1894

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At a Court of the Sayidaree Ca

Present

Thursday 3d. January 1828. J. A. Grant Esqre. 1st. Puisne Judge
James Cochrane Esqre. 2d. Puisne Judge
William Oliver Esqre. 3d. Puisne Judge

Read letter dated 1st. November last from the 1st. Judge of the Provincial Court of Circuit in the Colita Division submitting Calendar No. 4 Chittoor Calendar 2d. quarterly Sessions 1827 (See under No. 40 D.)

The Charge against the 1st. prisoner in this case was in Effect that he feloniously converted to his own use a Sum of money, which had been entrusted to him by the prosecutor Chinna Veerapah of Amboor to be conveyed to Vasaka Sewalingapah of Wallajahpett; and the charge against the two other prisoners was that they had received a part of the said Money knowing it to have been stolen. On the trial the prisoners were acquitted, and the Court, being unable to reconcile the acquittal with the whole of the evidence inserted in the Calendar, called for the Record of the trial.

2 Ramjee, the 1st. prisoner, was a Peon in the service of Vasakah Sewalingapah. The 2d. prisoner Ramasamy appears to have exercised the profession of a Doctor at Wallajahpett

Jan.y 1828 And the 3d. prisoner Chengamah was the concubine of the 1st. prisoner.

3. From the evidence of the prisecutor before the Criminal Judge it appeared that in consequence of a letter brought to him by the 1st. prisoner from Tavaka Seivalingapak, he delivered to his charge the sum of 700 Rupees in a sealed bag, with a letter to the address of his master; that the 1st. prisoner on his arrival at Wallajahpett reported to his master that he had been attacked on the road, and robbed of the money and letter; that the prosecutor having been sent for to Wallajahpett, he and Seivalingapak set about making inquiries; that one evening a person named Nunniah, the 9th. witness before the Criminal Judge, informed them of a disclosure made to her mother by one Nagamah, who lived with the 2d. prisoner as his Reputed mistress, by which it appeared that a few days before the 2d. prisoner had received from the 1st. a large sum in Rupees; and that they, the two prisoners, were about to abscond; that upon this the prisoners were taken into custody; and money to the amount of nearly 400 Rupees was found in the house of the 2d. prisoner, and another sum to the amount of 74½ Rupees was discovered on the person of the 3d. prisoner; and that the prisoners before the Police Officer made confessions of their guilt. All the facts stated by the prosecutor were fully confirmed by the evidence

3d. Jan.y 1828. of the 1st. 2d. 3d. 4th. 9th. 13th. 14th. 15th. 16th. 17th. & 18th. witnesses and 20th. witness. The evidence of Nagamah the 5th. and Nangah the 6th. witness was directed to the fact that the money found in the 2d. prisoner's house was conveyed there by the 1st. prisoner a few days before its discovery. The evidence of Veeramah the 7th. and Poojary the 8th. witness proved that Nagamah first made the disclosure which being reported to the 9th. witness Nunniah was led to the apprehension of the prisoners; and the goes to shew that Nagamah made the disclosure to her mother in consequence of her unwillingness to accompany her paramour in his meditated flight. The evidence of the 10th. and 12th. witnesses is of importance as it goes to prove the notoriety of the 2d. prisoners poverty, which is also spoken to by the 11th. witness who deposes further that about 4 months previous to his examination, that is some time in September 1820. the 2d. prisoner borrowed of him the sum of 10½ Rupees on the pledge of a silver waistring; and that about a month before his examination, that is, sometime in the beginning of December, he redeemed the pledge. It should be observed that the money, which the 1st. prisoner is charged with having appropriated to his own use, was entrusted to him on the 1st. November; and that, on the 3d. or 4th. day after, he reported its loss to his

his master.—

4. From this brief abstract it will be seen that the evidence before the Criminal Judge was such as to leave no rational doubt of the guilt of the prisoners; and if it had been confirmed on the trial, and not opposed by very strong evidence on the part of the prisoners, they could not possibly have escaped conviction. But the trial, like many others held by Mr. Brown, was a mere mockery. Of the 20. witnesses, who had given their evidence before the Criminal Judge, and all of whom spoke to facts more or less material to the issue of the case, Mr. Brown examined only 9; and, what would be incredible unless actually proved by the record, these nine witnesses were the least material of the whole, so far as their testimony was necessary to the legal conviction of the prisoners. Six of them were the subscribing witnesses to the declarations of the prisoners before the Police Officers; and, with reference to the other evidence in the case, proof of these declarations might have been omitted without any very serious prejudice to the prosecution. Of the other three witnesses the 1st. Sevalingapah, was a Pooman. tah of the 1st witness of the same name, examined by the Criminal Judge, and appears by some blunder to have been brought, instead of his master, before Mr. Brown. The other two witnesses

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F. C.

3d Jan.y 1828.

the 2d and 3d could speak to no material fact which was not equally within the knowledge of other witnesses not examined; and of the facts to which they could speak a few only were elicited, not because the witnesses were unwilling witnesses and wished to withhold any of the information of which they were possessed, but by reason of the grossly defective manner in which they were examined by Mr. Brown.— Had the money entrusted to the 1st prisoner, and that money to a large amount was found in the house of the 2d prisoner been undisputed facts and admitted by the prisoners themselves; but Mr. Brown's examination of the witnesses was directed solely to these facts and to the proof of the declarations made by the prisoners before the Police Officers. If Mr. Brown in his conscience believed that proof of these facts would suffice for the legal conviction of the prisoners, the course of examination pursued by him was intelligible, however much he was liable to censure for confining it within such narrow limits; but then as these facts were all most satisfactorily established by the witnesses whom he examined, how is it possible to account for his acquittal of the prisoners? It would be the height of absurdity to suppose that the evidence produced by the prisoners in their defence contributed

in

in the least to this result, for that evidence, as far as it went, had a tendency directly the opposite way, and might with no small advantage have been adduced on behalf of the prosecution, inasmuch as it disclosed some very suspicious circumstances in the conduct of the 1st prisoner after his return to Ballajahpetty, and being produced by the prisoner himself was on that account the more intitled to credit.

On the face of the record, therefore, Mr Brown's acquittal of the prisoner appears utterly inexplicable; and the grounds of his proceeding in this respect, as they are inserted in the Calendar, serve any other purpose but that of elucidation. As far as his remarks in the Calendar can be understood, his acquittal of the prisoner was founded on the want of that identical evidence, which the witnesses, whom he neglected to examine, would have fully supplied, and might have been partly supplied by the witnesses whom he did examine - It would be an idle waste of time, however to dwell longer on this inexplicable proceeding.

But Mr Brown's misconduct in this case did not end with the trial. The Criminal Judge, - incautiously and improperly no doubt, - had before the trial, delivered to the prosecutor on security the Rupees found in the house of the 2d prisoner, and on a petition which

which this prisoner had the hardihood to present to him, Mr Brown donated the restoration of the money, so that this man, as far as depended upon Mr Brown, was kept to reap the fruits of his dishonesty. The order for the restoration, however, was clogged with a most extraordinary condition, which, if it meant anything, implied a doubt in Mr Brown's mind of the prisoners right to the money - The condition was that the prisoner should be called upon to give the usual evidence, and make good his title to the money to the satisfaction of the Criminal Judge. Under all the circumstances it is hardly possible to conceive an absurdity greater than this. But, great as it is, the Court would scarcely have taken any notice of it, if their interference had not been necessary to prevent a flagrant act of injustice to the prosecutor. There cannot be the slightest doubt that the money belongs to the prosecutor, and to him it must be restored.

7 If this had been the only instance of misconduct in Mr Brown since the termination of his temporary suspension from office, the Court might hopefully have brought themselves justified in withholding it from the consideration of the Government; but unfortunately

unfortunately since he resumed his duties the Court have had numerous occasions to animadvert upon his proceedings; and they will not conceal that the performance of this painful duty is rendered doubly irksome by their full persuasion of its utter inefficacy to produce amendment - Mr. Brown's inattention to instructions and orders seems habitual, and is strikingly exemplified by his proceedings in case N.5 of this Calendar - In this case one of the prisoners was declared by the Law-officers to be convicted, on strong presumption, of theft; and Mr. Brown admitted his release on security. He was reminded that his incompetency to release on security a prisoner whom the Law officers declared convicted, had been pointed out to him before; and he averred in answer that no such instructions had been received by him; and that none such were to be found on the records of the Provincial Court, except one issued a few months before to the 2d. Judge which he had only just then seen. In reply the Court specified the dates of the communications which had passed between them and Mr. Brown on this subject, and they remarked that if this correspondence was not to be found on the records of the Provincial Court the inference was that he had disobeyed the Circular order of the

3d. January 1828.

the 5th. September 1821, which required all instructions issued to an individual Judge on Circuit to be deposited with the Register. It must be observed that in this case also the Court found it necessary to call for the Trial, because they could not reconcile Mr. Brown's release of the prisoner with the abstract of the evidence inserted in the Calendar; and on perusal of the record it clearly appeared to them that objectively as the case had been investigated there was still sufficient evidence for the full conviction of this prisoner at least, and that he ought to have suffered the punishment prescribed by the Law - His inattention to the orders of the Court was further exemplified in cases Nos. 9, 10, 11, 12, and 13, which also were trials for perjury under Regulation III of 1820. The Circular order, dated 23d. November 1820, prescribed the form of indictment to be used on trials of this nature, but Mr. Brown rejected these forms and adopted others, which were calculated to leave the prisoners in total darkness as to the facts in respect to which they were charged with having committed perjury - This proceeding seemed the more remarkable, as the Criminal Judge had drawn up indictments in the prescribed form; but from Mr. Brown's

return

Jan.y 1828

the 23d. August 1827.-

Sent following precept returnable
within three days from and after its receipt to Wd.

Mk. 1/-
2d.

W. Read return dated the 22d. Ultimo
from the first Judge of Circuit in the
Centre Division to precept dated 19th. Ultimo,
directing him to forward copy of the extract
of proceedings therewith sent to the
Criminal Judge of Chittoor -

(Here enter No. 555)

J. A.

At a Court of the Foujdaree Adalut

Saturday
5th. January 1828.

Present,

F. A. Grant Esqre
James Cochrane Esqre
William Oliver Esqre
} Judges.

Mk. 1/-
2d. -

Read letter, dated the 13th. October
last from the 1st Judge of the Court of
Circuit in the Centre Division, submitting
case No. 5 Chittoor Calendar 3d. Quarterly
Sessions 1827.-

(Here enter No. 436. of 1827

This trial comes before the
Court under extraordinary circumstances.
The prisoners were acquitted by the
Futwa of the Law Officer, and Mr. Brown
seems to have fully concurred in the
acquittal, but he determined to refer
the trial for the decision of the Foujdaree
Adalut. According to his letter accom-
=panying the Calendar he came to this
resolution "in consequence of the
"identifying of the prisoners by the
"prosecutor and the witnesses, who tra-
="velled with the prosecutor, this having
"been ruled as an exclusive cause for
"referring cases." The Court have had
their records searched, but no such
rule as that here mentioned can
be found, and they have little doubt
that this reference has arisen from

Mr.

return to a precept issued to him on the subject of
these trials it would appear that his deviation
from the prescribed form of indictment in these
cases was wilful and deliberate, and was made,
as he says, "with a view of curtailing the subject
"matter for which he (each prisoner) was prosecuted,
"and enable him to comprehend the accusation
"against him". - Any remark upon a proceeding
like this would be perfectly superfluous. -

8. It has been too often the painful
duty of the Court to bring the misconduct of
Mr. Brown to the notice* of the Government; and
they can no longer withhold the expression of
their opinion that, either from the weakness or
the obliquity of his understanding, he is unfit
for the Judicial Office - It is possible that the
Court may be considered to have overstepped
the line of their duty in making this declaration;
but it has been wrung from them by the utter
hopelessness of any attempts to bring this officer
to a more correct discharge of his functions.
Instruction, reprimand, and punishment have
all been tried, but without effect; and Mr.
Brown's proceedings exhibit the same defects,
irregularities and errors, and betray the same
inattention to orders as before - Under these
circumstances the Court think that the opinion
which they have ventured to express, is fully
warranted

* The Court refer particularly to their proceedings dated 28th Dec. 1824. 25th Aug. 1826. and the 7th and 29th May 1827.

warranted and they cannot but apprehend
that to whatever cause the general faultiness
of his proceedings is to be attributed, the
administration of justice must suffer deeply
in its character, if it is not brought into
contempt, by being any longer entrusted to
his hands. -

Ordered, that Extracts of these
proceedings together with that of the 21st July
15th August, 13th and 19th December last and
the original letters from the 1st Judge of the
Court of Circuit in the Centre Division dated
30th June, 9th July, and 22d December last,
Record of Trials Nos. 4. 5. 9. 10. 11. 12. and 13 of
the 2d quarterly Sessions 1827 and Chittoor Cal-
endar 2d quarterly Sessions 1827 be sent to the
Secretary to Government in the Judicial De-
partment for the purpose of being laid before
the Right Honorable the Governor in Council.

(Sent following letter. 30/1.)

Ordered also that Extracts of these
proceedings be sent to Mr. Brown for his in-
formation, and that he be by precept
required forthwith to cause restitution
to Chinna Veerapah the prosecutor in case No. 4
of the Chittoor Calendar for the 2d quarterly
Sessions of 1827. of the Money referred to in
his precept to the Criminal Judge dated

the

9th January 1828.

Mr. Brown's misapplication of some order issued in a case very dissimilar to this.-

2. The Court direct that Mr. Brown be called upon to specify the date of the rule to which he refers, and that on all future occasions he be careful not to omit the date of any order or instruction which he may quote as the ground of his proceedings.-

3. The Court have attentively considered the evidence in this case; and upon the whole they are of opinion that the acquittal of the prisoners was warranted by the strong evidence which they produced on their defence. The Court therefore direct that Mr. Brown be by Precept required to order the discharge of the prisoners.-

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

J.W. (Sent following Precept No. 4.)

Sent 9th Jan. 1828

J.W.

No. 4.

At a Court of the Toujdaree Adalut.

Wednesday 9th January 1828. Present

J. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter dated 12th Instant from the 2d Judge on Circuit in the Centre Division submitting case No 19 Bellary Calendar 2d Sessions 1827.-

(Here enter No 528)

The 1st 2d and 3d Puisne Judges having attentively considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwah of the Cazee ool Cogat and Mooftee of the Toujdaree Adalut confirm the said futwa of the Cazee ool Cogat and Mooftee aforesaid, and under the provisions of Section X Regulation VIII of 1802 adjudge the prisoner,

"Nursa reddee"

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

(Sent following letter No. 5.)

The Court do further resolve to sanction the payment of the rewards recommended

9th January 1822. recommended by the 2d Judge in para 20 of his letter viz: to Kistna Reddee, one hundred (100) rupees, to Peddoyadoo thirty (30) Rupees, and to Nuddeepegadoo fifteen (15) rupees, inclusive of what they have already received, in consideration of the meritorious conduct of those individuals.-

Ordered that Extract of these proceedings be sent to the 2d Judge on Circuit in the Centre Division for his information

(Sent following letter No 6)

Read letter, dated the 22d Ultimo from the 2d Judge on Circuit in the Western Division with copy of the Calendar of the Auxiliary Court Zilla Malabar for the 4th quarterly Sessions 1821.-

(Vide entry No 5)

1 In case No 3, the 1st prisoner is charged with breaking by night into the prosecutors Illom and stealing therefrom property to the value of 8½ Rupees; and the 2d and 3d prisoners with having knowingly received the stolen property.- None of these prisoners should have been committed; but all 3 disposed of by the Criminal Judge; the first under clause 5th Section II and the two last under clause fourth Section IV Regulation VI of 1822.-

2 In case No 5, the prisoners were charged with an affrays and forcible rescue of Tobacco

9th January 1822.- Tobacco, illicitly cultivated, after it's seizure the 2d Judge discharged them without trial, on the ground that the forcible rescue ought to have been prosecuted by the Collector, and the affrays by the present prosecutor as a distinct case.- This proceeding was altogether erroneous. Section VII Regulation VIII of 1811 does not require that the Collector should prosecute; nor is it otherwise necessary: it appears also from the evidence that the rescue and affrays were inseparable, the affrays was part of the rescue.-

3 The Court of Foujdaree Adawlut direct that the prisoner in No 6, Teeany vs Tanadee Nannen, be sent to the Criminal Judge of Chittore to undergo his sentence in the Jail of that Zillah.-

4 In case No 8, in which 3 prisoners were charged with Arson, the Court are unable to reconcile the acquittal with the abstracts given of the evidence: and do therefore, under Section XXV Regulation X of 1810, direct that the record of that trial be forwarded to this Court without unnecessary delay.-

5 The reasons given for postponing the trials in No 9 do not appear to the

Court

9th Jan.y 1828.

Court satisfactory; It was the Judge of Cir-
cuit's duty to determine whether the further
evidence tendered by the prosecutor was ne-
cessary; if the witnesses present were Suf-
ficient for conviction; the trial might by
no means to have been postponed because
the prosecutor tendered more; and the proceed-
ings in the Criminal Court against the
newly apprehended prisoner might no doubt
have been gone thro' in sufficient time.—
The postponement of trials is a great evil
to all parties; and nothing short of necessity
for the ends of justice warrants it.—

6 The dates in column 2 of cases
7 and 9 are obviously incorrect.—

Ordered that Extract from
these proceedings be sent to the 2d Judge
on Circuit in the Western Division for his
information and guidance.—

9th Inst

(Sent following letter No 7.)

Read letter dated the 28th Ultimo
from the Acting 1st Judge on Circuit in the
Southern Division with copy of Combaconum
Calendar 2d Sessions 1827.—

(Here enter No 7)

1 The release of the 1st, 2d, 9th and 10th
prisoners in No 4 appears to the Judges to require
some explanation. Their presence at the
robbery was sworn to, by the two good witnesses

2 9th Jan.y 1828.—

the 1st and 3d; the exception to the former of which
by the Law-Officer the Acting 1st Judge must
have been aware was unreasonable and
insufficient. It would therefore appear that
he should have acted upon Section VIII Regu-
lation I of 1825. The fact may however have been that,
even admitting the 1st witness's testimony, the
Acting 1st Judge did not consider the evidence
sufficient for conviction: if so, it was desirable
that this should have been stated as the reason
of his sentence.—

2 The 2d and 3d prisoners in No 2
were convicted, with the concurrence of the
Acting 1st Judge, both in that number and
in No 15 of gang robbery; but not sentenced
because there was another similar charge
against them.—

3 The most heinous of the three
charges against these prisoners should have
been tried first; and if convicted on that, their
trials for either of the others was unnecessary.
It does not appear that there is any thing to
distinguish the charge yet remaining to be
tried against them from the two others: if this
is the case the Acting 1st Judge should
proceed to sentence them and discharge
the other indictments.—

Ordered

9th Jan.y 1828.

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

(Sent following letter N.28 /.

/ Read letter dated 29th Ultimo. from the acting 1st Judge on Circuit in the Southern Division, with copies of Salem Calendars 2d Sessions 1827.-

/ Here enter N.6 /

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7. U.

At a Court of the Puysilarey Adalut

Present,

Friday, 11th January, 1828. James Cochrane Esqre 2d Puisne Judge.
William Oliver Esqre 3d Puisne Judge.

Read letter, dated the 29th July last from the 3d Judge late on Circuit in the Southern Division, submitting case N.6 Combaconum Calendar 1st Sessions 1827.-

/ Here enter N. 298 of 1827. /

The 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoners,

1st Coony Cauttan,
2d "Nulla Tomby," and
3d "Vydemanden,"

is sufficient to convict them of the crime of express murder, do under the authority with which they are vested by Clause First Section II Regulation I of 1818 convict them thereof and sentence them to suffer death, as prescribed by Section X Regulation VIII of 1802, by being hanged at the usual time and place of execution.-

Read

Read letter, dated the 31st Ultimo,
17th January 1828. from the Acting 1st Judge on Circuit in
the Southern Division, - submitting case
No 12 Combaconum Calendar 2d Sessions 1827.
(Here enter No 2 of 1828.)

The 2d and 3d Puisne Judges
on a deliberate consideration of the
circumstances of the case in evidence
before them concurring in opinion
that the proof against the prisoners,
1st Veeramalay, alias Appoo," and.
2d Pareemanum, alias Pantan,"
is sufficient to convict them of the crime
of express murder, & under the authority
with which they are vested by Clause
first Section II Regulation I of 1818 convict
them thereof and sentence them to suffer
death, as prescribed by Section X Regulation
VIII of 1802, by being hanged at the usual
time and place of execution -
(Sent following letter c No 13)

W. W.

Read letter, dated the 8th Instant,
from the 2d Judge on Circuit in the Centre
Division, reporting that the Court of
Circuit would move from Chingleput
to Chittoor on the 8th January -
(Here enter No 19 A)

Read letter, dated the 4th Instant,
from
11th January 1828. from the 1st Judge late on Circuit in the
Western Division, submitting correspondence
with the Criminal Judge of Canara respec-
ting prisoners in case No 17 on the
Calendar 2d Sessions 1827 -
(Here enter No 19 B)

Read letter dated the 6th Instant,
from the 3d Judge on Circuit in the
Northern Division, stating his intention
to set out for Nellore on the 7th January.
(Here enter No 22)

At a Court of the Fouydaree Adalut.

Present.

Monday 14th January, 1828 — F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2d Puisne Judge.
William Oliver Esqre 3d Puisne Judge.

Eth. U
2D.

Read letter dated the 2d November last from the 2d Judge on Circuit in the Northern Division submitting case No. 22 Nellore Calendar 2d Sessions 1827.-

/Here enter No. 481. of 1827/

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee and Coogat and Mooftee of the Fouydaree Adalut and concurring in opinion that the prisoner

Ramsooree Unkadoo,

is not convicted on presumptive proof or on the evidence of credible witnesses or on his own confession, notwithstanding the futwa of their Law Officers, do accordingly under the provisions of Clause Sixth Section II Regulation XV of 1818 direct that the prisoner

Ramsooree Unkadoo,

aforesaid be set at liberty.

/Sent following letter No. 15. In

6th January 1828

In the 11th Paragraph of his letter Mr. Lord points out the defectiveness of the preliminary proceedings in this case; and it is surprizing that with informations before him so imperfect in every important particular he should have put the prisoner on his trial.

2 There is no sufficient legal evidence to shew that in point of fact a murder has been committed; for though Pauperdoo and the two boys Poolooyadoo and Linyadoo say that they saw the dead body of Yellapah immediately after the supposed murder and reported the circumstance to the Caupoo Somiah, yet it is impossible to place any reliance upon their testimony, inasmuch as there is nothing to corroborate it, and for all that appears to the contrary they never even mentioned the circumstance till they were examined by the Criminal Judge. Before the Criminal Judge the prisoner admitted that he was in company with Yacaseery Poolooyadoo and Mahala Gayanoodoo when they threw stones at a Gollaman, and he, the prisoner, stole a sheep. There was also before the Criminal Judge the

14th January 1828.

evidence of Vadageery Venkadoo, who deposed that he heard Yacaseery Poolooyadoo say that he, and Gayanoodoo and the prisoner killed a Golla man of Pauperdoo Soobadoo, who deposed that the said Vadageery Venkadoo told him that the prisoner, Yacaseery Poolooyadoo, and Gayanoodoo had murdered a person, and that the prisoner, who is his brother afterwards told him the same circumstance; and of Allepoonum Pollianahoodoo and Kunkee Vinantanaiyer, who apprehended the prisoner on a warrant from the Magistrate, and who deposed to the prisoner's confession before them. That the Criminal Judge should have committed the prisoner for trial on evidence such as this is perfectly unaccountable. It was clearly his duty to refer to the Magistrate for further information, and to have ascertained whether or not the death of Yellapah was duly reported to the Police, and what proceedings were held thereupon.—

3 It was the duty of the Judge on Circuit to point out to the Criminal Judge the defects in the preliminary

preliminary proceedings in this case;
4th January 1828 and if they could not be supplied before
the close of the Sessions to have postponed
the trial.—

It appears that the 7th and 8th
witnesses Poolleganoo and Lingadoo
were not examined by the Judge on
Circuit on oath, and it is necessary
to call Mr Lord's attention to the Circular
order of this Court dated the 15th April 1819.

Ordered, that extract of
these proceedings be sent for the
information and guidance of the
2d Judge late on Circuit in the Northern
Division, and that he be by precept
required to communicate the 2d para-
graph thereof for the information
and guidance of the Criminal Judge
of Nellore.

Precept returnable within
five days from and after its receipt.—
/Sent following Precept No 16.
Read letter dated the 1st
November last from the 2d Judge
on Circuit in the Centre Division
submitting case No 1 Cuddapah
Supplemental Calendar 2d Sessions
1827.

/Here enter No 403 of 1827./

The

F. H.

The 1st 2d and 3d Puisne Judges
4th January 1828 on a deliberate consideration of the
circumstances of the case in evidence
before them concurring in opinion
that the proof against the prisoner,
Baboogadoo,
is sufficient to convict him of the
crime of express murder, do under
the authority by which they are vested
by clause first Section II Regulation
I of 1818 convict him thereof and
sentence him to suffer death, as
prescribed by Section X Regulation
VIII of 1802, by being hanged at the
usual time and place of execution.
/Sent following letter No 17.
Read letter dated the 18th
October last from the 1st Judge on
Circuit in the Western Division,
submitting case No 41 Malabar
Calendar 2d Sessions 1827.
/Here enter No 447 of 1827./
The 1st 2d and 3d Puisne Judges
having maturely considered the
proceedings held before the Judge on
Circuit the Jurtwa of the Provincial
Law Officer and the Jurtwa of
the

4th January 1828. the Cazee ool Cozat and Moofties of the Foujdaree Adaulut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and under the provisions of Section X Regulation VIII of 1802 adjudge the prisoner "Cella Cheroomam Cheriaken," to suffer death by being hanged at the usual time and place of execution

Sent following Letter No 18.

Read letter dated the 22d October last from the 1st Judge of the Court of Circuit in the Centre Division submitting case No 8 Chittoor Calendar 3d quarterly Sessions 1827.—

(Here enter No 440 of 1827)

The 1st 2d and 3d Puisne Judges 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 Adaulut, confirm such part of the futwa of their Law Officers as acquits the prisoners,

5th "Katary Bodegadoo,"
6th "Katary Goorooadoo,"
7th "Santoopaty Vencategadoo," and
8th "Yellapa Chetty,"

and direct that they be set at liberty.

But

4th January 1828. But concurring in opinion that the proof against the prisoners,

1st Satoopady Gungadoo,
2d Cumpa Vencategadoo,
3d Katary Gungadoo, and
4th Kumpa Simmadoo,

is sufficient to convict them of the crime of robbery by open violence do under clause first Section II Regulation I of 1818 convict them thereof, and sentence them severally to receive 25 stripes, and to be imprisoned and kept to hard labor in irons on the public roads or other public works for ten years, agreeably to clause fifth Section IV Regulation XV of 1816.

Sent following Letter No 19.

Read letter dated the 26th October last, from the First Judge of the Court of Circuit in the Centre Division, submitting case No 4 Chittoor Calendar 3d Quarterly Sessions 1827.

(Here enter No 459 of 1827)

The 1st 2d and 3d Puisne Judges 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 Adaulut confirm the said

14th January 1828.

said Sinivasa of the Cagee caul Caaja it. and Mootlees aforesaid, and under the sentence of Cohoobut declared in the Sinivah and conformably to clause 5th Section II Regulation XV of 1818 adjudge the prisoners,

2d "Moodoo hittnen," and
3d "Rungum,"

severally to receive 20 stripes and to be imprisoned and kept to hard labor in irons on the public roads or other public works for ten years. But concurring in opinion that strong suspicion attaches to the prisoner,

1st "Soobarayen,"

they direct under abuse sixth Section II Regulation XV of 1818 that he be detained in custody for one year unless he find two sureties in fifty rupees each for his future good behaviour and appearance when required.

Sent following letters No 20/5

Ltr Gt Mt. 14th 20 W.

F. H.

At a Court of the Foujdaree Adalut

Present,

Thursday, 17th January, 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

14th H
20

Read again Petition presented by Dhanapala Comara Vencatachella Chitty of the Gilla of Chittore.

(Here enter Misc. Petn No 16 of 1827.)

Read also letter from the Secretary to Government in the Judicial Department dated the 11th Instant, with copy of the order to the Magistrate of the Northern Division of Arcot passed on the Petition of Dhanapala Comara Vencatachella Chitty Desayee—

(Here enter No 34 of 1828.)

Ordered, that the Petitioner be informed that his case has been submitted to the Governor in Council and that he be furnished with a copy of the foregoing letter, containing the orders of Government thereon—

Read again letter dated the 6th July last from the 1st Judge of the Provincial Court of Circuit in the Centre Division submitting

case

9th January 1828.

case No 6 Chittoor Calendar 2d Quarterly Sessions 1827.—

(Here enter No 275 of 1827.)

Read letter dated the 21st August last from the 1st Judge of the Court of Circuit in the Centre Division submitting additional proceedings in case No 6 Chittoor Calendar 2d quarterly Sessions 1827.—

(Here enter No 344 of 1827)

Read also return, dated the 17th Ultimo from the Judge of the Court of Circuit in the Centre Division, to precept dated 15th Ultimo calling for the Police proceedings in case No 6 Chittoor Calendar 2d quarterly Sessions 1827.—

(Here enter No 542 of 1827.)

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the Futwa of the Provincial Law Officers and the Futwa of the Cazee and Coozat and Mooftees of the Tanjore District confirm such part of the Futwa of their Law Officers as acquits the prisoners,

4th "Takeeah," and

5th Veeradoo,

and direct that they be set at liberty.—

And concurring in opinion that the proofs against the prisoners,

1st

9th January 1828.

1st "Chindregadoo,

2d "Pedda Chadamadoo, and

3d "Baulegadoo,"

is sufficient to convict them of the crime of robbery by open violence do under clause first Section II Regulation I of 1818 convict them thereof; and sentence them severally to receive 30 stripes with a rattan and to be imprisoned and kept to hard labor in irons on the public roads or other public works for fourteen years as prescribed by Clause third Section IV Regulation XV of 1803 and Clause fourth Section II Regulation I of 1825. Also concurring in opinion that the proof against the prisoner—

4th "Punka Chenla Mootyalo"

is sufficient to convict him of the crime of receiving stolen property knowing at the time of receiving the same that such property had been attained in the perpetration of robbery by open violence, they under clause first Section II Regulation I of 1818 convict him thereof and sentence him to receive 20 stripes with a rattan, and to be imprisoned and kept to hard labor in irons on the public roads or other public works for ten years as prescribed by clause second Section IV

Regulation

9th January 1828 Regulation VI of 1822 –

Sent following letter No. 23.

Read Letter, dated the 2d November last from the 2d Judge on Circuit in the Centre Division, submitting case No 10 Cuddapa Calendar 2d Sessions 1827 –

(Here enter No 406.)

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the Sutwa of the Provincial Law Officer and the Sutwa of the Cazee ool Coozat and Mooftees of the Poujdaree Adalut confirm the said Sutwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Section X Regulation VIII of 1802, adjudge the prisoner, "Condee," to suffer death by being hanged at the usual time and place of execution. –

Sent following letter No. 24/

Saturday, 19th January, 1828.

At a Court of the Poujdaree Adalut

Present,

F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter, dated the 11th August last, from the 2d Judge on Circuit in the Centre Division, submitting case No 9 Cuddapa Calendar 2d Sessions 1827 –

(Here enter No 325.)

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner, "Yerra Venkatagadoo" is sufficient to convict him of the crime of express murder, do under the authority with which they are vested by Clause first Section II Regulation I of 1818 convict him thereof and sentence him to suffer death as prescribed by Section X Regulation VIII of 1802, by being hanged at the usual time and place of execution.

FW.

(Sent following letter No 28/)

Read Letter dated the 8th Instant, from the 1st Judge on Circuit in the Southern Division, reporting the arrival of the Court of Circuit at Madura on the 8th –

(Here enter No 27)

Read

19th January, 1828.

Read letter, dated the 15th Instant, from the 1st Judge on Circuit in the Centre Division, reporting the opening of the 1st Sessions at Cuddapah for 1828.—

(Here enter № 28.—)

Read letter dated the 8th Instant, from the Joint Criminal Judge in the Zilla of Malabar, with description roll of a prisoner sentenced to banishment by the Court of Quarterly Sessions.—

(Here enter № 29.)

F. C.

At a Court of the Foujdaree Adawlut.

Present,

Monday, 21st January, 1828.

F. A. Grant Esqre
James Cochrane Esqre
William Oliver Esqre
} Judges.

Read letter, dated 29th October last, from the 1st Judge on Circuit in the Western Division, submitting an English translation of the record in case № 2 on the Cuttera Calendar for the 2d Sessions of 1827 as required by order of the Court dated the 3d October last.—

(Here enter № 460.)

On mature deliberation the Judges do not concur in the sentence passed by Mr. Baker. Had that officer noticed in the Calendar the nature of the evidence before him so far as it affected the 1st prisoner, the Court would not have had occasion to call for the record.

The Criminal Judge of Canara must furnish the Court, through the channel of the Court of Circuit, with an explanation of his alledged conversation with the Mohummedan Law officer respecting the Futwa delivered in this case.—

Ordered, that extract of these proceedings be sent to the

At a Court of the Foujdaree Adalut

Present,

Wednesday, 23d January, 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter, dated the 28th November last, from the 1st Judge on Circuit in the Western Division submitting case No 28 Malabar Calendar 2d Sessions 1827 /Hereunto No 517/

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Provincial Law Officer and the futwa of the Cazee ool Cozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid, and acquitting the prisoner, "Coonnatha Moidien Coutty" direct that he be set at liberty—

/sent following letter No 35/

Read letter, dated the 10th November last, from the 1st Judge on Circuit in the Western Division submitting case No 32 Malabar Calendar 2d Sessions 1827.

/Hereunto No 494/

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held

21st January, 1828.

the 1st Judge, who will issue the necessary orders to the Criminal Judge of Canara—

/sent following letter No 29/

Read letter, dated the 8th instant, from the 2d Judge on Circuit in the Northern Division,—recommending under the provisions of Section III Regulation I of 1825 a mitigation of punishment in the case of two prisoners convicted in Mr Nelson Calendar 2d Sessions 1827.—

/Hereunto No 28.

The Court of Foujdaree Adalut having attentively considered the grounds upon which the 2d Judge has recommended that the punishment of the prisoners referred to in his report should be mitigated to 2 years imprisonment with hard labor on the public roads or other public works from the state of their original confinement in Jail in the month of March 1827 resolve to sanction the mitigation of punishment proposed.—

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

/sent following letter No 30/

23d January, 1828. 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 Boydaree Udalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid, and under the provisions of Section X Regulation VIII of 1802 adjudge the prisoner,

"Sirbayee Kootha Mammee,"

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

Sent. 24th Ult. 24th Ult. /Sent following letter No. 36. 5

Ex. Ult. 30 J.W.

F. U.

At a Court of the Boydaree Udalut.

Present,

Friday, 25th January 1828. F. A. Grant Esqre. James Cochrane Esqre. William Oliver Esqre. } Judges.

Read letter dated 4th instant from the 3d Judge of the Court of Circuit in the Centre Division with copy of Chittoor Calendar 4th quarterly Sessions 1827.

24th Ult. 30 — /Here enter No. 45./

1 In case No. 5, about to be referred to this Court on account of a difference of opinion between the Law Officer and the Judge, and in which the 3d Judge considers the Prisoner convicted of culpable homicide, he has released him on Security of 100 Rupees for his reappearance when called. This proceeding is wholly unauthorised by the Regulations, and the Prisoner must be reapprehended and committed to jail.

2 In case No. 10 it is omitted to be stated that the Judge concurred in the futwa.

3 The Court direct under Section XXV Regulation X of 1810 that the Record in cases No. 12 and 14 be sent up to this Court, and the latter with

the Judge on Circuit the future

25th January, 1828. with the least practicable delay

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 following letter No 39./

Read return, dated 18th ultimo, from the 2d Judge on Circuit in the Centre Division to precept dated 14th instant calling for explanations respecting certain errors apparent in the Bellary Calendar 2d Sessions 1827.

/Here enter No 545 of 1827./

Ordered, that the 2d Judge of the Centre Provincial Court late on Circuit be by Precept required to make the necessary communication to the Criminal Court of Bellary to prevent the recurrence of the errors animadverted upon in the last Bellary Calendar.

/Sent following Precept No 40/

Read return dated 19th instant, from the 1st Judge of the Court of Circuit in the Centre Division, to precept dated 3d instant relating to the trial in case No 4 Chittoor Calendar 2d quarterly Sessions 1827.

/Here enter No 30 of 1827/

Ordered that the 1st Judge of the Centre Provincial Court of Circuit be by precept commanded forthwith to

25th January, 1828. to carry into effect this Court's orders under date the 3d instant by causing to be restored to the Prosecutor in case No 4 of the Chittore Calendar 2d quarterly Sessions of 1827 the Rupees seized in the house of the 2d Prisoner and on the person of the 3d prisoner in that case.

The Judges do not think it necessary to notice the rest of this return.

/Sent following Precept No 41./

Exd 25th

F 11.

At a Court of the Foujdaree Adalut

Present.

Saturday 20th January 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter, dated the 13th October last, from the 1st Judge on Circuit in the Western Division, submitting case No. 12 Canara Calendar 2d Sessions 1827.

(Here enter No. 434)

The 1st 2d and 3d Puisne Judges 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 acquitting the prisoners,

1st "Abd-ool. Ghufoor,"
2d "Mahdeva, alias Timmya,"
3d "Jacoob"
4th "Sheik Hoosyn,"
5th "Fukeera," and
6th "Abd-oor-Rehim alias Rehman,"

direct that they be set at liberty—

(Sent following letter No. 12)

Last 31

There are circumstances in this case which appear to the Court to warrant the strongest distrust of the evidence

20th January, 1828.

evidence for the prosecution.

2. That the prosecutor and his principal witness had previously been on bad terms with the prisoners does not admit of the slightest doubt; and the whole of their evidence affords strong indications of the animosity that exists between them. It appears to the Court therefore that under any circumstances little reliance could be placed upon their testimony, unless it were corroborated in some way by the evidence of impartial and unbiassed witnesses, and none that have any pretensions to this character were examined in the present case. It is true indeed that the Bogoamy Tabrera is a less objectionable witness than any of the rest, but the credit, to which he may be supposed intitled from his caste and situation, is not sufficient to do away the suspicion that attaches to the prosecution itself from the feelings which too manifestly influence the parties concerned in it. It is the less sufficient for this purpose, because his account of the violence alleged to have been committed by the prisoners very nearly corresponds with that of the other

20th January, 1828.

it is clear that the extent of the injury suffered by the prosecutor and some of his attendants, if in point of fact they suffered any, is grossly exaggerated in the evidence.

3. Mr. Baber concurred in the acquittal by his Law Officer of the 5th 6th and 7th prisoners. The 5th and 7th prisoners clearly established an alibi, and yet their presence at the assault and robbery is sworn to with as much certainty as that of the other prisoners. If the prisoners had been previously unknown to the witnesses, this part of the evidence might be supposed to have originated in a mistake, which would not have derogated much from the credit of the witnesses, but as these prisoners were personally well known to the witnesses who depose to their actual presence at the assault, proof of the opposite fact on the part of the prisoners goes a great way to invalidate altogether the testimony of the witnesses.

4. The fact deposed to by the witnesses Hoyza and Saroo that they had been sent for by Mahomed Sala, the father of the 1st 3d 4th and 9th prisoners,

who

20th January 1828. to have given them 10 pice not to disclose what they knew of the affray, is considered by Mr Baker to be a very strong one; but as this fact was not mentioned by these witnesses on their examination by the Criminal Judge, the Court do not think it intitled to the slightest credit.

5. There are several other particular objections to which the evidence for the prosecution is open, and the Court on the fullest consideration of the case are strongly inclined to suspect that the prosecution is unfounded, or at least that there was no other foundation for it than the altercation which is admitted by the 4th prisoner to have taken place between him and the deceased Lukeira.

6. The 2d prisoner called two witnesses to prove that the Patail delivered to him the copper Dubbey and desired him to produce it to the Tahseeldar. of these two witnesses one only appeared at the trial; and no question was put to him on the point above mentioned, nor does it appear that the prisoner was reminded of the purpose for which the witness was called. a similar remark is

F. U.

20th January, 1828. is applicable to the examination of some of the other witnesses on behalf of the prisoners. It is the duty of a Judge, presiding at a trial, to take care that prisoners do not ignorantly omit to question their witnesses on the points upon which they rest their defence.

Ordered, that extract of these proceedings be sent to the 1st Judge Calcutta on Circuit in the Western Division, for his information.

/ Next following letter No 3 /

Read letter, dated the 22d ultimo, from the 2d Judge on Circuit in the Western Division, submitting case No 2 on the Calendar of the Joint Criminal Judge of Malabar for the 4th Quarterly Sessions 1827.

/ Here enter No 8. /

Read letter, dated the 15th Instant, from the 2d Judge of the Court of Circuit in the Western Division, - respecting the death of the prisoner in case No 2 Malabar Auxiliary Court Calendar 4th quarterly Sessions 1827.

/ Here enter No 56. /

W. Read return, dated the 21st Instant, from the 1st Judge of the Provincial Court of Circuit in the Centre Division, - to precept dated the 31st ultimo requiring him to furnish the Criminal Judge of Cuttoor with copy

28th January 1828. of their proceedings in case No 7 of the Calendar for the 2d Quarterly Sessions 1827.

