated 5th ultimo, from
the 3d Judge of the Court of Circuit in the Centre
Division,- submitting case № 8 Chittore Calendar
1st Quarterly Sessions 1823.-
(Here enter № 344)

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 Tongdaree Adalut
confirm the said futwa of the Cazee
ool Coozat and Mooftee aforesaid, and
under the provisions of Clause second
Section XXXIX Regulation VII of 1802 adjudge
the prisoner,
1st Rauchen,
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 be released.-

And under the sentence of
Cohroobut declared in the futwa adjudge
the prisoners,
2d Rungum, and
4th Colum,
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 be released.-
(Sent following letter № 218.)

Read

Read letter dated 5th instant from the 2d Judge late on Circuit in the Centre Division.- submitting case No 20 Bellary Calendar 2d Sessions 1822.-

(Here enter No 345)

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 discretion vested in them by Section III. Regulation I of 1822 adjudge the prisoner,

Chowramoo,

to receive 30 stripes on the 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 eight years and then be released.-

(Vide following letter No 219.)

W. R.

Cmt 5.

7 W.

At a Court of the Poujdaree Adalut

Present,

Thursday. 5th June, 1823.- Charles Harris Esqre Circuit Judge.

George Gowan Esqre Acting Judge.

Read again letter, dated 3d April last from the 2d Judge on Circuit in the Northern Division,- submitting case No 16 Nellore Calendar 1st Sessions 1823.-

C#

W.R.

(Here enter No 286)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Poujdaree 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 Poujdaree Adalut confirm the said futwas of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Section XXI Regulation VII of 1802 adjudge the prisoners,

1st Toorkah Immoo,
2d Nulla Hussain,
3d Yerra Kasim,
4th Pada Baduj, and
5th China Immoo,

to be severally imprisoned and kept to hard

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

(Sent following letter No 220)

Read letter, dated 3d Ultimo, from the 8th Judge late on Circuit in the Centre Division, submitting case No 19 Chinglepute Calendar 2d Session 1823.-

(Here enter No 213)

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 Zillah Court confirm the said Futwas of the Cazees ool Coozat and Mooftees aforesaid and acquitting the prisoners

1st Sadyachal
2d Linguemmah
3d Moonichy and
4th Annakien

direct that they be discharged at liberty.-

(Sent following letter No 221)

Read again petition of Veeramala Ammal, wife of Colanda Theatre Iyengar of the village of Agaram in the Mootah of Ramany

and

and Zilla of Chinglepute.-

(Here enter Pet. No 1 of 1823)

Read also return, dated 28th Ultimo from the 3d Judge late on Circuit in the Centre Division, to precept dated 8th Ultimo, requiring him to obtain from the Criminal Judge in the Zilla of Chinglepute certain explanations regarding the proceedings held on the complaint referred to in the foregoing petition.-

(Here enter No 386)

It appearing by the explanation of the Criminal Judge, that the paper put in by the prisoner, as the confession of certain persons of acts of violence towards her, where-with they were charged before the Criminal Judge, was not recorded on the Magistrates' proceedings, which on the other hand exhibits a denial of the charge on the part of the individuals in question; and that no evidence was adduced before the Criminal Court against them, the Court of Foujdaree Adaulut consider the said paper to be utterly inadmissible in evidence against any one of the parties alleged to have affixed their signatures thereto, and direct that the prayer of the petitioner, founded thereon, for a further investigation of the charge in question, be rejected.-

Ordered

F. U.

At a Court of the Fouydare Udalut

Present

Friday 6th June 1823 } Charles Harris Esquire Puisne Judge
George Gowan Esquire Acting Judge

Read letter, dated 30th April last from the 2d Judge of the Provincial Court of Circuit in the Western Division, reporting upon the 4th Quarterly Sessions for 1822 and the 1st for 1823 at Tellicherry.—

/Here enter No. 346/

1 The 27th paragraph of the Report contains a suggestion, that a period of limitation should be fixed for complaint being made to the Magistrate of certain misdemeanors.—

2 The Court of Fouydare Udalut consider the reasons adduced by the 2d Judge in support of this recommendation to be deserving of consideration, and are on the whole of opinion that the limitation of six months for the admission of complaints of the nature described in Section XXXII Regulation IX of 1816 would be a measure in many respects expedient, and not open to valid objection.—

3 In the 29th paragraph the 2d Judge argues the necessity of establishing some penalty for a refusal on the part of the inhabitants of

2

Ordered, that extract of these proceedings be furnished to the petitioner on her application.—

3.

In the order of the Criminal Judge upon the original application of the aforenamed petitioner for a reinvestigation of her case an intimation was conveyed, that it was open to her to institute proceedings against such of the witnesses in the case, as she might consider to have committed perjury.—

4

The Court of Fouydare Udalut conclude, that at the time of passing the above orders the Criminal Judge was not in possession of Regulation II of 1822 by section VIII of which the institution of such prosecutions by private individuals is prohibited.—

5

Ordered, that Extract of these proceedings be sent to the Criminal Judge in the Zilla of Chingleput for his information.—

/Sent following letter No. 222/

of a village to attend the inquests prescribed by
Section XIII Regulation XI of 1816.—

4 When the performance of certain
duties is by Law required of persons not holding
any office under the government, there appears to
be no other mode of giving efficacy to the enact-
ments of the Legislature than the establishment
of some penalty for their infraction. The Court of
Foujdaree Udalut give their entire assent to the
recommendation of the 2d Judge on this subject—

5 The 3d & succeeding paragraphs
of the report contains remarks upon the supposed
inconsistency of the provisions of the Regulations,
as they respect the offences of Gang robbery
and those of forgery and common larceny.—

6 In regard to this part of the report
the Court of Foujdaree Udalut have to observe,
that the 2d Judge would appear to have over-
looked the provisions contained in Regulation
I of 1822, whereby the authority which was vested
in the Court of Circuit by clause fifth Section IV
Regulation XV of 1803 to mitigate the pres-
cribed penalty in the case of any persons
convicted of Gang robbery was virtually
abrogated, all such cases being made &
"referrible to the Foujdaree Udalut."

7 The inconsistency represented to
by the 2d Judge does not appear to exist &
under

under the Law as it now stands, nor does it
appear to the Court to have in point of fact existed
previously to the enactment of Regulation I of 1822.

8 One of the declared objects of the
enactment of Regulation XV of 1803 was "to maintain
"the uniform and adequate punishments of offenders,
"when convicted, according to the criminality of
"the offences established against them".—

9 It is correctly observed by the
2d Judge, that "Hud is the stated punishment
"if the property stolen exceed in value 10 Dirams,
"which are equivalent to Rupees 3 and annas
"4;" but even under the provisions of Section
IX Regulation VI of 1802, which corresponds
with those of Section XXXIII Regulation IX of
1816, no theft of such an amount would, unless
accompanied with "aggravating circumstances"
have come before a Court of Circuit; and the
provisions of Section XII Regulation IV of 1811,
corresponding with Section VII Regulation
X of 1816, went much further to limit the cases
necessarily cognizable by Courts of Circuit,
and consequently affected by the provisions
of the Mohummedan Law.—

10 The provisions of Regulation XV
of 1803 certainly required the adjudication of seven
years imprisonment in all cases of theft, &
properly cognizable by the Courts of Circuit, &
provided the penalty of Hud were not remitted
or mitigated in consideration of circumstances
altering

altering the nature and criminality of the offence but the power of mitigation with respect to the greater offence of robbery by open violence was confined to cases, wherein extenuating or discriminative circumstances appearing on the trial might suggest such mitigation of the punishment of particular individuals; it not being however intended as the Court think, that a lighter sentence than that prescribed for the inferior offence should in any such case be awarded.—

11 But whatever reasons might have previously existed, on the principles assumed by the 2d Judge for vesting the Courts of Circuit with a discretionary authority as to the mitigation of the prescribed penalty in cases of larceny brought before them they appear to the Court to be extremely weakened, instead of being as intimated in the 35th paragraph of the report strengthened, by the enactment of the provisions contained in Regulation VI of 1822.—

12 It is to be observed, that in paragraphs 35, 36, and 37 of the report the 2d Judge has confounded together the different descriptions of offences mentioned in Sections II and III of the Regulation, viz. house breaking and simple larceny in consequence of which he has in the last mentioned paragraph applied

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applied to the latter offence an observation applicable only to the offence of housebreaking accompanied by the stealing of property exceeding in value the sum of 100 rupees.—

13 The provisions of Section III Regulation VI of 1822 give cognizance to the Criminal Judge of all cases of simple larceny, to whatever amount, not accompanied with the peculiar circumstances of aggravation specified in the second Clause.—

14 By the provisions of this regulation, particularly those contained in Section II, the jurisdiction of the Criminal Judges has been so greatly extended, that no case can now be regularly brought before the Courts of Circuit, wherein the specific penalty in commutation of a future awarding amputation of one limb would, excepting under very peculiar circumstances, be disproportioned to the offence; and "the "uniform and adequate punishments of "offences" must be best maintained by requiring a reference to one and the same authority for the purpose of attaining a mitigation of the prescribed penalty in such cases.—

15 By section III Regulation XIV of 1810 of the Bengal Code such power of

of mitigation is given to the Court of Nizamut Adalut, by the provisions of section XIX Regulation VIII of 1802 in the code of this presidency it is referred to the Governor in Council.—

16 In paragraphs 38 and 39 of the report the 2d Judge points out what appears to him to be a contradiction, subsisting between certain provisions contained in sections II and III Regulation VI of 1822.—

17 To reconcile this supposed contradiction it is only necessary to observe, that section II relates exclusively to cases of house breaking and section III so far as it gives final jurisdiction to the Criminal Judge, to simple theft.—

18 In the 40th paragraph, wherein the same allegation of "error" is incorrectly advanced, a ground for its correction is foreshadowed in the steps of requiring the commitments for trial before the Court of Circuit of a prisoner guilty of "a second offence" after having been convicted of a "crime of greater magnitude."—

19 In the latter part of clause second section III of the Regulation this circumstance is enumerated among those, with reference to which a Criminal Judge may

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may commit a party for simple theft, it does not appear to the Sudder Adalut to be necessary to render commitment in all such cases obligatory.—

20 In the latter part of the 4th paragraph the second Judge notices the provisions of clause fifth section IV Regulation XV of 1803, as applicable to "Gang robbery unattended with violence."—

21 On this passage of the report the Court of Sudder Adalut have only to remark, that the several provisions of the section last mentioned apply exclusively to the crime of robbery by open violence as defined in the preceding section, denouncing only different penalties according to the different circumstances of aggravation, with which the perpetration of that particular crime may be attended.—

22 Ordered, that Extract of these proceedings be sent to the 2d Judge of the Provincial Court of Circuit in the Western Division for his information and guidance.

Sent following Letter No. 223/

Sent 19th

23 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. 224/

Sent 21/ Sent 9th

Ed Dft.

WDi

F. A.

At a Court of the Toydaree Adalut.

Present,

Monday, 9th June, 1823. Charles Harris Esqre Puisne Judge
George Gowan Esqre Acting Judge.

Read return, dated 27th Ultimo from the 2d Judge of the Court of Circuit in the Western Division, to precept dated 4th Ultimo ordering revision of the sentences passed in certain cases North Malabar Calendar 4th Quarterly Sessions AD 1822 (Vide enter No 388.)

C.A. W.R.

1 In the foregoing return the 2d Judge certifies that nine sentences have been passed in the cases in question under the provisions of Clause Fourth Section II Regulation XV of 1803, and offers certain observations upon the circumstances of Cases Nos 1 and 2 of the Calendar, whereon he founds a recommendation, that the sentences should be commuted to those originally passed by him upon the prisoners.-

2 The Court of Foydaree Adalut having premised that the only regular mode of submitting a recommendation of this description is by reference of the trial or trials, on which the prescribed sentence may be considered by the Judge of Circuit to be too severe, have to

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to observe that in the 4th paragraph of the return the 2d Judge has confounded together the provisions of Section II and III Regulation VI of 1822, which respectively refer to the offences of house breaking and simple larceny; and with respect to the 2d Judge's declaration in the 5th paragraph, that the prisoner would not have been liable to corporal punishment had then sentence been passed in conformity with the provisions of clause fourth Section II Regulation XV of 1803, that the reference made in Section XXI Regulation VII of 1802 to the Mohammedan law is not considered to exclude the Court of Circuit from adjudging stripes, not exceeding 39 of a rattan, in addition to the specified terms of imprisonment, when such punishment might appear just and proper—

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

(Sent following letter No 227)

Read letter, dated 6th Ultimo, from the 2d Judge on Circuit in the Centre Division, submitting case No 31 Cuddapa Calendar 1st Sessions 1823—

(Hereinafter No 348.)

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 Mooftee of the Poojdaree Adalut confirm the said futwa of the Cazee wal Cozat and Mooftees aforesaid and under the discretion given by Section III Regulation I of 1822 adjudge the prisoner,

Goorovadoo,

to receive 36 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 be released—

(Sent following letter No 228)

Read letter, dated 6th Ultimo from the 2d Judge of the Court of Circuit in the Western Division, submitting case No 1 North Malabar Calendar 1st Quarterly Sessions A.D. 1823—

(Hereinafter No 366)

The Judges of the Poojdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that

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that the proof against the prisoners 1st. Mavilla Kunatoo Chandoo alias Chandu Kaichor, and 2d. Vanian koren, is sufficient to convict them of having jointly put to death the deceased Cunhy Ambah, desire under Clause second Section II Regulation I of 1818 that the Cazee ool Coozat and Mooftees of the Tongdaree 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 proceedings be translated and delivered to the Cazee ool Coozat and Mooftees of the Tongdaree Adalut.—

Read letter, dated 30th Ultimo from the Criminal Judge in the Zilla of Malabar;- with warrants issued by the Judge on Circuit for the banishment of 4 Convicts to any Zilla to be selected by the Tongdarees Adalut.—

(Here enter No. 403)

The Court of Tongdaree Adalut direct that the prisoners,

1st. Paraan kil Ongan Kootty,
2d. Moolamveedakal Kanny,
3d. Poollytodiyil Pokra, and
4th. Poollytoriyil Athan,

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

9 T.A.
9th June, 1825.

there to be imprisoned and kept to hard Labor during the period of their respective sentences.—

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

Sent following letters No. 229.

Sent 12th

Read letter dated 28th Ultimo from the Acting Judge late on Circuit in the Southern Division,- submitting report prescribed by Section XXXVII Regulation VII of 1802.—

(Here enter No. 387.)

1 In the 4th paragraph of the report the Acting Judge mentions, that "there "is no European Medical Officer" attached to the Jail at Trichinopoly wherein there are at present 240 convicts confined under charge of the A Magistrate; and that "the duty of the Hospital "is performed exclusively by a native Dresser."

2 The 5th paragraph contains a suggestion that "the number of convicts under "the superintendence of the Magistrate at T "Trichinopoly shall be encreased to the full "amount which the Jail is capable of holding."

3 The Jail at Trichinopoly appears by

by former reports made to the Court of Zuidaree Adalut to offer accommodation for about 400 prisoners; and the Court, in reference as well to the grounds, on which the Acting Judge had rested the above recommendation as to the weighty reasons advanced in the 17th and 18th paragraphs for the immediate removal of at least a considerable portion of the prisoners at Salem from that station beg leave to recommend that authority may be given to them to place 150 convicts more under the charge of the Magistrate of Trichinopoly.—

4 As it could not be the intention of the Government, that the prisoners, placed under the Magistrates' charge, should be debarred any advantage enjoyed by prisoners in the several Zilla Jails under the provisions of Section XXVIII Regulation X of 1816, the Court of Zuidaree Adalut conclude, that the want of European Medical Officer has not been previously reported. Should the Honorable the Governor in Council deem it proper to encrease the number of prisoners in the Jail at Trichinopoly, the appointment of such an Officer will be of course the more necessary.—

5 In the 6th paragraph the Acting Judge intimates a doubt as to the legality

legality of the Magistrates confining in the Jail under his own superintendence a prisoner, sentenced under the provisions of Section XXXIII Regulation IX of 1816.—

6 The Section in question empowers the Magistrates to commit offenders to the "Zilla Jail, or village Choultry, as to them may "seem proper."—

7 The Jail at Trichinopoly not being the Zilla Jail, the Magistrate has no specific authority for placing offenders in confinement therein; the Regulations however allow of this officer's committing them to a place of custody under the immediate superintendence of himself, or of the officers under his authority, and the permission of the Government seems alone to be requisite to empower him to add to the prisoners, now transferred to his charge from the Zilla Jail, those who may be sentenced by him to confinement under the provisions of Section XXXIII Regulation IX of 1816.—

8 In the 9th paragraph of the report the Acting Judge, after stating his opinion that the plea of insanity "is likely "to be frequently set up as a defence", observes that "although a prisoner, when "brought up for trial shall be pronounced "incapable of conducting his defence from a

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"a deprivation of reason, still that should
"it subsequently appear that he has recovered
"his senses he should invariably be put upon
"his trial and not be released, until either
"his innocence has been ascertained, or it
"should appear that he was actually in a
"state of insanity at the time when the crime
"was committed."—

9 The course of proceeding here recommended by the Acting Judge is prescribed by the circular orders of the Court of Foujdaree Adalut, dated 29th October 1807, and has never in the knowledge of the Court been departed from. It only in cases, when proof may be adduced to the satisfaction of the Foujdaree Adalut, that the act charged against a prisoner accused while he was in a state of insanity, that his trial is dispensed with; with such evidence his trial on a criminal indictment would be altogether nugatory.

10 In the 11th paragraph of the report the Acting Judge recommends the execution of every person convicted of "atrocious and premeditated murder" "as near as possible to the spot where the murder was committed" "or to the village where he has usually resided."

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11 The measure here suggested has been constantly put in practice by order of the Foujdaree Adalut in cases of peculiar atrocity, such recommendations from the Judge of Circuit being always attended to. The Court concur with the Acting Judge in opinion, that the increasing prevalence of the crime of murder in particular districts forms of itself a ground for resorting to this peculiar mode of giving greater effect to the example of capital punishment; but in determining on the propriety of resorting thereto reference must be had to the interruption, which frequent detachment from the Zilla station on this duty must occasion to the other duties of the Criminal Judge, or his Assistant.—

12 In the 15th paragraph the Acting Judge asserts to the undue practices resorted to by the native officers of police for the purpose of extorting confessions from accused persons in their custody; and states his opinion, that "it "should be made an invariable rule to commit "for trial before the Court of Circuit every "Police Officer proved to have been guilty "of an act of this description".—

13 The Court of Foujdaree Adalut concur entirely in the above opinion of the Acting

Acting Judge; their circular orders on this subject have, however, already possessed the subordinate officers of that opinion; and the Acting Judge has not instanced in any case, wherein police officers guilty of practices so atrocious have not been committed for trial.—

14 Where instances of irregularity, carelessness; and inattention on the part of the officers of police, of the nature referred to by the Acting Judge, shall be brought under the observation of a Judge of Circuit the Court of Foujdaree Adaulut, as repeatedly observed, consider it to be his duty to report the same to the Magistrate, who should be desired to state the measures adopted for their punishment.—

15 The 17th and 18th paragraphs of the report are occupied with a disquisition of the causes of the extraordinary unhealthiness and mortality which have prevailed among the prisoners in confinement in the Jail at Salem, which the Acting Judge attributes "solely to the insalubrity of the "climate"; and concludes with a recommendation, that "all persons sentenced to "imprisonment exceeding one year shall be "removed to other stations, and that as long "as Salem continues to be as unhealthy as it

"is at present, after every Sessions the "convicts who may have been sentenced to "imprisonment exceeding that period shall "be distributed in other Jails under the orders "of the Foujdaree Adaulut."—

16 The notice of the Court of Foujdaree Adaulut was particularly attracted on an examination of the Quarterly reports, submitted on 13th April last by the Acting Criminal Judge in the Zilla of Salem, to the extraordinary mortality which had occurred among the prisoners under his charge; and a correspondence ensued which will be submitted together with the report of the Acting Judge late on Circuit for the consideration of the Honorable the Governor in Council.—

17 The opinion of the Acting Criminal Judge, as stated in his letter dated 5th, the correctness of which is affirmed in a letter dated 29th Ultimo from Mr. Surgeon Richmand, ascribes the unhealthiness prevalent among the prisoners to "the confined "nature of the Jails."—

18 The Court of Foujdaree Adaulut concur in opinion with the Acting Criminal Judge, that it is desirable that the sentiments of the Superintending Surgeon should be obtained on this subject and propose in the mean

9th June 1823.

mean time as stated in paragraph third of these proceedings to remove with the sanction of the Honorable the Governor in Council 150 of the convicts at Salem to the Gaol at Tuticorin.—

19 With reference to the observations of the Acting Judge in paragraph 25 of the Report to the Court have to observe, that the date whereon a charge may have been originally preferred is obviously that which should be inserted in the Column headed "Abstract of the charges and date on which they were preferred."—

20 The Acting Judge will give the requisite instructions on this subject to the Criminal Judges of Combaconum, and Madura.—

21 The remark of the Acting Judge at the conclusion of paragraph 26th regarding the provisions of Regulation VI of 1822, is equally applicable to the provisions of Section VII Regulation X of 1816, and to the corresponding rescinded provisions of Section XII Regulation IV of 1811.—

22 Ordered, that the report and extract of these proceedings together with

F. R.

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with letters dated 12th and 29th Ultimo from the Acting Criminal Judge in the Zilla of Salem and copy of a letter addressed to that officer under date 21st Ultimo 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. 230

Ordered also, that extract of these proceedings be sent to the Acting Judge Late on Circuit for his information and guidance.—

Sent following letter No. 231

22 to 12th

Ent 12th

E. M.

F. U.

At a Court of the Fujdaree Udalut

Present

Tuesday-
10th June 1823 } Charles Harris Esquire Puisne Judge
George Gowan Esquire Acting Judge

The report prescribed by Section
XXXVII Regulation VII of 1802 for the 2d Sessions
of 1822 not having been received from the
1st Judge late on Circuit in the Western
Division;-

The Court direct, that the 1st
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 one week
from the date of the receipt of the precept.-

(Sent following Precept No 232)

Read letter, dated 29th Ultimo
from the Assistant Criminal Judge in
charge of the Zilla of Nellore, with
Calendars of convicts sent under the
Court's orders to Madulipatam.-

(Here enter No 389)

Read return, dated 31st Ultimo,
from the 2d Judge on Circuit in the
Centre Division, to precept dated 9th
Ultimo

10th June 1823.

Ultimo ordering communication to the Criminal Judge in the Zilla of Bellary of the Courts orders regarding the commitment for trial of the prisoners in case No 41 Bellary Calendar 1st Sessions 1823.—

(Here enter No 392)

Read return, dated 30th Ultimo from the Provincial Court of Circuit in the Southern Division,— to precept dated 17th April ordering communication to the Criminal Judges of the Courts orders regarding the preparation of Calendars—

(Here enter No 396)

Read letter, dated 22 Instant, from the Provincial Court of Circuit in the Northern Division,— with returned warrant for execution of prisoner in case No 2 Chicacole Calendar 2d Sessions 1822.—

(Here enter No 406)

F. U.

At a Court of the Foujdaree Udalut

Present

Thursday 12th June 1823 } Charles Harris Esquire Puisne Judge

George Gowan Esquire Acting Judge

Read letter, dated 10th Ultimo

from the 3d Judge late on Circuit in the Centre

C.H. Division,- Submitting case No. 26 Chengleput

W.H. Calendar 2d Sessions 1822.-

/Hereentered No. 359/

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the 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 Veerasawmy

2d Venkatasawmy and

3d Soobbegan

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

/Sent following letter No. 235/

Pea

12th June 1823.

Read letter dated 17th Ultimo from the 2d Judge on Circuit in the Centre Division, submitting case No. 1 Cuddapah Supplemental Calendar 1st Sessions A.D. 1823.

/Here enter No. 365/

The Judges of the Court of Sudr Foujdaree Udalut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the second prisoner Lutchmeegadoo is sufficient to convict him of having put to death the deceased and that the proof against the first prisoner Chinniah is sufficient to convict him of being an accessary to the murder desire that their Law officers do declare by a second futwa to what punishment the said prisoners would have been respectively liable under the Mohummudan Law had they been convicted by full legal evidence of the above crimes.—

Ordered, that Extract of these proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut.—

Read

Ld 11th

Z 11.

12th June 1823.

Read again letter dated 9th Ultimo from the Second Judge of the Court of Circuit in the Western Division, submitting case No. 1 North Malabar Calendar 1st Quarterly Sessions A.D. 1823.

/Here enter No. 366/

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 Kissaas declared in the futwas adjudge the prisoners,

1 Manilla Kunatoo Chandoo
alias Chandoo Kaikor
2 Vanan Koren

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

/Sent following letter No. 236/

Ld 11th

At a Court of the Poydaree Adalut.

Present,

Friday, 13th June, 1828. George Stratton Esqre Chief Judge.
George Gowan Esqre Acting Judge.

Read letter, dated 1st Ultimo, from the 3d Judge late on Circuit in the Centre Division,- submitting case No 22 Chinglepet Calendar 2d Sessions 1828 (Recorded No 338.)

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 Poydaree Adalut confirm the said Futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoners,

1st "Chinnapien,"
2d "Ninan,"
3d "Pauvadapadiachchey, and
4th "Narrainen,"

direct that they be set at liberty.-

(Sent following letter No 237.)

J. M.

At a Court of the Poydaree Adalut held

Present,

Monday, 16th June, 1823. Charles Harris Esqre Puisne Judge

George Gowan Esqre Acting Judge.

C H
W C

Read again letter dated 17th Ult. from the 2d Judge on Circuit in the Centre Division, - submitting case No 1 Cuddapah Supplimental Calendar 1st Sessions A.D. 1823.

/Here enter No 365/

Read the second futwa delivered in this case by the Cazee ool 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 Cazee ool Coozat and Mooftees of the Poydaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of the said declared in the futwa adjudge the prisoner

2d "Lutchmeeadoo"

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

And under the sentence of Acquittal declared in the futwa against

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against the prisoner,
1st Chinniah,
adjudge him to be imprisoned and trans-
-ported to such place or places beyon-
-dsea as the Governor in Council shall
appoint there to be imprisoned and ke-
to hard labor in irons on the public ro-
or other public works for and during
the period of his natural life.-

19th Inst.

(But following letter No 2440)

Read letter, dated 5th Instant
from the 3d Judge on Circuit in the
Western Division,- reporting the
of the Lail Delin-
-quency for Zilla of Malab-
(Hereunto No 413)

Read return, dated 11th Instan-
from the 1st Judge of the Court of Circ-
in the Northern Division,- to precept
dated 2d Instant ordering remission
the sentence in case No 8 Masulipata
Calendar 2d Quarterly Sessions 1823
(Hereunto No 420)

S. C.

At a Court of the Foujdaree Adalut.

Present,

Thursday,
19th June, 1823. Charles Harris Esqre Puisne Judge.
George Gowan Esqre Acting Judge

Read letter, dated 4th Instant,
C. H. from the 3d Judge of the Provincial Court
W.E. of Circuit in the Centre Division,- submitting
copy of Chittoor Calendar 2d Quarterly
Sessions A.D. 1823.-

Here enter No 414)

In case No 1 of the Calendar
the prisoner stood charged with stealing
from a dwelling house property to the
value of 412 rupees. The Jurors declared
the prisoner convicted of Larcha and
liable to Tazeer, "died being barred in
"consequence of the prisoners being
"allowed to frequent the house of the
"prosecutor.-

2 The 3d Judge assigns as a
ground for not taking a second Juror
on the case, that clause fifth Section II
Regulation VI of 1822 is not mentioned
in clause second Section III of that
Regulation, under which the prisoner
was committed for trial, and sentence
of

of twenty stripes and five years imprisonment is stated to have been passed under the discretion allowed by clause fourth Section II of the Regulation.—

3. Clause fifth Section II Regulation VI of 1822 declares, that nothing in the preceding clause shall be construed "to authorize an enhancement of the "penalties declared by the Regulations "in force for burglary or theft when "not accompanied with wounding "or other corporal injury, nor with an "attempt to commit murder by strangling "or other means, as described "in clause third of this section."—

4. The rule contained in Section XIX Regulation I of 1802. that "one part "of a Regulation is to be construed by "another so that the whole may stand," manifestly requires, that the passage in clause second Section III Regulation VI of 1822, which declares that the Criminal Judge shall commit for trial before the Court of Circuit any prisoners, who from certain circumstances therein specified "may "appear to him deserving of a severer punishment

"punishment than the Criminal Judge "is authorized to inflict under the "following clauses of this Section," should be regarded as parenthetical, because with any other reading the concluding words of clause second Section III would declare the persons described in that passage, to be liable to an enhancement of punishment, expressly prohibited by Clause fifth Section II of the Regulation.—

5 The case of the prisoner in No 1 of the Calendar coming within the purview of the provisions of clause fourth Section II Regulation XV of 1803. the Court direct, that the 3d Judge be by precept required to proceed in the mode therein prescribed, and revise the sentence accordingly.—

6 The Court deem it also to be proper to circulate to the four Provincial Courts of Circuit their order on this case, as conveying their construction of clause second Section III Regulation VI of 1822.—

7 Ordered, that extract of these proceedings be sent to the 3d Judge of the Provincial Court of Circuit

19th June 1823

Circuit in the Centre Division by
precept returnable in 8 days -

ent 20 (Sent following precept № 242)

Ordered also, that extract
of these proceedings be sent to the
four Provincial Courts of Circuit for
their information and guidance
respectively -

ent 20 WC (Sent following letters № 243)

EHL WC

L 11.

At a Court of the Foujdaree Adalut
Present

Wednesday
25th June 1823 Charles Harris Esqre } Judges.
George Gowan Esqre

Read letters dated 11th instant
C:H.
WC from the 2d Judge on Circuit in the
Centre Division, submitting case № 43
Cuddapa Calendar 1st Session A.D. 1823.
(Here enter № 398.)

The Court having maturely
considered the proceedings held before
the Judge on Circuit the futwa of the
Provincial Law Officers and the futwa
of the Cazee ool Cozat and Mooftee
of the Foujdaree Adalut confirm
the said futwa of the Cazee ool
Cozat and Mooftees aforesaid
so far as respects the 2d prisoner,
Chinniahgandoo, and under the
provisions of Section III Regulation
I of 1822 adjudge the said prisoners,

2d Chinniahgandoo,

to receive 39 stripes with a rattan
and to be imprisoned and transported
to such place or places beyond
sea

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 the Court of Foujdaree Adalut being of opinion that the proof against the prisoner Valapoola Singareyandoo, is sufficient to convict him of robbery by open violence for which a penalty is specially denounced in Section III Regulation I of 1822 do under the authority vested in them by Clause First Section II Regulation I of 1818 adjudge the said prisoner, Valapoola Singareyandoo, 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 labor in irons on the public roads or other public works for and during the period of

of his natural life.-

(Sent following letter No. 2444)

Read letter, dated 14th Instant, from the Criminal Judge in the Zilla of Masulipatam transmitting with reference to the orders of the Foujdaree Adalut dated 5th December last, reports of prisoners from Rajahmundry sentenced to imprisonment at the 2d Quarterly Sessions of Jail delivery for 1825 at Masulipatam.-

(Here enter No. 427)

The Court of Foujdaree Adalut direct that the prisoner,

Guddum Veerasawmy,

be removed to the Jail in the Zilla of Cuddapa there to be imprisoned agreeably to the tenor of his sentence.-

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 following letters No. 245.)

At a Court of the Poojdaree Adalut.

Present,

Thursday,
26th June, 1823 — Charles Harris Esqre. / George Gowan Esqre. } Judges

Read again petition presented by the United Applachany on behalf of Chaguntty Braymiyah Lingum, Assunta Dayummah, and Lingum Caumaranje, of the Zilla of Chicacole.—

(Vide enter P. C. Misc. Pet. No 2 of 1823)

The petitioners were tried at the Sessions of Jail delivery for 1822 at Chicacole, and convicted respectively of perjury and Subornation of perjury, and the prayer of the foregoing petition is, that the Court will call for the record of proceedings held on the trial and set aside the judgment passed against them.—

The Regulations do not recognize any right of appeal from the judgments of the Courts of Circuit, and the Court of Poojdaree Adalut are of opinion, that any representation, which a party convicted may have to make, respecting either the grounds

of

of his conviction or the sentence awarded against him, can only regularly be addressed to the Judge, who may have presided at the trial, with whom it would remain to found thereon a reference to the Court of Youghareeldalut, should any circumstance be elicited affecting the grounds of the Judgment.

The Court of Youghareeldalut reject, therefore, the prayer of the foregoing petition, and have at the same time to observe that there is nothing set forth in the petition tending in any degree to impugn the correctness of the judgment against the petitioners, whose guilt appears from the abstract of the case contained in the Calendar to have been most unequivocally established.

Ordered, that a retract of these proceedings be furnished to the petitioners on their application.

Read letter, dated 28th Ultimo, from the 2d Judge on Circuit in the Centre Division, submitting cases Nos 38 and 39 Bellary Calendar 1st Sessions A.D. 1823 (Hereunto No. 407.)

1. The english translation of the proceedings before the police officer and the Criminal Judge in the latter of the foregoing cases had been transmitted by the 2d Judge in such a state, as can be accounted for only on the supposition of his having neglected to give it a perusal.

2. It would seem to have been copied by a person, who being unable to decypher many words in the paper given to him for transcription omitted them altogether.

3. As observed by the Court of Youghareeldalut in an extract of their proceedings, under date 30th November 1821, communicated to the late 2d Judge of the Provincial Court in the Centre Division, the Regulations declare that "the Judge of Circuit shall examine and be responsible for the accuracy of the translations of the proceedings held in cases referred to the Court of Youghareeldalut," and the 2d Judge must on the present occasion have either thought it unnecessary to make himself acquainted with the standing orders of the Court of

Youghareeldalut

26th June 1823.

Foujdaree Adaulut, recorded in the Provincial Court, or have knowingly disregarded them.—

4 It becomes necessary, that the English translation of the proceedings in this case should be returned to the 2d Judge for correction: there is however a distinct ground on which the Court of Foujdaree Adaulut would have found it necessary to return the trial, had no objection existed to the translation, namely that the record does not exhibit any authority for the trial of the prisoners.—

5. The prisoners were charged with having "on or about 20th April 1822 in the day time in Poonnah's Chaultry in the Mysore Country" administered a certain potion to the prosecutrix and others, three of whom died in consequence, and robbed the prosecutrix of her property.—

6. The crime charged against the prisoners having been committed in a place out of the limits of the British provinces a special order of the Governor in Council became requisite

F. H.

26th June 1823

requisite in order to their trial, as prescribed by Regulation XI of 1809: and the Court of Foujdaree Adaulut conclude that in this case the provisions of that Regulation have been observed, but as without such special order the Court of Foujdaree Adaulut do not possess authority to proceed to the trial of a case thus circumstanced, it is obvious that in all referrible trials of this description it forms an essential part of the record.—

7 The Court of Foujdaree Adaulut direct therefore that the English translation of case No 29 Bellary Calendar 1st Sessions 1823 be returned to the 2d Judge by precept commanding him to certify correct translations of the preliminary proceedings and to annex to the record a certified copy of the special order of the Governor in Council for the trial of the prisoners.—

Precept returnable in fourteen days from and after the date of its receipt.—

Sent following precept

1823.

of the

At a Court of the Foujdaree Adaulut.

Present,

Monday
30th June 1823 Charles Harris Esqre } Judges.
George Gowan Esqre }

Read letter, dated 20th ultimo,
from the 2d Judge on Circuit in the Centre
Division,- submitting case No 5 Bellary
Calendar 1st Sessions 1823.-
(Hereunter No 385)

The Court having maturely
considered the proceedings held before
the Judge on Circuit the 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
latitude given by the sentence of
Cohoobut direct that the prisoners,

1st Buswaboo, and
2d Ludghee,
be set at liberty.-

(Vide following letter No 248)

The Court of Foujdaree Adaulut
have to observe for the information
and future guidance of the 2d Judge,
that

J. U.

At a Court of the Foujdaree Udalut.

Present,

Monday
30th June, 1823. Charles Harris Esqre } Judges.
George Gowan Esqre }

Read. letter, dated 20th Ultimo
from the 2d Judge on Circuit in the Centre
Division,- submitting case No 5 Bellary
Calendar 1st Sessions 1823.-
(Herewith No 385)

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
latitude given by the sentence of
Corroobut direct that the prisoners,

1st Buswaboo, and
2d Ludghee,

be set at liberty.-

(But following letter No 248)

The Court of Foujdaree Udalut
have to observe for the information
and future guidance of the 2d Judge,
that

that under the provisions of Section III Regulation I of 1818 it was manifestly competent to him to dispose of the foregoing case, and that his requisition of a second letter from the Mohumedan Law Officers was at variance with the provision of Clause first of that Section.—

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

W.H.

Sent following letter No 249

Read letter dated 11th Instant, from the acting Judge on Circuit in the Southern Division, with returned warrant for execution of prisoners in case No 44 Salem Calendar 1st Sessions AD 1823.—

(Here enter No 421)

Read letter, dated 13th Instant, from the 2d Judge on Circuit in the Northern Division, reporting his intention of leaving Chicacole on 15th Instant.—

(Here enter No 431)

Read letter, dated 13th Instant, from the 2d Judge late on Circuit in the Western Division,— with returned warrants for execution of prisoners included in cases No 35, 38, 39, 41, and 44 South Malabar Calendar 1st Sessions 1823.

(Here enter No 432)

Read letter, dated 16th Instant, from the 1st Judge late on Circuit in the Western Division, with returned warrant for execution of prisoners in case No 11 late Tella South Malabar Calendar 2d Sessions AD 1822.—

(Here enter No 433)

Read return, dated 16th Instant, from the Provincial Court of Circuit in the Centre Division,— to precept dated 8th Ultimo ordering communication to the Criminal Judge and Magistrate of Bellary of the Court's orders on a reference regarding a witness sent in by the latter.—

(Here enter No 436.)

Read letter, dated 18th Instant, from the 2d Judge late on Circuit in the Western Division,— with returned warrants included in cases No 17, 33, 36, 39, 40, 41, 42, and 43, South Malabar Calendar 1st Sessions 1823.

(Here enter No 440)

Read letter, dated 24th Instant, from the 3d Judge on Circuit in the Western Division,— reporting his having commenced the Sessions at Seringapatam.—

(Here enter No 444)

Read letter, dated 13th Instant, from the 2d Judge on Circuit in the Northern Division, with copies of Chicacole Calendar 1st Sessions 1823.—

(Here enter No 435)

J. U.

At a Court of the Foujdaree Udalut

Present

Saturday 5th July 1823 } Charles Harris Esquire } Judges
George Gowan Esquire }

C. H.
G. G.

Read letter, dated 2d Ultimo from the 1st Judge of the Court of Circuit in the Northern Division, submitting Case No. 9 of Masulipatam Calendar 2d Quarterly Sessions 1823.—

/Here enter No. 10/

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-o-ool-Coozat and Mooftee of the Foujdaree Udalut being of opinion that the proof against the prisoner "Commoo Sutteegandoo" is sufficient to convict him of the murder in the prosecution of a robbery for which a penalty is specially denounced in Clause first Section IV Regulation XV of 1803 do under the authority vested on them by Clause first Section II Regulation I of 1818 adjudge the said prisoner

"Commoo Sutteegandoo"

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

/Sents following letter No. 251./

10 Inst.

Read

Read letter, dated 30th May last from the Second Judge on Circuit in the Centre Division; Submitting Case No 40 Kallaj Calendar 1st Sessions 1823.—

/Hereunto No 441/

The Court having maturely consi=dered the proceedings held before the 2d Judge on Circuit the futwa of the Pro=vincial Law officer and the futwa of the Cazee=ool= Coozat and Mooftees of the Soudaree Adalut confirm the said futwa of the Cazee=ool= Coozat and Mooftees afore=said and under the provisions of clause first Section IV Regulation XV of 1803 adjudge the prisoners

1st "Sunjeeva,"
2d "Lalatakoola Engaroo"

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

And under the discretion vested in them by clause fifth Section IV Regulation XV of 1803 adjudge the prisoner

3d "Ramaar Atchanah,"

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 her natural life.—

And under the sentence of Ookoobutt declared in the futwa the Court adjudge the prisoner

1st "Dalavoyee Pauparnah,"

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

Sent 7th

/Sent following letter No 252/

Read letter, dated 20th Ultimo from the Acting Criminal Judge in the Zilla of Chicacole, transmitting warrants of the 2d Judge of Circuit for the banishments of two convicts.—

/Here enter No 443/

The Court of Soudaree Adalutt direct that the prisoners

1st Chintalah Naugaloo
2d Arjee Doorasoo,

be removed to the Jail in the Zilla of Chittoor, there to be imprisoned and kept to hard labour during the period of their Sentences.—

Ordered, that extract of these proceedings be sent to the acting Criminal Judge in the Zilla of Chittoor and to the acting Criminal

5th July 1823.

Criminal Judge in the Zilla of Chicacole for the information and guidance of those Officers respectively.—

Sent 7th W.C. / Sent following letters Nos 253. /

W.C.

Read return, dated 27th Ultimo, from the 1st Judge late on Circuit in the Western Division, to precept dated 10th Ultimo calling for the report prescribed by Section XXXVII. Regulation VII of 1802.—

(Here enter No 450)

Read return, dated 25th Ultimo, from the 3d Judge of the Court of Circuit in the Centre Division,— to precept dated 28th May directing certain rewards to be distributed to parties in case No 9 Chittoor Calendar 4th Quarterly Sessions 1823.—

(Here enter No 457)

Read letter, dated 24th Ultimo from the 2d Judge on Circuit in the Northern Division, with returned warrant for execution of prisoners in case No 21 Nellore Calendar 1st Sessions 1823.—

(Here enter No 449)

Read letter, dated 28th Ultimo, from the 2d Judge of the Court of Circuit in the Western Division,— with returned warrant for execution of prisoners in case No 1 North Malabar Calendar 1st Quarterly Sessions 1823.—

(Here enter No 454)

+

B.R.

At a Court of the Foujdaree Adaulut.

Present,

Monday, 7th July, 1823.— Charles Harris Esqre } Judges.
George Gowan Esqre }

C.H. W.C. Read again letter, dated 15th March last, from the 2d Judge on Circuit in the Centre Division,— submitting copy of Bellary Calendar 1st Sessions A.D. 1823.—

(Here enter No 232)

Read also return, dated 22d April last from the 2d Judge on Circuit in the Centre Division,— to precept dated 31st March last calling for explanation of his proceedings in certain cases on the foregoing Calendar.—

(Here enter No 313)

Also read again letter, dated 8th April last, from the Secretary to Government in the Judicial Department,— transmitting for the consideration and report of the Court copy of a letter from the Magistrate in the Zilla of Bellary, commuting upon the release of certain prisoners at the late Sessions of Jail Delivery.—

(Here enter No 275)

Read also return, dated 15th Ultimo from the 2d Judge on Circuit in the

the Centre Division,- to precept dated 17th April last, calling for explanation of his proceedings in certain cases noticed in the foregoing letter from the Magistrate in the Zilla of Bellary.-

(Here enter No. 439.

1 The whole of the foregoing papers having reference to the proceedings of the 2d Judge at the first Sessions of Jail Delivery for 1823 at Bellary, and to the cases contained in the above Calendar, the Court of Foujdaree Adawlut deem it essential to a perspicuous review of those proceedings to bring them collectively under consideration on the present occasion; although their observations will thereby be extended to cases not mentioned in the letter from the Magistrate of Bellary, which has been referred by the Government for their consideration and report.-

2. In the following observations the Court will first notice those cases on the Calendar, which require comment, in their order; and will afterwards report their opinion upon the proceedings of the 2d Judge, in regard to certain prisoners, whose liberation he directs under the provisions of Clause second Section

Section III, and Clause third Section IV. Regulation II of 1822.-

3. The first case on the Calendar, noticed by the Foujdaree Adawlut in their proceedings of 31st March last, is No 4, wherein the prisoners convicted on a charge of "taking the prosecutor to the other side of the "Bellary Cowl Bazar by night and throwing "him down with an intent to rob him," were stated to have been sentenced to three years imprisonment "under Clause "first Section IV. Regulation VI of 1822."-

4 It was remarked by the Foujdaree Adawlut on the above entry in the Calendar that the clause cited had no relevance to cases of the above description.-

5. In his return, dated 22d April, the 2d Judge observes, that "Clause "fourth which refers to clause second "and that again to clause first of Section "II. Regulation VI of 1822 seemed to furnish "the proper authority under which to "act."-

6. From the explanation here offered by the 2d Judge it would appear, that the entry in the Calendar forms another instance of that carelessness and inattention on the part of the

7th July 1823

the 2d Judge in the preparation of the Calendars submitted to the Court of Foujdaree Adaulut, which have so frequently called for their animadversion. The Court do not concur with the 2d Judge in considering any provision contained in Section II Regulation VI of 822 to be applicable to the case in question, but as it was competent to the 2d Judge to award the sentence passed on the prisoner, under the provisions of Clause seventh Section II Regulation XX of 803, the Court will not distrust them.—

7. The next case noticed by the Court of Foujdaree Adaulut in their proceedings last cited is No 6, wherein by the Calendar there appeared to be testimony to facts, irreconcilable with the supposition that the deceased party, with whose murder the prisoners were charged, could have died a natural death; and yet that assumption was made by the Head of Police a ground for dispensing with the prescribed inquest on the body.—

8. By the 2d Judge's explanation of this case it appears, that he neglected to notice to the Magistrate the conduct of the Head of Police; who from the letter of the Magistrate to the Criminal Judge,

7th July 1823.