(Here enter No 52)

Read letter dated the 23d Instant from the 3d Judge on Circuit in the Northern Division, reporting his having opened Court at Nellore on the 23d instant.—

(Here enter No 54)

Read return, dated the 24th Instant from the 1st Judge of the Court of Circuit in the Centre Division, to precept dated the 5th instant calling upon him to shew the rule to which he refers in his letter accompanying the record of the trial in case No 5 Chittoor Calendar 3d Quarterly Sessions 1827

(Here enter No 60.)

F. H.

At a Court of the Foujdarey Adalut.

Present,

Monday, 28th January 1828. F. A. Grant Esqre. James Cochrane Esqre. William Oliver Esqre. } Judges.

The Court of Foujdaree Adalut direct that whenever a prisoner is charged before a Criminal Judge with an offence for which the Regulations do not prescribe that any specific penalty shall be inflicted or the prisoner committed for trial before the Court of Circuit, the Criminal Judge shall require the Mohummudan Law Officer of his Court to state in writing whether the offence is punishable under the Mohummudan Law or not; and if punishable how. If the Law Officer shall declare that the offence is not punishable by the Mohummudan Law the Criminal Judge shall immediately release the prisoner: if the Law Officer shall declare that the offence is punishable under the Mohummudan Law, the Criminal Judge shall proceed to examine the witnesses against the prisoner; if he shall see reason to believe that the prisoner is guilty and shall consider the punishment which he is empowered to inflict by Section VII Regulation

28th January 1828. Regulation X of 1816 as adequate to the offence, he shall proceed to hear the prisoner's defence, examine his witnesses and determine the case himself - if he shall consider the punishment which he is empowered to inflict, inadequate he shall commit the prisoner for trial before the Court of Circuit.

2. Joint Criminal Judges are to proceed in the same manner, except that they are to put their questions to the Law Officer in the mode prescribed in Clause first Section VIII Regulation I of 1827.-

3. Criminal and Joint Criminal Judges will invariably insert in the Report No 5 of the appendix to Regulation X of 1816 and in the Supplemental Report required by this Courts orders of the 27th Sept: = tember 1821 / in the column "Punished" or "Released" or "Committed" as the case may be, the answer of the Law Officer, in the following manner. "Three months imprisonment, or "Released" or "Committed" the Mohummudan Law Officer having declared that / Copy the answer /.

4. Criminal and Joint Criminal Judges will be always at liberty to bring to the notice of the Foujdaree Adalut through the Provincial Court of Circuit any particular offence which the Mohummudan Law

28th January 1828. Law Officer may declare not to be punishable under the Mohummudan Law, and which shall to them appear sufficiently injurious to the community to require being exposed to punishment.

Ordered, that extract of these proceedings be sent to the 4 Provincial Courts of Circuit for their information and guidance and that of all the Criminal and Joint Criminal Judges subordinate to them and also to the Judicial Secretary to Government agreeably to orders of Government dated the 7th March 1828.

(Sent following after letter No 14 / A)

The Court of Foujdaree Adalut have ruled that the entering by night, with intent to steal, into a dwelling house, tent or other place of habitation, whether the door thereof be closed and not fastened or be open, is sufficient to constitute the offence of breaking into such place of habitation with intent to steal.-

2. The Court in consequence direct that the Criminal Judges and Joint Criminal Judges be careful to specify in their abstracts of charges of theft from any place of habitation whether the offence was committed in the day time or by night.

Ordered that extract of these proceedings

25th January 1828. proceedings be sent to the 4 Provincial Courts of Circuit for their information and guidance and that of all the Criminal and Joint Criminal Judges subordinate to them and also to the Judicial Secretary to Government agreeably to orders of Govern.
= ment dated the 17th March 1826.—

To Govt 28 Dist Cpy 4 — 2 W. /Sent following letters Nos 47 B 48./

At a Court of the Foujdarry Adalut.

Present,

Tuesday, 29th January 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter dated the 15th October last from the 1st Judge on Circuit in the Western Division, submitting case No 3 Honora Calendar 2d Sessions 1827—

/Bee enter No 435./

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftee of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftee aforesaid, but concurring in opinion that strong suspicion attaches to the prisoner,

"Kaudya,"

they direct under clause sixth Section II Regulation XV of 1813 that he be detained in custody for three years unless he find two sureties in one hundred rupees each for his future good behaviour and appearance when required—

/Sent following letter No 51

29th January, 1828.

The Court, on the fullest consideration, are unable to concur in opinion with Mr. Baker that the evidence is sufficient to convict the prisoner in this case of the crime laid to his charge.

2 Mr. Baker's opinion would appear to be grounded on the corroboration which the prisoner's alleged confession before the Police Officer has received by the discovery of the corpse in the place and manner described in that confession. If the corpse had been discovered in consequence of the confession, that would have been a circumstance strongly corroborative of the truth of the prisoners statement, and would have gone far to do away if it did not remove intirely, the suspicion which must always attach more or less to a confession made before a Police Officer. But as the corpse had been previously found, the Court do not see how its discovery can operate in any way to render the confession subsequently made less open to distrust. Supposing the confession fabricated for the prisoner, the manner of the murder, and the concealment of the dead body with other circumstances would be so described in it as not to be inconsistent

29th January 1828. in any material particular with the appearances observed on the discovery of the corpse. In fact the confession of this prisoner, unlike that of the deceased prisoner Gurdyaya, is not corroborated by a single collateral circumstance of any sort, as far as the Court can find; and the Court think it would be dangerous in the highest degree to convict him solely on that confession.

3 But although the Court have not considered it safe to convict the prisoner they still think that he is liable to strong suspicion, and they have accordingly directed that he shall not be released without security, the terms of which are expressed in the warrant.—

Ordered that a extract of these proceedings be sent to the Judges of the Provincial Court of Circuit in the Western Division for their information.—

Sent following letter No 52/

W.

Oath 28th 29

At a Court of the Foujdarry Adalut.

Present

Thursday. 3rd January 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

24 11.
30

Read letter, stated the 2d November last, from the 1st Judge on Circuit in the Western Division, submitting case No 21 Malabar Calendar 2d Sessions 1827.

/Here enter No 478 of 1827/

The 1st 2d and 3d Puisne Judges 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 therein declared adjudge the prisoner,

1st "Cheroonan Kukalayatta Arien."

to receive 39 stripes with a rattan and to be transported to such place 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 53.

Read

30th January 1828

Read petition presented by Erodolayee and two others, wives of prisoners convicted and sentenced at the first Criminal Sessions at Combaconum for 1827.

/Here enter F. Misc. Petn. No 18 of 1827./

Read also letter dated the 21st ultimo, from the 3d Judge late on Circuit in the Southern Division submitting information called for regarding the examination of witnesses in behalf of prisoners in case No 18 Combaconum Calendar 1st Sessions 1827.

/Here enter No 55 of 1828./

This is a complaint of an unjust sentence passed in consequence of the Prisoners witnesses having been bribed not to attend; and the Petitioners pray that this Court, or the Zillah Court of Combaconum, may try the cause anew.

The prayer of the Petitioners cannot be granted of course.

Reference has been made, for the satisfaction of the Court to the 3d Judge of the Southern Court of Circuit who presided at the Trial; and it appears that eleven, out of the eighteen witnesses named by the Prisoners, were actually examined - that the Prisoners declined to examine two others - that 5 could not be found

31st January 1828. found in their villages - that the Prisoners on being asked whether these 5 should be waited for or the trial proceed without them, chose the latter - and that no complaint was made of any undue means used to prevent their appearance.

The Petition is therefore quite unfounded - the Petitioners deserve censure for presenting it.

Ordered that extract of these proceedings be furnished to the petitioners on their application.

Read letter, dated the 22d Instant, from the 2d Judge on Circuit in the Western Division, reporting that the Sessions at Calicut opened on the 22d instant.

(Here enter No 64)

Read letter, dated the 22d Instant, from the Provincial Court of Circuit in the Southern Division, transmitting the warrants for execution of the prisoners in case No 6 Combaconum Calendar 1st Sessions 1827 and case No 12 on the Calendar of the said Zillah for the 2d Sessions 1827, endorsed as duly executed.

(Here enter No 65)

Read letter dated 28th Instant, from

31st January 1828 From the late 2d Judge on Circuit in the Centre Division, with the warrant for the execution of the prisoner in case 119 Bellary Calendar 2d Sessions 1827.-

(Here enter No 69)

F.H.

At a Court of the Foujdaree Adalut.

Present

Thursday, 7th February 1828. F. A. Grant Esqre. James Cochrane Esqre. William Oliver Esqre. } Judges.

Read petition presented in person by Lucmaje Row.

(Here enter F.H. Misc. Pets. No 1 of 1828)

This is a complaint of the injustice of a sentence passed at the last quarterly Sessions at Chittore.-

The petitioner is informed that this sentence has been duly reviewed by this Court in the Calendar, and that the Judges have seen no reason to question its propriety.-

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

Read letter dated 29th Ultimo from the First Judge on Circuit in the Centre Division, reporting that he took his seat on the bench on the 29th Ultimo.-

(Here enter No 82)

Read letter dated 31st Ultimo from the late Second Judge on Circuit in the Centre Division, reporting the death

7th February 1828.

death of the prisoner in case No. 22 Bellary Calendar 2d. Sessions 1827.-

(Here enter No. 81.)

Read return dated the 14th ultimo from the 2d Judge late on Circuit in the Northern Division to precept dated 14th January last requiring him to communicate to the Criminal Judge of Nellore Para 2 of this Court's proceedings dated the 14th January on case No 22 Nellore Calendar 2d. Sessions 1827.-

(Here enter No 83)

Read letter dated the 29th ultimo from the 1st Judge late on Circuit in the Western Division, acknowledging the receipt of precept dated 21st ultimo, calling for explanation, to be furnished by the Criminal Judge of Canara, of his alleged conversation with the Law Officer of the Court of Circuit respecting a certain futwah.-

(Here enter No 85)

Read letter, dated the 31st Ultimo, from the 1st Judge late on Circuit in the Western Division,- with warrant for execution of the prisoner in case No 41. Malabar Calendar 2d Sessions 1827 and copy of the Criminal Judge's report.-

(Here enter No 90.)

At a Court of the Foujdaree Adalut,

Present,

Friday, 8th February 1828. } F. A. Grant Esq.re 1st Puisne Judge
James Cochrane Esq.re 2d Puisne Judge
William Oliver Esq.re 3d Puisne Judge.

Read letter, dated 27th September last from the Acting First Judge on Circuit in the Southern Division, submitting Case No. 24 Madura Calendar 2d Sessions 1827.-

(Here enter No. 409)

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner,

"Odiar,"

is sufficient to convict him of the crime of having been actively concerned with a gang in beating and wounding the person of the prosecutor in the prosecution of an intent to rob, do under Clause first Section II Regulation I of 1818 convict him thereof and agreeably to Clause fifth Section IV Regulation XV of 1803 sentence him to imprisonment and hard labor for fourteen years in mitigation of the penalty prescribed in Clause second of the said Section, adjudging him further to receive 30 stripes with a rattan.

(Court following letter No 57.)

Read letter dated 26th ultimo from the Acting Judge late on Circuit in the Centre Division with required explanation of the circumstances

5th February 1828 under which certain prisoners in Bail of the Conjeeveram Calendar 2d Sessions 1827 were ordered to be released.

(Here enter No 75)

At a Court of the Poujdaree Adawlut

Present,

Thursday, 28th February, 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter, dated 13th November last from the 1st Judge of the Provincial Court of Circuit in the Centre Division submitting case No 1 Chittoor Supplemental Calendar 2d quarterly Sessions 1827.

(Here enter No 488 of 1827.)

The 1st 2d and 3d Puisne Judges 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 confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoner,

1st "Chetumbra Moodely,"

direct that he be set at liberty.

(Sent following letter No 72.)

Read letter dated 17th December last from the 2d Judge on Circuit in the Centre Division submitting case No 14 Cuddapah Calendar 2d Sessions 1827.

(Here enter No 546 of 1827.)

The 1st 2d and 3d Puisne Judges on

28th February 1828. on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner "Gungeredy," is sufficient to convict him of the crime of express murder, do under the authority with which they are vested by clause first Section II Regulation I of 1808 convict him thereof and sentence him to suffer death, as prescribed by Section X Regulation VIII of 1802, by being hanged at the usual time and place of execution—

dust. (Sent following letter No 73)

Read letter dated 10th instant from the 1st Judge on Circuit in the Centre Division recommending under the provisions of Section III Regulation I of 1825 a mitigation of punishment in the case of three prisoners convicted in case No 1 Cumbum Calendar 1st Sessions 1828—

(Hereunto No 149)

The Court of Foujdaree Adawlut having attentively considered the grounds upon which the 1st Judge has recommended that the punishment of the prisoners referred to in his report should be mitigated to imprisonment with hard labor for seven years, resolve to sanction the mitigation of punishment proposed

28th February 1828. proposed—

Read also letter dated 15th Instant from the 1st Judge on Circuit in the Centre Division, recommending under the provisions of Section III Regulation I of 1825 a mitigation of punishment in the case of the prisoner convicted in case No 3 Cumbum Calendar 1st Sessions 1828—

(Hereunto No 148)

The Court of Foujdaree Adawlut having attentively considered the grounds upon which the 1st Judge has recommended that the punishment of the prisoner referred to in his report should be mitigated to imprisonment with hard labor for seven years resolve to sanction the mitigation of punishment proposed

Ordered that extract of these proceedings be sent to the 1st Judge on Circuit in the Centre Division for his information—

dust. (Sent following letter No 74)

Read letter, dated 1st Ultimo from the 1st Judge of the Court of Circuit in the Centre Division, submitting the proceedings of the Criminal Judge in case No 4 Chittoor Calendar 2d quarterly Sessions 1827 and the Police Officers

28 28th February 1828. Officers proceedings in case No 7 called for in para 5 of Foujdaree Proceedings dated 21st June and by letter dated 15th December last.-

(Here enter No 3.)

The proceedings under consideration not requiring any remark - Ordered that they be entered -

Read letter dated the 9th Instant, from the 2d Judge on Circuit in the Western Division reporting the completion of the jail delivery for the Zillah of Malabar on the 9th instant.-

(Here enter No 130)

Read letter, dated the 13th instant, from the 2d Judge on Circuit in the Northern Division, reporting his intention of leaving Nellore for Rajahmundry on the 17th instant.-

(Here enter No 130.)

Read letter dated the 23d instant, from the 1st Judge on Circuit in the Southern Division reporting that the Sessions at Combaconum opened on the 23d instant.-

(Here enter No 153.)

Read letter dated the 15th Instant from the 3d Judge of the Provincial Court of Circuit in the Western Division, submitting Calendar of the Auxiliary Court of Malabar for the 1st quarterly Sessions of 1828.

(Here enter No 140.)

F. H.

At a Court of the Foujdaree Adalut

Present

Wednesday 5th March, 1828.- J. A. Grant Esqre, James Cochrane Esqre, William Oliver Esqre } Judges

Read letter dated 25th ultimo, from the Provincial Court of Circuit in the Western Division submitting a further Medical Report on the State of the prisoner Bagavat Varam bid Kapoo Nair, in case No 6 in the Malabar Calendar 1st Sessions 1827.-

(Here enter No 163.)

It appearing from the above report that there does not exist any further necessity for detention of the prisoner in the hospital or coercion of any description on the ground of mental derangement, the Court do hereby direct that he be discharged forthwith and set at liberty.

Ordered, that Extract from these proceedings be sent to the Provincial Court of Circuit in the Western Division for their information.-

(Sent following letter No 76)

Read letter dated 1st instant, from the late Acting Judge late on Circuit in the

5th March 1828.—

the Southern Division submitting a report for mitigation of punishment in case No 2 on the Combaconum Calendar for the 2d Sessions of 1827.

(Here enter No 86)

The prisoner in this case being liable to a sentence of transportation the trial must necessarily be referred—The report for a mitigation of the prescribed punishment has originated in a mistake—Under clause second Section III Regulation I of 1825 it is only in cases not referrible to the Foujdaree Adalut that a report of this nature can be received—

Ordered, accordingly that the Southern Provincial Court be by precept commanded to send up the record of the trial of this case precept returnable within one month from and after the date of its receipt—

(Sent following precept No 77)

24th March
sent 28th

J. H.

At a Court of the Foujdaree Adalut

Present

Thursday 6th March, 1828. J. A. Grant Esqr. } Judges
James Cochrane Esqr. }
William Oliver Esqr. }

Read letter dated 28th ultimo with its enclosures from the Acting Criminal Judge in the Zilla of Malabar reporting on the case of a prisoner Chuckingue Mocdeen accused of murder who having been placed, as insane, under charge of the Zilla Surgeon, has been declared not to be a fit subject for the Lunatic Asylum -

(Here enter No. 170)

1 It appears from these papers that the Assistant Surgeon of the Zilla considers Chuckingue Moideen to be a natural idiot - he does not think the prisoner a fit subject for the Lunatic Asylum but recommends that he be kept where he is at present, if not delivered over to his relations -

2 To allow this person to go at large under no better care than that of his relations would be highly improper, for his mother in her deposition before the Police Officer states

At a Court of the Foujdaree Adalut.

Present

Thursday, 27th March 1828. F. A. Grant Esqre. James Cochrane Esqre. William Oliver Esqre. } Judges.

Read petition presented by Bhagavanloo of the Zillah of Rajahmundry.

(Reenter F. U. Prise. Petn No. 6 of 1828)

This is a complaint of failure of redress from the Magistrate and Judge on Circuit in a case, as stated by the Petitioner, of great violence and of collusion between the guilty party (a Salt Darogah) and the head of Police of Cauingy in Rajahmundry.

Ordered, that a Copy of the Petition be sent to the 1st Judge of the Northern Provincial Court, by precept requiring him to send up within fifteen days after receipt thereof copies and translations of all Petitions and other documents presented to him in this case and of his proceedings respecting them.

(Sent following precept No. 92.

Read

4th March 1828.

that the family turned him out of doors, through fear, after he had killed the deceased.

3 Now if the Judges are not mistaken it was intended by Government that no person laboring under continued Mental derangement should be kept in permanent confinement at the Zilla hospital: and therefore the Court cannot suppose that when it was resolved that lunatics should be received into the Lunatic Asylum at the Presidency, it was intended to exclude from that Asylum Idiots who have been subject to paroxysms, during which they were dangerous to society.

4 They consider it proper to refer the matter for the final decision of Government.

Ordered, that Extract from these proceedings be sent to the Secretary to Government in the Judicial Department.

(Sent following Letter No. 81.

Read letter, dated the 25th ultimo from the First Judge on Circuit in the Centre Division, submitting Calendar for the Zillah of Cuddapah 1st Sessions 1828.

(Reenter No. 150.)

See minutes of consultation in the Judicial Department under date 21st May 1822.

27th March 1828.

Read letter, dated the 28th Ultimo, from the 1st Judge on Circuit in the Centre Division, reporting that the Court of Circuit will leave Cuddapah for Bellary on the 7th March.-

(Here enter No 171)

Read letter dated the 3d Instant, from the Provincial Court of Circuit in the Western Division, submitting explanation by the Magistrate in Canara of the detention of certain prisoners in the Canara Criminal Report for the quarter ending 31st December last.-

(Here enter No 181)

Read letter, dated the 12th Instant, from the 1st Judge on Circuit in the Centre Division reporting the arrival of the Court of Circuit at Bellary on the 12th instant.-

(Here enter No 187)

Read letter dated the 12th Instant, from the 2d Judge on Circuit in the Western Division, - reporting that the Sessions at Honore opened on the 12th instant.-

(Here enter No 193)

Read letter, dated the 17th Instant, from the 2d Judge on Circuit in the Northern Division, reporting that he opened the Sessions at Rajahmundry on the 17th instant.

(Here enter No 197)

Read

27th March 1828.

Read letter dated the 22d instant, from the late 2d Judge of the Court of Circuit in the Centre Division, forwarding the warrant for execution of prisoner Gungereddy late No 14 Cuddapah Calendar 2d Sessions 1827.-

(Here enter No 211)

Read letter, dated the 8th Instant, from the 3d Judge of the Court of Circuit in the Western Division, report on the First Quarter Sessions at Tellicherry for 1828.-

(Here enter No 180)

At a Court of the Zuidaree Udalut,
Present,

Monday 31st March 1828

F. A. Grant Esquire 1st Puisne Judge.
James Cochrane Esquire 2d Puisne Judge.
William Oliver Esquire 3d Puisne Judge.

Read letter dated 19th instant from the First Judge of the Provincial Court of Circuit in the Northern Division recommending under the provisions of Section III Regulation I of 1825 a mitigation of punishment in the case of a prisoner committed in case No 5 Rajahmundry Calendar 2d Sessions 1827.-

/Here enter No 201/

The Court of Zuidaree Udalut having attentively considered the grounds upon which the 1st Judge has recommended that the punishment of the prisoner Voochetata alias Creetoyah referred to in his report should be mitigated to 2 years imprisonment with labor in irons, resolve to sanction the mitigation of punishment proposed.-

Ordered that extract of these Proceedings be sent to the First Judge of the Provincial Court of Circuit in the Northern Division for his information.

/Sent following letter No 94/

At a Court of the Foujdaree Udalut,

Present,

Wednesday 2d April 1828 — F. A. Grant Esquire 1st Puisne Judge

James Cochrane Esquire 2d Puisne Judge

William Oliver Esquire 3d Puisne Judge

The Reports prescribed by Section XXXV Regulation X of 1816 not having been received from the Zillas of Nellore, Rajahmundry, Chicacole, and Auxiliary Court at Masulipatam for the 4th Quarter of 1827.

Ordered, that the Provincial Court of Circuit in the Northern Division be by precept directed to forward the said reports without further delay.—

Sent following letter No. 96

F. H.

At a Court of the Zoyidaree Adalut

Present,

Thursday 3d April, 1828. F. A. Grant Esqre. James Cochrane Esqre. William Oliver Esqre. } Judges.

Read letter dated the 1st February 1827 from the 2d Judge late on Circuit in the Western Division, - submitting the report prescribed by Section XXXVII Regulation VII of 1802. - 2d Sessions of 1826. /Pre entered No. 57 of 1827./

In paras 14 to 16 the case of two persons is stated who had been punished by the Criminal Judge with imprisonment and hard labor in Irons for 6 Months for cutting down Sandalwood growing in the common ground /Corwat Stella/ of a village. -

2. The charge in this case is represented by Mr Vaughan to have been one for "trespassing on the public property," and it appears from the correspondence which took place between him and the Principal Collector of Canara on the subject, that the ground on which the trees were felled is the common property of the village /Corwatt Stella/ separate and distinct, as it would seem, from what is called Sarkar land.

2d April 1828.

land. Mr Vaughan considers that the Col-
=lector was not borne out in his prosecution
of the prisoners, nor the sentence warranted
by any law. He thinks the case was a fitter
subject for a civil suit, - the trees not
having been felled with that secrecy which
indicated a consciousness of guilt on the part
of the prisoners, and the prisoners having
in their defence set up a claim of right
to the lands &c, under a grant from a former
Sub Collector. The alleged grant however
was not produced on the trial; and the
Collector states that no grant in any shape
was made to them, the prisoners, neither
could any be made to one or two individuals,
under the circumstances of the land being
Cornwallis.

5. The Court think it is to be regretted
that the Criminal Judge before he proceeded
to sentence the prisoners did not call upon
them to produce the alleged grant. Prisoners
often require to have the means of making
good their defence suggested to them; and
if they really had a grant, which gave a
color to their claim of right, - however
invalid the grant might be in point
of law, - it cannot be doubted that
it would have very materially altered
the nature of the act charged against
them;

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them; for in that case it could have
amounted to nothing more than a
simple trespass, for which they were
only liable to make reparation in damages,
and not to be punished as for a theft. -

In the view which Mr Vaughan
took of the case his proper course was
to refer it, with such additional infor-
=mation as he might think necessary,
for the orders of the Court of Circuit
collectively, under Section XXIII. Regulation
X of 1816. The Court do not think it
expedient to call for the trial for the
purpose suggested by him in the 16th
paragraph of his letter. It is fair to
presume that if the prisoners had thought
themselves unjustly punished, - if they
had any legal or colorable title to the
Sandalwood trees growing on the ground
in question, - they would not have
remained silent under the sentence
passed upon them, but would have
petitioned against it; and this they
would not appear to have done. -

The punishment by a Magis-
=trate and his Assistants of thefts to
the amount of 80 Rupees and thefts
which were second and third offences,
as mentioned in the 18th and 19th paras,
is

is illegal. Value exceeding 50 Rupees, or re petition of the offence, render theft liable to the increased punishment of Section III Regulation VII of 1822 by the Criminal Judge, such thefts therefore cannot be, in the eye of the Regulations, petty thefts, which alone a Magistrate has power to punish. Unless under some peculiar circumstances of aggravation, which ought to have been specified, 15 stripes was an excessive and illegal punishment for thefts under one Rupee — which should never have been punished by the Magistrate or his Assistant at all — or even by a Tahseeldar but by the Head of the Village under Clause first Section VII Regulation IV of 1821, and that, not by stripes, but by confinement in the Village Chantry or Stocks. As the Regulations have left the amount which constitutes a petty theft undefined, this Court cannot define it; but it may be laid down for certain that in no possible case can a theft exceeding 50 Rupees be a petty theft under the Regulations or punishable by a Magistrate.

6. In paras 21 and 22 the case of two approvers is stated who failed to support their accusation of their accomplices, and whom the 2d Judge acquitted and released because it did

did not appear that the condition on which they would be entitled to pardon had been explained to them, or that they were at all aware of the predicament in which they stood. Mr. Vaughan proposes that a form should be laid down for the offer of pardon and for stating the conditions on which it will be granted, and appears to doubt whether he himself ought not to have warned the approvers of their real situation i.e. it is presumed, of their liability to conviction on their confession, on the non-fulfillment of the conditions of pardon, under the last para of this Courts Circular orders 27th January 1820.

7. The case here reported has led the Judges to reconsider the Courts Circular orders of the 27th January 1820. Those orders were founded on the supposition that the ancient and now obsolete English Law of approvement formed the basis of the provisions contained in Section XX Regulation VIII of 1802: but after the maturest consideration of the subject the Judges are satisfied that this was a mistake, and that the mode of proceeding contemplated by that Section is strictly analogous to the modern practise in the English Courts of admitting accomplices to give evidence against their associates.

8. The ground of this opinion is

3d April 1828.

is that the Section contemplates a supposed accessary whose information is considered likely to lead to the apprehension or conviction of the principal offender or offenders, and it authorizes the offer of a pardon to him on condition of his disclosing all he knows, which offer he is, of course, at perfect liberty to accept or refuse. A previous confession on his part, or an offer to give the desired information is not directly or indirectly made a necessary preliminary to the tender of a pardon. Under the term of approvement, however, the accessary on his arraignment confesses the fact, and then it is in the discretion of the Court to refuse or admit him to be an approver. In this case his confession is not drawn from him by a promise of pardon, and may properly be admitted to convict him on his failure to discover the whole truth. But when an accessary is induced under a promise of pardon to make a confession, such confession is clearly not admissable against him; and though on his failure to perform the conditions on which the pardon was promised and accepted, he is liable to be brought to trial for the offence, his conviction must depend exclusively upon other evidence. Of course

3d April, 1828.

course these remarks do not apply to the case of an accessary to whom after a free and voluntary confession a conditional pardon is offered; for if he fails to fulfil the conditions on which he is admitted as a witness he may properly be convicted on his previous confession.

9. The Court therefore resolve to rescind the circular orders of the 27th January 1820 and the 3d May 1821; and to substitute the following one.—

C. C. No.

The Court of Foujdaree Adalut hereby rescind their circular orders of the 27th January 1820 and 3d May 1821; and direct that whenever an offer of pardon may be authorised under Section XX Regulation VIII of 1802, it shall be made in one or other of the following forms, according as the party to whom it is made has or has not confessed himself an accessary.—

If he has not confessed in the following form.

"You" (call the supposed accessary by his name) "are hereby informed that an option is given you of being admitted as a witness on the part of Government touching" (here name the

the crime and place and date thereoff
3d April, 1828. "to which you are supposed to have
been accessary - And, that you may
not be deterred from discovering all
that you know respecting the said
crime and the persons concerned therein,
by the fear of bringing punishment upon
yourself; I do hereby, in the name of the
Governor in Council, and by authority
received from him, promise that you
shall receive a full pardon, to be con-
=firmed to you under the Seal of the Court
of Foujdaree Adalut and the signature
of their Register, for any criminal act or
acts, connected with the said crime, of
which you may confess yourself to be
guilty, or which may appear against
you by your depositions; on condition
that you shall confess and discover,
fully and truly, every circumstance within
your knowledge relative to the commission
of the said crime and the persons concerned
therein: Provided always that if it
shall be proved to the satisfaction
of the Judge by whom the charge for the
said crime shall be tried, that you were
a principal in the said crime and not
merely an accessary, as supposed, or that
you have concealed, or misrepresented,
any

3/
E H
3d April 1828. any material fact within your knowledge,
touching the said crime in that case, you
shall not be entitled to the pardon promised,
but shall be put upon your trial, accord
=ing to law for your part in the said
crime; but your own confessions and
depositions, made in consequence of
this present promise of pardon, shall not
be received in evidence against you,
nor shall you suffer any punishment
unless you shall be proved guilty by
other evidence."

If the party to whom the
promise is made has voluntarily
confessed himself an accessary before
the public Officer by whom the pardon
is offered, or confirmed a former con-
=fession to that effect, the offer is to
be made in the following form -

"You (call the party by his name)
have confessed yourself an accessary
to (here name the crime, and place
and date thereoff) and thereby justly
subjected yourself to the punishment
prescribed by law for the said crime.
With the view however of discovering
the principals in that crime, I do hereby,
in the name of the Governor in Council,
and by authority received from him,
promise

me

8. April 1828.

In Case 38 the 2d Judge submits whether he erred in receiving a petition about the business of the Circuit Sessions presented to him during an evening walk.— No public officer can err by receiving a petition; one of the greatest perfections of an European public officer in India is entire accessibility: in disposing of petitions however received, the Regulations and rules of the service must be attended to. There appears to have been some neglect in not bringing to trial the Prisoner who was the subject of the petition in question, as it is stated that, tho' insane when he committed the murder, he had been perfectly sane for some time before the petition was presented.—

12 The Statement in para 34 of the improved condition of Malabar is highly satisfactory. The inference in para 40, from the comparison between the diminution of crimes in Malabar and in Canara, is not conclusive; because Canara has not suffered a reduction in the number of her Criminal Courts, as Malabar has till within the last few months, and the distance of the Criminal Court is a great discouragement to the discovery and prosecution of crimes. The inference will be satisfactory if, after the establishment of

8. April 1828.

of the Joint Criminal Court in Malabar, the same proportions hold.—

13 There is a great deal of obscurity in the 41st paragraph of the letter, and the Court are not sure that they rightly understand it. Mr Vaughan supposes that theft to the value of 300 Rupees is punishable only with imprisonment for 6 Months, and then with reference to Clause Sixth Section II Regulation VI of 1822 appears to contrast this punishment with the punishment of imprisonment for 2 years, authorised in the case of house-breaking without the specified aggravations, and when the property stolen does not exceed in value 100 Rupees. He then goes on to observe, with reference to the extent to which a second offence is punishable under Clause Fourth Section III Regulation VI of 1822, that a repetition of the offence does not in all cases enhance the crime more than four-fold, and suggests that a discretion should be allowed of punishing a second offence according to circumstances with imprisonment for 12, 18 or 24 months, when the first offence was punishable with imprisonment for 6 months.—

14 The Judges do not understand the purpose for which the contrast at the

promise that you shall receive a full pardon, to be confirmed to you under the seal of the Court of Zoydaree Adalut and the signature of their Register, for any criminal act or acts, connected with the said crime, of which you have confessed or may confess yourself to be guilty, or which may appear against you by your depositions; on condition that you shall confess and discover, fully and truly, every circumstance within your knowledge relative to the commission of the said crime and the persons concerned therein: Provided always that if it shall be proved, to the satisfaction of the Judge by whom the charge for the said crime shall be tried, that you were a principal in the said crime and not merely an accessary, or that you have concealed, or misrepresented any material fact, within your knowledge, touching the said crime; in that case, you shall not be entitled to the pardon promised but shall be put upon your trial according to law for your part in the said crime; and in such case your confession already made, before this present offer of pardon, shall be good evidence against you; but nothing disposed by you in consequence of this present promise of

pardon shall be received in evidence against you, nor shall you suffer any punishment in consequence thereof."

The informant shall then if he accepts the offer, give his evidence on oath; and shall be dealt with in exact conformity to the declaration above directed to be made to him.-

Ordered that the foregoing Circular Order be transmitted to the four Provincial Courts of Circuit for their own information and guidance and that of the several Courts of Criminal jurisdiction subordinate to them respectively- and that a copy be transmitted to the Judicial Secretary to Government to be laid before the Governor in Council.-

In para 10. the practise of the Government Vakeel attending, as prosecutor, in prosecutions by the Sirkar, is objected to on the ground of its interference with his Civil duties- The Judges think that the Government Vakeel is the only proper person to prosecute on behalf of Government; but his doing so need not interfere with his Civil duties, as his attendance in the Circuit Court is unnecessary, after he has opened the prosecution, and ought not to be required.-

In

3. 3. April 1828.

the beginning of the paragraph was intended, but it is quite clear that Mr. Vaughan is in error respecting the punishment prescribed for theft; for under Clause Fourth Section III Regulation VI of 1822 as theft to an amount exceeding 50 Rupees is punishable by imprisonment for 2 years, and when the property stolen exceeds in value 300 Rupees it is a committable offence under Section IX Regulation I of 1825. House-breaking with theft to an amount exceeding 100 Rupees is a committable offence, and below that amount it is punishable with imprisonment for 2 years. Punishments for different offences can hardly be adjusted with mathematical precision, but if these two offences are considered in all their relations, it will perhaps be found that their punishment is pretty nearly balanced.—

15 The discretion, which it is suggested should be allowed to Criminal Judges in apportioning the punishment for second offences, is amply provided for by Section III Regulation VI of 1827 which has been enacted since Mr. Vaughan's report was written.—

16 In para 42 Mr. Vaughan suggests the application of the provisions

3. 3. April 1828.

in Regulation V of 1822 respecting forcible taking possession of lands or Crops. to forcible abduction of Cherriers (predial slaves); a practise which he states to be very common, involving complicated litigation, serious affrays and injury to the disputed cherriers himself.—

17 The Judges think that there is great difficulty in legislating upon this subject, at all, arising from the impolicy of doing any act which might seem to sanction or recognise the state of slavery. To the particular measure proposed by Mr. Vaughan there is one obvious objection; that the forcible taking possession of lands or crops is, quoad the lands or crops, a civil offence (a trespass) — the forcible abduction of a cherriers is a criminal offence, viz an assault upon the Cherrier himself; on proof of which before a competent authority, his restoration to his former Master would follow of course, without any act on his Master's part; and the abductor would be punished besides; so that all the desired effect is already attainable without the proposed measure.

It may be objected to this view that

3rd April 1828.

that the Chermer is generally too poor
or too timid to complain of the assault;
but the proper remedy for his backward=
=ness arising from these causes, is to
encourage and facilitate his complain=
=ing with effect; not to take the
righting of himself out of his own hands,
which would only confirm and increase
his present helplessness. Neither would
the proposed measure have any tendency
to save the complicated litigation com=
=plained of in these cases, or the personal
injury to the disputed Chermer himself.
Upon the whole therefore the Judges
think that Mr Vaughan's suggestion
ought not to be adopted.—

4 The practise complained in para 43
of the Law Officers introducing into their
futwas offensive comments on the officers
of Police, is very reprehensible; and, the
Court think, should be decisively discourag=
=ed by all Circuit Judges, first by an admonition,
and if that does not take effect, by
returning the futwa to the Law Officer
with directions to expunge the offensive
passages.—

5 The case of the prisoners
mentioned in para 44 cannot again
occur

5/ F. U.
3d April 1828.

occur after the enactment of clause
first Section X Regulation VI of 1827;
and generally speaking persons detained
on requisition of security must be
expected to bring forward their own
cases to the notice of the Criminal Judge,
and not to depend upon his unsolicited
attention to them.—

6 With reference to para 46 the
Judges desire that Mr Vaughan will
report whether the construction of
the Jail at Calicut or the deficient
accommodation in it renders it
impracticable duly to separate the
prisoners: or whether there is some fault
in the management. Section XXIX
Regulation X of 1810 and the rules for
Jails in the Circular orders of this
Court 8th October 1821 provide for all
the separation suggested by Mr Vaughan.

7 With reference to Para 47;
Section V Regulation VI of 1822 and para
5 & 33 of the Jail rules are the only
provisions in force regarding the
treatment of refractory Prisoners.
The Judges think that some further
provisions are required upon this
subject and resolve to make a circular

reference

3d April 1828

reference respecting it.—

22 With reference to para 18th the Judges will recommend that the Governor in Council may be pleased to remit the remainder of the sentence of Challyckerry Karam-Payavallapil Mamadoo Hilly convict in Cannanore jail,—in cinsideration of the severe accident which befell him.— Before recommending the grant of any allowance to him the Judges must be satisfied that he is, by that accident, really incapacitated from earning his own livelihood, and has no relations who are bound to provide for him.—

Ordered that extract of these proceedings be sent to the 2d Judge of the Western Provincial Court late on Circuit and also to the Judicial Secretary to Government to be laid before the Governor in Council.

Sent following letters Nos 98.98.99.100

Read letter, dated 30th June 1827 from the 3d Judge on Circuit in the Western Division, with report prescribed by Section XXXVII Regulation VII of 1802 for the 1st Sessions of 1827.—

Gene enter No 266 of 1827

There is nothing in the foregoing Report requiring remark from the Judges

3d April 1828.

Judges.—

2 The subject of the 47th para, the expediency of abolishing or regulating the practice of wearing the Pesh-cun-Kutty has been many times brought to the notice of Government before: and was stated in the 14th Para of the Judicial Secretary's letter 30th September 1825 to have been reserved for further consideration.—

Ordered that extract of these proceedings be sent to the 3d Judge on Circuit in the Western Division for his information, and also to the Judicial Secretary to Government to be laid before the Governor in Council.—

Sent following letters Nos 101 & 102.

† See this Court's Proc: 29th Oct: 1819. para 10. 6th Nov: 1821. para 9. 24th March 1825 para 15. already before Govt:—

At a Court of the Foujdaree Adalut.

Present.

Monday, 14th April, 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

24 C.

20

Read letter dated 5th February last, from the 2d Judge late on Circuit in the Northern Division, submitting the record of trial in case No 3. Rajahmundry Calendar 2d Sessions 1827.-

Here enter No 132.

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftee of the Foujdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoners,

1st "Meerah Saheb"
2d "Manleesetty Soobayah," and
3d "Kotah Vencadoo"

direct that they be set at liberty.-

Put following letter No 110

The Judge, who presided at the trial, having omitted to take the evidence of the witnesses named for the defence,

the

14th April 1828.

the Court have considered it incumbent upon them to acquit the prisoners - It was impossible for Mr Lord, to determine, without hearing these witnesses, what effect their evidence might have had on the evidence for the prosecution, and he was clearly not warranted in dispensing with their examination -

Ordered that extract of these proceedings be sent for the information and future guidance of the Judge -

Sent following letter No 111

Read letter, dated the 28th February last, from the acting Judge of the Court of Circuit in the Centre Division, - with record of trial in case No 6 Bellary Calendar 1st Sessions 1827 -

/Here enter No 105./

The 1st 2d and 3d Puisne Judges 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 provisions of Section X Regulation VIII of 1812 adjudge the

the said prisoner,

14th April 1828. "Tenia taramanadoo,"

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

Sent following letter No 112.

Sent 21.

Read letter, dated the 22d December last, from the 2d Judge of the Court of Circuit in the Centre Division, - submitting the record of the trial in case No 7 on the Cuddapah Calendar 2d Sessions 1827. /Here enter No 551/

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concur in opinion that the proof against the prisoner,

"Pedda Panjeegadoo,"

is sufficient to convict him of attempting to administer poison wrapped up in grass to a bullock with intent to cause its death, but as this act does not incur any punishment under the Mohummudan Law, or the Regulations, the Zoujdaree Adalut do hereby direct that the aforesaid prisoner,

"Pedda Panjeegadoo,"

be set at liberty -

Sent 21.

Sent following letter No 113

In conducting the above trial the 2d Judge omitted to examine the Surgeon personally, contenting himself with this Medical officers written statement

14th April 1828.

statement of the poisonous quality of the drug which the prisoner attempted to administer. This procedure is incorrect in as much as such a paper cannot be adduced on a criminal prosecution as evidence to the truth of the statement it contains. The said paper moreover is not found in the Persian translation of the record.—

Ordered that extract of these proceedings be sent to the 2d Judge and that the following order be circulated for general information.—

(Sent following letter No. 114.

C. C. No.

The Court of Sudder Adawlut having observed that, in a recent trial before a Court of Circuit of a prisoner charged with attempting to administer poison, a written statement by a Medical officer was accepted by the Court in evidence of the poisonous quality of the matter administered, and this proceeding being unfair to the prisoner at the bar inasmuch as it deprived him of his right to cross-examine the witness to this important part of the charge against him, it is hereby ordered that whenever the testimony of a medical man is required

F. C.

14th April 1828.

required on the trial of a prisoner it shall only be received when given orally on oath before the Court in the presence of the prisoner.—

(Sent following letter No. 115.)

Read letter, dated the 27th February last, from the acting Judge of the Court of Circuit in the Cuttack Division with record of the trial in case No. 2 Cuddapah Calendar 1st Sessions 1827.—

(Here enter No. 101.)

The 1st 2d and 3d Puisne Judges 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 of the Sudder Adawlut concur in opinion that the prisoner,

"Soobiah,"

is not convicted on presumptive proof or on the evidence of credible witnesses or on his own confession, notwithstanding the futwah of their Law Officers, and accordingly under the provisions of clause sixth section II Regulation XV of 1803 they direct that the prisoner

"Soobiah"

aforesaid be set at liberty.

Sent following letter No. 116.

Agtee

14th April 1828.

After the most attentive consider-
=ation of this case it has appeared to the Court
that there is not sufficient evidence to prove
that the deceased child Rama has's death was
occasioned by violence. The height of the wall
round the well, in which the corpse was found,
is no where mentioned, and for all that appears
to the contrary the child might have accidentally
fallen into it. In her descent her necklace
of gold beads might have fallen off, and the
wound on her temple might have been occasioned
by her head coming in contact with some
hard substance during her fall or at the
bottom of the well. The 2d witness Chinna
Babi Reddee, the head of the village, on his
examination by the Criminal Judge, expressly
states that he "imagined it might have
"been caused by pot-sherds in the well;" and
the 3d witness Vencataroydoo, the village
Curnum, stated that "it was not evident
"with what it had been inflicted." On
his examination before the Court of
Circuit the head of the village stated
that "the people were saying that the
"wound had been inflicted with a sharp
"stone," and the Village Curnum stated that
"it appeared as if it had been inflicted
"with a stone." It does not appear that
there were any other marks of violence
on the body, and the wound on the temple,
as

14th April 1828.

as it is described by all the witnesses, is such
as might have been occasioned in the
manner above stated. There was nothing
in its appearance to force the conclusion
that a hand had been employed in inflicting
it, nor is there any circumstantial evidence
to warrant such conclusion.

2. Under any circumstances
the declaration of the surviving prisoner
Sookiah could be admitted only so far
as it affected himself, and that would
make him appear merely as a passive
and an unwilling witness of the murder
committed by the deceased prisoner
Seetaramchuttoo. His concealment of
the murder was indeed highly criminal,
and might give rise to a suspicion that
he was actively concerned in it; but
the silence of a native on these occasions
often originates from other motives
than a consciousness of guilt; and unless
the suspicion is strongly corroborated
by other and independant circumstances
it would be dangerous to admit it.
The alleged quarrel between the prosecutor
and this prisoner was obviously an
inadequate inducement to the murder
of the child, while it sufficiently accounts
for the prisoner's not going to see the
dead

14th April 1828.

dead body after it was taken out of the well, which, according to the evidence before the Criminal Judge, - in this respect and in some others much clearer than that taken on the trial, - would appear to have been the principal ground of suspicion against him. When called to the village chaudry he did not appear confused or alarmed; and it is difficult to conceive that he should have retained perfect composure, if he had been conscious of guilt, and were on his back a cloth, which, - whether he actively assisted in the murder or only saw it committed, - he could not but know was stained with the blood of the child. The Court think there are strong grounds to doubt whether in point of fact the marks on the cloth were stains of blood. The villagers in the first instance, according to their evidence, do not seem to have been positively certain on this point, although the stains, supposing them to have been caused by the child's blood, must still have been fresh; and the washermen, who are stated to have declared to the Sahseedar that the marks were stains of blood, were not examined.

In the absence, therefore, of strong corroborative evidence the Court

3/

F. C.

14th April 1828.

Court would hesitate to infer from the prisoner's mere concealment of the murder his consent and concurrence in it, and on that ground to convict him as an accomplice, were they quite satisfied that the murder was committed. But in point of fact they think, notwithstanding the prisoner's declaration before the Criminal Judge, that better evidence than what appears on the record was necessary to remove the doubts which for the reasons stated at the beginning of these proceedings may reasonably be entertained in respect to the manner in which the child came by her death. -

On these grounds the Court have considered it their duty to acquit the prisoner, but they direct that previously to his discharge he be admonished by the Criminal Judge in open Court, - pointing out to him in the strongest terms the criminality of his conduct, whether he wrongfully assisted Sectarambhutton, whether he was an accomplice in the murder, or whether, not being an accomplice, he concealed his knowledge of it. -

Ordered that extract of these proceedings be sent to the acting Judge of the Court of Circuit in the Centre Division

for

14th April 1828

and 21.

for his information and guidance.—

(Sent following letter No. 117.)

Read letter, dated the 1st Instant, from the 2d Judge of the Court of Circuit in the Centre Division, reporting the commencement of the 2d Quarterly Sessions at Chittoor on the 1st instant.—

(Here enter No. 221.)

Read letter, dated the 21st ultimo, from the 2d Judge on Circuit in the Western Division, stating that he has completed the jail delivery at Honore & will proceed to Mangalore.—

(Here enter No. 225.)

Read letter, dated the 29th ultimo, from the 2d Judge on Circuit in the Northern Division, reporting his intention of starting for Chicacole on the 1st April.—

(Here enter No. 220.)

Read letter dated the 4th Instant from the 1st Judge on Circuit in the Centre Division, reporting his intention of leaving Bellary for Chingleput on the 8th instant.—

(Here enter No. 232.)

Read letter, dated the 3d Instant, from the 2d Judge on Circuit in the Western Division, reporting that the Sessions at Mangalore opened on the 3d instant.—

(Here enter No. 235.)

Read return, dated the 7th Instant, from

Court

14th April 1828.

from the 1st Judge of the Provincial Court of Circuit in the Northern Division, to precept dated the 27th ultimo calling for papers in the case of Bhagavan Loo. Misc. Petn. 6 of 1828.—

Cert. 10th

(Here enter No. 241.)

XXX

At a Court of the Zoujdaree Adalut

Present

Thursday, 17th April 1828 — J. A. Grant Esqre. / James Cochrane Esqre. / William Oliver Esqre. } Judges

24 20 U

Read petition presented in person by Seeranga Gownden, and Petta-cootty Padiachy Zillah Salem —

(Here enter J. this pet. No. 8 of 1828)

This is a complaint against the Criminal Judge's proceedings in No. 284 of 1827: a similar application having been made to the Collective Court of Circuit and re-jected for reasons assigned in their proceedings thereon of which a certified copy accompanies —

The Court approve the reasons of the Provincial Court for not interfering and re-ject the petition —

Read petition presented in person by Nya halloo Sing Zillah Cuddapah —

(Here enter J. U. this pet. No 10 of 1828)

This is a complaint of certain records proceedings of the Acting Joint Criminal Judge of Cuddapah — It should have been presented to the Judge on Circuit or the Collective Court of Circuit; and the Judge on Circuit has no doubt received the case in

17th April 1828 — in the 2d Calendar laid before him under Section XXIII Regulation X of 1816. No orders are required from this Court —

Read again letter dated 15th February 1827 from the late 3d Judge late on Circuit in the Centre Division submitting copy of Bellary Calendar 1st Sessions 1827 —

(Vide entry No 79 —)

Read again also letter dated 8th February 1827 from the late 3d Judge late on Circuit in the Centre Division submitting copy of Cuddapah Calendar 1st Sessions 1827 —

(Vide entry No 87)

Read again also letter dated 11th May 1827 from the late 3d Judge late on Circuit in the Centre Division submitting copy of Chingleput Calendar 1st Sessions 1827 —

(Vide entry No 198)

Read again also letter dated 7th January 1828 from the late 3d Judge of the Court of Circuit in the Centre Division submitting copy of Chittoor Calendar 4th Quarterly Sessions 1827 —

(Vide entry No 45)

The records of the proceedings held by the late 3d Judge in case No 5 Bellary Calendar, No 3 Cuddapah Calendar, No 2 and 5 Chingleput Calendar first

17th April 1828 — first Sessions 1827 and No 5 and 7 Chittoor Calendar 4th quarterly Sessions 1827. which according to the remarks entered in the foregoing Calendar are to be referred to the Foujdaree Adawlut, not having been receiv-

The Court direct that the Provincial Court in the Centre Division be by precept commanded to send up the records of the proceedings held by him in the cases abovementioned within 30 days from the date of the receipt of the precept —

(Sent following precept No 118)

Read again letter dated 12th September 1827 from the late 2d Judge late on Circuit in the Centre Division submitting copy of Cuddapah Calendar 2d Sessions 1827 —

(Vide entry No 385)

Read also letter dated 7th February 1828 from the late 2d Judge late on Circuit in the Centre Division submitting copy of Chingleput Calendar 2d Sessions 1827

(Vide entry No 112)

The records of the proceedings held by the late 2d Judge in case No 10 Cuddapa Calendar & Nos 2-9-12-13-14-16-17- and

17th April 1828.

and Supplemental Nos 1 Chingleput Calendar which according to the remarks entered in the foregoing Calendars are to be despised to the Foujdaree Adalut, not having been received.-

The Court directs that the late 2d 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 abovementioned within 30 days from the date of the receipt of the precept.

(Sent following precept No 119)

Read letter dated 7th February from the 1st Judge on Circuit in the Southern Division,- transmitting copy of Madura Calendar 1st Session 1828.

(Here enter No 121.)

The sentence in No 2 does not appear open to objection; but the 1st Judge is of course aware that, under Section VIII Regulation I of 1825, he was not bound by the Law officer's rejection of the witness who lent the money of which the prisoners were charged with robbing Ambalavana Pillay; and that his evidence was unexceptionable according to the practice of English Courts.-

In case No 6 if the wounds alleged to have been inflicted on the prosecutor

17th April 1828.- or the villagers were severe, the prisoners on conviction were liable to imprisonment and transportation for life under clause Second Section IV Regulation XV of 1803; and the trial should have been referred.-

No 7 has been erroneously disposed of. The 1st Judge has sentenced the prisoners under clause fourth Section IV Regulation XV of 1803, which applies only to persons going with purpose to commit robbery, but apprehended before the commission a violent attempt at the commission; it is furthermore plain that, whatever their purpose was, the prisoners were not apprehended before the violent attempt, at least, if not the complete fulfillment of it. The case should have been dealt with as one of assault and wounding. As the sentences actually passed, however, are legal, under the Mahomedan Law for the offences last mentioned, the Court will not disturb them.-

In No 8, the trial as regards the 2d prisoner should have been referred: under Section XXII Regulation VII of 1802 it is plain, from the evidence, that the 2d prisoner was just as guilty as the first; the 1st Judge himself admits that the alibi, his only defence, failed; and yet he has dealt with him as a person under strong suspicion not amounting to

conviction

At a Court of the Foujdaree Adaulut

Present.

Saturday,
19th April, 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter dated the 25th Feby last from the 1st Judge of the Provincial Court of Circuit in the Northern Division with record of the trial in case No 15 Rajahmundry Calendar 2d Sessions 1827 -

Hereunto No 173.

The 1st 2d and 3d Puisne Judges 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 concur in opinion that the prisoner,

Somoola Chinneegaudoo,

is not convicted on presumptive proof or on the evidence of credible witnesses or on his own confession notwithstanding the Futwah of their Law Officers, but considering that suspicion attaches to the prisoner the Court direct that under Clause sixth Section II Regulation

17th April 1828

conviction. The 1st Judge should have specified amount of the security, and the period for it was required.

Case No. 12 is one of Gang robbery by open violence attended with wounding, as the wounding was severe the trial like No. 6 should have been referred. The punishment under clause second Section IV Regulation XV of 1803 being imprisonment and transportation for life: instead of this the 1st Judge has passed sentence under clause fourth Section IV Regulation XV of 1803, which applies to persons apprehended before they have committed an intended robbery.

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. 120)

Read letter dated 9th February from the 1st Judge on Circuit in the Southern Division, transmitting copy of the Calendar of the Auxiliary Court at Tinnevelly 1st Sessions 1828.

(Here enter No. 125)

In No. 1 a wrong sentence has been passed: the case comes under clause second Section IV Regulation XV of 1803. If the wound inflicted on the prosecutor was a severe one, and the trial should have been referred under the last

17th April 1828.

last para of clause first Section XV Regulation VIII of 1802. If the wound was only a trifling one, the case came under the provisions of clause third Section IV Regulation XV of 1803. and the prisoners should have been sentenced to imprisonment for 14 years; unless the 1st Judge saw grounds for recommending a mitigation of the punishment under clause second Section III Regulation I of 1825.

No. 6 appears to be referrible to the Foujdary Adalut; the 1st Judge should therefore, under Section XXII Regulation X of 1816, have given some account why the Prosecutor and witnesses were not in attendance and what means were taken to ensure their attendance. The postponement of a trial (especially on an unbailable charge) is a great evil; and the Court desire that the information abovementioned may be furnished.

Ordered that Extract of these proceedings be sent to the 1st Judge on Circuit in the Southern Division for his information.

(Sent following letter No. 121)

Mr. C. 20

Capt.

16th April 1828

of 1803 he be required to find two sure
in 50 Rupees each, for his good behavi
and appearance when required within
one year, or in default thereof to be
detained for one year in confinement.

Sent following letter No 126.

Before the Court of Circuit

In this case there was not the slightest
evidence to prove that the prosecutor
son came by a violent death. Of the person
examined on the trial the prosecutor was
the only one who could have spoken to
this fact; and for all that appears in
his evidence the deceased might have
died a natural death. Unless there is
evidence to prove that the crime charged
against a prisoner has actually been
committed, his confession of it cannot
be admitted to convict him; and the Court
have therefore felt themselves bound
to acquit the prisoner in this case, not-
withstanding his confession before
the Criminal Judge.

Ordered that extract of these
proceedings be sent to the 1st Judge of the
Provincial Court of Circuit in the Nor-
thern Division for his information
and

16th April 1828.

and future guidance.

Sent following letter No 127.

Read letter, dated the 31st January
last, from the Acting Judge late on
Circuit in the Southern Division, with
record of the trial in case No 2 Salvin
Calundan 2d Sessions 1827.

(Home letter No 881)

The 1st 2d and 3d Puisne Judges
on a deliberate consideration of the cir-
cumstances of the case in evidence before
them concurring in opinion that the
proof against the prisoners,

1st "Ingoma," and

2d "Mootoo,"

is sufficient to convict them of the crimes
of robbery by open violence attended
with aggravating circumstances, do
under Clause first Section II Regulation
I of 1808 convict them thereof and under
Clause second Section IV Regulation XV of 1808
and Clause third Section II Regulation
I of 1825 sentence them severally to
receive 39 stripes with a rattan and
be transported to such place or place
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

and during the period of their natural lives.

/Sent following letter No 128./

4th April 1828. Read letter, dated the 20th January last from the Acting Judge late on Circuit in the Southern Division with record of the trial in case No 9 Combaconum Calendar 2d Sessions 1827.-

/Here enter No 70/

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the Futwa of the Hindoo Law Officer and the Futwa of the Cazee and Moofties of the Foujdaree Adawlut confirm the said Futwa of the Cazee and Cazeat and Moofties aforesaid and acquitting the prisoner "Paria palang," direct that he be set at liberty.-

/Sent following letter No 129.

Read letter, dated the 2d February last from the 2d Judge late on Circuit in the Centre Division, submitting case No 21 Bellary Calendar 2d Sessions 1827.-

/Here enter No 101/

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner, "Sippaganda" is sufficient to convict him of the crime of

F. H.

19th April 1828. of express murder, do under the authority with which they are vested by clause first Section II Regulation I of 1818 convict him thereof and sentence him to suffer death as prescribed by Section X Regulation VIII of 1802, by being hanged at the usual time and place of execution.-

/Sent following letter No 130.

Read letter, dated the 10th December last, from the 1st Judge on Circuit in the Western Division, with record of the trial in case No 25 Malabar Calendar 2d Sessions 1827.-

/Here enter No 538 of 1827/

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner,

"Karaporata Coiree,"

is sufficient to convict him of the crime of express murder, do under the authority with which they are vested by clause first Section II Regulation I of 1818 convict him thereof and sentence him to suffer death, as prescribed by Section X Regulation VIII of 1802, by being hanged at the usual time and place of execution.-

/Sent following letter No 131.

Read

19th April 1828.

Read letter, dated the 28th February last, from the Acting Judge of the Court of Circuit in the Centre Division with record of trial in case No 5 Bellary Calendar 1st Sessions 1827.-

/Here enter No 166./

The 1st 2d and 3d Puisne Judges 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 Ada lut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and under the provisions of Section X Regulation VII of 1802 adjudge the prisoner,

"Peddeegah,"

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

/Sent following letter No 132/

Read letter, dated the 27th December 1828 from the First Judge on Circuit in the Centre Division submitting case No 9 Chingleput Calendar 2d Sessions 1828 called for under date 11th December 1828.-

/Here enter No 740 of 1828./

f. 16.

At a Court of the Foujdaree Adalut

Present,

Monday 21st April 1828

F. R. Grant Esquire, 1st Puisne Judge

James Cochrane Esquire, 2d Puisne Judge.

William Oliver Esquire, 3d Puisne Judge.

Read letter dated 31st Ultimo from the First Judge on Circuit in the South-ern Division reporting for mitigation of punishment in case No 18 Combaconum Calendar 1st Sessions 1828.-

/Here enter No 222/

The Court on a consideration of the foregoing report see reason to doubt whether the evidence on the trial was sufficient for the conviction of the prisoner, and accordingly deem it proper to call for the record of the trial.-

Ordered, accordingly that the 1st Judge be by precept commanded to send up the record of the trial in case No 18 Combaconum Calendar 1st Sessions 1828 with as little delay as possible.-

/Sent following precept No 133/

F:16.

At a Court of the Foujdaree Udalut,

Present,

Tuesday 22nd April 1828.

F. A. Grant Esquire 1st Puisne Judge
James Cochrane Esquire 2d Puisne Judge
William Oliver Esquire 3d Puisne Judge

Read letter, dated the 4th January last from the late Second Judge on Circuit in the Centre Division, with record of the trial in case No 16 Cuddapah Calendar 2d Sessions 1827. /Here enter No 89/

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings of the Circuit Judge on Circuit the futwa of the Cazee-ool-Coozat and Mooftee of the Foujdaree Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftee aforesaid but being of opinion that the punishment stated in clause second Section IV. Regulation XV of 1803 with the addition of 39 stripes authorized by clause third Section II Regulation I of 1825 would in this case be too severe they under clause fifth Section IV Regulation XV of 1803 adjudge the prisoner "Yaracala Gelloogadoo"

to receive 20 stripes with a rattan and be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of

can

of 12 years and then be released.

/Sent following letter No 136/

Read letter, dated 29th January last, from the late 2d Judge on Circuit in the Centre Division, with record of the trial in case No 18 Bellary Calendar 2d Sessions 1827.

/Here enter No 90/

The 1st 2d and 3d Puisne Judges, 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 Foujdaree Adalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, but being of opinion, that the punishment stated in clause second, Section IV Regulation XV of 1803, with the additition of 39 stripes authorized by clause third Section II Regulation I of 1825 would in this instance be too severe, they, under clause fifth Section IV Regulation XV of 1803 adjudge the prisoner, "Dhurmajee"

to receive 20 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 14 years and then be released.

/Sent the following letter No 137/

F.C.

At a Court of the Foujdaree Adalut

Present

Thursday, 24th April, 1828 — J. A. Grant Esqr. / James Cochrane Esqr. / William Oliver Esqr. } Judges

24th 28

Read petition presented by Tan[illegible] vah Mittin of the Zilla of Tinnevelly praying that the prisoner mentioned therein may be brought to punishment and that the damages sustained by the petitioner may be caused to be made good

/Here enter Misc: Petn No 9 of 1828/

The prisoner in this case was regularly tried, acquitted and released by the Judge on Circuit.—

This petition is evidently frivolous and is rejected accordingly.—

Read petition presented by Tally[illegible] ammal of the Zilla of Chittoor, stating that certain persons murdered her son Soobarayadoo and plundered her household property Sa. Rs at the instigation of the Zumeendar of Carvatenagaram and requesting that the perpetrators of these crimes may be brought to punishment and the property restored.—

/Here enter Misc: Petn No 12 of 1828/

The petitioners business is already in the hands of the proper authorities this Court can

7th April, 1828.

can do nothing in the case.—

Read letter, dated the 12th Instant from the 1st Judge on Circuit in the Southern Division, reporting the opening of the 1st Sessions at Salem on the 12th instant.—

(Here enter No 246)

Read return, dated the 21st Instant from the late 2d Judge late on Circuit in the Centre Division, to precept dated the 17th instant calling for certain records of trials long due.—

(Here enter No 260)

Friday 2d May 1828

At a Court of the Foujdaree Adalut

Present,

F. A. Grant Esquire, First Puisne Judge
James Cochrane Esquire, Second Puisne Judge
William Oliver Esquire, Third Puisne Judge

Read letter, dated 5th February last from the 2d Judge late on Circuit in the Northern Division, submitting record of the trial in case No 4 on the Rajahmundry Calendar 2d Sessions 1827.—

(Here enter No 133)

The 1st 2d and 3d Puisne Judges 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 concur in opinion that the prisoner,

"Anoopozos Pudmanabhoodoo",

is not convicted on presumptive proof or on the evidence of credible witnesses or on his own confession notwithstanding the futwa of their Law Officers, but considering that suspicion attached to the prisoner the Court direct that under clause 4th sixth section II Regulation XV of 1803 he be required to find 2 Suraties in 50 Rupees each, for his good behaviour and appearance when required within 2 years, or in default thereof to be detained for

2d May 1828.

for 2 years in confinement.-

/Sent following letter No 147./

The Judge who presided at the trial, having omitted to take the evidence of the witnesses named for the defence, the Court have considered it incumbent upon them to acquit the prisoner. It was impossible for Mr Lord, to determine, without hearing these witnesses, what effect their evidence might have had on the evidence for the prosecution, and he was clearly not warranted in dispensing with their examination.-

The Court however on the grounds of the prisoner's confession before the Criminal Judge have thought fit to require him to give securities before his release.-

Ordered that extract of these proceedings be sent for the information and future guidance of the Judge.-

/Sent following letter No 148./

Read letter, dated the 17th December 1827 from the First Judge on Circuit in the Western Division, submitting case No 28 Malabar Calendar 2d Sessions 1827.

/Here enter No 550/

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them. concurring in opinion that the proof against the

2d May 1828 the prisoner,

"Valiaparambata Mannan Chatoo,"

is sufficient to convict him of the crime of express murder, so under the authority with which they are vested by clause first Section II Regulation I of 1818 convict him thereof and sentence him to suffer death, as prescribed by section X Regulation VIII of 1802, by being hanged at the usual time and place of execution.

/Sent following letter No 149./

Read letter, dated 27th February last from the Acting Judge of the Court of Circuit in the Centre Division with record of trial in case No 7 Cuddapa Calendar 1st Sessions 1827.-

/Here enter No 162/

The 1st 2d and 3d Puisne Judges 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 Zyldaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under clause second section VII Regulation XV of 1803 adjudge the prisoner,

"Baliya Dasary Condadoo,"

to receive 20 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 14 years and then be released as prescribed by clause

clause fourth Section II. Regulation I of 1825 and clause third Section IV Regulation XV of 1803.

Sntg.

/Sent following letter No 150/

Read letter, dated 8th January last from the Acting 1st Judge late on Circuit in the Southern Division. Submitting Case No 3 Combeconum Calendar 2d Sessions 1827.-

/Here enter No 25/

The 1st 2d and 3d Puisne Judges 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 Sudder Adalut confirm the said futwa of the Cazee ool=Cozat and Mooftees aforesaid and under clause second Section VII. Regulation XV of 1803 adjudge the Prisoners,

1st "Runjaneeracounden",
and
2d "Canoopoun",

severally to receive 30 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 14 years and then be released as prescribed by clause fourth Section II Regulation I of 1825 and clause third Section IV Regulation XV of 1803.-

Sntg.

/Sent following letter No 151/

Read letter dated the 12th February last, from the 2d Judge on Circuit in the Northern Division. Submitting Nellore Calendars 7th Sessions 1828.

/Here enter No 135/

In

In No 5, the 3d Prisoner D charged with having knowingly had in his possession property robbed by open violence, " is sentenced to two years imprisonment with hard labor in conformity with Clause Seventh Section II Regulation XV of 1803." This offence is specially provided for by the Regulations, which makes the clause and Section quoted inapplicable: Sentence should have been passed under clause second Section IV Regulation VI of 1822.-

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

/Sent following letter No 152./

Read letter, dated the 7th February last from the 2d Judge late on Circuit in the Centre Division submitting Chingleput Calendars 2d Sessions 1827.

/Here enter No 112/

In this Calendar the Court observe that the witnesses to the declarations of the Prisoners in several cases stated that they were not present during the whole, or part, of the time when those declarations were given.- The Court trust that Mr Newnham called the attention of the Magistrate to this irregularity agreeably to this Courts Circular Order 29th April 1822.-

Cases 2, 6, & 10

In the Abstract of examination in case 11, the numbering of the Prisoners in

2d May 1828.

in cases 12 and 13 is referred to- which produces some confusion.

In case 17 there were two or more good witnesses against the 3d 6th and 10th Prisoners- and their release requires explanation.-

In No 2 of the Supplementary Calendar the 1st, 2d, and 3d prisoners are held liable to increased punishment on account of their convictions in No 17 of the Calendar. This is an error. The repetition of offence which under the Regulations enhances punishment is repetition after conviction.-

The 2d Judge may use his discretion in releasing the Prisoners in No 3 of the Supplementary Calendar on bail.

Ordered that extract of these Proceedings be sent to the 2d Second Judge late on Circuit in the Centre Division for his information and guidance.-

/Sent following letter No 153/

Read letter, dated 22d ultimo from the Second Judge on Circuit in the Western Division, Reporting the completion of the Jail delivery at Mangalore on that date.-

/Here enter No 269/

Read letter dated 25th ultimo from the Second Judge on Circuit in the Northern Division, Reporting his arrival at Chicacole and opening Court on the 19th ultimo.-

/Here enter No 271/

2d May 1828.

Read return dated the 21st ultimo from the First Judge on Circuit in the Southern Division to precept dated the 25th ultimo calling for the record of the trial in case No 18 Commercum Calendar 7th September 1828.-

/Here enter No 284/

At a Court of the Foujdaree Adaulut,

Present,

Monday 5th May 1828. } F. A. Grant Esquire, 1st Puisne Judge
James Cochrane Esquire, 2d Puisne Judge
William Oliver Esquire, 3d Puisne Judge

Read letter dated 30th January last from the Acting First Judge late on Circuit in the Southern Division, submitting Case No 5 Salem Calendar 2d Sessions 1827.-

/Here enter No 94/

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, 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 acquitting the prisoner,

"Balanee"

direct that he be set at liberty.-

/Sent following letter No 154/

Read letter dated 28th January last from the late 2d Judge on Circuit in the Centre Division, with record of the trial in cases No 14 & 15 Bellary Calendar 2d Sessions 1827.-

/Here enter No 91/

No 14

The 1st 2d and 3d Puisne Judges having maturely considered the Proceedings held before the Judge on Circuit the futwa of

5th May 1826. 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 of acquitting the prisoners,

1st "Dundoo Poloogandoo,"
and
3d "Boochegandoo,"

direct that they be set at liberty.-

Ret.

The 1st 2d and 3d Puisne Judges 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 "Yerrawadoo,"
and
3d "Dundoo Polegadoo,"

direct that they be set at Liberty.-

Sent G.

/Sent following letter No. 155/

Read letter, dated 14th August 1827 from the First Judge on Circuit in the Western Division.- Submitting Case No 8 Cause Calendar 2d Sessions 1827.-

/Here enter No. 334/

The 1st 2d and 3d Puisne Judges 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

5th May 1826. of the Cazee-ool-Coozat and Mooftees aforesaid and under the sentence of Ooboobut declared in the futwah adjudge the prisoner,

"Kalla,"

to receive 30 stripes with a rattan and to be transported to such place beyond sea as the Governor in Council shall appoint there to be imprisoned and kept to hand labor in irons on the public roads or other public works for and during the period of his natural life-

/Sent following letter No. 156/

Read letter, dated 13th February last from the late 2d Judge late on Circuit in the Centre Division.- Submitting record of the trials in cases Nos. 1 & 2 on the Ballary Calendar 2d Sessions 1827.-

/Here enter No. 145/

The 1st 2d and 3d Puisne Judges 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 "Yerrakala Pullegadoo,"
2d "Nurseegadoo,"
3d "Mudlategadoo,"
4th "Uncaloogadoo,"
5th "Goorroovadoo,"
6th "and Ramdoo,"

direct that they be set at liberty.-

/Sent following letter No 157/

5th May 1828.

Read letter, dated 24th January last from the 2d Judge on Circuit in the Western Division, with record of the trial in case No. 14 on the Calendar of the Auxiliary Court of Malabar for the 4th quarterly Sessions 1827.

/Here enter No. 71/

The 1st 2d and 3d Puisne Judges 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 Tovolaur Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and under clause third section VII Regulation XV of 1803 adjudge the prisoner,

"Kottia Chumdoo"

to be imprisoned and kept to hand labor in irons on the public roads or other public works for the period of one year and then be released.-

/Sent following letter No. 159./

Read letter, dated the 9th Instant from the 2d Judge late on Circuit in the Northern Division, submitting copies of Chicacole Calendar 2d Sessions 1827.

/Here enter No. 120/

The Judges find it extremely difficult to reconcile the Proceedings of the Court on Circuit with the evidence in No. 2. As respects the 1st Prisoner he is accused of having preferred a false complaint on oath for a robbery of Sugar and money. The 4th witness in the present number deposes that he

F. 16.

5th May 1828.

IV

he (the 1st Prisoner) is a Cooly man in the service of the 3d witness and that he has no such property / his Master the 3d witness deposes that it is impossible he should have any such property / as the complainant of being robbed of. The 3d witness also specifies that the prisoner occupies a small portion of his (the witness's) garden; obviously insufficient to have produced the sugar stated to have been stolen. The evidence of the 4th witness is objected to, because, when called on by the 1st prisoner as a witness in his Complaint of the Robbery, he declared that he knew nothing; whence it is concluded that "he has been taught" his present testimony. The Judges can only understand his declaration "that he knew nothing" to mean that he knew nothing of the robbery, to prove which he was called, and this declaration exactly corresponds with his present one that the complainant in that case / the 1st Prisoner in this / had no such property as he complained of having been robbed of. The Judges can see no ground for imputing Perjury to these two witnesses.-

2 As regards the 2d, 3d, & 4th Prisoners, if they gave evidence on oath in support of a false complaint, they must, it is to be supposed, have been guilty of perjury. But the indictment is laid for giving

5th May 1828. giving two contradictory depositions and it is not stated what the said depositions were.-

3 In No. 4 the 6th and 7th witnesses swear to nearly all the articles produced being the Prosecutors property; and the 7th that all were found in the houses of the 8th to the 13th Prisoners which communicate with one another; these very prisoners confessed before the Police, and the 6th witness recognised all the Prisoners at the robbery. The futwa appears totally at variance with this evidence.

4 A second futwa should have been taken in No. 5; which comes under clause fourth Section II Regulation XV of 1803.-

5 In No. 14 the trial ought to have been proceeded with. The confession of the prisoner was not, it is true, worth much; but the evidence of the prosecutor and the 1st witness might have sufficed to prove the charge.-

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

Sent following letter No 159.

At a Court of the Foujdarry Adawlut

Present,

Thursday 8th May 1828 F. S. Grant Esquire, - - - First Puisne Judge
James Cochrane Esquire, - - - Second Puisne Judge
William Oliver Esquire, - - - Third Puisne Judge

Read Petition presented in person by Canda Padiachy:-

(Here enter Misc. Pet. No. 14 of 1828)

The Petitioner states that the several persons mentioned in the Petition as were guilty of certain outrageous conduct towards himself and his Brother that some of them turned the females of his family out of doors and plundered his property, that the Village Servants are prevented from attending him, that the Moondiff, Monegar & Tahsildar, before whom his case was brought, ill used them and, in particular, that the latter confined them in stocks for three days without food, that the only redress they could obtain from "the Gentlemen" (meaning it is presumed the Magistrate or some of his Assistants) was a reference to the Tahsildar that the Zilla Court referred him to the Courts of Adawlut. Prays for the restoration of his property.-

The petitioner should apply to the Judge on Circuit.-

At a Court of the Foujdaree Udalut,

Present,

Saturday 10th May 1828 } W. A. Grant Esquire, 1st Puisne Judge

James Cochrane Esquire, 2d Puisne Judge.

William Oliver Esquire, 3d Puisne Judge.

Mr U

20

Read letter dated the 19th February last from the late Second Judge late on Circuit in the Centre Division, submitting record of the trial in Case No 7 Bellary Calendar, Second Sessions 1827.

/Here enter No 139/

The 1st 2d and 3d Puisne Judges 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 Udalut confirm the said futwa of the Cazee-ool-Cozat and Mooftee aforesaid, and acquitting the prisoner,

"Lingumgowdah,"

direct that he be set at liberty.-

/Sent following letter No 164/

Read letter dated 23d January last from the late 2d Judge late on Circuit in the Centre Division, with record of the trial in case No 17 Cuddapa Calendar 2d Sessions 1827.

/Here enter No 74/

The 1st 2d and 3d Puisne Judges

hewing

16th May 1828.

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 such part of the said futwah of the Cazee-ool-Coozat and Mooftees aforesaid as acquits the prisoner,

1st "Pannem Vencatapaty"

but considering that suspicion attached to him they direct that under clause sixth Section II Regulation XV of 1803 che he required to find 2 Sureties in 50 Rupees each, for his good behaviour and appearance when required within one year or in default thereof to be detained for one year in confinement.

They further concur in opinion that the prisoner,

2d "Anadany Vobeliah"

is not convicted on presumptive proof or on the evidence of credible witnesses or on this own confession notwithstanding the futwah of their Law Officers, but considering that suspicion attaches to him the Court direct that under clause sixth Section II Regulation XV of 1803 he be required to find 2 Sureties in 50 Rupees each, for his good behaviour and appearance when required within one year or in default thereof to be detained for one year in confinement.

/Sent following letter No 165.

It has appeared to the Court

that

16th May 1828.

that there is no sufficient evidence to warrant the belief that enmity existed between the prisoners or either of them and the deceased. Although this supposed enmity is the ground assigned for suspecting the prisoners in the first instance, yet the prosecutor himself states on his examination before the Court of Circuit that the 1st prisoner Pannem Vencatapatty was seized for the purpose of obtaining information from him, he being connected with the Cavil of the Village. Then it appears in evidence that this prisoner was detained in custody for two or three days before either of the other prisoners were taken; although according to the evidence they were the principals in the quarrel, if there was any. In the absence of all corroborative evidence of any kind the Court think it would be extremely dangerous to commit the prisoners or either of them on their sole confessions; and the Court have accordingly directed their discharge on security.

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

/Sent following letter No 166/

Read letter dated 7th Instant from the First Judge on Circuit in the Centre Division stating that the Court of Circuit arrived at Chinglepat on the 6th instant.

/Here enter No 303/

10th May 1828

Read letter dated the 7th Instant from the Acting Judge of the Court of Circuit in the Centre Division, transmitting, duly executed the warrant for execution of Vencatcramanadoo prisoner in case No 6 Bellare Calendar 1st Sessions 1827.-

//Here enter No 302.//

Read letter dated the 7th Instant from the Acting Judge of the Court of Circuit in the Centre Division, returning the warrant for execution of Peddeegah prisoner in case No 5 Bellary Calendar 1st Sessions 1827.-

//Here enter No 304//

Read letter dated 7th Instant from the late 2d Judge late on Circuit in the Centre Division, returning the warrant for execution of Sippoogadoo prisoner in case No 21 Bellary Calendar 2d Sessions 1827.-

//Here enter No 301//

Fb.

At a Court of the Foujdarry Adalut,

Present,

Monday 12th May 1828 } F. A. Grant Esquire, 1st Puisne Judge.
James Cochrane Esquire, 2d Puisne Judge.
William Oliver Esquire, 3d Puisne Judge.

Read letter dated 25th December 1827 from the Second Judge of the Court of Circuit in the Centre Division, submitting case No 23 Bellary Calendar 2d Sessions 1827.-

//Here enter No 334//

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner,

"Vencatasamy",

is sufficient to convict him of the crime of Rape, do under the authority with which they are vested by clause first Section II Regulation I of 1818 convict him thereof and under clause third Section VII Regulation XV of 1803 adjudge the prisoner,

"Vencatasamy"

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

the period of his natural life.-

/Sent following letter No 170/

Read letter dated 9th February last from the Second Judge on Circuit in the Western Division, submitting record of the trial in case No 3 on the Calendar of the Auxiliary Court of Malabar for the 4th Quarterly Sessions of 1827.-

/Here enter No 29/

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner,

"Koonan Athenan",

is sufficient to convict him of the crime of Culpable Homicide, do under the authority with which they are vested by Clause first Section II Regulation I of 1818 convict him thereof, and in conformity with the provisions of Clause second of the said section do hereby require their Law Officers to declare by a second futwa to what specific punishment the prisoner would have been liable under the Mohummudan Law if he had been convicted by full legal evidence of the crime aforesaid.-

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

2 H. U. 29

Edth

At a Court of the Foujdaree Adalut,

Present,

Thursday 15th May 1828. T. N. Grant Esquire, 1st Puisne Judge
James Cochrane Esquire, 2d Puisne Judge
William Oliver Esquire, 3d Puisne Judge

2 H. U. 20

Read letter dated 1st February last from the Acting 1st Judge late on Circuit in the Southern Division, submitting case No 1 Coimbatoor Calendar 2d Sessions 1827.-

/Here enter No 102/

The 1st 2d and 3d Puisne Judges 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; but being of opinion that the punishment stated in Clause second Section IV Regulation XV of 1803 would in this instance be too severe, they under Clause fifth Section IV Regulation XV of 1803 adjudge the prisoner,

"Nunjien",

to receive 10 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 10 years and then be released.-

/Sent following letter No 173./

Read

15th May 1828.

Read letter dated 11th February last from the late 2d Judge late on Circuit in the Centre Division, submitting Case No. 6 Bellary Calendar 2d Sessions 1827.

/Here enter No. 128/

The 1st 2d and 3d Puisne Judges 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 Toojdaree Adalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, and acquitting the prisoners,

1st "Chinna Rumdoo,"
2d "Koda Nullee,"
3d "Sedda Ramdoo,"
4th "Sukarodeen,"
5th "Veergadoo,"
6th "Timmadoo,"
7th "Askamah,"
8th "Ackamah,"
9th "Soobadoo," and
10th "Condadoo,"

direct that they be set at liberty.-

/Sent following letter No. 174./

Read again letter dated the 9th February last from the Second Judge on Circuit in the Western Division, submitting record of the trial in case No. 13 on the calendar of the Auxiliary Court of Malabar for the 4th quarterly Sessions of 1827.-

/Here enter No. 129/

15th May 1828.

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

In commutation of the penalty of deyut declared in the foregoing futwah, the 1st 2d and 3d Puisne Judges do sentence the prisoner,

"Koonon Othenan,"

to receive 16 stripes with a rattan and to be imprisoned and kept to hard labor in irons on the public roads or other public works for the period of 5 years and then be released.

/Sent following letter No. 175./

E.M.

F. H.

At a Court of the Foujdaree Adalut.

Present,

Saturday 17th May 1828.

F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter dated the 27th February last from the late 2d Judge late on Circuit in the Centre Division with record of trial in case No 20 Bellary Calendar 2d Sessions 1827.-

(Hereunter No 167 of 1828)

Read also letter dated the 24th Ultimo from the late 2d Judge late on Circuit in the Centre Division, reporting the death of Pothegandoo 5th prisoner in case No 20 Bellary Calendar 2d Sessions 1827.

(Hereunter No 205)

The 1st 2d and 3d Puisne Judges 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 the 5th prisoner being now dead, they acquit the prisoners,

1st "Upperedee,"
2d "Veerandoo,"
4th "Sungeevegadoo,"
6th "Wobleghdoo," and
7th "Hoodoorgandoo,"

direct that they be set at liberty.—

The

17th May, 1828.

1. The proof against the prisoner in this case consists 1st of the evidence of Mooseeleegandoo the 7th and Neelagatoo the 8th witness, who depose that the 1st prisoner with others unknown seized and bound them in a jungle on the night of the alleged robbery; 2dly of the evidence to the alleged discovery of certain portions of the plundered property upon the prisoners, and 3dly of the alleged confessions of the prisoners.—

2 It appears to the Court that the evidence of the 7th and 8th witnesses, so far as it goes to charge the 1st prisoner, is not entitled to the smallest credit. It is quite clear that in the first instance they charged others, as they say at the instigation of the 1st prisoner, but there is nothing whatever to confirm this. As far as appears by the evidence they never mentioned his name until he is said to have criminated himself and in the evidence on this point as well as in respect to the alleged discovery of the plundered property there is a great deal to raise the strongest suspicion of unfair dealing on the part of the Police. The whole case for the prosecution, indeed, is discredited by the manner in which information is alleged

17th May, 1828.

alleged to have been obtained against the 1st prisoner. The proceedings of the Police Surristudar Mullapah, as far as they are disclosed in the evidence for the prosecution, as well as in the evidence of the Duffadar Ramah Naik, called as witness by the 1st prisoner, are of a very suspicious nature, and the Court think it would be dangerous in the highest degree to convict the prisoners on evidence, which, to say the least of it, is open to the greatest distrust.— The Court have therefore acquitted the prisoners.—

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

Sent following letter No 176

17.

F. A.

At a Court of the Fujdaree Adalut.

Present,

Tuesday, 20th May, 1828.

F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter dated the 7th February last, from the 1st Judge on Circuit in the Southern Division,- submitting case No 16 Madura Calendar 1st Sessions 1828.-

(Here enter No 12.)