Judge, which accompanied the 2d Judge's return is shewn to have omitted to reduce to writing the inquest, stated therein to have been "held on the body of the "deceased:" though from an expression in the Magistrate's letter, immediately preceding, namely that "there seems no "reason to doubt the Amildar's statement "that he viewed the body," it is to be inferred, that no regular inquest, available in evidence, did in fact take place.—

9. No 7 the next case on the Calendar is the first case cited by the Magistrate of Bellary in his letter, dated 24th March last, to the Secretary to Government in the Judicial Department.—

10. And here the Court of Foujdaree Adaulut have to observe generally, with reference to the matter set forth in the Magistrate's letter, preparatory to the citation of particular cases, that the circumstance of a prisoner's acquittal by the Court of Circuit, notwithstanding that the proceedings of the native officers of police may exhibit his confession of the crime charged against him, does not in their opinion constitute a

a valid ground for impugning the cor-
=rectness of the proceeding of the Court of
Circuit. When such alleged confessions
may be uncorroborated by any collateral
proof of guilt, the Court hold them to be
utterly insufficient for conviction. It is
remarkable, that the Magistrate of Bellary
in a former communication to the Court
of Foujdaree Adawlut advanced the opinion,
that "the Law aware of the expedients
"often used by natives to extort confessions.
"seems to direct that none shall be valid
"except such as are confirmed, or made
"originally before a European Officer."
and considered the establishment of this
"the principle" of great importance to
"the people;" whereas the greater part
of his comments on the cases which he
has quoted could only be justified on
the supposition, that such a confession
must always be of itself sufficient
for conviction.—

11. In May the prisoner was
charged with the murder. the case at the
Magistrate observes had been postponed
by the 3d Judge at the preceding Sessions,
the Magistrate states that the prisoner
"was committed by the Criminal Court
on

"on his voluntary confession before the
"Amildar, attested by two witnesses; and
"that no evidence whatever was sum-
"-moned for the defence by the prisoner
"on his trial."—

12. By the remarks on this
Case in the Calendar, which exhibit the
grossest inaccuracies on the part of the
transcriber, it appears that the Futwa
declared the prisoner not convicted on
the grounds, that the proof was defective
in regard to the material fact of the
deceased's death in consequence of the
wound inflicted by the prisoner, and
that the 2d Judge directed his release
"there being no proof in the proceedings
"that any enmity or quarrel ever took
"place, and the wound appearing to
"have been accidental."—

13. On reference to the proceed-
=ings of the 3d Judge of Circuit on this
case at the preceding Sessions it appears,
that the trial of the case was postponed
by him in consequence of a want of
evidence "to the state of the wound and
"to the probability of the death of Veeradoo
"having been caused through the said
"wound" &c.—

It

7th July 1823.

14. It cannot be necessary for the Court of Foujdaree Adaulut to observe, that a reasonable doubt as to the cause of death must bar a conviction of murder:- and they consider the explanation above quoted from the Calendar sufficient to account satisfactorily for the unconditional release of the prisoner.

15. The second case quoted by the Magistrate is №8 of the Calendar, wherein the prisoner was tried for procuring abortion, and is stated to have been committed for trial on her voluntary confession before the Moulvee-

16. On reference to the Calendar the Court find, that the charge in this case was laid for "procuring abortion after 3 months pregnancy" the futwa declared the charge to be proved; that the act not to be punishable under the Mohummedan Law.-

17. The exposition of the Mohummedan Law, given by the Law Officer of the Court of Circuit on this case, was correct, causing abortion not being punishable with death after five months pregnancy the period at which it is presumed, that the principle

7th July 1823.

of life will have been communicated to the foetus.-

18. The Mohummedan Law in this respect not having been modified by any Regulation, the 2d Judge was bound to release the prisoner.-

19. The third case cited by the Magistrate, is №17 of the Calendar, wherein two prisoners charged with adultery are stated to have confessed their crime before the Assistant Magistrate, and to have confirmed this confession before the Criminal Judge.-

20. On reference to the Calendar it appears, that the futwa in this case acquitted the prisoners on the ground that there was strong reason to suppose, that the prisoners came together after the prosecutor had separated from his wife.-

21. The Court of Foujdaree Adaulut see no reason to question the propriety of the 2d Judge's confirmation of the futwa in this case.-

22. In the case next noticed by the Magistrate, a prosecution also for adultery, it appears from the Calendar that the husband withdrew the prosecution. Under these circumstances the 2d Judge was required by the provisions of

Clause

Clause fourth Section III Regulation I of 1818 to dismiss the charge.-

23. The next case, quoted by the Magistrate is № 20 of the Calendar, wherein 13 prisoners were tried for burglary and the receipt of stolen goods. On this case the Magistrate observes, that "the first fours prisoners, who confirmed "their talooka confessions before the "Criminal Judge, have not been released" that "all the rest have been liberated, "though the 5th 8th 9th and 10th prisoners "equally confessed before the Amildar and "were committed by the Criminal Court "on proof that this confession was "given voluntarily."-

24. The Court of Foujdaree Adawlut in their proceedings, under date 5th March last, called for certain papers connected with this case, and the returns made by the 2d Judge to their precepts of that date, and of 17th April last, exhibit, the Court are concerned to find, a palpable departure from the most obvious and universally acknowledged principles in the administration of Criminal Justice.-

25. The first 6 prisoners stood charged with burglariously entering into the prosecutors house, therefrom stealing property to the amount of 535 Rupees and 6 Annas- And the remaining prisoners with knowingly purchasing or receiving the stolen property and concealing the transaction.

26. The first fours prisoners having been described in the Calendar to have been convicted of knowingly receiving stolen goods, the Court of Foujdaree Adawlut called for copies of their examinations, which have been furnished by the 2d Judge on reference to which it appears that each of these prisoners confessed before the Assistant Criminal Judge having accompanied one Abbeegandoo to the village for the purpose of committing robbery, and remained outside, while the said Abbeegandoo and the 5th prisoner entered and robbed the prosecutors house.-

27. It is manifest, that under these circumstances the prisoners were directly accessary to the robbery, and the Court of Foujdaree Adawlut are utterly at a loss to understand how

how the 2d Judge could approve of a sentence, which declared them guilty only as recievers of stolen property.-

28 The sentence passed on the prisoners being not warranted by Law, it becomes necessary that the proceedings held on the trial should be transmitted for the consideration and final sentence of the Court of Foujdaree Adaulut.-

29. In respect to such of the prisoners in this case as were charged with knowingly receiving stolen property the explanation of the 2d Judge is equally unsatisfactory. The 2d Judge has therein announced an opinion, that persons in the relation of wife and mother to the perpetrators of a robbery cannot be held liable for the offence of knowingly receiving from them stolen property. An opinion which however condonant to the principles of English Law in respect to a wife, is altogether at variance with the provisions of the Mohammedan Law.-

30. Having made these observations on the case last mentioned the Court of Foujdaree Adaulut must remark in reference to the Magistrate's comments upon the issue of the trial, that a defect

of proof in regard to the confessions of the 5th 8th 9th and 10th prisoners would in the absence of collateral evidence against them have necessarily led to their acquittal, and that the Magistrate's supposition that "these four persons "seem to have been released by the "Circuit Court on their simple recantation" is altogether gratuitous.-

31. Case No 21 next calls for observation from the Court of Foujdaree Adaulut.-

32. In their proceedings of 31st March last the Court stated their opinion, that "the order of the 2d Judge "returning this case to the Criminal "Judge was inconsistent with the "Spirit of the provisions of Regulation "VI of 1822."-

33. Notwithstanding the explanation of the 2d Judge in his return respecting this case, the Court of Foujdaree Adaulut remain of opinion, that a prisoner appearing, either by his confession or by other sufficient evidence delivered before a Criminal Judge, to have been guilty of two distinct burglaries should unquestionably, under the provisions of that Regulation, be committed for trial

trial before the Court of Circuit.—

34 The Conjeeveram Vakeel do not understand the 2d Judge's remark in the 10th paragraph of his return, that it was "only recommended to the Criminal Judge "to try them of his own authority under the "Regulations." The Criminal Judge could only view the instructions of the 2d Judge in the light of orders issued for his guidance in the disposal of a case, struck off the Calendar.—

35 The case next noticed by the Magistrate of Bellary is № 24 of the Calendar, "the Circar versus Thummy & Chinna "for procuring abortion."—

36. In their proceedings of 31st March last the Court of Conjeeveram Vakeel called for the futwa delivered in this case in consequence of it's appearing from the entries in the Calendar, that the prisoner had been convicted of procuring abortion, after 5 months pregnancy.—

37. The Court collect from the 2d Judge's explanation of this case, that the proof of the fact last mentioned was not conclusive; in which event the prisoner's acquittal was conformable to the provision of the Mahommedan Law, cited in paragraph 16th of these proceedings.—

38. After commenting upon the proceedings in the case last mentioned the Magistrate of Bellary observes, that if in any respect the confessions delivered by the prisoners in the cases cited by him had been taken irregularly some communication should have been made for the correction of the police officers in future.—

39. In this remark the Court of Conjeeveram Vakeel entirely concur. Their standing orders have always directed the Judges of Circuit to bring to the notice of the Magistrate all irregularities in the proceedings of the police officers, which may appear in cases brought before them. The observations of the Magistrate in the latter part of the paragraph are answered in the preceding notices of the cases referred to.—

40 The last case on the Calendar, of which mention is made by the Magistrate, is № 28. The Circar versus Ramagadoo.—

41. On reference to the Calendar it appears, that this prisoner stood

Hoor charged" with being notoriously
"one of the deceased Yerranagahs gang
"and with having been present at and
"aiding and abetting the attack made on
"the police peons who came to seize
"Yerranagah in January 1822."

42 The prisoner was brought
to trial by order of the 3d Judge, as he
appeared to have been of opinion that
if not convicted of the specific offence,
his notoriously bad character would
eventually form adequate ground for
his detention on a requisition of security.

43 The Jurors declared the
prisoner not convicted of the charge
and the Court of Foujdaree Adalut
are not prepared to declare an opinion,
that the evidence against him, as described
in the Calendar, was sufficient for
conviction; they consider, that under
all the circumstances of the case the
second Judge would have exercised
a sound discretion in demanding
security for his future good behaviour
and appearance when required, previ-
ously to his release.

44 Before the Court proceed to
the consideration of the other matter
set

5 C.

7th July 1823.

set forth in the letter of the Magistrate it is necessary for them to notice the explanation given by the 2d Judge, in his return to the precept of 31st March last, regarding his proceedings in cases Nos 32 and 33 of the Calendar.-

45 It appearing from the return of the Criminal Judge transmitted by the 2d Judge, that these cases had been disposed of by him under a former order of the 2d Judge before the receipt of the precept of the Foujdaree Adalut, the Court do not deem it proper to direct any further proceedings against the parties, but the explanation of the 2d Judge which convinced the inadequacy and indeed incorrectness of the information conveyed by the Calendar of the circumstances of these cases, does not satisfy the Court of the propriety of his dismissal of them from the Calendar.-

46 The Court of Foujdaree Adalut in their proceedings under date 17th April last called upon the 2d Judge to "furnish "an explanation in detail of the grounds "on which he directed the release of "fourteen out of twenty persons confined "by order of the Magistrate, and of four "persons confined by order of the Criminal

"Judge

"Judge on a requisition of security" together with copies and English translations of the papers laid before him regarding the cases of those persons.-

47. The 2d Judge has under the above orders forwarded an extract of the proceedings of the Court of Circuit, dated 15th March last, regarding which certain explanatory remarks are given in his return, together with the documents received from the Magistrate, respecting the cases of the persons who had been required by him to furnish security.-

48. In the extract of the proceedings of the 2d Judge it is stated that after perusal of the "Statment of these persons "furnished by the Magistrate," accompanied by a letter from that officer referring to an address to Government under date 22d December 1822," as being applicable to the "general character of seven persons of his "statement whom he calls corchewars:- "the 2d Judge having called these seven "persons before him received from them "quite a different account of their cast and "usual mode of life than what is attributed "to them by the Magistrate. They all declared "they were of the Batjee Cast, and they all "maintained that it was 6 months since

"they were first taken up. Not one of them "was found to be a Corchewar, as the "Magistrate has stated them to be".-

49. And the grounds and statement of the 2d Judge's decision as to the disposal of these persons are subjoined in the following terms, "conceiving this (six months) a long "period to be put in prison on the mistaken "idea of the Magistrate regarding their "characters, the 2d Judge thinks it proper "they should be ordered to be released on "Mutchilkas binding themselves to return "to Salem."-

50. Referring to the Magistrate's statement it appears that these persons are therein described as of notoriously bad character, as being "all corchewars" having "all been twice apprehended, once "for housebreaking, the second time for "robbery; and though sufficient proof of "any specific crime is not forthcoming "against them, the Magistrate is of opinion "that they should not be released, except "on the most unexceptionable security".

51. The 2d Judge in his return para 21, remarks that in the examinations taken by the Sahseedar, "Not one of the "people from No 4 to No 10 inclusive bears "the name of Corchewar."- The

7th July 1823.

52. The Court of Foujdaree Adalat in their circular orders of 30th December last, arising out of certain proceedings of the 2d Judge on cases of the description now under consideration, directed that the several Magistrates should "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 therein confined "in the Zilla 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 would be the duty of the Judge of Circuit "to issue such orders regarding the disposal "of the prisoners as he might deem proper."

53. In paragraph 22 of his return the 2d Judge states in reference to the cases of the above persons, that "in the "answers of the Tahseeldars there seems nothing "stated which can lead to the conclusion "of a justifiable reason for confining "these people, and there is not a single "proceeding received from the Magistrate "or his Assistants, in the way of a diary "or extract from orders and resolutions "passed

6 No. 46.

7th July 1823.- "passed in their office to give any clue to "such."-

54 The 2d Judge would appear to attach much weight to the accounts given of themselves by these persons, when examined by himself personally. This is a source of information to which the Court of Foujdaree Adalat did not expect to be referred by the 2d Judge after their observations on his proceedings at the 4th Quarterly Sessions of Jail delivery at Chittoor for 1822.-

55. If in the cases of these seven prisoners the 2d Judge saw reason to believe that the Magistrate had improperly considered them to be coolies, or if the proceedings furnished to the Court of Circuit relative to them were found to be defective, the spirit of the instructions of the Foujdaree Adalut above recited evidently required a reference to the Magistrate on the subject, before the 2d Judge proceeded to pass any order as to their disposal.-

56. The Court are of opinion, that the proceeding of the 2d Judge in regard to these cases was precipitate and injudicious.-

57. The two next cases noticed in

in the proceedings of the 2d Judge of 13th March are Nos 2 & 3 of the Magistrates' statement; "the first of whom," as therein observed, stated "himself to be a Kachitan man and the "second a poor weaver, both of Adawinney, "who complain of having been six months "incarcerated in the Zilla Jail on no accu- "sation and for no fault, but at the "instigation of their enemies."-

58. The 2d Judge ordered the release of these two persons without any Mutchilka on the ground, that their confinement for so long a "period, merely because "they are suspicious persons in the eyes "of the Magistrate is making them "undergo a greater punishment than "it would have been in the power of "the Magistrate to inflict, had they "been convicted before him of any "actual offence competent for him to "punish."-

59. The entry in the Magistrates' statement regarding these two persons describes their character, as "disreputable" and for the grounds of their commitment the Magistrate refers to the record of proceedings in a certain criminal case before the Criminal Judge.

60. The 2d Judge in his remarks on the Magistrate's statement observes that these men "denied any connection" with Sheikh Alee, a prisoner in the case cited by the Magistrate, and in his return the 2d Judge observes, that "no proceedings "were furnished by the Magistrate "regarding these two men."-

61. The Court consider the 2d Judge's explanation of his proceedings in these two cases to be unsatisfactory. The Magistrate referred to the record of a case before the Criminal Judge, and the 2d Judge should have therefore inspected that record, instead of admitting and acting upon the disavowal of the parties of any concern in the case. It may here be remarked, that the ground assigned in the proceedings of the 2d Judge for the release of these two persons, namely that their further imprisonment would involve a punishment exceeding the powers of the Magistrate in a case of conviction, is altogether nugatory, it rests on a principle, affecting the expediency of the provisions of the law, and is not applicable to any particular instance of proceeding under those provisions

provisional.—

62. The next cases noticed in the proceedings of the Court of Circuit are Nos 12, 13, 14, 15 & 17 on the Magistrate's list, respecting whom the 2d Judge observes that they "all declare they offered security "to the Magistrate when taken up, which "was rejected without any enquiry into "its merits." that two of them "are stated "to have been six months in confinement "and the others complain of their imprison- "ment and of their being by that means "kept from work, if they could get "employed."

63. The ground of the decision as to their disposal is then thus stated "The Court taking their cases into consi- "deration and observing nothing but "general accusation and suspicion "urged against them, came to the resolution "of setting them free on their own Mutchilkas."

64. Of these five cases last men- mentioned No 1 is similarly described in the Magistrate's statement with Nos 2 & 3 above noticed, and the foregoing observations on those two cases apply equally to the former.—

65. Nos 12, 14, 15, and 17 are described in

in the Magistrate's statement as of "very "bad" character, "all given to thieving that "the robberies committed in the village of "Yellahonta in Puncondah were most "numerous whilst they resided there, and "have entirely ceased since their apprehension "and confinement."—

66. In regard to these four cases it is observable that the individuals declared that they had tendered security to the Magistrate, by whom their characters are described as very bad, and the Court of Foujdaree Adalut are of opinion that the second Judge should before he set these persons at liberty on their own Moochilkas have ascertained the ground of the rejection of the security which they had tendered and the information on which was founded so unfavorable a description of their general character.

67. In regard to the four persons released by the 2d Judge who had been confined by order of the Criminal Judge on a requisition of security the 2d Judge states, that they were brought before the Criminal Judge with six others tried in No 11 of the Calendar, and that the order for their release would appear to have been founded on the result of that trial.—

The

68

The Court of Foujdaree Adalut consider the grounds assigned by the 2d Judge for directing the liberation of these persons to be satisfactory.—

69. The Court of Foujdaree Adalut, having considered in detail the several cases quoted by the Magistrate in his letter referred for their report proceed to notice the observations and suggestions with which that letter concludes, which are as follow.—

70. "After the trials of the Circuit "Court are over before releasing from "Jail those, who have been "the specific "crimes charged against "them, it would be highly desirable that "the Circuit Court should communicate "to the local Magistracy a list of the "acquitted, with directions to specify the "names of any, whom on account of their "notoriously bad character, or other cir- "cumstances, the local Magistracy have "reason to think it would be dangerous "to release except under security for "their future good conduct. If the "arguments and facts stated by the "Magistracy should not in the opinion "of the Circuit Judge be sufficient to

"to justify his holding the parties to "security, he should, I think, notwithstand- "ing detain the prisoners, and acquaint "the Magistracy that they would be "unconditionally released by the follow- "ing Circuit Judge, at the next sessions, "unless the Magistracy adduced to that "officer further sufficient evidence "in support of his opinion."—

71. To the Court of Foujdaree

Adalut the foregoing suggestions appear open to the most serious objec- tions. Whatever evidence there may be of bad character, or of other circum- stances pointing to the expediency of detaining a prisoner in custody, should be exhibited in the record of the preliminary proceedings of the Magistrate, Police Officers or Criminal Judge sub- mitted to the Court of Circuit; and the provisions of Clause sixth Section II. Regulation XV of 1803 fully provide for the maintenance of the public security in such cases. The proposition, that the Judge of Circuit should in opposition to his own opinion order the imprisonment of a man fully acquitted for the term of six months, during which

period

period the Magistrate should be employed in searching for matter of accusation against him, not already discovered, appears to the Court of Foujdaree Adaulut to be unwarrantable & contrary and inconsistent with every principle of Judicial administration.-

72. The Court of Foujdaree Adaulut concur in the opinion given by the Magistrate in the last paragraph of his letter, that where security may be tendered for the future good conduct of persons of notoriously bad character "a reference "should be made to the Magistracy as to "its competency." The concluding sentence of this paragraph appears to suppose, that security is taken immediately by the Court of Circuit, which never can be the case under the existing Regulations.

73. Among the papers, which have been submitted by the 2d Judge on the present occasion is copy of a letter, dated 2d December 1822 from the Magistrate of Bellary to the Secretary to Government in the Judicial Department.-

74. On this paper generally the Court of Foujdaree Adaulut do not consider themselves called upon to offer any comment; but as it has been entered upon

8

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upon the records of the Court, they cannot avoid the notice of two passages, which appear to them calculated to occasion misconception of the mode of proceeding in one branch of the criminal administration, and of the intent and meaning of certain orders issued by the Court of Foujdaree Adaulut.-

75. In paragraph 30 of this letter the Magistrate, after intimating his opinion, that the substitution of a Jury of well informed natives for the Mahummedan Law Officers of the Courts of Circuit, would be an improvement on the system, and that "the Mussulman law and its technicalities "should be altogether got rid of" proceeds as follows:- "It may be said that our "old Regulations have been so modified "by the enactments of late years as to "be nearly tantamount to this already, "but this will apply only partially, and "to the Foujdaree and Circuit Courts alone, "not to that of the criminal Judge, who "has been newly clogged with the Mahum- "man law, without power of appeal "against it to the circuit or other Court,

even

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"even though his judgement should be
"at variance with the Futwa of his law
"Officers."-

76. The Court of Tongaree Wadut
have merely to observe on the foregoing
passage, that there is no regulation in
the code under which the proceedings
or the judgment of a Criminal Judge are
in any way shackled by the Mohum-
=madan Law; and that on Criminal cases
adjudicable by this offices no "futwa" is
ever taken.-

77. In paragraph 40 the Magistrate
observes, that he cannot "improve the confession"
of a prisoner "by admitting him as King's
"evidence against others. The orders of the
"Tongaree Wadut, of which copies are enclosed,
"require us to commit such persons to instant
"confinement, a measure not very likely
"to encourage them, either to give further
"information, or to persevere in a statement
"which has brought them into Judi-

78. The Court of Tongaree Wadut
conclude, that the Magistrate here adverts
to orders issued by them on a case in which
he had assumed the power of converting
a prisoner into a witness. In the opinion

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of the Court Section XX Regulation XVIII of
1802 provides sufficiently for the admission
on sanction of superior authority, of the
evidence of accomplices, and they think
that to place such a discretionary power
in the hands of the Magistrates would
be likely to embarrass the proceedings
of the Criminal Courts, and would be in
other respects seriously objectionable.-

79. Ordered, that the foregoing
papers with extracts of the proceedings
of the Court of Tongaree Wadut dated
27th March and 17th April last and
extract of these proceedings be sent
to the Secretary to Government in
the Judicial Department for the pur-
=pose of being laid before the Honorable
the Governor in Council.-

(Sent following letter No 254/
No 24/dated 11th

Ordered also, that extract
of these proceedings be sent to the
2d Judge late on Circuit in the Centre
Division by precept commanding
him to send up English and Persian
translations of the proceedings held
in Case No 26 Bellary Calendar first
Sessions

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Sessions 1823. and to make the necessary communication to the Criminal Judge respecting Cases Nos. 32 and 33 of the Calendar.-

Sent

(Sent following precept No 255)

Ex. Mel.

P.M.

P.M.

At a Court of the Tongdaree Adalut.
Present,

Tuesday 8th July 1823. Charles Harris Esqre } Judges.
George Gowan Esqre }

Read return, dated 28th ultimo, from the 3d Judge of the Court of Circuit in the Centre Division, to precept, dated 17th ultimo directing him to take a second Justice in case No 1 Chittoor Calendar 2d Quarterly Sessions A.D. 1823.-

(Here enter No 148)

The Court of Tongdaree Adalut, having taken into consideration all that is urged in the foregoing return in favor of the prisoner, resolve to permit the original sentence passed by the 3d Judge to stand good.- but they deem it proper to direct that the Law Officer be reprimanded for his inattention to their standing orders regarding Justices of discretionary punishment.-

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

Sent

(Sent following letter No 256)

Read letter, dated 27th May last, from

8th July 1823

from the 2d Judge on Circuit in the Centre Division, submitting case No 26 Cuddapa Calendar for Session 1st A.D. 1823.-

(Here enter No 373)

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 Cozat and Mooftees of the Fouzdaree 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 said prisoners,

1st " Beeinah"
2d " Keerah"
3d " Motah" and
4th " Nurdah,

to be removed to the Jail in the Zilla of Chittoor 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 ten years and then be released.-

(Sent following letter No 260)

W.H.

5th "

At a Court of the Fouzdaree Adalut.

Present

Wednesday 9th July 1823 } Charles Harris Esquire
George Gowan Esquire } Judges

C.H.
W.H.

Read letter, dated 24th Ultimo from the 1st Judge late on Circuit in the Western Division.- submitting reports prescribed by section XXXVII Regulation VIII of 1802.-

(Here enter No 455)

1 The 9th paragraph of the Report details the particulars of an atrocious case of forcible proselytism and kidnapping perpetra=ted by certain Moplas on a young Hindoo female.- and the 10th paragraph contains a suggestion, that the amount of the fine adjudged against the prisoners, which has been paid by the first prisoner, should be relinquished by the Government, and divided between the injured parties, the female and her husband.-

2 The Court of Fouzdaree Adalut beg leave to offer a concurrent recommendation in regard to the appropriation of the fines in question; but they feel called upon to observe, that whether considered with reference to the circumstances of the case itself or to the declared prevalence of this offence, the sentence passed by the 1st Judge upon the prisoners, under a futwa of Cazee, was far too lenient.-

In

9th July 1823.

3

In the 35th paragraph of the report the 1st Judge adverts to the expediency of making provision for the more severe punishments of witnesses for prevarication.-

4

A letter from the Secretary to Government in the Judicial Department, dated 18th April last, apprizes the Court of Sanjdara Udalut, that instructions had been given to the Board for preparing Regulations to frame provisions for this purpose.-

5

The Court concurring with the 1st Judge in the propriety of the suggestion offered in the 37th paragraph of the Report desire, that he will instruct the Magistrates of Malabar and Canara to particularize the crime of Gang robbery in the report of crimes submitted to the Court of Circuit at each Sessions of Jail Delivery.-

Ordered, that Extract of these proceedings be sent to 1st Judge late on Circuit in the Western Division for his information and guidance.-

sent 12th

sent the following letters No. 261

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 12th/1825 W.L.

Eq. M.L.W.M.

sent following letter No. 262

At a Court of the Puisne Judges Adalut

Present

Monday 14th July 1823 } Charles Harris Esquire } Judges
George Govan Esquire }

C. H.

We

Read letter, dated 31st ult. May last from the second Judge on Circuit in the Centre Division, - submitting Case No 1 of Chengle put Calendar 1st Sessions 1823. -

Here enter No 393/

1 The record of the proceedings in this case exhibits a declaration, purporting to have been delivered by the prisoner before Seyala Moodey, the Vakeeldar, and attested by two witnesses, named Seetaramiah, and Yellay Pillay.

2 The declaration in question contains the prisoner's confession, that he put to death the deceased under the circumstances described by the 1st witness, Nuesso, in his deposition before the Court of Circuit, and in the depositions recorded on the proceedings of the Assistant Criminal Judge, as having been given by the deceased witness, Tanker. —

3 It does not appear, that the Assistant Criminal Judge put any question to

to the prisoner regarding his declaration
before the Aheealdar, nor were the subscribing
witnesses to the confession examined by him,
or called before the Court of Circuit.-

4 The Law Officers of the Sudder
Adalut in their futwa on this case have
taken an objection to the testimony of the
1st witness, which is borne out by the Persian
translation of the Record; according to which
this witness stated before the Assistant
Criminal Judge, that he did not know
what instrument was in the hand of the
prisoner, but that "afterwards on seeing
"that Maha had received a stab on the
"right side of the breast he came to know
"that it was a dagger."

5 The English translation of this
passage is given in the following words,
"the prisoner also took something in his hand,
"but I do not know what it was, but I
"saw him when he stabbed Maha on his
"right side of his breast, and then only
"I became acquainted that it was a daggers"

6 The Court of Sudder Adalut
incline to the opinion, that the Persian version
of the above passage is correct, and the testimony
to the circumstances of the transaction being
weakened by the discrepancy between the wit-
=ness's depositions before the Criminal Judge,
and the Court of Circuit they deem it necessary

14th July 1823

-to return the record to the second Judge, in
order that evidence may be taken as to
authenticity of the prisoner's declaration by
the Jahseeldar:- which ought to have been
proved on the trial.-

7 It will be the duty of the
2d Judge to transmit the record to the Criminal
Judge in the Zilla of Chingleput with the
instructions to apply to the Magistrate
to cause the attendance of the subscribing
witnesses to the declaration before the
Criminal Court, and in the presence of the
prisoner and of the Moofties of the Zilla
Court to examine them regarding the nature
of the declaration, and the circumstances
under which it was delivered. After
which the declaration should be read
and identified by the witnesses and the
prisoner allowed to put to them any
questions, which he may choose. The
Criminal Judge will annex English and Persian
an translations of these additional proceedings
to the Record, which will be re transmitted
by the 2d Judge to the Court of Sudder Adalut

8 The Court of Sudder Adalut
observe, that the Assistant Criminal Judge
took the examination of the witness, Narso,
without Oath, he having stated that he
was "ignorant why an Oath is administered"

9 Under these circumstances the
nature and obligation of an oath and the
consequences

consequences of perjury should have been explained to the witness examination without which being altogether irregular and invalid.-

10

In conclusion the Court deem it proper to direct, that the attention of the Assistant Criminal Judge be called to that part of their circular orders of 17th January 1815, which enjoins the mode to be observed in recording the several particulars specified in clause third section XVIII. Regulation VII of 1802, instead of inserting in the records of trials the questions put to parties, or witnesses, relative thereto.-

11

Ordered, that the Record of proceedings in Case No. 1 Chinglepute Calendar 1st Sessions A.D. 1823 be returned to the Second Judge late on Circuit in the Centre Division by precept commanding him to issue the necessary instructions to the Criminal Judge in the Zillah of Chinglepute and to retransmit the trial with the additional evidence required with as little delay as possible.-

(Sent following precept No. 267.)

Read letter, dated 3d Ultimo from the 1st Judge of the Court of Circuit in the Western Division; submitting Case No. 6 Mauzah Tipatam Calendar 2d Quarterly Sessions 1823.-

(Here enter No. 409)

The Court having maturely examined the proceedings held before the Judge on Circuit the

F. R.

14th July 1823.

the futwa of the Provincial Law officers and the futwa of the Cazee, Mooftee and Mouluvies of the Sudder Udalut confirm the said futwa of the Cazee, Mooftee and Mouluvies aforesaid, and under the provisions of clause sixth section II Regulation XV of 1803 direct that the prisoner,

Vajerla Poddyauze

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

(Sent following letter No. 268)

Read letter, dated 12th Ultimo from the Second Judge on Circuit in the Centre Division, submitting Case No. 3 Chinglepute Calendar 1st Sessions 1823.-

(Here enter No. 419)

The Judges of the Sudder Udalut on a deliberate consideration of the circumstances of the case in evidence before them are of opinion that the proof against the prisoner, Mahomed Ghause, is sufficient to convict him of having wounded the prosecutor, desire under clause second section II Regulation I of 1818 that their Law officers do declare by a second futwa to what punishment the said prisoner would have been liable under the Mohummudan Law if he had been convicted by full legal evidence of the above offence.-

Ordered

14th July 1823

1823

Ordered, that extracts of these proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalutt.-

W.H.

F. U.

At a Court of the Foujdaree Udalutt

Present

Tuesday 15th July 1823 — Charles Harris Esquire, George Gowan Esquire — Judges

C.F.

W.H.

Read letter, dated 2d Ultimo from the 2d Judge of the Court of Circuit in the Western Division, submitting Case No. 10 North Malabar Calendar 1st Quarterly Sessions 1823.-

Here enter No. 408

The Judges of the Foujdaree Udalutt on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoner Mangalom Vishnoo Embran is sufficient to convict him of having put to death the deceased Shangaren Embran desire under clause second Section II Regulation I of 1818 that their Law officers do declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan Law had he 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 Udalutt.-

Read letter, dated 20th May last from the 1st Judge of the Court of Circuit in the Northern Division, submitting Case No. 5 Manulipatam Calendar 2d Quarterly Sessions of 1823.-

Here enter No. 383

15th July 1823.

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 Mooftees of the Zoujdaree Udalut confirm the said futwa of the Cazee=ool= Coozat and Mooftees aforesaid and under the sentence of Ashoobut declared in the futwa adjudge the prisoner

"Kannem Ramasha"

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.-

Sent following letter No. 269

Read again letter dated 12th Ultimo from the 2d Judge on Circuit in the Centre Division submitting Case No. 3 Chingleput Calendar 1st Sessions 1823.-

Here enter No. 419

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

The Court having maturely consi=dered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer

15th July 1823.

officer and the futwa of the Cazee=ool= Coozat and Mooftees of the Zoujdaree Udalut confirm the said futwa of the Cazee=ool= Coozat and Mooftees aforesaid and under the sentence of Lazer de=clared in the futwa adjudge the prisoner,

Mahomed Ghouse,

to be imprisoned without labor and without irons for the period of four years and then to be released.-

Sent following letter No. 270

20

F. H.

At a Court of the Foujdaree Udalut.

Present,

Thursday, 17th July, 1823. George Stratton Esqre Chief Judge
George Gowan Esqre Puisne Judge.

Read return, dated 10th May last, from the Acting Judge on Circuit in the Southern Division, - to precept dated 25th Ultimo directing him to certify the competency of the Rayyom Naraiden in case No 25 Salem Calendar 1st Sessions 1823 to perform the duties assigned to Tahsildars by Sections XXVII, XXVIII, XXIX, XXXI, XXXII, XXXV and XXXVII Regulation XI of 1816.-

(Here enter No 356)

Read again letter dated 15th March last, from the Acting Judge on Circuit in the Southern Division, - submitting case No 25 Salem Calendar 1st Sessions A.D. 1823.-

(Here enter No 234)

Read letter, dated 6th Ultimo, from the Acting Judge on Circuit in the Southern Division, - reporting the death of Chennah Tomby the 1st prisoner in case No 25 Salem Calendar 1st Sessions 1823.-

(Here enter No 415)

17th July 1823.

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 Zillah Adalut 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,

2d Pallany Appen,

(the first Chinnakomby being reported to have died on the 5th Instant) be released on producing good and sufficient security for his future good behaviour and appearance when required.—

(Sent following letter No. 271.)

Friday 18th July 1823

At a Court of the Zillah Adalut

Present

Charles Harris Esquire
George Gowan Esquire
} Judges

Read letter, dated 17th May last, from the 1st Judge late on Circuit in the Western Division, submitting Case No. 15 South Malabar Calendar second Sessions 1822.—

(Here enter No. 375)

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 Zillah Adalut 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,

"Padatil alias Alamparambatta Moydeen Koatty"

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

(Sent following letter No. 272.)

Read letter dated 19th May last from the 1st Judge late on Circuit in the Western Division,— submitting Case No. 29 South Malabar Calendar second Sessions 1822.—

(Here enter No. 376)

18th July 1823

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Sudder Adalut are of opinion that the proof against the prisoner, Karoomatil Ramen Nair, is sufficient to convict him of the offence of forgery for which a penalty is specially denounced in section III Regulation VII of 1811 do under the authority vested in them by clause first section II Regulation I of 1818 and under the discretion given by clause third section III Regulation VII of 1811 adjudge the said prisoner,

"Karoomatil Ramen Nair"

to be imprisoned without irons or hard labour for the period of one year and then to be rebaded.-

/Sent following letter No 273./

Read letter, dated 10th Ultimo from the 1st Judge of the Court of Circuit in the Northern Division, submitting Case No 4 Masulipatam Calendar Second Quarterly Sessions 1823.-

/Here enter No 422/

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Sudder Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid as far as regards the 1st prisoner 1st Paroomilla Venkadoo 2d Goonnoory Suttygandoo and under the provisions of section III Regulation I of 1822 adjudge the said prisoners

1st Paroomilla Venkadoo
2d Goonnoory Suttygandoo

to

18th July 1823

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 labor in irons on the public roads or other public works for and during the period of their natural lives respectively.-

And the Court being of opinion that the proof against the 2d prisoner Commoo Raupadoo is sufficient to convict him of robbery by open violence for which a penalty is specially denounced in Section III Regulation I of 1822 do under the authority vested in them by clause first Section II Regulation I of 1818 adjudge the said prisoner,

2d "Commoo Raupadoo"

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 and during the period of his natural life.-

/Sent following letter No 274/

Read again letter, dated 2d Ultimo from the Second Judge of the Court of Circuit in the Western Division, submitting Case No 10 of North Malabar Calendar 1st Quarterly Sessions 1823.-

/Here enter No 408/

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

The

18th July 1823

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-Acgat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under the sentence of Hiffaas declared in the futwa adjudge the prisoner,

"Mangalom Chattoo Embran"

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

Sent 19th.

/Sent following letter No. 275/

W. M.

From the 3d Judge on Circuit in the Western Division

Submitting case No. 15 Malabar Calendar 1st Sessions 1823.

/Here enter No. 4084/

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 prisoner "Payanmpel alias Chekalle Keel Chaik Mahomed" is sufficient to convict him of having put to death the deceased Ahmed desired under the provisions of clause second Section II Regulation I of 1818 that their Law officers do declare by a second futwa to what punishment 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 Udalut.

W. M.

18th July 1823

Read letter, dated 20th May last from the 3d Judge late on Circuit in the Centre Division, Submitting Case No. 39 Bellary Calendar 2d Sessions 1822.

/Here enter No. 371/

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 Bheemah 2d Caobah is sufficient to convict them of having wounded Soolee the brother of the prosecutor Ramjee desire under the provisions of clause second Section II Regulation I of 1818 that their Law officers do declare by a second futwa to what punishment the said prisoners would have been liable under the Mohummudan Law if they had been convicted by full legal evidence of the above offence.

Ordered that extracts of these proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut.

W. M.

F. C.

At a Court of the Foujdaree Adalute
Present

Saturday 19th July 1823 } Charles Harris Esquire } Judges
George Gowan Esquire }

C. H.
GG

Read letter, dated 15th May last from the 1st Judge late on Circuit in the Western Division,- Submitting Case No. 23 South Malabar Calendar 2d Sessions 1822.-

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 Cazee-ool-Coozat and Mooftees 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,

"Sudiampanambatta alias Hoolatt Coopy,

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

Sent following letter No. 276/

125

66

1/16

F. A.

At a Court of the Foujdaree Udalut

Present

Monday 25th July 1823 } Charles Harris Esquire, George Gowan Esquire } Judges

C. H.
W. K.

Read again letter dated 29th May last from the 3d Judges on Circuit in the Western Division, submitting Case No. 15 Malabar Calendar 1st Sessions 1823.-

/Here enter No. 404/

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

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 Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid and under the sentence of Kissaas declared in the futwa adjudge the prisoner,

"Payaninguel alias Chakallakel Shaik Mahomed"

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

Sent following letter No. 277.

1823.

C. H.
W. K.

F. C.

At a Court of the Foujdaree Udalut

Present,

Wednesday 23d July 1823. Charles Harris Esqre } Judges.
George Gowan Esqre }

Read letter, dated 24th May last,
Crk from the 3d Judge on Circuit in the Western
Ck Division,- submitting case No 2 Canara
Supplemental Calendar for Sessions 1823.-

(Here enter No 397)

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 "Parmeshuraiy" and
2d "Devapaiy"
is sufficient to convict them of being
accessary to the slaying of the deceased
Coopashetty, desire under the provisions
of Clause second Section II Regulation I
of 1818 that their Law Officers do declare
by a decree futwa to what punishment
the prisoners would have been liable
under the Mohummedan law if they had
been convicted by full legal evidence
of the above offence.-

Ordered

23d July 1823.

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

W.H.

W.H.

F. U.

At a Court of the Fouzdaree Udalut

Present

Thursday 24th July 1823 } Charles Harris Esquire } Judges
George Gowan Esquire }

C.H.

W.H.

Read again letter, dated 24th May last from the 3d Judge on Circuit in the Western Division, submitting case No. 2 Canara Supplemental Calendar 1st Sessions 1823.- Here enter No. 397

Read the second 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 Dokoobut declared in the futwa adjudge the prisoners

1st "Dammodhunady"
2d "Devapady"

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of 10 years and then to be released.-

Sent following letter No. 280.

Read 25

W.H.

W.H.

Read

Read letter, dated 7th Instant, from the 1st Judge on Circuit in the Southern Division, reporting his arrival at Combaconum.—

(Here enter No 458)

Read letter, dated 5th Instant, from the 3d Judge late on Circuit in the Western Division,— with copy of Malabar Calendar 1st Sessions AD 1823.—

(Here enter No 465)

Read letter, dated 5th Instant, from the 3d Judge late on Circuit in the Western Division, with copy of Seringapatam Calendar 1st Sessions AD 1823.—

(Here enter No 466)

Read letter, dated 9th Instant, from the 2d Judge on Circuit in the Centre Division,— reporting his arrival at Cuddapah.—

(Here enter No 488)

Read letter, dated 19th Instant, from the 2d Judge late on Circuit in the Centre Division,— with returned warrant for execution of prisoner in case No 1 Cuddapah Supplemental Calendar 1st Sessions 1823.—

(Here enter No 483)

Read return, dated 18th Instant, from the 2d Judge late on Circuit in the Northern Division, to precept dated 26th May last ordering communication to the Magistrate of Guntoor of the Court's observations in

 in case No 9 Nellore Calendar 1st Sessions 1823.

(Here enter No 486.)

Read letter, dated 16th Instant, from the 3d Judge on Circuit in the Northern Division,— reporting his arrival at Nellore.—

(Here enter No 484)

F. C.

At a Court of the Tuydaree Adalut

Present

Saturday
26th July 1823 } Charles Harris Esqre } Judges
George Gowan Esqre }

Read letter, dated 14th Ultimo
from the 2d Judge on Circuit in the Centre Div.
Division, - Submitting Case No. 7 Chengleput
Calendar 1st Sessions 1823. -

Here enter No. 428/

The Court having maturely con-
sidered the proceedings held before the Judges on
Circuit the Futwa of the Provincial Law officer
and the Futwa of the Cazee: ool: Cozat and
Mooftees of the Tuydaree Adalut confirm the said
Futwa of the Cazee: ool: Cozat and Mooftees aforesaid
and under the sentence of Dokoobut declared
against the prisoners

1st Canasooram, and,
2d Nauchear,

adjudge them to receive 39 stripes with a rattan
and to be imprisoned and kept to hard labour
in irons on the public roads or other public
works for and during the period of seven
years and then to be released.

And under the latitude given
by the sentence of Dokoobut the Court direct
that the prisoners

3d

3rd "Mottieu,"
4th "Comarum,"
5th "Nullaoran,"
6th "Iyamperoonaul"
7th "Corata pian,"
8th "Comarum,"
and

be set at liberty.-

July 29th

/sent fa Clanwy letter No 281./

1

The Court of Foujdaree Udalut

the latitude given by the futwa of their Law Officers in this case have felt it incumbent upon them to direct the release of the last six prisoners, for although the witnesses designated in the futwa do certainly depose in general terms that "the prisoners" were present aiding and abetting the outrage committed upon the prosecutrix; yet from the extremely loose and unsatisfactory manner, in which the exa= =minations were conducted by the Judge who presided at the trial, their testimony as exhibited in the record is by no means sufficiently explicit in regard to these individual persons to warrant a judgment of conviction.-

2

The attention of the Court has been particularly attracted on this occasion to the objectionable mode, in which the defence of prisoners is recorded by the 2d Judges, namely in the shape of a note by the Court instead of the words delivered by the accused. The Court direct, that the 2d Judges do in future after the

26th July 1823.

the close of the evidence for the prosecution call on the prisoner to state what he may have to urge in his defence, and be careful to record with precision what he may thereupon set forth.-

3

The Court of Foujdaree Udalut deem it necessary on this occasion to direct, that the attention of the Criminal Judge in the Zilla of Chingleput be particularly called to their standing orders relative to the pre= =paration of English translations of the proceedings in trials brought before the Court of Circuit. The translations of the preliminary proceedings in the several trials referred from this Zilla on the late Sessions evidently to have been performed by a native, and not even revised by the Criminal Judges.-

4

The 2d Judge's attention was re= =cently called to those orders of the Foujdaree Udalut, which require that the Judge, referring a trial for their final Judgment, do also carefully revise the whole translation.-

5

Ordered, that extracts of these proceedings be sent to the 2d Judge on Circuit in the Centre Division by precept directing him to make the necessary communication to the Criminal Judges in the Zilla of Chingleput

for

26th July 1823

for his information and guidance.-

Sent 29th

/Sent following precept No 282/

Read again letter, dated 20th May last from the 3d Judge late on circuit in the Centre Division, submitting case No 39 Bellary Calendar Second Sessions 1822.-

/Vide entry No 371/

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

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 Cozat and Mooftees of the Foujdaree Udalut confirm the said futwa and under the latitude given by the sentence of Aokoobut declared in the futwa adjudge the prisoners

1st "Bheemah"

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

2d "Coobah"

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

Sent 29th

/Sent following letter No 283.

F.H.

26th July 1823.

In a note on paragraph 2d of the letter, accompanying the foregoing trial the 3d Judge has given the following rule established, it would seem by the Magistrate of Bellary:- Viz: "all cases of theft to a value exceeding five "and not exceeding twenty Rupees the tahseeldar "shall investigate; and under clause 2d section "IV Regulation IV of 1821 is to make report "to the Magistrate forwarding the examinations "&c" and keeping "the prisoner in the Cutcherry."-

The foregoing rule being altogether unauthorized by any provision contained in the Regulations, and indeed directly at variance with the provisions of section IV Regulation IV of 1821, wherein the mode of proceeding there directed is expressly limited to cases of theft, wherein the value of the property stolen shall not exceed five rupees; the Court of Foujdaree Udalut direct, that the Magistrate be instructed immediately to cancel the order, and to enforce on the Heads of Police a strict adherence to the prescribed limitation in their proceedings under the authority given by section IV Regulation IV of 1821.-

Circular Sent 5th 4th Para

The observations of the 3d Judge and the record of proceedings on this case have forcibly attracted the attention of the Court of Foujdaree Udalut to the great import=ance of requiring the General officers of police to make on all occasions an immediate record

J

of complaints preferred before them, wherein
should be entered the date of the charge, the
particular circumstances of the offence, the
time when and place where it is alleged
to have been committed, - the names of the
accused or suspected persons, when designated,
and the number of persons stated to have
been concerned. This record should always
accompany the proceedings transmitted to the
Magistrate or Criminal Judge, in addition to
such depositions as may be taken by the
police officer subsequently to the appreh-
=sion of the accused.

4 The Court of Foujdaree Adawlut
direct, that the several Magistrates be
instructed to require the various officers
of police empowered to hold preliminary
enquiries in criminal cases invariably on
receiving a complaint to frame a record
of this description, attested by their signatures,
and containing the above particulars.

5 Ordered, that extract of these
proceedings be sent to 3d Judge late on Circuit
in the Centre Division by precept requiring
him to make the necessary communication
to the Magistrate in the Zilla of Ballary.-

Sent 29 Sent following precept No. 284.

6 Ordered also, that extract of these

these proceedings be sent to 4 Provincial
Courts of Circuit by precept requiring them
to communicate the same to the several
Magistrates for their information and guidance.

Sent 29 Sent following precepts No. 285.

W. H.

W. H.

At a Court of the Faujdaree Adalut

Present,

Tuesday 29th July 1823 — Charles Harris Esquire, Judge
George Dowan Esquire, Judge

Read letter, dated 7th Ultimo

from the 2d Judge late on Circuit in the Centre Division

Submitting Case No. 10 Jungleput Calendar 5th Sessions

1823.

Here enter No. 429

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-Coozat and Mooftees of the Sudder-Dareel-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

Moottummay,

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

Sent following letter No. 289.

The prisoner in this case stands charged with having robbed Sudee, the daughter of the prosecutor Mootayn, of certain jewels which were on her person, and afterwards murdered her by throwing her into a well.

The Court of Faujdaree Adalut have confirmed the futwa of Kisaas delivered by their Law

29th July 1823

Law officers in this case; founded upon the testimony of the three first witnesses to the prisoner's confession in their presence, that she threw the deceased into a well, and to her having pointed out the well in which the body was found: but the Court are constrained to record their marked disapprobation of the loose and precipitate manner in which the examinations were conducted by the Dy Judge presiding at the trial, and his omission to take evidence to material facts, which must have been within his reach.-

3 It was most material in this case to ascertain the identity of the trinkets produced in Court as the property of the prosecutor, and as having been worn by the deceased child at the time of her disappearance, and to trace their progress into the possession of the prisoner.-

4 To these points the evidence taken on the trial is most unsatisfactory: The first witness indeed deposes, that the prisoner stated that she had placed the trinkets in the hands of one Coopachy; and the Court find in the proceedings of the Criminal Judge a deposition of the witness, Coopachy, to this important fact:- yet this witness was not examined on the trial.-

5 By the deposition of the prosecutor it appears, that the first information of the prisoner's having taken away his daughter was given him by a boy employed in

29th July 1823

in grazing cattle. It does not appear that this boy was ever examined though possessed of information so material. His attendance should have been required by the Dy Judge, and his evidence taken, if found to understand the nature and obligation of an oath.-

6 The Court direct, that the attention of the Magistrate be called to the irregularity of the Acting Tahsseldar, Tirunal Row, in causing the declaration of the prisoner to be attested by two persons, who were not present at the time when it was delivered by her and reduced to writing.-

7 After the reiterated orders of the Court of Foujdaree Udalut on this subject they are of opinion, that an inattention to the provisions of the regulations in this particular by the Police should be visited with exemplary punishments.-

8 The prisoner's declaration before the Criminal Judge, wherein she admitted her declaration before the Head of Police, was not attested by witnesses: an omission improper because although the original declaration did not contain a confession of the murder it exhibited an admission of the material facts, that the prisoner had taken the child from the house of its parents, and had delivered to Coopachy trinkets, which the prisoner represented the child to have given to her.-

9 In conclusion the Court of Foujdaree Udalut have to observe, that the English translation of the preliminary proceedings in this case manifests the

the same inattention and neglect of duty on the part of the Criminal Judge as has attracted the attention of the Court in the several other trials recently referred from this Zilla.-

10 The Court will recite one or two passages in proof of the fact, that the translation must have been performed by an ignorant native, and attested by the Criminal Judge without even a cursory perusal.-

11 In the examination of the prisoner before the Criminal Judge occurs the following question; "How you come to day with the Prosecutor that he can find his daughter if he "see into the well".-

12 In the examination of the prosecutor appears a question couched in the following words:- "When this circumstance has taken place".-

13 Another question runs thus:- "At what time was your daughter found "first missed".-

14 The Court of Zuddaree Udalut will consider it their duty to notice in the most serious manner any future instance of inattention on the part of the Criminal Judge to the duty of preparing the translations in cases brought before the Court of Circuit.-

15 Ordered, that extract of these proceedings be sent to 2d Judge late on Circuit in the Centre Division by precept requiring him to communicate to the Criminal Judge and the Magistrate of Chinglepet such parts thereof as concern those officers

F. R.

29th July 1823.

Cont'd

officers for their respective information and guidance.-

/Sent following precept No. 290/

Read letter, dated 18th May last from the 3d Judge late on Circuit in the Centre Division; submitting case No. 22 Bellaree Calendar second Sessions A.D. 1822.-

/Here enter No. 370/

The Judges of the Zuddaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoners is sufficient to convict them of having aided in the robbery of the house of the prosecutor Rogapah and in the attack made on the officers of police desire under clause second section II Regulation I of 1818 that their Law officers so declare by a second futwa to what specific punishment the prisoners would have been liable under the Mohummudan Law if they had been convicted by full legal evidence of the above crimes.-

Ordered, that extract of these Proceedings be translated and delivered to the Cazee-ool-Coozat and Mooftees of the Zuddaree Udalut.-

50

W.R.

Read letter, dated 22d Instant from the 1st Judge of the Court of Circuit in the Northern Division with returned warrant for execution of prisoner in Case No. 9 Masulipatam Calendar 2d Quarterly Sessions 1823.-

/Here enter No. 306/

At a Court of the Foujdaree Udalut

Wednesday 30th July 1823 } Present Charles Harris Esquire, George Gowan Esquire } Judges

Read letter, dated 5th Ultimo from the 3d Judge on Circuit in the Western Division, submitting case No. 41 Malabar Calendar 1st Sessions 1823.

/Here enter No. 418/

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 Ravoomattil Kuccy Nair, 2d Ravoomattil Kondoo is sufficient to convict them of manslaughter as in under the provisions of Clause Second Section II Regulation I of 1818 that their Law Officers do declare by a second futwa to what specific punishment the prisoners would have been liable under the Mohummudan Law if they had been convicted by full legal evidence of the above crime.—

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

F. H.

At a Court of the Zoujdaree Udalut

Present

Thursday 31st. July 1823 } Charles Harris Esquire, George Govan Esquire } Judges

C. H.
G. G.

Read again letter, dated 5th. Ultimo from the 3d. Judge on Circuit in the Western Division Submitting Case No. 41 Malabar Calendar 1st. Sessions 1823.-

/Here enter No. 418/

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

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-Cozat and Mooftees of the Zoujdaree Udalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid, and in commutation of the penalty of Death adjudge the prisoner,

1st. Kanoomattil Unsery Nair,

to be imprisoned without iron and without labor for six months and then be released.

and the prisoner,

2d. Kanoomattil Kondoo,

to be imprisoned without iron and without labor for twelve months and then be released.-

/Sent following letter No. 291/

Lab 4th

Rad

Read again letter, dated 8th May last from the 3d Judge late on Circuit in the Centre Division, submitting case No. 22 Bellaree Calendar Second Sessions A.D. 1822.

/Here enter No. 370/

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

The Court having maturely consider=ed 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 declared in the futwa adjudge the prisoner,

1st "Podumdogadoo",

to be imprisoned and transported to such place or places beyond sea as the Governor in Coun=cil 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 the prisoner,

2d "Gungadoo",

to be removed to the Gaol in the Zilla of Chittoor and 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 fourteen years and then to be released.

/Sent the following letter No. 292/

In

31st July 1823. - 1.

In the letter accompanying the trial the 3d Judge recommends the distribution of rewards to several individuals for meritorious services performed by them, as shown by the record of proceedings in this case, in addition to the sum of one hundred and ten rupees, granted by him under the provisions of Section XXII Regulation IX of 1816.

2 The Court of Fouzdaree Udalut, concurring in opinion with the 3d Judge in regard to the claims of certain of the persons in question to further remuneration, do under the authority vested in them by the Section of the Regulation above cited, direct that the Magistrate of Bellaree be instructed to pay to Mullapa, the peon who was wounded, one hundred rupees in addition to forty rupees granted to him by order of the Court of Circuit, and to Mullareddee who seized the prisoners in this case such sum as will in addition to his share of the reward ordered to be distributed by the Third Judge make up the sum of seventy rupees, and the Court also direct, that a further sum of one hundred rupees be distributed in equal shares among the party, who accompanied the said Mullareddy in addition to what they

they may have respectively received under the orders of the Court of Circuit, dated 27th October 1822.

3 The Third Judge in his letter remarks on the circumstance of the prisoners' having been subjected to a detention of two months and to a journey of two hundred and thirty miles in consequence of their being sent to Coimbatore, to which place the Magistrate had proceeded on public duty; whereas the place where they were apprehended was distant only thirty seven miles from Bellaree.-

4 The Court of Foujdaree Adawlut do not find in the records any explanation of this measure, which was directly at variance with that provision of Section XXVII Regulation XI of 1816, to which the Court have so often found it necessary to call the attention of the Magistrates.-

5 The Court of Foujdaree Adawlut direct, that the Magistrate of Bellaree be required to explain his having sanctioned an arrangement, prohibited by the Regulations and involving the detaining of the prisoners, the Prosecutor, and the witnesses.-

6 In the 6th paragraph of the letter of the 3d Judge mention is made

made of a large reward, which was offered under the sanction of Government by the Magistrate of Bellary for the apprehension of Erra Naga, a notorious leader of gang robbers.-

7 The provisions of Section XXI Regulation IX of 1816 require, that all applications for permission to offer rewards exceeding the amount which the Magistrate is competent to offer of his own authority shall be made through the Court of Foujdaree Adawlut. No application having been made to the Foujdaree Adawlut in the case of Erra Naga, the Court direct that the Magistrate of Bellaree be called upon to explain the omission.-

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

(Sent following precept No 2935 Vol. 44 Vol. 22)

At a Court of the Foujdaree Adalut

Present,

Friday,
1st August, 1823. Charles Harris Esqre } Judges.
George Gowan Esqre }

Read letter dated 19th ultimo, from the Criminal Judge in the Zilla of Malabar, recommending the tender of a conditional pardon to a person concerned in a late murder.—

(Here enter No 492)

In consideration of the circumstances stated by the Criminal Judge, the Court of Foujdaree Adalut resolve to submit his application to Government, and to recommend that the Honorable the Governor in Council may be pleased to authorize an offer of pardon to Tum Patchen, on the terms specified in Section XX Regulation VIII of 1802.—

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

Sent following letter No 294.

W. H.

At a Court of the Zoujdaree Adalut

Present,

Monday,
4th August 1823. Charles Harris Esqre. } Judges.
George Gowan Esqre. }

Read return, dated 20th June last.
from the 2d Judge in Circuit in the Centre
Division,- making further return to precept
dated 6th May last calling for the record of
proceedings in case No 5. Chingleput Calendar
1st Sessions 1823-

(Here enter No 438.)

The Court having maturely con-
sidered the proceedings held before the Judge
on Circuit the futwa of the Provincial Law
officers and the futwa of the Cazee ool Cozat
and Mooftees of the Zoujdaree Adalut confirm
the said futwa of the Cazee ool Cozat and
Mooftees aforesaid and acquitting the
prisoner,

Summarod,

direct that he be set at liberty.-

(Sent following letter No 295)

Sent 16th

Read letter, dated 7th Ultimo,
from the 1st Judge of the Court of Circuit
in the Northern Division,- submitting case
No 3. Masulipatam Calendar 2d Quarterly
Sessions 1823.

(Here enter No 468)

The

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Bujdaree Adaulut 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,

"Bhaskira Ramdoss,"

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

(Sent following letter No. 296.)

The Court of Foujdaree Adaulut being of opinion that the conduct of the witnesses Pt. Sanjeevlacanta Chintadoo, Vooka Domadoo, and Vr. Bulmoory Rauniah, especially the latter, in pursuing the gang of robbers and apprehending the prisoner was highly meritorious, deem it proper with a view to stimulate others to a like strenuous exertion in furtherance of the ends of public justice to direct under the provisions of Section XXIII Regulation IX of 1816, that the sum of Rupees twenty five be given to each of the former and rupees fifty to the latter, as a reward for their promptitude and activity on the occasion.

Ordered, that extract of these proceedings be sent to the 1st Judge of the Court of Circuit in the Northern Division by precept directing him to communicate the same to the Magistrate of Masulipatam for his information and guidance.—

(Sent following precept No. 297.)

Read letter, dated 21st Ultimo, from the Criminal Judge in the Zilla of Malabar, submitting for the orders of the Court copies of a letter from the Magistrate of Malabar and of a correspondence with the joint Assistant Criminal Judge.—

(Here enter No. 507.)

The foregoing correspondence has arisen out of a communication addressed by the joint Assistant Criminal Judge to the Magistrate, regarding certain proceedings on the part of the District Police Officer, and of the Assistant Magistrate on a criminal charge.—

The Court of Foujdaree Adaulut do not deem it necessary to go into a consideration of the circumstances of the case referred to, so far as they are stated in the foregoing papers, an application to the Court of Circuit being open to all persons

persons considering themselves aggrieved by the acts of the inferior criminal tribunals; the object of the reference made by the Criminal Judge is, as stated in his letter, "to ensure from his Joint Assistant in his public correspondence, the observance "of ordinary official courtesy and respect;" and the Court of Foujdaree Adalut regret to find in the papers before them ample ground for the Criminal Judge's complaint of the joint Assistant's deficiency in these respects.—

3 The expression in the joint Assistant Criminal Judge's letter to the Magistrate of his opinion, that the conduct of the Magistrate and Tahsildar are equally irregular" and tone, in which he intimates to the Criminal Judge, what he conceives to be his (the Criminal Judge's) "duty," and pronounces his decision on the matter in question to be "quite arbitrary," are marked by a presumptuous flippancy in both instances, and disrespect to the Criminal Judge in particular by a spirit of insubordination, which demands the severe reprehension of the Court of Foujdaree Adalut.—

4 The Court trust, that the joint Assistant Criminal Judge will see the impropriety of his conduct, and that an admonition from them will be

F. M.
4th August 1823.

be a sufficient correction for his fault. They direct, therefore, that he be advised of his fault and admonished accordingly.

5. In transmitting their orders on this reference the Court of Foujdaree Adalut deem it proper to convey to the Criminal Judge their opinion, that all correspondence between the officers of the Criminal Judge and the Magistrate should be carried on between the heads of the two departments, or the persons in charge of them.—

Ordered, that extract of these proceedings be sent to the Criminal Judge in the Zilla of Malabar by precept, enjoining him to communicate the sentiments of the Court to the joint Assistant Criminal Judge for his information.—

(Sent following precept No 298.)

Read letter, dated 21st. Ultimo, from the 2d Judge on Circuit in the Western Division, reporting his arrival at Mangalore.—

(Here enter No 501.)

Read letter, dated 25th Ultimo from the 3d Judge late on Circuit in the Western Division, transmitting return to warrant for transportation of the prisoners in case No 14 Canara Calendar

4th August 1823 Calendar 1st Sessions 1823.-

(Hereunto № 512.)

Read letter, dated 31st ultimo, from the 2d Judge late on Circuit in the Centre Division,- with returned warrant for execution of prisoners in case № 40 Bellare Calendar 1st Sessions 1823.-

(Hereunto № 515.)

At a Court of the Sudder Adalut.

Present,

Wednesday,
6th August 1823 Charles Harris Esqre. } Judges.
George Gowan Esqre. }

Read letter, dated 9th June last,
C. H. from the 2d Judge on Circuit in the Centre
W.G. Division,- submitting case № 2 Chinglepat Calendar 1st Sessions 1823.-

(Hereunto № 416.)

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

1st Yellun,
2d Chinnamoonyen,
3d Cholegan,
4th Curyen,
5th Chinna Yellun
6th Raumy,
7th Moothy, and
8th Loobdy,

direct that they be set at liberty.-

(Sent following letter № 301.)

Ltr

The

1 The prisoners in this case stood charged with a theft, committed on or about 22d February 1822.-

2 It appears from the Chingleput Calendar 2d Sessions of 1822, that the prisoners were apprehended on 28th February 1822,- their examination before the Tahsildar bears date 26th April 1822, and their examination and that of the witnesses before the Criminal Judge is dated 29th May 1822, the Criminal Judge delayed taking the prosecutor's oath to the truth of the charge until 5th June 1822, for which no reason is assigned, nor does there appear by the record to have existed any bar to the commitment of the prisoners for trial at the 1st Sessions of 1822. Their commitment was, however deferred until 6th August 1822, and their trial having been then postponed by the 3d Judge on Circuit for further evidence, they were at last tried at the 1st Sessions for 1823, or one year after the date, when the trial ought to have taken place.

3 The Court of Foujdaree Adawlut direct, that an explanation be required from the Magistrate of the delay of the Head of District Police in examining the prisoners and from the Criminal Judge of his delay in bringing them to

to trial.-

4 The witnesses to the declarations of the prisoners before Soobiah, Acting Tahseeldar of Tirconaloor, stated in evidence that they were not present, when the examinations of the prisoners took place, and their declarations were reduced to writing. The 2d Judge in his letter accompanying the trial observes, that the uniformity of matter and expression in the several declarations is indicative of their having been fabricated, an observation in which the Court of Foujdaree Adawlut entirely concurs, and the prisoners allege that violence was used to make them admit the confessions, which under the circumstances of this case appears to be but too probable.-

5 The Court of Foujdaree Adawlut have so frequently directed, that the attention of all Heads of District Police should be particularly called to the provision contained in Section XXVII Regulation XI. of 1816, which requires that declarations delivered by prisoners before those officers shall be reduced to writing in the presence of the attesting witnesses, that they consider it to be the duty of the Magistrate to mark

the

the irregularity exhibited in the proceedings of the police officer above named, should he still belong to the establishment, with his severest displeasure.—

6. It remains for the Court of Dungarvan Boatut to perform the unpleasant duty of noticing the extraordinary irregularities and improprieties, exhibited in the proceedings of the 2d Judge on this trial.—

7 The examination of the 1st witness is limited to one question, as to the ownership of the property produced in Court, which was answered in the affirmative. But the witness was not asked how his capacity of identifying the property was derived, nor was any particular article of property specified in the single question put to him. An examination more loose or nugatory cannot well be imagined.—

8 The examination of the witnesses to the prisoners declarations before the Criminal Judge exhibits a proceeding hardly to be surpassed in impropriety.— The names of the three witnessed in question are entered at the head of the examination; and they

they are made to depose conjointly in the first person plural.—

It is scarcely necessary for 9 the Court of Dungarvan Boatut to observe, that testimony recorded in such a shape is altogether invalid, and that its being so entered involved a falsification of the record, it not being possible that any such deposition, as is therein exhibited, could have been delivered.—

The same remarks apply to 10 the entry on the record of what is termed the defence of the prisoners; wherein these eight persons are made to declare with one voice divers particulars relative to their examination before the Taksee Bar.—

Ordered, that extract of these 11 proceedings be sent to the 2d Judge on Circuit in the Centre Division, by precept requiring him to make the necessary communications to the Criminal Judge and the Magistrate and obtain from them the explanations above required.

(Sent following precept No 302/

Read letter, dated 4th June last, from the 2d Judge on Circuit in the Centre Division,— submitting Case No 4 Chinglepat Calendar 1st Sessions 1823.—

(Here enter No 434/ The

1. The prisoners in this case having been brought to trial in the jurisdiction of the Zilla of Chingleput for a perjury, stated to have been committed by them in a criminal trial held at Chittoor, without any authority obtained from the Court of Foujdaree Adalut for that purpose, as required by Section III Regulation VI of 1808, the proceedings against the prisoners are void in Law, and the Court of Foujdaree Adalut direct that they be quashed, and that the prisoners,

1st Potty Naick,
2d Moottiah Moodely,
3d Lyahsawmy Moodely and
4th Lyah Dutchadee,

be forthwith set at liberty.—

2 In transmitting their orders regarding the disposal of the prisoners in the above case the Court of Foujdaree Adalut will make but one observation on the conduct of the trial by the 2d Judge, namely that the depositions said to contain the false swearing, charged against the prisoners were not put in, or proved on the trial.—

3 The 2d Judge in his letter accompanying the trial states, that

he "used his best endeavours to avoid "being compelled to sit in judgment on "this case of Perjury:" "in which the four "defendants were committed at the 4th "Quarterly Sessions of 1822 at Chittoor," at which the 2d Judge presided.—

4 The motive intimated here by the 2d Judge for the illegal arrogation of authority, which has vitiated the proceedings in this case, namely that he might thereby avoid sitting on a trial for a perjury committed before himself as Judge presiding at the Court of Quarterly Sessions, evinces either an inattention to the provisions of Section VI Regulation VI of 1811 on this subject, or a departure from the principles of those provisions, founded on his own private judgment of its inexpediency, and whichever be the fact, his conduct merits the censure of the Court of Foujdaree Adalut.—

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 issue the necessary instructions to the

Criminal

6. August 1823.

Criminal Judge in the Zilla of Chingle-
=put-

Sent following precept № 303.)

Read letter, dated 5th Instant,
from the Secretary to Government in the
Judicial Department, stating that the
Governor in Council sanctions the
conditional offer of pardon to Timbatchen
recommended by the Criminal Judge of
Malabar.-

(Here enter № 517.)

Ordered, that a copy of the
foregoing letter be sent with extract
from the Court's proceedings of the 1st
Instant for the information and
guidance of the Criminal Judge in
the Zilla of Malabar.-

Sent following letter № 3041

J.D.

W.M.

Z.M.

At a Court of the Foujdaree Adalut
Present,

Thursday,
7th August, 1823. Charles Harris Esqre. } Judges.
George Gowan Esqre.

Read letter, dated 29th Ultimo,
from the Secretary to Government in the
Judicial Department, stating that the
Honorable the Governor in Council sanctions
the appropriation, proposed by the Court
of Foujdaree Adalut under date 6th Ultimo,
of the fine levied in the case of forcible
proselytism and kidnapping, described
in the 6th paragraph of the report of
the 1st Judge late on Circuit in the Western
Division, dated 24th June last; and desiring
that the Court will state whether the
Regulations admit of the due punish-
=ment of this offence.-

(Here enter № 509.)

The Court of Foujdaree Adalut direct
that the 1st Judge of the Court of Circuit in the
Western Division be instructed to issue the
necessary orders to the Magistrate for carry-
=ing into effect the resolution of the Honorable
the Governor in Council, conveyed in the
foregoing letter.-

In an extract of the proceedings
of

of the Poudjaree Adalut submitted to Govern-
ment under date 7th June 1821, the 3d Judge
of the Court of Circuit in the Western Division
was desired to propose such special provisions
as might appear to him to be best calculated
to check the practice of forcible proselytism
to the Mohummudan Religion: and on 15th August 1822
the Court laid before the Government a report, dated
31st July 1822, from the 3d Judge, wherein he stated his
opinion that any legislative interference
would only aggravate the evil, the Court of
Poudjaree Adalut at the same time expressing
their opinion "that the induction of Hindoo
"infants into the Mopla community by
"forcibly subjecting them to the ceremonies
"observed at 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."

3 In the particular case, which
has been brought to notice by the 1st Judge
of the Court of Circuit in the Western Division,
the fatwa of the Law Officer, founded as
the Court presume upon some peculiar
act of illegal violence, declared the prisoners
liable to a sentence, which under the
provisions of Regulation XV of 1803
might on reference to the Court of Poudjaree
Adalut have involved any punishment
short of death. As, however, the use

of coercive measures in order to proselytism
is not generally punishable under the
Mohummudan Law, which in this respect
has not been modified by any Regulation,
the Court of Poudjaree Adalut beg leave
on mature deliberation to propose the
enactment of provisions to the following
effect.-

First- That any person amenable to
the jurisdiction of the Courts of Criminal
Judicature, who may be convicted of the offence
of causing either by persuasion or violence
any Hindoo married woman, or any male
or female Hindoo under the age of sixteen
years, without in the one case the consent
of the husband or in the other of the parents
or guardians of the party to perform
ceremonial or other acts inductive to the
Mohummudan Religion, or of compelling
by force any adult Hindoo of either sex
to perform such acts, shall be committed
for trial before the Court of Circuit.-

Secondly— That in such cases the
fatwa of the Law Officer of the Court of
Circuit, before which the trial may be
held, shall declare only whether the
prisoner be legally convicted, or if not
whether there be strong ground of
presumption that he is guilty of the
offence charged against him.-

Thirdly,

7th August 1823

Thirdly— That if the futwa so given shall declare the prisoner legally convicted, or that there is strong presumption of his guilt, and the Judge of Circuit before whom the trial may be held shall concur in the conviction of the prisoner or in the presumption of his guilt so as to render him a proper object of punishment, and the circumstances of the case shall not appear to call for a more severe punishment than what the Courts of Circuit are authorized to adjudge, under the provisions of Clause seventh Section II Regulation XV of 1803, the Judge shall sentence the prisoner to suffer such punishment as may appear adequate to his guilt within the limitations prescribed in that clause.—

Fourthly— That when the circumstances of the prisoner may admit of it, he be adjudged in addition to the above punishment to pay such fine, as may appear to the Judge of Circuit to be proper, not exceeding five hundred rupees, the amount to be given to the injured party.—

Fifthly— That if in any instance the above punishment appear to the Judge of Circuit to be insufficient he shall transmit the trial with his sentiments thereupon to the Court of Foujdaree Adawlut, who

2 F.D.
7th August 1823

who shall have authority to pass such sentence upon the prisoner not extending to capital punishment as they may deem proper.—

4 In conclusion the Court of Foujdaree Adawlut deem it proper to suggest that the third of the foregoing provisions be substituted for clause second Section II Regulation I of 1818, which Clause was intended to be taken from Clause second Section VI Regulation XVII of 1817 in the Bengal Code, but has been so worded as to leave the power of the Court of Circuit in the cases to which it refers altogether undefined, and is moreover wholly nugatory in itself, as no provision contained in the general Regulations is applicable to a case, wherein no punishment is declared by the futwa and no specific penalty annexed to the offence by a Regulation.—

Ordered, that copy of the foregoing letter from the Secretary to Government in the Judicial Department and extract of these proceedings be sent to the 1st Judge late on Circuit in the Western Division by precept directing him to make the necessary communication to the Magistrate of Malda for

7th August 1823.

For his information and guidance.-

(Sent following Precept No. 305)

Ordered also, that 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. 306.)

W. H.

F. C.

At a Court of the Faujdaree Adalut

Present

Tuesday - -
12th August 1823 } Charles Harris Esquire
George Gowan Esquire } Judges

Read letter, dated 21st Ultimo from the 1st Judge on Circuit in the Southern Division, with copy of Combaconum Calendar of second Sessions 1823.-

C. K.
WL

/Hereunto No. 497/

1 The Court of Faujdaree Adalut direct that the 1st Judge be instructed to enter in the column of remarks on Calendars laid before the Court an abstract of the finding in all cases of acquittal, as well as in cases of conviction.-

2 Ordered, that Extract of these proceedings be sent to the 1st Judge on Circuit in the Southern Division for his information and future guidance.-

/Sent following letter No. 307./

1 The Report prescribed by the Section XXXV. Regulation X of 1816. not having been received from the Zillas of Combaconum and Cuddapa for the last quarter.-

2 Ordered, that the Criminal Judges of the Zillas of Combaconum and Cuddapa be by Precept commanded to send up the Report without further delay and to explain the

circumstances

12th August 1823.

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 following Precept No 308.

Sent 14th

30

p. 11.

At a Court of the Foujdaree Adalut

Present.

Thursday 14th August, 1823 — Charles Harris Esqre. } Judges.
George Gowan Esqre. }

Read letter, dated 10th Instant, from the 2d Judge late on Circuit in the Northern Division, - submitting case No 19 Chicacole Calendar for Sessions A.D. 1823 - (Reference No 487).

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

Ammut Khan,

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 following letter No 314/

Read

Read letter dated 16th Ultimo, from the 2d Judge late on Circuit in the Northern Division,- submitting case No 4 Chicacole Calendar 1st Sessions 1823.

(Here enter No 489.)

The Judges of the Foujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them are of opinion that the proof against the prisoner, Soonday Dogee Saw is sufficient to convict him of having put to death the deceased Narrayanah, desire under the provisions of Clause second Section II Regulation I of 1818 that their Law Officers will declare by a second futwa to what punishment 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.-

Read letter, dated 16th Ultimo from the 2d Judge late on Circuit in the Northern Division,- submitting case No 2 Chicacole

(Here enter No 490.)

The Judges of the Foujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them are of opinion that the proof against the prisoner, Madavarow too, is sufficient to convict him of Manslaughter desire under the provisions of Clause second Section II Regulation I of 1818 that their Law officers will declare by a second futwa to what punishment the prisoner would have been liable under the Mohummedan Law if he had been convicted by full legal evidence of the above offence.-

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

W. H. Read return, dated 8th Instant, from the Provincial Court of Circuit in the Northern Division,- to precept dated 26th Ultimo ordering communication to the Magistrates of the Courts orders relative to the recording of Complaints.-

(Here enter No 535)

Read return, dated 1st Instant, from the Provincial Court in the Central Division

4th August 1823. Division — to precept dated 28th Ultimo ordering communication to the Magistrates of the Courts orders that a record be made of all original complaints preferred to the Police Officers.—

(Here enter № 522)

Read letter, dated 2d Instant, from the 3d Judge late on Circuit in the Western Division,— with returned warrant for execution of prisoner in case № 5 Malabar Calendar 1st Sessions 1828.—

(Here enter № 528)

Read letter, dated 5th Instant, from the 1st Judge on Circuit in the Southern Division,— reporting his arrival at Salem.—

(Here enter № 527)

Read letter, dated 4th Instant, from the 2d Judge on Circuit in the Western Division,— with returned warrant for execution of prisoner in case № 10 North Malabar Calendar 1st Quarterly Sessions 1828.—

(Here enter № 529)

Read return dated 4th Instant, from the Provincial Court of Circuit in the Western Division,— to precept dated 28th Ultimo ordering communication to the Magistrates of the Court's orders that all complaints before Native Officers of Police be immediately recorded.—

(Here enter № 531)

At a Court of the Foujdaree Adalut

Present,

Friday, 15th August, 1828.— Charles Harris Esqre, George Gowan Esqre } Judges

Read again letter, dated 16th Ultimo from the 2d Judge late on Circuit in the Northern Division,— submitting case № 4 Chicacole Calendar 1st Sessions 1828.—

(Here enter № 489)

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 sentence of Kisp as declared in the futwa adjudge the prisoner,

Soonday Logee Saw

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

(Vide following letter № 315.)

15th August 1823

1 It appears by the evidence before the Court of Circuit in this case, that the declaration of the prisoner was delivered by him in the Wodya dialect, but taken down in writing in Teloogoo, that neither of the subscribing witnesses to its correctness understood Teloogoo, and that one of them was not present during the delivery of the declaration—

2 It is a matter of surprize and regret to the Court of Foujdaree Adalut to find in the proceedings of a Head of District Police irregularities, so gross as are here exhibited, after their reiterated injunctions to the several Magistrates on the subject of police confessions—

3 It is not necessary for the Court to observe, that a declaration taken down in a language different from that used by the declarant can have no validity whatever: in the present case indeed it would seem that the prisoner's declaration was recorded in a language which he did not understand; and that he must consequently have affixed his signature in verification of a record, the contents of which were wholly unknown to him—

15 August 1823

The Court of Foujdaree Adalut direct, that the attention of the Magistrate of Ganjam be particularly directed to the necessity of taking effectual measures for the conviction of irregularities of this nature, and in order thereto the Court consider it to be necessary that the conduct of Calavy Soobarow, Head of Police of Pooliconda, in this case should be visited with severe punishment—

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 the same to the Magistrate of Ganjam for his information and guidance—

(Sent following precept No 316)

Read again letter, dated 16th Ultimo, from the 2d Judge late on Circuit in the Northern Division, submitting case No 22 Chicacole Calendar 4th Sessions 1823—

(Here enter No 490)

Read the second finding delivered in this case by the Cazee collegate and Moofties 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 Tourjaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and in commutation of the penalty of Deyat adjudge the prisoner,

Madavarow top,

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 317)

Sent 20th

C.C.

C.C.

At a Court of the Foujdaree Adalut.

Present,

Friday 22d August 1828.- Charles Harris Esqre. } Judges.
George Gowan Esqre. }

Read letter, dated 31st Ultimo, from the 3d Judge late on Circuit in the Western Division,- submitting case No 31 Malabar Calendar 1st Sessions 1828.-

C.C.
W.C.

(Here enter No 326)

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 Tourjaree Adalut confirm the said of the Cazee ool Coozat and Mooftees aforesaid and under the sentence of Kohoolut declared in the futwa adjudge the prisoner,

1st Valliawittil Raman 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 seven years and then be released.-

And the prisoner,

2d Valliawittil Govinden,"

to be imprisoned and kept to hard labor

labor in irons on the public roads or other public works for and during the period of four years and then be released.—

Sent 525

(Sent following letter No 325.)

Read letter, dated 30th Ultimo from the 3d Judge late on Circuit on Circuit in the Western Division,— submitting case No 30 Malabar Calendar 1st Sessions 1823.—

(Here enter No 525.)

The Court of Foujdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoner, Parrahat Chekotty, is sufficient to convict him of having aided in putting to death the deceased Veyoo Kutty Comah, desire under the provisions of Clause second Section II Regulation I of 818 that their Law Officers do declare by a second futwa to what punishment 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

22d August 1823.

delivered to the Cazee ool Cozat and Mooftees of the Foujdaree Adalut.—

W. H. B.

P. 11.

At a Court of the Pujdaree Adalut.

Present,

Saturday 23d August 1823

George Stratton Esqre Chief Judge.
Charles Harris Esqre
George Gowan Esqre } Judges.

C.A.

Read letter, dated 26th April from the 3d Judge late on Circuit in the Centre Division, submitting case No 1 Cuddapa Calendar 2d Sessions A.D. 1822.

(Here enter No 333)

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 Coogat and Mooftees of the Pundaree Adalut confirm the said futwa of the Cazee ool Coogat and Mooftees aforesaid and under the sentence of Kohoolut declared in the futwa adjudge the prisoner,

1st Hunoo Rungadoo,

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

during the period of two years and then be released.- And the prisoners,

2d Chinniagadoo; and

3d Pydiccalva Gungadoo,

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 be released.-

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

4th Kunda Narrengadoo,

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

(Sent following letter No 326)

Sent 30

To The Court of Foujdaree Adawlut

I have perused the record of proceedings in this case with astonishment and regret; finding them to exhibit deviations from the most obvious principles of Judicial investigation, and a departure throughout from the spirit as well as the letter of their clear and positive instructions, issued for the guidance of the lower Courts

Courts in conducting trials for the crime of Perjury.-

2 The Court will first address themselves to the consideration of the cases of the second and third prisoners, which are marked by circumstances differing in some essential particulars from those of the cases of the first and fourth prisoners, and will then record such observations on the trial generally, as would appear to be requisite for the correction and information of the several officers concerned in the proceedings.-

3 The charge against these two prisoners, which the Court are unable to quote from the defective and informal arraignment, to which they were called on to plead before the Court of Circuit may be stated to be, that they falsely deposed on Oath on 15th September before the Assistant Magistrate, and on 20th of the same month before the Criminal Judge, that they saw two persons, named Vingadoo and Gungadoo, put to death one Conda Reddy.-

4 In order to a consecutive review of the proceedings in the cases of these two prisoners, it is necessary to

to commence with a reference to certain examinations, entered at page 115 of the record and headed "further documents".-

5 The first is an examination of the second prisoner, Chinniagadoo, as a witness, before the Assistant Magistrate, Mr Wheatley, under date 30th August 1820, or sixteen days before the date of the first deposition mentioned above, wherein he swore that he saw the murder of Condareddy perpetrated by the two individuals there named.-

6 The Court will recite a part of this examination. The witness is first addressed as follows:-

"Q. State correctly what you know "about the murder of Condareddee"?

"A. I do not belong to that village "and I know nothing about it."-

"Q. You came to give evidence, if "you do not know any thing why did "you come to give evidence?"-

7 In answer to this question the witness goes into a long detail, the substance of which is, that himself and the third prisoner in this case had been desired by three persons, whom he named, "to state that Pusala Gungala

said Cannullee Vengadoo had killed

23d August 1823. "Condareddee;" that on their refusal one of the said three persons offered them 50 rupees if they would so state; and that upon their still persisting in the refusal they were put in to guard until evening and then released.-

8 The witness being next asked why the offer of 50 Rupees was made stated, that the persons to whom he referred had been "put "in Jail on account of a robbery", and that if "they proved by witnesses "that Vengadoo and Gungadoo were "the murderers these two would be "confined and they would be released "from Jail."-

9 In the last question put to the witness he was asked where he was "on the day on which Condareddy was stabbed;" to which he answered that he went to Cumbum one month before, and stayed in the house of his father-in-law an "six days after the death of Cond "reddy" came with his wife to

Canaluppa

23d August 1823.

Camalupoor from Cumbum, where they heard of it.-

10 Then follows the examination of Pydecalva Gungalva, the third prisoner in this case before Mr Wheatley, as a witness. It is dated 31st August 1821 or fifteen days before the date of the examination, in which he first deposed as having been an eye witness of the murder of Conda Reddy.-

11 The Court cannot avoid the recital of some parts of this most extraordinary examination; the first part of which runs as follows:-

"Q. State correctly what you know "about the murder of Conda reddee."-

"A I know nothing about it."-

"Q You came as a witness state what "you know about it, you did not come "as a prisoner?"

"A I know nothing"-

"Q What did you hear?"

"A I heard nothing."-

"Q Did you not hear that Conda reddee "was stabbed?"

"A. I heard the people say so but I "did not see it.-

"Q What did you hear?"

"A

23d August 1823.

"A I heard that Conda reddee was "stabbed."-

"Q Where was you on that day?"

"A I was at Tungadoopully.-

"Q Did you go to Kumpullee on the "following day on which Conda Reddee "was stabbed?"

"A I did not but I heard in my village "that he was stabbed".-

12 After one or two questions regarding what the witness had heard as to the time and manner of the murder, a question is put founded apparently upon some information not in the record respecting the witness's having been near the house wherein the murder was committed, he however throughout disavowed all knowledge of the transaction, of which he stated he had heard three days after it occurred.-

13 On the 15th September Chinniagadoo was brought again before Mr Wheatley for examination; and being desired to state what he knew of the murder of Condareddy, deposed to all the particulars of the murder, which he described himself to have seen committed by Vengadoo and Gungadoo-

&c

23. August 1823.

He was then questioned particularly as to certain circumstances affecting Poolaredda the brother of the deceased. and the examination closed without any allusion to his previous deposition.

14 The same observations apply to the examination of Pyduculoo Gungoolu on the 15th September, wherein he also being in like manner called upon to depose delivered a particular account, as an eye witness of the murder.

15 The depositions of these two persons on 20th September before the Criminal Judge are to the same purport as those given by them on the 15th before the Assistant Magistrate.

16 On the 28th September a letter was addressed by the Criminal Judge to the Magistrate, enumerating various points, on which the evidence in the case of the murder of Canda-reddee was defective, and particularly noticing certain inconsistencies and improbabilities, tending to throw suspicion on the evidence of the persons, who deposed as eye witnesses

3/ F 11

witnesses of the transaction.-

17 Before the Court of Foujdaree

28th August 1823 Adalut proceed to notice the proceedings held against these persons on the charge of perjury it is incumbent upon them to notice with serious reprehension the proceeding of the Assistant Magistrate, Mr Whatley, as here exhibited.-

18 After the witnesses had disavowed all knowledge of the transaction in a deposition upon oath, it is manifest that any account which they might deliver, describing themselves as eye witnesses of the murder, could not be credited.-

19 It will be for the Assistant Magistrate to explain how he could admit or proceed upon testimony so manifestly unworthy of the slightest credit, and how it happened that he overlooked the previous statement of the witness Chinniagadoo, that he had been incited by persuasion, bribery, and threats to depose as he subsequently did; and neglected to call the attention of the deponent to the contradiction between his two depositions. The Court of

Foujdaree

Tongdarree Adalut require also to be informed whether the depositions of these two persons, taken on 30th August, were forwarded to the Criminal Judge in the first instance with the original proceedings in the case; if they were so forwarded it is difficult to understand the Criminal Judge's letter of 28th September or to account for his taking depositions from these two witnesses; if they were not, the Court of Tongdarree Adalut hope that the Assistant Magistrate will be able satisfactorily to account for the omission.—

20 The next proceeding in order of date in the cases of the second and third prisoners is an examination of the former, Chinniagadoo, held by Mr. C.P. Brown Assistant Magistrate, commencing on 11th and continued on the 18th 19th of May 1821.—

21 Of this most extraordinary examination the Court of Tongdarree Adalut will only observe, that in it the prisoner was not apprized of the charge against him, but by a series of leading interrogatories was brought to acknowledge that

that he had sworn falsely before the Magistrate and the Criminal Judge, and was then sworn to the truth of this confession.—

22 The above remarks apply also to Mr Brown's examinations of the prisoner, Pydeecalva Gungadoo.—

23 In a paper placed at the commencement of the record, dated 28th June 1821 and bearing the signature of this officer, in which are recited the substance of certain declarations of the prisoners not entered in the record, mention is made of some order of the Court of Circuit, on which was founded the proceeding of swearing the prisoners to their confessions.—

24 In his letter referring the trial the Pr. Judge intimates, that the order referred to must have been misunderstood by the Assistant Magistrate; the Court of Tongdarree Adalut have not before them the instructions in question, but the Assistant Magistrate might have found in the provision of Clause first Section XXIII Regulation IX of 1816 which prohibits the swearing a prisoner to

to his declaration a rule of conduct superseding in authority any other:-

25 Of the preliminary proceedings against the first prisoner Runda Rungadoo the Court of Foujdaree Adalut have only to observe, that as he originally deposed to the facts sworn to by him before the Criminal Judge, and admitted on the trial to be false his case differs materially from those of the second and third prisoners. The proceedings of Mr. C.P. Brooon against this prisoner were however equally improper with those held by him against the two latter.-

26 The proceedings held against the prisoners by the Assistant Criminal Judge call for no other observation than that the statement in the nature of an indictment is framed without any attention to the form, prescribed in the circular orders of the Court of Foujdaree Adalut, and directed to be "in all instances conformed to as far "as the nature of the case will admit". The statement drawn up by the Assistant Criminal Judge is redundant, and wanting in accuracy and precision. It

may however be said, that it creates the fact in opposition to the false deposition of the accused, and so charges them with perjury.-

27 The arraignment of the prisoners before the Court of Circuit, which is too long for insertion, is also completely at variance with the form prescribed, and can scarcely be said to express a charge of perjury.-

28 The Court of Foujdaree Adalut deem it proper on this occasion to record their severe reprehension of the neglect of their orders in this particular, exhibited by the Assistant Criminal Judge, and by the 2d Judge of Circuit. Nothing was more easy than to have adapted the prescribed form of arraignment to this case, and no excuse is discoverable for a departure from it.-

29 According to the circular orders of 31st January 1820 the arraignment of the first prisoner should have run in the following terms:-

"You Runda Rungadoo, stand charged with

with having committed wilful perjury in that you being a witness in criminal case K— wherein Vingadoo and Gungadoo were charged with the murder of Conda Reddy, and being called upon to depose to certain matters of fact material to the issue of the said trial did on 30th day of August 1820 before the Court of the Magistrate and on 20th September before the Court of the Criminal Judge, having been sworn to depose truly in the said matter depose on oath in words to the following effect:- Viz. that you saw the said Vingadoo and Gungadoo stabbing and slaying the said Conda reddee in the house of one Rance; whereas in truth and in fact you were not present at the scene of the murder and did not see it committed by the individuals or in the manner so deposed to by you; that such your evidence was material to the issue of the said trial, inasmuch as it went directly to establish the fact of the murder of Conda reddie against the said Vingadoo and Gungadoo and

and that you well knew at the time of the said swearing that your deposition so given was false, and did therefore commit wilful and corrupt perjury".-

30 The only further observation which the Court of Sudder Adalut deem it necessary to make upon the proceedings on the trial before the Court of Circuit is, that the first prisoner's plea of guilty should have been recorded and the explanatory or exculpatory matter which he had to offer should have been received after the close of the evidence for the prosecution.-

31 When the prisoners were put to the bar after the evidence for the prosecution had been concluded, it is stated in a note that the first prisoner was not put on his defence, as he confessed the crime on his arraignment.-

32 The circumstance of the prisoner's having pleaded guilty to the charge formed no valid ground for not taking his defence; and the examination which immediately took place of the witnesses on his behalf

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behalf is inconsistent with the entry that he was not put on his defence.-

Ordered, that extract of these proceedings be sent to the 3d Judge late on Circuit in the Centre Division by precept directing him to communicate to the Criminal Judge and the Magistrate for the information and future guidance of their assistants such parts thereof as concern those officers respectively.-

Sent 30th.