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee ool Coozat and Mooftees of the Fouzdaree Adalut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoners-

1st "Comaraspen,"
2d "Goorsoovilingum,"
3d "Moothoodayar,"
4th "Condaman,"
5th "Chokalingum, and
6th "Aurmoogum,"

direct that they be set at liberty-

It appears to the Court that it would be dangerous in the highest degree to convict the prisoners in this case- The evidence of the prosecutor and

17 20th May 1828.

and the three witnesses who depose that they saw the murder committed is of itself open to great distrust and suspicion on many accounts: and their omission to give the alarm at a Village not more than 100 yards from the spot where the murder is said to have been perpetrated, combined with the extraordinary fact, which is clearly proved by the evidence of the 4th 5th 6th & 8th witnesses, that the prosecutor on the evening of the same day when the inquest appears to have been held on the body, did not name the murderers, operates in the judgment of the Court to discredit entirely the evidence which goes to charge the prisoners. The Court have therefore acquitted them-

Ordered that extract of these proceedings be sent to the 1st Judge on Circuit in the Southern Division for his information

/ Sent following letter No 180 /

Read letter dated the 21st February last, from the 2d Judge on Circuit in the Western Division with record of the trial in case No 10 Malabar Calendar 1st Sessions 1828.

/ Here enter No 158 /

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit in the

20th May 1828.

Sentence of the Provincial Law Officer and Futwa of the Provincial Court and Moofties Futwa of the Cazee ool Coozat and Moofties Futwa of the Zoujdaree Adalut confirm the said and acquitting the prisoner,

Bagowathi paramba alias Koroth Imbichy

direct that he be set at liberty.-

The Court have considered it proper to confirm their Law Officers acquittal of the prisoner in this case, because under the circumstances represented by Mr Vaughan in the letter referring the trial it appears probable that the prisoner was not fully aware of the criminality of the act which he committed. The Court, however, direct that previously to discharging the prisoner the Criminal Judge will admonish him of the criminality of his conduct, and point out to him the consequences of a repetition of it.

Ordered that extract of these proceedings be sent to the 2d Judge on Circuit in the Western Division for his information-

/ Sent following letter 181.

F. H.

At a Court of the Zillah Adalut

Present,

Wednesday 2d May 1828

F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

F. H. C.

Read letter dated the 6th March last from the late 2d Judge late on Circuit in the Centre Division, submitting the record of trial in case No 15 Chingleput Calendar 2d Sessions 1827.

(Execution No 82)

The 1st and 2d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee and Mooftee of the Zillah Adalut Coozat and Mooftees of the Zillah Adalut concur in opinion that the prisoners,

1st "Syed Koosam,"
2d "Shaik Boodun,"
3d "Shaik Dawood,"
4th "Seelar Khan," and
5th "Seelar Beg,"

are not convicted on presumptive proof or on the evidence of credible witnesses or on their own confession, notwithstanding the futwahs of their Law Officers, and accordingly under the provisions of Clause Sixth Section II Regulation XV

of

21st May, 1828. of 1803, they direct that the prisoners,

1st "Syed Koiyan"
2d "Shaik Booddun"
3d "Shaik Dowood"
4th "Seelan Khan" and
5th "Seelan Beg"

aforesaid be set at liberty.

Sent to:

(Sent following letter No. 182.

Read letter dated the 13th February last from the 2d Judge on Circuit in the Western Division submitting record of the trial in case No. 8 Malabar Calendar 1st Sessions 1828.

(Here enter No. 152.)

The 1st 2d and 3d Puisne Judges 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 and under the provisions of Section X Regulation VIII of 1802 adjudge the prisoner,

"Talahatpurata Dannee Kaya Coma"

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

Sent to:

(Sent following letter No. 183.

Read letter, dated the 13th March last from the 1st Judge of the Provincial Court of Circuit in the Northern Division submitting the record of trial in case No. 15. Chicacole Calendar 2d Sessions 1827.

(Here enter No. 210.)

The 1st 2d and 3d Puisne Judges

21st May 1828. 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 acquit the prisoner,

"Mahanty Balaramoodoo,"

but considering that suspicion attaches to him they direct that under clause sixth Section II Regulation XV of 1803 he be required to find 2 Sureties in 20 Rupees each, for his good behaviour and appearance when required within one year or in default thereof to be detained for one year in confinement.—

"It is by no means clear to the Court that the prisoners witnesses were summoned merely for the purpose of proving that he has a family; and they regret that Mr. Lord should have dispensed with their examination. It is impossible to tell how the testimony of those two men might have effected the evidence for the prosecution, which after all does not prove that the prisoner actually stole the child. Under all the circumstances therefore the Court have

have thought it proper to direct the
21st May, 1828. discharge of the prisoner on security
for one year."

Ordered, that extract of these
proceedings be sent to the 1st Judge of
the Provincial Court of Circuit in the
Northern Division for his information

Sent following letter No 1811.

F. K.

At a Court of the Foujdaree Adaulut

Present

Thursday 22d May 1828 } F. A. Grant Esquire, 1st Puisne Judge
James Cochrane Esquire, 2d Puisne Judge
William Oliver Esquire, 3d Puisne Judge

Read letter dated 20th December last from the Judges of the Provincial Court in the Western Division forwarding for the Courts consideration copy of a correspondence between the Joint Criminal Judge and Joint Magistrate of Canara regarding the Suretiship of a Prisoner therein specified

/Here enter No 559/

1. In the foregoing letter the question has been submitted to the Foujdaree Adaulut whether in a Magistrate's warrant of commitment under Clause first Section III Regulation II. of 1822, or Clause first Section VI Regulation VII. of 1827, all the particulars mentioned in Section VIII of the latter Regulation should be specified, viz. the amount of security, the number of sureties, the period for which the sureties are to be responsible and the period for which the prisoner is to be detained in custody, in default of finding sureties and giving security.

2. The Judges think that all these

22d. May 1828.

these particulars ought to be specified in the warrant. The last of them is absolutely ne= =cessary in order that the Prisoner may be released at the proper time: the others will be of use in the event of the Prisoner, after his commitment, tendering security or sure= =ties; as such tender will, probably, be not generally made to the Criminal Judge and not direct to the Magistrate; and the knowledge of those particulars by the Criminal Judge may save useless references by him to the Magistrate, when the tender is inadequate to the demand.-

3. The Judges further think that the Magistrate's warrant of commitment, in these cases, ought to be as near as possible in the form No. 10 of the Appendix to Regu= =lation IX of 1816 and should be accompa= =nied with the paper prescribed in clause second section XXXIV of that Regulation. Clause first Section III. Regulation II. of 1822 in speaking of the Magistrate issuing his warrant, evidently refers to a known and established judicial instrument; and the only established form for a Magistrate's warrant of committal to the Zillah Jail is that above referred to.-

Ordered that these Proceedings be sent as a Circular order to the 4 Provincial Courts of Circuit for the information and guidance of all Criminal and Joint Criminal Judges and Magistrates and of the Native Judges

22d. May 1828.

Judge of Hooghly, and also to the Judicial Secretary to Government agreeably to orders of Government dated the 10th October 1814.

Sent following letters No. 185 & 186

Ent. M. 11. 7 Nov. 35.

M. M. 20

At a Court of the Poygolaree Adalut.

Present,

Tuesday, 27th May 1828

F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

24 Q
20

Read letter, dated the 30th January last from the 1st Judge on Circuit in the Centre Division, with the record of trial in case No 2 Cuddapah Calendar 1st Sessions 1828.—

(Here enter No 184)

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner,

1st "Golla Boodegnadoo"

is sufficient to convict him of the crime of express murder, do under the authority with which they are vested by Clause first Section II Regulation I of 1818 convict him thereof and sentence him to suffer death, as prescribed by Section X Regulation VIII of 1802, by being hanged at the usual time and place of execution.

And further concurring in opinion that the proof against the

27th May, 1828.

the prisoner,

2d "Golla Verroogadoo,"

is sufficient to convict him of the crime of assisting the first prisoner to dispose of the corpse of the murdered person, they convict him thereof and sentence him to be imprisoned and kept to hard labor in irons on the public roads or other public works for the period of one year and then be released.—

(Sent following letter No. 109.)

Read letter, dated the 5th January last from the 2d Judge of the Provincial Court of Circuit in the Western Division with the record of trial in case No. 10 on the Calendar of the Auxiliary Court of Malabar 4th Quarterly Sessions 1827—

(Here enter No. 36.)

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the opinion of the Provincial Law Officer and the opinion of the Cazee ool Coozat and Mooftees of the Foujdaree Adalut concur in opinion that the prisoners,

1st "Palakal Chundoo,"

2d "Taoroolpoothiedatha Chinden,"

3d "His younger brother Koren,"

4th "Palichan Kadaven Amboo, and

5th "Tekan Kellon,"

27th May, 1828.

are not convicted on presumptive proof or on the evidence of credible witnesses or on their own confession, notwithstanding the fatwah of their Law Officers, and accordingly under the provisions of Clause sixth Section II Regulation XV of 1803 they direct that the prisoners,

1st "Palakal Chundoo,"

2d "Taoroolpoothiedatha Chinden,"

3d "His younger brother Koren,"

4th Palichan Kadaven Amboo, and

5th "Tekan Kellon,"

aforesaid be set at liberty.—

1 The Court are quite unable to concur in the view taken by Mr Vaughan of the effect of the evidence given by Anthoor Nediangee Ambo, a witness called by the 1st prisoner Palakal Chundoo. So far from thinking with Mr Vaughan that the testimony of this witness "is fatal to the cause of the prisoner by whom he was summoned," the Court are of opinion that it goes very far to substantiate his cause, and coupled with other circumstances in the case, to discredit altogether the evidence for the prosecution.—

2 It must be observed that this man according to his statement, was tampered with

27th May, 1828.

with by the 1st Prosecutor Ramara, and is threatened with vengeance if he should give evidence in favor of Chandoo: It does not appear that the prosecutor denied the truth of this statement, or put a single question to the witness with the view of removing the imputation cast upon him, - an imputation which he could not but see was calculated to raise the strongest distrust of his motives in charging the prisoners. Then the witness, absolved from the oath which, as he says, was exacted from him by the prosecutor, proceeded to give an account of the circumstances attending the death of the deceased Amboo, which agrees substantially with the account given by the prisoner himself on his examination before the Police Officer and the Criminal Judge, and according to which Amboo was stabbed by the 2nd prosecutor Ramara in a dispute which had arisen between them; the prisoner Chandoo being a mere looker on. The Court are utterly unable to understand how Mr Vaughan could consider this evidence as tending in the smallest degree to implicate the prisoner Chandoo as the murderer of Amboo.-

3 The uncontradicted fact that the prosecutor attempted to prevent a witness from deposing what he knew is of itself sufficient to create the most violent distrust of the evidence which he has produced in support of his charge against the prisoners; and there are other circumstances in the case which

27th May, 1828.

which can or can tend to strengthen that distrust. Being asked by the Police Officer whether there were other witnesses besides those whom he had named the prosecutor said that there were others, but that there was no occasion for them now. The witnesses named by him were all in his employment or in that of his brother the 2nd prosecutor, and their evidence bears strong internal marks of fabrication. Before the Police Officer, the Criminal Judge, and the Court of Circuit they tell their story precisely in the same way, and nearly in the same words, without any of those variations which are naturally to be expected in a narrative of the same transaction by different men or in a narrative by the same men at different times. In the judgment of the Court it is impossible to look upon this total absence of discordancy without a suspicion that their story is a concerted one; and hence perhaps arose the prosecutor's apparent unwillingness that other witnesses should be called for. Then it appears from the report of the Police Officer that the 2d prisoner Chindan and it would seem the 3d prisoner also, came to him of their own accord; and this is strongly indicative of a consciousness of innocence on their part. In respect to Chindan indeed, at whose particular instigation the murder is represented to have been committed, it is hardly possible to reconcile his voluntary appearance before the

Police

5th June 1828.

the prisoner, because the witnesses whom he had summoned on his defence were not examined. The Court are quite unable to understand upon what principle Mr. Laird on this as on several other occasions has considered himself justified in dispensing with the examination of the prisoners witnesses; but they trust that he will in future avoid proceeding so irregular and unwarrantable.

Ordered that Extract of these proceedings be sent to the 1st Judge of the Provincial Court of Circuit in the Northern Division for his information.-

/Sent following Letter No 199./

Read letter, dated 6th March last from the Acting Judge of the Provincial Court of Circuit in the Centre Division, submitting record of the trial in case No 3 Bellary Calendar 1st Sessions 1827.-

/Here enter No 179/

The 1st 2d and 3d Native Judges 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 prisoner,

"Lumbana Tolaver alias Bheemah"

direct that he be set at liberty.-

/Sent following Letter No 200

The

5th June 1828.

The Reports prescribed by Section XXXV Regulation X of 1816 not having been received from the Zillahs of Chingulput, Chittoor, Bellary, Cuddapah and Auxiliary Court of Cumbum, for the 1st Quarter of 1828.

Ordered that the Provincial Court of Circuit in the Centre Division be by precept directed to forward the said reports without further delay.-

/Sent following precept No 201./

The Reports prescribed by Section XXXV Regulation X of 1816, not having been received from the Zillas of Madura, Combaconum, Salem, and Auxiliary Courts of Tinnevelly and Coimbatore and Native Court of Hollegall, for the 1st Quarter of 1828.-

Ordered that the Provincial Court of Circuit in the Southern Division be by precept directed to forward the said reports without further delay.-

/Sent following precept No 202/

The Reports prescribed by Section XXXV Regulation X of 1816 not having been received from the Zillahs of Nellore, Rajahmundry, Chicacole, and Auxiliary Court of Masulipatam, for the 1st Quarter of 1828.-

Ordered that the Provincial Court of Circuit in the Northern Division be by precept directed to forward the said reports without further delay.-

/Sent following precept No 203./

5th June 1828.

the prisoner, because the witnesses whom he had summoned on his defence were not examined. The Court are quite unable to understand upon what principle Mr. Lord on this as on several other occasions has considered himself justified in dispensing with the examination of the prisoner's witnesses, but they trust that he will in future avoid a proceeding so irregular and unwarrantable.

Ordered that Extract of these proceedings be sent to the 1st Judge of the Provincial Court of Circuit in the Northern Division for his information.-

/sent following letter No 199./

Read letter, dated 6th March last from the Acting Judge of the Provincial Court of Circuit in the Centre Division, submitting record of the trial in case No 3 Bellary Calendar 1st Sessions 1827.-

/Here enter No 179/

The 1st 2d and 3d Puisne Judges 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 Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and acquitting the prisoner,

"Lumbana Tolaver alias Bheemah"

direct that he be set at liberty.-

/sent following letter No 200/

The

5th June 1828.

The Reports prescribed by Section XXXV Regulation X of 1816 not having been received from the Zillahs of Chingulput, Chittoor, Bellary, Cuddapah and Auxiliary Court of Cumbum, for the 1st Quarter of 1828.

Ordered that the Provincial Court of Circuit in the Centre Division be by precept directed to forward the said reports without further delay.-

/sent following precept No 201./

The Reports prescribed by Section XXXV Regulation X of 1816, not having been received from the Zillahs of Madura, Combaconum, Salem, and Auxiliary Courts of Tinnevelly and Coimbatore and Native Court of Hollegall, for the 1st Quarter of 1828.-

Ordered that the Provincial Court of Circuit in the Southern Division be by precept directed to forward the said reports without further delay.-

/sent following precept No 202/

The Reports prescribed by Section XXXV Regulation X of 1816 not having been received from the Zillahs of Nellore, Rajahmundry, Chicacole, and Auxiliary Court of Masulipatam, for the 1st Quarter of 1828.-

Ordered that the Provincial Court of Circuit in the Northern Division be by precept directed to forward the said reports without further delay.-

/sent following precept No 203./

F. A.

At a Court of the Foujdaree Adaulut

Present,

Saturday, 9th June, 1828

F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read record of trial in case No 8 on the Calendar of the Ancillary Court of Malabar for the 4th Quarterly Sessions of 1827.-

/Here enter No 199./

On a consideration of the evidence in this case it appears to the Court that the prisoners were properly acquitted; but as Mr Vaughan did not receive the evidence for the defence, he was not warranted in requiring the prisoners to give security previously to their discharge. By that evidence the suspicion which could alone justify the requisition of security might have been removed; and the Court are utterly unable to understand on what principle Mr Vaughan considered himself at liberty to dispense with that evidence

2 It appears from the Report of casualties and of prisoners released in the Tellicherry jail for the 1st quarter of

7th June, 1828.

of the current year that the 2d prisoner Poothia porail Koonjammee was released on the 21st January last.

The Court direct that Mr. Vaughan do by precept directed to discharge that prisoners security bonds immediately and forthwith to order the release of the other prisoner if he has not yet found the security required or in this case to cause the bail bonds to be cancelled.

(Sent following precept No 210)

Read letter, dated the 15th March last from the 1st Judge of the Provincial Court of Circuit in the Northern Division, submitting the record of trial in case No 14 Rajahmundry Calendar 2d Sessions 1827.

(Recorder No 203 of 1828)

The 1st 2d and 3d Puisne Judges 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 Sudr Dewanee Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and under clause third Sectn VIII Regulation XV of 1813 adjudge the prisoners,

1st "Lary Lutchenee," and
2d "Vandapully Soobiah,"

to be imprisoned and kept to hard labor

7th June, 1828.

on the public roads or other public works for the period of one year and then be released.—

and acquitting the prisoners,
2d "Yerra Bootchannah,"
4th "Budda Sahib," and
5th "Nunna,"

direct that they be set at liberty.—

(Sent following letter No 211)

It is impossible for the Court to pass over unnoticed the extreme defectiveness of the proceedings in this case, according to the declarations of the 1st and 3d prisoners before the Criminal Judge the murder of Paroomalloo was committed by the 2d and 5th prisoners, but no attempts whatever were made by the Criminal Judge to obtain evidence against these two prisoners, who denied all concern in the murder, but who were nevertheless committed for trial, the 2d as the actual perpetrator of the murder, and the 5th as an aider and abettor. Surely the Criminal Judge cannot be so ignorant of the rules of evidence as to suppose that the declarations of the 1st and 3d prisoners could be admitted in evidence except against themselves; and yet

there

7th June, 1828.

there was before him nothing else on which he could ground his committal of the 2d and 5th prisoners. It was clearly the duty of the Criminal Judge to ascertain whether any proof of these two prisoners' guilt was procurable; and if his endeavours to obtain complete evidence had failed he should have recommended the offer of a conditional pardon to the 3d prisoner, who, if her statement is believed, was not actively concerned in the murder, and whose testimony coupled with collateral facts which might have been proved by other witnesses would have sufficed to convict the two prisoners above-mentioned. On the evidence before him the Criminal Judge was clearly not warranted in committing these two prisoners for trial.

2. Mr. Lord will of course see that he ought to have sent back the case for further evidence.

Ordered that extract of these proceedings be sent to the 1st Judge by precept requiring him to transmit a copy thereof for the information and guidance of the Criminal Judge.

(Sent following precept No. 212)

Read letter dated the 17th April last from the Acting Judge of the Court

sent

F. C.
7th June, 1828.

of Circuit in the Centre Division, with record of the trial in case No. 5 on the Calendar of the Zilla of Chittoor 4th Quarterly Sessions 1827.

(Here enter No. 254)

The 1st 2d and 3d Puisne Judges 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 Cazees ool-Coozat and Mooftees aforesaid acquitting the prisoner,

"Nagapah,"

direct that he be set at liberty.

(Sent following letter No. 213)

Sent D.M.

F.16.

At a Court of the Foujdaree Udalut,
Present

Thursday
19th June, 1828

F. A. Grant Esquire, First Puisne Judge.
James Cochrane Esquire, Second Puisne Judge.
William Oliver Esquire, Third Puisne Judge.

F.16
W.

Read letter dated 25th April last from the Second Judge of the Provincial Court of Circuit in the Centre Division submitting his report at the close of the 2d Quarterly Sessions of 1828 for Chittoor.

(Here enter No. 261)

With reference to para 6 of the foregoing report and to the last para of the letter from the Criminal Judge of Chittoor to the Register of this Court 8th February 1828, the Court direct that the 2d Judge do call upon the Criminal Judge to report what further evidence has been obtained, or steps taken to procure it. It appears that the Zemindar of Carvatenuggur, the supposed author of the murder on suspicion of being concerned in which Seekaram, Chengulroyapillay and Chengadoo are in confinement, is now dead; the impediments therefore raised by him to the discovery of witnesses will it is presumed have ceased; at all events if conclusive evidence against these three persons has not yet been found, and there is no reasonable prospect of its being produced, the Judges think that the prisoners ought

12th June 1828. ought not to be longer detained, and direct that they may be released, and their release reported to this Court.-

2. In paras 8 at 12 of his report the 2d Judge after commending the good order of the Jail at Chittoor and the healthy state of the prisoners, remarks on the great comforts enjoyed by them the lightness of their work and the probable effect of these circumstances in diminishing the discouragement to crime.-

3. The Court think the observations of the 2d Judge on these heads very judicious; and he has done perfectly right in submitting them in the way of suggestion to this Court and not issuing them as directions to the Criminal Judge.- The Court however do not agree in the opinion expressed in the 10th para that convicts working in irons ought to be required to perform the same quantity of work as free labourers. It is an admitted fact, that compulsory labor is never performed with the same effect as that which is voluntary; and with the addition of Irons the difference must be increased. To require therefore the proposed quantity of work would be to require that which to a certainty would not be performed; and would either lessen the authority of the Criminal Judge or bring down unjust punishment upon the failers. The Criminal Judge is of course aware that para

× See p. 1. of this Court and 28th July 1824 sent to the late 1st Judge of the Centre Provl Court. also a letter from Govt 17 August 1824 sent also to the late 1st Judge 23d Dc

12th June 1828. para 15. of the jail rules 8th October 1821 prescribes that the baskets used by convicts who work on the roads are to be of the same size as those used by Tank Diggers; and that tho a discretion is allowed to the Criminal Judge as to reducing it he is liable to be called upon to account for his use of that discretion. The Court direct that the 2d Judge do furnish a copy of paras 8 at 12 inclusive of his report to the Criminal Judge of Chittoor together with a copy of this para for his information and guidance.-

Ordered that Extract of Copy of the report and these proceedings be sent to the Secretary to Government in the Judicial Department and to the Second Judge of the Provincial Court of Circuit in the Centre Division for his information and guidance.-

Sent following letters Nos. 214/215

Read letter, dated 8th February last from the Criminal Judge in the Zilla of Chittoor, offering remarks explanatory of his conduct animadverted on in Govt Proceedings 19th December 1827 with regard to the commitment of certain persons, for perjury, under the provisions of Regulation III. of 1826.- Here enter No. 115

Encl. 10/40.

Ex. 112

F. C.

At a Court of the Foujdaree Udalut.

Present,

Friday, 13th June 1828 } F. A. Grant Esquire, First Puisne Judge.
James Cochrane Esquire, Second Puisne Judge.
William Oliver Esquire, Third Puisne Judge.

Read letter, dated the 3d April last from the Acting Judge of Circuit in the Centre Division, with record of trial in case No 6 Cuddapa Calendar First Sessions 1827.- Here enter No 229

The 1st 2d and 3d Puisne Judges 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 acquitting the prisoners,

1st "Pauperyandoo,"
2d "Venkatasoo,"
3d "Gouroobov,"
4th "Muddoolah,"
and
5th "Summuntoo,"

direct that they be set at liberty.-

Sent following letter No

F.H.

At a Court of the Foujdaree Udalut.
Present,

Thursday 19th June 1828 } F. A. Grant Esquire, 1st Puisne Judge.
James Cochrane Esquire, 2d Puisne Judge
William Oliver Esquire, 3d Puisne Judge

C. & N.

When the record of a trial is called for by the Court of Foujdaree Udalut it frequently appears that the occasion for their interference has arisen solely from the want of clearness and perspicuity in the Calendars. The Court therefore direct 1st that all Calendars be accompanied with copies of the original futwahs in all cases not referrible- 2d that the Judges of Circuit state succinctly and clearly their opinion of the case, whether they concur entirely in the futwah, or concur with the Law Officer as to the guilt or innocence of the prisoner but on different grounds and what those grounds are: 3d that when evidence before the Court of Circuit is in contradiction to or at variance with the evidence previously given the points of difference be stated.-

Ordered that copy of the above circular order be sent to the 4 Provincial Courts of Circuit for their information and guidance.-

Sent following letter No 223.

19th June 1828.

Read Petition presented in person by Shaik Mahomed of the Zillah of Nellore.-

(Here enter Misc: Pet: No 15 of 1828)

The Petitioner complains that he has been removed from his Office of Moonsiff in the Zillah of Nellore, he partly, states that he is prevented from defending his conduct by not having access to the requisite records and information and prays that this Court will send for the proceeding which may enable them to judge of his case, and he also enters into a defence of his conduct in regard to the slaughter of a bullock, it is not apparent for what purpose, as the Zillah Judge seems to have told him that his removal was not connected with that circumstance but that it originated in suspicions of his having been corrupt.-

The dismissal of the Petitioner was regularly confirmed by the Provincial Court, as he himself states; that Court is the authority which the Regulations empower to decide on the dismissal of Moonsiffs and the Regulations do not provide for any appeal from their orders in such cases. The Petition is therefore rejected.-

Read letter, dated the 29th March last, from the Second Judge on Circuit in the Northern Division, submitting copy of the Rajahmundry Calendar 1st Sessions 1828.-

(Here enter No 230)

In

91

19th June 1828.

In case No 5 one of the subscribing witnesses to a Police confession stated that he heard the substance of the said confession from the Police Officer and not from the Prisoner. The Court trust that this irregularity was duly noticed by the 2d Judge to the Magistrate.-

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

(Sent following letter No 224)

Read letter dated the 31st March last from the First Judge on Circuit in the Southern Division, transmitting copy of Combaconum Calendar 1st Sessions 1828.-

(Here enter No 223 of 1828)

1. No 1 was postponed from the last Sessions, on account of the absence of the person who attested the confessions of the Prisoners before the Magistrate; the same person was again unable to attend thro' sickness and the Roysum who took down the Confessions was summoned: it was stated in reply that the Roysum could not be spared "without the greatest inconvenience to the revenue settlement then in progress:" the excuse was admitted and the trial again postponed.-

2. If, as would appear, the evidence of this person was all that was wanting for the trial to be brought to a conclusion, the Court disapprove this proceeding. No inconvenience, which the absence of a native servant could have occasioned in any revenue settlement, should have

been

19th June 1828.

been allowed to interfere with the regular course of justice; especially when the trial had already been delayed for a fortnight. There are six prisoners in this case; and the offence charged is not bailable. The 1st Judge should have issued a peremptory requisition for the attendance of the Raysum; and the Collector or Magistrate would of course have complied with it.-

3. In No. 4 the fatwa convicts 9 of the surviving Prisoners on Zun-i-Ghalib of Gang Robbery; two others on Zun-i-Ghalib of knowingly receiving stolen goods; and declare, 4 others liable to suspicion. The 1st Judge considered the charge of Robbery proved against the 2d of the surviving 9 Prisoners only. Thirteen of the surviving Prisoners in this case are implicated in a charge of violently breaking jail (No. 19 of this Calendar); and the 1st Judge has not passed sentence in either No.; appearing to have considered the implication in No. 19 of so many of the Prisoners in No. 4 as one of the reasons why he ought not to have sentenced any of them; and having a doubt respecting this powers to sentence in No. 19.- He submits that this Court may pass sentence in both on the ground of the Fatwas and his own remarks in the Calendar, instead of the regular report and translation of the records being sent.-

4. The 1st Judge was perfectly competent to pass sentence himself in No.

2

19th June 1828.

No. 19; and a number of the prisoners being the same in that case and in No. 4 was no impediment to his doing so; because the punishment for attempting to break jail is over and above whatever punishment might be adjudged for the other offence, and would not be saved by acquittal of the other offence;- with respect to his doubt regarding his powers, he would have found, on reference to the records of the Collective Court, that the same doubt occurred to the late Acting First Judge; in a case at the 2d Sessions for 1827 at the Joint Criminal Court of Salem; but that on reference to the Collective Court he was satisfied that he had power to proceed to sentence under 4th Clause Seventh Section II Regulation XV. of 1803. This Court, by their silence, sanctioned that construction.-

5. The 1st Judge having been lately called up to the Presidency it is impracticable for him to pass sentence now in No. 19; and the best way of remedying his omission to do so is for this Court itself to pass sentence: and the Judges accordingly direct that the whole of the Proceedings in No. and No. 19 be sent up with as little delay as possible.-

6. In No. 17 there are some erroneous notions respecting approvers; which the Circular Order of this Court 3d April 1818 will set right. The term "Approver" is obsolete and ought to be discarded.-

7. It was not necessary to

await

19th June 1828. await the sanction of this Court for the reward of 50 Rupees proposed in No 24: under Section XXIII Regulation IX of 1816 the 1st Judge was competent to order it to be paid himself.-

Ordered that Extracts of these Proceedings be sent to the Provincial Court of Circuit for their information and guidance.-

/Sent following letter No 225/

Read letter, dated 24th April last from the First Judge on Circuit in the Southern Division explaining his proceedings in certain cases on the Tinnevelly Calendar.-

/Here enter No 281/

Read letter, dated 4th Ultimo from the First Judge on Circuit in the Southern Division in reply to the Courts' remarks on the Madura Calendar 1st Sessions 1828.-

/Here enter No 310/

Read letter, dated 10th Instant from the Second Judge of the Court of Circuit in the Western Division with returned warrant for execution of a prisoner in case No 8 Malabar Calendar 1st Sessions 1828.-

/Here enter No 378/

Read letter, dated 14th instant from the Acting Judge of the Court of Circuit in the Centre Division, apologising for his tardiness in bringing up arrears.-

/Here enter No 376/

Read letter dated 9th instant from the Assistant Judge of the Zilla of Canara reporting the death of Coonapah under sentence of banishment.-

/Here enter No 382/

Read return dated the 16th Instant from the Provincial Court of Circuit in the Southern Division to precept dated 2nd instant calling for the Criminal Reports for the first quarter of 1828.-

/Here enter No 372/

At a Court of the Foujdaree Udalut.

Present,

Monday 23rd June 1828 } F. R. Grant Esquire, First Puisne Judge.
James Cochrane Esquire, Second Puisne Judge.
William Oliver Esquire, Third Puisne Judge.

14th & 20th

Read letter dated the 20th February last from the Second Judge on Circuit in the Western Division, transmitting copy of the Calendar of the Zilla of Malabar Sessions 1828.

/Here enter No. 155/

1. In the several cases in this Calendar in which security was demanded, the Court observe that the amount and other particulars are not mentioned. The several ought always to be specified in the Calendars. and third section VII Regulation VI. of 1827 ss 5

2. In No. 7 the 2 Prisoners were charged with an affault and robbery of a purse 3 witneses depose that they were present and saw the affault committed by both prisoners; the robbery does not appear to have been proved; but the Court are unable to reconcile the acquittal of the Affault with the evidence.

3. The Court also do not understand the ground on which it is stated in the Memorandum annexed to this case that the 2d Prisoner was held to bail for appearance before the Circuit Court. The Criminal

Judge

Judge, it appears, considered him sufficiently punished, by his imprisonment before his trial, for the offence of which he was convicted; yet because the other person concerned in that offence was also concerned in a much graver and quite distinct one; which could be tried only by the Circuit Court, this Prisoner was held to bail to appear at the trial of the other for the greater offence. These 2 Prisoners are Nos. 6 and No. 15 in the Report of persons apprehended concerning whom no final order had been passed at the date of the 3d quarterly report for 1827. If the Criminal Judge considered the affair, proved to have been committed by the 2d Prisoner, as within his own powers to punish, and as sufficiently punished by the imprisonment actually undergone; it was his duty to release that prisoner: That his accomplice in that offence was concerned in another much graver one, was no reason at all for requiring the former to appear before the Circuit Court.-

4. In No. 11, 1820 the sentence is wrong. The Judge on Circuit was incompetent to sentence to less than 7 years imprisonment with hard labor in Irons, under a Futwah of Hudd; and if he had thought that sentence too severe, he should have reported the case under Section IV. Regulation I. of 1825.-

5. The Court direct that the Prisoner in No. 12 be sent to have his sentence of imprisonment in banishment executed at

at the Jail of the Joint Criminal Court of Coimbetore.-

6. It requires to be explained why No. 18 was not tried.-

Ordered that extract of these Proceedings be sent to the Second Judge on Circuit in the Western Division for his information and guidance.-

/Sent following letter No. 2294/

Read again letter dated 19th February last from the Second Judge on Circuit in the Northern Division submitting copies of the Nellore Calendars 1st Sessions 1828.-

/Here enter No. 135/

1. The records of the proceedings held by the 2d Judge in cases Nos. 7 & 15 of the above Calendar, which according to the remarks entered therein are to be referred to the Zoydaree Adalut not having been received.-

2. The Court direct that the Second 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 abovementioned within 20 days from the date of the receipt of the precept.-

/Sent following Precept No. 2295/

Read letter dated the 19th April 1826 from the Provincial Court of Circuit in the Western Division submitting with reference to the Courts observations on the quarterly report of 4th Sessions 1825 the explanation of the Zilla Judge and Minutes thereon

23d June 1828.

thereon by the Judges of the Provincial Court of Circuit.-

//Here enter No. 255 of 1826//

It appears from the foregoing letter that it is not understood by the Western Provincial Court as has been ruled by this Court in their Proceedings 25th June 1817, that a Criminal Judge may act under Section VII Regulation X of 1816 in respect of offences committed by Prisoners in the Jail under his charge. As the same misapprehension may exist in other divisions and is liable to produce irregularity or inefficiency in the management of Jails, the Court resolve to issue the following Circular Order.-

C. O. No.

The Court of Sudder Adalut are of opinion that it is competent to and incumbent on Criminal Judges to take cognizance of all offences committed by Prisoners in the jails under their respective charge which are cognizable by them under any Regulation when brought before them by a Magistrate or any officer of Police. The restriction in Section VIII Regulation X of 1816 cannot be intended to apply to charges and informations against persons already in the custody and under the peculiar jurisdiction of the Criminal Judge, which must necessarily come under the cognizance of the Criminal Judge and do not need to be brought before him by any other authority.-

Ordered that copy of the above Circular

F. 16.
23d June 1828.

Circular Order be sent to the four Provincial Courts of Circuit for their own information and guidance and also to the Judicial Secretary to Government agreeably to the orders of Government dated the 19th October 1824.-

//Sent following letter No 230 to 234//

Read letter dated 18th Instant from the First Judge on Circuit in the Centre Division, with warrant for execution of the prisoner in case No 2 Cuddapah Calendar 1st Sessions 1828.-

//Here enter No. 387//

Read return dated 12th instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 5th instant calling for the reports prescribed by section XXXV Regulation X of 1816.-

//Here enter No 388//

Read return stated 18th instant from the First Judge of the Provincial Court of Circuit in the Northern Division to precept dated the 7th instant commanding him to send copy of Courts Proc: on trial No 14 Rajahmundry 2d Sessions 1827 to the Criminal Judge.-

//Here enter No 394//

Cruel 24 K
20.

At a Court of the Foujdaree Adaulut,

Present,

Wednesday 25th June 1828

F. A. Grant Esquire, 1st Puisne Judge

James Cochrane Esquire, ---- 2d Puisne Judge.

Read letter dated 18th March last from the late 2d Judge late on Circuit in the Centre Division - submitting the record of trial in case No. 18 Cuddapah Calendar 2d Sessions 1827.-

/Here enter No. 198/

The 1st and 2d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoners,

1st "Gowskhan",
2d "Yasim Khan",
3d "Allahumud Sheruff",
and
10th "Maddoosooty-Shaik Madar",

is sufficient to convict them of the crime of murder, do under the authority with which they are vested by Clause first Section II Regulation I of 1818 convict them thereof, and sentence the prisoners,

1st "Gowskhan",
and
2d "Yasim Khan",

to be transported to such place or places beyond sea as the Governor in Council shall appoint, there to be imprisoned and kept to hard

25th June 1828.

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

And the prisoner,

3d "Mahumud Sheruff,"

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

And the prisoner,

10th "Madooscoory Shaik Kasim"

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

And considering that other suspicion attaches to the prisoners,

6th "Shaik Boodeen,"

and

11th "Shaik Ally,"

the Court direct that under clause sixth of Section II Regulation XV of 1803 they be required each to find 2 Sureties in 500 Rupees each, for their good behaviour and appearance when required within three years, or in default thereof to be detained for three years in confinement.-

Sent the following letter &c

At a Court of the Foujdaree Adalut.

Present,

Thursday, 26th June, 1828.

F. A Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter, dated the 25th April last from the 1st Judge of the Court of Circuit in the Northern Division reporting on the 1st Quarterly Sessions for 1828 in the Auxiliary Court Masulipatam

(Hereafter No 273 of 1828)

24th ult
20

1. In the first of the 3 returns from the Criminal Judge of Masulipatam submitted with the foregoing report it is stated that the Rations allowed to each convict is 4 Dubs per day; that this sum is more than sufficient to provide all necessary articles of food; and that it is notorious that a regular banking concern is carried on by the Prisoners, with the surplus, by means of the bazarmen resorting to the Jail.-

2. Under these circumstances the Court consider it the duty of the Joint Criminal Judge immediately to reduce the allowance. Discretion and firmness will be required to prevent any disturbance in the jail in effecting this measure; and the Joint Criminal Judge must take care to fix such a reduced amount as will afford no just cause of

26th June 1828.

of complaint; but the Court consider it impe-
=rative upon him to make such a redaction
immediately as will put an end to the tenure
=tions above described. The Joint Criminal
Judge will consider whether a supply of
coarse grain in kind, which prevails in
most Jails, (a seer for Convicts condemned
to hard labor $\frac{3}{4}$ths of a seer for others) with a
money allowance for condiments only,
(say 15 Cash a day) will not be the arrange-
=ment least likely to be abused.-

3. The Judges disapprove the employ-
=ment of Convicts in filling in the foundations
of a subscription Ball-room and theatre,
as described in return No 2. Such a work
is not a public work in the sense of the
Regulations; public works are works under-
=taken and carried on by order of Government
Government alone has a right to the labor
of convicts.

4. The explanation in the 3d. para
of the continued detention of the Prisoners
Pannakantos and Nanjaicka is 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 No 233)

Ordered that copy of the report & extract of these
proceedings be sent to the Secretary to Govern-

26th June 1828.

3046
& Encl

in the Judicial Department to be laid
before the Governor in Council.-

(Sent following letter No 234)

Read letter, dated the 25th April
last, from the 1st Judge late on Circuit in
the Northern Division with report presented
by Section XXXVII Regulation VII of 1802 for the
2d Sessions 1827.

(Here enter No 278 of 1828)

1. In para 4 the first Judge notices
that inconvenience results from no
European Officer vested with the powers
of Magistrate being stationed at Chicacole.
The Judges respectfully submit this subject
to the consideration of the Governor in Council.

2. The subjects adverted to in the
preceding Paras have all been brought before
Government.-

Ordered that copy of the report
and extract of these proceedings be sent
to the Secretary to Government in the Judicial
Department to be laid before the Governor
in Council.-

9147
& Encl

(Sent following letter No 235)

Read letter, dated the 19th March
last from the 1st Judge of the Provincial
Court of Circuit in the Northern Division
with copy of the Calendar of the Auxiliary
Court at Masulipatam for the 1st Quarterly
Sessions 1828.-

(Here enter No 288 of 1828)

In No 1 the Court presume that
the

28th June 1828.

the recognizances of the absent witness were ordered to be levied. This should never be omitted to be done, unless good and unavoidable cause is shewn for non-attendance. The evil of postponing Trials is great.

2. The two first Prisoners in No 4 are also the prisoners in No 5, and they are convicted in both and the 2 prisoners in No 5 are sentenced in No 4. It would appear from the abstract of the examination the prosecutor in No 5 was severely wounded, the Prisoners were liable to imprisonment and transportation for life under Clause Second Section IV Regulation XV of 1803.

Ordered that extract of these proceedings be sent to the 1st Judge of the Provincial Court of Circuit in the Northern Division for his information.

(Sent following letter No 236)

Read letter, dated the 12th April last, from the 2nd Judge of the Court of Circuit in the Centre Division, submitting copy of the Chittoor Calendar 2nd Quarterly Sessions 1828.

(Here enter No 246)

Read letter, dated the 1st instant, from the 1st Judge on Circuit in the Southern Division, submitting copy of the Arnee Calendar 1st Sessions 1828.

(Here enter No 290)

F. H.

At a Court of the Foujdaree Adalut.

Present:

Saturday, 28th June, 1828.

F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

C. C. No

The Court of Foujdaree Adalut on inspection of the Reports of the Criminal Judges submitted to them quarterly find grounds for supposing that it is generally deemed imperative on a Criminal Judge to order stripes in addition to imprisonment for theft under Section VII Regulation X of 1816. They therefore think proper to circulate their construction of that enactment. In their opinion it is left to the discretion of the Criminal Judge to punish by imprisonment alone, or by stripes alone, or by both, for the offence of theft, provided that the period of imprisonment do not exceed 6 months, and that the number of stripes do not exceed 30 of the rattan. A similar discretion is given him by clause fourth Section III Regulation VI of 1822 in certain heavier cases of theft, by clause sixth Section II of the same Regulation in certain cases of house-breaking with intent to steal, by clause fourth Section IV of the same Regulation in certain cases of receiving stolen goods and by clause second Section

28th June 1828. Section V of the same Regulation in certain cases of escape. A similar discretion is vested in the Criminal Judge by Section VII Regulation X of 1816 in cases other than theft, wherein he may punish by imprisonment or by fine, or by both under the limitations prescribed in that Section.-

Ordered that copy of the above Circular order be sent to the 4 Provincial Courts of Circuit for their respective information and guidance and that of all the Criminal and Joint Criminal Judges subordinate to them, and also to the Judicial Secretary to Government agreeably to orders of Government dated the 19th October 1824.-

(Sent following letters No. 238 & 239)

Read return dated the 17th Instant from the 2d Judge of the Court of Circuit in the Western Division to precept dated the 7th instant ordering the discharge of certain prisoners on their security bonds.-

(Here enter No. 396)

F. H.

At a Court of the Foujdaree Udalut-

Present,

Monday, 30th June 1828.- F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter dated the 12th Ultimo from the 2d Judge on Circuit in the Northern Division with copy of Chicacole Calendar 1st Sessions 1828.