Sent following precept No 327/
The Junior Puisne Judge enters the following Minute.

E.H.

I have read with deep attention the proceedings in this case No 1 in which three prisoners are charged with the crime of perjury, and a fourth prisoner with the suborning of those three prisoners to commit the crime.-

I have also read the proceedings upon this case and the sentences proposed by the Chief Judge and Senior Puisne Judge of this Court, and as in my opinion these sentences are not warranted either upon the proceedings held by the lower Courts or upon the reasons recorded

5/ E.H.

22 August 1823

recorded in the proceedings of this Court, I deem it expedient that the reasons for my dissent should be submitted for the Chief Judge's and Senior Judge's consideration, and that in the event of their Judgment continuing unchanged this minute may be appended to the record of the trial.-

Under the provisions of Clause first Section IV Regulation VII of 1811 the crime of wilful perjury is defined to consist in a deponents intentionally and deliberately swearing to a fact material to a case in a Judicial proceeding which such deponent knows to be false.-

The 1st prisoner, Bundoa Rungadoo, appears from the proceedings (page 184) and to have been sought for as a prisoner to have been kept in restraint at the Village of Vempulle for six or eight days in the upper room of a dwelling, where he asserts he was starved and threatened with ill usage until he consented to give a deposition, calculated to fix the crime of the Murder of Condaready upon

upon two persons named Vingadoo and Gungadoo- and that from starvation and other apprehensions of ill usage he gave a deposition to that effect before the Assistant Magistrate on 30th August 1820. This deposition he afterwards when examined as a prisoner in 11th May 1821 confessed on oath to be false- and was in consequence committed for trial.-

That the above prisoner was at Vempully in confinement for 6 or 8 days is a fact, which may be amply known from the testimony of Shyk Masood in page 187 of the record and from the contents of other depositions of Police peons, who seized him about 18th or 19th August and conveyd him to Cuddapa on the 29th. His detention for such a period is no way accounted for- The proceedings of this Court admit, that undue means were resorted to, to induce the prisoners to falsely accuse the above persons of murder- and his unusual detention for no ostensible reason are facts of a sufficiently convincing

convincing nature to satisfy me that Hunda Rungadoo, is not guilty of wilful and deliberate perjury under the definition of that offence required to brand it as a crime- I regard him however, as not free from blame from not boldly and resolutely at once stating to the Assistant Magistrate (as the 2d prisoner did) that he had been worked upon- starved and threatened, and for thus allowing the Assistant Magistrate to believe his testimony pure and authentic. I considered him deserving of chastisement as an example to encourage him and others similarly circumstanced to declare the truth at once. Independent of these circumstances Hunda Rungadoo in his depositions of 30th August 1820 criminates himself as a thief accompanying the persons he accuses of murder by going at midnight to a prostitutes house to steal grain, which cannot but implicate him as an accomplice with the alleged Murderers and being an accomplice any testimony he

he might give without obtaining the grant of pardon under the conditions specified in Section XX. Regulation VII of 1802 would be a mere waste of words.-

With respect to the 2d and 8th prisoners Chinniagadoo and Pydeealoo Gungooloo, it is beyond all discussion manifest that on the 30th and 31st August 1820 when they were primarily examined on oath by the Assistant Magistrate, they denied all knowledge of the crime alleged against Vengadoo and Gungadoo, and the prisoner Chinniagadoo at that early period declared that the 4th prisoner Hunda Narreegadoo and some persons connected with the police mainly endeavoured by corrupt offers and menaces to procure him to depose similarly with Hunda Rungadoo- although the record does not positively express that those two persons after their first examination were kept in confinement in the Magistrate's office or other place of custody, yet as they were again examined by the Assistant

23d August 1823.

Assistant Magistrate on 15th September 1820, upon the same subject of their original depositions given on 30th and 31st August, I am firmly persuaded that the Magistrate's peons detained them in their charge for that time, and that during such detention the bribery threats and ill usage alleged by the prisoners in their defence to have been, were resorted to, in order to make them give the depositions they delivered on 15th September 1820 and which equally with Hunda Rungadoo implicated them as associates in the crime alleged to have been committed by Vengadoo and Gungadoo- Under the orders of this Court dated 31st June 1814, instructions were circulated to all Magistrates, requiring them when they considered a witness to be deviating from the truth, to warn him of the consequences of perjury, and under this rule, where such a glaring, bare faced deviation was testified as that contained in the depositions of 15th September 1820 contrasted with the previous

on

ones of 30th and 31st August 1821, it became the duty of the Assistant Magistrate to impress this warning upon the minds of the 2d and 3d prisoners, but so far from doing so, no positive notice was taken of the former depositions, which do not appear to have been produced until this charge for perjury was commenced upon. Under the impressions of the 2d and 3d prisoners being kept in durese 15 and 16 days after they had given true depositions I regard their testimony of 15th September 1820 as extorted and consequently that the charge of wilful perjury cannot lie against them.

If the prisoners had deposed as they did, under persuasion and threats of persons unconnected with the police authority of the District I should not have objected to their punishment but when, as I firmly believe was the case, such means are employed under the cloak of the authority of the subordinate officers

officers of police, I cannot but regard the conviction of the 2d and 3d prisoners as risking the purity of Justice, and conducive to rendering our Courts an engine of oppression, by punishing persons guilty of crimes that the subordinate officers of Courts of Law may compel them to commit. If on the other hand the prisoners can be looked upon as guilty of the crime of wilful perjury by intentionally and deliberately before the Assistant Magistrate and the Criminal Judge of the Zilla of Cuddapa giving false depositions on oath calculated to convict two innocent persons of a charge of murder, I should consider them as deserving of the greatest punishment authorized on conviction of the crime being 30 stripes with a Corah and imprisonment with hard labor for seven years.

Minute of the Senior Puisne Judge.

It is no where proved that force was used to compel the prisoners to depose that they saw the murder committ

committed. Any such attempt on the part of the police servants must have indubitably failed because the prisoners if unwilling to commit the perjury, had only to declare the truth before the Magistrate and the Criminal Judge. The Junior Puisne Judge confounds the idea of a confession of a prisoner before a Native, with that of a deposition of a witness before a European. The first may result from compulsion, while the other cannot possibly be conceived as flowing from any source but the mind and will of the speaker.—

That persuasion was used is indeed possible, but this plea, even if proved, would not avail the prisoners, because perpetrators of crimes are not cleared by the circumstance of their having had advisers. The regulations denounce, first those who commit offences, and then those who promote the same by hire, counsel, and command.—

No one wants to escape condemnation for murder by pleading either that he was forced, or that he was persuaded to commit it.—

In

In the proceedings before several irregularities and errors are attributable to the Assistant Magistrate, the Criminal Judge, and the Court of Circuit, but form no ground for ~~considering~~ reversing the sentence of the prisoners who by their silence and falsehood occasioned those irregularities and errors. Those authorities, tho' they acted with the best intentions, exerted their utmost power to discover the perpetrators of the murder of Condareddy, and succeeded in ascertaining that those accused of it never committed it, have been censured for what they did contrary to form and to a few rules. I am therefore not disposed with the Junior Puisne Judge to overlook the prevarication, contradiction and perjury which baffled all the efforts of those Gentlemen to detect the real Criminals, which had in view the execution of the Innocent, and which were the original cause of all the labor, intricacy, and anxiety of this case.—

The sentence passed on the prisoners was resolved on after weighing all the circumstances of

the

the case, and, if liable to any imputation it can be that only of excessive lenity considering the heinous nature and fatal tendency of the offence.-

Minute of the Chief Judge.-

I before stated my concurrence in Mr Harriss view of this case and having since perused Mr Gowan's Minute, I see no reason to induce me to alter my sentiments on the subject Mr Gowan observes with respect to the 1st prisoner, "I regard him however as not free from blame from not boldly and resolutely at once stating to the Assistant Magistrate that he had been worked upon, or starved and threatened and for thus allowing the Assistant Magistrate to believe his testimony pure and authentic- I consider him deserving of chastisement as an example to encourage him and others similarly circumstanced to declare the truth at once."

This observation applies with equal force to the 2d and 3d prisoners

prisoners any ill usage by Police Officers they may have suffered, but which is not proved, is no justification of their conduct for they ought boldly and resolutely to have declared the truth before the European Tribunals of Justice- The Judge on Circuit considers them guilty and deserving of punishment- He observes "The inferences which I have drawn lead my Judgment to deem all the four Prisoners liable to Punishment- The Law Officers of the Company's Courts observe "The statement of the 1st 2d and 3d prisoners regarding their having been tutored, enticed, or forced by certain persons to commit the crime above mentioned is not supported by proof." These opinions are at variance with Mr Gowan's view of the case and concur with Mr Harriss and mine.-

The ~~anticipated~~ mitigated punishment awarded to the 1st 2d and 3d prisoners on which Mr Gowan has remarked is warranted under clause 3d Section III Regulation VI of 1811. under the peculiar

23d August 1823 peculiar circumstances of this case, the Prisoners having been long in confinement in a state of uncertainty respecting their fate.-

W
C.H.
W.H.

Z.M.

At a Court of the Poydaree Adalat

Present,

Monday, 25th August, 1823.- Charles Harris Esqre / George Gowan Esqre } Judges.

The report prescribed by Section XXXVII Regulation VII of 1802 for the 1st Sessions of 1823 not having been received from the 2d Judge late on Circuit in the Centre Division.-

C.H.
W.H.

The Court direct, that the 2d Judge late on Circuit in the Centre Division be by precept commanded to send up the prescribed report, containing his observations made during the Circuit within ten days from the date of the receipt of the precept.-

Sent 26th

(Sent following precept No 328.

Read again return, dated 15th May last from the 3d Judge late on Circuit in the Centre Division,- to the Court's precept dated 8th April calling for report prescribed by Section XXXVII Regulation VII of 1802 for the 2d Sessions 1822.-

(Here enter No 350)

The above report not having

25th August 1823.

having been yet received, the Court direct that the 3d Judge late on Circuit be by precept commanded to send up the same without further delay.

Dated 26th C.H.

/Dut following precept No 329.

No. 1. Read again letter, dated 30th ultimo from the 3d Judge late on Circuit in the Western Division, - submitting case No 30 Malabar Calendar Ft. Sessions 1823.

(Here enter No 525)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees of the Foujdaree 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 Coozat and Mooftees of the Foujdaree Adawlut 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,

"Parrakat Chekotty,"

to receive 39 stripes with a rattan and to be imprisoned and transported to such place or places beyond Sea as the

25th August 1823.

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.-

Dated 27th /Dut following letter No 330/

Read letter, dated 28th Ultimo from the 3d Judge late on Circuit in the Western Division, submitting case No 8 Malabar Calendar Ft. Sessions 1823.

(Here enter No 524)

The Judges of the Foujdaree Adawlut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoner Cheroaman Reney Kallady is sufficient to convict him of having put to death the deceased Cheroaman Vellootah, desire under the provisions of Clause second Section II Regulation I of 1818 that their Law Officers do declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan Law, had he been convicted by full legal evidence of the above crime.-

Ordered, that extract of these

25th August 1823.

these proceedings be translated and
delivered to the Cazee ool Coozat and
C:H. Mooftees of the Toydaree Adalut.—
U.H.

U.H.

F.H.

At a Court of the Toydaree Adalut

Present,

Tuesday, 5th August, 1823. Charles Harris Esqre } Judges
George Gowan Esqre }

Read again letter, dated 28th Ultimo from the 2d Judge late on Circuit in the Western Division,- submitting case
C:H. No 8 Malabar Calendar 1st Sessions 1823.
U.H. (Heregister No 524)

Read the second futwa delivered in this case by the Cazee ool Coozat and Mooftees 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 Mooftees of the Toydaree 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,

Cheerooman Revey Kallady,

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

U.H.

The Court of Sanguinee Adalut have in conformity with the futwa of Hipaas, delivered by their Law Officer in this case adjudged the prisoner, Cheroman Revey Kallady, to suffer death, but being of opinion that the circumstances of the case, as disclosed in evidence, admit of the belief that the account given by the prisoner of the transaction in his examination before the Sahseldar may be true, and that in a moment of passion he mortally wounded the deceased without any deliberate intention of putting him to death, though the nature of the wounds inflicted evince a savage ferocity which demands exemplary punishment, the Court 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 for fourteen years' imprisonment

imprisonment and hard labor.-

Ordered that the foregoing trial and extract of these proceedings be sent to the Secretary to Government in the Judicial Department to be submitted for the orders of the Honorable the Governor in Council.-

(Sent following letter No 333)

2-29/Aug 28th

Read letter, dated 16th Instant, from the 3d Judge on Circuit in the Northern Division,- reporting his intention to leave Nellore on 17th Instant.-

(Here enter No 543.)

Read return, dated 15th Instant, from the Criminal Judge in the Zilla of Malabar,- to precept dated 4th Instant ordering communication to the Assistant Criminal Judge of the Court's orders on a reference respecting disrespectful language in his correspondence.-

(Here enter No 547.)

Read return, dated 18th Instant, from the Criminal Judge in the Zilla of Combaconum,- to precept dated 12th Instant calling for report prescribed by Section XXXV Regulation X of 1816.-

(Here enter No 549.)

Read

Read return, dated 14th Instant from the 1st Judge late on Circuit in the Western Division, - to precept dated 7th Instant ordering communication to the Magistrate of Malabar of the orders of Government relative to the distribution of the fine levied in a case of forcible proselytism.-

(Here enter No 552)

Read letter, dated 20th Instant from the 2d Judge late on Circuit in the Centre Division, - with returned warrant for execution of prisoner in case No 10 Chinglepet Calendar 1st Sessions 1823.

(Here enter No 554)

Read return, dated 15th Instant, from the 2d Judge late on Circuit in the Centre Division, - to precept dated 6th Instant ordering release of the prisoners in case No 4 Chinglepet Calendar 1st Sessions 1823.

(Here enter No 556)

Read return, dated 22d Instant, from the Criminal Judge in the Zilla of Cuddapa, - to precept dated 17th Instant, calling for report prescribed by Section XXXVI Regulation X of 1816.-

(Here enter No 559)

F. C.

At a Court of the Foujdaree Adalut

Present

Thursday 28th August 1823 } Charles Harris Esquire - } Judges
George Gowan Esquire }

Read letter, dated 7th Instant from the Criminal Judge in the Zilla of Bellary - submitting for the orders of the Foujdaree Adalut copy of a correspondence with the Magistrate regarding a case of murder and of certain examinations held therein.-

C. H.
W.

(Here enter No 534)

It appears from the foregoing papers that a prisoner named Bheem Redda was sent in by the Assistant Magistrate to the Criminal Judge on a charge of murder, and a person named Yelloga was forwarded as a witness, who had been originally apprehended as implicated in the charge, and whose declarations when examined as a prisoner, were forwarded to the Criminal Court with the other papers in the case.-

2 Yelloga having absconded previously to his examination by the Criminal Judge, that officer addressed a letter to the Magistrate transmitting a copy of the declaration, which he had delivered to the Assistant Magistrate at

when

when examined as a prisoner, from which the Criminal Judge drew a presumption of his being implicated in the murder of the prosecutrix's husband, and desiring to be informed of the steps which the Magistrate might pursue in the case.-

3 The Magistrate in reply stated his opinion that there was nothing against Yelloga excepting his concealing the confession alleged to have been made to him by Bheem reddy of the murder; and observed that it was for those from whose custody he had escaped to reapprehend him.-

4 The points intended to be submitted for the decision of the Foujdaree Adalut in this reference are not specifically propounded by the Criminal Judge; but the Court conclude them to involve, first the propriety of Yellooga's being sent in as a witness, and secondly the mode of obtaining his reappearance before the Criminal Court.-

5 There can be no question that it is competent to a Magistrate to admit as a witness an individual, who may have been originally included with others in a Criminal charge, but may have been regularly discharged from there being "no evidence of his having been "concerned" in the commission of the crime: it is at the same time obvious that this measure should be adopted with great caution to prevent the embarrassment which must arise from inadvertently admitting the evidence of an accomplice

accomplice without the observance of the forms requisite to render its admission legal; and that when it may be adopted, any examination of the party as a prisoner cannot regularly form a part of the record to be forwarded to the Criminal Judge, but should be submitted to the Court of Circuit, as prescribed by clause second section XI. Regulation IX of 1816.-

6 The Criminal Judge in his letter to the Court of Foujdaree Adalut notices a material circumstance affecting the witness Yellooga, which he does not appear to have preferred on the attention of the Magistrate, namely that the prosecutrix deposed to his having come to her house, and "called her husband away "at night after which she saw him no more."-

7 His testimony coupled with the strange and improbable story narrated by Yellooga of his accidentally finding Bheem reddy sitting by the body of the deceased, and the latter's confessing the murder to him, and the admitted fact of Yellooga's concealing his knowledge of the murder appear to the Court of Foujdaree Adalut to render him justly liable to strong suspicion, and to make the propriety of his discharge and the admissibility of his testimony by the Magistrate extremely questionable.-

8 The Court of Foujdaree Adalut in

28th August 1823

in their proceedings of the 16th May 1822 furnished to the Magistrate for his information and guidance distinctly stated their opinion, that it is the province of his department to cause the reappearance before the Criminal Court of a witness departing without permission, or before his examination.-

9 It is observable that in this case the Sarishtadar of Adoni, who held the preliminary proceedings, sent the parties to the Magistrate instead of forwarding them to the Criminal Judge as prescribed by section XXVIII Regulation XI of 1816; an irregularity which the Court have repeatedly noticed in the proceedings of the police officers in the district of Bellary.-

10 Ordered, that extract of these proceedings be sent to the Criminal Judge and the Magistrate of Bellary for their information and guidance respectively.-

Sent following letter No. 335.

1st to 30th Sept. C.C. W.H.

F. 11.

At a Court of the Foujdaree Adalut

Present,

Monday 1st September 1823.- Charles Harris Esqre. / George Gowan Esqre. } Judges.-

Read return, dated 19th Ultimo, from the 2d Judge late on Circuit in the Centre Division,- to precept dated 26th July last ordering communication to the Criminal Judge of certain observations of the Court on case No 7 Chinglepet Calendar 1st Sessions A.D. 1823.-

(Here enter No. 533.)

1 The Court of Foujdaree Adalut in their proceedings of 26th July last noticed the objectionable mode, in which the defence of prisoners is recorded by the 2d Judge, and directed that "in future after the close of the evidence "for the prosecution," the prisoner should be called upon "to state what he might "have to urge in his defence," and that the second Judge would "be careful "to record with precision what he "might thereupon set forth."-

2 In the foregoing return the 2d Judge urges the propriety of continuing the system hitherto observed by

1st September 1823.

by him of recording in the shape of a minute of Court the substance of what a prisoner may state when put on his defence; in consideration of the tediousness and unconnected shape in which his defence may often be uttered:-

Where a prisoner on being put on his defence may go into matter wholly irrelevant to the charge against him it is certainly competent to the Judge presiding at the trial to interrupt and ~~exercise a needful control upon~~ require him to confine himself to the points in issue; but it is indispensable, that what is recorded on a trial as the prisoner's defence should be in the words used by him, and not in the form introduced by the 2d Judge.-

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

Sent 14th

(Sent following Letter No 334)

20

At a Court of the Foujdaree Adalut

Present

Tuesday 2d. September 1823 — Charles Harris Esquire, George Gowan Esquire — Judges

C. H. W. H.

Read again letter, dated 28th May last from the 2d. Judge late on Circuit in the Centre Division, submitting cases Nos. 28 & 29 Ballance Calendar first Sessions A.D. 1823.

Here enter No. 107

Read also return, dated 6th Ultimo from the 2d. Judge late on Circuit in the Centre Division to precept, dated 26th June last, directing "a revision of the "translation of the proceedings in Case No. 29 "Ballance Calendar 1st Sessions A.D. 1823, and "calling for a copy of the order of the Governor "in Council for the trial of the Prisoners."

Here enter No. 538.

For the sake of greater perspicuity the Court of Foujdaree Adalut will record their observations and orders upon the "two foregoing cases separately" although they exhibit in common similar irregularities and improprieties of proceeding, and departures from the same instructions and orders of the

Foujdaree

2d September 1823

Zoujdaree Udalut.—

2

In Case No 28 the prisoners Nagalingum, and Kurrapah, are charged with having administered some deleterious or stupifying Drug, in coconut milk to the prosecutrix and her Servants, and robbed them, while they were from the effect of the potion in a state of insensibility.—

3

The proceedings on the trial before the Court of Circuit are limited to the examination of the witnesses to the declarations delivered by the prisoners before the Criminal Judge, wherein the first prisoner, Nagalingum, made a full confession; but the 2d prisoner Kurrapah represented himself as having acted as an unconsciand agent in the transaction, and having himself partaken of the mixture, which Nagalingum distributed to him, & to the prosecutrix and her people.—

4

In the preliminary investigation held by the Assistant Criminal Judge are recorded examinations of the following witnesses:—

1st Maattoo, a person whose occupation is letting out bullocks on hire: This witness deposed that having let two bullocks to the prosecutrix he was proceeding with her from Seringapatam to Bellaree, where they were joined by the two prisoners; that both prisoners one evening after the arrival of the party at Roydroog, went into the village and brought two Coconuts, that the second prisoner broke them, ground them, and took out the milk which he gave to the first prisoner. and that they gave it to the witness and to the prosecutrix and her people. The witness described the stupifying effect of the mixture, spoke to his having been robbed by Nagalingum, and his having some days after met and apprehended the second prisoner at Bellaree.—

2d witness, Mukdoom Bee, employed in the service of the prosecutrix, deposed much to the same effect as the first witness regarding the part taken by the second prisoner in preparing the mixture.—

3d witness, Syed Hoosain, in the service of the prosecutrix, deposed that their party was joined by the two prisoners and a boy who accompanied them, to Roydroog, that on the day of their arrival the first prisoner brought two cocoanuts which he delivered to the 2d prisoner, "who ground them, intoxicated," (according to the Persian translation extracted) the Milk" and distributed it to them, that no ill effect ensued:— and that on the following day coconuts were again produced by the first prisoner, prepared by the second, and administered by the first prisoner to all the party, that after drinking of the mixture they

they all lost their senses and that when the the witness came to himself the prosecutrix said that the three people had robbed her of her property and had run away.

5

The testimony of these three witnesses coupled with the fact of the second prisoner admitting himself to be the servant of the prisoner, Nagalingum, and backed by the deposition of the prosecutrix to their having acted in perfect concert would in the opinion of the Court of Zujdaree Udalut have sufficed for his conviction, as an accomplice in the robbery.

6

The 2d Judge in his letter accompanying the trials thus accounts for the non examination of the above witnesses. "All the witnesses the complainant could have produced in support of her case being her own immediate relations and dependants and those who had equally suffered with herself from the effect of the poisonous mixture they had been induced to partake of, would have been like herself in the light of prosecutors and not admissible as legal evidence."

7

The Court of Zujdaree Udalut, by their order date 16th April 1819, adverting to the practice of rejecting the evidence of persons "against the admission of whose testimony exception may have been taken by the Mohummedan Law officer, assisting at the trial," observed that it was to be presumed that "the rejection by the Court of the

"of the evidence of such persons had arisen from a consideration of the light in which their testimony is viewed by the Mohummudan Law," wherefore the Court specially directed the attention of the Judges of the Courts of Circuit "to the provisions of Regulation I of 1818 under the operation of which enactment it is competent to the Court of Zujdaree Udalut to convict and sentence to punishment in cases of acquittal under the Mohummudan Law," and the Court further observed, that "with reference to the powers vested in the Zujdaree Udalut by the legislative enactment above cited it was obvious, that no evidence which is admissible under the Law of England, is to be rejected in Criminal Cases."

8

After the circulation of these instructions the Court of Zujdaree Udalut did not expect to find the testimony of important witnesses to the facts of a case rejected by a Judge of Circuit on the alleged ground of its inadmissibility under the Mohummudan Law, and the Court can only account for the proceeding of the 2d Judge on the supposition either of a most reprehensible Neglect to make himself acquainted with their standing orders, or of a wilful departure from them.

9

Sufficient proof of the guilt of the prisoner Nagalingum, is to be found in his confession; but the Court of Zujdaree Udalut resolve to suspend the passing of sentence

sentence upon him until the issue of the charge which formed No 29 of the Calendar, shall have been determined.-

10 As regards the second prisoner Kurrapah, the Court of Foujdaree Udalut deem it proper to direct, that the evidence of the three witnesses above named be taken and added to the record; for which purpose the record will be returned to the 2d Judge, whose duty it will be to issue a precept to the Criminal Judge in the Zilla of Bellary, requiring him to apply to the Magistrate to obtain the attendance of the witnesses in question, and in the presence of the prisoner, Kurrapah, and the Mohummudan Law officer of the Zilla Court to examine them, as to the part taken in the transaction by this prisoner, allowing him to put such questions to them as he may think proper, and taking down any thing further that he may have to offer in his defence, annexing authenticated translations in English and Persian of these additional proceedings to the original record, which the 2d Judge will re-transmit therewith with as little delay as possible to the Court of Foujdaree Udalut.-

11 In Case No 29 of the Bellary Calendar the prisoners, Nagalingum and Mirgaly stood charged with having "on or about 20th April 1822 in the day time in Poorniah's Chuttry "in the Mysore Country" administered a certain poison

poison to the prosecutrix and her party, three of whom died in consequence, and robbed the prosecutrix of her property.-

12 As observed by the Court of Foujdaree Udalut in their proceedings of 26th June last a special order of the Governor in Council was requisite in order to the trial of the prisoners in this case, as prescribed by Regulation XI of 1809; and the 2d Judge was directed to annex to the record a certified copy of the order, which the Court of Foujdaree Udalut concluded had been obtained.-

13 The trial took place on 1st March 1823.-

14 In return to the precept of the Court of Foujdaree Udalut the 2d Judge states, that "the Criminal Judge having omitted to obtain "this order in the first instance was under the "necessity of applying for it under the circumstances, which were explained to him on this occasion; "and having now furnished it a certified copy, "is herewith transmitted for the satisfaction of "the Sudr Court."

15. The letter of the Secretary to Government in the Judicial Department here referred to conveys the sanction of the Government for "the trial before the Court of Circuit "of Ragalingum, the person charged with a "murder committed in the Mysore Country;" and is dated 29th July 1823.-

16 The omission of the 2d Judge to cause the requisite sanction for the trial of the prisoner in this case to be obtained before he permitted

permitted them to be placed at the bar of the Court of Circuit exhibits another instance of the utter carelessness and negligence in the discharge of the grave and important functions committed to him which have so frequently attracted the attention of the Court of Zuijdaree Udalut in their proceedings on the late Circuit: but for that ignorance of the simplest principles of Law which the 2d Judge has manifested in forwarding "for the satisfaction of the Sudr Court" the permission of Government given on 20th July for the trial of "Ragalingum" as legalizing a trial of "Ragalingum and Mirza" which took place on 1st March preceding the Court were certainly not prepared.-

17 The proceedings of the Court of Circuit in case No 29 of the Calendar, having been held without the sanction prescribed by the Regulations are void in Law; and the Court of Zuijdaree Udalut direct that they be quashed accordingly.-

18 Adverting to the tenor of the letter from the Secretary to Government in the Judicial Department above quoted the Court of Zuijdaree Udalut deem it proper to have immediately before them a certified copy of the application, made by the Criminal Judge in the Zilla of Bellaree for permission to bring the prisoners to trial.-

19 As regards the prisoner "Meerza" it would be necessary that further application

F. H.

2d September 1823.

application should be made to the Government for permission to bring him to trial:- but on examining the preliminary proceedings the Court of Zuijdaree Udalut cannot find a shadow of proof against him. The prosecutrix declares that she has no complaint to make against him, and the persons who were eye witnesses of the transaction, that they know nothing of him. The Court of Zuijdaree Udalut are unable to account for the commitment of this prisoner for trial; and they direct, that the prisoner "Mirza" be therefore forthwith set at liberty.

20 The record of the proceedings in this case will be returned to the 2d Judge who will direct the Criminal Judge to re-commit the prisoner Ragalingum for trial.-

21 The preliminary proceedings held by the Assistant Criminal Judge in this case will stand, and form a part of the record to be eventually referred to the Court of Zuijdaree Udalut; and the Criminal Judge will make the necessary applications to obtain the attendance before the Court of Circuit of the witnesses who gave evidence before the Assistant Criminal Judge, and also to obtain the attendance, if procurable, of the native doctor, stated by the prosecutrix and the witnesses, Ahmed, Hoosn, and Shaik Baaddeen, to have opened the bodies of the deceased persons.-

22 The 2d Judge will in conformity with

with the standing order of the Foujdaree Adaulut communicate to the Judge of Circuit, on whom the duty of holding the trial may devolve the whole of these proceedings of the Foujdaree Adaulut, and for the guidance of the Judge who may preside at the trial, as well as the correction of the 2d Judge the Court will proceed to record the some observations on the mode, in which this unauthorized trial was conducted by the latter officer.

23 The only witnesses examined, besides Hameed Beg, one of those present at the transaction which formed the subject of the trial, and whose examination was the most loosely conducted, were the witnesses to the declarations of the prisoners before the Criminal Judge.

24 For dispensing with the examination of the other witnesses the 2d Judge assigns the ground of the inadmissibility of their testimony according to the Mohummudan Law. The Court have already remarked upon the invalidity of this ground for the rejection of testimony and its inconsistence with their clear and positive directions. Two witnesses, named Mulhary and Dewarayen, were however examined before the Criminal Judge, for whose non-examination no reason is assigned by the 2d Judge.

25 The witnesses, Hamed Beg and Ahmud Hoosyn, speak before the Criminal Judge

Judge to the names of the persons, who dies from drinking the potion administered by the prisoner, Nagalingum. The arraignment before the Court of Circuit is defective in not specifying by name the persons alleged to have been murdered.-

26 The testimony delivered before the Assistant Criminal Judge, added to the declaration of the prisoner, Nagalingum, will if given on his trial go to convict him of murder, and robbery; should the ends of Justice not be defeated by the death or non production of the witnesses.-

27 The Court remark, that in both of these cases the Assistant Criminal Judge omitted to cause the declarations of the prisoners to be subscribed by the attesting witnesses; a formality which should always be observed.-

28 In conclusion the Court of Foujdaree Adaulut must notice the extraordinary explanation given by the 2d Judge in his return to the precept of 26th June, regarding the defective and erroneous translations, of which he submitted of the preliminary proceedings held in Case No. 29.-

29 The Court had called the second Judge's attention to the rule, which required, that "the Judge of Circuit shall "examine and be responsible for the accuracy "of the translations of the proceedings held in

in cases referred to the Court of Faujdaree Adaulut and to an extract of their proceedings addressed to the late 2d Judge regarding his responsibility for the translations of the preliminary proceedings before the Criminal Judge in particular.—

30 To this the 2d Judge replies, that "the copy of the Criminal Judge's papers transmitted with the trial had nothing reprehensible in it, unless we blame it for being a "faithful transcript of the inaccurate papers "from which it was taken. The blame in "this case falls on the writers of the Provincial "Court attached to the Judge on Circuit for "neglecting to examine and report the badness "of the translations in order to their being "returned to the Criminal Judge for correction."

31 Here the 2d Judge after being reminded that he is responsible for all translations sent up by him to the Court of Faujdaree Adaulut, rests his defence against the charge of culpability on account of their incorrectness upon an avowal, that they have not had his perusal.—

32 By the irregularity, neglect, carelessness, and infraction of orders, which the proceedings of the 2d Judge on the late Circuit have exhibited the time of the Court of Faujdaree Adaulut has been wasted, and they

they have found themselves greatly embarrassed in disposing of cases referred by this officer, which presented no intrinsic difficulty; and the mode in which this officer has replied to some of their animadversions leads the Court to apprehend, that no efforts on their part will suffice to induce any effectual amelioration of his conduct.—

33 Ordered, that the Records of trials Nos 28 & 29 Bellaree Calendar be transmitted to the 2d Judge of the Court of Circuit in the Centre Division by precept commanding him to communicate these proceedings to the Judges of the Court of Circuit and such parts of them as concern the Criminal Judge in the Zilla of Bellaree for their respective information and guidance, returning Case No 28, as soon as the additional evidence above required shall have been annexed to the record.—

14th Sent the following precept No 337.

Ct 1 002

F. 11.

At a Court of the Foujdaree Adalut

Present

Friday 3d September 1823 — Charles Harris Esqre. / George Govan Esqre. } Judges

Read letter dated 16th Ultimo from the 3d Judge on Circuit in the Northern Division - Submitting copy of Bellary Calendar second Sessions 1823.-

/Here enter No 548/

Ordered that the Court of Foujdaree Adalut direct that the 3d Judge be instructed to enter in the column of remarks on Calendars laid before the Court an abstract of the finding in all cases of acquittal, as well as in cases of conviction.-

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

/Sent following letter No 342/

Read letter, dated 21st Ultimo from the first Judge of the Provincial Court of Circuit in the Northern Division; Submitting copy of Masulipatam Calendar 3d Quarterly Sessions A.D. 1823.-

/Here enter No 563/

Sent 6th

In

3d September 1823.

In Case No. 8 of the Calendar the prisoner, charged with stealing a purse containing Madras Pagodas and star Pagodas to the amount of 38½ Madras Pagodas, is stated to have been sentenced under a futwa of Corcobut to five years imprisonment.

The grounds stated in the futwa in this case to bar a sentence of Hud are not specified in the Calendar as required by the standing orders of the Foujdarra Adalut. The Court desire, that a copy and English translation of the futwa may be laid before them.

Ordered, that extract of these proceedings be sent to first Judge of the Provincial Court of Circuit in the Northern Division by precept enjoining him to transmit copy and English translation of the futwa delivered in the above case.

Precept returnable in two days from and after its receipt.

Sent following Precept No. 343.

25

F. M.

At a Court of the Fouzdaree Adalut.

Present,

Monday, 8th September, 1823. Charles Harris Esqre. George Gowan Esqre. } Judges.

Read letter, dated 5th Instant, from the Secretary to Government in the Judicial Department, stating that the Governor in Council commutes the sentence of death passed on the prisoner in case No 8 Malabar Calendar 1st Sessions 1823 to 14 years imprisonment.-

C. H. G. H.

(Here enter No 584)

The Honorable the Governor in Council having been pleased to resolve that the sentence of death passed on the prisoner, Cheroomen Revey Kalladey, in case No 8 of the Malabar Calendar for the first Sessions AD 1823 shall be commuted to 14 years imprisonment and hard labor.-

Ordered that,

Cheroomen Revey Kalladey, be accordingly imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of fourteen years

years and then be released.-

(Sent following letter No 2147)

Read letter, dated 27th ultimo from the 3d Judge late on Circuit in the Western Division,- reporting the death of the prisoner in case No 30 Malabar Calendar 1st Sessions A.D. 1823.-

(Here enter No 573)

Read return, dated 2d Instant from the 3d Judge late on Circuit in the Centre Division,- to precept dated 25th ultimo calling for the report prescribed by Section XXXVII Regulation VII of 1802 for the 2d Sessions 1822.-

(Here enter No 574)

Read return, dated 31st ultimo, from the 2d Judge late on Circuit in the Centre Division,- to precept dated 29th July last ordering communication to the Criminal Judge of Chingleput and the Magistrate in the Southern Division of Arcot of the Court's observations on case No 10 Chingleput Calendar 1st Sessions 1823.-

(Here enter No 579)

Read return, dated 3d Instant, from the 3d Judge late on Circuit in the

8th Sept 1823 the Centre Division,- to precept dated 31st July last ordering communication to the Magistrate of Bellary of the Court's orders on case No 22 Bellary Calendar 2d Sessions 1823.-

(Here enter No 580)

Read return, dated 4th Instant, from the 2d Judge late on Circuit in the Centre Division,- to precept dated 25th ultimo calling for report prescribed by Section XXXVII Regulation VII of 1802.-

(Here enter No 586)

F. 11

At a Court of the Foujdaree Adalaut.

Present,

Thursday 11th September 1823 — Charles Harris Esqre. / George Gowan Esqre. } Judges.

Read letter dated 11th Ultimo, from the 3d Judge taken on Circuit in the Western Division, — submitting case No 2 Malabar Supplemental Calendar 1st Sessions 1823.

C. H. / G.G.

(Here enters 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 Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and in commutation of the penalty of Deyut adjudge the prisoner,

Aroovceralen Ambooty,

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 be released.

Ekut following letter No 348

The

11th September 1823.

1 The record of proceedings in this case exhibits a declaration, delivered by the prisoner, Arooveralen Ambooty before the Sahibdar, wherein he acknowledged having first stabbed the deceased.

2 In his declaration before the Criminal Judge the prisoner stated, that the deceased wounded him in the first instance.

3 The futwa of the Law Officers of the Zillah Court has ~~become~~ turned upon a doubt, as to which of the parties was the aggressor, a point obviously the most material under the circumstances of this case; but the Court of Zillah are surprized to find, that the prisoner's declaration before the Head of police was not proved on the trial; and they have felt it incumbent upon them to give him the benefit of the omission.

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

(Sent following letter No 349.)

Read letter, dated 9th July last, from the 2d Judge of the Court of Circuit in

11 September 1823. in the Western Division, submitting Case No 3 North Malabar Calendar for Quarterly Sessions 1823.

(Here enter No 480)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Zoujdaree Adaulut being of opinion that the proof against the prisoners,

1st Munoddayadden alias Moondiaden Kellop,
2d Chachitha alias Inamee Kundolee Agatoo Umbaroo, or Combara,
3d Movary Pochen, alias Movary Pochen,
4th Padolinharavitteel, alias Padignarvittil Kannen,
5th Kaddavatoo Vallapil Chandan,
6th Tayen Kooacaren Uniyen or Conien,
7th Panaporakarn Chavanien or Chavanyen,
8th Kaddavatoo Vallapil Conakren, alias Cuchan,
9th Achumundeyatoo Cootially or Cooty Ally,

and

10th Vanattan Chinodden,

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, do under the authority vested in them by Clause first Section II Regulation I of

11th September 1823.

of 1818 adjudge the said prisoners,
1st Munddayadden alias Moondiaden Kellor,
2d Chachcha alias Iramee kunddee Agatoo
umbaroo or Combara,
4th Movary Pachen, alias Movary Pachen,
6th Paddinharavitteel, alias Padignarvitthil Kannan,
8th Kaddavatoo Vallapil Chandan,
11th Seyin Kooacaren Uniyan or Conien,
12th Panaporaharen Chavanimn or Chavanyen,
15th Kaddavatoo Vallapil Conaken, alias Cunaken,
16th Achumandeagatoo Cootially or Cooty ally,
and
17th Vanathan Chindolan,
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
labor in irons on the public roads or
other public works for and during the
period of their natural lives respectively.—

And under the provisions
of Clause sixth Section II Regulation XV
of 1803 the Court direct that the prisoners,
7th Munddayaden Kannan,
9th Tullilpaloo Kanatoo Kannen alias
Poolicoonate Kannen,
10th Kolongarata Ramen,
13th Achumandengatoo Coopy or Achoomadatta Coopy,
16th

21 Ld
11th September 1823.

14th Vaddyambatoo Valia Kepoo, Unitey or Conitecee,
18th Manikandeagatoo Coonly Calunden
or Kalenden, and
19th Kaddavata Vallapil Cannen,
be released on producing good and suffi-
-cient security for their future good
behaviour and appearance when
required.—

(Sent following letter No 350)

The Letter of the 2d Judge
referring the trial contains a recom-
-mendation, that the sentence of
transportation for life, to which the
prisoners convicted are liable, should
on condition of their satisfying the
prosecutrix with the amount of her
loss be commuted to 14 years imprisonment.

2 This species of compromise
appearing to the Court of Foujdaree
Adawlut to be at variance with the
general principles observed in the
administration of public justice, they
are unable to give it their sanction.

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

(Sent following letter No 351)

Read

11th September 1823.

Read letter, dated 16th Ultimo, from the 3d Judge on Circuit in the Northern Division, - submitting case No 7 Nellore Calendar 2d Sessions 1823.

(Hereunto No 545)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftee of the Sudder Adalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid and under the sentence of Sazeer declared in the futwa adjudge the prisoners

1st Shaikh Ibrahim
2d Shaikh Mohuddeen, and
3d Hussan Mohomed,

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

Sent 16th

(Sent following letter No 352)

1 In the letter accompanying the trial the 3d Judge recommends that a reward should be given to the witness Shaikh Dariah, for the service rendered by him in discovering and apprehending the prisoners.-

2 The Court of Sudder Adalut, however

11th September 1823. however, being of opinion that the provisions of Section XXIII Regulation IX of 1816 are intended to be resorted to only in cases where considerable trouble or risk may have been incurred by an individual in furtherance of the ends of public justice, and that the practice of pecuniary remuneration for the performance of a duty incumbent on any member of the community would, if adopted on ordinary occasions, have an injurious tendency, are unable to give their assent to the 3d Judge's recommendation.-

3 The prisoners would seem by the entry in the record to have been collectively called on for their defence.-

4 The Court of Sudder Adalut conclude, that after the close of the evidence for the prosecution the prisoners were separately interrogated as to what each had to urge in his defence; but this should be made to appear by the record of proceedings.-

5 Ordered, that extract of these proceedings be sent to the 3d Judge on Circuit in the Northern Division

11 September 1823.

Division, for his information and guidance.—

Sent 11th

(Sent by following letter No 353.)

W. H.

20.

W. H.

At a Court of the Zoojdarce Adalut.

Present,

Monday 15th September 1823. Charles Harris Esqre. George Gowan Esqre. } Judges.

Read letter, dated 3d Instant, from the 2d Judge late on Circuit in the Central Division,— submitting report prescribed by Section XXXVIII Regulation VII of 1802.—

W. H. W. H.

Here enter No 587

In the 13th paragraph of the report the 2d Judge repeats a suggestion offered in his preceding report, that convicts in Jail should partake of the profits of their labor.—

2. The sentiments of the Court of Foujdaree Adalut on this point were laid before Government in their proceedings under date 5th December last, and the Court see no reason to alter them.—

3. In paragraph 22 the 2d Judge states objections to the practice of causing the same individual to attest several confessions delivered before the Criminal Judge.—

In

15th September 1823.

4. In the selection of witnesses to confessions care should be taken by the Criminal Judge not to employ the same individuals in a greater number of cases than would be compatible with their recollection of the purport of each declaration. The Court of Foujdaree Adaulut have not, however, experienced the inconvenience here pointed out by the 2d Judge of which no particular instances are given in his report.—

5 The remaining observations contained in the report do not call for particular comment from the Court of Foujdaree Adaulut.—

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

No 33
Sent 16th.

W. C.

E. M. L.

(Sent following letter No 359)

W. C.

Read letter, dated 9th Instant, from the 2d Judge late on Circuit in the Centre Division,— reporting the death of the 1st prisoner Nagalingum

15th September 1823.

Nagalingum in cases Nos 28 & 29 Bellary Calendar 1st Sessions 1823.—

(Here enter No 592)

Read letter, dated 9th Instant, from the 2d Judge late on Circuit in the Centre Division,— stating that attention will be paid to the Courts orders respecting the mode of recording the defence of prisoners.—

(Here enter No 594)

Read letter, dated 8th Instant, from the 3d Judge late on Circuit in the Western Division,— with copy of a letter from the Criminal Judge of Canara notifying the death of one of the prisoners sentenced to transportation in case No 14 of the Calendar 1st Sessions 1823.—

(Here enter No 601)

At a Court of the Foujdaree Udalut

Present,

Thursday 18th September 1828. Charles Harriot Esqre. } Judges.
George Gowan Esqre. }

Read return, dated 3d Instant from the 3d Judge late on Circuit in the Centre Division, - to precept, dated 29th July last, ordering him to instruct the Magistrate in the Zilla of Bellary to cancel an order issued by him to the Heads of District Police, of which the following is a transcript - viz. "All cases "of theft the amount or value of which "is more than 5 and not exceeding 20 "Rupees the Tahseeldar shall investigate "according to the rules laid down in "Regulation XI of 1816. The Tahseeldar "under Clause 2d section IV Regulation IV "of 1821 is to make a report of the case "to the Magistrate, forwarding the "examinations of the offenders and of "the witnesses and keeping the prisoner "in the Cutcherry &c." (Hewnter R. 581)

With the foregoing return the 3d Judge submits a communication from the Magistrate, wherein that officer applies, that by Section IV Regulation

18th September 1823

Regulation IV of 1821 no restriction whatever is imposed" as to the cases of petty theft, "which the Heads of district police are "thereby empowered to hear and determine". Had "the restriction is confined to punish- "-ment alone:-" and that "clauses second "and third of the Section refer not exclusively "to cases of petty theft under five rupees "which alone by the latter part of clause "first heads of district police are restricted "to punish but to cases of petty theft generally "which by the previous part of that clause "they are authorized to hear and determine".

2

To the Court of Foujdaree Adalut it appears perfectly clear, that the course of proceeding sanctioned by Clause second Section IV. Regulation IV of 1821 is applicable only to cases of theft, "when the value of the property stolen "shall not exceed five rupees." It is only when "a Head of district police "investigating under the authority vested "in him by this Section, shall be of "opinion that the punishment which he is empowered to inflict is not "adequate to the offence committed," that he is to report the case to the Magistrate and await his orders: and under clause first

18th September

of the Section the Head of police is "empowered to inflict" punishment only for theft of property not exceeding five rupees. The reference in the Magistrates circular order to Regu- -lation XI of 1816 the Court of Foujdaree Adalut do not understand: nothing, however, can be more clear than that Clause second Section IV Regulation IV of 1821 has no relation to any previous Regulation.-

The distinction which the

3

Magistrate attempts to draw between cases of petty theft, which Heads of district police are empowered to "hear and determine," and those in which they have authority to punish, appear to the Court of Foujdaree Adalut to be altogether inadmissible. Such a distinction could in the opinion of the Court be deduced only from a very forced construction of the words of Clause first of the Section; but the two clauses interpreted by each other manifestly limit the power to hear and determine, as well as the power to punish,

to

18th September 1823.

to the same class of offences.-

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

(Sent following precept No 362)

Sent 22d Sept. 1823.

Read return, dated 11th Instant, from the 1st Judge of the Court of Circuit in the Northern Division,- to precept dated 4th Ultimo ordering communication to the Magistrate of the Court's orders on case No 3 Masulipatam Calendar 2d Quarterly Sessions 1823.-

(Here enter No 603)

Read letter, dated 11th Instant, from the 2d Judge late on Circuit in the Northern Division,- with returned warrant for execution of a prisoner in case No 4 Chicacole Calendar 1st Sessions 1823.-

(Here enter No 604.)

Sent 26

At a Court of the Foujdaree Adalut

Present,

Monday, 22d September, 1823.- Charles Harris Esqre, George Gowan Esqre } Judges.-

Read letter, dated 16th Ultimo, from the 3d Judge late on Circuit in the Western Division,- submitting case No 24 Malabar Calendar 1st Sessions 1823.-

(Here enter No 567)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee ool Cozat and Mooftee of the Foujdaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and acquitting the prisoners, 1st Chambarah Koonjappan, and 2d Piddiahal Moodeen, direct that they be set at liberty.-

(Sent following letter No 364)

Read letter, dated 14th July last, from the 3d Judge late on Circuit in the Western Division,- submitting

18 22d September 1823

submitting cases Nos 16, 17 and 18 Canara Calendar Ft. Sessions 1823.-

(Here enter No 493)

Read also letter, dated 17th July last from the 3d Judge late on Circuit in the Western Division,- reporting the death of two prisoners in cases No 16 and 18 Canara Calendar Ft. Sessions 1823.-

(Here enter No 494)

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 and Coojat and Mooftees of the Tanjore Adalut confirm the said futwas in cases Nos 16 and 18 so far as they respect the first, fifth, sixth, and seventh prisoners in No 16 and the first prisoner in No 18 and under the provisions of Section III. Regulation I of 1822 adjudge the prisoner,

1st Peran Antonio,

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

22d September 1823.

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 the Court adjudge the prisoners,

5th Maroo,

6th Mootky Antonio, and

7th Choongallia,

to be removed to the Jail in the Zillah of Chittoor 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 be released.-

And the Court of Tanjore Adalut being of opinion that the proof against the prisoner 8th Soolah Dafsah in No 16 is sufficient to convict him of the crime of robbery by open violence for which a penalty is specially denounced in Section III Regulation I of 1822 do under the provisions of Clause first Section II Regulation I of 1818 and in exercise of the discretion given by Section III Regulation I of 1822 adjudge the said prisoner 8th Soolah Dafsah,

to be

18 22d September 1823.

remanded to the Gaol in the Village of Chittoor 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 fourteen years and then be released.—

And the Court of Foujdaree Adawlut being of opinion that the proof against the prisoners 2d Pedro & 4th [illegible] in No. 16 and 3d in No. 17 is sufficient to convict him of the crime of robbery by open violence for which a penalty is specially denounced in Section III. Regulation I of 1822 do under the provisions of Clause first Section II. Regulation I of 1818 and in exercise of the discretion given by Section III. Regulation I of 1822 adjudge the said prisoner,

Pedro.

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 be released.—

And the Court acquitting the fourth prisoner in No. 17,

Purrsah.

direct that he be set at liberty.—

(Sent following letter No. 365)

Court 26

21 No. 16.

22d September 1823.

The 3d Judge who presided at the foregoing trials, concurring with the Law Officer in the conviction of Purrsah, the 4th prisoner, in case No. 17 sentenced him to be imprisoned with hard labor for seven years and issued a warrant to the Criminal Judge, directing him to carry the said sentence into execution.—

This being a case of robbery by open violence, as defined in Section III Regulation XV of 1803, the 3d Judge should under the provisions of Section IV Regulation I of 1822 have passed against the prisoner convicted sentence for the stated punishment. The issue of a warrant in such a case is prohibited by the provisions of that Section. And the proceeding of the 3d Judge with respect to this prisoner was also at variance with the provisions of clause second Section VI Regulation XV of 1803, which prohibit the issue of warrants, on excepting for the discharge of persons acquitted, pending the reference of a trial to the Court of Foujdaree Adawlut.—

The

22d. September 1823. 3

The Court of Fouzdaree Adawlut being of opinion, that as the evidence of the witnesses designated by the prisoner Pursuant to prove the ownership of the articles found in his house was not taken, adequate grounds does not exist for his conviction, have overruled the sentence irregularly passed upon him by the 3d Judge, and directed his release.-

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

Sent 26

(Sent following letter No 366)

Read letter, dated 19th May last, from the 2d Judge late on Circuit in the Centre Division submitting case No 44 Cuddapa Calendar 1st Sessions 1823.-

(Here enter No 368)

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 Adawlut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and adjudge the prisoner,

Savetree,

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 her natural life.-

Sent 26

(Sent following letter No 367)

The Court of Fouzdaree Adawlut having taken into consideration the recommendation of the 2d Judge in favor of the prisoner, have in exercise of the discretion vested in them by Clause second Section IX. Regulation XV of 1803, adjudged her to be transported to such place or places beyond Sea as the Governor in Council shall appoint.-

The Court direct, that the Criminal Judge in the Zilla of Cuddapa be instructed expressly to notify to the prisoner, Savetree, on communicating to her their sentence, that a repetition of the offence of which she

22d September 1823.

she has now been found guilty will infallibly subject her, on conviction, to capital punishment.-

Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Centre Division by precept directing him to make the necessary communication to the Criminal Judge in the Zilla of Cuddapa for his information and guidance.-

Sent 26th

Sent following precept No 368/

Read letter, dated 15th May last, from the 2d Judge on Circuit in the Centre Division,- submitting case No 3 Cuddapa Calendar 1st Sessions AD 1823.-

(Here enter No 364.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Fougdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the discretion vested in them by Section III Regulation I of 1822 adjudge the prisoner Mandiga Gungadoo, to be imprisoned and kept to hard labor

3/ F.M.
22d September 1823.

Sent 26

taker in irons on the public roads or other public works for and during the period of eight years and then be released.-

(Sent following letter No 369/

Read letter, dated 7th May last, from the 2d Judge on Circuit in the Centre Division,- submitting case No 30 Cuddapa Calendar 1st Sessions 1823.-

(Here enter No 347/)

The Court of Foujdaree Adalut having perused the record of this trial resolve to quash the proceedings, as essentially defective.-

The prisoner was put on his trial on a charge of robbery, founded upon his confessions before the Police Officer and the Criminal Judge, and he pleaded guilty: but it does not appear that to the accusation originated in any complaint against him, nor is there any proof whatever that the offence was ever committed.-

The Court direct, that the record be returned to the 2d Circuit Judge by precept commanding him to transmit the same to the Criminal Judge in the Zilla of Cuddapa with instructions to apply to the Magistrate to institute an enquiry respecting the

the individuals alleged to have been robbed by the prisoner and cause if possible their attendance before the Criminal Court, should no proof of the fact of the robbery be eventually attainable, the prisoner should be released on security.-

Ordered, that the record with extract of these proceedings be sent to the 2d Judge, acting on Circuit in the Centre Division by precept returnable in three days.-

Sent 26th

(Sent following precept No 370)

Read letter, dated 9th Instant, from the Criminal Judge in the Zilla of Masulipatam, transmitting with reference to the order of the Foujdaree Adalut dated 5th December last, list of prisoners from Rajahmundry sentenced to imprisonment at the 3d Quarterly Sessions of Jail delivery for 1823 at Masulipatam.

(Here enter No 608.)

The Court of Foujdaree Adalut direct that the prisoners

1st Taloorce Veera Reddee, and

2d Ramejittee Venkata Tetty,

be removed to the Jail in the Zilla of Chittoor there to be imprisoned

agreeably to the tenor of their respective sentences.-

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

Sent 26th

(Sent following letters No 371)

Read return, dated 15th Instant, from the Provincial Court of Circuit in the Southern Division,- to precept dated 26th July last ordering communication to the Magistrates of the Courts' orders that a record be made of all original Complaints preferred to the Police officers.-

(Here enter No 610.)

Read letter, dated 19th Instant, from the Secretary to Government in the Judicial Department,- with copy of a letter to the Board for preparing Regulations sanctioning the enactment of the provisions proposed in the proceedings of the Foujdaree Adalut dated 7th Ultimo.-

(Here enter No 614)

Read letter, dated 15th Instant, from

22d September 1823

From the Secretary to Government in the Judicial Department,- stating that the Governor in Council approves the instructions issued to the Provincial Court of Circuit Western Division regarding the transportation of Convicts by sea from Malabar.-

(Here enter No 646.)

Read return, dated 15th instant, from the 1st Judge of the Court of Circuit in the Northern Division,- to precept dated 5th Instant, calling for copy and translation of the futwa delivered in case No 8 Masulipatam Calendar 3d Quarterly Sessions 1823.-

(Here enter No 647.)

Thursday 25th September 1823.

At a Court of the Sudder Adalut.

Present,

Charles Harris Esqre
George Gowan Esqre
} Judges.-

C. H.
G. G.

Read return, dated 15th ultimo from the 2d Judge late on Circuit in the Centre Division,- to precept dated 7th July calling for translations of the proceedings held in case No 20 Bellary Calendar 1st Sessions 1823.-

(Here enter No 558)

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 Sudder Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Clause fifth Section II Regulation XV of 1803 adjudge the prisoners,

1st Peolda Timmadoo,
2d Chinna Timmadoo,
3d Elloogandoo, and
4th Chinnah Hunmah,

to be imprisoned and kept to hard labor

25th September 1823.

labor in irons on the public roads or other public works for and during the period of four years from the 11th March 1823.

Sent 26th

(Sent following letter No 375)

C. H.

W. H.

At a Court of the Foujdaree Udalut

Present

Friday 26th September 1823 Charles Harris Esquire, George Gowan Esquire } Judges

Read letter dated the 23d Ulti= =mo from the 3d Judge late on Circuit in the Western Division, Submitting Case No. 40 Malabar Calendar 1st Sessions 1823.-

C. H. G. G.

/Here enter No. 576/

Read also letter dated the 27th Ultimo from the 3d Judge late on Circuit in the Western Division, Reporting the death of the 1st Prisoner in Case No. 40 Malabar Calen= =dar first Sessions 1823.-

/Here enter No. 572/

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 Moofties of the Foujdaree Udalut being of opinion that the proof against the prisoner 3d Pallakool Kellapen, is sufficient to convict him of the crime of robbery by open violence for which a penalty is specially denounced in Section III Regulation I of 1822 do under the authority vested in them by clause first Section II Regulation I of 1818 adjudge the said prisoner

"3d Pallakool Kellapen"

to receive 39 stripes with a rattan and to be imprisoned and transported to such place or

places

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 29th

/Sent following letter No. 377./

Read again letter, dated 23d November 1822 from the 3d Judge, late on Circuit in the Centre Division, With Copy of Bellary Calendar 2d Sessions A.D. 1822.-

/Here enter No. 708/

Read again letter, dated 9th June last from the 3d Judge of the Court of Circuit in the Centre Division; With copy of Chittore Calendar 2d Quarterly Sessions 1823.-

/Here enter No. 414/

1 The records of the proceedings held by the 3d Judge in Cases No. 40 Bellary Calendar & Nos. 2 & 3. 5. & 11 Chittore Calendar which according to the remarks entered in the foregoing Calendars are to be referred to the Foujdaree Adalut not having been received.-

2 The Court direct that the 3d Judge late 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 twenty days from the date of the receipt of the precept.-

Sent 29th

Sent 29th

H.L. H.M. /Sent following Precept No. 378./

At a Court of the Foujdaree Adalut

Present

Saturday 27th September 1823 } Charles Harris Esquire, George Govan Esquire } Judges

Read letter dated 8th Instant

C.H. from the 1st Judge on Circuit in the Southern Div.

H.L. Division, Submitting Case No. 10 Salem Calendar 2d Sessions 1823.-

/Here enter No. 599/

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 confirming the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, and under the provisions of Section X Regulation VIII of 1802 adjudge the prisoner,

"Kistnamanaiken"

to suffer death by being hanged at a Spot to be selected by the Criminal Judge in the immediate vicinity of the Scene of the Murder.

/Sent following letter No. 379./

1 The futwa of the Law Officers of the Foujdaree Adalut in this case turns on a Shoobah in regard to the size of the stone, with which the prisoner killed the deceased

deceased.-

2 The stone was produced on the trial, and with reference to the principle recognized in section X Regulation VIII of 1802, that in cases of this description the evidence of the intent is deducible from the nature of the instrument of perpetration the Record should have shewn the dimensions of the stone as well for the satisfaction of the Court, as for the information of the Law Officers of the Zuzdaree Adalut.-

3 Ordered, that Extract of these proceedings be sent to the first Judge on Circuit in the Southern Division for his information and future guidance.-

Sent 29th

/Sent following letter No. 380./

Read letter, dated 5th Instant, from the Second Judge late on Circuit in the Northern Division,- submitting Case No. 8 of Chicacole Calendar 1st Sessions 1823.-

/Here enter No. 597/

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law officer and the futwa of the Cazee-cole Cozyat and Mooftees of the Zuzdaree Adalut confirm the said futwa of the Cazee-cole Cozyat and Mooftee aforesaid

aforesaid and under the provisions of clause sixth section II Regulation XV of 1803 direct that the prisoners,

1 Peddy Kittiah
2 Lumbatah Byrawdoo,
3 Kerroomanaty Lutchmoodoo
4 Ramoory Sunnaky.

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

/Sent following letter No. 381./

Sent 29th

Read letter, dated 23d Instant from the Secretary to Government in the Judicial Department,- stating that the Governor in Council concurs in the Court's observations upon the report of the 2d Judge late on Circuit in the Centre Division.-

(Here enter No. 623)

Read letter, dated 15th Instant, from the 1st Judge on Circuit in the Southern Division,- with copy of Salem Calendar 2d Sessions A.D. 1823.-

(Here enter No. 626.)

At a Court of the Puydaree Adalut

Present

Monday
29th September
1823

Charles Harris Esquire
George Gowan Esquire
} Judges

Read letter dated 8th Instant
from the first Judge on Circuit in the Southern
Division, submitting Case No. 23 Salem Calendar
second Sessions A.D. 1823.

/Here enter No. 600/

The Court having maturely consi-
dered the proceedings held before the Judge on
Circuit the futwa of the Provincial Law officers
and the futwa of the Cazee-aol. Cozat and
Mooftees of the Puydaree Adalut confirm the said
futwa of the Cazee-aol. Cozat and Mooftees afore-
said and under the sentence of Hujaad declared
in the futwa adjudge the prisoner,

"Canaken",

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

/Sent following letter No. 382./

Read letter dated 2d May last
from the late Acting Judge on Circuit in the
Northern Division, submitting Case No. 24
Chicacole Calendar 2d Sessions A.D. 1822.

/Here enter No. 336/

The Court having maturely con-
sidered the proceedings held before the Judge on
Circuit

29th September 1823.

Circuit the futwa of the Provincial Law officer and the futwa of the Cazeeaools Cozat and Mooftees of the Zuijdaree Adalut confirm the said futwa of the Cazeeaools Cozat and Mooftees aforesaid and acquitting the prisoner.

8th Davagepta pos Ramiah

direct that he be set at liberty.-

Sent following letter No 383

Read return, dated 1st Instant, from the 2nd Judge late on Circuit in the Centre Division,- to precept dated 14th July last calling for additional evidence in Case No 1 Chengleput Calendar 1st Sessions A.D. 1823.

Here enter No 577

Read again letter dated 31st May last from the 2nd Judge on Circuit in the Centre Division,- Submitting Case No 1 Chengle=put Calendar 1st Sessions 1823.-

Here enter No 393

The Judges of the Zuijdaree Adalut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoner "Casah" is sufficient to convict him of Manslaughter desire under the provisions of clause second section II Regulation I of 1818 that their Law officers will declare by a second futwa to

* and under the Calibu given by the futwa of the Cooboh aforesaid prisoner Chinny Appanah must not be released.- Sent 3

29th September 1823. what punishment the prisoner would have been liable under the Mohummudan Law if he had been convicted by full legal evidence of the above offences.- Ordered, that Extract of these proceedings be translated and delivered to the Cazeeaools Cozat and Mooftees of the Zuijdaree Adalut.-

Read letter, dated 4th July last from the 1st Judge of the Court of Circuit in the Northern Division submitting Case No 1 Masulipatam Calendar 2d Quarterly Sessions 1823.-

Here enter No 467

The examinations of the prisoners in this case appear by the Record to have been taken by Caledindy Vencatachellum, Peishcar under the head of Police of the Amalapooram Division.-

2 To the admissibility of the confessions taken by the Peishcar, as evidence against the Prisoners, it is essential that he should have been vested at the time with special powers by the Magistrate under the provisions of section III Regulation IV of 1821.-

3 The circular orders of the Court of Zuijdaree Adalut, dated 30th November 1821, direct the Judges of Circuit "to report to the Zuijdaree Adalut in all "cases referred by them, whether the proceedings "of the Police officer were held by a person duly

29th September 1823.

"only authorized under the provisions of the
"Regulations."

4 The 1st Judge not having compliad with the instructions here cited on the reference of this case, the Court direct that he be by precept commanded to certify whether or not the Peishear Caledundy Caucatachellum had authority from the Magistrate, under date 8th June 1822 to perform the police duties assigned to Tahseeldars by Sections XXVIII, XXIX, XXXI, XXXII, XXXVI, and XXXVII Regulation XI of 1816.

5 Precept returnable in 4 weeks from and after its' receipts.

Sent following precept No 384.

Tuesday 30th September 1823

At a Court of the Poojdaree Adalut

Present,

Charles Harris Esqre
George Gowan Esqre } Judges.

Read again return, dated 1st Instant, from the 2d Judge stationed in the Centre Division, - to precept dated 11th July last calling for additional evidence in case No 1 Chingleput Calendar 1st Sessions 1823.

(Here enter No 577)

Read again letter dated 31st May last from the 2d Judge on Circuit in the Centre Division, - submitting case No 1 Chingleput Calendar 1st Sessions 1823.

(Here enter No 393)

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 futwas of the Cazee ool Coozat and Mooftees of the Poojdaree Adalut confirm the

said

said Justices of the Cazeeral Cazzat and Mooftees aforesaid and in commutation of the penalty of Dayut adjudge the prisoner,

Casak.

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 be released.-

(Sent following letter No 385.)

1 The arraignment of the prisner in this case before the Court of Circuit was defective in not specifying the place where the offence was committed or the name of the person, with whose murder the prisoner was charged.-

2 From the examination taken under the orders of the Foujdaree Adalut of the subscribing witnesses to the prisner's declaration before Seyala Moodely, the Sahseedar of Nair Soohoody, it appears that they were not present when the declaration was delivered, and did not so much as hear it read over to the prisoner, or see him affix his mark to it.-

3 The endeavors of the Court of

Foujdaree Adalut have long been faithfully directed to the correction of irregularities of this nature on the part of the Heads of Police. The Court direct, that the misconduct of the officer abovenamed be brought to the notice of the Magistrate with an intimation of their opinion that it should be visited with the severest penalty in his power to inflict.-

Ordered, that extract of these proceedings be sent to the 2d Judge of Circuit in the Centre Division by precept enjoining him to make the necessary communication to the Magistrate for his information and guidance.-

(Sent following precept No 386.)

4

At a Court of the Foujdaree Adalut-

Present,

Thursday, 2d October, 1823. Charles Harris Esqre. } Judges-
George Gowan Esqre. }

C. H. W. H.

Read letter, dated 22d Ultimo, from the Provincial Court of Circuit in the Southern Division,- submitting for the orders of the Court copy of a letter from the Criminal Judge in the Zilla of Salem transmitting copy of a communication from the Surgeon who reports that Mootiajee, a convict whose execution was postponed on account of her supposed pregnancy, is not pregnant.-

(Hereunto No 625.)

It appearing from the report of the Medical Officer attached to the Zilla Court of Salem, transmitted by the Criminal Judge, that Mootiajee prisoner convicted of murder in case No 14 Salem Calendar 1st Sessions AD 1823 is not in a state of Pregnancy,- the Court of Foujdaree Adalut direct that the Judges of the Provincial Court of Circuit in the Southern Division be by precept commanded to

cause

2d October 1823.

cause execution of the sentence pass against the said prisoner without further delay.-

Sent 8. (Sent following precept № 387.)

Ut

Read letter dated 23d Ultimo from the 3d Judge of the Court of Circuit in the Centre Division,- With Copy of Chittore Calendar 3d Quarterly Sessions A.D. 1823.-

(Here enter № 628)

Read return dated 29th Ultimo from the 2d Judge late on Circuit in the Centre Division to precept dated 22d Instant ordering communication to the Criminal Judge in the Zilla of Cuddapah of the Court's orders respecting Case № 3 Cuddapah Calendar 1st Sessions 1823.-

(Here enter № 636)

F. H.

At a Court of the Foujdaree Adalut

Present

Saturday -- 4th October 1823 } Charles Harris Esquire } Judges
George Govan Esquire -

Read letter, dated 24th Ultimo from the 1st Judge of the Court of Circuit in the Northern Division,- Reporting on the 2d and 3d Quarterly Sessions of Jail Delivery for 1823 at Masulipatam.-

c: # Ut

(Here enter № 633)

The above report is accompanied by copy of a correspondence between the 1st Judge and the Criminal Judge of Masulipatam regarding the case of Chemacoorty Verasha, a prisoner detained on a requisition of security.-

2

The Court of Foujdaree Adalut are of opinion, that the reasons assigned by the Criminal Judge for not recommending the release of this prisoner on his personal Moochilka are satisfactory.-

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 following letter № 388)

Sent 6

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 Hon'ble the Governor in Council.-

(Sent following letter № 389)

No 34. Sent 6

Read letter, dated 10th Ultimo, from the

4th October 1823. the 1st Judge on Circuit in the Southern Division; submitting case No. 5 Salem Calendar 2d Sessions 1823.-

/Here enter No. 611./

1 The record of proceedings in this case exhibits certain declarations, stated to have been delivered by the prisoners before the Tahseeldar of Paulghaut, containing confessions of the robbery with which they were charged. And these confessions are specified among the grounds of commitment.-

2 In their examination before the Criminal Judge the prisoners denied having made the confessions before the Police officer, but it does not appear that the Criminal Judge examined the attesting witnesses to their declarations, nor were those witnesses bound over to attend the trial before the Court of Circuit.-

3 The declarations of the prisoners before the Criminal Judge contained a divarsonel of the robbery; but in each of them the Court of Foujdaree Udalut find the important admission, that a part of the property, proved on the trial to belong to the prosecutor, was found in their possession.-

4 Under these circumstances the Criminal Judge should have caused these declarations to be only attested; and had they been proved on the trial, the evidence against the

4th October 1823. the prisoners would in the opinion of the Court of Foujdaree Udalut have sufficed for their conviction.-

5 The Court, deeming it essential to the attainment of the ends of public Justice that the defects in the proceedings on this trial should, if possible, be remedied, direct that the record be returned to the 1st Judge by precept commanding him to transmit the same to the Criminal Judge with instructions to call before him the prisoners and in the presence of the Mohammudan Law Officer of the Zilla Court to cause their declarations before the Criminal Court to be read over to them, and to ask them whether or not they admit having delivered the declarations, & calling upon them to state at the same time any thing which they may have to offer in explanation.- The writer of the declarations should also be examined and any other person who may happen to have been present in Court and may be able to depose to the tenor of the declarations.-

6 The Criminal Judge will annex English and Persian translations of these additional proceedings to the record, which the 1st Judge will retransmit to the Foujdaree Udalut without delay.-

/Sent following precept No. 390./

Read return, dated the 20th Ultimo, from the 2d Judge late on Circuit in the Centre

4th October 1823.

On the Division's precept dated 6th August last, ordering communication to the Criminal Judge and Magistrate of the Court's observations on Case No. 2 Chengleput Calendar 1st Sessions 1823.

/Here enter No. 624/

1 The foregoing return is accompanied by a letter, dated 15th Ultimo, from the Magistrate in the Southern Division of Arcot, explanatory of the delays of the police officers in Case No. 2 Chengleput Calendar 1st Sessions 1823.-

2 In this letter the Magistrate states, that a delay of twenty two days occurred in forwarding the prisoners to the Criminal Judge in consequence of certain persons, who had purchased the stolen property, being residents in the Salem Zilla: and that after the prisoners had been forwarded to the Criminal Judge they were returned to the Tahseeldar, because some of the depositions were not taken conformably to the Regulations.-

3 The proceeding of the Criminal Judge in sending back prisoners to the Police officer has on a former occasion been denounced by the Court of Sudder Adalut; and the Court trust that no future instance thereof will occur.-

4 The reason assigned for the original detention of the prisoners, namely that the persons who had purchased the stolen property had not been apprehended, has been declared by the Sudder Adalut in repeated orders to

J.H.

4th October 1823. to be altogether inadmissible. The Court are much surprized, that the Magistrate should have given countenance to such an excuse for detaining prisoners, who should have been immediately forwarded to the Criminal Court, and they desire that this officer will caution the police officers under his authority against a repetition of such irregularity.-

5 Ordered, that extract of these proceedings be sent to Second Judge late on Circuit in the Centre Division by precept commanding him to make the necessary communication to the Criminal Judge in the Zilla of Chengleput and the Magistrate in the Southern Division of Arcot for their respective information and guidance.

2d 16th W.L. /Sent following precept No. 391./

W. K.

20

At a Court of the Zoujdaree Udalut

Present

Monday
4th October, 1823. Charles Harris Esqre
George Gowan Esqre } Judges.

Read letter, dated 30th August
last, from the 2d Judge late on Circuit
in the Northern Division, - submitting
case No 9 Chicacole Calendar for Sessions
1823.

(Here enter No 588)

The Court having maturely
considered the proceedings held before the
Judge on Circuit the futwa of the Provincial
Law Officer and the futwa of the Cazee
ool Coozat and Mooftees of the Zoujdaree
Udalut confirm the said futwa of the
Cazee ool Coozat and Mooftees aforesaid
and acquitting the prisoners,
1st Coormadoss Boochunnah,
2d Cuttaemm Mulliah, and
3d Coormadoss Pydamah,
direct that they be set at liberty. -

(Sub following letter No 892.)

Read letter, dated 30th August
last, from the 2d Judge late on Circuit
in the Northern Division, submitting case
No 6 Chicacole Supplemental Calendar for
Sessions

6th October 1823.

Sessions 1823.-

(Here enter No 589.)

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 Poojdaree Adalut confirm the said Futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoners,

1st Coomadoss Appanah
2d Coomadoss Anhamah,
3d Coomadoss Lutchmy and
4th Caurumpoody Seetamah,

direct that they be set at liberty.-

(Sent following letter No 393)

Lodd 11th

W. H.

W. H.

20

At a Court of the Poojdaree Adalut

Present,

Tuesday
7th October 1823.

Charles Harris Esqre
George Gowan Esqre
} Judges.

Read letter, dated 29th ultimo,

C. # W. from the Criminal Judge in the Zilla of Nellore,- stating the inconvenience which has been found to attend the execution of the Court's orders of 7th April last regarding the preparation of English translations for the Court of Circuit.-

(Here enter No 638.)

1. The above orders of the Poojdaree Adalut arose out of a communication from the late Acting Judge on Circuit in the Northern Division, representing that considerable delay in the transmission of referrible trials had arisen from the omission of the Criminal Judges to prepare English translations of the preliminary proceedings for the Court of Circuit.-

2. By the foregoing letter from the Criminal Judge it appears, that the present establishment of the Zilla Court does not afford the means

meand of preparing the translations in all cases laid before the Court of Circuit as without very great inconvenience, and that at the last Sessions of Jail delivery the 3d Judge did not require the translations, which had been prepared.-

3. The main object of the Courts orders on this subject being to facilitate and expedite the business of the Court of Circuit, they resolve in consideration of the circumstances represented by the Criminal Judge to modify their order of the 7th April last so far as to direct, that such English translations only as may be required by the Judge on Circuit be prepared by the servants of the Zilla Court. The Court of Foujdaree Adawlut consider it, however, proper to observe that it will be desirable that the Criminal Judge should in the event of vacancies in his establishment take meant to render it more efficient in this branch of duty, the translators required by the order above cited are prepared in the other divisions, and the Court have not found that their preparation has been attended with difficulty

difficulty.-

Ordered, that extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division by precept enjoining them to communicate the same to the Criminal Judge in the Zilla of Nellore for his information and guidance.-

(Sent following precept No. 394)

Cuttg. Pd. 14 W.

Read letter dated 2d Instant from the 2d Judge of the Court of Circuit in the Centre Division,- Reporting the commencement of the 4th Quarterly Sessions of Jail Delivery at Chittore.-

(Here enter No. 639)

Read return dated 29th Ultimo from the 2d Judge late on Circuit in the Northern Division to precept dated 15th Ultimo ordering communication to the Magistrate of Ganjam of the Courts orders on Case No. 4 Chicacole Calendar 1st Sessions 1823.

(Here enter No. 640)

Read letter dated 7th Instant from the 1st Judge on Circuit in the Southern Division,- Reporting his arrival at Madura

(Here enter No. 642)

Read letter dated 7th Instt. from

7th October 1823.

From the 2d Judge on Circuit in the Western Division,- Reporting the completion of the Gail Delivery for the Zilla of Canara.-

(Here enter No. 643)

6 A.

At a Court of the Foujdaree Adalut

Present,

Thursday, 9th October, 1823.- Charles Harris Esqre. } Judges.
George Gowan Esqre. }

C.A. Read letter, dated 15th Ultimo from the 1st Judge on Circuit in the Southern Division,- submitting case No 11 Salem Calendar 2d Sessions A.D. 1823.-

W. (Here enters No. 627)

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 Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and under the provision of Clause sixth Section II Regulation XV of 1803 direct that the prisoner,

Veerappun,

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

(Put following letter No. 395)

Read

9th October 1823.

Read letter, dated 28th Ultimo from the 1st Judge of the Court of Circuit in the Northern Division, submitting case No 2 Masulipatam Calendar 3rd Quarterly Sessions A.D. 1823.

(Here enter No 699)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudder Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and adverting to the fatal act of violence committed by the prisoner

Murryputty Venkana,

the Court direct that he be detained in custody by the Criminal Judge and on no account be released without special authority from the Sudder Adalut obtained through the Court of Circuit.

(Sent following letter No 396)

P. R.

At a Court of the Foujdaree Adaulut.

Present,

Saturday
11th October, 1823. Charles Barrie Esqre
George Gowan Esqre } Judges

Read letter, dated 6th Ultimo
from the 2d Judge late on Circuit in the
Northern Division, - submitting case No 7
Cr. 11 Chicacole Calendar 1st Sessions 1823.
(Here inter No 596)

The Court of Foujdaree Adaulut
deem it incumbent upon them to record
their censure of the manner, in which
the trial of this case was conducted by
the 2d Judge.-

2 The proceedings held before
the Court of Circuit bear every mark
of precipitation; in respect to the
examinations of the prosecutor and the
witnesses for the prosecution it may
be observed, that they are extremely loose
and unsatisfactory and not conducted
conformably to the rule laid down
in Clause Sixth Section XVIII Regulation
VIII of 1802, which applied particularly
to the depositions of the prosecutor and
of the 5th witness.-

But

4th October 1823.

3. But the most exceptionable proceeding of the 2d Judge in this case was his non-examination of the witnesses for the prisoners. A note in the record explains that the evidence of these witnesses was not taken because the confessions of the prisoners before the police had been proved; a reason altogether inadmissible and irreconcilable with the general principles inculcated by the Court of Sudder Dewanny Adawlut in regard to the admission of such confessions.

4 Whatever weight the Court of Sudder Dewanny Adawlut might be disposed to give to the evidence against the prisoners, they are precluded by the most obvious principles of judicial investigation from proceeding to conviction without hearing the testimony adduced by them to rebut it; and they resolve therefore to return the trial to the 2d Judge in order that this testimony may be added to the Record.—

Ordered, that the record of case No 7 Chicacole Calendar be returned with extract of these proceedings.

11th October 1823.

to the 2d Judge late on Circuit in the Northern Division by precept commanding him to transmit the same to the Criminal Judge, whose duty it will be to obtain by application to the Magistrate the attendance of the witnesses designated by the prisoners and in their presence and that of the Mohummedan Law officer of the Zilla Court to take their evidence for the defence, and also put such cross interrogatories as may appear requisite for ascertaining the credibility of their testimony. The Criminal Judge will annex English and Persian translations, attested by his official seal and signature and that of the Mohummedan Law officer, of these additional proceedings to the Record, which the 2d Judge will retransmit without delay to the Court of Sudder Dewanny Adawlut.—

(Sent following precept No 398.)

The report prescribed by Section XXXVII Regulation VII of 1802 for the 1st Sessions of 1823 not having been received from the 2d Judge late on Circuit in the Northern

7th October 1823.

11th October 1823 Division;-

The Court direct, that the 2d Judge take on Circuit in the Northern Division be by precept commanded to send up the presenting report, containing his observations made during the Circuit within ten days from the date of the receipt of the precept.-

(Sent following precept No 399)

F. C.

At a Court of the Poydarce Adalut

Present

Thursday 16th October 1823 } Charles Harris Esquire, George Gowan Esquire } Judges

Read letter, dated 10th Instant from the 1st Judge on Circuit in the Southern Division,- submitting Case No 6 Salem Calendar 2d Sessions 1823.-

(Here enter No 612)

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 Poydarce Adalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid and under the provisions of Section III Regulation I of 1822 adjudge the prisoner, 3d "Mootoo",

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

And acquitting the prisoners

1st "Dreyanree alias Gungon"

2d "Cootchadoo alias Vencatadoo",

the

16. October 1823.

the Court direct that they may be set at liberty.

(sent following letter No. 400

1 The Court of Foujdaree Adalut deem it proper to notice an irregularity committed by the 1st Judge in omitting to cause the declarations of the prisoners before the police officer and the Criminal Judge to be read on the trial. The Court have also to remark, that their instructions relative to the particular examination of witnesses in respect to the time & occasion of their former personal knowledge of the accused were not observed in this case.

2 Ordered, that extract of these proceedings be sent to the 1st Judge on Circuit in the Southern Division for his information and guidance.

(sent following letter No. 401.)

F. H.

At a Court of the Foujdaree Adalut

Present

Monday 20th October 1823. Charles Harris Esqre } Judges
George Gowan Esqre }

The report prescribed by Section XXXVII Regulation VII of 1802 for the 1st Sessions of 1823 not having been received from the 3d Judge late on Circuit in the Western Division;

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

(sent following precept No. 403)

1 The Reports on the 1st 2d and 3d Quarterly Sessions of Jail Delivery at Chittoor for the present year not having been transmitted by the Third Judge of the Court of Circuit in the Centre Division, as required by the Court's orders of 9th December 1819.

2 The Court direct, that the Third

16.6

dust 20th

dust 22d

W.C.

W.H.

W.L.

dust 20th

28th October 1823.

Third Judge be by precept commanded to send up the presented Reports within one week from the date of the receipt of the precept.—

(Sent following precept No 1404)

X

Fol

At a Court of the Poojdaree Adalut

Present,

Tuesday 28th October 1823. Charles Harris Esqre
George Goivan Esqre } Judges

Read letter, dated 22d Ultimo, from the 1st Judge on Circuit in the Southern Division — submitting case No 24 Salem Calendar 2d Sessions 1823.

C+ W.H. (Here enter No 634)

Read also letter, dated 22d Ultimo from the 1st Judge on Circuit in the Southern Division, — transmitting copy of a letter from the Criminal Judge inclosing an Arzee from a Police Officer who reports the discovering of the Gun with which it is supposed that the prisoner in case No 24 Salem Calendar 2d Sessions 1823 shot his brother.—

(Here enter No 635)

The Court having maturely considered the proceedings held before the Judge on Circuit the future of the Provincial Law Officer and the future of the Cazee cool Cozat and Mooftees of the Poojdaree Adalut

confirm

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

Hyat Khan,

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

(Sent following letter No 405.)

Read letter, dated 9th ultimo,
from the 2d Judge late on Circuit in
the Northern Division, submitting case
No 15 Chicacole Calendar for Sessions 1823:

(Here entered No 637.)

The Court having maturely
considered the proceedings held before
the Judge on Circuit the futwa of
the Provincial Law Officer and the
futwa of the Cazee ool Coozat and Mooftee
of the Zillah Court confirm the
said futwa of the Cazee ool Coozat
and Mooftee aforesaid and under
the provisions of Clause sixth Section
II Regulation XV of 1803 direct that
the prisoners

1st Rundy Summedy,
2d Potnoory Appiah, and
8th Munyah Venkapah,

be released on producing good and

sufficient security for their future good
behaviour and appearance when
required.—

And acquitting the
prisoners,

3d Milakpilly Veeradoo,
4th Tatikayalah Moohoondoo
5th Potnoory Gooravadoo,
6th Potnooree Dayyandoo, and
7th Potnooree Poleeyandoo,

direct that they be set at liberty.—

(Sent following letter No 406.)

By the letter of the 2d Judge
referring this trial it appears, that he
concurred in the acquittal of the 3d, 4th,
5th, 6th and 7th prisoners, who were therefore
intitled to an immediate discharge.—

In this as in other cases
referred by the 2d Judge at the late
Sessions the Court of Foujdaree Adawlut
observe, that the evidence for the defence
was not taken, a proceeding justifiable
only in cases where the evidence for
the prosecution may be utterly inconclusive, or the points to be established
by the witnesses for the prisoners may
be irrelevant to their defence.—

In

21st October 1823.

3. In this and in other cases under reference from the Zilla of Chicacole the Court of Sudder Adawlut observe, that the Assistant Criminal Judge questioned the prisoners, as prescribed by Clause second Section II. Regulation II. of 1822 as to the facts to be proved by the testimony of the witnesses whose attendance was desired by them, and the usual answer given is, "I will "prove by them that I did not commit "this crime."

4. It is obvious to remark, that so general an answer is altogether beside the purpose, and that the provisions of the above clause evidently require, that proof to specific facts should be required by the prisoners.

5. Ordered, that 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 Criminal Judge such part as concerns the Assistant Criminal Judge for his information and future guidance.

(Sent following precept No. 407)

Sent 27th

21st October 1823.

Read letter, dated 20th ultimo from the 2d Judge late on Circuit in the Northern Division, - submitting case No. 172 Chicacole Calendar 1st Sessions 1823.

(Here enter No. 631)

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

1st Paraipoo Sunneady, and

2d Paraipoo Pydiyandoo

direct that they be set at liberty.

(Sent following letter No. 408)

Sent 27th

The proceedings of Roadnava-raipoo Lookiah, Head of Police of Davapully, as recorded in this case are grossly defective and irregular. They exhibit neither charge nor deposition of any description, but merely a declaration by the 1st prisoner, and certain letters addressed to the said Head of Police and the Criminal Judge. A delay of more than five weeks appears also

also to have occurred in forwarding the prisoners to the Criminal Judge.—

2 The Court of Fouzdaree Adalut are of opinion, that the misconduct of the abovenamed Head of Police should be visited with severe fine, or dismissal.

3. The Court observe, that the plea of the prisoners to the arraignment in this case is recorded jointly. This is irregular.—

4 The futwa of the Law Officers of the Court of Circuit acquitted the 2d prisoner, and the 2d Judge appears to have concurred in that acquittal. Under these circumstances his detention in custody pending the reference of the trial was illegal.—

5 Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Northern Division by precept enjoining him to make the necessary communication to the Magistrate for his information and guidance.—

(Sent following precept No 409)

Read letter, dated 21st ult.mo, from the 2d Judge late on Circuit in the Northern Division, submitting

Case

Case No 10 Chicacole Calendar 1st Sessions 1820.—

VI (Here enter No 680.—)

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

1st Burlah Yellayah,
2d. Dandy Somanah,
3d Toompalah Sunnaay
4th Mulladah Appayah, and
5th Mutcha Appeegandoo,

direct that they be set at liberty.—

(Sent following letter No 410)

Sent 27th

The Court of Fouzdaree Adalut

1 are much concerned to observe the flagrant irregularity of the original proceedings of the Assistant Magistrate in this case.—

2 The charge preferred against the prisoners was for Gang robbery attended with violence and the Assistant Magistrate not only took upon himself to punish certain

7

21st October 1823.

of the accused, but kept no record of his proceedings, in justification of which he refers to Section VII Regulation IV of 1821.—

3 The consequence of this proceeding appears to have been that the case was excluded from the Calendar laid before the Court of Circuit, and was brought to the notice of the late acting Judge on Circuit by petition of the prosecutor.—

4 The Court of Foujdaree Adalut have on several former occasions had to notice irregularities of proceeding on the part of Mr Montgomerie the Assistant Magistrate. In the present instance his departure from the plain and express provisions of the Regulations is so palpable, as to demand their severest reprehension.—

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 make the necessary communication to the Magistrate of Vizagapatam for the information and guidance of the Assistant Magistrate.—

C# Ord 27th

W. H. (but following precept No 411)

20

F. H.

At a Court of the Foujdaree Adalut

Present

Wednesday 22d October 1823 } Charles Harris Esquire, George Gowan Esquire } Judges

C# W

Read return dated 16th Instant from the 1st Judge of the Court of Circuit in the Northern Division to precept dated 29th Ultimo calling upon him to certify whether the police officer who held the preliminary proceedings in Case No 1 Masulipatam Calendar 2d Quarterly Sessions 1823 was duly authorized.—

/Here enter No 650/

Read again, letter dated the 4th July last from the 1st Judge of the Court of Circuit in the Northern Division.— Submitting Case No 1 Masulipatam Calendar 2d Quarterly Sessions 1823.—

/Here enter No 467/

The Court having maturely considered the proceedings held before the Judge on Circuit the future of the Provincial Law officer and the future of the Cazeecool Cozat and Mooftees of the Foujdaree Adalut confirm the said future of the Cazeecool Cozat and Mooftees aforesaid so far as it regards the C# prisoner 1st "Lunga Rayreegandoo" and under the C# provisions of Section III Regulation I of 1822 a sentence the said prisoner

1st "Lunga Rayreegandoo"

to receive 39 stripes with a rattan and to be C# imprisoned

22d: October 1823

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 publics works for and during the period of his natural life.-

And the Court being of opinion that the proof against the prisoners 4th Vara Logadoo 5th Condaypoody Bheemoodoo. 6th Tunga Pulladoo 10th Mallum Vencadoo & 13th Ekuppedee Lautagandoo is sufficient to convict them of the crime of &c robbery by open violence for which a penalty is specially denounced by Section III Regulation I of 1822 do under the authority vested in them by clause first Section II Regulation I of 1818 adjudge the said prisoners

4th Vara Logadoo
5th Condaypoody Bheemoodoo,
6th Tunga Pulladoo,
10th Mallum Vencadoo, and
13th Ekuppedee Lautagandoo

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 and during the period of their natural lives respectively.-

And the Court being of opinion that the proof against the prisoners 2d Gortee Vencanah 7th Tunga Bhagavandoo 11th Chappedee Pedee & 12th Mooloocoola Dorapah is sufficient to

22d: October 1823. to convict them of having received plundered property knowing at the time of receiving the same that such property had been obtained in the perpetration of robbery by open violence for which a penalty is specially denounced in &c clause second section IV Regulation VI of 1822 do under the authority vested in them by clause first section II Regulation I of 1818 adjudge the said prisoner

2d Gortee Vencanah

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of 9 years and then be released.