(Hereunto No. 341 of 1828)

The Court direct that translation in English of all the Proceedings in No 13 be forthwith transmitted for their information

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

(Sent following letter No. 241.)

Read letter dated the 4th April last, from the 1st Judge on Circuit in the Centre Division submitting copy of the Bellary Calendar 1st Sessions 1828.-

(Here enter No. 234 of 1828.)

The Court observe that in all the Calendars of the 1st Judge, in cases in which security is taken, the amount, period of responsibility &c is not stated. The particulars mentioned in Clauses first and third Section VII. Regulation VI of 1827 should

30th June 1828.

should in all these cases be specified.-

2. In Nos 2, 7 and 18 persons attested confessions who were not present when the confessions were made. This practice has been frequently prohibited by the Sujr Adalut; and the Court trust that the 1st Judge brought the cases above referred to to the notice of the Magistrate.-

3. In No 4, if the Futwa was simply Tohmut, the 1st Judge could not sentence to any punishment, under Clause sixth Section II Regulation XV of 1803. This sentence must in that case, be suspended; and the trial referred.-

4. The indictment in No 6 should have been discharged; as the Prisoner had been already convicted of a greater offence and received sentence in No 5.

Ordered that extract of these proceedings be sent to the 1st Judge on Circuit in the Central Division for his information

(Sent following letter No 223)

Read letter, dated 20th ultimo from the First Judge on Circuit in the Southern Division with copy of Salem Calendar 1st Sessions 1828.

(Reference No 345.)

In No 4 the 1st Judge should not have specified the Gaol to which the Prisoner was to be sent to have his sentence of banishment fulfilled- By Clause third Section

30th June 1828.

Section VIII Regulation XV of 1803, that point is reserved for the determination of the Sujr Adalut.- The Court confirm the 1st Judge's order for the banishment of the Prisoner in this Case to Coimbatore Gaol.

Ordered that extract of these proceedings be sent to the 1st Judge on Circuit in the Southern Division for his information

(Sent following letter No 243)

28.

F/6.

At a Court of the Faujdary Adalut,

Present,

Wednesday 9th July 1828 } F. A. Grant Esquire 1st Puisne Judge
James Cochrane Esquire 2d Puisne Judge
William Oliver Esquire 3d Puisne Judge

Read letter dated 31st May last from the First Judge on Circuit in the Centre Division recommending under the provisions of Section V Regulation I of 1825 a mitigation of punishment in the case of a prisoner convicted in case No 7 Chinglepet Supplemental Calendar 1st Sessions 1828.-

Here enter No 403

The Court of Faujdary Adalut having attentively considered the grounds upon which the 1st Judge has recommended that the punishment of the prisoner Coobun referred to in his report should be mitigated to 7 years imprisonment with hard labor in irons, resolve to sanction the mitigation of punishment proposed.-

Ordered that extract of these Proceedings be sent to the First Judge on Circuit in the Centre Division for his information and guidance.-

Sent following letter No 247. S

At a Court of the Fouydaree Adalut,

Present,

Tuesday 15th July 1828. F. A. Grant Esquire, First Puisne Judge,
James Cochrane Esquire, Second Puisne Judge
William Oliver Esquire, Third Puisne Judge

Read letter dated 5th April last from the late Second Judge late on Circuit in the Centre Division. With record of the trial in case No. 16 Chinglepoot Calendar 2d Sessions 1827.-

Here enter No. 239

The 1st 2d and 3d Puisne Judges 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 Fouydaree Adalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid, and do acquitting the prisoners,

1st "Mooneyen,"
and
2d "Tolasee,"

direct that they be set at liberty.-

The proceedings of the Custom Officers in this case appear to the Court to have been altogether unwarrantable. The Tobacco had not reached the limits where it would have been liable to the Madras duties; and for all that the Custom Officers on their own shewing could know to the contrary, there was

15th July 1828

was no intention on the part of the carriers to pass the Chokee without payment of the duties. But even if they had information on this point, they had no right to go beyond their limits to make the seizure. They should have waited until the Tobacco had passed the Chokee, when no doubt they would have been justified in attempting to stop it, but even then it would have behoved them to warn the carriers of their office before they proceeded to extremities; and this they do not pretend to have done.-

2. There is no proof that the prisoners were at the time in the commission of an unlawful act; and according to the evidence for the prosecution they were attacked in an unwarrantable manner. The Court have therefore considered them intitled to an acquittal.-

Ordered that extract of these proceedings be sent to the late 2d Judge late on Circuit in the Centre Division for his information.-

/Sent following letter No 259/

F. M.

At a Court of the Foujdaree Adalut.

Thursday 17th July 1828

Present,

F. A. Grant Esquire, ... First Puisne Judge.
James Cochrane Esquire, ... Second Puisne Judge
William Oliver Esquire, ... Third Puisne Judge.

Read petition presented by Camatchy and Akelandum requesting that their sons Moonayen and Toolasi, Prisoners in Case No 16 Chingleput Calendar 2d Sessions of 1827, may be ordered to be released.-

/Here enter Dr No 13 of 1828/

Petitioners are informed that their sons have been acquitted and ordered to be released.-

Read letter, dated the 30th June 1827 from the Third Judge of the Court of Circuit in the Northern Division in the report prescribed by Section XXXVII Regulation VII of 1802 for the 2d Quarterly Sessions 1827.-

(Here enter No 279 of 1827)

15th July 1828

was no intention on the part of the carriers to pass the Chokee without payment of the Duties. But even if they had information on this point, they had no right to go beyond their limits to make the seizure. They should have waited until the Tobacco had passed the Chokee, when no doubt they would have been justified in attempting to stop it. but even then it would have behoved them to warn the carriers of their office before they proceeded to extremities; and this they do not pretend to have done.-

2 There is no proof that the prisoners were at the time in the commission of an unlawful act; and according to the evidence for the prosecution they were attacked in an unwarrantable manner. The Court have therefore considered them intitled to an acquittal.-

Ordered that extract of these proceedings be sent to the late 2d Judge late on Circuit in the Centre Division for his information.-

/Sent following letter No 259/

No 16.

At a Court of the Foujdaree Adaulut,

Present,

Thursday 17th July 1828

F. A. Grant Esquire, ... First Puisne Judge.
James Cochrane Esquire, ... Second Puisne Judge
William Oliver Esquire, ... Third Puisne Judge

Read petition presented by Camatchy and Akelandum requesting that their sons Moonayen and Toolasi, Prisoners in Case No 16 Chingleput Calendar 2d Sessions of 1827, may be ordered to be released.-

/Here enter Order No 13 of 1828/

Petitioners are informed that their sons have been acquitted and ordered to be released.-

Read letter, dated the 30th June 1827 from the Third Judge of the Court of Circuit in the Northern Division with report prescribed by Section XXXVII Regulation VII of 1802 for the 2d Quarterly Sessions 1827.-

(Here enter No 279 of 1827)

F. C.

At a Court of the Foujdaree Adalut.

Present

Saturday 19th July 1828.

F. A. Grant Esquire ..... 1st Puisne Judge.
James Cochrane Esquire ..... 2d Puisne Judge.
William Oliver Esquire ..... 3d Puisne Judge.

Read letter dated the 12th April last from the late Second Judge late on Circuit in the Centre Division. With record of the trial in case No 2 Chingleput Calendar Sessions 1827.

Here enter No 2143

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwah of the Provincial Law Officer and the futwa of the Cazee-ool-Cozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid and acquitting the prisoner,

"Vencategadoo,"

direct that he be set at liberty.

The only reason for the apprehension of the prisoner in this case was his going away from his village to Pulicat. Now this in the Court's opinion was a very insufficient reason. For it is quite clear from the evidence that he remained in the village for several days after the murder without incurring any suspicion, and it is equally clear that when

19th July 1828.

when he did leave the village, it was not clandestinely, but openly; and that it was known in the village that he had gone to Pulicat. A reward was offered, and properly offered, for the discovery of the murderer; and it would seem that the prisoner was seized immediately on his return. There is not the slightest ground to believe that the Police Officer had issued any express order for his apprehension or had been aware that suspicion attached to him till he was brought to the Cutchery. The manner of his being discovered is by no means clear. Chenchoogadoo, the Peliar who seized him, in his examination before the Criminal Judge states that Ackee gave him information of the prisoners being concealed in her house: but Ackee distinctly contradicts this: She declares she did not know of the prisoner's being in her house, till Chenchoogadoo came and took her there. Mr. Newnham seems to allow weight to the supposition that the prisoner's alleged attempt at adultery with the wife of the deceased may have led to the murder: but the evidence of the prosecution on this point is utterly unworthy of credit. In short the Court do not perceive on the record any reasonable ground for the slightest suspicion against the prisoner, and in the total absence of circumstantial evidence

19th July 1828.

evidence to corroborate in any way his alleged confessions on his being seized they are obviously entitled to no sort of credit. The Court have therefore acquitted him.—

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

Sent following letter No 263.

Read letter, dated 8th Instant from the Third Judge on Circuit in the Western Division, reporting his arrival at Cahcut—

(Here enter No 419)

Read letter, dated the 10th Instant, from the Third Judge on Circuit in the Southern Division, reporting his arrival at Madura.—

(Here enter No 420.)

Read letter, dated the 14th Instant, from the Second Judge on Circuit in the Centre Division, reporting the arrival of the Court of Circuit at Cuddapah on the 13th instant.—

(Here enter No 420.)

At a Court of the Tuydaree Udalut

Present,

Saturday
26th July 1828 } F. A. Grant Esquire, 1st Puisne Judge
James Cochrane Esquire, 2d Puisne Judge
William Oliver Esquire, 3d Puisne Judge

Read letter dated 20th March last from the Acting Judge of the Court of Circuit in the Centre Division submitting the record of trial in case No 19 Cuddapa Calendar 1st Sessions 1827.

/Here enter No 205/

The 1st 2d and 3d Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Cazee-ool-Cozat and Mooftees of the Tuydaree Udalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid and acquitting the prisoners,

1st "Kadasany Nagereddy"
2d "Ramdoo" and
3d "Yerrecala Nagereddy"

direct that they be set at liberty.

The three prisoners in this case are charged with having robbed the prosecutor's house of bonds, money, jewels, and deeds of different kinds to the amount or value of Rupees 40852 and with various acts of violence and cruelty to the prosecutor

and

26th July 1828.

and his mother-in-law.-

2 Even on the evidence for the prosecution there is not the slightest ground to believe that the prisoners went to the prosecutor's house with the intention of committing a robbery, or in fact with any felonious intent; and their subsequent conduct, as far as any certain knowledge of it can be obtained from the evidence, is inconsistent with such a belief.

3 There is no proof, nor the semblance of proof, that any money or jewels were taken away by the prisoners. All the witnesses concur in stating that Duftums only were taken away; and this is almost the only fact of importance on which the witnesses do not contradict themselves or each other.-

4 The relationship between the prosecutor and the prisoners is unquestioned; and it appears to the Court that the Head Assistant Magistrate and the Magistrate were quite warranted, the first in referring the prosecutor to the Civil Court, and the second in dismissing the complaint, which it must be presumed was a charge of robbery, on the ground that "it appeared in no respect borne out by the evidence." It is true indeed that the prisoners on their own shewing were punishable for a trespass; and it is to be regretted that the Magistracy did not take immediate measures for securing the property of which they had obtained forcible possession.-

After

26th July 1828.

5 After the most attentive consideration of the whole case the Court see no reason to doubt that the account given of the transaction by the prisoners is substantially correct, although it is probable that there was more violence on their part than they admit.-

The Court direct that the Criminal Judge in communicating to the prisoners their acquittal of the charge brought against them, will distinctly explain to them the culpability of their conduct in obtaining forcible possession of the bonds and accounts in the hands of the prosecutor, whatever interest they might consider themselves to have in those papers.-

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

(Sent following letter No. 273.)

Read letter dated 30th April last from the Acting Judge of the Court of Circuit in the Centre Division with record of the trial in Case No. 3 Cuddapah Calendar 1st Sessions 1827.- (Here enter No. 307)

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoners,

1st "Ramjee,"
2d "Goolabah,"
3d "Delavar,"
4th "Moongatiah,"
5th "Rolla,"
6th "Watiah,"

4th

26th July 1828.

7th "Eliah,"
8th "Buttayt,"
9th "Merah,"
10th "Mullaree,"

is sufficient to convict them of the crime of exc= =press murder committed in the prosecution of robbery by open violence do under the authority with which they are vested by clause first Sec= =tion II Regulation I of 1818 convict them thereof, and under Clauses 1st of 5th Section IV Regulation XV 1803 adjudge the prisoner,

1st "Ramjee,"

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

and the prisoners

2d "Goolabah,"
3d "Delaur,"
4th "Moongatiah,"
5th "Roella,"
6th "Totiah,"
7th "Eliah,"
8th "Buttayt,"
9th "Merah,"
and
10th "Mullaree,"

to receive severally 39 stripes with a rattan and to be 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.-

They further direct that the prisoners,

11th "Gungah,"
12th "Lukbahe,"
13th "Mashoosa,"
14th "Aukmony,"
15th "Roomshe,"
16th "Loobsomah,"
17th "Takeenah," and
18th "Bissoee,"

be

26th July 1828.

be released with an admonition.-

/Sent following letter No 274/

Read letter, dated 12th May last from the Acting Judge of the Court of Circuit in the Centre Division,- with record of the trial in case No 6 Chingleput Calendar 1st Sessions 1827.-

/Here enter No 320/

The 1st 2d and 3d Puisne Judges 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 acquitting the prisoners,

1st "Alagun,"
and
2d "Uppamoo,"

direct that they be set at liberty.-

/Sent following letter No 275/

Read letter dated 5th May last from the Acting Judge of the Court of Circuit in the Centre Division with record of the trial in case No 7 Chittoor Calendar Fourth Quarterly Sessions 1827.-

/Here enter No 308/

The 1st 2d and 3d Puisne Judges having maturely considered the Proceedings held before the Judge on Cir= =cuit the futwa of the Provincial Law Officer and the futwa of the Cazee= =ool= Coozat and Mooftees of the Foujdaree Udalut confirm such part of the futwahs of the Cazee= =ool= Coo= =zat and Mooftees aforesaid as convicts the prisoner

26th July 1828

prisoner,

1st "Brennan,"

and under the provisions of Section X Regulation VIII of 1802 adjudge him to suffer death by being hanged at the usual time and place of execution.-

And the 1st and 3d Puisne Judges concurring in opinion that the proof against the prisoner

2d "Doogan,"

is sufficient to convict him of the crime of express murder, they under the authority with which they are vested by Clause first Section II Regulation I of 1818 convict him thereof and sentence him to suffer death, as prescribed by Section X Regulation VIII of 1802, by being hanged at the usual time and place of execution.-

but

/Sent following letter No 276./

Read letter dated 14th February last from the late Second Judge late on Circuit in the Centre Division,- submitting record of the trial in case No 3 on the Cuttack Calendar of Sessions 1827.-

/Here enter No 1144/

The 1st 2d and 3d Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the Prisoner,

1st "Dhunt,"

is sufficient to convict him of the crime of express Murder committed in the prosecution of

26th July 1828.

of robbery by open violence, do, under the authority with which they are vested by clause first Section II Regulation I of 1818 convict him thereof, and under clause fifth Section IV Regulation XV 1803 adjudge him to be transported to such place 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 they direct that the prisoner,

2d "Roopee alias Goolbudden,"

be released with an admonition.-

/Sent following letter No 277./

Entd

At a Court of the Foujdaree Udalut

Present,

Wednesday 30th July 1828 — F. A. Grant Esquire, ---- 1st Puisne Judge
James Cochrane Esquire, ---- 2d Puisne Judge
William Oliver Esquire, ---- 3d Puisne Judge

Read letter dated 12th Ultimo from the late Second Judge late on Circuit in the Centre Division, reporting for mitigation of punishment in case No 6 Cuddapa Calendar 2d Sessions 1827.

Here enter No 379

In this case the prisoner is charged with a highway robbery, and is convicted on strong presumption according to the Futwah. Mr Newnham, it appears, does not believe that the prisoner was concerned in the robbery, and gives the strongest reasons for his disbelief. The prisoner recovered the plundered property however, which would probably not have been recovered without his exertions, and Mr Newnham recommends that the punishment prescribed for Highway robbery be mitigated to one years imprisonment without labour. Now the crime for which this punishment is to be awarded is compounding of felony, a crime for which the prisoner has not been tried; and Mr Newnham's letter goes a great way to prove his innocence of it. The Court accordingly direct that the prisoner Sara Goorooumpa be discharged forthwith

30th July 1828 forthwith.

Ordered that Extract of these proceedings be sent to the Judges of the Provincial Court of Circuit in the Centre Division for their information and guidance.-

/Sent following letter No /

Read letter dated the 12th Ultimo from the late 2d Judge late on Circuit in the Centre Division reporting for mitigation of punishment in Case No 8 Cuddalore Ch Calendar 2d Sessions 1827.-

/Here enter No 377/

The Court after mature deliberation are unable to discover sufficient grounds for mitigating the prescribed penalty in the above case. They accordingly direct that the late 2d Judge late on Circuit in the Centre Division or the Collective Court do issue a warrant for carrying into effect the Sentence prescribed by Law.

Ordered that Extract of these proceedings be sent to the Judges of the Provincial Court of Circuit in the Centre Division for their information and guidance.

/Sent following letter No

Read return dated the 15th Ultimo from the Second Judge on Circuit in the Northern Division, to precept dated 23d Ultimo calling for the trials in cases of Nellore Calendar 1st Sessions 1828.

(Here enter No 435.)

28th July 1828 from the Second Judge of the Provincial Court of Circuit in the Northern Division, stating that he has pointed out to a Magistrate the irregular proceeding of a police officer.-

(Here enter No 437)

F. C.

At a Court of the Fujdaree Adalut.

Present,

Thursday 3rd July 1828. — P. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read again petition presented by C. Vencataredy of the Zilla of Cuddapah. praying for the release of his relations, three prisoners in case No 19 of the Cuddapah Calendar 1st Sessions 1827.—

(Here enter F. Mis. Pet. No 7 of 1827.)

Ordered, that the petitioner be informed that the above Prisoners have been acquitted.—

Read petition presented by Ramah Bhavanee of the Zilla of Chingleput praying that her Son Ram Dassoo a prisoner in Case No 29 Chingleput Calendar 2d Sessions of 1825 who was sentenced by the then Circuit Judge Mr. Dacre to be imprisoned in irons for 14 years, may be ordered to be released.—

(Here enter F. Mise. Pet. No 13 of 1828.)

Rejected the sentence of a Circuit Judge being without appeal.—

F. A.

At a Court of the Fourjdaire Adalaut,

Friday, 1st August 1828 } Present,
F. A. Grant Esquire, ... 1st Puisne Judge
James Cochrane Esquire, ... 2d Puisne Judge
William Oliver Esquire, ... 3d Puisne Judge

The translations of the Circuit Courts proceedings in Case No 14 Chittoor Calendar 4th Quarterly Sessions 1827 not having been sent to this Court as called for under dates the 6th February and 5th June last,-

Ordered that the Provincial Court in the Centre Division be by precept commanded to send up the same within 15 days from and after receipt of this Precept;

Precept returnable in 3 days from the date of its receipt.-

F. U.

At a Court of the Foujdaree Adalut.

Present

Wednesday
6th August 1828. F. A. Grant Esqre
James Cochrane Esqre } Judges.
William Oliver Esqre

Read letter dated 30th ultimo from the 2d Judge late on Circuit in the Western Division explaining why No 8 in the Calendar of Malabar 1st Sessions 1828 was not tried.-

/Here enter No 457/

1. Mr Vaughan explains that No 8 was not tried because the Prisoner was acquitted of a graver charge in No 17.

2. It appears to the Court of Foujdaree Adalut that this was the very reason why he ought to have been tried. The charge in No 8 according to the Calendar was for rather a serious assault upon a woman; by no means for simply pushing her down a bank from which she suffered no injury; and from the evidence for the prosecution it appears highly probable that the charge would have been proved.-

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

/Sent following letter No 289.

F. U.

At a Court of the Foujdaree Udalut.

Present,

Thursday 7th August 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter, dated the 31st August 1827, from the 3d Judge late on Circuit in the Southern Division, - with report prescribed by Section XXXVII Regulation VII of 1802 for the 1st Sessions 1827.-

(Here enter No 371 of 1827.)

On the visit of the 3d Judge to the Jail at Trichinopoly, 40 prisoners complained that they had been confined for many whose charge that Jail is. The Magistrate on being called upon for explanation, stated that they had been apprehended on information that they belonged to the gangs of Appoo and Kantaum, and were detained while evidence was sought for sufficient to warrant their transmission to the Criminal Judge. Thirty one of them had since been released, and the remaining 9 sent on default of giving security to the Zillah Jail.-

2. These persons mostly it is presumed, have been apprehended under the last part of Section XIII Regulation IX of 1816. The Magistrate appears to think their

the

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their confinement in the Jail at Trichinopoly the only irregular part of his proceedings respecting them; if they were brought before the Magistrate at or near Trichinopoly such confinement was, the Court think justified, as the jail was under the Magistrate's charge and might therefore be used by him, as any other place of confinement, for a lawful purpose. But the detention of persons for months in custody by a Magistrate on suspicion, in any place of confinement, is a thing unwarranted by the Regulations, and a very objectionable stretch of authority. Regulation IX of 1816 is full of precautions against arbitrary apprehension on insufficient grounds; and that suspicion must be far too vague to warrant apprehension which does not admit of being sufficiently confirmed, or removed, in the course of a few days to justify transmission to the Criminal Judge or release. No precise period can be laid down for which persons may be so detained; but it may be laid down for certain that, except in very peculiar cases, (in which all the circumstances that render them peculiar ought to be fully detailed) the detention of any person by a Magistrate on suspicion of having committed a heinous crime for more than a very short period, is a

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thing exceedingly repugnant to the spirit of the Regulations.—

3. It appears that the same Magistrate having found occasion to reduce the allowance of the convicts in the jail under his charge, 88 of the convicts became very indolent and refractory and refused to go out to work: whereupon the Magistrate ordered the 6 most rebellious to receive 24 lashes each; and 23 others 18 lashes each. The Magistrate adds "order was in consequence restored and I heard no more of refusal to go to work".—

4. A Magistrate in charge of a Jail must be considered, the Judges think, as vested with the powers of a Criminal Judge under Sections XXVII, XXVIII and XXIX of Regulation X of 1816 and the Jail Rules 8th October 1821, neither of which give the power of inflicting corporal punishment upon Prisoners: the punishments therefore inflicted by the Magistrate of Trichinopoly were illegal and unauthorized. Section XXXIII of the Jail rules provides for "riots and disturbances and attempts at resistance" in a jail; under which denominations the conduct of the prisoners in question is comprised, and the discipline prescribed for it is to put them in chains and handcuffs. This is all that the Magistrate of Trichinopoly had power to do.

The

7th August 1828.

The 3d Judge will furnish the Magistrate with a copy of the preceding Paragraphs.

6. The crowded and ill-ventilated state of the Gaol at Madura was reported to Government under date the 13th March 1827: the Court have no knowledge what measures were taken in consequence.

7. With reference to the account in Para 8 of the continued unhealthiness of the Gaol at Salem, the Court direct that copies of all communications between the Judge of Salem and the Provincial Court under the authority granted to the latter in this Court's orders 14th August 1820 may be transmitted to this Court.

8. In Para 10 Mr Bird has brought under review the state of the Law established by Section VIII Regulation I of 1825, the last sentence of which Letter he observes renders the former part nugatory in most cases in which the prisoner is a Mahomedan, and he proposes that either that sentence should be rescinded or a report substituted for the reference of the trial thereon prescribed—

9. Section VIII Regulation I of 1825 was transferred into the code of this Presidency from Bengal Regulation VII

Sic: V.

F. H.

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pleased to recommend to the consideration of this Court the expediency of empowering Judges of Circuit to overrule Futwahs of acquittal which they considered contrary to the evidence. This Court objected to such a power being granted, on the grounds that it would defeat the uniformity of decision aimed at by the constitution of the Court of Foujdaree Adawlut, deprive prisoners of an important advantage in the reference of doubtful cases to a superior tribunal, and, owing to the often deficient qualifications of Circuit Judges, open a wide door to erroneous sentences. The Court therefore proposed, instead of such a power, the introduction of Section V Regulation XVII of 1817 of the Bengal Code, which, they observed, comprised all that the long judicial experience of Bengal had thought it safe to entrust to individual judgment.

2d Register's Letter to Govt dated 24th May 1824

10. The Court fully concur in the objections above stated to the measure of vesting the Judges of Circuit with a discretionary power to overrule the Futwa in all cases of acquittal by the Mohummudan Law Officer, but the suggestions of Mr Bird have led them to a detailed consideration of the provisions of Section VIII Regulation I of 1825, and they

are

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are inclined to think that the powers of the Judges of Circuit may be still further extended without any infringement of the general principles of the Regulations, and with great advantage to the public service.

11. A difference of decision respecting the guilt or innocence of a prisoner under trial, arising from the admission by the Judge of certain evidence, which the Law Officer rejects solely on the ground of personal exceptions to the witness giving it, is quite another thing from a difference of opinion as to the general effect of the evidence, when there are no personal exceptions to the witnesses, or when the exceptions are removed. In the latter case the Court think that the power of over-ruling the Futwa and passing sentence should still be confined, as at present, to the Court of Foujdaree Adalut; but when the acquittal of the prisoner by the Mohummudan Law Officer proceeds, not on objections to the matter of the evidence, but on exceptions strictly personal to the witness, the Court are of opinion that the power of passing sentence might be intrusted to the Judges of Circuit, whether the conviction of the prisoner depends principally or exclusively on the testimony of the witness

or

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or witnesses objected to by the Mohummudan Law Officer.

12. The personal exceptions to witnesses most commonly occurring in practice are 1st that they are Officers of Police, or the persons who took the prisoner into custody; 2ndly that they are Zimmees, or persons not of the Mohummudan persuasion, when the prosecutor is a Mussulman; 3rdly that they stand in the situation of prosecutor, when they have been injured, however slightly, by the prisoner; 4thly that they are women, in certain cases; 5thly that they are near relations of the prosecutor; and 6thly that they are masters, servants, or slaves of the prosecutor, including Officers of Government, when the prosecution is on behalf of Government. The Court believe that under the English rules of evidence no person of the descriptions above enumerated, except husband and wife, would be considered as an incompetent witness, although perhaps the relative situation of some of them, and the natural wishes, and feelings, or interest of others might be held to affect their credit, and their evidence would be received with a proportionate degree of caution; and upon the whole the Court think that there can be little

danger

one

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danger in removing the restriction contained in the last period of Section VIII Regulation I of 1825, and empowering Judges of Circuit to sentence to the prescribed punishment in cases wherein they are authorized to pass sentence, when the acquittal of the prisoner by the Law Officer is grounded solely and exclusively on the above-stated personal exceptions to the witnesses against him, and not in any respect on the insufficiency of the evidence, or other objections separate and distinct from the incompetency of the witnesses under the Mohummudan Law. A provision to this effect would considerably diminish the number of references to the Court of Vaydanee Adalut, the object which Section VIII Regulation I of 1825 had in view, but which has been nearly defeated by the restriction contained in the concluding period of the Section; for there are very few trials in which some of the most material witnesses are not liable to one or other of the exceptions above specified, particularly the 1st 2nd and 3rd, and consequently few in which the Judges of Circuit can proceed to pass sentence, unless there happens to be a duly-attested confession corroborated by circumstantial evidence not objected to by the Law Officer.

13. The Court think that the exceptions which

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which the Judges of Circuit may be empowered to over-rule should be particularly specified and defined, in order to obviate the mistakes which might arise from a general description like that in Section VIII Regulation I of 1825; and if the Right Honourable the Governor in Council should see fit to sanction the proposed modification of that Section, the Court will prepare the draft of a provision for that purpose.

In para 11 Mr. Bird adverts to the great and increasing prevalence of Perjury; and appeals to this Court to suggest some further expedient to check it. The Judges are unable to offer any present recommendation upon this subject; and look to the slow process of education and general improvement in the state of the country and moral feelings of the people as the only reasonable ground of hope.

14. The Court have however some reason to believe that it is a common opinion among natives of intelligence and observation, that the forms of oath in use in our Courts are not the most binding that might be adopted. The Court resolve to institute some

7th August 1828

some enquiries upon this subject, with a view to make a practical use of any promising suggestions.-

6. The last point in Mr Bird's Report is an application for instructions whether Clause first Section III Regulation II of 1822 is applicable to persons of rank and property. What gave rise to the question was a requisition by the Magistrate of Tanjore of security to the amount of Rupees 30000 under that Clause from the Poligar of Palamcoor, and some of his principal adherents, as suspicious persons and persons of notoriously bad character. The Judges think that persons in respectable situations in life, whatever their conduct or character might be, were not intended to be included in that enactment.-

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

Sent following letter No 290.

Ordered also that copy of the Report and extract of this proceedings be sent to the Secretary to Government in the Judicial Department to be laid before the Governor in Council.-

(Sent following letter No 291.

Read

9th August 1828

Read letter dated 30th ultimo from the Criminal Judge in the Zilla of Malabar forwarding copy of a Warrant for the banishment of Six Prisoners in case No 17 Malabar Calendar 2d Sessions 1828.-

(Here enter No 401)

The Court of Foujdaree Adalut direct that the prisoners,

1st "Kallen Moidootty",
2d "Pokat Sapoo Nair",
3d "Manatapparamben Moideen Cooty",
4th "Nedia Moideen",
5th "Munnee Mamoodoo" and
6th "Valiapistiakel Moideen",

be removed to the Jail in the Zilla of Coimbatoor from thence to be imprisoned agreeably to the terms of their sentences.-

Ordered that extract of this Proceedings be sent to the Criminal Judge in the Zilla of Malabar and to the Joint Criminal Judge at Coimbatoor for their respective information and guidance.-

(Sent following letters No 292.

Read Petition presented by Mungalee and Cuggalee praying that the case of their Husbands Cuggoo and Motah respectively who have been sentenced by this

The

7th August 1828. this Court to transportation, may be reinvestigated.-

(Here enter Misc. Pet.n No 19 of 1828)

The sentence was passed on the fullest consideration of the Evidence in the case, and it is irreversable.-

Ld. Atty

No.

F.C.

At a Court of the Foujdaree Udalut,

Present,

Monday 11th August 1828 } T. A. Lyrant Esquire ..... First Puisne Judge
James Cochrane Esquire ..... Second Puisne Judge
William River Esquire .... Third Puisne Judge

Read again letter dated 4th April last from the First Judge late on Circuit in the Centre Division submitting Pellary Calendar 1st Sessions 1828.-

(Here enter No. 234)

The records of the proceedings held by the 1st Judge in cases Nos 3, 8, 12, 15 and 20, of the above Calendar, which according to the remarks entered therein are to be referred to the Foujdaree Udalut not having been received,-

The Court direct that the First 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 abovementioned within 30 days from the date of the receipt of the precept.-

(Sent following precept No 295.)

Read again letter dated 29th March last from the Second Judge late on Circuit in the Northern Division submitting Rajahmundry Calendar 1st Sessions 1828.-

(Here enter No. 230)

The

7th Augt 11th August 1828.

The record of the proceedings held by the Second Judge in case № 7, of the above Calendar, which according to the remark entered therein is to be re=ferred to the Toydaree Udalut, not having been received,-

Ent. Bk

The Court direct that the Second Judge late on Circuit in the Northern Division be by precept commanded to send up the record of the proceedings held by him in the case abovementioned within 30 days from the date of the receipt of the Precept.-

Ent. Bk

Ent following precept № 294

Read letter dated the 29th Ult. from the Third Judge on Circuit in the Northern Division, reporting his arrival at Nellore.

(Here enter № 457)

Read return, dated the 6th Inst. from the Provincial Court of Circuit in Centre Division, to precept dated 1st Instant calling for the translations of Circuit Courts proceedings in Decr. Sessions Chittoor Calendar 4th Quarterly Session

(Here enter № 458.)

F. C.

At a Court of the Foujdaree Udalut

Present

Thursday 14th August 1828 — W. A. Grant Esquire ... First Puisne Judge
James Cochrane Esquire ... Second Puisne Judge
William Oliver Esquire ... Third Puisne Judge

Read Miscellaneous Petition presented in person by Lutchmana Pillay Zillah of Combaconum.-

(Here enter F.C. Misc. Pet. № 16 of 1828)

1. The object of this petition is the restoration of some property, the robbery of which (the Petitioner states) was proved before the Court of Circuit, and remuneration at the expence of the robbers for such of it as is not forthcoming. The Petitioner mentions that the offenders have been enabled to withhold some of the property in question through the assistance of a late Police Officer and other public servants whom he states they bribed with that object.-

2. On reference to the Combaconum Calendar for the First Session of 1827 it appears that the evidence on the trial in the opinion of the Judge on Circuit was not sufficient for the conviction of the prisoners or any of them. The 3d 4th 5th 7th and 8th were accordingly released unconditionally but on the grounds of suspicion attaching to the 1st 2d 6th 9th 10th 11th and 12th security was required from them previously to their

14th August 1828. their discharge.-

3. The petitioner states that the property produced on the trial as having been found on some of the prisoners has been restored to him; but that he has subsequently found upon the 2d prisoner, Kagapilly,- one of those ordered to be released on security,- other property, which is held in deposit by the Criminal Court.-

4. The petitioner is no doubt entitled to the restitution of such property as he may be able to identify as his own. but for such of his property as is not forthcoming he cannot obtain an equivalent under the existing Regulations.-

5. There are some points however on which the Court consider it proper to call for further information; and they direct that a copy of the foregoing petition be sent to the Judge who presided at the trial of No. 31. on the Combaconum Calendar for the 1st Sessions of 1827; with instructions to ascertain and report the circumstances under which property belonging to the petitioner was found, as is alleged, upon the 2d prisoner subsequently to the trial; and whether the petitioner has made any formal charge of corruption against any of the servants of the Criminal Court or of the Magistrate; and if so, what proceedings have been held thereupon. Mr. Bird will also be pleased to report whether in the evidence on the trial

14th August 1828. trial there appeared any thing to implicate Chinnasamy Ayen, whom the petitioner charges as being the leader of the gang who plundered his house; or whether any proceedings were had against him.-

Ordered that extract of these proceedings be sent to the Third Judge late on Circuit in the Southern Division by precept returnable without delay.-

/Sent following precept No 298/

Read letter dated the 5th Instant, from the Criminal Judge in the Zilla of Malabar, forwarding three warrants for the banishment of five prisoners to any Zilla selected by the Foujdaree Adalut.-

/Here enter No 1727/

The Court of Foujdaree Adalut direct that the prisoners,

1st "Pouni Koonjoyee",
2d "Palicherry Markar Koolly"
3d "Pulikat Koolly Mamada",
4th "Pootooketarail Vakara Pura Koolly,
and
5th "Kadoomanil alias Ned-ngolil Ally Atten",

be removed to the Jail at Tellichinopoly there to be imprisoned agreeably to the terms of their sentences.-

Ordered that extract of these Proceedings be sent to the Criminal Judge in the Zilla of Malabar and to the Acting Criminal Judge at Combaconum for their respective information and guidance.-

/Sent following letters No. 299.

F. H.

At a Court of the Fayedance Detachment

Present

Tuesday
26th August 1828

L. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge

Read again the letter dated the 12th May last, from the Second Judge late on Circuit in the Northern Division submitting Chicacole Calendar 1st Session 1828.—

(Vide enter No 341)

The records of the proceedings held by the Second Judge in cases Nos 3, 10, 11, 12, 14, and Supplimental No 2 and Second Supplimental No 1 of the above Calendar which according to the remarks entered therein are to be returned to the Fayedarie Adalut not having been received.—

2. The Court direct that the Second Judge late on Circuit in the Northern Division, be by precept commanded to lead up the records of the proceedings held by him in the cases above enumerated within thirty days from the date of the receipt of the precept.—

Court following precept No 339

F. H.

At a Court of the Fouzdaree Adalut
Present,

Wednesday 27th August 1828.

F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2nd Puisne Judge.
William Oliver Esqre 3rd Puisne Judge.

Read letter, dated the 11th Instant from the Criminal Judge in the Zilla of Malabar forwarding copies of two Warrants for the banishment of five prisoners in cases Nos 10 and 23 Malabar Calendar 2nd Sessions 1828.—

(Execution No 501)

The Court of Fouzdaree Adalut direct that the prisoners

1st "Karaamagat Chungaren,"
2nd "Kayatil Kumoo,"
3rd "Soopisungandeagatha Mumee Koothy,"
4th "Seim Kayiparambata Chogee Koothy,"
and
5th "Chalion kololate Kandappan,"

be removed to the Jail at Tricknopoly there to be imprisoned agreeably to the terms of their sentences.—

Ordered, that extract of these proceedings be sent to the Criminal Judge in the Zilla of Malabar and to the Magistrate of Tricknopoly for their respective information and guidance.—

Sent following Precepts &c.

Read

27th August 1828.

Read letter, dated the 9th April last, from the Chief Judge in Circuit in the Southern Division with record of the trial in case No 3 Confirmation Calendar 1st Sessions 1828.

(Hereinafter No 253).

Mr Grant and Mr Cochrane

The First and Second Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoners

1st "Ramasamy Tauen,"
2nd "Valen,"
3rd "Chelumbrum," and
4th "Veeren"

is sufficient to convict them of the crime of Culpable homicide, do under the authority with which they are vested by Clause first Section II Regulation I of 1818 convict them thereof, and in conformity with the provisions of Clause second of the said Section do hereby require their Law Officers to declare by a second future to what specific punishment the prisoners would have been liable under the Hindoo or Muhammadan law if they had been convicted by full legal evidence of the crime aforesaid.

Ordered, that extract of these

27th August 1828

proceedings be translated and delivered to the Provincial Fiscal and Mootsees of the Provincial Courts

At a Court of the Zillah Calcutta.
Present,

Thursday,
28th August, 1828 — F. A. Grant Esqre. / James Cochrane Esqre. / William Oliver Esqre. } Judges.

Read Petition presented in person by Meer Moortoza Khan Zillah of Guntoor.—

(Here enter F. Misc. Petn. No 20 of 1828.)

The Petitioner states that he and one of his adversaries preferred counter charges before the Magistrate of Guntoor and Police Officer respectively that although he was innocent and his adversaries had wounded him, robbed him, and set fire to his house the only result of the investigation was his being fined in the sum of 50 Rupees by the Magistrate against whose proceedings he states himself to have appealed to the Circuit Court without effect. The petitioner also submits a notice in which the Magistrate refers to his absconding and invites him to complain and a copy of a certificate signed by a European Medical Officer shewing that about the alleged period he had been violently beaten and he prays for the restoration of his property and

28th August 1828. Read letter dated the 16th Instant, from the Third Judge on Circuit in the Western Division, reporting his intention to leave Calicut for Tellicherry.—

(Here enter No 502)

Read letter, dated the 20th Instant, from the Provincial Court of Circuit in the Centre Division, with a returned warrant for the execution of prisoners in case No 7 Chittoor Calendar 4th Quarterly Sessions 1827—

(Here enter No 503.)

Read letter dated the 19th Instant, from the Third Judge on Circuit in the Northern Division stating his intention to leave Nellore for Rajahmundry via Masulipatam.—

(Here enter No 570)

Read letter dated the 18th Instant from the Third Judge on Circuit in the Southern Division, with Copies of Madura Calendar 2d Sessions 1828.—

(Here enter No 504)

F. H.

At a Court of the Foujdaree Adawlut.

Present,

Monday 1st September 1828. R. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge.

24 H. 2 D.

Read the second sentence delivered in case No 3 Combaconum Calendar First Sessions 1828 by the Cazee ool Cozat and Mooftees of the Foujdaree Adawlut—

In commutation of the death declared in the foregoing sentence Messrs Grant and Cochrane Puisne Judges do sentence the prisoners,

1st "Ramasamy Savan,"
2nd "Valen,"
3rd "Chelumchen,"
and
4th "Veeren,"

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

(Vide following letter No

Ex. H.

24 H.
2 D.

At a Court of the Foujdaree Adalut-

Present,

Saturday 8th September 1838

F. A. Grant Esqre
James Cochrane Esqre
William Oliver Esqre
} Judges

Read letter, dated the 3d May last, from the 1st Judge on Circuit in the Southern Division transmitting record of the trial in case No 10 Salem Calendar 1st Sessions of 1838.

(Here enter No 311)

Read also letter dated the 10th June last, from the Provincial Court in the Southern Division, submitting copy of a police officers urzee in the matter of No 5 Salem Calendar 1st Sessions 1838.