And the prisoner

7th Tunga Bhagavandoo

to be imprisoned and kept to hard labor in &c irons on the public roads or other public works for and during the period of 1 year and then be released.-

And the prisoner

11th Chappedee Pedee

to be imprisoned without irons or hard labor for the period of 1 year and then be released.-

And the prisoner

12th Mooloocoola Dorapah

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of 3 years and then be released.-

And under the provisions of-

Clause

Clause sixth Section III Regulation XV of 1803
the Court direct that the remaining prisoners,

3d "Gottala Vencadoo"
8th "Boday Boochegandoo",
9th "Yella Chowdareegandoo",
14th "Subbaetee Venadoo",
15th "Subbaetee Goonadoo", and
16th "Sunpathee Audreganda"

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

c:# W.W. Sent 27th

/Sent following letter No. 412./

Read letter dated 8th Instant
W.W. from the 3d Judge of the Provincial Court
in the Northern Division, with returned
warrant for execution of prisoners in Case
No. 7 Allore Calendar 2d Sessions 1823.-

/Here enter No. 642-B/

Read return dated 15th Instant
from the 2d Judge of the Court of Circuit in the
Centre Division to precept dated 2d Ultimo
ordering communication to the Court of Circuit
and to the Criminal Judge in the Zilla of Bellary
of the Courts orders on cases Nos 28 & 29 Bellary
Calendar 1st Sessions 1823.-

/Here enter No. 647/S

W. W.

7-11

7-11

At a Court of the Foujdaree Adalut.

Present,

Thursday 23d October 1823.

George Stratton Esqre Chief Judge.
Charles Harris Esqre Puisne Judge.

W
C:#

Read letter, dated 23d August last, from the 1st Judge of the Court of Circuit in the Northern Division, submitting case No. 1 Masulipatam Calendar 3d Quarterly Sessions 1823.-

(Here enter No. 569)

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 Section III Regulation I of 1822 adjudge the prisoners,

1st Vatteeala Veeraisha,
2d Vullaboyee Somanah,
3d Perroodalla Atchanah,
4th Koocala Veerapah,
5th Bollasany Gungooloo and
6th Ganabola Chenchoo,

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 labor in irons on the public roads or other public works for and during the period of their natural lives respectively.-

Sent 29th.

(Sent following letter No 1413.)

At a Court of the Foujdaree Adawlut

Present,

Monday 27th October 1823. Charles Harris Esqre. } Judges.
George Gowan Esqre. }

Read letter, dated 8th September last, from the 3d Judge late on Circuit in the Western Division,- submitting for the orders of this Court case No 22 Malabar Calendar 1st Sessions 1823.

(Here enter No 618.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Adawlut confirming the said futwa of the Cazee ool Coozat and Mooftees aforesaid, so far as it respects the 4th prisoner, Koonatha alias Halladashery Parangoden, and under the provisions of Section III Regulation I of 1822 adjudge the said prisoner, 4th Koonatha alias Halladashery Parangoden, to receive 39 stripes with a rattan and to be imprisoned and transported to such place or places beyond sea as

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 the Court being of opinion that the proof against the prisoners, 3d Wengadherry Goorkul alias Pajamgawilpidiakel Cheroo Unyen, 5th Soorapil kunhan, 6th Valliyaparakel Raman, and 7th Hallatiltodoogail Mahoo, 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, do under the authority vested in them by Clause first Section II Regulation I of 1818 adjudge the said prisoners,

3d Wengadherry Goorkul alias Pajamgawil pidiakel Cheroo Unyen,
5th Soorapil kunhun
6th Valliyaparakel Raman, and
7th Hallatiltodoogail Mahoo,

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

W. H.

hard labor in irons on the public roads or other public works for and during the period of their natural lives respectively.-

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

2d Tadathilpalakalil Parangodan,
4th Eyaparah Mahoo,
8th Alapooratha Parangodan,
9th Hanavalapil Appah,
10th Hangahparambil Nottoo,
11th Pookumpidiakel Unny Appah, and
12th Madatilette kunhan Nair,

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

(Sent following letter No 1114.)

W. H.

F. C.

At a Court of the Faujdaree Adalut

Present

Thursday
25th October 1823

Charles Harris Esquire
George Gowan Esquire
} Judges

c. th
Ul

Read letter, dated 10th June ult. from the 3d Judge of the Court of Circuit in the Centre Division, submitting report prescribed by section XXXVI Regulation VII of 1802 for the 2d Sessions of 1822.

Have enter No. 582

1 The Court of Faujdaree Adalut proceed, to record such observations as appear to them to be requisite upon the foregoing report.

2 Paragraphs from 6 to 9 inclusive contain a transcript of an order issued to the Criminal Judge in the Zilla of Cuddapa animadverting upon the misstatement of the dates of the apprehension of prisoners by the officer of police and directing further evidence to be attained in case No. 2 of the Calendar.

3 The Court of Faujdaree Adalut concur entirely with the 3d Judge in the high importance which he attaches to the subject principally discussed in this order. The imposition of false dates of apprehension and

examination

W. 80.

examination upon the Criminal Courts by the Native Heads of Police has become the Court = -ject to observe, a general practice; and the attention of the Magistrates has in vain been directed by circular orders and orders on particular cases to the necessity of using every means in their power for its' suppression. The Court of Foujdaree Udalut doubt not that much public benefit will ensue from the exertions of the 3d Judges to correct these and other irregularities and improprieties observable in the proceedings of the Police; but with reference to the part of the report now under consideration as well as to its' contents generally the Courts have to observe, that the entry in detail of orders issued by the Judge on Circuit on such occa = -sions unnecessarily swells the report, and that a brief notice of prevalent irregularities would amply suffice for the attainment of the object in view. In regard to many of the entries in this report such as the orders transcribed in paragraphs 11, 12, 13, and 14 the Court must remark that the subject matter, is altogether foreign from the object of the reports prescribed by section XXXVII Regulation VII of 1802, and that by the insertion of these and similar orders the report of the 3d Judges, which is otherwise

W. H.

28th October 1823.

otherwise frequently redundant, has been needlessly extended to an inconvenient length.

4 Paragraphs from 28 to 30 inclusive contain a copy of an order for the distribution of pecuniary rewards to certain individuals, for which no specific ground is assigned, but in explanation it is intimated generally, "that circumstances rendered it seasonable to "shew to the inhabitants of the talook of Bud = "wheel that those who aid the ends of public "justice will be rewarded, instead of being "left with gratuitous services, in fear of retri = -bution attempts from those against whom "they inform."

5 On perusal of this report to the attention of the Court of Foujdaree Udalut has been forcibly attracted to the extraordinary frequency of similar remuneration for police services by order of the 3d Judge. In the opinion of the Court recourse should not be had to the provisions of section XXIII Regulation IX of 1816 upon ordinary occasions, when the service rendered may have amounted to nothing more than is due to the public by every member of the community, and may not have been attended with personal injury, or loss, or material inconvenience.

6 Paragraphs 52 and 53 have reference to a case of arson, wherein the preliminary

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preliminary proceedings conducted by an Officer specially vested with police authority under the provisions of section III Regulation IX of 1825 were extremely defective and irregular. The 3d Judge taken occasion in this part of the report to advert to the importance of attention to the provisioning of prisoners while in custody of the officers of police; and observes that the only one of 46 Police Ameens entertained in the Zilla of Cuddapa, who had conducted the preliminary proceedings in a case laid before the Court of Circuit shewed himself to be incompetent to the duty.

7 The Court of Foujdaree Udalut concur entirely with the 3d Judge in his humane solicitude to cause full effect to be given to those provisions of the law which respect the subsistence of persons in custody. It is manifest as was observed by the 3d Judge in his reference of the case alluded to in this part of the report, that the inadequate supply of food may be made the means of extorting confessions, and cases have been brought before the Courts in which there was too much reason to believe that such had been the fact. The Court would willingly hope, that the instances of such flagrant abuse of power on the part of native Officers are very rare, but they deem it proper to call the attention of the Magistrates

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Magistrates generally to the importance of taking the most effectual measures for ascertaining that prisoners, who by the periodical reports laid before the Court of Foujdaree Udalut are shewn to be universally detained in the custody of those officers for weeks and even months previously to their transmission to the Criminal Judge, are adequately supplied with food; and in order to this it is manifestly necessary that the falsification of dates of apprehension should by the most rigorous measures be suppressed; since when the term of a prisoner's detention is incorrectly reported correct returns of the allowance for his subsistence must be out of the question.

8 In paragraph 54 the 3d Judge, referring to a case of perjury noticed by the Court of Foujdaree Udalut in their proceedings on a former occasion, intimates an opinion that it would be wrong in law for a Criminal Judge to take cognizance of a perjury, on the ground of this not having in his ordinary jurisdiction the right of taking charges and issuing process: and the Court collect from this passage, that the 3d Judge considers the provisions of section VIII Regulation X of 1816 to require, that where a witness may commit perjury, in his examination before

before a Criminal Judge the proceedings against him must originate in the department of the Magistrate.

9 The point of Law here agitated was brought under the consideration of the Court of Foujdaree Udalut by a reference from the Provincial Court of Circuit in the Western Division, under date 14th January 1820, and as the orders of the Court of Foujdaree Udalut on that reference in their proceedings of 31st January 1820 embrace all the bearings of the question, the Court deem it proper to take this opportunity of circulating an Extract thereof for general information.—

10 The reference from the Provincial Court of Circuit arose out of a case in which "the Acting Criminal Judge in the Zilla of Cuttack "Malabar, being of opinion that the prosecutor "and two of the witnesses in a case before him "were guilty of wilful perjury in their depositions", sent the said prosecutor and witnesses together with copies of the depositions in question to the Magistrate of Malabar.—

11 The construction given by the Court of Foujdaree Udalut to the general provisions of the Regulations on this subject is contained in the following observations recorded on the above case.—

"With respect to the proper mode "of proceeding in a case of perjury before a "Criminal Judge, the Magistrate, the Assistant Criminal

28th October 1823. "Criminal Judge, and the Provincial Court have "fallen into the same error from not duly "considering the peculiar nature of this offence; "and have thus been led to apply the pro- "visions of Section VIII Regulation X of 1816 "to a case which is in its own nature, as "well as by other provisions of the Code "specially excluded from their operation".—

The Section in question declared, that "the Criminal Judge of the Zilla shall "not receive or take cognizance of any Criminal "charge or information except such as may "be brought before him by a Magistrate or "some Police Officer".—

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

"From Section V Regulation VI "of 1811 it is clearly to be inferred, that all "Courts Civil or Criminal, are competent and "bound to commit persons whom they may "consider to have been guilty of perjury before "themselves".—

"The reasons for the rule appear

"to

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"to be, because the primâ facie case, which
"must necessarily be made out before a party
"is Committed or held to bail, is already before
"a competent tribunal - because it is at the
"instance of a judicial tribunal, and not on
"the accusation of an interested individual
"that the trial is to take place, and because
"it is essential to the pure and effectual ex-
"administration of justice, that every Court
"should protect and vindicate its own dignity
"and perjury is the highest species of contempt"

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

"The vindication of the dignity
"of his own Court in this respect is thus imme-
=diately vested in the Magistrate, in Conformity
"with the principle above referred to, it being
"Considered that false swearing in charges of
"so petty a description did not demand the
severest

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"severest penalties of the law"

12. Paragraphs from 56 to 60 inclusive contain observations upon the policy of the provision contained in section IX Regulation IV of 1821 whereby Magistrates are vested with discretionary authority to dispense with the solemnity of an Oath in examining complaints for petty offences and petty thefts.-

13. The reasoning of the 3d Judge in this part of the Report is quite general, and may not be considered by the Government of sufficient weight to induce the reconsideration of a deliberate legislative enactment. It may be observed, that the principle maintained by the 3d Judge is opposed to the provisions of section IV of the Regulation, under which persons are liable to imprisonment and corporal punishment, where the testimony against them is not given under the sanction of an Oath, or the witnesses liable to punishment for falsehood. In a subsequent part of the report the 3d Judge adduces instances of the abuse of the provisions of the above cited Regulation, which the Court of Sudder Adalut will more particularly notice.-

14. In paragraph 78 the 3d Judge notices case No. 10 of the Calendar the proceed-
=ings

=ings on which were grashes by order of the Sou=
=daree Udalut. The 3d Judge's recommendation
in favor of the prisoner was attended to by
the Court on her subsequent conviction of
returning from Prince of Wales's Island.-

15 The Court of Soujdaree Udalut
take this opportunity of observing that the
3d Judge has most unnecessarily loaded his
report with notices of all the cases contained
in the Calendars laid before him. The orders
of the Soujdaree Udalut on this subject direct
that cases of particular interest or importance
should receive specific notice in the reports
submitted under the provisions of section
XXXVIII Regulation VIII of 1802, but the in=
=discriminate detail of every case can answer
no useful purpose.-

16. In paragraph 82 the 3d Judge,
introducing the subject of an order issued in
Case No. 18, observes that "it would be more
"equitable if space and time allowed for
"the returns in each case being sent as
"might be done in a journal of material
"events to accompany a report."-

17 The Court of Soujdaree Udalut
are of opinion, that no precepts or returns
should be entered in the report of a Judge

of Circuit, but that such, as may be of
importance and tend to elucidate the obser=
=ations in the text should be submitted separ=
=ly.-

18. The order recited in the four
following paragraphs refers to an atrocious
case of murder in regard to which the conduct
of the subordinate officers of police appears
to have been extremely remiss. The 3d Judge
noticed the omission of any inquest on
the body of the deceased, a species of negli=
=gence in regard to a most important duty
of which examples are very frequent, and
for which since the enactment of section
III Regulation IV of 1821 there can be no
excuse.-

19 Paragraph 115 introduced the
notice of case No. 21 of the Calendar, and
the Third Judge takes occasion to discuss
the provisions of section XXI Regulation
VII of 1802. In this instance the Court in
Compliance with the recommendation of
the third Judge allowed of a mitigated
sentence, but in regard to the limitation
contained in the provision last cited the
Court have ruled generally in conformity with
the construction of this provision, which
is given in Clause seventh Section VIII Regula=
=tion

=tion XVIII of 1817 in the Beng. Code that the reference therein made to the Mohummedan Law in cases of theft is not intended to preclude the Courts of Circuit from adjudging stripes, not exceeding 30, in addition to imprisonment not exceeding seven years, when such punishment in aggravated cases may appear just and proper.—

20. Paragraphs from 116 to 146 inclusive are occupied in a discussion of the provisions of Regulation VII of 1822 in which particular stress is laid upon the effect of the restriction contained in clause fifth section II of the Regulation

21. The Court of Foujdaree Adalut will not attempt to follow the Third Judge through the whole of his reasoning on this subject. It does not appear that this officer considers the punishment for housebreaking too severe; his argument is principally directed to the policy of enhancing that punishment on a repetition of the offence. It may however be remarked generally, that a second inflic=tion of seven years imprisonment and hard labor in irons for a repetition of the offence, for which that punishment may have been previously undergone, must from the consti=tution

=tution of the human frame and the natural operation of time, be in ordinary cases more severely felt than the first.— In regard to the disparity between the punishment adjudicable by the Court of Circuit and by the Criminal Judge in cases of theft it is to be observed that under the Law as it stood before a theft punishable by six months imprisonment might in case of commitment for trial before the Court of Circuit subject the offender to imprisonment for seven years, and that this disparity of punishment in cases of a similar descrip=tion has been materially lessened by the provisions of Regulation VII of 1822, which give encreased powers to the Criminal Judge. This Regulation has been in force for the last six years in Bengal without having been found open to serious practical objec=tion, and the Court of Foujdaree Adalut do not discover in the arguments here ad=vanced by the 3d Judge adequate ground for recommending its modification.—

22. In paragraphs from 147 to 158 inclusive the 3d Judge resumes the consi=deration of the policy of dispensing with the use of oaths in evidence. On this part

of

of the report the Court of Foujdaree Udalut will not offer any observation.—

23. In paragraph 159 the Jt. Judge adverts to a point connected with the construction of Regulation IV of 1821 and Section VI of 1822 which is resumed in a subsequent part of the report and forms the subject of certain communications with the Magistrate of Bellary, given in the Appendix. The question specifically propounded in this paragraph is whether or not a Tahseeldar, Magistrate, or Criminal Judge, whose powers of punishment are limited to certain descriptions of offences can legally adjudge the same individual to suffer the prescribed penalty "twice or thrice" on the proof of two or three charges respectively cognizable by them.—

24. The Court of Foujdaree Udalut have on a former occasion in reference to the case of an individual sentenced by the Assistant Magistrate in the Zilla of Chingleput on different charges of petty theft to receive for each offence the full penalty, adjudicable under the provisions of section XXXIII Regulation IX of 1816 ruled that the proceeding adverted to by the Jt. Judge is

is contrary to Law. The Court are clearly of opinion, that it is incompetent to a Tahseeldar, Magistrate, or Criminal Judge to sentence at any time the same individual to a severer punishment than that specifically described in those provisions of the Law, which define their powers respectively. The latter as well as the Spirit of the Regulations clearly requires, that a party deserving of severer punishment than that specifically declared to be adjudicable by the lower shall be remitted to the higher tribunal; and as was explained by the Foujdaree Udalut on the occasion abovementioned an individual appearing to have committed several thefts would not himself, nor would the degree of his criminality come within the definitions given both of the offenders punishable and the offences cognizable by a Tahseeldar or a Magistrate.—

25. As the Court propose to circulate these observations for general information they resolve to take this opportunity of noticing one or two serious irregularities, which they have lately remarked in the proceedings of the Magistrates.—

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In the paragraph of the 3d. Jurisdiction report now under consideration it is observed that large cases of Burglary have been tried by the Magistrates, and upon testimony given without Oath, and a case has very recently come under the observation of the Court of Foujdaree Udalut wherein an Assistant Magistrate took upon himself to dispose of a charge of Gang Robbery by open violence, an offence for which the punishment of 39 stripes imprisonment for life is prescribed by the Regulations without recording the examinations, and cited Section VIII Regulation IV of 1821 as giving authority for the proceeding.—

27.

Intimately connected with this subject is a question recently determined by the Foujdaree Udalut on a special reference from the 3d. Judge by desire of the Magistrate of Bellary; namely whether or not it is competent to a Head of District Police under the provisions of Section IV Regulation IV of 1821 to take cognizance of thefts, when the value of the property stolen may exceed five rupees, and whether under the provisions of clause second of the section the Magistrate is authorized to pass sentence in cases of theft

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theft exceeding that amount upon a report from the Head of Police.—

28. The Court of Foujdaree Udalut deem it proper on this occasion to give circumlocation to their decision on the construction of section IV Regulation IV of 1821, which in their opinion does not authorize a Tahseeldar to determine a case of theft of property exceeding five rupees in value, or a Magistrate to pass sentence in such a case without holding a personal investigation.—

29. Upon the illegality of applying the provisions of sections VII and IX Regulation IV of 1821 to offences other than those described in sections XXXII and XXXIII Regulation IX of 1816 it cannot be necessary for the Court of Foujdaree Udalut to dilate, and they trust that the notice here taken of the instances of such practices, which have come before them will effectually prevent their recurrence.—

30. In paragraphs from 167 to 178 inclusive are detailed instances of irregularity, supineness, and postponement of police to revenue duty on the part of the native officers of Police, which merit serious consideration.—

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31. In respect to one point especially noticed, namely the omission of the Head of Police to take down immediately in writing the charge of the complainant, circular orders have been issued to the several Magistrates by the Foujdaree Udalut. The importance of such a record has been abundantly shewn, and the Court are of opinion that in view to the enforcement of their orders on this subject it is desirable that Tahseeldars and other officers vested with the power to hold preliminary investigation in heinous cases, should be required to forward to the Magistrates a transcript of all such charges, on the day on which they may be preferred; retaining the original to accompany the record of their proceedings. This arrangement appears moreover to be requisite for the prevention of a practice which has been found to obtain of substituting for the original charge one framed so as to tally with evidence afterwards obtained.—

32. In paragraph 180 the 3d. Judge adverts to the expediency of giving to the Criminal Judge some direct superintendence over the Police.—

33. The measure here suggested is opposed to the declared sentiments of the Government. the Court of Foujdaree Udalut would however respectfully offer their opinion, that public business would be materially facilitated were authority given to the Criminal Judge to apply directly to the Tahseeldars for further evidence and information, when requisite, in cases sent up by them under the provisions of Section XXVII Regulation XI of 1816, a reference to the Magistrate being required, as at present, whenever the peremptory interposition of authority, or the correction of irregularity on the part of those officers might be called for. A case is noticed by the 3d Judge in paragraph 201 of the report, as furnishing an instance of the inconvenience of the circuitous mode of communication now prescribed.—

34. In paragraph 249 of the report the 3d Judge noticed the case of two persons committed by the Magistrate of Cuddapa as vagrants without any personal examination held by him, but merely on the ground of a report from the Head of Police.—

35. The Court of Foujdaree Udalut are

are of opinion, that this practice is very objectionable, and not sanctioned by the provisions of Clause first section III Regulation II of 1822, which authorize the apprehension of persons of this description by the Heads of Police.—

36. The Court being of opinion that no person should be lodged in Jail by order of the Magistrate issued under the provisions of the 2d Clause above cited without a personal examination and enquiry by that officer, direct, that their sentiments on this head be communicated to the several Magistrates for their information and guidance.—

37. In paragraph 266 the 3d Judge intimates the opinion, that it is not competent to a Judge on Circuit to take cognizance of cases, disposed of by the Magistrate subsequently to the delivery of the Calendars prescribed by section XI. Regulation IX of 1816.

38. The Court of Tanjore Adalut do not concur in the opinion here expressed by the 3d Judge, and hold that it is fully competent to a Judge on Circuit to call for explanations and pass orders on all matters brought under his cognizance by petitions presented

presented during his stay at the zilla station.—

39. In paragraph 271 reference is made to an excellent order issued by the 3d Judge under date 5th September 1822 on an examination of the Calendars furnished by the Magistrate of Cuddapa: therein several irregularities already remarked upon are noticed in the proceedings of the Magistrate, and in particular the highly objectionable practice of calling on a prisoner or a witness to state whether a confession, or depositions, sent up by the Police officer be true instead of holding an examination of the parties de novo in the mode prescribed in section XXIV Regulation IX of 1816.— The Court trust, that the Magistrate will carefully attend to the judicious and humane observations, communicated to him in this order.—

40. In the latter part of paragraph 310 the 3d Judge suggests an alteration of the provisions of section XLVI Regulation XI of 1816, which prohibits Native Officers of police from taking cognizance of charges of adultery or fornication.—

41 The Court of Tanjore Adalut

do

do not see any adequate ground for recommending an alteration of the existing Law on the subject. The complainant in such cases should address himself to the Magistrate, and the Officers of police should be strictly prohibited from proceeding against parties charged with offences of this nature, as appear to have been done by the Head Police in the case sustained on by the 3d Judge

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In the latter part of para 350 the 3d Judge takes occasion to appeal for the introduction of general rules on the subject of police into a letter of a treat for the final sentence of the Court of Zeyadaree Adalut.—

43.

The Court deem it proper to take this opportunity of observing on the great importance of attending all matters affecting the merits of the case, under the from the letters conveying the sentence of the Judge of Circuit. The 3d Judge in the passage now under review, that bring all such subjects into one point would result to be a great defect in Court of Zeyadaree Adalut are of opinion that this evil may be effectually by due attention to the consideration of

and the exclusion of unimportant and irrelevant matter from the Reports.—

44. In paragraphs 357, and 377 instances are given of the inconvenience arising from the absence of the Magistrate, which prevented the sufficiently early attendance of certain witnesses required by the Court of Circuit.—

45. The Court have in a preceding paragraph offered a recommendation that authority should be given to the Criminal Judges to call on the Heads of Police for further evidence required in cases sent up by them, it would also in the opinion of the Court be desirable to extend this authority to cases, wherein additional evidence may be required by the Court of Circuit, and the Magistrate may be absent from the zilla station.—

46. Paragraphs from 404 to 413 inclusive contain Copy of an order upon a miscellaneous petition, wherein the 3d Judge argues on the inconvenience and hardship attending the Magistrate's refusal to grant copies of his proceedings to a party interested.—

47. This subject has recently been brought

brought under consideration of the Court of Sudr Udalut on a representation from the Zillah Judge of Bellary, that certain documents, stated by a party in a suit before him to be material, were withheld by the Magistrate, and by circular orders of the Court dated 20th June last the opinion of the Court was declared, that applications of this nature should be acceded to by the Criminal Courts, unless strong and special ground should appear to exist for a refusal in which case the public officer, who may have passed the order, would be warranted in refusing Compliance with the application until the receipt of orders from superior authority.—

48. The circular instructions here cited obviously require, that when the prayer of a petition praying for documents of this description may be refused the grounds of the refusal should be stated.—

49. In paragraph 423 reference is made to certain proceedings of the Court of Circuit, copy of which is given in the Appendix, animadverting upon the illegal proceeding of the Assistant Magistrate in an aggravated Case of larceny accompanied with

with violence, and upon a circular order, issued by the Magistrate to the Heads of police founded on the provisions of Regulation IV of 1821.—

50. The Court of Foujdaree Udalut have in paragraph 35 of these proceedings declared their opinion of the illegality of the circular order in question, their sentiments on this subject have already been conveyed to the Magistrate of Bellary.—

51. In paragraph 427 the 3d Judge observes upon the impropriety of substituting circular orders or proclamations by the Magistrate for the publication of the letter of the law.—

52. The Court of Foujdaree Udalut concur entirely with the 3d Judge in the sentiments which he has expressed on this subject, and have by a circular order declared their opinion, that although the provisions of section XVII Regulation III of 1810 are no longer in force it is highly expedient and necessary that measures of the nature therein prescribed should be taken for the purpose of giving due publicity to all enactments of the Legislature. The substitution of a proclamation by the Magistrate to the

officers

Officers of police in the zilla of Bellary to the publication of Regulation IV of 1821 has, in the instance referred to in this part of the report, led to the establishment of a practice wholly unauthorized by the provisions of that Regulation, and in the opinion of the Court of a highly injurious tendency.—

53. Paragraph 434 contains notice of a case described particularly in the appendix in which the Assistant Magistrate passed sentence on the parties on a report from the Police Officer. This was a case of Burglary committed by four persons, one of whom was a village watchman: it was therefore a case of which, with reference to the provisions of Clause second Section II Regulation VII of 1816 cognizance could not legally be taken even by the Criminal Judge under the extended powers vested in him by that Regulation.

54. In explanation of the proceeding the Assistant Magistrate urges the inconvenience to the parties which would have attended their transmission to the zilla station: and the Magistrate avows his concurrence in his Assistant's view of the question.—

55. The late orders of the Boujdaree Adalut

28th October 1823. Udalut already referred to will prevent the recurrence of so flagrant an impropriety as the determination of a case of this nature by a native officer of Police; but it is incumbent upon the Court to observe for the information and future guidance of the Magistrate, that such a case could by no means be brought within the definition, given in Section XXXIII Regulation IX of 1816 of thefts cognizable by a Magistrate—and that the practice avowed by Mr Gosling of disposing of cases of housebreaking is wholly unwarranted, the Cognizance of any charge of that description not having indeed been given to the Superior tribunal of the Criminal Judge before the enactment of Regulation VI of 1822.—

56. In paragraph 432 another case is noticed of a Gang robbery from a dwelling house, punished by order of the Assistant to Magistrate of Bellary with 18 rattans on a report from the Tahseeldar without any examination of the parties.—

57. Paragraph 433 contains a notice of a case of robbery accompanied with violence disposed of by the Head Assistant Magistrate. The papers given in the appendix

relative

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relature to this case shew, that the parties were put to much inconvenience, and that consider=able delay occurred, owing to the attention of the Assistant Magistrate having been called off to Revenue business. It appears also that no record whatever was kept and that the Assistant Magistrate could only state from recollection the date of the prison=ers' apprehension and other particulars.—

58. Paragraph 434 refers to a case of theft from the person of ornaments valued 18 Rupees committed by two persons in a dwell=ing house at night. This case was disposed of by the Assistant Magistrate on a report from the Tahseeldar without any personal investigation.—

59. By paragraph 435 it appears that a case of robbery of property to the value of 154 Rupees by four persons was disposed of by the Junior Assistant to the Magistrate, and the prisoners sentenced to 18 Stripes each. The 3d Judge, commenting upon this case in which the prisoners if regularly tried by the Court of Circuit would have incurred the punishment of seven years imprison=ment and hard labor observes, that "the young Assistants

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28th October 1823. "Assistants when first entering on the duties "of office should not immediately be employed "in decisions of such moment."—

60. The Court of Foujdaree Udalut cannot but concur in the opinion here ex=pressed by the 3d Judge, and are of opinion that some rules prescribing the Magistrate's Superintendance over the proceedings of his Assistants are greatly required.—

61. Paragraph 436 refers to certain proceedings given in the appendix upon various cases of a heinous description, dispo=sed of upon investigation by the Native Head of Police.—

62. In paragraph 437 the 3d Judge refers to a case stated at large in the appen=dix wherein the Magistrate fined a prose=cutor 50 Rupees for preferring an unfounded charge of conspiracy with intent to murder.

63. The Court of Foujdaree Udalut concur with the 3d Judge in considering the imposition of this fine to have been illegal, the charge not coming within the scope of the provision of Section XXXV Regulation IX of 1816, and the Court coincide with the 3d Judge in the view which he has taken of the proceedings in this case generally.—

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64. In paragraphs 438 and 439 reference is made to certain communications addressed to the Magistrate of Bellary by the 3d Judge when on Circuit in 1821. The Court of Foujdaree Udalut will not notice these orders more particularly than by expressing their entire Concurrence in the sentiments declared and the instructions given therein by the 3d Judge, to which they trust that every attention will be paid by the Magistrate. These orders contain notices of various irregularities of proceeding, of which instances have been already cited.—

65. The observations of the 3d Judge on the report and in the papers given in the Appendix upon irregularities observed in the proceedings of the Assistant Magistrate and the Officers of Police in the Zillah of Chinglepat are considered by the Court of Foujdaree Udalut to be perfectly correct; and the Court trust that they will receive every attention. In paragraphs from 531 to 534 inclusive reference is made to a case, wherein the Assistant Magistrate applied the rule which sanctions the admission of testimony without oaths in petty cases to an investigation of a case of homicide.—

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66. The Court do not deem it necessary to offer any remark on the illegality of this proceeding which is sufficiently apparent; but they take this opportunity of observing that the sentiments recorded by the 3d Judge on the general question of the policy of dispensing with sworn testimony in judicial investigation appear to merit consideration.—

67. In paragraph 540 of the report reference is made to an Extract of the proceedings of the Court addressed to the Magistrate in the Southern Division of Arcot, commenting upon several Cases wherein the punishment of stripes had been illegally awarded, final judgment passed on Cases not legally adjudicable by a Magistrate and the provision of section IV Regulation IV of 1821, which authorize the Magistrate to pass orders on the report of a Tahseeldar without a personal investigation of the charge, applied to cases not therein contemplated.—

68 The Court of Foujdaree Udalut have already had occasion to declare their sentiments upon similar proceedings in the Zillah of Cuddapa and Bellary they trust that the instructions issued by the 3d

Judge

Judge to the Magistrate in the Southern Division of Arcot will receive the attention to which they are entitled.—

69. Of the several cases above referred to, the Court of Foujdaree Adalut will not now take more particular notice, but a case is mentioned in paragraph 5th, which involves in itself so gross a violation of law, that the Court cannot allow it to pass without special animadversion.—

70. In this case one individual was punished by the Assistant Magistrate with 18 stripes and several others with six stripes on a charge of smuggling tobacco.—

71. As remarked by the 3d Judge in his proceedings on the case the punishment here awarded was contrary to the provisions of section XXI Regulation I of 1812: and as the customs were not rented in the District, the Assistant Magistrate's disposal of the case, at all, was a violation of the provisions of section XLIV Regulation IX of 1816.—

72. The Assistant Magistrate in reply to the observations made upon his proceedings by the 3d Judge on Circuit offers no explanations of the sentence of corporal punishment

punishment illegally passed on the prisoners, but being loth to send them to Chinglepute in consideration of its "immense distance" from their village, he determined to punish them, and in the conclusion of his letter after acknowledging that these people were not punished conformably to the regulations the customs not being "rented" the Assistant Magistrate expresses his hope that his deviation from the Regulations will on consideration of the facts stated by him appear to have been "not altogether injudicious or without cause."—

73. The slight importance which the Assistant Magistrate would appear to attach to a deliberate departure from the Regulations which he is solemnly bound to observe, appears to the Court of Foujdaree Adalut to demand most serious notice. The proceeding itself, had it been attributable to inadvertence might have been classed with the numerous other instances of unauthorized exertion of power on the part of the officers charged with the administration of police, which the Court have observed with much regret on examining the proceedings now before them: but they deem it their duty especially to record their

their reprehension of the principle avowed by the Assistant Magistrate in this case, that notions of convenience or expediency can justify the illegal infliction of punish=ment.—

74 In paragraph 546 is noticed another instance of irregular and illegal proceeding on the part of the Assistant Magistrate: and in paragraph 547 an e= =xized decision by the late Magistrate of Chingleput in a case cognizable only before a Court of Civil Judicature.—

75. Paragraph 552 refers to certain Orders regarding persons lodged in the Jail as vagrants and suspicious characters by order of the Magistrate under the provisions of Section III Regulation II of 1822.—

76. From the circumstances disclosed in numerous cases, which have from time to time come under the observation of the Court of Foujdaree Udalut they are constrained to remark that the power vested in the e= Magistrates by the provisions of the Section last mentioned are frequently exercised with= =out due discrimination and that adequate e= caution is not generally observed in such cases to

to prevent the needless privation of perso= =nal liberty.—

77. In paragraph 556 the 3d Judge notices incidentally "that the Collector of "Chingleput undertakes to punish persons "at the reference of the Collector of Madras "for acts of illicit trade within the limits "of the Madras custom house".—

78. Section XLIV Regulation IX of 1816 declares that such parts of Section XVI Regulation III of 1812, as refer to the Magistrate, shall be applicable to the e= Criminal Judge only:— this restriction not having been removed by any subsequent enactment of the Legislature the Court of Foujdaree Udalut have no hesitation in pronouncing their opinion, that such cases are legally Cognizable only by the Criminal Judge of Chingleput.—

79 In conclusion the Court of Foujdaree Udalut deem it incumbent upon them to record their high commendation of the zeal and industry displayed by the 3d Judge in the discharge of his important duties, which are calculated essentially to promote the best interests of the community.—

Ordered that the Report and Extract of these proceedings be sent to the e=

Secretary

28th October 1823.

Secretary to Government in the Criminal Department
for the purpose of being laid before the Honorable
the Governor in Council.

No 36/
sent 4to

Sent following letter No 869/

Ordered, also that Extract
of these proceedings be sent to the Judge late
on Circuit in the Centre Division by precept com-
=manding him to communicate to the Magistrate
of Cuddapa paragraph 39, & to the Magistrate
of Bellary paras 53, 54, 55, & to the Magistrate
in the Southern Division of Arcot paras 67,
sent 4to 68, 69, 70, 71, 72 & 73 for their information & guid-
=dance respectively.

Sent following Precept No 418/

10/11, Ordered, also that para 8, of
these proceedings be sent to the Provincial
Courts of Circuit in the Centre, Southern & Northern
Divisions by precept requiring them to Commu-
=nicate the same to the several Criminal Judges
sent 4to & Magistrates in their respective divisions for
their information & guidance.

Sent following Precepts No 869/

Sent following Precepts No 420/

U.U.

Ed Ctl

U. U.

No. 11.

At a Court of the Foujdaree Adalut.

Present.

Thursday, 30th October, 1823. Charles Harris Esqre } Judges.
George Gowan Esqre }

Read letter, dated 6th Instant,
from the 1st Judge of the Court of Circuit
C4. in the Northern Division, - submitting
U.U. case No 3. Masulipatam Calendar 3d
Quarterly Sessions A.D 1823.
(Register No 645)

The Court having maturely
considered the proceedings held before
the Judge on Circuit the future of the
Provincial Law Officer and the future
of the Cazee ool Cozat and Mooftees
of the Foujdaree Adalut confirm the
said future of the Cazee ool Cozat
and Mooftees aforesaid and under the
provisions of Section III Regulation I
of 1822 adjudge the prisoner,

Roodraraauze Ramaraauze,

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

30th October 1823.

28 kept to hard labor in irons on the public
roads or other public works for and
during the period of his natural life.
Sent & Rem. WK (Sent following Letter No. 421.)

WK

F.W.

Ac Court of the Zillah Adalat.

Present.

Friday
31st October 1823.

Charles Harris, Esqre.
George Gowan, Esqre. } Judges.

Read return, dated 24th
C.th.
WK instant, from the 3d Judge of the Provin-
cial Court of Circuit in the Centre Division,
to precept dated 26th ultimo, calling for
records of proceedings held in case No. 40.
Bellary Calendar 2d Sessions A.D. 1822
and Nos. 2, 3, 5 and 11 Chittoor Calendar
2d Quarterly Sessions of 1823.

(Presented No. 867.)

It appearing by the foregoing
return that, Hoolagah, prisoner in case
No. 40. Bellary Calendar 2d Sessions A.D.
1822, has died in Jail, the Court of Zillah
Adalat do not request, that the
Record should be submitted to them;
but they deem it proper in reference

to

1. the long period which has elapsed since the trials were held by the 3d Judge; I observe that it is important, that attention should be paid in the preparation of the records of referrible trials to the order of their respective dates, these cases were referred by the 3d Judge at the 2d Sessions of 1822 for the Zillas of Chengulpet, all of course in date posterior to the case above mentioned.-

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

3d W.H. (Sent following letter No. 40)

W.H.

Read return dated 21st Instant from the 2d Judge late on Circuit in the Centre Division to precept dated 30th Ultimo ordering communication to the Magistrate of Chingleput of the Court's orders on Case No 1 Chingleput Calendar 1st Sessions 1823.-

/Here enter No. 656/

Read letter dated 20th Instant from the Judges of the Provincial Courts of Circuit in the Southern Division, With returned Warrants for execution of a prisoner in Case No. 14 Salem Calendar 1st Sessions 1823.-

/Here enter No. 657/

Read letter dated 18th Instant from the 2d Judge on Circuit in the Western Division, Reporting his arrival at Calicut.

/Here enter No. 658/

Read return dated 23d Instt. from the 2d Judge late on Circuit in the Centre Division to precept dated 4th Instant ordering communication to the Criminal Judge of Chengleput & the Magistrate in the Southern Division of Arcot of the Court's observations on Case No. 2 Chengleput Calendar 1st Sessions 1823.-

/Here enter No. 664/

Read return dated 22d Instt. from the Judges of the Provincial Courts of Circuit in the Southern Division to precept dated 2d Instant ordering execution of Sentence in Case No. 14 Salem Calendar 1st Sessions 1823.-

/Here enter No. 663/

Read letter dated 20th Instant from the 1st Judge on Circuit in the Southern Division (with returned warrants for execution of prisoner in Case No. 23 Salem Calendar 2d Sessions 1823.-

/Here enter No. 662/

Read

31th October 1823.

Read return dated 18th Instt from the Judges of the Provincial Courts of 5th Circuit in the Northern Division to precept dated 7th Instant ordering communication to the Criminal Judge in the Zilla of Nellore of the Courts' resolution regarding the preparation of translations for Courts of Circuit

/Here enter No 673/

F. C.

At a Court of the Foujdaree Adalut.

Present,

Tuesday, 4th November, 1823. } Charles Harris Esqre, George Gowan Esqre } Judges.

Read letter, dated 16th Ultimo, from the 5th Judge on Circuit in the Northern Division, - submitting cases No 25 and 26 Nellore Calendar 2d Sessions 1823.

C# W.

(Here enter No 653.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas of the Provincial Law Officer and the futwas of the Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwas of the Cazee ool Coozat and Mooftees as aforesaid and under the provisions of Section III. Regulation I of 1822 adjudge the prisoners,

1st Bhagavan, and

2d Chundah,

to receive 39 stripes with a rattan and to be imprisoned and transported to such place or places beyond sea as

4th November 1823.

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 № 423.)

Read letter, dated 10th Ultimo, from the 3d Judge on Circuit in the Northern Division, - submitting case № 3. Nellore Calendar 2d Sessions of 1823.-

(Here enter № 652)

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 Sunjaree Adalat confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Section III Regulation I of 1812 adjudge the prisoners,

1st Heerah, and
2d Ramjee,

to receive 39 stripes with a rattan

and

4th November 1823.

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 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 № 424.)

50

J. C.

At a Court of the Foujdaree Adalut

Wednesday
12th. November 1823.

Present

Charles Harris, Esqre.
George Gowan, Esqre. } Judges.

C. H.
G.

Read letter, dated 27th. Ultimo,
from the Second Judge late on Circuit in the
Northern Division, - submitting report prescribed
by Section XXXVII Regulation VII of 1802.
(Here enters N. 682)

1. In the 2d. paragraph of the report the 2d. Judge, adverting to the inconveniences attending the disappearance of parties and witnesses before the Criminal Courts, intimates that the evidence "of persons in the service of Government" is not admitted in attestation of confessions before the officers of Police.

2. On this passage the Court of Foujdaree Adalut have to observe, that the testimony of persons on such occasions

is

is not declared to be inadmissible by any pro-
vision of the Regulations or any standing
order of the Court; but that the nature
of the relations subsisting between them and
the Superior officers of the police renders it
in the opinion of the Court highly desirable
that other and more independent witnesses
should, when procurable, attest such confessions
and depose to the freedom and willingness
with which they were delivered.

3 Paragraphs from 4 to 8 inclu-
sive are occupied in describing an incon-
sistency, which the 2d Judge considers to
exist, between the provisions of Section III
Regulation XV of 1803 and Section II Re-
gulation VI of 1822, the 2d Judge being
of opinion that the offence, described in
Clause fourth of the Section last mentioned
and declared cognizable by the Court of
Circuit, cannot be distinguished from the
crime of robbery by open violence, as defined
in the former Regulation, which is by the
provisions

provisions of Regulation I of 1822 made
cognizable only by the Court of Sunjdaree
Adalut.

4 The Court of Sunjdaree Ada-
lut do not see the difficulty, which has
here occurred to the 2d Judge. In re-
gard to the point particularly discussed
by him in this part of the report it
may be remarked that the provisions
of Section II Regulation VI of 1822 are
strictly analogous to those of Clause
Second Section V Regulation XV of 1803,
wherein the circumstances which constitute
the precise distinction between the two offences
are clearly specified. The provisions of
this Clause declare parties, convicted of
certain criminal acts of violence, "done in
"the prosecution of the original intention
"to commit theft" although in the case
of entry by night into a house, "such
"entry may have been made in the
"first instance without any open violence",

t.

to be liable to the same punishment, as is declared in the preceding Sections for the same acts of criminality, committed in prosecution of robbery by open violence.-

5 The Court of Tonjodaree Udalut cannot concur with the Second Judge in admitting that the additional expenditure of Stationery, the expence of translations, or the encreased labor imposed on the Judge of Circuit can be put in competition with the important object of visiting with adequate punishment the crime of robbery by open violence, which previously to the enactment of Regulation I of 1822 was found to be in numerous instances visited by a penalty so slight, as to encourage rather than check its perpetration.

And with respect to the provisions of Section II Regulation VI of 1822, the Court are of opinion, that the destinction between offences cognizable by the Court of Circuit and those referrible

referrible to the Court of Tonjodaree Udalut are calculated to prevent the unnecessary reference of any case, wherein the powers vested in the inferior Court may be adequate to the due punishment of the offence.-

6. The observations of the 2d Judge in the 10th paragraph, upon the rule laid down by the Tonjodaree Udalut in regard to the authority of a Judge of Circuit to overrule the decisions of a Magistrate do not strictly accord with the orders of the Court under date 4th April 1823, referred to in this part of the report.-

7. The Court are of opinion that by the provisions of Regulation IV of 1821 the authority of a Judge on Circuit to proceed on petitions against the orders of a Magistrate on cases legally determinable by him is confined on the first instance

to

to a reference for explanations, and that when acts unauthorized by or in contravention of the express enactments of the law may appear from the Magistrate's own shewing to have been committed, it is the duty of the Judge on Circuit to refer the case to the Court of Vice Admiralty and suspend the operation of any penal sentence unwarranted by Law, pending such reference.-

8. Upon the reply which the Magistrate of Guntoor is stated to have given to the 2d. Judge's call on him for his proceedings, that he had not "recorded any of them", which the 2d. Judge observes rendered it impossible for him "to know whether the amount of the fine had been proportioned to the offence, or to afford relief if it had appeared to be too exorbitant," the Court of Vice Admiralty must remark that the Magistrate would appear to have

have disregarded these instructions of 4th April 1823, wherein was pointed out the necessity of keeping a written record of complaints preferred and of the orders passed upon them; to those instructions, therefore, the Court desire that the attention of this officer be again particularly directed.-

9. Ordered, that the report and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Honourable the Governor in Council (Sent following letter No. 435.)

Ordered also, that extract of these proceedings be sent to the 2d. Judge late on Circuit in the Northern Division by precept directing him to make the necessary communication to the Magistrate of Guntoor for

12th November
1823.
Ut
Exhibit

for his information and guidance.

Sent 14th

(Sent following Precept No 436.)

J.C.

Ha Court of the Foujdaarry Adaulut.

Present.

Thursday
13th November,
1823.

Charles Harris, Esqre
Roger Gowan, Esqre } Judges.

C.H.

Ut

Read again letter, dated the 28th May last, from the Second Judge late on Circuit in the Centre Division, submitting cases Nos 28 and 29. Bellary Calendar 1st Sessions A D 1823.

(Here enter No 407.)

Read also letter, dated the 30th ultimo, from the Second Judge of the Court of Circuit in the Centre Division, stating in further return to precept dated 2d September last, that the additional evidence has not been obtained, the witnesses having gone to Seringapatam.

(Here enter No 687.)

Read again letter, dated the 9th September last, from the Second Judge late on

13th November 1823

on Circuit in the Centre Division, respecting the death of the 1st prisoner Nagalingum, on the Nos 28 and 29 Bellary Calendar 1st Sessions 1823.

(Proceedings No 592.)

The Court having maturely considered the proceedings held before the Judge on Circuit the Sessions of the Provincial Court of Appeal and the Sessions of the Court of Circuit and Oyer of the Inquisitorial Adalut confirm the said Sessions of the Court of Appeal and Circuit aforesaid and the prisoners

1st "Nagalingum"

having been reported under date 9th September last to have died; The Court direct that the prisoner

2d "Kurrapah"

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

(Sent following letter No 437)

The Court of Inquisitorial Adalut

Gentlemen, all the circumstances of the case have resolved

13th November 1823 resolved to direct the release of the second prisoner, Kurrapah on Security: but with reference to the observations of the second Judge in the foregoing Supplemental return to the precept of 2d September last the Court must remark, that his rejection of the incompetency of a witness, by the Law of England, to give evidence on a criminal trial, founded on the circumstance of his being a servant of the prosecutor, or having himself suffered injury from the accused, betrays the most palpable ignorance of that Law; which not only contains no such rule of evidence, but does not even declare any principle analogous with that, upon which such a rule would be founded.

The Second Judge, having omitted to retransmit the Persian translation of the record of proceedings held on case No 28 Bellary Calendar, 1st Session of 1823 which was returned to him by the Court under date

date the 2d. September last.-

3. Ordered that extract of the proceedings be sent to the Second Judge for his information and guidance, and that he be by precept commanded to send up the Persian translation of the above trial, to be lodged in the records of the Court of Zuijdaree Adalut.-

sent 15th

W. M. (Sent following Precept № 438.)

Read letter, dated 28th Ultimo from the 1st Judge on Circuit in the Southern Division; with returned warrant for execution of a prisoner in Case №10 Calendar 2d Sessions 1823.-

(Here enter №. 677)

Read return dated 2d Instant from the 2d Judge late on Circuit in the Northern Division to precept dated 11th Ultimo calling for the Reports prescribed by Section XXXVII Regulation VII of 1802 for the 1st Sessions 1823)

(Here enter №. 681)

At a Court of the Zuijdaree Adalut

Present,

Tuesday 18th November 1823 — Charles Harris Esqre. / George Gowan Esqre. } Judges.-

Read letter, dated 18th Ultimo, from the Acting Judge on Circuit in the Centre Division,- submitting copy of Cuddapa Calendar 2d Sessions of 1823, accompanied by extracts of his proceedings connected therewith.-

(Here enter №. 683)

Previously to a particular notice of the foregoing Calendar and of the proceedings of the Court of Circuit therewith submitted, the Court of Zuijdaree Adalut deem it proper to remark upon the following statement made by the Acting Judge in the second paragraph of his letter.-

"Throughout the Zilla "it appears to be a very general practice "for the Heads of village police and "Police Duffadars and Peons to take "cognizance in the first instance of "almost all criminal cases, and to take "confessions and examinations in the

Read letter dated 18th instant from the Acting Judge on Circuit in the Centre Division,- forwarding copy of a precept to the Criminal Judge Zilla of Cuddapa and of a return from that officer respecting a prisoner flogged by the Assistant Criminal Judge when under examination.- (Here enter №. 704)

Read letter dated 18th instant from the Acting Judge on Circuit in the Centre Division,- transmitting copy of a precept issued to the Criminal Judge in the Zilla of Cuddapa regarding case №.1 Supplemental Calendar 2d Sessions 1823 and of that officer's return.- (Here enter №. 708)

"the same manner as if they were fully
"vested with the legal power, which
"the Legislature has solely confided to
"the Magistrates their Assistants, Jahseeldars
"and some others of the most respectable
"natives; and which power is illegally
"assumed by those inferior officers is so
"abused, that little credit can in my
"mind be given to any of the proceedings
"either as originating or in many instances
"to their subsequent result, more espe-
"cially as there can be little doubt
"but that many of the police are actuated
"from a hope of procuring rewards
"for their activity to ill use the accused
"and extort confessions from them,
"and the generality of the cases brought
"before the Court of Circuit at the
"present Sessions appear to be supported
"by nothing else but confessions said
to have been [illegible] made".-

2 The Court of Foujdaree Adawlut deem it proper to direct, that the attention of the Magistrate be immediately called to the circumstances here represented by the acting Judge. It will be the duty of the Magistrate peremptorily

peremptorily to interdict the illegal assumption by the inferior servants under his authority, or by the Heads of village police, of those functions which belong exclusively to the Jahseeldars or officers of the district establishment, specially appointed under the provisions of Section III Regulation IV of 1821.-

3 In regard to the concluding remark in the passage above cited from the letter of the acting Judge the Court of Foujdaree Adawlut have to observe, that without some collateral proof of guilt the commitment of a party for trial on the ground of a confession taken by a native officer of police is in their opinion improper; and it cannot be necessary for the Court to observe, that a confession taken by an officer not duly authorized is not admissible in evidence against the prisoner.-

4. The 6th paragraph of the acting Judge's letter contains a judicious suggestion regarding the form in which confessions should be attested

18th November 1823

attested; and the Court of Foujdaree Adalut direct that it be adopted by the Criminal Judges, Magistrates and officers of District Police, viz.:

"Before A.B. Head of Police, Magistrate, or Criminal Judge, declared by "the prisoner C.D. to have been known in "writing by E.F. and signed or marked "by the prisoner in our presence "on the —— 18.—

"(Signed) G. H.
" I. K."

5 In the column of the Calendar headed "Abstract of the charges and "dates on which they were preferred" the Court of Foujdaree Adalut observe that in almost every case the charge is made to bear a date subsequent to the arrival of the parties at the Zilla station.—

6 This entry is manifestly incorrect: the date intended to be inserted in this column of the Calendar is that, on which the complaint was originally made to the Magistrate, or police officer.—

7 The Court of Foujdaree Adalut have

7

18th Nov. 1823

have on several occasions endeavoured to induce regularity of proceeding on the part of the Native Officers of police in respect to the immediate recording of criminal charges, and the transmission of the original charges in all cases to the Criminal Court, but the Court regret to observe that their orders on this subject have hitherto produced little or no effect, and that the practice of postponing the record of complaints until after the apprehension of the accused, and frequently until after their confession continues generally prevalent.—

8 The Court of Foujdaree Adalut must remark, that the failure of their repeated instructions on this and on other points to produce any amelioration in the conduct of the Native officers of police warrants the inference that due attention is not paid by the Magistrates to the enforcement of the orders of the Court.—

9. The Court of Foujdaree Adalut deem it proper on the present occasion, in partial recitation of a late order on this subject, to direct that the

the several Magistrates do instruct
the Tahseeldars either to receive from
the complainants in writing or cause
to be immediately reduced to writing
and signed by the complainant all
charges of robbery, murder &c. obtaining
and recording at the same time any
essential information which the
parties may possess and may not
have included in the complaint,
respecting their ability to identify
the accused, their grounds of suspicion
against any particular individual,
the time when and place where the
act charged was committed, the
nature and value of the property
stolen in cases of theft or robbery,
and in cases of murder the wounds
inflicted, the weapons used or sup-
posed to have been used, and the
motives of the murderers. These instruc-
tions should be communicated by
the Tahseeldars to the Heads of village
police and Summons for their guidance,
and copies of the charges and the
examinations here described should
be immediately forwarded to the
Magistrate

Magistrate, in order that where
the Criminal Judge may see reason
to question the authenticity of the
document, transmitted to him by
the police officer on sending up the
prisoners, as the original complaint,
a reference to the Magistrate's Copy
may shew whether or not a different
charge has been interpolated into
the record.—

10 Referring to that part of
the proceedings of the acting Judge
on case No 1 of the Calendar, which
required, that the "unfinished part"
of the record of proceedings held on
the case by the 2d Judge at the preced-
ing Sessions should be furnished
to the acting Judge; the Court of
Foujdaree Adalut deem it proper
to remark, that the trial of a case
postponed at one Sessions should
be commenced de novo by the Judge
presiding on the following circuit.—

11 The entries in the Calendar
in the column headed "Abstract
"of the examination-grounds, and
"dates of commitment" are defective
in

18th November 1823.

in the following instances viz. in
№3 no ground whatever for com-
=mitment appears; in №12 no abstract
of the witnesses examination is
given; in №14 abstract of the examina-
=tion of the two witnesses present is
not given; in №15 no evidence is
stated affecting the 2d 3d and 4th
prisoners; in №27 no abstract of
the examinations of the witnesses
is given; and it would seem that
five of the prisoners were committed
for trial on the grounds of confessions
delivered by certain other prisoners,
which against them are of course
inadmissible; in №37 no abstract of
the witnesses examination is given;
in №s 38 and 39 three of the prisoners
appear to have been committed for
trial on the ground of the confessions
of other prisoners; the same observa-
tion applies to №s 40, 42, 43, 47 and 60
in №s 44 and 46 no abstract is given
of the examinations of the witnesses
present.-

12 The Court of Foujdaree Adalut
in their proceedings under date 17th

April

3 F.H.

18th June 1823.

April last directed that the attention
of the Criminal Judges should be
called to the necessity of avoiding
defects of this nature in preparing
the Calendars: to those orders the
Criminal Judge had not paid becom-
ing attention.-

13 The perusal of this Calendar
has led the Court of Foujdaree Adalut
to remark, that undue importance
appears to be attached by the Criminal
Judge and his assistant to the confession
of prisoners, and that the rule laid
down for their guidance in the latter
part of Section X. Regulation X of 1816
appears to be altogether over looked
by those officers.-

14. Upon the proceedings of
the acting Judge on case №3 of the
Calendar the Court of Foujdaree Adalut
have to remark, that the proceeding
adopted by the Criminal Judge of
recording on a prisoners confession
before the police officer his admission
of it's being correct and prohibiting
by the circular orders of the Foujdaree
Adalut, dated 27th December 1815;

and

and that when the indictment against a prisoner may be found to be defective or incorrect it is open to the Judge on Circuit either to correct or return it to the Criminal Judge for correction—

15 The paper in the nature of an indictment required by the standing orders of the Bandarees Adalut to be prepared by the Criminal Judge should distinctly specify the facts to be proved in evidence against the prisoner, and should for instance contain the names of the prosecutor and the prisoner, the time when and place where the act was committed, in cases of robbery and theft the amount of stolen or plundered property and in cases of murder, arson, &c. the mode in which

16 the crime was perpetrated—

In case No 3 it appeared that the Criminal Judge committed the prisoner for trial without taking the trouble of ascertaining that the offence charged was committed within his jurisdiction—

17 Upon the extract of the proceedings of the Court of Circuit in

in case No 4 of the Calendar the Court of Bandaree Adalut will only observe that the original depositions of B. Looba Row and Cobul Row should have been furnished to the Criminal Judge, instead of copies to be used by him in taking the preliminary examinations on the charge of perjury—

18 In case No 6 the date of the charge is stated to be 1st April and the date of the prisoner's commitment 26th March 1823, an obvious error—

19. In the proceedings of the acting Judge on case No 15 of the Calendar reference is made to a practice, which appears to have obtained among the Police Officers in the Zillas of Cuddapa, of employing persons of bad character to associate themselves with robbers in the commission of robbery and then inform against them—

20 This practice, involving a direct encouragement of crime with a view to bring criminals to punishment, cannot on any

principle

principle be disregarded and the Court of Tongdaree Adalut direct that the attention of the Magistrate be particularly called to the subject in order that effectual measures may be taken for its suppression.-

21. In respect to the observations of the Criminal Judge in his return of 26th August upon the propriety of the Assistant Criminal Judge's communicating directly with the Magistrate the Court of Tongdaree Adalut are of opinion, that such communication is not in itself improper; but should be made in the name of the Criminal Judge by whose delegation alone the Assistant performs the functions of his office.-

22 The last precept issued by the acting Judge connected with this case was dated 20th September, and return was required to be made in three days. By a memorandum of the acting Judge it appears, that no return had been made to the precept by the Criminal Judge on the

the 18th October, when the Sessions terminated.-

23. The Sudr Court in their proceedings of 20th October 1810 and 2d August 1811 directed, that whenever a precept may fix a time within which return is to be made, such return must in all cases be made previously to the expiration of the term limited; and if the orders conveyed by the precept may not have been executed, the return must shew good and sufficient reasons for the omission, and certify all that has been done in pursuance of the exigence of the precept-

24. In the present case the Acting Judge not having called for the interposition of the Court of Tongdaree Adalut in support of his authority, the Court deem it sufficient to direct the Criminal Judge's attention to the above order for his implicit observance in future.-

25 By the column of remarks upon case No 17 of the Calendar it appears that the acting Judge referring to the exposition contained in

contained in the proceedings of the Sujaun Adalut, under date 6th September 1819, of the intent and meaning of Clause sixth Section II Regulation XV of 1803, considered himself not competent to direct the detention of the 1st and 2d prisoners on a requisition of security, as the Futwas of the Law Officers did not declare them liable to strong suspicion of guilt.-

26. The provisions of Section IV Regulation II of 1822 vest the Criminal Judge with authority to detain on a requisition of security prisoners, who may appear to him to lie under strong suspicion of any act of criminality: and as the provisions of this Section have no reference to the Mohammudan Law it becomes necessary, in order to avoid the anomaly of giving to a subordinate officer a power not possessed by his superior, that the order of the Court of Sujaun Adalut above cited should be taken to be modified by the subsequent enactment of the Legislature, so far as to leave it open to a Judge of Circuit to require security from all

prisoners, who may appear to them to lie under strong suspicion of guilt, whether such be the declaration of the Futwa, or otherwise.-

27. With reference to the preceding observations it will be proper, that the acting Judge should dispose of the cases of the first and second prisoners in case No 17 of the Calendar without a reference to the Court of Sujaurce Adalut.-

28 Connected with the proceedings held in this case the acting Judge has forwarded an extract of his proceedings, bearing date 31st July last, containing observations which have the unqualified concurrence of the Court of Sujaurce Adalut.

29. On one point namely the practice observed by the officers of police and the Magistrate in the Zilla of Cuddapa of causing the depositions of prosecutors and witnesses to be attested in the mode, prescribed by the Regulations for the verification of the confessions delivered by prisoners, a difference of opinion prevails between the acting Judge and the Assistant Magistrate

18th November 1823.

Magistrate.—

30 To the Court of Faujdaree Adalut it appears manifest, that the practice is unnecessary and improper, and they direct that it be discontinued.—

31. It is noticed in the precept of the Acting Judge under consideration, that the prisoners in this case were sent from Sidhout by the Head of District Police to the Magistrate's Office at Madanapally, contrary to the provisions of Section XXVIII Regulation XI of 1816, "whereby the parties and "witnesses were unnecessarily subjected "to travel a long distance of 140 Miles "instead of having only to go ten Miles, "which is the distance from the "Sidhout talook to the Zilla Court."—

32. The Assistant Magistrate in his return to the precept states, that "instructions have been repeatedly "issued to the Sahsildars regarding the "transmission of cases according to "Section XXVII Regulation XI of 1816."—

33. The Court of Faujdaree Adalut are of opinion, that a Sahsildar who after such repeated instructions may

5)

F. No.

18th Nov.r 1823.

may act in opposition to the provisions of the Law enacted for his guidance, should unquestionably be severely fined, if not dismissed from office.

34. And here it is obvious to remark, that the endeavours of the Superior Court will in vain be directed to the correction of abuses, and the maintenance of regularity in the proceedings of the Native Officers of Police, so long as they perceive any indication of indifference to their misconduct on the part of the Magistrates, their immediate Superiors.

35. The Court direct, that these observations be communicated to the Magistrate in the Zillah of Cuddapah; and that he be required to report for their information what notice has been taken of the misconduct of the Head of Police in the talook of Sidhout in the case here referred to.—

36. By the extract of the proceedings of the Acting Judge, upon case No 18 of the Calendar, it appears to be the practice of

of the Assistant Magistrate to summon prosecutor and witnesses to the depositions originally taken by them without oath before the native officers of Police, and on the same paper to record further examinations of the parties taken by himself.

37. This proceeding is most irregular. On the appearance of the parties before the Magistrate their examinations should invariably be held de novo and thus prescribed by Section XXIV Regulation IX of 1816 and their depositions taken on separate papers, and not on the papers containing their former depositions before the Police Officer.

38. The Magistrate in his return dated 23d September, cites in reference to this case, an attack the charge is for Highway robbery by open violence of property valued Rupees 138¾, the provisions of Section VII Regulation IV of 1821 whereby Magistrates are relieved from the duty of recording examinations in the cases of

two of complainants, preferred before them under Sections XXXII and XXXIII Regulation IX of 1816.

39. It cannot be necessary for the Court of Tanjore Adalat to point out, that the provisions here cited have reference only to cases, coming strictly within the descriptions given in Sections XXXII and XXXIII Regulation IX of 1816, of the offences cognizable finally by a Magistrate.

40 The Court have by a circular order dated 28th Ultimo animadverted upon the illegality of extending the practice to heinous cases; and they trust that no instance will occur of its repetition.

41. The precept issued on this occasion by the Acting Judge to the Magistrate was dated 16th August, and required that returns should be made in five days; and the Court of Tanjore Adalat observe, that after being repeatedly called upon for a return the Magistrate made returns on 23rd Septem-

ber.

18th November 1823. 42

On this occasion the Court of Tenjadarra Adalat deem it proper to notify to the Magistrates generally, that whenever a precept from the Court of Circuit or Tenjadarra Adalat may fix a limited period for the return, it is incumbent upon them to make such return within the term specified, either certifying that the exigency of the precept has been complied with, or shewing good and sufficient reasons for the non-performance to carry it into effect, and stating what has been done in pursuance thereof.

43.

The Court deem it proper also to direct that the Criminal Judges and Magistrates do in their returns to precepts from the Courts of Circuit and substance of the orders contained in the precept, as required are returned from the Courts of Circuit by the orders of the Court of Tenjadarra Adalat dated 4th September 1820.

44

The orders of the Tenjadarra Adalat requiring cases No. 1st to 60 inclusive

6. J. W.

18th Nov. 1823.

to cases No. 39 and 49 of the Calendar, the Acting Judge will dispose of the two latter cases without a reference to the Court.

45

The Acting Judge has forwarded a return dated 7th Instant, from the Criminal Judge to a precept requiring that officer to ascertain whether an allegation by a prisoner, that he had been flogged by order of the Assistant Criminal Judge when under examination, was correct, and if so to point out to the Assistant the impropriety of the proceeding.

46.

The Court of Tenjadarra Adalat not consider the order issued by the Acting Judge on this occasion to be perfectly regular and proper, and the return of the Criminal Judge to be objectionable in its tone. The conduct of the Assistant Criminal Judge, as admitted by himself, was most unjustifiable, but as he has expressed a due sense of its impropriety

improperiety, the Court of Sawjadaree Adalut do not deem it necessary to notice it further than

47. In paragraph the 22. of the Secundary of the Malang Sealys, dated 17th September last, upon case № 43 of the Calendar the Criminal Sealys is instructed in cases where a prisoner may assert that his confession was "taken by compulsory means the committing officer should examine them carefully "on that point; the prisoner should be "made to explain what force was used "and by whom; and what persons were "the force used, when the committing Officer "will issue summons through the Magistrates and cause the attendance of the "persons named as witnesses by the prisoner "and examine them on their Oath, and "oblige them to give their Attendance at "the ensuing Sessions."

48. The Court of Sawjadaree Adalut having premised, that the regulations made for obtaining the attendance of witnesses before

before the Criminal Court in the first instance is by application for that purpose to the Magistrate, and not by the transmission of a "summons" through that Department, leave to observe that such part of the foregoing instructions, as requires that the witnesses named by a prisoner should be examined by the committing officer, is founded on an erroneous interpretation of a rule laid down by the Court of Sawjadaree Adalut in a circular precept, dated 27th December 1815, directing that when prisoners allege any violence to have been used to extort confession, the Magistrate should require them "to support "the plea by evidence."

49. The rule here laid down by the Sawjadaree Adalut is to be construed in connection with the provisions of the Regulations, which prescribe that before any person be committed or held to bail to take his trial before the Court of

of Circuit, the Criminal Judge shall examine the prisoners and the complainant and all such other persons as she stated to have any knowledge of the crimes or misdemeanors alleged against the prisoner, and that in all cases of a prisoner being committed or held to bail, the Criminal Judge shall further question the prisoner whether he wished to have any witnesses examined in his defence before the Court of Circuit. That the Acting Judge objected the above provision to the particular rule enjoined by the Court of Loujdaree Adaulut he would however submit, that, according to the spirit of that rule, it is incumbent upon the committing officer in all cases of alleged personal violence to call upon the prisoner to state whether he had any endeavours to adduce in support of his plea, and, on the want of his answering in the affirmative, to be careful to cause the attendance of such witness or witnesses before the Court of Circuit, but that

that nothing in the Courts precept of the 27th December 1815 is intended to convey to the Criminal Judge an authority to take the depositions of such witnesses himself, an authority which it is not competent to him to exercise under the general regulations.

50. The above order of the Acting Judge will require to be modified in conformity with the exposition of the Law, and of the intent and meaning of the order of the Court of Loujdaree Adaulut which is here given.

51. In case No. 45 for Highway robbery the Acting Judge passed sentence of five years' imprisonment on the 1st & 2d prisoners "with reference to the letter "part of clause first Section III Regulation "XV of 1803, and to the orders of the "Loujdaree Adaulut of the 23d Novem- "ber 1820."

52. The orders of the Court of Loujdaree Adaulut

18th November 1823. Adalat have cited, having been committed by the provisions of Regulation I of 1822, which requires that all cases of commutation of robbery by persons mentioned as defined in Clause first Section III Regulation XV of 1803 should be referred to the Court of Foujdaree Adalat, the sentence passed in this case by the Acting Judge must be set aside, and it will be their duty to refer the trial for the final judgement of the Foujdaree Adalat in conformity with the rules, laid down in Regulation I of 1822.

53.

Regarding cases Nos 1. 2. 3 of the accompanying Calendar the Acting Judge solicits the instructions of the Court as to the observance of the provisions of Regulation VI of 1810 the prisoners the futwas having declared them convicted of Amm-i-e Mahzoon, & forbidden not, and liable to Dokoobut.

54

In these cases it will be proper

18th November 1823. proper that the Acting Judge should be guided by the provisions of the above Regulation, the prisoners being declared convicted of the crime laid to their charge. If the Law officer had been required to state in the first instance whether the offence of perjury was established the doubt, which occurred to the Acting Judge, founded upon the declaration given in the futwa to their offence, would not have existed.

55

In conclusion the Court of Foujdaree Adalat have to express their high commendation of the zeal and industry shewn by the Acting Judge in the discharge of his important duties. The orders issued by the Acting Judge with the exceptions above particularly noticed, are considered by the Court of Foujdaree Adalat to be perfectly correct, and a due observance of them by the subordinate officers cannot but be highly

18th November 1823.

highly beneficial to the Court to be informed on this occasion to observe, that it is not the requisite nor desirable, that the Acting Judge should continue the practice of laying before the Legislature Statistical copies of all the proceedings held by them at the Sessions.

Ordered that extract of these proceedings be sent to the Acting Judges and Council in the Central Division for their information, and that he be by precept directed to communicate to the Criminal Magistrates in paragraphs 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 45 and 46, and to the Magistrates on the Lists of Custodiants in paragraphs 19, 20, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 40, for their respective information and guidance.

Sent 25th

(Sent following Precept No 440)

Ordered also that extract of these proceedings be sent to the Four Provincial Courts of Circuit by precept, requiring them to communicate to the several Criminal Judges and Magistrates paragraphs 4, 7, 8, 9 and 43, and to the several Magistrates paragraphs 41 and 42 for the information and future guidance of those officers respectively.

(Sent following Precept No 441.)

20

8.) J. 11

18th November 1823.

Sent 25th

J.H.

At a Court of the Toujdaurs Adalut

Wednesday
19th. November
1823.

Present

Charles Harris, Esq.re
George Gowan, Esq.re
} Judges.

C.H.
W

[illegible]

[illegible]

"[illegible]"

[illegible]

(Warrantee No. 6711)

Read letter, dated 23d ultimo, from the 3d Judge of the Court of Circuit in the Central Division, submitting case No. 11 Cuttack Calendar. 2d Quarter Sessions of 1823.

(Warrantee No. 6711)

The Judges of the Court of Sudder Adalut on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof adduced the prisoner, Ghasey is sufficient

to convict her of having thrown a stone upon her husbands head with an intent to put him to death desire under the provisions of Clause second Section II Regulation I of 1818 that their Law Officers will declare by a second futwa to what sentence the prisoner would have been liable under the Mohummudan Law if she had been convicted by full legal evidence of the above crime.

Ordered, that extract of these proceedings be transmitted and delivered to the Cazee-ool-Cozat and Mooftees of the Sudder Adalut.

W. H.

At a Court of the Foujdaree Adalut.

Present.

Thursday
20th November
1823.

Charles Harris, Esqre.
George Gowan, Esqre. } Judges

c. t.
66

Read letter, dated 6th Instant,
from the Second Judge on Circuit in the Western
Divisions, - submitting copy of Criminal Calendar
2d Sessions A. D. 1823.

(Here enter No. 69.)

In the foregoing Calendar the
Court of Foujdaree Adalut observe, that the
Criminal Judge has recorded "the whole of
"the contents of each witness's examinations at
"length," instead of an "abstract" of the evidence.

This practice was prohibited
by the orders of the Foujdaree Adalut, dated
17th April last, to which the Court direct, that
the attention of the Criminal Judge be again
called.-

Ordered, that extract of these
proceedings

20th November 1823.

proceedings be sent to the Second Judge
Circuit by special enjoining him to cau
cause the same to the Criminal Judge
the Tells of Caesarea for his information
future guidance.

(Sent following Precept N. 1443.)

Read agreeable letter dated 11th
23d ultimo from the 3d Judge of the Fed
Circuit on the Central Division submitting
case N. 11 Chalkers Calendar 3d Quarterly Ses
sions of 1823

(Here enter N. 697.)

Read the record of
delivered on this case by the Crown
Legal and Marine of the Legislature Island

The Court having maturely co
sidered the proceedings had before the Judg
of the Court of Circuit the future of the Crown
and Law Officers and the future of the Leg
Island Legal and Marine of the Legislature
Island confirm the said future of the Legis
Legal and Marine aforesaid and order

20th November 1823.

the sentence of Dishonour but declared in the future
adjudge the prisoner

"Sheavy"

to be imprisoned without irons or hard labor
for the period of Six Months and then to
be released on producing good and sufficient
security for her future good behaviour and
appearance when required.-

(Sent following Letter N. 1444.)

Read letter dated 6th Instant
from the 2d Judge on Circuit in the Northern
Division,- Reporting his arrival at Chiacola-

(Here enter N. 699)

Read letter dated 6th Instant
from the 3d Judge late on Circuit in the
Western Division,- Explaining his delay in
making return to precept dated 20th ultimo
calling for Report prescribed by Section
XXXVII Regulation VII of 1802.-

(Here enter N. 698)

Read return dated 13th Instant
from the Second Judge late on Circuit in the
Centre Division,- to precept dated 22d September
last ordering communication to the Criminal
Judge of the Courts' instructions respecting
the prisoner in Case N. 20 Aroopa Calendar
1st Sessions 1823.-

(Here enter No. 709)

Read

28. November 1823.

Read letter March 13th Instant from the 1st Judge on Circuit in the Southern Division, with returned warrant for the Commitment of prisoner in Case No 24 Salem Calendar 2d Sessions 1823.

/Here enter No 711/

Read letter dated 12th Instant from the 2d Judge of the Court of Circuit in the Northern Division, with copies of Mauritius Calendars for 4th Quarterly Sessions 1823

/Here enter No 712/

Read return dated 18th Instant from the Judges of the Provincial Court of Circuit in the Western Division to Circular dated 28th Ultimo ordering communication to the Magistrates of the Court's remarks on various irregularities prevalent among the officers of police.

/Here enter No 713/

716.

At a Court of the Toujdarree Adalut.

Monday 1st December 1823. — Present.

Charles Harris, Esqr. } Judges.
George Gowan, Esqr. }

Read letter, dated 17th Ultimo, from the Acting Judge on Circuit on the Central Division, - submitting copy of 3 Mary Calendars - 2d Sessions A D 1823.

/Here enter No 731.

In case No 23, for stealing a bag of money left by the prosecutor in the Bazar, the Futwa declared that defect of custody was proved in bar of Hud..

This circumstance being one which the Court of Toujdarree Adalut consider as clearly diminishing the criminality of the offence of theft, the requisition of a second Futwa appears to them to have been improper, and they direct that the sentence passed by the Acting Judge be reversed

1st December 1823.

revised in conformity with the provisions of clause first of Section II of Regulation XV of 1803.

3 By a return made by the Criminal Judge on the 6th ultimo to a precept from the Acting Judge it appears that the Heads of police on the Zillas of Bellary are constantly in the habit of referring to the Magistrates cases of the nature described in clause first Section XXVII of Regulation XI of 1816, instead of forwarding the parties directly to the Criminal Judge as prescribed by Clause fourth of that Section.

4 The Court of Foujdaree Adalut direct, that the particular attention of the Magistrate may be called to the continued prevalence of an irregularity, which has been repeatedly denounced by the Court, and that the Magistrate be required to certify for the information of the Foujdaree Adalut what steps may be taken by him in view to the enforcement of these orders and of the provisions of the Regulations on this subject.—

1st December 1823.

5 Ordered, that extract of these proceedings be sent to the Acting Judge on Circuit in the Centre Division by precept enjoining him to make the necessary communication to the Magistrate and obtain and forward to the Court the information above called for.—

(Sent following Precept No. 458.

and 4th

Read letter, dated 20th Ult. from the Criminal Judge in the Zillah of Madura,- with copy of a warrant sentencing a prisoner to banishment.—

(Vide enter No. 730.)

The Court of Foujdaree Adalut direct that the prisoner,

"Shadathaly Vyapoory"

be removed to the Jail in the Zillah of Chittoor there to be imprisoned and kept to hard labour during the period of

1st December of his sentence.
1823.

Ordered, that extract of these proceedings be sent to the Acting Criminal Judge in the Zilla of Chittoor and to the Criminal Judge in the Zilla of Madura for the information and guidance of those officers respectively.

(Sent following letters N. 459.)

Read letter, dated 4th Ultimo, from the Second Judge late on Circuit in the Northern Division, - submitting case N. 21. Circuit Calendar - 1st Sessions 1823.

(Warrender N. 695.)

The Court having maturely considered the proceedings held before the Judge on Circuit the Futwa of the Provincial Law officer and the Futwa of the Cazee ul Cozat and Mooftee of the Zillah Adalut having opinion that the proof against the Prisoner 1st Ramy Venkatapah is sufficient to convict him of the crime of robbery by open violence for which a penalty is specially

7. M.

1st December, 1823.

denounced in Section III Regulation I of 1822 do under the authority vested in them by Clause first Section II Regulation I of 1818 adjudge the said prisoner

1st "Ramy Venkatapah"

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 and during the period of his natural life -

And the Court acquitting the prisoners,

2d "Woopalapauty Paddamaty" and

3d "Jaularu Raumoodoo"

direct that they be set at liberty. -

(Sent following letter N. 460)

Sent 4th

W.

Read return dated 7th Ultimo from the Provincial Court of Circuit in the Centre Division to precept dated 28th October last ordering communication to the Criminal Judges

1st December 1823. Judges and Magistrates of the Courts' observations on the report of the 3d Judge late on Circuit.-

/Here enter No. 720/

Read return dated 17th Ultimo from the 2d Judge late on Circuit in the Centre Division to precept dated 13th Instant calling for Persian translation of the record in Case No. 28 Ballary Calendar 1st Sessions 1823.-

/Here enter No. 721/

Read return dated 7th Ultimo from the Provincial Court of Circuit in the Centre Division to precept dated 28th October last ordering communication to the Criminal Judges and Magistrates of the Courts' construction of the Law relating to commitments for perjury.-

/Here enter No. 719/

Read return dated 18th Ultimo from the Judges of the Court of Circuit in the Northern Division to precept dated 28th October last ordering communication to the Magistrates of the Courts' observations on certain irregularities in the proceedings of Police officers.-

/Here enter No. 727/

Read return dated 13th Ultimo from the Judges of the Courts of Circuit in the Northern Division to precepts dated 28th October last ordering communication to the Criminal Judges and Magistrates of the Courts' construction of the Law regarding commitment for perjury.-

1st December 1823.

/Here enter No. 726/

Read return dated 24th Ultimo from the 3d Judge late on Circuit in the Western Division to precept dated 20th Ultimo calling for report prescribed by Section XXXVII Regulation VII of 1822.-

/Here enter No. 735/

Read letter dated 23d Ultimo from the 1st Judge on Circuit in the Southern Division.- With Copy of Madura Calendar 2d Sessions A.D. 1823.-

/Here enter No. 737/

At a Court of the Foujdaree Adalut.

Present,

Tuesday 2d December 1823. Charles Harris Esqre. / George Gowan Esqre. } Judges.

C. A. 166

Read letter, dated 30th October last from the 3d Judge of the Court of Circuit in the Centre Division, - submitting case No 5 Chittore Calendar 2d Quarterly Sessions A.D. 1823.-

(Hereunto No 670.)

The Judges of the Court of 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 Kanoomuntoo, and 6th Narasegadoo, is sufficient to convict them of the crime of house breaking and theft desired under the provisions of Clause second Section II Regulation I of 1818 that their Law Officers do declare by a second futwa to what punishment the said prisoners would have been liable under the Mohummedan Law if they had been convicted

convicted by full legal evidence of the above crime.-

Ordered, that extract of these proceedings be translated and delivered to the Agent and Vocaut and Mooftees of the Boydaree Adalut.

W. H.

At a Court of the Boydaree Adalut.

Present,

Thursday 4th December 1823. Charles Harris Esqre. } Judges.
George Gowan Esqre. }

Read letter, dated 20th October last, from the 3d Judge of the Court of Circuit in the Centre Division, submitting case No 2 Chittore Calendar 2d Quarterly Sessions 1823.

(Hereunto No 668)

Read also letter, dated 20th October last, from the 3d Judge of the Court of Circuit in the Centre Division, submitting case No 3 Chittore Calendar 2d Quarterly Sessions 1823.

(Hereunto No 669)

Also read again letter, dated 20th October last, from the 2d Judge of the Court of Circuit in the Centre Division, submitting case No 5 Chittore Calendar 2d Quarterly Sessions 1823.

(Hereunto No 670)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas

of

of the Provincial Law, and the Sentence of the Cazee-ool Coast and Mooftee of the Poujdarree Adawlut confirm the said Sentence of the Cazee-ool Coast and Mooftee aforesaid so far as they regard the first, fifth and sixth prisoners; but as it appears that the 5th prisoner,

1st Goorroovadoo,

has been sentenced in case 4th of the Calendar to the period of imprisonment prescribed in Section XXI. Regulation VIII of 1802, no further punishment is adjudged against him. And under the provisions of the said Section the Court adjudge the prisoners,

5th Hanoomuntoo, and

6th Narasegadoo,

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.—

And the Court of Poujdarree Adawlut, being of opinion that the proof against the prisoners,

2d Goorroovareddy, alias Nogee Chittee

and

3d Ramereddy, alias Sippareddy

is sufficient to convict them of knowingly receiving stolen property under the circumstances of aggravation specified in Clause third Section IV. Regulation VI of 1822, do under the authority vested in them by Clause first Section II Regulation I of 1818, adjudge the said prisoners,—

2d Goorroovareddy, alias Nogee Chittee

and

3d Ramereddy, alias Sipparedddy,

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.—

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

4th Bellaree Vencataramoodoo,

be released on producing good and sufficient security for his future good behaviour and appearance

when

4th December 1823.

when required.-

And the Court acquitting the prisoner,

7th Venkataramiun,

direct that he be set at liberty.-

Sub 9th

(Sub following letter №461.)

W. H.

At a Court of the Foujdaree Adalut.

Present.

Monday, 8th December, 1823. Charles Harris Esqre. George Gowan Esqre. } Judges.

Read letter, dated 28th ultimo, from the 2d Judge of the Provincial Court of Circuit in the Centre Division,- submitting copy of Chittore Calendar 4th Quarterly Sessions A.D. 1823.-

C. H. W. H.

(Here enter №739.)

The examinations of the witnesses having been entered in the foregoing Calendar at much too great a length, the Court of Foujdaree Adalut direct that the attention of the acting Criminal Judge may be particularly called to their orders of 17th April last on this subject.-

Ordered, that extracts of these proceedings be sent to the 2d Judge of the Provincial Court of Circuit in the Centre Division by precept enjoining him to communicate the same to the acting Criminal Judge in the Zilla of Chittore for his information and future guidance.-

W. H. (Sent following precept №1464.

Sub 9th.

8th December 1823.

W.H.

No returns having been received from the 2d Judge of the Court of Circuit in the Centre Division to the Court's precepts dated 29th August, 18th September, 20th and 28th October last, the Court direct that he be by precept commanded to explain the cause why he has not obeyed the exigence of those precepts.-

Return to the precepts to be made within three days from and after it's receipt.-

Sent following precepts

1

No return having been received from the 2d Judge late on Circuit in the Centre Division to precipt dated 22d September last directing him to communicate to the Criminal Judge in the Zilla of Cuddapa the Court's observations on case No 46 Cuddapa Calendar 1st Sessions 1823.-

2

The Court direct that the 2d Judge late on Circuit in the Centre Division be by precept commanded to explain the cause why he has not obeyed the exigence of the precept dated 22d September last.-

Return

8th December 1823.

c+ W.H.

Return to be made within 10 and after it's receipt.- Sent following precepts

W.H.

Read return dated 29th Ultimo from the 2d Judge late on Circuit in the Northern Division to precept dated 27th October last ordering communication to the Criminal Judge of Chicacole of the Court's orders in Case No 15 Chicacole Calendar 1st Sessions 1823.- /Here enter No 747/

Read return dated 29th Ultimo from the 2d Judge late on Circuit in the Northern Division to precept dated 27th October last ordering communication to the Magistrate of Vizagapatam of the Court's observations in Case No 12 Chicacole Calendar 1st Sessions 1823.- /Here enter No 746/

Read returns dated 29th Ultimo from the 2d Judge late on Circuit in the Northern Division to precepts dated 27th October last ordering communication to the Magistrate of Vizagapatam of the Court's observations on Case No 10 Chicacole Calendar 1st Sessions 1823.- /Here enter No 744/

8th December 1823.

Wednesday
10th December 1823

At a Court of the Foujdaree in the Udalut

Present

Charles Harris Esquire } Judges
George Gowan Esquire }

Read letter dated 13th Ultimo
from the 1st Judge on Circuit in the Southern Division
submitting Case No 14 Madura Calendar Sessions
1823.- (Here enter No 718)

The Court having maturely consid-
-dered the proceedings held before the Judge on Circuit
the futwa of the Principal Law officer and the
futwa of the Cazee ool Coozat and Mooftees of the
Foujdaree Udalut confirm the said futwa of the
Cazee-ool- Coozat and Mooftees aforesaid and
acquitting the prisoner,
"Mootyapillay"
direct that he be set at liberty.-

(Sent following letter No 467.)

The Court of Foujdaree Udalut,
although the evidence against the prisoner is
certainly strong, are constrained to confirm
the futwa of acquittal, delivered in this case
by their Law officers.-

It is incumbent upon the Court
to remark, that the 1st Judge conducted the
examination of the several witnesses, but more
especially of those on behalf of the prisoner, in

23.

loose and unsatisfactory manner,
of the witnesses to the alibi were asked
y came to recollect, that on the part
efence to the prisoners and at examination,
ad their evidence which is remarkable
x suspicious uniformity differed in any
ect.

3 The Court of Foujdaree Udalut
are further of opinion, that it was the duty
of the 1st Judge to have required the attendance
of the Grand Mother of the deceased, who was
stated by the witness to have been informed
by the deceased, that the prisoner had wounded
her.

4 From a review of the whole case
it appears to the Court, that had the trial
been conducted with that patience and
minuteness of investigation, which ought always
to mark the proceedings of a Court of Circuit
in cases where any doubt may exist as to the
sufficiency of the proof, the result of this trial
might have been very different; but even
ing the prisoner entitled to the benefit of the
defects in the conduct of these proceedings, the
Court must confirm his acquittal.

Ordered, that extract of the
proceedings be sent to the 1st Judge on Circuit
in the Southern Division for his information
and guidance.

Sent 13th

Sent following letter

Fol.

At a Court of the Foujdaree Udalut

Present

Friday — 15th December 1823 } Charles Harris Esquire } Judges
George Gowan Esquire }

Read again letter, dated 10th September last, from the first Judge on Circuit in the Southern Division. Submitting Case No. 5 Salem Calendar 2d Sessions 1823.—

/Here enter No. 611/

Read also return, dated 4th Ultimo, from the 1st Judge on Circuit in the Southern Division to precept, dated 4th September last, calling for additional evidence in Case No. 5 Salem Calendar 2d Sessions 1823.—

/Here enter No. 702/

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Law officer and the futwa of the Cazy and Mooftee of the Foujdaree Udalut being of opinion that the proof against the prisoners 1st Calcareeummy 2d Meerah Seray 3d Madaur 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 do order under

8th Dec 12th December 1823 under the authority vested in them by clause first Section II Regulation I of 1816 adjudge the said prisoners

1st Calcarenturumby
2d Murah Canay
3d Madaur

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 labor in irons on the public roads or other public works for and during the period of their natural lives respectively.-

Sudr 4th

/Sent following letter No 469/

Read letter, dated 7th Ultimo from the 1st Judge on Circuit in the Southern Division submitting case No 6 Madura Calendar 2d Sessions 1823.-

/Here enter No 703/

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 Cazeecaal Cozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazeecaal Cozat and Mooftees aforesaid and under the provisions of Section X Regulation VIII of 1802 adjudge the prisoner,

Paroomaun,

to suffer death by being hanged at the usual

12th December 1823 usual time and place of execution.-

Sudr

/Sent following letter No 470/

Read letter dated 4th Ultimo from the 1st Judge of the Court of Circuit in the Northern Division, submitting case No 4 Masulipatam Calendar 3d Quarterly Sessions 1823.-

/Here enter No 706/

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 Cazeecaal Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazeecaal Coozat and Mooftees aforesaid and under the latitude given by Section III Regulation I of 1822 adjudge the prisoners

1st Daraunt Hurry dofs
2d Daraunt Chinna Ranjee
3d Daraunt Ramdofs
4th Daraunt Gopah

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 be released.-

And under the provisions of clause sixth Section II Regulation XV of 1803 direct that the prisoner,

5th Pedda Ranjee

be released on producing good and sufficient security for his future good behaviour and appearance

12th December 1823.

appearance when required.

Sent 17.

/Sent following letter No 471./

/Read letter dated 10th Ultimo/ from the Acting Judge on Circuit in the Centre Division.- transmitting Case No 6 Cuddapa Calendar 2d Sessions 1823.-

/Here enter No 722/

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 Cazeecool, Mofty and Moofties of the Zoujdaree Udalut confirm the said futwa of the Cazeecool, Mofty and Moofties aforesaid and under the sentence of Kisaas declared in the futwa adjudge the prisoner "Vaulgoundoo", to suffer death by being hanged at the usual time and place of execution.-

Sent 17.