It appears to the Court that a very material fact disclosed in the evidence before the Police Officer in this case has been overlooked. The witness Vencatammal (Page 24) says that on the second night preceding the murder the deceased came with her children to deponents house, saying that her husband was not in his right mind as he had been before and that she was therefore afraid to sleep in her house with her children." This ought to have attracted

attracted attention; and all the witnesses
6th September 1828. should have been particularly interrogated
as to the prisoner's state of mind at the time.
The Court accordingly direct that the 3d Judge
now on Circuit do on his arrival at Salem
or as soon after as possible re-examine the
first, second, third and fourth witnesses before
the Court of Circuit touching the state of the
prisoner's mind at and about the time of
the murder. The questions put to them and
the other witnesses by the Judge who presides
at the trial respecting the character and
disposition of the prisoner are far too
general to lead them to speak of the
prisoners sanity or insanity; and it is
obvious that this is a point which did
not enter into his consideration.

2. If the attendance of the
witnesses above-mentioned should not
be procurable, some other persons
well acquainted with the prisoner ought
must be summoned and examined on
the point in question.

Ordered that extract of these
proceedings with the record of the trial
be sent to the 3d Judge on Circuit in the
Southern Division by precept returnable
without delay.

That following Precept No 324.

Read letter, dated the 28th Ultimo
6th September 1828 from the Third Judge Circuit in the
Southern Division, acknowledging
precept and begging leave to postpone
his return to it.

(Here enter No 516.)

Read letter dated the 28th Ultimo
from the Third Judge on Circuit in the
Southern Division, reporting his arrival
at Combaconum.

(Here enter No 520.)

Read letter dated the 29th Ultimo
from the Provincial Court of Circuit in
the Centre Division, with death warrant
in No 3 Cuddapah Calendar 1st Sessions 1828.

(Here enter No 522.)

F. 11.

At a Court of the Fujdaree Udalut.

Present.

Monday 8th September 1823. F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter dated the 3d Instant,
from the Provincial Court of Circuit in the
Southern Division, recommending an offer
of pardon to one or more accessaries to a
certain murder.

(Here enter No 537.)

It appearing to the Court, on
considering the foregoing representation
that the offer of a conditional pardon to
one or more of the prisoners who are suppos
accessories to the murder may lead to the
conviction of the principal Offenders, it is
resolved to recommend to the Governor in
Council that a pardon may be offered
accordingly on the conditions specified
in Section XX Regulation VIII of 1802.

Ordered that extract of these
proceedings be sent to the Secretary to
Government in the Judicial Department
for the orders of the Governor in Council.

(Sent following letter No 325

Read

To Govt. 9 Nov 08.

Answered 12th Sept. N. 552.
Sent in 27/16 D.

8th September 1828

Read letter, dated the 10th April last, from the Second Judge late on Circuit in the Centre Division with record of the trial in case No. 1 supplimental Calendar of the Zilla of Chingleput 2d Session of 1827.

(Here enter No 255.)

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoners,

1st "Ramasawmy pillay,"
2d "Sunneasee,"
3d "Comarun," and
4th Aureappah Nadaun

is sufficient to convict them of the crime of Robbery by open violence attended with aggravating circumstances do under Clause first Section II Regulation I of 1818 convict them thereof, and under clauses second and fifth Section IV Regulation XV of 1803 and Clause third Section II Regulation I of 1825 sentence the

1st "Ramasawmy pillay" and
4th "Aureappah Nadaun,"

severally to receive thirty nine stripes with a rattan and to be transported

8th September, 1828.

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—

And the

2d "Sunneasee," and
3d "Comarun,"

severally to receive thirty nine 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 fourteen years

And concurring in opinion that the proof against the prisoner,

5th "Challun,"

is sufficient to convict him of the crime of receiving stolen property knowing at the time of receiving the same that such property had been obtained in the perpetration of robbery by open violence, they under Clause first Section II Regulation I of 1818 convict him thereof and sentence him to be imprisoned and kept to hard labor in irons on the public roads or other public works for eight

8th September 1828

eight years, as prescribed by Clause second Section IV Regulation VI of 1822.

(Sent following letter No 326.

Read return dated the 3d Instant, from the First Judge Cutcherry on Circuit in the Centre Division, to precept dated 11th ultimo calling for the records in cases Nos 3, 8, 12, 15 and 20 Bellary Calendar 1st Sessions 1828.

(Here enter No 330.)

F. H.

At a Court of the Foujdaree Adalut

Present

Tuesday 16th September 1828.

F. A. Grant Esquire, ---- First Puisne Judge
James Cochrane Esquire, ---- Second Puisne Judge
William Oliver Esquire, ---- Third Puisne Judge.

Read letter dated 10th April last from the First Judge on Circuit in the Southern Division, with record of the trial in case No 15 Combaconum Calendar First Sessions 1828.

(Here enter No 2164)

The First & Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner, "Saminaden," is sufficient to convict him of the crime of Robbery and Murder do under clause first Section II Regulation I of 1818 convict him thereof and under clauses first and fifth Section IV Regulation XV of 1803 and clause third Section II Regulation I of 1825 sentence him to receive 39 stripes with a rattan and to be 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

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works for and during the period of his natural life.-

/Sent following letter No 336A/

Read letter, dated 19th May last from the late 2d Judge of the Court of Circuit in the Centre Division with record of the trial in Case No 14 Chingleput Calendar 2d Sessions 1827.

/Here enter No 336/

The First and Third Puisne Judges 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 such part of the futwa of their Law Officers as acquits the prisoners,

2d "Chinnapien alias Sutchoomanun",
3d "Appanoo", and
4th "Ramapadiachy",

and direct that they be set at liberty.-

And concurring in opinion that the proof against the prisoners,

1st "Namadevoy Pillay",
5th "Cauthalpadiachy"
6th "Chinnan",
and
7th "Alagun",

is sufficient to commit them of the crime of Robbery by open violence attended with aggravating circumstances do under clause first Section II Regulation I of 1818

commit

commit them thereof and under Clause second Section IV Regulation XV of 1803 and Clause third Section II Regulation I of 1825 sentence them severally to receive 39 stripes with a rattan and to be 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.-

/Sent following letter No 336B/

Read letter dated 31st May last from the First Judge on Circuit in the Southern Division with record of the trial in case No 18 Combaconum Calendar 1st Sessions 1828.-

/Here enter No 349/

Mr Cochrane and Mr Oliver

The Second and Third Puisne Judges 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 acquit the prisoners,

1st "Costapermal Gandavanoyen",
2d "Alagapen"
and
3d "Mooken",

but considering that suspicion attaches to them they direct that under Clause sixth Section II Regulation XV of 1803 they be required severally to find two sureties in Fifty Rupees each, for their good

15th Sessions

15th September 1828.

good behaviour and appearance when required within one year or in default thereof that they be detained for one year in confinement.

/Sent following letter No 336 C./

Thursday 13th September 1828

At a Court of the Magistrates Adalat.

Present:

J. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read the following

Letters

From the 1st Judge in Circuit in the Centre Division dated the 29th December 1820 informing that the Servants attached to the Court of Circuit proceeded to Chittore on the 20th ultimo and stating that 25 one Public Native and 4 Extraordinary have been detained for the purpose of getting ready case No 2 of the Chingleput Calendar and cases Nos 9 and 13 of the Bellary one which are herewith forwarded also transmitting the Report prescribed by Section XXXVII Regulation VII of 1802 for 2d Sessions 1820.

(Here enter No 750 of 1820.)

From the 1st Judge of the Court of Circuit in the Centre Division dated the 19th November 1827, with report prescribed by Section XXXVII Regulation VII of 1802 for the second Quarterly Sessions 1827.

(Here enter No 500 of 1827.) From

18th September 1828

From the 1st Judge of the Court of Circuit in the Centre Division dated the 20th November 1827, with report prescribed by Section XXXVII Regulation VII of 1802 for the third Quarterly Sessions 1827

(Hereunto No 502 of 1827.)

1. The Prisoners mentioned in Para 10 of the first of the foregoing Reports are entitled to the benefit of Clause second Section XI Regulation VI of 1827. Adverting to that Paragraph and to the list referred to in Para 14 of the 3d Report, the Judges resolve to call for lists of persons detained in confinement in all the Jails previous to the 1st July 1827, under requisitions of Security by Magistrates, Criminal Judges, Judges on Circuit and the Bundaree Board, and still remaining in confinement on that account. Regulation VI of 1827 must have come fully into operation in every part of the territories of this Government by that date; and it provides sufficient security against undue detention on demand of Security after it came into force.

2. The Khat prisoner in Bellary Jail mentioned in page 36 of the 1st Report was delivered to his relations on the 7th April 1827, after it had been ascertained that

17th September 1828

that they were able and willing to receive charge of him.

3. Warrants for apprehension which do not contain the names of the persons to be apprehended under them, as mentioned in para 55 of the 1st Report and referred to in para 25 of the 3d Report are not in the form prescribed in No 3 of the Appendix to Regulation IX of 1810, and are illegal. The Judge on Circuit should have notified this to the Magistrate whose signature the Warrants bore.

4. The propositions in para 57 of the 1st Report, referred to also in para 25 of the 3d Report of compelling Prosecutors for robberies to swear to the robbers when they know them, and to the articles robbed, before the Heads of Police, could not be adopted without giving Heads of Police power to administer oaths, which power they have not at present. The previous enquiry enjoined by Clause first Section XXVII Regulation XI of 1816, if performed in the Spirit intended, is believed by the Court to be more than a sufficient substitute. There is however much reason to believe that this enquiry is often neglected; and where there is ground to believe that such neglect has occurred, Judges on Circuit should invariably bring it

8. 18th September 1828

it to the Magistrates notice. A Magistrate under Clause first Section XII Regulation IX of 1816 has already power to call for a Statement of Stolen property on oath, it is in fact, part of the Prosecutor's charge.-

5. The Court do not see sufficient grounds for entertaining the propositions in para 62 of the first Report and referred in para 29 of the 2d of appointing Cutwalls "Coroners." - Cutwalls are only occasional (1) officers, and can scarcely be considered as one of the regular component parts of the existing system of police. The attendance of Heads of District Police at inquests is not indispensable; (2) and abundant provision (3) is made for the performance of the duty in their absence.-

6. The Court are not prepared to offer a recommendation to Government on the subject of allowing Prisoners to employ Vakeels for their defence, as proposed in para 65 of the 1st report and referred to in para 31 of the 3d. The subject however has been brought forward from other quarters, and is one which the Court bear in mind for further consideration.

7. In para 15 of the 2d Report and paras 10 and 11 of the 3d it is proposed to substitute half-yearly for quarterly

(1) See XXIV Reg. XI of 1816

(2) See XXV Reg. XI of 1816

(3) See XIII Reg. XI of 1816

F. H.

15th September, 1828

jail deliveries at Chittore - on the ground of the small number of commitments at the 4 Sessions and the interruption occasioned by those Sessions to the Civil business of the Court.

8. The Judges think that the interruption occasioned by the Criminal Sessions must be the same whether they are held 4 or 2 yearly; and that the benefit of an early trial should be granted to all prisoners wherever it is possible -

9. Definitive orders were passed by this Court respecting the three prisoners mentioned in para 13 of the 8d Report, in their Proceedings of the 12th June last para 1, which have been laid before Government.

With reference to the Precepts and returns enclosed in the 8d Report regarding the arrangements in Chittore jail the Court remark that most of the points referred to in them were settled by this Courts proceedings 28th July 1824; which received the full concurrence of Government in the Judicial Secretary's letter 17th August following, both which were sent to the Provincial Court. The only additional remark which appears to the Court to be now necessary is that a detailed list of the employment of every Prisoner by name would be unnecessary and burdensome both

both to keep and to refer to: the proper
18. 13th September 1828. mode of conveying all requisite information
to the Circuit Judge is a statement shewing
the number of separate works on which
Prisoners are and have been employed since
the last visitation, and the number of
Prisoners (in the gross) employed on each.
Ordered that extract of these
proceedings be sent to the Provincial Court
of Circuit in the Centre Division for
(1) See their information and guidance.
sent.
(Sent following letter No 338)
Ordered also that copy of the
foregoing Reports and extract of these
proceedings be sent to the Secretary to
Government in the Judicial Department to
be laid before the Governor in Council.
(Sent following letter No 339.

No report having been made
to this Court of the release of the three
prisoners Seeharam, Changulroy pillay
and Chengadoo in confinement in Chittoor
jail as directed in its Proceedings 12th June
last para 1; ordered that the Provincial
Court for the Centre Division be by
Precept commanded to call upon the
Criminal Judge of Chittoor to report whether
these persons have been released; and if
not, why?

(Sent following Precept No 340)

Read letter, dated the 13th Instant,
13th September 1828. from the Second Judge on Circuit in the
Centre Division, repeating his arrival
at Bellary.
(Vide enter No 550.)

At a Court of the Foujdaree Udalut.

Present

Thursday 25th September 1828.

F. A. Grant Esqre 1st Puisne Judge.
William Oliver Esqre 3d Puisne Judge.

Read letter dated the 11th May last, from the Second Judge on Circuit in the Western Division, with record of the trial in case of 10 Canara Calendar first Sessions 1828.-

(Here enter No 329)

The First and Third Puisne Judges 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 acquit the prisoner,

1st "Venkoo alias Venkoo,"

but considering that strong suspicion though not amounting to conviction attaches to him they under Clause sixth. Section II Regulation XV of 1803 direct that he be required to find two sureties in one hundred Rupees each for his good behaviour and appearance when required within three years, or in default thereof that he be detained for three years in confinement

And under Clauses third and fifth Section

25th September, 1828.

Section IV Regulation XV of 1803 and Clause second Section II Regulation I of 1825 thay adjudge the prisoner

2d "Ogga,"

to receive thirty 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 under Clause second Section IV Regulation VI of 1822 adjudge the prisoner

3d "Simpa,"

to receive thirty 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 eight years

The Court have considered the evidence against the first prisoner in this case too defective to convict him. It consists of nothing but his alleged confession before the Police Officer, and his account of the circumstances under which that was given is partly corroborated by the witness for the prosecution. To admit it therefore against him any further than as a ground for requiring him to find security for his future good behaviour and appearance when required, does not seem allowable.

proceedings be sent to the Second Judge on
25th September, 1828. Circuit in the Western Division for his information

Sent following letter No 345/

Sent 27 Oct/28

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F. H.

At a Court of the Fujdaree Adalut.

Present,

Monday. 29th September 1828. F. A. Grant, Esqre. James Cochrane Esqre. William Oliver Esqre. C. B. } Judges.

1. It appearing that the wording of the circular orders of the 28th January and 25th August last imply a distinction between entries by night and entries by day into a dwelling house or other place of habitation, or into a warehouse or other place used for the custody of property, with intent to steal, the Court of Fujdaree Adalut consider it necessary to explain that entry, which constitutes a breaking by night, must in law be deemed a breaking, if committed by day.

2. It being desirable, however, that means should exist of ascertaining the comparative prevalence of entries by night and entries by day with intent to steal, the Criminal Judges and Joint Criminal Judges will still continue to specify in their abstracts of charges whether the offence of breaking was committed in the day time or by night.—

Ordered that copy of the above circular order be sent to the four Provincial Courts of Circuit for the information

information and guidance of all the Criminal
18th 29th September 1828. and Joint Criminal Judges subordinate to
them respectively; and also to the Secretary
to Government in the Judicial Department
to be laid before the Governor in Council.
(Sent following letters N 348A)

Sent
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Tuesday,
30th September
1828.

At a Court of the Tongdaree Adalut
Present.
F. A. Grant Esqr 1st Puisne Judge
James Cochrane Esqr 2nd Puisne Judge
William Blacker Esqr 3rd Puisne Judge

Read letter dated the 20th June
last from the First Judge at Cuttack Circuit
in the Centre Division submitting Chungle
put Calendar 1st Sessions 1828.
(Received N 392)

The record of the proceedings
held by the First Judge in case No 9 of the
above Calendar, which according to
the remarks entered therein is to be
referred to the Tongdaree Adalut not
having been received.

2 The Court direct that the
First Judge at Cuttack in the
Centre Division be by precept commanded
to send up the record of the proceedings
held by him in the case above mentioned
within twenty days from the date
of the receipt of the precept.
(Sent following precepts N 5

F. C.

At a Court of the Toungdaree Adalitck

Present

Thursday
23d October 1828

F. A Grant Esqre
James Cochrane Esqre
William Oliver Esqre
} Judges

Read letter dated 4th July last from the First Judge late on Circuit in the Centre Division, in reply to the Court's observations on the Bellary Calendar First Sessions 1828 -

(Here enter No 40 of 1828)

In No 4 of the Bellary Calendar a second Futwa should have been required supplying the First as well as the others respecting the sentence of Imprisonment. The second Futwa however supplies the omission in the question.

2. by the 1st Judge states that he considered a futwa of "Johmut-e-doozdee" and liable to Corbohut" as a conviction. It has been repeatedly declared by this Court that a futwa of simple Johmut does not warrant any punishment — but only the requisition of security — "Johmut" is suspicion not sufficient for conviction. As however the second Futwa declared the first Prisoner convicted the sentence need not be disturbed.

3. With reference to the 5th Para of 1st Judge's letter, the Court to observe that

2d October 1828

that there does not appear to be any reason why a delay in delivering the Cutwa should delay the decision of the Judge, as the knowledge of the Cutwa is not necessary in order to the Judge's forming his decision, but only to regulate his subsequent proceedings. The Judge's opinion on the merits of a case should be always wholly independent of the Law Officers, otherwise he could not be qualified to exercise the function prescribed by Section XXII Regulation VII of 1802. - It is believed that a verbal Cutwa may often be obtained without difficulty immediately on the close of the trial; the written one always require time to be prepared. -

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

(Sent following letter No. 351.

Read letter, dated the 4th February last from the Provincial Court of Circuit in the Western Division, with a reference from the Criminal Judge of Canara regarding the legal punishment for an assault: that officer contending that it is not necessary in all such cases to impose a fine in addition to imprisonment: and the Provincial Court considering that the offender should be fined / the fine commutable if not paid to imprisonment /

2d October 1828

not fined and imprisoned too. -

(Here enter No. 113)

The question put in the above letter being disposed of by the Circular orders dated 28th June 1828, a particular reply to it is unnecessary. -

Read letter, dated the 10th April last, from the late 2d Judge late on Circuit in the Centre Division, submitting copy of Chittoor Calendar 1st Quarterly Sessions 1828.

Here enter No. 242. /

F. U.

At a Court of the Boydaree Udalut.

Present

Tuesday 21st October 1828. — F. A. Grant Esqre. James Cochrane Esqre. William Oliver Esqre. } Judges

Read letter dated 7th May last from the 2d Judge on Circuit in the Western Division with Calendar for the Zillah of Canara 1st Sessions 1828.

(Here enter No. 322)

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In No 4, the Prisoners are convicted of Robbery by open violence and sentenced to imprisonment and hard labor in Irons for five years. This is illegal: they should have been sentenced to imprisonment and hard labor for fourteen years under Clause third Section IV Regulation XV of 1803; or if the 2d Judge thought that sentence too severe, he should have reported the case for mitigation under Clause second Section III Regulation I of 1825.

2. In No 7, the Prisoner was convicted of Housebreaking and theft, by a 2d Futwa declared liable to Hudd and sentenced to imprisonment with hard labor for five years. The prisoner ought to

to have been sentenced to the full com-
21st October 1828 = mutation for Bud, or the case reported for
mitigation under Section IV Regulation I
of 1825, if the 2d Judge thought that sentence
too severe.

3. In № 8, the Prisoners are con-
= victed of Robbery by open violence, the Futwa
declares them liable to Cohoobut, Bud
being barred by the present denial of some
of them, a second Futwa was taken on the
exception, the Prisoners declared liable to
Bud and sentenced to imprisonment and
hard labor in Irons for ten years, besides
stripes. A second Futwa ought not to have
been taken, because the crime for which
the Prisoners were declared by the 1st Futwa
liable to Cohoobut is specially provided
for by Section IV Regulation XV of 1803, and
therefore the 2d Judge should, on receiving
the Futwa of Cohoobut, have passed sentence
under Clause second Section II and Clause
third Section IV Regulation XV of 1803, of 14
years imprisonment with hard labor, or,
if he thought that sentence too severe, have
reported the case for mitigation under
Clause second Section III Regulation I of 1825.
The same remarks apply to the sentences on
the 1st and 2d Prisoners in № 10, on the 3d, 5th,
7th, 8th, 9th 11th, 13th, 14th and 16th Prisoners in № 12.

4. In № 11 it is stated that the

Prisoner, who is also the 2d Prisoner in № 10,
21st October 1828 is found guilty in both numbers on his
own confession, but from the abstract of
the examinations in both numbers it
appears that he denied the charges before
the Criminal Court, this must be explained.

5. In № 13 the Prisoner was
declared by the Futwa to have been found
guilty of Perjury by the evidence of witness,
but acquitted because the perjury was
not committed with the view of causing
loss to the Prosecutor. It does not appear
that there were two Depositions in the case,
but the Prisoner is sentenced under
Regulation III of 1820. A second Futwa should
have been taken and the Prisoner sentenced
under Regulation VII of 1811.

6. The same remarks respecting
the cases in which security was to be taken
apply to those as were made on the former
Calendar of the 2d Judge for the Sessions of 1828.

Ordered that extract of these
proceedings be sent to the 2d Judge on
Circuit in the Western Division for his
information and guidance.

Sent following letter № 367

Read letter dated the 2d August
last from the 3d Judge on Circuit in
the Northern Division, transmitting copies
of Nellore Calendar 2d Sessions 1828.

(Here enter № 574)

1. There appears upon the Calendar
no

21st October 1828.

no reason why cases Nos 2, 3, 4, 5 and 6 should not have been finally disposed of by the Criminal Judge. The charges in all except No 5 were for thefts to a very small amount, and No 5 is an attempt at housebreaking. The reasons of the Committal of these Prisoners must be explained. The sentences also on Yalon Lapados and Yalon Nagadoo appear disproportionately severe, and the 3d Judge must either revise them with reference to Section IV Regulation I of 1825 or explain more particularly the circumstances that in his opinion justify the full measure of punishment in commutation of Hud- This is not stated what sentence was passed upon the 3d Prisoners in Nos 2 and 3, he ought of course to have been released.-

2. In No 11 the 1st 2d and 4th Prisoners are convicted of Robbery by open violence sentenced to imprisonment with hard labor for 10 years. It was not competent to the 3d Judge to sentence them to less than 14 years imprisonment under Clause third Section IV Regulation XV of 1803. and if he thought that sentence too severe, he should have reported the case for mitigation under Clause second Section III Regulation I of 1825.- But the sentence need not be disturbed.- It does not appear what sentence was passed upon the 3d 5th and 8th Prisoners. The 8th Prisoner was [illegible]

No 11.

21st October 1828.

by two good witnesses, the 4th and the 12th as present at and engaged in the robbery; the 4th witness is objected to in the Putwa because, having been beaten, he stands in the light of a Prosecutor. the 12th witness is a woman and is not noticed in the Putwa. But both these exceptions are unreasonable, and a second Putwa should have been taken under Section VIII Regulation I of 1825; when the 8th Prisoner would have been convicted and the trial as regarded him should have been referred.-

3. In the remarks on No 13, No 11 is referred to, but the 2d Prisoner does not appear in No 11.-

4. In No 10 the Prisoner was convicted of Robbery by open violence and sentenced to 3 years imprisonment with hard labor. It was not competent to the 3d Judge to pass a sentence of less than 14 years imprisonment and hard labor under Clause third Section IV Regulation XV of 1803. If he thought this sentence too severe, he should have reported the case for mitigation under Section III Regulation I of 1825.-

5. In No 23 the two Prisoners were convicted of simple housebreaking and theft to a very small amount, and, but that the 2d Prisoner had been before convicted

21st October 1828

convicted of a heinous crime, the case should have been disposed of by the Criminal Judge. A second Futwa declared both Prisoners liable to Hud; and the 2d Prisoner was sentenced (on account of his youth) to 6 Months imprisonment with hard labor. The 3d Judge was not competent to pass a less sentence than the full commutation for Hud; and should have reported the case for mitigation under Section IV Regulation I of 1825. The sentence however is in itself proper, and need not be disturbed.

6. In No 24 the Prisoner is charged with having attacked and robbed the Prosecutor and two others, and is acquitted for want of evidence. The two companions of the Prosecutor who he had attacked are not among the witnesses. It should have been explained why they were not summoned.—

7. In No 25 the Prisoners were charged with simple housebreaking and theft of above 10 Rupees value. The Futwa convicts the 1st and 5th Prisoners and declares them liable to Hud; it also declares the 3d Prisoner liable to Gokoobut as an accomplice; and while the 1st and 5th are sentenced to the full commutation for Hud the 3d is sentenced to only 2 years imprisonment with hard labor. It is plain from the evidence that the 3d Prisoner was fully an accomplice in the guilt of the others, and he ought

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21st October 1828

to have been sentenced to the same punishment. The error however being in favor of the Prisoner, the sentence need not be disturbed.—

8. In No 26 the Prisoners are convicted on their own confession of robbery by open violence attended with wounding and sentenced to 10 years imprisonment with hard labor. The 3d Judge was not competent to sentence them to less than 14 years imprisonment with hard labor under Clause third Section IV. Regulation XV of 1803, if the wounding was not severe and dangerous; if it was, they should have been sentenced to imprisonment and transportation for life and the trial regarded, under Clause first Section IV Regulation VII of 1802. If in either case the sentence appeared too severe, the case should have been reported for mitigation under Section III Regulation I of 1825.—

9. Nos 5 and 6 in the Supplemental Calendar should have formed only one case.

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

Sent following letter No 368.

Read letter dated the 2d April last, from the Second Judge on Circuit in the Western Division, with copy of the Calendar of the Auxiliary Court

No 1 ... 15 ... No 42.
No 2 ... 24 ... 1829.

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in the Zilla of Canara pr Sessions 1828.-

(Here enter No 238)

1.

The remark made in para 1 of this Courts proceedings upon the Malabar Calendar of the 2d Judge applies to the case in this Calendar in which security was required.-

2.

The Court direct that the Prisoners convicted in cases Nos 4 and 7 be sent to the Jail at Coimbatore to have their sentences executed.-

3.

In No 5 a wife is sentenced to imprisonment for 7 years for the abduction of certain property from her husband and the 1st Prisoner for receiving the said property, knowing it to be the property; knowing it to be the property of her husband, according to the Mahomedan law. but such an abduction by a wife as would constitute theft if committed by a common individual, and if the property abduced be not such as, according to usage, it is allowable to take without the permission of the owner, is liable to discretionary punishment. Under the circumstances of this case, however, the Judges think that the punishment adjudged to the 2d Prisoner is disproportionately severe, and as she has already undergone imprisonment for more than 6 months the Court direct that she be forthwith released; and as the 1st Prisoner, for knowingly receiving the property abduced by the 2d, ought not to be subjected to a severer punishment than the 2d Prisoner who abduced it, the Court direct that the first Prisoner be also released at the same time with the second.

F. U.

21st October 1828.

4.

In No 7 the four first prisoners were by their own free and voluntary confession convicted of robbery by open violence; and sentenced to 7 years imprisonment with hard labor in banishment. This sentence is illegal: it ought to have been imprisonment and transportation for life, or imprisonment with hard labor for 14 years, according to the wounding with Bill-hooks was severe. The error however being in favor of the Prisoners, the sentence will not be disturbed.-

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

Court following letter No 369.

Read letter dated 21st July last from the 2d Judge of the Court of Circuit in the Western Division, with copies of the Calendars of the Ausiliary Court of Malabar for the 2d Quarterly Sessions 1828.

(Here enter No 349)

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21st October 1828.

1 In No 2 of the Supplemental Calendar the period for which the Prisoners are to be detained in custody in default of finding Security is not stated, as it always should be.

2 In No 1 of the 2d Supplemental Calendar the Prisoners were convicted of Robbery by open violence attended with wounding and sentenced to imprisonment with hard labor in Irons for 3 years. This sentence is illegal: it should have been imprisonment for life, or for 14 years with hard labor in Irons according as the wounding was, or was not, severe, under Section IV Regulation XV of 1803, in the former case the trial should have been referred, in the latter if the 2d Judge thought the sentence too severe, he should have reported the case for mitigation under Section III Regulation I of 1825.—

3. The Court trust that the instances in which persons attested declarations before the Police without having heard them given were duly noticed to the Magistrate by the 2d Judge.

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 370.

Read letter dated the 2d April
21st October 1828. last from the Assistant Judge of the Auxiliary Court at Bonaree, with list of convicts sentenced to banishment at the 1st Sessions at Bonaree for 1828.—

(Here enter No 240)

Read letter, dated the 20th May last from the 3d Judge of the Court of Circuit in the Northern Division, with copy of Masulipatam Calendar 2d Quarterly Sessions 1828.—

(Here enter No 342)

Read letter, dated the 6th Instant, from the 2d Judge of the Court of Circuit in the Northern Division, with copy of Masulipatam Calendar 4th Quarterly Sessions 1828.—

Seal

(Here enter No 605)

Read letter dated the 8th Ultimo from the 1st Judge of the Court of Circuit in the Northern Division, with copy of Masulipatam Auxiliary Court Calendar 3d Quarterly Sessions 1828.—

(Here enter No 557)

Read return, dated the 29th September last from the Second Judge Circuit in the Northern Division to precept dated 20th August 1828 calling for the records of the following trials viz Nos 3, 10, 11, 12, 14 and Supplemental No 2 and

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21st October 1828.

Second Supplemental No 1 of the Chicacole Calendar 1st Sessions of 1828.-

(Here enter 587)

Read return, dated the 22 Instant from the First Judge on Circuit in the Centre Division, to precept dated 25th Ultimo calling for record of the trial No 9 of the Chinglepet Calendar 1st Sessions of 1828.

(Here enter No 583)

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

(Here enter No 593)

Read letter dated the 8th Instant from the Provincial Court of Circuit in the Southern Division shewing their disposal of the case of Mootooveeran and others, tailors at Madura.-

(Here enter No 604)

Read letter dated the 15th Instant from the Third Judge on Circuit in the Western Division, reporting the arrival of the Court of Circuit at Mangalore on the 13th instant.-

(Here enter No 612)

Z. U.

At a Court of the Foujdaree Adalut.

Present,

Thursday 23d October 1828.

F. A. Grant Esqre.
James Cochrane Esqre.
William Oliver Esqre.
} Judges

Read letter, dated the 5th Ultimo, from the Provincial Court of Circuit in the Centre Division, respecting the mode of authorising persons to act for prosecutors in criminal cases.-

1st Ul
20

(Here enter No 547)

C. C.

In the foregoing letter the question has been submitted to the Foujdaree Adalut whether, when Complainants in criminal cases employ Agents to present their complaints, as authorized by Section XIII Regulation IX of 1816, such Agents should be furnished with regular Vakalutnamahs and those Vakalutnamahs on stamped paper.

The Judges have no doubt

2.

that such Agents ought to be furnished with regular Vakalutnamahs, but they think that such Vakalutnamahs are not required to be on stamped paper.

Section XIII Regulation IX of 1816 requires that when there is sufficient reason for the Prosecutor not attending in person, his written plaint shall be

28th October, 1828.

be presented by an authorised Agent: and there is no other mode of authorising a representative of any kind recognised by the Regulations but by a Vakalutnamah or Moktarnamah.—

4. Section XX Regulation XIII of 1806 requires all Vakalutnamahs or Moktarnamahs to be on stamped paper when presented before the Courts or Officers therein enumerated, but Magistrates are not enumerated.—

5. The Judges therefore direct, that no written complaints be received by Magistrates or Native Heads of Police from persons not being themselves the Prosecutors, unless they produce regular Vakalutnamahs executed by the Prosecutors and verified by witnesses, and these Vakalutnamahs should always be sent up with the record to the Criminal Court.—

Ordered that these proceedings be sent as a Circular Order to the Provincial Courts of Circuit for the information and guidance of all the Criminal and Joint Criminal Judges Magistrates and Native Heads of Police, and also to the Judicial

1. Southern Division only
2. Native Judges.

28th October, 1828.

Secretary to Government agreeably to orders of Government dated the 17th March 1820.—

(Sent following Letters No. 372 & 373.

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Ld

F. H.

At a Court of the Zuydaree Adalut.

Present,

Friday, 27th October, 1826. F. A. Grant Esqre. } Judges
James Cochrane Esqre. }
William Oliver Esqre. }

Read again letter dated the 20th June last from the 1st Judge on Circuit in the Centre Division, with copy of Chungleput Calendar 1st Sessions 1826.

(Here enter p. 392)

In 1st 2 of the principal Calendar the Prisoner is convicted of Sohmut and sentenced to three years imprisonment with hard labor. Under a Futwa of simple Sohmut no punishment can be inflicted according to Clause sixth Section II Regulation XV of 1803; this sentence must be explained or revised.

2. In No 16 nothing whatever appears upon the Calendar against the 3d Prisoner, who is nevertheless convicted and sentenced. The Court direct that a Copy of the Futwa in this case be transmitted with any necessary explanations immediately.

3 The Court trust that several instances in this Calendar of persons retracting confessions without having heard them given, and of persons being compelled by Police Officers to sign papers and

and give depositions were duly noticed by
24th October 1828. the 1st Judge to the Magistrate.-

4. The Court direct that the whole of the Proceedings in №1 of the 2d Supplemental Calendar be sent up with translations for their information.

5. In these Calendars the crimes with which the Prisoners are charged are in many instances very improperly designated. For instance in №2 the charge should be "Breaking into a Godown and stealing" - instead of Robbery; in №3, "Robbery by open violence" instead of Theft &c &c

6. The substance of the declarations before the Police or Magistrate should always be given.-

Ordered that extract of these proceedings be sent to the 1st Judge on Circuit in the Centre Division for his information and guidance.-

Sent following letter №375.

Again Ans.d 2d Bd.t №682
Wm Tho.s ... 18th Feby 1829

F.C.

At a Court of the Bijdaree Udalut,

Present,

Tuesday 28th October 1828 } F. A. Grant Esquire, First Puisne Judge
James Cochrane Esquire, Second Puisne Judge
William Oliver Esquire, Third Puisne Judge

Read letter dated 25th May last from the late Second Judge of the Court of Circuit in the Centre Division, with record of the trial in cases №s 12 & 13 Chinglepoot Calendar Second Sessions 1827.-

/Here enter №332/

Read also letter dated 28th May last from the late Second Judge of the Court of Circuit in the Centre Division, with the record of the trial in case №9 Chinglepoot Calendar 2d Sessions 1827.-

/Here enter №346/

1 The Court have observed with the deepest concern that the Judge presiding at the above trials thought proper in the course of trial №12 to order the 11th prisoner Sabaputty to receive 10 stripes for an alleged contempt of Court.-

2 Section XXVIII Regulation VII of 1802. is quoted as the authority for this extraordinary proceeding. The provisions of that section are no doubt general; but it is impossible to suppose for a moment that the legislature could intend that a prisoner under trial should, pending that trial, be subjected to corporal punishment for a contempt or indeed for any other offence. Such a

a proceeding is totally at variance with those feelings of tenderness and compassion, with which the unhappy situation of a prisoner under trial is always regarded.-

3 In the present instance the prisoner Sabapuddy, smarting under the lash=ess which he had received, could not possi=bly be in a condition to attend to the evi=dence produced against him. The harsh and violent treatment to which he had been subjected was calculated to intimidate not only him but the other prisoners who were placed at the bar with him, and to pro=duce upon their minds as well as upon the minds of all those who were present at the trial, the most unfavorable impression of the spirit and the temper which actuated the Judge. It was also calculated to give undue confidence to the witnesses for the prosecution, and to discourage those for the defence; and one of the obvious effects of this extraordinary and intemperate pro=ceeding on the part of the presiding Judge is to raise a doubt of the fairness and impartiality of the trial.-

4 The Court have felt consi=derable embarrassment in determining the proper mode of dealing with this sin=gular case. If it had not appeared that several of the prisoners are persons of no=torious bad character, and if the inform=ations on which they were committed for trial had not afforded (*) very strong ground to suspect that they are guilty of

of the crime laid to their charge, the Court would have had no hesitation in directing their release forthwith; but looking to the nature of the charge against them, and to the strong primâ facie evidence which the pro=ceedings before the Criminal Judge afford of their guilt, the Court consider it requisite for the ends of justice that this trial should be quashed, and a new one ordered.-

5 The prisoners in No. 12 were tried on another charge in No. 13: and Sabapuddy and three others of the same prisoners were included in No. 9.- As these two trials, No. 9. and 13, were held after Sabapuddy had been subjected to corpo=ral punishment, the same objections are applicable to the proceedings on those trials as to those on trial No. 12.-

6 The Court therefore direct that the proceedings on these three trials be quashed; and that the prisoners included in them be tried denovo at the ensuing Ses=sions of Jail delivery at Chinglepute.-

7 Ordered that extract of these proceedings be sent to the Provin=cial Court of Circuit for the Centre Division by precept directing them forth=with to instruct the Criminal Judge in the Zilla of Chinglepute to take immediate measures to procure the attendance of all the witnesses as well for the prosecution as for the defence with as little delay as possible.-

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

Sent

28th October 1828.

/ Sent following precept № 378 /

Ordered also that extract of these proceedings be sent for the information and future guidance of the late Second Judge of the Provincial Court of Circuit for the Centre Division, now Acting 1st Judge of the Provincial Court of Circuit for the Western Division.-

/ Sent following letter № 379. /

№ 11.

Mr. Court of the Tongdarree Adalut.

Present,

Wednesday, 29th October, 1828. T. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter dated the 7th May last, from the Acting Judge of the Court of Circuit in the Centre Division, with record of the trial in case № 2 Chingleput Calendar 1st Sessions 1827.-

(Here enter № 313.)

The First, Second and Third Puisne Judges 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 Tongdaree Adalut confirm such part of the said future of the Cazee ool Coozat and Mooftees aforesaid as acquits the prisoners,

1st "Rungun,"
2d "Murgasahaum,"
3d "Gopalun,"
4th "Veerasamy Moodely," and
5th "Andee"

and direct that they be set at liberty, and concurring in opinion that the prisoners,

5th "Seroomaneyan," and
6th "Niman,"

are not convicted on presumptive proof or

29th October 1828

or on the evidence of credible witnesses or on their own confession, notwithstanding the future of their Law Officers; they under the provisions of Clause sixth Section II Regulation XV of 1803, direct that the prisoners,

5th "Seroomangen," and

6th "Niman,"

aforesaid be set at liberty."

(Sent following letter No 380)

Thursday 30th October 1828

At a Court of the Fouzdaree Adalut

Present

L. A. Grant Esqre
James Cochrane Esqre
William Oliver Esqre
} Judges

Read letter dated the 10th June last, from the late 2d Judge late on Circuit in the Centre Division, - reporting for mitigation of punishment in case No 3 Chinglepet Supplemental Calendar 2d Sessions 1827 wherein the prisoner was tried for perjury in giving his evidence in case No 17 of the regular Calendar. - (Decenter No 305)

It appears to the Court that the commitment of this prisoner for perjury under the provisions of Regulation III of 1825 was improper. It is true that in his disposition before the Criminal Judge he distinctly swore that he did not see the first prisoner Soudonanogan in the act of violating Canatee, nor did he see whether any body violated Rungal; whereas before the Court of Circuit he swore that he saw both these women violated; but on the contradiction being pointed out to him he qualified his evidence, which at last corresponds substantially with that which he delivered to

to the Criminal Judge. If he had persisted in
28th October, 1828. his first statiment before the Court of Circuit,
there can be no doubt that he would have
been liable to commitment for perjury; but
a witness is always at liberty to explain or
retract his evidence during the examination,
and as this man did so he should not have
been committed, although he was plainly
guilty of gross prevarication.

2 The Court therefore direct
the immediate discharge of the prisoner.

Ordered that extract of these
proceedings be sent to the Centre Provincial
Court of Circuit for their information
and guidance.

(Sent following letter No 381)

Read letter dated the 11th June
last from the late Second Judge late on
Circuit in the Centre Division reporting
for mitigation of punishment in case No 4
Chinglaput Supplemental Calendar 2d Sessions
1827 wherein the prisoner was tried for
perjury as witness in case No 17 of the regular
Calendar.

(Here enter No 370)

It appears to the Court that
although this man was no doubt liable
to commitment for perjury under the
provisions of Regulation III of 1820 so far
as the direct and positive contradiction
between his two depositions is concer-

which contradiction is handy to be
28th October, 1828. accounted for by his weakness of body
or want of recollection, it is nevertheless
doubtful whether there are strong grounds
or any grounds at all to presume that the
witness was actuated by a corrupt intention.
The Court might think differently if the
other parts of his evidence did not go col-
-laterally to implicate Soondaravayen, but
from the first he intimates his suspicion
at the time of the robbery that this prisoner
was concerned in it, which he would
scarcely have done if he had intended
to give evidence in favor of this man.

The Judge does therefore
2. direct the immediate discharge of this
prisoner.

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

(Sent following letter No 382.

F. H.

At a Court of the Fouzdaree Adalut.

Present:

Friday 3d October 1823. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter dated the 30th May & 8th February last, from the late Second Judge of the Court of Circuit in the Centre Division, forwarding with record of the trial in case No 17 Chingleput Calendar 2d Sessions 1823.

(Vide enter No 350)

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoners,

1st "Tondavarayen,"
2d "Annasamy,"
4th "Veerasamy,"
5th "Vellay,"
7th "Dundya Veerasamy,"
8th "Seyalum" and
11th "Sungalany,"

is sufficient to convict them of the Crime of Robbery by open violence attended with aggravating circumstances do. of 1818 under Clause first Section II Regulation I. convict them thereof and under Clauses Second

24

31st October 1828.

second and fifth Section IV Regulation XV
of 1803 and Clause third Section II Regulation
I of 1825 sentence the prisoners,

1st "Soudaranayen," and

2d "Annasamy,"

severally to receive thirty nine stripes
with a rattan and to be 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, and the prisoners,

4th "Veerasamy,"

7th "Dundya Veerasamy," and

8th "Seyalum,"

severally to receive twenty 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 the prisoner,

11th "Sungalany,"

to receive fifteen 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 eight years, and the prisoner,

5th "Pellay,"

to be detained in confinement for one
year

31st October, 1828

year unless he find two sureties in
fifty Rupees each for his good behaviour
and appearance when required within
that period.

(Sent following letter No 388.)

Read letter dated the 8th February
last from the First Judge on Circuit
in the Centre Division, submitting
case No 1 Oodapah Calendar 1st Sessions
1828.—

(Here enter No 273.)

The Second and Third Puisne
Judges having maturely considered
the proceedings held before the Judge
on Circuit the futwa of the Provincial
Law Officers and the futwa of the
Cazee ool Coozat and Mooftees of the
Fouzdaree Udalut confirm the said
futwa of the Cazee ool Coozat and
Mooftees aforesaid, and acquitting
the prisoners,

1st "Anvoola Vodda Nagadoo"

2d "Vodda Goonawadoo"

3d "Dassay Boyadoo"

4th "Pilla Gungadoo"

5th "Vamenedaee" and

6th Curnum Soobiah,"

direct that they be set at liberty.—

In

1

31st October 1828.

In this trial dates and every approach to them are utterly neglected, and other material circumstances are left so loose and uncertain that it is impossible to determine what credit is due to the witnesses, or what inferences may safely be drawn from the facts to which they depose.

2. It is quite clear that the state of the body alleged to have been found was such as not to admit of its being identified, but the slippers found with it, - if there is sufficient proof that they are actually the slippers sent to Vencataramanah by the 6th witness Casserdoly Goowalah, would certainly seem to warrant a presumption that the body found was that of the supposed deceased. Upon this point however there is only the loose evidence of the 6th witness, and there seems strong reason to distrust his testimony. It would appear that the slippers had been repaired by the addition of fresh pieces of leather, after they had been sent to Vencataramanah, and the particular marks by which they were identified are not stated. This was the more necessary on account of the alteration which had been made

2/

31st October 1828.

F. H.

in them. Besides they were sent to Vencataramanah a few hours only before the alleged murder, and it becomes a question whether he had time or opportunity to have the repairs made before his death, for it is quite clear that they could not have been made after. Under these circumstances the Court think that the proof as to the identity of the body is extremely doubtful.

3. But putting this out of consideration, and taking it as proved that the body found was that of Vencataramanah, the Court still question whether the evidence on the trial is sufficient for the conviction of the prisoners or any of them. The only circumstances which tend to corroborate the alleged confessions of the first four prisoners are 1st the fact that a dead body had been thrown and had lain for some days in the Chellama, 2dly the presumption arising from the discovery of a dead body in the cave, 3rdly the delivering up by the 1st prisoner of a roomal alleged to have belonged to the supposed deceased, and 4thly the discovery on the dead body of a Cumbly alleged to have belonged to the deceased prisoner Vencatabayadoo.

In

In respect to the two last Witnesses there
31st October 1828 is not the slightest evidence to prove
that the coconut delivered up by the 1st
prisoner belonged to Vincatarama, and
or that the cumbly found on the body be-
=longed to Vincatachayadoo.

4. It appears to the Court that
there is no credible evidence of the fact
that a dead body had been lying in the
Chellama. There is no person who pretends
to have actually seen it, although from
the time it is stated to have been there
before it was removed to the cane it
must have floated, and the Chellam being
to be situated at a short distance only
from the public road The bad smell
of the water might have been produced
by numerous other causes, and the evidence
is not sufficient to warrant the belief
that the pieces of skin alleged to have
been found there were pieces of human
skin. The evidence of Nagendy the 1st
and Ragadoo the 4th witness who detail
the circumstances which led to the appre-
=hension of the 1st prisoner appear to
the Court intitled to no sort of credit
whatever, on account of the contradictions
and inconsistencies. According to the

some headsmen that there was a bad smell
31st October, 1828. in the Chellama, and sent his man Ragadoo
expressly for the purpose of enquiring into
the matter. Ragadoo on the contrary repre-
=sents that his discovery of the bad smell
was a mere accident, and it is in the
highest degree improbable that the 1st
prisoner Nagadoo should make a
gratuitous confession on being simply
asked by Ragadoo as to the cause of the
bad smell.—

5. It only remains therefore to
consider how far the discovery of the
dead body in the cane can be taken
as corroborative of the confessions
alleged to have been made by the priso-
=ners. The 2d prisoner Dafsary Pogadoo
is the person who is alleged to have
pointed out the cane where the dead
body was found. His declaration is
dated the 4th June, and it is perfectly
clear that the dead body had been
discovered before that date, and before
any of the confessions were committed
to writing, and therefore in the judgment
of the Court it does not serve in the
slightest degree to corroborate the
alleged confessions. It is very possible
indeed, although in consequence

4

of the negligent and defective manner in
31st October 1828 which the trial was conducted there is no
proof of it; that the discovery was made
on verbal information given by some
of the prisoners, but it was the duty of
the Police Officer to commit the declarations
of the prisoners immediately to writing,
for unless they are recorded at the time,
it is impossible to form any judgment of
the effect of them, or to be sure that additions
have not been made to them in order
that they may correspond more exactly
with the circumstances
to have been made in consequence
of the discovery

6. There are numerous circumstances in the history of this case which strongly incline the Court to distrust the whole of the evidence as it affects the prisoners, but it is unnecessary to enter into them. The Court after the most attentive consideration of the evidence have considered it their duty to acquit the prisoners and to direct them discharged forthwith.

Ordered that extract of this proceedings be sent to the Judges of the Provincial Court of Circuit in the Centre Division for their information and guidance.

31st October 1828

Several instances having come under the notice of the Judges of Circuit of prisoners being required to give security for their appearance or good behaviour for a much longer period than that for which they might be detained in gaol in default of that security, the Court deem it proper to declare that such requisition is not authorized by any Regulation.

2. It is clearly the intent of Regulation VI of 1829 that the term for which security whether by personal recognizance or by the responsibility of sureties, is to be given, and the term for which a prisoner may be detained in confinement in default of giving such security should be the same.

Ordered, that a copy of these proceedings be sent as a Circular Letter to the four Provincial Courts of Circuit for their information and guidance; and also to the Judicial Secretary to Government agreeably to orders of Government dated the 10th March 1820.

Ordered that the following letters Nos 3.90 & 391. Instant from the Third Judge on Circuit in the Southern Division recommending under

under the provisions of Section III Regu-
31st October 1828 =lation I of 1825 a mitigation of punishment
in the case of a prisoner convicted in
case No 1 Salem Supplimental Calendar
Second Sessions 1828.-

(Secretary No 625.)

The Court of Foujdaree Adalut
having attentively considered the grounds
upon which the Third Judge has recom-
=mended that the punishment of the prisoner
Chinnapun referred to in his report
should be mitigated to five years
imprisonment with hard labor in irons
resolve to sanction the mitigation
of punishment proposed.-

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

E.M.

(Sent following letter No 392.

Read letter dated the 22d Instant
from the Third Judge on Circuit in the
Northern Division reporting the arrival
of the Court of Circuit at Rajahmundry
on the 21st instant.-

(Secretary No 621.)

Read letter dated the 25th Instant,
from the Third Judge on Circuit in the
Western Division, reporting his intention
to

31st October 1828. to quit Mangalore for Honore for gaol
delivery.-

(Secretary No 631.)

F. K.

At a Court of the Toydaree Adalut

Present

Friday,
7th November, 1828

James Cochrane, Esqre 2d Puisne Judge
William Oliver, Esqre 3d Puisne Judge

Read letter, dated the 4th Inst. last from the late 2d Judge of the Court of Circuit in the Centre Division, with record of the trial in case No 2 Chingleput Supplemental Calendar Second Sessions 1827.

(Here enter No 373)

The Second and Third Puisne Judges 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 Toydaree Adalut confirm such part of the future of the Cazee ool Coozat and Mooftees aforesaid as acquits the prisoners,

1st "Tandavaroyen"
2d "Unnahsawmy"
3d "Veerahsawmy"
5th "Sawmy Naik"
6th "Loguppa Naik"
7th "Nunjan" (Talian)
8th "Toppan"

9th "Moothien,"
7th November, 1828. 10th "Chinnapien,"
11th "Pareapien,"
12th "Kistnien gar,"
13th "Daivanay,"
14th "Appoogan,"
15th "Bungaroo Naik," and
16th "Shadiappah chang,"
and direct that
5th "Sawmy Naik,"
6th "Loguppa Naik"
7th "Nanjan," (Salian)
8th "Soppair,"
9th "Moothien,"
10th "Chinnapien,"
11th "Pareapien,"
12th "Kistnien gar,"
13th "Dannenay,"
14th "Appoogan,"
15th "Bungaroo Naik" and
16th "Shadiappah chang"
aforesaid be at once liberated but that
1st "Tandavaigan,"
2d "Vencatasamy," and
3d "Venkatasamy,"
be not released, being committed in
case No 17 on the Calendar for this Session

concur in opinion that the prisoner,
7th November, 1828. 4th "Alavajah,"
is not convicted on presumptive proof
or on the evidence of credible witnesses
or on his own confession notwithstanding
the Futwah of these Law Officers, but
considering that suspicion attaches
to him the Court direct that under Clause
sixth Section II Regulation XV of 1803
he be required to find two Sureties
in one hundred Rupees each, for his
good behaviour and appearance
when required within one year
in default thereof to be detained
for one year in confinement.—
20 Sent following letter No. 401.

Read letter dated 29th Ultimo
from the Third Judge on Circuit in the Southern
Division, with Copies of Salem Calendar for
2d Sessions of 1828.—
(Here enter No. 635)

F. H.

At a Court of the Supreme Adelaide.

Present,

Friday, 14th November, 1851. } The Hon. F. A. Grant, Esqre. James Cochrane Esqre. William Oliver Esqre. } Judges.

Read letter from the Acting Judge on Circuit in the Centre Division forwarding the Calendar for the Sessions at Clifton.

(Here enter No 493.)

The Judges observe, in the first case of the supplimental calendar, that the first Juror connected the prisoner with the robbery on his police confession corroborated by other circumstantial evidence, declaring Guilty to be barred, only by the stolen property not being in custody as to the prisoner, he having had habitual access to the prosecutor's house. This bar was properly removed by a second Juror, but it likewise declared Guilty to be still barred, by the prisoners present plea of not guilty. This second bar also should have been removed, when the prisoner would have been sentenced to 7, instead of 5, years imprisonment. But under all the circumstances of the

the case. the Judges resolve to leave the
14th November 1828 sentence undisturbed. Ordered however,
that the Judges of the Centre Division be
directed to call the attention of the law
officer who gave the opinion in question
to the provisions of clause first Section II
Regulation XV 1803, which clearly imply
that, in the first instance, he is bound
to specify distinctly every law which
may exist against liability to Bail.

Ordered that extract from
these proceedings be furnished to the
Judges of the Court of Circuit in the
Centre Division, for their information
and guidance.

(Sent following letter No 406 A

Read letter, dated the 10th Instant,
from the Third Judge on Circuit in the Southern
Division, reporting the arrival of the Court
of Circuit on the 8th instant at Combatoor.

(Hereunder No 553)

Read letter, dated the 9th Instant,
from the Third Judge on Circuit in the Northern
Division, reporting the intended departures
on the 9th instant to Chinnacolum from Rayahmundry

(Hereunder No 554)

F. H.

At a Court of the Foujdarree Adalut

Present

William Oliver Esqre 3d Puisne Judge

Read letter dated the 8th July
from the second Judge of the Court
of Circuit in the Northern Division,
with record of the trial in case of Nathoo
Cahncan per Sepoy 1828.

(Hereunder No 424)

The First, Second and Third Puisne
Judges having maturely considered the
case laid before the Judge on
Circuit, the Futwa of the Cazee and
Officers and the Futwa of the Foujdaree
Cazee and Moofties of the said Foujdaree
Adalut concur in opinion that the
prisoner, Nathoo Chinna Mahdoo,
Dayala Chinna Mahdoo,
is not convicted on presumptive proof
or on the evidence of credible witnesses
or on his own confession, notwithstanding
that two of the Law Officers, Cazee
and Moofty of the Foujdaree
Cazee Court, have declared in their
Futwa that they do consider the
prisoner guilty under the provisions
of Clause sixth Section II. Regulation
IV of 1803 they direct that the

No 411.

13th August

Third
considered
Judge on
al
Cazee
Foujdaree
of the
aforesaid
tion X
Regulation

prisoner,

31. 15th November 1828. "Dayyala Chinna Anikadoo,"

aforesaid be set at liberty.—

Sent following letter No 409.

Read letter, dated the 4th September last from the Third Judge on Circuit in the Western Division, with record of the trial in case No 25 Malabar Calendar 2d Sessions 1828.

(Here enter No 549)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudder Dewanny Adawlut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under clause third Section VII Regulation XV of 1803 adjudge the prisoner,

"Coolpara Vayoona,"

to be imprisoned for the period of two months.—

Sent following letter No 410

Read letter, dated the 12th August last, from the Second Judge of the Court of Circuit in the Northern Division, with record of the trial in case No 7 Rajahmundry Calendar 1st Sessions 1828.—

(Here enter No 497)

The First, Second and Third Puisne

15th November 1828. Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudder Dewanny Adawlut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and acquitting the prisoners,

1st Dhoolee poodee Bhagaw an bo," and

2d Dhoolee poodee Coudukroyloo,"

direct that they be set at liberty—

Sent.

Sent following letter No 411.

Read letter dated the 13th August last from the Second Judge on Circuit in the Centre Division, with record of the trial in case No 5 Cuddapa Calendar 2d Sessions 1828.—

(Here enter No 484)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftees of the Sudder Dewanny Adawlut confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid and under the provisions of Section X

Regulation

Regulation VIII of 1802 adjudge the prisoner,
19th November 1828. "Yanoogooroda Nauregaudoo,"
to suffer death by being hanged at the usual
time and place of execution.

Read letter, dated the 15th September
last, from the Second Judge on Circuit
in the Centre Division, with record of the
trial in case No 31 Cuddapah Calendar
2d Sessions 1828.

(Here enter No 583)

The First, Second and Third Puisne
Judges on a deliberate consideration
of the circumstances before them concurring in
opinion that the proof against the
prisoner,

"Aina Munacha,"

is sufficient to convict her of the crime
of paying counterfeited coin knowing
the same to be counterfeit do under
Clause first Section II Regulation I of 1810
convict her thereof and sentence her to
be imprisoned for two years as provided
by Clause first Section VI Regulation II
of 1822.

Sent following letter No 1813
Read letter dated the 24th Sept.
last from the Second Judge

F. R.
19th November, 1828.

of the Provincial Court of Circuit in the
Northern Division, with record of the trial
in case No 10 Chicacole Calendar First
Sessions 1828.

(Here enter No 580)

The First, Second and Third
Puisne Judges having maturely considered
the proceedings held before the Judges on
Circuit the futwa of the Provincial Law
Officer and the futwa of the Cazee and
Coozat and Mooftees of the Punjaree
Adalut confirm the said futwa of the
Cazee and Coozat and Mooftees aforesaid
and under clause third Section VII Regu-
=lation XV of 1803 adjudge the prisoner,

"Gowda Mootoo"

to receive fifteen 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 three years.

The Court having passed
sentence on the prisoner in this case
have now to observe that the reference
of the trial was unnecessary. Arson
being an offence not specially provided
for by any Regulation or by any stated
penalty in the Mohummudan Law
but liable to discretionary punishment
under

under that law, it is to be disposed
19th November 1828. of by the Judge of Circuit under Clause
seventh Section II Regulation XV of 1803
which empowers him to punish the
offender himself unless he deem the
penalty there prescribed to be insufficient

Ordered, that extract of
these proceedings be sent to the Second
Judge of the Provincial Court of Circuit
in the Northern Division for his informa-
tion and guidance.-

Ent. 21 L 20

(Sent following letter No 413.

Read letter, dated the 30th ultimo,
from the Second Judge late on Circuit in
the Western Division, submitting explanation
called for of matters in the calendar for
Canara 1st Sessions 1828.-

(Here enter No 642)

Read return dated the 3d Instant,
from the Provincial Court of Circuit in the
Centre Division to precept dated 8th ultimo
directing them to instruct the Criminal
Judge of Chinglepet to take immediate
measures to procure the attendance of
all the witnesses as well for the prose-
cution as for the defence in cases No 9
12 and 13 Chinglepet Calendar 2d Sessions
1827.-

(Here enter No 643)

Read letter, dated the 5th
Instant,

19th November 1828 Instant, from the Second Judge on Circuit
in the Centre Division, reporting the arrival
of the Court of Circuit at Chinglepet on
the 1st Instant.-

(Here enter No 645)

Read letter, dated the 1st Instant,
from the Third Judge on Circuit in the
Western Division, reporting his arrival
and commencement of the Sessions at
Honore.

(Here enter No 650)

F. U.

At a Court of the Bengalore Mofussil

Thursday
20th November, 1828

Present,

F. A. Grant, Esqre
James Cochrane Esqre } Judges.
William Oliver Esqre

Read petition presented by Latchmee of the Zillah of Chingleput.—

Here enter F. U. Misc. Dta No. 7)

This is an application for the release of the Petitioner's Son Singalany one of the Prisoners in case No 7 Chingleput Calendar Second Sessions of 1827.—

The Petitioner is informed that her said Son Singalany has been sentenced by this Court to eight years imprisonment and hard labor and to receive fifteen stripes with a rattan.—

T. C.

At a Court of the Poydarce Adalut

Present,

Monday 24th November 1828 T. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read letter, dated the 31st March last, from the late Second Judge late on Circuit in the Centre Division with record of the trial in case No 10 Chingle-put Calendar 2d Sessions 1827.

(Here enter No 224)

The First, Second and Third Puisne Judges 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 Poydarce Adalut confirm the said futwa of the Cazee ool Coozat and Moofties aforesaid and acquitting the prisoners,

1st "Lagee puntoloo,"
2d "Comarasawmy," and
3d "Venkatasawmy;"

direct that they be set at liberty.—

The evidence in this case appears to the Court to be exceedingly defective, owing chiefly if not entirely to the commitment of the second and third prisoners, as parties concerned in the forgery.

forgery. The only circumstance that appears
24th November 1828 in evidence to warrant a suspicion that
the second prisoner was criminally
implicated in the transaction is his
having left Bälchutty's Chantilly apparently
in a clandestine manner and in company
with the first prisoner, but it is proved
by the evidence of the Peons who went in
search of him that he did not attempt
to run away, but came towards them
of his own accord; and it would seem to
have been through his means that the
Peons were directed to the village where
the first prisoner was found. There
was not the slightest evidence to justify
the commitment of the third prisoner.
His conduct throughout affords the
strongest presumption of his innocence.
The testimony of these two men was
indispensably requisite to establish the
guilt of Loghee Puntooloo, the first prisoner,
for as the case now stands there is not
the slightest evidence to connect him
with the forgery or the uttering of it.
There is no proof that the letter and receipt
were ever in his hands, and nothing
that passed at the payment of the money
by Cadumma Rao, the twelfth witness,

warrants a presumption of his guilty
24th November 1828 concern in uttering the forgery. This
witness himself says that hearing accid-
-entally of Loghee Puntoolooo's presence in
the village he sent for him as the
Maaboop of the Dawastanum, and told
him as such to count the money, but
he respectfully declares in answer to a
question put by the third prisoner
that Loghee Puntoolooo did not tell
him the latter was written by Nurhurree
Roa's son, and on the evidence of this
witness it does not appear that the prisoner
had or knew any thing that could fix him
as a party concerned in the fraud.

2 But even if the second and
third prisoners had been admitted
as witnesses, and their evidence had
corresponded with their declarations
as prisoners, the prosecution must
still have failed for want of legal
proof that the letter and receipt, on
which the money was paid, are forgeries.
Nurhurree Roa is the only witness to this
point, and according to the established
rules of evidence the party by whom
an instrument purports to be made

if, in case of it's being genuine, he would
24th November 1828 either be liable to be sued upon it, or be
deprived by it of a legal claim against
another. Nurhurree Rao clearly stood in
this predicament; for if the receipt was
genuine he was accountable for the money
paid upon it, and he produced no release
from the party to whom he was accountable.
And under the circumstances it seems
extremely doubtful whether the seizure upon
the prisoner of a sum of money nearly
equal to the amount paid upon the receipt
can be taken as such a recovery of the
money as to make Nurhurree Rao a
competent witness to prove the forgery.
It is not necessary however to discuss this
point.

3. But although there is not
sufficient evidence to convict the prisoners
or either of them of being parties to the
alleged forgery or the uttering of it, with
the guilty knowledge at least of it's being
a forgery, - there is evidence to prove
that the first prisoner obtained fraudulent
possession of the money which had been
paid to the second and third prisoners
and that the money found upon him
was the identical money so paid. He
therefore has not the shadow of a claim
to

to it's restitution; and the money should
24th November 1828 be held at the disposal of the Collector.

4. It must be observed also that
the indictment in this case is extremely
defective. It omits to charge the prisoners
with uttering the alleged forgery, and
thereby obtaining payment of the money.

Ordered that an extract of
these proceedings be sent to the Judges
of the Provincial Court of Circuit in
the Centre Division for the information
and guidance of the Criminal Judge in
the Zilla of Chungleput.

(Sent following letter No 414

Read letter, dated the 3d April
last, from the First Judge on Circuit in
the Centre Division with record of the
trial in case No 12 Bullary Calendar
1st Sessions 1828.

(Here enter No 50.)

The First, Second and Third
Native Judges 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 acquitting the prisoner.

Ordered that he be discharged
direct that he be set at liberty.

Read letter dated the 3d April
24th November 1828 last from the First Judge late on Circuit
in the Centre Division with record of the
trial in case No 15 Bellary Calendar 1st
Sessions 1828.

(Here enter No 530.)

The First, Second and Third Puisne
Judges 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 Sudder Adalut confirm
the said futwa of the Cazee ool Coozat
and Mooftees aforesaid, and acquitting
the prisoner,

"Sungeeva alias Tankatavadu"

direct that he be set at liberty.—

Read letter dated the 23d April
last, from the First Judge late on Circuit
in the Centre Division, with record of
the trial in case No 20 Bellary Calendar
1st Sessions 1828.

(Here enter No 532.)

The First, Second and Third
Puisne Judges 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

the Cazee ool Coozat and Mooftees aforesaid
24th November 1828 and acquit the prisoner,

"Gunniamah"

but considering that strong suspicion
though not amounting to conviction
attaches to him thro' under clause sixth
Section II Regulation XV of 1803 direct
that he be required to find two sureties
in fifty Rupees each, for his good
behaviour and appearance when
required within one year or in default
thereof that he be detained for one year
in confinement.—

(Sent following letter No 415.

Read letter dated the 5th
August last from the Second Judge on
Circuit in the Centre Division, submitting
case No 6 Cuddapah Calendar 2d Sessions
1828.—

(Here enter No 470)

The First, Second and Third
Puisne Judges 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, but being of opinion that
the punishment stated in clause first
Section IV Regulation XV of 1803, with
the addition of thirty-nine stripes
authorized

24th November 1828

as thorized by Clause third Section II Reg
tion I of 1825 in each instance
he to receive thirty stripes with a rattan
Section IV Regulation XV of 1803 adjudge
the prisoner,

"Nimala Pauparoo"

to receive thirty stripes with a rattan
and to be transported to such place
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 № 416

Read letter dated the 5th August
last, from the Second Judge on Circuit
the Northern Division, with record
trial in case № 6 Rajahmundry Calendar
pt Sessions 1828.

(Here enter № 475)

The First, Second and Third
Puisne Judges having maturely considered
the proceedings held before the Judge
on Circuit the futwa of the Provincial
Law Officer and the futwa of the Cazee
cal Coazat and Mooftees of the Poujdaree
Adalut concur in opinion that the
prisoner "Velama Gungaloo"
is guilty of the crime of wilful murder committed on presumption

24th November 1828

or on the evidence of one credible witness
or on his own confession, notwithstanding
the futwa of their Law Officers and
accordingly under the provisions
of Clause sixth Section II Regulation XI
of 1806, they direct that the prisoner
"Velama Gungaloo"
aforesaid be put at liberty.—

(Sent following letter № 417

Read letter dated the 18th July
last, from the Second Judge Circuit
in the Northern Division with record
of the trial in case № 15 Vellore Calendar
pt Sessions 1828.

(Here enter № 442)

The First, Second and Third
Puisne Judges having maturely considered
the proceedings held before the Judge
on Circuit the futwa of the Provincial
Law Officer and the futwa of the Cazee
cal Coazat and Mooftees of the Poujdaree
Adalut confirm the said futwa of
the Cazee cal Coazat and Mooftees afore-
said, and under the provisions of
Section XV Regulation VIII of 1802 adjudge
the prisoner,

"Ranpooree Shayshoo"

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

(Sent following letter № 418

Read

Puisne Judges and [illegible] consideration

Read letter dated the 21st August
24th November, 1828. last, from the Third Judge on Circuit in the Southern Division, with record of the trial in case No 2 Madura Calendar 2d Sessions 1828.

(Here enter No 572).

The First, Second and Third Puisne Judges 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 Sunjdaree Adalut concur in opinion that the prisoner,

1st "Sungum son of Cotalan",

is not convicted on presumptive proof or on the evidence of credible witnesses or on his own confession notwithstanding the futwa of their Law Officers, but considering that strong suspicion though not amounting to conviction attaches to him the Court under Clause sixth Section II Regulation XV of 1803 direct that he be required to find one Surety in fifty Rupees for his good behaviour and appearance when required within two years or in default thereof that he be detained for two years in confinement.

24th November, 1828. "It appears to the Court, after the most attentive consideration of this case, that it would in order all circumstances be dangerous to convict the prisoner solely on the grounds of his confession. If there had been evidence to prove that the purse belonging to the deceased was discovered in the prisoner's house, that would have been such a corroboration of his confession as to leave no doubt of his guilt, but there was no evidence of this sort, and considering that the prisoner had apparently no direct interest in procuring the death of Bommya Naiken, and as the experience of every day shews that the practice of inducing persons to confess themselves accomplices, merely for the purpose of criminating others as principals is by no means uncommon, the Court think it probable, and certainly it is very possible, that the practice was resorted to on the present occasion, as stated by the prisoner in his defence. The Court therefore under all circumstances have thought it proper to direct the prisoner's discharge on finding

Puisne Judges on a deliberate con-

on finding the same security as that
24th November, 1828. required by Mr. Woodcock from the
third, ninth, and tenth prisoners.—

Ordered that a extract of these
proceedings be sent to the Third Judge
on Circuit in the Southern Division for
his information.—

(Sent following letter No. 419.

Read letter dated the 9th August
last, from the Third Judge on Circuit in
the Southern Division, with record of the
trial in case No. 13 Madura Calendar 2d.
Sessions 1828.—

(Here enter No. 483)

The First, Second & Third Puisne Judges
on a deliberate consideration of the cir-
cumstances of the case in evidence before them
concurring in opinion that the proof against
prisoner,

1st Sevalingum"

is sufficient to convict him of the crime
of Murder do under the authority with
which they are vested by Clause first
Section II Regulation I of 1818 convict him
thereof and sentence him to be transported
to such place beyond Sea as the Governor
in Council shall appoint there to be im-
prisoned and kept to hard labor in irons
on the public roads or other public works
for

4/

F. H.

24th November 1828 life—

Mr. Grant
and
Mr. Oliver

24

for and during the period of his natural

(Sent following letter No. 420.

Read letter, dated the 3d. June
last, from the Second Judge on Circuit
in the Western Division, with record of
the trial in case No. 4 Malabar Auxiliary
Court Calendar Second Quarterly Sessions
1828.

(Here enter No. 393 of 1828)

The First and Third Puisne Judges
on a deliberate consideration of the
circumstances of the case in evidence
before them concurring in opinion
that the proof against the prisoner,

"Narayan Kandy alias Kommashery Coran",

is sufficient to convict him of the crime
of express Murder, do under the authority
with which they are vested by Clause
first Section II Regulation I of 1818
convict him thereof and sentence him
to suffer death, as prescribed by Section X
Regulation VIII of 1802. by being hanged
at the usual time and place of execution—

(Sent following letter No. 421

Read letter, dated the 15th Sept.
=tember last, from the Third Judge on
Circuit in the Western Division, with
record of the trial in case No. 7 Malabar
Calendar

Calendar 2d Sessions 1828.

24th November 1828

(Here enter No 561)

Mr Grant.
Mr Cochrane,
and
Mr Oliver

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner,

"Cheroonan Kanikal"

is sufficient to convict him of the crime of Murder do under the authority with which they are invested by Clause first Section II Regulation I of 1818 convict him thereof and sentence him to receive Thirty-nine stripes with a rattan, and to be transported to such place beyond sea as the Governor in Council shall appoint there to be imprisoned and kept to hand labor in irons on the public roads or other public works for and during the period of his natural life.

(Sent following letter No 422.

Read letter, dated the 21st July last, from the Second Judge of the Court of Circuit in the Western Division, with record of the trials in cases Nos 1 and 2 Auxiliary Court Malabar Calendar 2d Quarterly Sessions 1828.

(Here enter No 455)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on

24th November, 1828. Circuit the future of the Provincial Court Officer and the future of the Cazee cool Coozat and Moofties of the Foujdaree Adalut confirm the said future of the Cazee cool Coozat and Moofties aforesaid and acquitting the prisoners,

1st "Kaniadan Koonjamod,"
2d "Powkutha Kerahim Cutty,"
4th "Arcakoal, alias Alumbatha Bappen,"
5th "Kariadan Koomby Moyin," (the prisoner No 2)
6th "Karindeechee Comaya,"
7th "Kollakaraty Anna Coma,"
8th "Kollakaraty Bachima," and
9th "Panookata Moosa,"

direct that they be set at liberty.

After the most attentive consideration of the whole of the proceedings in this case hardly a doubt is left on the minds of the Court that the charge against the prisoners is the result of a foul conspiracy on the part of the prosecutor and others, and that it has been supported by the grossest perjury on the part of the principal witnesses for the prosecution. The time at which the theft is alleged to have been discovered, the manner of its pretended discovery, and all that followed afford the strongest grounds to suspect that no stolen property was in

24th November 1828

in point of fact removed from the Bankshall
was removed by the prosecutor himself or
his agents, and that the property which was
found in the houses of the prisoners was
placed there by the prosecutor or his confederates
for the express purpose of giving a color to
the story of the theft.

2 The Court would have been glad
if their suspicions were confined to the
prosecutor and to those interested with him
in fabricating the story of the theft, but
they are constrained to add that numerous
circumstances disclosed in the evidence
have led them strongly to suspect that all,
or almost all, of the Native Police Officers,
who had any concern in the pretended
discovery, or in the subsequent proceedings
wilfully and corruptly lent themselves to
the furtherance of the prosecutor's nefarious
designs. Their conduct throughout appears
adverse to the supposition that they were
the mere unconscious dupes of his
artifice.—

3 It is obvious that the justice
of the case will be but very imperfectly
satisfied by the mere acquittal of the
prisoners, if, as there is too much reason
to believe, the charge against them originated
in a conspiracy. It is of the highest
importance to the public interests that
the

5

24th November 1828.

the authors and abettors of the conspiracy
should be brought to punishment; and
considering how much the character
of the Police is implicated throughout,
the Court are persuaded that the Magis-
trate of Malabar will think it his
duty to proceed, if possible, to Tellicherry,
and to institute in person the strictest
inquiry into the conduct of his Police
Officers on this occasion, and take such
measures as may appear most proper
for bringing to punishment the principal
parties concerned in this too probable
abuse and perversion of public justice.—

4 Mr Vaughan will accordingly
be pleased to transmit a copy of these
proceedings to the Magistrate of Malabar
and furnish him with such further
information on the subject of this
case as may appear necessary or useful.

Ordered, that extract of these
proceedings be sent for the information
and guidance of the Second Judge of
Circuit for the Western Division.—

Sent following letter No. 423.

Ans. 26th July No 141
Date 18th Sept. 1829

Read letter dated the 4th August
last from the Second Judge on Circuit in
the Northern Division, with record of
the trial in case No 4 Rapakinnee
Calendar

Calendar 1st Sessions 1828.

24 24th November 1828

(Here enter No 474)

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner,

"Andoortee Nangoo alias Cadim Lutchmee"

is sufficient to convict her of the crime of Wounding, do under the authority with which they are vested by Clause first Section II Regulation I of 1818 convict her thereof, and in conformity with the provisions of Clause Second of the said Section do hereby require their Law Officers to declare by a second futwa to what specific punishment the prisoner would have been liable under the Mohummudan Law if she had been convicted by full legal evidence of the crime aforesaid.-

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

Read letter dated the 23d July last from the Third Judge on Circuit in the Southern Division, with record of the trial in case No 11 Madura Calendar 2d Sessions 1828.

(Here enter No 443)

The First, Second and Third

24th November 1828 Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them concurring in opinion that the proof against the prisoner,

"Savasay"

is sufficient to convict him of the crime of Wounding do under the authority with which they are vested by Clause first Section II Regulation I of 1818 convict him thereof, and in conformity with the provisions of Clause Second of the said Section do hereby require their Law Officers to declare by a second futwa to what specific punishment the prisoner would have been liable under the Mohummudan Law if he had been convicted by full legal evidence of the crime aforesaid.-

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

Read letter dated the 11th August last from the acting Judge of the Court of Circuit in the Centre Division with record of the trial in case No 1 Chittoor Calendar 3d Quarterly Sessions 1828.

(Here enter No 495)

The First, Second and Third

Puisne Judges on a deliberate consideration

of the circumstances of the case in evidence
from 24th November, 1828 before them concurring in opinion that
the proof against the prisoner
"Cuicataraydoo"
is sufficient to convict him of the crime
of Culpable homicide do under the authority
with which they are vested by Clause first
Section II Regulation I of 1818 convict him
thereof, and in conformity with the pro-
visions of Clause second of the said Section
do hereby require their Law Officers to
declare by a second futwa to what specific
punishment the prisoner would have
been liable under the Mohummedan
Law if he had been convicted by full
legal evidence of the crime aforesaid.—
Ordered that a extract of these
proceedings be translated and delivered to
the Cazee ool Looza and Mooftees of the
Sudr Dewanny Adawlut.—

2H 11 20

At a Court of the Sudr Dewanny Adawlut.

Present,

Wednesday, 26th November, 1828 D. A. Grant, Esqr 1st Puisne Judge
James Cochrane Esqr 2d Puisne Judge
William Oliver Esqr 3d Puisne Judge.

2H 11 20

Read again letter dated the 4th August
last from the Second Judge on Circuit
in the Northern Division, with record
of the trial in case No 4 Rajahmundry
Calendar 1st Sessions 1828.
(Vide notice No 474.)

Read the second futwa delivered
in this case by the Cazee ool Looza and
Mooftees of the Sudr Dewanny Adawlut.

In conformity to the sentence
of Acrobooth declared in the foregoing
futwa the First, Second and Third Puisne
Judges do under clause third Section VI
Regulation XV of 1803 adjudge the prisoner
Sudoorty Naugoo alias Cadim Lutchmee,
to be imprisoned and kept to hard labor on
the public roads or other public works for
the period of five years and then be released
(Sent following letter No 1025

Read again letter dated the 23d
July last, from the Third Judge on Circuit
in the Southern Division, with record

of the circumstances of the case in evidence
24th November, 1828 before them concurring in opinion that
the proof against the prisoner
"Vaicatarayloo"
is sufficient to convict him of the crime
of Culpable homicide do under the authority
with which they are vested by Clause first
Section II Regulation I of 1818 convict him
thereof, and in conformity with the pro-
visions of Clause second of the said Section
do hereby require their Law Officers to
declare by a second futwa to what specific
punishment the prisoner would have
been liable under the Mohummadan
Law if he had been convicted by full
legal evidence of the crime aforesaid.—
Ordered that a extract of these
proceedings be translated and delivered to
the Cazee of Pooja and Moofties of the
Tuticorin Adalut.—

24th N
20

24th N
20

Wednesday
26th November, 1828

At a Court of the Tuticorin Adalut

Present

F. A. Grant, Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre

1827.
a prisoner last
sent in the Centre
ed of the trial in case
Calendar 1st Sessions 1828
(Vide enter No 482)
The First, Second and Third Puisne
deliberate consideration of
of the case in evidence
in opinion that

Read the letter from the Cazee of Pooja
in this case by the Cazee of Tuticorin
Moofties of the Tuticorin Adalut

In conformity to the
of Mohamedan Law declared in the fo
futwa the First, Second and Third Puisne
Judges do under clause third Section VI
Regulation XV of 1803 adjudge the prisoner
Sudoorty Naugoo alias Kapim Latchmee"
to be imprisoned and kept to hard labor on
the public roads or other public works for
the period of five years and then be released
Sent following letter No 425
Read again letter dated the 23
July last, from the Third Judge on Circuit
in the Southern Division, with reasons
of

of the trial in case No 11 Madura Calendar
26th November 1828 2d Sessions 1828.
(Here enter No 443)
Read the second finding delivered
in this case by the Cazee ool Coogat and
Mooftees of the Foujdaree Adalut.
In conformity to the sentence
of Cohoolut declared in the foregoing
finding, the First, Second and Third Puisne
Judges do under Clause third Section VII
Regulation XV of 1803 adjudge the prisoner,
"Sanadey,"
to be imprisoned and kept to hard labor
in irons on the public roads or other
public works for the period of three
months and then be released.
(Sent following letter No 426.
Read again letter stated the 14th
August last, from the Acting Judge of the
Court of Circuit in the Centre Division
with record of the trial in case No 1 Cuddapah
Calendar 2d Quarterly Sessions 1828.
(Here enter No 495)
Read the second finding
delivered in this case by the Cazee
Coojat and Mooftees of the Foujdaree Adalut
In commutation of the
punishment of Death declared in the foregoing
finding by the First Second and Third
Judges to sentence the prisoner

"Vencatanoydoo"
26th November 1828 to be imprisoned and kept to hard labor
in irons on the public roads or other
public works for the period of two
years.
(Sent following letter No 427.
Read letter dated the 1st April last
from the First Judge on Circuit in the Centre
Division with record of the trial in case
No 3 Bellary Calendar 1st Sessions 1828
(Here enter No 482)
The First, Second and Third Puisne
Judges on a deliberate consideration of
the circumstances of the case in evidence
before them concurring in opinion that
the proof against the prisoner,
"Vasuntagadoo,"
is sufficient to convict him of the crime of
express Murder, do under the authority which they are vested by Clause First
Section II Regulation I of 1818 convict
him thereof and sentence him to suffer
death, as prescribed by Section X Regu-
lation VIII of 1812, by being hanged at
the usual time and place of execution.
(Sent following letter No 428.
Read letter, dated the 27th
September last, from the Third Judge
on Circuit in the Southern Division
with

with record of the trial in case No 1
20th November 1828. Combaconum Calendar 2d Sessions 1828.

(Here enter No 582)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee ool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazeeool Coozat and Mooftees aforesaid and under clause second Section VI Regulation XV of 1803, confirm the sentence passed on the prisoners,

2d "Lutchaoomanen,"
4th "Mootian, son of Pareatomby"
5th "Ramasamy Padachy," and
6th "Soobroya pillay,"

respectively by the Judge on Circuit, and under Clauses third and fifth Section IV Regulation XV of 1803, and Clause fourth Section II Regulation I of 1825, they adjudge the prisoners,

1st "Mootian son of Hilasem," and
2d "Putchamootupadachy,"

to receive thirty 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 fourteen years—

(Set following letter No 429

F. U.

20th November 1828. Read return dated the 2d April last, from the Judges of the Provincial Court of Circuit in the Southern Division to precept dated 5th March last calling for the record of the trial in case No 2 on the Combaconum Calendar 2d Sessions 1827.—

(Here enter No 228)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazeeool Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazeeool Coozat and Mooftees aforesaid, and under the provisions of Clause third Section IV Regulation XV of 1803 and Clause fourth Section II Regulation I of 1825 adjudge the prisoner,

1st "Nanchean,"

to receive thirty 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 fourteen years, and do not adjudge any punishment to the prisoners,

2d "Mootian" and
3d "Putchamootoopadiachy,"

sentence of punishment having been passed upon them on case No 1 on the former

Ent. U
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the Calendar for the Second Sessions 1828.

2nd November 1828

(Ent. to following letter. No. 430)

F. U.

At a Court of the Foujdary Udalut,
Present,

Thursday 27th November 1828 } F. A. Grant Esquire, - - First Puisne Judge
James Cochrane Esquire, Second Puisne Judge
William Oliver Esquire, Third Puisne Judge

Ent. U
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Read letter dated the 3d instant from the Provincial Court of Circuit in the Southern Division, submitting, pursuant to the Courts orders dated 8th September last, the English record of the trial of case No. 24 on the Salem Calendar Second Sessions 1815.

(Here enter No. 648 of 1828)

The Judges of the Provincial Court state in their letter, that of the prisoners tried in the above case for the offence of Phansigaree, two viz: the 4th "Mootee'bhaye allabuksh," and 5th "Moorand alias Kistnah," are still in jail in default of giving security required of them. It appears from the record that the prisoners were all Mysoreans and the offence of which they are charged is laid in the indictment as committed near the village of Taneal in the Mysore country, for this they were not amenable to the Court that tried them. The Foujdary Udalut direct that the prisoners,

"Mootee'bhaye Allabuksh," and
"Moorand alias Kistnah,"

be

Corrected

27th November 1828

be released forthwith -

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

(Sent following letter No 431)

At a Court of the Foujdaree Adalut

Present,

Monday, 1st December, 1828. C. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter, dated the 5th February last, from the First Judge on Circuit in the Centre Division, with record of the trial in case No 3 Cuddapah Calendar 1st Sessions 1828.