/Sent following letter No 472./

/Read letter, dated 2d Ultimo from the Second Judge late on Circuit in the Northern Division submitting case No 1 Chicacole Supplemental Calendar 1st Sessions of 1823.-

/Here enter No 694/

1

The evidence against the prisoners in this case is not considered by the Court of Zoujdaree Udalut to be complete in the absence of any proof, that the property found upon them belonged to the prosecutor.-

2

In the present as in various other

F. U.

12th December 1823. other cases under reference from the 2d Judge the Court of Zoujdaree Udalut observe, that the evidence for the defence was not taken: the reason given for the omission in this case is, that the witnesses on the part of the prisoners were called to "prove a negative."-

3

On reference to the record it appears, that several of the prisoners called evidence to prove an alibi, & with respect to them the Court do not understand the force of the 2d Judge's observation. The Court are, however, clearly of opinion, that all the prisoners were entitled to the benefit of such evidence as they could produce in disproof of the charge, and they direct therefore, that the record be returned to the 2d Judge, whose duty it will be to cause transmit the same to the Criminal Judge with instructions to apply to the Magistrate for Evidence in proof of the prosecutors' ownership in the property, & to take in their presence & in the presence of the Mussulmaun Law Officer of the Zilla Court, the evidence of such witnesses as may appear to this point, and also the evidence of the witnesses called by the prisoners, who should be allowed to state any further matter, & which they may have to offer in their defence.- Annexed to the Record of the

4

12th December 1823.

Read letter dated 28th Ultimo from the Criminal Judge in the Zilla of Malabar submitting copy of a correspondence with the joint Assistant Criminal Judge, regarding the competency of a Criminal Judge to delegate to his Assistant the powers vested in him by Regulation VII of 1822.

Here enter No. 745.

The Court of Foujdaree Udalut having reason to believe that doubts are entertained by other officers on the above question, deem it proper to intimate by a circular order to the several Criminal Judges, that in the opinion of the Court it is competent to them to delegate to their Assistants the extended powers given by Regulation VII of 1822.

The Court at the same time deem it proper to remark, that this authority should be exercised with caution, and that care should be taken by the Criminal Judges not to refer to an inexperienced assistant for decision cases of a heinous nature.

Referring to another point incidentally brought forward in the foregoing correspondence, the Court of Foujdaree Udalut deem it proper to observe, that the Criminal Judge is considered by them to possess full control over the proceedings of

12th December 1823.

the trial No. 1 of the Supplemental Calendar the 2d Judge has forborne the arraignment of the prisoners and the depositions of the prosecutors in cases Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 & 13.

These portions of the records of the other trials of the prisoners cannot be taken into consideration by the Court of Foujdaree Udalut; & they direct, that they be detached from the English & Persian translations of Case No. 1, now under trial.

As the different offences, for which the prisoners were brought to trial, were all committed at the same village on the same night they might have formed the subject of one trial. The orders of the Foujdaree Udalut dated 22d December 1817, on this subject were intended to apply only to the blending of offences in one trial, which were committed at different times.

Should the Court eventually require to have before them any of the other cases, in which these prisoners have been tried, instructions to that effect will be given to the 2d Judge.

Ordered, that extract of these proceedings be sent to the 2d Judge late on Circuit in the Northern Division by precept requiring him to carry into effect the above orders with as little delay as possible.

Sent following precept No. 473.

Sent 17.

12th December 1823. of his Assistant, and to be competent in all cases to direct whether the proceedings held by their Assistant shall be submitted for his decision, or whether the determination upon the charge is to be passed by the Assistant.-

Ordered, that extract of these proceedings be sent to the 4 Provincial Courts of Circuit by preparing them to communicate to the Criminal Judges for their information.-

Sent 17th

/Sent following Precept No. 474./

Read letter, dated 25th Ultimo from the 1st Judge on Circuit in the Southern Division, submitting Case No. 32 Madura Calendar 2d Sessions 1823.-

/Here enter No. 736/

The Court having maturely considered the proceedings held before the Judge on Circuit the 5th of the Provincial Court of Appeal and Circuit and the 5th of the Cazee-adaulut Cozat and Moofussil Moofftees of the Zillah Adaulut confirm the said 5th of the Cazee-adaulut Cozat and Moofftees aforesaid and under the provisions of Section III Regulation I of 1822 adjudge the prisoners

1st Canthan
2d Sadalamaatee and
3d Maruden

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 & kept to hard labor in irons on the public roads or other public works for and during the period of

Sent 17th

C.H.
W.C.

F. C.

12th December 1823. of their natural lives respectively.-

/Sent following Letter No. 475./

1 The proceedings of Veeranagoo pilley, Head of the police of the Calicaad talook are very defective, his omission to forward any witness to prove that the property stolen belonged to the prosecutor should have been noticed by the Criminal Judge to the Magistrate, and the evidence obtained.-

2 The Court of Foujdaree Adaulut in this as in other cases under reference from the 1st Judge on Circuit have been much struck with the loose and unsatisfactory mode, in which his examinations were conducted.-

3 The 1st Judge has in this, and in certain other cases omitted to cause the prisoners' confession to be read aloud in Court, which was his express duty under the provisions of clause first section XV Regulation VII of 1802.-

4 Ordered, that extract of these proceedings be sent to the 1st Judge on Circuit in the Southern Division by precept directing him to make the necessary communication to the Criminal Judge in the Zilla of Madura for his information and future guidance.-

/Sent following Precept No. 476./

150

At a Court of the Foujdaree Adalut

Present

Tuesday 16th December 1823 — Charles Harris Esquire, George Gowan Esquire — Judges

Read letter, dated 17th Ultimo from the 1st Judge on Circuit in the Southern Division,- Submitting Case No 26 Mooroo Calendar second Sessions 1823.-

C:A. UM

Here enter No 728/

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Draveeal Law officer and the futwa of the Cazee-ool-Cozat and Mooftees of the Sudder Adalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid and under the provisions of Section III Regulation I of 1822 adjudge the prisoner "Curpeer"

to receive 39 stripes 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 labor in irons on the public roads or other public works for and during the period

16 December 1823

Read return dated 13th Instant from the 2d Judge late on Circuit in the Centre Division to precept dated 8th Instant calling for explanation of his delay in making returns to precept dated 22d Sept.r last.-

/Here enter No. 768/

Read return dated 13th Instant from the 3d Judge late on Circuit in the Centre Division to precept dated 18th Sept.r last ordering communication to the Magistrate of Bellany of the Courts' orders relative to certain instructions given by him to the heads of Police.-

/Here enter No. 770/

16

period of his natural life.-

/Sent following letter No. 185/

Read return dated 3d Instant from the 2d Judge on Circuit in the Western Division to precept dated 20th Ultimo, ordering communication to the Criminal Judge in the Gilla of Canara of the Courts' orders relative to the entry of witnesses' examination on the Calendar.-

/Here enter No. 754/

Read letter dated 10th Instant from the Acting Judge on Circuit in the Centre Division, Reporting the commencement of the Sessions at Chenglepet.-

/Here enter No. 757/

Read return dated 3d Instant from the 2d Judge late on Circuit in the Northern Division to precept dated 12th Ultimo, ordering communication to the Magistrate of Guntoor of the Courts' observations on his late Circuit Report for the 1st Sessions 1823.-

/Here enter No. 758/

Read return dated 5th Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 18th Ultimo, ordering communication to the Criminal Judges and Magistrates of certain orders of the Court on matters of Police.-

/Here enters No. 759/

Read

F. 11.

At a Court of the Foujdaree Adalut
Present,

Thursday 18th December 1823. Charles Harris Esqre. } Judges.
George Gowan Esqre. }

Read again petition of the
Cl. Valayada Goundan of Coombrecon.
Wit. in the Pittoocottoo talook, in the Zilla
of Trichinopaly.-
(Entered Oct. No 3 of 1823)

The petitioner represents
that in 1819/20 he proceeded on a pilgrim
leaving the sum of Rupees 518, twice
in his house, and certain household
goods, worth about ten rupees, having
the door of his house locked and
sealed; that in his absence three men
Row, the Taluccdars of the talook
above mentioned caused his house
to be broken open, and took away
the money and goods therein deposited.
Petitioner further states,
2 that between 9th October 1821, and 15th
April 1822 he addressed four petitions
on the subject of his case to the Magis-
trate, but obtained no redress; and
that

that subsequently having appeared to
the Magistrate under instructions to
that effect from the Provincial Court
of Circuit, the Magistrate called on
the Sahseedar for an explanation,
and that evidence in proof of the
facts alleged by the petitioner was
adduced before the Magistrate, not-
withstanding which no proceedings
were held against the Sahseedar.-

3 Petitioner further alleges,
that he had made repeated appeals
to the Court of Circuit, but that no
cognizance had been taken by that
Authority of his case.-

4 It would appear from
the papers which accompany the
foregoing petition, that no order has
been passed by the Court of Circuit
on the subject of his case and the
Court of Sudder Adawlut deem it,
therefore, proper to call for an
explanation from the Magistrate
to be accompanied by copies and
English translations of such proceed-
ings as were held in the case for
their

18th December 1823. their information.-

5 As the present Sudder Judge
of the Provincial Court of Circuit has
the office of the Magistrate in the
Zilla of Tuckinopolygat the period
when the petitioner asserts that he
preferred his complaint against the
Sahseedar, the Court of Sudder
Adawlut direct, that the foregoing
petition be referred to the Provincial
Court of Circuit in the Southern Division
who will call for the proceedings
from the Magistrate's office, and
will at the same time forward
the late Magistrate's explanation
of the case.-

Ordered, that extracts of
these proceedings be sent to the
Provincial Court of Circuit in the
Southern Division by precept
returnable in ten days.-

(Sent following Precept No. 490)

At a Court of the Kujdaree Adalut

Present,

Monday, 22nd December, 1823. — Charles Harris Esqre. } Judges.
George Gowan Esqre. }

Read letter, dated 5th Instt. from the 2d Judge late on Circuit in the Northern Division, - submitting case No 27 of the Calendar and 11 of the Supplemental Calendar of Chicacole for Sessions 1823.

(Here enter No 705)

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 Mooftees of the Kujaree Adalut confirm the said futwas of the Cazee ool Cozat and Mooftees aforesaid and under the provisions of Section III Regulation I of 1822 adjudge the prisoners

1st "Casakra Ramdas,"
2d "Addakoola Vencapa," and
3d "Mundala Veerapadora",

to receive 39 stripes with a rattan and to be imprisoned and transported to such place or places beyond Sea as

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 796.

Read letter, dated 18th ultimo
from the 2d Judge on Circuit in the
Western Division, - submitting case No 125
Canara Calendar 2d Sessions 1823.

(Here enter No 725)

The Judges of the Sudder
Adawlut on a deliberate consideration
of the circumstances of the case in evidence
before them being of opinion that the
proof against the prisoners Pt. Bahlen
and Dr Rama is sufficient to convict
them of the crime of wilful murder
divine under the provisions of Clause
Section Section II Regulation I of 1818
that their Law Officers will declare
by a second futwa to what punish-
ment the said prisoners would have
been liable under the Mohummudan
Law if they had been convicted by
full legal of the above crime -

Ordered

Ordered, that extract
these proceedings be translated a
delivered to the Cazee ool Cozat
& Mooftees of the Sudder Adawlut

Read letter, dated 22d Ultimo
from the 3d Judge late on Circuit in the Western
Division, - submitting the report prescribed
by Section XXXVII Regulation VII of 1822 for
the first Sessions of 1823.

Here enter No 738.

In paragraphs 10, 11 and 12 of
the report the 3d Judge brings to notice certain
cases, in which confessions were obtained from
the prisoners by the native officers of police
through "means the most unjustifiable;" and
mentions that in one of those cases both the
prisoners "had been kept in confinement for
"a period of nearly three months before being
"forwarded to the Criminal Judge."

2 The endeavours of the Court of
Sudder Adawlut have long been faithfully
directed to the enforcement of the provision
contained in Section XXVII Regulation XI
of 1816, which requires, that prisoners shall
be forwarded by the Heads of District Police
to the Criminal Judge "within forty eight hours
"if possible." The practice, which the Court
regret to find still universally prevalent, of
detaining persons in custody for weeks and
even months before their transmission to the

Criminal

ecember 1823. Criminal Court affords opportunity, which might not otherwise be found, of resorting to the atrocious abuses of authority here referred to; and the Court of Foujdaree Udalut do not see any probability of an amelioration of the conduct of the police officers in these respects, unless the exertions of the Magistrates are more strenuously directed to the enforcement of the provisions of the Law, and abuses of authority, when discovered, are invariably visited with adequate punishment. In the case to which the 3d Judge more particularly refers in paragraph 10 the Court of Foujdaree Udalut are of opinion, that the Peshkar and his abettors should have been brought to trial before the Court of Circuit under the provisions of Regulation III of 1810.-

3 The Court of Foujdaree Udalut deem it proper to take this opportunity of directing by a circular order that the Heads of District police be instructed in forwarding prisoners to the Criminal Judge to specify the date of their leaving the talook; such dates to be entered in the Quarterly reports furnished by the Criminal Judges under the provisions of Section XXXV Regulation X of 1816, in addition to the dates of apprehension and of arrival at the Zilla station.-

4 Paragraph 14 contains a notice of a case, in which two persons of whom one was a patail, were convicted of torturing prisoner for the purpose of attaining a confession and in paragraph 15 an extract of a report by the Zilla Surgeon is given, shewing the nature of the tortures inflicted on the differing individual, who is stated to have "left the Hospital in a crippled state without any "prospect of ever recovering the full use of "his hands."-

5 The prisoners in this atrocious case were both sentenced "to two "years imprisonment & hard labor and "to pay a fine of 200 rupees each, and on "failure thereof to two years further "imprisonment."-

6 To the Court of Foujdaree Udalut it appears, that whether considered with reference to the aggravated guilt of the parties, or to the acknowledged prevalence in the Zilla of Canara of a resort to torture for the purpose of extorting confession from persons in custody, the sentence passed by the 3d Judge under a certain discretionary punishment was much too lenient. In such a case the Court would rather have expected a reference of the trial under the provision contained in the latter part of Clause seventh Section II Regulation XV of 1803.-

7 The Court of Foujdaree Udalut conclude, that the patail, who has thus abused

abused the authority vested in him, and not
hereafter be permitted to resume his office and
they beg leave to recommend, that the Honorable
the Governor in Council may be pleased, in the
event of the payment of the fines awarded by
the Sentence of the 3d Judge, to sanction the
grant of the amount to Dajoo, the injured
individual.—

8 In paragraphs 26, 27 and 28
the 3d Judge states at large the circumstances
of a fraudulent extortion of money from one
of the prisoners in Case No 15 by one Appanah
Bhut under a pretext of influencing the
judgment to be passed upon him.—

9 The 3d Judges exposition of the
provisions of the Mohummudan Law in cases
of this discription is perfectly correct; and
the Court of Foujdaree Adalut observe, that at
the second Sessions the abovenamed Individual
was tried on a charge of extorting money
on false pretences and on conviction was
declared by the futwa liable to discretionary
punishment, and received Sentence from the
2d Judge on Circuit of 2 years imprisonment
and 200 rupees fine.—

10 In the 29th paragraph the 3d Judge
intimates an opinion, that the public and
private Servants of judicial officers in the
Western Division are in the habit of "discussing
"or corresponding with parties upon matters
depending

depending before the Courts." and quotes an
instance in which one of the Circuit Court
Servants "admitted that he had held commu-
"nication at his private residence with a
"person deputed by the prisoner and had been
"requested by them to speak to the private ser-
"vant of one of the Judges, and that he not
"only did so, but gave him all the information
"in his power regarding the case of the prisoner."
And the 3d Judge proceeds to observe,

11 that "it is not uncommon for the Law officers
"in discussing the merits of cases when
"under trial to allude to circumstances,
"which are not to be found on the record,
"and which consequently they could only
"have heard out of Court, and most proba-
"bly from some interested person." The
3d Judge concludes this subject with suggesting
some legislative provisions, or at least the
public declaration of the sentiments of the
Foujdaree Adalut "on the extreme irregularity
"of any communications, direct or indirect,
"between Servants of a Court of Justice and
"parties in suits pending before the Courts
"and especially on the part of Law officers
"on matters, that are likely to come under
"their Judicial cognizance."—

In respect to the most gravely
12 reprehensible proceeding which has here
been

been brought to notice by the 3d Judge, nor do the Mohummudan law Officers advertising in his returns to facts not in evidence on the trial, the Court of Foujdaree Adalut have to remark that in their opinion the provisions of the Regulations in force, which require the reference of all cases to the Foujdaree Adalut in which the Judge of Circuit may disapprove of the futwa, and prescribe a report to that Court of all instances of misconduct on the part of those officers amply suffice for the correction of such irregularity. A Law Officer, who may found his futwa on any premature information should be publicly reprimanded in open Court, and the Court of Foujdaree Adalut will be prepared on any occasion of a repetition of such impropriety to resort to such exercise of the powers vested in them, as the case may appear to require.

13 Due notice should also in all cases be taken of any attempt on the part of the private or public servants of judicial officers to interfere in the manner pointed out by the 3d Judge, and it appears to the Court of Foujdaree Adalut, that those officers in their public or private capacity possess full means of checking practices of this nature. It may be remarked, that as appeared in the particular instance above noticed, any attempt to corrupt the officers of Justice is punishable under the Mohummudan Laws.

14 In paragraph 40 an instance is cited of a confession extorted by the Native Officers

F. C.
22 December 1823

officers of police. The 3d Judge has not reported whether or not the circumstances were brought to the notice of the Magistrate; but in the opinion of the Court of Foujdaree Adalut it is absolutely necessary for the vindication of the purity of the judicial administration, that the offenders in every case of this description should be brought to trial before the Court of Circuit.

15 Paragraph 42 contains mention of a case, in which a Gomashtah on the establishment of the Sub Collector and a parbutty are stated to have suborned false evidence to accuse an innocent individual of murder.

16 The Court of Foujdaree Adalut conclude that an attempt so atrocious was not allowed to pass with impunity; but it would be satisfactory to the Court and no doubt to the Government and to the authorities in England, to whom the report will be submitted, that they should be informed of the steps taken to bring to punishment the parties to so foul a conspiracy. The Court desire that the 3d Judge will lay this information before them.

17 In paragraph 51 the attention of the Court of Foujdaree Adalut is called to a precept, issued by the 3d Judge to the Magistrate of Malabar desiring him to direct the Assistant Magistrate in charge of the Southern Division to investigate a case of cruelty and oppression practised by certain native officers of police.

18 The Magistrate instead of complying with the 3d Judge's instructions committed the

enquiry to a police Gouindatah; a proceeding which the Court of Foujdaree Adalut do not but regard as inconsistent with the respect due to the authority of the Court of Circuit, and calculated at the same time to encourage acts of oppression, and to deter the injured from seeking to obtain redress.

19 The Court of Foujdaree Adalut desire, that the 3d Judge will ascertain and report for their information what proceedings have been held against the Head Servant in the Magistrates' Cutcherry, and the Gomashtah of the Criminal Court in consequence of their alleged corruption, as described in the 58th paragraph of the Report.

20. In the 63d paragraph of the report the 3d Judge announces an opinion, founded upon the issue of two trials for perjury, of which the particulars are given in the paragraphs immediately preceding, that "no person ought to be committed for "trial for perjury, in matters cognizable only "by a Court of Circuit, excepting it shall appear "to two or more Judges of a Court of Circuit, "forming a Court at the Sudr station, that there "are sufficient grounds for such a prosecution".

21st The Court of Foujdaree Adalut entirely concur with the 3d Judge in regard to the caution which ought always to be exercised

22d December 1823.

exercised in bringing persons to trial for the crime of perjury; but the Court do not see what means the Judges of the Provincial Court of Circuit at the Sudr station could possess, which would not be within the reach of a Criminal Judge, of determining upon the validity of the grounds existing or supposed to exist for such a prosecution; while they are clearly of opinion that the authority to commit for perjury where that crime may appear to have been wilfully perpetrated is essential to the maintenance of the dignity of a Court of Justice.

22. Paragraph 64 of the report contains a suggestion founded upon certain instances of cruelty practised on slaves by their Masters, that forfeiture of the right of property over slaves should be made the penalty for ill usage.

23. This subject has in former reports of the 3d Judge been brought under consideration, and orders were issued by the Court of Foujdaree Adalut under date 27th November 1820, founded on a futwa of their Mohummudan Law Officers, directing that on all occasions of acts of this description the perpetrators should be brought to trial.

24. It may be remarked that the instances of barbarous cruelty mentioned in the present report occurred some years ago; and the Court of Foujdaree Adalut would hope that no act of this nature could now

now be perpetrated without bringing exemplary punishment upon the offenders.

25 The subject has already been brought under the consideration of Government, by whom some legislative provision regarding the treatment of slaves may possibly be in contemplation. It appears to the Court of Foujdaree Udalut to be desirable, that instructions should be given to the Darogahs and Peons to apprehend any person guilty of an act of cruelty towards his slave, and that when the Patail may be the offender the Cummum or Shanbogue should report the case to the Tahsseldar. The Magistrates should also be enjoined in their circuits to enquire particularly as to whether offences of this nature are allowed to pass without notice, and all instances of connivance at the ill treatment of slaves on the part of the police officers should be severely punished. It might also be useful to cause a registry to be made of individuals, who have suffered the mutilation, of which instances are given in the reports, with a view to ascertain whether similar atrocities continue to be committed. And finally the Court have to observe, that the perpetrators of any of the cruelties instanced by the 3d Judge, who may have committed them since the general Regulations were put in force in the provinces of Malabar, are of course liable to punishment, notwithstanding the time which may have elapsed since their perpetration.

In

In the 74th paragraph the 3d Judge notices generally, the prevalence of acts of oppression and irregularity on the part of the native officers of police and animadverts upon the leniency, with which such aberrations of public duty are noticed by their immediate superiors; of which a remarkable instance is given in the correspondence marked B. appended to the report: and the 75th paragraph contains a proposition for the enactment of a regulation for the punishment of malpractices on the part of the officers of Police.

27 In the observations of the 3d Judge regarding the leniency of the Magistrates on occasions of misconduct, even when frequently repeated by the same officer of police, the Court of Foujdaree Udalut must concur, and its effects are universally perceptible. The specific enactments, which are proposed in this part of the Report appear to the Court to be judicious, and deserving of the consideration of the Honorable the Governor in Council.

28 In the 79th and 80th paragraphs of the report the 3d Judge notices the observations made in the report of the 2d Judges upon the 4th Quarterly Sessions of 1822 and the first of 1823 at Tellicherry, in respect to certain criminal charges, whereon the sentiments of the 3d Judge had been given in the 3d Judges report on the 2d Quarterly Sessions of 1822.

29 On referring to the reports here cited to

of Tanjdaure Udalut must conclude, that the remarks of the 2d and 3d Judges respectively could not have been applied to the same cases. The 2d Judge particularly mentions some very trivial charges to which the animosities of the two rival chiefs, of whom he speaks, had given rise; and the Court of Tanjdaure Udalut cannot suppose that he would have treated lightly the grave offences described in this part of the 3d Judges' report.

30

Paragraphs from 81 to 90 inclusive are occupied in a detail of particulars, tending to establish the dishonesty of the Head English writer of the late Zilla Court of North Malabar, who was tried at the fourth Quarterly Sessions for 1822 for Breach of Trust and Fraud and acquitted: and the last mentioned paragraphs concluded with an observation, that this individual with two other Servants of the Zilla Court of Malabar "have the credit of possessing sufficient "influence to direct the process of the Court to "the advantage or disadvantage of whom they "will."

31

The Court of Tanjdaure Udalut are not disposed to go into a discussion, which might tend to the inference that they questioned the propriety of the acquittal of the individual in the case here referred to. It may, however, be remarked, generally that evidence, which either might not have been produced, or if produced might have been inadmissible in a Judicial investigation, may form sufficient ground

ground for impeaching the purity of the character of this and of the other Servants of the Zilla Court, who are mentioned by the 3d Judge. The Court of Tanjdaure Udalut desire, that the remarks of the 3d Judge in this part of the report may be furnished to the Judge of Malabar, by whom the Court doubt not that such attention will be paid to them, as their importance demands; and such measures adopted as may be best calculated to prevent the possibility of the exercise of undue influence by any of his Court Servants.

It appears manifest from

32

all that has been represented regarding the most prominent transaction there noticed by the 3d Judge, that due precautions were not taken by the Judges to prevent irregularities in regard to the provision of supplies for the Jails at Cannanore and Tellicherry:- The Head English Writer is not considered by the Court as the fit person to be employed in making pecuniary disbursements on the public account, which is more properly the province of the Sirishtadar and the Shroffs under the Register.

The Court in concluding their re-

33

marks on this subject deem it proper to direct, that the Criminal Judge be called upon to report whether the balance which appears to have been due for supplies to the Jail at Cannanore has been paid by the Head writer, and how it happened that so large a

22d December 1823.

balance was retained in his hands.-

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

/Sent following letter No. 497./

Ordered also that Extract of these proceedings be sent to the 3d Judge late on Circuit in the Western Division by precept enjoining him to make the communications therein directed to the Criminal Judge of Malabar, and to communicate paragraphs 17 & 18 to the Magistrat of Malabar for his information and guidance.-

/Sent following Precept No. 498./

Ordered further that para 2 & 3 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 for their respective information and guidance.-

/Sent following precepts No. 499/

Read return dated 16th Instant from the 3d Judge late on Circuit in the Centre Division to precept dated 29th October last ordering communication to the Magistrates of Cuddapa, Bellary, and Southern Division of Arcot of the Courts remarks on

22d December 1823.

on parts of his Circuit report.-

/Here enter No. 775/

Read return dated 16th Instant from the 3d Judge of the Court of Circuit in the Centre Division to precept dated 8th Instant calling on him to explain the causes of not having made returns to the precepts of 22d August 18th Sept. 20th & 27th October last.-

/Here enter No. 776/

Read return dated 11th Instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 18th Ultimo ordering communication to the Criminal Judges and Magistrates of the Courts instructions on certain matters of Police.-

/Here enter No. 777/

Read letter dated 9th Instant from the 3d Judge on Circuit in the Northern Division Reporting his intention to quit Chicacole on 11th Instant.-

/Here enter No. 778/

Read Return dated 16th Instant from the 3d Judge of the Court of Circuit in the Centre Division to precept dated 20th October last calling for reports on the 1st & 2d 3d Quarterly Sessions of Jail Delivery at Chittore for 1823.-

/Here enter No. 779/

Read letter dated 17th Instant from the 2d Judge of the Court of Circuit in the Centre Division Reporting the death of the prisonir in Case No. 11 Chittore Calendar 4th Quarterly Sessions 1823 whose trial was forwarded for reference.-

/Here enter No. 780/

Read letter dated 17th Instant from

22nd December 1823.

From the Acting Judge on Circuit in the Centre Division.- Reporting the completion of the Jail Delivery at Changlepuka.-

/Here enter No. 781/

Read return dated 16th Instant from the 3d Judge late on Circuit in the Centre Division to precept dated 23d August last ordering communication to the Criminal Judge and Magistrate of Cuddapa of the Court's observations on Case No. 1 Cuddapa Calendar 2d Sessions 1822.-

/Here enter No. 782/

Read return dated 17th Instant from the Second Judge of the Court of Circuit in the Centre Division to precept dated 8th Instant ordering communication to the Acting Criminal Judge of Chittore of the Court's directions respecting the Abstracts of evidence on the Calendar.-

/Here enter No. 786/

Read letter, dated 18th Instant from the 2d Judge of the Court of Circuit in the Centre Division,- Reporting that instructions have been given for the removal of the lunatic prisoner in case No. 586. Chittore Calendar 4th Quarterly Sessions 1823 to the Lunatic Asylum.

/Here enter No. 788/

Read Letter, dated 9th Instant from the 3d Judge on Circuit in the Northern Division.- With Copy of Chicacole Calendar 2d Sessions 823.-

/Here enter No. 789/

7 11

At a Court of the Foujdaree Adalut

Present

Wednesday 24th December 1823 } Charles Harris Esquire } Judges
George Gowan Esquire.

Read again letter dated 14th Ultimo from the 2d Judge on Circuit in the Western Division,- submitting Case No. 25 Canara Calendar 2d Sessions 1823.-

/Here enter No. 723/

Read the second futwa delivered in this case by the Cazee-ool-Cozat 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 Cozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee-ool Cozat and Mooftees aforesaid and under the Sentence of Hiffaiat declared in the futwa adjudge the prisoners

1st "Babba, and
2d "Rama,

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

And under the Sentence of Kooboot declared against the prisoner,

3d "Alinga,

adjudge him to be imprisoned and kept to

22

hard labor in irons on the public roads or other public works for and during the period of six months and then be released.-

Sent following letter Rs. 500.

43

Read letter, dated 10th. ultimo, from the 3d Judge of the Provincial Court of Circuit in the Centre Division, reporting on the 4th Quarterly Sessions of Jail delivery at Chittoor for 1823.-

Circuit Letter No. 734

1. In paragraph 40 of the report the 3d Judge describes the circumstances under which he completed the Sessions of Jail delivery, which had been commenced by the 2d Judge.-

2. No reference having been made by the 2d Judge for the orders of the Foujdaree Adalut, upon his quitting the Last station, the delay in proceeding with the business of the Sessions was unknown to the Court, by whom the course adopted on the occasion by the 2d Judge is considered to have been perfectly proper.-

3. The 5th paragraph contains a

suggestion, that returns should be furnished of the Criminal cases disposed of by the authorities, specially vested with police functions under the provisions of Regulation VI of 1821. The Court of Foujdaree Adalut are of opinion, that the 3d Judge's sentiments on this point merit consideration.-

4. In paragraph 12 of the report the 3d Judge offers a remark, arising out of certain proceedings detailed in the paragraphs immediately preceding that no prisoner should after having been brought by the officers of Police before the Magistrate be sent back to the taloob to be thence forwarded to the Criminal Judge; but that prisoners before the Magistrate, whose cases may be referrible to the Criminal Judge, should be sent direct to that officer. In this opinion the Court of Foujdaree Adalut entirely concur, and it is scarcely requisite to observe, that the course suggested by the 3d Judge is that, which is prescribed by Section XXIV Regulation IX of 1816.-

5. The latter part of the report is occupied in the detail of a case, in which complaint was made to the 2d Judge against the proceedings of the officer in charge of the Police in Division of Vellore.-

24th December 1823.

6.

The Court of Foujdaree Adalut concur with the 2d Judge in attaching high importance to the subject discussed in this part of the report: and are of opinion that it is very desirable, that provision should be made for appeals from the orders of the Military authorities established by Regulation VII of 1821.

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

(Sent following letter No. 501.)

Ordered, also, that extract of these proceedings be sent to the 2d Judge of the Provincial Court of Circuit in the Centre Division for his information and guidance.

(Sent following letter No. 502.)

W. H.

Recd. 26th. Sent 26th.

Sent 26th.

Fd. H.

At a Court of the Foujdaree Adalut

Present

Monday 29th December 1823. } Charles Harris Esquire, George Gowan Esquire } Judges

Read letter, dated 12th instant, from the Criminal Judge in the Zilla of Chicacole submitting for the orders of the Court copy of a Warrant issued by the late Acting Judge on Circuit in the Northern Division in case No. 11 Chicacole Calendar of Sessions A.D. 1822.

(Here enter No. 1857)

By the foregoing warrant Nuvantah Dayanmah, Lingum Caumanah, and Chaygunty Bramiah Lingum, convicted respectively of perjury and of subornation of forgery and perjury are required to be exposed in the mode commonly denominated "Shoben" and to be imprisoned in Irons for "four years;" and the Criminal Judge represents that these prisoners have not been put to hard labor such not being the direction of the warrant, which is considered by the Criminal Judge to be at variance with the provisions of clause first Section III Regulation VII of 1811.

The prisoners in this case (1) having been sentenced under the provisions of

2

29th December 1823.

the Clause above cited, the warrant of the Acting Judge should have required the [illegible] to be imprisoned and kept to hard labor for the term therein specified; and the Court of Louisiana Udalute deem it proper to direct, that the Provincial Court of Circuit in the Northern Division do call for and cancel the warrant issued in the above case, and issue to the Criminal Judge an amended warrant, requiring the prisoners to be kept to hard labor for the remaining period of their sentences.

3 Ordered that extract of these proceedings be sent to the Provincial Court of Circuit in the Northern Division, by precept returnable in fifteen days from and after its receipt.

C ff
Ent 30th
Eglish.

Pt following precept No. 585.

J. H.

At a Court of the Foujdaree Adalut

Present

Sunday 2d December 1821 — Charles Harris Esquire, George Gowan Esquire — Judges

Read letter dated 23d. Instant from the 1st. Judge late on Circuit in the Southern Division, submitting report prescribed by Section XXXVII Regulation VIII of 1802, on the Sessions 1823.

Here enter No. 795

In the 4th paragraph of the above report the 1st Judge, referring to the case of a prisoner in the Jail at Trichinopoly under sentence of the Magistrate, observes on the impolicy and impropriety of mingling prisoners guilty of slight misdemeanors "with rogues & felons of the very worst description."

2 Upon the transfer of the prisoners at Trichinopoly to the custody of the Magistrate the attention of that Officer was particularly called to the provisions of Section XXIX Regulation X of 1816, and to the standing orders of the Court of Foujdaree Adalut, which enjoin that care should be taken to maintain the principle of separating different descriptions of offenders, both when at work and in Jail: to these instructions the Court of Foujdaree Adalut direct, that the attention of the Magistrate of Trichinopoly be again called.

Ordered, that a extract of these pro-

the several Magistrates do instruct
the Tahseeldars either to receive from
the complainants in writing or cause
to be immediately reduced to writing
and signed by the complainant all
charges of robbery, murder &c. obtaining
and recording at the same time any
essential information which the
parties may possess and may not
have included in the complaint,
respecting their ability to identify
the accused, their grounds of suspicion
against any particular individual,
the time when and place where the
act charged was committed, the
nature and value of the property
stolen in cases of theft or robbery,
and in cases of murder the wounds
inflicted, the weapons used or sup-
posed to have been used, and the
motives of the murderers. These instruc-
tions should be communicated by
the Tahseeldars to the Heads of village
police and Summons for their guidance,
and copies of the charges and the
examinations here described should
be immediately forwarded to the
Magistrate

Magistrate, in order that where
the Criminal Judge may see reason
to question the authenticity of the
document, transmitted to him by
the police officer on sending up the
prisoners, as the original complaint,
a reference to the Magistrate's Copy
may shew whether or not a different
charge has been interpolated into
the record.—

10 Referring to that part of
the proceedings of the acting Judge
on case No 1 of the Calendar, which
required, that the "unfinished part"
of the record of proceedings held on
the case by the 2d Judge at the preced-
ing Sessions should be furnished
to the acting Judge; the Court of
Foujdaree Adalut deem it proper
to remark, that the trial of a case
postponed at one Sessions should
be commenced de novo by the Judge
presiding on the following circuit.—

11 The entries in the Calendar
in the column headed "Abstract
"of the examination-grounds, and
"dates of commitment" are defective
in

18th November 1823

attested; and the Court of Foujdaree Adalut direct that it be adopted by the Criminal Judges, Magistrates and officers of District Police, viz.:

"Before A.B. Head of Police, Magistrate, or Criminal Judge, declared by "the prisoner C.D. to have been known in "writing by E.F. and signed or marked "by the prisoner in our presence "on the —— 18.—

"(Signed) G. H.
" I. K."

5 In the column of the Calendar headed "Abstract of the charges and "dates on which they were preferred" the Court of Foujdaree Adalut observe that in almost every case the charge is made to bear a date subsequent to the arrival of the parties at the Zilla station.—

6 This entry is manifestly incorrect: the date intended to be inserted in this column of the Calendar is that, on which the complaint was originally made to the Magistrate, or police officer.—

7 The Court of Foujdaree Adalut have

7

18th Nov. 1823

have on several occasions endeavoured to induce regularity of proceeding on the part of the Native Officers of police in respect to the immediate recording of criminal charges, and the transmission of the original charges in all cases to the Criminal Court, but the Court regret to observe that their orders on this subject have hitherto produced little or no effect, and that the practice of postponing the record of complaints until after the apprehension of the accused, and frequently until after their confession continues generally prevalent.—

8 The Court of Foujdaree Adalut must remark, that the failure of their repeated instructions on this and on other points to produce any amelioration in the conduct of the Native officers of police warrants the inference that due attention is not paid by the Magistrates to the enforcement of the orders of the Court.—

9. The Court of Foujdaree Adalut deem it proper on the present occasion, in partial recitation of a late order on this subject, to direct that the

"the same manner as if they were fully
"vested with the legal power, which
"the Legislature has solely confided to
"the Magistrates their Assistants, Jahseeldars
"and some others of the most respectable
"natives; and which power is illegally
"assumed by those inferior officers is so
"abused, that little credit can in my
"mind be given to any of the proceedings
"either as originating or in many instances
"to their subsequent result, more espe-
"cially as there can be little doubt
"but that many of the police are actuated
"from a hope of procuring rewards
"for their activity to ill use the accused
"and extort confessions from them,
"and the generality of the cases brought
"before the Court of Circuit at the
"present Sessions appear to be supported
"by nothing else but confessions said
to have been [illegible] made".-

2 The Court of Foujdaree Adawlut deem it proper to direct, that the attention of the Magistrate be immediately called to the circumstances here represented by the acting Judge. It will be the duty of the Magistrate peremptorily

peremptorily to interdict the illegal assumption by the inferior servants under his authority, or by the Heads of village police, of those functions which belong exclusively to the Jahseeldars or officers of the district establishment, specially appointed under the provisions of Section III Regulation IV of 1821.-

3 In regard to the concluding remark in the passage above cited from the letter of the acting Judge the Court of Foujdaree Adawlut have to observe, that without some collateral proof of guilt the commitment of a party for trial on the ground of a confession taken by a native officer of police is in their opinion improper; and it cannot be necessary for the Court to observe, that a confession taken by an officer not duly authorized is not admissible in evidence against the prisoner.-

4. The 6th paragraph of the acting Judge's letter contains a judicious suggestion regarding the form in which confessions should be attested

date the 2d. September last.-

3. Ordered that extract of the proceedings be sent to the Second Judge for his information and guidance, and that he be by precept commanded to send up the Persian translation of the above trial, to be lodged in the records of the Court of Zuijdaree Adalut.-

sent 15th

W. M. (Sent following Precept № 438.)

Read letter, dated 28th Ultimo from the 1st Judge on Circuit in the Southern Division; with returned warrant for execution of a prisoner in Case №10 Calendar 2d Sessions 1823.-

(Here enter №. 677)

Read return dated 2d Instant from the 2d Judge late on Circuit in the Northern Division to precept dated 11th Ultimo calling for the Reports prescribed by Section XXXVII Regulation VII of 1802 for the 1st Sessions 1823)

(Here enter №. 681)

At a Court of the Zuijdaree Adalut

Present,

Tuesday 18th November 1823 — Charles Harris Esqre. / George Gowan Esqre. } Judges.-

Read letter, dated 18th Ultimo, from the Acting Judge on Circuit in the Centre Division,- submitting copy of Cuddapa Calendar 2d Sessions of 1823, accompanied by extracts of his proceedings connected therewith.-

(Here enter №. 683)

Previously to a particular notice of the foregoing Calendar and of the proceedings of the Court of Circuit therewith submitted, the Court of Zuijdaree Adalut deem it proper to remark upon the following statement made by the Acting Judge in the second paragraph of his letter.-

"Throughout the Zilla "it appears to be a very general practice "for the Heads of village police and "Police Duffadars and Peons to take "cognizance in the first instance of "almost all criminal cases, and to take "confessions and examinations in the

Read letter dated 18th instant from the Acting Judge on Circuit in the Centre Division,- forwarding copy of a precept to the Criminal Judge Zilla of Cuddapa and of a return from that officer respecting a prisoner flogged by the Assistant Criminal Judge when under examination.- (Here enter №. 704)

Read letter dated 18th instant from the Acting Judge on Circuit in the Centre Division,- transmitting copy of a precept issued to the Criminal Judge in the Zilla of Cuddapa regarding case №.1 Supplemental Calendar 2d Sessions 1823 and of that officer's return.- (Here enter №. 708)

13th November 1823

on Circuit in the Centre Division, respecting the death of the 1st prisoner Nagalingum, on the Nos 28 and 29 Bellary Calendar 1st Sessions 1823.

(Proceedings No 592.)

The Court having maturely considered the proceedings held before the Judge on Circuit the Sessions of the Provincial Court of Appeal and the Sessions of the Court of Circuit and Oyer of the Inquisitorial Adalut confirm the said Sessions of the Court of Appeal and Circuit aforesaid and the prisoners

1st "Nagalingum"

having been reported under date 9th September last to have died; The Court direct that the prisoner

2d "Kurrapah"

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

(Sent following letter No 437)

The Court of Inquisitorial Adalut

Gentlemen, all the circumstances of the case have resolved

13th November 1823 resolved to direct the release of the second prisoner, Kurrapah on Security: but with reference to the observations of the second Judge in the foregoing Supplemental return to the precept of 2d September last the Court must remark, that his rejection of the incompetency of a witness, by the Law of England, to give evidence on a criminal trial, founded on the circumstance of his being a servant of the prosecutor, or having himself suffered injury from the accused, betrays the most palpable ignorance of that Law; which not only contains no such rule of evidence, but does not even declare any principle analogous with that, upon which such a rule would be founded.

The Second Judge, having omitted to retransmit the Persian translation of the record of proceedings held on case No 28 Bellary Calendar, 1st Session of 1823 which was returned to him by the Court under date

12th November
1823.
Ut
Exhibit

for his information and guidance.

Sent 14th

(Sent following Precept No 436.)

J.C.

Ha Court of the Foujdaarry Adaulut.

Present.

Thursday
13th November,
1823.

Charles Harris, Esqre
Roger Gowan, Esqre } Judges.

C.H.

Ut

Read again letter, dated the 28th May last, from the Second Judge late on Circuit in the Centre Division, submitting cases Nos 28 and 29. Bellary Calendar 1st Sessions A D 1823.

(Here enter No 407.)

Read also letter, dated the 30th ultimo, from the Second Judge of the Court of Circuit in the Centre Division, stating in further return to precept dated 2d September last, that the additional evidence has not been obtained, the witnesses having gone to Seringapatam.

(Here enter No 687.)

Read again letter, dated the 9th September last, from the Second Judge late on

28. November 1823.

Read letter March 13th Instant from the 1st Judge on Circuit in the Southern Division, with returned warrant for the Commitment of prisoner in Case No 24 Salem Calendar 2d Sessions 1823.

/Here enter No 711/

Read letter dated 12th Instant from the 2d Judge of the Court of Circuit in the Northern Division, with copies of Mauritius Calendars for 4th Quarterly Sessions 1823

/Here enter No 712/

Read return dated 18th Instant from the Judges of the Provincial Court of Circuit in the Western Division to Circular dated 28th Ultimo ordering communication to the Magistrates of the Court's remarks on various irregularities prevalent among the officers of police.

/Here enter No 713/

716.

At a Court of the Toujdarree Adalut.

Monday 1st December 1823. — Present.

Charles Harris, Esqr. } Judges.
George Gowan, Esqr. }

Read letter, dated 17th Ultimo, from the Acting Judge on Circuit on the Central Division, - submitting copy of 3 Mary Calendars - 2d Sessions A D 1823.

/Here enter No 731.

In case No 23, for stealing a bag of money left by the prosecutor in the Bazar, the Futwa declared that defect of custody was proved in bar of Hud..

This circumstance being one which the Court of Toujdarree Adalut consider as clearly diminishing the criminality of the offence of theft, the requisition of a second Futwa appears to them to have been improper, and they direct that the sentence passed by the Acting Judge be reversed

20th November 1823.

proceedings be sent to the Second Judge
Circuit by special enjoining him to cau
cause the same to the Criminal Judge
the Tells of Caesarea for his information
future guidance.

(Sent following Precept N. 1443.)

Read agreeable letter dated 11th
23d ultimo from the 3d Judge of the Fed
Circuit on the Central Division submitting
case N. 11 Chalkers Calendar 3d Quarterly Ses
sions of 1823

(Here enter N. 697.)

Read the record of
delivered on this case by the Crown
Legal and Marine of the Legislature Island

The Court having maturely co
sidered the proceedings had before the Judg
of the Court of Circuit the future of the Crown
and Law Officers and the future of the Leg
Island Legal and Marine of the Legislature
Island confirm the said future of the Legis
Legal and Marine aforesaid and order

20th November 1823.

the sentence of Dishonour but declared in the future
adjudge the prisoner

"Sheavy"

to be imprisoned without irons or hard labor
for the period of Six Months and then to
be released on producing good and sufficient
security for her future good behaviour and
appearance when required.-

(Sent following Letter N. 1444.)

Read letter dated 6th Instant
from the 2d Judge on Circuit in the Northern
Division,- Reporting his arrival at Chiacola-

(Here enter N. 699)

Read letter dated 6th Instant
from the 3d Judge late on Circuit in the
Western Division,- Explaining his delay in
making return to precept dated 20th ultimo
calling for Report prescribed by Section
XXXVII Regulation VII of 1802.-

(Here enter N. 698)

Read return dated 13th Instant
from the Second Judge late on Circuit in the
Centre Division,- to precept dated 22d September
last ordering communication to the Criminal
Judge of the Courts' instructions respecting
the prisoner in Case N. 20 Aroopa Calendar
1st Sessions 1823.-

(Here enter No. 709)

Read

4th December 1823.

proceedings be sent to the
in the Southern Division by proce
him to communicate the same to the Mag
of Chichinopaly for his information and guid

Sent 2nd Jany

Sent following proceedings No 507

Ordered also that the Report a
Extract of these proceedings be sent to the
to Government in the Judicial Department
the purpose of being laid before the Honorable
Governor in Council.

C. Fo
Sent 8th Jany 1824

Sent following letter No 5

W. H.

20

1796

507