(Here enter No 425)

The First, Second and Third Judges 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 acquitting the prisoner,

"Vobelasoo,"

direct that he be discharged at liberty -

(Sent following letter No 433)

Read letter, dated the 11th August last from the Second Judge on Circuit in the Northern

Mr Grant and Mr Oliver

in the Centre Division with record of the
1st December 1828 trial in case No 19 Cuddapah Calendar
2d Sessions 1828.

(Here enter No 4781)

The First and Third Puisne Judges
on a deliberate consideration of the circum-
stances of the case in evidence before them
concurring in opinion that the proof
against the prisoner,

Parrumpullee Simmadoo,

is sufficient to convict him of the crime
of theft accompanied by Wounding, do under
the authority with which they are vested by
Clause first Section II Regulation I of 1818
convict him thereof, and in conformity
with the provisions of Clause second of the
said Section do hereby require their said
Officers to declare by a second futwa to
what specific punishment the prisoner
would have been liable under the Mahum-
madan Law if he had been convicted
by full legal evidence of the crime afore-
said.

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

E.M.
E.M.
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F. M.

At a Court of the Foujdaree Adawlut

Present

Tuesday, 2d December, 1828.

T. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read again letter dated the 11th
August last, from the Second Judge on Circuit
in the Centre Division, with record of the
trial in case No 19 Cuddapah Calendar
2d Sessions 1828.

(Here enter No 4781)

Mr Grant and Mr Oliver.

E.M. E.M.
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Read the second futwa delivered
in this case by the Cazee ool Coozat and
Mooftees of the Foujdaree Adawlut.
In conformity to the sentence
of Caboobut declared in the foregoing futwa
the First and Third Puisne Judges do under Clause
third Section VII Regulation XV of 1803 adjudge
the prisoner,

"Parrumpullee Simmadoo"

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

(Sent following letter No 434.

Read letter, dated the 16th April
last from the First Judge late on Circuit
in the Centre Division with record of the
trial in case No 8 Bellary Calendar Ses-
sions

Mr Grant, Mr Cochrane and Mr Oliver.

former

Sessions 1828.

2d December 1828. (Here enter No 496)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee col Cozat and Mooftees of the Zoojdaree Adaulut confirm the said futwa of the Cazee col Cozat and Mooftees aforesaid and adjudge the prisoner,

"Pedaloogandoo,"

to be transported to such place 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 435.)

F. U.

At a Court of the Foujdaree Adaulut.

Present,

Wednesday 4th December, 1828. F. A Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter from the 2d Judge on Circuit in the Centre Division, forwarding the Calendar of prisoners committed for trial in Bellary, at the 2d Sessions of 1828.

(Here enter No 575)

In the case No 3, the 5th prisoner having been convicted of Sirka, and the 3d and 4th of having accomplices in that crime, and the 3d being barred for the reasons specified in clause fourth Section II Regulation XV 1803, a second futwa should have been taken, as the mere act of burglary, unattended by aggravating circumstances, is not a crime to which any specific penalty is attached in the Regulations, and under the second futwa, the sentence of the Mahomedan law would have been commutable, according to Section XXI Regulation VII 1832, to seven years imprisonment on each of the first five prisoners unless the 2d Judge deemed the case

case of any one of them to require a reference for
4th December 1828 mitigation, under the provisions of Regulation
I 1825.-

2 The same remarks are applicable
to the case № 6. A second futwa should have
been taken, and the prisoner sentenced to
seven, instead of six, years imprisonment.
Unless the 2d Judge referred the case, under
Section IV Regulation I 1825. He could not
of his own authority mitigate the sentence
fixed for commutation of the punishment
adjudicable under the Mahommedan law.-

3 In the case № 12, the talabla
confession of the prisoner before the Head
of district police seems uncorroborated by
any circumstantial evidence; and
unless he was clearly sworn to by the two
prosecutors, the Judges are of opinion that
he ought not to have been committed for
trial, it having been found unsafe to rely
on confessions taken before the native
police, except when supported by other
independent subsidiary proof.

4 Ordered that extract from these
proceedings be furnished for the information
and future guidance of the 2d Judge on Circuit
in the Centre Division; but as the errors
above noticed are invariably in favor of
the prisoners, the Judges do not deem it
requisite to disturb the sentences he has
passed.-

(Sent following letter, № 43d.

Read letter from the 2d Judge
4th December 1828 on Circuit in the Centre Division; for-
warding the Calendars of prisoners com-
mitted for trial by the Criminal and Joint
Criminal Judges in Cuddapa, at the 2d
Sessions of 1828.-

(Here enter № 533.)

1 The Judges regret to find
that the 2d Judge on Circuit was constrained
to defer a second time the trial of the murder
case, which stands first on the calendar
of the Criminal Judge. They perceive that
at the previous Sessions the first Judge
directed that persons recognizance to be
forfeited,- and desire that the result may
be made known to this Court.-

2. With reference to the remark
annexed by the 2d Judge to the case № 3
of the Criminal Judges calendar, the Judges
observe that, under the Regulation quoted,
the Magistrate and not the Criminal Judge,
was the authority who ought to have
been instructed to investigate the miscon-
-duct of the police. The 2d Judge will
communicate on this subject direct with
the Magistracy.-

3. In the case № 15 of the Criminal
Judges calendar, the 1st and 4th prisoners
are declared by the futwa liable to
discretionary punishment, because the

former

case of any one of them to require a reference for
4th December 1828 mitigation, under the provisions of Regulation
I 1825.-

2 The same remarks are applicable to the case № 6. A second futwa should have been taken, and the prisoner sentenced to seven, instead of six, years imprisonment. Unless the 2d Judge referred the case, under Section IV Regulation I 1825. He could not of his own authority mitigate the sentence fixed for commutation of the punishment adjudicable under the Mahommedan law.

3 In the case № 12, the talabs confession of the prisoner before the Head of district police seems uncorroborated by any circumstantial evidence whatever, and unless he was clearly sworn to by the two prosecutors, the Judges are of opinion that he ought not to have been committed for trial, it having been found unsafe to rely on confessions taken before the native police, except when supported by other independent subsidiary proof.

4 Ordered that extract from these proceedings be furnished for the information and future guidance of the 2d Judge on Circuit in the Centre Division; but as the errors above noticed are invariably in favor of the prisoners, the Judges do not deem it requisite to disturb the sentences he has passed.-

(Sent following letter, № 436.

Read

4th December 1828 Read letter from the 2d Judge on Circuit in the Centre Division, forwarding the Calendars of prisoners committed for trial by the Criminal and Joint Criminal Judges in Cuddapa, at the 2d Sessions of 1828.-

(Here enter № 533.)

The Judges regret to find

1 that the 2d Judge on Circuit was constrained to defer a second time the trial of the murder case, which stands first on the calendar of the Criminal Judge. They perceive that at the previous Sessions the first Judge directed that person's recognizance to be forfeited,- and desire that the result may be made known to this Court.-

With reference to the remark

2. annexed by the 2d Judge to the case № 3 of the Criminal Judges calendar, the Judges observe that, under the Regulation quoted, the Magistrate and not the Criminal Judge, was the authority who ought to have been instructed to investigate the misconduct of the police. The 2d Judge will communicate on this subject direct with the Magistracy.-

In the case № 15 of the Criminal

3. Judges calendar, the 1st and 4th prisoners are declared by the futwa liable to discretionary punishment, because the

former

4th December 1828

the evidence, though sufficient to convict
the former on strong presumptive proof,
is not what the Mahomedan Law requires
for the sentence of Hud, as noticed in clause
third Section II Regulation XV 1812; and
because Hud is barred as respects the
latter, by some of those scrupulous dis-
tinctions noticed in clause fourth of the
same Section. As regards both prisoners,
a second futwa should have been taken,
and each under it, ought to have been
sentenced to seven years imprisonment,
according to Section XXI Regulation VII 1802,
unless the 2d Judge had deemed it necessary
to recommend a mitigation of that punishment
under Regulation I 1825.

4 The Court do not perceive in what respect clause second Section III Regulation VI 1822, quoted by the 2d Judge, applies to the case No 27 of the calendar, for though, besides the second prisoner, others were wounded, the case is one of robbery by open violence, not of "theft", which alone is alluded to in that provision of the law.

5 Under clause third Section II Regulation XV 1803 before explained in observing on the case No 15 a second futwa should have been taken in the case No 36 also,

4th December 1828

also and the prisoner sentenced as pointed out in the case No 15, to seven instead of two years imprisonment, unless mitigation had been recommended, according to Regulation I 1825.

8. The Court concur with the 2d Judge in thinking that the case No 38 should have been disposed of by the Criminal Judge.

7 The futwa in the case No 40, declares Hud to be barred, for the reasons noticed in clause fourth Section II Regulation XV 1803, explained in observing on the case No 15. In this case also a second futwa ought to have been taken, and the same sentence pronounced as pointed out in the cases No 15 and 38.

8. A similar observation applies to the case No 6 of the Calendar of the Joint Criminal Judge, in which a second futwa should have been taken, and the same sentence pronounced, as pointed out in the cases 15, 36 and 40, because Hud is barred, under clause third Section II Regulation XV 1803, previously explained in observing on the case No 15 of the Calendar of the Criminal Judge.

9 Ordered that the 2d Judge on Circuit in the Central Division be furnished

to this Court by a former

furnished with extract from these
4th December, 1828 proceedings, for his future guidance.
The Judges do not deem it necessary to
disturb the sentences he has passed as
they are invariably in favor of the prisoner
and they have no doubt reasons exist
for their mitigation.-

Ans.d 16th March № 163.
In. 23d. 8. 1829.

(Sent following letter № 437.

Read letter dated the 18th Ultimo
from the Third Judge on Circuit in the Western
Division, reporting the completion of the
Circuit at Bonaire.

(Hereunter № 609)

Read letter dated the 18th Ultimo
from the Third Judge on Circuit in the
Western Division, with copy of Bonaire Calendar
2d Sessions 1828.

(Hereunter № 671)

Read again petitions presented
in person by Narrain Moodely of the
Villa of Chinglepat.-

(Hereunto Misc. Petns. Nos 12, 13 and 14 of 1827)

Miscellaneous Petition 12 was
dated and presented on the 12th July 1827
and was read in Proceedings on the 13th
December following, and an order was
passed for calling on the Provincial Court
in the Centre Division for certain pro-
-ceedings relative to the matter set forth
in the petition; return to the precept
was made on the 21st January, 1828.-

4th December, 1828. Miscellaneous Petitions 13
and 14 were each dated and presented
July 19th 1827 and on the 30th August following
a letter was sent to the Provincial Court
in the Centre Division calling for all
proceedings in the case- this was answered
on the 30th July 1828.-

The return to Precept of the
13th December 1827 does not convey any
information about the subject of № 12,
giving in lieu thereof ample account of
the matter set forth in № 14 the bullock
stealing charge. Nevertheless the Court do
not think it necessary to call for further
information. Petitioner states that
his heap of straw was burned by certain
persons on the 3d May 1825, and he com-
-plained of this on the 5th to the Tahsildar
who refused to notice the complaint.
This he represented to the Collector (the
Magistrate) on the 15th December following
who ordered the Tahsildar to enquire
into the affair. This order not being
attended to, the petitioner applied to the
Criminal Judge who very properly
referred him to the Collector (Magistrate)
-and of this his brother Ramgadoorny
complained

Read also letter dated 30th July last, from the Registrar Court of Circuit in the Centre Division, transmitting the English translation of all proceedings connected with the case of Narrain Moodely of Chinglepat called for on the Court's letter of the 30th August last.
(Hereunto № 459)

complained to the Judge on Circuit and as
4th December 1828 yet has received no answer. Now on
the petitioner's own shewing it appears
that he did not complain to the Magistrate
of the Tahsildar's refusal to notice his
complaint till upwards of seven months
after that refusal; and if the averment
in the petition that the Tahsildar disobeyed
the order of the Collector (Magistrate) be
true, it is obvious that the petitioner
should have complained to the Magistrate
on the subject and not gone to the Criminal
Judge. And the Court do not perceive any
necessity for their interference in the
business.—

In N.13 he [illegible]tes that his
House was broken open on the 12th July 1825
he complained next day to the Tahsildar
and subsequently to the Collector (Magistrate)
The result of this was that the Magistrate
sent him up to the Criminal Court for perjury.
He was released by the Assistant Criminal
Judge, and petitioned the Judge on Circuit for
redress which he has not obtained. To this
the Court have only to remark that the
proceedings before the Magistrate sub-
mitted by the Provincial Court in their
letter of the 30th July last shew that that
officer did right in charging petitioner
with

F. H

4th December 1828 with perjury and that the charge against
Sundaramoy and the rest who it appears
are nearly related to petitioner was ex-
unfounded— and the search in Sundara-
roy's house made in consequence was an
act of oppression and injustice.—

With regard to N.14 it is only
necessary to observe that the return to Precept
dated the 12th December 1827 proves that the
sentence of the Criminal Judge was the
result of patient deliberation, and that
execution of it was suspended by the
Criminal Judge as soon as the propriety
of it was questioned by superior authority:
and the petition itself shews that the
sentence was not complained against
[illegible] four months after it was passed.—

The papers before the Court
afford too much reason to believe
that the petitioner is actuated by a
litigious and malignant spirit, which
he will do well to repress.—

Ordered that the prayer of
the petitions be rejected.—

Read petition presented in
person by Shaik Mahomed Lal Moosiff
of Naidpet in the Zillah of Nellore.—
(Received Misc. Ctr. N. 17 of 1828)

This is the same person
who complained to this Court by a
former

4th December 1828

former Petition, No 15 of 1828, of having been dismissed from his situation upon which Petition the Court passed an order, under date 19th June last, to the effect that the Provincial Court was the proper authority under the Regulations, to decide on such cases, and that the Regulations did not provide for any appeal from their orders.—

Petitioner now argues that this order is not applicable to his case, inasmuch as his prayer to this Court is, that as the superior Tribunal empowered to afford redress to those who consider themselves aggrieved by the acts of the lower Courts, they will consider and determine whether or not he, Petitioner, is guilty of what the Zillah Judge has accused him.—

Ordered that Petitioner be informed that the Court see no reason to do more than repeat the order already passed in his case.—

Read petition presented by Vuttal Sreenivasachary on behalf of Acharatta Hadey Cooty.

(Here enter Misc. Pet. No 21 of 1828.)

The petitioner who is the prosecutor in cases 1 and 2 on the Calendar of the Auxiliary Court of Malabar for the 2d quarterly Sessions of 1828, prays that those cases may be decided in his favor.—

4th December 1828

Ordered that the Petitioner be informed by his Vakeel that the prisoners in the above cases were acquitted by the Court on the 24th ultimo.—

Read letter, dated the 13th ultimo from the First Judge of the Provincial Court of Circuit in the Centre Division, replying to the Court's observations on the Chingleput Calendar 1st Sessions 1828.—

(Here enter No 657)

Read letter dated the 25th ultimo from the Third Judge on Circuit in the Northern Division,—reporting his arrival and the opening of the Sessions at Chicacole.—

(Here enter No 678.)

At a Court of the Foujdaree Adaulut,

Present,

Wednesday 10th December 1828 } F. A. Grant Esquire, - - -
James Cockrane Esquire, - -
William Oliver Esquire, } Judges

Read letter dated the 28th Ultimo from the Joint Criminal Judge of Salem recommending an offer of pardon under Section XX Regulation VIII of 1802 to two prisoners supposed accessories to the murder of a lad named Solabum on the 30th of August last.- /Here enter No. 679/

Read also letter dated the 2d Instant from the Third Judge on Circuit in the Southern Division with copy of the Calendar of the Auxiliary Court at Coimbatore for the Second Sessions 1828; with which is submitted a copy of a letter dated the 13th ultimo by the Third Judge on Circuit directing the Joint Criminal Judge to recommend an offer of pardon to the two prisoners abovementioned.- /Here enter No. 683/

From the Joint Criminal Judge's letter it would appear that Nayjan and Ponnee the two prisoners in question could not have anticipated that in arresting their master Chinnagounden by his order to chastise the deceased for stealing cocoanuts, they were abetting murder; it seems that they were influenced in what they did by the fear of punishment

10th December 1828 punishment should they disobey that order, and the murder appears to have ensued from subsequent leave given by them in order - As the conviction of Chinna gounden would appear to depend upon their giving evidence against him, the Court resolve to recommend that the Governor in Council be pleased to authorise the offer of pardon to the said Ninjun and Donne on the conditions specified in Section XX Regulation VIII of 1802 -

Ordered that extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the orders of the Right Honorable the Governor in Council -

Sent following letter No 443 A

Regl. 6. M.

At a Court of the Foujdary Udalut,

Present,

Thursday 11th December 1828 — F. A. Grant Esquire, First Puisne Judge
James Cochrane Esquire, Second Puisne Judge
William Oliver Esquire, Third Puisne Judge

Read Petition presented in person by Meenatchyammal of the Zillah of Tinnevelly -

(Here enter Hire: Pet: No 24 of 1828)

This is a petition for the release of Moothea Chitty, Prisoner convicted of arson at the first Sessions at Madura for 1828, in case No 8 on the Calendar -

The Court on the 17th of April last had occasion to notice a great error into which the Judge who presided at the above trial had fallen in his disposal of the second prisoner Ramalinga Chitty; and the petition now before the Court, if the averments it contains be true, would lead to a supposition that the case was not only investigated. The Court therefore resolve to call for the record of the trial -

Ordered that extract of these proceedings be sent to the Judges of the Provincial Court of Circuit in the Southern Division by precept returnable in 5 days from date of its receipt -

Ans. 1st 22nd Jany No 60
to Ro 26th Feby 1829

Sent following precept No

Read Petition presented in person by Challum a Dosser of the Zillah of-

11th December 1828.

of Combaconum.-

/Here enter Misc. Pet. No 28 of 1828/

This is a petition in behalf of the prisoners convicted of Robbery by open violence, at the second Sessions at Combaconum for 1828. in case No 14 on the Calendar.

It is alleged in the Petition that on the 2d day of Chittree of the year Sarvadarie the 1st prisoner was charged by one Oydelinga Moodely with having stolen from him at Tschinopoly the identical jewels which he and the other prisoners are now convicted of having stolen from Moattooveeren Chetty on the 24th Chittree of the year Surwajit. This allegation would appear to deserve notice, and enquiry.-

Ordered accordingly that a copy of the petition be sent to the Third Judge on Circuit in the Southern Division (who presided at the above trial), by Precept, requiring him to investigate the matter, and report the result of his investigation within three months from the date hereof.-

/Sent following precept No 445/

Ans.d 5th Feby No 100.
to Pro. 26th Feby 1829

Read Petition presented in person by Lutchmana pillay of the Zillah of Combaconum.-

/Here enter Misc. Pet. No 27 of 1828/

The petitioner prays for the redress sought for in his former petition No 16 of 1828. This was read in Court on the 14th of August last; and a precept under that date was sent to the Judge who presided at the trial of No 31. on the Combaconum Calendar for the first Sessions of 1827 (the present Second Judge of the Provincial Court)

11th December 1828.

Court for the Southern Division) calling upon him to ascertain and report 1st the circumstances under which property belonging to the petitioner (the prosecutor in that case) was found upon the second prisoner Nagapillay subsequently to the trial; 2ndly whether the petitioner has made any formal charge of corruption against any of the servants of the Criminal Court at of the Magistrate and if so what proceedings have been held thereon; and 3rdly whether in the evidence on the trial there appeared any thing to implicate Chinnaiawmy Iyen, or whether any proceedings were had against him. To this precept return has been made by Mr Bird reporting that from the letter of the Acting Criminal Judge dated 24th September last it appears 1st that the prisoner Nagapillay and others were sent to the Criminal Court subsequently to the trial charged as petitioner alleges, but that there was no evidence that the articles produced belonged to the prosecutor (petitioner) and they were restored to the prisoners who were then released.- 2dly that no formal charge of corruption against any of the Court servants was made by the prosecutor. From the Magistrates letter dated the 20th November last it appears that no formal charge of corruption was made against the Cutcherry servants by Lutchmana Pillay: though several of them were punished for irregular proceedings in the case.-

Enclosure C

Enclosure D

The Second Judge further reports

10th D

11th December 1828.

reports that there was no direct evidence adduced against Chinnasawmy Iyen on the trial - and it appears from the Magistrates letter above referred to, that the person in question was directed by the then Magistrate to find security to the amount of 3,000 Rupees on suspicion of his having been implicated in the robbery of Litchmanapillay.-

Enclosure D.

The Court think it clear from the papers submitted with the above return that all property which could be identified by the Petitioner was returned to him, and do not consider that any further interference on their part in his behalf is necessary.-

No 91.
E. M.

Read Petition presented in person by Parvaty Zillah of Combaconum.-

//Here enter Misc. Pet. No 23 of 1828.//

The Petitioner prays for the release of her husband who was tried for the crime of Robbery by open violence at the Second Sessions at Combaconum for 1828 - in case No 20 on the Calendar. She asserts that the prisoner was acquitted by the Cauzee of the Court of Circuit.-

From an attested copy of the futwah in the above case received with a copy of the Calendar the Court find that the prisoner was not acquitted but convicted by the Law Officer and that the Judge who presided at the trial adjudged him to be banished for fourteen years to such place as the Court of Sudder Adalut might order. It further appears that the same prisoner was convicted in case No 19 on the same Calendar of

2/

Ld.

11th December 1828.

of an assault. The Court do not perceive any occasion for their interference.-

Ordered that the prayer of the petition be rejected.-

Read petition presented in person by Soobbachary of the Zillah of Chingleput.-

//Here enter Misc. Pet. No 22 of 1828//

This is a petition for the release of Petitioners father Saddappachary of Canjeevaram in the Zillah of Chingleput praying also that a box of Jewels taken from that person on his apprehension may be restored to him.-

Ordered that Petitioner be informed that Sadiappachary of Canjeevaram the 16th prisoner in case No 2 on the Chingleput supplemental Calendar, for the Second Sessions of 1827, was acquitted by this Court on the 9th Ultimo.-

Ld. V.

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Read letter dated the 12th June last from the Acting Judge of the Court of Circuit in the Centre Division - with Record of the trial in Case No 10 Chittoor Calendar 1st Quarterly Sessions 1828.-

//Here enter No 380//

The First, Second, and Third Puisne Judges 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 such part of the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid as acquits the prisoner,

2d "Mortien,"

but considering that strong suspicion though

11th December 1828

though not amounting to conviction attach to him they under clause sixth section II Regulation XV of 1803 direct that he be required to find two sureties in one hundred Rupees each, for his good behaviour and appearance when required within one year or in default thereof that he be detained for one year in confinement.-

And concurring in opinion that the proof against the prisoner,

1st "Dawood Khan,"

is sufficient to convict him of the crime laid to his charge, do under the authority with which they are vested by clause first Section II Regulation I of 1818 convict him thereof, and in conformity with the provisions of clause second of the said section do hereby require their Law Officers to declare by a second futwa to what specific punishment the prisoner would have been liable under the Mohummudan Law if he had been convicted by full legal evidence of the crime aforesaid.-

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

Read letter dated 6th Instant from the Second Judge on Circuit in the Centre Division with a returned warrant for the execution of the prisoner in Case R. & C. Cuddapah Calendar 2d Sessions 1828.-

/Here enter No 684/

Friday 12th December, 1828

At a Court of the Zoydaree Adaulut

Present

F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter dated the 31st May last, from the First Judge of the Provincial Court of Circuit in the Centre Division with record of the trial in case No 9 Chingleput Calendar First Sessions 1828.

(Here enter No 578)

The First Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Zoydaree Adaulut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and acquitting the prisoners,

3d "Soobbun," and
4th "Cootee,"

direct that they be set at liberty.-

The Judges having acquitted the two prisoners abovementioned, and being quite satisfied of the innocence of the other two prisoners in the same case, who were acquitted by the First Judge, but ordered to find bail, resolve to direct that, if these persons have given the security required of them, the bail bonds be discharged, or that the prisoners be released if they are

are still in confinement.-

12th December 1828. Ordered that extract of these proceedings be sent to the First Judge of the Provincial Court of Circuit in the Centre Division for his information and guidance.

(Sent following letter No 446.

Read letter, dated the 13th February last from the First Judge on Circuit in the Centre Division, with record of the trial in case No 9 Cuddapah Calendar 1st Sessions 1828.

(Vide enter No 428)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee and Mooftee of the Zillah do not agree in opinion that notwithstanding the futwa of their Law Officers, the prisoners

1st "Sahaputty" and
2d "Honnoorgadoo"

are not convicted on presumptive proof or on the evidence of credible witnesses or on their own confession, but considering that suspicion attaches to them the Court under Clause sixth Section II Regulation XV of 1803 direct that the prisoner

1st "Sahaputty"

be required to find two sureties in one hundred rupees each, for his good behaviour and appearance when required within three years or in default thereof that he

12th December 1828. be detained for three years in confinement.

and that the prisoner,

2d "Honnoorgadoo"

be required to find two sureties in fifty rupees each for his good behaviour and appearance when required within one year or in default thereof that he be detained for one year in confinement.-

The Court have acquitted the prisoners in this case, being not satisfied that the housebreaking laid to their charge was ever committed. The prosecutor was absent at the time when it is alleged to have occurred and therefore is not qualified to prove the fact. There is no other witness who pretends to have any knowledge of it. The only ground of suspicion against the prisoners is their denying that they bartered with Gopaulo the property which was found upon that person and which it is proved he received from them, and this the Court have deemed insufficient to warrant a requisition of security from them in the terms of the sentence. The First Judge in his letter objects to them as people of a very disreputable and dangerous class but this objection applies equally to the first and second witnesses for the prosecution.-

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

(Sent following letter No 447.

Read again letter, dated the 12th June

punishment should they disobey that order, and

June last, from the Acting Judge of the Court of
12th December 1828. Circuit in the Centre Division, with record of the
trial in case No 10 Chittoor Calendar 1st Quarterly
Sessions 1828.-

(Berenter No 380)

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

In commutation of the penalty of
amputation prescribed in the foregoing futwah
the First, Second and Third Puisne Judges do under
Section XXI Regulation VII of 1802 and Section II
Regulation VI of 1827 adjudge the prisoner,
per Dawood Khan,
to receive fifteen stripes with a rattan and to
be imprisoned and kept to hard labor in irons
on the public roads or other public works for
and during the period of seven years.-

(Sent following letter No 448

Read letter, dated the 25th September
last, from the Second Judge at Circuit in
the Northern Division, with record of the trial in
case No 12 Chicacole Calendar 1st Sessions 1828.-

(Berenter No 387)

The First, Second and Third Puisne
Judges 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 prisoner,
"Bouee Simmadoo,"
direct that he be set at liberty.-

(Sent following letter No 449.

Read

2/ F. C.

12th December 1828.

Read letter, dated the 27th September
last, from the Second Judge at Circuit
in the Northern Division, with record
of the trial in case No 2 Chicacole
Supplemental Calendar First Sessions 1828

(Berenter No 588)

The First, Second and Third Puisne
Judges 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, but being of opinion
that the punishment stated in clause
first Section IV Regulation XV of 1803,
would in this instance be too severe,
they under clause fifth of the Section
aforesaid adjudge the prisoner,
"Ashoolah Caupesgadoo"
to be transported to such place 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 450

Read

Read letter dated the 27th September
19th December, 1828 last, from the Second Judge of the Court
of Circuit in the Northern Division, with
record of the trial in case No 1 Chicacole
Second Supplimental Calendar First
Sessions 1828.—

(Here enter No 596)

The First, Second and Third
Puisne Judges 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 acquitting the prisoner,

"Maradu Yerracayadoo,"

direct that he be set at liberty.—

(Sent following letter No 1451.

Read letter, dated the 5th Instant,
from the First Judge of the Court of Circuit
in the Centre Division, with copy of
Chittoor Calendar 4th Quarterly Sessions
1828.

(Here enter No 588)

At a Court of the Foujdaree Adaulut.

Present,

Friday, 19th December, 1828. F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2d Puisne Judge.
William Oliver Esqre 3d Puisne Judge.

Read letter dated 29th ultimo
from the Joint Criminal Judge in the
Zilla of Canara with report of a convict
sentenced to banishment at the 2d Sessions 1828.

(Here enter No 586)

The Court of Foujdaree Adaulut
direct that the prisoner,

Ramah,

be removed to the Jail at Coimbatore
there to be imprisoned agreeably to the
terms of his sentence.—

Ordered that extract of these
proceedings be sent to the Joint Criminal
Judge in the Zilla of Canara and to the
Joint Criminal Judge in the Zillah of
Salem for their respective information
and guidance.—

(Sent following letter No

J. W.

At a Court of the Toujdaree Udalut.

Present

Monday, 22d December, 1828. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter, No 35 of 1828 under date the 7th January last, from the Register of the Provincial Court for the Western Division.—

(Here enter No 35)

In the foregoing letter, it has been submitted to the Toujdaree Udalut whether it is proper that a Criminal Judge should, on application by the Magistrate, under Section II Regulation III of 1817, furnish him with the proceedings of the Criminal Court, for the purpose of acquiring information respecting supposed offenders not yet brought to justice, or other police purposes; and whether it is competent to the Magistrate to require security from persons released by the Criminal Judge, on a specific charge.—

2. On the 19th November 1822, this Court observed, that they on the 20th June preceding had intimated to the Government their opinion "that the detention by the Magistrate or Criminal

22d December 1828.

Criminal Judge of a prisoner, ordered by the Court of Circuit to be released without security would be irregular, and at variance with the principle of the provisions contained in Clause second Section III and clause third Section IV Regulation II of 1822.

3. There is nothing in the enactments contained in Regulation VI 1827 to induce the Judges to alter this opinion, or to prevent the application of it, by analogy to the detention by the Magistracy of prisoners released on a specific charge without security by the Criminal Court provided it be clearly understood that, on the former, as well as on the present occasion, the Judges allude to cases in which prisoners are detained by the lower tribunal, on the same charge and evidence under which they have been released by the higher tribunal.

4. Where on the other hand, the Magistracy receives distinct charges against the released prisoner, or possesses information against his general character, not before the Court which released him, they are at liberty, on this separate evidence, to re-apprehend him, and to proceed respecting him as the Regulations provide.

5. With regard to the Criminal Court occasionally sending their proceedings to

22d December, 1828.

to the Magistracy, the Judges would be sorry to discourage such a practice, where in the spirit of Regulation III. 1817, it may be found free from inconvenience, but they think that every purpose for which these proceedings are required by the Magistracy will be accomplished, by the Criminal Court briefly communicating to the latter, the extent to which the proceedings before them may implicate others not sent in to them as prisoners, particularizing the witnesses to the facts against such persons, giving an abstract of their evidence, and describing the sources whence further information appears to be procurable by the Magistracy.

Ordered that a copy of these proceedings be forwarded to the four Provincial Courts of Circuit for circulation to the Magistrates and Criminal Courts within their division and also to the Judicial Secretary to Government agreeably to orders of Government dated the 19th October 1824.

Sent following letters Nos. 461. 462. 463.

Read letter, dated the 10th February last, from the First Judge late on Circuit in the Centre Division with record of the trial in case No. 5 Cuddapah Supplemental Calendar

First

22nd December 1828

First Sessions 1828.

(Here enter No 462)

The First, Second and Third Puisne Judges 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 Udalut confirm the said futwa of the Cazee-ool Coozat and Mooftees aforesaid, and acquitting the prisoners,

1st "Martala Papenedy," and

2d "Atchey,"

direct that they be set at liberty.—

The chief evidence against the prisoners in this case is to be found in their alleged confessions before the Head of Police. The story therein told is so improbable, supposing the long adulterous intercourse between the prisoners to be proved, that the Court have no hesitation in rejecting those confessions as evidence. There is so little to shew that the deceased met with a violent death, and such good ground to presume the contrary in the evidence to his previous ill health, that the Court have fully acquitted both the prisoners.—

Ordered that extract of these proceedings be sent to the First Judge

Cutch

2/

F. H

22nd December, 1828.

Mr Cochrane,
and
Mr Oliver.

Cutch on Circuit in the Centre Division for his information.—

(Sent following letter No 1464.

Read letter, dated the 15th February last, from the First Judge Cutch on Circuit in the Centre Division with record of the trial in case No 2 Cumbum Calendar in the Zilla of Cuddapa 1st Sessions 1828.—

(Here enter No 471)

The Second and Third Puisne Judges 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 Udalut confirm the said futwa of the Cazee-ool Coozat and Mooftees aforesaid and acquitting the prisoners,

1st "Madega Polugandu," and

2d "Madega Guruvegandu,"

direct that they be set at liberty.—

The Court have acquitted the prisoners in this case 1st because they consider the evidence of the witnesses to the marks of violence on the dead body to be intitled to no credit whatever,—there having been no regular inquest, and it being clear that the prosecutor and others who first saw the dead body attributed the death of Chinna Nagadoo to the bite of a snake or to enchantment, which is totally inreconcileable

22nd December 1828

First Sessions 1828.

(Here enter No 462)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the Jurors of the Provincial Law Officer and the Jurors of the Cazee cal Coozat and Mooftees of the Pungdarree Adalut confirm the said Jurors of the Cazee cal Coozat and Mooftees aforesaid, and acquitting the prisoners,

1st "Mantala Paperaddy," and

2d "Atchay,"

direct that they be set at liberty.-

The chief evidence against the prisoners in this case is to be found in their alleged confessions before the Head of Police. The story therein told is so improbable, supposing the long adulterous intercourse between the prisoners to be proved, that the Court have no hesitation in rejecting those confessions as evidence. There is so little to shew that the deceased met with a violent death, and such good ground to presume the contrary in the evidence to his previous ill health, that the Court have fully acquitted both the prisoners.-

Ordered that extract of these proceedings be sent to the First Judge late

2/

F. H

22nd December, 1828.

Mr Cochrane,
and
Mr Oliver.

late on Circuit in the Centre Division for his information.-

(Sent following letter No 464)

Read letter, dated the 13th Instant from the First Judge late on Circuit in the Centre Division with record of the trial in case No 2 Cumbum Calendar in the Zilla of Cuddapa 1st Sessions 1828.-

(Here enter No 471)

The Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the Jurors of the Provincial Law officer and the Jurors of the Cazee cal Coozat and Mooftees of the Pungdarree Adalut confirm the said Jurors of the Cazee cal Coozat and Mooftees aforesaid and acquitting the prisoners,

1st "Madega Polugandu," and

2d "Madega Guruvegandu,"

direct that they be set at liberty.-

The Court have acquitted the prisoners in this case 1st because they consider the evidence of the witnesses to the marks of violence on the dead body to be intitled to no credit whatever,- there having been no regular inquest, and it being clear that the prosecutor and others who first saw the dead body attributed the death of Chinna Nagadoo to the bite of a snake or to enchantment, which is totally irreconcileable

irreconcileable with the alleged fact that the body exhibited marks of violence such as are described. 2dly because the conduct of the prisoners, so far as it appears in the evidence, indicated in no part of it the least consciousness of guilt, but on the contrary was such as to repel any suspicion which might naturally be created by the circumstance of Chinna Nagadoo's being found in a dying state in their house; and 3dly because on the evidence there is strong ground to believe that the accusation of murder against the prisoners was first suggested by the District Police Officers on their arrival at the village some days after the death of Chinna Nagadoo.—

22d December 1828.

2. By a remark entered at the bottom of Page 54 of the record it appears that Mr. C. P. Brown, the acting Joint Criminal Judge took upon himself to suppress details given by the witness Doodacoola Peeroothey. This was an unwarrantable liberty and the Court direct that he be admonished of his error by the Judges of the Circuit Court.—

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

(Sent following letter No.

Read

Read letter dated the 15th August last from the Provincial Court of Circuit in the Centre Division, transmitting the English translations of the proceedings held before the Court of Circuit in case No. 14 Chittoor Calendar 4th Quarterly Sessions 1827.—

22d December 1828.

(Here enter No. 494)

The Judges do not deem any orders requisite in this case.—

Read letter dated the 24th September last from the 3d Judge on Circuit in the Southern Division, with copy of Combaconum Calendar 2d Sessions 1828.

(Here enter No. 571)

Read letter dated the 15th Instant, from the Judges of the Provincial Court of Circuit in the Southern Division stating that the record of the trial in case No. 8 of the Madura Calendar 1st Sessions 1828 will be submitted as soon as practicable.—

(Here enter No. 713)

Read letter dated 6th Instant from the Second Judge of the Court of Circuit in the Western Division with returned warrant for the execution of a Poraisance in Case No. 4 of the Auxiliary Court of Shankar Calendar 2d Quarterly Sessions 1828.—

(Here enter No. 696)

Read letter dated 15th Instant from the First Judge of the Court of Circuit in

in the Centre Division, with a returned warrant for the execution of the prisoner in Case No 3 Bellary Calendar 1st Sessions 1828.-

(Here enter No 698.)

Read returns dated the 24th letters from the late 3d Judge of the Court of Circuit in the Southern Division to present dated 14th August last calling for information as to the disposal of screened property at the trial of case No 31 Combaconum Calendar 1st Sessions 1827 and as to charges of corruption made by the prosecutor Lutchmana Pillay against certain Police Officers.-

(Here enter No 677)

F. H.

At a Court of the Foujdaree Udalut

Present

Wednesday 31st December 1828. The Honble F. A. Grant Esquire
James Cochrane Esquire
William Oliver Esquire
} Judges

Read letter from the Provincial Court of Circuit for the Southern Division, submitting a correspondence between the Magistrate of Tinnevelly and the Joint Criminal Judge of Madura, respecting the latter having returned to the former Officer, a criminal case, without investigation, on the ground that it was one of which the Magistracy were competent finally to dispose.

(Here enter No 711 of 1828.)

The Foujdaree Udalut concur in opinion with the Judges of the Provincial Court that the Joint Criminal Judge was not justified in adopting this procedure. It was his duty to inquire into the circumstances of the charge; and should it have appeared, at the close of the enquiry that the prisoners were liable only to an inferior degree of punishment, the Joint Criminal Judge should have

24th November 1828

in point of fact removed from the Bankshall
was removed by the prosecutor himself or
his agents, and that the property which was
found in the houses of the prisoners was
placed there by the prosecutor or his confederates
for the express purpose of giving a color to
the story of the theft.

2 The Court would have been glad
if their suspicions were confined to the
prosecutor and to those interested with him
in fabricating the story of the theft, but
they are constrained to add that numerous
circumstances disclosed in the evidence
have led them strongly to suspect that all,
or almost all, of the Native Police Officers,
who had any concern in the pretended
discovery, or in the subsequent proceedings
wilfully and corruptly lent themselves to
the furtherance of the prosecutor's nefarious
designs. Their conduct throughout appears
adverse to the supposition that they were
the mere unconscious dupes of his
artifice.—

3 It is obvious that the justice
of the case will be but very imperfectly
satisfied by the mere acquittal of the
prisoners, if, as there is too much reason
to believe, the charge against them originated
in a conspiracy. It is of the highest
importance to the public interests that
the

5

24th November 1828.

the authors and abettors of the conspiracy
should be brought to punishment; and
considering how much the character
of the Police is implicated throughout,
the Court are persuaded that the Magis-
trate of Malabar will think it his
duty to proceed, if possible, to Tellicherry,
and to institute in person the strictest
inquiry into the conduct of his Police
Officers on this occasion, and take such
measures as may appear most proper
for bringing to punishment the principal
parties concerned in this too probable
abuse and perversion of public justice.—

4 Mr Vaughan will accordingly
be pleased to transmit a copy of these
proceedings to the Magistrate of Malabar
and furnish him with such further
information on the subject of this
case as may appear necessary or useful.

Ordered, that extract of these
proceedings be sent for the information
and guidance of the Second Judge of
Circuit for the Western Division.—

Sent following letter No. 423.

Ans. 26th July No 141
Date 18th Sept. 1829

Read letter dated the 4th August
last from the Second Judge on Circuit in
the Northern Division, with record of
the trial in case No 4 Rapakinnee
Calendar

31st December 1828.

have passed sentence accordingly.- But the retransmission of cases by a Criminal Court to the Magistracy or the Police is no where permitted by the Regulations, and must tend in every instance to the obstruction of the administration of Criminal Justice, and the inconvenience and injury of individuals.- At the same time the Magistracy ought to guard against over-loading the Criminal Court with cases punishable by themselves or the Police under them- and instances of such should invariably be brought by the Criminal Court to the notice of the Magistrate.-

Ordered that Extract from these Proceedings be by precept transmitted to the four Provincial Courts of Circuit, requiring them to circulate the same for the information and guidance of the Criminal Courts and Magistrates in their respective divisions.-

W.D.C. 9. Jany No 46.
Inwd 24th Do 1829.

The Provincial Court in the Southern Division will inform the Joint Criminal Judge of Madura that a case of aggravated assault, such as is described in the letter of the Magistrate to their address, was clearly punishable by him under section VII Regulation X

31st December 1828. X 1816.-

Sent following Precepts No 480 & 481.

Ordered also that copy of the foregoing circular be sent to the Judicial Secretary to Government agreeably to orders of Government dated the 17th March 1820.-

1 Govt Cutch 2/100

Sent following letter No 482)

Read letter, dated the 20th Instant from the Second Judge on Circuit in the Centre Division with copies of regular and supplemental Calendars of Chingleput 2d Sessions 1828.-

(Gene on ter No 724)